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

IN THE MATTER OF THE SUSPENSION OR REVOCATION OF THE LICENSE AND REGISTRATION OF: **LORRAINE BUKLAD** **License No. 3552** **KENNETH MOORE** **License No. 3412** and **BUKLAD MEMORIAL HOME** **Registration No. JB41900** **BUKLAD YARDVILLE MEMORIAL CHAPEL** **Registration No. JB42000** TO PRACTICE MORTUARY SCIENCE AND TO OPERATE REGISTERED MORTUARIES IN THE STATE OF NEW JERSEY	Administrative Action **CONSENT ORDER**

This matter was opened to the New Jersey State Board of Mortuary Science (the "Board") upon receipt of information that respondent Lorraine Buklad ("Buklad"), while manager and owner of the Buklad Memorial Home and owner of Buklad Yardville Memorial Chapel ("respondent Funeral Homes"), failed to properly establish and maintain pre-need accounts and co-mingled pre-need funeral funds in accounts with funeral home funds. Specifically, the Board received information that

in or about 1986, respondent opened an independent, interest bearing account with what is now UBS (the "UBS Account"), for the funds associated with at least seventy two (72) pre-need funeral arrangements. The UBS Account is not federally insured and interest accrued on the monies do not inure to the benefit of the individual beneficiaries of the account. Respondent Buklad and respondent Kenneth E. Moore ("Moore"), her business partner and the manager of Buklad Yardville Memorial Chapel, are the signatories on the UBS account.

As part of the Board's investigation, the Board received the sworn statement of respondent Buklad. In her statement, respondent Buklad explained that in 1965, her late husband, Theo Buklad, had set up a passbook account at Yardville National Bank. Pre-need funds were placed into the account with the intent that the deposited funds, plus interest, would be sufficient to pay for the funeral in full at the time of need. Respondent Buklad further explained that at the time of death, only the principal deposited was withdrawn from the account: never the interest. The purpose for this practice was "that there would always be enough funds in the account in case the client would need their funds returned for an emergency or move to another state..." She stated that she placed the passbook monies into certificates of deposit and then turned them over into one account with Prudential, now Paine Webber-UBS: "the UBS Account". She confirmed that monies are withdrawn at the time of need, and those monies are placed into the funeral home's business account. A new Statement of Funeral Goods and Services Selected is executed at prices current at the time of need, and the bill discounted if the funds from the account are then insufficient to pay any additional costs. Respondent Buklad also confirmed that only she and her partner, respondent Moore are the signatories on the UBS Account. She stated that on her accountant's advice, as of approximately 1995, all new pre-need monies are sent to Choices.

The Board also received the sworn statement of respondent Moore. Respondent Moore confirmed the procedure described by respondent Buklad: at the time of need, the amount of the original deposit was withdrawn from the UBS Account and deposited into the business account to

pay for the funeral. He stated that if there was not enough money in the trust, "the family was discounted the extra cost." Respondent Moore also noted that the funeral home's accountant, John McGonigle, determined "excess interest amounts," which appears to be the interest earned on the funeral home's fees that had not been withdrawn from the UBS Account at the time of need.

Respondent Buklad appeared with counsel, Lori Grifa, Esq., at an inquiry into the matter held by the Board on March 14, 2006. At that inquiry, respondent Buklad confirmed the information in her sworn statement, and further explained how pre-need money had been handled by the funeral homes while Mr. Buklad had been alive, and that she and respondent Moore had continued the practices after Mr. Buklad's death in 1987. She also testified that she and respondent Moore had changed some of their practices, including placing all pre-need funds into Choices, a trust fund that satisfies legal requirements for pre-need deposits. Respondent Buklad was uncertain about the contents of the current pre-need ledgers of the funeral homes, and conceded that the funeral home did not previously have a ledger. She admitted that she was "negligent" in handling the paperwork, failed to execute at need statements of funeral goods and services in many cases, failed to provide final billings and provide consumers with general price lists at the time of need. Respondent Buklad also had difficulty explaining the effect of an irrevocable preneed arrangement. In addition, she explained that when she removed money from the Yardville National Bank Account and placed money into certificates of deposit at different banks, she made the deposits in round numbers rather than allocating the deposits of certain consumers to certain certificates of deposit. Efforts were apparently made by the accountant to allocate appropriate interest based on the interest rates applicable to a particular time period and based on the consumer's balance in the account at the last known date.

Respondent Buklad testified about the two withdrawals of $40,000 from the UBS Account on January 1, 1998 and $40,000 on December 22, 1998. The check stubs provided to the Board are marked with the label "excess interest", and the monies were deposited into the Buklad Memorial

Home business account. Respondent Buklad explained that these monies were withdrawn to cover the taxes paid on the account by the funeral home. The individual beneficiaries were not paying taxes on the amounts in the account; rather, the taxes were paid by the funeral home. Respondent Buklad informed the Board that on the advice of her accountant, these monies were withdrawn for reimbursement of the taxes paid.

Respondent Kenneth Moore appeared with counsel, Andrea J. Sullivan, Esq. at an inquiry into the matter held by the Board on March 14, 2006. Respondent Moore testified that the funeral home had used a single statement of funeral goods and services selected for both pre-need and at need arrangements. He explained that an unsigned statement of funeral goods and services selected form contained in one of the files was completed several years after the at need arrangements because it was not until after the inspection conducted in 2004 that he became aware that all of the files should have both pre-need and at need statements. Respondent Moore also testified about the case of consumer R.T., who sought a refund of his pre-need funds. The monies were transferred from the UBS Account to the Buklad Memorial Home's operating account, and then ultimately paid directly to another funeral home.

Neither respondent could adequately explain how interest was attributed to each consumer's pre-need funds; both testified that they relied upon the accountant to provide that information and to perform necessary calculations. No statements indicating the balances for each individual consumer were provided, except upon the consumer's request.

Having reviewed the entire record, it appears to the Board that respondents failed to establish and maintain pre-need funeral trust accounts in at least seventy two (72) instances; failed to deposit the funds in either separate accounts or in a properly created pooled trust account in a federally insured State or federally chartered bank, savings bank or savings and loan association; failed to properly credit accrued interest to consumers with pre-need monies in the UBS Account; co-mingled pre-need funds with funeral home funds in the UBS Account; deposited pre-need funds

in the funeral home's business account; failed to maintain a pre-need ledger for all pre-need accounts; failed to have signed pre-need trust agreements for pre-need accounts; and failed to complete at need statements of goods and services selected in violation of N.J.S.A. 2A:102-13 and -16, and N.J.A.C. 13:36-1.8, -11.7, -11.12, -11.14 (g), -11.15, and -11.16.

These facts establish a basis for disciplinary action pursuant to N.J.S.A. 45:1-21(b), (d), (e) and (h). It appearing that respondents desire to resolve this matter without recourse to formal proceedings, and the Board finding that the settlement adequately protects the public health, safety, and welfare and for good cause shown;

IT IS ON THIS 5th DAY OF December, 2006

HEREBY ORDERED AND AGREED THAT:

1. Respondent Buklad's license to practice mortuary science shall be and hereby is suspended for a period of one year, beginning November 18, 2006. The first sixty (60) days of the suspension shall be a period of active suspension, and the remainder shall be stayed and served as a period of probation, contingent on compliance with the terms of this Order and the laws governing mortuary science in the State of New Jersey. During the period of active suspension, respondent Buklad shall not engage in the practice of mortuary science, and shall comply with the other directives as set forth herein.

2. Respondent Moore's license to practice mortuary science is hereby suspended for a period of one year, beginning November 18, 2006. The first sixty (60) days of the suspension shall be a period of stayed suspension, followed by thirty (30) days of active suspension, beginning January 18, 2007, and the remainder shall be stayed and served as a period of probation, contingent on compliance with the terms of this Order and the laws governing mortuary science in the State of New Jersey. During the period of active suspension, respondent Moore shall not engage in the practice of mortuary science, and shall comply with the other directives as set forth herein.

3. In the event the Board receives information which the Board in its sole discretion deems reliable that respondent Buklad or respondent Moore has failed to comply with any of the terms of this Consent Order, the Board may immediately enter an order making that respondent's period of stayed suspension active. Respondents shall have the right to apply to the Board to request a hearing, on seven (7) days' notice, for removal of the automatic suspension, but the application shall be limited to a showing that the information submitted to the Board was false or inaccurate.

4. During the period of active suspension, respondents are enjoined from performing any services required to be performed by a licensed funeral director. In addition, respondents shall not be present in the business area of any funeral home while people are making funeral arrangements, whether pre-need or at need. Respondents shall not make removals. Respondents shall not hold themselves out in any manner as funeral directors or as being authorized to make funeral arrangements. During the period of active suspension, in the event respondents choose to attend a public viewing or funeral arranged by a licensed funeral director from or at Buklad Memorial Home or Buklad Yardville Memorial Chapel, respondents shall not be permitted to accompany the funeral director, make announcements or committal prayers, or participate in any aspect of the funeral procession, including, without limitation, driving or traveling in any funeral home vehicle. Respondents may not indicate that they are participating in the funeral in any capacity other than as a member of the family or of the public, as appropriate.

5. For all public viewings or funerals attended by either respondent during the period of active suspension that are arranged by a licensed funeral director for or at Buklad Memorial Home or Buklad Yardville Memorial Chapel, the funeral home's manager shall maintain a log listing the name of the deceased, the date of the funeral, and the events each respondent attended (for example: viewing, funeral ceremony, cemetery). The log is to be available to the Board upon request.

6. The manager of any affected funeral home is responsible for ensuring compliance with the terms of this Consent Order. Each manager shall be provided with a copy of this Consent Order within ten (10) days of its filing, and shall notify the Board in writing that he or she has reviewed this Consent Order and understands the obligations set forth herein.

7. Respondents Buklad and Moore and Respondent Funeral Homes are hereby jointly and severally assessed civil penalties, pursuant to N.J.S.A. 45:1-22, in the amount of $65,000 for failure to establish and maintain pre-need funeral trust accounts in at least seventy two (72) instances; failure to deposit the funds in either separate accounts or in a properly created pooled trust account in a federally insured State or federally chartered bank, savings bank or savings and loan association; failure to properly credit accrued interest to consumers with pre-need monies in the UBS Account; failure to maintain a pre-need ledger for all pre-need accounts; and failure to have signed pre-need trust agreements for pre-need accounts, in violation of N.J.S.A. 2A:102-13 and -16, and N.J.A.C. 13:36-11.7, -11.12, -11.14 (g), -11.15, and -11.16. Payment of the $65,000 in civil penalties shall be made in sixteen (16) monthly payments of $4,062.50 per payment. The first payment shall be due December 1, 2006, and subsequent payments shall continue to be due by the first of each succeeding month until all sixteen payments are completed. In the event that respondents do not make a timely payment, the full balance will immediately become due. 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 respondents to enhanced penalties pursuant to N.J.S.A. 45:1-25.

8. Respondents Buklad and Moore and Respondent Funeral Homes are jointly and severally assessed the costs to the State of the investigation in this matter in the amount of $3,375.12. Payment for the costs shall be submitted by certified check or money order made

payable to the State of New Jersey and submitted to the Board by December 1, 2006. Payment shall be sent to William Mandeville, Executive Director at the address described in paragraph #7.

9. The Board may, at any time following thirty (30) days from the entry of this Order, file a Certificate of Debt memorializing the entire amount then due and owing by respondents pursuant to this Consent Order.

10. Respondents Buklad and Moore shall immediately cease and desist from the use of the UBS Account for the holding of funds associated with any prepaid funeral agreements and pre-need funeral arrangements. Respondents shall use their best efforts to locate the consumer whose funds remain in the UBS Account and attempt to set up an appropriate trust account for those pre-need funds.

11. Respondent Buklad shall successfully complete and pass ten (10) credits of continuing education in courses relating to pre-need arrangements. Respondent Moore shall successfully complete and pass five (5) credits of continuing education in courses relating to pre-need arrangements. Respondents shall submit the specific courses proposed to satisfy these requirements to the Board for approval within sixty (60) days of the entry of the Final Order in this matter, and shall complete the courses within ten (10) months of receiving Board approval of the courses. These courses are in addition to the regularly required continuing education hours. Respondents shall provide the Board with proof of successful completion for each course taken.

12. Respondents Buklad and Moore are hereby reprimanded for the conduct cited above.

13. Failure to comply with any provision of this Order or remit any and all payments required by this Order may result in subsequent disciplinary proceedings for failure to comply with an Order of the Board.

NEW JERSEY STATE BOARD OF MORTUARY SCIENCE

By: _____
Marius R. Lombardi
Board President

I have read and understand the within Consent Order
and agree to be bound by its terms. Consent
is hereby given to the Board to enter this Order.

_____
Lorraine Buklad, individually and as owner
and manager of Buklad Memorial Home

Consent is given as to form and entry of this Order:

_____
Lori Grifa, Esq., counsel for Lorraine Buklad,
Buklad Memorial Home, and Buklad Yardville Memorial Chapel

I have read and understand the within Consent Order
and agree to be bound by its terms. Consent
is hereby given to the Board to enter this Order.

_____
Kenneth Moore, individually and as manager
of Buklad Yardville Memorial Chapel

Consent is given as to form and entry of this Order:

_____
Andrea J. Sullivan, Esq., counsel for Kenneth Moore