

**SETTLEMENT AGREEMENT BETWEEN STATE BOARD OF EMBALMERS AND
FUNERAL DIRECTORS AND DUANE E. HARVEY**
(Funeral Director License)

The State Board of Embalmers and Funeral Directors (the “Board”) and Duane Harvey (“Licensee” or “Harvey”) enter into this “Settlement Agreement Between State Board of Embalmers and Funeral Directors and Duane E. Harvey” (the “Settlement Agreement”) to resolve the question of whether Harvey’s funeral director license should be subject to discipline and, if so, to agree on the appropriate level of discipline to impose on Harvey’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:

(4) Obtaining or attempting to obtain any fee, charge, tuition, or other compensation by fraud, deception, or misrepresentation;

(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation, or dishonesty in the performance of the functions or duties of any profession licensed or regulated by this chapter;

* * *

(14) Violation of any professional trust or confidence;

* * *

(19) Violation of any of the provisions of chapter 193, 194, 407, or 436;

2. Section 407.020, RSMo, states:

1. The act, use or employment by any person of any deception, fraud, false pretense, false promise, misrepresentation, unfair practice or the concealment, suppression, or omission of any material fact in connection with the sale or advertisement of any merchandise in trade or commerce or the solicitation of any funds for any charitable purpose, as defined in section 407.453, in or from the state of Missouri, is declared to be an unlawful practice. The use by any person, in connection with the sale or advertisement of any merchandise in trade or commerce or the solicitation of any funds for any charitable purpose, as defined in section 407.453, in or from the state of Missouri of the fact that the attorney general has approved any filing required by this chapter as the approval, sanction or endorsement of any activity, project or action of such person, is declared to be an unlawful practice. Any act, use or employment declared unlawful by this subsection violates this subsection whether committed before, during or after the sale, advertisement or solicitation.

2. Nothing contained in this section shall apply to:

(1) The owner or publisher of any newspaper, magazine, publication or printed matter wherein such advertisement appears, or the owner or operator of a radio or television station which disseminates such advertisement when the owner, publisher or operator has no knowledge of the intent, design or purpose of the advertiser; or

(2) Any institution, company, or entity that is subject to chartering, licensing, or regulation by the director of the department of insurance, financial institutions and professional registration under chapter 354 or chapters 374 to 385, the director of the division of credit unions under chapter 370, or director of the division of finance under chapters 361 to 369, or chapter 371, unless such directors specifically authorize the attorney general to implement the powers of this chapter or such powers are provided to either the attorney general or a private citizen by statute.

3. Any person who willfully and knowingly engages in any act, use, employment or practice declared to be unlawful by this section with the intent to defraud shall be guilty of a class D felony.

4. It shall be the duty of each prosecuting attorney and circuit attorney in their respective jurisdictions to commence any criminal actions under this section, and the attorney general shall have concurrent original jurisdiction to commence such criminal actions throughout the state where such violations have occurred.

5. It shall be an unlawful practice for any long-term care facility, as defined in section 660.600, except a facility which is a residential care facility or an assisted living facility, as defined in section 198.006, which makes, either orally or in writing, representation to residents, prospective residents, their families or representatives regarding the quality of care provided, or systems or methods utilized for assurance or maintenance of standards of care to refuse to provide copies of documents which reflect the facility's evaluation of the quality of care, except that the facility may remove information that would allow identification of any resident. If the facility is requested to provide any copies, a reasonable amount, as established by departmental rule, may be charged.

6. Any long-term care facility, as defined in section 660.600, which commits an unlawful practice under this section shall be liable for damages in a civil action of up to one thousand dollars for each violation, and attorney's fees and costs incurred by a prevailing plaintiff, as allowed by the circuit court.

Joint Stipulation of Facts and Conclusions of Law

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

3. 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.

4. Duane E. Harvey is an individual who has registered his address with the Board as 9100 Blue Ridge Boulevard, Kansas City, Missouri 64138.

5. Harvey holds funeral director license number 005131 that was and is current and active at all times relevant to this matter, but subject to probation.

6. On June 24, 2011, the Board issued its Findings of Fact, Conclusions of Law and Disciplinary Order placing Harvey's funeral director license on probation for 3 years from the

effective date of the order, subject to Harvey's compliance with the terms and conditions of probation.

7. Condition A of the terms and conditions of probation states:

A. During the Disciplinary period, Harvey shall comply with all applicable provisions of Chapter 333 and §§436.400 – 436.525, RSMo, as amended, all applicable Board regulations and all applicable federal and state laws. "State" includes the state of Missouri, all other states and territories of the United States, and the ordinances of their political subdivisions.

Conduct Giving Cause for Discipline

8. Harvey entered into an "Assurance of Voluntary Compliance" with the Missouri Attorney General in *State of Missouri, ex rel. Attorney Chris Koster v. Duane E. Harvey*, Case number 13AC-CC00108, Circuit Court of Cole County, Missouri (the "AVC").

9. The AVC was filed with the Circuit Court of Cole County on February 20, 2013 and on February 21, 2013 the Circuit Court of Cole County issued its "Order and Judgment Approving Assurance of Voluntary Compliance." Attached as Exhibit A is a true and accurate copy of the Order and Judgment Approving Assurance of Voluntary Compliance and the AVC.

10. In the AVC, Harvey admitted to engaging in conduct in violation of Section 407.020, RSMo. AVC, page 2, paragraph 7.

11. In the AVC, Harvey consented to the violation set forth in the AVC to be used as a basis for discipline by the Board. AVC, page 2, paragraph 7.

12. In the AVC, Harvey stipulated to the following violation on page 5, paragraph 18 of the AVC:

18. Defendant admits that on or around July 2011, Defendant engaged in the unlawful act, use or employment of deception, fraud, false pretense, false promise, misrepresentation, unfair practice or the concealment, suppression, or

omission of material fact in connection with the sale of funeral merchandise in trade or commerce in the state of Missouri by:

a. Informing consumer Ms. Treaver Charles that the Crime Victims' Compensation Program would pay claims up to \$5,000, even though the total of Ms. Charles' selected funeral goods and services was only \$3,150;

b. Creating a fraudulent invoice of \$1,850 from Direct Casket Outlet-North, a company that does not exist, in order to submit the claim to the Crime Victims' Compensation Program and receive reimbursement for goods and services not purchased by the consumer and not provided by the Defendant;

c. Instructing an employee of Duane E. Harvey Funeral Directors, Willie Meeks, to submit the invoice to the Crime Victims' Compensation Program and to call to inform the Program that Ms. Charles had paid the \$1,850 invoice, when in fact she had not; and

d. Intending to give the money reimbursed from the Program to Ms. Charles but the Program denied the claim.

Causes for Discipline

13. Harvey violated condition A of the terms and conditions of his probation.

14. Being honest and truthful in completing all forms related to deaths and funeral goods and services is an essential function and duty of a funeral director.

15. There is cause to discipline the, funeral director license held by Harvey pursuant to Section 333.330.2(4), (5), (14) and (19), RSMo.

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:

16. Licensee's license to practice as a funeral director is hereby placed on **PROBATION** for a period of **FIVE YEARS** from the effective date of this Settlement

Agreement (the "Disciplinary Period"). During the Disciplinary Period, Harvey shall be entitled to practice as a funeral director, subject to the following terms and conditions of probation:

Terms and Conditions of Probation

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

- 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 submit written compliance reports to the Board no later than January 1 and July 1 of each year, but no compliance report shall be filed more than 14 days before it is due. These compliance reports shall contain all other information required by this Settlement Agreement and shall be filed on forms supplied by the Board, if Licensee fails to receive the form from the Board, Licensee shall have the duty to contact the Board to request the form compliance report. Licensee shall complete each compliance report truthfully, accurately and completely;

- d. Licensee shall engage in no conduct that would give the Board cause to seek authority to discipline from the Administrative Hearing Commission;
- e. 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;
- f. 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;
- g. 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;
- h. Licensee shall accept and cooperate with unannounced visits from the Board, or its representatives, to monitor compliance with the terms and conditions of probation;
- i. 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

- j. Licensee shall provide his employer with a copy of this Settlement Agreement within 5 business days of his receipt of the fully executed Settlement Agreement. If Licensee changes employers, Licensee shall provide any new employer with a copy of this fully executed Settlement Agreement within 5 business days of his employment.

18. 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.

19. 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.

20. 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.

21. 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).

22. 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.

23. 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.

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

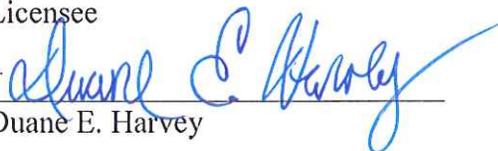
25. Licensee understands that he may, either at the time the Settlement Agreement is signed by all parties or within fifteen (15) days thereafter, submit the Settlement Agreement to

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.

26. 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.

27. 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


Duane E. Harvey

Dated: 11/26/13

Board

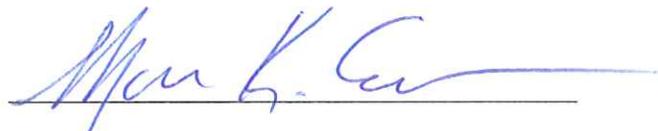

Sandy Sebastian
Executive Director
State Board of Embalmers and Funeral Directors

Dated: 12.24.13

Approved:



Joseph Michael Fridkin Mo #
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COUNSEL FOR THE BOARD

IN THE CIRCUIT COURT OF COLE COUNTY
STATE OF MISSOURI

FILED

FEB 20 2013

COLE COUNTY
CIRCUIT COURT

STATE OF MISSOURI, ex rel.)
Attorney General Chris Koster,)
)
Plaintiff,)
)
vs.)
)
DUANE E. HARVEY d/b/a)
DUANE E. HARVEY FUNERAL)
DIRECTORS,)
)
Defendant.)

Case No:
Division:

ASSURANCE OF VOLUNTARY COMPLIANCE

Plaintiff, State of Missouri, at the relation of Attorney General Chris Koster, and Defendant, Duane E. Harvey d/b/a Duane E. Harvey Funeral Directors, stipulate and agree to this assurance of voluntary compliance on the following terms:

I. General Findings

1. The Court is empowered to enter this assurance of voluntary compliance by agreement of Defendant, pursuant to § 407.030, RSMo 2011.¹
2. Plaintiff is the State of Missouri acting by and through Chris Koster, the duly elected, qualified and acting Attorney General of the State of Missouri and who is duly responsible for the enforcement and administration of Missouri law. Kristin A. Underwood is a duly appointed and qualified Assistant Attorney General.

¹ All references are to Missouri Revised Statutes 2011, unless otherwise noted.



3. Defendant Duane E. Harvey is a natural person who is a resident of Kansas City, Missouri and did business in the state of Missouri as Duane E. Harvey Funeral Directors at 9100 Blue Ridge Boulevard, Kansas City, Missouri 64138.

4. All references to Defendant include acts individually, in concert, or by or through principals, officers, directors, members, employees, agents, representatives, affiliates, assignees and successors of Defendant.

5. Defendant represents to the Court that he has full and binding authority to execute this assurance of voluntary compliance.

6. Defendant agrees and understands that this assurance of voluntary compliance applies to Defendant, his principals, officers, directors, members, affiliates, agents, employees, representatives, successors and assigns, whether acting personally, or through any corporation or any other business entities, whose acts, practices, or policies are directed, formulated or controlled by Defendant.

7. Defendant has engaged in acts Plaintiff alleges are violations of the Merchandising Practices Act, § 407.020. Defendant admits he engaged in the conduct alleged in paragraph 18, which violated § 407.020, and this violation may be used as a basis for discipline of his licenses issued by the Board of Embalmers and Funeral Directors.

8. Nothing in this assurance of voluntary compliance shall be construed as relieving Defendant of the obligation to comply with all state or federal laws, regulations or rules; or relieving Defendant from any existing or future liability under the laws, or

from legal claims not set forth in this assurance of voluntary compliance; or as limiting the ability of the Attorney General or any other government entity from enforcing such provisions with respect to Defendant within the State of Missouri.

9. The parties acknowledge that no other promises, representations, or agreements of any nature have been made or entered into by the parties, relating to the basis of this assurance of voluntary compliance. However, if any provision or provisions of this assurance of voluntary compliance is or are declared invalid by a court of competent jurisdiction, the rest of this assurance of voluntary compliance shall remain in full force and effect and shall not be affected by such declaration.

10. Defendant, through his agents, representatives and/or employees shall not, directly or indirectly, represent to any person, natural or otherwise, that the Missouri Attorney General, or any of his employees, sanctions, endorses, or approves of any past or further methods, acts, uses, practices, or solicitations by or on behalf of Defendant.

11. This assurance of voluntary compliance embodies the entire agreement and understanding of the parties hereto with respect to the subject matter contained herein.

12. Having read and understood the terms and conditions of this assurance of voluntary compliance, the parties agree that this assurance of voluntary compliance constitutes a fair resolution of the pending litigation. The Missouri Attorney General believes an assurance of voluntary compliance, executed pursuant to § 407.030 RSMo, is presently adequate to protect the people of the State of Missouri.

13. This assurance of voluntary compliance resolves all claims Plaintiff has or

may have against Defendant under § 407.020 for acts and practices described in this assurance of voluntary compliance.

14. Although the execution of this assurance of voluntary compliance provides for a contractual release of claims under paragraph 13, this action did not involve a filing of a claim, is not a judgment and has no effect under the doctrine of *res judicata*. In the event of Defendant's failure to comply with, or any other breach of, the terms of this agreement, Plaintiff may bring any and all claims against Defendant for any and all relief for any conduct before, during, or after the date of this assurance of voluntary compliance.

15. Defendant has had the opportunity to consult with legal counsel regarding this assurance of voluntary compliance, and agrees to be bound by all provisions contained herein, waiving its right to trial or appeal.

16. The parties agree and stipulate that this Court has personal jurisdiction over Defendant for purposes of, and subject matter jurisdiction to enforce, this assurance of voluntary compliance, and to issue any orders or directions as may be necessary and appropriate for the enforcement of, or compliance with, this assurance of voluntary compliance.

17. The Plaintiff and Defendant each recommend the Court approve this assurance of voluntary compliance. The Attorney General and Defendant agree that the Attorney General, without further notice, may make ex parte application to the Circuit Court for entry and approval of this assurance of voluntary compliance.

II. Stipulated Violations

18. Defendant admits that on or around July 2011, Defendant engaged in the unlawful act, use or employment of deception, fraud, false pretense, false promise, misrepresentation, unfair practice or the concealment, suppression, or omission of material fact in connection with the sale of funeral merchandise in trade or commerce in the state of Missouri by:

- a. Informing consumer Ms. Treaver Charles that the Crime Victims' Compensation Program would pay claims up to \$5,000, even though the total of Ms. Charles' selected funeral goods and services was only \$3,150;
- b. Creating a fraudulent invoice of \$1,850 from Direct Casket Outlet-North, a company that does not exist, in order to submit the claim to the Crime Victims' Compensation Program and receive reimbursement for goods and services not purchased by the consumer and not provided by the Defendant;
- c. Instructing an employee of Duane E. Harvey Funeral Directors, Willie Meeks, to submit the invoice to the Crime Victims' Compensation Program and to call to inform the Program that Ms. Charles had paid the \$1,850 invoice, when in fact she had not; and
- d. Intending to give the money reimbursed from the Program to Ms. Charles, but the Program denied the claim.

III. Assurances

19. Defendant agrees to comply with Missouri's Merchandising Practices laws as set forth in Chapter 407, RSMo, including but not limited to:

- a. Only charging consumers commercially reasonable prices for funeral goods and services consistent with industry standards and prices in the same geographic area;
- b. Generating and representing honest invoices to consumers, businesses, and governmental agencies for Defendant's funeral goods and services;
- c. Representing to consumers the true business name of the Defendant and any company through which the Defendant obtains funeral merchandise; and
- d. Submitting only legitimate claims to the Crime Victims' Compensation Program.

20. Defendant agrees that if he continues to engage in funeral business in Missouri he will:

- a. Maintain current registration with the Missouri Secretary of State to do business in this state;
- b. Maintain current licenses and registrations with the Board of Embalmers and Funeral Directors; and
- c. Comply with Missouri's Embalmers and Funeral Directors law set forth in Chapter 333, RSMo; and Preneed Funeral Contract Act as set forth in Sections 436.400 to 436.520, RSMo.

21. Defendant agrees to implement these obligations in good faith. The parties hereto agree that as questions or concerns arise regarding these obligations, the parties will work cooperatively to resolve these questions or concerns.

IV. Monetary Payment

22. Defendant shall pay the sum of one thousand dollars (\$1,000), as a civil penalty made payable to the State of Missouri to the State Treasurer for distribution to the public schools as required by Article IX, section 7 of the Missouri Constitution.

Defendant shall pay this amount in one lump sum in the form of a check, and shall be mailed contemporaneously with this executed agreement to the Missouri Attorney General, P.O. Box 899, Jefferson City, Missouri 65102, who shall then deliver the check to the Missouri State Treasurer.

23. Defendant shall pay the sum of five hundred dollars (\$500), made payable to the State of Missouri to the Merchandising Practices Revolving Fund to reimburse the Attorney General for attorneys' fees and costs incurred by the Attorney General in the investigation and enforcement of the Merchandising Practices Act, and to provide funds for consumer education and advocacy programs. Defendant shall pay this amount in one lump sum in the form of a check, and shall be mailed contemporaneously with this executed agreement to the Missouri Attorney General, P.O. Box 899, Jefferson City, Missouri 65102.

24. In the event Defendant fails to make any payment when due, time being of the essence, the State may, at its option, without notice or demand, declare the entire sum

then unpaid immediately due and payable and collect the entire judgment. In addition, the State may petition the Court for civil penalties pursuant to § 407.030.2, RSMo, court costs and costs of investigation and prosecution of the action pursuant to § 407.130, RSMo, and all other relief authorized pursuant to §§ 407.100 and 407.140, RSMo.

V. Miscellaneous Provisions

25. Nothing in this assurance of voluntary compliance shall be construed as excusing or forgiving future noncompliance with any Missouri laws, or requiring the Missouri Attorney General to forego pursuit of any other violation of any state law.

26. Jurisdiction is retained for the purpose of enabling any party to this assurance of voluntary compliance to apply to the Court at any time for the purpose of enforcement of the provisions herein. Such enforcement may include, but is not limited, to an action to obtain a civil penalty pursuant to § 407.030. The Attorney General is not restrained from initiating further investigations or legal proceedings concerning the subject matter of this assurance of voluntary compliance arising after the date this assurance of voluntary compliance is executed by the parties, including, but not limited to, an action for an injunction, restitution, or other relief brought pursuant to §407.100.

27. This assurance of voluntary compliance is entered into pursuant to the laws of the State of Missouri and shall be governed by and construed in accordance with the same.

28. Having read and understood the terms and conditions of this assurance of voluntary compliance, the parties agree that this assurance of voluntary compliance constitutes a fair resolution of the potential litigation.

29. Defendant agrees and understands that nothing contained in this assurance of voluntary compliance affects the rights and causes of action of private parties.

30. Each party agrees to pay their respective court costs.

Defendant's Signature and Acknowledgment

Defendant Duane E. Harvey d/b/a Duane E. Harvey Funeral Directors, has read and understands this agreement and each of its terms, and agrees to each and every term.

I, being first duly sworn on oath, state that I am Defendant Duane E. Harvey d/b/a Duane E. Harvey Funeral Directors, an individual, and I have read, understand, and agree to the terms contained in this assurance of voluntary compliance.

STIPULATED AND AGREED TO BY:

Defendant

Duane E. Harvey d/b/a
Duane E. Harvey Funeral Directors

Duane E. Harvey
Signature

DUANE E. HARVEY
Print name

MANAGER
Title

11718 E. 60TH ST., K.C., MO 64133
Address

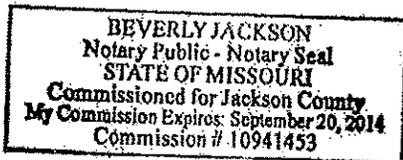
On this 15th day of February, 2013, before me, the undersigned notary public, personally appeared Duane E. Harvey, known to me to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained. In witness whereof, I hereunto set my hand and official seal.

Beverly Jackson
Notary Public

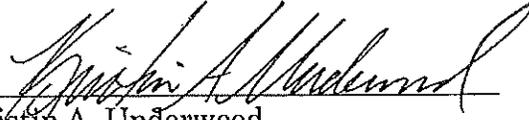
My Commission Expires: 9/20/2014

Acceptance by the State of Missouri at the Relation of

Attorney General Chris Koster



STATE OF MISSOURI, ex rel.
CHRIS KOSTER
Attorney General



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Kristin.underwood@ago.mo.gov
ATTORNEYS FOR PLAINTIFF

Findings of Fact

1. The Board is an agency of the state of Missouri created and established by Section 333.151, RSMo¹, 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.
2. Harvey is an individual who registered his address with the Board as 9100 Blue Ridge Boulevard, Kansas City, Missouri 64138.
3. Harvey holds funeral director license number 005131. The license is current and active.
4. 9100 Group, LLC, doing business as Duane E. Harvey Funeral Directors, has registered Harvey with the Board as its funeral director in charge of the funeral establishment pursuant to § 333.061.2, RSMo and 20 CSR 2120-1.030(20).
5. As funeral director in charge, Harvey is responsible for the general management and supervision of Duane E. Harvey Funeral Directors' funeral establishment.
6. By Order issued by the Administrative Hearing Commission (AHC) on December 9, 2009, the AHC found cause for the Board to discipline Harvey's funeral director's license pursuant to § 333.121.2(5), (13) and (15), RSMo, for issuing nine death certificates with forged signatures, for refusing to pay life

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

insurance proceeds to the company entitled to keep them and for refusing to pay life insurance proceeds he had no right to obtain or keep.

7. On March 31, 2010, the Board held a disciplinary hearing to determine the appropriate level of discipline to impose on Harvey's funeral director's license.

8. By Order dated May 4, 2010, the Board issued its "Findings of Fact, Conclusions of Law and Disciplinary Order" (Order).

9. The Board's Order placed Harvey's funeral director license on probation, subject to certain terms and conditions, for a period of two years from the date of the Board's Order.

10. The terms and conditions of probation set forth in the Board's Order, section III include the following paragraphs:

A. During the probationary period, Respondent shall comply with all applicable provisions of Chapter 333 and §§ 436.400 – 436.525, RSMo, as amended, all applicable Board regulations and all applicable federal and state laws. "State" includes the state of Missouri, all other states and territories of the United States and the ordinances of their political subdivisions.

C. Respondent shall submit written reports to the Board by no later than January 1 and July 1, during each year of the Disciplinary period, stating truthfully whether there has been compliance with all terms and conditions of this Order. A copy of the required report may be obtained from the Board.

F. During the probationary period, Respondent shall timely renew his license(s), timely pay all fees required for licensure and comply with all other requirements necessary to maintain his license(s) current and active.

IN THE CIRCUIT COURT OF COLE COUNTY
STATE OF MISSOURI

FILED
FEB 21 2013

COLE COUNTY
CIRCUIT COURT

STATE OF MISSOURI, ex rel.)
Attorney General Chris Koster,)
)
Plaintiff,)

vs.)

Case No: 13AC-000108
Division:

DUANE E. HARVEY d/b/a)
DUANE E. HARVEY FUNERAL)
DIRECTORS,)
)
Defendant.)

ORDER AND JUDGMENT APPROVING
ASSURANCE OF VOLUNTARY COMPLIANCE

Now on the date indicated below, the Petition for Approval of Assurance of Voluntary Compliance having been presented to the Court by Chris Koster, Attorney General of the State of Missouri, through his Assistant Attorney General, Kristin A. Underwood, and the Court having considered the Petition for Approval of Assurance of Voluntary Compliance, and the Assurance of Voluntary Compliance filed contemporaneously therewith, executed pursuant to Section 407.030, RSMo 2010, by and between Plaintiff and Defendant in this matter, and being fully advised in the premises, and the Court finding that the Assurance of Voluntary Compliance will adequately protect the public interest as expressed in Chapter 407, RSMo.

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the Assurance of Voluntary Compliance executed on the 15th day of February 2013, by Defendant, and accepted on February 19, 2013, by Plaintiff is hereby approved.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Defendant shall pay the sum of five hundred dollars (\$500.00) to the State of Missouri, made payable to the Merchandising Practices Revolving Fund to reimburse the Attorney General for attorneys' fees and costs incurred by the Attorney General in the investigation and enforcement of the Merchandising Practices Act, and to provide funds for consumer education and advocacy programs.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant shall pay such amount contemporaneously with the execution of this Assurance of Voluntary Compliance.

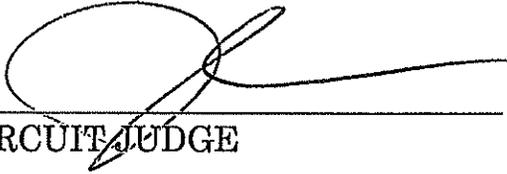
IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant shall pay the sum of one thousand dollars (\$1,000.00) to the State of Missouri as a civil penalty, made payable to the State Treasurer for distribution to the public schools as required by Article IX, section 7 of the Missouri Constitution.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant shall pay such amount contemporaneously with the execution of this Assurance of Voluntary Compliance.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that in the event Defendant fails to make any payment when due, time being of the essence, the State may, at its option, without notice or demand, declare the entire sum then unpaid immediately due and payable and collect the entire judgment. In addition, the State may petition the Court for civil penalties pursuant to §407.030.2, RSMo, court costs and costs of investigation and prosecution of the action pursuant to § 407.130, RSMo, and all other relief authorized pursuant to §§ 407.100 and 407.140, RSMo.

SO ORDERED AND APPROVED:

Judgment entered this 22nd day of February, 2013.



CIRCUIT JUDGE