

TENNESSEE BOARD OF FUNERAL DIRECTORS AND EMBALMERS

MINUTES OF BOARD MEETING

SEPTEMBER 14, 2021

President Robert Shackelford, III, called the meeting to order at 10:14 a.m. The meeting was conducted in Conference Room 1-A, Davy Crockett Tower, Nashville, Tennessee.

Board members physically present: Charles Rahm, Vice President; Fred Berry, Tonya Scales Haynes, Clark McKinney and Scottie Poarch.

Staff physically present: Robert Gribble, Executive Director, and Anthony Glandorf, Chief Counsel.

Board members present by video: Robert Shackelford, III, President, and Anthony Harris.

Staff present by video: Lisa Bohannon, Regulatory Board Administrative Manager.

ADOPTION OF AGENDA:

A motion was made by Fred Berry to approve the Agenda as published.

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

APPROVAL OF MINUTES:

A motion was made by Anthony Harris to approve the Minutes of the August 3, 2021 Board Meeting.

Seconded by Fred Berry

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

LEGAL REPORT:
ANTHONY GLANDORF, CHIEF 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.: 2021029521 – Funeral Director

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

1. The Respondent provided the Complainant a price list substantially higher than the average costs in the Complainant’s area.
2. The Respondent failed to provide the Complainant with the information he requested to transfer the body of his father to another funeral home.
3. The Respondent made errors on the death certificate of the Complainant’s father which caused extreme delays as the Complainant is the administrator of his father’s estate.

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

1. The price list provided was for an affiliate location which has differing prices.
2. The Respondent states that they did provide the Complainant with information on how to transfer the Complainant's father.
3. The Respondent states that upon notification of the errors they immediately sent documentation required to facilitate an amendment to the certificate of death.
4. The Respondent denies all allegations of unprofessional conduct.

This complaint was sent for investigation. In August 2021, a Board Field Investigator interviewed and obtained documents from the various parties involved. The investigation found no significant violations.

Recommendation:

- Letter of Warning

A motion was made by Fred Berry to issue a Letter of Warning provided the Respondent provides proof of an amended certificate of death filed with the Department of Health.

Seconded by Clark McKinney

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

Adopted by Roll Call Vote

2. Case No.: 2021034771 – Funeral Establishment

3. Case No.: 2021034761 – Funeral Director

This is a complaint made by an ex-employee alleging unprofessional conduct by the Respondents. Specifically, the complaint alleges that the Complainant was employed and serving an apprenticeship at the Respondent's funeral

establishment. The Complainant states that the apprenticeship began on January 8, 2020 and that they resigned from the Respondent’s funeral establishment on March 8, 2021. The Complainant states that on March 16, 2021 they sent the Respondent a certified letter requesting signatures for the Certification of Completion of Apprenticeship and the January – March 2021 Quarterly Report of Apprenticeship Training. The Complainant states that the Respondent received the mailings on April 5, 2021 and since that time he has not received communication from the Respondent and the forms have not been signed.

The Respondent responded to the complaint and indicated that they did receive the documents from the Complainant, but they were unable to sign off on the documents as the Complainant did not complete the required apprenticeship hours. The Respondent states that there were no valid documents to sign and that is why the documents were never completed.

This complaint was sent for investigation. In August 2021, a Board Field Investigator interviewed and obtained documents from the various parties involved.

Recommendation:

- Authorization for a formal hearing. Authorization for a \$250.00 civil penalty via consent order to be reduced to a Letter of Warning if within 30 days the Respondent completes the Certification of Completion of Apprenticeship up until January 2021 and all outstanding Quarterly Reports of Apprenticeship Training to the satisfaction of the Department.

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

Seconded by Fred Berry

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

Adopted by Roll Call Vote

4. Case No.: 2021037061 – Previously licensed as a Funeral Director

5. Case No.: 2021037081 – Previously licensed as an Embalmer

This is a consumer complaint alleging unprofessional and unlicensed activity. This Complainant is an attorney submitting a complaint on behalf of a brother-in-law of the decedent. Complainant states that the previously licensed funeral director and previously licensed embalmer contracted through a funeral home for services to include shipment of decedent to his home country of Guatemala; however, that was never done.

This complaint was sent for investigation. During the investigation it was found that the owner of a funeral establishment (“Establishment”) was contacted by the Respondent with an order to embalm decedent and arrange shipment to Guatemala. The Respondent surrendered all licenses in March 2020. The body of decedent was brought to the establishment on August 5, 2019 and arrangements to ship were to be made on August 22nd. The establishment states they were informed by Respondent that the remains of decedent were shipped on September 4, 2019. The Respondent was not available to confirm this statement. On about March 6, 2020, the establishment states a second funeral establishment (“Establishment 2”) contacted them stating the remains of decedent were at his funeral home but belonged to their establishment. The establishment states they were unaware of this until contacted and arranged for decedent to be moved back. The establishment states he attempted to contact the brother-in-law to no avail and the Mexican consulate for assistance (no explanation as to why not the Guatemalan consulate). The establishment indicated that they reached out to the Respondent who would not cooperate with providing updated contact information to the brother-in-law. The establishment determined that due to decomposition, the remains could not be flown to Guatemala. The establishment communicated with the Respondent regarding further arrangements without a clear understanding as to who had right of disposition authority as the Respondent stated he has a Power of Attorney from the family; however, that was not produced during the investigation. The establishment made the decision to bury the remains of decedent and paid for such cemetery and headstone expenses. The information on location of plot was sent to Respondent to provide to the family.

Recommendation:

- Authorization for a formal hearing. Authorization for a \$10,000.00 civil penalty via consent order

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

Seconded by Fred Berry

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

Adopted by Roll Call Vote

6. Case No.: 2021038141 – Funeral Establishment

This is an anonymous complaint alleging that the Respondent received a Paycheck Protection Program loan despite not being a business. The complaint further alleges that the Respondent lied on their loan application indicating that they have more than four (4) employees.

The Respondent responded to the complaint and indicated that they are operating and have never been dissolved. The Respondent also indicated that they have more than four (4) employees on staff.

Recommendation:

- Close

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

Seconded by Fred Berry

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

Adopted by Roll Call Vote

7. Case No.: 2021039481 – Funeral Director

This is a consumer complaint alleging unprofessional conduct. The consumer states that they met with the Respondent in December 2020 to arrange for a pre-paid funeral for their mother. The consumer states that they provided the Respondent with a check. The consumer states that they stopped by several times to meet with the Respondent but that they Respondent was always busy and unable to do so. The consumer states that they requested that the funds be refunded; but that as of the date of the complaint, they have not received their money back.

The Respondent responded to the complaint and indicated that the consumer always come by when they were was in a meeting with a family making arrangements and that is why they were unable to meet with the consumer. The Respondent states that they have a refund ready for the consumer to pick up.

The consumer provided a rebuttal indicating that they received the refund. The consumer further states that they failed to provide the Respondent with an updated phone number which caused the delay in them being aware that the refund was ready.

Recommendation:

- Close

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

Seconded by Anthony Harris

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

Adopted by Voice Vote

8. Case No.: 2021041651 – Funeral Establishment

This is a competitor complaint alleging unprofessional conduct. The complaint alleges that in January 2020, they provided funeral services for a family who believed they had a Westminster preneed that was issued by the Respondent. The complaint states that numerous phone calls were made inquiring about the policy and its value. The Complainant states that they have since been advised to email one individual, to leave a message for another individual, to have the family write a letter, etc.; and as of the date of the complaint, they have not heard back from the Respondent.

The Respondent’s representative responded to the complaint and indicated the following:

1. The individuals whom the Complainant was informed to contact are no longer employed by the Respondent.
2. The Respondent apologizes for not promptly responding and has reminded all employees to do so going forward.
3. The Respondent has since found records regarding a policy and has reached out to the Complainant to discuss how they can claim the policy as payment.

The Complainant provided a rebuttal indicating that they have spoken to the Respondent regarding processing the claim.

Recommendation:

- Authorization for a formal hearing. Authorization for a \$1,000.00 civil penalty via consent order.

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

Seconded by Charles Rahm

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

Adopted by Roll Call Vote

9. Case No.: 2021046821 – Funeral Establishment

This is a consumer complaint alleging unprofessional conduct. The consumer states that their parents purchased two plots back in 1997. The consumer states that in 2016 two family members passed away and to date their headstones have not been placed. The consumer states that they have spoken to multiple staff members who have been unable to assist them. The consumer further states that the entire process has been stressful for the family.

The Respondent’s representative responded to the complaint indicating that the family did not reach out to design the markers until June 2021. The Representative indicated that the Respondent’s staff has met with the family. The Respondent has not yet received the rendering from the vendor and is following up on the status of the rendering. They indicated that once the Respondent receives the rendering, they will send it to the family to review and approve.

Recommendation:

- Authorization for a formal hearing. Authorization for a \$1,000.00 civil penalty via consent order.

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

Seconded by Anthony Harris

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

Adopted by Roll Call Vote

10. Case No.: 2021037001 – Funeral Establishment

This is a consumer complaint alleging unprofessional conduct. The consumer states on April 30, 2021 their mother passed away and was not picked up until May 1, 2021 after multiple calls to the Respondent from the hospice nurse. The consumer states that they attempted to get in contact with the establishment multiple times leading up the service scheduled for May 10, 2021, but the Respondent was unresponsive. The consumer states that they were informed that their mother’s body was being held at a sister establishment. The consumer states that their mother’s body arrived forty-five minutes after the visitation services began.

The Respondent’s representative responded to the complaint and indicated the following:

1. The delay in the removal service was due to a third-party removal service company that the Respondent will no longer be doing business with.
2. The Respondent has implemented new procedures to prevent delays of visitations.
3. The Respondent is working on hiring additional staff to ensure all inquiries and requests are answered timely.

Recommendation:

- Authorization for a formal hearing. Authorization for a \$3,000.00 civil penalty via consent order.

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

Seconded by Clark McKinney

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

Adopted by Roll Call Vote

11. Case No.: 2021048911 – Funeral Establishment

This is a consumer complaint alleging unprofessional conduct. Specifically, the consumer alleges the following:

1. The Respondent failed to provide price information on the telephone as required by the Funeral Rule.
2. The Respondent failed to inform a son of deceased as how to obtain a certificate of death.
3. The Respondent failed to treat a member of the public in a respectful manner.

The Respondent’s attorney responded to the complaint and indicated that they are not obligated to provide copies of death certificates to persons other than the person whom the Respondent has a contractual relationship with. The Respondent indicates that they were not asked for a price list during their conversations.

The consumer provided a rebuttal indicating that the Respondent refused to provide a price list. The consumer further stated that the death certificate has false information on it, and the individual who contracted with the Respondent lied about their relationship with the deceased.

Recommendation:

- Authorization for a formal hearing. Authorization for a \$500.00 civil penalty via consent order.

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

Seconded by Scottie Poarch

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

Adopted by Roll Call Vote

12. Case No.: 2021049471 – Funeral Establishment

This is a consumer complaint alleging unprofessional conduct. The complaint alleges that their father passed away on April 7, 2021 and since the consumer is the oldest sibling, they were under the impression they would be the next of kin. The consumer states that they were informed by their half-brother that he would be arranging and paying for services. The consumer states that they reached out to the Respondent who was unable to provide information about the arrangements and was rude. The consumer indicated that they eventually found out a coworker was arranging the services and was identified on the death certificate as a daughter. The consumer states that they were informed by the Respondent that the coworker had a power of attorney, so they did not pursue the issue further.

The Respondent responded to the complaint and indicated the following:

1. The Respondent entered into a contract for funeral services with an individual who indicated to the Respondent that they were the daughter of the deceased. The individual provided a durable power of attorney and was listed as a daughter in the obituary.
2. The Respondent acted in compliance with the rules and regulations that govern the establishment and denies all allegations otherwise.
3. The Respondent provided supporting documentation.

Recommendation:

- Closure

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

Seconded by Anthony Harris

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

Adopted by Roll Call Vote

13. Case No.: 2021050391 – Funeral Establishment

This is a consumer complaint alleging unprofessional conduct. The consumer states that they contracted and paid the Respondent for cremation services of their father. The consumer states that the Respondent then sent some of the cremated remains to the deceased's daughter without authorization. The consumer states that they have requested to speak with the Respondent but have not heard back as of the date of the complaint.

The Respondent responded to the complaint and indicated the following:

1. A research of the establishment records show that the cremated remains were given to the consumer and no one else.
2. The daughter who the consumer indicates received some of the remains was never shipped any remains from the Respondent. The daughter was contacted but indicated that they did not want to speak about the matter.
3. The Respondent has requested on three separate occasions for the consumer to bring the remains back to the establishment to verify that they are the cremains of her father but the consumer refuses.
4. The Respondent has documentation proving that no such incident occurred.

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	Recused
Fred Berry	X		
Anthony Harris	X		
Tonya Scales Haynes	X		
Clark McKinney	X		
Scottie Poarch	X		
Charles Rahm	X		
Robert Shackelford, III	X		

Adopted by Roll Call Vote

14. Case No.: 2021052131 – Funeral Director

This is a consumer complaint alleging unprofessional conduct. The consumer states that their mother passed away on April 30, 2021 and as of the date of the complaint, June 25, 2021, they have not received the death certificate. The consumer states that their father passed away on May 20, 2021 and they received that death certificate; however, it has multiple errors. The consumer states that the Respondent has been unresponsive to all calls. The consumer also indicated that the Respondent is letting the apprentices deal with the families.

The Respondent responded to the complaint and indicated that they deny all allegations that they have been unresponsive. The Respondent states that they did not personally handle the death certificates; however, the consumer’s mother’s death certificate is available for pickup and the Respondent will ensure that the consumer’s father’s death certificate is corrected as quickly as possible. Lastly, the Respondent indicated that the apprentices are always under the supervision of a licensed funeral director.

Recommendation:

- Letter of Warning

A motion was made by Anthony Harris to issue a Letter of Warning provided the Respondent provides proof of an amended certificate of death filed with the Department of Health.

Seconded by Charles Rahm

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

Adopted by Roll Call Vote

ADMINISTRATIVE MATTERS:
ROBERT B. GRIBBLE, EXECUTIVE DIRECTOR

LICENSEE REPORT:

REPORT OF LICENSES ADMINISTRATIVELY APPROVED BY EXECUTIVE DIRECTOR PURSUANT TO BOARD AUTHORITY FOR THE PERIOD OF AUGUST 1, 2021 – AUGUST 31, 2021

Establishment(s)
 Blount Mortuary Services, LLC
 Maryville, TN

Type of Action(s)/Change(s)
 New Establishment

Kimmins Mortuary Service
 Murfreesboro, TN

New Establishment

Individuals)
 Emily Ann Haag
 LaVergne, TN

Type of License(s)
 Funeral Director and Embalmer

Calvin Bradley Chaffin
 Collierville, TN

Funeral Director and Embalmer
 Reciprocity – Texas & Oklahoma

Paul Myron Krupa Loudon, TN	Funeral Director and Embalmer Reciprocity – Illinois
Michael Bernard Brown, Jr. Lake Balboa, CA	Funeral Director and Embalmer Reapplication
Traci Michelle Filson Olive Branch, MS	Funeral Director and Embalmer Reapplication
Kristen Nichol Slone Jonesborough, TN	Funeral Director and Embalmer Reapplication
Patrice Lynette Simmons Pulaski, TN	Funeral Director
Sam L. Russell Marietta, GA	Funeral Director Reciprocity – Georgia
Scott Dean Cumming Signal Mountain, TN	Funeral Director Reapplication

DISCIPLINARY ACTION REPORT:

These are Consent Orders that have been administratively accepted / approved by the Executive Director pursuant to Board authority and as reported on the July 2021 Regulatory Boards Disciplinary Action Report

Respondent:	Forest Hill Funeral Home & Memorial Park – East, Memphis, TN
Violation:	Unprofessional conduct (rodent infestation for prolonged period of time, two known deceased bodies suffered physical harm and damage by the rodents, continued use of the preparation room despite the known risk of damage to human remains, failed to treat members of the public in a respectful manner, and failed to maintain the funeral establishment’s preparation room in an orderly manner
Action:	\$14,000 Civil Penalty
Respondent:	Ralph Jeffrey Austin, Luray, TN
Violation:	Convicted of a felony involving moral turpitude (theft of funds), immoral or unprofessional conduct, and engaged in an act that is deceptive
Action:	\$1,000 Civil Penalty, suspension of funeral director and embalmer licenses for twelve months beginning on January 1, 2022, require completion of 10 hours continuing education

courses approved by the Board, and must pass the Tennessee Laws Rules, and Regulations Examination. Additionally, Respondent cannot work, perform services, or be associated in any manner with a funeral establishment during the suspension period.

OPEN COMPLAINT REPORT:

As of September 9, 2021, there were 35 open complaints.

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

Seconded by Fred Berry

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

NEW BUSINESS:

RULEMAKING DISCUSSION:

Anthony Glandorf, Chief Counsel, presented documents for the board’s review and discussion. The purposes were to discuss possible rules regarding Public Chapter No. 549, amending Rule 0660-11-.05, and additional rules previously reviewed by the board pertaining to Professional Conduct.

A motion was made by Fred Berry to accept Rulemaking language as presented and authority for Mr. Glandorf to move forward with a Rulemaking Hearing.

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

Board Meeting Dates for the Remainder of 2021:

The Executive Director presented and the board concurred regarding board meeting dates for the remainder of calendar year 2021. The following decisions were made: 1) The board will meet on October 20, 2021 and December 14, 2021 and 2) The previously scheduled meetings on October 12, 2021 and November 9, 2021 will be canceled.

Discussion:

Board Member Anthony Harris suggested an invitation be sent to newly approved licensees inviting them to attend future board meetings. The Executive Director is to present suggested language at the next board meeting that could be included on communications to new licensees.

ADJOURN:

A motion was made Anthony Harris to adjourn.

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

The meeting was adjourned by President Robert Shackelford at 11:37 a.m.

Respectfully submitted,

Robert B. Gribble

Robert B. Gribble, CPM, CFSP
Executive Director