

TENNESSEE BOARD OF FUNERAL DIRECTORS AND EMBALMERS

MINUTES OF BOARD MEETING

August 10, 2010

President Dennis Hamilton called the meeting to order at 10:02 A.M. in the Second Floor Conference Room of the Andrew Johnson Tower, Nashville, Tennessee.

Board members present were Dennis Hamilton, President; Eugene Williams, Vice President; Paula Bridges, Wayne Hinkle, Jill Horner, Clark McKinney and Tony Hysmith.

Staff members present were Robert Gribble, Executive Director; Adrian Chick, Assistant General Counsel; Jimmy Gossett and Mary Flagg, Administrative Assistants.

ADOPTION OF AGENDA:

A motion was made by Clark McKinney to approve the agenda as printed.

Seconded by Paula Bridges

Adopted by voice vote

APPROVAL OF MINUTES:

A motion was made by Wayne Hinkle to approve the minutes of the July 13, 2010 Board Meeting.

Seconded by Eugene Williams

Adopted by voice vote

LEGAL REPORT:

ADRIAN CHICK, ASSISTANT GENERAL COUNSEL

1. Case No.: L10-FUN-RBS-2010008611

The Complainant's uncle died and Respondent provided services. The Complainant filed this complaint alleging she was overcharged, not given a copy of the Statement of Funeral Goods and Services Selected, and cremated remains were not properly identified. The services were provided for the decedent's brother, who is the next of kin.

Response: Respondent notes that the Complainant is not the next of kin and that services were provided to the brother, not the niece.

Complaint History: None related.

Recommendation: Close.

A motion was made by Eugene Williams to accept Counsel's recommendation.

Seconded by Clark McKinney

Adopted by voice vote

2. Case No.: L10-FUN-RBS-2010022321

The Respondent establishment's sign and Statement of Funeral Goods and Services Selected contain a name other than the name registered with the Board.

Response: Respondent states that issues are being addressed.

Complaint History: None related.

Recommendation: Consent Order assessing civil penalty of \$250 and authorization for hearing. Follow up in 30 days.

Tony Hysmith recused himself from the proceedings of this complaint.

A motion was made by Wayne Hinkle to table the complaint until the September meeting to see if the firm is in compliance.

Seconded by Eugene Williams

Adopted by voice vote

3. Case No.: L10-FUN-RBS-2010022331

The Respondent establishment's sign and website contains a name other than the name registered with the Board.

Response: Respondent states that issues are being addressed.

Complaint History: None related.

Recommendation: Consent Order assessing civil penalty of \$250 and authorization for hearing. Follow up in 30 days.

Tony Hysmith recused himself from the proceedings of this complaint.

A motion was made by Wayne Hinkle to table the complaint until the September meeting to see if the firm is in compliance.

Seconded by Eugene Williams

Adopted by voice vote

4. Case No.: L10-FUN-RBS-2010018931

The Complainant is the decedent's sister. Complainant is upset that her son was incorrectly listed as the decedent's son in the obituary.

Response: Respondent states that the decedent had written the obituary a month prior to her death, and points out that the son was at the arrangement conference and didn't object. The Respondent is very sorry that the incident occurred.

Complaint History: None.

Recommendation: Dismiss.

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

Seconded by Wayne Hinkle

Adopted by voice vote

5. Case No.: L10-FUN-RBS-2010014671

A local health department registrar states that the Respondent applied for a cremation permit on January 20, 2010, but was informed that the Respondent must first obtain the signature of the Medical Examiner, then fax the form back to the health department. After not hearing back from the Respondent, the registrar contacted the Respondent. According to the registrar, the Respondent asked the registrar to back date the permit because the cremation had already taken place. The registrar refused to issue the permit because the cremation had already taken place and returned the \$25 check that was for the cremation permit fee.

Response: Respondent questions whether the establishment should be responsible for obtaining the medical examiner's signature and believes the health department should take care of that, and also suggests that all Tennessee counties should be held to the same standards. Respondent admits that it may have cremated without a signature. Respondent also submitted an unrelated

Permit for Cremation of Human Remains which shows that a cremation occurred two days prior to the application for permit.

Complaint History: None related.

Recommendation: Consent Order assessing civil penalty of \$1,000 for each of the two violations (total of \$2,000) and authorization for hearing.

A motion was made by Eugene Williams to accept Counsel's recommendation.

Seconded by Wayne Hinkle

Adopted by voice vote

6. Case No.: L10-FUN-RBS-2010015021

The Complainant disputes the charges for services for his mother's funeral. Complainant states that he requested the lowest priced funeral possible but was told the least expensive would still be \$7,500, which ended up being over \$10,000 including other expenses. Complainant also makes the following complaints:

- The funeral home staff acted unprofessionally by interrupting services to ask a family member to move their car from a handicapped space;
- That "follow up" services were promised at the arrangement conference but did not take place;
- The funeral director did not fully explain prices before services were rendered;
- Complainant did not receive an itemized Statement of Funeral Goods and Services Selected "before" he decided on the services;
- Complainant was not shown a Casket Price List before being shown caskets; and
- The funeral home will not accept a payment plan.

Response: The Respondent emphatically states that the Complainant was presented with a General Price List which remained in front of her during the entire conference as well as the other required price lists. The Respondent provided a copy of the SFGSS dated and signed two days before the services. The SFGSS also includes an acknowledgement by the Complainant and another family member that the price lists were provided as well as a copy of the completed SFGSS. A letter from a third family member who was also present during arrangements states everything was explained and conducted professionally.

Complaint History: None related.

Recommendation: Dismiss.

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

Seconded by Eugene Williams

Adopted by voice vote

7. Case No.: L10-FUN-RBS-2010018791

This establishment was previously owned by a sole proprietor who died several years ago. The current operators have not notified the Board of a change in ownership as required by Rule 0660-01-.03. Also, the price list uses an establishment name that is different than the name registered with the Board.

Response: The Respondent has not responded.

Complaint History: Several related.

Recommendation: Consent Order assessing civil penalty of \$250 for using an incorrect name on the price list, \$250 for failure to notify the board of a change in ownership, and \$250 for failure to respond to the complaint (total \$750) and authorization for hearing.

A motion was made by Eugene Williams to table the complaint for 60 days.

Seconded by Wayne Hinkle

After discussion, the first motion and second were withdrawn.

Another motion was made by Jill Horner to accept Counsel's recommendation.

Seconded by Paula Bridges

Adopted by voice vote

8. Case No.: L09-FUN-RBS-2010016761

The Complainant states that the Respondent establishment mailed out gift certificates which the Complainant believes constitutes offering a prohibited discount.

Response: The Respondent points out that the gift certificate can be used for at-need or pre-need and does not constitute a discount prohibited by statute. Furthermore, the gift certificate is not conditioned on entering into a contract or paying consideration.

Complaint History: None related.

Recommendation: Legal's opinion is that the gift certificate probably does not violate the statute for the reasons above and the complaint should be dismissed.

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

Seconded by Paula Bridges

Adopted by voice vote

9. Case No.: L10-FUN-RBS-2010016571

The Complainant states that Respondent ran an advertisement which provided a price comparison of three local funeral homes. The Complainant states that the advertisement is misleading because the Complainant does not offer the casket listed in the price comparison.

Response: The Respondent alleges that the Complainant does offer the casket, and that on its website also claims to carry the complete line of this manufacturer which would include the casket in question.

Complaint History: None related.

Recommendation: Letter of caution regarding accuracy of advertisements and consider a rule that would address price comparisons in advertisements.

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

Seconded by Clark McKinney

Adopted by voice vote

10. Case No.: L10-FUN-RBS-2010017111

11. Case No.: L10-FUN-RBS-2010017071

It appears that the Respondent embalmed the autopsied remains of decedent but did not put the viscera back into the body cavity but instead placed it in an unmarked bag. A second funeral home released the bag of viscera to the family thinking it was the personal belongings of decedent.

Response: The Respondent states that the remains were received from the Medical Examiner and the viscera was treated with cavity fluid and hardening compound. It was then placed inside another bag and then into a small cardboard chemical box which was then sealed with tape. The box was placed

inside the air tray at the foot end. The Respondent believes it acted professionally and notes that the complaint should have been against the second funeral home. Respondent states that the procedures it followed are taught in mortuary science schools across the country.

Complaint History: None related.

Recommendation: Discuss.

A motion was made by Clark McKinney to issue a Consent Order assessing a civil penalty of \$1000.00 each to the funeral home and the embalmer and an authorization for a formal hearing for each case.

Seconded by Wayne Hinkle

Adopted by voice vote

ADMINISTRATIVE MATTERS:
ROBERT B. GRIBBLE, EXECUTIVE DIRECTOR

LICENSEE REPORT:

**REPORT OF LICENSES ADMINISTRATIVELY APPROVED BY EXECUTIVE
 DIRECTOR PURSUANT TO BOARD AUTHORITY FOR THE PERIOD OF
 JULY 13, 2010 – AUGUST 9, 2010**

Establishments

Jeffers Funeral Chapel Afton, TN	New Establishment
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Individuals

Brad Houston Horner Sparta, TN	Funeral Director
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Jeremy Don Lawson Jellico, TN	Funeral Director
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Zachary Lee Fuson Smithville, TN	Funeral Director
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James B. Johnson, Jr. Shelbyville, TN	Funeral Director
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Pamela Denise Ware	Funeral Director/Embalmer
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Memphis, TN

Matthew Carr Gardner
Greenwood, MS

Funeral Director/Embalmer
Reciprocity

Jeremy Chad Lunceford
Knoxville, TN

Funeral Director/Embalmer
Reciprocity

CLOSED ESTABLISHMENT REPORT:

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

- **Jackson-Oliver Mortuary Services, LLC, Oliver Springs, TN**

OPEN COMPLAINT REPORT:

As of August 6, 2010, there were 136 open complaints.

INDIVIDUAL APPLICATION

**Susie C. Mozolic
Tallahassee, FL**

**Embalmer
Reciprocity**

Ms. Mozolic requests the application to be approved pursuant to Public Chapter No. 1018 of Public Acts, 2010 that was enacted July 1, 2010. The Executive Director recommends approval of this application.

A motion was made by Clark McKinney to approve this application.

Seconded by Paula Bridges

Adopted by voice vote

ESTABLISHMENT APPLICATION

**JOHNSON'S HOUSE OF ATENA
1107 BUCHANAN STREET
NASHVILLE, TENNESSEE
ESTABLISHMENT LICENSE NO. 704
CURRENT LICENSE STATUS: INVALID**

**Ownership: Sole Proprietorship
Owner: Annie Johnson who passed away July 1, 2006
Manager: Eric Maurice Johnson - Funeral Director License No. 3325
and Embalmer License No. 3829**

The Executive Director could not administratively approve this establishment renewal application received on June 30, 2010. A letter was sent to the manager requesting his appearance at today's meeting.

The Board interviewed Eric Maurice Johnson, the establishment manager, and discussed with him the death of Ms. Annie Johnson, the sole proprietor who died July 1, 2006, and Rule 0660-06-.03 which states "Upon a change in ownership, the new owner shall apply for a new establishment license and shall not operate more than seventy-five (75) days without either issuance of a new license or appearing before the Board and obtaining an extension of time.

A motion was made by Wayne Hinkle to allow this establishment to continue operation for sixty (60) days; and within that period of time, the establishment shall submit a completed application for a Change of Ownership together with all supporting documents for the Board's consideration.

Seconded by Clark McKinney

Adopted by voice vote

ADJOURN:

A motion was made by Wayne Hinkle to adjourn.

Seconded by Eugene Williams

Adopted by voice vote

There being no further business, the meeting was adjourned by President Dennis Hamilton at 11:52 A.M.

Respectfully submitted,

Robert B. Gribble

Robert B. Gribble, CFSP
Executive Director