

**TENNESSEE BOARD OF FUNERAL DIRECTORS AND EMBALMERS**

**MINUTES OF BOARD MEETING**

**SEPTEMBER 9, 2014**

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

Board members present: Robert Starkey, President; Anita Taylor, Vice President; Robert Helms; Wayne Hinkle, David Neal and Jane Gray Sowell. Note: Anita Taylor arrived at 10:15 a.m. during the review of establishment applications.

Board member(s) absent: W. T. Patterson

Staff present: Robert Gribble, Executive Director; Ellery Richardson, Assistant General Counsel; and Lisa Mosby, Administrative Manager.

**ADOPTION OF AGENDA:**

A motion was made by Wayne Hinkle 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 July 8, 2014 Board Meeting.

Seconded by Robert Helms

Adopted by voice vote

President Starkey announced that the August 12, 2014 Minutes will be presented for review/approval at the next board meeting.

**LEGAL REPORT:**

**ELLERY RICHARDSON, ASSISTANT GENERAL COUNSEL**

Abbreviations:

GPL – General Price List

CPL – Casket Price List

OBCPL – Outer Burial Container Price List

SFGSS – Statement of Funeral Goods and Services Selected

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**RE-PRESENT**

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**1. Case No.: L10-FUN-RBS-2010007301****Complaint:**

- Complainant's brother passed away, and complainant enlisted Respondent for arrangements and services. He paid for the services in full before they were rendered.
- The next year, it came to light that one of Respondent's funeral directors helped the deceased's estranged wife in committing fraud and securing funds from the State of Tennessee Claims Commission.
- Estranged wife submitted fraudulent documents to the Claims Commission showing that she paid for the funeral service. She submitted:
  - o A contract showing this, and
  - o A letter signed by one of Respondent's funeral directors stating that she paid for the services
- Based on these documents, the Claims Commission gave the estranged wife reimbursement funds that should have been given to complainant.
- When complainant approached Respondent about this, Respondent denied any responsibility or wrongdoing, and told complainant that the funeral director who signed the letter no longer works for them.
- Complainant is also very concerned about the Respondent's privacy policy, as it somehow allowed access to his file in order to fraudulently change the contract.
- Complainant believes Respondent conspired with estranged wife and split the money fraudulently obtained.

**Response:**

- This complaint stems from bad actions of the estranged wife. The funeral establishment should not be held responsible. In any event, the funeral director who signed the letter has not been employed by Respondent for some time.

**Investigation:**

- An investigator of the Funeral Board spoke with the funeral director who signed the letter.
- It appears that the funeral director's signature on the contract does not match other copies of his signature.

- The funeral director remembered the estranged wife approaching him. She told him that the State had funds for the children of the deceased and she needed him to write a letter stating that the funeral bill was paid in full. He did this so her child could receive the money. He stated that he did not know who paid for the services, but he did confirm that the bill was paid in full.

**Order from the Claims Commission:**

- The court found that the estranged wife falsified documents to obtain \$24,000 from the court; \$12,000 of this was dependency benefits for her, and \$12,000 was for her daughter.
- The estranged wife did not qualify for dependency benefits, and she did not pay for the funeral bill.
- The estranged wife falsified the funeral contract, as it is clear that it is not the same contract the funeral home has on file and the one complainant signed.
- The Court ordered the estranged wife to pay restitution to the complainant for the funeral costs and restitution to the court.

**Recommendation:**

- Close with a Letter of Warning, as this case stemmed from the fraudulent activity of a third party, and the money has since been refunded.

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

Seconded by David Neal

Adopted by voice vote

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**Request for Delegation of Authority to an  
Administrative Law Judge (ALJ) in Certain Circumstances**

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In some instances, it is more efficient to resolve complaints when the Funeral Board agrees to delegate its authority to hear cases to an Administrative Law Judge sitting alone. For example, there are times when there is a complaint against an individual as a funeral director and against the same individual as a preneed sales agent. In those cases, the Funeral Board cannot hear the matter regarding preneed violations, so the cases would result in two separate hearings. It would be infinitely more efficient to delegate authority to an Administrative Law Judge (ALJ) sitting alone so he or she could hear all the cases in one hearing.

This would also help limit the backlog of open cases. Legal counsel could handle these cases outside of the regularly scheduled board meetings, leaving more time in the board meetings to hear other cases.

Therefore, I would ask the Board to approve a delegation of authority to an Administrative Law Judge (ALJ) sitting alone in certain circumstances when the Executive Director and legal counsel determine that it would be more expedient to do so.

A motion was made by Robert Helms 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  
 AUGUST 12, 2014 – SEPTEMBER 8, 2014**

<b><u>Establishment(s)</u></b>	<b><u>Type of Action(s)</u></b>
Hickory Hill Funeral Home Memphis, TN	New Establishment
McGill Click Funerals & Cremations Loudon, TN	New Establishment
Mid South Crematory Memphis, TN	New Establishment
Springfield Memorial Gardens, Funeral Home, & Cremation Center Springfield, TN	New Establishment
McCreight Funeral Home Dyersburg, TN	Location Change
Berry Highland Memorial Knoxville, TN	Name Change

Berry Highland South  
Knoxville, TN

Name Change

Berry Highland West  
Knoxville, TN

Name Change

**Individual(s)**

**Type of License(s)**

John Robert Amendola  
Knoxville, TN

Funeral Director/Embalmer

Mathew Gregory Tuck  
Lafayette, TN

Funeral Director/Embalmer

Jimmie Darell Richards  
Valdese, NC

Funeral Director/Embalmer  
Reciprocity

William Gregory Myers  
Murfreesboro, TN

Embalmer  
Reciprocity

**CLOSED ESTABLISHMENT REPORT:**

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

- McDonald Funeral Homes of Perry County, 212 East Main Street, Linden, TN

**DISCIPLINARY ACTION REPORT:**

**REPORT OF CONSENT ORDERS ADMINISTRATIVELY  
ACCEPTED/APPROVED BY THE EXECUTIVE DIRECTOR PURSUANT TO  
BOARD AUTHORITY FOR THE PERIOD OF  
AUGUST 1, 2014 – AUGUST 31, 2014**

Respondent: Debbie Diane Bailey, Covington, TN  
Violation: Engaged in the practice of funeral directing and served as an establishment manager while funeral director license was expired

Action: \$250 Civil Penalty

Respondent: Dickson Funeral Home & Cremation Center, Dickson, TN  
Violation: Engaged in the operation of a funeral establishment while the establishment license was expired

Action: \$350 Civil Penalty

Respondent: John P. Franklin Funeral Home, Chattanooga, TN

Violation: Engaged in the operation of a funeral establishment while the establishment license was expired

Action: \$750 Civil Penalty

Respondent: Palmer Funeral Home, Mason, TN

Violation: Engaged in the operation of a funeral establishment while the funeral director license of the person managing, supervising and responsible for the funeral establishment was expired

Action: \$250 Civil Penalty

Respondent: Williams Funeral Home & Crematory, Columbia, TN

Violation: Used a crematory authorization form not approved by the Board, failed to obtain a funeral director's signature on cremation authorization forms, failed to offer or list an alternative container on its price list, and charged an amount different than that listed on the establishment's price list for outer burial containers

Action: \$1,250 Civil Penalty

Respondent: Williams Funeral Home, Inc., Mount Pleasant, TN

Violation: Failed to obtain a funeral director's signature on a cremation authorization form

Action: \$250 Civil Penalty

**OPEN COMPLAINT REPORT:**

As of September 8, 2014 there were 60 open complaints.

A motion was made by Wayne Hinkle to accept the Executive Director's Report.

Seconded by Robert Helms

Adopted by voice vote

**ESTABLISHMENT APPLICATIONS:**

**CREMATION CENTER OF CHATTANOOGA  
1345 HICKORY VALLEY ROAD, SUITE B  
CHATTANOOGA, TN 37421**

**New Establishment**

**Ownership: Limited Liability Company**

**Owner(s): Hamilton Funeral Home, LLC, 4506 Hixson Pike, Hixson, TN  
37343-5037**

Upon motion by Wayne Hinkle and seconded by David Neal, based upon application record, the establishment was approved for licensure subject to the Board's receipt of a Special Exemption Permit from the City of Chattanooga Board of Zoning Appeals.

Adopted by voice vote

Member(s) recorded as voting contrary to the conclusion: Jane Gray Sowell

**DUSTY ROSE MORTUARY, LLC  
2310 AIRPORT INTERCHANGE AVENUE, #5  
MEMPHIS, TENNESSEE 38132**

**New Establishment**

**Ownership: Limited Liability Company**

**Owner(s): Dusty Rose Mortuary, LLC, 2310 Airport Interchange Avenue, #5,  
Memphis, TN 38132-1003**

Upon motion by Wayne Hinkle and seconded by Anita Taylor, based upon application record, the establishment was approved for licensure subject to the Board's receipt of a Certificate of Occupancy.

Adopted by voice vote

Member(s) recorded as voting contrary to the conclusion: Jane Gray Sowell

**RULEMAKING HEARING:**

A Rulemaking Hearing was conducted before the Board of Funeral Directors and Embalmers regarding the Removal Service Rules (Removal Service Registration) by Ellery Richardson, Assistant General Counsel for Regulatory Boards. The purpose of this rulemaking hearing was to solicit comments on proposed rules the Board of Funeral Directors and Embalmers has made public in order to implement the removal services program authorized by Public Chapter 437 of the Public Acts of 2013. Despite numerous notifications and postings of the scheduled Rulemaking Hearing, nobody was present who desired to speak to the proposed rules.

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**ADJOURN:**

A motion was made by David Neal to adjourn.

Seconded by Wayne Hinkle

Adopted by voice vote

The meeting was adjourned by President Robert Starkey at 10:39 a.m.

Respectfully submitted,

*Robert B. Gribble*

Robert B. Gribble, CFSP  
Executive Director