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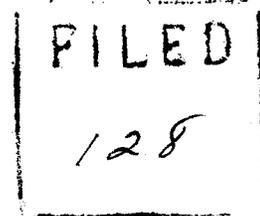
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December 3, 1985

OPINION LETTER NO. 128-85

Carl M. Koupal, Jr., Director
Department of Economic Development
Truman State Office Building
Jefferson City, Missouri 65101



Dear Mr. Koupal:

This letter is in response to your question asking:

May the State Board of Embalmers and Funeral Directors use fees collected pursuant to the provisions of Chapter 333 to fund the enforcement of Chapter 436 although some registrants under Chapter 436 are not licensed under Chapter 333?

Chapter 333, RSMo, provides for the licensing and regulation of the practice of funeral directing, the practice of embalming, and funeral establishments. Chapter 436, RSMo, regulates certain preneed funeral contracts. It is our understanding that one need not be licensed under Chapter 333, RSMo, in order to be a "seller" or "provider" of preneed funeral contracts under Chapter 436, RSMo.

Section 333.111.2, RSMo Supp. 1984, provides:

2. The board shall set the amount of the fees which this chapter authorizes and requires by rules and regulations promulgated pursuant to section 536.021, RSMo. The fees shall be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering this chapter.

[Emphasis added.]

Carl M. Koupal, Jr.

These fees are credited to the Board of Embalmers and Funeral Directors' Fund. Section 333.231.1, as enacted by Senate Bill No. 99, Eighty-Third General Assembly, First Regular Session.

Section 333.121.2(15), RSMo Supp. 1984, makes violation of Chapter 436, RSMo, cause for disciplinary action under Chapter 333, RSMo. Thus, moneys in the Board of Embalmers and Funeral Directors' Fund may be used to enforce Chapter 436, RSMo, incident to the administration of Chapter 333, RSMo; i.e., if the subject of the enforcement action is licensed or regulated under Chapter 333, RSMo, and a goal of the enforcement action is disciplinary action under Chapter 333, RSMo.

If the subject of the enforcement action is not licensed under Chapter 333, RSMo, then Section 333.111.2, RSMo Supp. 1984, prevents the use of moneys from the Board of Embalmers and Funeral Directors' Fund from being used to finance enforcement of Chapter 436, RSMo.

Very truly yours,



WILLIAM L. WEBSTER
Attorney General