

BEFORE THE BOARD OF MORTUARY SCIENCE
OF THE STATE OF IOWA

IN THE MATTER OF:)	CASE NO. 10-025
)	DIA NO. 11MS001
VERNON COOPER,)	
)	FINDINGS OF FACT,
RESPONDENT)	CONCLUSIONS OF LAW,
)	DECISION AND ORDER

On November 6, 2010, the Respondent filed an Application for Reactivation of an Iowa License. On January 21, 2011 the Respondent's application was denied. The Respondent filed a timely appeal of this decision.

A Notice of Hearing was issued setting the hearing for June 9, 2011 at 10:00 a.m. at the Lucas State Office Building, Fifth Floor Conference Room, Des Moines, Iowa. The Respondent appeared for the hearing. The State of Iowa was represented by Pamela Griebel, Assistant Attorney General.

The following Board members were present for the hearing: Paul Johnson, Chair; LuJean Welander, Secretary; Martin Mitchell; Bradley Hawn; Todd Kale and Rebecca Ervin. The hearing was closed to the public. The hearing was recorded by a certified court reporter. John Priester, Administrative Law Judge from the Iowa Department of Inspections and Appeals, assisted the Board in conducting the hearing, and was instructed to prepare the Board's Findings of Fact, Conclusions of Law, Decision and Order, in conformance with their deliberations.

THE RECORD

The record includes the following exhibits:

State Exhibit 1:	Pages 1-90;
Respondent Ex.A	Respondent's written statement.

FINDINGS OF FACT

1. The Respondent was originally issued license number 01765 to practice mortuary science as a funeral director in the state of Iowa on November 1, 1966. His license became

inactive on June 15, 1991 and has remained inactive to date.

2. The Respondent was charged by a superseding indictment with an 11 count indictment in the United States District Court for the Northern District of Iowa on February 8, 2006. Counts 1-7 were for Mail Fraud and Counts 8-11 were for False Statements. The Respondent pled guilty to two counts, each a felony, of False Statements. On January 22, 2007 the Respondent was sentenced to 46 months incarceration followed by five years of supervised release. The Respondent was also ordered to pay \$3.6 million in restitution.

3. The Respondent was released from incarceration and is presently serving his 5 years of supervised release. He is working as a car salesman in Rochester, Minnesota. He testified that he has been approached by numerous Minnesota funeral home directors to work for them. He wants his license because it will allow his pay to double; compared to if he is not licensed.

CONCLUSIONS OF LAW

Iowa law provides the grounds by which a professional may have his/her license suspended, revoked or otherwise disciplined. Iowa law provides the Board may discipline a funeral director for a "conviction of a crime related to the profession or occupation of the licensee or the conviction of any crime that would affect the licensee's ability to practice within a profession." Iowa Code §§ 147.55(5) and 156.9(2)(e).

The Iowa Legislature has provided in Iowa Code Chapter 272C, the code chapter relating to the regulation of professional boards in Iowa, that Boards may suspend or revoke a license for "conviction of a felony related to the profession or occupation of the licensee." Iowa Code § 272C.10(5). See also, Iowa Code § 156.9(2)(e)(Board may revoke for a conviction of any crime related to the practice of mortuary science, including theft, embezzlement, or fraud).

Pursuant to its authority under Iowa Code chapter 272C, the Board has promulgated the following relevant rules:

645-103 Grounds for discipline against funeral directors. The board may initiate disciplinary action against a licensed funeral director based on any of the following grounds:

...

103.3(12) Conviction of any crime related to the practice of mortuary science or implicating the licensee's competence to safely perform mortuary science services, including but not limited to a crime involving moral character, dishonesty, fraud, theft, embezzlement, extortion, or controlled substances, in a court of competent jurisdiction in this state, or in another state, territory, or district of the United States, or in a foreign jurisdiction. For purposes of this sub rule, "conviction" includes a guilty plea, deferred judgment, or other finding of guilt. A certified copy of the judgment is prima facie evidence of the conviction.

The Board finds that the Respondent's two felony convictions in Federal Court for False Statements call into question the Respondent's integrity. He has been ordered to pay \$3.6 million in restitution to the victims of his illegal actions. He is on supervised probation for five years.

The Board finds that it would not be appropriate to license the Respondent while his is on supervised probation. At a minimum the Respondent must successfully complete his federal probation. Once his probation is completed the Respondent may reapply after providing the Board with evidence that shows his successful completion of probation.

The successful complete of probation only allows the Respondent to apply for the reinstatement of his license. It does not guarantee that the Board will issue a license, only that it will consider his application at that time.

ORDER

IT IS THEREFORE ORDERED that the Respondent's application to reactivate his license is DENIED.

Dated this 8TH day of September, 2011.