

TENNESSEE BOARD OF FUNERAL DIRECTORS AND EMBALMERS

MINUTES OF BOARD MEETING

DECEMBER 13, 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 November 8, 2011 Board Meeting.

Seconded by Wayne Hinkle

Adopted by voice vote

LEGAL REPORT:

BENTON McDONOUGH, ASSISTANT GENERAL COUNSEL

1. Case No.: L11-FUN-RBS-2011021361

Complaint:

- On July 21, 2011, a field representative conducted a routine inspection of the Respondent establishment.
- The field representative found that the cremation authorization for one individual failed to bear the signature of a funeral director.

- This violation was first discovered during a routine inspection of the crematory used in this case; however, by the time the inspection took place at this establishment, the Respondent had already gone back and included the necessary signatures on their carbon copy.
- The cremation authorization form of another individual failed to include the name, address, and phone number of the crematory used.
- The authorizing agent's signature was later added to this form as well.
- Statement of Funeral Goods and Services Selected
 - o The embalming disclosure language was modified and edited instead of listing it verbatim.
 - o On the back side of the Statement of Funeral Goods and Services Selected, the embalming disclosure was not legible.

Response:

- Respondent states that these violations were mere oversights.
- Respondent admits that the signatures of the funeral directors were added at a later date, but stated they were not trying to hide anything.
- Statement of Funeral Goods and Services Selected
 - o The embalming disclosure was the same disclosure that they have used for years, and this is the first complaint they have received.
 - o The wording in question, "Buyer may have to pay for embalming" was wrong because they used "Buyer" as opposed to the required "You".
 - o Respondent is in the process of using a computerized SFGSS and has never had a complaint from family members regarding illegible print disclosures.
 - o Respondent states that the customers sign an embalming authorization form prior to performing such actions.

History:

- Three (3) closed complaints, none related.

Recommendation:

- Consent Order with \$500.00 civil penalty and authorization for hearing.

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

The motion died due to the lack of a second.

After the determination of other cases on the Assistant's General Counsel's Legal Report, Clark McKinney asked to revisit this complaint.

After further discussion, a motion was made by Tony Hysmith to accept Counsel's recommendation.

Seconded by Jill Horner

Adopted by voice vote

2. Case No.: L11-FUN-RBS-2011021381

Complaint:

- On July 21, 2011, a field representative conducted a routine inspection of the Respondent establishment.
- During this inspection, it was determined that a cremation authorization form failed to bear the signature of a licensed funeral director.
- An apprentice had actually signed as a licensed funeral director, but the Respondent was able to call the crematory and get a copy of the cremation authorization form with the licensed funeral director's signature on the form, as the funeral director had signed the form after the remains were sent to the crematory and after a copy was given to the authorizing agent.
- Statement of Funeral Goods and Services Selected
 - o The SFGSS lists a charge of \$2,995.00 for "Direct Cremation" and a charge of \$397.00 for "Transfer of Remains to Funeral Home," but the Respondent's General Price List states "Transfer of Remains to Funeral Home" is already included in the price of a "Direct Cremation".
 - o The SFGSS lists a charge of \$175.00 for "alternative container" with no other itemized description of the type of container sold, but the Respondent's Casket Price List does not list any alternative container for \$175.00.

Response:

- Cremation Authorization Form
 - o The funeral director and apprentice met with the family, and the apprentice began filling out the paperwork prior to the family arriving, even signing the cremation authorization form.
 - o The funeral director failed to sign the authorization during the family conference, and the family received their copy prior to the funeral director signing.
 - o The funeral director and apprentice both noticed that the funeral director failed to sign the authorization form, but the funeral director was able to sign the document prior to the cremation taking place.
 - o The funeral director was with the apprentice at all times, and he was present when the cremation authorization form was signed.
- Statement of Funeral Goods and Services Selected
 - o The family was going to bury the decedent's cremated remains following the memorial service, so they were charged additionally for use of a funeral vehicle.
 - o The General Price List for March 9, 2011 lists the use of funeral vehicle at \$397.00, but the funeral director placed it on the wrong

line; however, the family changed their mind about going to the cemetery, and the funeral home refunded them the \$397.00.

- As for the alternative container, Respondent states they did not engage in deceptive behavior as the decedent, due to their size, would not fit in the alternative container.
- The Respondent then charged for use of an air tray instead of an alternative container, and this tray cost \$175.00.
- The consumer agreed to use the air tray, and it was less expensive than an alternative container, but Respondent agrees they should have listed a description under identification for the air tray.
- Respondent admits their error in failing to provide documentation.

Complaint History:

- One (1) non-related closed complaint.

Recommendation:

- Consent Order with \$750.00 civil penalty and authorization for hearing.

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

Seconded by Wayne Hinkle

Adopted by voice vote

3. Case No.: L11-FUN-RBS-2011021601**Complaint:**

- This complaint was filed by a consumer.
- Complainant believes the Respondent was overcharging for goods and services, as the Respondent presented the Complainant with two Statements of Funeral Goods and Services Selected.
- The first SFGSS had a charge of \$5,338.60 with a \$195.00 fee for handling a vault from an outside vendor.
- The second SFGSS had a charge of \$6,140.80 with a \$100.00 fee for consultation, grave set up, casket delivery as the family had purchased a casket and vault from an outside source.
- Affordable Caskets and Vaults received a statement showing charges for 2 graves being dug (one for \$325.00 and the second for \$400.00).
- In an explanation of special charges, Respondent stated that an amount of \$200.00 was assessed for damage to the cemetery, \$100.00 for assistance in casket delivery, \$100.00 for assistance in vault delivery, \$100.00 for assisting in vault set up, and \$100.00 for consultation for damages by vendor.

Response:

- Respondent states that when they were contacted by the decedent's family, they learned that the family had already contracted with a third party vendor for the purchase and delivery of the casket and vault.
- The family was presented with a SFGSS which described Alternative and Special Consulting Services such as: shipping overseas, extra manpower hours for disinterment, after-hours delivery or other vendor deliveries, consultation via telephone and or charges for matters related to damage to funeral home property, church property, or cemetery property with a rate of \$100.00 per hour with a minimum of one hour.
- The family signed a Federal Trade Commission Disclaimer / Disclosure form detailing their receipt of General Price List prior to discussion of prices, services and merchandise.
- The widow signed both the SFGSS and the addendum with the consultation prices listed with an additional \$650.00.
- The Respondent states that they were in contact with the family on a constant basis and they were informed of the issues concerning this third party entity attempting to deliver in a private family cemetery without sufficient equipment or permission.
- The private family cemetery was damaged when the third party's van slid into a fence, and the second delivery attempt entailed the third party owner driving across the private family cemetery in his pick-up truck to leave the vault by himself and used the Respondent's contract labor without permission to assist because he brought no additional employees.

History:

- None.

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 Paula Bridges

Adopted by voice vote

4. Case No.: L11-FUN-RBS-2011022261**Complaint:**

- The Complainant states that the Respondent is advertising under a name that is different than that under which they are registered with the Funeral Board.
- Respondent's advertisement does not itemize packages, except it discusses monthly payments.
 - o The Basic Traditional Package includes all services such as – transportation, embalming, facilities, and hearse.

- Graveside service includes a gasketed casket.
- Cremation Services provided –
 - First payment plan - \$92.62 per month over 10 years.
 - Second payment plan - \$76.41 - \$79.80 per month – no time period.
 - Third payment plan - \$42.45 per month – no time period listed.
- Three asterisks
 - One at the end of the Basic Traditional Package, a second one at the end of the sentence, “includes gasketed casket,” and a third one at the end of “guaranteed issue – regardless of health.”
 - Complainant questions whether Basic Traditional Package and graveside services are guaranteed regardless of health.
- Advertisement
 - Complainant states that the Respondent’s advertisement discusses “skyrocketing costs of cemetery and memorialization.”
 - Complainant wants to know what proof Respondent has that prices are “skyrocketing”.
 - Respondent does not own a cemetery, how do they avoid these costs?
 - The Respondent’s advertisement states that they have been in business since 1954, but the Secretary of State’s Office states that they have been incorporated since 1981, twenty-seven years after the date given by the Respondent.
 - Complainant states that this particular advertisement makes reference to two individuals, but it fails to identify their titles, causing the public to assume they are licensed funeral directors, but their website says neither individual is licensed.

Response:

- The newspaper ran the advertisement under the wrong establishment name.
- As for the listed packages, the advertisement is referring to pre-payment plans as noted in bold print indicating to the consumer that it is not an at need option, payment period of 10 years is a header, and all monthly pay options are listed below their header as is done with age at all ages listed below the age header.
- Respondent states that they are not claiming their funeral is higher or lower than the competition, but you can purchase an insurance policy to cover different packages which do not have to be itemized.
- Guaranteed Coverage
 - In our advertisement, we are referring to the customer’s health, and this statement is listed under all items in bold.

- Skyrocketing prices
 - o Our ability to help families is proprietary; maybe we recommend cremation to a family or sell vaults and markers at cost.
 - o Ed McMahon and the AARP mention skyrocketing prices. We don't have time to call them to request their documentation for such comments.
- Established Business
 - o In 1954, the original owner was a partner in a funeral home business, and bought out the other partner in 1956.
 - o He remained a partner until his death in 1982, but his wife is now a partner in the business, which has been run continuously by the original partner or his wife since 1956.
- Advertising Unlicensed Individuals
 - o No reference is made to any of those individuals as a licensed funeral director.
 - o The public cannot misconstrue the advertisement into falsely portraying these individuals as licensed funeral directors just because their title is not provided.
 - o The next advertisement will reflect their licensure status.

History:

- One (1) closed complaint, not related.

Recommendation:

- Dismiss.

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

Seconded by Jill Horner

Adopted by voice vote

5. Case No.: L11-FUN-RBS-2011022281

6. Case No.: L11-FUN-RBS-2011022282

7. Case No.: L11-FUN-RBS-2011022283

Complaint:

- On August 10, 2009, at approximately 3:00 p.m., the Complainant's mother passed away.
- EMTs responded to the scene and suggested that the Complainant call Respondent #5 until the Complainant could select their preferred funeral establishment.
- Complainant states that they called Respondent #6, which is located in the town where the Complainant's mother wished to be buried, but Respondent #6 recommended the Complainant contact Respondent #7 about transporting the body to that town.

- The Complainant states that she did not want Respondent #7 to touch her mother's body.
- After these conversations, the Complainant contacted Respondent #5 about taking custody of the body, and they assured the Complainant that they alone would transfer the body to Respondent #6.
- At approximately 7:00 a.m. on August 11, 2009, the Complainant says they were reassured that Respondent #7 would not be involved, and Respondent #5 was leaving in about ten minutes to transfer the body.
- The Complainant states that they arrived at the establishment of Respondent #6 at approximately 10:30 a.m. and learned that Respondent #7 had actually transported her mother's body in the middle of the previous night to Respondent #6.
- The Complainant believes her mother was kidnapped by Respondent #7 in the middle of the night and Respondent #5 allowed them to do this by leaving their keys accessible to employees for Respondent #7.
- The Complainant states that Respondent #5 explained that they were not aware that a transfer had taken place until after their employee arrived at the funeral establishment, believing they would be transferring the body to the establishment of Respondent #6.
- The Complainant states that Respondents #5 and #6 were rude, unethical, and lied to her.

Response:

- Respondent #5
 - o Respondent states that they were contracting with Respondent #6 to provide removal and embalming services for the decedent.
 - o Respondent #5 states that staff met police and EMS at the home of the decedent, and that the Complainant and her family could not agree on what actions should be taken, further confusing the staff and causing a delay in the removal process.
 - o Respondent states that the Complainant wanted her mother transferred immediately, but the staff informed her that the current time of day and need to embalm would force them to transfer the body the next morning.
 - o The family agreed to Respondent #5 being in charge of the embalming while Respondent #6 would handle final arrangements.
 - o Staff members do not recall the Complainant ever giving instructions regarding Respondent #7 to not touch the body.
 - o Respondent #5 embalmed the body and Respondent #6 then communicated to Respondent #5 that Respondent #7 would come to transfer the body.
 - o Respondent #5 states that they have an employee on call before the establishment opens at 8 a.m., and the Complainant called this employee around 7:00 a.m.; however, this employee was not aware that Respondent #7 had transported the body the night before, and

- informed the Complainant that the staff would be transporting the body in ten minutes.
- Respondent #5 states that they had a contract with Respondent #6, not with the Complainant, and they charged \$736.00 to Respondent #6 for the services provided - \$680.00 for Removal / Embalming and \$56.00 for eight certified copies of the Certificate of Death.
 - Respondent #5 states that they were not responsible for transporting the body, but they were originally going to transport the body until Respondent #6 called to inform them that they had hired Respondent #7 to transport the body.
 - Respondent #5 states that the decedent was not kidnapped because she was transported between licensed funeral directors and a mortuary company with 24 hour access to Respondent #5.
 - Respondent #5 states that they believed everything was okay until they received a phone call from the Complainant approximately one year later.
- Respondent #5 Employee
- The employee explained that she was the one answering phones for Respondent #5 when the Complainant called to check on the status of her mother's transportation.
 - The employee was not aware that Respondent #7 transported the body in the middle of the night and believed another employee was preparing to transport the body to Respondent #6.
 - The employee was also the individual answering the phones when the Complainant called to complain about the services rendered.
 - The employee explained that Respondent #5 never sent the Complainant a bill, as they were contracting for services through Respondent #6.
 - Respondent #6 paid the bill rendered by Respondent #5.
- Respondent #6
- Respondent states that there was a lot of confusion when Respondent #5 went to remove the body.
 - Respondent told the Complainant that they typically use the services of Respondent #7 for removals, but she stated that she wanted Respondent #5 to provide services.
 - Respondent was told that the Complainant wanted her mother transported that night, so Respondent #6 had Respondent #5 perform the removal and embalming, then contacted Respondent #7 regarding transport.
 - Respondent #6 informed Respondent #5 that Respondent #7 would provide transport, but that information was not relayed to the employee answering the phones.
 - Respondent #6 received the body late that night from Respondent #7 and later met to make arrangements with the Complainant, and felt great tension between the Complainant and her brother.

- Respondent #6 states that they never discussed transport of the decedent with Respondent #5 and they had contracted with Respondent #7 many times regarding removals; however, the Complainant must have spoken to Respondent #5 about providing transport but never made these wishes known to Respondent #6.
- The Complainant was so upset about the transportation that Respondent #6 wound up leaving that charge off the bill.
- Respondent #6 later found out that the Complainant did not want Respondent #7 involved as they had provided poor services to the Complainant's family in the past.
- Respondent #7 Attorney
 - Respondent #7 did transport the body in the early morning hours of August 11, 2009.
 - Respondent #6 requested transport services from Respondent #7.
 - Respondent #7 states that they never had any contact with the Complainant.
 - Respondent states that they are sorry for any miscommunication that occurred and they were not aware that the Complainant did not want their services.

History:

- Respondent #5 – One (1) closed complaint, not related.
- Respondent #6 – Four (4) closed complaints, not related.
- Respondent #7 – One (1) closed complaint, not related.

Recommendation:

- Respondent #5 – Letter of Warning
- Respondent #6 – Letter of Warning
- Respondent #7 – Dismiss.

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

Seconded by Paula Bridges

Adopted by voice vote

8. Case No.: L11-FUN-RBS-2011022921**Complaint:**

- The Complainant provided a copy of an advertisement that ran in a local newspaper and was paid for by the Respondent.
- The advertisement states, "PUBLIC NOTICE" at the top of the advertisement, and it was set to run in the retail section on August 17, 2011 – August 19, 2011.
- In addition to "PUBLIC NOTICE" appearing at the top, the Respondent provided the name and contact information of the TENNESSEE BOARD

OF FUNERAL DIRECTORS AND EMBALMERS at the bottom of the advertisement.

- The Complainant believes that this advertisement gives the impression to the public that the Board is providing this “consumer information” regarding a Traditional Funeral Service offering, and making it appear that the Respondent has the lowest prices in town when compared to three other competitors.

Response:

- Respondent states that the advertisement only ran once in that format, then they were contacted by Board staff and agreed to tweak the advertisement, even though the Respondent did not agree with the allegation.
- Respondent states that “PUBLIC NOTICE” advertisements have been used by funeral establishments in the past.
- Also, Respondent believes providing information on how to contact the Board provides useful information to families regarding what to do in the event other establishments make illegal contact with families.
- Respondent states that the public was not misled as the Respondent printed at the bottom of the advertisement that all of the information was provided by the Respondent alone.

History:

- None

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 Paula Bridges

Adopted by voice vote

9. Case No.: L11-FUN-RBS-2011023121

President Eugene Williams recused himself from the proceedings involved with this complaint and turned the chair over to Vice President Clark McKinney.

Complaint:

- Complainant’s sister passed away, and the Complainant was responsible for final arrangements.
- Complainant states that she waited in the hospital for a ride to the funeral home for 45 minutes, but no one from the funeral home came to pick her up.

- After getting to the funeral home, the Complainant was informed that the funeral home staff never received any phone call about picking her up.
- The Complainant asked to see caskets, and the staff took her to the back of the establishment where she found a small selection which did not include the casket her sister had picked out in her pre-need funeral arrangements.
- At this point, the Complainant states that she was upset and learned that this funeral establishment was under different ownership than when she signed the pre-need agreement.
- Complainant then asked the Respondent about the cemetery that was chosen, and she states that the Respondent informed her that opening and closing cost \$600.00 on a weekday and \$750.00 - \$800.00 on a weekend.
- Complainant states that the Respondent told them they could beat any competitor's price if the Complainant came back the next day.
- Complainant gave the Respondent very explicit instructions regarding her sister's body and the care that must be given to the body.
- Complainant came back the next day and the Respondent had ordered the casket, but it would not be delivered for another day, so the Complainant chose another less expensive casket.
- Complainant is upset because she believes arrangements were made prior to her sister's death, and now every time she closes her eyes, she just sees her sister in a cheap casket.
- Visitation was set for 2:00 p.m. – 7:00 p.m., but the body was not prepared for viewing when the Complainant arrived, and she was told that viewing was pushed back to 4:00 p.m. – 7:00 p.m.
- Complainant states that she only used one limousine during the service, but she was charged for two.
- The Complainant's daughter stated that the funeral was covered by the preneed funeral contract and insurance; however, only the flower arrangement was to be added to the bill.
 - o She states that the family received conflicting stories regarding visitation as the embalming was not completed timely.
 - o Also, a family friend was allowed to see the decedent prior to the family viewing the body.
 - o The casket was not ordered timely, and the decedent did not look like herself during the viewing.

Response:

- Respondent states that on March 23, 2011, they were contacted by the hospital regarding removal of the decedent.
- On March 24, 2011, the Respondent held an arrangement conference with the Complainant where the casket and vault were ordered, and visitation was set for March 26, 2011.
- The family approved the body for public viewing and signed a contract, accompanied by proper documentation of insurance.

- The service was held on March 27, 2011, and the Complainant did not call to complain until April 30, 2011.
- The Complainant mentions a package the decedent had selected, but that was through a different establishment.
- The casket selected by the Complainant was the same casket at the same price indicated on the final funeral service contract, and is a mid-range casket.
- The only additional charges on the contract were related to flowers, obituaries, and death certificates.
- The cemetery charges \$1050 - \$1100 for graves throughout the week and weekend, and we cannot "beat" the price of any cemetery as we do not own a cemetery.
- We offered the Complainant the option of two limos, but she only used one so we only charged her for one.
- An employee of the Respondent spoke with the Complainant on April 30, 2011, and offered to discuss the documents in the Complainant's possession; however, the Complainant never took them up on the offer and filed this complaint instead.

Response – Niece of Decedent:

- The niece went to the funeral establishment with the Complainant until the Complainant's daughter arrived in town.
- She states that she assisted in planning final arrangements and the funeral director went over everything in detail.
- She states that the Complainant was very confused as the casket she was looking for was one that she and her sister had chosen at a different funeral establishment.

History:

- 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

Vice President Clark McKinney turned the chair back over to President Williams.

10. Case No.: L11-FUN-RBS-2011023771

Complaint:

- An operational animal cremation retort is located in an open area directly behind the garage and preparation room, separate from the funeral home building itself.
- Also, adjacent to the animal cremation retort was a wheel barrow containing unprocessed cremated animal ashes and bone fragments.
- Furthermore, the Respondent had printed brochures advertising pet cremations and services available when an individual loses a pet.
- All of the Respondent's advertisements attempt to connect the funeral establishment to the pet services.
- An identical address and phone number are used for both pet services and human services.
- The selection room contains urns and monuments for pet services.

Response:

- Respondent states that they only operate an animal retort and do not operate a human retort.
- The pet retort was in place during the initial inspection in 2009, and it has been inspected several times since then.
- The Respondent contracts services for their website through an independent company:
 - o Respondent states the only connection between their funeral business and pet services business is the pet loss section on their wall in the casket selection room.
 - o The webpage has a section for pet loss, insurance, and cemetery markers, but they say they didn't ask for the pet loss section, as it came automatically with the website.
 - o Pet cremation brochures and insurance cemetery marker brochures are found around funeral establishment.
- The Respondent states that items such as flowers, cemetery plots, markers and insurance are all sold in the funeral home. The Respondent believes that these items are not directly related to care and preparation of a dead human body but are sold in funeral establishments located throughout Tennessee, and if you stop the sale of one of those items, then you have to stop everything.
- The wheelbarrow of remains consisted of animal remains from the local animal shelter, and this is a service provided by the funeral establishment.
- If the funeral home contained both human and pet retorts, then the Respondent states that they could see a problem with that, but they only operate a pet retort.
- Respondent states that the economy has been tough, and these actions by the Board are hindering small firms.

History:

- Two (2) closed complaints, not related.

Recommendation:

- Letter of Instruction stating that if the Respondent wishes to continue the pet cremations on the same premises, they have ninety (90) days to do the following:
 - o There must be a separate entrance from the outside to the pet crematory;
 - o There must be separate phone lines and addresses as well.
 - o Separate signage.
 - o The funeral establishment 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;
 - o At a minimum, there must be a solid wall (barrier) between the proposed funeral establishment and the animal crematory/pet memorialization business;
 - o Each of the following must be for the sole use of the 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) Business cards;
 - 7) Or other written medium that is likely to be viewed by the public.

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

Seconded by Wayne Hinkle

Adopted by voice vote

11. Case No.: L11-FUN-RBS-2011025081

Complaint:

- On September 1, 2011, a field representative conducted a routine inspection of the Respondent establishment.
- The current license and latest inspection report of the crematory used by the establishment was not available for inspection.
- Respondent's website lists an employee, but it does not list that individual's title, and does not even list the name and title of another individual who is the manager of the establishment.
- General Price List
 - o Use of facilities and staff for private viewing needs to be corrected.
 - o Use of facilities and staff for memorial service must be added.
 - o Receiving of remains from another Funeral Home must be added.
 - o Forwarding of remains to another Funeral Home must be added.

- Casket Price List – Respondent uses catalogue in lieu of a selection room, and the catalogue needs to be updated, as four (4) units were left off of the catalogue:
 - o Regal Blue
 - o Dusty Rose
 - o Venetian Coppertone
 - o Truman Silver

Response:

- No response received.

History:

- Two (2) closed complaints, not related.

Recommendation:

- Consent Order with \$500.00 civil penalty and authorization for hearing.

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

Seconded by Jill Horner

Adopted by voice vote

12. Case No.: L11-FUN-RBS-2011025341

Complaint:

- Complainant had just left a friend's house located a half-mile from her own house on the day in question when she decided to drive through the local cemetery at 11:00 p.m.
- The cemetery is open to public twenty-four hours a day, seven days a week.
- When the Complainant arrived at the cemetery, she parked her car and kept her headlights on so she could see the way to gravesites of her family members.
- As the Complainant was preparing to leave, she stepped back and fell into an unmarked freshly dug grave.
- The Complainant hit her head on the way down, and she was unable to exit the grave until an officer patrolling the cemetery happened upon her car.
- The Complainant states that she has suffered tremendously from this fall, including sustaining several injuries to her neck and back, she has hired an attorney and is currently involved in litigation with significant medical bills.
- The Complainant filed a complaint on the Respondent after the Complainant's ex-husband visited the cemetery later that day and found a

tent with the Respondent's name erected over the grave that the Complainant fell into.

Response:

- Respondent states that there is a civil case currently pending.
- Respondent believes the Complainant has no claim against them as they contract with another individual to open and close graves.
- The grave was dug on July 5, 2011, but Respondent states that they do not own the cemetery.
- Complainant contacted the Respondent on September 16, 2011, to discuss a settlement but no settlement has been reached.

History:

- One (1) closed complaint, not related.

Recommendation:

- Close.

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

Seconded by Paula Bridges

Adopted by voice vote

13. Case No.: L11-FUN-RBS-2011025911**Complaint:**

- Unbeknownst to the Complainant, her father passed away in a rehabilitation center on August 19, 2011.
- The Complainant was asked to go to the funeral home to grant permission for her father's body to be cremated.
- The Complainant then asked to see her father's remains after signing the authorization form, but she was told that the body was being prepared for cremation.
- Two (2) days later, on August 21, 2011, the Complainant went to meet with the Respondent and informed the Respondent of her wishes to see her father's body.
- The Complainant states that the Respondent told her that he could bring the body out, but then he told her that the body was never actually at the funeral establishment, and it was taken directly from the rehabilitation center to the crematory.
- The Respondent then told the Complainant that he could get her some of her father's ashes following the cremation, but then he told her that she would have to share the remains with other family members.
- The Complainant believes the Respondent willfully and knowingly misled her after experiencing being deprived by her family of her dad's last days.

Response:

- Respondent was contacted by the rehabilitation facility and given contact information for the decedent's next of kin, that being contact information for the Complainant's aunt.
- The aunt said the decedent's wishes were to be cremated without any viewing.
- The aunt informed the Respondent of the decedent's two (2) children as the next of kin, but these are not the decedent's biological children. However, they do bear his last name.
- Based upon the Respondent's attorney's reading of the law, they believed the aunt had the right to grant permission to cremate the body, and that's what the parties did.

History:

- Two (2) closed complaints, not related.

Recommendation:

- Close.

By consensus of the Board, this complaint was tabled till the next Board meeting in order for Legal to obtain additional information.

14. Case No.: L06-FUN-RBS-2006017471

Complaint:

- Body fluids of the Complainant's deceased husband were leaking from the crypt.

Response:

- Funeral home denies doing anything wrong and has taken steps to correct any issue.

Note: This case was scheduled for trial in December of last year; however, it appears that a settlement was reached between all parties.

Recommendation:

The Board voted in favor of a Litigation Monitoring Consent Order when the case was presented last year. The Board's Legal Counsel has attempted to contact the Complainant in this case, but has received little in the way of cooperation. Therefore, we recommend closing this complaint.

Tony Hysmith recused himself from any involvement regarding the proceedings of this complaint.

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

Seconded by W. T. Patterson

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
NOVEMBER 8, 2011 – DECEMBER 12, 2011**

Establishments

Karnes & Son Funeral Home Rutherford, TN	Changes of Name & Ownership
Karnes & Son Funeral Home Kenton, TN	Changes of Name & Ownership
Dillow-Taylor Funeral Home & Cremation Services, Inc. Jonesborough, TN	Change of Name

Individuals

Kenneth Kirk Bivens Jackson, MS	Funeral Director/Embalmer Reciprocity
Gerald Huley Clark, III Nashville, TN	Funeral Director/Embalmer Reciprocity
Shannon Keith Boswell Lawrenceburg, TN	Funeral Director
Charles Jeffrey Shockney Elkmont, AL	Funeral Director Reciprocity
Amy Louis Outland Elizabethton, TN	Funeral Director Re-application

CLOSED ESTABLISHMENT REPORT:

One (1) establishment has reported closing recently:

- Karnes & Son Funeral Home, 815 Maple Heights Street, Kenton, TN

OPEN COMPLAINT REPORT:

As of December 9, 2011 there were 126 open complaints.

A motion was made by Clark McKinney to accept the Executive Directors report.

Seconded by W. T. Patterson

Adopted by voice vote

INDIVIDUAL APPLICATIONS:

Gary A. Mayes
Decatur, TN

Funeral Director/Embalmer
Reciprocity

Upon motion by Tony Hysmith and seconded by Paula Bridges, based upon application record, this individual was approved for licensure.

Adopted by voice vote

Christopher Marc Rush
Cleveland, TN

Funeral Director
Re-Application

Upon motion by W. T. Patterson and seconded by Wayne Hinkle, based upon application record, this individual was approved for licensure.

Adopted by voice vote

ELECTION OF BOARD OFFICERS FOR 2012:

President:

Tony Hysmith made a motion to nominate and elect Clark McKinney as President of the Board.

Seconded by Paula Bridges

Adopted by voice vote

Vice President:

Jill Horner made a motion to nominate and elect Tony Hysmith as Vice President of the Board.

Seconded by Paula Bridges

Adopted by voice vote

APPOINTMENT OF CONTINUING EDUCATION LIAISON FOR 2012:

Tony Hysmith made a motion to appoint Clark McKinney the Continuing Education Liaison.

Seconded by Paula Bridges

Adopted by voice vote

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 at 11:23 A.M.

Respectfully submitted,

Robert B. Gribble

Robert B. Gribble, CFSP
Executive Director