

MINUTES
South Carolina State Board of Funeral Service
Board Meeting

10:00 a.m., June 7-8, 2017
Synergy Business Park
110 Centerview Drive, Kingstree Building Room 108
Columbia, South Carolina

Wednesday June 7, 2017

1. Meeting Called to Order

Eddie M. Nelson, President, of Blythewood, called the regular meeting of the South Carolina State Board of Funeral Service to order on January 31, 2017, at 10:00 a.m. Other Board members present for the meeting included: Jeffrey K. Temples, Vice President, of Columbia; William B. Horton, Jr., of Kingstree; Wallace McKnight, Jr. of Andrews, and Stephen Lee McMillan, Jr. of Myrtle Beach. Michelle A. Cooper, of Moncks Corner, arrived at 10:03 a.m.

Staff members participating in the meeting included: Mary League, Advice Counsel, Office of Advice Counsel; Tracey Perlman, Disciplinary Counsel, Office of Disciplinary Counsel; Office of Board Services; Amy Holleman, Administrator; Monaca Harrelson, Administrative Assistant; Sharon Wolfe, Chief Investigator, Office of Investigations and Enforcement; Eric Thompson, Office of Investigations and Enforcement; Ernest Adams, Inspector, Office of Investigations and Enforcement; William Poole, Inspector, Office of Investigations and Enforcement, Sam Messa, Office of Disciplinary Counsel, and Marissa Van Camp, Office of Disciplinary Counsel.

Members of the public attending the meeting included: Elizabeth Simmons, South Carolina Morticians Association; Jacob Flowers, South Carolina Department of Consumer Affairs, Coakley Hilton of Hilton's Mortuary, Atu Williams of Ocean View Funeral Home, Wesley Finkley, Thomas Brittain, James Chestnut, Donte Sumpter, Angela Sumpter, and Leah Sumpter.

A. Public Notice

Mr. Nelson announced that public notice of this meeting was properly posted at the South Carolina State 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.

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 Absence

Charvis Gray and Stephen R. Gantt were not in attendance.

MOTION

Mr. McKnight made a motion to approve the absences, Mr. McMillian seconded, and the motion carried unanimously.

4. Approval of Minutes for the January 31, 2017 board meeting.

Mr. Nelson called for a motion to approve the minutes for the April 25, 2017 board meeting.

MOTION

Mr. Temples made a motion to approve the minutes as presented, Mr. Horton seconded, and the motion carried unanimously.

5. President's Remarks – Eddie Nelson

Mr. Nelson welcomed and thanked everyone for attending.

6. Administrator's Remarks – Amy Holleman

Ms. Holleman introduced Robby Boland as the new Assistant Deputy Director, Office of Board Services. Mr. Boland said that he was looking forward to working with the Board and to let him know if he could help in any way.

Ms. Holleman reported that the Board's cash balance at the end of April 2017 was -\$481,788.69.

Ms. Holleman presented the Board a listing of funeral establishment manager changes.

Ms. Holleman noted that the maximum Federal Trade Commission (FTC) fine violation has increased to \$40,654 per violation. Staff will disseminate information to funeral directors and establishments about this increase and that the establishment is responsible for following the Funeral Rule.

Ms. Holleman has been in contact with the funeral services program at Piedmont Technical College and they requested a work session with the Board to discuss educational issues and trends. A date will be recommended.

7. Reports

A. Inspection Report

Mr. Adams reported that he and Mr. Poole conducted 84 inspections between April 17 and May 26, 2017.

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

Ms. Wolfe reported that at the May 18, 2017 IRC meeting it was recommended to dismiss cases 2017-1, 2017-4, 2017-5, 2017-7, 2017-10, 2017-13, 2017-24, and to proceed with formal complaints for cases 2017-6 and 2017-15.

MOTION

Mr. Horton made a motion to approve the IRC report, Dr. DuPre seconded, and the motion carried unanimously.

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

Ms. Wolfe reported that OIE from January 1 through May 24, 2017 has opened 26 cases and closed 21.

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

Ms. Perlman reported that ODC currently has 13 cases open with three pending actions, and ten pending final order hearings.

8. Approval of Memorandum of Agreement – Tracey Perlman

1. Cases Nos.: 2016-44; 2016-45

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

Tracey Perlman presented the following Memorandum of Agreement and Stipulation of Facts.

WHEREAS, the South Carolina Board of Funeral Service, hereinafter referred to as the Board, received an initial complaint and conducted an investigation as required by law, with respect to the above referenced Respondents, Coakley A. Hilton (Lic.No.:FD1835 FD) and Hilton's Mortuary Inc., (Lic.No.:FE.708). For the purposes of this Memorandum of Agreement and Stipulation of Facts, unless otherwise specified, Coakley A. Hilton and Hilton's Mortuary Inc. shall be referred to collectively as Respondent; and

WHEREAS, a Notice and Complaint, dated June 28, 2016, was been filed and served alleging that Respondent violated applicable state laws and regulations related to preneed arrangements and preneed financing and funeral service pursuant to S.C. Code Ann. §§ 40-19-5 *et seq.* (1998, as amended.) and 32-7-10 *et seq.* (1976, as amended);

WHEREAS, 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(±) (1976, as amended) in lieu of, *inter alia*, a contested hearing before the Board of Funeral Service; and

WHEREAS, Respondent will participate in a Final Order Hearing pursuant to the authority granted to the Board by S.C. Code Ann. §§ 4d-1-70, 40-1-90, 40-19-70 and 40-19-90 (1976, as amended) on June 7, 2017, 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 for the purpose of determining an appropriate sanction, if any, in connection with the disciplinary matter pending against Respondent:

1. Respondent, Coakley A. Hilton, became licensed as a Funeral Director on or about August 28, 1984 and Respondent, Hilton's Mortuary, Inc., became licensed as a Funeral Establishment on or about April 18, 2006.
2. On or about April 2, 2008, February 3, 2010, April 26, 2012 and November 19, 2013, the South Carolina Department of Consumer Affairs ("Consumer Affairs") conducted compliance reviews of Respondent's preneed contracts and documentation.
3. As a result of the 2012 and 2013 compliance reviews, Consumer Affairs determined the following:

- a. Respondent violated S.C. Code Ann. § 32-7-20(A)(I) by "taking at least sixty- four (64) preneed payments totaling at least \$121,127.97 for preneed funeral services and failing to hold these monies in trust...".
 - b. Respondent violated S.C. Code Ann. § 32-7-20(C) by failing "to keep monies obtained from preneed funeral arrangements in a trust fund until the death of beneficiaries and until the delivery of all merchandise and full performance of all services as agreed upon ...".
 - c. Respondent violated S.C. Code Ann. § 32-7-20(F) by failing "use forms approved by the Department for at least thirty (30) preneed funeral arrangements and made oral funeral arrangements...".
 - d. Respondent-Establishment violated S.C. Code Ann. § 32-7-20(H) by failing "to place preneed funeral arrangement funds into a federally insured trust account within thirty days after receipt of such funds...".
 - e. Additionally, Consumer Affairs found violations of S.C. Code Ann. §§ 32-7- 50(C), 32-7-50(C)(I) and 32-7-70(A).
4. Based on the findings in the compliance reviews, Consumer Affairs revoked Respondent's preneed license. A copy of the Consumer Affairs Order is attached hereto and incorporated herein as EXHIBIT #1.

THE STATE CONTENDS that the aforementioned acts of Respondent present grounds that constitute misconduct and are violations of the following:

1. Respondent has violated S.C. Code Ann. § 40-19-110(1) (1976, as amended) in that Respondent made misrepresentations or committed fraud while engaging in the practice of funeral services by improperly handling monies received for preneed accounts.
2. Respondent has violated S.C. Code Ann. § 40-19-110(12) (1976, as amended) in that Respondent violated applicable state laws relating to the prearrangement or prefinancing of funerals.
3. Respondent has violated S.C. Code Ann. § 32-7-50 (I)(b) (1976, as amended) in that Respondent failed to deposit the funds for preneed contracts in trust in a federally insured account as required by Section 32-7-20 (H).

RESPONDENT AGREES that at the Final Order Hearing, Respondent shall appear and, under oath, answer questions, if any, by members of the Board concerning his funeral service practice. The Board in rendering its decision may consider Respondent's answers. Respondent may present mitigating testimony and other evidence to the Board regarding an appropriate sanction in this matter.

MOTION

Dr. DuPre made a motion to go into Executive Session to receive legal advice. Mr. Petty seconded the motion which passed unanimously.

Return to Open Session

MOTION

Mr. McKnight made a motion to come out of Executive Session. Dr. DuPre seconded the motion which passed unanimously.

Mr. Nelson noted that no action was taken in Executive Session.

MOTION

Ms. Cooper made a motion to accept the Memorandum of Agreement. Section 32-7-50 (1)(b) states that the Board must revoke the license of the funeral home or funeral director, or both, if either is licensed to sell preneed funeral contracts and fails to deposit the funds collected in trust in a federally insured account as required by Section 32-7-20 (H). The Respondent Establishment's license is revoked and Respondent Director's license is suspended for a period of two years effective immediately. Respondent Director is also ordered to pay a civil penalty of \$1,000, plus investigative costs, within in 60 days of the date of the final order. Mr. McMillian seconded the motion which passed unanimously.

Mr. Hilton questioned as to what he should do regarding pending services if his license is immediately revoked.

MOTION

Mr. Horton made a motion to go into Executive Session to receive legal advice. Mr. McKnight seconded the motion which passed unanimously.

Return to Open Session

MOTION

Mr. Horton made a motion to come out of Executive Session. Mr. Petty seconded the motion which was passed unanimously.

Mr. Nelson noted that no action was taken in Executive Session.

MOTION

Ms. Cooper made a motion to amend the previous motion to move the effective date to June 12, 2017. Mr. Temples seconded the motion which passed unanimously.

9. Disciplinary Hearings – Tracey Perlman – Case Nos. 2014-72, 2015-1

Ms. Perlman announced that the disciplinary hearing would have to be continued due to the lack of a quorum.

10. Executive Session for Legal Advice, if Needed

11. Public Comments (no votes taken)

There were no public comments.

12. Adjournment

MOTION

Mr. Petty made a motion to adjourn the meeting, Mr. Horton seconded, and the motion passed unanimously.

Mr. Nelson adjourned the June, 2017 meeting for the South Carolina State Board of Funeral Service at 12:37 p.m. The meeting will be reconvened on June 8, 2017.

Thursday, June 08, 2017

13. Meeting Called to Order

Eddie M. Nelson, President, of Blythewood, called the regular meeting of the South Carolina State Board of funeral Service to order on June 8, 2017 at 10:00 a.m. Other Board members present for the meeting included: Wallace McKnight, Jr., of Andrews, William B. Horton, Jr., of Kingstree; Michelle A. Cooper, of Moncks Corner; Jeffrey Temples, of Columbia, John Petty, of Laurens; and Stephen Lee McMillan, Jr., of Myrtle Beach.

Staff members participating in the meeting included: Mary League, Advice Counsel, Office of Advice Counsel; Amy Holleman, Administrator; Norma McAllister, Program Assistant; Ernest Adams, Inspector, Office of Investigations and Enforcement, and William Poole, Inspector, Office of Investigations and Enforcement.

Members of the public attending the meeting included: William Allen, of Allen-Middleton Funeral Home; Myron Middleton, of Allen-Middleton Funeral Home; Byron M. James, of Sumter, S.C.; Elizabeth Simmons, South Carolina Morticians Association; Gary Burroughs, of Burroughs Cooper Kiser Funeral Home; Joy Burroughs, of Burroughs Cooper Kiser Funeral Home; Jeff Snyder of Burroughs Cooper Kiser Funeral Home; and Jacob Flowers of South Carolina Department of Consumer Affairs.

B. Pledge of Allegiance

All in attendance recited the Pledge of Allegiance.

14. Introduction of Board Members and Persons Attending the Meeting

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

15. Approval of Excused Absence

Charvis Gray, D'Michelle DuPre, and Stephen Gantt were not in attendance.

MOTION

Mr. McMillan made a motion to approve the absences. Mr. McKnight seconded the motion, which carried unanimously.

Mr. Nelson asked Ms. Holleman to comment on scheduling a work session with Piedmont Technical College. The consensus is that the Board and Piedmont Technical College will hold the session at the Department of Labor, Licensing and Regulations, Kingstree Building., Room #105 at 2:00 p.m. on August 29, 2017.

16. 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. Allen-Middleton Funeral Home LLC –Walterboro, SC – Myron Dion Middleton

Mr. Allen Galloway and Mr. Myron Middleton were present on behalf of the Funeral Home.

Ms. Holleman informed the Board that Mr. Allen, and Mr. Middleton have partnered as owners of the new facility, which will open in the building that is currently housing Allen Funeral Home, which will be closing. Ms. Holleman stated the owners have built an embalming room, and are in the process of outfitting the room.

Ms. Holleman informed the Board that Mr. Myron D. Middleton, FDE. 3770, is the proposed manager, and resides 23.3 miles from the funeral home. He does not have a criminal record. Mr. Middleton is requesting that the Board approve the new facility with him as the manager of record.

Mr. Middleton said, "yes," when asked if he has read the rules and regulations and is aware that the manager is responsible for the daily operations of the funeral home, and is required to work 35 hours per week with the funeral home.

MOTION

Ms. Cooper made a motion to approve the application, pending inspection.
Mr. Temples seconded the motion, which passed unanimously.

17. Change of Supervisor Approval for Apprenticeship

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

1. Jeffrey Wayne Snyder

Mr. Jeffrey Wayne Snyder; Mr. Alan Gray Burroughs, and Mrs. Joy E. Burroughs were present on his behalf.

Ms. Holleman informed the Board that Mr. Snyder is currently serving his apprenticeship with Burroughs & Cooper Funeral Home. Mr. Snyder's supervisor, Kelvin O. Cooper resigned on May 8, 2017. Mr. Snyder is asking the Board to approve Mr. Alan Gray Burroughs as his new supervisor. Mr. Burroughs is currently supervising two other individuals.

Mr. Burroughs stated since Mr. Cooper's resignation he has actively sought to hire another funeral director to no avail. Ms. Burroughs stated the funeral establishment is located in rural Marlboro County, which does not have a large employment industry. In addition, Mr. Burroughs stated the hospital system has closed, and the schools are failing, with these prevailing factors it is difficult to attract individuals to relocate to the area.

Ms. Burroughs stated Mr. Snyder has made the commitment to stay and work in the area. Both Mr. and Mrs. Burroughs stated a denial would place undue hardship on the business as well as Mr. Snyder; therefore, Mr. Snyder, and Mr. Burroughs request that the Board allow him to continue his apprenticeship with Mr. Burroughs as his supervisor.

Executive Session

MOTION

Ms. Horton 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. McKnight made a motion to come out of Executive Session. Mr. McMillan seconded the motion which was passed unanimously.

Mr. Nelson noted, for the record, that no votes were taken during Executive Session

MOTION

Ms. Cooper made a motion to deny the request, citing statute section 40-19-240(E), which says that only two apprentices at a time are permitted to register under any one person licensed as a funeral director or embalmer. Each sponsor for a registered apprentice must be actively connected with a funeral establishment.

18. Acceptance of Apprenticeship

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

1. Byron Maurice James

Mr. James was present on his own behalf.

Ms. Holleman stated Mr. James is asking the Board to approve his apprenticeship that was completed on March 20, 2009. Mr. James passed the National Funeral Arts exam in August 22, 2006. The board staff received Mr. James' application for a Funeral Director on April 26, 2017.

Mr. James stated that due to an inevitable family crisis he was unable to complete the process of becoming a licensed Funeral Director, but he continued part-time work in the funeral service business. Mr. James stated, now with the crisis behind him, he is ready to continue his pursuit to be licensed as a Funeral Director. Mr. James is asking the Board to accept his apprenticeship as completed, and grant permission for him to sit for the law exam.

Mr. Nelson called for a motion to go into executive session to receive legal advice.

Executive Session

MOTION

Mr. Horton 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. Horton made a motion to come out of Executive Session. Mr. McKnight seconded the motion which was passed unanimously.

Mr. Nelson noted, for the record, that no votes were taken during Executive Session

MOTION

Ms. Cooper made a motion to accept the apprenticeship as completed, and grant one year for Mr. James to pass the law exam, if he does not pass within one year he is required to reappear before the Board. Mr. McMillan seconded the motion, which carried unanimously.

19. Executive Session for Legal Advice, if needed

20. Public Comments (no votes taken)

21. Adjournment

Mr. Nelson called for a motion to adjourn.

MOTION

Mr. McMillan made a motion to adjourn the meeting, Mr. Horton seconded the motion which carried unanimously.

Mr. Nelson, after ensuring there being no further business to discuss, adjourned the June 8, 2017 meeting for the South Carolina State Board of Funeral Service at 11:19 a.m.

The next meeting of the South Carolina Board of Funeral Service is scheduled for July 25, 2017 at 10:00 a. m., at Synergy Business Park, 110 Centerview Drive, Kingstree Building, Room 108, Columbia, South Carolina.