

MINUTES
South Carolina State Board of Funeral Service
Board Meeting

9:00 a.m., July 18, 2016
Synergy Business Park
110 Centerview Drive, Kingtree Building Room 108
Columbia, South Carolina

Monday, July 18, 2016

1. Meeting Called to Order

William B. Horton, Jr., President, of Kingtree, called the regular meeting of the South Carolina State Board of Funeral Service to order on July 18, 2016 at 9:00 a.m. Other Board members present for the meeting included: Eddie Nelson, Vice President, of Blythewood; Jeffrey K. Temples, Secretary, of Columbia; Michelle Cooper, of Moncks Corner; Stephen R. Gantt, of Greenwood; Charvis K. Gray, of Piedmont; D'Michelle P. DuPre, of Chapin; S. Lee McMillan, Jr., of Myrtle Beach; John L. Petty of Landrum; and Mark R. O'Steen, of Spartanburg.

Staff members participating in the meeting included: Donnell Jennings, Advice Counsel, Office of Advice Counsel; Tracey Perlman, Disciplinary Counsel, Office of Disciplinary Counsel; Amy Holleman, Administrator; Norma McAllister, Program Assistant; Sharon Wolfe, Chief Investigator, Office of Investigations and Enforcement; Sharon Cook, Investigator, Office of Investigations and Enforcement; Ernest Adams, Inspector, Office of Investigations and Enforcement; and Buddy Poole, Inspector, Office of Investigations and Enforcement.

Members of the public attending the meeting included: Charles Cox, III and Shannon Roark of Cox Funeral Home; Daniel W. Jordan of Jordan-Brockington Funeral Home; Hayes Samuels, Alex R. Alston, and Frederica Alston of Samuels and Richardson Funeral Home; Cassius I. Murray and Bennie Brown, Jr. of Upstate Family Funeral Services and Upstate Family Funeral Home Greenville; Robert Bethea, III of Bethea Funeral Home; Jalair Leamon of Goins Funeral Home, Inc.; Barbara B. Tompkins of Percival-Tompkins Funeral Home, Inc.; Justin Jones of South Carolina Department of Consumer Affairs (SCDCA); Mike Squires and Rion Rampsey of South Carolina Funeral Directors Association; and Mike and Carolyn Lindley.

A. Public Notice

Mr. Horton announced that public notice of this meeting was properly posted at the South Carolina State Board of Funeral Service office, Synergy Business Park, Kingtree 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.

B. Pledge of Allegiance

All present recited the Pledge of Allegiance.

2. Introduction of Board Members and Persons Attending the Meeting

The Board members, staff, and all other persons attending the meeting introduced themselves.

3. Approval of Excused Absences

Wallace McKnight, Jr. of Andrews was not in attendance. Michelle Cooper and Jeffrey K. Temples would be arriving late.

MOTION

Dr. DuPre made a motion to approve the absences.
Mr. O'Steen seconded the motion, which carried unanimously.

Ms. Cooper arrived at 9:11 a.m., and Mr. Temples arrived at 10:09 a.m.

4. Approval of Minutes for the June 16-17, 2016 board meeting

Mr. Horton called for a motion to approve the minutes from the May 16, 2016 board meeting. Mr. Horton noted that on in the PDF on page 7 for cases 2015-46 and 2015-47 the city should state, Orangeburg instead of Spartanburg.

MOTION

Mr. O'Steens made a motion to approve the corrections.
Mr. Gantt seconded the motion, which carried unanimously.

Mr. McMillan made a motion to approve the minutes with corrections.
Mr. Gantt seconded the motion, which carried unanimously.

5. President's Remarks – Billy Horton

Mr. Horton welcomed everyone. Mr. Horton stated the Board extends deepest sympathy to Mr. Wallace McKnight, Jr. and his family. Mr. Horton mention the Board extends its deepest sympathy to the families of the recent victims of the tragedies in the United States of America, for those in the line of duty and those from violence.

6. Administrator's Remarks – Amy Holleman

A. Financial report - The financials for the month of June 2016 are not available at this time.

Ms. Holleman informed the Board, last week an e-blast was launched providing information regarding online Cremation Services, which generated an overall positive response. Ms. Holleman stated the licensees, at this time, are technically in a renewal period with 473 licensees currently in active renewal. The licensees' capability to renew online will be available through July 30, 2016.

The Board requested the current renewal numbers. Ms. Holleman informed the Board, 2,065 licensees have renewed.

The Board inquired about possible discrepancies regarding the renewals ending date. Ms. Holleman explained to the Board, statute 40-19-230(E) says, "A person holding a license under this chapter may have the license renewed for a two-year period by applying within thirty days preceding or following the expiration of his license, upon forms provided by the board and payment of a renewal fee as established by the board in regulation." As a second point of reference, Ms. Holleman cited, statute 40-19-23(D), "No license may be issued or renewed for a period exceeding two years, and all licenses and renewals expire on the thirtieth day of June unless sooner revoked or canceled." Ms. Holleman stated, any licensee questioning the dates have been informed the license will lapse (has lapsed) on June 30, 2016, and that licensees should not practice with a lapsed license.

7. Reports

A. Inspection Report – Buddy Poole

Mr. Poole informed the Board that he and Mr. Adams conducted 64 inspections from June 10, 2016 to July 11, 2016.

B. Investigative Review Committee (IRC) Report – Sharon Wolfe

1. July 12, 2016 IRC Report.

Ms. Wolfe requested the Board review and approve the IRC report and recommendations to dismiss case number 2015-5 and send case numbers 2015-6 and 2015-10 forward for a formal complaint.

MOTION

Mr. McMillan made a motion to approve the IRC recommendations, Mr. Gantt seconded, which carried unanimously.

Mr. Horton stated let the record reflect, Ms. Cooper arrived at 9:11 a.m.

C. Office of Investigations and Enforcement (OIE) Report – Sharon Wolfe

Ms. Wolfe stated that the Office of Investigations and Enforcement (OIE) currently has:

- 23 Active investigations
- 2 Do not open cases
- 44 Closed cases from January 1, 2016 through July 11, 2016
- 3 Do not open from January 1, 2016 through July 11, 2016
- 25 Active cases

The oldest active case is 494 days. Ms. Holleman stated at the previous meeting the Board inquired about the circumstances pertaining to this case. Ms. Holleman stated the Respondent took an extended period of time to responding to the charges. The respondent has an attorney regarding this matter. Ms. Holleman stated the case is near completion.

D. Office of Disciplinary (ODC) Counsel - Tracey Perlman

Ms. Perlman presented the Office of Disciplinary Counsel (ODC) report.

- 34 Open cases
- 16 Pending actions
- 10 Pending Hearings
- 7 Pending Final Orders
- 1 Appeal
- 3 Closed on or after June 8, 2013

Mr. Horton, thanked Mr. Perlman.

New Business **Application Hearings**

8. New Funeral Home or Change of Ownership

This proceeding was recorded by a court reporter in order to produce a verbatim transcript should one be necessary.

1. Cox Funeral Home, Inc. – Charles M. Cox III

Mr. Stephen Gantt recused himself.

A change of ownership application was submitted for Cox Funeral Home, Inc., with Mr. Charles M. Cox III as the proposed manager. Present on behalf of the facility was Mr. Charles M. Cox III. Ms. Holleman informed the Board the application was complete.

Mr. Cox requested the Board give consideration to the facility maintaining its current funeral establishment license number under the South Carolina State Board of Funeral Service. He explained the facility has been family-owned since its conception and the beginning of assigning license numbers.

Mr. Cox stated probate has been completed with the estate and the funeral home ownership transferred to a trust with him as the manager. Ms. Holleman confirmed the information was located in the packet.

Executive Session

MOTION

Mr. O'Steen made a motion to go into Executive Session to receive legal advice.
Mr. McMillan seconded the motion, which carried unanimously.

Return to Public Session

MOTION

Mr. Nelson made a motion that the Board return to public session.
Mr. Petty seconded the motion, which carried unanimously.

Mr. Horton stated, for the record, that no votes were taken during executive session.

MOTION

Ms. Cooper made a motion to approve the facility and manager pending a favorable South Carolina Department of Consumer Affairs letter and that the request to retain the current Funeral Establishment license number be granted.
Mr. Nelson seconded the motion, which carried unanimously

Mr. O'Steen requested an action item for discussion be placed on the next agenda.

2. Jordan-Brockington Funeral Home, Inc.

Mr. Gantt returned to the meeting at 9:33 a.m.

Mr. Horton asked Mr. Jordan if he should recuse himself since the facilities are approximately 16 miles apart. Mr. Jordan, stating no concerns, agreed for Mr. Horton to remain.

A new facility application was submitted for Jordan-Brockington Funeral Home, Inc. with Mr. David W. Jordan as the proposed manager. Present on behalf of the facility was Mr. David W. Jordan. Ms. Holleman stated the application was complete and that Mr. Jordan did have a criminal history, however all charges were pardoned.

The Board questioned Mr. Jordan regarding the sale of pre-need contracts. Mr. Jordan stated the current owner, Brockington Funeral Home, provides pre-need sales; however, Brockington Funeral Home will immediately be dissolved. Mr. Jordan confirmed the pre-needs will transfer.

MOTION

Mr. Nelson made a motion to approve the facility and manager pending a favorable South Carolina Department of Consumer Affairs letter and an inspection. Mr. McMillan seconded the motion, which carried unanimously.

3. Samuels and Richardson Funeral Home

Mr. Horton asked Mr. Alston and Mr. Hayes if they would like for him to recuse himself since the facilities are approximately 24 miles apart. Both, stating no concerns, agreed for Mr. Horton to remain.

A change of ownership application was submitted for Samuels and Richardson Funeral Home with Mr. Alex R. Alston as the proposed manager. Present on behalf of the facility were, Mr. Hayes Samuel and Mr. Alex R. Alston.

Ms. Holleman stated the application was complete. Ms. Holleman stated Mr. Faison was the manager of the former funeral home. Mr. Faison passed away, and during a telephone conversation about finding a new manager one of the previous owners, Ms. Richardson, informed Ms. Holleman that she had distributed her stock shares to others, including Mr. Faison. Ms. Holleman stated upon the completion of the probate for Mr. Faison's estate, the Funeral Establishment will return before the Board.

Mr. Samuels addressed the Board requesting the new ownership and manager application be approved.

MOTION

Ms. Cooper made a motion to approve the change of ownership and manager Mr. O'Steen seconded the motion, which carried unanimously.

4. Upstate Family Funeral Home

A new facility application was submitted for Upstate Family Funeral Home with Mr. Cassius I. Murray as the proposed manager. Present on behalf of the facility were Mr. Bennie Brown, Jr. and Mr. Cassius I. Murray. Ms. Holleman stated the application was complete. Ms. Holleman informed the Board that the facility was formerly The Brown Funeral Home.

The Board asked if the facility was licensed to sell pre-need. Mr. Murray answered, "no."

MOTION

Mr. Petty made a motion to approve the new facility and manager. Mr. Gray seconded, the motion, but the motion was amended by Mr. Petty.

Mr. Petty amended the motion to approve the new facility and manager pending final inspection by the Board.

Mr. McMillan seconded the modified motion, which carried unanimously.

5. Upstate Family Funeral Home Greenville

A new facility application was submitted for Upstate Family Funeral Home Greenville with Mr. Cassius I. Murray as the proposed manager. Present on behalf of the facility were Mr. Bennie Brown, Jr., and Mr.

Cassius I. Murray. Mr. Horton noted that both Mr. Brown and Mr. Murray were sworn in on the previous case. Ms. Hollman stated the application was complete and this facility will be a branch located in the former The Brown Funeral Home Heritage Chapel.

Executive Session

MOTION

Mr. O'Steen made a motion to go into Executive Session to receive legal advice.
Mr. Gray seconded the motion, which carried unanimously.

Return to Public Session

MOTION

Mr. Nelson made a motion that the Board return to public session.
Mr. McMillan seconded the motion, which carried unanimously.

Mr. Horton stated, for the record, that no votes were taken during executive session.

The Board questioned Mr. Murray regarding the embalmer for the facility because Mr. Murray has an embalmer's license as well. Mr. Murray confirmed Mr. Stanley Rice will be the trade embalmer. The Board questioned Mr. Murray regarding his former employment. Mr. Murray stated that he was formerly employed with the sheriff's department up until April 1, 2016, in which he resigned so that he could run for the coroner position. He lost the election on June 14, 2016. The Board asked Mr. Murray if he is aware of the legal responsibilities, laws, and regulations of a manager. Mr. Murray responded, "best of my ability."

MOTION

Mr. Nelson made a motion to approve the facility and manager pending final inspection.
Mr. McMillan seconded the motion, which carried unanimously

Mr. Temples arrived at 10:09am.

Case Nos. OIE – 2015-26 and 2015-27

Ms. Perlman informed the Board Case Nos. OIE – 2015-26 and 2015-27 has been continued and areset to be heard on August 18, 2016. Chairman Horton agreed to the continuance.

9. Approval of Consent Agreement (CA) – Tracey Perlman

1. Case No. OIE 2016-18

This proceeding was recorded by a court reporter in order to produce a verbatim transcript should one be necessary.

Ms. Perlman presented the Consent Agreement to the Board.

The Respondent stipulates and admits that:

- a. Respondent was a Funeral Director/Embalmer at Trezevant Funeral Home (License No.: FE.103 PAR) located at 5716 Koon Road in Columbia, South Carolina. The Respondent's license was first issued on August 26, 1982. At the time of the Complaint, Respondent was the preceptor for a funeral director apprentice, Bruce A

Trezevant (License No.: FD.3711 APPR) and the crematory manager for the facility.

- b. On March 13, 2016, an advertisement was published in the newspaper, suggesting that the Respondent's apprentice was fully licensed and managing the funeral home. The Respondent was not asked or shown the advertisement prior to its' publication. According to the apprentice, the ad "purely states that he has taken over the operation of the funeral home he founded" and does not suggest that he is licensed to operate as a funeral director. The Respondent did not authorize or give permission to place the advertisement.

Respondent waives any further findings of fact with respect to this matter.

CONCLUSIONS OF LAW

1. Respondent admits that the conduct in this matter is in violation of S.C. Code Ann. § 40-19- 110(2), in that the Respondent is using false or misleading advertising or using the name of an unlicensed person in connection with that of a funeral establishment;
2. Respondent admits that the conduct in this matter is in violation of S.C. Code Ann. § 40-1-110(l)(c), in that Respondent has intentionally or knowingly, directly or indirectly, violated or has aided or abetted in the violation or conspiracy to violate this article or a regulation promulgated under this article;
3. Respondent hereby waives any further conclusions of law with respect to this matter.

THEREFORE, IT IS AGREED, WITH RESPONDENT'S CONSENT, THAT:

1. Respondent's license shall be publicly reprimanded.
2. Respondent shall pay a civil penalty of Five Hundred Dollars (\$500.00) to the Board within sixty (60) days of the effective date of this Agreement. Respondent shall also pay an additional Five Hundred Dollars (\$500.00) for the costs of the investigations, for a total fine of One Thousand Dollars (\$1,000.00) to be paid within 60 days. Said fine is not deemed paid until received in full by the Board. Failure to pay the fine as ordered may result in the administrative suspension of the referenced licenses until such time as the civil penalty is paid in full.
3. Respondent acknowledges that Respondent has the right to a hearing and to be represented by counsel in this matter, and freely, knowingly, and voluntarily waives such rights by entering into this Consent Agreement. Respondent understands and agrees that by entering into this Consent Agreement Respondent voluntarily relinquishes any right to judicial review of the Board's action(s) which may be taken concerning any related matters
4. It is understood and agreed that if Respondent fails to meet the conditions agreed to in this Consent Agreement, Respondent's license may be suspended pending further order of the Board. Non-compliance may result in further discipline. Any license law violations by Respondent shall constitute a failure to meet the conditions of this Consent Agreement.
5. Respondent understands and agrees that this Consent Agreement will not become effective unless and until approved by the Board. Respondent understands and agrees that this Consent Agreement, if approved, will be disseminated as a public action of the Board in the manner provided by law. Respondent understands and agrees that if this Consent Agreement

is not approved, it shall not constitute an admission against interest in this proceeding or prejudice the right of the Board to adjudicate this matter.

6. Respondent shall promptly advise this Board in writing of any changes in address, practice, privileges, professional status, or compliance with this Agreement. Correspondence and copies of reports, notices and payments of fines mentioned herein shall be directed to:

South Carolina Dept. of Labor, Licensing and Regulation
ATIN: State Board of Funeral Service-Compliance
Post Office Box 11329
Columbia, SC 29211-1329

7. Respondent understands and agrees that if this Consent Agreement is approved, it shall become a public document under the South Carolina Freedom of Information Act, section 30-4-10, et seq. This Consent Agreement shall take effect immediately upon receipt of a fully executed copy by Respondent or counsel for Respondent.

MOTION

Mr. McMillan made a motion to approve the Consent Agreement,
Mr. Nelson seconded the motion, which carried unanimously.

10. Approval of Memorandum of Agreement (MOA) – Tracey Perlman

This proceeding was recorded by a court reporter in order to produce a verbatim transcript should one be necessary.

1. Case No.: 2015-77

Respondent, Robert Bethea III, is duly licensed in this state by the South Carolina Board of Funeral Services (hereinafter the "Board") as a Funeral Director/Embalmer and serves as the Funeral Director/Embalmer supervisor of Bethea Funeral Home (License No.: FE.277 PAR) in Orangeburg South Carolina. Respondent was first licensed on April 5, 1978. For the purposes of this Memorandum of Agreement and Stipulations, unless otherwise specified, Robert Bethea III shall be referred to as Respondent.

A Notice and Complaint has been filed and served alleging that Respondent violated applicable state laws and regulations related to funeral service pursuant to S.C. Code Ann. §§ 40-19-5 *et seq.* (1998, as amended.)

Respondent admitting the allegations, has advised that he wishes to waive formal hearing Procedures and dispose of this matter pursuant to S.C. Code Ann. § 1-23-320(f) (1976, as amended) in lieu of, *inter alia*, a contested hearing before the Board of Funeral Service; and

Respondent will participate in a Final Order Hearing pursuant to the authority granted to the Board by S.C. Code Ann. §§ 40-1-70, 40-1-90, 40-19-70 and 40-19-90 (1976, as amended) on **July 18, 2016**, for the purpose of determining an appropriate sanction, if any.

THEREFORE, RESPONDENT STIPULATES AND ADMITS to the following facts, to be considered by the Board, along with the attached exhibits which are attached hereto and incorporated herein, for the purpose of determining an appropriate sanction in connection with the disciplinary matter pending against Respondent:

- a. Respondent has prior disciplinary actions in the form of a Consent Agreement for making misrepresentations and/or committing fraud while engaging in the practice of funeral service, making a false statement on a certificate of death, violating a state or federal law concerning funeral establishments, and failure to have a written statement indicating the arrangements to be completed as required. Respondent was fined a civil penalty of \$2,500 and subject to probationary status for the period of one year.
- b. Respondent's license was administratively suspended on October 2, 2015 for his failure to meet the conditions ordered in the Consent Agreement, specifically his failure to pay the civil penalty. On October 23, 2015, Respondent paid the fine and his license was reinstated under probationary status to end on May 20, 2016.
- c. On or about June 30, 2008, Respondent submitted a renewal application for the practice of funeral services. The application asked the following questions: "Since the date of your last renewal application, have you been charged, arrested, indicted, or convicted, pled guilty of, or pled nolo contendere for violation of any federal, state, or local law? Respondent answered "no" to the questions related to those disclosures. Respondent repeated this answer on his July 1, 2010 renewal application
- d. Respondent omitted the following material facts when obtaining his real estate licensure in South Carolina:
 - i. Respondent pled guilty for multiple counts of failing to file a tax return for the years 2000 to 2006. Respondent was sentenced to 20 days in jail, ordered to pay a total of \$34,986 and subject to a period of five years of probation. This charge marked the second time in eight years that Respondent had pled guilty to the charge of failing to report and pay state taxes.

RESPONDENT ADMITS that the aforementioned acts of Respondent present grounds that constitute misconduct and are a violations of the following:

- a) S.C. Code Ann. § 40-1-110(1)(f), in that the Respondent has committed a dishonorable, unethical, or unprofessional act that is likely to deceive, defraud, or harm the public; and
- b) S.C. Code Ann. § 40-1-110(1)(c), in that Respondent has intentionally or knowingly, directly or indirectly, violated or has aided or abetted in the violation or conspiracy to violate this article or a regulation promulgated under this article; and
- c) S.C. Code Ann. § 40-1-110(1)(a), in that the Respondent used a false, fraudulent, or forged statement or document or committed a fraudulent, deceitful, or dishonest act or omitted a material fact in obtaining licensure under this article.

Mr. Bethea waived his right to legal counsel, spoke on his own behalf, and entertained questions from the Board.

Executive Session

MOTION

Ms. Cooper made a motion to go into Executive Session to receive legal advice.
Ms. DuPre seconded the motion, which carried unanimously.

Return to Public Session

MOTION

Mr. Nelson made a motion that the Board return to public session.
Ms. Cooper seconded the motion, which carried unanimously.

Mr. Horton stated, for the record, that no votes were taken during executive session.

MOTION

Ms. Cooper made a motion that the terms of the MOA be accepted with Respondent's license being publically reprimanded with a suspension for one year effective immediately, Monday, July 18, 2016 ending July 18, 2017 and the license to be placed on probation for Two years, following the suspension period. The Respondent shall pay a civil penalty of \$1,500, plus investigative cost, within six months of the final order.

Mr. McMillian seconded the motion, which carried unanimously

Disciplinary Hearings – Tracey Perlman

2. Case Nos. OIE – 2014-25, 2015-28

This proceeding was recorded by a court reporter in order to produce a verbatim transcript should one be necessary.

Mr. Stephen Gantt recused himself. (10:41 a.m.)

Respondent, Goins Funeral Home ("Respondent-Establishment") is licensed to practice as a Funeral Establishment in South Carolina and was so licensed at all times relevant to the matters asserted in this case. Until January 10, 2016 Respondent-Establishment was managed by Barbara B. Tompkins ("Respondent-Manager"), acting as Funeral Director. For the purpose of this complaint, unless otherwise noted, Respondent-Establishment and Respondent-Manager will be collectively referred to as "Respondents."

The Board received an initial complaint and has investigated the conduct of Respondents. The Board has jurisdiction over Respondents and the subject matter contained herein.

Respondents have prior disciplinary actions against them, including a Letter of Caution for aiding and abetting an unlicensed person to engage in the practice of funeral service.

Upon information and belief, Respondents have violated the Rules and Regulations of the Board of Funeral Services, S. C. Code Ann. § 40-19-5, *et. seq.* (1976, as amended) by committing the following acts:

OIE CASE NUMBER: 2014-25

- a. On or about September 7, 2007, Respondents entered into a non-guaranteed pre-need contract with Mrs. Annie Farr (the "decedent"). The decedent made Respondents the

beneficiary of five (5) life insurance policies to potentially offset a potential increase for items decedent wished to have on her contract. The decedent also provided monies towards the pre-need contract however, Respondent-Establishment failed to deposit these funds in a trust account in violation of S.C. Code Ann. § 32-7-20(A)(I).

b. On or about April 21, 2013, the decedent passed. When making decedents final arrangements, Respondent-Establishment failed to provide the decedent's next of kin an updated and itemized statement of funeral goods and services contracted before services were rendered. After the decedent was buried, the decedent's family felt that an overcharge may have taken place and noted that some financial charges were wrongly applied, including:

- i. A \$300 charge for a newspaper obituary, when there was none listed.
- ii. A \$750 charge for a grave plot at the cemetery when the church asked for a donation of \$500.
- iii. A \$325 charge for the use of facilities and staff for church service, when there was no charge for the use of the church
- iv. A \$65 charge for a beautician when the family brought a wig for decedent.
- v. A \$289.30 charge for printed programs, when the name of the decedent on the programs on the day of the service was spelled incorrectly and the family was only given 30 corrected programs after service was rendered.

c. Complainant filed a complaint with South Carolina Department of Consumer Affairs ("Consumer Affairs") regarding Respondent-Establishment's mishandling of the funeral arrangements.

d. In a letter dated April 29, 2014, Consumer Affairs fined Respondent- Establishment for violations of S.C. Code Ann. § 32-7-20(A)(I) and S.C. Code Ann. § 32-7-20(H), for failing to deposit all funds received by the provider in trust in a federally insured account.

e. Respondent-Establishment was asked to refund money to the Complainant in accordance with of S.C. Code Ann. § 32-7-20(3), in that any excess monies must be refunded to the beneficiary. However, the Respondent-Establishment sent to the Complainant checks that were returned for insufficient funds.

f. On August 18, 2014, Consumer Affairs revoked the Respondent-Establishment's preneed funeral contracts license and issued a Cease and Desist to Respondent from engaging in selling, offering and accepting preneed funeral contract funds.

OIE CASE NUMBER: 2015-28

g. Respondent-Manager is the manager of record for the Funeral Establishment where the violations of Respondent-Establishment relevant to OIE Case Number 2014-25 occurred. Respondent- Manager knowingly, willingly, and intentionally allowed the continued violations of a state or federal law or regulation concerning funeral establishments

As a result of the acts of misconduct alleged above, Respondent has violated the Rules and Regulations of the Board of Funeral Service in the following particulars:

1. Respondent has violated S.C. Code Ann. § 40-1-1 IO(l)(f) in that Respondent has committed a dishonorable, unethical, or unprofessional act that is likely to deceive, defraud, or harm the public through their violation of S.C. Code Ann. § 32-7-20(A)(l) , § 32-7-20(H) and § 32-7-20(3).
2. Respondent violated S.C. Code Ann. § 40-19-110(1) in making misrepresentations or committing fraud while engaging in the practice of funeral service through the mishandling of the funeral arrangements for decedent as evident through their violation of S.C. Code Ann. § 32-7-20(A)(l) , § 32-7-20(H) and § 32-7-20(3).
3. Respondent violated S.C. Code Ann. § 40-19-110(12) through violating applicable state laws relating to the prearrangement or pre-financing of a funeral as evident through their violation of S.C. Code Ann. § 32-7-20(A)(l) , § 32-7-20(H) and § 32-7-20(3).
4. Respondent violated S.C. Code Ann. § 40-19-110(14) through violating a state or federal law or municipal or county ordinance or regulation concerning funeral establishments or the practice of funeral service through their mishandling of the funeral arrangements as evident through their violation of S.C. Code Ann. § 32-7-20(A)(l) , § 32-7-20(H), and § 32-7-20(3).

Mr. Leamon and Ms. Tompkins waived their right to legal counsel.

The hearing included evidence and arguments from Ms. Perlman on behalf of the State of South Carolina and from Mr. Jalair Leamon, representing the funeral home, and Ms. Barbara Tompkins, representing herself.

Executive Session

MOTION

Mr. O'Steen made a motion to go into Executive Session to receive legal advice.
Mr. Petty seconded the motion, which carried unanimously.

Return to Public Session

MOTION

Mr. Nelson made a motion that the Board return to public session.
Dr. DuPre seconded the motion, which carried unanimously.

Mr. Horton stated, for the record, that no votes were taken during executive session.

In regards to Ms. Barbara Thompkins:

MOTION

Ms. Cooper made the motion that Respondent's license shall be publicly reprimanded, that the licensee shall be placed on probation for a period of one year, and that the Respondent be fined \$500, plus an additional \$150.00 investigative cost, payable within six (6) months of the Final Order.

Mr. McMillan seconded the motion, which carried unanimously.

In regards to Goins Funeral Home, Inc.:

MOTION

Ms. Cooper made the motion that Respondent's license shall be publicly reprimanded and that the Respondent, Goins Funeral Home, Inc.'s license shall be permanently revoked, effective immediately, Monday, July 18, 2016. Additionally, the Respondent shall pay a fine of \$500.00 within six (6) 6 months of the Final Order.

Mr. Nelson seconded the motion, which carried unanimously.

11. Executive Session Item (no items)

Mr. Horton addressed the Board requesting research be done to develop procedures/mechanisms to strongly convey to all managers the laws and required responsibilities of a manager. Mr. Horton stated the Board is consistently reviewing matters in that the manager is not aware of or/and neglects his/her responsibilities resulting in not observing the laws. The Board suggested educational seminars/presentations for clarification purposes be given by the Department at various professional association events.

Ms. Holleman responded the corporate resolution, which the manager and owner must sign, is one existing option. Ms. Holleman stated she and Mr. Adams are currently working on a project to provide further education to the licensees. Ms. Holleman stated she will be glad to develop methods of disseminating important information regarding the manager's responsibilities.

12. Public Comments (no votes taken)

There were no public comments

13. Adjournment

MOTION

Mr. Nelson made a motion to adjourn the meeting.

Mr. Temple seconded the motion, which carried unanimously.

Mr. Horton, after ensuring there being no further business to discuss, adjourned the July 18, 2016, meeting for the South Carolina Board of Funeral Service at 3:56p.m.

The next meeting of the SC Board of Funeral Service is scheduled for August 18, 2016 at 10:00a.m. at Synergy Business Park, 110 Centerview Drive, Kingstree building, Room 108, Columbia, South Carolina.