

The Nova Scotia Board of Registration of Embalmers and Funeral Directors

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**IN THE MATTER OF THE EMBALMERS AND FUNERAL DIRECTORS ACT
R.S.N.S. 1989, CHAPTER 144**

and

JILLIAN NEMIS

NOTICE OF DECISION

RE: Decision Regarding Funeral Director's Licence # 201371007F1 – Jillian Nemis

This Notice sets out the decision of the Nova Scotia Board of Registration of Embalmers and Funeral Directors (the "Board") regarding Funeral Director Licence #201371007F1 held by Jillian Nemis under the *Embalmers and Funeral Directors Act* (the "EFDA").

BACKGROUND:

A Notice of Inquiry was sent to Jillian Nemis on March 26, 2019, which outlined allegations of misconduct and non-compliance with the Act while Jillian Nemis was under the employment of Chant's Funeral Home. All of the information and documents that had been obtained by the Board in relation to those allegations was attached to the Notice of Inquiry. An addendum to the Notice of Inquiry was sent to Jillian Nemis's then solicitor (Ralph Ripley) on October 30, 2019, to further outline some of the particulars of the allegations included in the original Notice of Inquiry.

The Notice of Inquiry notified Jillian Nemis that because of these allegations an inquiry would be scheduled, after which the Board may decide to suspend or revoke her license as a funeral director pursuant to Section 23 of the *Embalmers and Funeral Directors Act* (EFDA), R.S.N.S. 1989, c. 144.

The Board offered Jillian Nemis the opportunity to be represented at the inquiry by legal counsel, however, on October 31, 2019, Mr. Ripley notified the Board that Jillian Nemis would be self represented at the inquiry.

The inquiry was held in Sydney on November 12 and 13, 2019. Jillian Nemis was offered the opportunity to make a written submission following the inquiry, but she told the Board she would not be making a final written submission.

ISSUE:

Subsection 23(1) of the EFDA authorizes the Board, after due inquiry, to suspend or revoke the licence of a funeral director. The Board now must consider whether it should suspend or revoke Jillian Nemis's funeral director licence under subsection 23(1) of the EFDA and clauses 20(a) and (b) of the *Embalmers and Funeral Directors Regulations* (the "EFDA Regulations").

Subsection 23(1) of the EFDA provides as follows:

- 23 (1)** Subject to the regulations, the Board may, after due inquiry, suspend or revoke the licence of an embalmer, an apprentice embalmer, a funeral director or an apprentice funeral director where at least four members of the Board find that the embalmer, apprentice embalmer, funeral director or apprentice funeral director has been guilty of non-compliance with this Act, the regulations or the by-laws or any misrepresentation, negligence, professional misconduct or fraud.

Clauses 20(a) and (b) of the EFDA Regulations provide as follows:

20 For the purpose of the Act and regulations “professional misconduct” means:

(a) personal or professional conduct of a licensed embalmer, apprentice embalmer, funeral director or apprentice funeral director which does not lend dignity to the profession and inspire confidence on the part of the public in the members of the profession;

(b) the conduct of the business of a funeral director in such manner, economically and professionally, as not to reflect credit on the profession and to inspire confidence on the part of the funeral-purchasing public;

EVIDENCE AND FINDINGS OF FACT:

At the inquiry, the Board called the following witnesses to testify: [REDACTED], [REDACTED], [REDACTED], and [REDACTED], and Jillian Nemis was given the opportunity to cross-examine each of these witnesses. Jillian Nemis called the following witnesses to testify on her behalf at the inquiry: [REDACTED] and [REDACTED]. In addition, Jillian Nemis submitted written witness statements of [REDACTED], [REDACTED] and [REDACTED].

The Board has reviewed and considered the written information provided by Jillian Nemis at the inquiry, her presentation to the Board, the testimony of the witnesses at the inquiry, and the information and documents that were included with the Notice of Inquiry. Based on all of this evidence, the Board finds the following facts:

Employment History at Chant’s Funeral Home

- Jillian Nemis began working at Chant’s Funeral Home as an apprentice funeral director in January 2011.
- In August 2013, Jillian Nemis became a licenced funeral director and worked in that capacity as a funeral director at Chant’s Funeral Home up until the funeral home licence was suspended on February 8, 2019, with the exception of the time during which she was off on maternity leave between June 30, 2017 and July 2, 2018.
- Funeral home licences issued by Service Nova Scotia and Internal Services (“SNS-IS”) expire annually on June 30. As part of the 2018 licencing renewal process, Chant’s Funeral Home submitted a funeral home renewal identifying both Sheldon Chant and Jillian Nemis as “Funeral Directors in Charge”, effective July 1, 2018. This contradicts statements made by

Jillian Nemis at the inquiry, and the written witness statement of [REDACTED], that Jillian Nemis became managing director October 2018.

- Jillian Nemis acted in the position of “Funeral Director in Charge” from July 1, 2018 until the funeral home licence was suspended by the Registrar of Cemetery and Funeral Services on February 8, 2019 as a result of a fire at the funeral home on February 2, 2019.
- In an article published by the Cape Breton Post on March 1, 2019, Jillian Nemis told the media that Sheldon Chant trusted her to manage the building and act on his behalf when he is not there.

The Re-use of Funeral Caskets

- When purchasing a casket for a funeral, a purchaser has the option of purchasing a “rental casket” or a traditional casket. Subsection 18A (1) of the EFDA Regulations defines a rental casket as a specially designed device that has an outward appearance of a casket and is used to conceal a casket insert containing human remains for the purposes of viewing and/or a funeral or other ceremony.
- Each time a rental casket is purchased, the purchaser receives their own insert which will hold the human remains from the time of the ceremony until interment or cremation. A rental casket is supplied with six to ten inserts that can be used with that casket. After those inserts are used, a supplier usually requires a funeral home to purchase a new rental casket because the structural integrity of the rental casket can be compromised.
- A traditional casket is a casket with sewn in lining that is sold for use to a single purchaser. The human remains that are placed in a traditional casket will remain in the casket until final interment or cremation.
- Subsection 18A (2) of the EFDA Regulations requires that contracts for funeral arrangements that include the use of a rental casket must disclose that such a casket is part of the goods being supplied in the funeral arrangements.
- In Fall 2018, SNS-IS received a complaint from [REDACTED] that Chant’s Funeral Home was re-using traditional caskets multiple times and that purchasers who paid for a rental casket insert, were instead placed in a traditional casket for the funeral ceremony, then removed and placed in a cardboard cremation container and transferred to the crematorium. The complaint indicated that the casket was then cleaned of any stains and fluids and placed back out for re-use.
- SNS-IS conducted an inspection on December 11, 2018, and a sample period of contracts from May 2018 to July 2018 was selected. During that inspection, the inspectors asked the funeral home to complete a questionnaire to provide the names of the casket suppliers used by the funeral home. The funeral home listed only one supplier, Victoriaville. Inspectors contacted Victoriaville, who confirmed that a single rental casket was purchased by Chant’s Funeral Home in November 2017 as well as four inserts in February, 2018 and four inserts in June 2018. Of the 47 files reviewed, 9 contracts purchased rental caskets. However, six of those nine rental purchases arrived at the crematorium in cardboard cremation caskets, not the wooden casket insert they would have purchased. Chant’s Funeral home charged \$1,375 for use of a rental casket.

- To address concerns that the funeral home was re-using caskets, SNS-IS sent Chant's Funeral Home a Notice of Hearing dated January 28, 2019. This hearing was never held because of a suspicious fire that occurred at the funeral home on February 2, 2019 and the subsequent decision of Chant's Funeral Home to surrender its funeral home licence.
- Three former funeral home employees ([REDACTED], [REDACTED] and [REDACTED]) testified that it was common practice at the funeral home to charge a rental fee, place the remains in a traditional casket for the ceremony, later remove the remains and place them in a cardboard cremation container and then clean the casket and place back on the floor for re-use.
- All three witnesses ([REDACTED], [REDACTED] and [REDACTED]) testified that this practice was at the direction of funeral home owner, Sheldon Chant. All three witnesses also testified that Jillian Nemis cleaned the caskets to remove any dirt or stains before being placed back on the floor for re-use. [REDACTED] also testified that in one instance Jillian Nemis participated in the task of moving the remains in and out of the traditional casket.
- In response to these allegations, Jillian Nemis denied at the inquiry that the funeral home ever re-used caskets. Jillian Nemis provided a copy of invoices for 12 inserts, dated March 27, 2014 and four rental caskets dated April 10, 2014. Jillian Nemis claimed that Chant's Funeral Home purchased these rental caskets and inserts from Custom Funeral Products. However, witnesses [REDACTED], [REDACTED] and [REDACTED] all testified that they had never seen these caskets or inserts and that the first rental casket was purchased by the funeral home in November, 2017.
- Jillian Nemis stated that she denied cleaning caskets for re-use and that the only reason she would have cleaned caskets was to remove dust and debris as well as water stains that occurred because of a leaky roof in the casket display room.
- When Chant's Funeral Home was inspected by SNS-IS on December 11, 2019, the inspectors requested the funeral home to provide casket purchasing information. Chant's Funeral Home did not provide any information that indicated that it had purchased any caskets from Custom Funeral Products.
- Jillian Nemis stated that the funeral home was making its own cardboard inserts and that Sheldon Chant, and sometimes his mother, would make pillows and liners from material purchased at Fabricville or Walmart. Jillian Nemis said this was common practice at the funeral home and that this was the reason wooden inserts were not received at the crematorium. Witnesses [REDACTED], [REDACTED] and [REDACTED] all testified that they never saw homemade inserts made or used at the funeral home.
- [REDACTED] discovered the practice of using a traditional casket as a rental. [REDACTED] testified that when [REDACTED] approached Sheldon Chant in October 2017, he stated "I don't believe in them, we've never had one". [REDACTED] also testified that the first rental casket was then first purchased and placed on the floor in November 2017.

- The Board notes that Jillian Nemis denies the re-use of caskets, however, the evidence provided by [REDACTED] other [REDACTED] ([REDACTED], [REDACTED], [REDACTED] and [REDACTED]) is that this in fact occurred and that Jillian Nemis participated in doing so. Those [REDACTED] witnesses also testified that the first rental casket was purchased by the funeral home in November 2017. The Board finds that the evidence of those [REDACTED] witnesses is consistent with the findings of the SNS-IS inspection and is more credible than the evidence provided by Jillian Nemis.

Providing Funeral Director Services for an Unlicensed Funeral Home

- Chant's Funeral Home sustained major damage from a suspicious fire that occurred on February 2, 2019. The Registrar of Cemetery and Funeral Services notified Chant's Funeral Home on February 8, 2019 that the funeral home licence was immediately suspended and that the funeral home could not provide any funeral services to the public. Sheldon Chant then voluntarily surrendered the funeral home licence in a letter to SNS-IS on February 11, 2019.
- Jillian Nemis confirmed at the inquiry that she was aware that the funeral home was not licenced and was not able to provide funeral services as of February 8, 2019.
- [REDACTED] passed away on [REDACTED] 2019. The written witness statement of [REDACTED], the [REDACTED] of the deceased, stated that [REDACTED] was "well acquainted with Sheldon Chant as he was both a long-time family friend and had made many of the funeral arrangements as funeral director for family members".
- [REDACTED] written statement further stated that [REDACTED] was "also familiar, to a lesser extent, with Jill Nemis as she had in her capacity as employment with Sheldon Chant Funeral Home, arranged some of the family funerals in the past". The written statement further indicated that when [REDACTED] passed away, [REDACTED] called Sheldon Chant as a family friend and as a funeral director asking him to "make arrangements or assist with" the funeral.
- Jillian Nemis first testified that she arranged the funeral service as a family friend and not as a funeral director. Jillian Nemis later then testified that she was not close friends with [REDACTED] and that Sheldon Chant contacted her and instructed her to contact [REDACTED] to assist in arranging the funeral service.
- In an email sent from [REDACTED] to Forest Haven crematorium on [REDACTED] 2019, [REDACTED] asked the crematorium to "please accept this as permission for Jill Nemis of Chants Funeral Home to pick up and transport my [REDACTED] on my behalf".
- When Jillian Nemis picked up the remains of [REDACTED], she signed a release form stating:

"Jill Nemis of Chant Funeral Home
From Forest Haven Crematorium
The Cremated Remains of: [REDACTED]
Cremation Identification Number [REDACTED]
This [REDACTED] 2019"

- [REDACTED], the [REDACTED] who [REDACTED] the funeral service of [REDACTED] on [REDACTED] 2019, testified that [REDACTED] was called upon by Chant's Funeral Home to provide [REDACTED] regularly (every three weeks) and that [REDACTED] saw Jillian Nemis in her capacity as funeral director at most services. [REDACTED] further testified that the actions of Jillian Nemis that day were similar to that of a funeral director.

Funds Received for Pre-arranged Funerals not placed in Trust

- Based on inspections conducted in 2018 and 2019 by SNS-IS, Chant's Funeral Home was found to have taken \$315,000 in money from 102 purchasers for pre-arranged funerals. This money was not placed into trust as required by the *Cemetery and Funeral Services Act*.
- When these funds were uncovered by SNS-IS, Chant's Funeral Home returned all the monies identified. Since this money was not placed in trust it did not earn any interest and purchasers lost the interest that should have been earned from trust over that period.
- All of the witnesses who testified at the inquiry indicated that pre-arranged files were not organized, and files were spread between the funeral home and the "Little House of Faith Productions" a recording studio owned by Sheldon Chant at a location close by. Files that were for pre-arrangements with money not placed in trust were labelled and separated from the other files of the funeral home and were withheld from SNS-IS inspectors. These files were also tracked on separate ledger sheets that were also withheld from SNS-IS inspectors.
- [REDACTED] testified that all funeral directors on staff, including Jillian Nemis, would receive money for pre-arrangements and that money was placed in an office drawer at the instruction of Sheldon Chant. This money would then be picked up by Sheldon Chant. The funeral home did not provide a proof of deposit into trust as required by the *Cemetery and Funeral Services Act*.
- [REDACTED] testified that pre-arranged funeral documents were kept at the "Little House of Faith Productions" location, not at the funeral home, and that [REDACTED], [REDACTED], and Jillian Nemis would go there to retrieve the files.
- [REDACTED] testified that it was common practice for the funeral home to fill out a "wish list" for a purchaser and receive money for funerals in advance. [REDACTED] also testified that it was common practice at the funeral home for employees to place all money received in an office drawer. Sheldon Chant would then retrieve that money and make deposits.
- [REDACTED] testified that Sheldon Chant was responsible for making deposits and all money received was placed in an office drawer at the direction of Sheldon Chant.

ANALYSIS:

Is Jillian Nemis guilty of misrepresentation, professional misconduct or fraud in relation to her role in the re-using of funeral caskets?

Funeral directors are entrusted with a special responsibility to look after families during their time of need. These families can be vulnerable while grieving and funeral directors are expected to act in a manner that lends dignity to the profession and ensure that families are treated in a respectful and dignified manner.

Based on the evidence provided by SNS-IS and inquiry witnesses ([REDACTED], [REDACTED], [REDACTED] and [REDACTED]) the Board finds that Chant's Funeral Home systemically engaged in misrepresentation and fraud in relation to the re-use of caskets while you were a funeral director and while you held the position of "Funeral Director in Charge" of the funeral home. The practice of re-using traditional caskets meant that grieving families were defrauded and did not receive the rental casket insert they purchased. It also means that loved ones were placed in a traditional casket that was previously used (in some cases up to six times).

The Board accepts that Jillian Nemis may also have cleaned caskets for other reasons, from time to time, to remove dirt and water damage. However, the Board finds that Jillian Nemis was aware of the practice of re-using caskets and actively participated in this practice by cleaning traditional caskets so they can be used again, and that Jillian Nemis also participated in removing human remains in and out of caskets.

The Board does not find Jillian Nemis's submission that the funeral home made its own homemade caskets to be believable or realistic, and this practice was denied by [REDACTED] who testified at the inquiry and who were familiar with the practices of the funeral home. The Board also questions the validity of the casket invoices from Custom Funeral Products that Jillian Nemis presented at the inquiry. This information was not presented when requested by SNS-IS in December, 2018. Furthermore, SNS-IS inspectors did not see these products at Chant's Funeral Home, and [REDACTED] testified at the inquiry that they had never seen these caskets.

Unfortunately, the level of misrepresentation and fraud appears to be a systemic issue and so widespread that it would be difficult to identify every case that has occurred. While the Board finds this practice occurred it could not verify every individual case it happened.

As a result, the Board finds that Jillian Nemis is guilty of misrepresentation and fraud. The Board also finds that the conduct of Jillian Nemis demonstrates that she was guilty of professional misconduct as defined in Section 20 (A) of the EFDA Regulations, which defines 'professional misconduct' as conduct which does not lend dignity to the profession and inspire confidence on the part of the public in the members of the profession. The Board further finds that Jillian Nemis violated subsection 11A (2) of the EFDA by not complying with the following provisions of the Board Code of Ethics:

- (1) Treat deceased persons with dignity and respect
- (2) Only demonstrate conduct to the benefit of public trust
- (5) Provide services while adhering to strict standards of public health and personal safety
- (6) Maintain the highest standards of the funeral profession and carry out all professional obligations to owners and employers

Is Jillian Nemis guilty of misrepresentation and professional misconduct in relation to her role in the funeral service for [REDACTED]?

A licenced funeral director in Nova Scotia can only provide funeral services on behalf of a licenced funeral home. The Board finds that Jillian Nemis provided funeral director services for the funeral service of [REDACTED] on [REDACTED] 2019, after Chant's Funeral Home's licence had been surrendered.

Based on the evidence provided by Jillian Nemis, the Board finds this was done at the request of Sheldon Chant as Jillian Nemis was not close friends with the deceased family and only knew them through other funeral services she helped perform for the family as part of her employment.

While the Board can not confirm if Jillian Nemis personally received compensation for this funeral service, the Board finds that the funeral director services were being performed on behalf of Chant's Funeral Home. There is also written documentation (the release of cremated remains form) which indicates that Jillian Nemis was working on behalf of Chant's Funeral Home at that time.

Therefore, the Board find that the conduct of Jillian Nemis was in violation of section 26 of the EFDA which states "No person shall conduct, maintain, operate or manage a funeral home, or hold himself or herself out as operating a funeral home, unless that person is issued a licence to do so pursuant to this Act and that licence has not expired, been cancelled or suspended." The Board further finds that Jillian Nemis is guilty of misrepresentation in relation to her role in the funeral service for [REDACTED]. Finally, the Board finds that Jillian Nemis violated subsection 11A (2) of the EFDA by not complying with the following provision of the Board Code of Ethics:

- (12) maintain all required licensing while practicing in the funeral profession

Is Jillian Nemis guilty of misrepresentation, professional misconduct or fraud in relation to her role in the funds taken for pre-arranged funerals and not placed in trust?

Subsection 10(3) of the *Cemetery and Funeral Services Act* prohibits funeral homes from accepting money for the future delivery of funeral merchandise or services for an individual who is alive at the time the money is accepted unless the seller and the purchaser have entered into a written purchase agreement for a pre-arranged funeral plan. Section 15 of the *Cemetery and Funeral Services Act* provides that all money received by a seller under a pre-arranged funeral plan must be held in trust in accordance with the regulations made under that Act.

The Board heard at the inquiry that it was common practice for Chant's Funeral Home to fill out a "wish list" for a purchaser and receive money for funerals. A "wish list" is a document that a funeral home can complete for a purchaser that identifies the funeral merchandise and services they would like to receive as well as the current price for those services. A "wish list" is not a written purchase agreement for a pre-arranged funeral plan, and a funeral home cannot accept money for a "wish list".

The Board finds that large sums of money were received by Chant's Funeral Home for pre-arranged funerals and not placed in trust. The evidence from the inquiry suggests that this is a larger systemic issue where employees were blindly following instructions from the funeral home owner, Sheldon Chant, over a long period of time. Jillian Nemis, as a funeral director and as Funeral Director in Charge of the funeral home, should have known that the practice of placing all money received for pre-arranged contracts in an office drawer for the owner to pick up was a negligent practice. As a result of this practice, \$315,000 of monies was not placed in trust, purchasers did not receive trust statements confirming the funds were placed in trust and this money did not earn interest, costing purchasers collectively tens of thousands of dollars in total.

The other unfortunate consequence is that other funeral homes who agreed to accept these pre-arranged contracts, following the fire at Chant's Funeral Home, are now receiving significantly less for them. These other funeral homes are prepared to accept these contracts to support these fraud victims but are doing so at a reduced cost because there was no interest earned.

The Board finds that Jillian Nemis did not personally sign any of the pre-arranged contracts where money was taken and not placed in trust, although she was involved with receiving installment payments relating to these contracts. However, the Board cannot confirm if Jillian Nemis had direct knowledge that the money being received was not being placed in trust as required by the *Cemetery and Funeral Services Act*. Therefore, based on the evidence presented at the inquiry, the Board cannot conclude that Jillian Nemis is personally responsible for the fact that the money was not placed in trust.

CONCLUSION:

For all of the reasons set out above, all members of the Board are satisfied that:

- The actions of Jillian Nemis demonstrate that she is guilty of non-compliance with the EFDA, misrepresentation, fraud and professional misconduct in relation to her role in the re-use of funeral caskets and by providing funeral director services for an unlicensed funeral home; and
- That as result, it would not be in the public interest to allow Jillian Nemis to continue to practice as a licensed funeral director and a licensed embalmer.

As a result, it is the decision of the Board to immediately revoke Jillian Nemis's Funeral Director Licence #201371007F1 under the EFDA.

If Jillian Nemis is dissatisfied with this decision she may, within three months from the date of this letter, appeal to a judge of the Supreme Court of Nova Scotia. Further information on appeals and reinstatement process is outlined in Section 23 of the Act.

The Board reminds Jillian Nemis that, as a result of the revocation of her licence, she is not permitted to conduct any business activity related to funeral directing in Nova Scotia.

Dated this 8th day of December, 2019.



Adam Tipert, Chair
Nova Scotia Board of Registration of Embalmers and Funeral Directors

