

FILED WITH THE BOARD
OF MORTUARY SCIENCE
ON JANUARY 9, 2007

STUART RABNER
ATTORNEY GENERAL OF NEW JERSEY
Division of Law
124 Halsey Street
P.O. Box 45029
Newark, New Jersey 07101
Attorney for State Board of Mortuary Science

By: Jodi C. Krugman
Deputy Attorney General
(973) 648-2975

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 OF:

BETTY R. HILL
License No. 23JP00415600

TO PRACTICE MORTUARY SCIENCE
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 Betty Hill had improperly solicited pre-need funeral arrangements from a nursing home. Specifically, it has been alleged that respondent received money from Windsor Gardens Care Center ("Windsor Gardens") on behalf of thirty-eight (38) consumers, failed to keep complete funeral files for these pre-need arrangements, did not identify that the funds were received from Medicare personal needs accounts, did not mark the prepaid funeral trust agreements as "irrevocable" or "revocable," did not determine who had the authority to make the arrangements for the consumers, and co-mingled pre-need funds. On February 8, 2005, respondent appeared

with counsel, Michael Fielo, Esq., at an investigative inquiry into the matter before a committee of the Board.

Respondent testified that when she started her business, Garden Hill Funeral Director Services, she sent brochures and information to various nursing homes, including Windsor Gardens Care Center, explaining the services that she offered. She met with representatives of Windsor Gardens, including two social workers and the facility's administrator, to discuss her services and the possibility of making pre-arrangements for the facility's residents. Respondent stated that during this meeting, the social workers or the administrator told her that they had the authority to make pre-arrangements for the clients. Respondent further testified that she was told that these residents were either estranged from family or had no next of kin, and they did not tell her of any existing pre-arrangements. Respondent said that she met with the Windsor Gardens social workers, showed them her general price list, obtained vital information and filled out a Statement of Funeral Goods and Services Selected which was signed by the social worker.

Respondent explained that instead of receiving checks for individual residents, she received two checks from Windsor Gardens, in the amounts of \$16,115.15 and \$17,602.50, for pre-need arrangements for thirty-eight different residents. Respondent received information from Windsor Gardens to determine how much money was to be allocated to each individual's pre-need account, and then she opened separate accounts for each individual at First Union Bank on Park Avenue in East Orange, New Jersey. At some point, respondent contended that she was contacted by one of the social workers from Windsor Gardens, who requested that all of the accounts be cancelled and the money returned. Respondent testified that she closed each of the accounts and returned the

money, and once the accounts were cancelled, she admitted she did not keep any of the files.

Respondent also discussed specific arrangements made for R.K., one of the nursing home residents. M.B.K. is listed as R.K.'s next of kin on documentation from the nursing home. Respondent testified that she made arrangements with the nursing home staff for R.K., and never executed a Statement of Funeral Goods and Services Selected or a trust agreement with M.B.K., even after she discovered that M.B.K. was R.K.'s next of kin. M.B.K. confirmed that she did not authorize money to be sent from R.K.'s personal needs account to respondent's funeral home, and never made arrangements with respondent. M.B.K. stated that she would not have authorized the money to be sent to respondent because her family had made prepaid funeral arrangements for R.K. at another funeral home. Respondent sent a letter to that other funeral home, where R.K. had pre-need arrangements, indicating that respondent had certain items on file which would be sent to the other funeral home at the time of need. In spite of the representations in the letter, respondent admitted that she had not purchased the identified items; indeed, she asserted that the letter merely confirmed the items chosen by the nursing home staff.

The Board reviewed the entire record in this matter, including respondent's testimony at her inquiry, and the documents provided in connection with the pre-need arrangements made for the residents at Windsor Gardens. Following its review, the Board found that respondent failed to make arrangements with a person with the legal authority to control the funeral or disposition of human remains, and to obtain the signature of the guardian, agent or next of kin of the intended funeral recipient, in violation of N.J.S.A. 45:7-85, N.J.A.C. 13:36-11.2(e) & 11.3(a); failed to have consumers sign separate, completed

Statements of Funeral Goods and Services Selected, in violation of N.J.A.C. 13:36-11.2(d)2; failed to provide that pre-need funds were irrevocable during the lifetime of the intended recipient, where the intended recipients were eligible, as set forth in N.J.S.A. 2A:102-16.1 and N.J.A.C. 13:36-11.6(a); failed to designate pre-need accounts as revocable or irrevocable, as required by N.J.A.C. 13:36-11.3(a); and failed to maintain complete files for thirty-eight pre-need arrangements, in violation of N.J.A.C. 13:36-11.16. Accordingly, on April 26, 2006, the Board entered a Provisional Order of Discipline against respondent, which, among other things, preliminarily assessed civil penalties and costs of investigation, reprimanded respondent for her conduct, required completion of certain continuing education and passing of the jurisprudence examination.

Following service of the Provisional Order of Discipline, counsel for respondent, Michael Fielo, Esq., engaged in negotiations with counsel for the Board in this matter. As a result of these negotiations, the parties agreed to resolve this matter by entry of a Consent Order in lieu of a Final Order of Discipline. The Board finds that the facts presented establish a basis for disciplinary action pursuant to N.J.S.A. 45:1-21 (d), (e), and (h). However, it appearing that respondent desires to resolve this matter without recourse to formal proceedings, and the Board finding that entry of this Consent Order would adequately protect the public health, safety and welfare and for good cause shown:

IT IS ON THIS

DAY OF

9TH JAN. 2007

HEREBY ORDERED AND AGREED THAT:

1. Respondent is hereby reprimanded for the violations set forth above. Respondent shall ensure that all arrangements, both pre-need and at need are made with

the person with the legal authority to control the funeral or disposition of human remains, shall learn the correct use of revocable and irrevocable pre-need accounts, and properly designate pre-need arrangements as revocable or irrevocable, and maintain files as required by law.

2. Respondent is hereby assessed civil penalties and costs of investigation in this matter in the amount of \$15,000. Payment shall be made in twenty-four (24) monthly payments of \$625 per payment, and shall be made by certified check or money order made payable to the State of New Jersey and shall be sent to William Mandeville, Executive Director, Board of Mortuary Science, 124 Halsey Street, Sixth Floor, Newark, New Jersey 07101. The first payment shall be due within thirty (30) days of entry of this Order, and subsequent payments shall be due by the first of each succeeding month until all payments are completed. In the event that respondent does not make a timely payment, the full balance will immediately become due. Subsequent violations will subject respondent to enhanced penalties pursuant to N.J.S.A. 45:1-25.

3. 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 respondent pursuant to this Consent Order.

4. Respondent shall successfully complete and pass the following continuing education: ten (10) credits in courses relating to pre-need arrangements, and ten (10) credits in courses including ethics, office management and bookkeeping, with at least one course in each of these areas. Respondent shall submit the specific courses proposed to satisfy these requirements to the Board for approval within sixty (60) days of the entry of this Order, 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. Respondent shall provide the Board with proof of successful completion for each course taken.

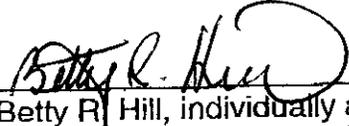
5. Within one (1) year of entry of this Order, respondent shall re- take, and pass, the Mortuary Jurisprudence examination identified in N.J.A.C. 13:36-3.2.

6. 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.

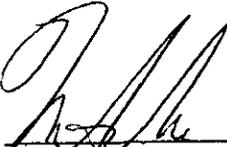
NEW JERSEY STATE BOARD OF MORTUARY SCIENCE

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.


Betty R. Hill, individually and as owner
and manager of Garden Hill Funeral Director Services

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


Michael Fiello, Esq.