

IN THE MATTER OF
MALCOLM GIBSON
AND THE ENTITY OPERATING AS
PROFESSIONAL FUNERAL SERVICES, INC.
NEW ORLEANS, LOUISIANA

LOUISIANA STATE BOARD
OF EMBALMERS AND FUNERAL
DIRECTORS

FILED: JAN 13 2022


CLERK

FINDINGS OF FACT and DECISIONS of the BOARD

This matter came before the Louisiana State Board of Embalmers and Funeral Directors on November 9, 2021 for a ruling on an Admission and Consent submitted by the parties.

Present:

CHANEL R. DEBOSE, Prosecuting Attorney, for and on behalf of the Louisiana State Board of Embalmers and Funeral Directors.

CHRISTOPHER LENTO, General Counsel, for and on behalf of the Louisiana State Board of Embalmers and Funeral Directors.

After considering the law, the evidence, the entire record of these proceedings, and the Admission and Consent submitted by the parties for a ruling on the Admission and Consent, MALCOLM GIBSON and the entity operating as PROFESSIONAL FUNERAL SERVICES, INC., who waived their appearances to appear before the Board to be a part of the proceedings held on November 9, 2021. The Louisiana Board of Embalmers and Funeral Directors rules as follows:

FINDINGS OF FACT

That MALCOLM GIBSON is the licensed funeral director and embalmer (#E2431); designated manager, designated agent; and the owner of the establishment operating as Professional Funeral Services, Inc. (#2642), New Orleans, Louisiana, and, therefore, subject to the jurisdiction of this Board. HERBERT JOHNSON is a licensed funeral director (#U1464), and a co-owner of the establishment operating as Professional Funeral Services, Inc. (#2642), and, therefore, subject to the jurisdiction of this Board: that evidence contained within the record of these proceedings, and the Admission and Consent signed by the parties, reflect that Malcolm Gibson, Herbert Johnson, and the entity operating as Professional Funeral Services, Inc. are guilty of violating the provisions of: LA R.S. 37:846 (A) (5) (Unprofessional, Unethical, or Dishonest Conduct) (Failing to List the Wife of the Decedent on the Death Certificate).

CONCLUSIONS

As to **Malcolm Gibson, Herbert Johnson, and the entity operating as Professional Funeral Services, Inc.**, the Board members found that Malcolm Gibson, Herbert Johnson, and the entity operating as Professional Funeral Services, Inc. violated the provisions of LA R.S. 37:846 (A) (5) (Unprofessional, Unethical, or Dishonest Conduct) (Failing to List the Wife of the Decedent on the Death Certificate) as evidenced by documentation appearing in the file and the Admission and Consent signed by Malcolm Gibson on behalf of himself and the entity operating as Professional Funeral Services, Inc., admitting to the following:

On or around March 22, 2021 through March 29, 2021, Malcolm Gibson, the entity operating as Professional Funeral Services, Inc., and Herbert Johnson violated LA. R.S. 37:846 (A) (5) by engaging in unprofessional, unethical, or dishonest conduct by failing to list Shirley Bienemy, the wife of the decedent, Shallon Bienemy, Sr., on the decedent's death certificate after knowing or having reason to know that she was the lawful wife of the decedent.

DECISION OF THE BOARD

Accordingly, for the reasons as stated and noted herein above;

IT IS ORDERED BY THE BOARD that Malcolm Gibson, Herbert Johnson, and the entity operating as Professional Funeral Services, Inc. are guilty of violating the provisions of LA R.S. 37:846 (A) (5) (Unprofessional, Unethical, or Dishonest Conduct) (Failing to List the Wife of the Decedent on the Death Certificate).

IT IS FURTHER ORDERED BY THE BOARD that pursuant to LA. R.S. 37:850, the penalty statute applicable to these violations, which states: Whoever violates the provisions of this Part shall be fined not less than five hundred dollars, nor more than two-thousand, five-hundred dollars, and costs of the court reporter and attorney for the board for each offense, or by imprisonment for not less than thirty days, nor more than one-hundred eighty days for each offense, or both such fine and imprisonment, Malcolm Gibson is fined the sum of Two-Thousand, Five Hundred (2,500.00) dollars for the above cited violation of LA R.S. 37:846 (A) (5) (Unprofessional, Unethical, or Dishonest Conduct) (Failing to List the Wife of the Decedent on the Death Certificate).

IT IS FURTHER ORDERED BY THE BOARD that pursuant to LA. R.S. 37:850, the penalty statute applicable to these violations, which states: Whoever violates the provisions of this

Part shall be fined not less than five hundred dollars, nor more than two-thousand, five-hundred dollars, and costs of the court reporter and attorney for the board for each offense, or by imprisonment for not less than thirty days, nor more than one-hundred eighty days for each offense, or both such fine and imprisonment, Herbert Johnson is fined the sum of Two-Thousand, Five Hundred (2,500.00) dollars for the above cited violation of LA R.S. 37:846 (A) (5) (Unprofessional, Unethical, or Dishonest Conduct) (Failing to List the Wife of the Decedent on the Death Certificate).

IT IS FURTHER ORDERED BY THE BOARD that Professional Funeral Services, Inc. and its representative Malcolm Gibson are to pay the sum of Six-Thousand, Four-Hundred, Sixty-One Dollars, and Twenty-Five Cents (\$6,461.25) for the attorney's fees incurred by the Board for the handling of this matter from the date the matter was accepted by the Board through November 9, 2021, the date the Admission and Consent was accepted by the Board Members.

IT IS FURTHER ORDERED BY THE BOARD that the total assessed cost to Professional Funeral Services, Inc, Malcolm Gibson, and Herbert Johnson is Eleven-Thousand, Four-Hundred, Sixty-One Dollars, and Twenty-Five Cents (\$ 11, 461.25) in fines and fees owed to the Board for the above cited violations. The above assessed fines and attorney's fees are to be paid by Professional Funeral Services, Inc. and/or its representatives Malcolm Gibson and Herbert Johnson within thirty (30) days of receipt of this decision.

IT IS FURTHER ORDERED BY THE BOARD that should the costs not be received by the Board within thirty (30) days of the notification of costs due, then the license of the establishment operating as Professional Funeral Services, Inc., New Orleans, Louisiana shall be suspended until such time as all costs are paid.

BY ORDER OF THE BOARD


SECRETARY

Metairie, Louisiana
January 18, 2022