

TENNESSEE BOARD OF FUNERAL DIRECTORS AND EMBALMERS

MINUTES OF BOARD MEETING

SEPTEMBER 14, 2010

President Dennis Hamilton called the meeting to order at 10:00 A.M. in the Third Floor Conference Room of the Andrew Johnson Tower, Nashville, Tennessee.

Board members present were Dennis Hamilton, President; Eugene Williams, Vice President; Paula Bridges, Wayne Hinkle, Jill Horner, Clark McKinney and Tony Hysmith.

Staff present was Robert Gribble, Executive Director; Adrian Chick, Assistant General Counsel; and Mary Flagg, Administrative Assistant.

ADOPTION OF AGENDA:

A motion was made by Clark McKinney to approve the agenda as printed.

Seconded by Tony Hysmith

Adopted by voice vote

APPROVAL OF MINUTES:

A motion was made by Tony Hysmith to approve the minutes of the August 10, 2010 Board Meeting.

Seconded by Clark McKinney

Adopted by voice vote

FORMAL HEARING:

Before the State of Tennessee Board of Funeral Directors and Embalmers

In the Matter of:

Alexa Suzanne Forkum – Funeral Director / Embalmer

Docket Number 12.21-107315A

Presiding: Honorable Lynn England

The State was represented by Assistant General Counsel Adrian Chick. The defendant, Alexa Suzanne Forkum, was not represented by counsel and joined the proceedings via tele-conference.

Board members, prosecutor for the State and witnesses were given their charge by Judge England. After the case was presented, Judge England instructed the Board of their responsibilities and the Board adopted the following:

- 1) Findings of Fact – Same as Allegation of Facts presented in the Notice of Hearing Charges.

A motion was made by Clark McKinney that allegations were proven as factual.

Seconded by Paula Bridges

Adopted by a roll call vote, all members voting “Yes”

- 2) Conclusions of Law – Same as Conclusions of Law in the Notice of Hearing Charges.

A motion was made by Clark McKinney to adopt the Conclusions of Law.

Seconded by Wayne Hinkle

Adopted by a roll call vote, all members voting “Yes”

- 3) Refuse to renew defendant’s license as a funeral director and embalmer.

A motion was made by Tony Hysmith to **Refuse to Renew** the funeral directors and embalmers license of Alexa Suzanne Forkum.

Seconded by Jill Horner

Adopted by a roll call vote, all members voting “Yes”

- 4) Cost of Hearing

A motion was made by Clark McKinney to assess the cost of the hearing to the Defendant.

Seconded by Wayne Hinkle

Adopted by roll call vote, all members voting “Yes”

- 5) Policy Statement – This decision is being made for the health, welfare and benefit of the citizens of the State of Tennessee.

A motion was made by Clark McKinney to adopt the Policy Statement.

Seconded by Wayne Hinkle

Adopted by roll call vote, all members voting "Yes"

- 6) Permission for Executive Director to sign Final Order or any other legal documents related to this case that would normally be signed by the President of the Board.

A motion was made by Eugene Williams to grant this permission to the Executive Director.

Seconded by Paula Bridges

Adopted by voice vote

The formal hearing was concluded at this point.

LEGAL REPORT:

ADRIAN CHICK, ASSISTANT GENERAL COUNSEL

1. Case No.: L09-FUN-RBS-2009021181

This complaint alleges the Respondent funeral establishment failed to pay for embalming services within a reasonable amount of time despite several notifications.

Response: Respondent states that the payment was overlooked initially but later paid.

Complaint History: Several related complaints.

Recommendation: Authorization for hearing.

A motion was made by Clark McKinney to accept Counsel's recommendation.

Seconded by Paula Bridges

Adopted by voice vote

2. Case No.: L10-FUN-RBS-2010001471

This complaint alleges the Respondent paid for burial vaults on several occasions with checks that were not honored by the bank due to insufficient funds.

Response: Request for response was returned by the post office after three delivery attempts.

Complaint History: Several related complaints.

Recommendation: Authorization for hearing.

A motion was made by Clark McKinney to accept Counsel's recommendation.

Seconded by Paula Bridges

Adopted by voice vote

3. Case No.: L10-FUN-RBS-2010006961

An inspection on February 3, 2010 revealed the following violations:

- TCA 62-5-313 - A dressed and casketed body lacks a permanent identification device;
- Rule 0660-06-.02 - Casket prices on Casket Price List do not match price range on General Price List;
- Rule 0660-06-.02 - Outer burial container prices on Outer Burial Container Price List do not match range on general price list;
- Rule 0660-06-.02 - Price ranges for Immediate Burial are not accurate; and
- Rule 0660-06-.02 - Description of merchandise not provided where required on Statements of Funeral Goods and Services Selected.

Response: No response received.

Complaint History: Several open complaints.

Recommendation: Authorization for hearing.

A motion was made by Clark McKinney to accept Counsel's recommendation.

Seconded by Paula Bridges

Adopted by voice vote

4. Case No.: L10-FUN-RBS-2010006971

An inspection on February 9, 2010 revealed the following violations:

- Rule 0660-06-.02 - Statement of Funeral Goods and Services Selected reflects charge of \$1,365 for basic services in addition to a charge of \$1,225 for direct cremation;
- Rule 0660-06-.02 - Price charged for flower car exceeds the price of this item on the General Price List; and
- Rule 0660-06-.02 - Prices for direct cremation on General Price List are incorrect with regard to the cost of the alternative container.

Response: The Respondent states that he has refunded \$65 for the flower car and \$165 for transfer of remains. The Respondent has no intention of refunding the \$1,365 and believes the charge is appropriate.

Complaint History: None.

Recommendation: This complaint was first presented at the April 13, 2010 board meeting at which time the board requested the case be sent to investigations. The investigation has been completed and Legal recommends a Consent Order assessing a civil penalty of \$2,500 and authorization for hearing.

A motion was made by Clark McKinney to accept Counsel's recommendation.

Seconded by Tony Hysmith

Adopted by voice vote

5. Case No.: L08-FUN-RBS-2008013461

This complaint alleges that the Respondent mishandled pre-need funds for the funeral of her husband. The decedent made changes to his arrangements five to six times over the course of several years and each upgrade was funded with an additional policy. The Complainant believes all funds received from the insurance policies were not credited to his funeral expenses.

Response: An investigation was conducted which included gathering of payment records from each of the insurance policies. All money is accounted for and part of the funds was used to fund a pre-need plan for the Complainant.

Complaint History: None related.

Recommendation: The funds appear to be accounted for. The pre-need policy purchased by the Complainant appears to bear her signature. Legal recommends closing the complaint.

A motion was made by Eugene Williams to accept Counsel's recommendation.

Seconded by Wayne Hinkle

Adopted by voice vote

6. Case No.: L07-FUN-RBS-2007060631

An inspection on April 24, 2007 revealed the following violations:

- TCA 62-5-107 - Copy of license and latest inspection report of crematory uses is not available for inspection;
- Rule 0660-4-.03 [Change of Ownership] - A change of ownership occurred on January 1, 2007 but the Board has not been notified;
- FTC Rules - Caskets in selection room do not agree with the Casket Price List;
- FTC Rules - Range of casket prices on the General Price List does not agree with Casket Price List;
- FTC Rules - General Price List does not contain price for receiving remains from another funeral home; and
- FTC Rules - General Price List lacks two required disclosures (casket price range and outer burial container price range).

Response: No response was received.

Complaint History: 200504277 closed.

Recommendation: This complaint was presented to the board on October 9, 2007. Subsequent to that time the establishment has closed and Legal request closure of the complaint.

A motion was made by Tony Hysmith to accept Counsel's recommendation.

Seconded by Wayne Hinkle

Adopted by voice vote

7. Case No.: L08-FUN-RBS-2008012291

This complaint alleges that the Respondent published an advertisement in several directories listing an establishment name that was not licensed by the Board as an establishment. The telephone number was forwarded to an establishment in Kentucky who would report that they could provide services in Tennessee.

Response: Respondent states that in anticipation of buying a former establishment in Tennessee, it had obtained an unlisted telephone number that was not to be published. Apparently the Yellow Book purchased this information

from the Real Yellow Pages, and then published it without his knowledge or authorization.

Complaint History: None

Recommendation: This complaint was first presented to the board on August 12, 2008. This establishment was never issued a license; and therefore, is not in operation. Legal recommends the complaint be closed.

A motion was made by Wayne Hinkle to accept Counsel’s recommendation.

Seconded by Clark McKinney

Adopted by voice vote

ADMINISTRATIVE MATTERS:
ROBERT B. GRIBBLE, EXECUTIVE DIRECTOR

LICENSEE REPORT:
**REPORT OF LICENSES ADMINISTRATIVELY APPROVED BY EXECUTIVE
DIRECTOR PURSUANT TO BOARD AUTHORITY FOR THE PERIOD OF
AUGUST 10, 2010 – SEPTEMBER 13, 2010**

Individuals

Kate Ellen Austin Brentwood, TN	Funeral Director
Brian Ashley Giles Hixson, TN	Funeral Director
Billy Wayne Gillenwater Erwin, TN	Funeral Director
Dannie Sue Guinn Woodlawn, TN	Funeral Director
Harrold Jerome Henderson Antioch, TN	Funeral Director
Danny Eugene Wilson LaFollette, TN	Funeral Director Reapplication
Donnet E. Bullard Antioch, TN	Funeral Director/Embalmer

Andrea Marie Hobbs
Athens, TN

Funeral Director/Embalmer

April Ann McHugh
Normandy, TN

Funeral Director/Embalmer

Monique La'Keea Lamb
Memphis, TN

Funeral Director/Embalmer

Luke McFall Chalmers
Cordova, TN

Funeral Director/Embalmer
Reciprocity

CLOSED ESTABLISHMENT REPORT:

One (1) establishment has reported closing since the last board meeting:

- **Dennis Funeral Home, 2214 Whites Creek Pike, Nashville, TN**

Disciplinary Action Report for the September 14, 2010 Board Meeting

The Board has previously authorized each Consent Order and Civil Penalty. The Consent/Agreed Orders have been signed and unless otherwise noted, the Civil Penalty has been paid by the Respondent. The Executive Director requests the Board's acceptance of the following Consent/Agreed Orders:

Complaint No. 2009005961

Violation: Misleading advertising - the price listed in the selection room for an outer burial container was incorrect

Action: \$1000 Civil Penalty plus \$2,770 Administrative Costs

Complaint No. 2009013201

Violation: The current establishment license, the licenses of all funeral directors and embalmers and a copy of the current license and latest inspection report of the crematory that the funeral home uses were not available for inspection

Action: \$750 Civil Penalty plus \$700 Administrative Costs

Complaint No. 2007083441

Violation: Failure to maintain a system for accurately identifying cremated human remains with respect to three separate persons and permitting an unlicensed person to engage in activity requiring a funeral director license

Action: \$4000 Civil Penalty

Complaint No. 2010009781

Violation: Funeral establishment conducted fourteen funerals during a time that the manager's funeral director license was expired

Action: \$1400 Civil Penalty

Complaint No. 2009014141

Violation: A copy of the current license and latest inspection report of the crematory that the funeral home uses were not available for inspection and failure to affix a permanent identification device to casketed deceased human remains

Action: \$1000 Civil Penalty plus \$610 Administrative Costs

Complaint No. 2010006981

Violation: Re-using a rental casket without installing a new interior or interior insert prior to each usage of such casket shell

Action: \$1000 Civil Penalty

Complaint No. 2010009901

Violation: The licenses of a funeral director and embalmer and a copy of the current license and latest inspection report of the crematory that the funeral home uses were not available for inspection, the price range on the General Price List for cremations was not accurate and the reason for embalming was not listed where required on a Statement of Funeral Goods and Services Selected

Action: \$250 Civil Penalty

OPEN COMPLAINT REPORT:

As of September 10, 2010, there were 164 open complaints.

ADJOURN:

A motion was made by Clark McKinney to adjourn.

Seconded by Wayne Hinkle

Adopted by voice vote

There being no further business, the meeting was adjourned by President Dennis Hamilton at 12:16 P.M.

Respectfully submitted,

Robert B. Gribble

Robert B. Gribble, CFSP
Executive Director