

TENNESSEE BOARD OF FUNERAL DIRECTORS AND EMBALMERS

MINUTES OF BOARD MEETING

OCTOBER 13, 2020

President Clark McKinney called the meeting to order at 10:00 a.m. The meeting was conducted via WebEx.

Board members present: Clark McKinney, President; Robert Shackelford, III, Vice President; Anthony Harris, Tonya Scales Haynes and Charles Rahm.

Board Member(s) absent: Fred Berry.

Staff present: Robert Gribble, Executive Director; Elizabeth A. Bendell, Associate General Counsel; and Lisa Bohannon, Regulatory Board Administrative Manager.

STATEMENT OF NECESSITY (TENN. CODE ANN. § 8-44-102):

Elizabeth A. Bendell, Associate General Counsel for Regulatory Boards, read a Statement of Necessity for the record.

ADOPTION OF AGENDA:

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

Seconded by Anthony Harris

Roll Call Vote			
Board Members	Yes	No	Absent
Fred Berry			X
Anthony Harris	X		
Tonya Scales Haynes	X		
Clark McKinney	X		
Charles Rahm	X		
Robert Shackelford, III	X		

Adopted by Roll Call Vote

APPROVAL OF MINUTES:

President Clark McKinney announced that the August 11, 2020 Minutes and September 8, 2020 Minutes will be presented for review/approval at the next board meeting.

LEGAL REPORT:

ELIZABETH A. BENDELL, ASSOCIATE 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

1. Case No.: 2020057941 – Funeral Establishment

In July 2020 a board field representative performed an inspection of the Respondent establishment. During the inspection, the representative discovered that the Respondent’s establishment license expired on May 31, 2020 and was not renewed until July 21, 2020; during that time, the Respondent conducted services for thirty-six (36) deceased persons.

The Respondent responded to the complaint and apologized for the oversight. Additionally, the Respondent stated that the renewing of the license had been done in the past by the Respondent’s parent company, but going forward they will be sure to ensure the license is renewed on time.

Recommendation:

- Letter of Warning

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

Seconded by Robert Shackelford

Roll Call Vote			
Board Members	Yes	No	Absent
Fred Berry			X
Anthony Harris	X		
Tonya Scales Haynes	X		
Clark McKinney	X		
Charles Rahm	X		
Robert Shackelford, III	X		

Adopted by Roll Call Vote

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- 2. Case No.: 2020057951 – Funeral Establishment**
 - 3. Case No.: 2020057961 – Funeral Director**
 - 4. Case No.: 2020057971 – Embalmer**

In July 2020 a Board field representative performed an inspection of the Respondent establishment. During the inspection, the representative discovered that the funeral director license for the Respondent funeral director expired on June 30, 2020 and was not reinstated until July 17, 2020, during which the Respondent funeral director conducted services for five (5) deceased persons. Additionally, the embalmer license of the Respondent expired on June 30, 2020 and was not reinstated until July 17, 2020, during which the Respondent embalmer acted in the capacity of an embalmer by embalming and preparing three (3) deceased persons.

The Respondent responded to the complaints and apologized for their oversight. The Respondent indicated that they had been preoccupied with the pandemic and that they will be more diligent in the future to not allow this to happen again.

Funeral Establishment Recommendation:

- Letter of Warning

Funeral Director Recommendation:

- Letter of Warning

Embalmer Recommendation:

- Letter of Warning

A motion was made by Anthony Harris to accept Counsel's recommendation.

Seconded by Charles Rahm

Roll Call Vote			
Board Members	Yes	No	Absent
Fred Berry			X
Anthony Harris	X		
Tonya Scales Haynes	X		
Clark McKinney	X		
Charles Rahm	X		
Robert Shackelford, III	X		

Adopted by Roll Call Vote

5. Case No.: 2020058431 – Funeral Establishment

6. Case No.: 2020058441 – Funeral Director

On July 22, 2020 a Board field representative performed an inspection of the Respondent establishment. During the inspection, the representative discovered that the funeral director license for the Respondent funeral director expired on June 30, 2020 and as of the date of the inspection had not been renewed.

The Respondent responded to the complaint and indicated that their secretary retired, and they were unaware of the license expiration. The Respondent's license has been renewed and the Respondent indicated that going forward measures have been taken to ensure the licenses are renewed on time.

Funeral Establishment Recommendation:

- Letter of Warning

Funeral Director Recommendation:

- Letter of Warning

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

Seconded by Anthony Harris

Roll Call Vote			
Board Members	Yes	No	Absent
Fred Berry			X
Anthony Harris	X		
Tonya Scales Haynes	X		
Clark McKinney	X		
Charles Rahm	X		
Robert Shackelford, III	X		

Adopted by Roll Call Vote

7. Case No.: 2020059171 – Funeral Establishment

This is an anonymous complaint alleging professional misconduct by the Respondent establishment. Specifically, the complaint alleges that the Respondent has unlicensed employees making arrangements for families and indicating to consumers that such individuals are licensed. Additionally, the Respondent has unlicensed embalmers embalming bodies.

Identical issues were made on prior complaints and were sent for investigation multiple times earlier this year, the most recent investigation being in July 2020. No violations were found.

Recommendation:

- Closure

A motion was made by Robert Shackelford to accept Counsel’s recommendation.

Seconded by Charles Rahm

Roll Call Vote			
Board Members	Yes	No	Absent
Fred Berry			X
Anthony Harris	X		
Tonya Scales Haynes	X		
Clark McKinney	X		
Charles Rahm	X		
Robert Shackelford, III	X		

Adopted by Roll Call Vote

8. Case No.: 20200601421 – Funeral Director

This is a consumer complaint alleging unprofessional conduct by the Respondent. Specifically, the consumer states that their appointment to plan funeral services started late, an obituary was never placed on the Respondent’s website, and the consumer’s family was rushed out after the service so that another service could begin. Additionally, the consumer states that they contacted the Respondent in early July regarding a lack of an obituary for the consumer’s sister being on the Respondent’s website, as well as other concerns; and as of the date of the complaint, the consumer had not heard from the Respondent.

The Respondent responded to the complaint and indicated the following:

1. The consumer’s appointment began late due to the family’s tardiness; however, it was only a 15-minute delay.
2. The consumer informed the Respondent that they had posted the obituary to the newspaper. The consumer was informed that the newspaper and the parent company post to the funeral home’s website and she had not asked prior to posting the obituary in the newspaper.
3. The Respondent stated that due to COVID restrictions they could not allow the consumer and family to congregate after the services.

Recommendation:

- Closure

A motion was made by Anthony Harris to accept Counsel’s recommendation.

Seconded by Charles Rahm

Roll Call Vote			
Board Members	Yes	No	Absent
Fred Berry			X
Anthony Harris	X		
Tonya Scales Haynes	X		
Clark McKinney	X		
Charles Rahm	X		
Robert Shackelford, III	X		

Adopted by Roll Call Vote

9. Case No.: 2020062131 – Funeral Establishment

10. Case No.: 2020062141 – Funeral Director

In August 2020 a Board field representative performed an inspection of the Respondent establishment. During the inspection, the representative discovered that the funeral director license for the Respondent funeral director and manager expired on June 30, 2020 and was not reinstated until July 30, 2020.

The Respondent’s representative responded to the complaint and stated the Respondent did not receive notice of the license expiration. Additionally, the Representative indicated that all services during the unlicensed period were performed by licensed individuals. The Representative provided documentation.

Funeral Establishment Recommendation:

- Letter of Warning

Funeral Director Recommendation:

- Letter of Warning

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

Seconded by Anthony Harris

Roll Call Vote			
Board Members	Yes	No	Absent
Fred Berry			X
Anthony Harris	X		
Tonya Scales Haynes	X		
Clark McKinney	X		
Charles Rahm	X		
Robert Shackelford, III	X		

Adopted by Roll Call Vote

11. Case No.: 2020062161 – Funeral Establishment

In August 2020 a Board field representative performed an inspection of the Respondent establishment. During the inspection, the representative discovered that the Respondent’s establishment license expired on July 1, 2020 and was not

renewed until July 9, 2020, during that time the Respondent establishment did not serve any at-need death families.

The Respondent responded to the complaint and indicated that the Respondent was facing many challenges, including a change of ownership, during that time period, and it was an oversight. The Respondent apologized.

Recommendation:

- Letter of Warning

A motion was made by Robert Shackelford to accept Counsel’s recommendation.

Seconded by Charles Rahm

Roll Call Vote			
Board Members	Yes	No	Absent
Fred Berry			X
Anthony Harris	X		
Tonya Scales Haynes	X		
Clark McKinney	X		
Charles Rahm	X		
Robert Shackelford, III	X		

Adopted by Roll Call Vote

12. Case No.: 2020062151 – Funeral Establishment

In August 2020 a Board field representative performed an inspection of the Respondent establishment. During the inspection, the representative discovered that the Respondent’s establishment license expired on July 1, 2020 and was not renewed until July 9, 2020, during that time the Respondent establishment conducted services for nine (9) deceased persons.

The Respondent responded to the complaint and indicated that the Respondent was facing many challenges, including a change of ownership, during that time period, and it was an oversight. The Respondent apologized.

Recommendation:

- Letter of Warning

A motion was made by Anthony Harris to accept Counsel’s recommendation.

Seconded by Robert Shackelford

Roll Call Vote			
Board Members	Yes	No	Absent
Fred Berry			X
Anthony Harris	X		
Tonya Scales Haynes	X		
Clark McKinney	X		
Charles Rahm	X		
Robert Shackelford, III	X		

Adopted by Roll Call Vote

13. Case No.: 2020062171 – Funeral Establishment

14. Case No.: 2020062181 – Funeral Director

In August 2020 a Board field representative performed an inspection of the Respondent establishment. During the inspection, the representative discovered that the funeral director license for the Respondent funeral director expired on May 31, 2020 and was not reinstated until June 29, 2020, during which time the Respondent establishment continuously employed the expired funeral director and the expired funeral director served as the establishment manager during that period of time.

The Respondent responded to the complaint and apologized for the oversight. The Respondent stated they have been licensed for over 20 years and have always renewed on time. The Respondent assured that the oversight will never happen again.

Funeral Establishment Recommendation:

- Letter of Warning

Funeral Director Recommendation:

- Letter of Warning

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

Seconded by Anthony Harris

Roll Call Vote			
Board Members	Yes	No	Absent
Fred Berry			X
Anthony Harris	X		
Tonya Scales Haynes	X		
Clark McKinney	X		
Charles Rahm	X		
Robert Shackelford, III	X		

Adopted by Roll Call Vote

15. Case No.: 2020062681 – Funeral Establishment

This is a consumer complaint alleging unprofessional conduct by the Respondent. Specifically, the consumer alleges the following:

1. In June 2020 the consumer contacted the Respondent to make funeral arrangements for their father who had a policy with the Respondent.
2. The Respondent indicated that they did not have any policy in existence for the consumer's father.
3. The consumer ultimately pursued arrangements with a different funeral establishment.
4. The consumer later found two policies held with the Respondent establishment.
5. The consumer met with the Respondent and showed them the multiple attempts made to contact the Respondent regarding the policy, as well as provided the Respondent with the policy.
6. The consumer states that the Respondent stated they would be in contact with them regarding a refund; however, as of the date of the complaint the consumer had not heard from the Respondent.

Respondent's attorney responded to the complaint and indicated the following:

1. The Respondent was responsive to all phone calls and did their best to locate the contracts for the consumer.
2. The Respondent offered to refund the family for the funeral service and casket, plus earnings on the trust fund, as well as the price paid for merchandise and services. However, the Respondent declines to pay a refund for the services furnished by another funeral home.

Counsel Recommendation:

- Authorization for a formal hearing. Authorization for a civil penalty of \$250.00 via consent order.

A motion was made by Charles Rahm for Authorization for a formal hearing. Authorization for a civil penalty of \$500 via consent order.

Seconded by Robert Shackelford

Roll Call Vote			
Board Members	Yes	No	Absent
Fred Berry			X
Anthony Harris	X		
Tonya Scales Haynes	X		
Clark McKinney	X		
Charles Rahm	X		
Robert Shackelford, III	X		

Adopted by Roll Call Vote

16. Case No.: 2020063611 – Funeral Establishment

This is a consumer complaint alleging deceitful practices by the Respondent establishment. The complainant states that the Respondent establishment committed fraud regarding the death certificate of their father. Specifically, the Complainant states that in 2015 an individual was listed to be the deceased’s wife on the death certificate but listed as a fiancé in the obituary; however, the deceased was not married at the time of death. The Complainant expressed various concerns regarding the distribution of the deceased’s estate.

The Respondent responded to the complaint and indicated that in May 2015 the deceased’s family came to the Respondent establishment to make arrangements. The Respondent states that an individual made herself out to be the deceased’s wife, and at the time none of the family members indicated that the individual was not the wife of the deceased. The Respondent states they do not believe they did anything did wrong at the time.

Recommendation:

- Closure

A motion was made by Robert Shackelford to accept Counsel’s recommendation.

Seconded by Charles Rahm

Roll Call Vote			
Board Members	Yes	No	Absent
Fred Berry			X
Anthony Harris	X		
Tonya Scales Haynes	X		
Clark McKinney	X		
Charles Rahm	X		
Robert Shackelford, III	X		

Adopted by Roll Call Vote

17. Case No.: 2020038981 – Funeral Establishment

This a consumer complaint that alleges, in part, that the Respondent has been doing business unprofessionally. Specifically, the consumer alleges the following:

1. In June 2019 the consumer met with the Respondent establishment regarding the planning of her sister's services.
2. The consumer requested to see her sister before cremation; and when she saw her, the body was in a cardboard box with a bloody quilt draped over it. The consumer states that her sister was in a body bag halfway unzipped with stuff oozing from her mouth and blood on her face. The Consumer states that this experience has left her with PTSD.
3. The consumer indicated that she ended up using another funeral establishment for her sister's cremation. The consumer states that when informing the Respondent of this decision, the Respondent was unprofessional and disrespectful.
4. The consumer states there are animals all over the funeral home, including a cat.

The Respondent responded to the complaint and indicated the following:

1. The Respondent disputes the allegations of unprofessional conduct. The Respondent stated that when the decision to transfer the deceased was made, the Respondent told the consumer that was fine and refunded the consumer their money.
2. The viewing that was scheduled prior to the cremation was done before embalming or preparation, and the consumer was informed that the body would be in the same condition as when the deceased passed away. The Respondent states that the consumer paid for a direct cremation and was prepped on what to expect.
3. The Respondent disputes the allegation that there are animals all over the funeral home. Respondent states there was a cat on the premises who acts as a grief support animal. Respondent indicated they have a separate facility for animal cremations.

This complaint was sent for investigation. In August 2020 a Board field investigator interviewed and obtained documents from the various parties involved in this matter. During the investigation the only violation that was discovered was that the Respondent never provided the consumer with a General Price List. The Respondent indicated during the investigation that they never provided the GPL because it was given to the deceased’s ex-husband at the original planning conference.

No additional violations were found.

Recommendation:

- Authorization for a formal hearing. Authorization for a civil penalty in the amount of \$250.00.

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

Seconded by Anthony Harris

Roll Call Vote			
Board Members	Yes	No	Absent
Fred Berry			X
Anthony Harris	X		
Tonya Scales Haynes	X		
Clark McKinney	X		
Charles Rahm	X		
Robert Shackelford, III	X		

Adopted by Roll Call Vote

18. Case No.: 2020052201 – Funeral Establishment

This is an anonymous complaint submitted against the Respondent establishment alleging the Respondent is aiding and abetting an unlicensed funeral director and embalmer

The Respondent responded to the complaint and indicated they have no connection to the unlicensed funeral director. The Respondent states the last body connected to the unlicensed funeral director was picked up in June 2020.

Recommendation:

- Closure

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

Seconded by Anthony Harris

Roll Call Vote			
Board Members	Yes	No	Absent
Fred Berry			X
Anthony Harris	X		
Tonya Scales Haynes	X		
Clark McKinney	X		
Charles Rahm	X		
Robert Shackelford, III	X		

Adopted by Roll Call Vote

19. Case No.: 2020052231 – Funeral Establishment

This is an anonymous complaint submitted against the Respondent establishment alleging the Respondent is aiding and abetting an unlicensed funeral director and embalmer.

The Respondent responded to the complaint and stated that the unlicensed funeral director is referring families to the Respondent establishment but is not conducting any funeral services or embalmings. Additionally, the Respondent states the individual is helping with translations during consultations. However, the Respondent stated that they are aware the individual is not licensed, and a licensed funeral director is always present. The Respondent provided documentation to such.

Recommendation:

- Closure

A motion was made by Anthony Harris to accept Counsel’s recommendation.

Seconded by Tonya Scales Haynes

Roll Call Vote			
Board Members	Yes	No	Absent
Fred Berry			X
Anthony Harris	X		
Tonya Scales Haynes	X		
Clark McKinney	X		
Charles Rahm	X		
Robert Shackelford, III	X		

Adopted by Roll Call 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 SEPTEMBER 4, 2020 – OCTOBER 9, 2020

Establishment(s)

Brent Taylor Paul B. McCarver
 Funeral Directors
 Memphis, TN

Type of Action(s)/Change(s)

New Establishment

Individual(s)

Ryleigh Love DeForge
 Adamsville, TN

Type of License(s)

Funeral Director and Embalmer

Paula Jean Looney
 Kingsport, TN

Funeral Director and Embalmer

David Young Owens
 Southaven, MS

Funeral Director and Embalmer
 Reciprocity – Georgia and
 Mississippi

Scotti Brook Thompson
 Sevierville, TN

Funeral Director and Embalmer
 Reciprocity – Florida

Todd Lee Yates
 Gallatin, TN

Funeral Director and Embalmer
 Reapplication

Gina Ortiz Gaffney

Funeral Director

Arlington, TN

Reapplication

DISCIPLINARY ACTION REPORT:

These are Consent Orders that have been administratively accepted / approved by the Executive Director pursuant to Board authority and as report on the August 2020 Regulatory Board’s Disciplinary Action Report:

Respondent: Forest Hill Funeral Home & Memorial Park - South, Memphis, TN

Violation: Funeral establishment did not have a fixed place of business; licenses of the establishment, funeral director(s), and embalmer(s) were not available for inspection; the current license and latest inspection for the crematory facility were not available for inspection and did not respond to a complaint within the time specified in the notice

Action: \$3,500 Civil Penalty

Respondent: Cremation and Funeral Services of Tennessee, Pegram, TN

Violation: Did not respond to a complaint within the time specified in the notice

Action: \$500 Civil Penalty

OPEN COMPLAINT REPORT:

As of October 9, 2020, there were 51 open complaints.

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

Seconded by Robert Shackelford

Roll Call Vote			
Board Members	Yes	No	Absent
Fred Berry			X
Anthony Harris	X		
Tonya Scales Haynes	X		
Clark McKinney	X		
Charles Rahm	X		
Robert Shackelford, III	X		

Adopted by Roll Call Vote

NEW BUSINESS:

Dalene Paull, Executive Director for the International Conference of Funeral Service Examining Boards, Inc., invited the board members to attend a virtual Board Member Training scheduled for October 28 – 29, 2020 from 12:00 p.m. - 2:00 p.m. each day.

ADJOURN:

A motion was made Anthony Harris to adjourn.

Seconded by Charles Rahm

Roll Call Vote			
Board Members	Yes	No	Absent
Fred Berry			X
Anthony Harris	X		
Tonya Scales Haynes	X		
Clark McKinney	X		
Charles Rahm	X		
Robert Shackelford, III	X		

Adopted by roll call vote

The meeting was adjourned by President Clark McKinney at 10:40 a.m.

Respectfully submitted,

Robert B. Gribble

Robert B. Gribble, CFSP
Executive Director