

MINUTES
South Carolina Board of Funeral Service
Board Meeting

10:00 a.m., April 15, 2015
Synergy Business Park
110 Centerview Drive, Kingtree Building Room 108
Columbia, South Carolina

Wednesday, April 15, 2015

1. Meeting Called to Order

Wallace McKnight, Jr., President, of Andrews, called the regular meeting of the SC Board of Funeral Service to order at 10:07 a.m. Other Board members present for the meeting included: Charlie Bradford Evans, Vice President, of Abbeville; Thomas E. Baker, II, of Kershaw; Michelle Cooper, of Monks Corner; William B. Horton, Jr., of Kingtree; Eddie Nelson, of Blythewood; Mark R. O'Steen, of Spartanburg; John L. Petty, III, of Landrum; and, Jeffrey K. Temples, of Columbia.

Staff members participating in the meeting included: Mary League, Advice Counsel, Office of Advice Counsel; Donnell Jennings, Advice Counsel, Office of Advice Counsel; Tracey Perlman, Office of Disciplinary Counsel; Wendi Elrod, Program Assistant; Amy Holleman, Administrator; 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: Elizabeth Simmons, of the SC Morticians Association (SCMA); Matalie Mickens, of SC Department of Consumer Affairs (SCDCA); Mike Squires, of the SC Funeral Directors Association (SCFDA); Samantha Thompson, Grace Funeral Service; Jessica Fickling, Strom Law Firm; Robyn Madden, Strom Law Firm; Tommy Harris, Harris-Nadeau Mortuary; Steve Nadeau; Michael Graham, Harris-Nadeau Mortuary; James Adcock; Brian Gargis Thompson Funeral Home; Edward La Posta, Thompson Funeral Home; Allen Bateman, Thompson Funeral Home; Shonda S. Jenkins, Grace Funeral Home; Ernest Smith, Brown & Son Funeral Home; Albert Thompson; Mike Kelly, Mike Kelly Law Group; Van Watson, Trezevant Funeral Home; Bruce A. Trezevant; and, Walton J. (Tad) McLeod, IV, Esq., Mike Kelly Law Group.

a. Public Notice

Mr. McKnight announced that public notice of this meeting was properly posted at the SC 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

Marcus D. Brown, Secretary/Treasurer, of Anderson, was granted excused absences.

MOTION

Mr. Evans made a motion that the Board excuse Mr. Brown's absence. Mr. Temples seconded the motion, which carried unanimously.

4. Reports

A. Inspection Report – Buddy Poole

Mr. Poole informed the Board that he and Mr. Adams conducted 45 inspections from March 11, 2015 to April 8, 2015.

B. Office of Investigations and Enforcement (OIE) Report

Ms. Holleman stated since Ms. Sharon Wolfe has to attend a conference she will be giving the OIE report. She stated that there are currently eleven active investigations, five do not open cases, two pending further information, five opened cases, and 23 closed cases from January 1, 2015 through April, 2015. The oldest active case is 1,079 days, the reason is because case number 2012-9 was in ODC but had to be sent back to the IRC for further information.

C. Office of Disciplinary (ODC) Counsel

Ms. Perlman presented the Board with the report from the Office of Disciplinary Counsel (ODC). She included in the report that ODC opened 25 cases, 14 cases are pending action, five cases pending hearings, five pending final orders, and one case appealed.

5. Reconsideration/Reinstatement

Ernest M. Smith – Funeral Director/Embalmer

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

Ms. Fickling, Esq. appeared on behalf of the respondent Ernest M. Smith.

Ms. Holleman stated that Mr. Smith wishes to reinstate his license since it was suspended on January 30, 2014 for one year by the Administrative Law Court.

He paid a reinstatement fee of \$180.00 and he has taken the required six hours of continuing education.

Executive Session

MOTION

Mr. Evans made a motion that the Board enter into executive session for legal advice. Mr. Nelson seconded the motion, which carried unanimously.

Return to Public Session

MOTION

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

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

Ms. Cooper asked Mr. Smith if he had submitted a renewal application to Labor, Licensing and Regulation (LLR) in 2014.

Mr. Smith stated he did not since his license was suspended until January 30, 2015.

Ms. Cooper then asked if Mr. Smith received any information from LLR to renew his license, which Mr. Smith replied he did not.

Mr. Petty asked how long Mr. Smith has been licensed, which Mr. Smith replied he has been licensed since 1996.

Mr. Petty asked if it was true that Mr. Smith has been licensed since 1996 and doesn't know when his license expires.

Mr. Smith stated yes he does know when it expires, but his license was under suspension.

Executive Session

MOTION

Mr. Evans made a motion that the Board enter into executive session for legal advice. Mr. Petty seconded the motion, which carried unanimously.

Return to Public Session

MOTION

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

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

MOTION

Mr. Baker made a motion that the Board lifts the Administrative Law Court (ALC) Order. The reinstatement application and fee should be returned to Mr. Smith and allow him to renew his license. Mr. Horton seconded the motion, eight yeas and Mr. Nelson opposed.

Amend Agenda

MOTION

Mr. Evans made a motion that the Board amend the agenda to move to item 11) Disciplinary Hearings, then back to item 6) Approval of Minutes. Mr. Temples seconded the motion, which carried unanimously.

6. Approval of Minutes for the March 19, 2015 & March 20, 2015 board meeting

Mr. Imgrund, the Board's usual advice attorney made an amendment to the minutes for Retail Sales Outlets, which Ms. Holleman read for the record.

Retail Sales Outlets inspection guidelines

Mr. Imgrund reminded the Board that at the February 3, 2015 Board of Funeral Service board meeting they voted to deregulate Retail Sales Outlets if statute allows. He stated in Section 40-19-265 (c) does not allow for the complete deregulation.

He stated since the statute does not allow for the complete deregulation the Board may come up with specific inspection guidelines for Retail Sale outlets as it should be outlined in Chapter 57-15.

He informed the Board that the practice act will have to change to completely deregulate Retail Sales Outlets.

Ms. Holleman stated that the minutes from the September 12, 2002, Board of Funeral Service board meeting addressed the issue of guidelines and included that Retail Sales Outlets should have six adult size caskets on display.

Mr. Imgrund noted that as the guidelines were initially set by the Board, they too may be modified by the Board.

Mr. Horton suggested that the Board review the requirements for Retail Sales Outlets to the next Board meeting agenda.

Mr. Evans suggested that the only things required for the inspection of a Retail Sales Outlets should be merchandise price list and have the permit displayed. All other guidelines provided for Funeral Homes were unnecessary for Retail Sales Outlets.

MOTION

Mr. Evans made a motion that the Board require Retail Sales Outlets to (1) have the merchandise price list readily available and (2) the permit must be on display. Mr. Baker seconded the motion, Mr. Horton opposed the motion. The Motion passed.

MOTION

Mr. Evans made a motion that the Board approve the minutes from the March 19, and March 20, 2015, meetings with changes from Mr. Imgrund. Mr. O'Steen seconded the motion, which carried unanimously.

7. President's Remarks – Wallace McKnight

Mr. McKnight welcomed everyone and stated he has no further remarks.

8. Administrator's Remarks – Doris Cubitt

A. Administrator Position

Ms. Holleman stated that the agency has offered her the position as administrator, and she has accepted.

B. Administrative Committee meeting recommendations for applications

Ms. Holleman informed the Board that the committee met on April 14, 2015 to review funeral applications. She stated that the changes will be sent to Kate Barroll, the attorney working on application revisions for the agency, and once she has modified them, they will be presented to the Board for review.

9. Motion for Clarification - Tracey Perlman

Case No. OIE – 2012-63 - Lawrence Meadows

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

Ms. Perlman stated that Mr. Meadows has signed a consent agreement.

She stated that this case was presented to the Board on August 28, 2014 for First Family Funeral Home, FE 882. After hearing testimony in the matter, the Board sanction was to revoke Mr. Meadow's license as being manager of the funeral home.

The agency determined after the hearing that the Board should have sanctioned the funeral home not the manager since the complaint was filed on the funeral home.

Ms. Perlman presented a consent agreement to Mr. Meadow's clarifying that Mr. Meadow's license was revoked as being manager of First Family Funeral Home.

MOTION

Mr. Evans made a motion that the Board accept the consent agreement. Mr. Nelson seconded the motion, which carried unanimously.

10. Consent Agreement (CA) - Tracey Perlman

Case No. OIE – 2014-45 - Chisolm Galloway Funeral Home, FE 28

Case No. OIE – 2014-46 - Edith Galloway, FD 2357

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

Ms. Perlman stated that the state and Ms. Galloway have entered into a consent agreement.

Ms. Perlman read the consent agreement for the record.

Respondents stipulate and admit that:

Respondents failed to timely file with the South Carolina Department of Health and Environmental Control (SCDHEC) a death certificate for an individual whose date of death was January 27, 2014. The certificate was filed with SCDHEC on June 9, 2014.

Respondents failed to timely file with the SCDHEC a death certificate for an individual whose date of death was January 25, 2014. The certificate was filed with SCDHEC on June 13, 2014.

Respondent admits that the conduct in this matter is in violation of SC Code Regulations 61-19-18(a) and 61-19-18(b).

Ms. Pearlman informed the Board that the State and Ms. Galloway agreed to a consent agreement for a public reprimand and a One Thousand Dollars (\$1,000) fine to be paid within sixty (60) days of the date of the consent agreement.

MOTION

Mr. Nelson made a motion that the Board accept the consent agreement. Mr. Petty seconded the motion, which carried unanimously.

11. Disciplinary Hearing – Tracey Perlman

1. Case No. OIE - 2014-20 Bostick-Tompkins Funeral Home, FE 487

2. Case No. OIE – 2014-21 Willie A Tompkins, FDE 1738

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

Mr. McLeod, Esq. appeared on behalf of the respondent Willie Tompkins.

Ms. Perlman stated that both parties have entered into a Memorandum of Agreement (MOA).

Respondents stipulate and admit that:

Respondent-Director admits that he was the manager of the Respondent-Funeral Home and the preceptor to Curtis Tompkins (Apprentice).

Respondent-Director admits from Jun 27, 2011, to July 5, 2011, he took a leave of absence from the Respondent-Funeral Home.

Respondent admits that on or about June 28, 2011, the Apprentice embalmed and prepared the body of Susie Watson for her funeral service without the supervision of Respondent as his preceptor.

Respondent admits that, during Mr. Willie Tompkins' absence for necessary medical treatment, a misidentification and improper preparation occurred involving the bodies of Susie Watson and Annie Samuels. The body of Susie Watson was prepared in the casket, clothing and personal effects of Annie Samuels. The body of Annie Samuels was prepared in the casket, clothing and personal effects of Susie Watson.

Respondent admits that on March 20, 2014, Respondent-Director testified before the board in a related case and admitted under oath that he allowed the Apprentice to re-aspirate Susie Watson without supervision.

Ms. Perlman stated that they admit to violating Section 57-06.1(4), 40-19-110(14), 40-19-110(15) and 40-1-110(f).

Mr. McLeod read a statement to the Board on behalf of Mr. Tompkins:

I would like to thank the Board for hearing this statement and for accepting the Memorandum of Agreement. I have been honored to be in this business for thirty (36) years. At Bostick-Tompkins Funeral Home we take a great deal of pride in helping families through some of the toughest days of their lives. While it is not fun work, we all know that helping families in need is rewarding by itself.

No one is perfect in this world. No Business runs without having hiccups. I realize that mistakes were made by myself and my team, but I want each of you to know that I will do everything within my power to ensure that Bostick-Tompkins Funeral Home does things the right way all the time in the future. I will do everything I can do to ensure that we avoid mistakes. I will do everything I can to ensure our people are properly trained, and remain properly trained. Please know that I will lead on this from the front.

Last month, our attorney Tad McLeod conducted the first session in our newly instituted a quarterly training plan for our business with the goal of eliminating all situations that can result in even the appearance of unprofessionalism. Our first subject was the role and requirements of apprentices and preceptors. I am providing you with a copy of the attendance sheet from the session. Each of my employees and myself will spend time discussing our profession's rules and regulations. Our client families deserve for us to be at our best every day. This is what the law requires, and so do I.

I do want to personally apologize to the Board for this matter occurring in the first place. I also apologize to the families affected. We have taken affirmative steps to ensure we have best team of employees working at Bostick-Tompkins Funeral Home, and I truly believe that an incident like this will not happen again.

My Company is in the business of helping people, but make no mistake my company is a family in itself. We spend long days together working in a noble profession which provides

comfort and support during times of family crisis. They, like me, are committed to ensuring that Bostick-Tompkins Funeral Home continues to be a standard bearer for this profession. I humbly ask this Board for leniency today and to consider the positive momentum that Bostick Tompkins is generating in 2015 when considering the incident that occurred in 2011.

Executive Session

MOTION

Mr. Horton made a motion that the Board enter into executive session for legal advice. Ms. Cooper seconded the motion, which carried unanimously.

Return to Public Session

MOTION

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

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

Mr. Jennings stated that the Board has requested that he ask Mr. Tompkins a question regarding the MOA. Mr. Jennings stated that number three of the MOA states that the "*Respondent admits that on or about June 28, 2011, the Apprentice embalmed and prepared the body of Susie Watson for her funeral service without the supervision of Respondent as his preceptor*". However, the death certificate states that Mr. Tompkins embalmed the body of Ms. Watson. So the question is did the Apprentice embalm the body or did Mr. Tompkins.

Mr. Tompkins stated that he embalmed the body.

Executive Session

MOTION

Mr. Horton made a motion that the Board enter into executive session for legal advice. Mr. Evans seconded the motion, which carried unanimously.

Return to Public Session

MOTION

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

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

MOTION

Mr. Horton made a motion that the Board reject the MOA because some facts are incorrect. Ms. Cooper seconded the motion, which carried unanimously.

Ms. Perlman asked if they can revise the MOA and still be heard today so they do not have to appear before the Board on a later date.

Mr. McKnight stated yes, they may revise the MOA and be heard today.

Lunch break

MOTION

Mr. Evans made a motion that the Board break for lunch at 12:10 p.m. and return at 1:30 p.m. and reconvene on this case. Mr. Horton seconded the motion, which carried unanimously.

Ms. Perlman presented the amended MOA, with the correct to item number three that reads, *“Respondent admits that on or about June 28, 2011, the Apprentice dressed and prepared the body of Susie Watson for her funeral service without the supervision of Respondent as his preceptor”*.

Executive Session

MOTION

Mr. Horton made a motion that the Board enter into executive session for legal advice. Ms. Cooper seconded the motion, which carried unanimously.

Return to Public Session

MOTION

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

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

MOTION

Ms. Cooper made a motion that the Board accept the amended MOA. And since the State has proven their case Respondent is in violation of all Sections 40-1-110(f), 40-19-110(1) and 32-7-30(A). The Board feels that the appropriate sanction is for a public reprimand, two (2) year suspension, and a fine of \$500 per violation, for a total of \$2,000 paid within thirty (30) days of receipt of final order for Mr. Tompkins, FDE 1738 and public reprimand for Bostic-Tompkins Funeral Home, FE 487. Mr. Horton seconded the motion, which carried unanimously.

New Business

Application Hearings

12. New Funeral Home or Ownership change

1. Grace Funeral Services LLC – Shonda Reshea Simmons-Jenkins

Ms. Holleman stated that this funeral home was formally Stevens-Jenkins Funeral Home which recently closed. She stated that Ms. Jenkins and Ms. Thompson are the proposed owners that Ms. Jenkins will be manager, and that Ms. Jenkins is a trade embalmer.

Mr. Evans asked if Ms. Jenkins has read and understand the laws and stated that if anything goes wrong her license is on the line.

She stated she understands.

MOTION

Mr. Evans made a motion that the Board approve the application with Ms. Jenkins as manager, pending passing inspection. Ms. Cooper seconded the motion, which carried unanimously.

2. Harris-Nadeau Mortuary, Inc – Tommy Wayne Harris

Mr. Petty recused himself since he has a business relationship with Mr. Harris.

Ms. Holleman stated that this application is for a new funeral home owned by Tommy W. Harris, Michael Graham, and Steven J. Nadea, and Mr. Harris is the proposed manager.

Mr. Evans asked if Mr. Harris has read and understand the laws, which Mr. Harris stated he does.

MOTION

Mr. Baker made a motion that the Board approve the application with Mr. Harris as manager, pending passing inspection. Mr. Horton seconded the motion, which carried unanimously.

3. George Funeral Home & Cremation Center – Thomas Allen Bateman

FPG South Carolina, LLC is requesting an ownership change with Mr. Bateman as manager.

Mr. Evans asked if Mr. Bateman has read and understands the SC laws and regulations as stated on the application that has been submitted.

Mr. Bateman stated he has read and understands the SC laws and regulations.

Mr. Horton asked if the funeral home sales preneed.

Mr. Bateman stated they do.

MOTION

Mr. Evans made a motion that the Board approve the application with Mr. Bateman as manager, pending passing inspection and a favorable letter from Consumer Affairs. Mr. Horton seconded the motion, which carried unanimously.

Amend Agenda

MOTION

Mr. Evans made a motion that the Board amend the agenda to move item 12) 5) Thompson Funeral Home at Greenlawn Memorial Park, to before 13) Change of Manager. So item 12) 4) South Carolina Cremation Society and 12) 6) Thompson Funeral Home of Lexington through 12) 8) Woodridge Memorial Park & Funeral Home to be heard after item 12) 5) . Mr. Temples seconded the motion, which carried unanimously.

4. South Carolina Cremation Society – Brian R Gargis

5. Thompson Funeral Home of Lexington – Brian R Gargis

6. Thompson Funeral Home of W Columbia – Brian R Gargis

7. Woodridge Memorial Park & Funeral Home – Brian R Gargis

FPG South Carolina, LLC is requesting an ownership change with Mr. Gargis as manager.

Ms. Holleman informed the Board that the applications for the four above funeral homes were submitted with Mr. Gargis as manager of all four locations; however, they are owned by different entities.

Executive Session

MOTION

Mr. Evans made a motion that the Board enter into executive session for legal advice. Mr. Temples seconded the motion, which carried unanimously.

Return to Public Session

MOTION

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

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

Mr. Evans asked if Mr. Gargis has read and understands the SC laws and regulations as stated on the application that has been submitted.

Mr. Gargis stated he has read and understands the SC laws and regulations; however, in light of the documentation submitted by FPG South Carolina, LLC, he would like to withdraw applications for South Carolina Cremation Society and Woodridge Memorial Park & Funeral Home and resubmit at a later time for the next board meeting.

He stated that he wishes to keep Thompson Funeral Home of Lexington and Thompson Funeral Home of W Columbia.

MOTION

Mr. Evans made a motion that the Board approve the applications for Thompson Funeral Home of Lexington and Thompson Funeral Home of W Columbia with Mr. Gargis as manager, pending passing inspection and a favorable letter from Consumer Affairs. Mr. Horton seconded the motion, which carried unanimously.

8. Thompson Funeral Home at Greenlawn Memorial Park – Edward La Posta

FPG South Carolina, LLC is requesting an ownership change with Mr. La Posta as manager.

Mr. Evans asked if Mr. La Posta has read and understands the SC laws and regulations as stated on the application that has been submitted.

Mr. La Posta stated he has read and understands the SC laws and regulations.

Mr. Horton asked if the funeral home sales preneed.

Mr. La Posta stated they do.

MOTION

Mr. Evans made a motion that the Board approve the application with Mr. La Posta as manager, pending passing inspection and a favorable letter from Consumer Affairs. Mr. Horton seconded the motion, which carried unanimously.

13. Change of Manager

1. Trezevant Funeral Home – Van D Watson
2. Trezevant Crematory – Van D Watson

Mr. Temples recused himself since he knows Mr. Trezevant.

Mr. Trezevant stated that his father passed away, who was owner and manager of the funeral home. He stated that he wishes for Mr. Watson to manage the funeral home. As for the ownership they will apply for an ownership change once it is finalized with probate court.

Mr. Evans asked Mr. Watson if he understands he is the responsible person for the funeral home as being manager. Mr. Watson stated he does understand.

Mr. Petty asked if Mr. Watson is a crematory operator. Mr. Watson stated no he is not. Mr. Trezevant stated he is the certified crematory operator. Ms. Holleman pointed out that the crematory operator does not need to be a licensed funeral director but does need to be managed by a funeral director.

MOTION

Mr. Baker made a motion that the Board approve the manager change to Mr. Watson. Ms. Cooper seconded the motion, which carried unanimously.

14. Reinstatement

1. James M Adcock, Jr. – Funeral Director/Embalmer

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

Ms. Cooper, Mr. Horton and Mr. Temples recused themselves since they are familiar with this case.

Ms. Holleman stated that Mr. Adcock wishes to reinstate his license, but, due to his criminal history, which was a felony. She stated that the Board must determine if his license can be reinstated.

Mr. Adcock thanked the Board for allowing him to speak.

Mr. Adcock stated he served no jail time, and he has made restitution.

Executive Session

MOTION

Mr. Baker made a motion that the Board enter into executive session for legal advice. Mr. Nelson seconded the motion, which carried unanimously.

Return to Public Session

MOTION

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

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

Mr. Evans asked Mr. Adcock to clarify his felony.

Mr. Adcock stated the charges were breach of trust for \$50,000.

Mr. Evans asked if the felony was committed in the practice of funeral service, which Mr. Adcock responded that it was but no preneed was involved.

Executive Session

MOTION

Mr. Evans made a motion that the Board enter into executive session for legal advice. Mr. Baker seconded the motion, which carried unanimously.

Return to Public Session

MOTION

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

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

MOTION

Mr. Nelson made a motion that the Board deny Mr. Adcock's request. Mr. O'Steen seconded the motion, six yeas and Mr. Baker abstained from voting. The Motion carried.

15. Apprenticeship

1. Jamie L. Parks – Apprentice Funeral Director/Embalmer

Ms. Holleman stated that Ms. Parks called and requested to be placed on the May 20, 2015 agenda.

16. Public Comments (no votes taken)

Mr. Adams stated that the Federal Trade Commission (FTC) has had changes to the Funeral Rule so he suggested that the Board google FTC Funeral Rule compliance to review the changes.

Mr. Squires commended the Board and staff on all that they do.

17. Adjournment

MOTION

Mr. Evans made a motion the Board adjourn. Mr. O'Steen seconded the motion, which carried unanimously.

The April 15, 2015, meeting of the SC Board of Funeral Service adjourned at 4:09 p.m.

The next meeting of the SC Board of Funeral Service is scheduled for May 20, 2015.