

# DECISION OF THE DIRECTOR

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In the Matter of:        **The *Business Practices and Consumer Protection Act* [SBC 2004] c. 2**  
And  
                                 **Cremation, Interment and Funeral Services Regulation**

Respondent:                Schrader Family Holdings Ltd. dba Kamloops Funeral Home

Case Number:             31337

Adjudicator:              Sean Sisett

Decision Issued:         May 2, 2022

## **INTRODUCTION**

- [1] As part of its mandate, Consumer Protection BC administers the *Business Practices and Consumer Protection Act* [“BPCPA”] the *Cremation Interment and Funeral Services Act* [“CIFSA”] and a series of regulations including the *Cremation, Interment and Funeral Services Regulation* [“CIFSR”] operating under these statutes.
- [2] In its capacity as the delegated authority administering the BPCPA, CIFSA and CIFSR, Consumer Protection BC oversees the business practices of suppliers licensed to operate as funeral providers [“Providers”]. These Providers act as suppliers when they sell funeral services. The BPCPA imposes duties on suppliers when entering into funeral contracts with consumers. The Regulation imposes duties on Operators’ and their business practices as they relate to selling funeral services and the record-keeping for the licensed businesses they operate.
- [3] Consumer Protection BC inspectors are empowered under S.149 of the BPCPA to conduct inspections. In cases where the inspector finds there to be an apparent breach of the BPCPA or the CIFSR, the inspector may choose to escalate the matter via formal Report to the Director [“RD”]. At this point, the allegations in an RD are framed using evidence available to the inspector and exhibited as part of a cohesive case presented to a decision-maker for consideration and if called for, adjudication.
- [4] If a decision maker finds an alleged contravention of the BPCPA or the CIFSR occurred, they are authorized to issue remedial orders that may call for a respondent to cease certain activities, take specific actions to correct or amend its business practices in the future and pay costs of any inspection that led to the allegation(s) being made by the inspector. For prescribed breaches of law, the respondent may also be subject to the imposition of administrative monetary penalty.
- [5] In the instant case, the RD [“the Report”] prepared by a Consumer Protection BC inspector [“the Inspector”] alleges that during an inspection [“the Inspection”] of the Respondent’s business, the Inspector identified three distinct breaches of the BPCPA and the Regulation to have been committed by the Respondent. Plainly, the Report alleges the Respondent failed to include the

address of a deceased in funeral contracts it executed with consumers, failed to properly identify and label caskets it offered for sale to consumers and, failed to keep proper records related to the authorizations allowing for the provision of funeral services.

[6] I have been assigned as the statutory decision-maker in this matter. I have evaluated the particulars of the Report, including the evidence referenced by the Inspector and, the information provided to me by the Respondent. In my written reasons below, I refer only to the evidence and submissions that I find relevant to provide context for my decision.

[7] In summary, I find the allegations made by the Inspector in the Report to be confirmed both on the evidence of the Inspector and to a significant degree, on the admissions made by the Respondent in their answer to the allegations. I have however, not imposed any administrative penalty on the Respondent. I have elected to set out certain requirements for the Respondent in a compliance order I issue with this decision.

### **OPPORTUNITY TO BE HEARD**

[8] The Inspector sent a soft copy of the RD and its associated exhibits by email on February 15, 2022.

[9] Prior to any enforcement action being taken under the BPCPA or CIFSA, the Respondent is entitled to an opportunity to be heard on allegations made. After I was notified by the Inspector that the RD had been sent to the Respondent, I sent a notice of hearing [“OTBH”] to the Respondent on February 16, 2021. The OTBH provided the Respondent with the opportunity to submit a written reply to the Report. The OTBH also indicated that following the opportunity to respond, a decision-maker would determine whether the alleged violations occurred and may take enforcement action if warranted.

[10] On March 3, 2022 I received an email from the Respondent with an eleven-page attachment [“the Response”]. The Response contained six pages of text and five pages of photographs.

[11] The Response references the Report and the exhibits used by the Inspector to support the allegations made in the Report. All three allegations in the Report are individually addressed in the Response, states that for two of the three allegations made by the Inspector, the Respondent admits the breach took place. For the third allegation, the Response argues that the staff members who engaged with the Inspector misapprehended the context of a question posed by the Inspector which led to an incorrect conclusion being drawn by the Inspector. The information provided by the Respondent in the Response offers context, reason and details specific actions taken by the Respondent related to each breach alleged by the Inspector.

[12] I conclude the Respondent had a full and fair opportunity to respond to the allegations made by the Inspector.

## LEGISLATION

### **Business Practices and Consumer Protection Act**

#### **Funeral contract**

**34 (1)** A funeral contract must contain the following information:

[...]

- (b) the name and address, as applicable, of  
(ii) the deceased person or stillborn infant,

[...]

#### **Cremation, Interment and Funeral Services Regulation**

#### **Display of containers**

**34 (1)** A funeral provider must maintain and make available to the public a book, brochure, internet site or other written or electronic information that

[...]

- (b) includes a photograph or drawing of each container, the make and model number of each container and the price for each container.

#### **Records**

**43 (1)** A funeral provider must keep a record of each funeral service provided by the funeral provider that includes:

[...]

- (e) a copy of the written authorization required under section 8 (1) of the Act from the person who under section 5 of the Act, had the right to control the disposition of human remains and the address of the person who gave the authorization;

[...]

## ALLEGED CONTRAVENTIONS

[13] The Report alleges The Respondent committed three specific breaches of the BPCPA and the CIFSR:

1. **BPCPA s. 34(1)(b)(ii)**, when it failed to ensure that funeral contracts executed with consumers contained the address of the deceased person.
2. **CIFSR s. 34(1)(b)** when it failed to include the price for each container the funeral provider offers for sale in the written information the funeral provider maintains and makes available to the public.
3. **CIFSR s. 43(1)(e)** when it failed to keep a record of each funeral service provided that included a copy of the written authorization required under section 8 (1) of the CIFSA from the person who under section 5 of the Act, had the right to control the disposition of human remains.

[14] The evidence provided by the Inspector is contained in the narrative of the Report and the exhibits referenced throughout the Report. The Report is separated into three parts, each dealing with one of the allegations. I will summarize the salient points taken from the Report and exhibit evidence and make my assessments related to the allegations in a similar fashion.

**ALLEGATION 1 - BPCPA 34(1)(b)(ii)**

**Inspector's evidence – Paragraphs 10-17 of the Report and Exhibits 2, 3, 4**

[15] The funeral contract template used by the Respondent consisted of a 1-page document, with the reverse side of the page being blank. The funeral contract template included spaces for the following information to be populated into the template at the time a funeral director met with a consumer:

- (a) Name, address, contact phone number(s), drivers licence number and SIN number of the purchaser;
- (b) Name and address of the person who had the right to control the disposition of human remains;
- (c) Name, address and date of death for the deceased person;
- (d) Date of service for funeral arrangements;
- (e) Goods and services to be supplied under the contract;
- (f) Total price payable under the contract and a balance due by date;
- (g) ted between the Respondent and the purchaser;
- (h) Signature of representative for the Respondent and signature of the purchaser.

[16] The Inspector examined the funeral contract executed between the Respondent and consumer ["D"] on September 16, 2021. The funeral contract listed "Rose Hill, Kamloops, BC" under the address information section for the deceased person ["BM"].

[17] The Inspector examined the Respondents' records detailing the funeral services provided under the funeral contract with D.

- (a) A registration of death form issued by the BC Office of the Vital Statistics Agency recorded the address [REDACTED], Kamloops, [REDACTED], as the place of death for BM.
- (b) The address of [REDACTED], British Columbia, [REDACTED] was recorded on the registration of death form under the heading "Residency Information and Usual Address" for BM.

[18] The Respondent's records contained a file folder with records related to the funeral services supplied under the D contract. Information in the folder disclosed the following: **[Emphasis mine]**

- (a) [REDACTED] under the heading "**Place of Death**";
- (b) [REDACTED] under the heading "**Usual Residence**".

[19] The Respondent knew both the residential address and the place of death for BM. The only address information added on the funeral contract executed with D was the address of **Rose Hill, Kamloops, BC**, where the death of BM occurred.

- [20] The funeral contract with D failed to contain the BM's residential address of [REDACTED] as required by BPCPA 34(1)(b)(ii).
- [21] The Inspector specifically stated their opinion that the Respondent breached BPCPA 34(1)(b)(ii) when it executed a funeral contract that did not include the address of the deceased person named in the funeral contract.

#### **Respondent's evidence**

- [22] The Response specifically agrees with the Inspector's finding that the address for BM was not included in the funeral contract the Respondent executed with D.
- [23] The Response states that in this particular case, the residential address of DM may not have been known to the informant at the time the funeral contract specifics were originally negotiated.
- [24] The Respondent opines multiple funeral directors may have been involved in the arrangement of funeral services to be provided under the funeral contract, leading to information being recorded in a piecemeal fashion creating to potential confusion about what information was recorded and where.

#### **Analysis/Conclusion**

- [25] There is agreement between the Respondent and the Inspector that DM's place of residence was [REDACTED]. I believe the information at Exhibit 3 supports the conclusion that the address of BM was in fact [REDACTED].
- [26] The September 16, 2021 funeral contract executed between the Respondent and D calling for the Respondent to provide funeral services to the deceased BM does not include the address [REDACTED]. It naturally follows the address for the deceased in this case was not listed in the funeral contract and as such, the Respondent contravened BPCPA 34(1).

#### **ALLEGATION 2 – CIFSR 34(1)(b)**

##### **Inspector's evidence – Paragraphs 18-24 of the Report and Exhibit 5**

- [27] Under the CIFSR, caskets used to hold human remains are considered containers and the words "container" and "casket" are used interchangeably in the funeral services industry.
- [28] When the Inspector asked an employee of the Respondent ("TC") how the Respondent disclosed the containers available to be purchased by consumers, TC told the Inspector a binder with available casket purchase choices was held by the Respondent.
- [29] Inspection of the contents of the binder produced by TC found various container/caskets displayed in photo form.
- [30] The Inspector found no container pricing information in the binder.

[31] When asked by the Inspector if pricing information for the containers another employee of the Respondent (“RG”) told the Inspector the only written information the Respondent had about the entire product line of containers the Respondent offered for sale was in the binder.

**Respondent’s evidence**

[32] Pages 3 and 4 of the Response address this allegation made by the Inspector.

[33] The Respondent says there was miscommunication between the Inspector and the Respondent’s employees.

[34] KFH has a variety of caskets made available to the public.

[35] The variety of caskets most often purchased by the public are displayed in two rooms at the Respondent’s business.

[36] The caskets and other items on display in the two rooms have price cards next to them.

[37] The binder viewed by the Inspector is made and provided to the Respondent by a vendor and displays examples of all items available from that vendor.

[38] The binder is not completely representative of all items available to the Respondent for resale as the Respondent purchases from a multitude of vendors apart from the vendor who provided the binder examined by the Inspector.

[39] For caskets that have never been ordered from a supplier before, the Respondent is unaware of the prices charged by the supplier and as such, the items have not been priced by the Respondent.

[40] To accommodate changing supplier pricing because of wholesale market conditions, the Respondent’s staff would need to adjust price listings to be transparent with families.

[41] Then Respondent does adjust pricing for products kept on hand.

[42] The Respondent agrees the current pricing information is needed for “showcased” items to be displayed for public view.

[43] The Respondent has struggled with the best way to “pull a vendor catalog” to give examples of other types of items available without needing to pre-price the entirety of each vendor’s available products.

[44] The Respondent is now recreating” the vendor catalogues to include only the display items priced by the Respondent for sale.

[45] The Respondent asks CPBC to review this ‘guideline’ as it would be a large undertaking for a funeral home to price every item available from each vendor given inventory additions and wholesaler price changes.

## Analysis/Conclusion

- [46] As a preliminary issue, I note the Response addresses the pricing of urns and keepsakes in the same context as those for containers set out in the section of the CIFSR being addressed in this allegation. For clarity, urns used to hold cremated remains and keepsakes are not ‘containers’ and as such I do not address the Response information about these items in this decision beyond noting that the requirements set out in Sec. 31(1)(a) and 31(1)(d) of the *Business Practices and Consumer Protection Act* do require these items to be priced in the schedule of rates and if not otherwise described in that schedule, by reference to a binder or other catalog that contains the descriptive information set out in BPCPA 31(1)(d)(i). Simply put, it appears the Inspector could have alleged the Respondent failed to properly price and display items it sells apart from caskets and chose not to do so. I comment no further on this discreet issue.
- [47] Unlike allegation 1, the Respondent takes issue with the conclusion of the Inspector about the breach having taken place. However, the Response’s statement that there was a miscommunication between the Inspector and the Respondent’s employees at the time of the Inspection was not supported in any substance that had an effect on my ultimate finding that this breach occurred as alleged.
- [48] To my reading, the Respondent initially says the Inspector asked what containers the Respondent was currently offering for sale and was consequently provided only partial disclosure of the goods the Respondent offers for sale.
- [49] I note the Response does not say the Respondent never offered the caskets displayed in the binder for sale. In fact, the Response does say *“but will also provide examples of many more options that each company could provide in terms of casket” ... “should the family request it”*. I conclude the Respondent was offering the containers for sale to the public concurrent to the time of the Inspection.
- [50] The Response does agree *“that the showcased items do need to have current KFH pricing displayed at all times for the public to view”*. I take this to mean the Respondent does not take issue with the requirement of CIFSR 34(2) and (3) requirements for a funeral provider who has a room or area for the display of containers offered for sale by a funeral provider. If I am correct that the reference being made by the Respondent speaks to the physical containers at the Respondent’s business, I point out the Inspector is not alleging a breach of CIFSR 34(2) or 34(3).
- [51] In line with the previous paragraph, the Response appears to ask that a distinction be made between the pricing disclosure requirements for casket types it most commonly sells to consumers and the pricing disclosures for caskets consumers may choose should they not purchase one of the more commonly sold ones. Even if I could find distinction between the essential pricing disclosure element requiring the price to be disclosed to the consumer contained in each circumstance, it would be a distinction without a difference. Whether it be the requirement to display and disclose the price of a casket under CIFSR 34(1) or that in CIFSR 34(3), both require a funeral provider offering to sell a casket to display the price at the time it is initially offered for sale to the consumer.
- [52] The clear intent of the CIFSR 34(1) is to ensure the consumer has disclosure and notice for the type and price of each casket at the time it is presented as a purchase option to the consumer. To allow

for a funeral provider to 'price' a casket after a consumer has been presented with the casket as an option for purchase would be in direct conflict with the clear intent of this CIFSR provision. Simply put, if a funeral provider wishes to offer a casket for sale to a consumer, the funeral provider's price for the casket must be disclosed at the time it is initially offered for sale to the consumer.

- [53] The Inspector alleges the Respondent failed to include the price for each container the Respondent was offering for sale in the written information the Respondent maintains and makes available to the public when arranging or selling funeral services. I agree with the Inspectors' conclusion and find that on the date of the Inspection the Respondent was in breach of CIFSR 34(1)(b).

### **ALLEGATION 3 – CIFSR 43(1)(e)**

#### **Inspector's evidence**

- [54] The Inspector examined the business records held by the Respondent about the provision of funeral services for the decedent EJ.
- [55] The funeral contract calling for the Respondent to provide funeral services for EJ cited two persons ("RJ") and ("TJ") as those persons who had the right to control the disposition of EJ's remains.
- [56] The Inspector cites it was a person separate from RJ and TJ who signed the funeral contract and paid the Respondent to provide the funeral services in this case.
- [57] None of the records made available to the Inspector cited in Exhibit 6 of the Report appeared to have a written authorization from RJ or TJ or any other person purporting to be the person with the authority to authorize the Respondent to provide funeral services for EJ.
- [58] The Inspector alleges none of the records held by the Respondent and related to the funeral services it provided for EJ included a copy of the written authorization required under section 8(1) of the CIFSA, ultimately concluding the Respondent was in breach of CIFSR 43(1)(e).

#### **Respondent's evidence**

- [59] The Response cites that many of the records examined by the Inspector and noted in the Report about this allegation are not required to have an informant or persons authorized.
- [60] The Respondent says the first in-person meeting with the family of a decedent is usually where the written authorization to proceed with the provision of funeral services and disposition.
- [61] The Respondent says only a funeral contract is required to contain the signature from the person authorizing the provision of funeral services. The Response also notes permission to cremate the human remains of the deceased requires separate authorization and signature from the authorizing person.



- [62] The Respondent agrees their funeral director did not obtain the written authorization to perform funeral services, relying solely on the verbal authorization to provide funeral services it received from the family of the deceased.
- [63] The Respondent says it has taken steps to ensure the non-compliance with the requirement to obtain written permission in advance of disposition. Specifically, the Respondent provided photos of a template funeral contract posted as a reference for use at their business and says it has set up an auditing system to ensure the non-compliance does not repeat itself.

### **Analysis/Conclusion**

- [64] As in the case of allegation 1, the Respondent takes no issue with the conclusion of the Inspector about the alleged breach having taken place.
- [65] In the Response, the Respondent says that funeral services contracts (FSC) need to have an authorizing informant's signature. This is incorrect. There is a requirement under BPCPA 43(1)(b)(iii) for a funeral contract to have the name and address of the person authorizing the funeral provider to provide funeral services.
- [66] In this allegation, the Inspector refers to the discreet requirement of CIFSR 43(1)(e) that speaks to the record-keeping requirement for a funeral provider to keep a copy of the written authorization received from the person who had the right to control the disposition of human remains.
- [67] The Respondent acknowledges that at no time did it have the written authorization ("signature") from the person permitted to provide authorization for the Respondent to act as a funeral provider in this case. It naturally follows the Respondent was in breach of the requirement to keep a complete record for the funeral services provided in this event. It is clear to me the Respondent breached CIFSR 43(1).
- [68] In addition to the breach, I confirmed above, I note the information exhibited by the Inspector includes information that disposition of EJ's human remains took place at Hillside Cemetery on October 1, 2021. There is a plain CIFSA 8(1) requirement that a funeral provider to get the written authorization from the person with the right to control the disposition of any human remains. There is an exception allowing for a funeral provider to act on verbal instructions (received only by telephone) before receiving the written authorization. That exception is only applicable on an interim basis, prior to the disposition of the human remains. In this case, the disposition of human remains occurred and the Respondent admits it never received written authorization to act in advance of that disposition. As the Inspector exercised restraint in limiting the allegation to only the record-keeping failure of the Respondent, I will go no further into the examination here other than to caution the Respondent that failure to obtain proper authorization in advance of the disposition of a decedent is an inherently serious breach of the CIFSA. Had the Inspector advanced such an allegation, I would likely have found it to be supported on the evidence before me.

### DUE DILLIGENCE

- [69] The Respondent is entitled to the complete defence of due diligence against the allegation if it shows that it took all reasonable steps to prevent the contravention.
- [70] In the Response, staffing shortages and overwork are cited as contributory factors affecting the breaches noted in the Report.
- [71] The defence of due diligence is a positive defence requiring Respondents to demonstrate they took all reasonable diligence efforts to avoid any non-compliance for allegations like those made in the Report. The Response did not overtly address due diligence efforts related to the allegations. As such, I was left to evaluate statements and submissions in the Response that could be seen as the Respondent having been diligent in advance of the three breaches I have confirmed here.
- [72] The Response does go into great detail about how the breaches occurred, citing human error, changing information streams and multiple “hands” touching on files and funeral arrangements. It is this great detail that sets out for me the problem the Respondent has in any due diligence context I apply here. It is clear to me the Respondent was aware that missteps could take place and offers only human error and short staffing as explanations for the non-compliance.
- [73] Given the Respondent was aware that negative factors affecting full compliance with the law were at work and absent any evidence of efforts taken to avoid non-compliance prior to the breaches, I can find no reasonable defence of due diligence has been established by the Respondent.

### ENFORCEMENT ACTION

- [74] In this case as the adjudicator determining that a violation occurred, I may take one or more of the following actions:
1. Issue a compliance order (under section 155 of the BPCPA), directing the respondent to:
    - stop a specified act or practice and take actions to correct the issue;
    - pay Consumer Protection BC the costs of the relevant inspection, including creation of the Report.
  2. Impose a penalty of up to \$5,000 on an individual, or up to \$50,000 on a corporation (under section 164 of the BPCPA).
  3. Take a licensing action under authority of S. 55(3) of the CIFSA working with S. 146 of the BPCPA.
- [75] I have considered these possible enforcement actions and determined that I will not impose an administrative penalty on the Respondent. I arrive at this decision because of the following considerations, two of which operate in favor of my election to not impose a monetary penalty.
- [76] As noted by the Inspector in the Report, the Respondent was subject of a 2019 inspection where similar breaches were apparent. Typically, a Respondents’ failure to remediate business practices and avoid future non-compliance would lead to a Report such as was the case here. It is this type of repeated failure to comply that most often informs whether escalated enforcement such as administrative penalty is imposed.

- [77] Notwithstanding the preceding, there is no doubt that the Covid-19 crisis had an effect on day-to-day life and on those businesses operating in the death industries. I do not think it a reach to believe the Respondent when they say the loss of revenue led to short staffing with the result being some filing and office procedures were left wanting as a result.
- [78] The third consideration I give effect in choosing not to impose an administrative penalty is the narrow number of events presented to me by the Report. While there is no question the Inspector did an effective job detailing the breaches alleged in the Report, I find the limited nature of each allegation of one supported example, leads me to conclude these breaches could very well be isolated circumstances and not necessarily indicative of systemic non-compliant behaviour or ineffective operation of business practices affecting consumers.

### **Compliance Order**

- [79] I will issue a Compliance Order to the Respondent.
- [80] I am aware the Respondent has stated they will employ a multi-person review of some business records to ensure the content and record keeping requirements are compliant with the requirements of the Respondent and Consumer Protection BC. My finding citing the Respondent's apparent misunderstanding about the differing information requirements for funeral contracts and those record requirements for funeral providers leads me to be prescriptive as to the requirements for specific content of funeral contracts and the Respondents record-keeping practices.
- [81] The Respondent's proposed remedy for ensuring the correct information for all containers offered for sale is to address the issue in an ad-hoc manner should a consumer not elect to purchase any container currently offered for sale with an associated price and description affixed to the container or representation. The description of this process does not convince me an inadvertent reference to any catalogue during the arrangement for funeral services might happen. As an alternative, I will prescribe the content and location of the catalogues, books or brochures the Respondent uses when offering containers for sale to the public.
- [82] I will require the Respondent to reimburse the Director for the costs associated with the Inspection.
- [83] The specific requirements for the above are set out in the Compliance Order issued with this decision.

### **RECONSIDERATION OF COMPLIANCE ORDER**

A compliance order issued under the BPCPA or CIFSA may be reconsidered in accordance with Division 1 of Part 12 of the BPCPA and, subject to the provisions outlined in BPCPA 181 and 182(2) and CIFSA 60(2). A request for reconsideration must be submitted within 30 days of delivery of the order to the Respondent. The request must be in writing, identify the error the person believes was made or other grounds for reconsideration, and be accompanied by a \$262 application fee. A request for reconsideration should be addressed to:

Consumer Protection BC  
Attention: Shahid Noorani, Vice President  
200 – 4946 Canada Way, Burnaby, BC V5G 4H7  
[shahid.noorani@consumerprotectionbc.ca](mailto:shahid.noorani@consumerprotectionbc.ca)

Decided on May 2, 2022, in Burnaby, BC.



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Sean Sisett  
Director – Inspections & Case Management