

FILED WITH THE BOARD
OF MORTUARY SCIENCE
ON JUNE 29, 2006

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
REVOCAION OF THE LICENSE OF:

RAYMOND J. ZALE
License No. JP3681

TO PRACTICE MORTUARY SCIENCE
IN THE STATE OF NEW JERSEY

Administrative Action

**FINAL ORDER
OF DISCIPLINE**

This matter was opened to the New Jersey State Board of Mortuary Science ("Board") upon receipt of information which the Board has reviewed that respondent Raymond J. Zale ("respondent") failed to provide documents under oath, failed to respond to a Uniform Penalty Letter (UPL) and failed to comply with an order of the Board. Based on its review of all materials, the Board makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. Respondent is a funeral director licensed in the State of New Jersey and has been a licensee at all times relevant hereto. Respondent was at all times relevant hereto the manager of Eugene J. Zale Funeral Home, located at 712 North White Horse Pike, Stratford, New Jersey, and the McChesney Funeral Home, located at 30 West Main Street, Moorestown, New Jersey 08057

2. By letter dated November 14, 2003 sent Certified Mail, Return Receipt Requested, the Board sent to respondent, at his address at Eugene J. Zale Funeral Home as set forth in paragraph 1 above, a subpoena for testimony and for documents to be produced to the Board no later than November 25, 2003. A copy of the subpoena is annexed hereto as Exhibit A and made a part hereof. Although some of the subpoenaed documents were provided, respondent failed to provide the General Price List and Casket Price Lists which were provided to purchasers, and proof of Continuing Education credits for respondent for the biennial periods 2001-2003 and 2003-2005.

3. By letter dated December 21, 2003 sent Certified Mail, Return Receipt Requested, the Board sent a Uniform Penalty Letter (UPL) to the respondent as director of the McChesney Funeral Home at the address set forth in paragraph 1 above, for a number of violations discovered during a routine inspection. A copy of the UPL is annexed hereto as Exhibit B and made a part hereof. The Green Return Receipt Card was signed by Helen McChesney, and received by the Board on December 30, 2003. Respondent failed to reply to the Board's letter.

4. The Board sent Respondent a subsequent reminder letter dated January 27, 2004. It too was sent by Certified Mail, Return Receipt Requested to respondent at McChesney Funeral Home at the address set forth in paragraph 1. The green Return Receipt card was signed by Helen McChesney, and received in the Board office on February 10, 2004. Respondent also failed to reply to that letter.

5. Respondent also failed to respond to a third letter, dated March 18, 2004 and sent by Certified Mail, Return Receipt Requested. This letter warned respondent that if he failed to respond within five (5) days of receipt of the letter he would be subject to a penalty

for failure to cooperate. The green Return Receipt card shows that it was delivered to the McChesney Funeral Home at the address as set forth in paragraph 1, signed for by Helen McChesney, and received in the Board office on March 30, 2004.

6. The UPL ordered respondent to pay a civil penalty in the amount of \$5,100.00 within thirty (30) days of receipt of the UPL. In addition, respondent was to cease and desist from using non-complying forms and obtain forms in compliance with the regulations of the Board within thirty (30) days of receipt of the UPL. Respondent was also directed to forward copies of the revised forms to the Board office as proof of compliance. Respondent has failed to pay the civil penalty or forward copies of revised forms to the Board office.

7. On March 30, 2004, respondent appeared, with counsel, at an investigative inquiry into several matters under investigation by the Board. At the close of the inquiry, respondent was asked, on the record, for documents pertaining to his Continuing Education credits for the biennial periods 2001-2003, and 2003-2005. Respondent was asked to provide proof of completing the required continuing education credits within 20 days. Respondent was also requested to provide a copy of an invoice for a casket, as discussed at the inquiry. Respondent has failed to provide any of the requested documents.

CONCLUSIONS OF LAW

Respondent Raymond J. Zale failed to respond to and comply with a Uniform Penalty Letter imposed by the Board, as required by N.J.A.C. 13:45C-1.4, and failed to cooperate with the Board's request for documents, in violation of N.J.A.C. 13:45C-1.3.

Respondent's actions constitute professional misconduct and provides grounds for suspension of his license pursuant to N.J.S.A. 45:1-21(e) and (h).

DISCUSSION

Based on the foregoing findings and conclusions, a Provisional Order of Discipline was entered on May 17, 2005. The Provisional Order proposed suspension of respondent's license to practice mortuary science in the State of New Jersey until respondent complied with the requirements of the Uniform Penalty Letter dated November 14, 2003, including payment of a civil penalty of \$5,100; ceasing and desisting from the use of non-complying forms, obtaining compliant forms and submitting copies to the Board as proof, submitting of proof of completion of the ten required credits for the each of the biennial renewal periods of 2001-03, 2003-05 and 2005-07; and submitting of the receipt for a Frankfort silver 20 gauge sealed casket from the funeral of E.S., as requested at his inquiry. The Provisional Order was subject to finalization by the Board at 5:00 p.m. on the 30th business day following entry unless respondent requested a modification or dismissal of the stated Findings of Fact or Conclusions of Law by submitting a written request for modification or dismissal setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed and submitting any and all documents or other written evidence supporting respondent's request for consideration and reasons therefor.

Because of difficulties serving respondent, the Provisional Order was personally served upon respondent on April 11, 2006. A cover letter, dated March 30, 2006, the original cover letter, dated May 18, 2005 and a second notice, dated July 1, 2005, as well as the Provisional Order of Discipline were signed and dated by respondent. The Board

also received a certification of service signed by Robert DeSevo, the individual who personally served the documents. No response to the Provisional Order has been received from respondent to date. Accordingly the Board considered the matter, determined that further proceedings were not necessary and Provisional Order should be made final.

THEREFORE, IT IS ON THIS 28th DAY OF JUNE, 2006

ORDERED:

1. Respondent's license to practice mortuary science in the State of New Jersey is hereby suspended until he has demonstrated compliance with the requirements set forth in this Order and the laws governing mortuaries in the State of New Jersey. The active suspension will commence immediately upon entry of this Final Order of Discipline. Respondent's suspension shall continue until further Order of this Board.

2. Respondent is hereby assessed penalties, pursuant to N.J.S.A. 45:1-22, in the amount of \$5,100 for the violations cited in the Uniform Penalty Letter dated November 14, 2003. Payment of the civil penalties shall be made by July 21, 2006, or respondent may request installment payments, in which case respondent shall make five monthly payments of \$1,020. The first payment shall be due by July 21, 2006, and subsequent payments shall continue to be due by the first of each month until all five payments are completed. In the event that respondent does not make a timely payment, the full balance will immediately become due. Failure to make timely payment will result in the filing of a certificate of debt for the amount then remaining. Payment shall be submitted by certified check or money order made payable to the State of New Jersey and sent to William Mandeville, Executive Director, 124 Halsey Street, Sixth Floor, P.O. Box 45009, Newark,

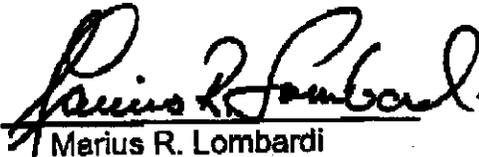
New Jersey 07101. Subsequent violations will subject respondent to enhanced penalties pursuant to N.J.S.A. 45:1-25.

3. Respondent shall cease and desist from using non-complying forms and obtain forms in compliance with the regulations of the Board within thirty (30) days of entry of this Order. Respondent shall submit copies of the revised forms to the Board as proof of compliance within ten (10) days thereafter.

4. Respondent shall submit to the Board proof of continuing education credits for the 2001-03, 2003-05 and 2005-07 renewal periods within thirty (30) days of entry of this Order.

5. Respondent shall submit to the Board the receipt for a Frankfort silver 20 gauge sealed casket, as sold for the funeral of consumer E. S., as requested at the March 30, 2004 investigative inquiry.

NEW JERSEY STATE BOARD OF
MORTUARY SCIENCE

By: 
Marius R. Lombardi
Board President