

Final Order by Default

State of Oregon Mortuary and Cemetery Board

**In the Matter of the Denial of the
Preneed Salesperson Registration
Application of**

Michael A. Anderson,

Applicant

Case No.: 08-1051

Final Order

On October 30, 2008, the Oregon Mortuary & Cemetery Board (Board) properly served a Notice of Proposed Denial of Application (Notice) on Michael A. Anderson (Applicant) that it intended to deny his Preneed Salesperson Registration Application for violations of ORS 692.180(1)(a), ORS 692.180(1)(g), OAR 830-030-0090(2)(c)(D), OAR 830-030-0090(2)(d)(B), OAR 830-050-0050(2) and ORS 97.931(2) and (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. 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:

FINDINGS OF FACT

1. Applicants for a preneed salesperson registration must apply on a form provided by the Board and consent to a background check. ORS 97.931(1)(2) and (3)
2. Applicants are informed, by means of written notice on the application, that any misrepresentation or omission is cause for refusal to issue a registration.
3. By application received on July 25, 2008, Applicant applied to the Board for a Preneed Salesperson Registration.
4. Application question number three (3) of the Background Information Section asks if the Applicant has been arrested, charged or cited for anything other than traffic violations. If the answer is "yes" the Applicant is required to list all of the arrests, including dismissals, and provide a detailed, complete and accurate written account of the facts and circumstances of each arrest.
- 5 Applicant answered that he was arrested on July 24, 2005 in Cowlitz County, Washington and charged with Assault 4th Degree. Applicant provided a written statement pertaining to the arrest. Applicant described a confrontation with three persons outside of his

place of employment. His stated that they had waited for him to leave his work and jumped him, and that due to his military training, they sustained injuries. Because of the nature of the injuries, he was arrested for assault.

6. However, Applicant did not disclose the following misdemeanor arrests in Cowlitz County, Washington:

- i.) July 24, 2005 arrest for Domestic Violence Assault 4th Degree; and
- ii.) December 30, 2005 arrest for violating a No Contact Order (DV) and Stalking.

7. The foregoing failures to disclose, or completely and accurately describe the July 24, 2005 arrest for Domestic Violence Assault 4th Degree, and the failure to disclose the December 30, 2005 arrest for violating a No Contact Order (DV) and for Stalking, are misrepresentations on an Application.

8. In the Application, Background Information Question #4 asks the Applicant, "Have you ever been convicted of, or are you currently charged with, committing a crime whether or not adjudication was withheld?" Applicant wrote, "No."

9. Applicant was convicted of the following misdemeanor crimes in Cowlitz County District Court, Washington:

- i. On April 11, 2006, in Court Case #COO114592, Applicant was convicted of Domestic Violence Assault 4th Degree for a July 25, 2005 incident with a female victim. Applicant received a sentence of 365 days jail time with 355 days suspended, a \$5000.00 fine with \$4550.00 suspended, and Applicant received 24 months probation.
- ii. On March 16, 2006, in Court Cite #66786, Applicant pled guilty and was convicted of one count of Violation of No Contact Order for which he received a sentence of 365 days jail time with 360 days suspended, a \$5000.00 fine with \$5000.00 suspended, and Applicant received 18 months probation.
- iii. Also on March 16, 2006, in Court Cite #66786, Applicant pled guilty and was convicted of another count of Violation of No Contact Order for which he received a sentence of 365 days jail time with 365 days suspended, a \$5000.00 fine with \$4500.00 suspended.

10. The foregoing misrepresentations by Applicant of his arrests or circumstances of his arrests and his criminal convictions are cause for refusal to grant a registration under ORS 692.180(1)(a) and (g), OAR 830-030-0090(2)(c)(D), OAR 830-030-0090(2)(d)(B), OAR 830-050-0050(2) and ORS 97.931(2) and (3).

ULTIMATE FINDINGS

1. By failing to give an accurate, detailed and complete account of the facts and circumstances for the arrests of "Domestic Violence Assault IV" and "No Contact Order and Stalking," and the convictions of "Domestic Violence Assault 4th Degree" and two "No Contact Orders" in his application, Applicant failed to answer truthfully and accurately inquiries regarding matters within the Board's jurisdiction and Applicant made a false and misleading statement to the Board.
2. By failing to give a complete and accurate account of the facts and circumstances of his arrests and convictions, Applicant misrepresented his criminal history to the Board.

CONCLUSION OF LAW

In applying to the Board for licensure, Applicant misrepresented his criminal history by making false and misleading statements. A false or misleading statement on a license application is grounds for license denial pursuant to OAR 830-050-0050(2), OAR 830-030-0090(2)(d)(B) and ORS 692.180(1)(g); and misrepresentation on an application to the Board is cause for refusal to grant a license pursuant to OAR 830-030-0090(2)(c)(D), ORS 692.180(1)(a) and (g), and ORS 97.931(2) and (3).

ORDER

1. Applicant's Preneed Salesperson Registration Application is hereby denied.
2. This Final Order shall become effective when signed by the Executive Director of the Board.

DATED and ENTERED this __5th__ day of February, 2009

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

Date of Service: ____February 5, 2009__

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 this order.