

NORTH CAROLINA
WAKE COUNTY

BEFORE THE NORTH CAROLINA
BOARD OF FUNERAL SERVICE
CASE NO. C19-0065

In the matter of:

Dignity Funeral Services, Inc.
d/b/a Forest Lawn Funeral Home and
Paul Melton Luck,
Respondents.

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CONSENT ORDER

THIS CAUSE, coming before the North Carolina Board of Funeral Service (hereinafter the "Board") at its offices at 1033 Wade Avenue, Suite 108, Raleigh, North Carolina 27605, with a quorum present, the Board and Respondents stipulate and agree to entry of the following Consent Order:

1. Respondent Dignity Funeral Services, Inc. d/b/a Forest Lawn Funeral Home (hereinafter "Respondent Establishment") is licensed by the Board as Funeral Establishment No. 22 and Pre-Need Establishment No. 885 by the Board and, therefore, is subject to Chapter 90 of the North Carolina General Statutes and Title 21, Chapter 34 of the North Carolina Administrative Code, and the standards set forth in Funeral Industry Practices, 16 C.F.R. § 453 (1984).
2. Paul Melton Luck (hereinafter "Respondent Individual" or, collectively with Respondent Establishment, "Respondents") is licensed as the Funeral Service Licensee No. 1180 and, therefore, is subject to Chapter 90 of the North Carolina General Statutes and Title 21, Chapter 34 of the North Carolina Administrative Code and the standards set forth in Funeral Industry Practices, 16 C.F.R. § 453 (1984).
3. For all times relevant to this matter, Respondent Individual was employed by Respondent Establishment.
4. On or about November 20, 2019, Board staff received a complaint against Respondents from Jessica LeeAnne Holbert (hereinafter "Complainant").
5. In the complaint, Complainant states that her husband, Joshua Paul Holbert, (the "Decedent") died as a result of suicide on November 1, 2019. At the time of his death, the Decedent and the Complainant were married but separated.
6. Respondents allege that they were notified of the death, retrieved the body, and thereafter met with the Decedent's father and stepmother to make arrangements for the Decedent's funeral services, on November 3, 2019. While making the arrangements, the Respondents were advised that the Decedent had been married to Complainant at the time of his death. The Respondent further alleges that the Decedent's parents instructed Respondent not to publish arrangements for visitation or burial, but rather to publish only the announcement of Decedent's death and give

notice that the Decedent's stepmother should be contacted with inquiries regarding arrangements, essentially a private service.

7. Respondents did publish an obituary giving notice of the death and directing inquiries to the Decedent's parents, as instructed.
8. On or about November 4, 2019, Complainant first learned of the Decedent's death from a third-party.
9. On November 5, 2019, Complainant first contacted Respondents and inquired regarding the date on which funeral services for the Decedent would be conducted. Respondents did not provide that information to the Complainant, instead directing Complainant to speak with the Decedent's father and stepmother regarding the date of services.
10. The Complainant alleges that in the morning of November 7, 2019, she was advised by the Decedent's stepmother that a service and burial would be conducted that afternoon, but that the late notice did not afford the Complainant (who resided a three-hour drive away) sufficient time to attend the service, and further contends that she had previously been mis-advised by the Decedent's stepmother that the service was to be conducted on November 9, 2019.
11. Complainant contends that Respondents' acts and omissions denied Complainant the opportunity to exercise her rights to dispose of the Decedent's body. Complainant ultimately received inaccurate information from a source other than the Respondents regarding the arrangements for the Decedent's funeral services and, as a result, was prevented from attending the Decedent's funeral.
12. Respondents contend that they did not consider Complainant's contacts on November 5, 2019 as an attempt to exercise her rights to dispose of the Decedent's body but rather only as an attempt to ascertain when the Decedent's funeral services would be conducted. Respondents further contend that they withheld information from Complainant only in an effort to comply with the wishes of Decedent's parents and not for any malicious reason.

CONCLUSIONS OF LAW

1. Respondents are subject to jurisdiction before the Board.
2. N.C. Gen. Stat. § 130A-420(b1) requires that the surviving spouse exercise her preeminent right of disposition by the sooner of five days after receiving notice of the death or ten days after the death. The statute provides no definition of what constitutes the "exercise" of the right of disposition. However, N.C. Gen. Stat. § 130A-420(b) provides that "[a]ny individual under this section may waive his or her

rights under this subsection by any written statement notarized by a notary public or signed by two witnesses." Complainant did not waive her disposition rights over the Decedent's body, in accordance with N.C. Gen. Stat. §130A-420(b).

3. The acts and omissions of respondents described in Paragraphs 1-12 violate N.C. Gen. Stat. §§ 130A-420(b) and 90-210.124(a)(2), which provides the surviving spouse of a decedent with priority disposition rights of a decedent's body and provide second-priority to the Decedent's parents only in the absence of a surviving spouse.

BASED upon the foregoing Findings of Fact and Conclusions of Law, and in lieu of further proceedings, Respondents wish to resolve this matter by consent and agree that Board staff and counsel may discuss this Consent Order with the Board *ex parte* whether or not the Board accepts this Consent Order as written.

Whereas Respondents acknowledge that they have read this entire document and understand it;

Whereas Respondents acknowledge that they enter into this Consent Order freely and voluntarily;

Whereas Respondents acknowledge that they have had full and adequate opportunity to confer with legal counsel in connection with this matter;

Whereas Respondent and the Board agree this Consent Order and the Findings of Fact and Conclusions of Law set forth herein are for the purpose of this Consent Order only and shall not be construed as an admission of liability or guilt on the part of Respondent in any other action or proceeding;

Whereas Respondents understand that this Consent Order must be presented to the Board for approval and that Respondents hereby waive any argument that any Board members considering this Consent Order are disqualified from participating in a hearing of this matter; and

Whereas the Board has determined that the public interest is served by resolving this matter as set forth below.

THEREFORE, with the consent of Respondents, it is ORDERED that:

1. Funeral Establishment Permit No. 885 of Dignity Funeral Services, Inc. d/b/a Forest Lawn Funeral Home is placed on probation for one (1) year on the following conditions:


- a. Respondents plead no-contest to the violations charged herein;

- b. Respondents shall not violate any law or rule of the Board during the period of probation;
 - c. Respondents shall timely respond to any and all Board and/or Board staff correspondence; and
 - d. Respondents shall comply with all terms of this Consent Order.
2. The Board shall issue a letter of caution to Paul Melton Luck, reminding him of his responsibility to comply with N.C. Gen. Stat. §§ 130A-420(b) and 90-210.124(a)(2) in recognizing priority disposition rights of a decedent's body.
 3. The Board shall retain jurisdiction under Article 3A, Chapter 150B for all administrative hearings held in connection with or pursuant to this Consent Order. If the Board receives evidence that Respondents, collectively or individually, have violated any term of this Consent Order or any other law or rule enforced by the Board, the Board shall schedule a show cause hearing for a determination of the violations. If the Board determines that a violation has occurred, the Board may impose such disciplinary action as it determines is appropriate and is authorized by law.
 4. This Consent Order shall take effect immediately upon its execution by all parties and reflects the entire agreement between Respondents and the Board, there being no agreement of any kind, verbal or otherwise, which varies, alters, or modifies this Consent Order.
 5. No modification or waiver of any provision of this Consent Order shall be effective unless it is in writing, adopted and approved by the Board, and signed by the parties affected.
 6. Both the Board and Respondents participated in the drafting of this Consent Order. Any ambiguities herein shall not be construed against either party in any future civil or administrative proceeding.
 7. Respondents hereby waive any requirement under any law or rule that this Consent Order be served upon them.
 8. Upon its execution by the Board and Respondents, this Consent Order shall become a public record within the meaning of Chapter 132 of the North Carolina General Statutes and shall be subject to public inspection and dissemination pursuant to the provisions thereof.

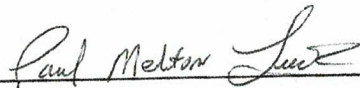
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CONSENTED TO:

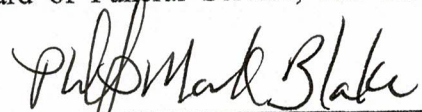
Dignity Funeral Services, Inc. d/b/a
Forest Lawn Funeral Home

By:  Date: 5/24/2020
Edgar Lee Juergens
Licensed Manager

Paul Melton Luck

By:  Date: 5/24/2020

By Order of the North Carolina Board of Funeral Service, this the 10 day of
June, 2020.

By: 
P. Mark Blake
Board President