

TENNESSEE BOARD OF FUNERAL DIRECTORS AND EMBALMERS

MINUTES OF BOARD MEETING

AUGUST 9, 2016

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

Board members present: David Neal, President; Robert Helms, Vice President; Dennis Bridges, Robert Davis, Jeff Duffer and Charles Rahm.

Board member(s) absent: Mark Cochran

Staff present: Robert Gribble, Executive Director; Anthony Glandorf, Chief Counsel; Allison Ratton, Assistant General Counsel; and Lisa Mosby, Administrative Manager.

ADOPTION OF AGENDA:

A motion was made by Charles Rahm to approve the Agenda as printed.

Seconded by Robert Helms

Adopted by voice vote

FORMAL HEARING:

Docket No. 12.21-136895A – Case No. L15-FUN-201501490
Respondent: Dwight Darrell Crayton, West Memphis, Arkansas
Funeral Director License No. 5453 (Suspended)

Judge Elizabeth D. Cambron was the Administrative Law Judge that presided for the hearing. Attorney B. Denard Mickens appeared for the Department of Commerce and Insurance. Respondent Dwight Darrell Crayton appeared and was represented by Attorney Terrell L. Tooten of Memphis, TN.

Respondent was a licensed funeral director charged with falsifying death certificates by using the name and license number of a licensed embalmer that never worked for his establishment.

The Board found that Respondent entered all information on the death certificates produced by the establishment himself; that Complainant did apply for a job at Respondent's establishment but that Respondent had no evidence to refute Complainant's claim that she was never employed at Respondent's establishment; and that Respondent, as manager of the funeral establishment,

did fraudulently use Complainant's licensure information and fraudulently filed approximately eighty-eight (88) certificates of death with the State of Tennessee.

The Board voted to revoke Respondent's funeral director license indefinitely and assess all attendant costs to the Respondent, including prosecutorial, investigatory, and hearing costs.

This action was determined to be necessary for the protection of the public safety and welfare of the citizens of the State of Tennessee.

APPROVAL OF MINUTES:

A motion was made by Charles Rahm to approve the Minutes for the May 10, 2016 Board Meeting.

President Neal announced that the Minutes for the June 14, 2016 Board Meeting will be presented for review/approval at the next board meeting.

LEGAL REPORT:

ALLISON RATTON, 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.: 2016021071**
 2. **Case No.: 2016021072**
 3. **Case No.: 2016021073**

Complainant, the decedent's wife, alleges that the Operations Manager assisting her with the funeral arrangements and directing the visitation, funeral service, and burial was engaging in funeral directing without a license. The Complainant also alleges the Operations Manager did not show her a price list. On the Operations Manager's business card it states "non-licensed Funeral Director/non-licensed Embalmer;" these descriptions are also on the establishment's price list at the time of the events described herein. The Operations Manager had obtained a registration for apprenticeship but it had lapsed a few months prior to the events described herein. As of July 2016, the Operations Manager is the only employee pictured on the website; he is described as "not a licensed funeral director and not a licensed embalmer" on the website. The Complainant produced a photograph of the Operations Manager standing front and center at decedent's funeral service.

In her response, the Funeral Director by her own admission was not involved in the funeral arrangements; she alleges a Funeral Director from another establishment was present. However, during the investigation, the assisting Funeral Director stated by sworn affidavit that he was not present for the arrangements, visitation, funeral, or graveside services and the Complainant stated she never saw him at any of these events. He further stated that he in no way participated in assisting the family during funeral arrangements. His affidavit conveys that all he did was embalm the body one day after the funeral arrangement meeting; he states he only saw the family when they came by for first viewing, and his only work in this matter was embalming, dressing, body preparation, casketing, and redressing. The Operations Manager and Funeral Director have conflicting accounts of when the Funeral Director and visiting Funeral Director were purported to be involved in the various stages of assisting this family.

Recommendation:

- Establishment
 - o Consent Order for \$4,000 Civil Penalty and authorization for a hearing for aiding and abetting unlicensed practice of funeral directing (funeral arrangements and lack of price list as previous complaint involves misrepresentation of same unlicensed Operations Manager).
 - o Order to pay Investigation Costs.
 - o Order to allow random inspections regarding unlicensed activity and provide the Board a monthly report of all cases and employee involvement on said cases for three (3) months.
- Funeral Director
 - o Consent Order for \$1,000 Civil Penalty and authorization for a hearing for aiding and abetting unlicensed practice of funeral directing.
- Operations Manager
 - o Consent Order for \$2,000 Civil Penalty and authorization for a hearing, as previous complaint addressed his misrepresentation and field representative personally addressed his misrepresentation.

A motion was made by Charles Rahm to accept Counsel's recommendation.

Seconded by Jeff Duffer

Adopted by voice vote

4. Case No.: 2016027261

After a routine inspection on February 17, 2016, of the Establishment, the field representative found the funeral establishment license had expired on November 30, 2015, and was reinstated on January 28, 2016. From December 1, 2015, through January 27, 2016, the license was expired yet the funeral home conducted approximately twenty-five (25) funeral and/or cremation services. In its response, the funeral home offered sincere apologies and explained a renewal notification was not received by the manager but the manager has set a reminder in hopes this does not happen again.

Recommendation:

- Consent Order for \$750 for operating an establishment without a license and authorization for a hearing.

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

Seconded by Dennis Bridges

Adopted by voice vote

5. Case No.: 2016030691

After a routine inspection on May 23, 2016, of the Establishment, the field representative found the funeral establishment did not use the required disclosure regarding embalming on its General Price List, as the disclosure must be verbatim the required wording by the Federal Trade Commission Rule ("the Rule"). The Rule also requires an itemized listing of "use of facilities and staff for funeral ceremony" on the General Price List but the listing was not provided on the submitted General Price List. The Casket Price List does not include alternative containers available for direct cremation as required by the Rule. The Outer Burial Container Price List does not provide a description of all outer burial containers offered for sale and the Outer Burial Container Price List disclosure was not listed as is required by the Rule. One embalmer license was not available for inspection. The funeral home does not have a preparation room at the physical location so per request of the Board is required to have a letter stating where embalming and preparation of dead human bodies for the funeral home are performed.

The funeral home did not respond.

Recommendation:

- Consent Order for \$750 (\$500 for violations and \$250 for no response) and authorization for a hearing.

A motion was made by Robert Helms to accept Board's recommendation.

Seconded by Charles Rahm

Adopted by voice vote

6. Case No.: 2016033601

After a routine inspection on May 27, 2016, of the establishment, the field representative found both the required receipt of human remains and required delivery of cremated remains receipt are not being kept by the establishment nor are the receipts entered into the establishment's computer system as is required by law. Also, upon examining the permanent identification devices for casketed human remains, no social security number was present in four instances and for the cremated remains of one person no social security number or date of birth was on the identification device as required by law. In its response, Respondent apologized for this oversight and explained a new company policy to manually enter information on the permanent identification device in hopes to prevent future violations of this nature.

Recommendation:

- Consent Order for \$500 and authorization for a hearing.

A motion was made by Charles Rahm to accept Counsel's recommendation.

Seconded by Jeff Duffer

Adopted by voice vote

7. Case No.: 2016033621

This complaint was sent anonymously to the Board and contained an obituary that lists the address for Respondent purporting that an establishment is operating at a Knoxville address. In its response, Respondent stated it does not

conduct business as a funeral establishment at the Knoxville address listed in the obituary. The response explained that the funeral home in fact acquired the services of a Knoxville crematory to cremate the decedent. The Respondent further stated he is applying for a funeral establishment license for the Knoxville address listed in the obituary. Respondent included a letter from decedent's sister-in-law stating that the sister-in-law was responsible for writing the obituary and that the obituary was not written by any staff members from Respondent funeral home.

Recommendation:

- Close

A motion was made by Dennis Bridges to accept Counsel's recommendation.

Seconded by Robert Helms

Adopted by voice vote

8. Case No.: 2016037631

Complainant, decedent's daughter, alleged Respondent never gave her a price list. She also states she did not give permission to embalm and did not receive communication regarding the funeral services and relevant costs. Complainant states that Respondent emailed a bill to her sister about a month after Complainant tried to contact Respondent. The bill exceeded twenty one thousand dollars (\$21,000). Complainant believes Respondent falsified prices to get them higher, the cost is excessive, she was not consulted as next of kin, she did not receive a death certificate, and she did not provide consent for services.

In its response, Respondent states during the initial meeting with the family decedent's sister was determined to be the designated person to sign the Statement of Funeral Goods and Services Selected and would be the point of contact. Respondent provided a copy of decedent's hospital inpatient admission that accompanied Decedent's body to the funeral home which showed Decedent's sister listed as his emergency contact and next of kin. Respondent also stated that while a preliminary total of twelve thousand dollars was agreed upon by the family in the funeral arrangement meeting, Decedent's daughters called after the meeting to add on items. Decedent's sister provided a letter stating she was given a price list, gave permission to embalm, and was pleased with the service. Decedent's other sister also provided a letter which stated that Complainant was involved in the funeral making process and that Complainant called to add on an additional visitation.

Recommendation:

- Close

A motion was made by Jeff Duffer to accept Counsel's recommendation.

Seconded by Charles Rahm

Adopted by voice vote

9. Case No.: 2016038001

After a routine inspection on June 1, 2016, of the establishment, the field representative found two decedents' files failed to retain a copy of the completed cremation authorization with the funeral director's signature. At the date of the inspection, the establishment website stated "direct cremations starting at \$1,177" yet failed to include an itemized listing of each and every item offered and price of each item as required by law. Examination of a random sample of completed Statement of Funeral Goods and Services Selected ("SFGSS") showed the establishment failed to accurately specify each goods and services included in the funeral packages sold to customers and accurately identify the package selected. The field representative explained to the funeral director that the SFGSS is only listing a package price of total of services selected instead of itemizing items purchased and the price of the items. Additionally, there is no explanation as to how the SFGSS is being adapted for package offerings. In its response, Respondent stated it put a new policy in place to prevent violations for cremation forms not being signed, removed the problematic website language, and included individual prices to clarify service prices.

Recommendation:

- Consent Order for \$500 and authorization for a hearing.

A motion was made by Jeff Duffer to accept Counsel's recommendation.

Seconded by Robert Helms

Adopted by voice vote

10. Case No.: 2016040861

After a routine inspection on July 8, 2016, of a proposed establishment, the field representative found that permanent signs for the establishment were already in place though the establishment has not yet been approved for licensure by the Board. In its response, Respondent stated it was informed at the time of the inspection that the sign should include "proposed site of" or "future home of" the funeral home and provided a photograph of the sign that now includes the verbiage "proposed site of."

Recommendation:

- Consent Order for \$750 and authorization for a hearing.

A motion was made by Charles Rahm to accept Counsel's recommendation.

Seconded by Dennis Bridges

Adopted by voice vote

11. Case No.: 2016030751

12. Case No.: 2016030752

This complaint was filed by a funeral home employee who alleged the funeral director/embalmer serving as the establishment manager smoked marijuana on company property during business hours. Complainant requested to withdraw his complaint a few days later, but due to the gravity of the allegations, an investigation was conducted prior to obtaining a response from Respondent. During the investigation, Complainant states he reported the matter because he was disgusted by unlawful acts during business hours at the funeral home and wanted to withdraw complaint to disassociate himself from the bad reputation of the funeral home. Complainant's employment with the funeral home was terminated the day he was interviewed by the field representative; the funeral home states the termination had nothing to do with the investigation and employee interviews described Complainant's proclivity to make inappropriate comments. The company that owns the funeral home does not test employees for drugs. Its employee handbook states illegal drug is strictly prohibited on company property or while performing company business. In his response, the funeral director/embalmer denied current illicit drug or alcohol use. During the investigation, he refused to let the field representative search his personal property, desk, or vehicle. During the investigation, one employee noted tension between the Respondent and Complainant; another employee noted that

Respondent could be volatile, often raises voice and displays extreme anger, and was told by Respondent that she did not have to speak to the investigator.

Recommendation:

- Letter of Warning advising against conduct that reflects poorly on the funeral profession.

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

Seconded by Dennis Bridges

Adopted by voice vote

13. Case No.: 2016037531

14. Case No.: 2016037532

15. Case No.: 2016037533

Complainant, decedent's daughter, alleges the Respondent funeral director/embalmer finalized funeral details without her permission, including publishing an obituary that misspelled her name, and proceeded with arrangements even though she was undecided about an autopsy. She states the Respondent funeral director/embalmer told her uncle/decedent's brother that he did not think she would pay for the services which prompted the uncle to pay for the funeral in its entirety and caused dissention between Complainant and family members.

In his response, the Respondent funeral director/embalmer states Complainant was present and discussed the scheduling process, and with her present, dates and times were set for the service and burial. He states he presented the obituary for the family to review then submitted the approved obituary verbiage to the newspaper but after business hours Complainant called and asked him not to publish the obituary because she wanted an autopsy done by the funeral home. He alleges that he explained the funeral home could not perform an autopsy and if she wanted an autopsy, the funeral service would need to be cancelled at which point Complainant became angry and accused him of scheduling a funeral and publishing an obituary without her consent. After what he described as receiving profanities and false accusations, Respondent funeral director/embalmer mentioned to Complainant's uncle that another family member would need to be his person of contact as he no longer wished to communicate with Complainant. With his response, Respondent funeral director/embalmer

submitted two letters from his coworkers supporting the truthfulness of the content in his response; the Respondent funeral director/embalmer listed these coworkers in his response as praising him for keeping his cool despite the verbal abuse from Complainant.

Recommendation:

- Close

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

Seconded by Dennis Bridges

Adopted by voice vote

16. Case No.: 2016030751

17. Case No.: 2016030752

Complainant, decedent's sister, takes issue with the way Respondent allegedly responded when the family did not go with her ideas and pushed local vendors. Complainant alleged Respondent funeral director/embalmer displayed lack of empathy by responding that if the funeral home gets the body quick, they can turn "it" around the same day; in her response, the funeral director adamantly denies using this statement. In her response, Respondent stated that decedent's daughter had elected to use a florist in another city and was frustrated that she had to travel to get the flowers; it was then that Respondent funeral director/embalmer suggested local florists and decedent's daughter accepted that florist's services. Then decedent's daughter contacted Complainant who instructed her to keep the original florist plan in place. A funeral home employee submitted a letter stating that decedent's daughter seemed pleased with Respondent funeral director/embalmer's offer to help find a local florist but told them Complainant wanted to keep the original florist so Respondent funeral director/embalmer called back the local florist and cancelled, per this request. Complainant also states the obituary was inaccurate and despite Complainant emailing Respondent funeral director/embalmer an updated version, the obituary was not corrected online and instead Respondent funeral director/embalmer approached decedent's daughter during the visitation regarding the obituary payment. Regarding the obituary, funeral director stated that when she had the necessary information for the newspaper obituary she approached decedent's daughter who referred her to the decedent's companion who authorized the obituary. When Complainant requested a death certificate, she was told the cost

was \$15 though she claims the website listed them for \$7. Complainant paid \$15 for the certificate of death and was offended that she received a letter from Respondent funeral director/embalmer returning her \$15 which stated the funeral home does not charge for their administrative duties but the State of Tennessee requires \$15 per certified copy. Respondent funeral director/embalmer stated that due to the hostility Complainant displayed to funeral staff, it was determined to direct Complainant to the Tennessee Department of Health for the death certificate. The funeral home co-owner, to whom Complainant made the death certificate request, submitted a written statement that Complainant was demanding and made her feel uncomfortable. A funeral home employee stated he observed Complainant snap at Respondent funeral director/embalmer about the flowers and observed that when Complainant was asked to move her car she was angry and hostile. Three people who have used the services of funeral director sent letters of support describing her empathy and professionalism; one stated she provided such good care that her services were used again. Decedent's daughter posted a five-star review of the services she received from the funeral home on the funeral home's Facebook page which described the establishment's staff as very compassionate, kind, and patient.

Recommendation:

- Close

A motion was made by Jeff Duffer to accept Counsel's recommendation.

Seconded by Robert Davis

Adopted by voice vote

ADMINISTRATIVE MATTERS:
ROBERT B. GRIBBLE, EXECUTIVE DIRECTOR**LEGISLATIVE UPDATE:**

There were no responses received neither at the June 14, 2016, board meeting nor subsequent to it from members of the Board of Funeral Directors and Embalmers regarding proposed legislation for the next legislative session.

Email notifications were sent on July 19, 2016, regarding a 2016 Legislative Update to those individuals that had registered previously on the Board's website to receive a "Notify" about board business. Additionally, another email

notification was sent on July 21, 2016, to correct a synopsis error contained in the earlier Notify about Public Chapter 915.

LICENSEE REPORT:

REPORT OF LICENSES ADMINISTRATIVELY APPROVED BY EXECUTIVE DIRECTOR PURSUANT TO BOARD AUTHORITY FOR THE PERIOD OF JUNE 14, 2016 – AUGUST 8, 2016

Establishment(s)

Signature Funeral Home By Premier
Memphis, TN

Cosmopolitan Funeral Services
Jackson, TN

Replogle-Lawrence Funeral Home
Medina, TN

Individual(s)

Harry Franklin Abbott, Jr.
Smyrna, TN

Eldon Jacob Brunton
Apison, TN

Jack Edward Jones
Jasper, TN

Joseph Aaron Mashburn
Lawrenceburg, TN

Garth Owen Richardson
Hohenwald, TN

Melena Nicole Smith
Mount Juliet, TN

Clayton Bradley Sneed
Cleveland, TN

Alan Dale Anson
Harriman, TN

William Thomas Bisceglia
Middlesboro, KY

Type of Action(s)

New Establishment

Change of Ownership

Change of Ownership

Type of License(s)

Funeral Director and Embalmer

Funeral Director and Embalmer

Funeral Director and Embalmer

Funeral Director and Embalmer

Funeral Director and Embalmer

Funeral Director and Embalmer

Funeral Director and Embalmer

Funeral Director and Embalmer
Reciprocity – Nebraska

Funeral Director and Embalmer
Reciprocity – Kentucky

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| Roland Lee Gosey Arkadelphia, AR | Funeral Director and Embalmer Reciprocity – Arkansas |
| William Anthony High Florence, AL | Funeral Director and Embalmer Reciprocity – Alabama |
| Nathanial Lewis Hughes Blue Ridge, GA | Funeral Director and Embalmer Reciprocity – Georgia |
| Alisa Carol Blackmon Eva, TN | Funeral Director and Embalmer Reapplication |
| John Monroe Brooks Delray Beach, FL | Funeral Director Reciprocity – Florida |
| Michael Lewis Hays Goodlettsville, TN | Funeral Director Reciprocity – Kentucky |
| Thomas Scott Carver Athens, TN | Embalmer Reciprocity – Florida |

CLOSED ESTABLISHMENT REPORT:

Two (2) establishments have reported closing since the last board meeting:

- Essentials Funeral and Cremation Services, 2114 Chapman Road, Suite 110, Chattanooga, TN; and
- Memphis Mortuary Services, LLC, 2310 Airport Interchange Avenue, Suite 5, Memphis, TN.

DISCIPLINARY ACTION REPORT:

**REPORT OF CONSENT ORDERS ADMINISTRATIVELY
ACCEPTED/APPROVED BY THE EXECUTIVE DIRECTOR PURSUANT TO
BOARD AUTHORITY FOR THE PERIOD OF
JUNE 1, 2016 – JULY 31, 2016**

| | |
|-------------|---|
| Respondent: | East Lawn Funeral Home and Memorial Park, 4997 Memorial Boulevard, Kingsport, TN |
| Violation: | Unlicensed activity, cremation authorization form contained the signature of an apprentice funeral director on the line designated for the funeral director, and failed to disclose the mark-up on cash advance items |
| Action: | \$750 Civil Penalty |

Respondent: Grissom-Serenity Funeral Home & Cremation Services,
3010 Ocoee Street North, Cleveland, TN
Violation: Failed to comply with multiple aspects of the Funeral Rule
Action: \$1,000 Civil Penalty

Respondent: Grissom-Serenity Funeral Home & Cremation Services,
3010 Ocoee Street North, Cleveland, TN
Violation: False or misleading advertising regarding the listing of an
unlicensed individual in an advertisement
Action: \$250 Civil Penalty

Respondent: Hardwick & Sons Funeral Home, Inc., Trammell Chapel
Location, 913 East ML King Boulevard, Chattanooga, TN
Violation: Failed to maintain the crematory's current license and latest
inspection report that the funeral home uses, permanent
identification device failed to contain all required information,
unable to produce documents on correct paper size, and
failed to comply with aspects of the Funeral Rule
Action: \$500 Civil Penalty

Respondent: Jones Mortuary, LLC, 375 North Main Street, Clinton, TN
Violation: Immoral or unprofessional conduct (substituted a casket and
vault that were not the brand name and quality that the
decedent had selected in a prearrangement agreement),
misrepresentation or fraud in the conduct of the business of
the funeral establishment, failed to treat members of the
public in a respectful manner, and engaged in an act,
omission or practice that is misleading or deceptive
Action: \$1,000 Civil Penalty

Respondent: Robert K. Jones, 115 Robin Lane, Clinton, TN
Violation: Immoral or unprofessional conduct (substituted a casket and
vault that were not the brand name and quality that the
decedent had selected in a prearrangement agreement),
misrepresentation or fraud in the conduct of the business of
the funeral establishment, failed to treat members of the
public in a respectful manner, and engaged in an act,
omission or practice that is misleading or deceptive
Action: \$1,000 Civil Penalty

Respondent: Memorial Funeral Home, LLC, 610 South Washington
Street, Maryville, TN
Violation: Misrepresentation or fraud in the conduct of the business of
the funeral establishment and engaged in an act that was
misleading or deceptive
Action: \$250 Civil Penalty

OPEN COMPLAINT REPORT:

As of August 9, 2016 there were 25 open complaints.

A motion was made by Charles Rahm to accept the Executive Director's Report.

Seconded by Jeff Duffer

Adopted by voice vote

ESTABLISHMENT APPLICATION:

**GOOD SAMARITAN FUNERAL AND CREMATION SERVICES, LLC
ATTN: REID Y. VAN NESS, MGR.
102 MAPLE STREET
SMYRNA, TN 37167-2604**

New Establishment

Ownership: Limited Liability Company

**Owner(s): Good Samaritan Funeral and Cremation Services, LLC, 102
Maple Street, Smyrna, TN 37167-2604**

Upon a motion by Robert Helms and seconded by Charles Rahm, based upon application record, the establishment was approved for licensure.

Adopted by voice vote

**SELLARS FUNERAL HOME AT HENDERSONVILLE
ATTN: MATTHEW J. SELLARS, MGR.
108 MONTHAVEN BOULEVARD
HENDERSONVILLE, TN 37075**

New Establishment

Ownership: Limited Liability Company

**Owner(s): Sellars of Sumner, LLC, 2229 North Mount Juliet Road, Mount
Juliet, TN 37122-3024**

Upon a motion by Jeff Duffer and seconded by Charles Rahm, based upon application record, the establishment was approved for licensure.

Roll Call Vote

Adopted by voice vote

NEW BUSINESS:

Anthony Glandorf, Chief Counsel, appeared for the Department of Commerce and Insurance regarding Alan Blevins, Docket No. 12-21-130591A, Complaint Nos. 2013013641 and 2013013642. Mr. Glandorf stated that Alan Blevins was to have completed the required ten (10) hours of continuing education in course work approved by the Board within six (6) months of execution of the Agreed Order; the document was executed on October 23, 2015. Mr. Glandorf recommended that the Order be amended and change the time frame for Mr. Blevins' completion of the continuing education hours from six (6) months to twelve (12) months.

A motion was made by Jeff Duffer and seconded by Robert Helms to amend the Agreed Order to state that Mr. Blevins must complete the required ten (10) hours of continuing education within twelve (12) months of execution of the Agreed Order.

Adopted by voice vote

ADJOURN:

A motion was made by Robert Helms to adjourn.

Seconded by Robert Davis

Adopted by voice vote

The meeting was adjourned by President David Neal at 2:13 p.m.

Respectfully submitted,

Robert B. Gribble

Robert B. Gribble, CFSP
Executive Director