Final Order on Default

State Mortuary and Cemetery Board
State of Oregon

In the Matter of the Embalmer License by Reciprocity & Funeral Service Practitioner License by Reciprocity combination Application of: **THOMAS S. BROWN,** **Applicant**	**Agency Case No.: 12-1042** **FINAL ORDER on DEFAULT**

On February 25, 2012, the Oregon Mortuary & Cemetery Board (Board) properly served a Notice of Proposed Denial of an Application and Opportunity for Hearing (Notice) on Thomas S Brown (Applicant) that it intended to deny his applications for an Embalmer License by Reciprocity and Funeral Service Practitioner License by Reciprocity for violations of ORS 692.180(1) and ORS 670.280(3).

The Notice offered Applicant an opportunity for a hearing if requested within 60 days from the date the Notice was mailed. Applicant did not request a hearing within this 60-day period or otherwise. The Notice designated the Board's file on this matter as the record for purposes of default.

NOW THEREFORE, after considering the Board's file relating to this matter, the Board enters the following Final Order on Default:

FINDINGS OF FACT

1. Applicants for Embalmer License by Reciprocity and Funeral Service Practitioner License by Reciprocity must apply on a form provided by the Board and consent to a background check. OAR 830-020-0030(1), OAR 830-020-0030(4), OAR 830-011-0050(1), ORS 692.025(8) and ORS 692.140(2).

2. Applicants are informed by means of written notice on the application that any misrepresentation or omission is cause for refusal to issue a license.

3. On September 20, 2012 the Board received a combination application from Thomas S Brown ("Applicant") for Embalmer License by Reciprocity and Funeral Service Practitioner License by Reciprocity ("Application").

4. The Applicant answered "No" to the following questions of the Application:

- *"Have you ever had any administrative, civil or criminal action taken against you, or your personal or business license, or had any such action initiated against you by ANY government entity including, but not limited to: municipal, county, state, tribal, or federal district courts?"*

- *"Have you ever been arrested, charged or cited for anything other than traffic violations?"*

5. The Application, signed by Applicant on or about September 7, 2012, warns the Applicant that "…any misrepresentation or omission of fact, with or without intent, on my application or supplementary background materials is cause for refusal to issue an Oregon License or Certificate." The Application also states: "I hereby declare that the information submitted on the application is true to the best of my knowledge and belief, and that I understand this application is made for use as evidence in court or a contested case hearing and is subject to penalty for perjury."

6. The Board's background investigation of Applicant's licensing and criminal history revealed the following:

- On or about August 08, 2006, Applicant's Arizona driver's license was suspended by Apache Junction Justice Court.

- On or about July 26, 2007, the Mesa Arizona Police Department issued to Applicant a criminal citation for Property Damage, a misdemeanor, in Mesa, Arizona. (On or about October 13, 2008, the charge was dismissed.)

- On or about September 23, 2007, Applicant was stopped by the Mesa Arizona Police Department and charged with two misdemeanor violations: (1) Driving on a Suspended Driver's License, a Class 1 misdemeanor; and (2) Failure to Show Identification, a Class 2 misdemeanor.

- On or about September 30, 2007, Applicant's Arizona driver's license was suspended by Superior Kearny Justice Court.

7. On September 24, 2012, the Board's investigator called Applicant. Applicant stated that his answers on his Application regarding his licensure and criminal history were correct. The Board Investigator then asked about the property damage charge by the Mesa Arizona Police Department. Applicant was evasive and untruthful when he stated*: "Oh, that. I had moved some things at home and when my wife came home, she called the police after finding things were different."* The Board Investigator also asked if Applicant's driver's or operator's license had ever been suspended in any state he has resided. Applicant stated *"No."*

8. Approximately one hour later, Applicant contacted the Board and admitted he had not been truthful regarding the property damage charge. He explained that he and his wife had a domestic disturbance during which he broke a telephone and other household items. Applicant continued to state he was unaware that his driver's license had ever been suspended.

9. Mesa Arizona Police Report No. 2007-2070797 and supplemental information confirms that during a domestic disturbance at Applicant's home, Applicant's wife was attempting to contact emergency services when Applicant broke the telephone and two ceramic bookends.

10. Mesa Arizona Police Report No, 2007-2660529 states that Mesa Police Officer J. Appel (ID# 15448) verbally notified and made Applicant aware during the traffic stop that his driver's license was suspended.

ULTIMATE FINDINGS of FACT

1. As described above in Findings of Fact 4, 5, 6, 7, 8 and 9, in his Application to the Board, Applicant misrepresented his licensing and criminal background in at least five instances.

2. As described above in Findings of Fact 7, 8 and 9, Applicant failed to cooperate or answer truthfully or completely matters within the Board's jurisdiction in at least two instances.

CONCLUSIONS OF LAW

1. Failing to disclose and misrepresentation of criminal history on a Board application and to a Board investigator are misrepresentation and dishonest conduct which is grounds for license denial under OAR 830-030-0090(5)(d), (f) and (g), OAR 830-050-0050(2) and (4) and ORS 692.180(1)(a), (b) and (g).

2. Applicant's misrepresentation, dishonesty and untruthfulness is conduct that has a demonstrable bearing upon the standards of the funeral service profession and is related to the fitness and ability of the Applicant to engage in the activity for which the license is required, and is therefore cause for license denial under and ORS 670.280(3).

3. For the foregoing reasons denial of Applicant's combination application for Embalmer License by Reciprocity and Funeral Service Practitioner License by Reciprocity is appropriate.

ORDER

1. Applicant's 2012 combination Application for Embalmer License by Reciprocity and Funeral Service Practitioner License by Reciprocity is hereby denied.

2. This Final Order shall become effective when signed by the Executive Director of the Board.

DATED and ENTERED this __26th __ day of June, 2013.

_<s> Michelle Gaines_____
Michelle Gaines, Executive Director
Oregon Mortuary & Cemetery Board

Date of Service: __June 26, 2013_____

Appeal Rights: You are entitled to judicial review of this order in accordance with ORS Chapter 183.482. You may request judicial review by filing a petition with the Court of Appeals in Salem, Oregon within 60 days from the date of service of this order.