

Prince Edward Island Funeral Services and Professions Board Investigation Committee

RESOLUTION ON FINDINGS AND CONSENT ORDER

WHEREAS the PEI Funeral Services and Professions Board (the "Board") received a written complaint from the Registrar, setting out allegations against Lowell Oakes, Funeral Home Respondent, (the "Respondent"), relating to misappropriation of pre-arranged funeral funds in August 2021.

AND WHEREAS the Registrar indicated there are reasonable grounds to believe the Respondent's conduct breached the *Funeral Services and Professions Act* (the "Act").

AND WHEREAS the Board appointed Grant Thornton as an Inspector, to investigate the allegations against the Respondent, and received an Inspector's Report from Grant Thornton on Tuesday, February 8, 2022.

AND WHEREAS the Board directed the convening of the Prince Edward Island Funeral Services and Professions Board Investigation Committee (the "Committee") on Tuesday, February 22, 2022.

AND WHEREAS the Board provided the Inspector's Report and the Committee provided its Resolution to the Respondent on Friday, February 25, 2022.

AND WHEREAS the Respondent provided the Board and Committee with a written response to the Inspector's Report and Resolution on Friday, March 4, 2022.

AND WHEREAS the Committee met on Monday, March 14, 2022 and reviewed the Inspector's Report and the Respondent's written response.

AND WHEREAS THE COMMITTEE FINDS AS FOLLOWS:

1. That the Inspector's Report indicates that the Respondent accepted pre-arranged funeral funds from 119 individuals, totaling \$587,889.06.
2. That the Inspector's Report indicates to the Committee that the Respondent's record keeping practices fell significantly below the generally accepted professional and industry standards.
3. That the Respondent proposes in his written response that for eight persons on the Inspector's Report the initially misappropriated funds were later refunded in-full. The Committee has considered this submission. The Committee finds that the Respondent failed to put these funds into trust. The Committee finds that if the claimed refunds were paid, ordinary interest was not paid on the pre-arranged contract sums.
4. That the Respondent proposes in his written response that pre-arranged funeral contracts for five persons on the Inspector's Report are 'insurance arrangements', and that no funds were received on their accounts. The Respondent also proposes in his written response that pre-arranged funeral funds for two persons on the Inspector's Report were actually deposited in trust. The Respondent also proposes in his written response that two persons on the Inspector's Report were quotes for headstones. The Committee has considered these submissions. The Committee finds that the two

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instances where funds were deposited in trust took place prior to the Respondent owning the funeral home.

5. That the Respondent proposes in his written response that no funds were received for 28 persons identified on the Inspector's Report. The Respondent claims these were quotes for pre-arranged funerals, and that no funds were received. The Committee has considered this submission. The Committee finds that the Respondent's financial record keeping was inadequate and that the Inspector was forced to piece together financial records from unorganized and incomplete paper records. The Committee notes that the Inspector was unable to establish the difference between a duly entered pre-arranged funeral agreements and quotes, within the financial records. The Committee notes that pre-arranged funeral agreements are trust agreement requiring the highest level of financial accountability and care. The Committee notes that the state of the Respondent's record keeping was significantly below the general standards for the industry and constituted a risk to the Respondent's clients and the community.
6. That the Respondent proposes in his written response that for 16 individuals identified on the Inspector's Report, the funds were initially misappropriated, but that funerals were completed with all purchased services having been provided. The Committee has considered this submission. The Committee finds that the preponderance of evidence suggests that the funeral services could not have been paid for by the listed individuals' payments, which the Respondent states were initially misappropriated. The Committee concludes that at least a portion of the claimed funeral services must have been paid for by other clients' misappropriated pre-arranged funeral funds, or by other clients' ordinary funeral funds who are not listed among the pre-arranged funeral clients. The Committee finds that, if-true, the Respondent's misconduct constitutes stealing from one person to provide services to another. The Committee notes that the Respondent has not provided evidence in his written response that any of the total misappropriated funds are accounted for in the general account at this time. As such, the Committee finds, on a balance of probabilities, that the conclusions reached above must be true. The Committee finds that the Respondent's claim of having provided funeral services does not diminish the scope of his wrong doing, or his moral blameworthiness in the wrong doing.
7. That the Respondent misappropriated funds equal to at least \$343,457.33.
8. That the Respondent conducted wrongdoing by providing at least a portion of the claimed \$93,024.35 with misappropriated funds. The Committee finds that, because the Respondent has not accounted for any of the misappropriated funds, he would likely have continued to pay for pre-arranged funeral services with misappropriated funds if he were permitted by the Board to continue operating Dawson's Funeral Home, or alternatively if he had not been caught for the wrong doing.
9. That the Respondent has defrauded a significant number of individuals named in the Inspector's Report out of their duly purchased pre-arranged funerals.
10. That the Respondent has conducted his Funeral Home Respondent duties in a manner significantly below the generally accepted professional and industry standards.

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11. That the Respondent has damaged the public trust in the Funeral Services profession in significant and irreparable ways by carrying out the conduct reflected in the Inspector's Report.
12. That the Respondent has breached the *PEI Funeral Services and Professions Act and Regulations*, especially at sections 12(1) and 14(2) of the *Regulations*. That the Respondent's conduct constitutes Professional Misconduct pursuant to section 36(1) of the Act. That the Respondent's conduct also constitutes Incompetence, pursuant to section 36(2) of the Act.
13. That the Committee is prepared based on its findings to refer this matter to the Hearing Committee.
14. That the Committee is prepared to issue the following order, on the consent of the Respondent:

NOW THEREFORE THE COMMITTEE ORDERS AS FOLLOWS:

1. Lowell Oakes' conduct is hereby reprimanded;
2. Lowell Oakes' Funeral Director's license is revoked; and
3. Lowell Oakes is ordered to pay a fine to the PEI Funeral Services and Professions Board equal to \$5,000.00, to be paid within 90 days of the date of this Order.

This 15th day of March, 2022.

The PEI FUNERAL SERVICES AND PROFESSIONS BOARD INVESTIGATION
COMMITTEE

Per:
Shawn Williamson, Chairperson

Consented as to Form and Substance

Lowell Oakes

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