

**TENNESSEE BOARD OF FUNERAL DIRECTORS AND EMBALMERS**

**MINUTES OF BOARD MEETING**

**MARCH 12, 2013**

President Tony Hysmith called the meeting to order at 10:00 A.M. in Conference Room 1-B, Davy Crockett Tower, Nashville, Tennessee.

Board members present were Tony Hysmith, President; W. T. Patterson, Vice President; Wayne Hinkle, David Neal, Jane Gray Sowell, Robert Starkey and Anita Taylor (entered at 10:14 A.M.).

Staff members present were Robert Gribble, Executive Director; Benton McDonough, Assistant General Counsel; and Lisa Mosby, Administrative Assistant.

**ADOPTION OF AGENDA:**

A motion was made by Jane Gray Sowell to approve the Agenda as printed.

Seconded by David Neal

Adopted by voice vote

**APPROVAL OF MINUTES:**

A motion was made by Jane Gray Sowell to approve the Minutes of the February 12, 2013 Board Meeting.

Seconded by Wayne Hinkle

Adopted by voice vote

**LEGAL REPORT:**

**BENTON McDONOUGH, 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

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**1. Case No.: L12-FUN-RBS-2012024161**

**Complaint:**

- On October 11, 2012, a field representative conducted a routine inspection of the Respondent establishment.
- SFGSS
  - o It was determined that the Respondent failed to provide a description of the merchandise selected on six (6) separate occasions.
  - o Furthermore, it was discovered that this omission seemed to take place when the family selected a service that included cremation.

**Response:**

- SFGSS
  - o Respondent states that they have contacted the proper officers in the company to address a glitch in the computer programs utilized by their company.
  - o Respondent will type-in the required merchandise description until this matter is resolved.

**History:**

- One (1) closed complaint:
  - o Complaint: 2006046381 – Violation of Permanent Identification Device.
  - o Presented: February 13, 2007 – Letter of Warning
  - o Status: Closed – February 26, 2007.

**Recommendation:**

- Letter of Warning.

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

Seconded by W. T. Patterson

Adopted by voice vote

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**2. Case No.: L12-FUN-RBS-2012024491**

**Complaint:**

- The Complainant states that her husband's body was embalmed by the Respondent without her permission.
- The decedent did not wish to be embalmed and asked his wife to have him cremated.
- Complainant states that she informed the Respondent that she wanted her husband to be cremated when the Respondent came to retrieve the decedent's body at the hospital, but she found that he was embalmed when she met with a funeral director to discuss funeral services, which cost her \$625.00.

**Response:**

- Respondent states that they were not aware of the Complainant's request that the decedent not be embalmed.
- Respondent sent their embalming company to remove the decedent's body from the hospital, and the Complainant never mentioned opposition to embalming.
- When Complainant met with Respondent to discuss final arrangements, the Complainant mentioned her husband did not want to be embalmed; however, Respondent claims that the Complainant took blame for the miscommunication after the Respondent apologized for the mistake.
- Respondent states that the Complainant, nor her daughter, ever complained about the services provided, and the Respondent has even agreed to deduct the \$625.00 charge from the bill.

**History:**

- Five (5) closed complaints:
  - o Case No. 200600621 – Violation of TCA 62-5-308(d), 62-5-314 and FTC
    - Presented: April 11, 2006
    - Decision: Consent Order with \$750.00 civil penalty.
    - Status: Closed – May 10, 2006.
  - o Case No. 200602017 – Complainant felt Respondent using illegal document to bury bodies on complainant's property.
    - Presented: August 8, 2006
    - Decision: Dismiss.
    - Status: Dismissed – August 17, 2006.
  - o Case No. 201000061 – Funeral home picked up decedent knowing what they died from but returned the body.
    - Presented: July 13, 2010.
    - Decision: Dismiss.
    - Status: Dismissed – July 15, 2010.
  - o Case No. 200502479 – Violation of TCA 62-5-309 – practice by unregistered person.
    - Presented: August 9, 2005.
    - Decision: Consent Order with \$1,500.00 civil penalty.
    - Status: Closed – December 1, 2005.
  - o Case No. 201100255 – Failure to retain copy of cremation authorization; SFGSS errors; violation of paper size.
    - Presented: May 10, 2011.
    - Decision: Consent Order with \$1,500.00 civil penalty.
    - Status: Closed – July 6, 2011.

**Recommendation:**

- Consent Order with \$500.00 civil penalty and authorization for hearing.

A motion was made by W. T. Patterson to accept Counsel's recommendation.

Seconded by Wayne Hinkle

Adopted by voice vote

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### **3. Case No.: L12-FUN-RBS-2012025951**

#### **Complaint:**

- Complainant's brother purchased pre-need services with the Respondent.
- In 2010, the brother's health began to decline, and he asked that the contract be transferred to another funeral home.
- The Respondent informed the Complainant that they would send the money once the appropriate paperwork was provided verifying the brother's death.
- The brother died on June 7, 2012, and Complainant states that they have received one excuse after another from the Respondent, as no payment was made toward the \$5,915.00 contract as of October 30, 2012, when the complaint was filed.
- Complainant further states that the Respondent informed her that had the services been performed by the Respondent, they could have provided up to a \$10,000.00 funeral.

#### **Response:**

- In 1975, the decedent and his wife purchased two funeral services for the total price of \$1,298.00 (this included two caskets and two vaults).
- Additionally, the two purchased two interment rights, two opening and closing services, and two bronze memorials for the total price of \$1,298.00 from the cemetery.
- The wife passed away in 2000, and the decedent utilized the pre-need contract from the Respondent.
- The decedent died in 2012, and his family asked that the Respondent provide payment for his portion of the pre-need contract.
- The decedent's family was mistakenly told to purchase opening and closing services and a concrete outer burial container for \$2,065.22 which were already purchased in 1975; however, that money was later returned after the error was found.
- The Respondent then provided a check in the amount of \$649.00 to the decedent's family for his portion of the pre-need funeral contract purchased in 1975, and the Respondent explained that they purchased the establishment out of receivership where the trust funds had essentially accumulated no earnings.
- Respondent would like to point out that they did provide the vault to the decedent even though their refund of 100% of the amount of his pre-need contract included the price paid for the vault.
- Respondent believes they have satisfied their obligations and decline the request to reimburse \$5,915.00.

**History:**

- Seven (7) closed complaints:
  - o Case No. 200604206 – Respondent failed to honor policy.
    - Presented: August 14, 2007.
    - Decision: Close.
    - Status: Closed – August 20, 2007.
  - o Case No. 200602766 – TCA 62-5-317(b)(1) misrepresentation or fraud; FTC
    - Presented: June 5, 2007
    - Decision: Close.
    - Status: Closed – June 12, 2007.
  - o Case No. 200504328 – No trust agreement, various Burial Services violations.
    - Presented: August 8, 2006.
    - Decision: Close.
    - Status: Closed – August 14, 2006.
  - o Case No. 200503053 – Complainant dissatisfied that she had to pay for things included in pre-need contract.
    - Presented: December 13, 2005.
    - Decision: Consent Order with \$1,000.00 civil penalty.
    - Status: May 10, 2006.
  - o Case No. 200210242 – Allowing unlicensed personnel to sign contracts.
    - Presented: June 17, 2003.
    - Decision: Consent Order.
    - Status: Closed – March 29, 2004.
  - o Case No. 200207214 – Complainant unhappy about funeral home and asked for full refund but funeral home will not act on this request.
    - Presented: April 11, 2002.
    - Decision: Close.
    - Status: Closed - April 26, 2002.
  - o Case No. 200002424 – Complainant went to update records on preneed funeral contract and asked for copy of records they just signed and funeral home denied request.
    - Presented: July 27, 2000.
    - Decision: Dismiss.
    - Status: Dismissed – August 3, 2000.

**Recommendation:**

- Dismiss.

A motion was made by Robert Starkey to accept Counsel's recommendation.

Seconded by Jane Gray Sowell

Adopted by voice vote

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#### **4. Case No.: L12-FUN-RBS-2012026821**

##### **Complaint:**

- On November 7, 2012, a field representative conducted a routine inspection of the Respondent establishment.
- One cremation authorization form was not signed by a funeral director.
- The license and latest inspection report of the crematory utilized by this establishment were not available for inspection.
- General Price List
  - o This establishment does not offer immediate burials, per the price list, only direct cremations. Decedent, "W.L.Jr." received an "Immediate Burial" according to his SFGSS.

##### **Response:**

- Respondent states that a licensed funeral director signed the copy left with the crematory, but failed to sign the copy retained by the Respondent, and states that this will not happen again.
- Respondent states that the license and latest inspection report were both present at the funeral establishment, and that this violation was not noted on the original violation.
- Respondent states that they were trying to do a good deed by providing services at a greatly discounted price for a family with very little money.
  - o Respondent states that the family of "W.L.Jr." had very little money and Respondent was able to find a cemetery to provide burial at discounted price.
  - o Respondent provided Immediate Burial; however, this service is not listed on the General Price List.

##### **History:**

- No prior complaints.

##### **Recommendation:**

- Consent Order with \$250.00 civil penalty and authorization for hearing.

A motion was made by David Neal to accept Counsel's recommendation.

Seconded by W. T. Patterson

**Note:** Anita Taylor entered the meeting at 10:14 A.M. during the discussion of Case No. 4.

Roll call vote

<b>Roll Call Vote</b>			
	<b>Yes</b>	<b>No</b>	<b>Pass</b>
<b>Wayne Hinkle</b>	<b>X</b>		
<b>Tony Hysmith</b>	<b>X</b>		
<b>David Neal</b>	<b>X</b>		
<b>W. T. Patterson</b>	<b>X</b>		
<b>Jane Gray Sowell</b>		<b>X</b>	
<b>Robert Starkey</b>		<b>X</b>	
<b>Anita Taylor</b>			<b>X</b>

Motion Passed by roll call vote

**5. Case No.: L12-FUN-RBS-2012026861**

**6. Case No.: L12-FUN-RBS-2012026862**

**7. Case No.: L12-FUN-RBS-2012026863**

**Complaint:**

- On November 6, 2012, a field representative conducted a routine inspection of the Respondent establishment.
- The license and latest inspection report of the crematory utilized by this establishment was not available for inspection.
- The Funeral Director's and Embalmer's license of Respondent #6 and #7 expired on September 1, 2012, and was not renewed until September 23, 2012.
  - o Respondent #6 and #7 was the funeral director in charge for six (6) services during this period of time in which he had no current license.
  - o Respondent #6 and #7 was employed by Respondent #5 during this time that the funeral director and embalmer licenses were invalid.

**Response:**

- Respondent thought they provided the field representative with copies of all the appropriate documents, but they have since provided the license and latest inspection report for the crematory.
- As for Respondent #6 and #7, he believed his license expired at the end of September but admitted his oversight and contacted the Board Office as soon as possible.
- The Respondent believed that he was allowed to keep practicing after making the phone call and submitting his paperwork, until he received the letter to cease practicing on September 25, 2012.

**History:**

- Respondent #5 – One (1) closed complaint:

- Case No. 200708959 – Lack of permanent identification device on body; FTC violations.
  - Presented: February 12, 2008.
  - Decision: Consent Order with \$350.00 civil penalty.
  - Status: Closed – July 1, 2008.

**Recommendation:**

- Respondent #5 – Consent Order with \$250.00 civil penalty and authorization for hearing.
- Respondent #6 & #7 – Consent Order with \$250.00 civil penalty and authorization for hearing.

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

Seconded by David Neal

Adopted by voice vote

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**8. Case No.: L12-FUN-RBS-2012026891****Complaint:**

- On December 6, 2012, a field representative conducted a routine inspection of the Respondent establishment.
- From the date this crematory began operation on October 18, 2012, they have provided cremation services for forty-five (45) human remains; however, none of the urns provided in these cases contained the permanent identification device required by state law.
- Respondent also failed to maintain a separate record containing the location, date, and manner of final disposition by the crematory of the cremated remains; furthermore, these records were not maintained for any of the forty-five (45) human remains.
- Respondent failed to record the name of the funeral home, cemetery, or other entity to which the cremated remains were released for Alice Brown and Martin Lerna.

**Response:**

- Respondent placed the numbered round disc, which matched their records, in the urn with the cremated remains for identification purposes.
- They immediately corrected the mistake and are now placing the identification devices required by law in the urn and did not perform another cremation until they had the proper identification devices.
- Respondent is now keeping a separate record as defined by law.



- Respondent states that as for the two (2) cases where no record was kept regarding who took possession of the cremains for Alice Brown and Martin Lerna, they were released to a specific funeral home, not a family member, and the funeral home was noted in their records.

**History:**

- No prior complaints.

**Recommendation:**

Consent Order with \$500.00 civil penalty and authorization for hearing.

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

Seconded by W. T. Patterson

Adopted by voice vote

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**9. Case No.: L12-FUN-RBS-2013000451**

**10. Case No.: L12-FUN-RBS-2013000452**

**11. Case No.: L12-FUN-RBS-2013000453**

**Complaint:**

- On April 23, 2012, a field representative conducted a routine inspection of the Respondent establishment.
- It was determined that the funeral director's license of Respondent #10 expired on June 30, 2010, and had not been renewed at the time of the inspection.
- Respondent #10 signed as the funeral director on three (3) SFGSS during that time period.
- Respondent #10 also serves as the manager for Respondent #9; therefore, there was no licensed funeral director serving as manager for Respondent #9 at the time of the inspection.
- Respondent #11 (owner of Respondent #9) signed two (2) SFGSS in the capacity of funeral director; however, this individual is not a licensed funeral director.

**Response:**

- A new manager was put in place for Respondent #9 on May 11, 2012, and this manager states that she has no knowledge of anything that occurred prior to May 11, 2012.
- Respondent #11 states that he apologizes for his employee's funeral director's license lapsing and states that changes have been made to prevent incidents like these from happening again.
- Furthermore, Respondent #11 provided a copy of a check he states he provided to Respondent #10 in 2010 to renew her license.

**History:**

- Respondent #9 – Two (2) closed complaints:
  - o Complaint No. 200208660 – Funeral home using different name in advertising.
    - Presented: September 10, 2002.
    - Decision: Letter of Warning.
    - Status: Closed – September 13, 2002.
  - o Complaint No. 200504388 – Unlicensed activity.
    - Presented: March 14, 2006.
    - Decision: Consent Order with \$1,000.00 civil penalty.
    - Status: Closed – May 10, 2006.
- Respondent #10 – No prior complaints.
- Respondent #11 – No prior complaints.

**Recommendation:**

- Respondent #9 – Consent Order with \$500.00 civil penalty and authorization for hearing.
- Respondent #10 – Consent Order with \$300.00 civil penalty and authorization for hearing.
- Respondent #11 – Consent Order with \$250.00 civil penalty and authorization for hearing.

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

Seconded by W. T. Patterson

Adopted by voice vote

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**12. Case No.: L12-FUN-RBS-2013000461****Complaint:**

- On April 11, 2012, a field representative conducted a routine inspection of the Respondent establishment.
- The Respondent's license expired on March 1, 2012, and was not renewed until March 11, 2012.
- During this time, the Respondent conducted five (5) funeral services on an expired license.
- Furthermore, it was discovered that the Respondent's failed to provide appropriate wording for basic service fee on their GPL.

**Response:**

- Respondent admits that they were at fault and paid to renew their license as soon as they were notified of the lapse.
- Respondent enclosed corrected copy of GPL to include the wording "Basic Services of Funeral Director and Staff".

**History:**

- One (1) closed complaint:
  - o Case No. 201102120 – Current crematory license and latest inspection report, no ID tag on human remains, preparation room violations, and reason for embalming not included on SFGSS.
    - Presented: November 8, 2011.
    - Decision: Consent Order with \$500.00 civil penalty
    - Status: Closed – February 6, 2012.

**Recommendation:**

- Consent Order with \$500.00 civil penalty and authorization for hearing.

A motion was made by Robert Starkey to accept Counsel's recommendation.

Seconded by Wayne Hinkle

Adopted by voice vote

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**13. Case No.: L12-FUN-RBS-2013000511****Complaint:**

- On May 1, 2012, a field representative conducted a routine inspection of the Respondent establishment.
- Respondent's latest inspection report for crematory utilized by the Respondent not available for inspection.
- Cremation Authorization forms state that Respondent has to wait 120 days before interring unclaimed remains, but that is in violation of statute which reads 180 days.
- The current funeral director's license for two (2) employees not available for inspection.
- The current establishment license not available for inspection.
- On five (5) SFGSS, the merchandise and its description was not included in the SFGSS prior to the customer signing the document.

**Response:**

- Respondent unaware that crematory's most recent inspection report must be maintained by funeral home, but this oversight was corrected.
- Respondent admits to Cremation Authorization forms including 120 days instead of 180 days, and this matter has been addressed.
- The current funeral director's license for these two (2) individuals has since been posted along with the establishment license.
- The customer was in possession of the General Price List at the time they signed the SFGSS; however, Respondent states that they will provide a description of the merchandise selected from this point forward.

**History:**

- Four (4) closed complaints; one (1) dismissed:
  - o Complaint No. 200902149 – Conducting funerals on expired license.
    - Presented: April 13, 2010.
    - Decision: Consent Order with \$250.00 civil penalty.
    - Status: Closed – June 8, 2010.
  - o Complaint No. 200901421 – Incomplete ID device, FTC violations.
    - Presented: October 13, 2009.
    - Decision: Letter of Warning.
    - Status: Closed – December 3, 2009.
  - o Complaint No. 200707155 – FTC violations and crematory facilities.
    - Presented: November 13, 2007.
    - Decision: Consent Order with \$375.00 civil penalty.
    - Status: Closed – January 24, 2008.
  - o Complaint No. 200419465 – Complainant claims staff rude and unethical.
    - Presented: July 12, 2004.
    - Decision: Dismiss.
    - Status: Dismissed – August 18, 2004.
  - o Complaint No. 949208 – Dismissed.
    - Presented: January 28, 1998.
    - Decision: Litigation Consent Monitoring Order.
    - Status: Dismissed – August 21, 2002.

**Recommendation:**

- Consent Order with \$500.00 civil penalty and authorization for hearing.

A motion was made by W. T. Patterson to accept Counsel's recommendation.

Seconded by Robert Starkey

Adopted by voice vote

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**14. Case No.: L12-FUN-RBS-2013000531**

**Complaint:**

- On May 8, 2012, a field representative conducted a routine inspection of the Respondent establishment.
- Respondent had several violations concerning their GPL, CPL, and SFGSS.
- On the GPL –
  - o Basic service fee disclosure incorrect.
  - o Use of equipment and staff for graveside services must be added.
  - o CPL disclosure must be added (Repeat).
  - o Outer Burial Container Price List must be added (Repeat).
  - o Alternative containers with price must be added (Repeat).

- On the CPL –
  - o One (1) casket in the Casket Selection Room being offered to consumers is not listed on the CPL.
- On the SFGSS –
  - o Reason for embalming was not addressed on two (2) contracts.

**Response:**

- Respondent admits the violations and made the corrections while the field representative was present.
- Respondent provided corrected copies of those documents to Counsel.

**History:**

- Four (4) closed complaints:
  - o Complaint No. 200800172 – Respondent failed to provide necessary information on Cremation Authorization form.
    - Presented: July 8, 2008.
    - Decision: Consent Order with \$250.00 civil penalty.
    - Status: Closed – July 30, 2008.
  - o Complaint No. 200208999 – Decedent's brother made final arrangements, funeral home trying to make wife pay for funeral; never gave death certificate to wife; made wife sign documents and pay additional money to send decedent back to Oregon.
    - Presented: Not applicable.
    - Decision: Close.
    - Status: Closed - August 2, 2002.
  - o Complaint No. 200002914 – Respondent asked for money before remains left at establishment and released personal information to ex-husband of decedent that mother believed to be inappropriate.
    - Presented: May 1, 2000.
    - Decision: Close.
    - Status: Closed - May 1, 2000.
  - o Complaint No. 200802443 – No inspection report or license of crematory available; no identification device; FTC violations.
    - Presented: February 18, 2009.
    - Decision: Consent Order with \$250.00 civil penalty.
    - Status: Closed – March 24, 2009.

**Recommendation:**

- Consent Order with \$500.00 civil penalty and authorization for hearing.

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

Seconded by Robert Starkey

Adopted by voice vote

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**15. Case No.: L12-FUN-RBS-2013000571****Complaint:**

- On May 14, 2012, a field representative conducted a routine inspection of the Respondent establishment.
- The co-owner of the establishment had their name listed as “co-owner” on establishment material without indicating that they were unlicensed.
- The establishment name listed on the establishment application is different than that advertised on the vehicles, website, and memorial folder.
- General Price List
  - o Casket price range incorrect when compared to CPL;
  - o Outer Burial Container Price range incorrect compared to price of OBCPL.
  - o Immediate Burial with Gemini (20 Gauge Non-Sealer) not listed on CPL.
  - o Direct Cremation must include range.
  - o Direct Cremation with corrugated cardboard container price incorrect compared to CPL.
- Statement of Funeral Goods and Services Selected
  - o One (1) customer chose memorial with cremation arrangements.
    - She was charged \$1,995.00 for “Basic Services of Funeral Director and Staff”, and \$250.00 for “Transfer of Remains to Funeral Home”, both of which were already included in package, creating overcharge of \$2,245.00.
  - o One (1) customer chose memorial with cremation arrangements.
    - He was charged \$1,995.00 for “Basic Services of Funeral Director and Staff”, which was already included in the package. Staff also charged for corrugated cardboard container and rental casket, rental casket includes charge of insert creating overcharge of \$2,245.00, but Respondent waived \$823.12, leaving an overcharge of \$1,421.88.
  - o One (1) customer chose funeral with cremation arrangements.
    - He was charged \$1,995.00 for “Basic Services of Funeral Director and Staff”, which was already included in the package. Respondent charged for corrugated cardboard container and additional charge for rental casket. Respondent charged family \$250.00 for “Transfer of Remains to Funeral Home”. All of this resulted in overcharge of \$2,697.00 with discount of \$2,200.00, leaving a net overcharge of \$497.00.

- One (1) SFGSS does not provide a reason for embalming when a fee was charged.

**Response:**

- No response received.

**History:**

- One (1) open complaint; one (1) closed complaint:
  - Case No. 200901597 – Manager not there on a routine basis; casketed body had no ID; CPL discrepancies.
    - Presented: August 21, 2009.
    - Decision: Close with Letter of Warning.
    - Status: Closed – December 14, 2009.
  - Case No. 201102082 – Operating establishment on invalid license.
    - Presented: November 8, 2011.
    - Decision: Consent Order with \$1,000.00 civil penalty.
    - Status: Open.

**Recommendation:**

- Consent Order with \$3,000.00 civil penalty plus \$250.00 for no response (total civil penalty of \$3,250.00) and provide documentation of refunds to the three (3) families and authorization for hearing.

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

Seconded by Robert Starkey

Adopted by voice vote

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**16. Case No.: L12-FUN-RBS-2013000641****Complaint:**

- On May 15, 2012, a field representative conducted a routine inspection of the Respondent establishment.
- General Price List
  - Immediate Burial – high end range inconsistent with CPL;
  - Immediate Burial – with minimum thickness non-protective metal casket selected from funeral home price inconsistent with CPL;
  - Direct Cremation – high end range inconsistent with CPL;
  - Direct Cremation – with casket selected from funeral home price inconsistent with CPL;
  - High end range on OBCPL inconsistent with CPL
- Casket Price List

- Three (3) caskets in casket selection room offered to public not listed on CPL:
  - Liberty Veteran 20g
  - Mirror Black 18g
  - Blue Polaris 20g
- Two (2) caskets in casket selection room offered to public inconsistent with CPL:
  - Coral Mist Comfort 18g (\$2,995.00 – CPL); (\$2,495.00 CSR)
  - Nutmeg Brushed 18g (\$2,695.00 – CPL); (\$2,495.00 CSR)
- Statement of Funeral Goods and Services Selected
  - The Statements of Funeral Goods and Services Selected for five (5) individuals lacked a reason for embalming.
- Cremation Authorization Form
  - One (1) Cremation Authorization Form lacked a funeral director's signature.

**Response:**

- Respondent is upset because his establishment was in the midst of renovating the selection room and setting up new price lists.
- Respondent admits that he may have forgotten to provide the reason for embalming on several SFGSS; however, he states that the field representative apologized for coming in at such stressful time.
- Respondent has since sold the business.

**History:**

- Two (2) closed complaints.
  - Case No. 201000127 – Files do not contain cremation authorization forms; reason for embalming not included.
    - Presented: April 13, 2010.
    - Decision: Consent Order with \$250.00 civil penalty.
    - Status: Closed – June 2, 2010.
  - Case No. 201101351 – Operating on expired establishment license; No ID tag; Name advertised is different than that found on establishment application.
    - Presented: October 10, 2011.
    - Decision: Consent Order with \$1,250.00 civil penalty.
    - Status: Closed – January 20, 2012.

**Recommendation:**

- Close – Establishment is under new ownership.

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

Seconded by W. T. Patterson

Adopted by voice vote



**17. Case No.: L12-FUN-RBS-2013000671****18. Case No.: L12-FUN-RBS-2013000691****Complaint:**

- On May 16, 2012, a field representative conducted a routine inspection of the Respondent establishment.
- On the Casket Price List – Under immediate burials – the high end range is inconsistent with the CPL.
- On the General Price List – Under immediate burials with cardboard container – the price is inconsistent with the CPL.
- On the General Price List – Under direct cremation – the high end range is inconsistent with the CPL.
  - o Pricing made by the CPL alternative container of \$125.00 plus the direct cremation \$1,550.00 the service costs \$1,675.00; however, the consumer is being charged an additional \$50.00 due to the inconsistency of the two lists, and twenty-six (26) consumers were found to be overcharged by \$50.00, creating a combined overcharge of \$1,300.00.

**Response:**

- Respondent admits that there were errors in their pricing regarding the General Price List.
- Respondent states that they went back and reviewed all of the contracts and made \$50.00 refunds to the families affected by this overcharge.
- By May 25, 2012, Respondent provided refund checks to all of the families.

**History:**

- One (1) closed complaint:
  - o Case No.200602240 – Wife of decedent very unhappy with way funeral director treated her. Was not consulted regarding services for her husband, but was asked to sign bill and never given guestbook or death certificate.
    - Presented: August 8, 2006.
    - Decision: Dismiss.
    - Status: Dismissed – August 17, 2006.

**Recommendation:**

- Respondent #17 - Consent Order with \$250.00 civil penalty and authorization for hearing.
- Respondent #18 – Consent Order with \$250.00 civil penalty and authorization for hearing.

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

Seconded by David Neal

Adopted by voice vote

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**19. Case No.: L12-FUN-RBS-2013000721****Complaint:**

- On May 23, 2012, a field representative conducted a routine inspection of the Respondent establishment.
- It was determined that one (1) body was dressed, casketed and ready for viewing; however, the body had a permanent identification device that was incomplete with the date of birth, date of death, and SSN missing.
- Statement of Funeral Goods and Services Selected
  - o Five (5) of the Statements of Funeral Goods and Services Selected lacked a listing of the merchandise and description of the merchandise, which should have been available to the customer prior to signing the contract.

**Response:**

- Respondent states that the social security number had not been provided to the Respondent at the time the inspection took place, but was provided and placed on the identification device prior to visitation taking place.
- Respondent states that the customer is always in possession of the General Price List at the time they sign the contract and this document provides the appropriate description and listing of merchandise; however, the Respondent is now aware of the requirement that the merchandise be listed with a description on the SFGSS prior to the customer signing the document, and has taken steps to address this in the future.

**History:**

- No prior complaints.

**Recommendation:**

- Consent Order with \$250.00 civil penalty and authorization for hearing.

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

Seconded by Robert Starkey

Adopted by voice vote

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**20. Case No.: L12-FUN-RBS-2013000771****21. Case No.: L12-FUN-RBS-2013000772****22. Case No.: L12-FUN-RBS-2013000773****Complaint:**

- On January 8, 2013, the Board received a complaint regarding this matter.

- Complainant states that he provided assistance at all three (3) locations from 2007-2012.
- Complainant states the following work:
  - o Respondent #20
    - Helped load / unload deceased (\$1,500.00)
    - Carpentry work at funeral home (\$800.00)
    - Clean-up (\$650.00)
  - o Respondent #21
    - Helped load / unload deceased (\$1,200.00)
  - o Respondent #22
    - Concrete work (\$650.00)
    - Load / unload deceased on three (3) occasions (\$450.00)

**Response:**

- Respondent believes these complaints to be frivolous.
- Respondent owner and Complainant were in a relationship, which ended two (2) years ago.
- Respondent does not recall the Complainant ever providing any services alleged in the complaint at any time; however, Respondent cannot clearly recall whether the Complainant may have assisted in loading / unloading a body once at the location for Respondent #21 and the two parties were in a relationship at that time, but they do not recall Complainant ever providing that service at any of the three locations.
- Respondent believes Complainant has a vendetta against Respondent-owner and asks that these complaints be dismissed.

**History:**

- Respondent #20 – One (1) closed complaint.
- Respondent #21 – Six (6) closed complaints.
- Respondent #22 – Four (4) closed complaints.

**Recommendation:**

- Respondent #20 – Dismiss.
- Respondent #21 – Dismiss.
- Respondent #22 – Dismiss.

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

Seconded by Anita Taylor

Adopted by voice vote

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**23. Case No.: L12-FUN-RBS-2013000751****Complaint:**

- On May 29, 2012, a field representative conducted a routine inspection of the Respondent establishment.

- OBCPL
  - o The disclosure was incorrect (Repeat Violation).
- GPL
  - o Use of facilities and staff for memorial services must be added.
  - o Under immediate burial with cloth covered casket the price is inconsistent with CPL.
  - o High end range for Outer Burial containers is inconsistent with CPL.
  - o OBCPL disclosure incorrect.
  - o CPL disclosure incorrect.
- The current funeral director's licenses for the manager and another employee were not available for inspection.
- The current embalmer's licenses for two employees were not available for inspection.
- Wife of the owner was listed on the establishment website as a third generation funeral director, but she is not a licensed funeral director (REPEAT)
- Establishment's pre-need seller registration became invalid on March 31, 2012, and was not renewed by the date of the inspection.
- A funeral director failed to sign the Cremation Authorization Form for Martin Peterson.
- Cremation Authorization Forms were not retained in the customer's file on one (1) occasion.
- The license of the crematory utilized by this establishment was not available for inspection.
- Preparation Room:
  - o Ventilation fan not in operating condition.
  - o Last embalming performed on May 26, 2012, and room was not cleaned three (3) days later as bloody soiled towels and linen were left on counters.
  - o Open make-up used on last deceased body was left scattered on counters uncovered.

**Response:**

- No response received.

**History:**

- Two (2) open complaints; three (3) closed complaints; one (1) dismissed complaint.
  - o Complaint No. 200104476 – Funeral Director ordered and received merchandise but refused to pay for it.
    - Presented: December 11, 2001.
    - Decision: Dismiss.
    - Status: Dismissed – December 11, 2001.
  - o Complaint No. 200503939 – Pre-need Violations.
    - Presented: January 10, 2006.
    - Decision: Consent Order with \$500.00 civil penalty.

- Status: Closed – June 7, 2006.
- Complaint No. 200901309 – No license / inspection report; discrepancies on GPL, CPL, and SFGSS.
  - Presented: October 13, 2009.
  - Decision: Consent Order with \$350.00 civil penalty.
  - Status: Closed – April 21, 2011.
- Complaint No. 201000887 – Unprofessional conduct, not providing GPL.
  - Presented: N/A
  - Decision: N/A
  - Status: Closed – Letters sent to Complainant / Respondent.
- Complaint No. 201100269 – No license / inspection report; no ID tag on body; preparation room ventilation fan not working; GPL & CPL errors.
  - Presented: May 10, 2011.
  - Decision: Consent Order with \$1,500.00 civil penalty.
  - Status: Open – Formal Charges Authorized.
- Complaint No. 201200069 – Funeral Director / Embalmer licenses expired but person continued working; Funeral Director's / Embalmer's licenses not available for inspection; preparation room needed overall cleaning, ventilation fan does not work; two (2) files reviewed do not have forms signed and dated with all required information; website listed person as funeral director who was not licensed and same with business cards.
  - Presented: May 8, 2012.
  - Decision: Consent Order with \$1,750.00 civil penalty plus \$250.00 for no response.
  - Status: Open.

**Recommendation:**

- Consent Order with \$3,000.00 civil penalty plus \$250.00 for no response (total civil penalty of \$3,250.00) and authorization for hearing.

A motion was made by Robert Starkey to accept Counsel's recommendation.

Seconded by W. T. Patterson

Adopted by voice vote

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**24. Case No.: L12-FUN-RBS-2012019391**

**Complaint:**

- The Complainant is a competitor of the Respondent establishment.
- The Complainant received a phone call from the local Alive Hospice regarding an individual who had just passed away.

- The Complainant and an assistant went to the hospice to meet with the family and obtain permission to embalm the decedent.
- The family met with the Complainant and discussed funeral arrangements, including that they wanted the decedent buried on the grounds of the Respondent establishment.
- Complainant contacted the Respondent and informed them of the family's wishes that their loved one be buried on the premises, and set up a meeting between Respondent and the family for that afternoon.
- As the Complainant was leaving work later that afternoon, he received a message from an employee of the Respondent establishment informing him that the family wished to transfer final arrangements to the Respondent establishment.
- Complainant contacted the family and Respondent and found that the Respondent promised to provide funeral services and burial for the cost of the insurance policy the family had for \$10,000.00.
- Complainant alleges that the Respondent quoted a price of \$14,000 for funeral and burial initially, but then called in two (2) employees who were not licensed funeral directors to negotiate with the family and come to the cost of \$10,000.00.
- Complainant states that the cost they quoted for the funeral alone would be in excess of \$8,000.00 and the cost of burial at the Respondent establishment would have put the price in excess of \$10,000.00, so the family decided to use the services of the Respondent for \$10,000.00.
- Complainant believes the Respondent took advantage of the family at a time of need and used unlicensed personnel to make final arrangements.

**Response:**

- Respondent believes they did nothing wrong or unethical as the Complainant alleges.
- Respondent states that the family was quoted over \$8,000.00 for funeral services at the Complainant's establishment and the cost of the burial with opening and closing alone would have put the cost over \$10,000.00.
- Also, Respondent states that an unlicensed employee is aware of the law and did not quote the family a price at the Respondent establishment, but contacted a licensed funeral director to discuss what could be done for this family.
- Respondent manager told the employee that they could work with the family and cover all of the final arrangements for \$10,000.00.
- Manager asked the employee to call the other manager, who had put in his one month notice at that point, and ask him to assist with the family.
- The other manager told the employee to ask the family to come back the next day so they could meet with a licensed funeral director.
- The employee informed the Respondent that the family had never signed a contract with the Complainant's establishment.

**NOTES:**

- This case was originally presented on November 13, 2012, and the Board issued a consent order with a \$1,000.00 civil penalty.
- Counsel has conducted further research, including a conversation with the Respondent, and determined that there was no violation.

**History:**

- Two (2) closed complaints, one (1) open complaint.

**Original Recommendation:**

- Consent Order with \$1,000.00 civil penalty and authorization for hearing.

**New Recommendation:**

- Dismiss.

A motion was made by Robert Starkey to accept Counsel's recommendation.

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  
FEBRUARY 12, 2013 – MARCH 11, 2013**

**Establishments**

**Type of Change**

Gibson Funeral Home  
Gibson, TN

New Establishment

**Individuals**

**Type of License(s)**

Jennie Marie Alexander  
Gallatin, TN

Funeral Director/Embalmer

Obra Cain Carter  
Crossville, TN

Funeral Director/Embalmer

Benjamin Lawrence Curtis  
Mount Pleasant, TN

Funeral Director/Embalmer

Chad Allen Hardy Halls, TN	Funeral Director/Embalmer
Jordan Tyler Jones Morristown, TN	Funeral Director/Embalmer
Marc Jason McQueen Sevierville, TN	Funeral Director/Embalmer
Cody Blue Miller Nashville, TN	Funeral Director/Embalmer
Eric William Seavers Seymour, TN	Funeral Director/Embalmer
Joshua J. Hughes Grenada, MS	Funeral Director/Embalmer Reciprocity
Kristin Ross O'Brien Smyrna, TN	Funeral Director/Embalmer Reciprocity
Clayton Ashley Stokes Memphis, TN	Funeral Director/Embalmer Reciprocity
Alan Hugh Judd Allons, TN	Funeral Director
Gerald Edward Strahan Columbia, TN	Funeral Director

**DISCIPLINARY ACTION REPORT:**

**REPORT OF CONSENT ORDERS ADMINISTRATIVELY ACCEPTED/APPROVED  
BY THE EXECUTIVE DIRECTOR PURSUANT TO BOARD AUTHORITY FOR THE  
PERIOD OF FEBRUARY 12, 2013 – MARCH 11, 2013**

Respondent:	Quincy Steven Barlow, Covington, TN
Violation:	Practiced as a funeral director while license was expired
Action:	\$1000 Civil Penalty and \$200 Hearing Costs
Respondent:	Memorial Crematory, LLC, Burns, TN
Violation:	Utilized a single processing station to pulverize both human and animal remains
Action:	Must purchase and install a new processing station within ninety (90) days and thereafter utilize one processing station



for the pulverization of human remains only and another other processing station for pulverization of animals only

Respondent: Williams Funeral Home & Crematory, Columbia, TN  
Violation: Overcharged customers on multiple occasions by charging for duplicate services and the outside signage referred to the funeral establishment by a name other than the exact name approved by the Board  
Action: \$750 Civil Penalty

**OPEN COMPLAINT REPORT:**

As of March 11, 2013 there were 116 open complaints.

**LEGISLATIVE UPATE:**

The Executive Director presented Legislative Bill Information pertaining to bills related to funeral, preneed, and cemetery matters that have been introduced in the 108<sup>th</sup> General Assembly.

A motion was made by W. T. Patterson to accept the Executive Director's Report.

Seconded by Wayne Hinkle

Adopted by voice vote

**ESTABLISHMENT APPLICATION:**

**WISE CHOICE CREMATIONS  
2735 HIGHWAY 64, SUITE 104  
HICKORY WITHE, TN**

**New Establishment**

**Ownership: Corporation**

**Owner(s): Fayette County Funeral Home, Inc., a Tennessee corporation,  
18020 US Highway 64, Somerville, TN 38068-6167**

Upon motion by Robert Starkey and seconded by Wayne Hinkle, based upon application record, this establishment was approved for licensure.

Roll Call Vote

<b>Roll Call Vote</b>			
	<b>Yes</b>	<b>No</b>	<b>Pass</b>
<b>Wayne Hinkle</b>	<b>X</b>		
<b>Tony Hysmith</b>		<b>X</b>	
<b>David Neal</b>	<b>X</b>		
<b>W. T. Patterson</b>		<b>X</b>	
<b>Jane Gray Sowell</b>		<b>X</b>	
<b>Robert Starkey</b>	<b>X</b>		
<b>Anita Taylor</b>	<b>X</b>		

Adopted

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**Note:** The meeting was recessed at 11:25 A.M. and reconvened at 11:35 A. M.

**ALKALINE HYDROLYSIS PRESENTATION:**

A presentation regarding Alkaline Hydrolysis was given to the Board by Shawn Hays, Ty O'Grady and Kimberly Teal.

A motion was made by Jane Gray Sowell to request the sponsors of House Bill 1125 / Senate Bill 1338 to delay further action on this bill for one year in order to allow collaboration between all of the interested parties. These parties would include the following non-exhaustive list: Department of Environment and Conservation, Department of Health (Vital Records), Department of Commerce and Insurance and various professional organizations involving the funeral industry.

Seconded by Wayne Hinkle

The Board voted unanimously that the legislation should be postponed for one year because the board members believe a collaborative process would strengthen the legislation and avert the necessity of amending the law in the future as has happened in some other states.

Adopted by voice vote

**ADJOURN:**

A motion was made by Wayne Hinkle to adjourn.

Seconded by David Neal

Adopted by voice vote

The meeting was adjourned by President Tony Hysmith at 1:03 P.M.

Respectfully submitted,

*Robert B. Gribble*

Robert B. Gribble, CFSP  
Executive Director