

# **TENNESSEE BOARD OF FUNERAL DIRECTORS AND EMBALMERS**

## **MINUTES OF BOARD MEETING**

**OCTOBER 11, 2016**

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

Board members present: David Neal, President; Robert Helms, Vice President; Dennis Bridges, Mark Cochran, Robert Davis, Jeff Duffer, and Charles Rahm.

Staff present: Robert Gribble, Executive Director; Dennis Gregory, Assistant General Counsel; Allison Ratton, Assistant General Counsel; and Lisa Mosby, Administrative Manager.

### **ADOPTION OF AGENDA:**

A motion was made by Charles Rahm to approve the Agenda as printed.

Seconded by Robert Helms

Adopted by voice vote

### **FORMAL HEARING – LEONARD F. POGUE, ADMINISTRATIVE LAW JUDGE: DOCKET NO. 12.21-136334A CASE NOS. L15-FUN-RBS-20150218081, 20150218082, and 20150218083**

The formal hearing for the matter of V. E. Parham and Son Funeral Home and Virgil Parham, III, was set for the October Funeral Board (“the Board”). Counsel for the State, Dennis Gregory, and Counsel for the Respondent, David Grimmatt, appeared live before the Board.

A contested formal hearing was conducted after which the Board made findings of fact and conclusions of law. As part of these findings and conclusions, the Board did find that V. E. Parham and Son Funeral Home and Virgil Parham, III, had committed statutory and rule violations. The Board voted to SUSPEND the Funeral Establishment license and imposed a \$2,000 CIVIL PENALTY on the individual Funeral Director and Embalmer licenses of Virgil Parham, III. The Respondents, V. E. Parham and Son Funeral Home and Virgil Parham, III, were also assessed the hearing costs and any associated investigative costs. The Board further ordered that the Suspension would not be lifted from the Funeral Establishment License until the accompanying civil penalty of \$2,000 and hearing costs are paid AND the Funeral Establishment passes an annual inspection. The inspection will not occur until the \$2,000 civil penalty and hearing costs are paid in full.

**APPROVAL OF MINUTES:**

A motion was made by Jeff Duffer to approve the Minutes of the September 13, 2016 Board Meeting.

Seconded by Robert Helms

Adopted by voice vote

**LEGAL REPORT:**

**ALLISON RATTON, 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.: 2016022541**

**2. Case No.: 2016022542**

The complaint was filed by Decedent's son who states he received a phone call from Funeral Director that his father was put in the wrong clothes, wrong casket, and had been buried in someone else's grave in the wrong cemetery prior to Decedent's scheduled funeral service. Complainant stated, and later confirmed via sworn affidavit pursuant to the investigation requested by Legal, that the Establishment offered to provide a closed casket funeral the day after the service was originally scheduled, but instead Complainant's children went to the Establishment and verified the body intended to be presented for Decedent's funeral was not their grandfather. Complainant's son signed an affidavit for disinterment so Decedent could be retrieved in time for his scheduled funeral, yet funeral director refused to provide verification of the exhumation (however, a photo of same was obtained on a phone camera and submitted with the complaint). The exhumation was then scheduled for 7:30 a.m. on the morning of the Decedent's scheduled funeral service. Complainant alleges the body was brought to the funeral service approximately 15 minutes before the funeral started and approximately two hours after the scheduled visitation.

In a sworn affidavit pursuant to the investigation, the cemetery sexton where decedent was first buried stated that he was present for decedent's graveside service, the casket was placed into a vault, lowered into the grave, and the grave digger filled the grave. The cemetery sexton advised later that evening he was

called by Funeral Director and told the decedent was in the wrong casket so he met Funeral Director and a representative of the vault company the next morning. The cemetery sexton stated the vault was brought up, top removed, and casket placed in the establishment's van. The funeral director verbally told the investigator that the vault was cracked and he decided to come back the next morning to replace the vault. The investigator asked if funeral director left the cemetery with the body which he replied, no, there would not have been a reason to leave, and funeral director stated the new vault was placed in the ground, the casket was placed inside, and it was covered. The investigator called the vault company and the manager's statement, via sworn affidavit, conveyed the vault provided was undamaged, not cracked, and had no known defects, and when it was brought up from the ground it was undamaged. He also stated the establishment put the casket in the establishment van and left the property. The manager further stated that if the product had been cracked he would have done a warranty exchange and would not have charged funeral director, but the vault provided was not cracked.

In his response, Funeral Director alleges that he misplaced Decedent's clothes, but he provided Complainant a full refund and stated that Decedent was properly dressed in time for his funeral. Complainant's attorney confirmed a full refund had been given.

**Recommendation:**

- Establishment
  - o Consent Order for \$2,500 civil penalty, investigation costs, and authorization for a hearing
- Funeral Director
  - o License revocation and authorization for a hearing

A motion was made by Charles Rahm to accept Counsel's recommendation.

Seconded by Robert Helms

Adopted by voice vote

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**3. Case No.: 2016037611**

**4. Case No.: 2016037612**

Based on the Affidavit for Disinterment submitted by the Complainant for the prior case (#201602254), the Establishment buried Complainant's father in this

Complainant's husband's grave, then exhumed him, presented decedent for his correct funeral service, and then buried him in the correct grave at a different cemetery in another city.

In this case, the Establishment did not contact the Complainant at any time to let her know of the error. Upon exhuming the Decedent from the prior complaint, Funeral Director took the casketed body back to the Establishment, for what the Cemetery Sexton believed was to switch caskets. In trying to determine the facts of the prior complaint, the legal staff contacted the Complainant to determine what she knew. At the time of the phone call, she was completely unaware of the switch. The Complainant was clearly distraught and wept while Legal spoke with her on the phone. She acknowledged that Decedent had on the proper clothes and was in the proper casket. The Complainant sent the Establishment a demand letter for full reimbursement for the funeral costs on June 16, 2016.

According to her sworn affidavit pursuant to the investigation, Complainant stated that in viewing her husband at his visitation, which was open casket, she thought the man in the casket was her husband but it did not look like him, which she thought was due to makeup, the embalming process, and the injuries he obtained prior to death where he fell and bruised his face and teeth. Complainant's daughter told her that she did not think the man in the open casket was complainant's husband, and even asked funeral director about it, who told her the makeup and length of time accounted for the difference. The funeral director assured the daughter the person in the casket was Complainant's husband. Complainant's sister-in-law also commented to her that the body in the casket did not look like decedent.

Legal called Complainant on August 2, 2016 to follow up on the reimbursement letter, and Complainant stated that she had not heard anything from the Funeral Director or Establishment. Complainant again told Legal of the heartaches that still follow not knowing whether her husband was buried in his proper casket or clothes, because she was never informed of anything and never received a funeral service for her husband, as the wrong person was presented by the Establishment in her husband's place at her husband's funeral.

A response was not submitted timely for this complaint.

**Recommendation:**

- Establishment

- Consent Order for \$2,750 (\$2,500 for violations + \$250 for no response) civil penalty, investigation costs, and authorization for a hearing.
- Funeral Director
  - License revocation and authorization for a hearing

A motion was made by Charles Rahm to accept Counsel's recommendation.

Seconded by Jeff Duffer

Adopted by voice vote

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**5. Case No.: 2016050951**

This complaint was filed by a consumer who alleges his father's headstone was damaged and covered in dirt because the Establishment conducted another burial too close to the headstone. Complainant also states the Establishment does not have a burial log. In its response, the Establishment states it met with Complainant at the cemetery where Complainant's father is buried, that there was some dirt from the subsequent burial close to Complainant's father's grave, and the dirt was moved the next day. The Establishment also states it spoke with Complainant and Complainant was satisfied. Finally, Establishment does not have a master map as it is a funeral establishment, not a cemetery, so the master map requirements do not apply to it.

**Recommendation:**

- Close with a letter of instruction

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

Seconded by Robert Davis

Adopted by voice vote

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**6. Case No.: 2016038711**

The complaint was filed by a consumer, Decedent's wife, who sent two of her family members to the Establishment to make funeral arrangements for her husband. Complainant alleges the Establishment received her husband's body

then was notified of a delay in policy coverages, after which the Establishment refused to release the body and would not let the family members leave the property until the Establishment was paid, but the family found an alternative funeral home that honored the policy and moved the body.

In its response, the Establishment denied the allegations that it refused to release Complainant's husband's body until payment was rendered. It stated Complainant authorized the Establishment to remove and transport the body from Georgia to Tennessee and begin making arrangements with Complainant's family members, as Complainant was out-of-state. The Establishment determined the insurance policy produced by the family would likely not be paid out due to the circumstances of death as were relayed to the Establishment by Georgia authorities. The Establishment's Assistant Manager/Funeral Director stated that he relayed that information to Complainant and Complainant did not make a decision as to how to proceed. In the meantime, the family called a funeral director from another funeral home who agreed to meet them at the Establishment, which the Establishment permitted to occur on its premises as an accommodation. The Establishment's funeral director left the family alone for over an hour to wait for the alternate funeral director. Once the alternate funeral director arrived, the Establishment Manager/Funeral Director met with the family and the alternate funeral director and advised them it wanted someone to sign the Statement of Funeral Goods and Services Selected so it could recoup over \$1,400 for the out of state mortuary charges and airfare. The alternate funeral director reviewed the statement and signed it. The signed statement was produced with the Establishment's response.

**Recommendation:**

- Close with a letter of instruction

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

Seconded by Robert Helms

Adopted by voice vote

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**7. Case No.: 201603964**

The complaint was filed by a consumer pertaining to the funeral arrangements that were made for his mother. He alleges the Establishment printed the program, ran the obituary in the newspaper, embalmed the body, and set the

visitation and service, yet never called to discuss arrangements with him until the day of his mother's funeral services. Complainant states the funeral director told him no one could view the body without his approval and services could not go on as planned until he signed a contract that day, but was never given a contract of the charges, and was made to sign a blank sheet of paper. Complainant states the funeral director told him he was a beneficiary for the life insurance policy but did not show the policy to him. Complainant alleges the funeral director also asked him the day of the funeral for a \$500 check to pay for grave fees at the cemetery as a down payment in order for the grave to be dug. Finally, Complainant states Decedent's husband is senile and can't read or write and his Granddaughter does not have a valid power of attorney.

In its response, the funeral director stated she personally picked up Decedent, and the Establishment had no obligation to communicate with Complainant, a surviving child of the deceased, as it communicated with Decedent's surviving spouse and granddaughter, who had power of attorney for both Decedent and Decedent's surviving spouse. The funeral director asserts Complainant did not sign a contract as there was no reason for him to sign a contract. Included in the response is a Statement of Funeral Goods and Services Selected, which was signed by and billed to Decedent's surviving spouse. The funeral director states that all conversations about expense authorizations were made between the Establishment and the surviving spouse and/or power of attorney for Decedent's surviving spouse. The funeral director included a transaction history from the cemetery that shows the amount was paid in full by the granddaughter/power of attorney.

In support of the funeral home, the granddaughter submitted a letter which is signed and notarized by her, Decedent's husband, and two daughters. The letter states that the granddaughter assisted the grandmother with her financial affairs and the grandmother did not trust the Complainant with financial matters.

Complainant responded to the response, asserting the funeral home was obligated to speak with him because his name was on the insurance policies as beneficiary and expressing his belief that he had authority to act on his mother's estate as her only son and beneficiary.

**Recommendation:**

- Close

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

Seconded by Mark Cochran

Adopted by voice vote

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**8. Case No.: 2016049211**

**9. Case No.: 2016049212**

**10. Case No.: 2016049213**

The complaint was filed by a consumer who alleges Decedent's family came to the funeral establishment where he works unexpectedly, as the family was very concerned that the Funeral Director/Embalmer for the Establishment that picked up the Decedent was out of town. Complainant alleges the Funeral Director/Embalmer called the family while they were meeting with him and put her on speaker phone. Complainant states he was saddened, embarrassed, and disappointed by the hostile way the Funeral Director/Embalmer talked to a family member, did not give the family member a chance to speak, and stated that had she known the body was going to be moved to a different funeral home, she would not have left her vacation to come assist the family. Further, when the family went to pick up the body, Funeral Director/Embalmer's employee allegedly told them that if they did not pay him, they could not take the body, and since the family didn't bring money, he refused to release the body and only released the body after calling and speaking with Funeral Director/Embalmer.

In the response, the Funeral Director/Embalmer states the Decedent passed away on August 16, 2016, and that same day the Decedent's mother requested that the Establishment retrieve the body and handle funeral arrangements, so the Establishment picked up the body and transported it to the Establishment. The next day, the family went to the Establishment to make arrangements and called Funeral Director/Embalmer on her cell phone who told the Decedent's sister that she was enroute from vacation and could meet them in about four hours, and the family did not indicate there was a problem with that timeline. However, not two hours later, Complainant called the Establishment to make arrangements to transport Decedent to the funeral establishment where he worked. Funeral Director/Embalmer's employee called and advised her of same, to which she told him she was owed \$150 for removal of the remains. When Funeral Director/Embalmer reached Decedent's sister by phone, she states that she asked what did she do wrong, that they discussed she was on her way home from vacation but she told her she would meet her, and that if she had known the family was switching funeral homes she would have stayed on vacation with her



mom. Funeral Director/Embalmer states her tone was shock, not anger. Funeral Director/Embalmer states she advised her employee that the family owed \$150 for transport. The alternate funeral establishment arrived to pick up the body without payment, so the Establishment employee called Funeral Director/Embalmer to tell her, and she called Decedent's sister to ask who will pay for the services, but the sister hung up on her. Funeral Director/Embalmer asserts her employee asked for money because he was instructed by her to do so, but was not aware he gave the impression that he would not release the body without money as she was not present for that conversation. She acknowledges her employee's conduct was out of order and that he will be taking a sensitivity training course, and she has yet to receive any payment for the transport as of August 31, 2016.

**Recommendation:**

- Funeral Director
  - o Letter of Warning
- Embalmer
  - o Letter of Warning
- Establishment
  - o Consent Order with \$500 civil penalty and authorization for a hearing

A motion was made by Charles Rahm to accept Counsel's recommendation.

Seconded by Jeff Duffer

Adopted by voice vote

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**11. Case No.: 2016045501**

**12. Case No.: 2016045502**

This complaint was filed by the Board upon learning that charges were filed that Funeral Director/Embalmer violated his probation because domestic assault charges were filed against him, which is a violation of probation, and alcohol was involved, which is also a violation of probation. Funeral director/embalmer was on probation for a 2013 conviction of reckless aggravated assault, which is a class D felony under Tenn. Code Ann. § 39-13-102(a)(2). The assistant district attorney confirmed the violations of probation and the prior conviction with Legal staff. In his response, the Funeral Director/Embalmer provided further explanation of the accident which led to his arrest for the felony. According to his response, he was

convicted on December 12, 2013, of reckless aggravated assault for the car accident he caused on April 12, 2012, which he appealed but was upheld on appeal. Respondent states he was initially charged with DUI but was acquitted of that charge. Respondent's attorney reported the initial conviction and the appeal result, but did not provide written notice of the conviction. The written notice of the conviction, once received by the Board, prompted the opening of this complaint.

**Recommendation:**

- Funeral Director
  - o License suspension for 90 days and authorization for a hearing
- Embalmer
  - o License suspension for 90 days and authorization for a hearing

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

Seconded by Charles Rahm

Adopted by voice vote

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**13. Case No.: 2016045481**

**14. Case No.: 2016045482**

This complaint was filed by a consumer who alleges Funeral Director/Embalmer embalmed while his license was suspended and would stack bodies while transporting them to a secret location. An additional, related complaint was filed by a consumer who stated his family was interested in funeral services in July of 2016 but because of what the first Complainant stated about unlicensed activity, did not pursue those services. The complaints did not provide specific dates, photographs, or any additional information to substantiate their claims. In his response, Funeral Director/Embalmer adamantly denied the claims. Respondent's license is currently active and he stated any embalming performed by him is done in a licensed facility. Respondent has filed an order of protection against Complainant and the Co-Complainant, who were arrested and being investigated for assault against Respondent, an incident which apparently occurred prior to the filing of these complaints.

**Recommendation:**

- Funeral Director
  - o Close

- Embalmer
  - o Close

A motion was made by Jeff Duffer to accept Counsel's recommendation.

Seconded by Mark Cochran

Adopted by voice vote

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**15. Case No.: 2016052811**

This complaint was filed by a consumer who alleges the hospital released her husband's body to the Establishment without her permission, and as a result, she incurred fees she would not have incurred. Complainant states that when she called the hospital to make arrangements, the hospital told her they released the body to the Establishment per instructions from family members. Complainant then called Establishment who told her the hospital had called and told them to pick up Decedent's body so they did. Complainant asserts the co-owner of the Establishment told her the New York funeral home would be responsible for paying for the flight, and the body would not be released unless Complainant signed a contract to pay the Establishment for the services they performed up to that point. Complainant states the Establishment refused to cover the cost of the airfare so it ended up being an out-of-pocket expense for Complainant.

In its response, the Establishment states the hospital called and told them about the death and that the family was requesting its services. In the hospital's notification of death form that Respondent provided in its response, the Establishment is listed as the funeral home that had been contacted regarding disposition of the body; the form does not provide a space to list which person authorized removal of the body. The Establishment charged Complainant for death certificates and removal of the body which amounted to approximately \$1,200 on the Statement of Funeral Goods and Services Selected, which Complainant signed. The Establishment denies threatening her to sign the contract and instead stated it would incur the cost until Complainant got her insurance money and could pay them. The Establishment contacted the receiving funeral home in New York who refused to collect payment on delivery and were requiring Complainant to pay for shipping. Complainant was advised of the COD refusal and became upset, but Establishment never discussed covering the cost of out-of-state transport with Complainant.

**Recommendation:**

- Close

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

Seconded by Robert Helms

Adopted by voice vote

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**ADMINISTRATIVE MATTERS:**  
**ROBERT B. GRIBBLE, EXECUTIVE DIRECTOR**

**PERFORMANCE AND COMPLIANCE AUDIT:**

The Tennessee Comptroller of the Treasury, Division of State Audit, is in the process of conducting a Performance and Compliance Audit for the Board of Funeral Directors and Embalmers and other regulatory boards within the Department of Commerce and Insurance.

Since the last board meeting on September 13, 2016, Executive Director Robert Gribble has responded to the auditors' questions that were sent via emails and had a telephone conversation with one of the auditors.

The Performance and Compliance Section of the Comptroller's Office conducts performance audits based on identification of risks in statewide processes and programs or agency-specific operations and activities. This section also conducts performance audits to evaluate the efficiency and effectiveness of government programs in accordance with the Governmental Entity Review Law. In coordination with the financial and compliance audit section, this section is responsible for auditing functional areas of departments, agencies, and institutions of state government as well as federally sponsored programs in accordance with the Single Audit Act.

We will update the Board as the audit progresses.

**LEGISLATIVE UPDATE:**

The Board Office has been informed of at least one potential bill that may be introduced during the next legislative session that addresses circumstances where a funeral establishment is initially selected but the authorizing agent later decides to move the decedent to a subsequent funeral establishment.

Reportedly, the bill will require the initial funeral establishment to release the remains to the funeral home selected by the authorizing agent but either the

subsequent funeral establishment or the authorizing agent shall be responsible for the charges provided by the initial funeral firm and the initial firm shall be paid at the time of release of the decedent to the subsequent funeral establishment.

**LICENSEE REPORT:**

**REPORT OF LICENSES ADMINISTRATIVELY APPROVED BY EXECUTIVE DIRECTOR PURSUANT TO BOARD AUTHORITY FOR THE PERIOD OF SEPTEMBER 13, 2016 – OCTOBER 10, 2016**

<b><u>Establishment(s)</u></b>	<b><u>Type of Action(s)</u></b>
Tribute Funeral and Cremation Services Elizabethton, TN	New Establishment
Church & Chapel Funeral Service, LLC Portland, TN	Change of Ownership
Dyer Funeral Home Cookeville, TN	Change of Ownership
Simply Unique Cremation & Funeral Service Spring Hill, TN	Changes of Name and Location
Justin Ford Funeral Home Memphis, TN	Change of Location
<b><u>Individual(s)</u></b>	<b><u>Type of License(s)</u></b>
Landon Mark Anglin Dover, TN	Funeral Director and Embalmer
Jacob Hunter Beard McEwen, TN	Funeral Director and Embalmer
Brandon Anthony Compton Shelbyville, TN	Funeral Director and Embalmer
Allison Chelsea Klotz Fairview, TN	Funeral Director and Embalmer
Paul Carlton Majors Nashville, TN	Funeral Director and Embalmer
Tiffany Shea Long Mohawk, TN	Funeral Director
Ryan Eugene Miller	Funeral Director

Memphis, TN

Nolan Clete Walker  
Clarksville, TN

Funeral Director

Dorinda Akins Cobb  
Blue Ridge, GA

Embalmer

**CLOSED ESTABLISHMENT REPORT:**

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

- Hardwick & Sons Funeral Home, Inc., 765 East M. L. King Blvd., Chattanooga, TN.

**DISCIPLINARY ACTION REPORT:**

**REPORT OF CONSENT ORDERS ADMINISTRATIVELY  
ACCEPTED/APPROVED BY THE EXECUTIVE DIRECTOR PURSUANT TO  
BOARD AUTHORITY FOR THE PERIOD OF  
SEPTEMBER 1, 2016 – SEPTEMBER 30, 2016**

Respondent: Collierville Funeral Home, 534 West Poplar Avenue,  
Collierville, TN

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

Action: \$750 Civil Penalty

Respondent: Memphis Service Center, 4923 Summer Avenue, Memphis,  
TN

Violation: The receipts for delivery of human remains and release of  
cremated remains were not being kept nor logged and  
multiple permanent identification devices did not contain all  
of the required data

Action: \$500 Civil Penalty

Respondent: Schubert Funeral Home, Inc., 1318 Knoxville Highway,  
Wartburg, TN

Violation: Failed to retain completed cremation authorizations  
containing the signature of the funeral director, website failed  
to indicate a specific price of each and every item included in  
an advertisement, and contracts failed to accurately specify  
the goods and services included in funeral packages and  
accurately identify the package selected

Action: \$500 Civil Penalty

Respondent: Sellars Funeral Home at Hendersonville, 108 Monthaven Boulevard, Hendersonville, TN  
Violation: A permanent sign for the establishment was in place yet the establishment was not licensed  
Action: \$750 Civil Penalty

**OPEN COMPLAINT REPORT:**

As of October 11, 2016 there were 23 open complaints.

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

Seconded by Robert Davis

Adopted by voice vote

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**ADJOURN:**

A motion was made by Charles Rahm to adjourn.

Seconded by Jeff Duffer

Adopted by voice vote

The meeting was adjourned by President David Neal at 3:12 p.m.

Respectfully submitted,

*Robert B. Gribble*

Robert B. Gribble, CFSP  
Executive Director