# TENNESSEE BOARD OF FUNERAL DIRECTORS AND EMBALMERS

# MINUTES OF BOARD MEETING

## SEPTEMBER 8, 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; Fred Berry, Anthony Harris, and Tonya Scales Haynes.

Board Member(s) absent: Charles Rahm.

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 the Statement of Necessity for the record.

### ADOPTION OF AGENDA:

A motion was made by Anthony Harris to approve the Agenda as printed.

Seconded by Fred Berry

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

Adopted by Roll Call Vote

## APPROVAL OF MINUTES:

A motion was made by Fred Berry to approve the Minutes of the June 9, 2020 Board Meeting.

## Seconded by Robert Shackelford

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

Adopted by Roll Call Vote

President Clark McKinney announced that the August 11, 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.: 2020036481 – Funeral Establishment

This is a competitor complaint against the Respondent alleging misleading and deceptive practices. Specifically, the Complainant alleges that the Respondent is advertising merchandise that is not found in their current price lists and is using source documents that are not in use. The Complainant additionally alleges that they were provided a March 2020 price list despite the May advertisement indicating they were listing April 2020 prices.

The Respondent provided a response to the complaint and indicated that they made an honest mistake in providing the Complainant with the March 2020 price list; however, no pricing was publicized other than their current pricing and none of the itemized pricing is different. The Respondent additionally states that they

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provide all families with the source documents. The Respondent provided documentation.

The Complainant provided a rebuttal disputing the Respondent's response to which the Respondent provided additional documentation.

## Recommendation:

- Letter of Warning

A motion was made by Fred Berry to accept Counsel's recommendation.

Seconded by Robert Shackelford

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

Adopted by Roll Call Vote

## 2. Case No.: 2020037111 - Funeral Establishment

This is a competitor complaint against the Respondent alleging misleading and deceptive practices. Specifically, the Complainant alleges that the Respondent is advertising merchandise on their website that is inconsistent with the pricing on their Casket Price List.

The Respondent responded to the complaint and indicated that in January the Respondent changed their website and failed to notice some discrepancies. The Respondent stated they have updated the discrepancies and states they never intended to confuse or mislead the public.

## Recommendation:

- Letter of Warning

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

## Seconded by Fred Berry

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

### Adopted by Roll Call Vote

### 3. Case No.: 2020037131 - Funeral Establishment

This is a competitor complaint against the Respondent alleging misleading and deceptive practices. Specifically, the Complainant alleges that the Respondent is advertising merchandise that is not found in their current price lists and is using source documents that do not contain the information described in the advertisement.

The Respondent provided a response to the complaint and indicated that they provide all families with the source documents so that they are aware where the price comparisons come from. Additionally, the Respondent states that the current price lists do reflect all of the merchandise available.

The Complainant provided a rebuttal disputing the Respondent's response to which the Respondent provided additional documentation.

### Recommendation:

- Letter of Warning

A motion was made by Fred Berry to accept Counsel's recommendation.

Seconded by Anthony Harris

	-		
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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

## 4. Case No.: 2020039231 – Funeral Director

This is a consumer complaint alleging unprofessional conduct by the Respondent. Specifically, the Complainant alleges that in May 2020 the Complainant's nephew's funeral service was held at the Respondent funeral director's establishment and was live streamed on Facebook. The Complainant states that the Respondent was heard on the livestream screaming to the point where the live stream had to be cut. Additionally, the Complainant states that the Respondent was informed that there could be twenty-five (25) individuals at the service but that on the date of the service the Respondent began yelling that there were too many people after twenty (20) people had arrived. The Complainant indicated that the Respondent was yelling at staff and had the police called to the funeral home. The Complainant indicated that the entire ordeal was disturbing to the family.

The Respondent provided a response to the complaint. The Respondent indicated that there were more than twenty-five people in attendance and that he reminded the attendees of the COVID-19 mandates and the need for social distancing. The Respondent states that the police were called by a staff member for the protection of the attendees and the staff. The Respondent states they were unaware of the livestream interference. The Respondent apologized as they did not intend for their statements to be rude or insensitive.

### Recommendation:

- Letter of Warning

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

Seconded by Robert Shackelford

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

Adopted by Roll Call Vote

### 5. Case No.: 2020048691 – Funeral Establishment

This is a consumer complaint alleging unprofessional conduct by the Respondent. The complainant alleges that in May 2020 they met with the Respondent and funeral personnel to say goodbye to a family member before cremation. The Complainant states that in removing the body (which was on a mortuary cot) from the hearse, the employees dropped the decedent on the pavement to which his head hit the pavement multiple times. The Complainant further indicated that the gurney flipped over, and the Complainant's husband had to help the employees. The Complainant states when they were finally able to view the deceased, the deceased was dirty, dressed in someone else's clothes and covered in bugs.

The Respondent responded to the complaint and indicated the following: 1. The deceased was strapped to the stretcher and while there was an issue with the wheels of the stretcher failing to engage, the deceased never rolled off the stretcher.

2. The Respondent apologized to the Complainant and has worked with the Complainant to resolve the situation.

3. The Complainant will receive a full refund for the services.

4. Additional training will be provided to all employees regarding the use of the stretchers.

5. The Respondent states that the deceased was dressed in the clothes sent from the rehabilitation facility where he passed away.

6. The Respondent denies that there were any bugs on the deceased.

## Recommendation:

- Closure

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

Seconded by Fred Berry

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

Adopted by Roll Call Vote

# 6. Case No.: 2020048181 – Funeral Director

This is a consumer complaint alleging unprofessional conduct by the Respondent. The Complainant alleges that in May 2020 they met with the Respondent and funeral personnel to say goodbye to a family member before cremation. The Complainant states that in removing the body (which was on a mortuary cot) from the hearse, the employees dropped the decedent on the pavement to which his head hit the pavement multiple times. The Complainant further indicated that the gurney flipped over, and the Complainant's husband had to help the employees. The Complainant states when they were finally able to view the deceased, the deceased was dirty, dressed in someone else's clothes and covered in bugs.

The Respondent establishment responded to the complaint and indicated the following:

1. The deceased was strapped to the stretcher and while there was an issue with the wheels of the stretcher failing to engage, the deceased never rolled off the stretcher.

2. The Respondent apologized to the Complainant and has worked with the Complainant to resolve the situation.

3. The Complainant will receive a full refund for the services.

4. Additional training will be provided to all employees regarding the use of the stretchers.

5. The Respondent states that the deceased was dressed in the clothes sent from the rehabilitation facility where he passed away.

6. The Respondent denies that there were any bugs on the deceased.

### Recommendation:

- Closure

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

#### Seconded by Fred Berry

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

### Adopted by Roll Call Vote

# 7. Case No.: 2020057791 – Funeral Establishment

### 8. Case No.: 2020057801 – Funeral Director

On July 16, 2020 a Board Field Representative performed an inspection of the Respondent establishment. During the inspection, the representative discovered that the Respondent funeral director has been in continuous employment as the manager of the Respondent establishment since their funeral license became invalid on June 30, 2020.

The Respondent responded to the complaint and indicated that they received incorrect information regarding an extension for renewals, and they apologize for the lapse.

The Respondent's license is active, having been renewed on July 17, 2020.

### Funeral Establishment Recommendation:

- Authorization for a formal hearing. Authorization for a civil penalty of \$500.00 via consent order.

### Funeral Director Recommendation:

- Letter of Warning

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

### Seconded by Fred Berry

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 AUGUST 8, 2020 – SEPTEMBER 3, 2020

### Individual(s)

Boyice Lee James, Jr. Old Hickory, TN

Lillian Elizabeth Nichols Franklin, KY

Melissa Marie Willis Nashville, TN

Brandy Preeschl Hampton Lenoir, NC

Regina Kaye Peebles Southaven, MS

Jonathan William Frazer Goodlettsville, TN <u>Type of License(s)</u> Funeral Director and Embalmer

Funeral Director and Embalmer

Funeral Director and Embalmer

Funeral Director and Embalmer Reciprocity – North Carolina

Funeral Director and Embalmer Reciprocity – Mississippi

**Funeral Director** 

Victoria Caroline Housley Pikeville, TN

Jeffrey Scott Friedman

Franklin, TN

**Funeral Director** 

Funeral Director Reciprocity – Texas

Funeral Director Reciprocity – Alabama

Makayla Dawn Ridley Morristown, TN

Cody William Gore

Scottsboro, AL

Funeral Director Reciprocity – Missouri

## CLOSED ESTABLISHMENT(S):

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

• Forest Hill Funeral Home & Memorial Park – South, 2545 East Holmes Road, Memphis, TN.

# **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 July 2020 Regulatory Board's Disciplinary Action Report:

Respondent: Violation: Action:	Davis-Campbell Funeral Home, Nashville, TN Aiding or abetting an unlicensed person within the funeral profession \$2,500.00 Civil Penalty plus \$864.00 costs
Action.	
Respondent: Violation:	Terrell Broady Funeral Home, Inc., Nashville, TN Failed to treat a member of the public in a reasonable manner and failed to respond to a complaint within the allotted time frame
Action:	\$250 Civil Penalty
Respondent: Violation:	Golden Gate Funeral Home, Memphis, TN Aiding or abetting an unlicensed person to practice within the funeral profession
Action:	\$1,500.00 Civil Penalty plus \$696.00 costs
Respondent: Violation:	Reginald K. Robinson, Sr., Memphis, TN Engaged in funeral directing without a license, engaged in misleading or deceptive practices and failed to respond to a complaint within the allotted time frame
Action:	\$500 Civil Penalty

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Respondent:	Advantage Funeral & Cremation Services Franklin-Strickland Chapel, Chattanooga, TN
Violation:	Aiding and abetting an individual to make funeral arrangements and conduct funeral services without a valid funeral director license
Action:	\$250 Civil Penalty
Respondent:	Chattanooga Funeral Home & Crematory – East Chapel, East Ridge, TN
Respondent: Violation:	Chattanooga Funeral Home & Crematory – East Chapel, East Ridge, TN Aiding and abetting an individual to make funeral arrangements and conduct funeral services without a valid funeral director license

### **OPEN COMPLAINT REPORT:**

As of September 3, 2020, there were 54 open complaints.

A motion was made by Fred Berry to accept the Executive Director's Report.

Seconded by Anthony Harris

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

Adopted by Roll Call Vote

## **ESTABLISHMENT APPLICATION(S):**

EDWARD HATCH FUNERAL DIRECTORS ATTN: EDWARD C. HATCH, MGR. 3918 DICKERSON PIKE, SUITE 109 NASHVILLE, TN 37207-1330

New Establishment Ownership: Corporation

Owner(s): United Funeral Care, Inc., 230 Kennith Drive, Nashville, TN 37207-3328

Baed upon the application record, a motion was made by Anthony Harris and seconded by Robert Shackelford to deny the establishment application.

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

Adopted by Roll Call Vote

### BRENT TAYLOR PAUL B. MCCARVER FUNERAL DIRECTORS ATTN: JAMES MARK BALLARD, MGR. 948 REDDOCH COVE MEMPHIS, TN 38119-3614

New Establishment

Ownership: Limited Liability Company Owner(s): Brent Taylor Paul B. McCarver Funeral Directors, LLC, 386 Pisgah Road North, Eads, TN 38028-7908

Note board members Fred Berry and Anthony Harris recused themselves from participation of all discussions and determination regarding this application.

Upon motion by Robert Shackelford and seconded by Tonya Scales Haynes, based upon application record, this establishment application was approved for licensure.

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

## ADJOURN:

A motion was made Fred Berry to adjourn.

Seconded by Anthony Harris

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

Adopted by roll call vote

The meeting was adjourned by President Clark McKinney at 10:55 a.m.

Respectfully submitted,

Robert B. Gribble

Robert B. Gribble, CFSP Executive Director