

TENNESSEE BOARD OF FUNERAL DIRECTORS AND EMBALMERS

MINUTES OF BOARD MEETING

MAY 14, 2013

President Tony Hysmith called the meeting to order at 10:00 A.M. in Conference Room 1-B, Davy Crockett Tower, Nashville, Tennessee.

Board members present were Tony Hysmith, President; Wayne Hinkle, David Neal, Robert Starkey, and Anita Taylor. Board members absent from the meeting were W. T. Patterson, Vice President; and Jane Gray Sowell.

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 Robert Starkey to approve the Agenda as printed.

Seconded by Wayne Hinkle

Adopted by voice vote

APPROVAL OF MINUTES:

President Hysmith announced that the April 9, 2013 Minutes will be presented for review/approval at the next board meeting.

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

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- 1. Case No.: L13-FUN-RBS-2013000591**
 - 2. Case No.: L13-FUN-RBS-2013000592**

Complaint:

- On January 3, 2013, the Funeral Board received a complaint regarding the Respondent.

- The Complainant alleges that the Respondent was arrested and charged with reckless endangerment and aggravated domestic assault on November 4, 2012.
- A police report provided to Board counsel shows that on November 4, 2012, the Respondent's wife contacted local police regarding an incident that took place on October 28, 2012.
- The wife alleges that during the incident, the Respondent pulled a weapon and fired into the bedroom wall.
- In the report, police note that a bullet hole was visible in the bedroom wall and curtains.
- Based upon this interaction, police officers took the Respondent into custody; however, the Respondent made no comments after his arrest.

Response:

- Respondent provided a response through counsel.
- Respondent stated it should be noted that the Complainant is a direct competitor of the Respondent, and Respondent believes the complaint was filed for an improper motive.
- Respondent has sent a Cease and Desist Letter to the Complainant concerning certain alleged improper activities on the part of Complainant.
- As for the substantive issues addressed in the complaint, it appears that the complaint is that certain misdemeanor charges were filed against the Respondent.
- These charges arose from a domestic difference of opinion and have since been resolved.
- It is anticipated that the pending charges will be dismissed in full with no action against Respondent at the next court hearing.
- Charges arose out of a misunderstanding, and the parties have now come to a more complete understanding of the situation and reconciled their respective views and relationship.
- The next court appearance is set for May 15, 2013.

History:

- One (1) closed complaint.
 - o Complaint No. 2011029961 – Operating an unlicensed establishment.
 - Presented: May 8, 2012
 - Determination: Dismiss.
 - Status: Closed.

Recommendation:

- Respondent #1: Litigation Consent Monitoring Order. Dismiss the complaint if the charges are dismissed.
- Respondent #2: Litigation Consent Monitoring Order. Dismiss the complaint if the charges are dismissed.

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

Seconded by Wayne Hinkle

Adopted by voice vote

3. Case No.: L13-FUN-RBS-2013004011

4. Case No.: L13-FUN-RBS-2013004012

Complaint:

- Respondent contacted the Board's Executive Director on February 14, 2013 to advise:
 - o Respondent has a felony conviction regarding theft.
 - o Has not reported that conviction to the Board.
 - o Plans to report the conviction to the Board within the next few days by sending a narrative of the incident and copies of documents from the Clerk of the Court.
 - o Intends to renew funeral director and embalmer licenses.

Response:

- Respondent notified the Executive Director of these convictions, but failed to provide the narrative as requested.
- He never renewed his licenses.

History:

- No prior complaints.

Recommendation:

- Respondent #3: After review of court documents that have been obtained, the recommendation is to Dismiss.
- Respondent #4: After review of court documents that have been obtained, the recommendation is to Dismiss.

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

Seconded by Robert Starkey

Adopted by voice vote

5. Case No.: L13-FUN-RBS-2013003531

Complaint:

- Complainant states that the Respondent has taken money out of her insurance check that she did not approve, and has been told that the funeral director approved the action.
- Funeral home owner had the family sign blank pages and told them this would not affect their money.
- The step-mother was supposed to pay for the funeral.

Response:

- These allegations are not true as there was a miscommunication between the step-mother and the children regarding arrangements.
- After all of the paperwork was completed, the children changed their mind regarding paying part of the bill.
- The matter has been resolved as the step-mother reimbursed the children and all funds have been properly refunded.

- Step-mother's Response
 - o The step-mother wrote on behalf of the Respondent and stated that all beneficiaries had \$800.00 withdrawn from their insurance checks; however, she decided to pay the money on behalf of the children and reimbursed them all of the money that was taken out of the payments they received from insurance.

History:

- Four (4) closed complaints.
 - o Complaint No. 2011027481 – Family alleged they were denied access to funeral home and made to stand out in parking lot until money paid to cover services rendered.
 - Presented: November 8, 2011.
 - Determination: Dismissed.
 - Status: Closed.
 - o Complaint No. 2011027161 – Family alleged they were denied access to funeral home and made to stand out in parking lot. Denied access to restrooms.
 - Presented: November 8, 2011.
 - Determination: Dismissed.
 - Status: Closed.
 - o Complaint No. 2011018521 – Mother made arrangements and upset CD was given to father.
 - Presented: October 11, 2011.
 - Determination: Closed.
 - Status: Closed.
 - o Complaint No. 2007056001 – Utilization of crematory and fixed place of business.
 - Presented: August 16, 2007.

- Determination: Consent Order with \$375.00 civil penalty.
- Status: Closed.

Recommendation:

- Dismiss.

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

Seconded by David Neal

Adopted by voice vote

6. Case No.: L13-FUN-RBS-2013004201**Complaint:**

- The Complainant's mother died on January 30, 2013, in Louisville, Kentucky, and he contacted the Respondent funeral establishment to handle services in Tennessee.
- Complainant spoke with the Respondent regarding removing the decedent back to Tennessee and burial at a local veteran's cemetery.
- The Respondent stated a charge of \$100.00 for removal plus \$1.75 per mile.
- Complainant advised that he would be in town the next week to make final arrangements.
- Complainant arrived February 6, 2013, and met the funeral director and delivered clothes for his mother.
- Respondent gave a price of \$6,195.00 for the services selected by the Complainant, but the Complainant decided to go with another funeral home for one-third (1/3) of the Respondent's price.
- Respondent provided charges of \$2,053.00 for services already rendered before the body could be transferred to the new establishment.
- Complainant acquired the funds, but the funeral director, other staff, and owners of the establishment said they are not responsible for making such transfer arrangements.
- Complainant decided to contact police because he was unable to get a response from the Respondent and believed they were holding his mother's body.
- Complainant informed Respondent of his contact with police and informed them that he was going to proceed with a memorial service for his mother if the Respondent failed to release the body (11 days after taking possession of the body).
- Complainant then met with the Respondent's funeral director and secretary who provided a bill that included \$1,295.00 for services provided by funeral director and staff, and \$758.00 for transporting the body from Louisville.

Response:

- Respondent states that they removed the body and received permission to embalm the decedent's body.
- On February 7, 2013, funeral director met with the Complainant and presented him with a GPL and embalming authorization form.
- Complainant provided vital record information, funeral service particulars and then looked through the casket catalog.
- He picked a casket of his choice, and selected an outer burial container after he had finished.
- The office manager typed up the bill which was signed by the Complainant and funeral director.
- Respondent explained that they do not accept out of state checks, credit cards, or term payments and the bill must be paid in full prior to funeral services.
- Complainant left and stated he would return with the funds; the Respondent ordered the merchandise and a plot at the local veteran's cemetery.
- Several days passed without any communication from the Complainant, so the Respondent contacted him and learned that he had chosen a different funeral establishment.
- Respondent then cancelled the merchandise and the plot, but provided charges for the services rendered, which included housing the decedent's remains.
- The bill provided to the Complainant did not include charges for burial, but only charges for services rendered by the establishment.

History:

- One (1) open complaint, nine (9) closed complaints.
 - o Complaint No. 2008019871 – Deplorable conditions, licenses not available for inspection, price lists inaccurate.
 - Presented: December 9, 2008.
 - Determination: Formal Hearing Authorized.
 - Status: Closed.
 - o Complaint No. 2008014221 – No running water in embalming room, restrooms or any other room. Unsanitary conditions in embalming room.
 - Presented: December 9, 2008.
 - Determination: Formal Hearing Authorized.
 - Status: Closed.
 - o Complaint No. 200704991 – Failure to pay reinspection fee.
 - Presented: April 10, 2007.
 - Determination: Consent Order with \$4500 civil penalty.
 - Status: Closed.
 - o Complaint No. 2006037981 – Unlicensed activity.
 - Presented: December 12, 2006.

- Determination: Consent Order with \$1300 civil penalty.
 - Status: Closed.
- Complaint No. 2006032951 – Complainant seeking insurance check from Respondent.
 - Presented: April 10, 2007.
 - Determination: Dismissed.
 - Status: Closed.
- Complaint No. 2006012461 – Returned check for “insufficient funds”.
 - Presented: May 9, 2006.
 - Determination: Consent Order with \$250.00 civil penalty.
 - Status: Closed.
- Complaint No. 2005045321 – Preneed violations.
 - Presented: March 14, 2006.
 - Determination: Consent Order with \$750.00 civil penalty.
 - Status: Closed.
- Complaint No. 2005039421 – Failure to affix identification device.
 - Presented: December 13, 2005.
 - Determination: Consent Order with \$3,000.00 civil penalty.
 - Status: Closed.
- Complaint No. 2009016211 – Operating on an expired license, unprofessional conduct, embalmer license not available for inspection, preneed violations.
 - Presented: November 2009.
 - Determination: Close.
 - Status: Closed.
- Complaint No. 2012003051 – Operating on an expired license.
 - Presented: July 10, 2012.
 - Determination: Consent Order with \$750.00 civil penalty.
 - Status: Open.

Recommendation:

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

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

Seconded by David Neal

Adopted by voice vote

7. Case No.: L13-FUN-RBS-2013004301

Complaint:

- The Complainant’s father passed away on December 25, 2011, following time in a hospice facility.
- Monday, November 14, 2011

- Complainant met with employee #1 to pre-plan the funeral services.
- She selected the “Veteran’s Package” which allowed for a glossy brown wood-grain casket with a smooth surface and cream-colored quilted satiny lining known as “Copper Hammertone with Rosetan Satin Interior” and employee #1 informed the Complainant that she could pay with a credit card at the next meeting.
- Friday, December 9, 2011
 - Second meeting with employee #1 who proceeded to inform them that she was in error at the previous meeting and informed her that the “Veteran’s Package” only allows for a glossy gray casket instead of a glossy brown; however, the interior lining was the same.
 - Furthermore, employee #1 then informed them that they were not allowed to pay with a credit card which caused the Complainant to have to schedule another meeting so her mother could bring her checkbook.
- Tuesday, December 27, 2011
 - Two days following the death of the decedent, employee #1 who assisted in the pre-planning of the funeral was on vacation causing the Complainant to meet with employee #2.
 - Employee #2 assisted in finalizing the funeral and burial arrangements and made a copy of the Army discharge papers.
- Monday, January 2, 2012
 - Complainant and her mother had visitation with the decedent, but realized that the casket was not the same casket they ordered. Instead of being smooth and glossy, the gray casket was rough and unglassy and the lining was snow white and unquilted rather than cream colored and quilted.
 - Employee #2 tried to claim that the lighting in the room was causing the casket to appear different, but later admitted that it was a different casket.
 - Employee #2 asked if the Complainant intended to sue and was able to obtain permission to provide a \$200.00 refund on the casket.
- Tuesday, January 3, 2012
 - Employee #2 met with the Complainant prior to the funeral service and apologized for the error relating to the casket and apologized for Employee #1 who incorrectly completed the paperwork and was prone to errors.
 - Complainant was later upset because Employee #2 offered to provide the Complainant with coffee, but later recommended she walk across the street to the Sonic when employees complained about a shortage of coffee that day.
 - Employee #2 informed the Complainant during the arrangement sessions that her father could receive a 21 gun salute at the cemetery, but that never occurred and a manager at the cemetery

informed the Complainant that such a service has not been performed in several years due to the Iraq war depleting the resources.

- Casket Refund
 - o The Complainant states that she was told a \$200.00 refund would be provided due to the error related to the casket provided for the decedent; however, it took thirty-one (31) days for the refund to be provided.
- Death Certificates
 - o The Complainant incurred a charge of \$35.00 from the Respondent for five (5) certificates of death, with an additional three (3) that were complimentary; however, the Complainant had to make several trips to the treating physician's office and calls to the Health Department before learning that the Respondent had the certificates.
 - o Complainant called the Respondent on numerous occasions and the Respondent stated that they were re-writing the certificates and would provide copies on February 7, 2012.
 - o The Complainant called several times on February 7, 2012 and for several days afterwards with no response from the Respondent.
 - o The Complainant was able to speak with Employee #2 who she says yelled at her regarding questions about the certificates, and then the manager of the establishment called the Complainant's mother and was rude to her.
 - o Complainant eventually went to the Health Department and took possession of five (5) certificates, and later went back to the funeral home for the three (3) complimentary certificates.
 - o The Respondent later provided a refund of \$35.00.

Response:

- Employee #2 responded on behalf of the funeral establishment and explained that the funeral home came under new ownership in April 2012.
- The previous manager of the establishment is now living in Chicago and Employee #1 is no longer working in the funeral industry.
- The Complainant received the only casket that was provided through the Veteran's Package.
- Respondent is sorry if Employee #1 came across as confused, but Respondent entered the information that was on the SFGSS and ordered the Silver Hammertone as it was written on the SFGSS.
- Respondent did provide a \$200.00 refund due to the issues surrounding the casket, but they were not privy to when the general manager mailed the check to the Complainant.
- As for the coffee, Respondent states that the manager was tight on the budget and supplies; therefore, it was recommended that coffee could be obtained just feet away from the restaurant.

- As for the 21 gun salute, Respondent states they have never told a family that a 21 gun salute is provided unless the individual is retired from the armed services, and they are at a complete loss as to why the Complainant believed such a service would be provided.
- The death certificates were provided at a cost of \$7.00 per document, which came to \$35.00 for all five (5) plus an additional three (3) that were complimentary.
- A refund was provided for the death certificates, but Respondent can't remember this being an issue in the past.
- As for yelling at the Complainant, the Respondent states that they have never yelled at a customer, but did speak very directly to her and that could have been perceived as yelling.

New Ownership Response:

- The Vice-President for the new ownership provided an apology to the Complainant and informed her that the timely filing of death certificates has been a problem in the past and is something they are working on improving.

History:

- Nine (9) closed complaints under previous ownership.
 - o Complaint No. 2006024901 – Crematory utilization.
 - Presented: August 8, 2006.
 - Determination: Consent Order with \$250.00 civil penalty.
 - Status: Closed.
 - o Complaint No. 2010028211 – Cremating without permit, use of unregistered individuals, requirements for crematory.
 - Presented: February 8, 2011.
 - Determination: Close as already adjudicated in previous hearing.
 - Status: Closed.
 - o Complaint No. 2010003781 – Decedent's jewelry allegedly misplaced.
 - Presented: November 9, 2010.
 - Determination: Investigation.
 - Status: Closed.
 - o Complaint No. 2009024371 – Cremating wrong person.
 - Presented: March 2010.
 - Determination: Formal Charges Authorized.
 - Status: Closed.
 - o Complaint No. 2009012621 – Use of names of unregistered individuals, GPL errors.
 - Presented: September 8, 2009.
 - Determination: Consent Order with \$350.00 civil penalty.
 - Status: Closed.

- Complaint No. 2007049601 – Lack of permanent identification device.
 - Presented: April 10, 2007.
 - Determination: Letter of Warning.
 - Status: Closed.
- Complaint No. 2006042091 – Establishment using name not licensed by Board.
 - Presented: December 12, 2006.
 - Determination: Letter of Warning.
 - Status: Closed.
- Complaint No. 2006037891 – Establishment using name not on application approved by Board.
 - Presented: December 12, 2006.
 - Determination: Letter of Warning.
 - Status: Closed.
- Complaint No. 2011003421 – Complainant charged for services not rendered.
 - Presented: July 12, 2011.
 - Determination: Dismiss.
 - Status: Closed.

Recommendation:

- While several issues appear to be present in this complaint, the establishment is under new ownership. Therefore, counsel believes the proper course of action is to **Dismiss** this complaint as it appears the new ownership is taking appropriate steps to address these matters.

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

Seconded by Anita Taylor

Adopted by voice vote

8. Case No.: L13-FUN-RBS-2013004501**Complaint:**

- Complainant filed a complaint against the Respondent on February 22, 2013.
- Complainant's friend was an employee of the Respondent funeral establishment and failed to receive payment for his services which totaled \$7,500.00 over several months.
- The employee was upset and went to the manager to inform him that he would be looking for work elsewhere.
- The manager asked the employee to stay and told him he would have the money owed to him the next month.

- The next pay period, the employee received compensation in the amount of \$800.50, and the manager informed the employee that his services were no longer needed.
- The manager informed him that he would contact him for work in the future.
- Complainant stated that the manager wanted to use the employee's license and list him as the manager of record, that way they could call him into the office when a Regulatory Board Field Representative came for an inspection and it would appear that the manager had just stepped out for the moment.

Response:

- Respondent manager, a different manager than the individual noted by the Complainant, states that he cannot respond to the complaint as he is not familiar with this particular situation.

History:

- One (1) closed complaint; two (2) open complaints.
 - o Complaint No. 2013000571 – Price lists inaccurate and information provided to public referring to Respondent by name other than that printed on application approved by Board, Funeral Rule violations.
 - Presented: March 12, 2013.
 - Determination: Consent Order with \$3,000.00 civil penalty.
 - Status: Open.
 - o Complaint No. 2011020821 – Operating establishment on invalid license.
 - Presented: November 8, 2011.
 - Determination: Consent Order with \$1,000.00 civil penalty.
 - Status: Open.
 - o Complaint No. 2009015971 – No manager there consistently and casketed body without permanent identification device.
 - Presented: December 8, 2009.
 - Determination: Letter of Warning.
 - Status: Closed.

Recommendation:

Dismiss.

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

Seconded by Wayne Hinkle

Adopted by voice vote

9. Case No.: L13-FUN-RBS-2013004881

Complaint:

- On February 4, 2013, a field representative conducted a routine inspection of the Respondent establishment.
- Three (3) files were found to be incomplete:
 - o The cremation authorization form for Cynthia Harrell was not signed by a funeral director.
 - o The cremation authorization form for Jean Melton was not signed by a funeral director nor did it have the signature of an authorizing agent.
 - o The cremation authorization form for Jerry Wayne Bagwell did not have the signature of an authorizing agent.
- Three (3) files lacked a record of a receipt for release of cremated remains. Those files included: Cynthia Harrell, Jerry Wayne Bagwell, and Cathy Margaret Foster.
- Respondent had several issues with price lists.
 - o CPL – The caption must be corrected to read “Casket Price List”.
 - o CPL – Under direct cremation, the alternative containers being offered to the consumer do not agree with the GPL.
 - o OBCPL – The caption must be corrected to read “Outer Burial Container Price List”.
- SFGSS – The program that produces contracts and is utilized by the Respondent produces misleading information that is printed on the SFGSS. Some figures are not needed as they come from no reasonable source within the document.

Response:

- In response, the Respondent admits to everything in the complaint with the exception of Cynthia Harrell and Jerry Wayne Bagwell’s files lacking a record of a receipt for release of cremated remains.
- Respondent corrected the other matters and provided verification of those corrections.

History:

- Seven (7) closed complaints.
 - o Complaint No. 947160 – Selling preneed funeral contracts without registering.
 - Presented: N/A
 - Determination: N/A

- Status: Closed.
- Complaint No. 950953 – Advertising discounts.
 - Presented: December 1998.
 - Determination: N/A
 - Status: Closed.
- Complaint No. 950995 – Unprofessional conduct regarding deceased wife's missing ring.
 - Presented: December 1998
 - Determination: N/A
 - Status: Closed.
- Complaint No. 199900931 – Use of names of unlicensed individuals.
 - Presented: August 10, 1999.
 - Determination: Letter of Warning.
 - Status: Closed.
- Complaint No. 1999009341 – Failing to itemize merchandise and services on advertisements.
 - Presented: August 10, 1999.
 - Determination: Consent Order with civil penalty.
 - Status: Closed.
- Complaint No. 2011021181 – Price lists discrepancies, preparation room door unsecured.
 - Presented: November 8, 2011.
 - Determination: Consent Order with \$500.00 civil penalty.
 - Status: Closed.
- Complaint No. 2012012571 – Funeral director signing as manager but not the manager of record, Funeral Rule violations, and business cards giving public perception that unlicensed individual were licensed funeral directors.
 - Presented: August 14, 2012.
 - Determination: Consent Order with \$750.00 civil penalty.
 - Status: Closed.

Recommendation:

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

A motion was made by David Neal to accept Counsel's recommendation.

Seconded by Robert Starkey

Adopted by voice vote

10. Case No.: L13-FUN-RBS-2013004891**Complaint:**

- On February 7, 2013, a field representative conducted a routine inspection of the Respondent establishment.
- Utilization of Crematory
 - o One (1) file lacked the signature of a licensed funeral director on the cremation authorization form.
- Receipt
 - o Twenty-three (23) files lacked a receipt of human remains delivered to the crematory with correct information in the cremation file as required.
 - o Three (3) files lacked a receipt entirely.
- Funeral Rule
 - o CPL - Under direct cremation, the alternative containers being offered to the consumer do not agree with the GPL.
 - o SFGSS - Of the files checked, one (1) statement did not have the reason for embalming completed.

Response:

- No response received.

History:

- No prior complaints.

Recommendation:

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

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

Seconded by David Neal

Adopted by voice vote

11. Case No.: L13-FUN-RBS-2013004911**Complaint:**

- On February 13, 2013, a field representative conducted a routine inspection of the Respondent establishment.
- Cremation Authorization Form
 - o The file of Doris B. Abney had a cremation authorization form, but it was not signed by a funeral director.
- SFGSS
 - o Eleven (11) files did not have the merchandise that was sold to the consumer and its description listed on the SFGSS as required.

- Changes
 - o Establishment must change name listed on the SFGSS to agree with the exact name listed on the establishment application approved by the Board.

Response:

- Cremation Authorization Form
 - o A funeral director did sign the referenced authorization but overlooked one of the multiple blanks requiring signature, and therefore failed to completely execute the document.
- Description of Merchandise
 - o This oversight was the result of a computer programming error.
 - o The error was not brought to the funeral home's attention until an inspection at an affiliated funeral home last June and was then rectified.
 - o The issues in this complaint pre-date last summer's inspection when this matter was first discovered and addressed.
- Changes
 - o The statements included the majority of the Respondent's name, but was missing "-y Funeral Home".
 - o This violation is related to a printing glitch that Respondent is working to resolve.

History:

- One (1) closed complaint.
 - o Complaint No. 201201581 – funeral director / embalmer licenses not available for inspection, cremation authorization forms incorrect, price lists inaccurate.
 - Presented: October 9, 2012.
 - Determination: Consent Order with \$250.00 civil penalty.
 - Status: Closed.

Recommendation:

- Letter of Warning.

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

Seconded by Anita Taylor

Adopted by voice vote

12. Case No.: L13-FUN-RBS-2013005611**Complaint:**

- The Complainant, a competitor of the Respondent, filed a complaint on March 12, 2013, regarding a newspaper advertisement placed by the

Respondent where cremation services were purported to start as low as \$1,595.00; however, the Respondent failed to provide an itemized price listing of each and every item, procedure or service.

Response:

- This advertisement was immediately pulled once Respondent was notified of the complaint.
- Respondent admits that the advertisement was out of compliance.
- The advertisement was the Respondent's first price point advertisement, and they were unaware that a description of services and prices for cremations must be itemized.

History:

- Five (5) closed complaints.
 - o Complaint No. 2011013771 – Utilization of crematory and four (4) files lacking cremation authorization forms.
 - Presented: October 11, 2011.
 - Determination: Consent Order with \$500.00 civil penalty.
 - Status: Closed.
 - o Complaint No. 2010026071 – Preparation room not maintained properly, signage has name other than that on application approved by Board, SFGSS lacked reason for embalming.
 - Presented: December 14, 2010.
 - Determination: Consent Order with \$500.00 civil penalty.
 - Status: Closed.
 - o Complaint No. 2010025471 – Drainage problem in preparation room, no new manager named to manage establishment, not paid fee for naming new manager.
 - Presented: December 14, 2010.
 - Determination: Consent Order with \$250.00 civil penalty.
 - Status: Closed.
 - o Complaint No. 2009018521 – Advertised name of establishment different than that registered with the State.
 - Presented: April 13, 2010.
 - Determination: Letter of Warning.
 - Status: Closed.
 - o Complaint No. 2005024921 – Fixed place of business.
 - Presented: August 9, 2005.
 - Determination: Consent Order with \$250.00 civil penalty.
 - Status: Closed.

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 David Neal

Adopted by voice vote

13. Case No.: L13-FUN-RBS-2013006111

14. Case No.: L13-FUN-RBS-2013006112

Complaint:

- On March 15, 2013, a local news station published a story about the Respondent funeral establishment.
- The document states that Respondent #14, who is an Apprentice Funeral Director, posted a controversial picture on a social media website, "Instagram", which shows him holding a sign that reads "Whites Only".
- According to the news story, this picture surfaced on Instagram just one day after the family of an African-American decedent had their family member taken to Respondent #13.
- On Friday, March 15, 2013, the family had their loved one moved to another funeral establishment where they would feel comfortable saying their final good-byes.
- Additionally, there was concern as to whether the family had to pay an extra \$850.00 to move their loved one to the other funeral establishment.

Response:

- Respondents state that Respondent #14 found the phrase "Whites Only" written on a paper towel folded up in a break room or a restroom.
- Respondent #14 brought the sign to a group of individuals congregating outside the break room (including the complainant who is a local competitor / African-American Funeral Home Owner) and all individuals present laughed about the ridiculousness of the sign.
- The Complainant laughed and asked to take a picture of Respondent #14 with the sign, and the Complainant was the only individual to take a photograph of the sign.
- Several years later, Respondent #13 and #14 received word that families in the African-American community were receiving text messages containing the photograph and asking, "Is this the way you want your loved ones to be treated?"
- The Respondents believe this was retaliation from the Complainant who at one point was close friends with the Respondents and both parties helped each other out on occasion.
- However, Respondents and the Complainant have had a falling out, and the Respondents believe this activity was due to the Respondents providing funeral services for 21 African-American families in the community after they opened their new funeral home.
- As for the \$850.00 charge to the one family, Respondents state that the family believes the Respondents' stories regarding the sign but believed it was better to use the services of a different funeral home.

- Respondents state that the \$850.00 resulted from \$150.00 for removal and \$700.00 for embalming, which the family agreed to and paid for.

History:

- Respondent #13 – Three (3) closed complaints.
- Respondent #14 – No prior complaints.
 - o Complaint No. 2011023771 – Operating animal crematory and advertising human and pet cremations on same literature.
 - Presented: December 13, 2011.
 - Determination: Letter of Instruction.
 - Status: Closed.
 - o Complaint No. 2010003001 – Illegal advertising.
 - Presented: April 13, 2010.
 - Determination: Dismissed.
 - Status: Closed.
 - o Complaint No. 2009024851 – Advertising prices without itemization.
 - Presented: January 12, 2010.
 - Determination: Letter of Warning.
 - Status: Closed.

Recommendation:

- Respondent #13 – Dismiss.
- Respondent #14 – Dismiss.

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

Seconded by Wayne Hinkle

Adopted by voice vote

15. Case No.: L13-FUN-RBS-2013006201**Complaint:**

- On March 16, 2013, a letter of inquiry was sent to the Respondent seeking information as to whether a Tennessee licensed funeral director was present and in charge during the committal services and interment of the decedent at Calvary Cemetery in Nashville, Tennessee, on Tuesday, February 19, 2013.

Response:

- Respondent apologized for being misinformed regarding burials in other states.
- They understand that the Board must proceed with the complaint process but asked that the Board show mercy in its final decision.

History:

- No prior complaints.

Recommendation:

- Consent Order with \$350.00 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

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
 APRIL 9, 2013 – MAY 13, 2013**

Establishments

Type of Change(s)

Covington Funeral Home
 Covington, TN

Ownership

Patton Brothers Funeral Home
 Nashville, TN

Ownership

Wann Funeral Home & Cremation Center, Inc.
 Chattanooga, TN

Ownership and Name

Williams Funeral Home & Crematory
 Columbia, TN

Location

Individuals

Type of License(s)

Kerry Wayne Boshers
 Mount Pleasant, TN

Funeral Director

CLOSED ESTABLISHMENT REPORT:

Currie’s Funeral Home – Alamo, 386 West Church Street, Alamo, TN

DISCIPLINARY ACTION REPORT:

**REPORT OF CONSENT ORDERS ADMINISTRATIVELY ACCEPTED/APPROVED
BY THE EXECUTIVE DIRECTOR PURSUANT TO BOARD AUTHORITY FOR THE
PERIOD OF APRIL 1, 2013 – APRIL 30, 2013**

Respondent: Anderson Funeral Home, Lewisburg, TN
Violation: Immoral or unprofessional conduct (forgery of medical examiner's signature on a certificate of death by an employee) and knowingly making a false statement on a certificate of death
Action: \$1,000 Civil Penalty

Respondent: Cremation Society of Tennessee, LLC, Spring Hill, TN
Violation: Failed to retain copies of cremation authorization forms in the files, failed to have licenses of a funeral director and an embalmer available for inspection, multiple aspects of the establishment's price lists did not comply with the Funeral Rule and failed to respond to a complaint within the time specified in the notice
Action: \$750 Civil Penalty

Respondent: Dillow – Taylor Funeral Home & Cremation Services, Inc., Jonesborough, TN
Violation: Failed to maintain a copy of crematory's current license that the establishment uses, a funeral director failed to sign and date cremation authorization forms, failed to provide reason for embalming on statements of funeral goods and services selected and used a name on price lists other than the exact name approved by the Board
Action: \$750 Civil Penalty

Respondent: Forest Lawn Funeral Home & Memorial Gardens, Goodlettsville, TN
Violation: Failed to retain a cremation authorization form in the file, used a name on contracts other than the exact name approved by the Board, the license of an embalmer was not available for inspection, failed to list the specific merchandise selected and a description of that merchandise on the contract prior to the customer signing the contract and failed to have the correct number of days on a form regarding disposition of unclaimed cremated remains
Action: \$500 Civil Penalty

Respondent: Rick W. Greene, Sneedville, TN
Violation: Convicted of a felony or crime involving moral turpitude (criminal convictions of aggravated burglary and aggravated assault)

Action: Suspension of licenses to practice as a funeral director and embalmer for one year, licenses remain on a probationary period until such time as the Respondent's probation in the criminal cases terminates and \$200 hearing costs

Respondent: Gloria Anderson Quarles, Lewisburg, TN
Violation: Immoral or unprofessional conduct (forgery of medical examiner's signature on a certificate of death) and knowingly making a false statement on a certificate of death

Action: \$500 Civil Penalty

Respondent: S & S Funeral Services, Jackson, TN
Violation: Cremation authorization forms lacked the signature of a funeral director, cremation authorization forms were signed by an individual who was not a licensed funeral director, failed to maintain a copy of the crematory's current license and latest inspection report that the establishment uses and multiple aspects of the establishment's price lists and contract did not comply with the Funeral Rule

Action: \$1,000 Civil Penalty

Respondent: Smith Brothers Funeral Directors, Nashville, TN
Violation: Conducted numerous funeral services while the establishment license was expired and failed to maintain a copy of the crematory's current license that the establishment uses

Action: \$3,500 Civil Penalty

OPEN COMPLAINT REPORT:

As of May 10, 2013 there were 123 open complaints.

A motion was made by Wayne Hinkle to accept the Executive Director's Report.

Seconded by David Neal

Adopted by voice vote

INDIVIDUAL APPLICATION:

**Britney Gene Leslie
Tennessee Ridge, TN**

**Funeral Director/Embalmer
Reapplication**

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

Adopted by voice vote

Robert Scott Pausus
Church Hill, TN

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

Doris M. Colvin
Estill Springs, TN

Apprentice Funeral Director
Registration

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

Adopted by voice vote

ADJOURN:

A motion was made by Anita Taylor to adjourn.

Seconded by David Neal

Adopted by voice vote

The meeting was adjourned by President Tony Hysmith at 11:05 A.M.

Respectfully submitted,

Robert B. Gribble

Robert B. Gribble, CFSP
Executive Director