

**SETTLEMENT AGREEMENT BETWEEN STATE BOARD OF EMBALMERS AND
FUNERAL DIRECTORS AND ROBERT BRADFORD**

The State Board of Embalmers and Funeral Directors (the "Board") and Robert Bradford ("Licensee" or "Bradford") enter into this "Settlement Agreement Between State Board of Embalmers and Funeral Directors and Robert Bradford" (the "Settlement Agreement") to resolve the question of whether Bradford's funeral director license should be subject to discipline and, if so, to agree on the appropriate level of discipline to impose on Bradford's funeral director license.

Pursuant to the terms of Section 536.060 RSMo¹, the parties hereto waive the right to a hearing by the Administrative Hearing Commission and the right to a disciplinary hearing before the Board per Section 621.110, RSMo, and stipulate and agree that a final disposition of this matter may be effectuated as described below.

Licensee acknowledges that he understands the various rights and privileges afforded him by law, including the right to a hearing of the charges against him; the right to appear and be represented by legal counsel; the right to have all charges against him proven upon the record by competent and substantial evidence; the right to cross-examine any witnesses appearing at the hearing against him; the right to a decision upon the record by a fair and impartial administrative hearing commissioner concerning the charges pending against him and, subsequently, the right to a hearing before the Board at which time he may present evidence in mitigation of discipline; and the right to potentially recover attorney's fees incurred in defending this action against his licenses. Being aware of these rights provided him by operation of law, Licensee knowingly and

¹ All statutory references are to the Revised Statutes of Missouri (2000), as supplemented, unless otherwise indicated.

voluntarily waives each and every one of these rights and freely enters into this Settlement Agreement and agrees to abide by the terms of this document, as they pertain to him.

Licensee acknowledges that he has received a copy of the investigative report and other documents relied upon by the Board in determining there is cause for discipline, along with citations to law and/or regulations the Board believes were violated and that he has been advised of his right to consult with private legal counsel, at his expense, to assist him with this matter. For the purpose of settling this dispute, Licensee stipulates that the factual allegations contained in this Settlement Agreement are true and stipulates with the Board that Licensee's license is subject to disciplinary action by the Board in accordance with the provisions of Chapters 324, 333 and 621, RSMo.

Relevant Statutes and Regulations

1. Section 333.330.2 authorizes discipline against funeral director licenses and states, in relevant part:

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621 against any holder of any certificate of registration or authority, permit, or license required by this chapter, or any person who has failed to renew or has surrendered his or her certificate of registration or authority, permit, or license for any one or any combination of the following causes:

(1) Use of any controlled substance, as defined in chapter 195, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of any profession licensed or regulated by this chapter;

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions, or duties of any profession licensed or regulated under this chapter, for any offense involving a controlled substance, or for any offense an essential element of which is fraud, dishonesty, or an act of violence;

* * *

(6) Violation of, or assisting or enabling any person to violate, any provision of this chapter, or of any lawful rule or regulation adopted pursuant thereto;

2. Regulation 20 CSR 2120-2.060(28), states:

(28) A Missouri licensed funeral director has the ongoing obligation to keep the board informed if the licensee has been finally adjudicated or found guilty, or entered a plea of guilty or *nolo contendere*, in a criminal prosecution under the laws of any state or of the United States, whether or not sentence was imposed. This information shall be provided to the board within thirty (30) days of being finally adjudicated or found guilty.

Statutes Related To Guilty Pleas

3. Section 577.001, RSMo, provides definitions for Chapter 577, RSMo, and states:

1. As used in this chapter, the term "court" means any circuit, associate circuit, or municipal court, including traffic court, but not any juvenile court or drug court.

2. As used in this chapter, the term "drive", "driving", "operates" or "operating" means physically driving or operating a motor vehicle.

3. As used in this chapter, a person is in an "intoxicated condition" when he is under the influence of alcohol, a controlled substance, or drug, or any combination thereof.

4. As used in this chapter, the term "law enforcement officer" or "arresting officer" includes the definition of law enforcement officer in subdivision (17) of section 556.061 and military policemen conducting traffic enforcement operations on a federal military installation under military jurisdiction in the state of Missouri.

5. As used in this chapter, "substance abuse traffic offender program" means a program certified by the division of alcohol and drug abuse of the department of mental health to provide education or rehabilitation services pursuant to a professional assessment screening to identify the individual needs of the person who has been referred to the program as the result of an alcohol- or drug-related traffic offense. Successful completion of such a program includes participation in any education or rehabilitation program required to meet the needs identified in the assessment screening. The assignment recommendations

based upon such assessment shall be subject to judicial review as provided in subsection 7 of section 577.041.

4. Section 577.010, RSMo, states:

1. A person commits the crime of "driving while intoxicated" if he operates a motor vehicle while in an intoxicated or drugged condition.

2. Driving while intoxicated is for the first offense, a class B misdemeanor. No person convicted of or pleading guilty to the offense of driving while intoxicated shall be granted a suspended imposition of sentence for such offense, unless such person shall be placed on probation for a minimum of two years.

3. Notwithstanding the provisions of subsection 2 of this section, in a circuit where a DWI court or docket created under section 478.007 or other court-ordered treatment program is available, no person who operated a motor vehicle with fifteen-hundredths of one percent or more by weight of alcohol in such person's blood shall be granted a suspended imposition of sentence unless the individual participates and successfully completes a program under such DWI court or docket or other court-ordered treatment program.

4. If a person is not granted a suspended imposition of sentence for the reasons described in subsection 3 of this section for such first offense:

(1) If the individual operated the motor vehicle with fifteen-hundredths to twenty-hundredths of one percent by weight of alcohol in such person's blood, the required term of imprisonment shall be not less than forty-eight hours;

(2) If the individual operated the motor vehicle with greater than twenty-hundredths of one percent by weight of alcohol in such person's blood, the required term of imprisonment shall be not less than five days.

Joint Stipulation of Facts and Conclusions of Law

The parties agree and stipulate to the following findings of fact and conclusions of law:

5. The Board is an agency of the state of Missouri created and established by Section 333.151, RSMo, for the purposes of executing and enforcing the provisions of Chapter 333, RSMo, and the portions of Chapter 436, RSMo, related to preneed funeral contracts.

6. Robert Bradford is an individual who has registered his address with the Board as 1036 East Mentor Street, Springfield, Missouri 65810.

7. Bradford holds funeral director license number 006735 that was and is current and active at all times relevant to this matter.

Conduct Giving Cause for Discipline

8. Bradford submitted his “Application to Renew Funeral Director June 1, 2012 – May 31, 2014” to the Board that he indicated that he signed on May 15, 2012 (the “2012 Funeral Director Renewal”).

9. Bradford answered “yes” to questions 6, 7, and 8 on the 2012 Funeral Director Renewal that asked the following:

6. Since your last renewal, have you ever been arrested, charged with of any violation of any federal, state or municipal law, ordinance or rule whether or not sentence was imposed (includes suspended imposition of sentence (SIS)). If yes, explain fully in a statement and provide certified court documents (ie: Docket Sheet, Information or Indictment and Final Disposition).

7. Since your last renewal have you ever been addicted to or used in excess any controlled substance (including illegal drugs and prescription drugs) or alcoholic beverage?

8. Are you now being treated, or have you been treated within the past five years, through a drug and/or alcohol rehabilitation program? If yes, attach a full explanation and provide discharge summary or other official documentation that shows your diagnosis, prognosis and treatment plan.

10. Bradford supplemented his answers by disclosing that he had been “arrested for D.U.I. after 3 drinks at a lodge & going through a checkpoint. Released after 4 hours.” And “DUI in May of 2010 – Court date August 2010” and “Attended Manditory (sic) Alcohol Program.”

Criminal Charges

11. On August 24, 2010, Bradford plead guilty to a Misdemeanor B of “DWI – Alcohol” in violation of Section 577.010, RSMo. The Court imposed the sentence of Incarceration and suspended execution of sentence and ordered Bradford to serve 90 days in the Greene County Jail followed by 2 years unsupervised probation beginning on August 24, 2010 and a fine of \$350.00. *State v. Robert B. Bradford*, Case number 1031-CR04213, Greene County, Missouri.

Causes for Discipline

12. A funeral director operates a motor vehicle as part of his job duties to provide transportation for decedents and their families. The excessive use of alcohol impairs this ability.

13. The excessive use of alcohol impairs a licensee’s ability to perform the work of a funeral director.

14. Bradford reported his DUI to the Board on his annual renewal, but did not report it within 30 days of his adjudication as required by 20 CSR 2120-2.060(28).

15. There is cause to discipline the funeral director license held by Bradford pursuant to Section 333.330.2(1), (2), and (6), RSMo.

Jurisdiction and Venue

16. Jurisdiction and venue are proper.

Jointly Stipulated Disciplinary Order

The parties agree and stipulate that the following shall constitute the disciplinary order entered by the Board in this matter under the authority of Sections 333.330 and 621.045.3, RSMo:

17. Licensee's license to practice as a funeral director is hereby placed on **PROBATION** for a period of **TWO YEARS** from the effective date of this Settlement Agreement (the "Disciplinary Period"). During the Disciplinary Period, Bradford shall be entitled to practice as a funeral director, subject to the following terms and conditions of probation:

Terms and Conditions of Probation

18. Licensee shall comply with the following terms and conditions of probation during the Disciplinary Period:

General Requirements

- a. Licensee shall keep the Board informed of Licensee's current work and home telephone numbers and addresses. Licensee shall notify the Board in writing within ten (10) business days of any change in this information. If Licensee utilizes e-mail, Licensee shall provide the Board with his current and active e-mail address;
- b. Licensee shall comply with all applicable provisions of Chapters 194, 333 and 436, RSMo, all Board regulations and all federal, state and local laws and regulations related to business operations in the funeral and death care industry including all insurance and security laws applicable to any insurance or annuity used to fund preneed funeral contracts;
- c. Licensee shall engage in no conduct that would give the Board cause to seek authority to discipline from the Administrative Hearing Commission;

- d. Licensee shall meet in person with the Board or any Board representative at any such time and place as required by the Board or its representative upon reasonable notice. Any such meetings shall be at the Board's discretion;
- e. Upon the request by the Board or its representative, Licensee shall immediately submit any and all records requested to show compliance with these terms and conditions;
- f. Licensee shall renew timely all licenses and/or registrations, shall pay timely all fees required for licensure/registration and shall meet all other requirements necessary to maintain all licenses and registrations issued by the Board current and active;
- g. Licensee shall accept and cooperate with unannounced visits from the Board, or its representatives, to monitor compliance with the terms and conditions of probation;
- h. Licensee shall not serve as the supervisor of any funeral director apprentice without the express written consent of the Board. If Licensee seeks to supervise an apprentice, Licensee shall submit a written request to the Board that includes the name and address of the potential apprentice and a description of Licensee's ability to properly supervise an apprentice. No such apprenticeship shall commence until the Board has given its consent for Licensee to supervise the apprentice; and
- i. Licensee shall not operate a motor vehicle in the conduct of any business of funeral directing unless Licensee holds proper licensure to operate a motor vehicle.

19. The terms of this Settlement Agreement are contractual, legally enforceable and binding, not merely recital. Except as otherwise contained herein, neither this Settlement Agreement nor any of its provisions may be changed, waived, discharged or terminated, except by an instrument in writing signed by the party against whom the enforcement of the change, waiver, discharge or termination is sought.

20. Upon the expiration of the Disciplinary Period and successful completion of the probation, Licensee's license shall be fully restored if all other requirements of the law have been satisfied; provided however, that in the event the Board determines that Licensee has violated any term or condition of this Settlement Agreement, the Board may, in its discretion, after an evidentiary hearing, vacate and set aside the discipline imposed herein and may impose additional probation, suspend, revoke, or otherwise lawfully discipline Licensee's license.

21. The Board shall enter no order imposing further discipline on Licensee's license without notice and an opportunity for hearing before the Board in accordance with the provisions of Chapter 536, RSMo.

22. If the Board determines that Licensee has violated a term or condition of this Settlement Agreement, and that violation would also be actionable in a proceeding before the Administrative Hearing Commission or in a circuit court, the Board may elect to pursue any lawful remedies or procedures afforded to it and is not bound by this Order in its determination of appropriate legal actions concerning such violation(s).

23. If any alleged violation of this Settlement Agreement occurs during the Disciplinary Period, the Board may choose to conduct a hearing on the alleged violation either during the Disciplinary Period, or as soon thereafter as a hearing can be held, to determine whether a violation of the terms and conditions of probation occurred and, if so, may impose

further discipline on the license of Licensee. The Board has continuing jurisdiction to hold a hearing determine if a violation of the terms and conditions of probation occurred.

24. Licensee, together with his heirs and assigns and its attorney(s), do hereby waive, release, acquit and forever discharge the Board, its respective members and any of its employees, agents or attorneys, including any former Board members, employees, agents and attorneys, of, or from, any liability, claim, actions, causes of action, fees, costs and expenses and compensation, including, but not limited to, any claims for attorney's fees and expenses, including any claims pursuant to Section 536.087 RSMo, or any claim arising under 42 U.S.C. § 1983, which may be based upon, arise out of, or relate to any of the matters raised in this case, its settlement or from the negotiation or execution of its settlement. Licensee acknowledges that this paragraph is severable from the remaining portions of this Settlement Agreement in that it survives in perpetuity even in the event that any court of law deems this Settlement Agreement or any portion thereof void or unenforceable.

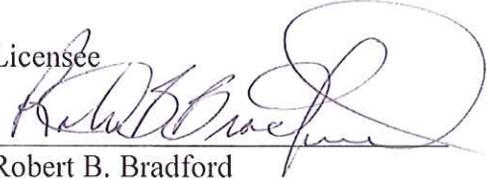
25. Each party agrees to pay all their own expenses and fees incurred as a result of this matter or any ensuing litigation.

26. Licensee understands that he may, either at the time the Settlement Agreement is signed by all parties or within fifteen (15) days thereafter, submit the Settlement Agreement to the Administrative Hearing Commission for determination that the facts agreed to by the parties constitute grounds for disciplining Licensee's licenses. If Licensee desires the Administrative Hearing Commission to review this Settlement Agreement, Licensee may submit his request to: Administrative Hearing Commission, Truman State Office Building, P.O. Box 1557, Jefferson City, Missouri 65102.

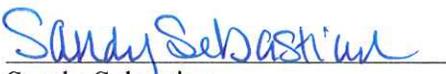
27. If Licensee requests review, this Settlement Agreement shall become effective on

the date the Administrative Hearing Commission issues its order finding that the Settlement Agreement sets forth cause for disciplining Licensee's license. If Licensee does not request review by the Administrative Hearing Commission, the Settlement Agreement goes in to effect 15 days after the document is signed by the Executive Director of the Board.

28. This Order of the Board shall be maintained as an open and public record of the Board as provided in Chapters 333, 610 and 324, RSMo.

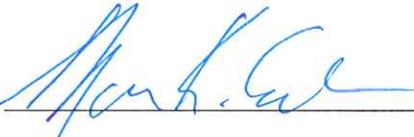
Licensee

Robert B. Bradford

Dated: 01-01-2013

Board

Sandy Sebastian
Executive Director
State Board of Embalmers and Funeral Directors

Dated: 1.7.2013

Approved:

 1/4/13

Sharon K. Euler # 42950
Division of Professional Registration
615 East 13th Street, Suite 501
Kansas City, Missouri 64106
(816) 889-3687 (voice)
(816) 889-2345 (fax)
Sharon.euler@pr.mo.gov

COUNSEL FOR LICENSEE

COUNSEL FOR THE BOARD

EFFECTIVE DATE
1.22.13
STATE BOARD OF EMBALMERS
AND FUNERAL DIRECTORS