

TENNESSEE BOARD OF FUNERAL DIRECTORS AND EMBALMERS

MINUTES OF BOARD MEETING

FEBRUARY 12, 2013

President Tony Hysmith 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 Tony Hysmith, President; W. T. Patterson, Vice President; Wayne Hinkle, Jane Gray Sowell, Robert Starkey, Anita Taylor, and David Neal.

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

WELCOME NEW BOARD MEMBER:

President Tony Hysmith introduced and welcomed new board member David Neal of Leoma, Tennessee, a funeral director and embalmer representing the Middle Grand Division.

Mr. Neal was nominated by the Tennessee Funeral Directors Association and appointed to the Board by the Governor.

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 Wayne Hinkle to approve the Minutes of the December 11 and 17, 2012 Board Meeting.

Seconded by W. T. Patterson

Adopted by voice vote

ADOPTION OF ROBERT'S RULES OF ORDER:

A motion was made by Robert Starkey to adopt Robert's Rules of Order to govern the Board in all cases to which they are applicable and in which they are not inconsistent with statutes and any special rules of order the Board may adopt.

Seconded by Wayne Hinkle

Adopted by voice vote

CONFLICT OF INTEREST STATEMENT:

President Tony Hysmith explained that a Conflict of Interest Statement must be signed annually and new statements are presented to the board members at the first meeting of the year. Every board member signed a new statement acknowledging that its purpose is to assure that the interests and activities of all members serving on a departmental board do not conflict or give the appearance of conflicting with the provision of unbiased service to the public.

AGREED ORDER:

ADRIAN CHICK, ASSISTANT GENERAL COUNSEL

Docket No. 12.21-118732A

- Respondent: Quincy Steven Brown – Funeral Director License No. 3312

Assistant General Counsel Adrian Chick presented and recommend acceptance of an Agreed Order to settle a matter previously set for a formal hearing by the Board.

A motion was made by W. T. Patterson to accept the Agreed Order.

Seconded by Wayne Hinkle

Adopted by voice vote

LEGAL REPORT:

BENTON McDONOUGH, ASSISTANT GENERAL COUNSEL

Legal Counsel made a presentation regarding the Open Meeting Act reminding everyone that deliberation by the Board must be made in public, there should be no whispering during the meeting, and all comments should be spoken with sufficient volume that they can be heard by all those present.

Abbreviations:

GPL – General Price List

CPL – Casket Price List

OBCPL – Outer Burial Container Price List

SFGSS – Statement of Funeral Goods and Services Selected

Represent Case No.: L11-FUN-RBS-2011010021

Complaint:

- On August 9, 2011, this complaint was presented to the Board against the Respondent.
- A field representative carried out a routine inspection of the Respondent's establishment on March 21, 2011.
- This establishment is a crematory that contains separate human and pet retorts.
- The pet retort is located within ten (10) feet of the human retort, and the Respondent uses the same processing station to pulverize human and pet remains following cremations.
- The crematory was granted an establishment license in September 2004 with the knowledge that human and pet cremations would take place there.
- The inspection conducted on March 21, 2011, did not result in any known violations.
- Although there was no documentation showing a commingling of cremains from pets and humans, such a risk does exist when using the same processing station for both humans and pets.

Update:

- The Board initially asked for a Consent Order with a \$1,000.00 civil penalty.
- After several stages of negotiations, the Respondent has agreed to purchase and install a new processing station to be used in human cremations only, but the Board must agree to rescind the \$1,000.00 civil penalty and the Respondent would not admit guilt.
- Counsel believes this to be a proper agreement as the Respondent agreed to purchase and install a new processing station, which was the ultimate goal of the Board.

A motion was made by Jane Gray Sowell to accept Counsel's recommendation

Seconded by Wayne Hinkle

Adopted by voice vote

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1. **Case No.: L12-FUN-RBS-2012020691**
 2. **Case No.: L12-FUN-RBS-2012020692**
 3. **Case No.: L12-FUN-RBS-2012020693**
 4. **Case No.: L12-FUN-RBS-2012020694**

Complaint:

- On September 18, 2012, the Board received a complaint alleging that Respondent #1 had conducted embalmings for Respondents #2, #3, and #4 without being licensed as an embalmer.
- The Complainant failed to provide any evidence or documentation to support the allegations.

Response:

- Respondent #1 – No response.
- Respondent #2
 - o Respondent #1 was a long time part-time employee of Respondent #2 for 20+ years.
 - o Respondent #2 utilizes the services of Edmund Ford for embalming purposes and has done so since 1996.
 - o Respondent #1 dressed decedents, worked under the direction of Edmund Ford and drove for the establishment.
- Respondent #3
 - o Respondent #3 uses the services of Willie Lumpkin and Brittney Barlow for embalming services.
 - o Respondent #3 has never personally met Respondent #1 but is aware of who he is through other associates.
- Respondent #4
 - o Respondent #1 does not provide embalming services for Respondent #4 but has assisted with dressing and casketing for a short time while another employee was out of town.
 - o Respondent #4 says Complainant was in a relationship with Respondent #1 and Respondent #1 decided to end the relationship.
 - o Complainant was later arrested for assault and vandalism toward Respondent #1, and the Complainant has done everything to wreck marriage and business relationships of Respondent #1.

History:

- Respondent #1 – No prior complaints.
- Respondent #2 – two (2) closed complaints, one (1) open complaint.
 - o Complaint: 2005032651 – Preneed violations.
 - Presented: November 8, 2005.
 - Decision: Dismiss.
 - Status: Closed – November 8, 2005.
 - o Complaint: 2009012861 – Embalming conducted by unlicensed person, funeral director's license not available for inspection, GPL discrepancies.
 - Presented: September 8, 2009.

- Decision: Consent Order with \$1,500.00 civil penalty.
- Status: Closed – October 28, 2009.
- Complaint: 2012012541 – Preparation room floor in need of repair, cremation authorization forms not retained.
 - Presented: August 14, 2012.
 - Decision: Consent Order with \$750.00 civil penalty.
 - Status: Closed – November 20, 2012.
- Respondent #3 – Two (2) closed complaints, three (3) open complaints.
 - Complaint: 2007075161 – Violation of FTC rules.
 - Presented: October 9, 2007
 - Decision: Consent Order with \$250.00 civil penalty.
 - Status: Closed – January 24, 2008.
 - Complaint: 2008019351 – Cremation authorization form not signed by funeral director and price list violations.
 - Presented: October 14, 2008.
 - Decision: Consent Order with \$1,500.00 civil penalty after legal counsel recommended \$500.00.
 - Status: Closed – June 26, 2009.
 - Complaint: 2011008361 – Operating an establishment on an expired license; funeral director's license of manager and employee expired.
 - Presented: August 9, 2011.
 - Decision: Consent Order with \$750.00 civil penalty.
 - Status: Open.
 - Complaint: 2011020121 – Funeral Home failed to pay for merchandise purchased from supplier, violated terms of agreement, and does not return calls. Has since paid the money owed.
 - Presented: November 8, 2011.
 - Decision: Consent Order with \$250.00 civil penalty.
 - Status: Open.
 - Complaint: 2012021121 – Unprofessional conduct involving embalming of a deceased individual.
 - Presented: December 11, 2012.
 - Decision: Consent Order with \$1,000.00 civil penalty.
 - Status: Open.
- Respondent #4 – No prior complaints.

Recommendation:

- Respondent #1 – Letter of Warning regarding responding to pending complaints.
- Respondent #2 – Dismiss.

- Respondent #3 – Dismiss.
- Respondent #4 – Dismiss.

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

Seconded by Anita Taylor

Adopted by voice vote

5. Case No.: L12-FUN-RBS-2012023681

6. Case No.: L12-FUN-RBS-2012023682

Complaint:

- The Medical Examiner's office filed this complaint.
- On August 30, 2012, the Medical Examiner signed a "pending" death certificate for the decedent, Charles Lewis Ray.
- The Medical Examiner released the document to the Respondent along with the decedent's body.
- The Medical Examiner's office received a copy of the official death certificate filed with Vital Records on October 30, 2012; however, this document was not the original document signed by the Medical Examiner.
- Medical Examiner states that the document in their possession is not the original, and the doctor's signature is not her signature.

Response:

- Respondent #6 answered the complaint on behalf of both Respondents.
- Respondent filled out a "practice sheet" rather than the original document that was signed by the Medical Examiner; however, upon reviewing the practice sheet, the Respondent states that everything came back blurry and off-center.
- This document was then sent as the official death certificate rather than the original document provided by the Medical Examiner's office with the doctor's original signature.
- Respondent received this complaint, then reviewed the files in question and found the original death certificate with the doctor's signature caught between two documents in the file.
- Respondent states that this was an error and they did not mean to forge the doctor's signature.

History:

- Respondent #5 – Four (4) closed complaints.
 - o Complaint: 2007063811 – FTC violations and utilization of crematory.
 - Presented: August 14, 2007
 - Decision: Consent Order with \$400.00 civil penalty.
 - Status: Closed – October 12, 2007

- Complaint: 2011015771 – Cremation authorization not dated; GPL, CPL, OBCPL & SFGSS discrepancies.
 - Presented: October 11, 2011.
 - Decision: Consent Order with \$750.00 civil penalty.
 - Status: Closed – December 20, 2011.
- Complaint: 2009014411 – Price list discrepancies; copy of cremation authorization not given to agent.
 - Presented: April 13, 2010.
 - Decision: Consent Order with \$250.00 civil penalty.
 - Status: Closed – August 24, 2010.
- Complaint: 2005028051 – FTC violations and funeral director's license not available for inspection.
 - Presented: October 11, 2005.
 - Decision: Consent Order with \$700.00 civil penalty.
 - Status: Closed – March 20, 2006.
- Respondent #6 – No prior complaints.

Recommendation:

- Respondent #5 – Consent Order with \$1,000.00 civil penalty and authorization for hearing.
- Respondent #6 – Consent Order with \$500.00 civil penalty and authorization for hearing.

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

Seconded by W. T. Patterson

Adopted by voice vote

7. Case No.: L12-FUN-RBS-2012023811
Complaint:

- This complaint was filed by a consumer.
- October 16, 2012
 - The decedent passed away following open heart surgery and was taken to the Respondent funeral establishment.
- October 17, 2012
 - The decedent's husband and children went to make arrangements, but there was an issue obtaining the insurance policy, so the arrangements remained incomplete.
- October 18, 2012
 - The decedent's family went to the funeral establishment to fix the decedent's nails and hair, and the family was led to the chapel where the decedent was on a table with a sheet draped over the body.

- The drain alley still had blood puddles in it and there appeared to be blood clots hanging out of the drain hose at the foot of the table; furthermore, the only place where the family could wash up was the public restroom.
- October 19, 2012
 - The family arrived two (2) hours prior to receiving friends.
 - There was very minimal makeup applied to the decedent's face, and there was no mascara, the lipstick stopped at the nose line, and dark bruises were evident.
 - There was no make-up applied to cover the trauma to the decedent's neck, there was blood soaked cotton covering the site where the blood was drained, there was a suture lying on the decedent's blouse, no undergarments were under the blouse, the cotton covering the surgical incision was very visible, the decedent's underwear was not pulled up completely, the daughters asked that the make-up be re-applied, and the Complainant killed at least six (6) gnats that came out of the casket during the viewing.
 - The daughters applied mascara to the decedent, and the employee didn't even offer to provide this service, and a niece went to a local store to purchase a scarf to cover up the decedent's neck.
 - The funeral home was too warm and the decedent's color actually darkened in the six (6) hours while the family was there.
- October 20, 2012
 - There was very little organization from the Respondent.
 - The employees almost pushed the casket off the stand as they were moving the casket from the viewing room to the chapel.
 - No one was directing traffic causing the daughters to be last in line to the cemetery.
 - Also, the Complainant touched the decedent's body and found it to be soft which she thought was odd for a body that had been embalmed.

Response:

- October 17, 2012
 - Decedent's family met with Respondent's employee to discuss final arrangements, but they were not sure how they planned on paying for the funeral until they located an insurance policy later that afternoon.
- October 18, 2012
 - Family arrived to fix the decedent's hair.
 - The decedent was placed in the chapel because the Respondent employee believed it was a better environment for the family to provide hair care.
 - Respondent employee explained to the family that the decedent was in the chapel and that the body was covered with a sheet.

- The sheet was placed to cover the drain tube, and Respondent admits that they should have lifted the sheet to see if the drain tube was dirty.
- October 19, 2012
 - Respondent employee did not provide the initial cosmetics application; however, she believed the person who did the cosmetics did a good job.
 - Employee wishes she had looked over everything to make sure all details were properly addressed.
 - Family said they were not happy with the lipstick so the employee offered to try and fix that.
 - While the employee was working on the lipstick, the family asked that she cover the bruises on the decedent's face as well.
 - Employee states that this was a difficult case as the decedent's entire arm was exposed due to her wearing short sleeves.
 - Employee was unaware of the difference in color in the hand and the arm, but stated that this difference could be due to the amount of make-up applied on the arm.
 - The employee did not offer to apply mascara to the decedent as no one asked her to do that, and she would have gone out and purchased a scarf if the family had made her aware of the condition of the decedent's neck.
 - The family gave the employee very specific instructions that they would view the decedent's body and then close the casket for the funeral service as the decedent had requested; however, the family asked the employee to leave the casket open as they informed her that the decedent looked so nice.
 - As for the temperature in the establishment, the employee states that she was unaware that the family was uncomfortable with the temperature in the establishment.
- October 20, 2012
 - When moving the casket to the chapel, the employee was unaware of any issues during the transportation, and nothing out of the ordinary of moving the casket occurred.
 - As for the transportation to the gravesite, the employee states that some family members preferred to walk while others drove to the gravesite, but they allowed any family member who wished to drive to the gravesite to park their cars behind the hearse.
 - The employee states that she worked very hard to address the concerns of the family and asked on numerous occasions whether the family needed any assistance; however, she regrets that there may have been some issues with leakage from the decedent's body caused by the presence of edema.

NOTE: On November 19, 2012, the Board received a letter from the manager of the Respondent establishment stating that they were refunding the family one

thousand three hundred and sixty-five dollars (\$1,365.00), the total cost of embalming and dressing the decedent.

History:

- Three (3) closed complaints, none related.
 - o Complaint: 950878 – Alleged to have changed name on cemetery lot paperwork.
 - Presented: N/A
 - Determination: Close.
 - Status: Closed – November 30, 1998.
 - o Complaint: 950794 – Alleged solicitation.
 - Presented: October 19, 1998.
 - Determination: Close.
 - Status: Closed – March 1, 2000.
 - o Complaint: 2005025341 – Preneed violations.
 - Presented: August 9, 2005.
 - Determination: Consent Order with \$500.00 civil penalty
 - Status: Closed – January 10, 2006.

Recommendation:

- Letter of Warning.

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

Seconded by David Neal

Roll Call Vote		
	Yes	No
Wayne Hinkle		X
Tony Hysmith		X
David Neal	X	
W. T. Patterson	X	
Jane Gray Sowell		X
Robert Starkey	X	
Anita Taylor		X

Motion failed

Wayne Hinkle made a motion that a Letter of Warning be sent to the establishment and that the Assistant General Counsel contact the family to determine their satisfaction with the establishment refund.

Seconded by Anita Taylor

Roll Call Vote		
	Yes	No
Wayne Hinkle	X	
Tony Hysmith		X
David Neal	X	
W. T. Patterson	X	
Jane Gray Sowell		X
Robert Starkey	X	
Anita Taylor	X	

Adopted

8. Case No.: L12-FUN-RBS-2012024011

Complaint:

- On April 23, 2012, a field representative conducted a routine inspection of the Respondent establishment.
- Tenn. Code Ann. § 62-5-107 – Utilization of licensed crematory facilities
 - o 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.
 - o Three (3) files for Ethel E. Johnson, Kenneth L. Wiser, Jr., and William Minnick, did not contain the cremation authorization form.
- Rule 0660-01-.03 – Changes
 - o On the SFGSS, the name of the funeral establishment is not consistent with the name used when this establishment was licensed by the Board.
 - o All contracts must use the licensed name or apply for a name change with the Board.
- Tenn. Code Ann. § 62-5-308 – Licensure
 - o The current embalmer's license of one individual was not available for inspection.
- Tenn. Code Ann. § 62-5-508(c) – Final Disposition
 - o Unclaimed cremated remains on the establishment cremation authorization forms must read 180 days instead of the 120 days currently shown.
- Rule 0660-11-.06 – Funeral Rule
 - o Under alternative containers on the CPL, the Stratus with no interior, offered to the consumer is listed for \$450.00; however, on the establishment's SFGSS, the consumer is charged \$545.00
 - Two (2) contracts (Alvin L. Brown and Kenneth L. Wiser, Jr.) showed this difference.
 - o SFGSS – On all SFGSS the merchandise and its description must be shown on the contract before the consumer signs the contract.

- Three (3) files (Dorothy M. Dixon, Ann M. McRae, and Patricia A. Kelty) did not contain this information on the SFGSS.

Response:

- Tenn. Code Ann. § 62-5-107
 - Respondent states it was an oversight not to include the properly executed cremation authorization forms in the files as required by law. Respondent provided copies of the properly executed forms.
- Rule 0660-01-.03
 - The allegation that the SFGSS of the establishment does not match the name provided on the establishment application form is accurate.
 - Respondent did not realize the SFGSS printed the name in a manner inconsistent with the name on its license.
 - This matter has been resolved.
- Tenn. Code Ann. § 62-5-308
 - As for the embalmer's license not available for inspection, this individual no longer works for the Respondent.
 - That employee's embalmer's license was inadvertently left on the wall during the inspection.
- Tenn. Code Ann. § 62-5-508
 - It was an oversight to state 120 days rather than 180 days on the cremation authorization form.
 - This oversight has been corrected.
- Rule 0660-11-.06
 - The charge of \$545.00 on the SFGSS includes a \$95.00 charge for a liner.
 - The Stratus with the interior lining, priced at \$545.00, is included in the contracts and authorized and signed by the purchaser of each contract reviewed.
 - As for description of merchandise being placed on a SFGSS prior to the consumer signing the SFGSS, the Respondent states that this was an oversight and they are not aware that the casket name and description was not on the SFGSS in three (3) instances.

History:

- One (1) closed complaint.
 - Complaint: 948795 – Funeral director allegedly misled Complainant in stating insurance company stopped honoring her policy, when it was actually the establishment that was not honoring the policy.
 - Presented: N/A
 - Determination: N/A
 - Status: Closed – November 3, 1997.

Recommendation:

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

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

Seconded by Wayne Hinkle

Adopted by voice vote

9. Case No.: L12-FUN-RBS-2012024031**Complaint:**

- On August 1, 2012, a field representative conducted a routine inspection of the Respondent establishment.
- Tenn. Code Ann. § 62-5-107
 - o All cremation authorization forms must be signed by an authorizing agent or agents and a licensed funeral director and maintained in the files of the establishment; however, in two (2) instances (Don A. Baldwin and Robert Leo Fitzpatrick) the Respondent failed to retain this form.
- Tenn. Code Ann. § 62-5-306
 - o The current funeral director's license of one (1) individual was not available for inspection.
- Tenn. Code Ann. § 62-5-308
 - o The current embalmer's license of one (1) individual was not available for inspection.
- Rule 0660-11-.06
 - o On GPL – alternative container for direct cremation disclosure is not correct on the GPL with that being offered to the consumer.
 - o On GPL – under direct cremation with wood grained exterior fiberboard container is not listed on the GPL as an alternative container.
 - o On CPL – on GPL immediate burial with casket purchased from the funeral home, the price of Option A plus cost of casket selected on the low to high end price range is inconsistent with the casket being offered to the consumer.

Response:

- No response received.

History:

- One (1) open complaint; two (2) closed complaints.
 - o Complaint: 2011025081 – License and latest inspection report of crematory not available; employees listed on website without official positions defined; errors on GPL and CPL.
 - Presented: December 13, 2011.

- Determination: Consent Order with \$500.00 civil penalty.
- Status: Open.
- Complaint: 2010004651 – Illegal advertising.
 - Presented: November 9, 2010.
 - Determination: Dismissed.
 - Status: Closed – November 15, 2010.
- Complaint: 2009014971 – Advertised funeral packages not itemized.
 - Presented: December 8, 2009.
 - Determination: Letter of Warning.
 - Status: Closed – January 19, 2010.

Recommendation:

- Consent Order with \$500.00 civil penalty plus \$250.00 for no response for 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

10. Case No.: L12-FUN-RBS-2012024081
Complaint:

- On August 15, 2012, a field representative conducted a routine inspection of the Respondent funeral establishment.
- Tenn. Code Ann. § 62-5-107(2)
 - The Respondent failed to obtain and maintain a copy of the most recent license of the crematory utilized by this establishment.
- Tenn. Code Ann. § 62-5-107(c)(3)
 - Respondent failed to sign the cremation authorization form in two (2) separate instances as these were not signed by a licensed funeral director (Irene Bradford and Worley Minton).
- Rule 0660-11-.06
 - Respondent failed to provide the reason for embalming on nine (9) Statements of Funeral Goods and Services Selected (Lucille Kiefouver, Bill J. Correll, Danny Dickey, Christine D. Buck, Montie W. Kinley, Gail L. Maupin, Edith R. Bridger, Penny Sue D. Farris, and Mildred Cannon).
- Rule 0660-01-.03
 - Respondent permitted their GPL, CPL, OBCPL and SFGSS, which were likely to be viewed by the public, to refer to the funeral establishment by a name other than the exact name listed on the establishment application approved by the Board.

Response:

- Respondent admits failing to obtain an updated copy of the crematory license and states that their crematory is not on the premises of the funeral home and they had yet to receive an updated copy from the crematory office.
- Respondent admits to failing to sign under licensed funeral director on two (2) cremation authorization forms.
- Respondent states that they failed to provide the reason for embalming on nine (9) SFGSS and will diligently try to correct this error in the future, but they were in no way trying to be deceptive.
- As for those documents with a different establishment name, the Respondent states that their contract did not have the fully changed name on it due to the fact that their accountant provides the contracts for them and did not provide the Respondent with correct documents.

History:

- Three (3) closed complaints:
 - o 2006006351 – Violation of FTC
 - Presented: March 14, 2006.
 - Determination: Consent Order with \$250.00 civil penalty.
 - Status: Closed – March 27, 2006.
 - o 2009005241 – Crematory inspection report not available, Price list discrepancies.
 - Presented: June 9, 2009.
 - Determination: Consent Order with \$250.00 civil penalty.
 - Status: Closed – July 15, 2009.
 - o 2009024061 – Crematory inspection report not available, no ID device on deceased, FTC price discrepancies.
 - Presented: January 12, 2010.
 - Determination: Consent Order with \$750.00 civil penalty.
 - Status: Closed – April 6, 2011.

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 Anita Taylor

Adopted by voice vote

11. Case No.: L12-FUN-RBS-2012024121**Complaint:**

- On September 10, 2012, a field representative conducted a routine inspection of the Respondent funeral establishment.

- Tenn. Code Ann. §§ 62-5-316; 62-5-309; 62-5-313
 - o The Respondent's establishment license expired on June 30, 2012, and was not renewed until August 27, 2012.
 - o During this time, the Respondent conducted thirty-four (34) funeral services.
- Tenn. Code Ann. § 62-5-107(2)
 - o The current license for the crematory utilized by this Respondent was not available for inspection.

Response:

- Respondent apologizes for failing to properly renew their establishment license.
- They take full responsibility for this and state that this is not a normal occurrence in their business.

History:

- Thirteen (13) closed complaints and one (1) dismissed.
 - o Complaint: 2010018901 – No licensed manager; aiding and abetting unlicensed person to practice; GPL errors.
 - Presented: October 12, 2010.
 - Determination: Consent Order with \$1,000.00 civil penalty.
 - Status: Closed – December 8, 2010.
 - o Complaint: 2009002521 – Embalmer's license not available for inspection; FTC violations.
 - Presented: October 12, 2010.
 - Determination: Consent Order with \$750.00 civil penalty.
 - Status: Closed – December 8, 2010.
 - o Complaint: 2009002451 – Unprofessional conduct, misrepresentation or fraud in conduct of business, and knowingly making false statement on certificate of death.
 - Presented: February 10, 2009.
 - Determination: Summary Suspension.
 - Status: Closed – by Final Order on February 23, 2010.
 - o Complaint: 2008023041 – Misrepresentation or fraud in conduct of business and failure to provide SFGSS at conclusion of arrangement conference.
 - Presented: March 10, 2009.
 - Determination: Authorization for hearing.
 - Status: Closed – February 19, 2010.
 - o Complaint: 2008017511 – FTC violations.
 - Presented: October 14, 2008.
 - Determination: Letter of Warning.
 - Status: Closed – October 29, 2008.
 - o Complaint: 2007077931 – Consumer feels treated unjustly, harassed for money, not told the truth and embalming of her brother's body not completed correctly.

- Presented: August 12, 2008.
- Determination: Consent Order with \$750.00 civil penalty.
- Status: Closed – September 12, 2008.
- Complaint: 2007071851 – Consumer claims she was lied to and not allowed to view or identify brother's body.
 - Presented: May 13, 2008.
 - Determination: Consent Order with \$500.00 civil penalty.
 - Status: Closed – September 12, 2008.
- Complaint: 2006032211 – Family members had to wait six (6) hours to view body, and then viewed body in the garage. Body smelled bad. Family left to get camcorder and not allowed to view body when they returned. Family displeased with look and condition of the body and could not get satisfactory answers from funeral home staff.
 - Presented: November 14, 2006.
 - Determination: Letter of Warning.
 - Status: Closed – November 20, 2006.
- Complaint: 2005039481 – Family changed funeral homes after Respondent had already embalmed the decedent. Second funeral home paid Respondent for embalming when they retrieved the body. Respondent received benefits as beneficiary of insurance policy, but will not forward those benefits to the second funeral home.
 - Presented: December 13, 2005.
 - Determination: Dismissed.
 - Status: Closed – December 14, 2005.
- Complaint: 2004203031 – Complainant claims the Respondent funeral director left the gravesite prior to services being complete.
 - Presented: June 21, 2005.
 - Determination: Close.
 - Status: Closed – June 29, 2005.
- Complaint: 2003120451 – Grasping apparatus broke when it was being positioned to lower the casket into the ground and causing pallbearers to stumble. Funeral director's son was rude and family has not been able to get adequate response from owner after several calls.
 - Presented: June 17, 2003.
 - Determination: Close with Letter of Warning.
 - Status: Closed – July 7, 2003.
- Complaint: 949055 – Unprofessional conduct and refusing to accept the casket and vault from another funeral establishment.
 - Presented: N/A
 - Determination: N/A
 - Status: Closed – January 6, 1999.
- Complaint: 948132 – Complainant's mother left and made the son the beneficiary of the insurance policy, but the father used the

policy. The son received nothing and the funeral home told him he needed to come and sign some papers, but didn't tell him what he was signing or give him a copy.

- Presented: N/A
- Determination: N/A
- Status: Closed – April 2, 1997.
- Complaint: 2000052271 – Unprofessional conduct toward family of decedent.
 - Presented: N/A
 - Determination: Dismiss.
 - Status: Dismissed – April 23, 2002.

Recommendation:

- Consent Order with \$3,500.00 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

Reconsideration as Recommended by Assistant General Counsel:

- Remove Tenn. Code Ann. § 62-5-107 allegation regarding the lack of retaining cremation authorization forms from complaint and issue a Consent Order with \$3,500.00 civil penalty and authorization for hearing

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

Seconded by W. T. Patterson

Adopted by voice vote

12. Case No.: L12-FUN-RBS-2012024141

Complaint:

- On September 14, 2012, a field representative conducted a routine examination of the Respondent establishment.
- Tenn. Code Ann. §§ 62-5-316; 62-5-309; 62-5-313 – Establishment License
 - The Respondent's establishment license expired on August 31, 2012, and was not renewed until September 14, 2012.
 - During that time, the Respondent conducted three (3) funeral services (Lucian F. Key; Alexander Wiseman; Requisha D. Jones).
- Tenn. Code Ann. § 62-5-306 – Funeral Director's License

- One (1) employee's funeral director's license was not available for inspection.
- Rule 0660-01-.03(2) – Changes
 - Respondent permitted signage that was likely to be seen by the public, to refer to the funeral establishment by a name other than the exact name listed on the establishment application approved by the Board.
- Tenn. Code Ann. § 62-5-508(c) – Final Disposition
 - Respondent's Cremation Authorization forms stated that human remains may be interred, entombed, or inurned by the operator of the crematory facility if the human remains remain unclaimed after 120 days; however, according to statute, that must state 180 days.
- Tenn. Code Ann. § 62-5-107(2) – Inspection Report of Crematory
 - Respondent's latest inspection report of the crematory utilized by this establishment was not available for inspection.
- Rule 0660-11-.06 – Funeral Rule
 - GPL – Direct Cremation – the high-end range is inconsistent with the CPL.
 - GPL – Direct Cremation with alternative container, cardboard, inconsistent with the CPL.

Response:

- Respondent provided documentation showing that all of these violations had been corrected.

History:

- Two (2) closed complaints; three (3) open complaints
 - Complaint: 2009016191 – inspection report and crematory license not available; cremation authorization form missing; advertised name not same as registered with Board; GPL, CPL, and SFGGS discrepancies.
 - Presented: January 12, 2010.
 - Determination: Closed with Letter of Warning.
 - Status: Closed – February 5, 2010.
 - Complaint: 2010026061 – License and inspection report of crematory not available; no cremation authorization form in one file; signage on funeral vans not same as registered with Board; part of cremated remains given to family with remaining part to be given to other family members but had not been retrieved by family; cremated remains without ID device; SFGSS errors.
 - Presented: November 9, 2010.

- Determination: Consent Order with \$2,000.00 civil penalty.
- Status: Closed – April 4, 2011.
- Complaint: 2010008611 – Complainant claims she was overcharged, not given itemized statement, not given correct remains and not given remains in timely manner.
 - Presented: August 10, 2010.
 - Determination: Closed – then re-opened
 - Status: Closed – August 19, 2010 – Re-opened with litigation monitoring order.
- Complaint: 2010035151 – License and inspection report for crematory used not available; aiding or abetting unlicensed person to practice within funeral profession; CPL and OBCPL discrepancies.
 - Presented: April 12, 2011.
 - Determination: Counsel recommended \$500.00 civil penalty and Board voted in favor of \$1,500.00 civil penalty.
 - Status: Open – Formal Charges Authorized.
- Complaint: 2011028421 – Cremation authorization forms not being kept at funeral establishment; GPL, CPL, OBCPL, SFGSS discrepancies; Business cards have different names than what is registered with Board.
 - Presented: March 13, 2012.
 - Determination: Consent Order with \$1,500.00 civil penalty.
 - Status: Open

NOTE: At the request of the Assistant General Counsel, the Board recessed at 11:15 A.M. and reconvened at 11:32 A.M.

Recommendation:

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

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

Seconded by W. T. Patterson

Adopted by voice vote

ADMINISTRATIVE MATTERS:
ROBERT B. GRIBBLE, EXECUTIVE DIRECTOR

NEW MEETING LOCATION:

Director Gribble informed the Board that beginning with the March 2013 Board Meeting, the meeting location will be moved to the new conference rooms at the Davy Crockett Tower, 500 James Robertson Parkway, Nashville, Tennessee.

LICENSEE REPORT:

REPORT OF LICENSES ADMINISTRATIVELY APPROVED BY EXECUTIVE DIRECTOR PURSUANT TO BOARD AUTHORITY FOR THE PERIOD OF DECEMBER 11, 2012 – FEBRUARY 11, 2013

Establishments

Type of Change

Highland Hills Funeral Home & Crematory Nashville, TN	New Establishment
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Presley Funeral Home Cookeville, TN	Ownership/Name
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Serenity Funeral Home & Cremation Center, LLC Etowah, TN	Name
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Smart Cremation Memphis, TN	Name
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Individuals

Type of License(s)

David Lee Cantrell Athens, TN	Funeral Director/Embalmer
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H. Robert Cody, Jr. Cleveland, TN	Funeral Director/Embalmer
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Elizabeth Lauren Kilgore Tullahoma, TN	Funeral Director/Embalmer
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Keaira Lachelle Witten Arden, NC	Funeral Director/Embalmer
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CLOSED ESTABLISHMENT REPORT:

One (1) establishment has reported closing since the last board meeting:

- Cremation Society of Tennessee Maury County, 2120 Circle Drive, Columbia, TN

DISCIPLINARY ACTION REPORT:

**REPORT OF CONSENT ORDERS ADMINISTRATIVELY ACCEPTED/APPROVED
BY THE EXECUTIVE DIRECTOR PURSUANT TO BOARD AUTHORITY FOR THE
PERIOD OF DECEMBER 11, 2012 – FEBRUARY 11, 2013**

Respondent: Bledsoe Funeral Home, Inc., Jackson, TN
Violation: Operated a funeral establishment and conducted funeral services while establishment license was expired
Action: \$250 Civil Penalty

Respondent: Brentwood-Roesch-Patton Funeral Home, Brentwood, TN
Violation: Failed to have current licenses of funeral directors and embalmers available for inspection, failed to retain a cremation authorization form in files, failed to have the correct number of days on the form regarding disposition of unclaimed cremated remains and failed to list the specific merchandise and description on contracts
Action: \$500 Civil Penalty

Respondent: Brownsville-Bells Funeral Homes, Brownsville, TN
Violation: Advertisement failed to provide an itemized listing of each and every item, procedure or service and show a price for each item
Action: \$250 Civil Penalty

Respondent: Crest Lawn Funeral Home – Cremation Center, Cookeville, TN
Violation: Immoral or unprofessional conduct (failed to properly package cremated remains in an appropriate container for mailing, failed to mail cremated remains within the time period as agreed upon and failed to provide documents to an insurance company)
Action: \$250 Civil Penalty

Respondent: Family Mortuary, Inc., Memphis, TN
Violation: Operated a funeral establishment and conducted funeral services while establishment license was expired
Action: \$300 Civil Penalty

Respondent: Kevin Michael Garrett, Lewisburg, TN
Violation: Not in compliance with an order of child support
Action: Suspension of Student Registration

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

Violation: Advertisement failed to provide an itemized listing of each and every item, procedure or service and show a price for each item

Action: \$500 Civil Penalty

Respondent: Jordan Funeral Home, Pulaski, TN

Violation: Operated a funeral establishment and conducted funeral services while both the establishment license and manager's funeral director license were expired and failed to comply with an aspect of the Funeral Rule

Action: \$250 Civil Penalty

Respondent: Lynnhurst – Greenwood Chapel of Berry Funeral Home, Knoxville, TN

Violation: Failed to have current licenses of funeral directors and embalmers available for inspection and failed to have the correct number of days on the form regarding disposition of unclaimed cremated remains

Action: \$250 Civil Penalty

Respondent: Oakdale Funeral Home, Camden, TN

Violation: Operated a funeral establishment and conducted funeral services while establishment license was expired

Action: \$500 Civil Penalty

Respondent: Carl R. Points, Columbia, TN

Violation: Unprofessional or immoral conduct (received a cash payment from a customer to pay for funeral expenses, failed to remit the proceeds to his employer, and instead led his employer to believe that the family had not made payment for the funeral expenses) and unprofessional conduct (received cash payments for preneed funeral contracts and a monument; failed to remit the enrollment forms and cash to the insurance company; used the cash for the personal benefit of him and his wife, and later after inquiry submitted a cashier's check and enrollment forms to his former employer)

Action: \$3000 Civil Penalty, an Additional \$2942 in Hearing Costs, and Suspension of Funeral Director License for one year

Respondent: Margarett J. Savage, Pulaski, TN

Violation: Acted as manager of record for an establishment while funeral director license was expired

Action: \$200 Civil Penalty

Respondent: Heather Renea Sharpe, Nashville, TN

Violation: Not in compliance with an order regarding repayment of a student loan

Action: Suspension of Funeral Director and Embalmer Licenses

Respondent: Snow Funeral Home, Memphis, TN

Violation: Preparation room floor was in need of repair or replacement, failed to maintain a copy of the current license and latest regularly scheduled inspection results of the crematory that the funeral homes uses and failed to comply with multiple aspects of the Funeral Rule

Action: \$500 Civil Penalty

Respondent: Charles David Stephens, Franklin, TN

Violation: Acted as manager of record for an establishment and conducted a funeral service while funeral director license was expired

Action: \$250 Civil Penalty

OPEN COMPLAINT REPORT:

As of February 11, 2013 there were 122 open complaints.

A motion was made by Jane Gray Sowell to accept the Executive Director's Report.

Seconded by David Neal

Adopted by voice vote

INDIVIDUAL APPLICATION:

**Trena Jones Mueller
Nashville, TN**

Funeral Director/Embalmer

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 Robert Starkey to adjourn.

Seconded by Anita Taylor

Adopted by voice vote

The meeting was adjourned by President Tony Hysmith at 11:55 A.M.

Respectfully submitted,

Robert B. Gribble

Robert B. Gribble, CFSP
Executive Director