

MINUTES
South Carolina Board of Funeral Service
Board Meeting
10:00 a.m., August 30, 2007
Synergy Business Park
110 Centerview Drive, Kingstree Building, Room 108
Columbia, South Carolina

Gerard 'Skip' Mikell, president, called the meeting to order at 10:05 a.m. Other members present during the meeting included: William Horton, vice president, of Kingstree; Todd Caughman, of Lexington; Homer Elwood, of Laurens; Thomas Genoble, of Jonesville; Kip Kiser, of Cheraw; James McAlister, of Charleston; Tony Tipton, of Greer; and Gloria Vessels, of Anderson.

Staff members participating during the meeting included: Ernest Adams, Inspector; Christa Bell, Attorney, Office of General Counsel; Doris Cubitt, Administrator; Sandra Dickert, Administrative Assistant; Wendi Elrod, Administrative Specialist; Pat Hanks, Attorney, Office of General Counsel; Jeanie Rose, Administrative Specialist; Jamie Saxon, Hearing Advice Attorney; and Sheridan Spoon, Attorney, Office of General Counsel.

Members of the public attending the meeting included: Mark Barrow, Alicia Clark, Candy Dawkins, Tara Graham, George Hamilton, Stan Hamilton, Valorie Murphy, Charles Murray, Aljanon Myers, Lou Ann Pyatt, Nyla Solomon, Sam Solomon, Mike Squires, and Joe Wamer.

Meeting Called to Order

Mr. Mikell announced that public notice of this meeting was properly posted at the S. C. Board of Funeral Service office, Synergy Business Park, Kingstree Building and provided to all requesting persons, organizations, and news media in compliance with Section 30-4-80 of the South Carolina Freedom of Information Act.

Pledge of Allegiance

All present recited the Pledge of Allegiance.

Invocation

Mr. McAlister delivered the invocation.

Introduction of Board Members and Persons Attending the Meeting

The Board members, staff and members of the public attending the meeting introduced themselves.

Approval of Excused Absences

Glen Crawford, of Lancaster, was granted an excused absence.

Approval of Minutes for the June 28, 2007 Meeting

MOTION

Mr. Tipton made a motion, seconded by Mr. Caughman and unanimously carried, that the Board approve the minutes as presented.

President's Remarks – Skip Mikell

Mr. Mikell welcomed everyone to the meeting. He thanked some of the past Board members for attending this meeting. He stated the Board may need their assistance during the Board meeting. He further stated the Board tries to do its very best in its job.

Mr. Mikell introduced Mr. Homer Elwood, the newest Board member.

Mr. Mikell presented Mr. Hamilton with a plaque for the time he served on the Board.

Administrator's Remarks – Doris Cubitt

Advisory Opinions, If Needed, Office of General Counsel

Legislative Updates, If Needed, Legislative Liaison Office

There were no advisory opinions or legislative updates given during the August 30, 2007 meeting.

Mrs. Cubitt welcomed Mr. Elwood to the Board.

Disciplinary Reports

1. Jesse Sanders – Request for extension of time to pay disciplinary fines

In a consent agreement signed by Eddie Briggs on June 20, 2007 Jesse Sanders agreed to provide "proof of satisfactory payment of \$12,009.42 for the death benefit policies in question with 60 days of the execution" of the agreement.

Ms. Bell presented the members with a letter from Michael F. Talley, Esquire, in regard to Jesse Sanders. Mr. Sanders has notified Mr. Talley that he has not been able to obtain the remaining full amount of \$7,000.00 to satisfy the consent agreement. Mr. Talley noted the inability to obtain the money is due to an unexpected downturn in business and an inability to collect on account receivables in conjunction with heart problems. In his letter Mr. Talley is asking the Board to grant a 60 day extension (until November 5, 2007) to pay the remaining \$7,000.00.

MOTION

Mr. Kiser made a motion, seconded by Mrs. Vessels, that the Board consider this request in executive session. The motion carried with a majority vote. Mr. Horton, Mr. McAlister and Mr. Tipton voted in opposition of the motion.

2. Investigative Review Committee (IRC) Report / Consent Orders – Tony Kennedy and Ernest Adams

Mr. Kennedy briefed the Board in regard to the IRC Report from August 27, 2007.

MOTION

Mr. Horton moved the Board approve the IRC's recommendations in regard to the following cases for dismissal. Mr. Caughman seconded the motion, which carried unanimously.

2007-3 Cases for Dismissal
2007-14 2007-21 2007-23

- a. Approval of Consent Orders
 - i. 2006-11
 - ii. 2006-30
 - iii. 2007-12
 - iv. 2006-01

Ms. Bell briefed the Board on the consent orders in regard to the above cases.

MOTION

Mr. Tipton moved the Board discuss these consent orders in executive session. Mr. McAlister seconded the motion, which carried unanimously.

- 3. Inspections Report – Ernest Adams

Mr. Adams briefed the Board in regard to the inspection report.

MOTION

Mrs. Vessels made a motion, seconded by Mr. Horton and unanimously carried, that the Board accept the inspection report.

- 4. Number of Open Complaints

Mr. Kennedy stated there are 23 open cases in regard to the Board of Funeral Service.

Committee Reports

1. Legislative Committee – Stan Hamilton, Kip Kiser, Tom Genoble, Sheridan Spoon
This committee had no report. Since Mr. Hamilton is no longer on the Board, Mr. Kiser will serve as chairman.

2. Examination/CEU/Education – Gloria Vessels, Todd Caughman, Glen Crawford, Skip Mikell, Ernest Adams
This Committee had no report.

3. Regulatory Compliance (Federal and State) / FTC / OSHA / ADA / PreNeed – James McAlister, Billy Horton, Tom Genoble, Doris Cubitt
This committee had no report.

4. Publications / Newsletter / Website – Tony Tipton, Glen Crawford, Sandra Dickert
This committee had no report.

New Business

- 1. Approval of New Facility

a. *Hamilton's Funeral Home, George D. Hamilton, Manager*

On June 22, 2007 the Board received an application for a change in ownership for Hamilton's Funeral Home. George Hamilton is the proposed manager. Mr. Hamilton was initially issued a dual license on August 15, 1962. His license remains current. Mr. Hamilton's SLED Report indicates he was arrested for a misdemeanor charge of a fraudulent check in 1994. Mr. Hamilton lives 0.2 miles from the funeral home. The owner of the facility is Nyla L. Solomon.

MOTION

Mr. Horton made a motion, seconded by Mr. Genoble and unanimously carried, the Board accept this application.

b. *Fletcher Funeral & Cremation Service, Inc., Francis Allan Fletcher, Manager*

On May 8, 1998 Francis Allan Fletcher was issued a dual license, which remains current. His criminal history report provided by SLED reflects he does not have a criminal background.

Mr. Fletcher has a parent funeral home (Fletcher Funeral & Cremation Service, Inc.) to which he is adding a crematorium. The statute regulating funeral service indicates that a crematory should hold a separate permit. Mr. Fletcher would like to name the facility Fletcher Funeral Home & Cremations Service, Inc. for cremations provided by his funeral home. In addition, Mr. Fletcher wants to operate the crematorium under the name of Carolina Cremation Center, LLC. Carolina Cremation Center is designed to offer cremations to other funeral homes in the area. This would be a separate business from his parent funeral home and crematory. A new parent permit would be issued. He is requesting approval of the new cremation service.

Francis Allan Fletcher appeared before the Board at this time and offered the following testimony.

Fletcher Funeral & Cremation Service, Inc. is an existing business. He has added a crematorium to the business and it is his understanding a separate license is necessary. He is researching the possibility of performing cremations for other funeral homes and has created a separate company, Carolina Cremation Center, LLC, in order to place the business name on the documentation. He said Kathleen Haddock, the inspector for the SC Department of Health and Environmental Control (DHEC) for the upstate, was in training from August 13, 2007 through August 28, 2007 and has not yet inspected the crematory. He has forwarded a letter to Ms. Haddock indicating he has been before the Board during this meeting along with inspection report.

c. *Carolina Cremation Center, LLC, Francis Allan Fletcher, Manager*

On May 8, 1998 the Board issued a dual license to Francis Allan Fletcher. His license remains current and in good standing. His SLED Report reflects he does not have a criminal background.

Mr. Fletcher has a parent funeral home (Fletcher Funeral & Cremation Service, Inc.) He is adding a crematorium to this existing facility. The Board's statute indicates a crematory should be a separate permit. The crematory would be named Fletcher Funeral Home & Cremations Service, Inc. for cremations provided by his funeral home. In addition, Mr. Fletcher wants to operate the crematorium under the name of Carolina Cremation Center, LLC. Carolina Cremation Center is designed to offer cremations to other funeral homes in the area. This

would be a separate business from his parent funeral home and crematory. A new parent permit would be issued.

Francis Allan Fletcher appeared before the Board at this time and offered the following testimony.

NOTE: Item B, Fletcher Funeral & Cremation Service, Inc., was tied in with Carolina Cremation Center, LLC.

Mr. Fletcher will essentially have three permits: 1) Fletcher Funeral & Cremation Service, Inc., 2) Carolina Cremation Center, LLC, and 3) Fletcher Crematory.

Mr. Adams stated the \$800 fee Mr. Fletcher included a business under the umbrella of the limited liability company.

Mr. Horton suggested Mr. Fletcher license the crematory under Carolina Cremation Center, LLC and contract Fletcher Funeral Home under Carolina Cremation Center, LLC. He said when Fletcher Funeral Home and Cremation Center receives a cremation call he would contract with Carolina Cremation Center to perform the service.

Mr. McAlister stated James A. McAlister, Inc. does not have a retort, although he will have one shortly. He has filed papers with the Secretary of State's Office for a limited liability company named Sea Scatter, LLC. When the purchase of land is finalized and contracted with the crematory to install the retort he will appear before the Board to request a permit to operate the crematory under the limited liability company. Once the permit is granted and received he will then have an attorney draw up an agreement James A. McAlister, Inc. will contract with Sea Scatter, LLC to perform the cremations. He suggested Mr. Fletcher obtain the services of an attorney to assist him with the documentation.

MOTION

Mr. Horton moved the Board approve the permitting of Carolina Cremation Center, LLC pending final inspection. Mrs. Vessels seconded the motion, which carried unanimously.

2. Approval of Additional Facility

a. *Murray's Mortuary Hollywood Chapel, Chardale R. Murray, Manager*

On March 26, 2001 Chardale R. Murray was issued a funeral director's license, which remains current and in good standing. Ms. Murray's SLED Report reflects she does not have a criminal record. Ms. Murray currently operates an existing facility (Murray's Mortuary). She is opening a chapel which would be a branch facility. She lives 15 miles from the facility.

Charlie Murray, Chardale Murray's brother, appeared before the Board on behalf of Chardale Murray. He stated Ms. Murray had a family emergency that occurred on August 29, 2007 and was unable to attend this meeting.

MOTION

Mr. Kiser moved the Board defer this matter until the manager can appear before the Board. Mr. McAlister seconded the motion, which carried unanimously.

3. Approval of Apprenticeship

a. *Tara Graham – Criminal background*

On June 14, 2007 the Board received an apprenticeship application from Tara Graham. Ms. Graham's SLED Report indicates she has a criminal background. She was arrested and convicted of breach of trust with fraudulent intent of \$1,000 or less. Since Ms. Graham has an arrest record her application could not be processed in a routine manner. Staff informed Ms. Graham she would need to appear before the Board and answer any questions the Board members may have.

Tara Graham appeared before the Board and offered the following testimony.

In 1998 Ms. Graham was working at Rose's Department Store, a friend came through her line with approximately seven items and one of the items did not ring up. She then appeared in Magistrate's Court. She presented documentation that the charge has been expunged.

Mr. Spoon stated Ms. Graham answered 'no' to the question asking, "Have you ever been convicted of or pled guilty to or nolo contendere to a felony or a crime involving drugs or moral turpitude?" He further stated it may have been a crime of moral turpitude and said arguably the answer could have been a 'yes' answer.

MOTION

Mr. McAlister made a motion, seconded by Mr. Kiser and unanimously carried, that the Board accept this application on the condition that she resubmit the application and answer affirmative to question ten and include the attachment in regard to the expunged charge.

b. *Tiffany Y. Myers – Criminal Background*

On April 6, 2007 Tiffany Y. Myers applied for an apprenticeship license. According to her SLED Report, dated April 30, 2007, Ms. Myers was charged with a felony on August 7, 1995. The felony charged was nolle prossed and she was convicted for a misdemeanor. She is requesting the Board's approval of an apprentice license. Since staff could not process this application in a routine manner staff notified Ms. Myers she would need to appear before the Board to answer any questions the members may have.

Tiffany Myers did not appear at this meeting.

Recess

The Board recessed at 12:05 p.m. and returned to public session at 12:15 p.m.

Return to Public Session

Discussion Topics

1. Unlicensed Practice

Mrs. Cubitt presented the members with a proposed Renewal Time Line. (The renewal time line is attached and herewith becomes a permanent part of this record retained at the Board's office.) The time line included a time line for a continuing education audit.

Discussion ensued regarding continuing education and the continuing education audit.

Mr. Mikell stated he has asked the Education Committee to consider developing a database for tracking continuing education to allow individuals to view the information on-line. He further stated he has received information from the Executive Director of the Academy of Professional

Funeral Service Practice who has offered to develop this database. He said the Academy would like to improve continuing education courses. He went on to say the providers would submit the continuing education courses to the Academy which would approve the course and have it posted on-line.

Discussion on the renewals and cease and desist orders ensued.

MOTION

Ms. Vessels made a motion that if an individual does not renew his/her license by September 1 that individual would enter a consent agreement and be fined \$500.00. Mr. Horton seconded the motion. Discussion ensued. The motion carried unanimously.

2. Approval of Letter to Funeral Homes Regarding PreNeed Funeral Contracts

Mr. Mikell stated a representative from the Department of Consumer Affairs was going to discuss the possibility of the Board mailing a letter that agency sends to funeral homes to verify that a facility is licensed to sell preneed, burial insurance, and selling preneed contracts. He further stated the facility's manager is required to sign the letter and is required to include the license number, if the facility is licensed to sell, and if it does sell preneed.

After a brief discussion, Mr. Mikell asked Mr. Adams to compile the information and forward it to the Department of Consumer Affairs.

MOTION

Mr. Kiser moved Mr. Mikell, along with Counsel, formulate a letter allowing the Department of Consumer Affairs request from the funeral home whether they are licensed to sell preneed or not. Mr. Horton seconded the motion, which carried unanimously.

3. Legislative Issues

a. Modification of Application for Establishment Permits

Mr. Mikell stated he believes this would be to formulate a separate application for crematories.

Mrs. Cubitt stated when staff researched the statute it appears the crematory should have a separate permit from the funeral home. She further stated the facilities with crematories should be notified that the crematory should be permitted separately.

Discussion ensued in regard to establishments and crematories.

b. Modification of Regulation Regarding Caskets

This matter was carried over to the October 18, 2007 meeting.

c. Written Requirements for Funeral Establishments

This matter was carried over to the October 18, 2007 meeting.

4. Discussion on Policy Regarding Standardized Consent Agreements

This matter was carried over to the October 18, 2007 meeting.

5. Discussion on Policy Regarding Timelines for Renewals and Continuing Education
This matter was carried over to the October 18, 2007 meeting.

6. Discussion on Policy Regarding Crematory Licenses
This matter was carried over to the October 18, 2007 meeting.

7. Discussion on Policy for Guidelines on Apprenticeship
This matter was carried over to the October 18, 2007 meeting.

Executive Session

MOTION

Mr. Kiser moved the Board enter executive session to seek legal advice. Mr. McAlister seconded the motion, which carried unanimously.

Return to Public Session

MOTION

Mr. McAlister made a motion, seconded by Mr. Kiser and unanimously carried, that the Board return to public session.

Mr. Mikell noted for the record that no motions were offered or made during executive session.

Consent Agreements

MOTION

Mr. Kiser moved the Board accept the consent agreements on cases #2006-1, #2006-11, #2006-30, and #2007-12, with one revision to item three on case #2006-30. Mr. Genoble seconded the motion, which carried unanimously/

Request from Mr. Talley

MOTION

Mr. McAlister moved the Board deny the request by Mr. Talley. Mr. Caughman seconded the motion, which carried unanimously.

Public Comments

There were no public comments made during the August 20, 2007 meeting.

HEARINGS

Reconsideration Hearing

In the Matter of, DawnHaines Davis, SC Franks Chapel of Remembrance
This hearing has been continued to the October 18, 2007 meeting.

In the Matter of, John Thompson; Thompson Funeral Home

In the Matter of, John Robert Smith
These proceedings were recorded by a court reporter in order to produce a verbatim transcript if requested in accordance with the law.

Ms. Bell stated the two cases are companion cases which were scheduled to be heard by the Board as hearings. She further stated the Board has entered into a Memorandum of Agreement on both cases and presented the agreements to the Board for their review.

Executive Session

MOTION

Mr. Kiser made a motion, seconded by Mr. McAlister and unanimously carried, that the Board enter executive session to seek legal advice.

Return to Public Session

MOTION

Mr. Kiser moved the Board return to public session. Mr. McAlister seconded the motion, which carried unanimously.

Mr. Mikell noted for the record that no motions were offered or made during executive session.

In the Matter of, John Thompson; Thompson Funeral Home

MOTION

Mrs. Vessels made a motion, seconded by Mr. Tipton and unanimously carried, that he Board accept the Memorandum of Agreement and Stipulations and find the Respondent has violated the practice act. That he be fined \$2,500.00, that his license be suspended for one (1) year, and that he appear before the Board prior to his reinstatement to demonstrate, to the Board's satisfaction, that he has instituted written policies and procedures for his establishment such as to minimize the reoccurrence of situations such as the one in question.

In the Matter of, John Robert Smith

MOTION

Mr. Elwood moved the Board accept the Memorandum of Agreement and Stipulations and find the Respondent has violated the practice act, that he be fined \$2,500.00, that his license be suspended for one (1) year, and that he complete six (6) hours of continuing education, to include state law as it relates to funeral services, within one (1) year. Mr. McAlister seconded the motion, which carried unanimously.

Adjournment

MOTION

There being no further business to be discussed by the Board at this time, Mr. Tipton moved the meeting be adjourned. Mr. Horton seconded the motion, which carried unanimously.

The August 30, 2007 meeting of the SC Board of Funeral Service adjourned at 4:40 p.m.