

MINUTES
South Carolina State Board of Funeral Service
Board Meeting

10:00 a.m., April 25, 2017
Synergy Business Park
110 Centerview Drive, Kingstree Building Room 108
Columbia, South Carolina

Tuesday April 25, 2017

1. Meeting Called to Order

Eddie J. Nelson, of Blythewood called the regular meeting of the South Carolina State Board of Funeral Service to order on April 25, 2017, at 10:06 a.m. Other Board members present for the meeting included: Stephen R. Gantt, of Greenwood; Wallace McKnight, Jr., of Andrews; John L. Petty III, of Landrum; Michelle A. Cooper, of Moncks Corner; D'Michelle P. DuPre, of Chapin; Stephen Lee McMillan, Jr., of Myrtle Beach; and Jeffrey K Temples, of Columbia, who arrived at 11:25 a.m.

Staff members participating in the meeting included: Donnell Jennings, Advice Counsel, Office of Advice Counsel; Mary League, Advice Counsel, Office of Advice Counsel; Tracey Perlman, Disciplinary Counsel, Office of Disciplinary Counsel; Tina Brown, Disciplinary Counsel, Office of Disciplinary Counsel; Sharon Wolfe, Chief Investigator, Office of Investigations and Enforcement; Amy Holleman, Administrator; Norma McAllister, Program Assistant; Jeanie Rose, Administrative Assistant; William Poole, Inspector, Office of Investigations and Enforcement; and Sandy Dickert, Administrative Assistant.

Members of the public attending the meeting included: James Michael Ford and Miriam Ford, of Rowland-Ford Funeral Home; Denise J. Thompson, Manford Thompson, and Harry Thompson, of The Unity Mortuary, Inc.; Walker S. Posey, of Posey Funeral Directors and Posey Funeral Directors Cremation Services; and Jacob Flowers, South Carolina Department of Consumer Affairs.

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 Abuilding, 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

Mr. Nelson called for a motion to excuse the absence of Mr. William B. Horton, Jr.

MOTION

Ms. Cooper made a motion to approve the absence.
Mr. Gray seconded the motion, which carried unanimously.

4. Approval of Minutes for the March 28, 2017 board meeting.

Mr. Nelson called for a motion to approve the minutes for the March 28, 2017 board meeting.

MOTION

Mr. McMillan made a motion to approve the minutes as presented.
Dr. DuPre seconded the motion, which carried unanimously.

5. President’s Remarks

Mr. Nelson thanked everyone for attending.

6. Administrator’s Remarks – Amy Holleman

Ms. Holleman reported that the Board’s cash balance ending March 2017 was -\$455,743.12.

Ms. Holleman reported the change of managers since March 28, 2017 as follows:

FE#	Name of Funeral Establishment (FE)	Name of former Manager	Reason for change	Name of New Manager	Effective Date
143	Backus Funeral Home LLC	Vandroth Backus	Deceased	Poiette McGill Bromell	03/30/2017
776	J H Robinson’s Funeral Home	Bernard Robinson	Deceased	Maynard Robinson	04/06/2017
350	Johnson Funeral Home	Mary Ann Johnson	Deceased	Adolphus Cornelius Howard III	04/12/2017
1002	Carolina Memorial Park Funerals and Cremations	Frank M. Way III	Resigned then returned	Frank M. Way III	04/20/2017
1003	Carolina Crematory	Frank M. Way III	Resigned then returned	Frank M. Way III	04/20/2017
188	Avinger Funeral Home LLC	Ernest W. Avinger, Jr.	Incapacitated due to illness	Ernest W. Avinger, Sr.	04/24/2017

Ms. Holleman explained to the Board that on the Agenda; item 9.5 is a branch of parent, The Unity Mortuary, Inc., and that board staff is awaiting the receipt of supportive documentation of ownership. Ms. Holleman reminded the Board that according to policy the Administrator has the authority to approve a branch facility. Therefore, if the parent facility is granted approval the Administrator will be able to approve the branch upon receipt of all documents.

Ms. Holleman informed the Board that she will be a speaker at the South Carolina Morticians Association, Inc.’s Conference in Greenville, SC on May 17, 2017. Ms. Holleman stated the presentation will cover various topics such as the funeral service rules and regulations and other topics requested by the SCMA. Ms. Holleman stated that educating licensees about the laws and policies has a tendency to foster compliance.

7. Reports

A. Inspection Report

Mr. Poole reported that he and Mr. Adams conducted 55 inspections between March 20, and April 17, 2017.

B. Investigative Review Committee (IRC) Report

Ms. Wolfe presented the report. On April 13, 2017, the IRC recommended the dismissal of cases 2016-4, 2017-9, and 2017-25 and that a formal complaint be issued for case 2017-11.

MOTION

Mr. Gray made a motion to approve the Investigative Review Committee recommendations.

Mr. McMillan seconded the motion, which carried unanimously.

C. Office of Investigations and Enforcement (OIE) Report

Ms. Wolfe presented the report, stating that as of April 18, 2017 the Office of Investigations and Enforcement had 14 active investigations, one do not open case, two opened cases, one pending IRC, two pending Board action, and 14 closed for a total of 19 cases.

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

Ms. Perlman reported that for the Office of Disciplinary Counsel (ODC), as of April 20, 2017, there were 15 cases open, seven pending actions, two pending CA/MOA, six pending hearings, and three closed.

8. Approval of Consent Agreements

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

1. Case No.: 2015-17

Mr. McMillan recused himself from the hearing. Ms. Perlman presented the Consent Agreement to the Board.

Respondent, Timothy Chase Ridgeway, is licensed by the South Carolina State Board of Funeral Service (“Board”) as a Funeral Director/Embalmer and was duly licensed at all times relevant to the matters set forth herein.

The Respondent stipulated and admits that:

- a. Respondent was a Funeral Director at Graham Funeral Home (License No.: FE. 442 PAR) located at 2200 S. Fraser St. in Georgetown, South Carolina.
- b. On December 13, 2012, Respondent presented himself before the Board seeking approval to serve as the preceptor for Kenneth Mitchell Johnson (License No.: FD 3695 APPR, hereinafter the “Apprentice”). The Board approved the application upon the assurance from Respondent that the Apprentice would be a full-time employee and work the thirty-five (35) hours a week as required by the statute. Respondent assured the Board that he would have the Apprentice file the necessary quarterly reports under his supervision reflecting the Apprentice’s full-time employee status and fulfilled requirements.
- c. Respondent submitted quarterly reporting forms from January 2013 through January 2015, stating that the Apprentice worked thirty-five (35) hours a week as required.

- d. On or about April 30, 2015, a complaint against Respondent was filed with the South Carolina Department of Labor, Licensing and Regulation (“LLR”) stating that the Apprentice’s reports were false in stating that the thirty-five (35) hour requirement was fulfilled.
 - e. LLR assigned investigator Kathy Meadows to research the allegations of the Complaint.
 - f. Investigator Meadows audited the Apprentice’s quarterly reports, along with the funeral home’s payroll stubs. The audit disclosed a number of discrepancies including:
 - a. The quarterly reports signed by Respondent and submitted to the Board attest to the fact that the Apprentice worked thirty-five (35) hours per week however, the payroll records reflect Respondent did not work thirty-five (35) hours per week during any month from December 2012 through December 2014.
 - b. Despite Respondent’s assurances to the Board that he had hired the Apprentice “full-time” the records reflect that Respondent never provided the Apprentice with a full-time position.
4. 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 (1), in that the Respondent made misrepresentations by failing to properly certify the quarterly reports and maintain records showing that the apprentice worked thirty-five (35) hours per week.
2. Respondent admits that the conduct in this matter is in violation of S.C. Code Ann. § 40-19-240 (C) in that the Respondent failed to adequately certify the quarterly reports submitted by his apprentice.
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 One Thousand Five Hundred Dollars (\$1,500.00) to the Board within sixty (60) days of the effective date of this Agreement. Respondent shall also pay an additional Three Hundred and Seventy Dollars (\$370.00) for the costs of the investigations, for a total fine of One Thousand Eight Hundred Dollars and Seventy (\$1,870.00) to be paid. Said fine is not deemed paid until received in full by the Board. Failure to pay the fine as ordered shall result in the immediate administrative suspension of the referenced licenses until such time as the civil penalty is paid in full.

Executive Session

MOTION

Ms. Cooper made a motion to go into Executive Session to receive legal advice with Ms. League in attendance.

Mr. Gray seconded the motion, which carried unanimously.

Return to Public Session

MOTION

Dr. DuPre made a motion to come out of Executive Session.
Mr. Petty seconded the motion, which carried unanimously.

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

MOTION

Ms. Cooper made a motion to reject the Consent Agreement for the reason that based on the factual allegations of the Consent Agreement the proposed sanctions are not sufficient to protect the public. The Board would consider a revised Consent Agreement that includes probation for a period of two years, in which during this period if the Respondent has further violations the Respondent must reappear before the Board.
Mr. Petty seconded the motion which carried unanimously.

Ms. Perlman addressed the Board requesting clarification regarding the motion, that if the Respondent agrees to the additional sanctions in the Consent Agreement, and the IRC recommends the additional sanctions would the Board approve of Mr. Nelson, President, signing the revised Consent Agreement without presentation to the full Board. The Board granted permission for Mr. Nelson to sign the revised Consent Agreement with the additional sanctions without it being presented to the full Board.

Ms. Perlman introduced a new staff member, Ms. Tina Brown, Disciplinary Counsel, Office of Disciplinary Counsel to the Board. On behalf of the Board, Mr. Nelson welcomed Ms. Brown to the Agency.

Ms. Holleman introduced Jeanie Rose, Administrative Assistant to the Board. Ms. Holleman commented, although Ms. Rose has a lengthy tenure with the Funeral Board, she has not been formally introduced to the newest members of the Board. Ms. Holleman commented on her invaluable service to the Board and its licensees. Ms. Holleman informed the Board that for her outstanding service, Ms. Rose was the recipient of the Agency's Rock Star Award.

Mr. McMillan returned to the meeting.

2. Case No.: 2016-24

Ms. Perlman presented the Consent Agreement to the Board.

Respondent, Larry C. Hendrix, is licensed by the South Carolina State Board of Funeral Service as a Funeral Director and Embalmer and was duly licensed at all times relevant to the matters set forth herein.

Respondent stipulates and admits that:

- a. Respondent is a Funeral Director/Embalmer and Owner/Manager of Davenport Funeral Home (License No.:FE.366 PAR) and Blue Ridge Crematory (License No.: FE. 755 CREM). Both Davenport Funeral Home and Blue Ridge Crematory are located at 311 South Highway 11 in West Union, South Carolina. Respondent's license was first issued on July 14, 1976.

- b. Respondent was the preceptor for funeral director apprentice, Donnie Anthony Richey (License No. FDE. 3516 APPR). Respondent allowed his apprentice to make funeral arrangements, direct funerals, and embalm without the direct supervision of Respondent as preceptor.
 - c. Respondent, on at least two occasions, allowed Donnie Anthony Richie to meet with families, make funeral arrangements, and sign funeral contracts after his funeral apprentice license lapsed on July 8, 2014. See attached funeral contracts signed by Donnie Anthony Richie attached hereto and incorporated herein as Exhibit #1. Respondent, on at least two occasions, misrepresented that other individuals, himself included, were the funeral director of record on the death certificates for those funerals improperly arranged by Donnie Anthony Richie. See attached corresponding death certificates for the contracts signed by Donnie Anthony Richie attached hereto and incorporated herein as Exhibit #2.
4. 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. § 40-19-110(7), in that the Respondent has aided or abetted an unlicensed person to engage in the practice of funeral service.
- 3. Respondent admits that the conduct in this matter is in violation of S.C. Code Ann. § 40-19-110(15), in that the Respondent permitted an unlicensed person to engage in the practice of funeral service.
- 4. Respondent hereby waives any further conclusions of law with respect to this matter.

THEREFORE, IT IS AGREED, WITH RESPONDENTS CONSENT, THAT:

- 1. Respondent's license shall be publicly reprimanded.
- 2. Respondent's license shall be placed in a probationary status for a period of one (1) year from the effective date of this Agreement.
- 3. Respondent shall pay a civil penalty of One Thousand Five Hundred Dollars (\$1,500.00) to the Board within ninety (90) days of the effective date of this Agreement. Respondent shall also pay an additional Six Hundred and Fifty Eight Dollars (\$658.00) for the costs of the investigations, for a total fine of Two Thousand One Hundred and Fifty Eight Dollars (\$2,158.00) to be paid within 90 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.

MOTION

Ms. Cooper made a motion to approve the Consent Agreement.
Mr. Petty seconded the motion, which carried unanimously.

3. Case No.: 2016-30

Ms. Perlman presented the Consent Agreement to the Board

Respondent, Donnie Anthony Richey, was licensed by the South Carolina State Board of Funeral Service as an Apprentice Funeral Director and Embalmer. Respondent's license is currently lapsed as of July 8, 2014.

Respondent stipulates and admits that:

- a. Respondent conducted his apprenticeship at Davenport Funeral Home (License No.:FE.366 PAR) located at 311 South Highway 11 in West Union, South Carolina. The Funeral Director and Embalmer for the Funeral Home, Larry C. Hendrix (License No.: FDE.1455 DUAL) served as the Respondent's preceptor. The Respondent's license was first issued on April 28, 2010.
- b. Respondent made funeral arrangements and signed funeral contracts after the date which his apprentice license lapsed. See attached funeral contracts signed by Respondent after the expiration of his apprentice license attached hereto and incorporated herein as Exhibit # 1.
4. Respondent waives any further findings of fact with respect to this matter.

CONSLUSIONS OF LAW

1. Respondent admits that the conduct in this matter is in violation of S.C. Code Ann. § 40-19-110(7), in that the Respondent made misrepresentations or committed fraud while engaging in the practice of funeral service.
2. Respondent admits that the conduct in this matter is in violation of S.C. Code Ann. § 40-19-30 in that the Respondent engaged in the practice of funeral service without a license.
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 immediately cease and desist from the practice of funeral service until the Respondent is properly authorized, licensed, and permitted by the Board in accordance with all applicable laws in the State of South Carolina. The Respondent understands and agrees that any actions demonstrating such actions prior to the execution of this Agreement shall constitute a violation of this Consent Agreement and may be grounds for additional disciplinary action.
3. Respondent shall pay a civil penalty of One Thousand Dollars (\$1,000.00) to the Board within ninety (90) days of the effective date of this Agreement. Respondent shall also pay an additional Two Hundred and Eighty Four Dollars (\$284.00) for the costs of the investigations, for a total for a total fine of One Thousand Two Hundred and Eighty Four Dollars (\$1,284.00) to be paid within 90 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 suspension of the referenced license until such time as the civil penalty is paid in full.

MOTION

Ms. Cooper made a motion to approve the Consent Agreement.

Mr. Gray seconded the motion, which carried unanimously.

New Business

Application Hearings

9. New Funeral Home or Ownership Change

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

1. Posey Funeral Directors – Walker Stephen Posey

Ms. Holleman informed the Board that the application is complete. Mr. Walker Stephen Posey is the new owner of the facility, and the proposed manager. He was initially licensed as a Funeral Director Embalmer (FDE. 3339) on September 17, 2007. The ownership of the facility has remained unchanged, however the stocks have been transferred to Mr. Walker S. Posey.

Mr. Posey was sworn in and appeared before the Board to answer any questions. Mr. Posey informed the Board he is requesting the approval of his application, retention of the facility's credential number, and to be manager of record. Mr. Posey confirmed the business will be selling pre-need funeral contracts.

MOTION

Ms. Cooper made a motion to approve the application with Mr. Posey as the manager of record upon receiving a favorable letter from South Carolina Department of Consumer Affairs (SCDCA) and a final inspection.

Mr. McKnight seconded the motion, which carried unanimously.

Ms. Cooper made an amendment to the motion to include that the facility may retain its current credential number.

Mr. Lee seconded the motion, which carried unanimously.

2. Posey Funeral Directors Cremation Services – Walker Stephen Posey

Ms. Holleman informed the Board that the application is complete. Mr. Walker Stephen Posey was licensed as a Funeral Director Embalmer (FDE.3339) on September 17, 2007. He is applying to be the proposed manager of the facility. The ownership of the facility has remained unchanged, however the stocks have been transferred to Mr. Walker S. Posey.

Mr. Posey appeared as the representative for the facility. Mr. Posey stated that the Crematory is located at the Funeral Home.

MOTION

Ms. Cooper made a motion to approve the application with Mr. Posey as the manager of record and the facility retaining current credential number upon receipt of a favorable letter from SCDCA, and a final inspection.

Mr. McKnight seconded the motion, which carried unanimously.

3. Rowland-Ford Funeral Home – James Michael Ford

Ms. Holleman informed the Board that the application is complete. Mr. Ford is the owner of the facility and resides eight miles from the facility. Mr. Ford was initially licensed as a Funeral Director Embalmer (FDE.3573) on January 25, 2011. Ms. Holleman noted for the record in regards to the name change that Mr. Ford is a member of the Rowland family.

Mr. James Michael Ford and Mrs. Miriam Ford were sworn in and appeared before the Board to answer any questions. Mr. Ford informed the Board he is requesting the approval of the change of ownership and to be manager of record.

Mr. Petty asked Mr. Ford did he read and understand the South Carolina Funeral Service Laws, Rules, and Regulations. Mr. Ford replied "Yes."

MOTION

Mr. Lee made a motion to approve the application with Mr. James M. Ford as manager of record pending a favorable SCDCA letter and a final inspection.

Mr. Gray seconded the motion, which carried unanimously.

Mr. Temples joined the meeting at 11:25 a.m.

4. **The Unity Mortuary, Inc. – Denise Jerovene Thompson**

Ms. Holleman informed the Board that the application is complete. Ms. Thompson is a licensed Funeral Director (FD.2584), and was initially licensed on January 14, 2000. She resides 10 miles from the facility. Ms. Holleman informed the Board that the former owner passed away and that the estate has completed probate. Mr. Manford J. Thompson and Mr. Harry R. Thompson are the current owners.

Ms. Denise J. Thompson, Mr. Manford J. Thompson, and Mr. Harry R. Thompson were sworn in and appeared before the Board to answer any questions. Ms. Thompson informed the Board that she is requesting the approval of the change of ownership and to be manager of record.

Mr. Petty asked Ms. Thompson did she read and understand the South Carolina Funeral Service Laws, Rules, and Regulations. Ms. Thompson replied "Yes."

MOTION

Mr. Gray made a motion to approve the application with Ms. Denise J. Thompson as manager of record pending a favorable SCDCA letter, and a final inspection.

Mr. McKnight seconded the motion, which carried unanimously.

5. **The Unity Mortuary, Inc. (branch) – Ms. Denise J. Thompson**

Ms. Holleman informed the Board that this is a branch and that the application is pending the receipt of documents confirming the owner. Ms. Holleman stated upon receipt of the documents the Administrator will be able to approve the branch and will inform the Board at the meeting following the approval.

10. Discussion – Licensure by Endorsement

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

Ms. Holleman informed the Board the question is that if a person has been licensed for five or more years and the jurisdiction in which they originally licensed did not use the International Conference for their exam, can we still accept their funeral directors and/or embalming exam and only require they take our state law exam, or do they have to take our funeral director and/or embalmer exam and the state law exam?

SECTION 40-19-235. Licensure requirements of applicant holding valid license in another state.

A person holding a valid embalmer or funeral director license in another state or territory having substantially similar requirements to the requirements of this chapter may apply for a license to practice in this State by submitting the appropriate nonrefundable fee, an application on a board-approved form, and a board-certified statement from the state or territory in which the person holds the license and has successfully taken and passed that state law exam. The board may approve an applicant who presents evidence of licensure in another jurisdiction, even though that jurisdiction does not require substantially similar requirements, upon a showing that the applicant has engaged in the licensed practice of funeral service for at least five years and the applicant has achieved a passing score on an examination approved by the board.

HISTORY: 2002 Act No. 322, Section 1.

57–08. Licensure by Endorsement.

An applicant for licensure as an embalmer or funeral director by endorsement must:

- (A) submit proof of a current, active, and unrestricted license of at least five (5) years duration under the laws of another state or territory that had requirements that were, at the date of licensure, equivalent to the requirements in effect at the time of application in South Carolina; and
- (B) submit evidence of a passing score of at least seventy-five (75) on an examination approved by the Board; and
- (C) submit an application on a form approved by the Board, along with the required fee.

HISTORY: Added by State Register Volume 23, Issue No. 5, eff May 28, 1999.

MOTION

Ms. Cooper made a motion that an applicant for licensure by endorsement that has been licensed for 5 or more years in a jurisdiction that did not require the International Conference exam that as a part of the South Carolina licensure process the applicant's only required exam will be to take and pass the South Carolina State Board of Funeral Service law exam, and that the applicant will complete all additional requirements for licensure by endorsement.

Mr. Gray seconded the motion, which carried unanimously.

11. Executive Session for Legal Advice, If Needed

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

Executive Session

MOTION

Ms. Cooper made a motion to go into executive session to receive legal advice with Ms. League in attendance.

Mr. McMillan seconded the motion, which carried unanimously.

Return to Public Session

MOTION

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

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

12. Public Comments (no votes taken)

No comments were made by the public.

15. Adjournment

Mr. Nelson called for a motion to adjourn.

MOTION

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

Mr. Nelson, after ensuring there being no further business to discuss, adjourned the April 25, 2017 meeting for the South Carolina State Board of Funeral Service at 11:51 a.m.

The next meeting of the South Carolina Board of Funeral Service is scheduled for June 7-8, 2017 at 10:00 a. m., at Synergy Business Park, 110 Centerview Drive, Kingstree Building, Room 108, Columbia, South Carolina.