

TENNESSEE BOARD OF FUNERAL DIRECTORS AND EMBALMERS

MINUTES OF BOARD MEETING

JUNE 14, 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; Anthony Glandorf, Chief 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:

Docket No. 12.21-136895A – Case No. L15-FUN-RBS-201501490
Respondent: Dwight Darrell Crayton, West Memphis, Arkansas,
Funeral Director License No. 5453 (Suspended)

It was announced that an Administrative Law Judge has granted a continuance for the formal hearing that was scheduled for today and that the new date for this hearing is August 9, 2016.

APPROVAL OF MINUTES:

President Neal announced that the May 10, 2016 Minutes will be presented for review/approval at the next board meeting.

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

1. **Case No.: 20150226121**
2. **Case No.: 20150226122**
3. **Case No.: 20150226123**

The deceased's ex-wife and the deceased's wife attempted to collaborate to decide disposition of deceased's body. The ex-wife called Respondent Funeral Home inquiring about cremation services and set up a meeting to discuss same. In the meantime, the wife elected to use the services of different funeral home ("authorized funeral home").

Deceased's body was at a hospital while the disposition of same was being determined. The hospital chart notes stated that the hospital had been authorized to release the deceased's body to Respondent Funeral Home. Respondent funeral director called the hospital to see if the deceased's next-of-kin had authorized release of the body; the hospital advised him that release had been authorized, based on the chart notes, so he picked up deceased's body from the hospital. Hours later, the wife called Respondent funeral director and asked him to transport the body to the authorized funeral home. Respondent funeral director transported the body to the authorized funeral home. An investigation revealed that the former wife did not engage the services of or authorize Respondent funeral home to transport deceased's body nor did she have the authority to do so, and the wife never authorized Respondent funeral home to transport deceased's body. However, it appears Respondent funeral home attempted to follow the wishes of wife, deceased's next-of-kin, based on the information it received from the hospital, and promptly returned deceased's remains when it was informed it was not authorized to make disposition of the body.

Recommendation:

- Close with no action.

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

Seconded by Jeff Duffer

Adopted by voice vote

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4. **Case No.: 2016005691**

The deceased passed away in Tulsa, Oklahoma, and had a preneed arrangement in Memphis, Tennessee. Complainant alleges that the Respondent establishment overcharged for their mother's service. The Respondent attempted to follow their National Transferability Policy, by using an affiliate funeral home; however the closest affiliate was unavailable at the time. The Respondent states that the family did not want to wait on the affiliate and the Respondent contracted with a funeral home in Tulsa for transport of the deceased. Upon arriving in Memphis, the Complainant received a bill from the contracted funeral home in the amount of \$2,408.36 to cover the embalming/transport. The Respondent agreed to reimburse the Complainant for the entirety of the amount, and has provided a copy of the check that was sent to the Complainant.

Recommendation:

- Close with no action. The funeral home did their part in fulfilling the preneed obligations. They have no control over the deceased moving out of their coverage area and requiring transportation services back to their funeral establishment.

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

Seconded by Robert Davis

Adopted by voice vote

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5. **Case No.: 2016002571**
 6. **Case No.: 2016002572**
 7. **Case No.: 2016002573**
 8. **Case No.: 2016002574**

Complainant worked at Respondent Funeral Home for 21 years until his termination in January of 2016. Complainant alleges Respondent Apprentice Funeral Director/Respondent Apprentice Embalmer acted as full manager and made all business decisions, as Respondent manager was on property for only a few hours at a time, embalmed many bodies regardless of whether a licensed embalmer was present, quoted prices in person and over the phone, and wrote insurance policies without the direction of a manager. Complainant alleged he was dismissed by bringing these actions to the attention of the district manager for the Respondent funeral home's parent corporation. Respondent Apprentice Funeral Director denied all allegations. An investigation produced witness statements from persons employed by Respondent funeral home, none of which

corroborated Complainant's allegations. In fact, sworn witness statements indicate Complainant was a problematic employee prone to making inappropriate comments. No credible evidence of unlicensed activity was produced.

Recommendation:

- Letter of Instruction, providing the funeral home information regarding apprenticeship practices and the necessity of having licensed persons present during work performed by apprentices.

President David Neal recused himself from participation in this complaint.

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

Seconded by Jeff Duffer

Adopted by voice vote

9. Case No.: 201602075

After a routine inspection on March 16, 2016 of Respondent's establishment, the field representative found the latest inspection report and current license for the crematory used by the Respondent was unavailable for review. Respondent states that the owner's wife was helping with the inspection and she was not familiar with where the documentation was kept. The missing documents were submitted with Respondent's response to this complaint. The inspection also found one (1) instance where a crematory authorization form was not in the file. Respondent submitted this document with their response. The field representative also noted the failure to report change in establishment ownership to the Board within the required ten day period. After a phone conversation with the previous owner, the field representative noted that the sale was effective November 15, 2015. Respondent submitted a bill of sale with their response indicating that the establishment was in fact sold on April 18, 2016. The previous owner, which the field representative spoke with, signed a letter stating that he misunderstood the field representative when he spoke to him on the phone. The inspection also found that the Respondent was without a manager for 28 days after the sale. According to a letter from the previous owner, on November 14, 2015 he resigned as manager and appointed a new manager at the same time. The inspection was due to the change of ownership and at the time of inspection a licensed funeral director was not present. The Respondent stated that the establishment manager was meeting with a family and was unavailable to meet

with the field representative when he arrived. The establishment owner's wife was working off site, but after finishing up met with the field representative at the establishment. Upon further review of records, there was one (1) file that did not have a Statement of Funeral Goods and Services Selected or documentation regarding the place that the embalming occurred. Respondent sent in a copy of the Statement of Funeral Goods and Services Selected for this file, and stated that there was not a letter of embalming for this file, because the family arranged for a direct burial. There were also discrepancies found on the General Price List as prices under the immediate burial section did not match the Casket Price List. The respondent attached a corrected General Price List with their response.

Recommendation:

- Consent Order for \$750 for operating an establishment without a licensed funeral director as a manager and failing to submit an application for a change in ownership within the statutorily-specified time and authorization for a hearing.
- Cease and Desist Letter, instructing establishment to cease operations within 75 days of the bill of sale that was dated April 18, 2016.

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

Seconded by Dennis Bridges

Adopted by voice vote

10. Case No.: 2016022811

Complainant corresponded with Respondent funeral home in order to obtain a certified death certificate of her supposedly deceased husband and alleges funeral home refused to provide same after providing payment, copy of her marriage certificate to the deceased, and calling Respondent multiple times. Complainant and the deceased did not share a residence at the deceased's time of death and had not cohabited for quite some time, per Complainant's own admission. Respondent stated that it fully refunded Complainant and directed her to contact the Health Department to obtain a death certificate. Respondent funeral home further stated that its company policy is not to release certified death certificates to persons other than informant, who in this case was the deceased's mother who did not know whether Complainant and the deceased were still married at the time of deceased's death. Complainant stated that she

did in fact receive the corrected death certificates that she needed although the money was never refunded to her as the Respondent had said.

Recommendation:

- Close with a letter of warning regarding the appropriate treatment of customers.

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

Seconded by Charles Rahm

Adopted by voice vote

11. Case No.: 2016023841

12. Case No.: 2016023842

Complainant stated that her mother passed on April 14, 2016, and she contacted the Respondent to conduct the service. Complainant provided respondent with a copy of an insurance policy as payment. Respondent contacted the insurance company on April 20, 2016, and it was determined that the policy had lapsed. Respondent informed the Complainant of this and Complainant's brother wrote a check on April 26, 2016, covering the funeral expenses. The Respondent was notified by the insurance company on or about April 27, 2016, that the policy had not lapsed and did in fact have value. Respondent submitted proof of a letter he sent to the insurance company on April 28, 2016, stating that the funeral home would not pursue the funeral assignments for the deceased. Complainant states that Respondent never provided any papers listing the charges for services. Complainant also states that when she was given a copy of the list of charges, her signature had been forged. Complainant also states that there were extra charges that she didn't agree to. Respondent states that the Complainant was charged \$8,599 for the service. She was also charged \$1,825 for the cemetery charges. According to the Statement of Funeral Goods and Services Selected, which was submitted by the Respondent, the Complainant was charged \$10,424; however after choosing a different casket and receiving a family discount, the total price paid by the Complainant's brother was the original price of \$8,599. Complainant states that the Respondent refused to give her a death certificate and cause of death form. Based on the Statement of Funeral Goods and Services Selected, the Complainant did not request any copies of the death certificate, however the Respondent states that a copy of the death certificate was provided to the Complainant's nephew in person on May 11, 2016.

Recommendation:

- Close

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

Seconded by Jeff Duffer

Adopted by voice vote

13. Case No.: 2016023801

Complainant works for a funeral home in the same town as Respondent Funeral Home. Complainant states that Respondent funeral home placed advertisements in the newspaper that show price comparisons between the two funeral homes but does not show a breakdown of service prices. Complainant included copies of the newspaper advertisements with the complaint. Respondent stated that these prices are directly off of the Complainant's General Price List. Respondent submitted a copy of the Complainant's General Price List as proof as to where the figures originated. Complainant states that the advertisements include photos of Respondent funeral home employees but do not designate which employees are licensed and which are unlicensed. Respondent stated that according to the disclaimer on the advertisement, the two (2) non-licensed personnel are marked with an asterisk, and each employee is labeled with their specific title. The second advertisement photo shows two licensed employees and their seven-year-old son; however, this photo does not designate which persons possess current licensure. Respondent states that this is a family photo; however both adults in the picture are licensed or registered, one as a funeral director, one as a preneed sales agent, and the child is seven (7) years old and should not be misconstrued as being licensed in any capacity. Complainant also states that Respondent manager refers to himself as being the owner. Respondent submitted a letter from the parent corporation which states that he does in fact serve as the managing partner/owner.

Recommendation:

- Close. Based on statutes 62-5-106 regarding (advertisements) and 62-5-314 (use of unregistered persons names), the funeral home did not violate these statutes.

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

Seconded by Robert Helms

Adopted by voice vote

RE-PRESENT

1. Case No.: 2015014902

Original Consent Order was proposed where Respondent was to voluntarily surrender its license to the Tennessee Board of Funeral Directors and Embalmers as Respondent was found to have submitted death certificates that fraudulently listed a non-employee as the embalmer as well as additional misconduct. Upon additional information submitted, it was determined that Respondent is no longer operating a funeral establishment and has submitted a letter stating such to the Board Office. Based on new information, I recommend closing the case.

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

Seconded by Robert Davis

Adopted by voice vote

2. Case No.: 2016006081

Original Consent Order was proposed where Respondent was to voluntarily surrender its license to the Tennessee Board of Funeral Directors and Embalmers as Respondent was found to have submitted death certificates that fraudulently listed a non-employee as the embalmer as well as additional misconduct. Upon additional information submitted, it was determined that Respondent is no longer operating a funeral establishment and has submitted a letter stating such to the Board Office. Based on new information, I recommend closing the case.

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

Seconded by Jeff Duffer

Adopted by voice vote

3. Case No.: 2015011231**4. Case No.: 2015011232**

Complainant's mother ("the deceased") had a pre-arrangement with Respondent. The preneed funeral contract indicated a Batesville, 18 Gauge Steel, Amethyst, Moss Pink Crepe Casket and a Clark 10 Gauge Bronzestone Vault. When she died, Respondent substituted merchandise of a lesser quality. The family of the deceased alleges they asked Respondent at the visitation if the casket was a Batesville, and Respondent stated it was. The family met with Respondent the next day, prior to the burial service, to try to get the merchandise contracted for, but Respondent refused to provide it unless the family paid an additional \$3,100. The family also alleges that during this meeting the Respondent tried to physically pull members of the family out of his office after they commented about not getting what they paid for, and Respondent kicked out the deceased's son. The family moved the deceased to a different funeral home for the burial service following that meeting.

Recommendation:

- Consent Order with civil penalty of \$2,000 and authorization for a hearing.

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

Seconded by Dennis Bridges

Adopted by voice vote

ADMINISTRATIVE MATTERS:
ROBERT B. GRIBBLE, EXECUTIVE DIRECTOR**LEGISLATIVE UPDATE:****Bill(s) Directly Affecting the Board of Funeral Directors and Embalmers:**

The legislature passed these bills this year which affect the Board of Funeral Directors and Embalmers:

- **Public Chapter 838:** <http://share.tn.gov/sos/acts/109/pub/pc0838.pdf>
This law amends the requirements for obtaining a funeral director's license. Specifically, the law permits applicants for a funeral director's license to substitute an associate's degree from a college accredited by

- the American Board of Funeral Service Education for one (1) year of apprenticeship.
- Public Chapter 838 takes effect on July 1, 2016, the public welfare requiring it.
 - **Public Chapter 1053:** <http://share.tn.gov/sos/acts/109/pub/pc1053.pdf>
This law is commonly known as the “Right to Earn a Living Act” and it creates a requirement that each state licensing authority submit all existing or pending regulations to the chairs of government operations committees. The committees shall conduct a study of the entry regulations from each licensing authority, create a report of findings, and hold hearings in order to remove unnecessary or over burdensome regulations to enter into the licensed professions.
 - Public Chapter 1053 took effect upon the governor’s signature.
 - **Public Chapter 915:** <http://share.tn.gov/sos/acts/109/pub/pc0915.pdf>
This law amends what fees may be charged for the interment of a veteran. Specifically, the law prohibits any fee to be charged for the interment of an eligible veteran in a state veteran’s cemetery and limits the fee to \$300 for the interment of an eligible veteran’s spouse.
 - Public Chapter 915 took effect upon the governor’s signature.
 - **Public Chapter 911:** <http://share.tn.gov/sos/acts/109/pub/pc0911.pdf>
This law defines funeral merchandise for prearrangement insurance policies.
 - Public Chapter 911 takes effect on January 1, 2017, the public welfare requiring it.

Website for Legislative Bill Searches:

<http://wapp.capitol.tn.gov/apps/billsearch/BillSearchAdvanced.aspx>

LICENSEE REPORT:

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

Establishment(s)

Ewton Funeral Home & Cremation Center
Dunlap, TN

Type of Action(s)

Name Change

Individual(s)

Melinda Elizabeth Crawford
Nashville, TN

Type of License(s)

Funeral Director and Embalmer

Randall Alan Watson

Funeral Director and Embalmer

Odem, TX	Reciprocity – Texas
Wendy Lorraine Kopina Bartlett, IL	Funeral Director and Embalmer Reapplication
Laura Farrar Cantrell Dandridge, TN	Funeral Director
Justin Tyler Pace Cookeville, TN	Funeral Director

CLOSED ESTABLISHMENT REPORT:

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

- Signature Funeral Services, 5359 Knight Arnold Road, Memphis, TN.

DISCIPLINARY ACTION REPORT:

**REPORT OF CONSENT ORDERS ADMINISTRATIVELY
ACCEPTED/APPROVED BY THE EXECUTIVE DIRECTOR PURSUANT TO
BOARD AUTHORITY FOR THE PERIOD OF
MAY 1, 2016 – MAY 31, 2016**

Respondent:	Carter-Trent Funeral Home, 1115 Highway 11 West, Church Hill, TN
Violation:	Engaged in the operation of a funeral establishment while the establishment license was expired, failed to have available copies of current licenses for funeral director(s) and embalmer(s), and a cremation authorization form failed to contain the date it was signed by the authorizing agents and funeral director
Action:	\$250 Civil Penalty
Respondent:	Signature Funeral Services, 5359 Knight Arnold Road, Memphis, TN
Violation:	An unlicensed individual signed as a "funeral director" on an establishment form, establishment owner and manager directed unlicensed employees to engage in activities that require licensure, and engaged in an act, omission, or practice that is misleading or deceptive
Action:	\$2,500 Civil Penalty

OPEN COMPLAINT REPORT:

As of June 13, 2016 there were 20 open complaints.

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

Seconded by Jeff Duffer

Adopted by voice vote

INDIVIDUAL APPLICATION:

**Joseph Aaron Mashburn
Lawrenceburg, TN**

Funeral Director/Embalmer

Upon motion by Mark Cochran and seconded by Robert Helms, based upon application record, this individual was approved for licensure.

Adopted by voice vote

ESTABLISHMENT APPLICATION:

**SIGNATURE FUNERAL HOME BY PREMIER
ATTN: RODNEY ERRIC WILLIAMS, MGR.
5270 KNIGHT ARNOLD ROAD
MEMPHIS, TN 38118-3505**

New Establishment

Ownership: Corporation

Owner(s): Signature Funeral Home By Premier, Inc., 5270 Knight Arnold Road, Memphis, TN 38118-3505

Motion to deny application for establishment license was made by Charles Rahm. Motion failed for lack of a second.

Motion was made by Mark Cochran to approve application for establishment license pending Roland Gosey passing the Laws, Rules and Regulation Examination and obtaining a Tennessee Funeral Director license.

Motion failed for lack of a second.

Motion was made by Robert Helms to approve application for establishment license pending Roland Gosey passing the Tennessee Laws, Rules and Regulation Examination, obtaining a Tennessee Funeral Director license and being appointed as the Manager of the proposed Signature Funeral Home by Premier.

Motion was seconded by Mark Cochran.

Roll Call Vote

Roll Call Vote			
Board Members	Yes	No	Absent
Dennis Bridges	X		
Mark Cochran	X		
Robert Davis	X		
Jeff Duffer		X	
Robert Helms	X		
David Neal	X		
Charles Rahm		X	

Adopted by Roll Call vote

ADMINISTRATIVE MATTERS:

ADJOURN:

A motion was made by Robert Helms to adjourn.

Seconded by Mark Cochran

Adopted by voice vote

The meeting was adjourned by President David Neal at 12:25 p.m.

Respectfully submitted,

Robert B. Gribble

Robert B. Gribble, CFSP
Executive Director