

TENNESSEE BOARD OF FUNERAL DIRECTORS AND EMBALMERS

MINUTES OF BOARD MEETING

JANUARY 14, 2020

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

Board members present: Clark McKinney, President; Robert Shackelford, III, Vice President; Dennis Bridges, Robert Davis, Jeff Duffer, and Charles Rahm.

Staff present: Robert Gribble, Executive Director; Elizabeth A. Bendell, Associate General Counsel; and Lisa Bohannon, Regulatory Board Administrative Manager.

ADOPTION OF AGENDA:

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

Seconded by Jeff Duffer

Adopted by voice vote

APPROVAL OF MINUTES:

President Clark McKinney announced that the November 12, 2019 Minutes will be presented for review/approval at the next board meeting.

ADOPTION OF ROBERT'S RULES OF ORDER:

A motion was made by Robert Shackelford that rules contained in the most recent version of *Robert's Rules of Order* shall govern the Board in all cases to which they are applicable and in which they are not inconsistent with statutes and any special rules of order the Board may adopt.

Seconded by Robert Davis

Adopted by voice vote

CONFLICT OF INTEREST STATEMENTS:

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

LEGAL REPORT:

ELIZABETH A. BENDELL, ASSOCIATE 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.: 2019068321 – Embalmer**
 - 2. Case No.: 2019070391 – Funeral Director**
 - 3. Case No.: 2019082171 – Funeral Director**

Between August and October 2019, three (3) complaints were filed against the Respondent funeral director and embalmer alleging unprofessional conduct. The complaints were filed by the children and grandchild of the owner and founder of the funeral home that the Respondent manages. On July 27, 2019, the Complainant's family lost the owner and founder of the funeral home. The Complainants allege the following:

- a. An unauthorized preneed policy was placed on the owner of the funeral home. Specifically, the Respondent conspired with the daughter of the deceased to have him sign and pay for an \$8,000 pre-need funeral insurance contract, which was later cancelled. The \$8,000.00 that was refunded after the pre-need contract was dissolved is missing.
- b. A copy of the deceased's funeral bill was requested by the Complainants, but the Respondent refused to give a copy to the Complainants.
- c. The Respondent lied about the casket that the deceased requested, and stated it was discontinued, despite it still being available.

- d. The Respondent "co-mingled" funds for personal use. Specifically, Respondent and the daughter of the deceased manipulated the books of the funeral home for their personal use, including, taking trips for weddings, hotel stays, limousine rentals, etc.
- e. The Respondent has engaged in fraud, embezzlement, grand larceny, extortion, and conspiracy with the intent to defraud. Additionally, Respondent has plotted and gained control of their business by filing fraudulent documents.
- f. The Respondent bought hearses and limousines without approval from owner as well as opened several bank accounts and credit cards without the owner's knowledge or permission.
- g. The Respondent blocked the one Complainant's opportunity to pass the funeral director license process so that the Respondent could gain control of his family's funeral home.

The Respondent's counsel responded to these allegations as follows:

- a. The Respondent is the manager of the funeral home where he has served as the manager since its inception in 1978, working alongside with its owner and founder until he passed away on July 27, 2019.
- b. Prior to the passing of the funeral home's owner, he requested that the Respondent write a preneed insurance plan for his final expenses and selected his granddaughter to be the owner of his preneed insurance policy. The total cost for the plan was for \$7,961.65, and it was paid for using a cashier's check by the deceased to the insurance company which issued in 2015.
- c. Upon the deceased receiving a copy of his insurance plan, his family became aware and they insisted that he terminate the policy. The Complainant and another daughter of deceased submitted requests to the insurance company asking that the policy amount to be returned. In response to these requests, the preneed had been cancelled as of 2016; and to the Respondent's understanding, the deceased's granddaughter received the refund because she was listed as the beneficiary with the insurance company. The Respondent states he had no part of the dispensation of the policy refund.

- d. The deceased executed a notarized document on October 6, 2009 outlining his wishes for his final arrangements and also listed four people who he wished to make his funeral arrangements. The list did not include the Complainants; thus, the Respondent did not provide them a copy of the Statement of Goods and Services Selected, as they were also not the people listed as responsible for the funeral bill.
- e. The Respondent placed an order for the deceased's desired casket following his passing. The order was a 32 oz. Copper Y33 Finch full couch casket. This particular model had to be custom made because a full top is not stocked regularly. Additionally, the original burial plan was made in 2015 (and subsequently cancelled); the price of the casket had increased which included charges for the custom top, a "rush" fee, and for the U.S. Army cap panel. The granddaughter paid for the ordered casket.
- f. The Respondent denies any allegations of wrongdoing.

These complaints were sent for investigation. In November 2019, a board field investigator interviewed and obtained documents from the various parties involved in this matter. No violations were found.

Recommendation:

- Closure

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

Seconded by Dennis Bridges

Adopted by roll call vote

4. Case No.: 2019072071 – Funeral Establishment

This is a complaint alleging professional misconduct by the Respondent establishment. Specifically, the complaint alleges the following:

- a) Respondent's listed licensed individuals do not work for the Respondent and has not been present at the Respondent establishment.

- b) The preneed sales trust fund money is used to cover funeral home expenses; and therefore, families may not have their benefits at the time of death.
- c) Respondent's unlicensed employee has made arrangements for families and signs the funeral directors' names.
- d) Respondent's employees have funded funerals, vaults, reception expenses, and gas expenses and have not been reimbursed for those expenses.
- e) Respondent has two (2) unlicensed Individuals embalming bodies.
- f) Respondent has increased the price on funeral arrangements when a consumer is using a life insurance policy so that no money is returned to the consumer.
- g) An employee of a sister location of the Respondent establishment is informing families that he is a licensed funeral director and is handling all of the funeral arrangements.

Respondent responded to the complaint and indicated the following:

- a) Respondent believes the complaint was filed by an ex-employee who is currently being prosecuted for charges related to unlawfully using a customer's credit card number at another funeral establishment.
- b) The listed licensed employees do work at the Respondent establishment.
- c) Respondent denies that there is any unlicensed activity occurring at Respondent establishment.
- d) No pre-need funeral trust funds have ever been used to cover funeral home expenses.
- e) Respondent's employee is a registered pre-need sales agent and has never signed the name of any of the funeral directors.
- f) There are four (4) licensed embalmers on staff and two (2) trade embalmers. Unlicensed staff does not perform embalming but sometimes assist in dressing, casketing remains, and applying touch up cosmetics. There is one apprentice funeral director and apprentice embalmer on staff who assists under direct supervision of a licensee.
- g) The sister funeral home is a separate establishment, and Respondent is unaware of any of their unlicensed employees informing families that they are licensed.

This complaint was sent for investigation. The investigator unsuccessfully attempted to reach the complainant three (3) separate times via the listed email address; no phone number was provided. The investigator went to the address

listed on the complaint, an extended stay hotel, but management stated that no recent guests were listed under the Complainant's name. In December 2019, the investigator traveled to the Respondent establishment. The investigator conducted interviews with the Respondent's listed funeral directors and reviewed various funeral documents. During the investigation no violations were found.

Recommendation:

- Closure

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

Seconded by Robert Davis

Adopted by voice vote

5. Case No.: 2019069131 – Funeral Establishment

This complaint was received against Respondent establishment alleging Respondent has not paid their balance owed to the Complainant, a shipping company. Complainant alleges that they were contacted back in May 2019 regarding the shipping of human remains to Guatemala. Complainant states that the total due was \$3,169.78, and Respondent was informed of this total but that Respondent stated that they had no knowledge of these shipments and that it was an independent funeral director/embalmer that requested them. Complainant indicated that the documents provided for the shipment had the Respondent establishment's letterhead.

Legal spoke with the Complainant who indicated that the Respondent has paid fully for the services and they would no longer desire to proceed forward with the complaint.

Recommendation:

- Closure

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

Seconded by Jeff Duffer

Adopted by voice vote

6. Case No.: 2019074931 – Funeral Director

This complaint was received against Respondent funeral director alleging Respondent has not paid their balance owed to a shipping company. Complainant alleges that they were contacted back in May 2019 regarding the shipping of human remains to Guatemala. Complainant states that the total due was \$3,169.78 and Respondent was informed of this total. Complainant informed the funeral home of this balance due, but that they state that the Respondent is falsifying documents with their letterhead and collecting funds. Complainant states that they have made numerous attempts to get paid; however, they have not been compensated for their services.

Respondent has not responded to this complaint. Legal reached out to the Respondent; however, no response has been provided. Legal spoke to the Complainant who indicated that the Respondent has not paid for the services nor contacted the Complainant regarding this matter.

Recommendation:

- Authorization for formal hearing. Authorize settlement by consent order with \$750.00 civil penalty (\$500 for failure to respond to the complaint and \$250 for failure to pay for services rendered).

A motion was made by Dennis Bridges to Authorize for formal hearing. Authorize settlement by consent order with \$1,000.00 civil penalty (\$500 for failure to respond to the complaint \$500 for failure to pay for services rendered).

Seconded by Charles Rahm

Adopted by voice vote

7. Case No.: 2019069091 – Funeral Director

This complaint was received by the Board of Funeral Directors and Embalmers alleging professional misconduct by the Respondent. Specifically, the complaint alleges the following:

1. The Respondent told two of the Complainant's funeral home employees that he is a licensed funeral director and embalmer in Tennessee.
2. The Respondent embalmed individuals in Tennessee without a license. Specifically, the Complainant alleges that the Respondent's uncle was transported to the Complainant's funeral home and embalmed by the Respondent.

3. The Respondent knowingly made false statements on certificates of death. Specifically, the Complainant alleges that the Respondent forged the name of an embalmer on the death certificate of Respondent's uncle.
4. On April 13, 2017, the Respondent instructed an unlicensed employee to meet with a family regarding funeral arrangements.
5. During the period of April 4, 2017 and April 13, 2017, the Respondent removed casket placards from the caskets and hid them in a storage area.
6. Around May 31, 2017, the Respondent confronted an employee of complainant and made numerous demands in a threatening and loud tone. Complainant alleges that the police arrived and removed the Respondent from the funeral home property and banned him from returning.

The Respondent responded to the allegations and states the following:

1. The Respondent has never told anyone that he is a licensed embalmer in Tennessee.
2. The Respondent has not embalmed any individuals in Tennessee without a license.
3. The Respondent has never made false statements on a death certificate.
4. The Respondent never instructed an unlicensed person to meet with a family.
5. The Respondent states that he never removed placards from the caskets, and that the placards have always been located in a pile the Complainant mentions in their complaint.

This complaint was sent for investigation. In November 2019, a board investigator conducted interviews and obtained relevant documents from the various parties involved. No violations were found.

Recommendation:

- Closure

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

Seconded by Dennis Bridges

Adopted by voice vote

8. Case No.: 2019075321 – Funeral Establishment

This is a consumer complaint alleging unprofessional conduct by the Respondent. The consumer alleges the following:

1. The consumer was informed that the price for a burial would be \$600.00 and later was told the price would be \$1,600.00.
2. Due to the \$1,000.00 price increase for the burial services, the consumer could not afford the burial and was informed that the deceased was going to be cremated.
3. A guest book for friends and family to sign was purchased but was not present at the services
4. Flowers that were purchased for the services were not present at the services and were thrown out.
5. The deceased's services were held on June 15, 2019, but consumer did not receive the ashes until July 8, 2019.
6. The cremated remains of the consumer's husband were in a box that was placed inside of a bag from Office Depot.
7. The deceased was placed in a rented casket that was falling apart.
8. Consumer ordered a flag due to her husband's military service but was later told she would have to pick it up from the post office.
9. Consumer requested for her husband's hair not be cut, but when she went to view the body his hair had been cut.

Respondent responded to the complaint and indicated the following:

1. On June 6, 2019 the Respondent received a call from the consumer regarding handling the funeral services of her husband.
2. The Respondent was informed that the price for a funeral with burial, with a silver casket included would be \$1,611.63.
3. The consumer informed the Respondent that the deceased was a veteran. The Respondent contacted the veterans cemetery but was told that the deceased did not qualify.
4. Respondent informed consumer of her option to have her husband buried at another cemetery for a total cost of \$2,857.00. Consumer stated that price was too much and inquired about cremation pricing. The consumer was told a funeral with cremation is \$1,995.00 plus tax, but ultimately the consumer paid \$1,682.03.
5. The consumer was informed that the rental casket would be a coppertone color.
6. The consumer approved the cutting of the deceased's hair.

7. The guest book was placed on the table going into the chapel, but none of the guests wanted to sign it.
8. Consumer was informed of the cremation process. The Medical Examiner's Office approved the death certificate on June 25, 2019, and the deceased was cremated on June 26, 2019.
9. The consumer did not inform the family members of the deceased that the burial plans had changed, and the Respondent had to explain the changes to the family.

Recommendation:

- Closure

A motion was made by Charles Rahm to send this complaint for an investigation.

Seconded by Robert Shackelford

Adopted by voice vote

9. Case No.: 2019084141 – Funeral Establishment

This is a consumer complaint alleging professional misconduct by the Respondent establishment. Specifically, the complaint alleges the following:

- a. A preened contract paid for an upgraded casket, but the consumer was later told that the casket upgrades would not be provided and the consumer has to choose from what was on the floor of the selection room.
- b. A memorial package was presented at no cost but was later itemized for \$235.00.
- c. It was requested that the deceased be shaven and hair trimmed; however, upon viewing neither were done and the family was told it was not an option.
- d. The programs for the visitation were printed with a different photo than the one that was provided.
- e. Complainant was informed that they would be charged for a vault even if they purchased one not from the Respondent.
- f. As of the date of the complaint, the Respondent had not received a death certificate, approximately 30 days after the date of death.
- g. The manager of the Respondent establishment failed to answer or return the consumers phone calls to discuss the services that were provided.

The Respondent responded to the complaint and indicated the following:

- a. The consumer was shown a picture of the upgraded casket, but the consumer did not like the casket. The consumer was informed they could choose from a range of caskets from the floor. The consumer chose a more expensive casket than the upgraded one that was purchased and was given the casket at no additional charge.
- b. The Respondent apologized for not shaving the deceased before the private viewing, but the deceased was shaven before the public viewing.
- c. The Respondent was not told which photo to use for the program.
- d. The memorial package was given to the family at no cost.
- e. The vault in question was purchased in 1976, and to remove the cost would have meant the entire contract would have to be re-written.
- f. The Respondent admits that the death certificate was provided late; however, the Respondent alleges the Department of Health was not returning calls or answering their calls.
- g. The Respondent did not reach out to the consumer to discuss this matter with her.

Recommendation:

- Authorization for a formal hearing. Authorize settlement by consent order with \$500.00 civil penalty (Failure to process and file the certificate of death in a timely manner).

A motion was made by Charles Rahm to Authorize for a formal hearing. Authorize settlement by consent order with \$1,500.00 civil penalty (Unprofessional conduct and failure to process and file the certificate of death in a timely manner).

Seconded by Robert Shackelford

Adopted by voice vote

10. Case No.: 2019084511 – Funeral Establishment

This is a consumer complaint alleging that the Respondent manipulated charges to receive payment for services that were not rendered. Consumer alleges that in March 2019, a pre-planned funeral was purchased. Consumer states that payments were made and that they later learned that the charges were

inaccurate. Consumer additionally states that on the day of preparation, the funeral home is permanently closed, and that the Board Office was not notified. Consumer states that the viewing room was filled with trash.

Respondent responded to the response and indicated that the consumer never contacted the Respondent regarding the amount in question prior to the business closing. Respondent states that the consumer did not pay the full amount for services rendered.

Recommendation:

- Closure

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

Seconded by Jeff Duffer

Adopted by voice vote

ADMINISTRATIVE MATTERS:
ROBERT B. GRIBBLE, EXECUTIVE DIRECTOR

LEGISLATIVE UPDATE:

Our office has received information from the Tennessee Funeral Directors Association, Inc., that they intend to introduce a bill regarding the regulation of alkaline hydrolysis. However, as of January 10, 2020, we have not received the actual bill for review/analysis. Our office has not received any official notification from the Tennessee State Funeral Directors & Morticians Association of any new legislation that they intend to pursue during this legislative session. We extend an invitation to both associations and any other interested parties to meet with our staff and legal prior to the introduction of legislation affecting the Board of Funeral Directors and Embalmers.

LICENSEE REPORT:

**REPORT OF LICENSES ADMINISTRATIVELY APPROVED BY EXECUTIVE
DIRECTOR PURSUANT TO BOARD AUTHORITY FOR THE PERIOD OF
NOVEMBER 9, 2019 – JANUARY 13, 2020**

Establishment(s)

Reed's Chapel
Lexington, TN

Type of Action(s)/Change(s)

Change of Ownership

Reed's Chapel Decaturville
Decaturville, TN

Change of Ownership

Reed Chapel Scotts Hill
Scotts Hill, TN

Change of Ownership

Individual(s)

Type of License(s)

Rachel Nicole Holt
Collinwood, TN

Funeral Director and Embalmer

Robert C. London
Oak Ridge, TN

Funeral Director and Embalmer
Reciprocity – Texas

Anthony Wayne Brown
Pall Mall, TN

Funeral Director and Embalmer
Reapplication

Dana S. Jones
Dayton, TN

Funeral Director and Embalmer
Reapplication

Thomas Matthew Sullenger
Fayetteville, TN

Funeral Director and Embalmer
Reapplication

Will Andres Chessor
Mount Pleasant, TN

Funeral Director

Robert Sterling Rutherford
Knoxville, TN

Funeral Director

John R. Kreft, III
Bartlett, IL

Funeral Director
Reciprocity – Illinois

Rickey Lee Mitchell
Miami, FL

Funeral Director
Reciprocity – Florida

Lori Jean Gregory
Greenbrier, TN

Embalmer
Reapplication

CLOSED ESTABLISHMENT REPORT:

There is no closed establishment(s) to report for this Board meeting.

DISCIPLINARY ACTION REPORT:

These are Consent Orders that have been administratively accepted / approved by the Executive Director pursuant to Board authority and as

report on the October 2019 and November 2019 Regulatory Board's Disciplinary Action Reports:

- Respondent: Bevis Bell, Memphis, TN
Violation: Engaging in funeral directing without being a licensed funeral director
Action: \$750 Civil Penalty plus \$450 in administrative costs
- Respondent: Highland Hills Funeral Home & Crematory, Nashville, TN
Violation: Failure to timely file a change of ownership application with Board plus failure to respond to the complaint
Action: \$750 Civil Penalty
- Respondent: Alternative Cremation & Funeral Service, Franklin, TN
Violation: Failure to timely file a change of ownership application with the Board
Action: \$250 Civil Penalty
- Respondent: Madison Funeral Home, Madison, TN
Violation: Failure to timely file a change of ownership application with the Board plus failure to respond to the complaint
Action: \$750 Civil Penalty
- Respondent: Neighbours Life Celebration Services, Nashville, TN
Violation: Failure to timely file a change of ownership application with the Board plus failure to respond to the complaint
Action: \$750 Civil Penalty
- Respondent: Baldwin Cremation & Mortuary Service, Knoxville, TN
Violation: Failure to timely file a change of ownership application with the Board plus failure to respond to the complaint
Action: \$750 Civil Penalty
- Respondent: Bowers Funeral Home, Inc., Decatur Chapel, Decatur, TN
Violation: Advertisement that indicated a specific price failed to include an itemized listing of each and every item, procedure or service and show the price of the item; use of an establishment name on website, advertisements, business cards, and various documents other than the name of the establishment as registered with the Board; use of business cards with the name of an unlicensed individual that did not reflect the person is neither a licensed funeral director nor licensed embalmer
Action: \$1,000 Civil Penalty

OPEN COMPLAINT REPORT:

As of January 14, 2020, there were 34 open complaints.

A motion was made by Charles Rahm to accept the Executive Director's Report.

Seconded by Robert Davis

Adopted by voice vote

INDIVIDUAL APPLICATION(S):

**Lori Ardell Watson
Chicago, IL**

**Funeral Director and Embalmer
Reciprocity - Illinois**

Upon motion by Charles Rahm and seconded by Robert Davis, based upon application record, this individual application was approved for licensure.

**John R. Kreft, III
Bartlett, IL**

**Embalmer
Reciprocity - Illinois**

Upon motion by Dennis Bridges and seconded by Charles Rahm, based upon application record, this individual application was approved for licensure

**Travis Dwayne Howell
Nashville, TN**

**Apprentice Funeral Director
and Apprentice Embalmer
Reapplication**

Upon motion by Dennis Bridges and seconded by Robert Davis, based upon application record, this individual was approved for re-registrations as apprentice funeral director and apprentice embalmer.

ADJOURN:

A motion was made by Robert Davis to adjourn.

Seconded by Charles Rahm

Adopted by voice vote

The meeting was adjourned by President Clark McKinney at 11:56 a.m.

Respectfully submitted,

Robert B. Gribble

Robert B. Gribble, CFSP
Executive Director