

## Final Order by Default

### State Mortuary and Cemetery Board

In the Matter of the Embalmer License of <b>JAMES W. RIGGLEMAN</b> ,  Respondent	<b>FINAL ORDER</b>  <b>CASE NO. 06-1010A</b>
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On June 20, 2007, the Oregon Mortuary & Cemetery Board (OMCB, Board) properly served a Notice of Proposed License Revocation and Disciplinary Action (Civil Penalty) in OMCB Case No. 06-1010A to James Riggleman (Respondent) that proposed to revoke his Embalmer License No. EM-2195, and impose civil penalties, pursuant ORS 692.025(1), OAR 830-030-0004(1), OAR 830-030-0010(3), and ORS 692.180(1)(g). The Notice offered Respondent an opportunity for a hearing if requested within 21 days from the date the Notice was mailed. The Notice designated the Board's file on this matter as the record for purposes of default. Respondent requested a hearing on July 9, 2007, and the hearing was scheduled to begin on January 24, 2008 at 9:00am. Respondent did not appear for the hearing.

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

#### FINDINGS OF FACT

1. On November 21, 2005, Respondent's funeral service practitioner license was revoked (OMCB Case No. 04-1044) under the terms of a Consent Order issued by the Board. The Consent Order also prohibited Respondent from engaging in prearrangement or preconstruction sales under ORS 97.923 to ORS 97.949.
2. At all relevant times mentioned herein, Riggleman was licensed as an embalmer (OMCB License No. EM-2195) and Respondent was an employee of Alternative Burial & Cremation of Oregon, Inc. (Alternative Burial), a funeral establishment (OMCB License No. FE-8530).
3. At all relevant times mentioned herein, Respondent was not a licensed funeral service practitioner or funeral service practitioner apprentice.
4. From approximately January 9, 2006 through August 25, 2006 Respondent, on behalf of Alternative Burial, worked directly with families to arrange for the at-need disposition of at least three (3) decedents who died in Oregon. Respondent met with the families of three

decedents, prepared documents and made arrangements for the transportation, care, preparation, processing or handling of the remains before the bodies underwent cremation, entombment or burial. The following Oregon State identification numbers, partial names, and dates of death (DOD) identify the decedents:

- A. #428322; Robert B.; DOD January 9, 2006;
- B. #428320; Douglas J.; DOD January 14, 2006;
- C. #472434; Rodney D.; DOD August 19, 2006.

5. On June 14, 2007, Alternative Burial's website identified Bob Baker and Jim Riggelman as "The Directors." On at least one occasion, September 10, 2006, Alternative Burial placed an advertisement in the Bulletin for the St. Francis Catholic Church in Sherwood, Oregon, which stated:

Funeral Directors  
Robert Baker  
Jim Riggelman

6. From approximately January 1, 2006 through February 1, 2006, Respondent, while in the employ of Alternative Burial, signed four certificates of death that were submitted to Vital Records. Respondent signed certificates for the following four decedents:

- A. #428322; Robert B.; DOD January 9, 2006;
- B. #428320; Douglas J.; DOD January 14, 2006;
- C. #428327; Mildred D.; DOD January 1, 2006;
- D. #428448; Paul C.; DOD January 27, 2006.

7. On December 2, 2006, Respondent embalmed the remains of Kelly B. pursuant to an oral authorization obtained from decedent's wife, Abigail B., who was the person with the right to control final disposition of the remains pursuant to ORS 97.130. However, Respondent failed to obtain the required written documentation to confirm the oral permission.

### ULTIMATE FINDINGS OF FACT

1. Respondent performed the duties of a licensed funeral service practitioner or funeral service practitioner apprentice without a license in seven instances, as described in Findings of Fact 4 and 6.
2. Respondent embalmed human remains without obtaining written permission of a person who has the legal right to control the disposition of the remains.

### CONCLUSIONS OF LAW

1. Either a funeral service practitioner licensed pursuant to ORS 692.045 or "person acting as a funeral service practitioner," as that term is defined in ORS 432.005(11), submits the certificate of death to Oregon's Department of Human Services, Center for Health Statistics (Vital Records). ORS 432.307(1), (2).
2. A funeral service practitioner license is required to sign death certificates and a funeral service practitioner license (or a funeral service practitioner apprentice certificate) is required to work directly with families to arrange the at-need disposition of a decedent. ORS 692.025(1) or OAR 830-030-0004(1). The foregoing is grounds for license revocation and civil penalties pursuant to ORS 692.180(1)(g).
3. By performing the duties of a licensed funeral service practitioner or funeral service

practitioner apprentice without a license, Respondent violated ORS 692.025(1) and OAR 830-030-0004(1). The foregoing is grounds for license revocation and civil penalties pursuant to ORS 692.180(1)(g).

4. By failing to obtain written permission to embalm remains from the person who has the legal right to control the disposition of the remains, Respondent violated OAR 830-030-0010(3). The foregoing is grounds for license revocation and civil penalties pursuant to ORS 692.180(1)(g).

5. Revocation of Respondent's Embalmer License #EM-2195 is appropriate.

6. Civil penalties of \$4,000 (\$1,000 per violation) is appropriate for three violations of ORS 692.025(1) and OAR 830-030-0004(1) and one violation of OAR 830-030-0010(3).

### **ORDER**

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

1. Respondent's Embalmer License No. EM-2195 is hereby revoked.
2. Respondent must pay civil penalties of \$4,000.00.
3. This Final Order shall become effective when signed by the Executive

Director of the Board.

DATED and ENTERED this 22<sup>nd</sup> day of February, 2008.

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<S> David Koach  
David J. Koach, Executive Director  
Oregon Mortuary & Cemetery Board

Date of Mailing: February 22, 2008

### **NOTICE OF OPPORTUNITY FOR JUDICIAL REVIEW (COURT OF APPEALS)**

You are entitled to judicial review of this Final Order pursuant to ORS 183.482. Judicial Review may be initiated by filing a petition for review with the Oregon Court of Appeals within 60 days from the date this Order was mailed to you.