

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

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MARLISA ANETTE CAMERER TELLIER,)	
)	
Petitioner,)	
)	
v.)	No. 09-1121 EM
)	
STATE BOARD OF EMBALMERS AND)	
FUNERAL DIRECTORS,)	
)	
Respondent.)	

SETTLEMENT AGREEMENT AND MUTUAL RELEASE

Marlisa Anette Camerer Tellier ("Tellier") and State Board of Embalmers and Funeral Directors ("Board") enter into the following Settlement Agreement and Mutual Release ("Agreement").

WHEREAS, Tellier submitted an application for a Missouri funeral director's license to the Board and the Board denied Tellier's application.

WHEREAS, Tellier timely filed an appeal of the Board's decision to deny her application for a Missouri funeral director's license with the Administrative Hearing Commission.

WHEREAS, Tellier subsequently submitted an application for preneed agent/funeral director.

WHEREAS, Tellier and the Board (collectively, "Parties") dispute whether facts exist that would provide legal grounds for the Board to deny Tellier's two applications for licensure.

WHEREAS, the Parties desire to fully settle and resolve this case without a hearing.

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For the purposes of settling this matter, the parties stipulate:

1. The 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, as amended, and certain provisions of Chapter 436, RSMo, as amended, and the regulations adopted thereunder.

2. On or about February 14, 2008, the Oklahoma Funeral Board denied Tellier a funeral director's and embalmer's license.

3. On or about November 19, 2007, the Department of Securities, State of Oklahoma, issued a Final Order to Cease and Desist in In the Matter of: XXIst Century Group, L.L.C., Sheldon Mitchell, Marlisa Camerer [Tellier], and Kevin Blackburn, ODS File No. 05-073.

4. On or about September 12, 2008, the Deputy Insurance Commissioner, State of Oklahoma, issued a Final Administrative Order in Case No. 08-1081-DIS, against Camerer [Tellier] and revoked her insurance license.

5. On or about October 3, 2008, the Deputy Insurance Commissioner, State of Oklahoma, issued a Final Administrative Order in Case No. 08-1286-DIS, against Camerer's [Tellier's] company, Memorial Sales, and revoked Memorial Sales' insurance license.

6. On or about June 22, 2009, Tellier applied to the Missouri Board for a funeral director's license. On Tellier's application for a funeral director's license in Missouri, Tellier responded "No" to the following question: "Have you ever applied for licensure as a funeral director or taken the examination for licensure as a funeral director in this or any other state or territory before making this application?"

7. Tellier disputes the validity of the administrative orders reference in Paragraphs 2 through 5 above in her appeal.

NOW, THEREFORE, the Board and Tellier jointly stipulate and agree as follows:

1. This document is the joint work product of the Parties and no inference shall be drawn against either party by reason of document preparation.

2. This document embodies the entire Agreement and understanding of the Parties with respect to the subject matter contained herein. The Parties declare and represent that no promise, inducement, or agreement not herein expressed has been made. Both Parties are represented by counsel in this case.

3. Solely for the purpose of settling this matter to avoid further litigation, Tellier understands there is cause for the Board to issue her probated licenses due to the existence of the administrative orders referenced in Paragraphs 2 through 5 above and the lack of an administrative or court order declaring these administrative orders to be invalid as a matter of law.

4. Tellier agrees to dismiss with prejudice her appeal filed with the Administrative Hearing Commission as soon as this Agreement becomes effective.

5. The Board agrees to issues Tellier a funeral director license and a preneed agent/ funeral director license subject to five years probation (“the probationary period”), provided she complies with the terms listed below. During the probationary period, Tellier shall be entitled to practice as a funeral director and a preneed agent/funeral director under §§ 333.011 to 333.261, RSMo, as amended, provided Tellier adheres to the terms of this Agreement:

A. Tellier shall keep the Board apprised at all times in writing of her current home and work addresses and telephone numbers at each place of business. Tellier shall provide the Board with written notification within ten (10) days of any change in this information.

B. Tellier shall timely renew all board-issued licenses and registrations and timely pay all fees for these renewals and comply with all other requirements to maintain her licenses and registrations in a current and active state.

C. If, at any time within the probationary period, Tellier changes residence and/or place of business from the State of Missouri, ceases to be currently licensed under the provisions of Chapter 333 or Chapter 436, or fails to keep the Board advised of all current places of business and/or residence, then the time of absence, or unlicensed status or unknown whereabouts, shall not be deemed or taken as any part of the probationary period.

D. Tellier shall comply with all provisions of Chapter 333; §§ 333.011 through 333.261, RSMo, as amended; §§ 436.400 through 436.525, RSMo, as amended; all rules and regulations of the Board; and all state and federal laws related to the performance of duties in the funeral industry.

E. Tellier shall appear before the Board or its representatives upon the Board's request.

F. Tellier shall accept and cooperate with unannounced visits from the Board's duly authorized representatives to monitor her compliance with these terms and conditions.

G. Tellier cannot be designated as a supervisor of an apprentice funeral director during the probationary period, except upon as approved in writing by the Board following receipt of a specific, written request from Tellier.

H. Tellier cannot be designated as the funeral director in charge of any Missouri funeral establishment during the probationary period, except as approved in writing by the Board following receipt of a specific, written request from Tellier.

I. Tellier must work under the direct supervision of a Missouri licensed funeral director during the probationary period, except as approved in writing by the Board following receipt of a specific, written request from Tellier. Tellier must provide her supervising funeral director with a copy of this document. The supervising funeral director must be employed within the State of Missouri and must be available for consultation by Tellier during their work hours. The supervising funeral director must have a license that is not currently under discipline by the Board. The supervising funeral director shall periodically review Tellier's activities as a funeral director and shall report to the Board any violations of this agreement. Tellier must keep the Board apprised at all times of the name of her supervising funeral director. If there is a change in the name of her supervising funeral director, Tellier must provide the Board with written notice of this change within five (5) business days of the change.

J. Tellier must provide a report to the Board on or before January 1 and July 1 of each year of the probationary period certifying her compliance with this agreement and reporting any violations. The report must also contain any legal action to which Tellier 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 her supervising funeral director and funeral director in charge.

K. Tellier shall provide a copy of this agreement to the owner, president, or a corporate officer of each employer reported to the Board under Paragraph A herein, each funeral director supervising her work under Paragraph I herein, and each funeral director in charge employed by each employer reported to the Board under Paragraph A herein during the disciplinary period. In addition, Tellier shall provide the Board with a signed sworn statement by each of these persons that they have received a copy of this agreement.

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

M. Tellier has no current license issued by the Missouri Department of Insurance, Financial Institutions & Professional Registration ("DIFP"). If at any time during the probationary period, Tellier applies to the DIFP for any license, she must provide the DIFP with a copy of this agreement and orders she has received from the Oklahoma Department of Insurance. Also, within five business days of making such an application during the probationary period, Tellier shall provide written notice to the Board of the fact of the application and certify that she has complied with the requirements of this Paragraph.

N. Tellier must submit a Missouri Highway Patrol background check, based on her fingerprints, to the Board.

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

P. Tellier acknowledges that her failure to receive the renewal or documentation from the Board shall not relieve her of the duty to pay a renewal fee and renew her license.

6. Upon the expiration of the probationary period, the licenses of Tellier shall be fully restored if all requirements of law have been satisfied; provided, however, that in the event the Board determines that Tellier has violated any term or condition of this Agreement, the Board may, in its discretion, after an evidentiary hearing, vacate and set aside the probationary licenses issued herein and may suspend, revoke, or otherwise lawfully discipline Tellier's licenses.

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

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

9. If any alleged violation of this 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. Tellier agrees and stipulates that the Board has continuing jurisdiction to hold a hearing to determine if a violation of this Agreement has occurred.

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

11. The terms of this Agreement are contractual, legally enforceable, and binding, not merely recital. Except as otherwise contained herein, neither this 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.

12. The parties to this Agreement understand that the Board will maintain this Agreement as an open record of the Board as required by Chapters 324, 333, and 610, RSMo, as amended.

13. Tellier, together with her 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, 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 Agreement. The parties acknowledge that this paragraph is severable from the remaining portions of the 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.

14. This Agreement shall be governed by and construed in accordance with the laws of the State of Missouri, and any actions brought to enforce this Agreement shall be brought in the Circuit Court of Cole County, State of Missouri.

15. The Parties acknowledge and warrant to each other that they have not at any time assigned to any other person or party all or any portion of any claim or potential claim related to this case. The Parties agree that if for any reason this Agreement should not be enforceable or binding as to one Party hereto, then it shall not be binding or enforceable as to the other party.

16. This Agreement shall be binding upon and inure to the benefit of the Parties hereto, jointly and severally, and the successors of each.

17. This Agreement completely integrates and embodies the terms and conditions reached and agreed upon by the Board and Tellier, and supersedes all previous written or oral agreements concerning matters discussed herein.

18. Upon the full execution of this Agreement by the Parties or their attorneys, this Agreement shall be effective.

19. The Parties understand that Missouri law requires the Board to maintain this Agreement as an open and public record of the Board.

20. The individuals signing this agreement represent and covenants that they are of lawful age and legally competent to execute this Agreement on behalf of the Parties and that

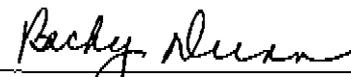
before signing and sealing this Agreement, they have fully informed themselves of its contents and meaning, and that they have executed it with full knowledge thereof.

WITNESS THE HANDS of the Parties, or their authorized signatories hereto:

PETITIONER

RESPONDENT


Marlisa Anette Camerer Tellier


Becky Dunn, Executive Director
State Board of Embalmers and
Funeral Directors

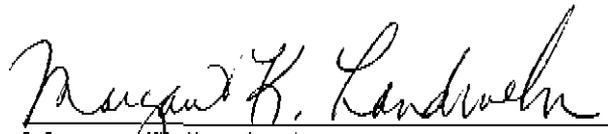
Date 7/26/2010

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