

TENNESSEE BOARD OF FUNERAL DIRECTORS AND EMBALMERS

MINUTES OF BOARD MEETING

DECEMBER 14, 2010

President Dennis Hamilton called the meeting to order at 10:00 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; Jill Horner, Wayne Hinkle, Clark McKinney and Tony Hysmith. Board member absent: Paula Bridges.

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

ADOPTION OF AGENDA:

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

Seconded by Eugene Williams

Adopted by voice vote

APPROVAL OF MINUTES:

A motion was made by Tony Hysmith to approve the minutes of the November 9, 2010 Board Meeting.

Seconded by Eugene Williams

Adopted by voice vote

APPROVAL OF ESTABLISHMENT LICENSES:

**HIGH POINT FUNERAL HOME & CREMATORIUM
3788 SUMMER AVENUE
MEMPHIS, TN**

Change of Name

Ownership: Corporation

New Owner(s): HPC Services, Inc., Memphis, TN

President Dennis Hamilton recused himself from the proceedings concerning this establishment and turned the chair over to Vice President Eugene Williams.

Wayne Hinkle made a motion to approve the name change of High Point Funeral Home & Crematorium. The motion died due to the lack of a second.

After further discussion and review of the reasons for the name changes, the Board reconsidered the application of High Point Funeral Home & Crematorium.

Wayne Hinkle made a motion to approve the name change of High Point Funeral Home & Crematorium.

Seconded by Tony Hysmith

Adopted by voice vote

**AFFORDABLE CREMATION SOCIETY & MORTUARY SERVICE
3774 SUMMER AVENUE
MEMPHIS, TN**

Change of Name

Ownership: Corporation

New Owner(s): HPC Services, Inc., Memphis, TN

President Dennis Hamilton recused himself from the proceedings concerning this establishment and turned the chair over to Vice President Eugene Williams.

Wayne Hinkle made a motion to approve the name change of Affordable Cremation Society & Mortuary Service.

Seconded by Tony Hysmith

Adopted by voice vote

Vice President Williams turned the chair back over to President Hamilton.

**TENNESSEAN FUNERAL HOME & CREMATION SERVICES
2700 LARMON AVENUE
NASHVILLE, TN**

New Establishment

Ownership: Sole Proprietorship

New Owner(s): McKinley Fred Johnson, III, Nashville, TN

Upon motion by Wayne Hinkle and seconded by Eugene Williams, based upon application record, the establishment was approved for licensure by voice vote.

**CREMATION AND FUNERAL SERVICES OF NASHVILLE, LLC
1332 ROSA L. PARKS BOULEVARD
NASHVILLE, TN**

New Establishment

Ownership: Limited Liability Company

**New Owner(s): Cremation and Funeral Services of Nashville, LLC,
Nashville, TN**

Upon motion by Wayne Hinkle and seconded by Tony Hysmith, based upon application record, the establishment was approved for licensure by voice vote with the stipulation that the applicant obtain a letter evidencing water and sewer connections and submit it to the Executive Director prior to issuance of license.

President Dennis Hamilton called for a recess at 11:15 A.M. The meeting reconvened at 11:30 A.M.

FINAL AND AGREED ORDERS:

ADRIAN CHICK, ASSISTANT GENERAL COUNSEL

Assistant General Counsel Adrian Chick presented the Board with a Final Order regarding Docket No. 12.21-105387A against Alfred Thomas Tacker and Bartlett Funeral Home, Inc.

After review and discussion, Clark McKinney made a motion to accept this Final Order.

Seconded by Eugene Williams

Adopted by voice vote

Assistant General Counsel Adrian Chick presented the Board with an Agreed Order regarding Docket No. 12.21-107373A against Alfred Thomas Tacker and Bartlett Funeral Home, Inc.

After review and discussion, Wayne Hinkle made a motion to accept this Agreed Order which specified action against the individual and dismissal of the charges against the establishment.

Seconded by Jill Horner

Adopted by voice vote

Assistant General Counsel Adrian Chick presented the Board with a Final Order regarding Docket No. 12.21-106795A against Oliver Sheridan Ewing.

President Dennis Hamilton recused himself from the proceedings concerning this Final Order and turned the chair over to Vice President Eugene Williams.

After review and discussion, Clark McKinney made a motion to accept this Final Order.

Seconded by Wayne Hinkle

Adopted by voice vote

Vice President Williams turned the Chair back over to President Hamilton.

LEGAL REPORT:

BENTON McDONOUGH, ASSISTANT GENERAL COUNSEL

Abbreviations:

TCA – Tennessee Code Annotated

FTC – Federal Trade Commission

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.: L10-FUN-RBS-2010025471

Based upon a consumer complaint by a former employee, we found that the sink in the preparation room was not in working order.

Response: The manager states that he called his supervisors and was granted permission to have the sink repaired. Currently, they are waiting on parts in order to make the repairs. Management states that they were not previously told of the broken sink.

Complaint History: Two (2) closed with TCA and FTC violations; one (1) open with TCA and FTC violations.

Recommendation: Consent order with \$250 civil penalty; authorize hearing.

A motion was made by Tony Hysmith to accept Counsel's recommendation.

Seconded by Eugene Williams

Adopted by voice vote

2. Case No.: L10-FUN-RBS-2010025771

Based upon a routine inspection, there was found to be a failure to obtain a copy of the crematory license and latest inspection report. The field representative asked to see a copy of required documents for cremations, and the funeral home informed the field representative that they were not aware they were required and did not have them.

Response: The funeral home was unaware that they needed the inspection report and license for crematories they use located outside of Tennessee. They are now aware of this.

History: None

Recommendation: Consent Order with \$250 civil penalty; authorize hearing.

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

Seconded by Tony Hysmith

Adopted by voice vote

3. Case No.: L10-FUN-RBS-2010025821

Based upon a routine inspection, a field representative found that the funeral home failed to obtain a copy of the license and latest inspection report for crematory. The funeral director was on vacation at time of examination so they had another director filling in. This funeral director said they never received copies from the crematory because they were not aware that they needed to. The address and phone number of crematory were not disclosed on the cremation authorization form. The funeral home overcharged a customer by \$50 on a graveside service. The funeral home failed to provide an itemized listing on the SFGSS. One casket found on the GPL was not on the CPL.

Response: Manager said they were on vacation during examination and failed to tell their replacement where they kept the required information from crematoriums. They didn't realize the address and phone number was missing from the cremation authorization form. They will refund the \$50 to the family they overcharged, if necessary. The manager admits the mistake of leaving out the itemized listing. The manager states that a new company bought the casket company that they buy from and they took the casket off of the CPL but failed to remove it from the GPL.

History: Three (3) closed complaints not related.

Recommendation: Consent Order with \$500 civil penalty; authorize hearing.

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

Seconded by Clark McKinney

Adopted by voice vote

4. Case No.: L10-FUN-RBS-2010025851

Following a routine inspection, the following violations were found: The price ranges on the GPL and the CPL were not correct. The casket used for Immediate Burial must be listed on the CPL if offered for sale on the GPL under Immediate Burial heading. The reason for embalming was not listed on the SFGSS when embalming was selected. The preparation room instruments, tables, and other equipment were not cleaned / sanitized properly, and preparation room was not maintained in orderly fashion or free from clutter.

Response: Discrepancies on GPL and CPL have been corrected. The SFGSS reason for embalming will now read: "Public Visitation." Preparation room – Surfaces and instruments have been cleaned and sanitized. Also, a cleaning schedule has been put in place.

History: One (1) closed with related violations.

Recommendation: Consent Order with \$500 civil penalty; authorize hearing.

A motion was made by Tony Hysmith to accept Counsel's recommendation.

Seconded by Eugene Williams

Adopted by voice vote

5. Case No.: L10-FUN-RBS-2010025861

Following a routine inspection, the following violations were found: The price range on the GPL and the CPL were not correct. The casket used for Immediate Burial must be listed on the CPL if offered for sale on the GPL under Immediate Burial heading. The reason for embalming was not listed on the SFGSS when embalming was selected.

Response: Discrepancies on GPL and CPL have been corrected. The SFGSS reason for embalming will now read: "Public Visitation."

History: One (1) closed, not related.

Recommendation: Consent Order with \$250 civil penalty; authorize hearing.

A motion was made by Tony Hysmith to accept Counsel's recommendation.

Seconded by Clark McKinney

Adopted by voice vote

6. Case No.: L10-FUN-RBS-2010025881

Following a routine inspection, the following violations were found:

- Current license of a funeral director and an embalmer were not available for inspection.
- Upon reviewing three cremation packages, the price itemization was inconsistent with the total individual pricing on respective price lists. Also, casket and rental casket pricing were not included.
- OBCPL – the Classic 12 gauge steel was offered at \$890 in the selection room but \$1290 on the OBCPL.
- CPL – Cremation and rental caskets must be added to the CPL.
- GPL – Prices on specific units in the casket selection room are lower than the low end range on both the GPL and CPL.
- GPL – Under immediate burial, high end range must be corrected.
- OBCPL – Required disclosure language needs to be corrected.

Response: The funeral home has changed the cremation packages to reflect proper individual pricing. They no longer offer the rental casket and have added the cremation casket to the CPL. Also, they corrected the OBCPL to read \$890. They corrected the range on the GPL and CPL to match the selection room. They corrected the high end range under Immediate Burial. They corrected the disclosure language on the OBCPL.

History: Two (2) closed with related violations.

Recommendation: Consent Order with \$1000 civil penalty; authorize hearing.

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

Seconded by Wayne Hinkle

Adopted by voice vote

7. Case No.: L10-FUN-RBS-2010025891

Based upon a routine inspection, the following violations were found:

- The current license and latest inspection report for the crematory were not available for inspection.

- Lacking proper disclosure language on the OBCPL (repeat violation from 2009 inspection).

Response: Manager states that establishment was examined in 2009 and no violations were addressed at that time. Next, manager states that the language on the OBCPL was an oversight.

History: Two (2) closed with no related violations.

Recommendation: Consent Order with \$250 civil penalty; authorize hearing.

A motion was made by Tony Hysmith to accept Counsel's recommendation.

Seconded by Eugene Williams

Adopted by voice vote

8. Case No.: L10-FUN-RBS-2010025901

Based upon a routine inspection, the following violations were found:

- The latest inspection report and license for the crematory were not available (repeat offense).
- The cremation authorization forms must be completed for each cremation performed. Of the files checked, one (1) was lacking the proper form.
- Public areas – Air quality control was inadequate. The building was unbearably hot and the restrooms were inadequately equipped; they were without soap and paper towels.
- GPL – Low end on CPL not in agreement with low end range on GPL.
- GPL – Direct cremation, price ranges incorrect compared to CPL.
- GPL – Direct cremation with container provided by purchaser, price incorrect.
- GPL – Direct cremation with alternative container, price incorrect.
- GPL – Direct cremation with cloth covered wood casket, price incorrect.
- CPL – Establishment uses catalog in lieu of selection room; catalog does not list alternative containers.
- SFGSS – Price of merchandise sold inconsistent with price list; one had price listed on GPL was \$1075 but person charged \$1095.

Response: New inspection report and license for crematory was obtained and manager admits fault. Flood damage caused air to go out and landlord has since fixed the issue. Manager claims to be unable to find differences in price lists. Manager will refund money to customer overcharged by \$20. The owner is not a licensed funeral director and never claimed to be one.

History: One (1) closed with related violations.

Recommendation: Consent Order with \$500 civil penalty; authorize hearing

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

Seconded by Clark McKinney

Adopted by voice vote

9. Case No.: L10-FUN-RBS-2010028411

Based upon a routine inspection, violations were found – the establishment failed to provide the proper paperwork to the local health departments regarding cremations.

Response: The manager states they were not aware they were responsible for sending the signed permit for cremation back to the local health departments. The manager states they never completed a cremation without the proper documentation. The manager has a copy of the permit for cremation for each cremation and each funeral home is given a copy of the same document. Also, the manager states they sent a copy of the properly signed permit for cremation to each county's health department. However, new procedures are in place to ensure the staff mails or faxes a copy of the signed permit to each health department.

History: None

Recommendation: Letter of Warning

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

Seconded by Wayne Hinkle

Adopted by voice vote

10. Case No.: L10-FUN-RBS-2010028471

Based upon a routine inspection, violations were found – the cremation permits were not signed properly.

Response: When funeral director begins cremations, they authorize the proper documents by signing, dating and stamping the cremation permit. The permit is then copied and one (1) copy is sent to the health department.

History: Four (4) closed complaints with TCA and FTC violations; one (1) open not related.

Recommendation: Letter of Warning

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

Seconded by Eugene Williams

Adopted by voice vote

11. Case No.: L10-FUN-RBS-2010028501

Based upon a routine inspection, the following violations were found:

- An apprentice signed the cremation permit and is not certified to do so.
- A cremation permit was incomplete.

Response: The manager was in charge and is not sure why apprentice signed off on the cremation. Respondent believes this mistake occurred due to the lack of experience. As for the incomplete permit, the permit was made on November 9, 2009, but the cremation did not occur until November 12, 2009. A copy of the completed cremation form is in the file.

History: One (1) closed with TCA violations.

Recommendation: Letter of Warning. Legal believes file contains sufficient proof to show the funeral director was completely overseeing the establishment when the apprentice mistakenly signed in error.

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

Seconded by Tony Hysmith

Adopted by voice vote

12. Case No.: L10-FUN-RBS-2010028541

During a routine inspection, violations were found – Cremations occurred without all of the proper documentation. The funeral director in charge failed to sign off as the person in charge of the cremations.

Response: The permits in question were signed at the time of the cremation and faxed to the appropriate health department.

History: One (1) closed with TCA violations.

Recommendation: Letter of Warning.

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

Seconded by Eugene Williams

Adopted by voice vote

13. Case No.: L10-FUN-RBS-2010028751

Based upon a routine inspection, violations were found – some of the required paperwork was not completed prior to the cremation.

Response: The Respondent refutes the complaint filed. Respondent claims to have reviewed their records and 99.9% of those records were complete.

History: None

Recommendation: Consent Order with \$250 civil penalty; authorize hearing.

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

Seconded by Wayne Hinkle

Adopted by voice vote

14. Case No.: L10-FUN-RBS-2010028301

Following a routine inspection, violations were found – some of the required paperwork was not completed regarding the cremation.

Response: Respondent states they have copies of cremation permits and death certificates attached to the copy of completed cremation permit. No dead bodies have been cremated at this location by unlicensed personnel, or prior to death certificate, cremation permit, or authorization being received.

History: None

Recommendation: Letter of Warning.

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

Seconded by Eugene Williams

Adopted by voice vote

15. Case No.: L10-FUN-RBS-2010028281

Following a routine inspection, violations were found – Respondent performed cremations without the proper permits.

Response: Respondent states that the documents provided by the Board have no signature of the person in charge of the cremation. Documents are received by the Respondent from the County Health Department. These forms were submitted by the funeral home. Upon signature of the registrar, these documents are then returned to the funeral home and accompany the deceased to the crematory. Forms are then completed by the funeral director completing the cremation and copies of those documents are then sent to the health department. Respondent claims that no forms sent from their establishment leave without this information being completed.

History: Two (2) closed complaints with TCA violations.

Recommendation: Letter of Warning. Legal contacted the County Health Department, and they verified what the Respondent stated above.

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

Seconded by Eugene Williams

Adopted by voice vote

16. Case No.: L10-FUN-RBS-2010025911

In two (2) separate cases, the establishment over-charged customers by \$100 for rental caskets. On the SFGSS, the establishment charged the customers \$995.00 for a rental casket; however, the CPL showed the casket for a cost of \$895.00.

Next, the field representative found that the crematory was not maintaining a separate record of the location and manner of final disposition of the remains from the crematory. This is a repeat violation for this same issue.

Next, the field representative found that the crematory was not issuing a receipt for delivery of the body to the crematory.

Response: The respondent states that their computer program shows a charge of \$995.00 for a rental casket, but they use the rental casket so little that the price discrepancy was an oversight on their part.

As for the crematory keeping a separate record of the final disposition, the respondent states that they did not understand the rule; however, they do now, and they are implementing it correctly.

Finally, respondent states that they are requiring the person removing the body to ask the family if the body will be cremated and sign the document as delivering and receiving if they are to be cremated.

History: One (1) closed related complaint.

Recommendation: Consent Order with \$500 civil penalty; authorize hearing.

A motion was made by Tony Hysmith to accept Counsel's recommendation.

Seconded by Clark McKinney

Adopted by voice vote

17. Case No.: L10-FUN-RBS-2010026071

Following a routine inspection, the following violations were found:

Preparation Room –

- Trash in large uncovered cardboard box and a lot of clutter.
- Soiled linen towel on medical waste barrel.
- No instrument disinfectant on site for cleaning instruments used during embalming.

Changing Violations –

- Establishment's name on the sign does not match its registered title.

Statement of Funeral Goods and Services Selected –

- Thirteen (13) files failed to state the reason for embalming.

Response: The Respondent submitted the following:

Preparation Room –

- Preparation room has been cleared of clutter and organized neatly; plumbing has been repaired and all fixtures / sinks are working properly.

Changing Violations –

- New sign has been built and awaiting lettering to be installed, but it will read the correct name. Old sign will be repainted to state proper name as well.

Statement of Funeral Goods and Services Selected –

- Have gone back and filled in reason for embalming on the files discussed. Also, will implement this procedure from now on.

History: Two (2) are closed with FTC and TCA violations; one (1) is open with similar violations.

Recommendation: Consent Order with \$500 civil penalty; authorize hearing.

A motion was made by Tony Hysmith to accept Counsel's recommendation.

Seconded by Clark McKinney

Adopted by voice vote

18. Case No.: L10-FUN-RBS-2010026091

Following a routine inspection, the following violations were found:

Establishment License Violation –

- The establishment license expired June 30, 2010, and has not been renewed.
- The establishment has handled two (2) funerals after license expiration.

Embalmer's License Violation –

- Two (2) death certificates bear the name of a trade embalmer whose license expired on June 30, 2010.

Cremation Authorization Violation –

- Cremation authorization does not bear the address and telephone number of crematory required by statute.

General Price List –

- Establishment's name on the GPL does not match the name the establishment registered with the Board.

Response: The Respondent submitted the following:

Establishment License Violation –

- Mailed the registration in on June 26, 2010, and the year has been slow, so respondent did not have funds readily available to pay for license fee.

Remainder of Violations –

- Respondent states her mother has Alzheimer's and she rarely uses staff, so she has been overwhelmed.

History: Three (3) closed complaints, two (2) of which have TCA & FTC violations. One (1) open complaint with TCA and FTC violations.

Recommendation: Consent Order with \$500 civil penalty; authorize hearing.

A motion was made by Wayne Hinkle to issue a Consent Order with a \$250 civil penalty.

Seconded by Clark McKinney

Adopted by voice vote

19. Case No.: L10-FUN-RBS-2010026081

Following a routine inspection, the following violations were found:

Embalmer's License –

- Current license of embalmer was not available.

FTC Violations –

- GPL – Required disclosure for consumer's right of selection must be corrected.
- CPL not available for review.
- OBCPL not available for review.
- SFGSS – reason for embalming not stated on all contracts.

Cremation Authorization Forms –

- Cremation authorization forms must be completed for each cremation performed with required information and signed by authorized Funeral Director. Of the files checked, one (1) file did not have this form included.

Response: The Respondent submitted the following:

Embalmer's License –

- The embalmer's license expired on June 30, 2010; however, the embalmer did not conduct any embalmings until two months later when he had renewed his license. Had the establishment conducted any embalmings after his license had expired, we would have hired a licensed embalmer to do those embalmings.

FTC Violations –

- The errors on the OBCPL and CPL have been corrected.
- Respondent states that it was an oversight on their part that the reason for embalming was not filled in properly.

Cremation Authorization Forms –

- In one case, where the body was cremated in Ohio, the crematory in Ohio sent the cremains back to our establishment with the Certificate of Cremation and Death Certificate, which were both in the file.

History: None

Recommendation: Consent Order with \$750 civil penalty; authorize hearing.

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

Seconded by Wayne Hinkle

Adopted by voice vote

20. Case No.: L10-FUN-RBS-2010027861

Based upon a routine inspection, the following violations were found:

License –

- Establishment license was invalid beginning July 1, 2010.
- Funeral Director and Embalmer licenses expired for Respondent's manager on June 30, 2010.
- Respondent aided or abetted an unlicensed individual to practice in the funeral business.
- Two funeral services took place from July 1st until examination.

Crematory –

Latest inspection report for crematory not available.

Permanent Identification Device –

During examination, the field representative viewed the body of one deceased individual, and no permanent identification device was attached.

Paper Size –

Respondent was unable to produce documents on required paper size.

Response: No Response Received.

History: One (1) closed, not related; one (1) closed related TCA violations.

Recommendation: Consent Order with \$1,000 civil penalty; authorize hearing.

A motion was made by Tony Hysmith to accept Counsel's recommendation.

Seconded by Eugene Williams

Adopted by voice vote

21. Case No.: L10-FUN-RBS-2010026121

Based upon a complaint, the following charges were alleged:

Soliciting –

- Competitor alleges that the Respondent called facility just hours before a customer died, and tried to talk the facility into sending the decedent (who was not yet deceased) to their facility once they passed away.
- Allegations that the Respondent called a family while they were in the Complainant's arrangement room and asked them why they chose the Complainant's facility.
- Allegations that Respondent told mourning family that they would have to come collect the preneed contract from Respondent's establishment instead of faxing documents to new funeral home.

Response: The Respondent submitted the following:

Soliciting –

- We did call that facility, but we never discussed anything about the person the complainant is speaking of. In fact, the decedent was a family friend, but the family did choose the Complainant's place of business for the funeral services. Respondent spoke with the widow following the service and asked her why they chose the Complainant's funeral home; however, she never protested the Respondent asking such questions.
- The family members called Respondent's establishment and left a cell phone number. Respondent called the cell phone number; unbeknownst to respondent, the family was in the Complainant's arrangement room at the time.
- As for the allegation that the respondent told a family they would have to come pick-up the preneed contract in person. Respondent alleges that complainant ordered the respondent to send the pre-need contract; however, respondent claims the proper release forms were not presented. Therefore, Respondent called the family and asked them if they had indeed chosen to use the Complainant's services. Once this was confirmed, Respondent states that they faxed the paperwork over immediately.

History: None

Recommendation: Close

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

Seconded by Wayne Hinkle

Adopted by voice vote

22. Case No.: L10-FUN-RBS-2010028231

Following a routine inspection, the following violations were found:

Unlicensed Funeral Director –

- Upon reviewing eighty (80) permits, the field representative found that a person who was unlicensed had signed the documents as the person in charge of the cremations.

Cremation –

- Based upon a review of the crematory's records, it appears one decedent was cremated the day before the establishment actually received the proper permit.

Response: The Respondent submitted the following:

Unlicensed Funeral Director –

- As a licensed funeral director, Respondent states that he is responsible for all that occurs within his facility, and that he verified that the prerequisites for cremation were properly handled by a licensed funeral director.
- Respondent states that he cannot prove that a licensed funeral director was present for the cremation. Respondent states they are now aware of the law.

History: None

Recommendation: Consent Order with \$1250 civil penalty; authorize hearing.

Clark McKinney recused himself from the proceedings of this complaint.

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

Seconded by Wayne Hinkle

Adopted by voice vote

23. Case No.: L09-FUN-RBS-2009020941

Based upon a routine inspection, the following violations were found:

Change of Ownership –

- The change of ownership took place on March 17, 2009. This examination took place 170 days from the date of the new ownership. The Board had not been informed of this change prior to the inspection.

Invalid License –

- The establishment license expired on August 31, 2009.

Response: The Respondent submitted the following:

Change of Ownership –

- This funeral home has not been utilized since the change in ownership took place.

Invalid License –

- Respondent states that they have not operated on an invalid license – no services have been rendered.

History: None.

Recommendation: Close. The establishment is no longer in business.

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

Seconded by Wayne Hinkle

Adopted by voice vote

24. Case No.: L09-FUN-RBS-2009024091

Based upon a routine inspection, the following violations were found:

Change –

- Licensed funeral director resigned from employment at Respondent's establishment on Sept. 4, 2009. As of November 10, 2009, no licensed funeral director was overseeing the establishment as the manager.

Immoral or Unprofessional Conduct –

- On July 9, 2009, no water, sewer, gas or garbage service due to non-payment.
- On July 10, 2009, electricity was cut off to this establishment due to lack of payment.
- Phone number no longer in service.

FTC Violations –

- Owner could not provide GPL, CPL, or OBCPL.

Crematory –

- Latest inspection and license for crematory used was not available.

Response: The Respondent submitted the following:

Change –

- Failed to report licensed director resigning because Respondent was not aware they needed to do so.

Immoral or Unprofessional Conduct –

- The economy has been slow, and Respondent has only conducted one (1) service since January 1, 2009. Because of this, it has been difficult to pay all of the bills.

FTC Violations –

- Some of Respondent's records were at their home and not available for inspection.

Crematory –

- License and latest inspection results unavailable at time of inspection but available now.

Respondent states that they have been in talks with other funeral directors to handle contract work, and those directors will assist in managing Respondent's funeral home.

History: Two (2) are closed with related complaints; one (1) is still open with related complaints.

Recommendation: Consent Order with \$1000 civil penalty; authorize hearing.

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

Seconded by Clark McKinney

Adopted by voice vote

25. Case No.: L09-FUN-RBS-2009027051

Based upon a consumer complaint, the following violations are alleged:

- Complainant alleges that his father took out a funeral policy in 1950; however, the father was told that this policy was "no good" now. So, in 1997, the Complainant's father took out a new policy. The establishment informed the father that the 1997 prices would be honored and presented him with a price list. Complainant's mother passed away in 1999, and her policy was accepted without any issues. Complainant's father then moved to Tulsa, Oklahoma. Father passed away in Tulsa this year, and his body had to be embalmed. His body was then returned to a city in Tennessee to be buried. Complainant received a bill for \$5,000 after the burial policy paid \$7,628. Complainant called the funeral home in Tennessee to inform them that the funeral home in Oklahoma had not used 1997 prices.

Tennessee funeral home informed Complainant that because their father died out of state and the Oklahoma funeral home used most of the funds in the policy, they did not have to abide by the 1997 prices.

Response: The Respondent submitted the following:

- No one ever informed the decedent that his 1950 policy was no good. In fact, he received \$1000 from this policy.
- Complainant did not contact our offices when her father died. She contacted an Oklahoma funeral home substituting providers of the funeral.
- The Oklahoma funeral home arranged everything except two aspects of the funeral service.
- We provided the Complainant with a copy of the charges at the graveside service. She provided us a check and never complained about the price.
- Respondent believes the fact that the Complainant used another funeral home nullified any cost guarantee by Respondent.

History: Nine (9) closed complaints, none related. No complaints since 2005.

Recommendation: Close

A motion was made by Tony Hysmith to accept Counsel's recommendation.

Seconded by Clark McKinney

Adopted by voice vote

26. Case No.: L10-FUN-RBS-2010033201

Based upon a routine examination, the following violations were found:

Practice by Unregistered Individuals –

- The license expired on July 31, 2010 and was not renewed until September 30, 2010. The individual remained a continuous employee without the benefit of a valid funeral director license.

Response: The Respondent submitted the following:

- No procedures took place during this time, and we did not engage in or perform any embalming or direct funerals during this time period. Also, Respondent states that they did not enter the establishment at all during this time.

History: None

Recommendation: Dismiss

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

Seconded by Tony Hysmith

Adopted by voice vote

27. Case No.: L10-FUN-RBS-2010026181

Based upon a consumer complaint, the following violations are alleged:

- Complainant states that manager of funeral home seemed edgy, irritable, and impatient with family.
- Complainant states that she informed the family, who was not happy with manager that, "I have used this establishment for a long time for a lot of family members." Complainant states she heard manager state, "Yeah, and I've enjoyed taking your money too."
- Complainant states manager took family back to view body in preparation room, and there was another body present as well. Complainant states manager told her not to tell anyone because, "We've had a lot of trouble with the State."
- Complainant states final bill was \$10,458.
- When family was allowed to see the body on the day of the funeral, the body still had dried blood in the left ear as it did at the emergency room.
- An employee tried to clean out the blood but was unsuccessful. Complainant states that the manager came in to see what the problem was, and the manager said that blood must have just gotten in the ear recently and was rude to the Complainant.

Response: The response submitted was:

- Respondent states that he met with the family; he was very patient and polite. Respondent stated that it had been a pleasure serving Complainant's family.
- Respondent states that they took the family to the preparation room because the decedent's brother thought the decedent's beard may need some trimming. There was no other body present in the room.
- Respondent states that the family returned the next day for viewing, and they opened the casket for the family to view the decedent. The Complainant then told the Respondent that everything was perfect.
- Respondent went on to the church, only to receive a phone call informing him that the family found dried blood in the decedent's ear. The Respondent stated that this was fresh blood and was not from the decedent's car accident. The Complainant was sure that it was from the accident. The Respondent was upset when a family member started taking photos of the decedent's ear.

- In the end, Respondent informed the complainant that the bill would be \$10,458.38, but Complainant stated she was only going to pay \$5,000. After several meetings, the bill was finally paid in full.
- Respondent presented nine (9) sworn statements of his employees all supporting the Respondent’s response.

History: Three (3) are closed with no relation.

Recommendation: Close

A motion was made by Jill Horner to accept Counsel’s recommendation.

Seconded by Eugene Williams

Adopted by voice vote

ADMINISTRATIVE REPORTS:
ROBERT B. GRIBBLE, EXECUTIVE DIRECTOR

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

Individuals

Harriet Kizer Bond Brownsville, TN	Funeral Director
William Dodson Hunter Watertown, TN	Funeral Director
Kenny Jay Madrey Camden, TN	Funeral Director
Franklin Lynn Parker Dyersburg, TN	Funeral Director
Mary Sean Patterson Nashville, TN	Funeral Director
Rebecca F. Stover Maynardville, TN	Funeral Director
Tyler William Tetrick Johnson City, TN	Funeral Director

Jerry Lynn Thornton
Holladay, TN

Funeral Director

Anthony H. White
Livingston, TN

Funeral Director

Sabrina Ann Clark
Winchester, TN

Funeral Director/Embalmer

Paula K. Davidson
Oneida, TN

Funeral Director/Embalmer

Brandon Craig Roberts
Shady Valley, TN

Funeral Director/Embalmer
Reciprocity

DISCIPLINARY ACTION REPORT:

The Board has previously authorized each Consent Order and Civil Penalty. The Consent/Agreed Orders have been signed and unless otherwise noted, the Civil Penalty has been paid by the Respondent. The Executive Director requests the Board's acceptance of the following Consent/Agreed Orders:

Complaint No. 2010014671

Violation: Cremated the remains of a decedent without first obtaining a Permit for Cremation from the Department of Health

Action: \$1000 Civil Penalty

Complaint No. 2009012891

Violation: Multiple aspects of the establishment's price lists do not comply with the Funeral Rule and the latest inspection report of the crematory that the funeral home uses not available for inspection

Action: \$350 Civil Penalty

Complaint No. 2010001251

Violation: Operating an establishment and conducting business while its license is expired

Action: \$250 Civil Penalty

Complaint No. 2009005791

Violation: Received preneed funeral funds on behalf of the funeral home while serving as manager and the establishment refused to provide services and merchandise when the individual passed away

Action: \$1000 Civil Penalty

Complaint No. 2010018751

Violation: The latest inspection report and license of the crematory that the funeral home uses not available for inspection, failure to present proper cremation authorization form signed by authorizing agent or funeral director and failure to present copies of Statements of Funeral Goods and Services Selected

Action: \$250 Civil Penalty

Complaint No. 2009021521

Violation: The latest inspection report of the crematory that the funeral home uses not available for inspection and failure to timely notify the Board of a change of ownership

Action: \$250 Civil Penalty

Complaint No. 2009005971

Violation: The latest inspection report and license of the crematory that the funeral home uses not available for inspection

Action: \$250 Civil Penalty

Complaint No. 2010017661

Violation: Failure to present current licenses of establishment, funeral director and embalmer, the latest inspection report and license of the crematory that the funeral home uses not available for inspection, failure to submit contract to field representative on proper size paper and multiple aspects of the establishment's price lists do not comply with the Funeral Rule

Action: \$1000 Civil Penalty

Complaint No. 2010018891

Violation: Multiple aspects of the establishment's price list and contract do not comply with the Funeral Rule

Action: \$500 Civil Penalty

Complaint No. 2009002521

Violation: Failure to present current embalmer license and multiple aspects of the establishment's price list and contract do not comply with the Funeral Rule

Action: \$750 Civil Penalty

Complaint No. 2010018901

Violation: Aiding and abetting an unlicensed person to practice within the funeral profession and errors on price list

Action: \$1000 Civil Penalty

OPEN COMPLAINT REPORT:

As of December 10, 2010, there were 149 open complaints.

APPOINTMENT OF CONTINUING EDUCATION LIAISON FOR 2011:

Wayne Hinkle made a motion to appoint Paula Bridges the Continuing Education Liaison for 2011.

The motion was seconded by Clark McKinney

Adopted by voice vote

ELECTION OF BOARD OFFICERS FOR 2011:

President:

Clark McKinney made a motion to nominate Eugene Williams as President.

The motion was seconded by Wayne Hinkle.

By voice vote, Eugene Williams was elected President of the Board for 2011.

Vice President:

Tony Hysmith made a motion to nominate Clark McKinney as Vice President.

The motion was seconded by Eugene Williams.

By voice vote, Clark McKinney was elected Vice President of the Board for 2011.

ADJOURN:

A motion was made by Tony Hysmith to adjourn.

Seconded by Eugene Williams

Adopted by voice vote

The meeting was adjourned by President Dennis Hamilton at 1:13 P.M.

Respectfully submitted,

Robert B. Gribble

Robert B. Gribble, CFSP
Executive Director