

TENNESSEE BOARD OF FUNERAL DIRECTORS AND EMBALMERS

MINUTES OF BOARD MEETING

AUGUST 12, 2014

President Robert Starkey called the meeting to order at 10:00 a.m. in Conference Room 1-B, Davy Crockett Tower, Nashville, Tennessee.

Board members present: Robert Starkey, President; Anita Taylor, Vice President; Robert Helms; Wayne Hinkle, David Neal and Jane Gray Sowell.

Board member(s) absent: W. T. Patterson

Staff present: Robert Gribble, Executive Director; Ellery Richardson, Assistant General Counsel; and Lisa Mosby, Administrative Assistant.

ADOPTION OF AGENDA:

A motion was made by Wayne Hinkle to approve the Agenda as printed.

Seconded by David Neal

Adopted by voice vote

APPROVAL OF MINUTES:

A motion was made by Jane Gray Sowell to approve the Minutes of the May 6, 2014 Board Meeting.

Seconded by Anita Taylor

Adopted by voice vote

President Starkey announced that the July 8, 2014 Minutes will be presented for review/approval at the next board meeting.

LEGAL REPORT:

ELLERY RICHARDSON, 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.: L14-FUN-RBS-2014009671**
 2. **Case No.: L14-FUN-RBS-2014009672**
 3. **Case No.: L14-FUN-RBS-2014009673**

Complaint:

- On December 4, 2013, an inspector with the Board conducted an inspection of the Respondent establishments.
- All three establishment licenses expired on September 30, 2013 and were not renewed until October 21, 2013.
- During this time, Respondent #1 handled seven (7) cases. Respondent #2 and #3 did not handle any cases.

Response:

- Respondent admits that their licenses expired on September 30, 2013 and were not renewed until October 21, 2013.
- Respondent states that this was an oversight and not done with any ill intent.

Recommendation:

- For Respondent #1: Consent Order for \$350 civil penalty and authorization for a hearing.
- For Respondent #2: Letter of Warning.
- For Respondent #3: Letter of Warning

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

Seconded by Anita Taylor

Adopted by voice vote

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4. **Case No.: L14-FUN-RBS-2014011181**
 5. **Case No.: L14-FUN-RBS-2014011182**

Complaint:

- On January 13, 2014, an inspector with the Funeral Board conducted an inspection of the Respondent establishment.
 - o The funeral director's license expired on December 31, 2013 and was not renewed at the time of inspection.
 - o During this time, the funeral director handled three (3) cases.

Response:

- Respondent did not renew because she overlooked completing her continuing education due to family and health issues. As the deadline approached, she contacted the office to inform them that she might not

have them completed in time, but she did not realize her license would not be renewed if she missed the deadline.

- After the inspector came and informed her that her license was expired, the funeral director quickly finished all the courses and mailed the late fees.

Recommendation:

- Respondent #4: Consent Order with \$250 civil penalty and authorization for a hearing.
- Respondent #5: Consent Order with \$250 civil penalty and authorization for a hearing.

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

Seconded by Wayne Hinkle

Adopted by voice vote

6. Case No.: L14-FUN-RBS-2014011031

7. Case No.: L14-FUN-RBS-2014011032

Complaint:

- On December 16, 2013, an inspector with the Funeral Board conducted an inspection of the respondent establishment.
 - o The manager's funeral director license expired on October 31, 2013 and was not renewed until December 5, 2013.
 - o During this time, the funeral director handled five (5) cases.

Response:

- Respondent funeral director apologizes for the oversight. He states that he is also a high school football coach. He was not in the funeral home office full time during the football season, so he overlooked the renewal date until he returned full time in December.

Recommendation:

- Respondent #6: Consent Order with \$250 civil penalty and authorization for a hearing.
- Respondent #7: Consent Order with \$250 civil penalty and authorization for a hearing.

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

Seconded by Wayne Hinkle

Adopted by voice vote

8. Case No.: L14-FUN-RBS-2014011591

9. Case No.: L14-FUN-RBS-2014011592

10. Case No.: L14-FUN-RBS-2014011593

11. Case No.: L14-FUN-RBS-2014011594

Complaint:

- On May 7, 2014 Complainant, who is a medical examiner, released remains and signed death certificate to a representative of Respondent #8 establishment.
- On May 30, 2014 Complainant's office received a copy of the death certificate from the Vital Records Office of the Tennessee Department of Health that Respondent #9 funeral director filed. It was apparent that this was not the same death certificate that the Complainant had signed and given to the establishment.
- Complainant believes the death certificate was falsified.

Response:

- Respondent establishment #10 took the deceased from the medical examiner's office, embalmed the body, and then gave it to Respondent #8 establishment.
- Respondent #11, embalmer for Respondent establishment #8, received the deceased on May 9, 2014, embalmed the deceased, and forwarded the body and the original death certificate to Respondent #8 establishment. Respondent #11 embalmer states that she did not prepare the death certificate.
- Respondent funeral director #9 states that while typing information into his portion of the death certificate after he received the body, he accidentally damaged the death certificate. He typed a new death certificate and transferred the information from the original document. The death certificate was then filed according to standard procedure.

Recommendation:

- Respondent 8: Consent Order with \$500 civil penalty and authorization for a hearing.
- Respondent 9: Consent Order with \$1,000 civil penalty and authorization for a hearing.
- Respondent 10: Dismiss.
- Respondent 11: Dismiss.

Robert Helms recused himself from participating in this matter.

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

Seconded by David Neal

President Starkey announced there would be roll call vote.

Roll Call Vote				
Board Members	Yes	No	Abstain	Recuse
Robert P. Helms				X
Wayne Hinkle	X			
David Neal	X			
Jane Gray Sowell		X		
Robert Starkey	X			
Anita Taylor	X			

Adopted by roll call vote

12. Case No.: L14-FUN-RBS-2014010571

Complaint:

On April 21, 2014, an inspector with the Funeral Board conducted an inspection of the respondent establishment.

- Respondent arranged for embalming of decedents at the establishment without obtaining a copy of the embalmer's current license. The license they had expired on November 30, 2013. During this period, the embalmer was listed on eight (8) death certificates.
- In Respondent's General Price List, Respondent lists direct cremation as the same price as another cremation package. This contradicts the pricing structure on the price list.

Response:

- Respondent received the embalmer's current license by the end of the inspection. The embalmer has an active license. Additionally, Respondent had previously asked the embalmer for his current license. The embalmer had not received it in the mail at that time but assured the Respondent that his license had been renewed.

The Funeral Rule requirement of offering a direct cremation is met in their price list. In their package, Minimum Cremation Done Properly, however, the Respondent chooses to not charge an additional fee for washing and disinfecting. Respondent believes in holding themselves to a higher standard and does not believe this is a violation of the Funeral Rule.

Recommendation:

- Close the complaint with a Letter of Warning for not having a copy of the embalmer's current license.

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

Seconded by Anita Taylor

Adopted by voice vote

13. Case No.: L14-FUN-RBS-2014010541

Complaint:

- On May 1, 2014, an inspector with the Funeral Board conducted an inspection of the respondent establishment.
 - o For one contract, the purchaser was charged \$200 more than what is listed for the casket selected on the general price list.
 - o Two of the four caskets on display are \$200 more than what is listed on the general price list.
 - o Three examined Statement of Funeral Goods and Services Selected did not have a reason for embalming listed.
 - o Respondent's website is not clear that two of their staff members are not licensed individuals.

Response:

- No Response.

Recommendation:

- Consent order with a civil penalty of \$1,000 (\$750 penalty plus \$250 for no response) and authorization for a hearing.

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

Seconded by David Neal

Adopted by voice vote

14. Case No.: L14-FUN-RBS-2014011541

15. Case No.: L14-FUN-RBS-2014011542

Complaint:

- Senior partner of the funeral home filed a complaint against his managing partner.
- Managing partner Respondent #14 told the Office of the Medical Examiner, staff members of several medical facilities, cemetery staff members, customer families, and others who call asking for him that he no longer works with the funeral home but is with a different establishment.
- When complainant came to pick up his mail, he saw that the sign of the funeral home had changed to remove his name. The name has not legally been changed and complainant still owns a third interest in the establishment.
- Complainant attached obituaries showing that the name in the newspaper is the changed name and not the legal name.

Response:

- Respondent states that he sent a letter to the Board explaining the decision of the two-thirds controlling partners to remove complainant from the firm.
- Respondent states that he still uses the full name of the funeral home, and attaches documents showing so. He gave the newspaper notice through the phone, and the newspaper made the mistake.
- Complainant is always notified when a client requests his service.
- Complainant has shown no interest in being connected to the firm either physically or monetarily.

As of July 23, 2014 the sign in front of the funeral home has the senior partner's name taken off.

Recommendation:

- Respondent Funeral Director: Consent Order with \$250 civil penalty and authorization for a hearing.
- Respondent Establishment: Consent Order with \$500 civil penalty and authorization for a hearing.
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A motion was made by Robert Helms to accept Counsel's recommendation.

Seconded by Wayne Hinkle

Adopted by voice vote

16. Case No.: L14-FUN-RBS-2014014651

17. Case No.: L14-FUN-RBS-2014014652

Complaint:

- Complainant's sister died on Memorial Day, May 26, 2014.
- The body was originally taken to Respondent #16's establishment for transport to the body farm, but the body farm rejected the body because it wasn't going to get there fast enough. Therefore, the family wanted to use another establishment. Complainant says that Respondent #16 was angry that the other establishment has a lower price by \$1,000.
- The transporter from Respondent #17's establishment and Respondent #16 demanded \$1,000 in transportation costs before they moved the deceased. Complainant claims that both Respondents took \$435 out of the deceased's bank account. They made complainant sign some papers and said they would give the money back, but they kept the money and split it among themselves.

- Respondent #16 was very disrespectful and unprofessional. When they came to take the body, Respondent #16 made them wait through two funerals.
- Complainant is very upset about the illegal conspiring to take the money out of the deceased's account.

Response:

- Respondent states that the county coroner contacted him about the deceased. The deceased was a registered donor with the University of Tennessee "Body Farm", and Respondent agreed to take the body for transport to the body farm the next day. He agreed to do this for no cost.
- Respondent states that he spoke with the complainant about this arrangement. He then spoke with Respondent #17 about transporting the deceased. Respondent #17 told him that she spoke with the complainant and they agreed on a \$1,000 price for the transportation. Respondent #16 again spoke with the complainant to confirm the agreement. Complainant told him that the money was in a bank account in the deceased's name. Respondent told complainant to contact him if she had any problems getting the money out of the account, since the deceased was the only name on the account.
- Complainant called on Tuesday morning, stating that the bank wouldn't release the money. Respondent then called the bank and spoke with the CEO. The bank agreed to release the money to the funeral home to pay for funeral and burial expenses, but it wouldn't release it to the family because they weren't on the signature card. The bank wrote the check to Respondent establishment, and the family thanked him for his help.
- Once all the transportation to the body farm was scheduled, confirmed, and about to take place, complainant arrived at Respondent's establishment Tuesday morning and told them that the family decided to have the body cremated by another funeral home.
- Respondent #17 had already traveled to the town and was about to take the body. Respondent #17 charged Respondent #16 \$275 out of the \$1,000 for coming and making the arrangements.
- Respondent establishment explained to the complainant that they had a verbal contract and showing up at the last minute to cancel it without warning was unacceptable, since a lot of the work had already taken place. Regardless, Respondent refunded all the money except the \$275 that went to Respondent #17.
- Respondent states that the body farm was ready to accept the deceased and had no knowledge of the change of plans. Complainant's statements about the body farm rejecting the body were false. In fact, a hospice nurse

- called the Respondent to ensure that the deceased went to the body farm because the deceased had been adamant to the nurse that she wanted her body donated.
- Respondent denies being disrespectful. There were two funerals scheduled, but since there was no advance notice when complainant showed up, it was unavoidable that she would have to wait. Respondent did the best he could to coordinate with the other funeral home for transport.
 - Respondent states that he never discussed his cremation prices with complainant, but a comparison of price lists shows that his is less expensive than the establishment complainant used.
 - Respondent states that all of this confusion could have been avoided if complainant had communicated with both Respondents.

Respondent #17:

- Respondent #17 states that everyone agreed to the \$1,000 price, and the body farm was waiting to accept the body. Complainant knew that he would be taking the deceased to the body farm between 9 and 10 a.m. Complainant arrived a little before 10 am and changed the plans.
- Complainant would not have had to pay for anything from him if he did not have to drive to the town. She should have communicated earlier that the plans had changed.

Recommendation:

- Respondent #16: Close.
- Respondent #17: Close.

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

Seconded by David Neal

Adopted by voice vote

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- 18. Case No.: L13-FUN-RBS-2014014871**
 - 19. Case No.: L13-FUN-RBS-2014014872**
 - 20. Case No.: L13-FUN-RBS-2014014873**

Complaint:

- Complainant states that it took Respondent a month to release the funds from his mother's pre-need funeral contract.
- Complainants met with Respondent for questions about their own pre-need funeral contracts. They came to the funeral home twice but Respondent was out. They made arrangements a third time to come on a

Saturday morning, but the funeral home's doors were locked. After knocking, Respondent funeral director came to the door not fully dressed. Both parties were upset, so complainants left. They came another day the next week and still were unable to meet with Respondent.

- Complainants are confused and unhappy and would like their pre-need contracts transferred to another funeral home.

Response:

- For the mother's contract, Respondent states that a month is less than the average time of a policy payout. Complainants are upset they couldn't get the money immediately.
- Respondent states that he has explained to the complainants that the pre-need contracts are irrevocable. It can be transferred to any funeral home they wish after the named person is dead. The complainants do not like that answer.
- Respondent states that the complainants never made any appointments and come unannounced demanding answers they want to hear and harassing his staff.
- As to the Saturday meeting, the complainants came unannounced and the funeral home was closed, and the closed sign was posted. Respondent does not make appointments on weekends unless there is an at-need situation. He was staying at the funeral home taking care of his mother, who has since passed away. He woke to their incessant knocking. He was dressed, but it was not in his usual professional attire.
- Respondent has explained that their money is in a trust with First Tennessee Bank and that it is irrevocable until the time of passing, when it can be transferred to any funeral home they choose.

Recommendation:

- Respondent #18: Close.
- Respondent #19: Close.
- Respondent #20: Close.

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

Seconded by Robert Helms

Adopted by voice vote

21. Case No.: L14-FUN-RBS-2014016781

22. Case No.: L14-FUN-RBS-2014016782

Complaint:

- Member of the public submitted news reports concerning Respondent.
- The news reports stated that Respondent funeral director and embalmer was arrested for his second DUI.

- Respondent pled guilty to "1st Offense Driving Under the Influence" on July 24, 2014.

Response:

- Respondent was admitted to an alcohol and drug rehabilitation center on July 11, 2014. The center is voluntary and was not mandated by any court. Respondent's case manager states that clients generally stay in the center for about 21 days, but they have the opportunity to stay for longer if they wish.

Recommendation:

- Close with a Letter of Warning.

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 JULY 8, 2014 – AUGUST 10, 2014

<u>Establishment(s)</u>	<u>Type of License(s)</u>
TLC Mortuary Services, LLC Nashville, TN	New Establishment
Cremation & Funeral Services of Tennessee Pegram, TN	Location
<u>Individual(s)</u>	<u>Type of License(s)</u>
Amanda Marie Gardner Piney Flats, TN	Funeral Director/Embalmer
Victoria Kate Johnson Knoxville, TN	Funeral Director/Embalmer
Robert Germaine Meneese	Funeral Director/Embalmer

Nashville, TN

Kristy Amanda Rinearson
Antioch, TN Funeral Director/Embalmer

Jason Carrol Wright
Columbia, TN Funeral Director/Embalmer

Lauren Paige Marshall
Columbia, TN Embalmer

Gary Leon Britt
Ringgold, GA Funeral Director/Embalmer
Reciprocity

Phrederic D. Dold
Knoxville, TN Funeral Director/Embalmer
Reciprocity

Orlando Cordell Farrington
Ooltewah, TN Funeral Director
Reciprocity

Ray Harold Hardy, Jr.
Irvine, KY Funeral Director
Reciprocity

CLOSED ESTABLISHMENT REPORT:

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

- Mosheim Chapel of Doughty-Stevens Funeral Home, 230 Main Street, Mosheim.

DISCIPLINARY ACTION REPORT:

**REPORT OF CONSENT ORDERS ADMINISTRATIVELY
ACCEPTED/APPROVED BY THE EXECUTIVE DIRECTOR PURSUANT TO
BOARD AUTHORITY FOR THE PERIOD OF JULY 1, 2014 – JULY 31, 2014**

Respondent: Brownsville-Bells Funeral Home, Bells, TN
Violation: Engaged in the operation of a funeral establishment while the establishment license was expired
Action: \$250 Civil Penalty

Respondent: Highland Hills Funeral Home & Crematory, Nashville, TN
Violation: The font size of an advertisement (billboard) was too small for consumers to read an itemized listing of the merchandise/services and their charges included in a package price while passing on a nearby thoroughfare

Action: \$500 Civil Penalty

Respondent: Andre Jones, Memphis, TN

Violation: Engaged in the practice of funeral directing without a license

Action: \$1,000 Civil Penalty

Respondent: Lane Funeral Home, Chattanooga, TN

Violation: Failed to obtain and maintain a copy of the crematory's current license and latest inspection report that the establishment uses

Action: \$500 Civil Penalty

Respondent: Smith Brothers Funeral Directors, Nashville, TN

Violation: Failed to respond within the time specified after receiving notice of an open complaint

Action: \$1,000 Civil Penalty

Respondent: West-Murley Funeral Home Huntsville Chapel, Huntsville, TN

Violation: Engaged in the operation of a funeral establishment while the license was expired, failed to obtain and maintain a copy of the crematory's current license and latest inspection report that the establishment uses, and failed to notify the Board within ten days of the effective date of a change in the identity of the licensed funeral director managing, supervising and responsible for a funeral establishment

Action: \$500 Civil Penalty

Respondent: Weatherford Mortuary, Inc., Oak Ridge, TN

Violation: Failed to obtain and maintain a copy of the crematory's current license and latest inspection report that the establishment uses

Action: \$250 Civil Penalty

Respondent: James S. Wilson, Brownsville, TN

Violation: Served as the licensed funeral director managing, supervising and responsible for a funeral establishment that operated while the establishment license was expired

Action: \$250 Civil Penalty

OPEN COMPLAINT REPORT:

As of August 11, 2014 there were 60 open complaints.

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

Seconded by Anita Taylor

Adopted by voice vote

INDIVIDUAL APPLICATION:

**Matthew Gregory Tuck
Lafayette, TN**

Funeral Director/Embalmer

Upon motion by Wayne Hinkle and seconded by Jane Gray Sowell, based upon application record, this individual was approved for licensure.

Adopted by voice vote

**Larry Russell Dawson
Antioch, TN**

**Funeral Director/Embalmer
Reapplication**

Jane Gray Sowell recused herself from participating in this matter.

Upon motion by Anita Taylor and seconded by Wayne Hinkle, based upon application record, a roll call vote was taken for consideration as to whether to approve this individual for licensure.

President Starkey announced there would be a roll call vote.

Roll Call Vote				
Board Members	Yes	No	Abstain	Recuse
Robert P. Helms		X		
Wayne Hinkle		X		
David Neal		X		
Jane Gray Sowell				X
Robert Starkey		X		
Anita Taylor	X			

Based on roll call vote, the individual was not approved for licensure.

A motion was made by Wayne Hinkle to deny the applications for licensure as a funeral director and an embalmer for this individual.

Seconded by David Neal

President Starkey announced there would be a roll call vote.

Roll Call Vote				
Board Members	Yes	No	Abstain	Recuse
Robert P. Helms	X			
Wayne Hinkle	X			
David Neal	X			
Jane Gray Sowell				X
Robert Starkey	X			
Anita Taylor		X		

Based upon the roll call vote, the applications of Larry Russell Dawson as a Funeral Director and an Embalmer were denied by the Board.

ESTABLISHMENT APPLICATION:

**McGILL CLICK FUNERALS & CREMATIONS
1366 HIGHWAY 72 NORTH
LOUDON, TN 37774-574432**

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

Adopted by voice vote

**SPRINGFIELD MEMORIAL GARDENS, FUNERAL HOME & CREMATION CENTER
4005 MEMORIAL BOULEVARD
SPRINGFIELD, TN 37172-5019**

Upon motion by Wayne Hinkle and seconded by Robert Helms, based upon application record, the establishment was approved for licensure.

Adopted by voice vote

PUBLIC CHAPTER 881 OF THE PUBLIC ACTS OF 2014:

Public Chapter 881 of the Public Acts of 2014 requires that a report shall be submitted to the persons and entities listed in Tenn. Code Ann. § 68-1-129(c) on or before December 31, 2014 regarding apprenticeships.

Ellery Richardson, Assistant General Counsel, Robert Gribble, Executive Director, and Lisa Mosby, Administrative Manager, will work on this report.

ADJOURN:

A motion was made by Wayne Hinkle to adjourn.

Seconded by David Neal

Adopted by voice vote

The meeting was adjourned by President Robert Starkey at 11:11 a.m.

Respectfully submitted,

Robert B. Gribble

Robert B. Gribble, CFSP
Executive Director