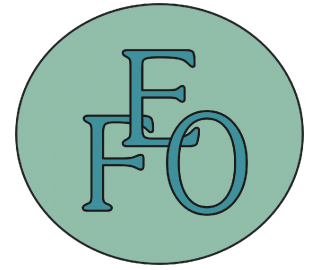


Funeral Ethics Organization

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March 14, 2011

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Edwin Frese, Jr., Disciplinary Counsel-in-Charge
District 3 Office
100 Pine St., Ste. 400
Harrisburg, PA 17101

Dear Mr. Frese:

I am filing a complaint of unprofessional conduct against Anita Shekletski and Bernadette Paul, lawyers in the Department of State. These lawyers supported their co-worker Shawn Smith who serves as the Funeral Board's counsel; he threatened Phyllis Ingold with a \$10,000 fine if her family had another home funeral and someone complained about it. The statutes cited appear in the occupations and professions section of the Pennsylvania Code, PS 63, yet there was no commercial activity or pretense of such on the part of Ms. Ingold or her sister. None whatsoever.

When reminded that religious groups routinely care for their own dead and that the Pennsylvania Department of Health has information on public health law for home funeral folks, there was no retraction or apology offered to Ms. Ingold.

Rule 1.1 of the Pennsylvania Rules of Professional Conduct states:

A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

Surely competent lawyers would understand the difference between business transactions and the noncommercial activities of religious groups or private citizens; they would be able to distinguish which laws did not apply in this case. One can change the dimmer switch in one's own home without being a licensed electrician, one can replace a broken toilet without being a licensed plumber, one can help a neighbor raise a barn without being a licensed contractor, and one can even be one's

Staff

Lisa Carlson
Executive Director
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own doctor or lawyer without those degrees. That at least three lawyers in the Department of State apparently don't understand this distinction is very disconcerting. Furthermore, any attempt to actually fine Ms. Ingold \$10,000 would have quickly generated a court suit against the state. Certainly the Department of State should be operating in such a way that its lawyers' conduct is not a liability.

There is every reason to believe that the complaint against Ms. Ingold was generated by a funeral director, unhappy by the prospect of losing income from those having home funerals. It is astonishing that none of these three lawyers were sensitive to the nature of the situation--the private laying out of the dead--and allowed a state agency to be manipulated and used for the self-serving business interests of a mortician, if our supposition is correct, or led astray by a misguided citizen, if that was the case. This attempt at intimidation of the grieving is surely an abuse of office and fits the definition of misconduct in Rule 8.4:

It is professional misconduct for a lawyer to:

. . . .

(c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation;

(d) engage in conduct that is prejudicial to the administration of justice. . . .

I am requesting that Ms. Shekletski and Ms. Paul be required to send an apology to me, with copies to those listed in the cc's below.

Sincerely,

Lisa Carlson
Executive Director

Correspondence enclosed.

cc: Phyllis Ingold
cc: Lucy Basler
cc: FEO Board
cc: Shawn Smith, Dept. of State
cc: Anita Shekletski, Dept. of State
cc: Bernadette Paul, Dept. of State
cc: John Eirkson, President, PFDA
cc: Clark Neily, Institute for Justice, Arlington, VA
cc: David Morrison, Elder Law, Lancaster, PA
cc: Jason Benion, Post & Schell
cc: Joshua Slocum, Funeral Consumers Alliance, So.
Burlington, VT

