

**TENNESSEE BOARD OF FUNERAL DIRECTORS AND EMBALMERS**

**MINUTES OF BOARD MEETING**

**JULY 12, 2011**

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

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

Staff members present were Robert Gribble, Executive Director; Benton McDonough, Assistant General Counsel; and Jimmy Gossett, Administrative Assistant.

**ADOPTION OF AGENDA:**

A motion was made by Tony Hysmith to approve the Agenda as printed.

Seconded by Clark McKinney

Adopted by voice vote

**APPROVAL OF MINUTES:**

A motion was made by Clark McKinney to approve the Minutes of the April 12, 2011 Board Meeting.

Seconded by Wayne Hinkle

Adopted by voice vote

A motion was made by W. T. Patterson to approve the Minutes of the May 10, 2011 Board Meeting.

Seconded by Wayne Hinkle

Adopted by voice vote

**LEGAL REPORT:**

**BENTON McDONOUGH, ASSISTANT GENERAL COUNSEL**

1. Case No.: L11-FUN-RBS-2011010421

On March 30, 2011, the Board office received Quarterly Reports of Apprenticeship Training regarding the Respondent for July – September 2010 and October – December 2010. The range for late filing of these quarterly reports is from twenty-nine (29) days to one hundred and nineteen (119) days – with an average of seventy-four (74) days.

Furthermore, on February 10, 2011, the Board office received a “Certification of Completion of Apprenticeship” for the Respondent, signed by a funeral director as “Supervisor of Respondent”. When Respondent registered as an apprentice on January 27, 2009, a different funeral director was listed as the Supervisor of the Respondent. No change of Sponsor was ever received by the Board.

**Response:** No response received.

**History:** No history of prior complaints.

**Recommendation:** Consent Order stating that the Apprentice will receive no credit for the July – September 2010 or October – December 2010 Quarterly Reports and authorization for hearing.

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

Seconded by Wayne Hinkle

Adopted by voice vote

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## **2. Case No.: L11-FUN-RBS-2011010471**

On April 4, 2011, the Board office received a Quarterly Report of Apprenticeship Training regarding the Respondent for October – December 2010. The report was filed thirty-five (35) days beyond the sixty (60) day deadline.

**Response:** The Respondent apologized for providing the reports late and admits that they are at fault for allowing the time to pass.

**History:** No history of prior complaints.

**Recommendation:** Consent Order stating the Apprentice will receive no credit for the October – December 2010 Quarterly Report and authorization for hearing.

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

Seconded by Clark McKinney

Adopted by voice vote

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**3. Case No.: L11-FUN-RBS-2011010501**

On March 25, 2011, the Board office received Quarterly Reports of Apprenticeship Training regarding the Respondent for October – December 2010. The report was filed twenty-four (24) days beyond the sixty (60) day deadline.

**Response:** Respondent apologizes for this complaint and states that they have no excuse for not providing their quarterly report in a timely manner.

**History:** No history of prior complaints.

**Recommendation:** Consent Order stating the Apprentice will receive no credit the October – December 2010 Quarterly Report and authorization for hearing.

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

Seconded by Clark McKinney

Adopted by voice vote

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**4. Case No.: L10-FUN-RBS-2010036271**

This case was previously presented at the May 2011 meeting, and the Board recommended an investigation be conducted. Originally, the Board was informed that following the decedent's death, the mother (Complainant) of the decedent met with the Respondent to make final arrangements. The Complainant informed the Respondent that the decedent wished to be cremated, and that the Complainant would pay all costs for the arrangements (\$2,439.50) if the decedent's father would agree to such action. The Respondent provided an estimate for cremation services to the Complainant. The decedent's father did not agree with these final arrangements and had his daughter (Power of Attorney) make final arrangements leading to a bill for \$4,401.91.

**Investigation:** On May 17-18, 2011, a Regulatory Board Field Representative with the Board of Funeral Directors and Embalmers conducted interviews with the various parties involved.

**Respondent:**

- The field representative interviewed the Respondent who informed him that they conducted the initial arrangement conference with the Complainant but did not finish the conference upon finding out the father of the decedent refused to sign an authorization for cremation; therefore, the Respondent did not present a final Statement of Funeral Goods and Services Selected to the Complainant as arrangements were not finalized.

- The Respondent provided a copy of the payments received for the \$4,401.91 bill. The Respondent has received \$1,110.50 leaving a balance of \$3,291.41 outstanding. The Field Representative asked the Respondent about the fact that the Respondent filed a claim against the decedent's estate for the full \$4,401.91 even though \$1,110.50 has been paid to this point. The Respondent stated that his attorney recommended filing a claim for the entire \$4,401.91 against the estate, even though \$1,110.50 had already been paid.
- The Respondent noted that his establishment provided final arrangements for the Complainant's father since the complaint has been filed, and both parties were cordial without any sign of ill feelings or resentment.

**Complainant:**

- On May 18, 2011, the field representative met with the Complainant.
- The Complainant admitted that she did not have any legal document granting her executory powers over her son's estate or final arrangements following his death.
- The Complainant stated that she and the decedent had discussed final arrangements, but there was no official document reflecting these wishes.
- The Complainant was asked about her relationship to the decedent's father and sister, and the Complainant stated that both the father and sister are spiteful towards her.

**Sister:**

- On May 18, 2011, the field representative met with the decedent's sister.
- The sister stated that she was involved with planning the final arrangements because her father was very ill and had granted her Power of Attorney over his business dealings.
- The sister stated that her father was too ill to make final arrangements so she acted on his behalf.

**History:** No history of prior complaints.

**Recommendation:** Letter of Instruction stating that any amount of money received in excess of the merchandise and services provided shall be refunded to the estate per the rules of professional conduct.

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

Seconded by Jill Horner

Adopted by voice vote

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**5. Case No.: L11-FUN-RBS-2011003051**

This complaint was filed by a consumer. Complainant states that her husband passed away on January 29, 2011, and she was bullied and intimidated when she complained about the price of cremation. The Complainant states that her children had their father cremated for \$1100.00 less than two years ago. Complainant states that she was quoted a price of \$2,200.00 and then asked to sign a contract totaling \$2,738.00, and then told that she would have to pay in full. Complainant states that she was experiencing a time of great emotional distress, and she was made to feel that she had to make an immediate decision.

**Response:** Respondent believes there has been a misunderstanding and states that the employee who assisted the Complainant during the arrangement conference has received thank you notes and positive acknowledgements from prior customers. Respondent stated that no individual ever quoted the Complainant a price of \$2,200.00. Also, that the Complainant became agitated after his employee came back to review the overall price with the Complainant. Respondent noted that the Complainant's daughter came back the next day to apologize for the meeting getting out of hand.

**History:** One (1) closed complaint, not related.

**Recommendation:** Dismiss.

A motion was made by W. T. Patterson to accept Counsel's recommendation.

Seconded by Clark McKinney

Adopted by voice vote

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## **6. Case No.: L11-FUN-RBS-2011003071**

This Complaint was filed by a consumer. The decedent passed away at his mother's house on January 20, 2011. Complainant (also the decedent's wife) called the Respondent when she learned of the decedent's death. The decedent's mother explained to the Complainant that she had already paid for the decedent's funeral. The Complainant finally spoke with an employee of the Respondent and explained that she had been married to the decedent for ten (10) years, but they had been separated for approximately four (4) years. Complainant states she became very upset when she learned that she would have no say in the final arrangements and her name would not be included in the obituary. She states that when she told the Respondent's employee that she was the decedent's spouse, the employee informed her of the documentation that was necessary before the Respondent could release information to the Complainant. Complainant states that she called the Respondent about obtaining a death certificate, but the Respondent informed the Complainant that she would have to go to the Office of Vital Records to obtain a copy. After obtaining a copy of the death certificate, the Complainant noticed the

Respondent had marked the decedent as “divorced.” Complainant believes the funeral home acted improperly by allowing the decedent’s mother to make final arrangements just because the mother had cash and had used the Respondent previously to bury another child.

**Response:** Respondent states that they made the removal of the decedent and notified the next of kin provided by the Medical Examiner’s Office. Complainant came by the Respondent’s business and informed them that she wanted to be kept updated on all of the final arrangements. Respondent states that they informed the Complainant that if she is indeed the spouse, then they can void out all of the arrangements put in place by the decedent’s mother; however, the Complainant never made any attempts to change those plans already put in place. Respondent states that the Complainant never came to the services of the decedent, and the Complainant came by after the services were over to request a copy of the death certificate. Respondent informed the Complainant that she needed to request a copy from the Office of Vital Records.

**Complaint History:** One (1) closed complaint, not related.

**Note:** It should be noted that a review of the decedent’s obituary shows that the Complainant was listed as the surviving spouse of the decedent.

**Recommendation:** Letter of Warning – If the surviving spouse was listed in the obituary, the name should have also appeared on the death certificate.

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

Seconded by Paula Bridges

Adopted by voice vote

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## **7. Case No.: L11-FUN-RBS-2011003421**

This complaint was filed by a consumer. Complainant states that the Respondent placed an item on their credit report with Equifax stating that they owe \$807.00. Complainant states that they were harassed by the collection agency, but no documentation was ever presented showing what the charge was for.

**Response:** Respondent states that the decedent had a National Burial Policy, and that the decedent’s family wanted the policy to cover all expenses; however, the policy only covered a portion. The family chose to use the policy for the decedent’s funeral, but they did not have the policy in their possession, so the Respondent granted them the opportunity or “possibility” to bring the policy in another day. Friends of the decedent paid for everything not covered by the policy, but the Complainant could never provide the actual policy when asked.

The Respondent provided the services that would be covered under the policy, but the insurance company informed the Respondent that the Complainant and her mother fraudulently filed a claim on the policy rather than assigning the policy to the funeral home. Respondent then turned the matter over to a collection agency and reported the Complainant to the credit bureaus. Respondent states they did not seek legal action in an effort to prove their compassion for the grieving family and are just seeking to receive the face-value or have the family refund the monies paid by the insurance company.

**Supplemental Response of Complainant:** The Complainant provided a copy of the policy and said she never signed an agreement with the Respondent stating that the National Burial Policy would be used to pay for final arrangements.

**Complaint History:** Seven (7) closed complaints and one (1) open complaint, not related.

**Recommendation:** Dismiss.

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

Seconded by Jill Horner

Adopted by voice vote

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**8. Case No.: L11-FUN-RBS-2011003581**

**9. Case No.: L11-FUN-RBS-2011003582**

This complaint was filed by a consumer. The Complainant's mother passed away on December 30, 2010, and services were rendered by Respondent based upon a prearranged funeral agreement. Inaccurate information was put on the death certificate by the Respondent causing delays in the sale of the decedent's property in addition to concluding other personal affairs. Complainant states that when she called the Respondent to have these errors corrected, she was called a profane name by an employee of the Respondent. As of February 24, 2011, the Complainant still had not received a corrected death certificate.

**Responses:**

**#8 – Funeral Home:** The funeral director who prepared the death certificate admits that she made a mistake on the death certificate. This individual stated that her spouse asked for a divorce the day before the Complainant's mother passed away. The director states that she always called the Complainant back within 24 hours and has been in constant contact with the Office of Vital Records to make the proper corrections.

**#9 – Funeral Director:** The funeral director (Respondent) who spoke with the Complainant states that the Complainant spoke to him on at least three (3) occasions. The Respondent explained to the Complainant that the person she needed to speak to was going through a difficult time in her life, due to a divorce, and she would speak to the Complainant when she returned to the office the next day. Respondent states that Complainant told him, “she does not care about the other employee’s situation, and that she should handle personal matters on her own time.” The Respondent admits that he got angry with the caller about her “lack of compassion” to the other employee’s situation and admits to calling the Complainant a terribly profane name before hanging up on her.

**Complaint History:** One (1) closed complaint with related violations.

**Recommendation:** #8 – Letter of Warning

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

Seconded by Tony Hysmith

Adopted by voice vote

**Recommendation:** #9 – Consent Order with \$500 civil penalty and authorization for hearing.

A motion was made by Clark McKinney to issue a Consent Order with a \$750 civil penalty, have the Respondent execute the death certificate, advise the Board when that had been done and an authorization for a hearing.

Seconded by W. T. Patterson

Adopted by voice vote

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**10. Case No.: L11-FUN-RBS-2011003731**

This complaint is based upon a routine examination.

- One casket in the casket selection room called the “Prentice Ceremonial Casket” is not listed on the Casket Price List.
- Upon reviewing the display of Outer Burial Containers displayed in the selection room, it was determined that two (2) vaults on display were not listed on the most recent Outer Burial Container Price List.
- Another vault on display bears the description of “Dixie 12 Gauge Galvanized” listed for \$2,195.00; however, no such listing appears on the most recent OBCPL.

**Response:** This inspection took place four (4) days after the Respondent instituted new price lists.



**Outer Burial Container:**

- Respondent had just completed making changes to its GPL, CPL and OBCPL and they notified the corporate home office that the OBCPL was not correct as some Outer Burial Containers had been left off the list.
- The two (2) vaults left off the OBCPL were on the October 4, 2010, price list but were inadvertently left off the newest list.

**Ceremonial Casket Display:**

- Respondent states that the only ceremonial casket they have ever offered, before and after this date, is the "Mountain Oak", which is on the CPL. Respondent received new posters that had the "Prentice Ceremonial Casket" priced at the same amount as the "Mountain Oak." Should a family have selected the "Prentice Casket", it would have been sold at the same price as the "Mountain Oak."

**Complaint History:** Five (5) closed, one (1) with related TCA violations.

**Recommendation:** Consent Order with \$500 civil penalty and authorization for hearing.

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

Seconded by Jill Horner

Adopted by voice vote

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**11. Case No.: L11-FUN-RBS-2011003761**

President Eugene Williams recused himself from participating in the proceedings of this complaint and turned the Chair over to Vice President Clark McKinney.

This complaint is based upon a routine examination:

**SFGSS for "SKJ":**

- There is an indication that the decedent was cremated but was not a Direct Cremation as viewing and memorial service is charged.
- The charge shown in "cash advances" for "crematory charges" is \$995.00. The funeral home director advised that the crematory charges the funeral home \$400.00.
- The required disclosure for markup of a cash advance is not on the SFGSS. In fact, the document does not even have the required disclosure language printed to allow for this completion.

**SFGSS for "ES" and "JR":**

- Both list a charge of \$995.00 for the "Wilbert Monticello" vault, but the OBCPL shows a charge of \$975.00 for this item.

**SFGSS for "GH":**

- Lists a "steel box" at \$695.00, but the OBCPL shows a charge of \$600.00 for this item.

**Addendum Casket Price List:**

- The current document entitled “addendum casket price list” with an effective date of September 1, 2010, must be incorporated into this provider’s CPL as there can only be one CPL with one effective date.

**Response:**

**“SKJ”:**

- Respondent states they have reviewed the rule referenced with all of their funeral directors and administrative staff and will adjust the SFGSS so that this error does not occur in the future.

**“ES” and “JR”:**

- This was simply human verbal error during the arrangement conference regarding the price of the vault.
- Respondent has refunded the \$20.00 overcharged to each buyer.

**“GH”:**

- Respondent states this was unintentional human error and they have refunded the \$95.00 overcharge.

**Casket Price List:**

- Respondent states all caskets are now incorporated into one CPL.

**Complaint History:** None

**Recommendation:** Consent Order with \$500 civil penalty and authorization for formal hearing.

A motion was made by Paula Bridges to accept Counsel’s recommendation.

Seconded by Wayne Hinkle

Adopted by voice vote

Vice President Clark McKinney turned the Chair back to President Eugene Williams.

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**12. Case No.: L11-FUN-RBS-2011003771**

This complaint is based upon a routine examination.

**General Price List:**

- The GPL reflects a price for “Funeral Service at Funeral Home” and “Funeral Service at Other Facility” as \$480.00.
- The GPL shows a separate range of prices entitled “Cremation Caskets” from \$1,075.00 to \$4,150.00; however, these prices are not in agreement with prices listed on the CPL.

**Casket Selection Room:**

- A graphic on the wall in the arrangement room shows caskets and cremation containers not listed on the CPL, such as the “Sawyer Oak” and “Standard Coppertone”.

**Response:** Respondent sent in a response to the complaint by providing a copy of their GPL and CPL.

**Complaint History:** Three (3) closed, two (2) with related TCA violations.

**Recommendation:** Consent Order with \$750 civil penalty and authorization for hearing.

A motion was made by Jill Horner to accept Counsel’s recommendation.

Seconded by Tony Hysmith

Adopted by voice vote

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**13. Case No.: L11-FUN-RBS-2011003791**

This complaint is based upon a routine examination.

**Cremation Authorization Form:**

- The cremation authorization form for “MJL” does not bear the signature of the funeral director as required.
- Furthermore, a copy of the cremation authorization form was not retained in the funeral file of this decedent as required.

**Response:** Respondent states that they have signed and put correct copies in the file of “MJL”. Respondent states this was an oversight on their behalf, and they have taken steps to correct the errors.

**Complaint History:** Two (2) closed complaints with different TCA violations.

**Recommendation:** Consent Order with \$250.00 Civil Penalty and authorization for hearing.

A motion was made by Jill Horner to accept Counsel’s recommendation.

Seconded by Paula Bridges

Adopted by voice vote

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**14. Case No.: L11-FUN-RBS-2011003801**

This complaint is based upon a routine examination.

**Requirements for Operations:**

- The establishment is inoperable due to renovations and has not been operated as a funeral establishment for the entire year of 2010 – present (February 14, 2011).
- During 2010, the Respondent handled twenty-five (25) client cases.
- From January 1, 2011, to February 14, 2011, the Respondent was involved in three (3) funeral services.
- The Respondent's establishment license was not available for inspection in the office of the funeral establishment.

**Funeral Directors:**

- The funeral director's license for the manager of the establishment was not available for inspection.

**Public Areas:**

- Restrooms of this establishment were inoperable due to remodeling.

**Records not available for review were:**

- General Price List;
- Casket Price List;
- Outer Burial Container Price List; and
- Statement of Funeral Goods and Services Selected

**Utilization of Licensed Crematory:**

- The current license and latest inspection report of the crematory facility used by the Respondent was not available for inspection.
- The cremation authorization forms used by this Respondent were not available for review.

**Response:** Respondent stated that they were the victim of a fraudulent contractor. They paid money to a contractor and set up an agreement on deadlines, and the contractor did sub-par work before abandoning the job and taking tools supplied by the Respondent. Respondent states they have had two (2) additional false starts with other contractors, and the County Building Inspector retired, leaving the position vacant for seven (7) weeks before a new inspector could inspect the establishment.

Services were handled through another funeral home because the building was under renovation. All services and visitations were held at local churches due to the Respondent's concern for the public's safety. All records and furnishings were moved to storage to prevent damage due to the installation of the ceilings. Licenses were not available at the location due to the renovations taking place.

Everything has been restored since the examination and restrooms were moved from their original location to accommodate the Americans with Disabilities Act. All licensed personnel were instructed to keep a wallet copy of their current license on their person at all times. One funeral director keeps a wallet copy of the establishment license on his person when making arrangements outside the facility. Respondent states that this has been an ordeal, but they look forward to a new inspection to show the Board the new improvements.

**Complaint History:** One (1) closed with related TCA violations.

**Recommendation:** Consent Order with \$1,000.00 civil penalty and authorization for hearing.

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

Seconded by Clark McKinney

Adopted by voice vote

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**15. Case No.: L11-FUN-RBS-2011003871**

This complaint was filed by a competitor of the Respondent. Complainant states that they are losing business due to inaccurate advertising about their licensure. Complainant states that the Respondent has been indicating on their web site that the Complainant had their license suspended. While the Complainant does admit that cremations were suspended, their establishment license was not suspended. Further, as of January 1, 2011, Complainant was granted permission to resume full operation of the crematory and this misinformation is damaging to their business and an inaccurate portrayal to the public.

**Response:** Respondent states that all grievances listed by the Complainant were changed the week of February 7, 2011.

**Complaint History:** Eight (8) closed complaints, none related.

**Recommendation:** Letter of Warning

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

Seconded by W. T. Patterson

Adopted by voice vote

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**16. Case No.: L11-FUN-RBS-2011003881**

**17. Case No.: L11-FUN-RBS-2011003882**

**18. Case No.: L11-FUN-RBS-2011003883**

This complaint was filed by a competitor. Complainant was contacted by the Muslim Society of Memphis to receive the body of "VM" from Respondent #2. Upon arrival at Respondent #2, Complainant was given the body and a box containing the decedent's organs, as the body was already sutured for burial. An employee of Respondent #2 stated they received the body from Respondent #1 who conducted the preparations of the body after retrieving the body from the forensic center.

The box containing the organs was a Dodge Chemical Box with the name of Respondent #3 affixed on the outside. Complainant believes this is a careless and disrespectful action that should be investigated. The employee told the Complainant that he thought the body had been embalmed; however, the Complainant believes that it was not embalmed.

**Responses:**

**RESPONDENT #1** states they were called by the family of "VM" to make the removal from the Regional Forensic Center. Respondent's mortician stated remains had been autopsied and that the body and organs of the thoracic, abdominal and cranial cavities had been placed in a bag that was torn and leaking profusely. There were too many organs to return to the body cavities, so they treated them separately and packaged them along with the remains. The box that they were placed in was a fluid carton from Respondent #3 because the mortician purchases arterial chemicals from this establishment. The remains were picked up by Respondent #2, and we do not understand how this could be considered disrespectful, as we tried to release the remains in a clean and disinfected manner.

**RESPONDENT #2** states they removed the decedent's remains from Respondent #1; however, the family never finalized their arrangements for disposition. Additionally, Respondent #2 states they were never authorized to prepare decedent in any way, and they had possession of the decedent for less than 24 hours. Upon arrival of the Complainant, Respondent #2 states they promptly released the decedent into the custody of the Complainant in the same condition in which they received the remains. Respondent #2 states that they did not charge the family for these services.

**RESPONDENT #3** states that he is not aware of this incident and states that the box has his business's name affixed to the outside because Respondent #1 likely purchased chemicals from Respondent #3.

**Complaint History:** Respondent #3 has seven (7) closed complaints and five (5) open complaints. None related.

**Recommendation:** #16 – Consent Order with \$500.00 civil penalty and authorization for hearing.

**Recommendation:** #17 – Dismiss

**Recommendation:** #18 – Dismiss

A motion was made by Clark McKinney to issue a Consent Order with a \$1000.00 civil penalty and authorization for a hearing on Complaint #16 and accept Counsel's recommendation on Complaints #17 and #18.

Seconded by Wayne Hinkle

Adopted by voice vote

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**19. Case No.: L11-FUN-RBS-2011004471**

**20. Case No.: L11-FUN-RBS-2011004472**

This complaint was submitted by a provider. Complainant states they received a call from the Respondent needing assistance removing a decedent in Florida, and having the body embalmed. Complainant states they embalmed the body, placed it in a combo shipping container, along with burial transit permit and a copy of the bill. Respondent faxed Complainant's office and added death certificates and the order was submitted to the state. The certificates were mailed to the Respondent; and a month later, the Complainant left a message with Respondent's answering service regarding status of the bill. Two weeks later, another call was placed with the service again. A few days later, a copy of the past due bill was faxed and a telephone call was made to Respondent. This process occurred again two weeks later, and the Respondent said a check was being sent that day. The wife of the decedent was called a month later and asked about the funeral bill. The widow stated she paid the Respondent for the services regarding shipment and death certificates. A week later, the Complainant re-faxed the bill and left a message with Respondent. This was followed the next day by faxing the bill three times and mailing a copy of the contract the day after that. The Respondent did receive their payment from the widow of the decedent.

**Complaint History:** One (1) closed complaint against the funeral home that is not related. The funeral director's license for Respondent #2 was suspended for a period of eighteen (18) months but has been reinstated and is current.

**Recommendation:** Respondent #19 – Business is now closed – close complaint.

**Recommendation:** Respondent #20 – Consent Order with \$1,000.00 civil penalty and authorization for hearing.

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

Seconded by Paula Bridges

Adopted by voice vote

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**21. Case No.: L10-FUN-RBS-2010010191**

This case was previously presented in May.

The Respondent has a separate case pending before an Administrative Law Judge in Burial Services. Therefore, legal is requesting approval from the Board that this case may be heard before an Administrative Law Judge sitting alone.

A motion was made by Paula Bridges to accept Counsel's recommendation.

Seconded by Wayne Hinkle

Adopted by voice vote

**PRESENTATION OF AGREED ORDER(S):**  
**ADRIAN CHICK, ASSISTANT GENERAL COUNSEL**

**Docket No. 12.21-109898A**

A motion was made by Clark McKinney to accept Agreed Order.

Seconded by Wayne Hinkle

Adopted by voice vote

**Docket No. 12.21-110681A**

A motion was made by Wayne Hinkle to accept Agreed Order.

Seconded by Paula Bridges

Adopted by voice vote

**Complaint No. 2010026021**

Based upon the Board's acceptance of an Agreed Order, Assistant General Counsel Chick recommended dismissing Complaint Number 2010026021.

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

Seconded by Jill Horner

Adopted by voice vote

**REPORT ON MULTI-STATE REGULATORY MEETING:**  
**EUGENE WILLIAMS, PRESIDENT**



Mr. Williams gave a report regarding a meeting he attended on May 25, 2011 in Frankfort, Kentucky, concerning Kentucky's request to institute a Model Law and Regulations for Courtesy Card Issuance.

There was discussion only and no action taken regarding this item.

**ADMINISTRATIVE MATTERS:**  
**ROBERT B. GRIBBLE, EXECUTIVE DIRECTOR**

**REPORT OF LICENSES ADMINISTRATIVELY APPROVED BY EXECUTIVE  
 DIRECTOR PURSUANT TO BOARD AUTHORITY FOR THE PERIOD OF  
 May 10, 2011 – JULY 11, 2011**

**Establishments**

Clark Funeral Chapel and Cremation Services, Inc. Kingsport, TN	New Establishment
Tri-Cities Funeral Home Church Hill, TN	New Establishment
M. J. Edwards Funeral Home Memphis, TN	Name Change

**Individuals**

Hugh Morris Glidewell, III Nashville, TN	Funeral Director/Embalmer
Brian Jacob Miracle Ringgold, GA	Funeral Director/Embalmer
Kenneth Ryan McDonald Centerville, TN	Funeral Director/Embalmer
Michael Ray Peels Etowah, TN	Funeral Director/Embalmer
Bradley W. Wilkey Evensville, TN	Funeral Director/Embalmer
Baker James Williams Greenfield, TN	Funeral Director/Embalmer
Jane S. Wooden Pikeville, TN	Funeral Director

Charles Wylie Thomas, III  
Holly Springs, MS

Funeral Director  
Reciprocity

Amy Louise Outland  
Elizabethton, TN

Embalmer  
Reapplication

**CLOSED ESTABLISHMENT REPORT:**

There was no establishments reported closing since the last board meeting.

**DISCIPLINARY ACTION REPORT:**

**REPORT OF CONSENT ORDERS ADMINISTRATIVELY  
ACCEPTED/APPROVED BY THE EXECUTIVE DIRECTOR PURSUANT TO  
BOARD AUTHORITY FOR THE PERIOD OF MAY 10, 2011 – JULY 11, 2011**

Respondent: Bowers Funeral Home, Inc., Decatur Chapel, Decatur, TN  
Violation: Engaged in the operation of a funeral establishment on an expired license and multiple aspects of the establishment's price list and contract did not comply with the Funeral Rule  
Action: \$500 Civil Penalty

Respondent: Cox & Son Funeral Home, Inc., Jellico, TN  
Violation: Failed to retain a copy of an authorization for cremation form, duplication of charges which resulted in an overcharge to the consumer on various occasions and failed to submit documents to the Board on the required size paper  
Action: \$1500 Civil Penalty

Respondent: Dockery Funeral Home, Inc., Morristown, TN  
Violation: Failed to retain a copy of an authorization for cremation form on multiple instances, failed to obtain and maintain a copy of the latest inspection report of the crematory that the funeral home uses and multiple aspects of the establishment's price lists did not comply with the Funeral Rule  
Action: \$250 Civil Penalty

Respondent: Gardner Memorial Chapel, Inc., Nashville, TN  
Violation: Failed to have a licensed funeral director in charge for the funeral establishment, failed to submit documents to the Board on the required size paper and multiple aspects of the establishment's price list and contract did not comply with the Funeral Rule  
Action: \$500 Civil Penalty

Respondent: H. H. Hudson Funeral Home, Dyersburg, TN

Violation: Failed to have the current license of an embalmer available for inspection, failed to obtain and maintain a copy of the license and latest inspection report of the crematory that the funeral home uses, failed to respond to an inquiry from the Board within the time specified in the notice and multiple aspects of the establishment's price lists did not comply with the Funeral Rule

Action: \$1200 Civil Penalty

Respondent: Holley-Gamble Funeral Home, Lake City, TN

Violation: The signature of the arranging funeral director had been signed on the authorization for cremation form by someone other than the funeral director and aspects of the establishment's price list did not comply with the Funeral Rule

Action: \$250 Civil Penalty

Respondent: Johnson's House of Atena, Nashville, TN

Violation: Engaged in the operation of a funeral establishment on an expired license, failed to have a licensed funeral director in charge for the funeral establishment, failed to have the current license of an embalmer available for inspection, failed to obtain and maintain a copy of the latest inspection report of the crematory that the funeral home uses, the preparation room was not maintained in an orderly manner free from clutter and multiple aspects of the establishment's price lists did not comply with the Funeral Rule

Action: \$1000 Civil Penalty

Respondent: Jordan Funeral Home, Pulaski, TN

Violation: Failed to have the current license of an embalmer available for inspection and an aspect of the establishment's price list did not comply with the Funeral Rule

Action: \$250 Civil Penalty

Respondent: Roundtree, Napier & Ogilvie Funeral Home, Franklin, TN

Violation: Failed to have the current license of each funeral director available for inspection, failed to report changes of a manager and ownership to the Board within the specified time and multiple aspects of the establishment's price lists did not comply with the Funeral Rule

Action: \$500 Civil Penalty

Respondent: Roundtree, Napier & Ogilvie Funeral Home, Columbia, TN

Violation: Failed to report changes of a manager and ownership to the Board within the specified time, operating the funeral

establishment by a name other than the name approved by the Board, failed to respond to an inquiry from the Board within the time specified in the notice and multiple aspects of the establishment's price lists did not comply with the Funeral Rule

Action: \$500 Civil Penalty

Respondent: Rucker Memorial Chapel, Inc., Murfreesboro, TN

Violation: Engaged in the operation of a funeral establishment on an expired license, duplication of charges which resulted in an overcharge to the consumer on various occasions and multiple aspects of the establishment's price lists did not comply with the Funeral Rule

Action: \$750 Civil Penalty

Respondent: West-Murley Funeral Home, Oneida, TN

Violation: Failed to have the current licenses of each funeral director and embalmer available for inspection, the preparation room was not maintained in an orderly manner free from clutter and multiple aspects of the establishment's price lists did not comply with the Funeral Rule

Action: \$1000 Civil Penalty

Respondent: Williams Funeral Homes & Crematory, Columbia, TN

Violation: Posted the name of an individual as a licensed funeral director on their web site when the individual was not yet licensed

Action: \$500 Civil Penalty

A motion was made by Clark McKinney to approve the Executive Director's report.

Seconded by Paula Bridges

Adopted by voice vote

**OPEN COMPLAINT REPORT:**

As of July 8, 2011 there were 108 open complaints.

**ESTABLISHMENT APPLICATION:**

**COMPANION FUNERAL & CREMATION SERVICE  
2417 GEORGETOWN ROAD NW  
CLEVELAND, TN**

**New Establishment****Ownership: Partnership****Owner(s): Robert Cody and wife, Shelli B. Cody, of Cleveland, TN**

After much discussion regarding the animal crematory and pet memorialization business existing at this proposed funeral establishment location, the Board stated that pursuant to: 1) Tenn. Code Ann. § 62-5-313(a), every establishment in the business or practice of funeral directing shall have a fixed place of business or establishment devoted to the care and preparation of dead human bodies, and 2) Rule 0660-6-.02(2)(b), The Board, in determining whether an applicant's proposed fixed place of business or establishment is devoted to the care and preparation of dead human bodies, may consider factors including, but not limited to, the following: Any evidence at the proposed place of business that suggests activity other than incidental to the care and preparation of dead human bodies.

In addition to the documents already contained in the establishment application, the Board offered the following suggestions to the applicant regarding compliance with the funeral statutes and rules:

- The funeral home must have its own physical address, separate from the animal crematory/pet memorialization business, evidenced by a letter of approval from the local zoning authority;
- There must be a separate entrance from the outside to each business;
- There must be a solid wall (barrier) between the proposed funeral establishment and the animal crematory/pet memorialization business;
- Each of the following must be for the sole use of the proposed funeral establishment and separate from any activity other than that incidental to the care and preparation of dead human bodies:
  - 1) Telephone line(s);
  - 2) Logos;
  - 3) Internet web site;
  - 4) Advertisements;
  - 5) Brochures;
  - 6) Signage;
  - 7) Business cards; or
  - 8) Or other written medium that is likely to be viewed by the public.

Clark McKinney made a motion to table this application until the next board meeting on August 9, 2011, to allow the applicant sufficient time to make modifications so that the proposed establishment application could be in compliance with the funeral laws, rules and regulations.

Seconded by Paula Bridges

Adopted by voice vote

**Note:** The Board recessed for lunch at 12:25 P.M. and reconvened at 2:15 P.M.

**INDIVIDUAL APPLICATION:**

**Michael Todd Zoellner  
Halls, TN**

**Apprentice Funeral Director  
Reapplication**

After discussion of the applicability of Tenn. Code Ann. § 62-5-317, a motion was made by W. T. Patterson and seconded by Clark McKinney to approve reapplication and give credits for time previously served.

Adopted by voice vote

**ESTABLISHMENT APPLICATIONS:**

**FRAKER FUNERAL HOME  
1445 KINGSTON HIGHWAY  
KINGSTON, TN**

**New Establishment**

**Ownership: Sole Proprietor**

**New Owner(s): Rebecca C. Fraker of Clinton, TN**

Upon motion by Paula Bridges and seconded by Wayne Hinkle, based upon application record, the establishment was approved for licensure.

Adopted by voice vote

**PEEBLES FAYETTE COUNTY FUNERAL HOMES & CREMATION CENTER –  
MAIN CHAPEL  
18020 HIGWAY 64 EAST  
SOMERVILLE, TN**

- 1) Name Change; and**
- 2) Appointment of Licensed Funeral Director In Charge (Manager)**

**Ownership: Corporation**

**Owner(s): Fayette County Funeral Home, Inc., Somerville, TN**

Upon motion by Tony Hysmith and seconded by Paula Bridges, the request for same licensed funeral director to serve as the manager at more than one (1) location was Denied.

Adopted by voice vote

The Executive Director was given permission to administratively approve name change upon receipt of written notification from the owner regarding attestation of licensed funeral director in charge at this location.

Adopted by voice vote

**PEEBLES FAYETTE COUNTY FUNERAL HOMES & CREMATION CENTER –  
WEST CHAPEL  
10670 HIGHWAY 64 WEST  
OAKLAND, TN**

- 1) Name Change; and**
- 2) Appointment of Licensed Funeral Director In Charge (Manager)**

**Ownership: Corporation**

**Owner(s): Fayette County Funeral Home, Inc., Somerville, TN**

Upon motion by Tony Hysmith and seconded by Clark McKinney, the applications for an establishment name change and manager change were approved.

Adopted by voice vote

**PEEBLES CREMATION CENTER  
10670 HIGHWAY 64 WEST  
OAKLAND, TN**

- 1) Appointment of Licensed Funeral Director In Charge (Manager); and**
- 2) Eliminate Peebles Cremation Center License (Establishment No. 1210) and merge into Peebles Funeral Homes & Cremation Center – West Chapel (Establishment No. 1179) after Name Change approval**

**Ownership: Corporation**

**Owner(s): Fayette County Funeral Home, Inc., Somerville, TN**

Upon motion by Tony Hysmith and seconded by Paula Bridges, the application to eliminate separate establishment license was DENIED. The licensee may make another request regarding this matter once the animal retort issue at this crematory is resolved at this location.

Adopted by voice vote

After discussing scheduling conflicts regarding upcoming meeting dates, the Board, by consent, decided not to have a board meeting during September 2011.

**ADJOURN:**

A motion was made by Clark McKinney to adjourn.

Seconded by Tony Hysmith

Adopted by voice vote

There being no further business, President Eugene Williams adjourned the board meeting at 3:07 P.M.

Respectfully submitted,

*Robert B. Gribble*

Robert B. Gribble, CFSP  
Executive Director