

**State of New Hampshire
Board of Registration of Funeral Directors and Embalmers
Concord, New Hampshire**

In the Matter of:
James R. Roy
(Misconduct Allegations)

SETTLEMENT AGREEMENT

In order to avoid the delay and expense of further proceedings and to promote the best interest of the public and the practice of embalming and funeral directing, the New Hampshire Board of Registration of Funeral Directors and Embalmers (“Board”) and James R. Roy (“Mr. Roy” or “the Respondent”) an embalmer and funeral director licensed by the Board, do hereby stipulate and agree to resolve certain allegations of professional misconduct now pending before the Board according to the following terms and conditions:

1. Pursuant to RSA 325:32 and RSA 325:33, and Administrative Rule (“Frl”) 207 and 211 the Board has jurisdiction to investigate and adjudicate allegations of professional misconduct committed by licensees. Pursuant to RSA 325:34 V the Board may, at any time, dispose of such allegations by settlement and without commencing a disciplinary hearing.
2. The Board first granted Respondent a license to practice embalming and funeral directing on December 7, 1994. Respondent holds license number 101. Respondent owns and operates Roy Funeral Home Inc., 93 Sullivan Street, Claremont, NH 03743.
3. In late October/early November 2017 Board Chairman Timothy P. Kenney received a call from Christine Kittredge about a pre-paid funeral arrangement in the amount of \$2,060.00 for her mother, Virginia Brockelbank. Her sister, Gloria Allison met with Mr. Roy on August 5, 2011 and signed the Irrevocable Trust Agreement NH Funeral Directors Association Master Trust for Prepaid Funeral Arrangements F/B/O for her mother, Virginia Brockelbank. The

funds were to be deposited in the Trust by the Roy Funeral Home of Claremont. Virginia now lives in Tennessee with her daughter Christine and wanted to transfer the money to a local funeral home. Both sisters made several unsuccessful attempts to contact the funeral home. Ms. Kittredge contacted Interment Trust Services (Access Financial) and was told there was no account for Virginia Brockelbank.

4. In response to the complaint, the Board sent Mr. Roy a certified letter advising him of the complaint and requesting a written response by January 19, 2018. Mr. Roy signed for the certified letter on January 10, 2018, however no written response was received. On February 14, 2018, the Board unanimously voted to appoint board member Vincent Baiocchetti to conduct an investigation and report his findings.
5. The investigation revealed, and the Respondent freely admitted, that Respondent engaged in professional misconduct, in violation of RSA 325:32, II(c), RSA 325:45, and RSA 325:46-a, I(b) by the following facts:
 - A. Respondent failed to deposit funds received within the required 30 days.
 - B. Respondent failed to provide a statement of the funeral goods and funeral services purchased.
 - C. Respondent exhibited professional misconduct as outlined in A and B, as well as by failing to return phone calls and messages left by Ms. Kittredge and Ms. Allison on behalf of their mother, Virginia Brockelbank.
6. The Board finds Respondent committed the acts as described above and concludes that, by engaging in such conduct, Respondent violated the statutes outlined above.

7. Respondent acknowledges that this conduct constitutes grounds for the Board to impose disciplinary sanctions against Respondent's license to practice embalming and funeral directing in the State of New Hampshire.
8. Respondent consents to the Board imposing the following discipline, pursuant to RSA 325:32, III:
 - A. Respondent is required to send letters of apology to Christine Kittredge and Gloria Allison, daughters of Virginia Brockelbank with copies to the Board.
 - B. Roy Funeral Home owned by Respondent is hereby fined a civil penalty of \$5,356.48 (payable to the Treasurer, State of New Hampshire) to be received by the Board within 30 days of the effective date of this *Settlement Agreement*. Respondent has indicated that to rectify this issue, he will be transferring \$2,060.00 plus interest (\$296.48) to Hathaway-Percy Funeral and Cremation Services, 101 East F Street, Elizabethton, TN 37643. Upon such transfer, Respondent may petition the Board to reduce the civil penalty by \$2,356.48, to a total fine of \$3,000.00. If Respondent provides the Board with satisfactory confirmation that such a transfer has been made, the Board shall grant the Respondent's petition to reduce the penalty.
 - C. Respondent is Reprimanded in accordance with RSA 325:32, III (a) for violating RSA 325:45, and RSA 325:46-a, I(b) as to issues A. and B.
9. Respondent's breach of any terms or conditions of this *Settlement Agreement* shall constitute unprofessional conduct pursuant to RSA 325:32, II(g), and shall be sufficient basis for further disciplinary action by the Board.
10. Except as provided herein, this *Settlement Agreement* shall bar the commencement of further disciplinary action by the Board based upon the misconduct described above. However, the

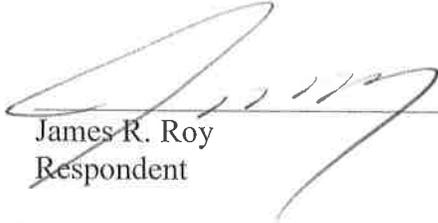
Board may consider this misconduct as evidence of a pattern of conduct in the event that similar misconduct is proven against Respondent in the future. Additionally, the Board may consider the fact that discipline was imposed by this *Settlement Agreement* as a factor in determining appropriate discipline should any further misconduct be proven against Respondent in the future.

11. This *Settlement Agreement* shall become a permanent part of Respondent's file, which is maintained by the Board as a public document.
12. Respondent voluntarily enters into and signs this *Settlement Agreement* and states that no promises or representations have been made to him other than those terms and conditions expressly stated herein.
13. The Board agrees that in return for Respondent executing this *Settlement Agreement*, the Board will not proceed with the formal adjudicatory process based upon the facts described herein.
14. Respondent understands that his action in entering into this *Settlement Agreement* is a final act and not subject to reconsideration or judicial review or appeal.
15. Respondent has had an opportunity to seek and obtain the advice of an attorney of his choosing in connection with his decision to enter into this *Settlement Agreement*.
16. Respondent understands that the Board must review and accept the terms of this *Settlement Agreement*. If the Board rejects any portion, the entire *Settlement Agreement* shall be null and void. Respondent specifically waives any claims that any disclosures made to the Board during its review of this *Settlement Agreement* have prejudiced his right to a fair and impartial hearing in the future if this *Settlement Agreement* is not accepted by the Board.

17. Respondent is not under the influence of any drugs or alcohol at the time he signs this *Settlement Agreement*.
18. Respondent certifies that he has read this *Settlement Agreement*. Respondent understands that he has the right to a formal adjudicatory hearing concerning this matter and that at said hearing he would possess the right to confront and cross-examine witnesses, to call witnesses, to present evidence, to testify on his own behalf, to contest the allegations, to present oral argument, and to appeal to the courts. Further, Respondent fully understands the nature, qualities and dimensions of these rights. Respondent understands that by signing this *Settlement Agreement*, he waives these rights as they pertain to the misconduct described herein.
19. This *Settlement Agreement* shall take effect as an Order of the Board on the date it is signed by an authorized representative of the Board.

FOR RESPONDENT

Date: 4-30-18



James R. Roy
Respondent

FOR THE BOARD

This proceeding is hereby terminated in accordance with the binding terms and conditions set forth above.

Date: May 14, 2018

Susan M. Russell
(Signature)

Susan M. Russell
(Print or Type Name)
Authorized Representative of the
NH Board of Registration of Funeral
Directors and Embalmers