

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: Allegations of professional misconduct by Aurèle LeClaire, a funeral director (the "Licensee").

DISPOSITION AND REASONS

Hearing Date: May 8, 2014

Case Number: 2012-28

Panel: Susan Boulter, Chair
 Robert Clarke
 Reverend Beth Rutherford

Licensee: Aurèle LeClaire

Licensee Counsel: Michelle Bright

Board Inspector: John Delaney

Counsel: Devin Johnston

Disposition:

- The Panel finds that the Licensee breached the following sections of *The Funeral Directors and Embalmers Act* regulation: section 13(2)(a) (breach of Criminal Code affecting practice or business of funeral directing), section 13(2)(b) (excessive use of alcohol), 13(2)(c) incompetency affecting the public interest and Section 13(2)(f) breach of the Code of Ethics. The licensee breached Section 4 of the Code of Ethics by failing to represent the profession in an honourable manner. As a result, the Licensee contravened section 16.1(2) of *The Funeral Directors and Embalmers Act*.
 - The Panel finds it appropriate that in this case, the Licensee's licence be suspended for six months, and that the Licensee be fined \$6,000.00 and pay \$299.80 in costs.
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REASONS

NOTE: At the request of the licensee, the Panel ordered that the witnesses be identified by initials, as permitted under Section 13.2(7) of The Funeral Directors and Embalmers Act regulation.

Background

The Funeral Board of Manitoba received a complaint dated August 31, 2012 from _____ alleging that the Licensee, Aurèle LeClaire, was intoxicated and acted in an unsafe manner while carrying out funeral services in a church and at a cemetery.

In the course of the ensuing investigation, the Board Inspector determined that the Royal Canadian Mounted Police (RCMP) had stopped and charged the Licensee that day. The Inspector awaited conclusion of the trial before ending his investigation and making a recommendation to the Board. The Inspector reported that the Licensee was convicted on July 19, 2013, and ordered to pay a fine.

At the hearing, the Licensee admitted to the charges.

His counsel then spoke for the Licensee. She noted that he was distraught about the death as he knew the family, and had declined to take the service. He asked his brother to carry out the services. The Licensee had been drinking the week before and started drinking heavily the night before the funeral, ceasing at approximately 3:00 a.m.

The morning of the funeral, his brother had to go out of town for a funeral consultation, and could no longer assist with this service. The Licensee was unsuccessful in his attempt to have another licensee to take the service.

The Licensee took the ashes, drove to the church for the 1:00 p.m. ceremony. He communicated with _____ and the family, and later drove to the cemetery. During this time, _____ said the Licensee appeared intoxicated, and behaved inappropriately. _____ had concerns about the safety of others on the road. The RCMP was contacted, stopped the Licensee and administered a breathalyser test. The Inspector reported the Licensee's Blood Alcohol Concentration of 0.220.

The Licensee's counsel noted that the Board has never had a complaint about the Licensee before this incident. As indicated by his counsel, the Licensee has struggled with alcohol over the years and advised that he has taken steps to deal with this issue and has been sober since August 8, 2012. He has already paid the fine directed by the Court as a result of his conviction.

The panel appreciates the Licensee's good record, his efforts to abstain from abusing alcohol and encourages him to continue with these steps. The panel also notes that the Licensee was cooperative with the investigation, admitted his actions, and was considerate of _____ and the family by asking that _____ and the family not be named during the hearing and in this decision.

However, the panel is very concerned about the gravity of this breach. The Licensee's drinking put not only himself but others at grave risk. Driving in funeral processions is an important part of most funeral directors' duties, and certainly is part of the Licensee's business. The danger of driving while intoxicated cannot be minimized and nor can the danger and inappropriateness of doing so while carrying out professional duties. The panel is also concerned about the Licensee's unprofessional behaviour and actions, which undermine the dignity of the profession and all licensees. Furthermore, all funeral directors deal with grieving people, and often with the deaths of family members and friends. A funeral director must be able to handle himself professionally in such circumstances, or refuse to offer his services if he is not capable of performing his professional obligations to the required standards. Despite the pressure the Licensee obviously felt to perform funeral services on the day in question, he should have not have done so.

The Panel finds that the Licensee's actions are in breach of the Act, regulation and the Code of Ethics, and finds that it is appropriate to suspend his licence for six months and orders the Licensee to pay a fine of \$6,000.00 and pay \$299.80 in costs.

June 26, 2014
Date

Susan Boulter
Susan Boulter, Chair

June 26, 2014
Date

Robert Clarke
Robert Clarke, Panel Member

June 26, 2014
Date

Reverend Beth Rutherford
Reverend Beth Rutherford, Panel Member

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.