

TENNESSEE BOARD OF FUNERAL DIRECTORS AND EMBALMERS

MINUTES OF BOARD MEETING

OCTOBER 9, 2012

President Clark McKinney 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 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; Adrian Chick, Assistant General Counsel; and Lisa Mosby, Administrative Assistant.

ADOPTION OF AGENDA:

A motion was made by Jane Gray Sowell to approve the Agenda as printed.

Seconded by Anita Taylor

Adopted by voice vote

APPROVAL OF MINUTES:

A motion was made by Jane Gray Sowell to approve the minutes of the August 14, 2012 Board Meeting.

Seconded by W. T. Patterson

Adopted by voice vote

FORMAL HEARING:

Docket No. 12.21-117464A

- Respondent: H. H. Hudson Funeral Home

The State was represented by Assistant General Counsel Adrian Chick. The Respondent was represented by Attorney Ernest T. Brooks, II.

A motion was made by Robert Starkey to accept an Agreed Order as presented by Assistant General Counsel Adrian Chick that included a civil penalty of \$1000.00, hearing cost of \$200.00 and correction of violations.

Seconded by Anita Taylor

President Clark McKinney announced there would be roll call vote, and the board members voted as follows:

Board Members	Yes	No
Wayne Hinkle	X	
Tony Hysmith	X	
Clark McKinney	X	
W. T. Patterson	X	
Jane Gray Sowell	X	
Robert Starkey	X	
Anita Taylor	X	

Adopted

After acceptance of the Agreed Order, the Board recessed at 10:15 A.M.

The Board reconvened at 10:27 A.M.

RECONSIDERATION OF APPLICATION FOR EMBALMER’S LICENSE BY RECIPROCITY:

A motion was made by Robert Starkey to reconsider the application of Michael Kevin Knowles for an embalmer’s license.

Seconded by Tony Hysmith

Adopted by voice vote

Upon motion by Robert Starkey and seconded by Wayne Hinkle, based upon application record, the application for an embalmer’s license by reciprocity from Michael Kevin Knowles was approved by the Board subject to the receipt of an updated verification of licensure from the State of Texas.

Adopted by voice vote

Voting contrary to the conclusion: Tony Hysmith and Jane Gray Sowell

CONSIDERATION OF PETITION FOR DECLARATORY ORDER REGARDING TENN. CODE ANN. § 62-5-311(b)(3):

A motion was made by Wayne Hinkle to deny a request that the Board of Funeral Directors and Embalmers issue a Declaratory Order as to the applicability of

Tenn. Code Ann. § 62-5-311(b)(3) in regards to the petitioner's application for an embalmer's license.

Seconded by Anita Taylor

Adopted by voice vote

LEGAL REPORT:

BENTON McDONOUGH, ASSISTANT GENERAL COUNSEL

Abbreviations:

GPL – General Price List

CPL – Casket Price List

OBCPL – Outer Burial Container Price List

SFGSS – Statement of Funeral Goods and Services Selected

1. Case No.: L12-FUN-RBS-2012015711

2. Case No.: L12-FUN-RBS-2012015712

3. Case No.: L12-FUN-RBS-2012015713

Complaint:

- On March 2, 2012, a field representative conducted a routine inspection of Respondent #1. During the inspection, it was determined that the manager of record had allowed their funeral director's / embalmer's license to lapse and expire. While the licenses were invalid, the funeral establishment conducted one (1) funeral service.

Response:

- The manager of record responded to the complaint.
- The Respondent apologized for allowing their licenses to lapse and states that this will never happen again, as they take their work and responsibilities very seriously.

History:

- Respondent #1 – Two (2) closed complaints, none related.
 - o 2004207741 (closed) – Complainant felt Respondent deliberately filed death certificate late.
 - Presented to Board: January 11, 2005.
 - Closed: January 11, 2005
 - Board Action: Close.
 - o 2005040371 (closed) – Complainant wanted funeral home to issue deeds to cemetery plot.
 - Presented to Board: January 13, 2006.
 - Closed: January 13, 2006.

- Board Action: Dismissed.
- Respondent #2 – No prior complaints.
- Respondent #3 – No prior complaints.

Recommendation:

- Respondent #1 – Consent Order with \$250.00 civil penalty and authorization for hearing.
- Respondent #2 – Letter of Warning.
- Respondent #3 – Letter of Warning.

A motion was made by Tony Hysmith to take the following action:

- Respondent #1 – Consent Order with \$350.00 civil penalty and authorization for hearing.
- Respondent #2 – Letter of Warning.
- Respondent #3 – Letter of Warning.

Seconded by Wayne Hinkle

Adopted by voice vote

4. Case No.: L12-FUN-RBS-2012015771**Complaint:**

- On March 2, 2012, a field representative reinspected the Respondent establishment after the Board issued a letter of instruction regarding human and pet cremations.
- The Board instructed the Respondent that there must be a separate entrance, separate phone lines, separate signage, separate address, a solid wall (barrier) at the very least between the human and pet establishments, separate logos, separate internet websites, separate brochures, and separate business cards.
- The field representative determined that the Respondent failed to address all of these concerns during the reinspection following a Letter of Instruction on December 2, 2011, giving the Respondent ninety (90) days to make the necessary changes.

Response:

- On January 5, 2012, the Respondent's attorney sent a letter to the Board making them aware that the Respondent was in the process of making the necessary changes.
- On August 13, 2012, the Board received a letter from the same attorney explaining that the Respondent was in the process of making changes

- when the field representative reinspected the establishment on March 2, 2012.
- The attorney stated that the Respondent was in the process of making the changes and completed those changes shortly after the field representative conducted the reinspection.
 - Respondent provided photo evidence of the changes.

History:

- Two (2) closed complaints, one (1) related.
 - o 2010028501 (closed) – Use of names of unregistered individuals.
 - Presented to Board: December 14, 2010.
 - Closed: December 17, 2010.
 - Board Action: Letter of Warning.
 - o 2011017141 (closed) – 62-5-313(a), 62-5-507(2)(k), and Rule 0660-06-.02 – operating a pet crematory inside a human crematory.
 - Presented to Board: October 11, 2011.
 - Closed: December 2, 2011.
 - Board Action: Letter of Instruction.

Recommendation:

- Close.

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

Seconded by W. T. Patterson

Adopted by voice vote

5. Case No.: L12-FUN-RBS-2012015811**Complaint:**

- On March 29, 2012, a field representative conducted a routine inspection of the Respondent establishment.
- The current funeral director's licenses for three (3) individuals were not available for inspection.
- The current embalmer's license for one (1) individual was not available for inspection.
- The Respondent's cremation authorization forms state that cremains may be interred, entombed, or inurned after one hundred and twenty (120) days, but 62-5-508(c) states that the cremains may be interred, entombed, or inurned after one hundred and eighty (180) days.
- Casket Price List – Under Alternative Containers, the Trayview with crepe paper mattress and pillow does not meet the FTC guidelines for an alternative container.

- General Price List – Under direct cremation, several alternative containers being offered do not meet the FTC guidelines for alternative containers – Pacific Pine, Bayview Beech, Shaker Pine, and Trayview.

Response:

- General Counsel for the Respondent responded to the complaint.
- Copies of the funeral director's and embalmer's licenses for all of the employees are kept in a notebook at the funeral establishment.
- The location manager was serving a family and did not have time to search the book for the licenses in question.
- After the field representative left the establishment, all of the licenses were located in the back of the notebook, and a copy of the licenses has been provided.
- As for the oversight regarding the final disposition timeline, the Respondent states that the wording regarding 180 vs. 120 days was found on a previous audit and rectified during that time. The field representative reviewed contracts executed prior to the correction of the error.
- As for the allegations regarding alternative containers on the Casket Price List and General Price List, the Respondent believes the field representative gave a narrow application to the FTC rule on alternative containers.

History:

- No prior complaints.

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 Anita Taylor

Adopted by voice vote

6. Case No.: L12-FUN-RBS-2012015851**Complaint:**

- On February 8, 2012, a field representative conducted a routine inspection of the Respondent establishment.
- General Price List
 - o The FTC required price range of caskets on the General Price List was incorrect when compared to the price of caskets on the Casket Price List.
 - o The FTC required Immediate Burial price range was incorrect on the General Price List when compared to the price of caskets on the Casket Price List.

- The Immediate Burial “with Victory West Cloth Covered Casket” was incorrect because the Victory West Cloth Covered Casket was not offered for sale and listed on the Casket Price List.
- Statement of Funeral Goods and Services Selected
 - SFGSS failed to provide a description of services selected, failed to provide description of merchandise selected, and failed to provide reason for embalming when an embalming fee was charged.
- Cremations
 - During the inspection, it was determined that the Respondent conducted approximately eight (8) cremations for 2011 and none (0) year to date for 2012.
 - Upon inspecting the eight (8) cremation authorization forms for 2011, it was determined that in three (3) of the forms, the owner (who is not a licensed funeral director) signed the cremation authorization forms as if they were a licensed funeral director.
- Business Cards
 - The Respondent provided a business card which included the name of three (3) individuals, two (2) of which were the owners who are not licensed funeral directors or embalmers, and gave no indication that they were unlicensed individuals.
- Crematory Utilized
 - Respondent failed to provide a copy of the latest inspection report or current license of the crematory utilized by this establishment.
- Cremation Authorization Forms
 - Three (3) Cremation Authorization Forms lacked a signature of a licensed funeral director.

Response:

- The funeral director of record responded on behalf of the Respondent.
- The Respondent admits to the violations; however, they state that the three (3) cremation authorization forms that were found to contain the signature of the unlicensed funeral home owner were changed by the owner of the crematorium after the paperwork had been sent from the Respondent.
- The Respondent provided a copy of the Cremation Authorization Forms that were allegedly changed, and a copy of the funeral home owner’s real signature; however, it is unclear whether the signature was forged or whether the Respondent funeral home owner actually signed the document while not a licensed funeral director.

History:

- Four (4) prior closed complaints, one (1) related.
 - 2005042711 (closed) – Violation of Funeral Rule.
 - Presented to Board: March 14, 2006.
 - Closed: May 12, 2006.
 - Board Action: Consent Order with \$250.00 civil penalty.

- 2006045751 (closed) – Assisting an individual in obtaining a funeral director's license under false pretenses. Apprentice not working 40 hours per week.
 - Presented to Board: April 10, 2007.
 - Closed: April 11, 2007.
 - Board Action: Closed.
- 2008026081 (closed) – Solicitation.
 - Presented to Board: February 10, 2009.
 - Closed: May 1, 2009.
 - Board Action: Consent Order with \$1,000.00 civil penalty.
- 2009010651 (closed) – Unprofessional conduct, unnecessary charge for homicide autopsy, interference with removal of decedent's remains, and \$1,175.00 consultation charge.
 - Presented to Board: September 8, 2009.
 - Closed: September 17, 2009.
 - Board Action: Dismiss.

Recommendation:

- Consent Order with \$1,000.00 civil penalty and authorization for hearing.

A motion was made by Jane Gray Sowell to take the following action:

- Consent Order with \$3,000.00 civil penalty and authorization for hearing.

Seconded by W. T. Patterson

Adopted by voice vote

Voting contrary to the conclusion: Anita Taylor

7. Case No.: L12-FUN-RBS-2012016041**Complaint:**

- On June 13, 2012, a field representative conducted a routine inspection of the Respondent establishment.
- Changes 0660-01-.03
 - The Respondent's signage provided a name other than the exact name that is listed on the establishment application approved by the Board.
- Public Areas 0660-11-.04
 - The establishment's visitation rooms A & B both need an overall cleaning.
 - Clutter is evident in every area of each room with empty boxes, dirty clothing, open products, cigarettes, change, shoes, and plastic clothes hangers all over the floor. Also, empty caskets are visible to consumers lacking a price or description.
- Preparation Room 0660-11-.02

- Embalming table not cleaned with soiled sheet left on it.
- Soiled linen on floor, piled up on container.
- Bottled product not put away properly.
- Misleading, deceptive or unfair, acts or practices 0660-11-.06
 - One (1) unit in the casket selection room being offered to the consumer has a price inconsistent with the Casket Price List.

Response:

- Changes 0660-01-.03
 - Respondent states that he is not aware of the name being different on the establishment sign and the establishment registration.
 - The field representative provided a photograph of the sign, and the name is different than what was included in the establishment application.
- Public Areas 0660-11-.04
 - Respondent states that the empty caskets are and were on their Casket Price List.
 - One of the caskets is a wooden casket and was placed in the hallway as there was no room in the Casket Selection Room and a family wanted to see it a few days prior to the field representative inspecting the establishment.
 - As to the clutter, the Respondent had just changed clothes in room B and put his suit on to go on a house call that had come in just before the field representative got to the establishment.
 - There were two (2) boxes in the room as the Respondent had ordered some items, and the crematorium had caught on fire eleven (11) days prior to the inspection, and the Respondent had not had time to remove the items from the boxes to install them.
 - There were four (4) or five (5) hangers on the floor of the visitation room and they had only been placed there as the Respondent changed clothes to go on a house call.
- Preparation Room 0660-11-.02
 - As for the preparation room, the room was clean and the sheet was folded up and placed nicely on the table and not unfolded and spread across the table.
 - The sheet was placed on the table in preparation of the house call, but the body already had a sheet with it, and the sheet on the table was placed at the decedent's feet and never used. The Respondent believes there is nothing improper about placing a sheet on the table.
 - The field representative found a hair on the preparation table, but it was actually greenery from a casket spray where a body was held in a casket in the preparation room while the family waited for permission to bury the body in a particular cemetery.

- As for the soiled linen in the preparation room, there was a cot cover on the floor and a pillow on top of it with a piece of dark foam beside it from a make-up case.
- Neither the pillow nor the cot covers were soiled, so there was nothing soiled in the preparation room as a mortuary company conducts the embalmings.
- Misleading, deceptive or unfair, acts or practices 0660-11-.06
 - This was a typographical error that was made when updating the 2012 casket price list, and would have benefited the consumer, not the funeral establishment.

History:

- Six (6) closed complaints, none related.
 - 2005025121 (closed) – Violation of 62-5-107, 62-5-308(d), and 0660-06-.02.
 - Present to Board: August 9, 2005.
 - Closed: December 1, 2005.
 - Board Action: Consent Order with \$500.00 civil penalty.
 - 2005028101 (closed) – Violation of 62-5-313(d)(2), 62-5-107, and 62-5-509.
 - Present to Board: October 11, 2005.
 - Closed: March 15, 2006.
 - Board Action: Consent Order with \$1500.00 civil penalty.
 - 2006030161 (closed) – Violation of Funeral Rule.
 - Present to Board: September 12, 2006.
 - Closed: November 20, 2006.
 - Board Action: Consent Order with \$250.00 civil penalty.
 - 2007069771 (closed) – Commingling of Cremains.
 - Present to Board: November 13, 2007.
 - Closed: January 25, 2008.
 - Board Action: Consent Order with \$500.00 civil penalty and Letter of Warning.
 - 2009014361 (closed) – Discrepancies on SFGSS and price lists.
 - Present to Board: October 16, 2009.
 - Closed: December 18, 2009.
 - Board Action: Consent Order with \$500.00 civil penalty.
 - 2010028481 (closed) – Requirements for Crematory.
 - Present to Board: February 8, 2011.
 - Closed: February 9, 2011.
 - Board Action: Letter of Warning.

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

8. Case No.: L12-FUN-RBS-2012016151

Complaint:

- The Complainant works for a local hospital and claims that the Respondent claims the hospital causes undue stress on family members of the deceased.
- Respondent states that after a death, the family members have to come to the funeral home to sign a release form so that the funeral home can retrieve the body from the morgue, which is the county morgue located in the basement of the hospital, and is a separate entity altogether from the hospital.
- The Complainant claims that the Respondent told them that if they really cared about the family members of the deceased, they would not have them sign a consent form to release their loved one.
- The Complainant explained, and the director of the morgue confirmed, that the consent form is a policy of the morgue and not the hospital.

Response:

- Respondent's attorney provided the response.
- The Complainant does not allege any statutory, regulatory, criminal, or licensing offenses or violations.
- The Complainant is a patient advocate and is not a consumer of the Respondent's and the Respondent has not provided any services to the Complainant or their family.
- Respondent has been involved in providing services to bereaved families for over thirty-five (35) years.
- Respondent regularly retrieves bodies from the morgue and has a good working relationship with employees there.
- The county requires a form titled "Request to Release Body", and a signature of a family member is required.
- On July 20, 2012, Respondent had never been advised that a family member was not required to sign the "Request to Release Body" form.
- The Respondent was on the phone with Complainant and asked the Complainant why the hospital does not make arrangements with family members for the body to be released to a mortuary when they are processing paperwork after the death.
- After a heated conversation, the Complainant filed this complaint with the Board.
- Respondent made the telephone call in question in an attempt to improve the manner in which bodies are processed for the betterment of bereaved families.

Note:

- The Complainant's supervisor contacted the Board and asked that the complaint be dismissed due to the complaint being filed over a misunderstanding.

History:

- No prior complaints.

Recommendation:

- Dismiss.

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

Seconded by Tony Hysmith

Adopted by voice vote

9. Case No.: L12-FUN-RBS-2012016181

Complaint:

- The Complainant filed a complaint with the Board claiming the Respondent was advertising a pet crematory and human funeral service on the same location.
- The Complainant received a check for services rendered for the Respondent by the Complainant.
- The Respondent's check shows the name of the animal cremation business and their human cremation business.
- The Complainant claims that the address given on the check is the same for the human services and pet services.

Response:

- Respondent states that the items printed on their checks do not amount to advertising.
- The check does not advertise pet death needs, but simply bears the name of both businesses that use the funds in the associated account.
- Respondent fully understands that the advertisement of pet death care services and human death care services together are prohibited and they have made every effort to avoid such infractions in all printed advertisements; however, they have not considered their checking account to be a form of advertisement.
- Respondent states that they have separated the human and animal services in all of their print advertising.

History:

- One (1) closed complaint, related.

- 2012004031 (closed) – Allegations of advertising pet death needs and human death care needs in the same literature.
 - Presented to Board: July 10, 2012.
 - Closed: July 20, 2012.
 - Board Action: Letter of Warning.

Recommendation:

- Letter of Caution.

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

Seconded by Anita Taylor

Adopted by voice vote

10. Case No.: L12-FUN-RBS-2012016861**Complaint:**

- On April 17, 2012, a field representative conducted a routine inspection of the Respondent establishment.
- Crematory Facilities 62-5-107
 - A cremation authorization form signed by an authorizing agent or agents also signed and dated by the funeral director must be in all cremation files and retained at the funeral establishment; however, the Respondent failed to provide a copy of this document in two (2) files.
- Misleading, Deceptive or Unfair, Acts or Practices 0660-11-.06
 - On all Statements of Funeral Goods and Services Selected, the merchandise and its description must be shown on the contract before the consumer signs the contract. Of the files reviewed, three (3) files lacked this information on the SFGSS.
- Records 0660-11-.07
 - This establishment could not produce any of the SFGSS contracts that had been completed since the last examination. They were not available for review at the time of inspection.

Response:

- Due to a flood at the funeral establishment, all files were removed and re-located at a secondary location for safe keeping on January 5, 2012.
- While the flood damage was repaired by February 7, 2012, the funeral files remained at the secondary location.
- Since the files were still in the secondary location, documentation could not be produced to show proof in regards to cremation authorization forms or SFGSS.

- As for the SFGSS lacking a description of the merchandise purchased, Respondent states that they listed a casket on a contract that was a rental casket, but the description was accidentally left off the contract.
- The funeral files have since been returned to the appropriate location.

History:

- One (1) closed complaint, not related.
 - o 2008018641 (closed) – Violation of Funeral Rule as SFGSS did not contain reason for embalming and had incorrect establishment name. Furthermore, no copy of license of crematory utilized by establishment.
 - Presented to Board: February 10, 2009.
 - Closed: February 25, 2009.
 - Board Action: Letter of Warning.

Recommendation:

- Letter of Warning.

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

Seconded by Anita Taylor

Adopted by voice vote

11. Case No.: L12-FUN-RBS-2012016871**Complaint:**

- On June 4, 2012, a field representative conducted a routine examination of the Respondent establishment.
- Alternative Containers - Misleading, Deceptive or Unfair, Acts or Practices 0660-11-.06
 - o GPL – Under Direct Cremation – the Pacific Pine and Shaker Pine do not meet the guidelines for alternative containers and should not be offered as such to the public.
 - o SFGSS – Nine (9) SFGSS failed to include the merchandise and a description of such merchandise prior to the consumer signing the document.
- Licensing 62-5-306
 - o Three (3) individuals failed to provide a copy of their funeral director's license for inspection.
- Licensing 62-5-308
 - o Four (4) individuals failed to provide a copy of their embalmer's license for inspection.
- Cremation Authorization Forms 62-5-107
 - o Four (4) files reviewed failed to contain a copy of the Cremation Authorization Forms.

- Final Disposition 62-5-508
 - o The Respondent's Cremation Authorization Forms state that cremains may be interred after one hundred and twenty (120) days; however, that language should read one hundred and eighty (180) days.

Response:

- Alternative Containers
 - o Respondent believes the field representative's reading of the Funeral Rule regarding alternative containers is very narrow, selective and incomplete.
 - o Respondent states that their Pacific Pine and Shaker Pine are made of non-metal material and have crepe material linings.
 - o SFGSS – As for the nine (9) SFGSS without a description of the merchandise purchased, the Respondent states that the field representative failed to cite any statute to support an alleged violation.
- Licensing
 - o All licenses for funeral directors and embalmers were available for review before the field representative left the premises, and the Respondent has provided a copy of those documents for the Board to review.
- Cremation Authorization Forms
 - o Respondent states that they keep a copy of the Cremation Authorization Forms in each case; however, they were recently made aware that the Cremation Authorization Forms in question failed to contain a carbon copy of all fully executed Cremation Authorization Forms.
- Final Disposition
 - o The field representative reviewed old contracts that still contained one hundred and twenty (120) days as opposed to the correct one hundred and eighty (180) days.

History:

- Two (2) closed complaints, not related.
 - o 2005014731 (closed) – Complainant charged for items or services not selected, not satisfied with the embalming of wife's body, and greatest concern related to the rudeness and unprofessional conduct of funeral director.
 - Presented to Board: August 9, 2005.
 - Closed: October 17, 2005.
 - Board Action: Letter of Warning
 - o 2011019241 (closed) – Violation of 62-5-106, 62-5-317(b)(1) and (2) (Advertising).
 - Presented to Board: November 8, 2011.
 - Closed: February 7, 2012

- Board Action: Consent Order with \$500.00 civil penalty.

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 W. T. Patterson

Adopted by voice vote

12. Case No.: L12-FUN-RBS-2012016951**Complaint:**

- On April 17, 2012, a field representative conducted a routine inspection of the Respondent establishment.
- Misleading, Deceptive or Unfair, Acts or Practices 0660-11-.06
 - o SFGSS – Four (4) files randomly selected for review failed to provide a reason for embalming as required by the Funeral Rule.
- Crematory Facilities 62-5-107
 - o The Respondent failed to provide a copy of the license and latest inspection report for the crematory utilized by this Respondent.
- Use of Names of Unregistered Individuals 62-5-314
 - o Three (3) employees wear nametags that lack an official title, and none of these individuals are licensed professionals.

Response:

- SFGSS – the manager of record was on sick leave and allowed his son to act as the manager in his place; however, the son is not accustomed to filling out SFGSS and therefore overlooked the section regarding the reason for embalming.
- Crematory – Respondent states that it is difficult to ask for a copy of the crematory's license or latest inspection report because they are not aware of the crematory's scheduled inspection; however, the Respondent provided an updated copy to the field representative prior to the completion of the inspection.
- Names of unregistered individuals – Respondent states that the name badges are not worn outside of visitations or services and are only used so that the public may identify the employees; however, the Respondent has ordered new name badges that have the name and title of the employee.

History:

- No prior complaints.

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

13. Case No.: L12-FUN-RBS-2012016991**Complaint:**

- On June 14, 2012, a field representative conducted a routine inspection of the Respondent establishment.
- Funeral Rule 0660-11-.06
 - o CPL – (1) Stratus with no interior, (2) brown standard with no interior, and (3) minimum cardboard container with no interior are recognized as alternative containers; yet, they are not listed on the GPL as alternative containers.
 - o GPL – the Pacific Pine and Bayview Beech should not be offered to the public as Alternative Containers, as they do not meet the requirements for alternative containers under the Funeral Rule.
 - o SFGSS – Nine (9) randomly selected funeral files failed to provide the merchandise and a description of that merchandise prior to the consumer signing the contract.

Response:

- Respondent states that the field representative specifically claims that the alternative containers described on the CPL as (1) Stratus with no interior, (2) brown standard with no interior, and (3) minimum cardboard container with no interior are not listed on the GPL and believes this is an incomplete reading of this section of the CPL.
- As for the Pacific Pine and Bayview Beech not meeting the alternative container requirements, the Respondent believes this to be a narrow, selective, and incomplete reading of the GPL section.
- SFGSS – As for the nine (9) SFGSS without a description of the merchandise purchased, the Respondent states that the field representative failed to cite any statute to support an alleged violations.

History:

- Two (2) closed complaints, not related.
 - o 2009001281 (closed) – Misrepresentation and fraud in the conduct of business

- Presented to Board – July 14, 2009
- Closed – July 16, 2009
- Board Action – Dismissed Complaint
- 2011003051 (closed) – Complainant believed they were bullied by manager.
 - Presented to Board – July 12, 2011
 - Closed – July 13, 2011
 - Board Action – Dismissed.

Recommendation:

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

A motion was made by Wayne Hinkle to table and asked for original policy.

Seconded by W. T. Patterson

Adopted by voice vote

14. Case No.: L12-FUN-RBS-2012017001**Complaint:**

- On June 21, 2012, a field representative conducted a routine inspection of the Respondent establishment.
- Requirements for Operation 62-5-313
 - According to the funeral director / manager, Respondent has been using the tag that is attached to files for two (2) months, which are hospital tags, and were not approved by the State Board.
- Crematory Facilities 62-5-107
 - The latest inspection report for the crematory utilized by the Respondent was not available for inspection.
- Funeral Rule 0660-11-.06
 - On the GPL – the low end range for outer burial containers does not agree with the OBCPL.
 - GPL – under direct cremation with alternative container, the price is inconsistent with the CPL.
 - GPL – under immediate burial, the high end range is inconsistent with the CPL.
 - GPL – under transfer of remains to the funeral home within X miles radius and also beyond this radius we charge X, must be added to the GPL.
 - GPL – under immediate burial with Octagon cloth covered wood casket the price is inconsistent with the CPL.
 - OBCPL – the effective date must be added.
 - OBCPL – the heading “Outer Burial Container Price List” must be added.

- OBCPL – the description of each outer burial container must be added.
- SFGSS – reason for embalming was not completed on one (1) contract.
- SFGSS – description of merchandise was not added before the consumer signed on one (1) contract.
- SFGSS – Two (2) files reviewed lacked a copy of the SFGSS.
- CPL – In lieu of a Casket Selection Room, the Respondent used a catalogue form for the consumer selection of merchandise; however, five (5) units are priced inconsistently from the CPL.

Response:

- Respondent provided a copy of corrected documents.

History:

- Three (3) closed complaints.
 - 2006031931 (closed) – Violation of FTC, 62-5-306(d), 62-5-308(d), 62-5-312(2), 62-5-313(e).
 - Presented to Board – September 12, 2006
 - Closed – July 2, 2010
 - Board Action – Consent Order with \$750.00 civil penalty
 - 2010027861 (closed) – Violation of 62-5-316(a), 62-5-313(a), 62-5-317(a)(5)(b)(6) & 62-5-303(a)(1), 62-5-107(2), 62-5-313(d)(1), 62-5-306(d) & 62-5-308(d), and 0660-01-.02 (documents on wrong size paper).
 - Presented to Board – December 14, 2010.
 - Closed – February 1, 2011.
 - Board Action – Consent Order with \$1,000.00 civil penalty.
 - 947672 (closed) – Question concerning the selling and signing of funeral bill.
 - Presented to Board – May 12, 1997
 - Closed – October 14, 1997
 - Board Action – Not Applicable.

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

15. Case No.: L12-FUN-RBS-2012017021
Complaint:

- On July 12, 2012, a field representative conducted a routine inspection of the Respondent establishment.
- Funeral Rule 0660-11-.06
 - o Two (2) caskets in the Casket Selection Room do not appear on the CPL.
 - o The “23rd Psalm Poplar” (\$2,895.00) and the “20 Gauge Gasketed Aqua” (\$1,695.00) do not appear on the CPL, but are in the Casket Selection Room.
 - o Furthermore, upon request by the field representative for the CPL, GPL, and OBCPL, the manager provided a different GPL and CPL than the ones later stated to be the current price lists.
 - o All of the price lists bore an effective date of April 1, 2012, but the price for embalming is different and there appeared to be pricing irregularities regarding Direct Cremation.
 - o Also, the manager stated that while he was the manager of record at the location in question, he had actually been working at another location for the preceding two (2) months.
 - o Note: The manager stated that he had just received his renewed funeral director’s / embalmer’s licenses at home the week prior, and did not have them at the funeral home for review; however, the field representative did not cite the manager for this act, and allowed the manager to go home and pick up his license.
 - o The Respondent did not receive a citation for the licenses not being available for inspection since the licenses had recently been renewed.

Response:

- Respondent states that they were in the process of changing casket manufacturers for the selection room and the two (2) caskets missing on the CPL had not been replaced by the manufacturer.
- As for the GPL and CPL, the lists were inadvertently given to the field representative, the lists were actually from a different funeral home that had just changed their price lists, but they had a coversheet with the Respondent’s name on it.
- The contracts and price lists later given to the field representative contained the correct prices.

History:

- Two (2) closed complaints.
 - o 2010001301 (closed) – 62-5-306(d) & 62-5-308(d) – FD and EMB licenses not available for inspection, 62-5-107 – cremation

authorization form lacked FD signature and information regarding crematory.

- Presented to Board – April 13, 2010
- Closed – June 2, 2012
- Board Action – Consent Order with \$350.00 civil penalty.
- 2008011271 (closed) – Violation of FTC 0660-06-.02 & 0660-06-.03
 - Presented to Board – July 8, 2008.
 - Closed – August 27, 2008.
 - Board Action – Consent Order with \$350.00 civil penalty.

Recommendation:

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

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

Seconded by Wayne Hinkle

Adopted by voice vote

16. Case No.: L12-FUN-RBS-2012017131

Complaint:

- On July 27, 2012, the Board received a complaint that the Complainant was contacted by the Respondent company and asked to provide cremation services and transfer out to their company.
- Complainant was informed that the body was at another local funeral home.
- The Complainant became suspicious and conducted research regarding the Respondent company and found that the Respondent gave the public the impression that they had been in business in the area for twenty (20) years.
- The Complainant was not familiar with the Respondent company and believes they are conducting unlicensed activity.

Response:

- No response was received from the Respondent.

History:

- One (1) open complaint
 - 2012011351 (open) – Unlicensed activity.
 - Presented to Board – August 14, 2012
 - Board Action – Consent Order \$1,250.00 civil penalty and authorization for hearing and Cease and Desist Order.

Recommendation:

- Consent Order with \$1,000.00 civil penalty plus \$250.00 for no response (\$1250.00 total civil penalty) and authorization for hearing. Also, send a Cease and Desist Order.

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

Seconded by Jane Gray Sowell

Adopted by voice vote

Note: Mr. Patterson exited the meeting at 12 Noon during discussion of this complaint.

17. Case No.: L12-FUN-RBS-2012017141**Complaint:**

- The decedent's son filed this complaint July 23, 2012.
- On April 17, 2012, the decedent's body was transported from the Regional Medical Center to the Respondent establishment.
- At just after 6:00 p.m. on April 17, 2012, the decedent's wife signed a release to allow cremation, and was informed that the cremation would occur the next day.
- Shortly after the release was signed, the establishment was damaged by fire, which reportedly started in the cremation equipment.
- The Complainant found out about the fire by watching the local news.
- The Complainant states that no employee contacted him regarding the condition of the decedent, and one employee stated that the decedent's body was intact in another location of the funeral establishment.
- Over the next two days, the Complainant discovered, in speaking to the Respondent's attorney, that the decedent's cremation process commenced on April 17, 2012, and the remains were still in the retort.
- Complainant contacted another establishment to recover the remains, and an employee of the second establishment contacted the Complainant from the Respondent establishment with concerns regarding the procedures not properly followed.
 - o Complainant states that the decedent was large (6'6" and 450 lbs) and fragments of wood were found with the cremains.
 - o The metal ID tag was photographed outside of the chamber, instead of being included inside the chamber.
 - o The cremation log shows that prior cremations were logged regarding exact start time and date; however, the decedent's cremation lacks a specific start / end time.

- The decedent's wife was told the body would not be cremated prior to April 18, 2012, but it appears the cremation took place on April 17, 2012.
- The death certificate was incomplete prior to the start of the cremation, and the cremation authorization form was not completely filled out and submitted.
- The Respondent at no time apologized and never explained why the decedent was cremated so early. Furthermore, they did not offer to refund or cancel the check provided by the Complainant, so he ordered a stop payment on the check.

Note: Mr. Patterson returned to the meeting at 12:05 P.M.

Response:

- Decedent was fifty-nine (59) years old and lived alone when EMS declared him deceased at approximately 8:30 A.M. on April 16, 2012.
- Decedent may have been deceased as early as the afternoon of April 15, 2012.
- Decedent was taken to the local morgue and kept in an unrefrigerated environment prior to the Complainant enlisting the services of the Respondent.
- The Complainant met with Respondent and did not advise them that the decedent was a large man (6'6" tall and 450 lbs), nor the amount of time that may have passed from the decedent's death until he was discovered on April 16, 2012.
- Arrangements were made for embalming with a service and viewing; however, when Respondent's employee took possession of the decedent at 4:10 P.M. on April 17, 2012, the decedent's body was found to be in an advanced stage of decomposition with body fluids oozing and a strong, unpleasant odor.
- The funeral director determined that embalming / public viewing would not be possible and informed the Complainant of this matter. The Complainant became upset, but later agreed to cremating the body with a memorial service.
- The Complainant asked to view the decedent's body, but he was advised against that, and was told by the funeral director that the cremation would occur on April 18, 2012.
- The funeral director informed an employee of the cremation plans; however, unbeknownst to the funeral director, this employee was of the opinion that the body should be cremated as soon as possible because it would not fit into the cooler and was emitting strong odors that may be offensive to guests.
- The employee arranged for the medical examiner to come by the establishment to sign the Cremation Permit (the Respondent did not provide the original cremation permit, as it was lost in the fire, but the Medical Examiner provided an affidavit stating that they did indeed come

- by the establishment to sign the original document prior to 6:00 p.m. on April 17, 2012).
- Furthermore, a representative of the county health center came to the establishment to sign the Cremation Permit as well (this employee provided an affidavit as well stating that they did indeed come by the establishment to sign the original document prior to 6:00 P.M. on April 17, 2012).
 - The employee stated that the decedent's body was placed in the retort around 6:00 P.M. on April 17, 2012, and the fire was discovered at 6:30 P.M.
 - During the fire, there were fourteen (14) bodies in the establishment, along with several guests and staff.
 - All of the guests, staff, and bodies were removed from the establishment without injury; however, the decedent's remains were later discovered already in the retort.
 - After the fire, the Complainant contacted the Respondent, and the funeral director instructed the Complainant that they believed the body was in another location within the establishment and not yet cremated; however, the funeral director was at that time unaware of the employee's actions regarding the cremation.
 - Due to the Complainant's demeanor, the Respondent believed it was better that their legal counsel communicate with the Complainant.
 - The Complainant was informed that the remains were already in the retort and several conversations took place between the Complainant and the Respondent's counsel regarding the next steps in removing the decedent's cremains.
 - The Complainant contacted another funeral establishment, and it was agreed that an employee of that new establishment and legal counsel for Respondent would be on site to observe the transfer of the cremains to the new funeral establishment.
 - Electricity was restored to the establishment, the retort was then opened, and it was discovered that the decedent's body was approximately 95%-98% cremated.
 - The new funeral establishment took possession of the cremains and the Respondent provided proof that their account was debited according to the credit card company when the Complainant disputed the charges on his credit card (he never provided the Respondent with a check, only credit card) and the Respondent never received payment for their services.
 - The decedent's wife signed the cremation authorization.
 - The Respondent never told the Complainant that the decedent's body was definitely intact, only that they believed it was safe in another section of the establishment.
 - Respondent understands that Complainant changed his mind and wished to view the decedent, but the body had already been placed in the retort at that time.

- Respondent is not aware of procedures they should have acted on differently as they used the wood bottom of an air tray to transfer the decedent's large body into the retort and the Respondent employee was given high marks by the second funeral establishment for his actions in transferring the cremains, and is now employed by that funeral establishment.
- Respondent regrets not being able to provide embalming / viewing, but the body was in poor condition by that time such that it was impossible to embalm the body.
- Respondent believes it did nothing wrong by attaching the identification tag to the outside of the retort while the body was being cremated.
- Respondent denies that the cremation process took place prior to all required documents being completed, and provided affidavits from the parties required to sign those documents.

History:

- Seven (7) closed complaints, not related; two (2) open complaints, not related.
 - o 200706981 (closed) – Aiding and abetting unlicensed activity.
 - Presented to Board – October 9, 2007.
 - Closed – January 25, 2008.
 - Board Action – Consent Order with \$1,000.00 civil penalty.
 - o 2007077631 (closed) – Bone fragments left in cremains.
 - Presented to Board – October 9, 2007.
 - Closed – October 12, 2007.
 - Board Action – Dismissed.
 - o 2009003891 (closed) – Competitor alleged misrepresentation in advertisement.
 - Presented to Board – June 9, 2009.
 - Closed – June 22, 2009.
 - Board Action – Dismissed.
 - o 2009017951 (closed) – Allegations by consumer of unprofessional conduct.
 - Presented to Board – April 13, 2010.
 - Closed – April 21, 2010
 - Board Action – Dismissed.
 - o 2010018871 (closed) – Errors on OBCPL, SFGSS not completed correctly.
 - Presented to Board – October 12, 2010.
 - Closed – November 1, 2010.
 - Board Action – Consent Order with \$250.00 civil penalty.
 - o 2011000581 (closed) – unlicensed employee on website
 - Presented to Board – April 12, 2011.
 - Closed – June 10, 2011.
 - Board Action – Consent Order with \$500.00 civil penalty.

- 2012000861 (closed) – Former employee asked that his name / picture be removed from website.
 - Presented to Board – May 8, 2012.
 - Closed – May 11, 2012.
 - Board Action – Closed.
- 2012007161 (open) – Complainant alleges illegal advertisement.
 - Presented to Board – August 14, 2012.
 - Closed – September 5, 2012.
 - Board Action – Letter of Warning.

Recommendation:

- Dismiss. It does not appear as if the Respondent has violated any rules or regulations.

Note: Ms. Sowell recused herself regarding this complaint.

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

Seconded by Anita Taylor

Adopted by voice vote

18. Case No.: L12-FUN-RBS-2012017821**Complaint:**

- On the morning of Sunday, May 27, 2012, the Complainant and her daughter found the decedent's husband deceased in his bedroom.
- After several attempts at reaching the funeral home, the decedent's niece went to the home of the owner, who was at church that morning, and contacted an employee to retrieve the decedent's body.
- The employee brought a stretcher that was too long to fit down the hallway, so he attempted to carry the decedent's body to the stretcher, and the Complainant believes he almost struck the head of the decedent against the door facing.
- The Complainant and the decedent paid for funeral arrangements several years ago, and the Complainant provided the Respondent with all information requested, except the Respondent never asked for the decedent's date of birth and left it off of the programs.
- On Tuesday, the Complainant states that she contacted the Respondent about the viewing and bringing clothes for the burial and states that the Respondent said that would be fine and the embalmer would not be there until later that afternoon and it may be 8 or 9 o'clock on Tuesday evening when they could conduct a viewing.
- The Complainant states that she asked that an obituary be placed in their town and a neighboring town so that their friends would be notified of the

- decedent's passing, but the Complainant states that the obituary was in their local paper, but never published in the paper of the neighboring town.
- At the service, the Complainant states that the program contained many errors, and an employee of the establishment made copies of corrected programs to give to the guests.
 - Complainant states that there was no order during the visitation and service, as they felt rushed through the visitation and they were not instructed on where each family member should stand.
 - Complainant claims this is the first time she's planned a funeral service or been a part of a funeral service, and she did not know what to expect; however, she believes she and her family should have been treated better than this.

Response:

- Respondent states that there was a slight delay in retrieving the decedent from his home, as the establishment employees were at church that morning.
- An employee went to the decedent's home and was transferring his body from the bed to the stretcher, but the Complainant kept impeding the employee's path to the stretcher and believed it was necessary to cover the decedent's head with her hand, even though his head would not strike the door facing.
- The Complainant sent all of the pertinent information to the funeral home years ago, but she sent all of the information again following her husband's death and acted like the Respondent did not already have all of the information.
- The Complainant and Respondent agreed upon sending the obituary to the local newspaper and neighboring newspaper; however, unbeknownst to the Respondent, the e-mail address given by the neighboring newspaper was a bad address, but they were not aware of that until the day of the funeral.
- Many of the Complainant's family members informed the Respondent that they felt the Complainant was embarrassed that more people were not present at the funeral service and lunch, so she filed this complaint.
- As for typographical errors, the Respondent states that they always strive for perfection, but they did make some mistakes and took steps to remedy those mistakes.
- As for the visitation, the Respondent states that they instructed the Complainant that she could attend visitation on Tuesday night, but she decided to attend Wednesday morning prior to the funeral service, and the embalmer had performed the embalming on Sunday night, but was not going to dress the decedent until Tuesday night, since the service was on Wednesday.
- As for the order at the service and visitation, the Respondent states that they always instruct family members where to stand; however, they

ultimately leave it up to the family as to standing where they are comfortable.

- Furthermore, there was a lot of disagreement in the family, as the Complainant's step-son had to interrupt while she was arguing with another family member as the funeral service was delayed until she took her seat.
- Finally, the Respondent states that this is not the Complainant's first funeral service, as she buried her first husband several years prior while using the Respondent funeral establishment.

History:

- Four (4) closed complaints.
 - o 200708957 (closed) – permanent identification device (62-5-313(d)(1)) and Funeral Rule violations 0660-06-.02.
 - Presented to Board – February 12, 2008.
 - Closed – July 1, 2008.
 - Board Action – Consent Order with \$350.00 civil penalty.
 - o 2009016991(closed) – Complainant stated Respondent did not return jewelry.
 - Presented to Board – January 12, 2010.
 - Closed – January 14, 2010.
 - Board Action – Dismissed.
 - o 2009021521 (closed) – Inspection report not available 62-5-107 and ownership discrepancies 0660-03-.08 & 0660-04-.03.
 - Presented to Board – January 12, 2010.
 - Closed – January 11, 2011.
 - Board Action – Consent Order with \$250.00 civil penalty.
 - o 2010027801 (closed) – 62-5-303(a)(1), 62-5-306(d), 62-5-316(a), 62-5-313(a), 62-5-317(a)(5)(b)(6), licenses of two (2) individuals expired, including manager.
 - Presented to Board – November 9, 2011.
 - Closed – January 24, 2011
 - Board Action – Consent Order with \$250.00 civil penalty.

Recommendation:

- Dismiss.

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

Seconded by Wayne Hinkle

Adopted by voice vote

The Board recessed at 12:16 P.M.

The Board reconvened at 12:34 P.M.

SUNSET HEARING REVIEW REPORT:
CLARK McKINNEY AND ROBERT GRIBBLE

President Clark McKinney and Robert Gribble attended the Public Hearing of The Commerce, Labor, Transportation & Agriculture Joint Subcommittee of Government Operations, Sunset Hearing on October 2, 2012. President Clark McKinney and Robert Gribble answered several questions concerning the Board of Funeral Directors and Embalmers and Director Gribble followed up with a letter that was sent on October 3, 2012 to the Joint Subcommittee of Government Operations.

ADMINISTRATIVE MATTERS:
ROBERT B. GRIBBLE, EXECUTIVE DIRECTOR

LICENSEE REPORT:

**REPORT OF LICENSES ADMINISTRATIVELY APPROVED BY EXECUTIVE
DIRECTOR PURSUANT TO BOARD AUTHORITY FOR THE PERIOD OF
AUGUST 14, 2012 – OCTOBER 8, 2012**

Establishments

Serenity Funeral Home & Cremation Center, LLC Cleveland, TN	New Establishment
R. S. Lewis & Sons Funeral Home Memphis, TN	Change of Ownership
Williams Funeral Home & Crematory Columbia, TN	Changes of Name and Location

Individuals

Kevin Frank Gilbert Franklin, KY	Funeral Director/Embalmer Reciprocity
Jarred W. Swedlund Nashville, TN	Funeral Director/Embalmer Reciprocity
Kailee Bridges Howard Oneida, TN	Funeral Director
John Charles McNeeley	Funeral Director

LaFollette, TN

Roy Thomas Williams, Jr.
Oneida, TN

Funeral Director
Reciprocity

DISCIPLINARY ACTION REPORT:

**REPORT OF CONSENT ORDERS ADMINISTRATIVELY ACCEPTED/APPROVED
BY THE EXECUTIVE DIRECTOR PURSUANT TO BOARD AUTHORITY FOR THE
PERIOD OF AUGUST 14, 2012 – OCTOBER 8, 2012**

Respondent: Akins Funeral Home, Inc., Copperhill, TN
Violation: Failed to obtain and maintain a copy of the crematory's current license and the latest regularly scheduled inspection results that the funeral home uses
Action: \$250 Civil Penalty

Respondent: Allen Funeral Home, Inc., Morristown, TN
Violation: Conducted numerous funeral services while establishment license was expired, cremation authorization not signed by a funeral director and failed to have funeral director and embalmer licenses available for inspection
Action: \$2000 Civil Penalty

Respondent: George M. Baker, Jr., Madison, TN
Violation: Immoral or unprofessional conduct (altered the beneficiary of an insurance policy that caused the licensee's mother to receive insurance benefits instead of the original beneficiary) and misrepresentation or fraud in the conduct of the business of the funeral establishment
Action: \$1000 Civil Penalty and Suspension of Funeral Director and Embalmer Licenses for 1 Year

Respondent: Michelle G. Curtis, Nashville, TN
Violation: Engaged in the practice of funeral directing without being licensed as a funeral director and allowed her name and title of "funeral director apprentice" to be placed in a funeral program when her apprentice registration was no longer valid
Action: \$500 Civil Penalty

Respondent: Grace Funeral Home, Nashville, TN
Violation: Failed to obtain and maintain a copy of the crematory's current license and the latest regularly scheduled inspection results that the funeral home uses, business card incorrectly

- listed an individual as an apprentice funeral director and failed to comply with multiple aspects of the Funeral Rule
- Action: \$250 Civil Penalty
- Respondent: Heritage Funeral Home & Cremation Services, LLC, Columbia, TN
- Violation: An advertisement failed to include an itemized listing of each and every item, procedure or service and the price of the item
- Action: \$250 Civil Penalty
- Respondent: Holmes Funeral Home, Nashville, TN
- Violation: Failed to clean and sanitize all surfaces, instruments, tables, fixtures and equipment and properly dispose of all waste, failed to maintain the preparation room in an orderly manner, free from all clutter, failed to keep public areas in a good state of repair, failed to obtain and maintain a copy of the crematory's current license and the latest regularly scheduled inspection results that the funeral home uses and failed to comply with multiple aspects of the Funeral Rule
- Action: \$500 Civil Penalty
- Respondent: Lewis & Wright Funeral Directors, Nashville, TN
- Violation: Failed to obtain and maintain a copy of the crematory's current license and the latest regularly scheduled inspection results that the funeral home uses, business cards of unlicensed individuals either gave or tended to give the impression that the individuals were licensed, failed to retain a copy of a cremation authorization and failed to comply with multiple aspects of the Funeral Rule
- Action: \$750 Civil Penalty
- Respondent: Neptune Society, Brentwood, TN
- Violation: Posted a sign on premises that included the establishment name and business hours of operation and published a telephone number prior to being issued an establishment license for operation
- Action: \$500 Civil Penalty
- Respondent: Resthaven Funeral Home & Cremation Services, Clarksville, TN
- Violation: Immoral or unprofessional conduct (establishment filed a certificate of death which contained forgery of the Medical Examiner's signature)
- Action: \$1000 Civil Penalty

Respondent: Roundtree, Napier & Ogilvie Funeral Home, Mount Pleasant, TN

Violation: Failed to timely notify the Board of a new manager, failed to comply with change of ownership requirements, operated an establishment by a different name than that approved by the Board, failed to list the price for a casket and failed to timely respond to a complaint

Action: \$500 Civil Penalty

Respondent: R. S. Lewis & Sons Funeral Home, Memphis, TN

Violation: Aided and abetted an unlicensed person to practice within the funeral profession

Action: \$1000 Civil Penalty

Respondent: Scales Funeral Home, Inc., Nashville, TN

Violation: Failed to obtain and maintain a copy of the crematory's current license and the latest regularly scheduled inspection results that the funeral home uses, failed to distinguish between licensed and non-licensed individuals on business cards and web site, failed to clean and sanitize all surfaces, instruments, tables, fixtures and equipment and properly dispose of all waste, failed to maintain the preparation room in an orderly manner, free from all clutter and failed to comply with aspects of the Funeral Rule

Action: \$500 Civil Penalty

Respondent: Tate Funeral Home, LLC, Jasper, TN

Violation: Cremation authorizations forms not completed correctly and failed to comply with multiple aspects of the Funeral Rule

Action: \$750 Civil Penalty

Respondent: Tetrick Funeral & Cremation Services, Johnson City, TN

Violation: An advertisement that contained comparison competitor pricing failed to include an itemized listing of each and every item, procedure or service and the price of the item

Action: \$500 Civil Penalty

Respondent: Tullahoma Funeral Home, Tullahoma, TN

Violation: Conducted numerous funeral services while establishment license was expired

Action: \$900 Civil Penalty

Respondent: Tullahoma Funeral Home, Tullahoma, 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: Valley Funeral Home, Erwin, TN
Violation: Cremation authorization forms lacked the correct name, address and telephone number of the crematory used by the funeral home
Action: \$1400 Civil Penalty

Respondent: Whispering Winds II, LLC, Winchester, TN
Violation: Conducted business for families while the manager's funeral director license was expired and failed to include the date and time of release on a written receipt of the crematory
Action: \$250 Civil Penalty

OPEN COMPLAINT REPORT:

As of October 8, 2012 there were 121 open complaints.

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

Seconded by Tony Hysmith

Adopted by voice vote

INDIVIDUAL APPLICATIONS:

**Philip Lawrence Charland
Haymarket, VA**

**Funeral Director/Embalmer
Reciprocity**

Upon motion by Wayne Hinkle and seconded by Robert Starkey, based upon application record, this individual was approved for licensure.

Adopted by voice vote

**Roy Thomas Williams, Jr.
Oneida, TN**

**Embalmer
Reciprocity**

Upon motion by Wayne Hinkle and seconded by Robert Starkey, based upon application record, this individual was approved for licensure.

Adopted by voice vote

ESTABLISHMENT APPLICATION:

**CREMATION SOCIETY OF EAST TENNESSEE
116 DURWOOD ROAD
KNOXVILLE, TN**

New Establishment

Ownership: Corporation

**Owner(s): Rose Mortuary, Inc., a Tennessee corporation, 1421 Broadway
Street NE, Knoxville, TN 37917-5702**

Robert Starkey recused himself regarding this establishment application.

Upon motion by Wayne Hinkle and seconded by Anita Taylor, based upon the application record, this establishment was approved for licensure.

Adopted by voice vote

Voting contrary to the conclusion: Tony Hysmith

ADJOURN:

A motion was made by W. T. Patterson to adjourn.

Seconded by Wayne Hinkle

Adopted by voice vote

There being no further business, the meeting was adjourned at 1:22 P.M.

Respectfully submitted,

Robert B. Gribble

Robert B. Gribble, CFSP
Executive Director