

IN THE CIRCUIT COURT OF COLE COUNTY, MISSOURI

STATE BOARD OF EMBALMERS AND )  
FUNERAL DIRECTORS, )

Plaintiff, )

Vs. ) Case No. )

SWEENEY-PHILLIPS HOLDREN )  
FUNERAL SERVICE, INC. d/b/a )  
Sweeney-Phillips & Holdren Funeral Home )  
Serve: C.L. Holdren )  
617 N. McGuire Street )  
Warrensburg, Missouri )

And )

SWEENEY-PHILLIPS HOLDREN )  
FUNERAL SERVICE, INC. d/b/a )  
Moore Funeral Home )  
Serve: C.L. Holdren )  
812 Main )  
La Monte, Missouri 65337 )

And )

MASON WIRSING )  
Serve: 617 N. McGuire Street )  
Warrensburg, Missouri )

And )

CLARK HOLDREN )  
Serve: 617 N. McGuire Street )  
Warrensburg, Missouri )

Defendants. )

**PETITION FOR INJUNCTION**

COMES NOW Plaintiff the State Board of Embalmers and Funeral Directors, by and through counsel, and for its Petition for Injunction against the Defendants states:

**COUNT I – SWEENEY-PHILLIPS HOLDEN FUNERAL SERVICE, INC. D/B/A  
SWEENEY-PHILLIPS & HOLDREN FUNERAL HOME AND MOORE FUNERAL  
HOME**

1. The State Board of Embalmers and Funeral Directors (hereinafter called “Board”) is an agency of the State of Missouri created and existing pursuant to Section 333.151 RSMo for the purpose of administering and enforcing provisions of Chapter 333 RSMo and the portions of Chapter 436 RSMo that address preneed funeral contracts.

2. Defendants Sweeney-Phillips & Holdren Funeral Service, Inc. d/b/a Sweeney-Phillips & Holdren Funeral Home and Sweeney-Phillips & Holdren Funeral Service, Inc d/b/a Moore Funeral Home (hereinafter collectively called “Funeral Home”) is a Missouri corporation which has been administratively dissolved or revoked by the Missouri Secretary of State.

3. Pursuant to section 351.486 RSMo, “a corporation administratively dissolved may not carry on any business except necessary to wind up and liquidate its business and affairs.”

4. The Funeral Home has locations at 617 N. McGuire, Warrensburg, Missouri and 812 Main, LaMonte, Missouri

5. The Funeral Home continues to provide services despite its administrative dissolution.

6. This court has jurisdiction over this matter pursuant to §478.070 RSMo.

7. Venue is proper in the circuit court of Cole County, Missouri pursuant to §333.335.2 RSMo, because the statute authorizes the action may be brought in Cole County, Missouri.

**The Funeral Home has engaged in unlicensed conduct as a provider of preneed services in violation of Sections 333.315.1, 333.320.1 and 333.325.1 RSMo.**

8. Section 333.315.1 RSMo, requires a provider license to provide the goods and services in a preneed contract and states:

No person shall be designated as a provider or agree to perform the obligations of a provider under a preneed contract unless, at the time of such agreement or designation, such person is licensed as a preneed

provider by the board. Nothing in this section shall exempt any person from meeting the licensure requirements for a funeral establishment as provided in this chapter.

9. Section 333.320.1 RSMo, requires a seller’s license to act as a preneed seller in Missouri and states:

No person shall sell, perform, or agree to perform the seller’s obligations under, or be designated as the seller of, any preneed contract unless, at the time of the sale, performance, agreement, or designation, such person is licensed by the board as a seller and authorized and registered with the Missouri secretary of state to conduct business in Missouri.

10. Section 333.325.1 RSMo, requires a preneed agent license to sell, negotiate or solicit the sale of preneed contracts for or on behalf of a seller and states:

No person shall sell, negotiate, or solicit the sale of preneed contracts for, or on behalf of, a seller unless registered with the board as a preneed agent except for individuals who are licensed as funeral directors under this chapter. The board shall maintain a registry of all preneed agents registered with the board. The registry shall be deemed an open record and made available on the board's website.

11. The Funeral Home does not hold a current and active preneed provider or preneed seller license issued by the Board.

12. On June 17, 2020 and July 27, 2020, inspectors with the Central Investigations Unit conducted routine and follow-up inspections of the Funeral Home located at 617 N. Maguire, Warrensburg, Missouri and 812 S. Main, LaMonte, Missouri.

13. Inspectors observed violations at both locations which included, but were not limited to, the following:

- a. The Funeral Home does not hold a current and active preneed provider’s license;
- b. The Funeral Home does not hold a current and active preneed seller’s license;
- c. The Funeral Director In Charge (“FDIC”) had not renewed his license. The FDIC license was not displayed.

- d. There were no authorizations to embalm or cremate in violation of 20 CSR 2120-2.070.2(C).

14. On June 23, 2020, Lori Hayes, Executive Director of the State Board of Embalmers and Funeral Directors, sent a letter to the Funeral Home identifying the violations and requested that the Funeral Home provide the Board a response within fifteen days identifying the funeral director in charge and a copy of the files for the last fifteen cases.

15. The Funeral Home failed to provide the Board any response.

16. On July 27, 2020, investigator Fisher and Sedgwick conducted follow-up inspections at Funeral Home's locations in La Monte and Warrensburg, Missouri. The investigators found some of the violations were continuing violations since the date of the last inspection as well as additional violations on July 27, 2020 by the Funeral Home as follows:

- a. The Funeral Home does not hold a current and active preneed provider's license;
- b. The Funeral Home does not hold a current and active preneed seller's license;
- c. There were no authorizations to embalm or cremate in violation of 20 CSR 2120-2.070.2(C).
- d. The Funeral Home sold approximately 45 preneed contracts beginning in 2018 through the present date all in violation of Section 333.320.1 RSMo, because the Funeral Home does not possess a seller license in order to sell preneed contracts.
- e. The Funeral Home also turned over approximately 5 pre-need contracts to at-need contracts without a valid Pre-Need Provider's license.

17. This court has jurisdiction pursuant to §333.335.1 RSMo, to enter an injunction, restraining order, or other order as appropriate to enjoin a person from:

Offering to engage or engaging in the performance of any acts or practices for which a registration or authority, permit, or license is required by sections

333.310 to 333.340, upon a showing that such acts or practices were performed or offered to be performed without the required registration or authority, permit, or license.

18. The Funeral Home is in violation of the provisions of Sections 333.315.1, 333.320.1 and 333.325.1 RSMo, by offering to engage and engaging in the acts and practices which require a preneed provider license, seller license, and/or preneed agent license despite not having said licenses.

19. Pursuant to Section 333.335.1 RSMo, an injunction should be issued against the Funeral Home restraining it from offering to engage or engaging in the performance of any acts or practices for which a preneed provider license, seller license, and/or preneed agent license is required.

WHEREFORE, the Missouri State Board of Embalmers and Funeral Directors prays that this Court enter an Order enjoining Sweeney-Phillips & Holden Funeral Service, Inc. d/b/a Sweeney-Phillips & Holdren Funeral Service, Inc and Sweeney-Phillips & Holden Funeral Service, Inc. d/b/a Moore Funeral Home from offering to engage or engaging in the performance of any acts or practices for which a preneed provider license, seller license, and/or preneed agent license is required until such time as Sweeney-Phillips & Holden Funeral Service, Inc. obtains such license(s) and complies with the provisions of 333.010 to 333.335 RSMo *et seq.*, and other and further relief as the Court deems just or proper.

**COUNT II – MASON WIRSIG**

20. The Board adopts the averments set forth in Count I of the Petition as though more fully set forth herein.

21. Defendant Mason Wirsig (hereinafter called “Wirsig”) is an individual who is an

employee of the Defendant Sweeney-Phillips & Holden Funeral Service, Inc. (hereinafter called “Funeral Home”) with locations in La Monte, Missouri and Warrensburg, Missouri.

22. This court has jurisdiction over this matter pursuant to §478.070 RSMo.

23. Section 333.011(3) RSMo defines the term “Funeral director” as follows:  
“Any individual licensed to engage in the practice of funeral directing.”

24. Section 333.011(8) RSMo defines the term “Practice of funeral directing” as follows:

“Engaging by an individual is the business of preparing, otherwise than by embalming, for the burial, disposal or transportation out of this state of, and the directing and supervising of the burial or disposal of, dead human bodies or engaging in the general control, supervision or management of the operations of a funeral establishment.”

25. Section 333.021.2 RSMo, requires a funeral director’s license to engage in the practice of a funeral director and states:

No person shall engage in the practice of funeral directing unless he has a license issued under this chapter nor shall any person use in connection with his name or business any of the words “undertaker”, “mortician”, “funeral home”, “funeral chapel”, “funeral consultant”, “funeral director”, or other title implying that he is in the business defined as funeral directing herein, unless he or the individual having control, supervision or management of his business is duly licensed to practice funeral directing in this state.

26. Wirsig does not hold a current and active funeral director’s license issued by the Board.

27. Wirsig admitted to the investigators during an inspection that he knows he does not have a funeral director’s license issued by the Board.

28. Wirsig has performed and/or agreed to perform the obligations of a funeral director without holding a current and active license from the Board to do so.

29. Wirsig has engaged in and facilitated the unlicensed duties and practice of a funeral director of the Funeral Home, including, but not limited to, executing funeral contracts and providing funeral arrangements as follows:

(a) On July 9, 2018, Wirsig has signed a Statement of Funeral Goods and Services

on behalf of Sweeney-Phillips & Holdren Funeral Services, Inc to provide services for L.Q.

- (b) On August 23, 2018, Wirsig has signed a Statement of Funeral Goods and Services on behalf of Sweeney-Phillips & Holdren Funeral Services, Inc to provide services for E.M.
- (c) On November 12, 2018, Wirsig has signed an Authorization for Cremation and Disposition Statement of Funeral Goods and Services on behalf of Sweeney-Phillips & Holdren Funeral Services, Inc to provide services for O.H.
- (d) On October 8, 2018, Wirsig has signed an Authorization for Cremation and Disposition Statement of Funeral Goods and Services on behalf of Sweeney-Phillips & Holdren Funeral Services, Inc to provide services for N.J.H.
- (e) On July 24, 2018, Wirsig has signed an Embalming Authorization and Disposition Statement of Funeral Goods and Services on behalf of Sweeney-Phillips & Holdren Funeral Services, Inc to provide services for B.W.
- (f) On June 11, 2018, Wirsig has signed an Authorization for Cremation and Disposition and Statement of Funeral Goods and Services on behalf of Sweeney-Phillips & Holdren Funeral Services, Inc and Sweeney-Phillips & Holdren Funeral Services, Inc d/b/a Warrensburg Memorial Gardens Crematory to provide services for P.W.
- (g) On October 6, 2018, Wirsig has signed an Authorization for Cremation and Disposition and Statement of Funeral Goods and Services on behalf of Sweeney-Phillips & Holdren Funeral Services, Inc and Sweeney-Phillips & Holdren Funeral Services, Inc d/b/a Warrensburg Memorial Gardens

- Crematory to provide services for R.R.
- (h) On August 12, 2018, Wirsig has signed an Embalming Authorization and Statement of Funeral Goods and Services on behalf of Sweeney-Phillips & Holdren Funeral Services, Inc to provide services for A.E.
  - (i) On November 26, 2018, Wirsig has signed an Authorization for Cremation and Disposition and Statement of Funeral Goods and Services on behalf of Sweeney-Phillips & Holdren Funeral Services, Inc d/b/a Warrensburg Memorial Gardens Crematory and Sweeney-Phillips & Holdren Funeral Services, Inc to provide services for D.B.
  - (j) On January 7, 2019, has signed an Assignment of Proceeds of Insurance on behalf of Sweeney-Phillips & Holdren Funeral Services, Inc in connection with E.A. to receive payment for services.
  - (k) On or about December 31, 2018, Wirsig has signed an Authorization for Cremation and Disposition and Statement of Funeral Goods and Services on behalf of Sweeney-Phillips & Holdren Funeral Services, Inc d/b/a Warrensburg Memorial Gardens Crematory and Sweeney-Phillips & Holdren Funeral Services, Inc to provide services for E.A.
  - (l) On or about June 13, 2018, Wirsig has signed an Authorization for Cremation and Disposition and Statement of Funeral Goods and Services on behalf of Sweeney-Phillips & Holdren Funeral Services, Inc d/b/a Warrensburg Memorial Gardens Crematory Inc. to provide services for C.W.
  - (m) On June 14, 2018, Wirsig has signed a Statement of Death by Funeral Director for C.R.W. on behalf of Sweeney-Phillips & Holdren Funeral Services, Inc.



- (n) On December 30, 2019, signed a Certificate and Verified Statement of Performance for C.R.W. requesting payment from Midwest Trust, Trustee for services provided to R.B.
- (o) On November 7, 2019, Wirsig signed a Statement of Funeral Goods and Services on behalf of Sweeney-Phillips & Holdren Funeral Services, Inc. to provide services for R.B.
- (p) On or about January 27, 2019, Wirsig signed an Embalming Authorization, a Statement of Funeral Goods and Services, and a Memorial Plan on behalf of Sweeney-Phillips & Holdren Funeral Services, In. to provide services for M.B.
- (q) On or about November 5, 2019, Wirsig signed a Cremation Authorization and Disposition Form and a Statement of Funeral Goods and Services, on behalf of Sweeney-Phillips & Holdren Funeral Services, Inc. to provide services for B.G.
- (r) On July 1, 2019, Wirsig signed a Statement of Funeral Goods and Services and Embalming Authorization on behalf of Sweeney-Phillips & Holdren Funeral Services, Inc. to provide services for P.H. and a Certificate and Verified Statement of Performance seeking payment for services provided for P.H.
- (s) On June 28, 2019, Wirsig signed a Cremation Authorization and Disposition Form and a Statement of Funeral Goods and Services, on behalf of Sweeney-Phillips & Holdren Funeral Services, Inc. to provide services for R.L.J.
- (t) Wirsig signed approximately 117 at-need funeral contracts on behalf of the Funeral Home in place of the funeral director;
- (u) Wirsig made funeral arrangements with approximately 117 individuals or families to provide funeral arrangements without be licensed to do so;

30. This court has jurisdiction pursuant to §333.335.1 RSMo, to enter an injunction, restraining order, or other order as appropriate to enjoin a person from:
- Offering to engage or engaging in the performance of any acts or practices for which a registration or authority, permit, or license is required by sections 333.310 to 333.340, upon a showing that such acts or practices were performed or offered to be performed without the required registration or authority, permit, or license.
31. Wirsig is in violation of the provisions of Sections 333.011(8) and 333.021 RSMo by engaging in the acts and practices of a funeral director despite not having said license.
32. Pursuant to Section 333.335.1 RSMo, an injunction should be issued against Mason Wirsig restraining him from offering to engage or engaging in the performance of any acts or practices for which a preneed provider license, seller license, and/or preneed agent license is required.

WHEREFORE, the Missouri State Board of Embalmers and Funeral Directors prays that this Court enter an Order enjoining Mason Wirsig from offering to engage or engaging in the performance of any acts or practices for which a funeral director's license is required until such time as Mason Wirsig obtains such license and complies with the provisions of 333.010 to 333.335 RSMo *et seq.*, and other and further relief as the Court deems just or proper.

**COUNT III – CLARK HOLDREN**

33. The Board adopts the averments set forth in Counts I and II of the Petition as though more fully set forth herein.
34. Defendant Clark Holdren (hereinafter called "Holdren") is an individual who is an employee of the Defendant Sweeney-Phillips & Holden Funeral Service, Inc. (hereinafter called "Funeral Home") with locations in La Monte, Missouri and Warrensburg, Missouri.
35. This court has jurisdiction over this matter pursuant to §478.070 RSMo.

36. Section 333.011(3) RSMo defines the term “Funeral director” as follows:  
“Any individual licensed to engage in the practice of funeral directing.”
37. Section 333.011(8) RSMo defines the term “Practice of funeral directing” as follows:  
  
“Engaging by an individual is the business of preparing, otherwise than by embalming, for the burial, disposal or transportation out of this state of, and the directing and supervising of the burial or disposal of, dead human bodies or engaging in the general control, supervision or management of the operations of a funeral establishment.”
38. Section 333.021.2 RSMo, requires a funeral director’s license to engage in the practice of a funeral director and states:  
  
No person shall engage in the practice of funeral directing unless he has a license issued under this chapter nor shall any person use in connection with his name or business any of the words “undertaker”, “mortician”, “funeral home”, “funeral chapel”, “funeral consultant”, “funeral director”, or other title implying that he is in the business defined as funeral directing herein, unless he or the individual having control, supervision or management of his business is duly licensed to practice funeral directing in this state.
39. Holdren does not hold a current and active funeral director’s license issued by the Board.
40. Holdren has performed and/or agreed to perform the obligations of a funeral director without holding a current and active license from the Board to do so.
41. Holdren has engaged in and facilitated the unlicensed duties and practice of a funeral director of the Funeral Home, including, but not limited to, executing funeral contracts and providing funeral arrangements as follows:
  - (a) On September 24, 2019, Holdren signed an Embalming Authorization on behalf of the Sweeney-Phillips & Holdren Funeral Home and crematory to perform services related to S.B. On that same date, Holdren also signed a Statement of Funeral Goods Services and Memorial Plan on behalf of Sweeney-Phillips & Holdren Funeral Service, Inc. to provide service to S.B.;

- (b) On November 27, 2019, Holdren signed an Embalming Authorization on behalf of the Sweeney-Phillips & Holdren Funeral Home and agreed to perform services related to L.F.
- (c) On March 17, 2018, Holdren signed a “Statement of Death by Funeral Director” on behalf of Sweeney-Phillips & Holdren Funeral Service, Inc. for A.E.M.
- (d) On December 9, 2029, Holdren signed a Statement of Goods and Services and Embalming Authorization on behalf of Sweeney-Phillips & Holdren Funeral Service, Inc. to perform services for H.O.
- (e) On January 3, 2020, Holdren signed an Affidavit for Correction of a Birth or Death Record for H.O. in the capacity of a funeral director on behalf of Sweeney-Phillips & Holdren Funeral Service, Inc.
- (f) On or about October 14, 2019, Holdren signed a Statement of Goods and Services on behalf of Sweeney-Phillips & Holdren Funeral Service, Inc. to arrange and provide for funeral services for R.W.S.
- (g) On December 26, 2019, Holdren signed a Statement of Goods and Services and Embalming Authorization on behalf of Sweeney-Phillips & Holdren Funeral Service, Inc. for W.S.
- (h) On January 24, 2020, Holdren signed a Statement of Goods and Services on behalf of Sweeney-Phillips & Holdren Funeral Service, Inc. for J.N.W. to arrange and provide for funeral services.
- (i) On July 18, 2020, Holdren signed an Authorization for Cremation and Disposition and a Statement of Goods and Services on behalf of Sweeney-Phillips & Holdren Funeral Service, Inc. for J.G.

- (j) On January 22, 2020, Holdren signed a Statement of Goods and Services on behalf of Sweeney-Phillips & Holdren Funeral Service, Inc. for M.D.J. to arrange and provide for funeral services.
  - (k) Upon reasonable belief, Holdren signed approximately 56 at-need funeral contracts on behalf of the Funeral Home in place of the funeral director.
42. This court has jurisdiction pursuant to §333.335.1 RSMo, to enter an injunction, restraining order, or other order as appropriate to enjoin a person from:
- Offering to engage or engaging in the performance of any acts or practices for which a registration or authority, permit, or license is required by sections 333.310 to 333.340, upon a showing that such acts or practices were performed or offered to be performed without the required registration or authority, permit, or license.
43. Holdren is in violation of the provisions of Sections 333.011(8) and 333.021 RSMo RSMo, by engaging in the acts and practices of a funeral director despite not having said license.
44. Pursuant to Section 333.335.1 RSMo, an injunction should be issued against Clark Holdren restraining him from offering to engage or engaging in the performance of any acts or practices for which a preneed provider license, seller license, and/or preneed agent license is required.

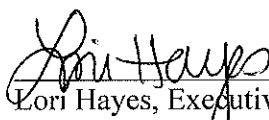
WHEREFORE, the Missouri State Board of Embalmers and Funeral Directors prays that this Court enter an Order enjoining Clark Holdren from offering to engage or engaging in the performance of any acts or practices for which a funeral director's license is required until such time as Clark Holdren obtains such license and complies with the provisions of 333.010 to 333.335 RSMo *et seq.*, and other and further relief as the Court deems just or proper.

Respectfully submitted,

BRYDON, SWEARENGEN & ENGLAND P.C.

By: /s/ Scott A. Hamblin

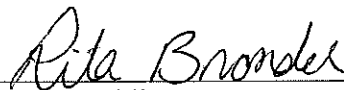
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ATTORNEYS FOR PLAINTIFF

  
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Lori Hayes, Executive Director  
State Board of Embalmers and Funeral Directors

STATE OF MISSOURI     )  
                                  )     SS  
COUNTY OF COLE     )

Now on this 22 day of October 2020, before me personally appeared Lori Hayes, Executive Director for the State Board of Embalmers and Funeral Directors, of lawful age and being first duly sworn, to be known to be the person who executed the foregoing and acknowledged that the statements contained therein are true to her best knowledge and belief.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed by official seal at my office in Jefferson City, Missouri the day and year first above written.

  
\_\_\_\_\_  
Notary Public

My Commission Expires: 5/12/23



RITA BRONDEL  
My Commission Expires  
May 12, 2023  
Cole County  
Commission #15635404