

IN THE MATTER OF THE CEMETERY AND FUNERAL SERVICES ACT
R.S.N.S. 1989, CHAPTER 62

and

Chant's Funeral Homes

NOTICE OF DECISION

RE: Decision Regarding Cemetery and Funeral Services Act Licence #17-795445 – Licence to Sell Pre-Arranged Funeral Plans

This Notice sets out the decision of the Registrar regarding the Cemetery and Funeral Services Licence #17-795445 held by Chant's Funeral Homes under the *Cemetery and Funeral Services Act*, R.S.N.S. 1989, c. 62 (the "Act").

BACKGROUND:

I received a complaint about Chant's Funeral Homes on January 3, 2018 regarding funds for pre-arranged funeral plans not being placed into trust. In response to that complaint a detailed inspection was conducted by Service Nova Scotia Inspectors over an eight-day period concluding on February 1, 2018.

As a result of that inspection, I requested that Sheldon Chant, Funeral Director/Owner, Chant's Funeral Homes in Sydney, Nova Scotia sign an undertaking. This undertaking provides confirmation that Chant's Funeral Homes will refrain from selling any pre-arranged funeral plans, regardless of whether they are trust-funded plans or insurance funded plans, until such time as a decision is made by the Registrar in a licensing hearing. This undertaking was signed by Sheldon Chant on April 16, 2018.

A Notice of Hearing was sent to Sheldon Chant on behalf of Chant's Funeral Homes on May 2, 2018, which outlined allegations that money received for a pre-arranged funeral plan was not deposited into trust in relation to the provision of pre-arranged funeral services for [REDACTED] and [REDACTED]. In addition, the Notice of Hearing outlined six other areas of concern where irregularities were discovered during inspection. These areas of concern included: redeeming funds in trust, late payments into trust accounts, incomplete record keeping and converting trust funded pre-arrangements into insurance funded pre-arrangements.

The Notice of Hearing notified Chant's Funeral Homes that because of these allegations a hearing would be scheduled, after which the Registrar may decide to suspend or revoke Chant's Funeral Homes' licence to sell pre-arranged funeral plans pursuant to Clause 9(a) of the Act.

Chant's Funeral Homes was offered the opportunity to make a written submission to the Registrar. The hearing was held on May 22, 2018 regarding its licence to sell pre-arranged funeral plans. In attendance at the hearing were Sheldon Chant on behalf of Chant's Funeral Homes and representatives from the

[REDACTED] family [REDACTED] Sheldon Chant also provided a written submission at the time of the hearing regarding the compliance issues identified in the Notice of Hearing.

ISSUE:

Clause 9(a) of the Act authorizes the Registrar to cancel or suspend a licence to sell pre-arranged funeral plans where the Registrar is satisfied that the licensee has violated any provision of this Act or the regulations or has failed to comply with any of the terms, conditions or restrictions to which his licence is subject.

I have reviewed the written submission provided by Sheldon Chant on behalf of Chant's Funeral Home on May 22, 2018 and have considered Sheldon Chant's presentation and responses made at the hearing. I now must consider whether I should revoke or suspend the licence to sell pre-arranged funeral plans under clause 9(a) of the Act.

FINDINGS OF FACT:

Based on the evidence presented at the hearing, including the written submissions provided on behalf of Chant's Funeral Homes, and the written submission provided by the [REDACTED] family, I find the following facts:

Pre-arrangements for [REDACTED]

- [REDACTED] each signed a pre-arranged funeral plan with Chant's Funeral Homes on October 6, 2010. The licensed funeral seller who signed the contract on behalf of the funeral home and accepted the payment was Ms. Wendy Lynk, the funeral director and office manager of the funeral home at that time. Ms. Wendy Lynk has since left that position and is now working for another funeral home.
- [REDACTED] each paid for their pre-arranged funeral in monthly installments of \$200 each between October, 2010 and January, 2012. These payments were made by debit and deposited by the funeral home directly into the funeral home's operating account. Receipts were provided to [REDACTED] for each payment and signed by Ms. Wendy Lynk.
- Sheldon Chant acknowledged in his written submission that not placing these funds in trust as required was a violation of the CFSA for which Chant's Funeral Homes is responsible.

Service [REDACTED]

- [REDACTED] passed away on [REDACTED]. The [REDACTED] family maintained a copy of the pre-arranged funeral plan and receipts of the payments made to the funeral home.
- When the family met with the funeral home on [REDACTED] the funeral home did not realize, due to its own improper record-keeping and its failure to deposit the money into trust, that there was a pre-arranged contract and that the funeral had already been paid for by the family. As a result, Chant's Funeral Homes sent the family an invoice for the entire cost of the funeral.
- When the family brought this error to the attention of Sheldon Chant, the funeral home apologized and refunded the money to the [REDACTED] family for both pre-arranged contracts.

Following the Service for [REDACTED]

- In addition to refunding the money to the [REDACTED] family, Sheldon Chant also committed to providing the [REDACTED] family with money to be set aside to fund the funeral of [REDACTED] at time of need. This payment was to recognize the unpleasant experience the [REDACTED] family had with the funeral home. This offer was accepted by the [REDACTED] family.
- The funeral home has provided information around the corrective action that has been taken to ensure future compliance with the Act. This includes:
 - Hiring a new office manager with formal bookkeeping training;
 - Purchasing a scanner to be used for the digital scanning of all documents received;
 - New policies addressing accounting and administrative processes where the office manager works in concert with an accounting firm. This includes the purchase and use of a new funeral planning software program "Funeral Tech";
 - Closer oversight of the funeral home by Funeral Director/Owner, Sheldon Chant.

ANALYSIS:**Section 15 of the Act and Section 15 of the regulations – Did Chant's Funeral Home violate the Act and the regulations by receiving money for a pre-arranged funeral and not depositing that money in trust?**

As a licensed seller of pre-arranged funeral plans, Chant's Funeral Homes is required to ensure that all money received for a trust funded pre-arranged funeral is placed in trust in the name of the purchaser as required by Section 15 of the Act and Section 15 of the regulations. As Sheldon Chant acknowledged in his written submission, this did not happen with the money received from [REDACTED].

Not placing funds in trust can have a devastating impact on Nova Scotians who are expecting those funds to be there for their families at their time of need. These actions place Nova Scotia consumers at risk and can lower public trust in the funeral profession.

Based on the facts set out above, I am satisfied that the placement of funds for the [REDACTED] pre-arranged funeral plans directly into the operating account was the result of careless behaviour, poor record keeping and poor bookkeeping by the funeral home. It also appears there was a lack of managerial oversight at the funeral home during this time.

I find that the conduct of Chant's Funeral Homes was in violation of Section 15 of the Act and Section 15 of the regulations as money was not placed in trust.

The conduct of Chant's Funeral Homes has had long-lasting impacts on the loved ones of [REDACTED]. I find that Sheldon Chant's written submission and presentation at the hearing acknowledges the seriousness of the actions of Chant's Funeral Homes. I also acknowledge that efforts have been made to rectify this situation with the [REDACTED] family.

Regarding the additional compliance issues identified in the Notice of Hearing, Chant's Funeral Homes provided information at the hearing and in the written submission to rectify those compliance issues. However, I do have an overall concern with the lack of organization around record and bookkeeping at the funeral home. This makes it very difficult for me to determine if there have been other instances where funds have not been placed in trust or where copies of purchase agreements have not been kept as required.

CONCLUSION:

As a result of all of the above, I am satisfied that:

- the actions of Chant's Funeral Homes demonstrates that it is guilty of receiving funds for a pre-arranged funeral and not placing those funds in trust, in violation of Section 15 of the Act and Section 15 of the regulations; and
- that it would not be in the public interest to allow Chant's Funeral Homes to continue to sell trust-funded pre-arranged funeral plans to the public.

Given the serious nature of the violations of the Act and regulations by the funeral home, it is my decision to suspend Chant's Funeral Homes' licence to sell pre-arranged funeral plans for a six-month period from July 1, 2018 to December 31, 2018. During that time, Chant's Funeral Homes is prohibited from selling any pre-arranged funeral plans, regardless of whether they are insurance-funded plans or trust-funded plans.

It is my also my decision to immediately place a restriction on Chants Funeral Homes' licence, under the authority of subsection 8(4) of the Act, that prohibits Chant's Funeral Homes Licence #17-795445 from selling trust-funded pre-arranged funeral plans. This restriction will be in place commencing on today's date and will continue to be in place when the licence is reinstated on January 1, 2019 after the six-month licence suspension has been served.

I would remind you that during the six-month suspension of the licence, Chant's Funeral Home is not permitted to conduct any business activity related to pre-arranged funeral sales in Nova Scotia.

Dated this 18th day of June, 2018.



Rodger Gregg, Registrar
Cemetery and Funeral Services