STATE OF IOWA BEFORE THE BOARD OF MORTUARY SCIENCE

IN THE MATTER OF:)
) CASE NO. MS 09-014
Goettsch Inc., Funeral Homes)
Anamosa, Iowa, License No. 00313)
Kevin D. Smith, F.D., Lic. No. 02054) STATEMENT OFCHARGES,
Jonathan L. Scranton, F.D., Lic. No. 02931) SETTLEMENT AGREEMENT,
) AND CONSENT ORDER

COMES NOW the Iowa Board of Mortuary Science (Board) and Goettsch Inc., Funeral Homes, Kevin D. Smith, and Jonathan L. Scranton (Respondents), and hereby enter into this Statement of Charges, Settlement Agreement, and Consent Order (Agreement and Order) pursuant to Iowa Code sections 17A.10(2), 272C.3(4), and chapter 645 Iowa Administrative Code (IAC) rule 12.1.

STATEMENT OF CHARGES

- 1. Respondent Goettsch Inc., Funeral Homes is an Iowa licensed funeral establishment. The Anamosa, Iowa location was issued License No. 00313 on July 21, 1997. The license is currently active and set to expire June 30, 2012.
- 2. Respondent Kevin D. Smith is an Iowa licensed funeral director. He was issued license no. 02054 on November 5, 2009. The license is currently active and will next expire October 15, 2009. Mr. Smith owns and manages Goettsch Inc., Funeral Homes.
- 3. Respondent Jonathan L. Scranton is an Iowa licensed funeral director. He was issued license no. 02931 on April 5, 2006. The license is currently active and will next expire September 15, 2010. Mr. Scranton is employed by Goettsch Inc., Funeral Homes.
 - 4. The Board has jurisdiction under Iowa Code chapters 17A, 156, and 272C.

COUNT I

5. Respondents are charged with routinely failing to present the Statement of Funeral Goods and Services, and General Price Lists that are required by the FTC Funeral Rule, pursuant to 16 C.F.R. § 453.2(a) and (b)(4),(5); Iowa Code sections 147.55(3) and (9), 156.9(1)(d), 156.15(2)(b), and 272C.10(3) (practice harmful or detrimental to the public); and 645 Iowa Administrative Code 100.7(1) and (2), 103.3(8)(b), and 103.4(2).

COUNT II

6. Respondents are charged with routinely failing to secure signatures on a Statement of Funeral Goods and Services in violation of Iowa Code sections 147.55(3) and (9), 156.9(1)(d), 156.15(2)(b), and 272C.10(3) (practice harmful or detrimental to the public); and 645 Iowa Administrative Code 100.7(2).

FACTUAL CIRCUMSTANCES

- 7. Respondents made funeral arrangements in connection with the 2009 death of LT.

 Respondent Scranton failed to present the authorized persons with a Statement of Funeral Goods and Services. He also failed to secure signatures on a Statement of Funeral Goods and Services.
- 8. In the course of the investigation, Respondents Smith and Scranton indicated they routinely fail to secure signatures on a Statement of Funeral Goods and Services when arrangements are made, and do not affirmatively provide families with their General Price List, instead leaving copies on a table.

SETTLEMENT AGREEMENT AND CONSENT ORDER

9. This combined Statement of Charges, Settlement Agreement and Consent Order constitutes the resolution of a disciplinary contested case proceeding.

- 10. By entering into this Agreement and Order, Respondents voluntarily waive any rights to a contested case hearing on the allegations contained in the Agreement and Order, and voluntarily waive any objections to the terms of the Agreement and Order, including the right to appeal.
- 11. This combined Agreement and Order is voluntarily submitted by Respondents to the Board for consideration.
 - 12. Respondents acknowledge their right to be represented by counsel in this matter.
- 13. Respondents agree that counsel for the State may present this Agreement and Order to the Board.
- 14. This Agreement and Order is subject to approval of the Board. If the Board fails to approve this Agreement and Order it shall be of no force or effect to either party.
- 15. This Agreement and Order shall be part of the Respondents' permanent record and shall be considered by the Board in determining the nature and severity of any disciplinary action to be imposed in the event of any future violation.
- 16. In the event Respondents violate or fail to comply with any of the terms of this Settlement Agreement and Consent Order, the Board may initiate appropriate action to revoke or suspend Respondents' license or to impose other licensee discipline in accordance with Iowa Code section 272C.3(2)(a).
- 17. This Agreement and Order is a public record available for inspection and copying upon execution of the Agreement and Order in accordance with the requirements of Iowa Code chapter 22 and 272C.
- 18. The Board's approval of this Agreement and Order shall constitute a FINAL ORDER of the Board.

IT IS THEREFORE ORDERED:

- A. Reprimand. Respondents are reprimanded for failing to present completed and signed Statements of Funeral Goods and Services at the conclusion of consultation, and failing to affirmatively present General Price Lists in accordance with the FTC Funeral Rule.
- B. Future Action. Respondents shall in the future abide by all laws and rules applicable to the practice of mortuary science, including but not limited to the FTC Funeral Rule and related Board rules concerning the presentation and execution of Statements of Funeral Goods and Services, and the presentation of General Price Lists.
- C. Civil Penalty. Respondents are jointly and severally assessed a civil penalty in the total amount of \$2,250, \$1,000 against Goettsch Inc., Funeral Homes, \$750 against Kevin D. Smith, and \$500 against Jonathan L. Scranton, which shall be paid to the Board within 30 days of the date this Order is signed by all parties.
- **D.** Education. Respondents Smith and Scranton shall complete a course on Federal Trade Commission requirements. The course shall be pre-approved by the Board and shall be at least 2 hours in length. The course shall not apply to the continuing education required for license renewal and shall be completed by July 1, 2010. Confirmation of course completion shall be provided to the Board no later than July 10, 2010. Respondents shall in no event be released from probation until the course has been successfully completed.
- **E.** Probation. Respondents' funeral establishment and director's licenses shall be placed in probationary status for one year from the date this Order is signed by all parties. During the term of probation:
 - (1) Respondents shall file monthly reports with the Board on the tenth day of each month covering the preceding calendar month. Each monthly report shall contain, on forms provided by the Board, information including, but not limited to the following:
 - (a) the dates on which any of the Respondents have contracted for, provided, and/or invoiced any funeral services or merchandise to any purchaser; and,
 - (b) the dates on which any of the Respondents have executed any Statement of Funeral Goods and Services, the date of the decedent's death, the decedent's name, the parties to the purchase contract, whether the decedent was cremated, and such additional information as will identify the transaction to the Board.
 - (2) Respondents shall attach to the first monthly report a true copy of the General Price List and form for Statement of Funeral Goods and Services, and shall thereafter provide the Board with any changes to either form.
 - (3) Respondents shall attach to each monthly report a copy of all Statements of Funeral

Goods and Services listed in each report, reflecting all signatures obtained.

- (4) Respondents shall supply the Board within 10 days of written request such additional documents as the Board reasonably requests to monitor compliance.
- (5) Failure to file timely, complete and accurate reports shall be a violation of this Order. The Board may randomly audit the reports to verify compliance.
- (6) Upon full compliance with all terms of probation and this Consent Order, Respondents' licenses shall be restored to full privileges free and clear of all probationary restrictions.
- (7) Pursuant to 645 Iowa Administrative Code 101.5(2)b and c, neither Respondent Smith nor Scranton nor any other funeral director associated with Goettsch Inc. Funeral Homes shall act as a preceptor during the five years following the date this Agreement and Order is signed.

Wherefore, the terms and conditions of this Statement of Charges, Settlement Agreement, and Consent Order are agreed to and accepted by the Iowa Board of Mortuary Science and the Respondents.

This statement of charges, settlement agreement, and consent order is approved by the board on January 21, 2010.