

TENNESSEE BOARD OF FUNERAL DIRECTORS AND EMBALMERS

MINUTES OF BOARD MEETING

JULY 10, 2012

President Clark McKinney called the meeting to order at 10:02 A.M. in the Second Floor Conference Room of the Andrew Johnson Tower, Nashville, Tennessee.

Board members present were Clark McKinney, President; Tony Hysmith, Vice President, Wayne Hinkle, W. T. Patterson, Jane Gray Sowell, Robert Starkey and Anita Taylor.

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

ADOPTION OF AGENDA:

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

Seconded by Wayne Hinkle

Adopted by voice vote

APPROVAL OF MINUTES:

A motion was made by Wayne Hinkle to approve the Minutes of the May 8, 2012 Board Meeting.

Seconded by Anita Taylor

Adopted by voice vote

Formal Hearing:

Docket No. 12.21-117086A

- Respondent: Joseph S. Ford, Sr.

A motion was made by Tony Hysmith to accept an Agreed Order presented by Assistant General Counsel Adrian Chick that included the payment of a \$500.00 civil penalty and hearing costs of \$200.00.

Seconded by Wayne Hinkle

Adopted by voice vote

LEGAL REPORT:

BENTON McDONOUGH, ASSISTANT GENERAL COUNSEL

1. Case No.: L12-FUN-RBS-2012005031

Complaint:

- On November 5, 2009, a community resident and customer of the Respondent's business passed away.
- The customer's daughter and son-in-law went to the funeral home to make final arrangements.
- The Respondent waited on the daughter and son-in-law, and accepted \$9,900.00 in cash, all of which he folded and placed in his pocket.
- The Respondent never paid the cash to the funeral establishment.
- The Respondent ceased working with the establishment in late June 2011.
- Prior to this individual's exit from employment, the family asked on numerous occasions for a copy of the death certificate, but the Respondent provided excuses each time to the family. Additionally, the Respondent made baffling excuses at times to the funeral home's accountant as to why the family failed to pay on the account.
- The account was noted as a bad debt at year end 2010, and billings were not forwarded to the daughter and her husband, based upon the assurances of the Respondent.
- At the end of 2011, the daughter was discussing the matter with her nephew, who worked at the funeral home, and it was determined that the master file for the customer was missing.
- The funeral establishment was able to retrieve the SFGSS from their computer, which showed a net balance due of \$8,244.00 rather than the \$9,900.00 which was paid to the Respondent.
- The local authorities were then contacted regarding this matter.

Response:

- Respondent states he has been in funeral business since 1992 and never had a complaint with the board until he left this establishment, and he's had three (3) complaints in the past eight months.
- Respondent states that the Complainant's (his former boss) motto is: "Checks are fine, but cash is divine."
- Respondent states his employer would ask that any cash be given to him and he would take care of it.
- Respondent states that the customers paid cash that day and he took the money and placed it in the employer's top drawer in an envelope.
- Respondent states that in meetings, he would be asked about this outstanding account, and he would tell them he's not sure where the money is, but maybe business is slow for them, covering for the fact that his employer had not turned over the cash.

- Respondent states the employer would tell them they have no idea how much cash he takes in, and often times he would have them rewrite contracts to show a lesser cost of a funeral so he could pocket the remainder of the cash.
- As for the death certificate, the decedent had an autopsy and the certificate said "pending" and the certificates were mailed out after the autopsy had been completed.
- Respondent's attorney states that his client's employer did not want the Respondent to quit working for them in 2011 and asked the Respondent to come back to work after taking some time off, but the Respondent decided he could not work in such a stressful environment.
- The attorney states that the employer threatened to destroy the Respondent and make his life miserable.
- The attorney states that these allegations of his client stealing the \$9,900.00 in cash are ludicrous, and his client placed the money in his employer's desk, as he was instructed to do.

History:

- Two (2) open complaints, similar issues.

Recommendation:

- Voluntary revocation of Funeral Director's license and authorization for hearing.

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

Seconded by W. T. Patterson

Adopted by voice vote

2. Case No.: L12-FUN-RBS-2012006501

3. Case No.: L12-FUN-RBS-2012006502

Complaint:

- The Respondent was on bond for harassing his ex-girlfriend and burglarizing her house when he approached the woman and her daughter on the woman's back porch.
- The Respondent is charged with two (2) counts of Aggravated Kidnapping, one (1) count of Aggravated Burglary, two (2) counts of Aggravated Assault, one (1) count of Possession of a Weapon while under the influence of Alcohol, and one (1) count of vandalism.
- The Respondent allegedly confronted his ex-girlfriend and her nineteen (19) year old daughter at the ex-girlfriend's residence.
- The Respondent allegedly fired a gun once into the air, chasing the women into a rear bedroom.

Response:

- The Respondent has asked for a continuance in the board hearing this case until 2013 when he is released from custody.
- The Respondent pled guilty to one (1) count of Aggravated Burglary and one (1) count of Aggravated Assault with a Deadly Weapon, and the other charges were dismissed.
- The Respondent will be in custody for the next nine (9) months.
- Respondent states that he is willing to do whatever he needs to do in order to keep the licenses he has had for twenty-one (21) years.
- Respondent believes he has been in good standing in the funeral industry for many years, and he does not want one night of stupidity to ruin all of that for him.

History:

- One (1) closed complaint, not related.

Recommendation:

- #2 - Voluntary Revocation of Funeral Director's license and authorization for hearing.
- #3 - Voluntary Revocation of Embalmer's license and authorization for hearing.

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

Seconded by Jane Gray Sowell

Adopted by voice vote

3. Case No.: L12-FUN-RBS-2012007931

4. Case No.: L12-FUN-RBS-2012007932

Complaint:

- The Complainant and her family returned to the funeral establishment about 6:10 p.m. to retrieve flowers and food following the burial of her son.
- Complainant states that the doors were unlocked and the lights in the kitchen and office were on, but everything else was dark.
- The Complainant states that they could hear a lot of yelling while they were standing in the kitchen / office area, so they went to investigate.
- Upon further investigation, the Respondent and an employee were having sex on a couch in the front parlor, and it was apparent that the couple did not see the Complainant or her husband / brother as they continued in this activity while the Complainant and family stood there.
- The Complainant then called the funeral home, and the phone was answered by one of the employees at her private residence.
- The Complainant informed the employee that someone was making a lot of noise in the funeral home.

- Next, the employee who had been seen having sex with the Respondent came walking around the corner, unaware that the Complainant's family had seen them, and said the loud noises they heard was a video being played after the Complainant informed her that they heard a lot of loud noises in the funeral establishment.

Response:

- Immoral or unprofessional conduct has always dealt with some overt action of the licensee where the consumer was taken advantage of by the licensee, and suffered harm in a monetary way or where the licensee intentionally inflicted some harm to the public.
- No charge is made here of any action under that definition and no violation of any law is charged of either a misdemeanor or felony.
- What is alleged is a totally unintentional act that could have had no intent to damage the Complainant.
- Every dealing with the Complainant has been professional, and all of our services were rendered according to the best possible professional conduct.
- The events alleged did not and could not have happened, as they would have occurred over an hour after we closed for business.
- All families are instructed at the cemetery to come back to the funeral home during business hours or call if they would be coming after business hours to pick up any flowers not delivered to the cemetery.
- No call was made to the establishment, nor did the Complainant ring the bell to the main door.
- The Complainant entered the premises through a side entrance that was mistakenly left unlocked when two (2) funeral directors left to go to a funeral directors meeting.
- The employee was walking through a totally dark building when she heard the security system indicate a door was being entered in the building.
- The employee met the Complainant within one (1) minute from the time the Complainant tried to call the establishment.
- The funeral home phone rang, but could not be answered on premises due to the phones being forwarded to the night person.
- Only two (2) other people were in the building when the employee met the Complainant, and all other people were in the parking lot away from the building.

History:

- #4 – No prior complaints.
- #5 – No prior complaints.

Recommendation:

- #4 – Letter of Warning.
- #5 – Letter of Warning.

A motion was made by Robert Starkey to accept Counsel's recommendation.

Seconded by Anita Taylor

Adopted by voice vote

6. Case No.: L12-FUN-RBS-2012003031

Complaint:

- On January 20, 2012, a field representative conducted a routine inspection of the Respondent establishment.
- During the inspection, it was determined that two (2) people were signing documents as the "manager"; however, only one of them was the manager of record.
- On another occasion, one (1) individual signed his name, but failed to provide his official title on the documents.
- One (1) individual signed a SFGSS as a funeral director, but she is not listed as an employee of the establishment.
- Three (3) individuals acted as and signed documents as funeral directors; however, none of them had their funeral director's license available for inspection.
- One (1) individual provided his embalmer's license for inspection; however, the license had expired.
- The Respondent had several issues with their CPL as they use catalogue form in lieu of a casket selection room, and the following eight (8) caskets were on the CPL, but not in the catalogue:
 - o Citation Solid Hardwood;
 - o Oxford Solid Hardwood;
 - o Pearl 18 Gauge;
 - o Merlot 18 Gauge;
 - o Newport Poplar;
 - o Pacific Pine;
 - o Granite 18 Gauge; and
 - o Star Cooper 20 Gauge.

Response:

- Misleading or Deceptive Acts
 - o The individuals who signed documents that are not listed as employees because they were signing the documents as part of an audit function and were not deceptive or misleading because the customer is only given a copy of the Statements which are signed by the arranging funeral director and the customer.
 - o The copy signed by the person who has reviewed the SFGSS for compliance purposes is kept in the customer's file and only used for funeral home purposes.
- Funeral Director's License

- All of the funeral directors current funeral director licenses were made available to the field representative during his inspection.
- Note: The licenses provided expired on October 31, 2011.
- Embalmer's Current License
 - Respondent states that the embalmer's license was provided for inspection.
 - Note: The license provided expired on October 31, 2011.
- Casket Price List
 - The field representative's findings were correct, and the catalogue has been revised and does now list the eight (8) caskets previously excluded from the catalogue.

History:

- Three (3) closed complaints, not related.

Recommendation:

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

A motion was made by Tony Hysmith to issue a Consent Order with \$800.00 civil penalty and authorization for hearing.

Seconded by Wayne Hinkle

Adopted by voice vote

7. Case No.: L12-FUN-RBS-2012003041**Complaint:**

- On January 10, 2012, a field representative conducted a routine inspection of the Respondent establishment.
- During the inspection, it was determined that the Respondent failed to provide the latest inspection report for inspection of the crematory utilized by this establishment.
- One (1) cremation authorization form lacked the signature of a licensed funeral director.
- One (1) individual is listed as "helping with funerals" but no title is provided.
- One (1) individual is listed as an "apprentice funeral director" but she is not registered as such with the State.
- One (1) individual is listed as a "night attendant" but no description is provided regarding his licensure status.

Response:

- Crematory Inspection Report
 - Respondent states that they immediately contacted the crematory and obtained a copy of the crematory inspection report.

- Licensed Funeral Director's Signature on Cremation Authorization
 - o This was on oversight and the funeral director signed the SFGSS, but failed to sign the cremation authorization form.
- Website
 - o Respondent has taken appropriate action to address the titles on the establishment website.

History:

- No prior complaints.

Recommendation:

- Consent Order with \$250.00 civil penalty and authorization for hearing.

A motion was made by Anita Taylor to accept Counsel's recommendation.

Seconded by W. T. Patterson

Adopted by voice vote

8. Case No.: L12-FUN-RBS-2012003051

Complaint:

- On January 22, 2012, a field representative conducted a routine inspection of the Respondent establishment.
- The Respondent's funeral establishment license expired on November 30, 2011, and was not renewed at the time this inspection took place in January.
- During this time, the establishment conducted five (5) funeral services.
- Also, it was determined that the ventilation fan in the preparation room was inoperable at the time of inspection.

Response:

- Respondent states that all of the issues in the complaint have been addressed.

History:

- Nine (9) closed complaints, two (2) related.

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

9. Case No.: L12-FUN-RBS-2012004031**Complaint:**

- On February 7, 2012, the Board received a complaint in this case.
- Because the Complainant had served in the funeral industry for several years, he accompanied his brother-in-law in making final arrangements for his sister several days before she died.
- Complainant was met by the owner of the establishment, whom he later determined was not a licensed funeral director.
- The Complainant states that the (non-licensed) owner was the only individual present in the funeral establishment when they met that day.
- The Respondent provided a brochure that the Complainant found distasteful due to the fact that services for animal cremations were mentioned in the same brochure with human cremations.
- Furthermore, the Complainant states that the brochure had a photo of the owner and his wife along with their staff, but there was no clarification regarding whether or not they were licensed personnel.

Response:

- Respondent states that the Complainant and his brother-in-law came in asking about the funeral establishment's prices.
- The Respondent, who states that he is an apprentice funeral director and apprentice embalmer, states that they did not mention making any arrangements and they just wanted to know the prices for services.
- The Respondent states that they employ three (3) licensed funeral directors, and the Complainant and his brother-in-law came in when the funeral directors were accompanying burial services or at lunch, and the Respondent believes he did nothing wrong by providing information packets for the customers.
- Respondent apologizes for any offense taken regarding the brochure, and he states that the establishment was not advertising pet services, but merely explaining how the owner and his wife started their business in pet cremations.
- The Respondent provided updated brochures, removing all mention of pet cremations and updated the photograph, making notations that the owner and his wife are not licensed professionals.

History:

- No prior complaints.

Recommendation:

- Letter of Warning.

A motion was made by Robert Starkey to accept Counsel's recommendation.

Seconded by Wayne Hinkle

Adopted by voice vote

10. Case No.: L12-FUN-RBS-2012004801**Complaint:**

- The Complainant's husband passed away on January 14, 2012, and she states that she had not received a Death Certificate by February 12, 2012.
- The Complainant met with a funeral director and her two (2) step-children on January 15, 2012, and one (1) death certificate was ordered for the Complainant and one (1) for life insurance, but neither of her step-children said anything about ordering death certificates for themselves.
- On January 18, 2012, the Complainant called the funeral director to order more death certificates, but he explained to her that he had already ordered three (3).
- On January 29, 2012, the Complainant called to check on the status of the death certificates, and the funeral director explained that the three (3) came in, and he gave them to her step-son, when she asked him where her death certificates were, she states that the employee became unfriendly and yelled that the death certificates were given to her step-son.
- The Complainant then called her step-daughter who told her that she needed to order more from the funeral establishment, and that she ordered two (2) for herself through the funeral home when the Complainant was not present.
- The Complainant believes the Respondent ordered the Complainant's death certificates and then forgot to order more for the step-daughter, so they gave the Complainant's death certificates to the step-daughter.
- On January 18, 2012, the Complainant states that she saw her name misspelled in the obituary, again the very next day as well.
- She sent a thank you note to the Respondent and asked that these corrections be made in the note.
- When Complainant called the State to ask about the death certificates, they explained that only three (3) were ordered back in January, and the Complainant believes the Respondent took too much time in providing the death certificates, as other establishments only take 4-5 days, not 4-5 weeks.

Response:

- Respondent states that there was indeed a mistake in the spelling of the Complainant's name, and they were not aware of the misspelling until they received a complaint from the Better Business Bureau.
- Respondent states that the error was addressed quickly, and they ordered two (2) more death certificates, bringing the total to seven (7) (one (1) for insurance, (2) for the step-daughter, and four (4) for the Complainant).

- Respondent states they tried to contact the Complainant, but she never left a number or address at which to reach her.
- Respondent gave the death certificates to the step-son when they came in because he believed he would provide them to the Complainant, but that never happened, as the step-daughter took her two (2) out of her step-mother's order.
- Respondent apologized for the error, but believes a lot of this issue can be attributed to the lack of communication on the part of the Complainant.
- Respondent states that the Complainant and her step-children did not communicate properly with one another, leading to this complaint.

History:

- No prior complaints.

Recommendation:

- Dismiss.

A motion was made by Robert Starkey to accept Counsel's recommendation.

Seconded by Tony Hysmith

Adopted by voice vote

11. Case No.: L12-FUN-RBS-2012004811

Complaint:

- The Complainant believes the Respondent's advertisement violates TCA 62-5-106 by not providing an itemized listing of each and every item priced in the advertisement.
- Although, the Respondent provides an itemized listing on the back of the document, they failed to itemize the merchandise quoted in the advertisement.

Response:

- Respondent admits that they inadvertently omitted an itemized listing of the casket merchandise on their advertisement and have corrected the matter.

History:

- One (1) closed complaint, not related; one (1) open complaint, related violations.

Recommendation:

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

A motion was made by Anita Taylor to accept Counsel's recommendation.

Seconded by Wayne Hinkle

Adopted by voice vote

12. Case No.: L12-FUN-RBS-2012004941

Complaint:

- On January 4, 2012, a field representative conducted a routine inspection of the Respondent establishment.
- The Respondent registered with the Board as a sole proprietor on their original establishment application; however, when the Respondent applied for a preneed seller registration, they listed their status as an LLC.
- As of January 4, 2012, no change of ownership form had been received by the Board Office.
- The sign on the front of the establishment listed a preneed package starting at \$4,955.00, but the sign failed to include a correct line item listing as required, and the sign failed to list the price for each service included in the package.
- The establishment website lists two (2) individuals who are unlicensed personnel and fails to provide their title as “non-licensed”, but the website does list them as “President” and “Vice-President”.
- The physical address listed on the Respondent’s preneed seller application lists a different business address than that listed on their initial application and various price lists.

Response:

- No response was received from the Respondent.

History:

- No prior complaints.

Recommendation:

- Consent Order with \$750.00 civil penalty plus \$250.00 for no response (\$1,000.00 total civil penalty) and authorization for hearing.

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

Seconded by Wayne Hinkle

Adopted by voice vote

13. Case No.: L12-FUN-RBS-2012004971

Complaint:

- On January 18, 2012, a field representative conducted a routine inspection of the Respondent establishment.
- The establishment license expired on November 30, 2011, and was not renewed until January 10, 2012.
 - o During this time period, the establishment handled seventeen (17) cases.
- The Cremation Authorization form for Catherine Dixon failed to bear the signature of a licensed funeral director.
- The current copies of the funeral director's license and embalmer's license for one (1) individual were not available for inspection.

Response:

- Respondent states that they are now aware that no activity can take place on an expired establishment license.
- As for the Cremation Authorization form, the copy of the document at the crematory did have a licensed funeral director's signature, but the copy at the funeral establishment lacked this signature.
- A signed copy is now in the file.
- As for the embalmer's and funeral director's licenses, those items had been removed from the files in order to be framed, and copies had not been left with the establishment in the interim.

History:

- Two (2) closed complaints, one (1) related.

Recommendation:

- Consent Order with \$2,000.00 civil penalty and authorization for hearing.

A motion was made by Tony Hysmith to table and asked for original policy.

Seconded by Anita Taylor

Adopted by voice vote

14. Case No.: L12-FUN-RBS-2012004981**Complaint:**

- On January 17, 2012, a field representative conducted a routine inspection of the Respondent establishment.
- During the inspection, it was determined that the Funeral Director's license for the manager of record expired on November 30, 2011, and was not renewed until December 16, 2011.
- The funeral director signed the cremation authorization form of one (1) individual, Geraldine Porter, and the establishment handled nine (9) death calls while the manager's license was invalid.

- Furthermore, the written receipt for remains of Geraldine Porter failed to bear the "time of release" as required by law.

Response:

- The manager states that she went on the Board website on November 30, 2011, to renew her license and followed all of the steps without any indication that something was amiss.
- When she did not receive her renewal within two (2) weeks, she checked her credit card statement to find that no charge had been filed against her credit card for the renewal, and then proceeded to use the renewal process again online and pay the extra \$200.00. She is now in good standing.
- The release form reviewed by the field representative was not the one in the permanent file.
- The permanent form was retained by the crematory manager and was in her custody during the inspection.

History:

- No prior complaints.

Recommendation:

- Consent Order with \$250.00 civil penalty and authorization for hearing.

A motion was made by Anita Taylor to accept Counsel's recommendation.

Seconded by Wayne Hinkle

Adopted by voice vote

15. Case No.: L12-FUN-RBS-2012005331

Complaint:

- The Complainant believes the Respondent's advertisement violates TCA 62-5-106 by not providing an itemized listing of each and every item priced in the advertisement.
- Although, the Respondent provides an itemized listing on the back of the document, they failed to itemize the merchandise in the advertisement.

Response:

- Respondent admits that they inadvertently omitted an itemized listing of the casket merchandise on their advertisement and have corrected the matter.

History:

- One (1) closed complaint, not related; one (1) open complaint, related violations.

Recommendation:

- Dismiss. Same case, different Complainant, from above.

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

Seconded by Anita Taylor

Adopted by voice vote

16. Case No.: L12-FUN-RBS-2012005711

Complaint:

- On February 2, 2012, a field representative conducted a routine inspection of the Respondent establishment.
- During the inspection it was determined that the Respondent failed to provide a copy of the latest inspection report and license for the crematory utilized by this establishment.
- The current funeral director's licenses for two (2) employees were not available for inspection.
- The current embalmer's license for one (1) individual was not available for inspection.
- The Respondent failed to provide a copy of the GPL, CPL, OBCPL, completed SFGSS, and blank SFGSS for the inspection.
- The Respondent's signage did not reflect the exact name listed on the establishment application approved by the Board, nor did the Respondent apply for a name change.
- Respondent failed to respond to the complaint upon receiving notice that a complaint was opened against the establishment.

Response:

- No response was received from the Respondent.

History:

- One (1) closed complaint, similar violations.

Recommendation:

Consent Order with \$750.00 civil penalty plus \$250.00 for no response (\$1000.00 total civil penalty) and authorization for hearing.

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

Seconded by Tony Hysmith

Adopted by voice vote

17. Case No.: L12-FUN-RBS-2012005751**Complaint:**

- On January 27, 2012, a field representative conducted a routine inspection of the Respondent establishment.
- During the inspection, it was determined that an employee of the establishment wrote four (4) preneed contracts without registering as a preneed sales agent.
- The Respondent's General Price List and Casket Price List are inconsistent regarding the high end range for immediate burial.
- The Respondent's General Price List and Casket Price List are inconsistent regarding the price for direct cremation with fiberboard container.
- The Respondent offers two (2) caskets to the public that are not on the Casket Price List, and the price for two (2) caskets on the Casket Price List is inconsistent.
- The field representative reviewed one (1) SFGSS for Ms. Alma Ruth Hildreth, and the prices on this SFGSS were inconsistent with the prices listed on the CPL.
 - o Under the charges of merchandise selected, the Neo-Blue is listed as \$2,895.00 on the SFGSS, but the CPL lists the same item for \$2,850.00.

Response:

- The Respondent failed to provide a response to the complaint.

History:

- Three (3) closed complaints, one (1) open – similar issues.

Recommendation:

- Consent Order with \$500.00 civil penalty plus \$250.00 for no response (total civil penalty of \$750.00) and authorization for hearing.

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

Seconded by W. T. Patterson

Adopted by voice vote

18. Case No.: L12-FUN-RBS-2012005971**Complaint:**

- The Complainant states that Floy Frazier had a paid in full burial with the Respondent funeral establishment.

- On January 19, 2012, the family of the decedent asked that the burial be transferred to another funeral establishment, but the Respondent stated that the decedent only had a whole life insurance policy worth \$1,000.00 which lapsed in July 2011, without any notice from the insurance company.
- The decedent informed her family before death that she had the \$1,000.00 policy and an additional burial policy, but the new funeral establishment stated that her life insurance policy lapsed, and she never had a burial policy.
- Complainant looked through paperwork and found a receipt from the Respondent for a burial policy reflecting a zero balance due.
- The decedent had paid the Respondent \$19.62 per month.

Response:

- On or about January 21, 2012, the Complainant came to inquire about a burial policy for the decedent.
- Respondent inquired as to whether it was a preneed policy or an insurance policy.
- Our pre-need files had no record of a preneed policy, and our records indicate she had an insurance policy.
- The Complainant offered a receipt from 2008, but the receipt appeared to be altered showing the account had been paid in full and signed by an employee no longer with our establishment, and the receipt is for a burial association policy.
- Before the Respondent could contact the insurance company, the Complainant stated they were hiring an attorney because they believed their money was stolen from the establishment.
- The insurance company informed the Respondent that there was an insurance policy, but it was allowed to lapse, and they sent three (3) notices to the decedent prior to her death.
- The Complainant confirmed that the decedent had the same P.O. Box that was listed on the insurance account, but that they never received this notice, but the insurance company stated that they sent three (3) notices.
- The Complainant states that the decedent told them that she paid in full for a burial policy and a \$1,000.00 insurance policy, but the paperwork and lack of proof fail to support this claim.

History:

- Five (5) closed complaints, one (1) open complaint – none related.

Recommendation:

- Consent Order with \$250.00 civil penalty and authorization for hearing.

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

Seconded by W. T. Patterson

Adopted by voice vote

19. Case No.: L12-FUN-RBS-2012006271

Complaint:

- Complainant provided evidence that the Respondent advertises both human and pet cremations in the same literature.
- The Respondent placed an advertisement for their funeral establishment, and also included a section regarding pet services.

Response:

- Respondent states that the Complainant has never attempted to contact them, though they appreciate the Complainant's concern for their business.
- Respondent states that the Complainant has filed two (2) complaints against them, and they do not recall receiving two (2) complaints from one (1) individual since they first received their license in 2002.
- This issue was discussed in a previous complaint opened after findings following a routine inspection.
- Respondent states that they responded to those same findings in that complaint and they will comment no further.

History:

- Two (2) closed complaints, not related; one (1) open complaint, related.

Recommendation:

- Dismiss. Complaint previously opened regarding same issues.

A motion was made by Anita Taylor to accept Counsel's recommendation.

Seconded by Wayne Hinkle

Adopted by voice vote

20. Case No.: L12-FUN-RBS-2012006291

Complaint:

- On February 15, 2012, a field representative conducted a routine inspection of the Respondent establishment.
- The latest inspection report for the crematory utilized by this establishment was not available for inspection.

- The current funeral director's license for one (1) employee was not available for inspection.
- The Respondent's CPL, GPL, OBCPL, Completed SFGSS, and a blank SFGSS were not available for inspection.

Response:

- Respondent states that all of these matters have been reviewed and addressed as of March 13, 2012.

History:

- Two (2) closed complaints, related violations.

Recommendation:

- Consent Order with \$250.00 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

21. Case No.: L12-FUN-RBS-2012006331

Complaint:

- On February 21, 2012, a field representative conducted a routine inspection of the Respondent establishment.
- The license and latest inspection report of the crematory utilized by this Respondent were not available for inspection.
- One (1) employee is listed on the establishment's business cards as an "Apprentice Funeral Director", but the same individual is not registered with the Board as an "Apprentice Funeral Director."
- The high-end range on the CPL is inconsistent with the GPL.
- The direct cremation with unfinished wood box and cardboard box being offered to the consumer should be added to the CPL.
- Three (3) caskets in the casket selection room are not listed on the CPL:
 - o Victory West 20 Gauge NG Blue
 - o Victory West 20 Gauge NG Copper
 - o 20 Gauge NG Copper

Response:

- All violations have been corrected.
- The license and latest inspection report for the crematory utilized by the Respondent were actually present, but the staff could not locate the documents and the manager with that information was absent that day.

- The employee listed as an apprentice funeral director completed her apprenticeship over two (2) years ago, but her name will not appear on the documents as an apprentice but as a non-licensed assistant.
- Respondent believes that the items reported as violations on the price lists were properly on the documents, and the field representative may have been looking at the price of caskets from Aurora Casket Company instead of the CPL for the consumer.
- Respondent states that all of the violations have been corrected, and they included a copy of the updated price lists with their response for verification.

History:

- One (1) closed complaint.

Recommendation:

- Consent Order with \$250.00 civil penalty and authorization for hearing.

A motion was made by Anita Taylor to accept Counsel's recommendation.

Seconded by Robert Starkey

Adopted by voice vote

22. Case No.: L12-FUN-RBS-2012006661

Complaint:

- The Complainant states that she used the services of the Respondent when her husband passed away.
- The Complainant believes she was treated badly without care and pushed at a time of grief.
- She felt the Respondent's staff was rude, disrespectful, and used the fact that money was coming out of their pockets as a reason why she needed to pay them.
- Complainant states that before she could view her husband's body, they were mean, shoddy, and yelled at her unruly.
- Complainant states that she had to force Respondent to pay the mortuary service in Dallas, Texas before she could pick up the death certificate.
- The manager informed her that he had already paid for this and it was not good business.
- The manager's wife works right beside him and knows nothing, and neither does his sister.

Response:

- Respondent received a call on January 31, 2012, to handle the decedent's funeral.
- After reviewing the complaint, the Respondent states that they see no violation.
- Respondent states that they do ask for payment at some point during final arrangements, and they do it the same way every single time, but they understand that families become upset when the topic of payment is brought up from time to time.
- Respondent states that they received full payment from the mother and brother of the decedent, but never any payment from the surviving spouse as promised.

History:

- Four (4) closed complaints, not related; four (4) open complaints, not related.

Recommendation:

- Dismiss.

A motion was made by Robert Starkey to accept Counsel's recommendation.

Seconded by W. T. Patterson

Adopted by voice vote

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

Complaint:

- 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.

Note:

- This complaint was originally presented to the Board on July 12, 2011.

Original Recommendation:

- Consent Order to deny credit for the periods of July – September 2010 and October – December 2010 Quarterly Reports and authorization for hearing.

New Recommendation:

- Close.

Note: W. T. Patterson exited and re-entered the room during the discussion of the complaint.

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

Seconded by Robert Starkey

Adopted by voice vote

24. Case No.: L11-FUN-RBS-2011032111

Complaint:

- On December 13, 2011, the Board received the Respondent's Quarterly Report of Apprenticeship Training for July 2011 – September 2011.
- The report must be received no later than sixty (60) days following the last day of the quarter for which credit is sought.
- This report was due on November 30, 2011, making the report 13 days late.

Response:

- No response was received.

History:

- No prior complaints.

Note:

- This complaint was originally presented to the Board on February 14, 2012.

Original Recommendation:

- Consent Order to deny credit for the period of July 2011 – September 2011 and authorization for hearing.

New Recommendation:

- Close.

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

Seconded by Anita Taylor

Adopted by voice vote

25. Case No.: L12-FUN-RBS-2012000471

Complaint:

- Complainant states that their aunt passed away in 2010 and the funeral establishment they used contacted the Respondent to verify that the decedent would receive a burial credit.
- The Respondent verified that the decedent would receive a burial credit; however, they later contacted the Complainant to inform them that the credit had been rescinded.
- The Complainant states that they contacted the Respondent and the Respondent informed them that they were no longer paying old burial policies.
- A message sent to the Complainant from the Respondent states that the burial policies paid through 2006 and 2007 will now be deemed paid in full and credit will be given.

Respondent:

- Respondent states that they ran an advertisement in the local newspaper on October 18, 2007, stating that they would no longer accept payments for burial policies, and credit would be given.
- Respondent states they have been giving credit on the Burial Association to all that were current at the time of the notice to the funeral homes.
- Respondent states that they have not paid on the Burial Association to any other funeral home since January 2010.
- Respondent states that they believe they have honored the contracts as intended, and they believe it was intended to be used at the funeral home from which it originated.

History:

- Three (3) closed related complaints.

Recommendation:

- Letter of Warning.

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

Seconded by Robert Starkey

Adopted by voice vote

ADMINISTRATIVE MATTERS:
ROBERT B. GRIBBLE, EXECUTIVE DIRECTOR

NEW PUBLIC CHAPTERS:

**REPORT OF PUBLIC CHAPTERS REGARDING RECENTLY ENACTED
LAWS OF THE 107TH GENERAL ASSEMBLY PERTAINING TO THE
FUNERAL AND CEMETERY INDUSTRIES**

Funeral:

Public Chapter No. 694 - <http://www.tn.gov/sos/acts/107/pub/pc0694.pdf>

As enacted, authorizes instead of requires that governor select some members of board of funeral directors and embalmers from lists of nominees submitted by Tennessee Funeral Directors Association and Tennessee State Funeral Directors and Morticians Association, and other interested funeral director and mortician groups.

Public Chapter No. 738 – <http://www.tn.gov/sos/acts/107/pub/pc0738.pdf>

As enacted, extends the date from December 31, 2010, to June 30, 2011, for apprentices and mortuary school students to complete all requirements to become licensed as a funeral director or embalmer.

Public Chapter 799 – <http://www.tn.gov/sos/acts/107/pub/pc0799.pdf>

As enacted, revises certain provisions governing licenses that become invalid due to nonrenewal; clarifies that the operator of a crematory facility must obtain a permit for cremation of human remains prior to performing a cremation.

Public Chapter No. 828 – <http://www.tn.gov/sos/acts/107/pub/pc0828.pdf>

As enacted, establishes priority of right to the disposition of human remains and limits certain liability of funeral establishments and funeral directors.

Cemetery:

Public Chapter 490 – <http://www.tn.gov/sos/acts/107/pub/pc0490.pdf>

As enacted, exempts income derived from cemetery trusts from state and local taxation.

Public Chapter 560 – <http://www.tn.gov/sos/acts/107/pub/pc0560.pdf>

As enacted, repeals the cemetery advisory board.

LICENSEE REPORT:

**REPORT OF LICENSES ADMINISTRATIVELY APPROVED BY EXECUTIVE
DIRECTOR PURSUANT TO BOARD AUTHORITY FOR THE PERIOD OF
May 8, 2012 – July 9, 2012**

Establishments

Bond Funeral Directors, Inc. Memphis, TN	New Establishment
Signature Funeral Services Memphis, TN	New Establishment
Trinity Funeral Home, LLC	New Establishment

Individuals

Kandice Hale Burkeen Madison, TN	Funeral Director/Embalmer
Janelle Nicole Cook Holladay, TN	Funeral Director/Embalmer
John Ephraim Doak Shelbyville, TN	Funeral Director/Embalmer
Gerren Ross Herndon Memphis, TN	Funeral Director/Embalmer
William Anthony Jenkins Madison, TN	Funeral Director/Embalmer
Kristie Rae Johnson Southaven, MS	Funeral Director/Embalmer
Ryan N. Qualls Benton, TN	Funeral Director/Embalmer
Keri Krystine Washington Memphis, TN	Funeral Director/Embalmer

Cathe Sue Crowe Kingsport, TN	Funeral Director/Embalmer Reciprocity
Lindsey Sue Hamlin Hermitage, TN	Funeral Director/Embalmer Reciprocity
Rhonda Denise Newcombe Collierville, TN	Funeral Director/Embalmer Reciprocity
Jeffrey Paul Crockett Brush Creek, TN	Funeral Director
William L. Terry Coldwater, MS	Embalmer
Christopher Marc Rush Cleveland, TN	Embalmer Reapplication

DISCIPLINARY ACTION REPORT:

**REPORT OF CONSENT ORDERS ADMINISTRATIVELY ACCEPTED/APPROVED
BY THE EXECUTIVE DIRECTOR PURSUANT TO BOARD AUTHORITY
FOR THE PERIOD OF May 8, 2012 – July 9, 2012**

Respondent:	Clark Funeral Chapel and Cremation Services, Inc., Kingsport, TN
Violation:	Failed to make available for inspection the current licenses of funeral directors and an embalmer, failed to make available for inspection a copy of the most current license of the crematory which the funeral homes uses and failed to comply with multiple aspects of the Funeral Rule
Action:	\$500 Civil Penalty
Respondent:	Dilday-Carter Funeral Home, Inc., Huntingdon, TN
Violation:	Unprofessional conduct (collected burial association assessments and refused to pay the policy benefit because the association member's family used the services of another funeral home)
Action:	\$250 Civil Penalty
Respondent:	Family Funeral Care, Memphis, TN
Violation:	Misleading advertising (failed to include an itemized listing of each and every item, procedure or service and the price of each item)
Action:	\$750 Civil Penalty

Respondent: Gardens of Memory Funeral Home-Cremation Services, McMinnville, TN

Violation: Unprofessional Conduct (rude and unprofessional conduct of an employee) and unreasonably refusing to promptly surrender the custody of a dead human body upon the express order of the person lawfully entitled to the custody of the dead human body

Action: \$500 Civil Penalty

Respondent: Beverly Howard Godfrey, Fayetteville, TN

Violation: Practiced as a funeral director on multiple occasions while license had not been renewed by its expiration date

Action: Revocation of License and Assessed Hearing Costs of \$520.00

Respondent: Halls Funeral Home, Inc., Halls, TN

Violation: Failed to provide a General Price List when consumer initially inquired in person about prices of funeral goods and services

Action: \$250 Civil Penalty

Respondent: Heritage Funeral Home & Cremation Services, LLC, Columbia, TN

Violation: Engaged in unfair or deceptive acts or practices defined in the Funeral Rule and failed to designate a specific job title of an unlicensed individual on a business card

Action: \$2000 Civil Penalty

Respondent: Michael Shane Hessey, Elkton, Kentucky

Violation: Unprofessional conduct (manager of an establishment that filed a certificate of death which contained the forgery of the Medical Examiner's signature)

Action: \$500 Civil Penalty

Respondent: Shannon Lee Hill, Pelham, TN

Violation: Filed reports of apprenticeship training beyond the allotted time

Action: Shall not receive credit for the time period(s) affected and shall serve the remaining amount of time necessary to complete training as required by law

Respondent: Howard Funeral Home, Fayetteville, TN

Violation: Operated an establishment on multiple occasions while license was invalid, failed to have available an embalmer license for inspection, failed to disclose the address and telephone number of the crematory that the establishment

used, failed to comply with preventive requirements specified in the Funeral Rule, operated the funeral establishment without being managed and supervised by a licensed funeral director responsible for the establishment and failed to have a copy of the crematory license available for inspection which the funeral homes uses

Action: Revocation of License and Assessed Hearing Costs of \$520.00

Respondent: Johnson-Coleman Funeral Home, Inc., Gallatin, TN
Violation: Printed business cards for unlicensed individuals that either gave or tended to give the impression that the person was licensed to practice as a funeral director or an embalmer, failed to maintain a copy of the most current inspection report of the crematory which the funeral home uses and failed to comply with multiple aspects of the Funeral Rule

Action: \$750 Civil Penalty

Respondent: Jones & Son Funeral Home, Oneida, TN
Violation: Failed to retain multiple copies of cremation authorization forms and an aspect of the establishment's contract did not comply with the Funeral Rule

Action: \$500 Civil Penalty

Respondent: Llewellyn Funeral Home, Jellico, TN
Violation: Engaged in unfair and deceptive acts or practices defined in the Funeral Rule

Action: \$250 Civil Penalty

Respondent: Maley-Yarbrough Funeral Home, Inc., Covington, TN
Violation: Unprofessional conduct (although contacted by the father of the decedent, made no attempt to properly ascertain the next of kin of the decedent and never allowed the father, the next of kin of equal standing, to participate in the funeral arrangements)

Action: \$1000 Civil Penalty

Respondent: Martin Wilson Funeral Home, LaFollette, TN
Violation: Engaged in unfair or deceptive acts or practices defined in the Funeral Rule

Action: \$1000 Civil Penalty

Respondent: Memorial Funeral Chapel, Elizabethton, TN
Violation: Unprofessional conduct (inappropriately delivered the cremated remains of an individual to the wrong family)

Action: \$1000 Civil Penalty

Respondent: Nelson & Sons Memorial Chapel, LLC, Shelbyville, TN
Violation: Website contained photographs and listings of unlicensed individuals that either gave or tended to give the impression that these individuals were licensed funeral directors or embalmers, failed to maintain a copy of the most current inspection report of the crematory which the funeral homes uses and failed to comply with multiple aspects of the Funeral Rule

Action: \$500 Civil Penalty

Respondent: Smith Funeral & Cremation Service, Inc., Maryville, TN
Violation: Failed to obtain the signature of a funeral director on cremation authorization forms and failed to properly itemize caskets on contracts

Action: \$250 Civil Penalty

Respondent: West-Murley Funeral Home, Oneida, TN
Violation: Immoral or unprofessional conduct (placed viscera and soiled clothing at the feet of a deceased inside the casket), failed to retain copies of cremation authorization forms and an aspect of the establishment's contract did not comply with the Funeral Rule

Action: \$1000 Civil Penalty

Respondent: Whitson Funeral Home, Cookeville, TN
Violation: Failed to have a copy of the latest inspection report from the crematory that the funeral home uses, failed to obtain the signature of a funeral director on cremation authorization forms and failed to maintain the preparation room in a clean and orderly manner

Action: \$500 Civil Penalty

Respondent: Williamson Memorial Funeral Home, LLC, Franklin, TN
Violation: An employee solicited a dead human body when death was imminent (licensed funeral director handed out funeral home business cards to a family in the intensive care unit of a hospital and made multiple calls to the next of kin soliciting the family's business after the individual's death)

Action: \$500 Civil Penalty

Respondent: Wilson County Funeral Home and Memorial Park, Lebanon, TN

Violation: Failed to provide the license of an embalmer for inspection, contract referred to the funeral establishment by a name other than the exact name approved by the Board and

multiple aspects of the establishment's price lists did not
comply with the Funeral Rule
Action: \$500 Civil Penalty

OPEN COMPLAINT REPORT:

As of June 30, 2012 there were 103 open complaints.

A motion was made by Robert Starkey to accept the Executive Director's Report.

Seconded by W. T. Patterson

Adopted by voice vote

INDIVIDUAL APPLICATION:

**Michael Kevin Knowles
Powell, TN**

**Funeral Director/Embalmer
Reciprocity**

Application for Funeral Director License:

Upon motion by Wayne Hinkle and seconded by Anita Taylor, based upon application record, this individual was approved for licensure as a Funeral Director only.

Adopted by voice vote

Application for Embalmer License:

Based upon a review of the application record, the Board determined that the applicant did not meet the requirements of Tenn. Code Ann. § 62-5-311(b)(3) nor Tenn. Code Ann. § 62-5-307(b)(6).

Upon motion by W. T. Patterson and seconded by Jane Gray Sowell, to allow the Executive Director to approve application for Embalmer license once Mr. Knowles meets the requirements of either Tenn. Code Ann. § 62-5-307(b)(6), (the basic education requirement of having obtained an Associate of Arts Degree by successfully completing a mortuary science program consisting of not less than sixty (60) semester hours, ninety (90) quarter hours or the equivalent with a program accredited by the American Board of Funeral Service Education and evidenced by an official transcript) or Tenn. Code Ann. § 62-5-311(b)(3), (the qualifying requirement that the nonresident applicant has been licensed by another state or provincial authority in good standing for five (5) years and has been employed as a funeral director or embalmer, or both, for such time).

Adopted by voice vote

ADJOURN:

A motion was made by Wayne Hinkle to adjourn.

Seconded by Anita Taylor

Adopted by voice vote

There being no further business, the meeting was adjourned at 12:15 P.M.

Respectfully submitted,

Robert B. Gribble

Robert B. Gribble, CFSP
Executive Director