

TENNESSEE BOARD OF FUNERAL DIRECTORS AND EMBALMERS

MINUTES OF BOARD MEETING

JUNE 9, 2015

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; Mark Cochran, Robert P. Helms, David Neal, W. T. Patterson, and Jane Gray Sowell.

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

ADOPTION OF AGENDA:

A motion was made by Jane Gray Sowell 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 12, 2015 Board Meeting.

Seconded by Robert Helms

Adopted by voice vote

FORMAL HEARING:

Docket No. 12.21-130613A – Case No. L11-FUN-RBS-2011031351

- **Respondent: Thurman Funeral Home, LLC, 44 North Main Street, Sparta, TN, Establishment License No. 681**

The formal hearing for Thurman Funeral Home, LLC, has been continued until the September 2015 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

1. Case No.: L14-FUN-RBS-2014031601

2. Case No.: L14-FUN-RBS-2014031602

Complaint:

- Funeral establishment filed a complaint against Respondents for unprofessional soliciting business. Respondents have also told many people that complainant funeral establishment is closing. An investigation revealed evidence that Respondent funeral director passed out business cards and calendars during three services or visitations at various churches; two of these were conducted by Respondent and one was conducted by Complainant.

Response:

- Respondent denies the allegations in full and states that he has done work with Complainant in the past, and the Complainant owes him a substantial amount of money.

Recommendation:

- Close, as the solicitation did not occur after death or when death is imminent.

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

Seconded by Mark Cochran

Adopted by voice vote

3. Case No.: L14-FUN-RBS-2014031451

Complaint:

- Complainant states that his father passed away on October 26, 2014. Respondent kept calling and asking him to hurry up and "put him in the ground" while Complainant was contemplating the arrangements. When Complainant did make the final arrangements, he states that Respondent did not give him a price list nor did he see one anywhere; instead Respondent led him into a room full of caskets and told him that "this is what he [Complainant's father] would like." Respondent never asked what his monetary limits were. Respondent did not give Complainant an itemized statement until 19 days after the burial. Complainant did not

receive a copy of the insurance policy assignment until December 10, 2014, over a month after the burial.

Response:

- Respondent states that he did contact Complainant multiple times by phone because Complainant would not come to make arrangements. Respondent states that their price list was available in the family conference room, where he met with Complainant and all the caskets in the casket room are labeled with descriptions and price. Respondent states that the bills took a while because they couldn't reach each other by phone; every time Complainant called Respondent manager was on a call, and the staff are not funeral directors and could not have handled the financial arrangements.

Investigation:

- An investigation revealed that there was a price list on the arrangement conference table, but the table was extremely cluttered and Complainant may not have seen it or thought it was for him unless explicitly shown or given (Funeral Rule requires that the consumers are given a copy of the General Price List for retention.) The Statement of Funeral Goods and Services Selected was dated November 25, 2014. The arrangements were made on November 4, 2014, and the burial took place on November 6, 2014.

Recommendation:

- Consent order with civil penalty of \$1,000, investigation costs of \$425, and authorization for a hearing.

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

Seconded by David Neal

Adopted by voice vote

4. Case No.: L15-FUN-RBS-20150003781**Complaint:**

- Complainant received letters from the insurance company stating that they haven't paid their premiums. Complainant paid the premiums to the funeral home every month and has not missed. She called Respondent funeral home and they said the insurance company is wrong and not to worry about it. The letters keep coming so she called the insurance company and they state that they haven't received the payments and she needs to talk to the funeral home. She has receipts for years saying they've paid the premiums to the funeral home, but her policy was

changed to a loan because of the missed payments. When Complainant compared her receipts to the preneed policy, Complainant discovered that she's overpaid by \$19.20.

Response:

- Respondent states that all they do is forward the premiums and they do this because the prior owners did this, so they continued it as a courtesy to the customers. They have documentation that although Complainant has paid every month since 2000, there were three years where the Complainant did not make any payments and instead paid a lump sum in 2000. Those late payments turned her policy into a loan. Respondent states that he has no control over that or the overpayment; the insurance company should have declined the overpayment; they merely forward the checks on.
- It appears that the policy changed to a loan back in 1997.

Recommendation:

- Close

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

Seconded by David Neal

Adopted by voice vote

5. Case No.: L15-FUN-RBS-2015002111

Complaint:

- Complainant Monument Company states that Respondent owes \$3,971.35 on monuments ordered from 2011 through 2013. Respondent states that he used to be a salesman for the monument company and that this complaint should not have been filed against his funeral establishment; Complainant states that the whole arrangement went through the establishment.

Response:

- Respondent states that he does have an outstanding bill with the company, and it goes back to 2011 due to an agreement they had that allowed him to pay it back over several years. This agreement ended when he stopped working for them. Since he stopped working for them, the monument company has not contacted him to settle the amount but instead filed the complaint. Respondent states that amount owed is only \$3,179.60, not \$3,971.35. Respondent stated that he would pay it all by March 31, 2015, but this was not done.

Recommendation:

- Consent order with \$500 civil penalty and authorization for a hearing.

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

Seconded by Robert Helms

Adopted by voice vote

6. Case No.: L15-FUN-RBS-2015007291

Complaint:

- Inspection revealed two funeral rule violations: there is an \$800 discrepancy between the display room and the price list for one casket and one contract did not have the required itemization of charges by leaving out the price of an outer burial container.

Response:

- Respondent states that they refunded the \$800 overcharge to the customer and now have a procedure in place to check prices more stringently.

Recommendation:

- Consent order with \$500 civil penalty and authorization for a hearing.

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

Seconded by W. T. Patterson

Adopted by voice vote

7. Case No.: L15-FUN-RBS-2015007311

Complaint:

- Manager's licenses were not available for inspection. Respondent did not have a copy of the latest inspection of the crematory used until it was faxed over during the inspection.

Response:

- Respondent states that the licenses and inspection are now all posted. Respondent states that the information was at their other location and was not properly transferred.

Recommendation:

- 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 David Neal

Adopted by voice vote

8. Case No.: L15-FUN-RBS-2015007321

Complaint:

- Respondent failed to update its manager for about seven months. Additionally Respondent's main website lists a location that does not exist.

Response:

- Respondent apologizes for these oversights and states that both are now corrected.

Recommendation:

- 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 Robert Helms

Adopted by voice vote

9. Case No.: L15-FUN-RBS-2015007331

Complaint:

- Respondent did not have a copy of the crematory license and inspection report until the end of the inspection. Additionally, Respondent's Statement of Funeral Goods and Services Selected did not have the required disclosures.

Response:

- Respondent shows that it has corrected the violations.

Recommendation:

- Close with a Letter of Warning.

A motion was made by Mark Cochran to accept Counsel's recommendation.

Seconded by Anita Taylor

Adopted by voice vote

10. Case No.: L15-FUN-RBS-2015007471

Complaint:

- Respondent had two price list violations for one contract: a failure to itemize and an overcharge.

Response:

- Respondent has refunded the customer the \$1,175.04 that was inadvertently overcharged.

Recommendation:

- Consent order with civil penalty of \$500 and authorization for a hearing.

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

Seconded by Anita Taylor

Adopted by voice vote

11. Case No.: L15-FUN-RBS-2015007691

Complaint:

- Respondent's establishment license expired on October 31, 2014 and was not renewed until November 22, 2014. During this time Respondent handled eight cases.

Response:

- Respondent apologizes for the oversight.

Recommendation:

- Consent Order with civil penalty of \$400 and authorization for a hearing.

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

Seconded by Robert Helms

Adopted by voice vote

12. Case No.: L15-FUN-RBS-2015008411

Complaint:

- Complainant states that Respondent's website directs the public to the Better Business Bureau website even though Respondent is not BBB accredited; Complainant alleges this is misleading and dishonest, leading the public to think that Respondent is accredited. The BBB website also lists the owner as the prior owner, not the current owner.

Response:

- Respondent states that they do not take place in the BBB system but they provide the link for interested consumers. Upon the filing of this complaint Respondent called BBB and updated the owner information. The BBB does, however, still list the former owner.

The BBB's website gives Respondent an A+ rating, however, it does conspicuously state above this rating that Respondent is not BBB accredited.

Recommendation:

- Close.

A motion was made by Mark Cochran to accept Counsel's recommendation.

Seconded by David Neal

Adopted by voice vote

13. Case No.: L15-FUN-RBS-2015008741

Complaint:

- Complainant attended her nephew's funeral in September 2014 and asked for a copy of the DVD that they were playing. Respondent stated that it would take a few days and it would cost \$10 to mail, and Complainant stated that was fine. Complainant called in the following months and Respondent stated that they would put it in the mail the next day. Complainant finally received a copy of the DVD in May 2015.

Response:

- Respondent apologizes for the delay in sending the DVD, stating that he thought the secretary handled it, and she thought the manager had. Respondent states that the DVD was finally sent.

Recommendation:

- Close.

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

Seconded by Robert Helms

Adopted by voice vote

14. Case No.: L15-FUN-RBS-2015008781

Complaint:

- Respondent's Casket Price List is inconsistent from their General Price List in two different places.

Response:

- Respondent did not respond to the complaint.

Recommendation:

- Consent Order with civil penalty of \$500 and authorization for a hearing.

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

Seconded by Anita Taylor

Adopted by voice vote

15. Case No.: L15-FUN-RBS-2015009171

Complaint:

- Complainant states that she was not allowed to be involved in the arrangements of her mother, but her sister still insists on her helping pay. Complainant has not received any itemized list or amount of insurance available. Complainant also states that she was not at the visitation because the funeral home gave her conflicting information about the time.

Response:

- Respondent states that the deceased took out a guaranteed preneed funeral contract for all funeral expenses, but she subsequently moved to Georgia. Transportation costs from Georgia were the only thing not included in the preneed contract. The deceased's children split the transportation costs among themselves; Respondent never billed Complainant. Respondent states that since the deceased already had a preneed funeral contract, there were no arrangement decisions to be made, and Complainant was not kept out intentionally. Complainant never contacted the funeral home about any concerns, never requested to view the Statement of Funeral Goods and Services Selected, and never had any questions about charges.

Recommendation:

- Close

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

Seconded by David Neal

Adopted by voice vote

16. Case No.: L15-FUN-RBS-2015009221**Complaint:**

- Complaint alleges that Respondent provided and charged for services Complainant expressly declined because of their cost; Respondent also agreed to look into whether an insurance policy was still active but never confirmed with Complainant. When they spoke by phone Respondent was very rude and hung up on her. Complainant believed after the arrangement conference that the total cost would be around six thousand dollars; the final bill presented was \$9,828.08. After a delay of four months, the insurance policy paid the total bill and gave Complainant the excess, which was \$275.86. The Complainant additionally states that the signature on the Statement of Funeral Goods and Services Selected is not hers.

Response:

- Respondent denies any forgery of Complainant's signature and states that all the services Complainant mentions were either not provided or provided at no additional cost.

A review of the Statement of Funeral Goods and Services Selected and the insurance assignment shows that the amount of \$9,828.08 was agreed to and signed by all parties on the day of the arrangement conference. The signature appears to match all the other signatures of Complainant in the file.

Recommendation:

- Close

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

Seconded by David Neal

Adopted by voice vote

17. Case No.: L15-FUN-RBS-2015010501**Complaint:**

- Respondent's website lists its staff and does not state that any of its staff are licensed funeral directors.

Response:

- Respondent states that since they just opened in March, their website is still under construction and their managing funeral director was not yet on the website because they had not obtained his photo and bio. Respondent immediately corrected this and also added a note to each staff member stating whether they are licensed or not.

Recommendation:

- Close with a Letter of Warning

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

Seconded by Anita Taylor

Adopted by voice vote

18. Case No.: L15-FUN-RBS-2015009271

19. Case No.: L15-FUN-RBS-2015009272

Complaint:

- Funeral Board received information from the International Conference of Funeral Service Examining Boards, Inc., (The Conference) that Respondent shared National Board Examination (NBE) questions with others.

Response:

- Respondent admitted to sharing his study guide, which included NBE questions, with others.

The Conference subsequently invalidated all of his scores.

Recommendation:

- Revocation and authorization for a hearing, as his exam scores are no longer valid and he does not meet the minimum requirements of licensure.

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

Seconded by W. T. Patterson

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
MAY 12, 2015 – JUNE 8, 2015**

Establishments

Type of License(s)

Violation: Engaged in the operation of a funeral establishment while the establishment license was expired

Action: \$750 Civil Penalty

Respondent: Kenneth Todd Hargrove, Tullahoma, TN

Violation: Served as the manager of a funeral establishment and practiced funeral directing and embalming while funeral director and embalmer licenses were expired

Action: \$350 Civil Penalty

Respondent: James Tommy Harris, Cookeville, TN

Violation: Violation of statutes pertaining to the prearrangement or prefinancing, or both, of a funeral (failed to deposit moneys received for a preneed funeral contract into a trust account and failed to maintain accurate accounts, books, and records of all preneed funeral contract and prearrangement insurance policy transactions) and immoral or unprofessional conduct (owner and manager of an unregistered cemetery, did not use written contracts or keep proper records for burial sales, failed to keep proper records for interments, failed to have a trustee for the cemetery trust fund, and failed to file multiple annual reports)

Action: Revocation of both funeral director and embalmer licenses

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

Violation: Failed to maintain a separate record for the date of release of cremated remains in the log and cremation authorization did not contain the signature of a funeral director

Action: \$500 Civil Penalty

Respondent: Gregory Lynn Light, Seymour, TN

Violation: Engaged in the practice of embalming for funeral establishments while embalmer license was expired

Action: \$600 Civil Penalty

Respondent: Morris-Baker Funeral Home and Cremation Services, Johnson City, TN

Violation: The licenses of a funeral director and embalmer were not available for inspection, cremation authorization forms were not properly signed and dated and failed to retain copies of cremation authorization forms

Action: \$500 Civil Penalty

Respondent: New Heritage Chapel, Hollow Rock, TN

Violation: Advertisement of a dedication service and celebration of the opening of an unlicensed funeral establishment, operated a funeral establishment without a license, and did not have required price list

Action: \$500 Civil Penalty and \$200 Administrative Costs

Respondent: Melvin LaShun Shaw, Milan, TN

Violation: Engaged or offered to engage in the operation of a funeral establishment that was not licensed and acted as a funeral director and embalmer while registered as an apprentice funeral director and an apprentice embalmer

Action: No credit to be given for apprentice time regarding apprentice funeral director and apprentice embalmer registrations, must wait one year before reapplying for an apprentice funeral director and apprentice embalmer registrations, and must wait one year before applying for an establishment license

Respondent: Tullahoma Funeral Home, Tullahoma, TN

Violation: Manager of the funeral establishment engaged in the practice of funeral directing and embalming while funeral director and embalmer licenses were expired

Action: \$350 Civil Penalty

Respondent: Unity Mortuary, Knoxville, TN

Violation: Failed to obtain and maintain a copy of the crematory's current license and results from the crematory's latest inspection that the funeral home uses, failed to affix a permanent identification device to the human remains, and failed to comply with multiple aspects of the Funeral Rule

Action: \$750 Civil Penalty

The following individual has had their license(s) / registration(s) suspended in accordance with Tenn. Code Ann. § 36-5-706 or Tenn. Code Ann. § 56-1-313:

- JaVaughn Jermaine Tucker of Memphis, TN

OPEN COMPLAINT REPORT:

As of June 9, 2015 there were 47 open complaints.

UPDATE ON SNOW FUNERAL HOME IN MEMPHIS, TN:

Pursuant to the Board's Final Order from a hearing held on April 14, 2015, an establishment inspection conducted on June 1, 2015. The establishment license has been suspended for an indefinite period of time because the funeral

establishment failed to meet the minimum requirements of a licensed funeral establishment/facility in the State of Tennessee. Once the minimum requirements set forth by the Board have been met, the establishment license will be reinstated by Director Gribble.

KENTUCKY COURTESY CARD:

Director Gribble advised that the Kentucky Board of Embalmers and Funeral Directors continues to refuse issuance of a courtesy card to Tennessee licensed funeral directors and embalmers. Additionally, it has been reported that the Kentucky Board will not allow a Kentucky licensed funeral director and/or embalmer to make a removal in Kentucky unless that licensee is an employee of a Kentucky establishment, which means that Kentucky licensees working for Tennessee establishment still cannot make removals in Kentucky.

A motion was made by David Neal to accept the Executive Director's Report.

Seconded by Anita Taylor

Adopted by voice vote

LEGISLATIVE UPDATE:

The Legislature has adjourned for this year. Any person that wants an update on information concerning the funeral legislation can go to the Funeral Board website and sign up for notifications. They will receive an email when there are new or amended statutes, new or updated rules, changes to fees, rulemaking hearings, or significant changes impacting their licenses.

A motion was made by Jane Gray Sowell to accept the Legislative Update.

Seconded by Robert Helms

Adopted by voice vote

ADJOURN:

A motion was made by Anita Taylor to adjourn.

Seconded by Mark Cochran

Adopted by voice vote

The meeting was adjourned by President Robert Starkey at 10:45 a.m.

Respectfully submitted,

Robert B. Gribble

Robert B. Gribble, CFSP
Executive Director