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AUG 6 - 2010

Before the  
Administrative Hearing Commission  
State of Missouri

MO ATTORNEY GENERAL

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AUG 09 2010

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ANTHONY L. OLIVER,

Petitioner,

vs.

STATE BOARD OF EMBALMERS AND  
FUNERAL DIRECTORS,

Respondent.

No. 10-0057 EM

**ORDER OF DISMISSAL**

Respondent filed a motion to dismiss on August 4, 2010, asserting that no further dispute exists between the parties because they have entered into a settlement agreement, a copy of which, signed by Petitioner, is attached to the motion.

Therefore, this case is dismissed.

SO ORDERED on August 5, 2010.

  
SREENIVASA RAO DANDAMUDI  
Commissioner

10/12

**BEFORE THE  
ADMINISTRATIVE HEARING COMMISSION  
STATE OF MISSOURI**

**FILED**

AUG 04 2010

ADMINISTRATIVE HEARING  
COMMISSION

ANTHONY OLIVER )

Petitioner, )

v. )

STATE BOARD OF EMBALMERS )  
AND FUNERAL DIRECTORS )

Respondent. )

Case No. 10-0057 EM

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DISMISSAL AND SETTLEMENT AGREEMENT

Petitioner, Anthony Oliver (“Oliver”) and Respondent, the State Board of Embalmers and Funeral Directors (“Board”) hereby agree and request the Administrative Hearing Commission to dismiss this matter pursuant to the settlement agreement hereby entered. The parties enter into this agreement for the purpose of resolving the question of whether Oliver shall be issued licenses as a funeral director and embalmer. Pursuant to § 536.060, RSMo 2000,<sup>1</sup> the parties hereto waive the right to a hearing by the Administrative Hearing Commission of the State of Missouri. The parties jointly stipulate and agree that a final disposition of this matter may be effectuated as described below.

Oliver acknowledges that he understands the various rights and privileges afforded him by law, including the right to a hearing regarding whether he is entitled to a registration as a funeral director apprentice and embalmer apprentice; the right to appear and be

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<sup>1</sup> All statutory citations are to the 2000 Revised Statutes of Missouri unless otherwise noted.

represented by legal counsel; the right to have the reasons for the denial proven upon the record by competent and substantial evidence; the right to cross-examine any witnesses appearing against him at the hearing; the right to present evidence on his behalf at the hearing; the right to a decision upon the record of the hearing by a fair and impartial administrative hearing commissioner concerning the reasons for the denial; the right to a ruling on questions of law by the Administrative Hearing Commission; the right to a claim for attorney fees and expenses; and the right to obtain judicial review of the decisions of the Administrative Hearing Commission.

Being aware of these rights provided to him by law, Oliver knowingly and 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.

Oliver stipulates that the factual allegations contained in this Settlement Agreement are true and stipulates with the Board that pursuant to §§ 333.041 and 331.121.1, RSMo, as amended, such allegations are cause for the Board to refuse to issue registration to Oliver. Oliver further stipulates that pursuant to §324.038, RSMo Cum. Supp. 2009, the Board has authority, as an alternative to refuse to issue registration, to issue Oliver a registration subject to probation.

I.

Joint Stipulation of Facts and Conclusions of Law

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Based upon the foregoing, the Board and Oliver herein jointly stipulate to the following:

1. The State Board of Embalmers and Funeral Directors ("Board") is an agency of the State of Missouri created and existing pursuant to § 333.111, RSMo, for the purpose of licensing embalmers and funeral directors and of executing and enforcing the provisions of Chapter 333, RSMo, and certain provisions of Chapter 436, RSMo, and the regulations adopted thereunder.

2. On or around November 5, 2009, Oliver submitted an application to the Board for registration as a funeral director apprentice and embalmer apprentice. On December 30, 2009, the Board denied Oliver's application for registrations. On or around January 13, 2010, Oliver appealed the denial to the Administrative Hearing Commission

3. On or about December 10, 1986, Oliver was found guilty or entered a plea of guilty or nolo contendere for tampering with the service of a utility in the 22<sup>nd</sup> Judicial Circuit Court, St. Louis, MO.

4. On or about December 3, 1992, Oliver was found guilty or entered a plea of guilty or nolo contendere for two counts of unlawful use of a weapon in the 21<sup>st</sup> Circuit Court, Clayton, MO, with arrest dates on or around August 8, 1989, and February 4, 1992.

5. On or around December 3, 1992, Oliver was found guilty or entered a plea of guilty or nolo contendere for seven counts of distribution, delivery or manufacture of a controlled substance in the 21<sup>st</sup> Circuit Court, Clayton, MO.

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6. On or around December 3, 1992, Oliver was found guilty or entered a plea of guilty or nolo contendere for possession of a controlled substance in the 21<sup>st</sup> Circuit Court, Clayton, MO.

7. Oliver applied for licensure in November of 2009 and answered yes to the question, "Have you ever been arrested, charged with or found guilty, or entered a plea of guilty or nolo contendere of a violation of any federal, state or municipal, drug or alcohol laws or rules whether or not sentence was imposed (includes suspended imposition of sentence (SIS). If yes, explain fully."

8. When asked to explain his answer, Oliver stated, "I was convicted and incarcerated June 2000 for felon in possession of a firearm while driving my cab. I was convicted of carrying a concealed weapon Dec 1991."

9. Cause exists to deny Oliver's application for licensure pursuant to §§333.330.1 and 333.330.2 (2) and (3), which state:

1. The board may refuse to issue any certificate of registration or authority, permit, or license required under this chapter for one or any combination of causes stated in subsection 2 of this section. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of his or her right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, 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:

(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;

(3) Use of fraud, deception, misrepresentation, or bribery in securing any certificate of registration or authority, permit, or license issued under this chapter or in obtaining permission to take any examination given or required under this chapter;

## II.

### Issuance of Probated License

1. Based on the foregoing, the parties mutually agree and stipulate that the Board has cause to deny Oliver's applications for funeral director apprentice registration and embalmer apprentice registration. The parties further agree that in lieu of the Board's denial of Oliver's application for registration as a funeral director apprentice and denial of Oliver's application for registration as an embalmer apprentice, the Board hereby will issue Oliver such apprentice registrations on probation. The term of probation for the funeral director apprentice registration shall be the entire apprentice registration allowed under law or two (2) years, whichever is shorter. The term of probation for the embalmer apprentice registration shall be the entire apprentice registration allowed under law or five (5) years,

whichever is shorter. These respective probation periods shall constitute the “disciplinary period” and shall begin immediately upon the order of the Administrative Hearing Commission dismissing case No. 10-0057 EM.

2. During the disciplinary period, Oliver shall be entitled to practice as a funeral director apprentice and embalmer apprentice under §§ 324.520-324.526, RSMo, as amended, provided Oliver adheres to all the terms of this agreement:

A. Oliver shall keep the Board apprised at all times in writing of his current business address and telephone number. Oliver shall provide the Board with written notification within ten days of any change in this information.

B. Oliver shall comply with all provisions of Chapter 333 RSMo, as amended, § 436.400 to 436.525, RSMo Cum. Supp. 2009, all rules and regulations of the Board, and all state and federal laws related to the performance of duties in the funeral industry.

C. Oliver shall appear before the Board or its representatives upon the Board’s request.

D. Oliver shall accept and cooperate with unannounced visits from the Board’s duly authorized representatives to monitor his compliance with these terms and conditions.

E. Oliver 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

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there has been compliance with all terms and conditions of this Settlement. The report must also contain any legal action to which Oliver is a party, either as a plaintiff or defendant including the caption of that proceeding, the case number as well as the name of the tribunal in which the action is pending. These reports must also be signed by his supervising funeral director and funeral director in charge.

F. Oliver must certify to the Board that he has read, in its entirety, the statutes and regulations relevant to his practice as a funeral director in Missouri including Chapter 333 and the relevant provisions of Chapters 436, 193 and 194, RSMo.

G. Oliver must notify the Board, in writing, of any action where he is finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in any criminal prosecution.

3. No additional discipline shall be imposed by the Board pursuant to the preceding paragraph of this Settlement Agreement without notice and opportunity for hearing before the Board as a contested case in accordance with the provisions of Chapter 536, RSMo.

4. This Settlement Agreement does not bind the Board or restrict the remedies available to it concerning facts or conduct not specifically mentioned in this Settlement Agreement that are either not known to the Board or may be discovered.

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5. If any alleged violation of this Settlement Agreement occurs during the disciplinary period, the parties agree that the Board may choose to conduct a hearing before it either during the disciplinary period, or as soon thereafter as a hearing can be held, to determine whether a violation occurred and, if so, may impose further disciplinary action. Oliver agrees and stipulates that the Board has continuing jurisdiction to hold a hearing to determine if a violation of this Settlement Agreement has occurred.

6. Each party agrees to pay all their own fees and expenses incurred as a result of this case, its litigation, and/or its settlement.

7. 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.

8. The parties to this Settlement Agreement understand that the Board will maintain this Settlement Agreement as an open record of the Board as required by Chapters 610, and 324, RSMo, as amended.

9. Oliver together with his partners, heirs, assigns, agents, employees, representatives and attorneys, does hereby waive, release, acquit and forever discharge the Board its respective members, employees, agents and attorneys including former members, employees, agents and attorneys, of, or from any liability, claim, actions, causes of action,

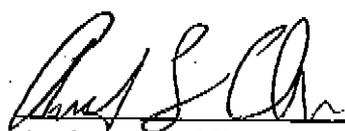
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fees, costs, expenses and compensation, including, but not limited to, any claim for attorney's fees and expenses, whether or not now known or contemplated, including, but not limited to, any claims pursuant to § 536.087, RSMo (as amended), or any claim arising under 42 U.S.C. § 1983, which now or in the future may be based upon, arise out of, or relate to any of the matters raised in this case or its litigation or from the negotiation or execution of this Settlement Agreement. The parties acknowledge that this paragraph is severable from the remaining portions of the Settlement Agreement in that it survives in perpetuity even in the event that any court or administrative tribunal deems this agreement or any portion thereof void or unenforceable.

10. This Settlement Agreement will go into effect immediately upon the order of the Administrative Hearing Commission dismissing Case No. 10-0057 EM.

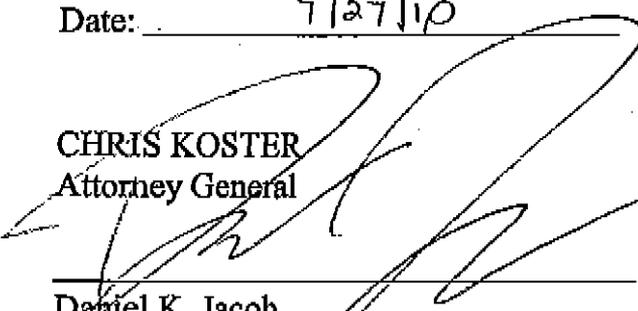
LICENSEE

  
Anthony L. Oliver  
Date: 7/20/2010

STATE BOARD OF EMBALMERS AND  
FUNERAL DIRECTORS

  
Becky Dunn, Executive Director  
Date: 7/27/10

CHRIS KOSTER  
Attorney General

  
Daniel K. Jacob  
Assistant Attorney General  
Missouri Bar No. 62164

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Supreme Court Building  
207 West High Street  
P.O. Box 899  
Jefferson City, MO 65102  
Telephone: 573-751-7728  
Telefax: 573-751-5660

Attorneys for the State Board of  
Embalmers and Funeral Directors

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