

MINUTES
South Carolina Board of Funeral Service
Board Meeting

10:00 a.m., August 28, 2014
Synergy Business Park
110 Centerview Drive, Kingtree Building Room 108
Columbia, South Carolina

Thursday, August 28, 2014

1. Meeting Called to Order

Thomas E. Baker, II, President, of Kershaw, called the regular meeting of the SC Board of Funeral Service to order at 10:15 a.m. Other Board members present for the meeting included: Wallace McKnight, Jr., Vice President, of Andrews; Charlie Bradford Evans, Secretary, of Abbeville; William B. Horton, Jr., of Kingtree; Eddie Nelson, of Blythewood; Mark R. O'Steen, of Spartanburg; Michelle Cooper, of Monks Corner; and, Jeffrey K. Temples, of Columbia.

Staff members participating in the meeting included: Doris Cubitt, Administrator; Wendi Elrod, Program Assistant; Jeanie Rose, Administrative Assistant; Georgia Lewis, Advice Counsel, Office of Advice Counsel; Tracey Perlman, Office of General Counsel; Ernest Adams, Inspector, Office of Investigations and Enforcement; Buddy Poole, Inspector, Office of Investigations and Enforcement; Sharon Wolfe, Chief Investigator, Office of Investigations and Enforcement; Sharon Cook, Investigator, Office of Investigations and Enforcement; and, Amy Holleman, Administrative Assistant.

Members of the public attending the meeting included: Richard Nelson, of Haile's Funeral Home; Don Nelson, of Haile's Funeral Home; Joan English; Barbara Digan; Debra Jackson; Vincente Foster, of Foster Funeral Home; Kendall Kirby, of Foster Funeral Home; Eric LeGrand, of Greene Funeral Home; Stanley H. Powell; Ross McClary, of McClary's Funeral Home; N. Goglia, of Palmetto Mortuary; M. Keith, of Palmetto Mortuary; Rose Blackley; John F. Dowling, of Stoudenmire Dowling Funeral Home; Marcus Kitchens, of Stoudenmire Dowling Funeral Home; Glenn Miller; Charlene Rivers, of Rivers Funeral Home; Carol Holt, of Rivers Funeral Home; Gere Fulton, of Funeral Consumer Alliance of South Carolina (FCASC); Lawrence R. Meadows, of First Family Funeral Home; Jerry Thomas, of First Family Funeral Home; Lou Ann Pyatt, of the SC Morticians Association (SCMA); Elizabeth Simmons, of the SC Morticians Association (SCMA); Lewis Hicks, of the SC Morticians Association (SCMA) District 2; Roderick Cummings, of First Family Funeral Home; Matalie Mickens, of SC Department of Consumer Affairs (SCDCA); Jerry Hartley, of Jerry L. Hartley Funeral Home; and, Terry J. Burnham, Stoudenmire Dowling Funeral Home.

a. Public Notice

Mr. Baker 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

John L. Petty, III, of Landrum; and, Marcus Brown, of Anderson were granted excused absences.

MOTION

Mr. O'Steen made a motion that the Board excuse Mr. Petty's, and Mr. Brown's absences. Mr. Nelson seconded the motion, which carried unanimously.

4. Reports

A. Inspection Report

Mr. Adams informed the Board that he and Mr. Poole conducted 192 inspections from May 27, 2014 to August 18, 2014.

Mr. Baker stated the Board will accept this report as information.

B. Investigative Review Committee (IRC) Report

July 8, 2014 IRC report

Ms Wolfe presented the Investigative Review Committee (IRC) report from the July 8, 2014, IRC meeting. The IRC recommended that the Board dismiss case numbers 2014-6, 2014-9, and 2014-14; they recommended that the Board issue a formal complaint for case number 2013-67 and 2014-4; and, they recommended a letter of caution for case number 2014-13.

MOTION

Mr. Horton made a motion that the Board approve the IRC recommendations. Mr. O'Steen seconded the motion, which carried unanimously.

August 12, 2014 IRC report

Ms Wolfe presented the Investigative Review Committee (IRC) report from the August 12, 2014, IRC meeting. The IRC recommended that the Board issue a formal complaint for case numbers 2014-7, 2014-8, 2014-19, 2014-20, 2014-21, 2014-22, and 2014-23.

MOTION

Mr. Evans made a motion that the Board approve the IRC recommendations. Mr. McKnight seconded the motion, which carried unanimously.

C. Office of Investigations and Enforcement (OIE) Report

Ms. Wolfe informed the Board that there are currently 22 active investigations, one do not open case, 15 pending Board action, three pending IRC, 34 closed cases, and six do not open cases from January 1, 2014 through August 22, 2014, and a total of 22 active cases. And the oldest active case is 169 days.

Mr. Baker stated the Board will accept this report as information.

D. Office of Disciplinary (ODC) Counsel

Ms. Perlman presented the Board with the report from the Office of General Counsel (OGC). She included in the report that OGC opened 23 cases, four cases are pending action, ten pending hearings, and 28 closed.

Mr. Baker stated the Board will accept this report as information.

5. Approval of Consent Agreements (CA)

1. 2012-61– Jesse O. Sanders, FD 1775

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

Ms. Perlman clarified to the Board that a consent agreement (CA) comes from the Investigative Review Committee (IRC) with certain parameters outlined.

She stated that Mr. Sanders is a licensed funeral director in South Carolina.

On or about October 2011, Mr. Sanders stated that the Complainant completed monument work for him and around June 4, 2012, he paid Complainant one thousand forty-five dollars (\$1,045.00) and asked the Complainant to hold the check for a while before cashing it.

The Complainant contacted the Respondent's bank multiple times to see if there were sufficient funds to cash the check, but funds were insufficient. On or about September 2012, Complainant presented the check for payment. The check was returned, and Complainant was notified that the Respondent's account was closed.

MOTION

Mr. Evans made a motion that the Board accept the consent agreement for Case Number 2012-61 as written. The Respondent be publicly reprimanded, pay a Five Hundred Dollar (\$500.00) fine within thirty (30) days of the effective date of the Board's Order, failure to pay the fine within (30) days shall result in the immediate administrative suspension of the Respondent's license until such time as the fine is paid in full. The Respondent's license to practice is on probation for a period of two (2) years, beginning the effective date of the Board's Order. Mr. Nelson seconded the motion, which carried unanimously.

2. 2013-71 – Allen Funeral Home, FE 811

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

Ms. Perlman stated that Allen Funeral Home is a licensed funeral establishment located in Lobeco, South Carolina supervised by Vivian McNair Galloway.

Respondent was contacted on November 16, 2013 when Complainant's husband passed away. Although an authorization for cremation was signed by the Complainant and fully executed, Respondent admits that a contract with a detailed description of the services provided by the establishment and/or the costs associated with those services was not signed nor was it provided to the decedent's family.

Respondent admits that the establishment failed to deliver to the family the decedent's remains in the promised timeframe and failed to timely deliver a copy of the death certificate for decedent.

Ms. Perlman informed the Board that the State and Mr. Quick agreed to a consent agreement for a public reprimand, and civil penalty of Two Hundred and Fifty Dollars (\$250) 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 for Case Number 2013-71 as written. The Respondent will be publicly reprimanded and pay a Five Hundred Dollar (\$500.00) fine within sixty (60) days of the effective date of the Board's Order, failure to pay the fine within (30)

days shall result in the immediate administrative suspension of the Respondent's license until such time as the fine is paid in full. Mr. O'Steen seconded the motion, which carried unanimously.

6. Reconsideration of Board Order

2011-24 – David Tompkins, FD 2762

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

Mr. Temples recused himself.

Ms. Perlman reminded the Board that a motion was made at the March 20, 2014 South Carolina Board of Funeral Service board meeting that the Respondent be publicly reprimanded, pay a One Thousand Dollars (\$1,000.00) fine within thirty (30) days of the effective date of the Board's Order, that the Respondent's license to practice be suspended for a period of two (2) years, beginning the effective date of the Board's Order and at the completion of the two year suspension period he must appear before the Board to request reinstatement.

Ms. Perlman stated that Mr. Tompkins is requesting reconsideration of the Board's Order.

Mr. Tompkins requests that the Board not suspend his license, a private reprimand, he complete continuing education courses and provide proof of completion to the Board in lieu of the suspension.

Executive Session

MOTION

Mr. O'Steen 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. O'Steen made a motion that the Board return to public session. Mr. Evans seconded the motion, which carried unanimously. Mr. Baker stated, for the record, that no votes were taken during executive session.

MOTION

Ms. Cooper made a motion that the Board deny Mr. Tompkins request and the Order stands. Mr. O'Steen seconded the motion, which carried unanimously.

7. Disciplinary Hearings

1. 2012-5 – Lawrence R. Meadows, FD 2752

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

Ms. Perlman stated that on or about April 2, 2012, Respondent executed a contract for funeral services for a decedent by First Family Funeral Home in Spartanburg, SC. The funeral home was not a Board licensed funeral establishment at the time.

On or about April 5, 2012, Respondent submitted a funding request to Heritage Memorial Funding under the name of Ferguson & Meadows Funeral Home, the funeral home where Respondent previously served as funeral director, for payment of the funeral services executed pursuant to the April 2, 2012 contract. Ferguson & Meadows Funeral Home ceased operations on March 5, 2012.

On or about April 25, 2012, First Family Funeral Home became licensed with the SC Board of Funeral Service.

Executive Session

MOTION

Ms. Cooper 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. Horton made a motion that the Board return to public session. Mr. O'Steen seconded the motion, which carried unanimously.

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

MOTION

Ms. Cooper made a motion that the Board find the Respondent in violation of Sections 40-1-110(1), 4019-110(1) and 40-19-270(A). The Board feels that the appropriate sanctions are that the Respondent pay Five Hundred Dollar (\$500.00) fine, for each violation for a total of Fifteen Hundred Dollars (\$1,500) within thirty (30) days of the effective date of the Board's Order and that the Respondent's license to practice be suspended for a period of two (2) years, beginning the effective date of the Board's Order. Mr. Nelson seconded the motion, which carried unanimously.

2. 2012-63 – First Family Funeral Home, FE 882

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

Witnesses called to testify for the State were Ms. Joann English, Ms. Barbara Dogan, Ms. Rose Blackly and Ms. Sharon Cook.

Executive Session

MOTION

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

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

MOTION

Mr. O'Steen made a motion that the Board find the Respondent in violation of Sections 40-19-5, 40-19-115, 40-1-110(1)(f) and 40-19-110(1). The Board feels that the appropriate sanctions are to revoke Mr. Meadows' license since he is the licensed manager of the funeral home. Ms. Cooper seconded the motion, which carried unanimously.

Mr. Horton and Ms. Cooper had to leave the meeting at 2:36 p.m. because they both had a funeral service.

8. Approval of Minutes for the June 12, 2014 and June 13, 2014

Due to lack of time the Board tabled this item until the next board meeting.

9. President's Remarks – Tommy Baker

Mr. Baker welcomed everyone to the meeting and thanked everyone for attending.

10. Administrator's Remarks – Amy Holleman

A. Financial reports

B. Renewals

Due to lack of time the board tabled this item until the next board meeting.

New Business

Application Hearings

11. New Funeral Home or Ownership change

1. Jerry L Hartley Funeral Home LLC – Jerry L Hartley

Mr. Baker stated he knows Mr. Hartley and will recuse himself if Mr. Hartley wishes. Mr. Hartley stated that is not necessary.

Mr. Hartley would like to open up a funeral home, Jerry L. Hartley Funeral Home, LLC.

Mr. Hartley stated he will not be opening the funeral home until sometime in 2015 but wishes to have the funeral home application approved so he can start advertising.

Ms. Rose stated that Mr. Hartley is still missing the tax ID number, a zoning letter showing that the funeral home location is zoned for a funeral home and his personal property tax notice.

MOTION

Mr. Evans made a motion that the Board approve the application pending passing inspection and necessary documents. Mr. O'Steen seconded the motion, which carried unanimously.

2. Nelson and Son Funeral Home LLC – Don H Nelson

Mr. Nelson came before the board because he and his son have inherited Haile Funeral Home from his wife. He stated he submitted an application with the name of Nelson and Son Funeral Home LLC, since Board staff stated he cannot use the name Haile in the funeral home since the name Haile is for an unlicensed person.

He stated that his son's middle name is Haile they wish to name the funeral home Nelson-Haile Funeral Home, LLC.

MOTION

Mr. Evans made a motion that the Board approve the application pending an amended application with the name Nelson-Haile Funeral Home, LLC and a favorable inspection and sales documents with Mr. Stone as manager. Ms. Cooper seconded the motion, which carried unanimously.

12. Request to serve Apprenticeship/Criminal Background

1. David Eric Legrand – Apprentice Funeral Director

Due to lack of time the board tabled this item until the next board meeting.

13. She has two different Supervisors and one Supervisor is more than 40 miles away

1. Debra Jackson – Apprentice Funeral Director/Embalmer

Due to lack of time the board tabled this item until the next board meeting

14. Request for Apprenticeship applicant to have other employment

1. Lionell A Cribb – Apprentice Funeral Director

Due to lack of time the board tabled this item until the next board meeting.

2. Natalie Goglia – Apprentice Funeral Director

Ms. Cubitt reviewed this application and determined that she can approve the application at her level.

3. Kendall Jamar Kirby – Funeral Director/Embalmer

Due to lack of time the board tabled this item until the next board meeting.

4. Charlene Lavern Rivers – Apprentice Funeral Director/Embalmer

Ms. Rivers is applying for an apprentice funeral director and embalmer permit. In reviewing her application we noticed that she already had another job as a teacher at Richmond County Board of Education. Ms. Rivers works 7:45-3:00 Monday through Friday.

MOTION

Mr. Nelson made a motion that the Board approve Ms. Rivers' application to serve her apprenticeship and a work schedule of hours worked must be submitted with each quarterly report. Mr. McKnight seconded the motion, which carried unanimously.

15. Reinstatement

1. Marcus W Kitchens – Funeral Director/Embalmer

Mr. Temples stated he knows Mr. Kitchens and will recuse himself if Mr. Kitchens wishes. Mr. Kitchens stated that is not necessary since the Board will lose a quorum.

Ms. Perlman spoke on behalf of the Board Administrator, Ms. Cubitt, and stated that the Board request that his request be denied for violation of Section 40-1-130, 40-1-110 (1), 40-1-140, and 40-19-140, and 40-19-230 (A) & (B).

Mr. Miller and Mr. Burnham both spoke on behalf of Mr. Kitchens as to his character and his hard work. They both indicated that Mr. Kitchens was caught up by circumstance.

Executive Session

MOTION

Mr. Temples 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. O'Steen made a motion that the Board return to public session. Mr. McKnight seconded the motion, which carried unanimously.

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

MOTION

Mr. Evans made a motion that the Board grant his request but he shall provide proof that he has taken and passed the SC Law, Rules and Regulations (LRR) exam within ninety (90) days of the Order and shall show proof he completed twelve (12) hours of continuing education by December 31, 2014, for each year he was not licensed. If he fails to comply with the terms and conditions of the Order, his license shall be administratively suspended until compliance with the Order or an appearance before the Board. Mr. O'Steen seconded the motion, which carried unanimously.

16. Additional Professional IRC members – Doris Cubitt

Ms. Cubitt asked the Board members to think about whom they would like to serve as the additional professional IRC members and let her know the names so it can be voted on at the October 23, 2014, Board meeting.

17. Expiration Dates of Applications – Doris Cubitt

Due to lack of time the Board tabled this item until the October board meeting.

18. Duplicate license (should it be an official duplicate copy or photo copy) – Doris Cubitt

Due to lack of time the Board tabled this item until the October board meeting.

19. What is required to prove funeral home Ownership – Doris Cubitt

1. Sale of Funeral Home – Sale agreement excluding purchase price, and legal document listing all owners or shareholders.
2. New Funeral Home – Proof that owner owns or leases land/building with copy of lease agreement if leased.

Due to lack of time the board tabled this item until the October board meeting.

20. Election of officers – Doris Cubitt

1. Nomination for President
2. Nomination for Vice President
3. Nomination for Secretary/Treasurer

Due to lack of time the Board tabled this item until the next board meeting.

21. Public Comments (no votes taken)

No public comments at this time.

22. Adjournment

MOTION

At 4:05 p.m. the August 28, 2014 South Carolina Board of Funeral Service board meeting was adjourned do to a quorum was lost.

The next meeting of the SC Board of Funeral Service is scheduled for September 5, 2014.