

THE FUNERAL BOARD OF MANITOBA UNDER THE FUNERAL DIRECTORS AND EMBALMERS ACT

IN THE MATTER OF: *The Funeral Directors and Embalmers Act C.C.S.M. c. E70*

IN THE MATTER OF: An allegation of professional misconduct by Michael Vogiatzakis, a funeral director (the "Licensee").

DISPOSITION AND REASONS

Hearing Date: May 7, 2015

Case #: AI2014-08

Panel: Denise Koss, Vice Chair
 Reverend Beth Rutherford
 Janine Ballingall Scotten
 Father C. Fred Olds

Licensee: Michael Vogiatzakis

Counsel: Tom Dobson for the Board Inspector

Board Inspector: John Delaney

Disposition:

- The Board finds that from April 1, 2014 to August 11, 2014, the Licensee operated the Voyage Crematorium located in Selkirk, Manitoba without a 2014 Crematory License as required by *The Cemeteries Act*. This is a breach in his duty under the Code of Ethics to comply with licensing and permit requirements [clause 4(a)] and applicable laws and regulations [clause 4(b)].
 - The Board fines the licensee \$2,500.00 plus \$585.64 in costs.
 - The fine and costs are due to the Board on July 31, 2015.
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Reasons:

The purpose of the hearing was to inquire into an allegation that the Licensee conducted or allowed to be conducted cremations at his crematorium located at 713 Greenwood Avenue, Selkirk, Manitoba while it was unlicensed from April 1 to August 11, 2014. This allegation constitutes a breach under section 19(4) of *The Cemeteries Act* and clauses 4(a) and 4(b) under the Code of Ethics for licensed funeral directors.

The Inspector stated that the crematorium performed approximately 100 cremations during the unlicensed period, including two after the Licensee was notified on July 28, 2014 that he required a license to operate.

According to the Inspector's evidence, one notice and two letters were sent by regular mail to the Licensee. The first was a notice sent by the Public Utilities Board to All Cemetery Act Licensees dated January 14, 2014, advising that all matters involved with *The Cemeteries Act*, including license renewals, were to be sent to the Funeral Board of Manitoba and provided the Board's contact information (Exhibit #1). Subsequently, the Funeral Board of Manitoba sent two letters to Voyage Funeral Home & Crematorium. The first on February 3, 2014 advising that administration of *The Cemeteries Act* was transferred to the Board and providing renewal forms (Exhibit #2); and the second on April 22, 2014, advising the Licensee that the crematorium he owned was not licensed and urged him not to perform any cremations until it was properly licensed (Exhibit #3).

The Licensee admitted his oversight and testified that he neither received the notice from the Public Utilities Board, nor did he receive the two letters from the Board. The Licensee suggested that the Board send all correspondence via Registered or Certified Mail to ensure it has been received by the intended recipient. The Licensee emphasized that the first notice from the Public Utilities Board should have definitely been sent by Registered Mail as it announced the transfer of responsibility to the Funeral Board of Manitoba. He also suggested that the Inspector could have telephoned him advising that his licence was due.

The Inspector testified that he spoke to the Licensee on July 28, 2014 and told him that his crematory was unlicensed.

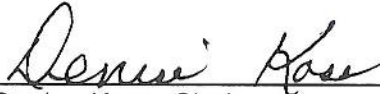
In further testimony, the Licensee stated he was unaware of the renewal process as it was the first time he had dealt with this. Previously he did not own the crematorium, but had a business arrangement with another owner.

Section 19(4) of *The Cemeteries Act* requires that no human bodies be cremated in any crematory and no crematory shall be maintained or operated unless the operator holds a valid or subsisting licence. It is important for the Board to have accurate information about the crematories regulated by the Act in order to facilitate regulating and inspections. As such it is incumbent on persons operating a crematory regulated by the Act to ensure the crematory is licensed.

Finding:

The Board finds that the Licensee breached his duty under the Code of Ethics to comply with licensing and permit requirements (clause 4(a) of the Code of Ethics) and applicable laws and regulations (clause 4(b) of the Code of Ethics). The Board fines the Licensee \$2,500.00 and orders the Licensee to pay \$585.64 in costs.

July 2, 2015
Date


Denise Koss, Chair

July 2, 2015
Date


Janine Ballingall Scotten, Panel Member

July 2, 2015
Date


Reverend Beth Rutherford, Panel Member

July 2, 2015
Date


Father C. Fred Olds

Under section 12(5) of *The Funeral Directors and Embalmers Act*, this decision may be appealed to the Court of Queen's Bench within 30 days after receipt of these reasons.