

TENNESSEE BOARD OF FUNERAL DIRECTORS AND EMBALMERS

MINUTES OF BOARD MEETING

JANUARY 12, 2021

President Robert Shackelford, III, called the meeting to order at 10:00 a.m. The meeting was conducted via WebEx.

Board members present: Robert Shackelford, III, President; Charles Rahm, Vice President; Fred Berry, Anthony Harris, Tonya Scales Haynes and Clark McKinney.

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

STATEMENT OF NECESSITY (TENN. CODE ANN. § 8-44-108):

Elizabeth A. Bendell, Associate General Counsel for Regulatory Boards, read the Statement of Necessity for the record.

ADOPTION OF AGENDA:

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

Seconded by Anthony Harris

Roll Call Vote			
Board Members	Yes	No	Absent
Fred Berry	X		
Anthony Harris	X		
Tonya Scales Haynes	X		
Clark McKinney	X		
Charles Rahm	X		
Robert Shackelford, III	X		

Adopted by Roll Call Vote

APPROVAL OF MINUTES:

President Robert Shackelford, III, stated that the December 8, 2020 Minutes will be presented for review/approval at the next board meeting.

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

1. Case No.: 2020074631 – Funeral Establishment

This is a consumer complaint alleging unprofessional conduct by the Respondent. Specifically, the consumer alleges that in August 2020 the consumer's mother passed away. The consumer states that initially in September 2020 they were informed that when they picked up their mother's ashes they would be able to pick up their mother's belongings; however, when they picked up the ashes they were told that their mother had no possessions with her. The consumer states that they contacted the hospital who informed them that according to the body release form, there were numerous items transferred with the body. The consumer states that they again spoke to the Respondent who stated that because their mother was COVID positive all of her belongings must have been destroyed as well. The consumer indicated that they spoke with the Respondent's funeral director and requested that they double check for jewelry and requested a copy of the body release form, but that the Respondent funeral director stated that no jewelry was found and that the deceased was taken from the hospital with no paperwork.

The Respondent responded to the complaint and provided a detailed timeline of events regarding the removal and cremation of the consumer's mother which indicated the following:

1. Upon the removal of the consumer's mother no paperwork was given, and the body was placed in a body pouch due to the deceased being COVID-19 positive.
2. The Respondent states that they followed CDC guidelines, and guidance from the Tennessee Board of Funeral Directors and Embalmers and established company policies when removing and cremating the deceased to limit the exposure and spread of COVID-19.
3. The Respondent states that the consumer did not mention any personal belongings over the course of two weeks prior to the cremation.

4. The Respondent states that when the consumer called regarding the personal belongings they immediately checked the facility; however, they located no belongings so they suggested the consumer contact the hospital.
5. The Respondent states it was after the consumer contacted the hospital that the Respondent learned that the personal belongings were placed in the body pouch, which is not normal protocol. The Respondent states that due to the extra precautions, the belongings were not noticed.
6. The Respondent states that they informed the consumer that the belongings were present with her mother during the cremation process and states that they were responsive to all follow-up emails and calls the consumer made.

The consumer provided a rebuttal stating they deny the allegation that they did not mention their mother’s belongings prior to cremation. Additionally, the consumer provided a copy of the body release form which indicates that pictures, a radio, tablet, and books were sent with the decedent. Furthermore, the hospital’s release form indicates that family was present at the hospital at the time of the individual’s death.

Recommendation:

- Letter of Warning

A motion was made by Fred Berry to accept Counsel’s recommendation.

Seconded by Anthony Harris

Roll Call Vote			
Board Members	Yes	No	Absent
Fred Berry	X		
Anthony Harris	X		
Tonya Scales Haynes	X		
Clark McKinney	X		
Charles Rahm	X		
Robert Shackelford, III	X		

Adopted by Roll Call Vote

2. Case No.: 2020074641 – Funeral Director

This is a consumer complaint alleging unprofessional conduct by the Respondent. Specifically, the consumer alleges that in August 2020 the consumer's mother passed away. The consumer states that initially in September 2020 they were informed that when they picked up their mother's ashes they would be able to pick up their mother's belongings; however, when they picked up the ashes they were told that their mother had no possessions with her. The consumer states that they contacted the hospital who informed them that according to the body release form there were numerous items transferred with the body. The consumer states that they again spoke to the Respondent who stated that because their mother was COVID positive all of her belongings must have been destroyed as well. The consumer indicated that they spoke with the Respondent and requested that they double check for jewelry and requested a copy of the body release form, but that the Respondent stated that no jewelry was found and that the deceased was taken from the hospital with no paperwork.

The Respondent responded to the complaint and provided a detailed timeline of events regarding the removal and cremation of the consumer's mother which indicated the following:

1. Upon the removal of the consumer's mother no paperwork was given, and the body was placed in a body pouch due to the deceased being COVID-19 positive.
2. The Respondent states that they followed CDC guidelines, and guidance from the Tennessee Board of Funeral Directors and Embalmers and established company policies when removing and cremating the deceased to limit the exposure and spread of COVID-19.
3. The Respondent states that the consumer did not mention any personal belongings over the course of two weeks prior to the cremation.
4. The Respondent states that when the consumer called regarding the personal belongings they immediately checked the facility; however, they located no belongings so they suggested the consumer contact the hospital.
5. The Respondent states it was after the consumer contacted the hospital that the Respondent learned that the personal belongings were placed in the body pouch, which is not normal protocol. The Respondent states that due to the extra precautions, the belongings were not noticed.
6. The Respondent states that they informed the consumer that the belongings were present with her mother during the cremation process and states that they were responsive to all follow-up emails and calls the consumer made.

Recommendation:

- Letter of Warning

A motion was made by Fred Berry to accept Counsel’s recommendation.

Seconded by Anthony Harris

Roll Call Vote			
Board Members	Yes	No	Absent
Fred Berry	X		
Anthony Harris	X		
Tonya Scales Haynes	X		
Clark McKinney	X		
Charles Rahm	X		
Robert Shackelford, III	X		

Adopted by Roll Call Vote

3. Case No.: 2020075001 – Funeral Establishment

This is a consumer complaint alleging unprofessional conduct by the Respondent. Specifically, the consumer states that in August 7, 2020 the consumer’s son passed away and that on August 9, 2020 they were transferred to the Respondent funeral home. The consumer states that they asked to see their son on August 10, 2020 and were given a quote of \$350. The consumer states that they decided to transfer their son to a different funeral establishment on August 11, 2020. The consumer states that they were contacted by the funeral director at the new establishment who stated that the Respondent left the deceased out to decay and rot, and they recommended that the consumer not see their son in his current condition.

The Respondent provided a response and indicated the following:

1. After receiving the deceased, they noticed that they had been dead for a while so they asked to embalm the body; however, the consumer said no.
2. The Respondent states that the consumer never asked to see their son prior to requesting that he be transferred to a different funeral establishment.
3. The Respondent states that a month after the transfer of the deceased, the Respondent received a phone call from the consumer who was screaming about how terrible the Respondent is.

4. The Respondent denies the allegations that the body had rotted and provided contact information to obtain reports and photos of deceased.

Recommendation:

- Closure

A motion was made by Fred Berry to accept Counsel's recommendation.

Seconded by Charles Rahm

Roll Call Vote			
Board Members	Yes	No	Absent
Fred Berry	X		
Anthony Harris	X		
Tonya Scales Haynes	X		
Clark McKinney	X		
Charles Rahm	X		
Robert Shackelford, III	X		

Adopted by Roll Call Vote

4. Case No.: 2020075981 – Funeral Establishment

This is a consumer complaint alleging unprofessional conduct by the Respondent establishment. Specially, the consumer states that their stepmother passed away on August 11, 2020 and on September 28, 2020, when they attempted to pick up the death certificate, they noticed that there were errors. The Complainant states that they were informed it would take several additional weeks to receive the corrected death certificate and therefore their probate court date has to be moved for the second time. Lastly, the consumer states that it was noted that the death certificate was signed 10 days prior to their original date of pick up; however, they were not contacted and informed that the certificate was ready.

The Respondent's representative provided a response to the complaint and indicated the following:

1. That the Respondent explained to the family that it takes 4-6 weeks to receive a death certificate.

- 2. The Respondent promptly filed the paperwork to get the death certificate and promptly submitted the corrections when they learned there were mistakes on the certificate.
- 3. The Respondent apologizes for the mistakes and the corrected death certificate was provided to the family on October 17, 2020.

Funeral Establishment Recommendation:

- Letter of Warning

A motion was made by Clark McKinney to accept Counsel’s recommendation.

Seconded by Anthony Harris

Roll Call Vote			
Board Members	Yes	No	Absent
Fred Berry	X		
Anthony Harris	X		
Tonya Scales Haynes	X		
Clark McKinney	X		
Charles Rahm	X		
Robert Shackelford, III	X		

Adopted by Roll Call Vote

5. Case No.: 2020078461 – Funeral Establishment

This is an anonymous complaint alleging that the Respondent has false and misleading advertising. Specifically, the complaint states that the Respondent has multiple prices for the same services listed.

The Respondent provided a response to the complaint and indicated that they have adhered to all state laws and the FTC regarding advertising. The Respondent states that they believe the complaint was submitted by disgruntled ex-employee who was terminated around the time the complaint was made.

Recommendation:

- Closure

A motion was made by Fred Berry to accept Counsel’s recommendation.

Seconded by Clark McKinney

Roll Call Vote			
Board Members	Yes	No	Absent
Fred Berry	X		
Anthony Harris	X		
Tonya Scales Haynes	X		
Clark McKinney	X		
Charles Rahm	X		
Robert Shackelford, III	X		

Adopted by Roll Call Vote

6. Case No.: 2020082491 – Funeral Establishment

7. Case No.: 2020082501 – Funeral Director

In August 2020 a Board field representative performed an inspection of the Respondent establishment. During the inspection, the representative discovered that the funeral director’s license for the Respondent funeral director expired on July 1, 2020 and was not reinstated until July 13, 2020, during which the Respondent funeral director conducted services and acted as the establishment manager.

The Respondent responded to the complaint and apologized for the oversight. The Respondent indicated they rectified the situation as soon as they found out about their license expiration.

Funeral Establishment Recommendation:

- Letter of Warning

Funeral Director Recommendation:

- Letter of Warning

A motion was made by Anthony Harris to accept Counsel’s recommendation.

Seconded by Charles Rahm

Roll Call Vote			
Board Members	Yes	No	Absent
Fred Berry	X		
Anthony Harris	X		
Tonya Scales Haynes	X		
Clark McKinney	X		
Charles Rahm	X		
Robert Shackelford, III	X		

Adopted by Roll Call Vote

8. Case No.: 2020062041 – Funeral Director

This is a competitor complaint alleging unprofessional conduct from the Respondent. The Complainant indicated that the Respondent has made derogatory and offensive remarks towards the Complainant and other funeral directors. Additionally, the Complainant states that the Respondent owes him money and previously had a case in their cooler for over a month, but the Respondent would not respond to phone calls.

The Respondent responded to the complaint and denies the allegations of the complaint.

This complaint was sent for investigation. In December 2020 and January 2021, a Regulatory Board Field Investigator interviewed and obtained documents from the various parties involved. Per the investigation, none of the individuals interviewed were able to provide an exact timeframe from when the incidents occurred, one incident appears to have occurred as far back the early 2000's.

Recommendation:

- Letter of Warning

A motion was made by Charles Rahm to Close the complaint.

Seconded by Tonya Haynes

Roll Call Vote			
Board Members	Yes	No	Absent
Fred Berry	X		
Anthony Harris	X		
Tonya Scales Haynes	X		
Clark McKinney	X		
Charles Rahm	X		
Robert Shackelford, III	X		

Adopted by Roll Call Vote

ADMINISTRATIVE MATTERS:
ROBERT B. GRIBBLE, EXECUTIVE DIRECTOR

Financial Recap for Fiscal Year 19-20 (July 1, 2019 – June 30, 2020):

Financial data for the Board of Funeral Directors and Embalmers was provided to the Board’s Executive Director by the Assistant Commissioner’s Office for Regulatory Boards of the Tennessee Department of Commerce and Insurance on October 28, 2020 for use in the compilation of this report.

Beginning Balance – July 1, 2019	\$1,088,702.00
Minus additional Investigation Costs for FY 18-19 after previous reporting to the Board	\$ 582.00
Adjusted Beginning Balance – July 1, 2019	\$1,088,120.00
Net Revenue (Earnings) for July 1, 2019 – June 30, 2020	\$ 752,861.00
Total Funds Available	\$1,840,981.00
Total Expenditures for July 1, 2019 – June 30, 2020	\$ 571,607.00
Reserve Balance – July 1, 2020	\$1,269,374.00

LEGISLATIVE UPDATE:

Our office has not received any official notification from either the Tennessee State Funeral Directors & Morticians Association or the Tennessee Funeral Directors Association of new legislation that they intend to pursue during the 112th General Assembly which convenes Tuesday, January 12, 2021, at 12 Noon. We extend an open invitation to both associations and any other

interested parties to meet with our staff and other appropriate department individuals prior to the introduction of legislation affecting the Board of Funeral Directors and Embalmers.

It is most likely that a regulatory reform administration bill will be introduced to: 1) reduce the number of required working hours for apprentices from 40 hours per week to 32 hours per week, 2) allow for universal licensing recognition through a more streamlined and simplified process, and 3) exempt a person from registration as a preneed sales agent who is licensed as a funeral director and is selling preneed funeral contracts only on behalf of the person's own funeral establishment.

LICENSEE REPORT:

REPORT OF LICENSES ADMINISTRATIVELY APPROVED BY EXECUTIVE DIRECTOR PURSUANT TO BOARD AUTHORITY FOR THE PERIOD OF DECEMBER 5, 2020 – JANUARY 8, 2021

<u>Establishment(s)</u>	<u>Type of Action(s)/Change(s)</u>
Snow Funeral Home Memphis, TN	Location
The Rose of Sharon Funeral Service Pulaski, TN	Location
<u>Individual(s)</u>	<u>Type of License(s)</u>
Alexandria Lynn Barber Ripley, TN	Funeral Director and Embalmer
Bethany Anne Nadzan Kingsport, TN	Funeral Director and Embalmer Reciprocity – Florida

CLOSED ESTABLISHMENT REPORT:

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

- Rucker Memorial Chapel, Inc., 1505 Bradyville Pike, Murfreesboro, TN.

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 November 2020 Regulatory Board's Disciplinary Action Report:

Respondent: Northridge Woodhaven Funeral Home, Millington, TN

Violation: Failure to treat a member of the public in a respectful manner

Action: \$250 Civil Penalty

Respondent: Companion Funeral & Cremation Service, Cleveland, TN

Violation: Funeral establishment engaged in an act or practice that is misleading or deceptive

Action: \$250 Civil Penalty

OPEN COMPLAINT REPORT:

As of January 8, 2021, there were 37 open complaints.

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

Seconded by Anthony Harris

Roll Call Vote			
Board Members	Yes	No	Absent
Fred Berry	X		
Anthony Harris	X		
Tonya Scales Haynes	X		
Clark McKinney	X		
Charles Rahm	X		
Robert Shackelford, III	X		

Adopted by Roll Call Vote

APPROVAL OF LICENSE APPLICATIONS:

ESTABLISHMENT APPLICATION(S):

**SMITH FAMILY FUNERAL AND CREMATION SERVICES, LLC
ATTN: JEFFREY LYNN WALDEN, MGR.
1939 ALMAVILLE ROAD
SMYRNA, TN 37167-5784**

New Establishment

Ownership: Limited Liability Company

Owner(s): Smith Family Funeral and Cremation Services, LLC, 3277 Franklin Road, Murfreesboro, TN 37128-4113

Upon motion by Charles Rahm and seconded by Anthony Harris, based upon application record, this establishment application was approved for licensure.

Roll Call Vote			
Board Members	Yes	No	Absent
Fred Berry	X		
Anthony Harris	X		
Tonya Scales Haynes	X		
Clark McKinney	X		
Charles Rahm	X		
Robert Shackelford, III	X		

Adopted by Roll Call Vote

ADJOURN:

A motion was made Charles Rahm to adjourn.

Seconded by Anthony Harris

Roll Call Vote			
Board Members	Yes	No	Absent
Fred Berry	X		
Anthony Harris	X		
Tonya Scales Haynes	X		
Clark McKinney	X		
Charles Rahm	X		
Robert Shackelford, III	X		

Adopted by roll call vote

The meeting was adjourned by President Robert Shackelford at 11:07 a.m.

Respectfully submitted,

Robert B. Gribble

Robert B. Gribble, CFSP
Executive Director