

TENNESSEE BOARD OF FUNERAL DIRECTORS AND EMBALMERS

MINUTES OF BOARD MEETING

NOVEMBER 14, 2023

President Anthony Harris called the meeting to order at 10:00 a.m. The meeting was conducted in Conference Room 1-B, Davy Crockett Tower, Nashville, Tennessee.

Board members physically present: Anthony Harris, President; Tonya Scales Haynes, Vice President; Fred Berry, Scottie Poarch, Pamela Stephens, and Wendell Naylor.

Board member(s) absent: Christopher Lea

Staff physically present: Alex Martin, Assistant Commissioner; Robert Gribble, Executive Director; Laura Martin, Chief Counsel; Troy Bryant, Associate General Counsel; and Lisa Bohannon, Regulatory Board Administrative Manager.

ADOPTION OF AGENDA:

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

Seconded by Pamela Stephens

Adopted by Voice Vote

APPROVAL OF MINUTES:

A motion was made by Fred Berry to approve the Minutes of the September 15, 2023, Board Meeting.

Seconded by Tonya Scales Haynes

Adopted by Voice Vote

A motion was made by Pamela Stephens to approve the Minutes of the October 10, 2023, Board Meeting.

Seconded by Fred Berry

Adopted by Voice Vote

LEGAL REPORT:
TROY BRYANT, 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.: 2023043161 – Funeral Establishment

This complaint was administratively opened on September 6, 2023, following a routine inspection conducted on August 31, 2023. During the inspection, the inspector determined that Respondent establishment did not have a licensed funeral director serving as manager. Specifically, the former manager resigned in late June of 2023, and at the time of the inspection, no application for Change of Establishment Manager or applicable fee had been received by the Board Office. During the process of the inspection the owner stated that he was not aware that the manager had resigned from the establishment manager position. Prior to the inspection on August 31, 2023, the former manager of Respondent establishment had emailed the Department informing the Board Office that he had resigned as the manager. In this email, the former manager confirmed that his resignation was in late June of 2023, and confirmed he had not completed any work in July or August 2023 for Respondent establishment. Respondent served two families during the time that no acting manager was appointed.

Respondent replied stating that on or about July 9, 2023, the former manager requested time off for personal reasons. Respondent stated that until the inspection on August 31, 2023, they were unaware that the manager had resigned from his position as they had not received any formal notification from the manager. The owner, a licensed funeral director, stated that from the period of July 9, 2023 through August 31, 2023 they understood that they were covering for the former manager at the Respondent establishment until the manager's return. However, when the owner learned of the former manager's resignation, the owner began seeking a replacement. However, the owner was unable to hire a replacement, and therefore, sold the establishment in early October 2023.

On October 4, 2023, a change of ownership application and accompanying fee were received by the Board Office. A new manager has since been appointed in accordance with the change of ownership.

Recommendation:

- \$500.00 civil penalty. Authorize via Consent Order and formal hearing if necessary.

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

Seconded by Scottie Poarch

Adopted by Voice Vote

2. Case No.: 2023044231 – Funeral Establishment

Complainant alleged that Respondent had used the name of Complainant's business in reverse causing confusion amongst the general public. Complainant then provided the name of their funeral establishment which Respondent had allegedly copied in reverse. However, the name that Complainant provided was not an inverse of Complainant's business name.

Respondent replied stating that their name has no relation or connection to Complainant's business and that they even provide entirely separate services (Complainant owns an establishment that provides mainly cremation services and Respondent provides mortuary related services only to licensed funeral establishments.)

Note: The names of Complainant and Respondent are not similar in a way that would be confusing or deceptive to the public.

Recommendation:

- Closure

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

Seconded by Pamela Stephens

Adopted by Voice Vote

3. Case No.: 2023047021 – Funeral Director

Complainant alleged that Respondent had had an autopsy conducted on the decedent, Complainant's father, but claimed that Respondent denied that an

autopsy took place and did not indicate an autopsy took place on the death certificate. Complainant attached photographs purporting to show a cut on the decedent's head that indicated an autopsy was performed. Further, Complainant claimed that a blanket was pulled up "all the way up under his chin" in order to prevent Complainant from seeing the cuts that were "sloppily made" from decedent's shoulders through the middle of his chest.

Respondent stated that Complainant communicated with them that she wanted the autopsy report and stated that Complainant had implied that Respondent was responsible for conducting the autopsy. Respondent stated they explained to Complainant that they did not perform an autopsy and that she would need to contact the VA Medical Hospital where the decedent passed away. Respondent stated soon after, they received a call from an employee at the VA Medical Hospital requesting information regarding what Complainant was referring to regarding an autopsy. Respondent stated that the Complainant was at the VA Hospital and "would not take 'no' for an answer" regarding there not being an autopsy performed. Again, soon after, Respondent received a call from the Director of the VA Cemetery who indicated that Complainant had arrived at the cemetery requesting that the decedent be exhumed so that an independent autopsy could be performed. Respondent claimed the Director informed Complainant that he quoted the cost of exhumation to Complainant and that she indicated it should be free and promptly hung up the phone. Respondent further provided that it is the responsibility of the medical examiner or the doctor who performed the autopsy to include that information on the death certificate. Respondent stated that funeral directors do not include autopsy information on the death certificate and stated they encouraged Complainant to contact the VA Medical Hospital if she had any concerns regarding the autopsy information on the death certificate.

Recommendation:

- Closure

A motion was made by Pamela Stephens to accept Counsel's recommendation.

Seconded by Wendell Naylor

Adopted by Voice Vote

4. Case No.: 2023049671 – Funeral Establishment

Complainants alleged unprofessional conduct on behalf of Respondent establishment. In short, Complainants are the parents of a former employee of Respondent establishment. Complainants provided a screen shot of two conversations from a group text titled "The Huddle 'After Dark.'" The group text appears to be a work-based group text where other employees would communicate regarding work matters. Complainants' daughter was a member of this group text. In the provided screenshots are two separate instances one dated July 9, 2021, and the other July 11, 2021. The screenshot from July 9, 2021, included a photograph captioned with a sexual innuendo while the screenshot from July 11, 2021, contained a screenshot of a framed photograph containing nude women. Per the screenshots provided, the Complainants' daughter participated in this group chat, but did not send either of the photographs in question. In their complaint, Complainants also provided a written statement from their daughter, the former employee of Respondent establishment. In this written statement, Complainants' daughter detailed a work dispute she had encountered with another employee at Respondent establishment (coincidentally, the same employee that had sent both photos detailed in the screenshots). Following this dispute, Complainants' daughter stated she spoke to a managerial employee (Respondent in the next complaint) about this issue. Complainant claimed that this managerial employee denied hearing the specifics of the dispute and when they spoke about the matter 10-15 minutes later, Complainants' daughter said she felt as if the managerial employee "was more worried about him [the other employee with whom she had had the dispute] quitting than what had just transpired. Next, Complainants' daughter's statement recalled that on August 31, 2023, she was called into a room by the Vice President and asked about the dispute from the week before. After Complainants' daughter finished with her recollection to the Vice President, she stated the Vice President asked, "Did you take a video of [that employee] in the bathroom?" Complainants' daughter admitted that she had, claiming it had been 4-5 years ago and that "all the employees past and present [had] seen the video including management." Per Complainants' daughter's statement, the Vice President responded that he had just now heard about and saw the video and that as a result he was terminating her employment. Complainants appear to be alleging, though do not state it specifically, that their daughter's termination was in retaliation for the dispute with the other employee and not for the stated cause.

Respondent replied confirming that the Complainants were the parents of the former employee who was terminated for cause on August 31, 2023. Respondent contends that the complaint has not been made in good faith and believes that the complaint is in retaliation for their daughter's termination. Respondent stated

that as a result of internal investigations that took place prior to the complaint being filed, Respondent establishment took action to address lapses in professionalism and company policy, thus resulting in Complainants' daughter's termination in addition to another employee.

Complainant provided a rebuttal purporting that they would submit an affidavit and declaration along with other pieces of evidence that would support their case. Complainant stated that this information would be filed with the Department on October 16, 2023. As of today (November 14, 2023), no additional information has been received from Complainants.

Legal spoke with legal counsel for Respondent and confirmed that the employee who had sent the two text messages in question had also been terminated.

Based on the above, in regard to Complainants' allegation of wrongful termination, that is a workplace dispute matter and not within the jurisdiction of this Board to consider. Regarding the alleged unprofessional conduct of Respondent establishment related to the text messages, the text messages were sent by a single individual in a group text that Complainants' daughter was part of. While these messages can certainly be categorized as not workplace appropriate, from the perspective of Respondent establishment, when these messages and behavior by that employee were discovered by Respondent establishment, the employee was terminated. It is difficult to determine what additional steps Respondent establishment could have taken regarding the alleged unprofessional conduct, since corrective action was taken following its discovery.

Recommendation:

- Closure

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

Seconded by Scottie Poarch

Adopted by Voice Vote

5. Case No.: 2023051131 – Funeral Director

Respondent is the managerial employee from the previous complaint. It is unclear exactly what Complainants' allegations regarding unprofessional conduct on behalf of Respondent funeral director is. The only specific reference to

Respondent is Complainants' daughter's reference to them in their written narrative. The conduct referenced there, (purportedly not hearing the dispute Complainants' daughter had with the other employee, and Complainants' daughter believing Respondent was more concerned that the employee may resign) does not constitute unprofessional conduct. Furthermore, Complainants do not specifically allege that Respondent was part of or contributed to the provided text messages, and provided no proof to show that Respondent was even a member of that group text. As such, Complainants have provided no information regarding their allegations of unprofessional conduct on behalf of Respondent; therefore Legal recommends closure.

Recommendation:

- Closure

A motion was made by Pamela Stephens to accept Counsel's recommendation.

Seconded by Tonya Scales Haynes

Adopted by Voice Vote

6. Case No.: 2023037651 – Funeral Establishment

Complainant, funeral director appointed as establishment manager, alleged that the owner of Respondent establishment is making decisions without Complainant's knowledge. Specifically, Complainant referenced two cremation cases where Respondent was initially called and they later transferred and serviced the calls through a separate location in an adjacent state, but provided that they (Complainant) had not been notified or contacted regarding the two cases.

The Director of Operations, Marketing Director, and Business Manager for Respondent (not a licensed funeral director) replied stating there had been considerable tension between he and Complainant after a workplace dispute. Respondent stated that Complainant informed him in the middle of July that Complainant and her husband would be leaving town for a week or so. Respondent stated he requested that Complainant call him whenever she returned. Respondent contends they never received this call, and that at the time of the response (August 14, 2023) they had not had any communication with Complainant since she indicated she would be going out of town; thus, Complainant was never involved in those cases because Complainant had not contacted Respondent. Further, Respondent provided that the two cremation

calls were transferred to their location in Mississippi where their Mississippi funeral director at their Mississippi location handled all arrangements via e-mail and phone calls with the family. Respondent stated that Complainant could not have handled these two calls anyway because Complainant is not licensed in Mississippi.

The Mississippi funeral director is not licensed in Tennessee; the calls were initially received at their Tennessee location. Additionally, Respondent stated that one set of cremated remains were returned to the Tennessee location. There was no Tennessee funeral director involved in the process. Furthermore, there was no Tennessee licensed funeral director covering for the then establishment manager who was out of town and no Tennessee funeral director involved in either of the two cases where the death calls were initially received by the Tennessee establishment. The Complainant had notified the Department they resigned from the establishment effective June 13, 2023, and the Tennessee funeral establishment did not have any licensed funeral director employed from mid-June until August 29, 2023.

Recommendation:

- \$1,500.00 civil penalty. Authorize via Consent Order and formal hearing if necessary.

Board's Recommendation:

- A motion was made by Fred Berry to table the complaint until Legal could obtain additional information regarding the complaint, specifically, did the decedents or family come into the building of the Tennessee funeral establishment, who filed the death certificates, and whether it was explained to the two families that no Tennessee funeral director was present to serve these families.

Seconded by Pamela Stephens

Adopted by Voice Vote

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- 7. Case No.: 2022021381 – Previously Licensed as a Funeral Director
Case No.: 2022044371 – Previously Licensed as a Funeral Director
Case No.: 2023029901 – Previously Licensed as a Funeral Director
Case No.: 2023029921 – Previously Licensed as a Funeral Director**

May 2022: Complaint FUN-2022021381 was administratively opened regarding allegations of unlicensed activity. On May 15, 2022, two investigators arrived at a cemetery to observe a graveside service for the decedent and observed the

service from a distance. Following the service, the investigators noted Respondent (who had previously surrendered their funeral director's license) and Respondent in the next complaint (who I will refer throughout as "second Respondent") (who had an expired funeral director's license as of April 30, 2022) entering the hearse after conducting the graveside service, the hearse denoted that it was from the funeral home owned by the second Respondent. After approaching the hearse, the investigators supplied both Respondents with, at the time, the recent Public Chapter No. 1014 which had become effective as of May 9, 2022. The public chapter details, in short, that "unlicensed assistant" had been amended in Tenn. Code Ann. Section 62-5-101 to **not** include "an individual who previously held a funeral director or embalmer license in this state that was revoked, suspended, or voluntarily surrendered with outstanding complaints." As Respondent in this set of complaints had previously surrendered their funeral director and embalmer licenses with open complaints, Respondent is not considered "an unlicensed assistant" per Tenn. Code Ann. Section 62-5-101.

Following this conversation, the investigators spoke with the contracted grave digger in the interest of confirming that the grave digger was not a licensed funeral director. The investigators confirmed that the grave digger was not a licensed funeral director. Furthermore, the grave digger confirmed that Respondent, despite being unlicensed, had been the one to contact them on behalf of the funeral home to open and close the grave. The grave digger presented the check they had received from the funeral home in question.

Following this conversation, the investigators traveled to the location that arranged the burial services. An employee stated he had received a text message from Respondent, who does not have a funeral director's license, on May 12, 2022, which provided information to arrange for the decedent's internment. Following this text message, a relative of the decedent arrived the following day to pay for the grave space. Likewise, the city engineer confirmed that the funeral home associated with both Respondents had also had another internment on May 9, 2022.

Second Respondent renewed his funeral director's license on May 15, 2022.

July 2022: Soon after the investigation above, Legal received contact from members of the same cemetery stating that Respondent and second Respondent had recently conducted business with them again. In a sworn affidavit, an employee of the cemetery stated that on July 5, 2022, they were notified by an individual who identified himself as second Respondent working

with the same funeral home in need of a burial plot. A few days later, the employee met with a member of the decedent's family who questioned why the body was being sent to that funeral home when the death occurred a good distance away. The employee stated they would need to call the funeral home because they were only assisting with the purchase of the plot. The family member then showed the employee a piece of paper that said "[Respondent's name] funeral." The employee stated she was aware that Respondent had worked with this funeral home in the past and asked them who they had been working with. The family provided a name that did not match Respondent's name, but was the first name of second Respondent with a different last name. The employee showed a photograph of Respondent (who again, is not a licensed funeral director) and the family member identified that that had been the person she had been working with. The family then informed the employee that the individual they had been working with, who had evidently given them the incorrect name had been in the parking lot, and that they had paid him money. However, the employee did not observe anyone in the parking lot. The family inquired as to what they should do if they did not want Respondent working with them or their loved ones, and the employee stated they informed them they would need to take that up with second Respondent, who was the owner of the funeral home. Soon after, second Respondent called stating the family had decided not to use their services and indicated that the establishment had cut all ties with Respondent. On July 5th and 6th, the employee received text messages from an unknown number demanding to know who in administration had spoken with the decedent's family that morning. The text message continued stating that they did not have a single charge on him and that all lawsuits had been dismissed, and threatened legal action. The employee attached a copy of the text contained in the text messages to their affidavit.

Likewise, Legal received another sworn statement from an employee largely corroborating the first employee's version of the story. Of note, the second employee stated when they spoke to the family, they were asking questions about Respondent and the funeral home. The family also presented a purchase order from the funeral home that Respondent had provided (despite second Respondent's insistence that Respondent was not associated with that funeral home). The second employee also confirmed the receipt of two text messages on the office phone coming from a number they know to usually be used by Respondent.

September 2022: The Department continued their investigation after receiving information suggesting that Respondent had continued unlicensed activity and

that second Respondent continued to aid and abet the unlicensed activity of Respondent. On August 18, 2022, the investigator spoke to the wife of a decedent who had gone to the business in the previous paragraph (specifically, she was the woman that had spoken with the employee). The wife stated that her father in law had contacted Respondent with the funeral establishment to make the funeral arrangements. The wife said later that same day on July 2, 2022, Respondent appeared at the residence and introduced himself as second Respondent, not as himself. The wife stated that Respondent began making funeral arrangements with her father in law (with the consent of the wife). The wife stated she was present when Respondent showed the family pictures of caskets, however the father in law stated that he wanted to wait until his wife (decedent's mother) was home. The wife stated the following day, Respondent returned to the residence to continue making arrangements. The wife stated that on both visits Respondent was alone, and was still under the impression that Respondent was actually second Respondent as he had communicated to the family the day before. The wife also stated that on several occasions, Respondent requested he be allowed to embalm, prepare, and dress the decedent at the funeral home owned by second Respondent, though the family denied this request. The wife stated that they paid Respondent \$1,400.00 in cash, but were not provided a receipt. The wife stated that Respondent made arrangements to meet the family at the business to pay for the grave space, but that Respondent did not come inside. The wife confirmed the story as the employee had stating that she mentioned to the employee that she was using the funeral home owned by second Respondent, and that the employee stated that there had been issues with Respondent. However, the wife informed the employee they had been working with second Respondent since that was the name they had been given a few days before. However, after being shown a photograph of Respondent, she realized she had been lied to about Respondent's identify. Following this realization, she called the funeral home owned by second Respondent and was informed that her husband's remains were at the funeral home. Soon after, the wife stated they met with the "real" second Respondent. The wife stated they requested to see the remains and that second Respondent delayed for some time and would not show the family her husband. The wife claimed that she then called 911 and the police arrived soon after, where second Respondent then admitted that the remains were not at the funeral home, but were still at the morgue. The wife stated that they then decided not to use the funeral home's services or have any further dealings with either Respondent. The wife did confirm that Respondent refunded the money that she had paid earlier. The wife also provided the investigator with a Statement of Funeral Goods and Services linked to the funeral home owned by second

Respondent, where Respondent had allegedly forged second Respondent's name.

October 2022: Complaint number FUN-2022044371 was filed by another licensed funeral director who stated that on October 12, 2022, they were contacted by an individual to help get her deceased brother from a regional medical center. Complainant stated that the sister had been dealing with Respondent regarding handling the arrangements. Complainant said the sister was told to pay him \$1,600.00, and then to bring another \$7,000.00 by October 12, 2022 so that they could proceed. Complainant said the sister began to get nervous since they had not done anything for the past four days regarding getting the decedent ready. Complainant stated the sister had done research regarding Respondent and that raised concerns about continuing. Complainant stated the sister had been using the services of the funeral home owned by second Respondent, and that was where her brother currently was. Complainant stated he called second Respondent and asked that the decedent be released to them. Complainant contends that the second Respondent said he would need to contact his secretary and would call him back. Complainant stated that within five minutes, the sister received a call, not from second Respondent but from this Respondent asking her what the problem was and why she wanted to change funeral homes. Complainant said the sister demanded her brother be released and that the \$1,600.00 be returned. Eventually, Respondent agreed to release the decedent. Soon after, Complainant received a call back from second Respondent stating the decedent was ready to be released. Complainant stated that the family communicated to him that they had dealt with Respondent during the arrangement process and that they did not know who second Respondent was. That is, second Respondent himself had never made the arrangements with the family though he was in the possession of the decedent.

January 2023: The employees of the business in the earlier paragraph indicated that they had received more text messages from Respondent. The first employee stated they recognized the phone number as belonging to Respondent because they had communicated with him in the past, and their number had been saved. The employee stated they became aware of the associated funeral home's involvement with the burial of this decedent when a family member indicated that they were using second Respondent's funeral home. The employee stated as part of their normal follow up procedure, they called second Respondent to confirm the burial dates and estimated time of arrival to the cemetery and other burial details. The second employee also submitted an identical affidavit confirming that they had received text messages regarding arrangements with

Respondent and confirmed that those details were later confirmed with the second Respondent, confirming that Respondent was linked to second Respondent and the funeral establishment in regard to the burial of this decedent.

March 2023: The Department continued its investigation after receiving information that second Respondent's funeral home was involved in the burial of a new decedent. The investigators confirmed via two employees of the cemetery that the family of the decedents had used second Respondent's funeral establishment and confirmed that they had reached out to that establishment for scheduling information. Next, the investigators met with the daughter of the decedent. The daughter stated that Respondent was present during the removal of the decedent from the residence, and that later that same day, Respondent returned to make funeral arrangements for the decedent. The daughter stated that Respondent came with a driver, but the driver remained in the vehicle while Respondent made arrangements. The daughter confirmed that Respondent brought a General Price List from second Respondent's establishment and a book containing caskets to select from. The daughter stated after concluding funeral arrangements with Respondent, she and her father signed the funeral bill and Respondent provided them with a copy. The daughter stated they paid Respondent \$3,400.00 in cash and Respondent provided them a receipt (the daughter provided the investigator a copy of the price list she was provided (denoting second Respondent's establishment), receipts (denoting second Respondent's establishment), statement of funeral goods and services (denoting second Respondent's establishment)). The daughter further confirmed that during the funeral service for her mother, both Respondent and second Respondent were present, and confirmed that Respondent was not present for the committal service, but that second Respondent was.

May 2023: The Department continued its investigation after receiving information that services were taking place through second Respondent's funeral establishment with involvement from Respondent. Along with this information, the Department also received a statement of funeral goods and services document for services provided to the deceased on behalf of second Respondent's funeral establishment. Both an investigator and another individual provided photographs and videos of the service. The photographs show Respondent moving the casket in the church with the assistance of another individual (not licensed as a funeral director), the hearse used to transport the decedent and its license plate, Respondent setting up the casket at the front of the church and arranging the flowers and commemorations around the casket. The videos show Respondent

removing the casket and flowers from the hearse, and shows Respondent at the front of the church speaking at the service of the decedent while a member of the family translates. The following day, an investigator and another individual arrived at the cemetery for the graveside service. The investigator observed that Respondent arrived at the service first and directed a few cars to the designated area in the cemetery. Soon after, Respondent met with both the grave digger and vault company drivers, and spoke with the two drivers. Later, a black hearse arrived and Respondent directed the driver of the hearse as to where to back the hearse, adjacent to the grave. Next, Respondent directed some individuals (pallbearers) to the back of the hearse and the casket was removed and carried to the lowering device situated over the grave. Next, Respondent directed family and friends of the decedent to the gravesite and passed out programs. Shortly after the service began, second Respondent arrived at the cemetery and walked up to the side of the family and friends. Next, Respondent spoke at the service for several minutes to family and friends. The investigator recorded a portion of Respondent's speech and made numerous photographs, and promptly left the cemetery. Soon after, the investigator received a call from second Respondent acknowledging that he had seen the investigator at the service and inquiring as to his presence there.

May/June 2023: Soon after, complaint numbers FUN-2023029901 and FUN-2023029921 were opened by other licensed funeral directors. The first Complainant indicated that they had gone to the visitation of decedent and witnessed Respondent unloading the casket and various items for the church out of an unmarked white hearse with a license plate matching the state and county of second Respondent's funeral establishment. Complainant also provided that when they went into the church, Respondent was sitting by the door handing out programs. Complainant says that they were later given a video from the service showing Respondent directing the service and family for the closing of the service. The second Complainant stated they were present at the burial of the decedent the following day and witnessed Respondent present at the graveside. Complainant stated that a black hearse marked with branding from second Respondent's establishment, pulled up to the graveside and Respondent assisted with removing the casket and directing where it should go. The second Complainant further provided that Respondent directed attendees where to stand for the service, handed out programs, and directed the officiant to begin the service. The investigator met with the first Complainant who stated that she was contacted by the son-in-law of the decedent who had questions about arranging services. Soon after, Complainant learned that the decedent's family was planning to use second Respondent's establishment, and that he mentioned that

someone with the first name of Respondent was a friend to the husband of the deceased. Soon after, Complainant said she was contacted by the daughter of the decedent, wife of who she had spoken to earlier, who had questions about the contract Respondent had provided them. The daughter sent Complainant copies of the Statement of Funeral Goods and Services Selected (contract) which denoted being from second Respondent's establishment. Complainant attended the funeral service where they observed and recorded Respondent unloading the casket, flowers, and other materials from the hearse with a license plate from the same county as second Respondent's establishment. Complainant stated they arrived at the church to pay their respects, but also noted the behavior of Respondent. Complainant confirmed that she witnessed Respondent hand out programs and greet guests. Next, the investigator spoke to the second Complainant who had traveled with first Complainant to the funeral service. Second Complainant confirmed they too had witnessed a hearse with a tag from the same county as second Respondent's funeral establishment, and witnessed and recorded Respondent removing the casket from the hearse with flowers and other items and also confirmed Respondent was passing out programs and greeting guests. The second Complainant was also present at the gravesite where she also witnessed and recorded Respondent. Second Complainant stated she observed Respondent remove the casket and some flowers from the hearse and observed Respondent instructing pallbearers and handing out programs at the cemetery. Next, the investigator met with the son-in-law of the decedent. The son-in-law stated that he, his wife, and father in law met with Respondent to make funeral arrangements for the decedent. The father-in-law stated that the Respondent had a driver bring him to his in-law's house but that Respondent came into the home alone. The son-in-law stated that Respondent made funeral arrangements, showed the family brochures of caskets and sample memory programs. The son-in-law stated that Respondent instructed the family to make out three (3) separate checks, each payable to second Respondent's funeral establishment, grave diggers, and the cemetery. The son-in-law stated that per instructions from Respondent the family met at the selected church for visitation. The son-in-law stated he also witnessed Respondent remove the casket from a white hearse, set up the service, arrange flowers and photographs around the casket in the church, and that following the service, Respondent instructed friends how to pass by the casket. Following, he stated Respondent performed a rose ceremony and instructed the ministers and family to proceed from the church to the hearse. The son-in-law further stated that the next day at the cemetery, Respondent instructed he and the other ministers, and that after all ministers had completed their portion of the service, Respondent spoke for 15-20 minutes. The son-in-law stated that at the conclusion of the committal service, he

noticed that second Respondent was present during the entire funeral arrangement, visitation, and funeral ceremony.

September 2023: The investigator continued the investigation by interviewing the gravedigger who stated he also sold burial vaults to funeral homes. The gravedigger stated that he had sold second Respondent and second Respondent's funeral establishment a burial vault around the same time as the previous decedent's burial, though he did not record the name of the deceased in his records.

October 2023: Next, the investigator met with second Respondent with counsel present. Prior to this meeting, second Respondent had provided an affidavit to the Investigator regarding the services provided in May. After review of the affidavit, second Respondent's counsel permitted its use as he "[saw] no reason to object to [it]" as it was consistent with a prior letter he had drafted and sent to the Board's legal counsel. First, second Respondent acknowledged that he is the owner of the funeral establishment for which he has been associated with and which Respondent has routinely provided statement of goods and services for. Next, second Respondent stated that his establishment "was contacted to handle having the deceased prepared." Next, second Respondent stated that "[Respondent] and I discussed with the husband the process of making service and burial arrangements" and further provided that "a check was written to [second Respondent's establishment] for the amount due." Second Respondent further explained that he had an employee of his establishment at the service and that Respondent "was at the church with the family and assisted [employee] with removing the casketed deceased from the hearse." Second Respondent further stated he was unable to be present at the start of the visitation but arrived during the visitation. Second Respondent further provided that Respondent was at the cemetery with those gathering for the committal service, and that again Respondent assisted his employee with the hearse. Second Respondent stated he was delayed by traffic but arrived at the cemetery prior to the service and was present for the completion of the burial. Second Respondent stated that Respondent spoke at the service, not as a funeral director, but as a longtime friend of the family. Second Respondent confirmed that the photographs of the hearse taken by the investigator at the service was a hearse belonging to his establishment. Second Respondent stated that Respondent was not an employee of his establishment and has not received payment from the establishment. Second Respondent stated that his association with Respondent was limited to receiving referrals from Respondent.

Late October 2023: Finally, the investigation concluded after the Department received further information regarding further potential unlicensed activity on behalf of Respondent and potential aiding and abetment of that unlicensed activity by second Respondent. Specifically, the investigator met with and obtained an affidavit from an employee of a cemetery stating that he had met with the family of a decedent who was accompanied by Respondent to make burial arrangements. The employee stated that the funeral director for this service was second Respondent from second Respondent's establishment and that he was present for the entirety of the service. The employee stated that the hearse was driven by Respondent, and that Respondent served in the role of an advisor and directed the family through the burial service.

Based on all of the information above and the culmination of evidence gathered over the past year and a half, Respondent has committed habitual unlicensed activity. Based upon sworn affidavits, Respondent has consistently met with families to make funeral arrangements, led services, and performed other duties and responsibilities indicative of a licensed funeral director despite lacking proper licensure. Furthermore, based on the sworn testimony of several affiants and based upon documentation provided by those affiants, Respondent has been habitually linked to second Respondent and his funeral establishment, establishing a pattern of consistent aiding and abetment of this unlicensed activity.

Recommendation:

- \$20,000.00 civil penalty plus the costs of investigation. Break-down of civil penalty for each of the cases: FUN-2022021381 – \$12,000.00, FUN-2022044371 – \$1,000.00, FUN-2023029901 – \$4,000.00, and FUN-2023029921 – \$3,000.00. Authorize via Consent Order and formal hearing if necessary.

A motion was made by Fred Berry to accept Counsel's recommendation and additionally, make a referral to the District Attorney's Office.

Seconded by Wendell Naylor

Adopted by Voice Vote

Board Member(s) Abstained: Scottie Poarch

8. Case No.: 2022021401 – Previously Licensed as an Embalmer

During the course of the investigation, no information or evidence was collected that indicated Respondent had acted in the capacity of an embalmer.

Therefore, we would recommend closure.

Recommendation:

- Closure

A motion was made by Pamela Stephens to accept Counsel's recommendation.

Seconded by Fred Berry

Adopted by Voice Vote

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- 9. Case No.: 2022021361 – Funeral Director
Case No.: 2022044391 – Funeral Director
Case No.: 2023030751 – Funeral Director**

Based on the narrative written in the seventh case, this Respondent has been inextricably linked to the former Respondent in many, if not all, of the previous Respondent's instances of unlicensed activity. Based upon the sworn statement of several affiants, the unlicensed Respondent has routinely provided paperwork linked to this Respondent's establishment, provided statements of goods and services and other contracts from this Respondent's establishment to families, has been the funeral director of record for decedents that the former Respondent has met with and made arrangements for, has, according to Respondent's own affidavit, met with a family together with the former Respondent and discussed "the process and making service and burial arrangements", and has allowed former Respondent's unlicensed activity to result in receiving the business of families with deceased loved ones.

Based upon all of the evidence obtained, we would recommend a revocation of this Respondent's Tennessee funeral director's license.

Recommendation:

- Revocation of Funeral Director's License. Authorize via Consent Order and formal hearing if necessary.

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

Seconded by Wendell Naylor

Adopted by Voice Vote

FINANCIAL DATA FOR FY22-23:

**Board of Funeral Directors and Embalmers
Financial Recap
Fiscal Year July 1, 2022 – June 30, 2023**

Financial data was made available 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 11, 2023, for use in the compilation of this report.

Beginning Balance – July 1, 2022	\$1,332,095.00
Net Revenue (Earnings) for July 1, 2022 – June 30, 2023	\$ 499,547.00
Total Funds Available	<u>\$1,831,642.00</u>
Total Expenditures for July 1, 2022 – June 30, 2023	<u>\$ - 706,261.00</u>
Reserve Balance – July 1, 2023	\$1,125,381.00
CORE Expense for FY22-23	<u>\$ - 0.00</u>
Reserve Balance – July 1, 2023 (After CORE Expense)	\$1,125,381.00

LEGISLATIVE UPDATE:

Our office has not been officially contacted by either the Tennessee State Funeral Directors & Morticians Association or the Tennessee Funeral Directors Association regarding their intent to pursue new legislation during the upcoming legislative session affecting the Board of Funeral Directors & Embalmers. However, the Tennessee Funeral Directors has verbally expressed they are considering items that would affect the Burial Services Section of the Department.

We extend an invitation to both associations and any other interested parties that would like to meet with our staff and legal counsel prior to the introduction of legislation.

LICENSEE REPORT:

REPORT OF LICENSES ADMINISTRATIVELY APPROVED BY EXECUTIVE DIRECTOR PURSUANT TO BOARD AUTHORITY FOR THE PERIOD OF OCTOBER 7, 2023 – NOVEMBER 8, 2023

<u>Establishment(s)</u>	<u>Type of Action(s)/Change(s)</u>
Jonesborough Funeral Home & Cremation Services Jonesborough, TN	Initial Establishment
Alternative Cremation & Funeral Service Franklin, TN	Change of Ownership
Clay County Funeral Home Celina, TN	Changes of Name & Ownership
Poole Crematory Cleveland, TN	Changes of Name & Ownership
Poole Funeral Home & Cremation Services at Fike Chapel Cleveland, TN	Changes of Name & Ownership
Poole Funeral Home & Cremation Services of Etowah Etowah, TN	Changes of Name & Ownership
Poole Funeral Home & Cremation Services of Cleveland Cleveland, TN	Changes of Name & Ownership
Poole-Serenity Funeral Home & Cremation Services Cleveland, TN	Changes of Name & Ownership
<u>Individuals)</u>	<u>Type of License(s)</u>
Mariah Anne Adcock Mount Juliet, TN	Funeral Director and Embalmer
Vera Vladimirovna Perkins Elizabethton, TN	Funeral Director and Embalmer
Thomas Jacob Rash Nashville, TN	Funeral Director and Embalmer
Michael Keith James Dalton, GA	Funeral Director and Embalmer Reciprocity – Georgia

Jeremy Nathaniel Weaver Morristown, TN	Funeral Director and Embalmer Reapplication
Charlie McKay Gray Cordova, TN	Funeral Director
Toni Cydell Harris Bartlett, TN	Funeral Director
Jack Ray Jones, Jr. Newbern, TN	Funeral Director
Stephanie Elizabeth Lutz Greeneville, TN	Funeral Director
Donald J. Small Covington, TN	Funeral Director
Caleb Austin Wilson Lenoir City, TN	Funeral Director
Herman Bryant Taylor Lebanon, TN	Embalmer

CLOSED ESTABLISHMENT REPORT:

There are no closed establishments to report.

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 September 2023 Regulatory Boards Disciplinary Action Report

Respondent:	Alexandria Lynn Barber, Ripley, TN
Violation:	Knowingly making a false statement on the certificate of death
Action:	\$500 Civil Penalty
Respondent:	Wilson County Funeral Home and Memorial Park, Lebanon, TN
Violation:	Failure to submit a change of the establishment manager within the time limits required by law
Action:	\$500 Civil Penalty

OPEN COMPLAINT REPORT:

As of November 8, 2023, there were 47 open complaints.

A motion was made by Fred Berry to accept the Executive Director's Report.

Seconded by Scottie Poarch

Adopted by Voice Vote

ELECTION OF BOARD OFFICERS FOR 2024:

President:

Fred Berry made a motion to nominate and elect Pamela Stephens as President of the Board for 2024.

Seconded by Wendell Naylor

Adopted by Voice Vote

Vice President:

Tonya Scales Haynes made a motion to nominate and elect Christopher Lea as Vice President for the Board for 2024.

Seconded by Pamela Stephens

Adopted by Voice Vote

Appointment of Continuing Education Liaison:

Fred Berry made a motion to appoint Wendell Naylor as Continuing Education Liaison for 2024.

Seconded by Pamela Stephens

Adopted by Voice Vote

NEW BUSINESS:

DELEGATE GRANT TO ANNUAL MEETING OF THE INTERNATIONAL CONFERENCE OF FUNERAL SERVICE EXAMING BOARDS:

A motion was made by Fred Berry to accept the delegate grant and select Wendell Naylor as the board member to attend the conference.

Seconded by Tonya Scales Haynes

Adopted by Voice Vote

PUBLIC COMMENTS:

President Anthony Harris asked if anyone desired to make public comments related to Agenda items.

Lisa Bohannon, Administrative Manager, stated that Jim Roberts requested to make a public comment.

James D. R. (Jim) Roberts, Jr., an attorney and Dickson, Tennessee resident, appeared to make public comments; but due to the nature of his attempted comments regarding a pending complaint, Mr. Roberts was informed that filing a Petition for a Declaratory Order would be appropriate regarding his question (not a comment) to the Board.

ADJOURN:

A motion was made by Fred Berry to adjourn.

Seconded by Pamela Stephens

Adopted by Voice Vote

The meeting was adjourned by President Anthony Harris at 11:47 a.m.

Respectfully submitted,

Robert B. Gribble

Robert B. Gribble, CPM, CFSP
Executive Director