

TENNESSEE BOARD OF FUNERAL DIRECTORS AND EMBALMERS

MINUTES OF BOARD MEETING

MAY 6, 2014

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

Board members present: Robert Starkey, President; Anita Taylor, Vice President; Wayne Hinkle, David Neal, W. T. Patterson, and Jane Gray Sowell.

Board member(s) absent: Robert P. Helms.

Staff present: Robert Gribble, Executive Director; Adrian Chick, Assistant General Counsel; Ellery Richardson, Assistant General Counsel; Samuel Payne, Deputy General Counsel; Roy Bozeman, Field Representative, and Genesis Johnson, Administrative Secretary.

ADOPTION OF AGENDA:

A motion was made by Wayne Hinkle to approve the Agenda as printed.

Seconded by Anita Taylor

Adopted by voice vote

APPROVAL OF MINUTES:

A motion was made by Wayne Hinkle to approve the Minutes of the March 11, 2014 Board Meeting.

Seconded by Jane Gray Sowell

Adopted by voice vote

A motion was made by Jane Gray Sowell to approve the Minutes of the April 8, 2014 Board Meeting.

Seconded by David Neal

Adopted by voice vote

PRESENTATION OF SUNSHINE LAW AND PUBLIC MEETING ACT:

Damon Romano made a presentation via audio visual of the Sunshine Law and Public Meeting Act. Samuel Payne, Deputy General Counsel, was present to answer questions and make additional remarks regarding the video presentation.

PRESENTATION OF AGREED ORDER:

Adrian Chick, Assistant General Counsel for Regulatory Boards, presented an Agreed Order for the Board's acceptance regarding Docket No. 12.21-125328A, Complaint No. 2014005691. The Respondent was Melicent K. Clinkenbeard, Spring Hill, Tennessee, Funeral Director License No. 5611

Jane Gray Sowell recused herself from participating in this matter.

A motion was made by Wayne Hinkle to approve the Agreed Order as presented.

Seconded by David Neal

Adopted by voice vote

LEGAL REPORT:

ELLERY RICHARDSON, ASSISTANT 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.: L14-FUN-RBS-2014006021

Complaint:

- Complainant made arrangements with Respondent establishment for her father a week before he passed away.
- Upon death, Respondent told complainant that they would not use the deceased's VA insurance. He told her that insurance takes anywhere from 6 to 8 months to pay and it will be on a card.
- Because Respondent would not take the VA insurance, she had to change the arrangements to a lower price. She also had to borrow money from relatives.
- After the burial, she started calling Respondent about when the death certificate would come in. Respondent told her that it would take three to six weeks.

- After that time period had passed and there was still no certificate, she called the County Health Department and the hospital, and they both told her there was no record.
- When she called the funeral home and told them this, they said that the director would call her back, but he never did.
- She called the County Health Department again, and they told her that they have called the funeral home three times asking for paperwork.

Response:

- Arrangements:
 - o When complainant came in to select arrangements for her father, she chose a pricey package and told him that the VA would pay for it.
 - o Respondent informed her that the VA would reimburse her through a card they will send to her, and it may take a while for her to receive the reimbursement.
 - o Therefore, she chose a lower priced service.
- Death Certificate:
 - o The death certificate was prepared and mailed the same week.
 - o When Respondent called the hospital to check on the certificate, they realized that they had used the wrong address.
 - o Because of the delay, they reached out to the Health Department so they would be aware of the situation.
 - o Respondent states that they kept the complainant informed throughout this process.
 - o A member of the family came on April 1st to pick up the death certificate when it finally arrived at the funeral home.

Timeline:

- January 15th – date of death
- March 27th – date death certificate filed
- April 1st – family received death certificate from the funeral home

Recommendation:

- Close with a Letter of Warning

A motion was made by Wayne Hinkle to accept Counsel's recommendation.

Seconded by Anita Taylor

Adopted by voice vote

RE-PRESENTS

2. Case No.: L11-FUN-RBS-2011002621

This funeral home is no longer operated by the same management the complaint was filed against. Therefore, I recommend that the complaint against the establishment be closed.

Issue:

- Unlicensed Activity

Recommendation:

- Close the complaint

A motion was made by Anita Taylor to accept Counsel's recommendation.

Seconded by Wayne Hinkle

Adopted by voice vote

3. Case No.: L13-FUN-RBS-2013024421

- The complaint is a consumer complaint. The current consent order is for a failure to respond charge with a civil penalty of \$250.
- The complainant also filed a complaint with the Division of Consumer Affairs.
- In a letter, Respondent has asked that the Board reconsider the civil penalty based on their misunderstanding that responding to Consumer Affairs would fulfill their obligations with both complaints.

Recommendation:

- Keep the civil penalty, as Respondent did not respond to our staff

A motion was made by Jane Gray Sowell to accept Counsel's recommendation.

Seconded by W. T. Patterson

Adopted by voice vote

ADMINISTRATIVE MATTERS:
ROBERT B. GRIBBLE, EXECUTIVE DIRECTOR

FINANCIAL INFORMATION:

Pursuant to TCA: 4-3-1011, all the regulatory boards are required to be self-supporting over a two year period, and the Board of Funeral Directors and Embalmers is on track to maintain our self-sufficiency for this fiscal year. As of June 30, 2013, the Board's closing reserve balance was \$714,380.

LICENSEE REPORT:

REPORT OF LICENSES ADMINISTRATIVELY APPROVED BY EXECUTIVE DIRECTOR PURSUANT TO BOARD AUTHORITY FOR THE PERIOD OF APRIL 8, 2014 – MAY 5, 2014

Establishments

Type of License(s)

Roselawn Funeral Home & Memorial Gardens Murfreesboro, TN	New Establishment
Fike-Randolph & Son Funeral Home & Cremation Services Cleveland, TN	Name Change

Individuals

Type of License(s)

Katie Cecile Buckner Knoxville, TN	Funeral Director/Embalmer
Cassandra Lashae Chouinard Fayetteville, TN	Funeral Director/Embalmer
Kayla Jolyn Colson Hermitage, TN	Funeral Director/Embalmer
Fralisia Camille Jefferson Nashville, TN	Funeral Director/Embalmer
William Blake Turner Buchanan, TN	Funeral Director/Embalmer
Amanda Rae Kilgore Jasper, TN	Funeral Director
Fadil Divac Showers Memphis, TN	Embalmer

CLOSED ESTABLISHMENT REPORT:

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

Hooper-Huddleston & Horner Funeral Home & Cremation Services, 124 First Avenue, Algood, TN

DISCIPLINARY ACTION REPORT:

**REPORT OF CONSENT ORDERS ADMINISTRATIVELY
ACCEPTED/APPROVED BY THE EXECUTIVE DIRECTOR PURSUANT TO
BOARD AUTHORITY FOR THE PERIOD OF APRIL 1, 2014 – APRIL 30, 2014**

- Respondent: Bowers Funeral Home, Inc., Decatur Chapel, Decatur, TN
Violation: Used an establishment name not approved for a newspaper advertisement, embalming room was in need of a general overall cleaning, overcharged a family for merchandise, and multiple aspects of the establishment's price lists and contract did not comply with the Funeral Rule
Action: \$750 Civil Penalty and refund \$200 to decedent's estate
- Respondent: Covenant Crematory, Chattanooga, TN
Violation: Failed to retain a cremation authorization form on file
Action: \$250 Civil Penalty
- Respondent: Covenant Funeral & Crematory, Chattanooga, TN
Violation: Failed to retain a cremation authorization form on file
Action: \$250 Civil Penalty
- Respondent: Cremation & Funeral Services of Tennessee, Pegram, TN
Violation: Failed to obtain and maintain a copy of the crematory's current license and latest inspection report that the establishment uses
Action: \$250 Civil Penalty
- Respondent: Cremation Society of Tennessee, LLC, Spring Hill, TN
Violation: Failed to obtain and maintain a copy of the crematory's current license and latest inspection report that the establishment uses and multiple aspects of the establishment's General Price List and casket catalogue did not comply with the Funeral Rule
Action: \$1,500 Civil Penalty and \$200 Hearing Costs
- Respondent: Four Oaks Funeral Home, Inc., Huntsville, TN
Violation: False or misleading advertising (ran an advertisement claiming to be the only locally owned funeral home in the county after previously receiving a Letter of Warning against such)

Action: \$250 Civil Penalty

Respondent: Four Oaks Funeral Home, Inc., Oneida, TN
Violation: False or misleading advertising (ran an advertisement claiming to be the only locally owned funeral home in the county after previously receiving a Letter of Warning against such)

Action: \$250 Civil Penalty

Respondent: Harpeth Hills Memory Gardens, Funeral Home, & Cremation Center, Nashville, TN

Violation: Immoral or unprofessional conduct (family members went to the funeral home for the purpose of providing care to the decedent's hair and fingernails, found the deceased human remains positioned on an unsanitary table, and the remains were neither cleaned properly nor dressed appropriately)

Action: \$1,000 Civil Penalty

Respondent: James Tommy Harris, Cookeville, TN

Violation: Violations of laws pertaining to the prearrangement or prefinancing, or both, of funerals and immoral or unprofessional conduct (moneys from the sale of preneed funeral contracts were neither timely deposited into trust nor paid to an insurance company)

Action: \$1,000 Civil Penalty, Suspension of funeral director and embalmer licenses for a period of one (1) year, and satisfactory completion of an additional ten (10) hours of continuing education, four (4) hours of which must be in ethics

Respondent: M. J. Edwards Whitehaven Funeral Chapel, Memphis, TN

Violation: Employee engaged in the practice of funeral directing while license was expired and establishment failed to respond within the time specified after receiving notice of an open complaint

Action: \$500 Civil Penalty

Respondent: Mount Olivet Funeral Home & Cemetery, Nashville, TN

Violation: Failed to have current licenses of a funeral director and an embalmer available for inspection, ventilation fan in the embalming room was not working, failed to obtain and maintain a copy of the crematory's current license and latest inspection report that the establishment uses, failed to have the correct number of days on the form regarding disposition of unclaimed cremated remains, funeral director failed to sign and date cremation authorization forms, and aspects of

the establishment's price lists did not comply with the Funeral Rule
Action: \$500 Civil Penalty

Respondent: Northridge Woodhaven Funeral Home, Millington, TN
Violation: Multiple aspects of the establishment's price lists did not comply with the Funeral Rule and establishment failed to respond within the time specified after receiving notice of an open complaint
Action: \$750 Civil Penalty

Respondent: Sellars Cremation Service, Lebanon, TN
Violation: Business cards of unlicensed employees either gave or tended to give the impression that each person was licensed or entitled to practice as a funeral director or embalmer
Action: \$250 Civil Penalty

Respondent: Sellars Funeral Home, Inc., Lebanon, TN
Violation: Business cards of unlicensed employees either gave or tended to give the impression that each person was licensed or entitled to practice as a funeral director or embalmer
Action: \$250 Civil Penalty

Respondent: Serenity Funeral Home & Cremation Center, LLC, Cleveland, TN
Violation: Failed to submit documents to inspector on correct paper size and multiple aspects of the establishment's Casket Price List and contract did not comply with the Funeral Rule
Action: \$250 Civil Penalty

OPEN COMPLAINT REPORT:

As of May 5, 2014 there were 58 open complaints.

A motion was made by David Neal to accept the Executive Director's Report.

Seconded by Wayne Hinkle

Adopted by voice vote

ESTABLISHMENT APPLICATION:

**DUSTY ROSE CREMATIONS & MEMORIAL SERVICES, LLC
5100 POPLAR AVEUE, SUITE 2729
MEMPHIS, TENNESSEE 38137**

Upon motion by Wayne Hinkle and seconded by Anita Taylor, based upon application record, the establishment was approved for licensure.

Member noted as voting contrary to the voice vote conclusion: Jane Gray Sowell

Adopted by voice vote

**DUSTY ROSE MORTUARY, LLC
2319 AIRPORT INTERCHANGE AVENUE, SUITE 5
MEMPHIS, TENNESSEE 38132**

Upon motion by Jane Gray Sowell and seconded by Wayne Hinkle, based upon application record, the establishment was denied for licensure.

Adopted by voice vote

PROPOSED RULES:

Ellery Richardson, Assistant General Counsel for Regulatory Boards, presented Public Chapter 122 of the Public Acts of 2013 regarding Military Rules: <http://www.tn.gov/sos/acts/108/pub/pc0122.pdf>. A motion was made by W. T. Patterson and seconded by David Neal to adopt the Military Rules as presented. The motion was adopted after a roll call vote with all members present voting aye.

Ellery Richardson, Assistant General Counsel for Regulatory Boards, presented Regulatory Flexibility Act, Tenn. Code Ann. §§ 4-5-401 et seq. A motion was made by Wayne Hinkle and seconded by W. T. Patterson to adopt. The motion was adopted after a roll call vote with all members present voting aye.

Ellery Richardson, Assistant General Counsel for Regulatory Boards, presented Economic Impact Statement. A motion was made by Wayne Hinkle and seconded by David Neal to adopt. The motion was adopted after a roll call vote with all members present voting aye.

Ellery Richardson, Assistant General Counsel for Regulatory Boards, presented Simple Declarative Sentence. A motion was made by Wayne Hinkle and seconded by Jane Gray Sowell to adopt. The motion was adopted after a roll call vote with all members present voting aye.

ADOPTION OF ESTABLISHMENT INSPECTION AND HUMAN CREMATORY INSPECTION FORM(S):

Public Chapter 690 of the Public Acts of 2014.

A motion was made by Wayne Hinkle to adopt the inspection forms as presented regarding the Establishment and Human Crematory Inspections.

Seconded by W. T. Patterson

Adopted by voice vote

ADJOURN:

A motion was made by David Neal to adjourn.

Seconded by Anita Taylor

Adopted by voice vote

The meeting was adjourned by President Robert Starkey at 12:16 p.m.

Respectfully submitted,

Robert B. Gribble

Robert B. Gribble, CFSP
Executive Director