

TENNESSEE BOARD OF FUNERAL DIRECTORS AND EMBALMERS

MINUTES OF BOARD MEETING

JUNE 13, 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; Fred Berry, Christopher Lea, and Pamela Stephens

Board member(s) absent: Charles Rahm, Tonya Haynes, and Scottie Poarch

Staff physically present: Robert Gribble, Executive Director, 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 Christopher Lea

Adopted by Voice Vote

APPROVAL OF MINUTES:

A motion was made by Fred Berry to approve the Minutes of the April 11, 2023, Board Meeting.

Seconded by Christopher Lea

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.: 2023023281 – Funeral Establishment

This complaint was administratively opened following an inspection conducted on May 9, 2023. During the course of the inspection, it was determined that the manager for Respondent establishment had funeral director and embalmer licenses expire on March 31, 2023, and the licenses were not renewed until April 5, 2023. During the time of the invalid funeral director and embalmer licenses from April 1 through April 4, 2023, the manager of Respondent establishment acted in the capacity of funeral establishment manager and a licensed funeral director for two decedents.

Respondent replied apologizing for the oversight in failing to renew their license in a timely manner. Respondent confirmed that they had received the email notification prior to the expiration of their license, but stated that they were missed because they were in the junk mail folder. Respondent further provided they mistakenly believed that they had another year until their license expired. Respondent stated after speaking with someone in administration who confirmed that the license was expired, Respondent attempted to renew the license on April 4, 2023. However, Respondent reported that the system was down and they were unable to pay that day. Respondent provided that first thing the following morning they successfully renewed their license on April 5, 2023. Respondent again apologized for the mistake and stated that they have taken measures to ensure that the mistake does not happen again, including setting reminders to alert them before the expiration date and updating their email to ensure that reminders were not sent to junk mail.

Recommendation:

- \$250.00 civil penalty. Authorize via Consent Order and formal hearing if necessary.

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

Seconded by Fred Berry

Adopted by Voice Vote

2. Case No.: 2023023291 – Funeral Director

This complaint was administratively opened following an inspection conducted on May 9, 2023. During the course of the inspection, it was determined that the manager for Respondent establishment had funeral director and embalmer licenses expire on March 31, 2023, and the licenses were not renewed until April 5, 2023. During the time of the invalid funeral director and embalmer licenses from April 1 through April 4, 2023, the manager of Respondent establishment acted in the capacity of funeral establishment manager and a licensed funeral director for two decedents.

Respondent is the individual from the previous complaint and provided identical responses on behalf of both complaints.

Recommendation:

- Letter of Warning

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

Seconded by Christopher Lea

Adopted by Voice Vote

3. Case No.: 2023012921 – Funeral Director

Complainant, daughter of the deceased, alleged that after learning that the establishment which Respondent was employed had possession of the decedent's remains on March 16, 2023, Complainant informed the establishment she wished to have the remains transferred to a separate establishment. However, on March 17, 2023, the establishment called Complainant and informed her that the power of attorney still had authority and that they were only allowed to work with the POA regarding services and transfer.

Respondent confirmed that Complainant called on March 16, 2023 claiming to be next of kin and requested that the decedent be released to a separate establishment. Respondent stated that Complainant did not provide any documentation of her relationship or authority to make funeral arrangements for the deceased. Respondent stated that the procedure to release a body from the establishment requires written documentation and authorization, and that Complainant was informed that the body was released to the establishment by the Power of Attorney and that funeral arrangements were pending. As a result of this, on March 17, 2023, the granddaughter of the deceased emailed Respondent the durable power of attorney document. The document named

another individual named to be POA, and in the event this individual was unable to service as POA, the decedent's granddaughter would be named POA. Specifically, the document was emailed to provide a clause on page 9 that specified that "The Durable Power of Attorney was given authorization to 'direct the disposition of [decedent's] (your) remains.'" Again, the same day, Complainant called the establishment stating she was next of kin and that she wanted the decedent's remains released to another establishment. The establishment advised Complainant of the Durable Power of Attorney document and pointed her to page 9 of the document allowing for determination to be made regarding the disposition of the decedent's remains.

Respondent attached to their response all legal documents regarding the power of attorney, including the Notice of Filing of Durable Power of Attorney electronically filed on July 27, 2021, and the copy of the document titled "Durable Power of Attorney for Financial Affairs and Health Care." Legal further observed page 9 of the document which states verbatim: "Unless you otherwise specify in this document, this document gives your agent the power after you die to:

(3) Direct the disposition of your remains"

Each page of the document is properly signed and notarized where appropriate.

Based on the above, Respondent abided by the wishes of the designated power of attorney and while Complainant asserts to be next of kin and the daughter of the decedent, Tenn. Code Ann. § 62-5-703 states that an attorney in fact precedes children in the determination of priority of right to control disposition of remains and arrangements.

Recommendation:

- Closure

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

Seconded by Pamela Stephens

Adopted by Voice Vote

4. Case No.: 2023008161 – Funeral Establishment

Complainant, sister of the deceased, alleged that Respondent establishment was refusing to release the decedent to another funeral home.

Respondent replied stating on February 16, 2023, they received a call from a different sister of the decedent requesting that Respondent establishment pick up the decedent from the hospital. Soon after, Respondent establishment received a call from the hospital authorizing transportation of the decedent. Respondent stated that several days later, Complainant, who over the phone purported to be the sister of the decedent as well, claiming that the person who gave Respondent establishment permission to pick up the decedent was not actually related to the decedent. Respondent claims that they explained to the Complainant that they relied upon reliance information provided by the family and explained the services that the other sister had picked out and that there was no insurance. Respondent stated they asked what funeral home that the Complainant wished for the decedent to be transferred to, and asked whether they had made contact with the new establishment. Complainant identified the new establishment and stated they had not made contact with them at that time. Respondent contends that they quoted Complainant their transfer fee, and asked that Complainant contact the new establishment to ensure that they're interested in receiving the transfer. Respondent further stated that they were familiar with the funeral director at the new establishment and asked that Complainant tell them to give him (funeral director at Respondent establishment) a call. Respondent stated that they contacted the sister of the decedent they had been working with and explained the situation. Respondent stated that the sister claimed that Complainant was upset about the relationship between her and the deceased, and that Complainant and the decedent were not close. Respondent also stated that whatever Complainant wanted to do was fine with her. Respondent then called the funeral director at new establishment on February 21, 2023, who according to Respondent, stated that he did not know Complainant and had never spoken to her regarding a transfer. Respondent stated he explained the situation to the new funeral director, told him what the transfer fee was, and asked that he contact him when he heard anything. The new funeral director texted Respondent on February 23, 2023 informing him that he had still not heard anything from Complainant. Respondent called new funeral director on February 24, 2023 and said that he would release the decedent to him based upon professional courtesy. The following morning on February 24, 2023 at 9:00 a.m. the decedent was transferred and signed for with the approval of the sister that Respondent had been working with.

Based on the above, a large portion of the complaint appears to be family matters and disagreement. Further, since the transfer of the decedent has been made as of February 24, 2023 (for point of reference, the complaint was filed

February 23, 2023 at 3:33 p.m.) and the initial pick up of the decedent was authorized by a sister of the decedent, Complainant has not provided any proof of any violation of applicable law or rules.

Recommendation:

- Closure

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

Seconded by Christopher Lea

Adopted by Voice Vote

5. Case No.: 2023017331 – Funeral Establishment

6. Case No.: 2023017351 – Funeral Director #1

7. Case No.: 2023017371 – Funeral Director #2

On March 29, 2023 an inspector with the Department conducted a routine inspection of the Respondent establishment. The inspector arrived at approximately 8:50 a.m. and arrived at the crematory at Respondent establishment. Upon entering the facility, the inspector noted an employee working at the processing station with cremated remains in the catch pan at the retort. The investigator observed that the retort was heating and a decedent was sitting in front of the retort waiting to be cremated. The employee present at the retort was not a licensed funeral director and no other licensed funeral director was present at the facility supervising the operation of the retort.

Soon after, the inspector stated that Respondent funeral director #2 arrived at the crematory facility who explained that he had not been supervising the employee at the retort and away from the establishment because "he had gone to get some gas" for his vehicle.

Respondent funeral director #1 is the manager of Respondent establishment.

Respondent funeral director #2 responded on behalf of Respondent establishment and first acknowledged that the employee present in the crematory was not a licensed director, but stated that he was a licensed crematory operator. Respondent stated that right as the inspector arrived, the employee had "just walked into the door of the crematory." Respondent claimed that the employee was not working the retort but instead, "placed his hands over the cremains to see if they were still hot from the previous day." Respondent further contended

that the inspector told the employee that “he needed to see us place a deceased into the retort and he would like to see us use our processor.” Respondent stated that the employee took this request as permission for the employee to use the retort without a licensed funeral director present. Respondent stated that he arrived back at the facility after the prep work for the cremation had finished and that both he and the employee “proceeded to push the deceased into the retort.” Respondent stated that he informed the inspector that he had been present at the establishment prior to his arrival, but that he had “left to grab a beverage from the service station.”

Respondent funeral director #1 supplied an identical response in response to the complaint.

Based on the above, the employee present in the crematory conducted unlicensed activity without the required supervision of a licensed funeral director. Respondent funeral director #2, based on the statement of the investigator, was supposed to be present for supervision during the process but left the crematory while the employee was conducting licensed activity that required supervision. Respondent funeral director #1, as the manager of record for the establishment also maintains a responsibility of oversight for the establishment and to prevent unlicensed activity.

Funeral Establishment Recommendation:

- \$1,000.00 civil penalty. Authorize via Consent Order and formal hearing if necessary.

Funeral Director #1 Recommendation:

- \$250.00 civil penalty. Authorize via Consent Order and formal hearing if necessary.

Funeral Director #2 Recommendation:

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

A motion was made by Pamela Stephens to accept Counsel’s recommendation for the Funeral Establishment.

Seconded by Fred Berry

Adopted by Voice Vote

Board Member(s) voting contrary to the conclusion: Christopher Lea

A motion was made by Pamela Stephens to accept Counsel's recommendation for Funeral Director #1.

Seconded by Fred Berry

Adopted by Voice Vote

Board Member(s) voting contrary to the conclusion: Christopher Lea

A motion was made by Pamela Stephens to accept Counsel's recommendation for Funeral Director #2.

Seconded by Fred Berry

Adopted by Voice Vote

Board Member(s) voting contrary to the conclusion: Christopher Lea

8. Case No.: 2023021731 – Funeral Establishment

Complainant, wife of the deceased, alleged unprofessional conduct on behalf of Respondent establishment. Specifically, Complainant alleged that after her husband passed away on April 23 2023 she was originally planning to use Respondent establishment for services. However, Complainant decided to have her husband cremated and she opted to use a different facility. Complainant stated that they told Respondent establishment to not allow the decedent's mother to have any services for him. Complainant alleged that Respondent allowed the decedent's mother to use their facility for memorial services for the decedent, and allegedly printed off obituaries with false information and, as Complainant alleges, was written out of spite. Complainant also stated that the obituary that was written by Respondent establishment omitted her from the obituary.

Respondent replied confirming that the decedent had passed away on April 23, 2023 and that Complainant had contacted Respondent establishment informing them that she planned to use them to provide final services to her husband. However, Respondent stated that they were never called by the medical examiner to pick up the decedent. The following day, Complainant called and

informed Respondent establishment that they had decided to use another establishment. Respondent stated that they were later contacted by the decedent's mother, who was inquiring if the decedent's body had arrived at their funeral home. Respondent informed the decedent's mother that the body had never been transferred to their establishment, and that they had never received the decedent. Decedent's mother was unaware of this change, apologized, and thanked them for their help. Later that day, Complainant called Respondent and asked if her husband's body was at the Respondent establishment. Respondent reminded Complainant that she had selected another establishment and that they had never received a call from the medical examiner and therefore, the decedent had never arrived at their establishment. The following day, the decedent's mother called Respondent and inquired about renting their chapel for a memorial service for the decedent, and after a meeting, secured the use of the chapel only. Respondent inquired as to whether the service was to be public or private, and decedent's mother informed them that it would be public. The memorial service was set for Wednesday May 3, 2023, and the decedent's mother requested that an announcement of memorial service be posted to their website and in an online newspaper. Respondent stated that the decedent's mother brought the information to be posted a few days later and Respondent submitted it to the website and paper as instructed. Later that day, Complainant called Respondent again inquiring as to whether the decedent's body was going to be at the memorial service scheduled for May 3, 2023. Respondent again reminded Complainant that she had chosen a different funeral home, and that they had never received possession of the decedent's body. Respondent stated at no time did Complainant ever state that she did not want the decedent's mother to have a memorial service for the decedent.

Recommendation:

- Letter of Warning

A motion was made by Christopher Lea for closure of the complaint.

Seconded by Pamela Stephens

Adopted by Voice Vote

9. Case No: 2023017591 – Funeral Establishment

Complainant alleged that Respondent was knowingly advertising an office location that Complainant did not have and phone number that they do not own, via a website that advertises all of these advertisement infractions.

Respondent replied stating that the office location referenced by Complainant had a name change that had been approved by the board, and upon that approval, also requested the host of the former website be replaced with a new website. All signage associated with the former name was removed as well. On January 11, 2023 Respondent notified the board of the closing of that location and a receipt was issued for surrender of that license. Following its closure, Respondent contends that they followed state guidelines and removed signage and the websites. Respondent stated they were unaware that the previous host of the website referenced by Respondent had not been taken down from online publication. Once Respondent was made aware, it was immediately removed the same day. In actuality, the phone number that had been displayed was the correct phone number, however, it now went to the new location, with a different name, rather than the outdated name that had previously been advertised.

Legal confirmed that the website linked in Complainant's complaint was no longer active at the time of Respondent's reply.

Recommendation:

- Letter of Warning

A motion was made by Christopher Lea to accept Counsel's recommendation.

Seconded by Fred Berry

Adopted by Voice Vote

10. Case No.: 2023020951 – Funeral Establishment

11. Case No.: 2023020551 – Funeral Director

Complainant through counsel stated that on October 8, 2021, the decedent entered into a contract for prepaid services with Respondent establishment for \$7,500.00. In the process, the decedent named Respondent establishment as the beneficiary of a \$2,500.00 life insurance policy and named Respondent funeral director as the sole beneficiary of his \$5,000.00 retiree life insurance policy. Complainant alleges that the form falsely represented that Respondent funeral director was the decedent's cousin. On September 9, 2022, Complainant stated that the decedent moved to Pennsylvania and on September 24, 2022 decided that he wanted funeral services to be provided by an establishment in Pennsylvania. The decedent suffered a stroke on September 26, 2022 and Complainant, the decedent's son, exercised their power of attorney over their

father's affairs. Complainant stated that on October 28, 2022 they mailed the POA notice to PepsiCo and on November 14, 2022 PepsiCo advised Complainant that the POA had been approved and the beneficiary of the life insurance policy had been changed. Complainant stated that on November 18, 2022 they sent a letter to Respondent funeral establishment requesting the \$2,500.00 policy be sent to the Pennsylvania establishment. Respondent funeral establishment responded to advise that the request be sent to the insurance company. The decedent passed away on November 25, 2022 and soon after Respondent funeral director received the \$5,000.00 PepsiCo policy that Complainant alleges should have gone to Complainant or the Pennsylvania establishment. Complainant alleges that Respondent funeral director has not responded to their communications requesting that he return the funds that they allege were inappropriately received.

Respondent establishment replied confirming that the decedent did start a prearrangement on October 8, 2021, but stated that they were never the beneficiary of that policy. In actuality, Respondent establishment had an irrevocable assignment on the policy. Respondent stated that in November of 2022, they were contacted regarding those funds, and they informed Complainant's counsel as to how to claim the funds. In December of 2022, Respondent stated they were contacted by the insurance company to release the assignment of the policy, which Respondent did. Respondent establishment stated that they are not involved with the \$5,000.00 policy, and that they have never had an assignment, ownership, beneficiary status, etc. with PepsiCo, and that the only connection they have with that policy is that one of their employees, Respondent funeral director, was named by the decedent as 100% beneficiary of the \$5,000.00 PepsiCo policy on October 8, 2021.

Respondent funeral director also responded stating that on October 8, 2021 he met the decedent at his residence to discuss funeral arrangements and final wishes. Respondent contended that during the meeting, the decedent wanted to name Respondent as beneficiary being that he only had distant relatives in this area, of which Respondent stated to be a cousin of his. Respondent stated that because they were related and due to the small number of relatives in Tennessee, he did not anticipate this being an issue. Respondent stated that the decedent's final wishes were to be buried in Tennessee with other family, and for Respondent to take the funds from the PepsiCo policy and finish paying off the decedent's funeral services when he died. Respondent contended that it was the decedent's concern that he would end up back in Pennsylvania and be cremated against his wishes, Respondent stated that the decedent instructed him that if

this did happen, he wished for the funds of the PepsiCo policy to be used to purchase a monument for he and his late wife to be installed at a cemetery in Tennessee, to pay for the repair of decedent's father and mother's monument, and to donate the remaining funds to the cemetery for perpetual care. Respondent stated that they agreed to this. Respondent attached documentation to show that a monument has been ordered, and they are waiting on it to be delivered so that it may be installed at the cemetery. Respondent stated they have also received quotes on fixing the other monuments, and that whatever is left will be donated to the cemetery per decedent's wishes. Respondent also attached a screenshot conversation between he and another relative of the decedent dated on August 16, 2022 discussing the final wishes of the decedent. In these messages, the family member of the decedent also expressed that the decedent asked to speak to Respondent regarding his final wishes. Finally, Respondent stated that after decedent's death, PepsiCo notified him that he was the named beneficiary of the policy and sent him claim forms to process, Respondent attached these documents to their response.

In a rebuttal email dated May 3, 2023 at 9:50 a.m. Complainant alleges that Respondent funeral establishment allowed Respondent funeral director to act as their agent and, "through fraudulent means, improperly [obtained] \$5,000.00." Complainant continued that "[Respondent Establishment] gave [Respondent Funeral Director] its explicit approval or, by retaining his services and defending his actions, tacit approval, to act in this manner, so [Respondent Establishment] is culpable of [Respondent Funeral Director's] actions." However, in a later email dated the same day at 12:25 p.m. Complainant states, "I'd like to clarify that, although it is possible that [Respondent Funeral Director] acted with [Respondent Establishment's] prior knowledge, he (Respondent funeral director) had the proceeds sent to what appears to be his personal address, suggesting he was acting without [Respondent Funeral Establishment's] knowledge."

In a follow up with Respondent funeral director, Legal obtained a document showing an estimate for the monument repairs and referred back to his original response regarding an invoice for the marker. Respondent stated that whenever the marker and repairs had been fully paid for, he would donate the remaining funds to the cemetery that decedent named per their wishes.

Based on the above, Respondent establishment agreed and assisted with necessary documents for the funds to be paid to the successor funeral establishment in Pennsylvania; therefore, Respondent establishment has not committed any violation of applicable rules or statutes. Further, Respondent

funeral director appears to have abided by the wishes of the decedent. If, as Complainant contends, PepsiCo acknowledged the change of the beneficiary from Respondent to Complainant, it was erroneous not on Respondent funeral director, but on PepsiCo to supply the funds to Respondent funeral director. From Respondent funeral director's perspective, he received the \$5,000.00 policy to be used as per the decedent's wishes, as purportedly discussed with the decedent on October 8, 2021. Complainant has not carried their burden to show a violation of applicable rules and statutes on behalf of Respondent funeral director, as Respondent appears to be carrying out the wishes of the decedent to the best of his ability.

Recommendation:

Funeral Establishment:

- Closure

Funeral Director:

- Closure

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

Seconded by Christopher Lea

Adopted by Voice Vote

12: Case No.: 2023023521 – Funeral Director

Complainant stated that their father passed away unexpectedly on March 6, 2023 and that they, nor anyone else in their family, were notified until 16 hours after the fact. Complainant said that a friend of theirs called them to inform them that an obituary had been written that was completely false and was told that an individual had given the funeral home the information. Complainant stated that this individual informed Respondent that she was the wife of the decedent, which Complainant contends is untrue. Further, Complainant stated that in the obituary, no one's names were correctly spelled. Complainant stated that Respondent told them that the individual Respondent worked with told him that the decedent's children were estranged, which again, Complainant contends is not true. Complainant stated they asked Respondent to correct the errors in the obituary, which Complainant stated that Respondent did. Complainant also stated that on the day of the service, they asked Respondent whether the decedent had been cremated already. Complainant contends that Respondent replied "Yes" and then

later told Complainant that he was wrong and that the decedent had not yet been cremated. Finally, Complainant stated that Respondent “allowed someone that said she was [decedent’s] wife to” make decisions and determinations as to the services.

Respondent replied stating that the individual who he had worked with came into the Funeral establishment purporting to be the wife of the decedent and wanted to make funeral arrangements. Respondent said that the papers they received stated that she was the decedent’s wife. Respondent stated he met with the individual and had no reason to doubt the information she was giving him. When Respondent questioned the individual about any relatives, the individual informed him that the decedent had an estranged daughter who he had not seen for quite some time. Again, Respondent took this information as true. Respondent stated that the names in the obituary, and their spelling, were what they were given by the individual, which again, they believed to be true. Respondent said that upon receiving a call from Complainant and identifying herself, he made changes to the obituary and received approval from Complainant on the changes. On the day of the service, Complainant asked Respondent if she could have some of the decedent’s ashes. Respondent said that she could, and that it had already been arranged by the individual who purported to be the wife of the decedent, who had purchased Complainant and her family several small companion urns and jewelry with ashes in them. Respondent explained that, to their knowledge, Complainant was alright with this. However, when Respondent spoke to the directors to determine when the urns would be ready, they informed him that the physician had not signed off at that time. Respondent stated that they do not cremate until all forms are signed, and after relaying and explaining that the decedent had not yet been cremated, but offered that after the service they could make arrangements for Complainant to view the deceased if she chose to do so. As Respondent contends, Complainant denied this request. Respondent stated that they apologized to Complainant and accommodated Complainant’s wishes as best they could, given the information they received.

Recommendation:

- Letter of Warning

A motion was made by Christopher Lea to accept Counsel’s recommendation.

Seconded by Fred Berry

Adopted by Voice Vote

REPRESENT(S)

13. Case No.: 2023011841 – Funeral Establishment

This matter was previously presented to the board at its April 11, 2023 meeting as follows:

Summary: *Complainant, daughter of the deceased, alleged that Respondent establishment Respondent released the ashes of the deceased to a person who was not next of kin.*

Respondent stated that upon receiving the call for removal, he received approval and contracted with the sister of the deceased. Respondent continued that the sister contracted with them regarding a cremation, and that throughout the arrangement process he met with the sister of the decedent. Respondent stated that the services were carried out on March 1, 2023 and that Complainant called on March 9, 2023. The manager was not at the office at the time of the call, so the call service requested that Complainant call back the next day. The manager stated after being made aware of Complainant's call, he called the sister of decedent who requested that Respondent not release the remains to Complainant and that she would send a representative to pick up the cremains. Respondent stated the sister provided that there was a lot of contention within the family and that she was following the wishes of the decedent. Respondent stated the cremains were picked up by the representative of the decedent's sister and attached a form to show that the cremains had been released to the stated representative.

The sister of the decedent also provided a written statement corroborating Respondent's version of events. The sister specifically mentioned a difficult family dynamic and stated that Respondent establishment did not contribute to that difficult dynamic. Furthermore, the sister reaffirmed that she had made the arrangements with Respondent and that she had directly contracted with them, and requested that the cremains not be released to anyone but her or her representative.

The bulk of the complaint appears to be a family matter and issues involving next of kin determination. Based on the above, Legal would suggest closure with any remaining issues of next of kin determination to be determined by a court of competent jurisdiction.

Recommendation: *Closure*

Board Decision: Request for additional documentation, specifically the cremation authorization form and any other documentation supporting how the decision was made in determination of sister as next of kin.

Update: *Respondent provided a copy of the cremation authorization form for the decedent. The form did not denote any specific manner in which the next of kin was determined or decided as some stock forms do. However, Legal also contacted the sister of the decedent. The sister explained that at the time of the decedent's passing, Respondent inquired as to whether there were other potential next of kin (a power of attorney, surviving spouse, children, etc.). The sister stated that she informed them that there were children, but that due to their lack of financial resources and difficulty with the situation, they had determined that she (the sister) should handle the arrangements for the decedent and be denoted next of kin for purposes of the right of disposition. The sister further explained that during a private viewing, she inquired of all the children and family members (including Complainant) as to whether they were satisfied with the service, the sister stated that at that time, everyone communicated that they were. Soon after however, the sister stated that Complainant and another family member had disagreements regarding the service. The sister stated that this family dispute and family matter evolved into further issues when Complainant called Respondent on March 9, 2023 requesting the cremated remains. Since Respondent had been dealing with the sister directly, he contacted her to ascertain as to how he should proceed. The sister stated that she asked that Respondent not release the cremains to anyone but her or her representative so that the cremains could be disbursed once the family matter had been sorted out. The sister spoke very positively about Respondent establishment and again reiterated that this was strictly a family issue that had been blown out of proportion to involve Respondent.*

Legal also spoke to Complainant who did not deny that the sister had been made the next of kin and made the arrangements for the decedent. Complainant primarily objected to the fact that she could not pick up the cremains despite being the daughter of the decedent and that a representative of the sister, not the sister herself, had been allowed to pick up the cremains instead of her.

Based on the above, Respondent appears to have made the appropriate inquiry into determining next of kin. Further, after Respondent began working with the sister as the designated next of kin Complainant requests the cremains in opposition to the request of the sister. Respondent contacted sister to determine how she would like to proceed, and Respondent followed the wishes of the sister. However, it appears that Respondent did not directly corroborate Complainant's surrender of next of kin determination with the Complainant and took the word of

the sister. While this could be considered reliance information and not a violation under the statute, reliance information ordinarily is applied when determining the existence of other potential next of kins, not their willingness to participate. When Respondent knew or should have known that a potential next of kin existed that preceded the sister in the order of the statute, Respondent should have corroborated the Complainant's willingness to relinquish next of kin determination.

Recommendation:

- Letter of Instruction regarding next of kin determinations.

A motion was made by Pamela Stephens for a Letter of Instruction and an additional Letter of Warning.

Seconded by Fred Berry

Adopted by Voice Vote

14. Case No.: 2023004001 – Funeral Director

This matter was previously presented to the board at its March 14, 2023 meeting as follows:

Summary: *Complainant alleged unprofessional conduct on behalf of Respondent funeral director. Specifically, Complainant stated that the establishment that Respondent works for completed the celebration of life for the decedent on November 28, 2022 and that following the ceremony decedent was to be cremated. Complainant alleged that they had spoken to Respondent numerous times regarding the cremation and that he stated he was waiting on necessary papers to perform the cremation. Complainant stated that as of January 29, 2023 the decedent had yet to be cremated.*

Respondent replied stating that they had made numerous attempts to have the cremation approval form signed by several doctors. Respondent detailed how, since the decedent did not have a primary care physician, they had reached out to several doctors every week to try and have them sign the cremation approval form. Respondent stated after several doctors and numerous delays, they finally found someone who agreed to sign off on the permit on January 30, 2023. Respondent stated that the decedent was cremated on February 2, 2023 and the cremains were picked up the following day first by the Respondent and then by the family. Respondent stated that they informed Complainant throughout the process that they would not be able to sign the documents since they were not a

healthcare professional, and they would have to wait on a physician's signature before proceeding.

Respondent attached the cremation approval form to show that approval had been granted January 30, 2023, the cremation permit to show that it had been signed on February 2, 2023, and the family accountability form to show that the cremains had been picked up on February 3, 2023. Finally, Respondent attached communications to show that he had been in contact with the medical examiner's office to try and get the cremation approved as expeditiously as possible.

Recommendation: *Closure*

Board Decision: *\$250.00 civil penalty and a Letter of Instruction. Authorize via Consent Order and formal hearing if necessary.*

Update: *Through counsel, Respondent provided an update with additional documentation and explanation. Respondent provided the following timeline regarding the decedent and Respondent's attempts to obtain a cremation permit.*

November 14, 2022: The decedent passes away.

November 16, 2022: The decedent's family make arrangements with Respondent. Respondent explains to the family (including Complainant) the process of obtaining a cremation permit which required approval and permission from the doctors, medical examiner, and the health department.

November 28, 2022: A celebration of life memorial service was conducted for the decedent.

November 28, 2022: Respondent included a physician who had attended to the decedent prior to their passing in the VRISM system for signage of the death certificate and cremation permit. (Respondent attached documentation confirming that the stated doctor had been assigned the decedent's certificate in VRISM).

December 22, 2022: After several weeks of discussion with the doctor's assistant, Respondent was advised that neither the doctor nor the hospital would sign the cremation approval form. (Respondent attached documentation to show that they had written down dates of discussions with the doctor and assistant).

January 3, 2023: Respondent was advised by Complainant that another doctor had been decedent's heart doctor and may be willing to sign the form. Respondent contacted the heart doctor's office, and after a few conversations was advised that the heart doctor would not sign the cremation approval form.

(Respondent attached notes dated January 3, 2023 detailing the nature of the conversation and text messages from Complainant).

On or about early to mid-January: Respondent contacted investigators at the Medical Examiner's Office to try and obtain the medical examiner's signature for the cremation approval form. Respondent was eventually advised that the Medical Examiner would require either a death certificate signed by a physician (which Respondent had had difficulty obtaining), or a statement of death from a treating doctor in order for the Medical Examiner to sign the cremation approval form. (Respondent attached copies of emails showing confirmation that this conversation occurred).

January 18, 2023: Respondent was advised by a family member of the decedent about a doctor that had been the decedent's primary care physician in the past (though the decedent had not been to this physician in some time).

January 19, 2023: Respondent adds decedent's former primary care physician to the VRISM system. (Respondent attached documentation to show this had been done).

Soon after January 19, 2023: Respondent was advised that the former primary care physician would not sign the cremation permit. As a result, Respondent again contacted the Medical Examiner and explained that they had exhausted all options. Employees at the Medical Examiner's Office agreed to do a "chart review."

January 30, 2023: Following the chart review, the cremation approval form was signed and the cremation permit was issued by the Department of Health on January 30, 2023. (Respondent attached copies of the signed cremation approval form and signed cremation permit dated January 30, 2023).

February 2, 2023: After the cremation permit was signed, the decedent was cremated.

February 3, 2023: The family picked up the cremains from the Respondent.

Respondent further stated that they had communicated with either Complainant and/or other members of the decedent's family on a weekly or bi-weekly basis depending on availability of updates. Additionally, Respondent provided that in the county they conduct business in, the medical examiner does not and will not ordinarily issue a cremation approval without being provided a copy of the death certificate or a statement of the cause of death from a treating physician. (Respondent attached text messages and emails from the Medical Examiner's

Office supporting that assertion). In totality, Respondent stated that while the cremation was ultimately delayed to roughly 60 days after the celebration of life service, Respondent exhausted every effort to try and obtain the necessary documentation to try and receive the cremation permit. While Respondent encountered these delays, he kept consistent communication with the decedent's family and apprised them of the difficulties and updates as they occurred. Ultimately, the complaint was submitted one day prior to issuance of the cremation permit.

Based on the above, Respondent made reasonable efforts to try and obtain the necessary documentation in order to cremate the decedent. Respondent attached sufficient documentation to corroborate their attempts to receive authorization.

Recommendation:

- Closure

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

Seconded by Christopher Lea

Adopted by Voice Vote

Board Member(s) voting contrary to the conclusion: Anthony Harris

LICENSEE REPORT:

REPORT OF LICENSES ADMINISTRATIVELY APPROVED BY EXECUTIVE DIRECTOR PURSUANT TO BOARD AUTHORITY FOR THE PERIOD OF APRIL 8, 2023 – JUNE 9, 2023

Establishment(s)

Associated Family Funeral Home, LLC
Adamsville, TN

Type of Action(s)/Change(s)

Initial Establishment

Mynatt Funeral Home, Inc.
Powell, TN

Initial Establishment

Lumen Cremation
Hendersonville, TN

Change of Location

Individuals)

Diene Bowers Adair

Type of License(s)

Funeral Director and Embalmer

Tennessee Board of Funeral Directors and Embalmers

June 13, 2023 Minutes

Page 21 of 24

Hohenwald, TN

Josie Denise Boston
Lebanon, TN
Funeral Director and Embalmer

Grace Anne Deal
Nashville, TN
Funeral Director and Embalmer

Mischa Arieekia McMorris
Southaven, MS
Funeral Director and Embalmer

Caroline Grace Burrow O'Neill
Ashland City, TN
Funeral Director and Embalmer

Kevin Ray Thompson
Greenbrier, TN
Funeral Director and Embalmer

Meredith Carly Davis
Memphis, TN
Funeral Director and Embalmer
Reciprocity – California and
Louisiana

Richie Jonathan Hall
Blue Ridge, GA
Funeral Director and Embalmer
Reciprocity – Georgia

Anastasia Rose Zamarron
Mount Juliet, TN
Funeral Director and Embalmer
Reciprocity – Kentucky

Amy Leigh Hitchcock
Memphis, TN
Funeral Director and Embalmer
Reapplication

John Wesley Blade
Fairview, TN
Funeral Director

Melissa Renee Eagan
Maryville, TN
Funeral Director

Rhonda W. Ganaway
Nashville, TN
Funeral Director

James Earnest Lindsey
Bartlett, TN
Funeral Director

Chadrick Lee Mundy
Grimsley, TN
Funeral Director

Victoria Denise Thomas
Funeral Director

Memphis, TN

Kimberly Ann Licata
Palm Beach Gardens, FL
Funeral Director
Reciprocity – Florida

Katherine Faye Chase
Dickson, TN
Embalmer

Jennifer McKinney Gasperson
Kingsport, TN
Embalmer

Benjamin Alan Saunders
Springfield, TN
Embalmer
Reciprocity – Indiana

CLOSED ESTABLISHMENT REPORT:

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

- Smith Family Funeral and Cremation Services, LLC, 1939 Almadale Road, Smyrna, TN

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 March 2023 and April 2023 Regulatory Board Disciplinary Action Reports

Respondent: Anderson Funeral Home, Lewisburg, TN
Violation: Failed to maintain the preparation room in an orderly manner
Action: \$500 Civil Penalty

Respondent: Associated Funeral Group, Inc., Adamsville, TN
Violation: Advertising an unlicensed Tennessee funeral establishment
Action: \$500 Civil Penalty

Respondent: Companion Funeral & Cremation Service, Cleveland, TN
Violation: Unprofessional conduct (failed to perform due diligence regarding a determination as to the next of kin prior to cremation of the decedent)
Action: \$250 Civil Penalty

Respondent: Blake Alan Farr, Hohenwald, TN
Violation: Immoral or unprofessional conduct (wrote unauthorized checks payable to himself from a cemetery’s bank account) and engaged in misleading or deceptive acts

Action: \$1,000 Civil Penalty and \$940.50 Investigation Costs, suspension of funeral director license for twelve months and ten hours of continuing education

Respondent: Forest Hill Funeral Home & Memorial Park - East, Memphis, TN

Violation: Failed to investigate family's repeated questions concerning no open grave which resulted with interment of an individual in the wrong grave space and failed to treat members of the public in a respectful manner

Action: \$1,500 Civil Penalty and \$643.50 Investigation Costs

Respondent: Highland Hills Funeral Home & Crematory, Nashville, TN

Violation: Aiding or abetting an unlicensed person to practice within the funeral profession

Action: \$1,000 Civil Penalty and remediation plan for education of funeral directors and staff regarding unlicensed activity

Respondent: Marshall-Donnelly-Combs Funeral Home, Nashville, TN

Violation: Failed to notify the Board of change regarding establishment manager within the time required by rule

Action: \$250 Civil Penalty

Respondent: N. J. Ford & Sons Funeral Home, Memphis, TN

Violation: Failed to treat members of the public in a respectful manner

Action: \$1,000 Civil Penalty

Respondent: R. S. Lewis & Sons Funeral Home, Memphis, TN

Violation: Violated a statute pertaining to the prearrangement or prefinancing, or both, of a funeral

Action: \$250 Civil Penalty

OPEN COMPLAINT REPORT:

As of June 8, 2023, there were 22 open complaints.

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

Seconded by Christopher Lea

Adopted by Voice Vote

NEW BUSINESS:

Sunshine Law/Training – Open Records and Public Meetings presentation has been deferred to the July 18, 2023 board meeting.

Sunset Hearing – This is scheduled for July 19, 2023, at 9:00 a.m. at the Cordell Hull Building, House Hearing Room 1 before the members of Commerce, Labor, Transportation and Agriculture Joint Subcommittee of Government Operations.

New Board Member Appointment – The Governor has appointed Wendell J. Naylor, a funeral director and embalmer, from Memphis to the Board as a representative for the West Grand Division to replace Charles A. Rahm whose term has expired.

Conference Rooms – Renovations for Conference Rooms 1-A and 1-B are scheduled to take place July 24, 2023 through August 14, 2023. Conference Rooms 1-A and 1-B are supposed to reopen on August 15, 2023, with the current AV system. Then, the conference rooms are expected to close again for one (1) week in October 2023 for the installation of new AV equipment.

Move July Board Meeting Date – A motion was made by Anthony Harris to move the board meeting scheduled for July to Tuesday, July 18, 2023.

Seconded by Pamela Stephens

Adopted by Voice Vote

President Anthony Harris asked if there were any public comments.

ADJOURN:

A motion was made by Fred Berry to adjourn.

Seconded by Christopher Lea

Adopted by Voice Vote

The meeting was adjourned by President Anthony Harris at 11:30 a.m.

Respectfully submitted,

Robert B. Gribble

Robert B. Gribble, CPM, CFSP
Executive Director