

MINUTES
South Carolina Board of Funeral Service
Board Meeting

9:00 a.m., March 19, 2015 & 9:00 a.m., March 20, 2015
Synergy Business Park
110 Centerview Drive, Kingtree Building Room 108
Columbia, South Carolina

Thursday, March 19, 2015 & Friday, March 20, 2015

Thursday, March 19, 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 9:16 a.m. Other Board members present for the meeting included: Charlie Bradford Evans, Vice President, of Abbeville; Thomas E. Baker, II, of Kershaw; William B. Horton, Jr., of Kingtree; Eddie Nelson, of Blythewood; Mark R. O'Steen, of Spartanburg; and, John L. Petty, III, of Landrum.

Staff members participating in the meeting included: Alex Imgrund, Advice Counsel, Office of Advice Counsel; Tracey Perlman, Office of Disciplinary Counsel; Wendi Elrod, Program Assistant; Amy Holleman, Interim Administrator; Ernest Adams, Inspector, Office of Investigations and Enforcement; Stacey Hewson, Office of Advice Counsel; Sharon Cook, Investigator, Office of Investigations and Enforcement, and, Sharon Wolfe, Chief Investigator, Office of Investigations and Enforcement.

Members of the public attending the meeting included: Elizabeth Simmons, of the SC Morticians Association (SCMA); Alex Pate, of SC Department of Consumer Affairs (SCCA); Matalie Mickens, of SC Department of Consumer Affairs (SCCA); Mike Squires, of the SC Funeral Directors Association (SCFDA); Scott Fowler, of the SC Funeral Directors Association (SCFDA); Lou Ann Pyatt, of the SC Morticians Association (SCMA); Gere Fulton, of Funeral Consumer Alliance of South Carolina (FCASC); Dianne Drummand; Carsenna Nisbitt; Cliff Overstreet; George Brandt, Esq., of Henderson, Brandt & Vieth Law Firm; Chase Ridgeway, of Ridgeway Funeral Home; William Free, III, of Union Community Funeral Home; Ernest Smith, of Brown & Sons Funeral Home; and, Andre L. Locke.

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.

Marcus D. Brown, Secretary/Treasurer, of Anderson, arrived at 9:19 a.m.

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

Michelle Cooper, of Monks Corner, late arrival; and, Jeffrey K. Temples, of Columbia, were granted excused absences.

MOTION

Mr. Baker made a motion that the Board excuse Ms. Cooper's late arrival and Mr. Temples' absence. Mr. Horton seconded the motion, which carried unanimously.

4. Reports

A. Inspection Report – Ernest Adams

Mr. Adams informed the Board that he and Mr. Poole conducted 61 inspections from January 15, 2015 to March 11, 2015.

MOTION

Mr. Evans made a motion that the Board accept this report as information. Mr. O'Steen seconded the motion, which carried unanimously.

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

March 11, 2015 IRC report

Ms. Wolfe presented the Investigative Review Committee (IRC) report from the March 11, 2015 IRC meeting. The IRC recommended that the Board issue formal complaints for case numbers 2014-27, 2014-38, 2014-39, 2015-18, and 2015-19; and, dismiss case numbers 2014-37, 2014-47, and 2014-48.

MOTION

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

C. Office of Investigations and Enforcement (OIE) Report

Ms. Wolfe informed the Board that there are currently 4 active investigations, one do not open case, two pending Board action, and eight closed cases from January 1, 2015 through March 12, 2015. The oldest active case is 217 days.

MOTION

Mr. Evans made a motion that the Board accept this report as information. Mr. O'Steen seconded the motion, which carried unanimously.

D. 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 22 cases, eight cases are pending action, twelve cases pending hearings, one pending CA/MOAs, one case appealed, and thirteen closed cases.

5. Approval of Minutes for the February 3, 2015 & March 5, 2015 committee meeting

MOTION

Mr. Evans made a motion that the Board accept the meeting minutes for the February 3, 2015 and March 5, 2015 committee meetings, as written. Mr. Brown seconded the motion, which carried unanimously.

6. President's Remarks – Wallace McKnight

Mr. McKnight welcomed everyone.

7. Administrator's Remarks – Doris Cubitt

A. Financial reports

Ms. Holleman presented the financial reports for the Board's review.

B. Economic Interest forms

Ms. Holleman reminded everyone that the economic interest forms must be filed by 12 p.m. on March 30, 2015, or there may be stiff penalties.

C. Administrator Position

Ms. Holleman informed the Board that the agency has interviewed for the Administrator's position, but they have not hired anyone as of yet.

D. The Conference meeting in Dallas, TX

Ms. Holleman informed the Board that she and Mr. Adams attended the annual Conference meeting in Dallas, TX on February 26, 2015 thru February 27, 2015.

E. Fees

Ms. Holleman stated that the fees for the Board of Funeral Service are currently going through Legislation.

F. Committee meeting recommendations

At the March 5, 2015 committee meeting Ms. Holleman reminded the committee members that at the February 3, 2015 meeting the Board asked that the committee further discuss the requirement that a funeral home manager "has been licensed in this State for at least one year," and bring their recommendations back to the Board at their March 19-20, 2015 meeting. She also asked the committee discuss and decide whether or not the Board Administrator could approve the reinstatement of a funeral director and/or embalmer's license if lapsed less than five years, and she asked for the committee to recommend the Board set a policy that all apprentices must submit their work schedule along with their applications and quarterly reports.

A. Apprentice Schedule Submission

Ms. Holleman read the recommendations from the March 5, 2015 committee meeting.

Ms. Holleman told the committee members that it was her understanding that she should require all apprentices submit their weekly work schedules, signed by the apprentice, the apprentice's supervisor, and the funeral home's manager, if different from the apprentice's supervisor, along with their applications and the submission of quarterly reports in order to show that they are scheduled to work at least 35 hours a week. After speaking with one apprentice's supervisor who was upset over the request, Ms. Holleman says she realized that there was not a formal motion in the minutes requiring she get apprentice's schedules.

Mr. Evans told the committee that he thinks the apprentices should submit schedules, and he also thinks that the applications need to be revised to include that as part of the application. He suggested that the committee members review all current Board applications and note their suggested changes, additions, and subtractions to the applications. Mr. Imgrund told Mr. Evans that he did not see an issue with members reviewing the applications on their own, but any discussion must be held in a committee or Board meeting.

MOTION

Mr. Horton made a motion that the committee recommend to the Board that they require that all apprentices must submit a work schedule, complete with the apprentice's signature, the supervisor's/preceptor's signature, and the funeral home manager's signature. Ms. Cooper seconded the motion, which carried unanimously.

B. One year licensure to be a funeral home manager

Ms. Holleman read the recommendations from the March 5, 2015 committee meeting.

Mr. Horton asked for the floor. He told the committee that he has spent some time researching the statute and regulations in order to help him determine the one year of licensure in order to be a funeral home manager. He asked the committee to turn to Regulation 57-03(B)

(B) All applications for renewal shall be filed with the Board prior to June thirtieth (30th) each even year. Renewal applications must be accompanied by the renewal fee prescribed by the Board and, if applicable, the required number of continuing education credits. Licensees who have not properly renewed their licenses for failure to complete the required continuing education credits and/or failure to submit the appropriate renewal fee must apply for late renewal during a six (6) month penalty period following the expiration date. Late renewal applications must be accompanied by documentation, if applicable, indicating completion of the required continuing education credits as specified in Reg. 57-11 and a fee equal to the annual renewal fee plus a penalty as described in Reg. 57-12.

Mr. Horton then noted that regulation 57-03(C) says that "an embalmer or funeral director whose license has been expired for less than five (5) years may reactivate," and that 57-03(E) says, "applicants for reactivation must submit a notarized affidavit certifying that he or she has not been engaged in the practice of embalming or funeral directing in this State during the period the license was not in a current status," so he believes that, because reactivation does not come into play until a licensee's license is lapsed for more than six months, that first six months is just a period of late renewal. He reads the regulations to say that a license is still active during that six months of late renewal, and Mr. Imgrund agreed.

Mr. Imgrund told the committee that he does not see a reason an application where everything is in order and usual, the Administrator could not approve an application at the staff level, but the Administrator would need to bring anything unusual before the Board.

Ms. Cooper asked why lapsed funeral directors and/or embalmers outside of that initial six months late renewal frame have to come before the Board for reinstatement.

Mr. Nelson said that he thought it was important to bring people before the Board to let them know they are under scrutiny and that the Board takes their application and license seriously. It is good to bring people before the Board in these cases.

Mr. Evans agreed with Mr. Nelson that the Board needs to hold people accountable.

Ms. Holleman asked the committee to clarify if they were discussing the manager or reinstatements. They clarified that they were discussing the manager.

Ms. Cooper said that she trusted Ms. Holleman to not approve anyone that she felt uncomfortable with, and Mr. Nelson agreed that he trusted Ms. Holleman and her staff to bring anything with red flags or issues before the Board.

Mr. Imgrund noted that Ms. Holleman and her staff would bring someone whose application for reactivation was suspect before the Board, and the Board would have the authority to do or not do whatever the Board saw fit.

Ms. Holleman told the committee that she would always bring a license that had been suspended before the Board for reactivation. She would also not approve the reactivation of a revoked license in the event a revoked licensee asked for his or her license to be reactivated.

Because the discussions seemed to be related, Ms. Cooper suggested they make a motion on reactivation since the discussion moved more towards reinstatement than the manager. Mr. Evans agreed.

Mr. Horton asked when staff sends cease and desist orders to licensees after the expiration of their license.

Ms. Holleman informed the committee that they waited at least 30 days after the expiration date of the license because Section 40-19-230(E) says, "a person holding a license under this chapter may have the license renewed for a two-year period by applying within thirty days preceding or following the expiration of his license." She reminded the committee that a license expired on June 30, so anyone practicing after June 30, who did not renew is technically practicing on an expired license, but (E) gives them that thirty day grace period.

Mr. Evans asked Ms. Holleman for her opinion on the manager. Ms. Holleman told the committee that she does not have an opinion, but she notices in their discussion of the manager they speak more in absolute terms, either the license was actively licensed the entire time or not, and that absolute seems to be problematic to the committee and Board. She believes the Board can set the parameters to say something like, "if the license was lapsed during the late renewal period, they would qualify for manager," if they saw fit. Mr. Imgrund agreed.

Ms. Cooper noted that if a license fell outside of that six months lapsed, then it is no longer a late renewal, so the license would not qualify for licensed a year. Mr. Evans agreed.

Mr. Horton and Ms. Cooper both agreed that as long as a person's license was only lapsed during the six month late renewal period, then they are considered as licensed for one year for the purpose of being named funeral home manager.

Mr. Imgrund noted that after the thirty days past the license expiration date, a person cannot practice.

Ms. Cooper and Mr. Nelson agree that the year count must start all over again when a licensee has to reactivate the license, which would be any time after that six month late renewal period.

Mr. Evans asked that Mr. Imgrund read the definition of "manager" in statute.

Section 40-19-20(16) "Manager" means a licensed funeral director who has been licensed in this State for at least one year, who is a fulltime regular employee, and who is responsible for and has the binding authority from the owner for day-to-day management of funeral establishments or crematories including compliance with all applicable laws governed by this chapter and Chapters 7 and 8 of Title 32."

Ms. Cooper reiterated that she believes the year must start all over if a person lets their license lapse for more than six months and has to reactivate. Mr. Evans agreed. As long as they are in the six month late renewal period, they are considered licensed for the one year.

C. Reinstatement of Funeral Director and/or Embalmer Licenses up to Five Years

Ms. Holleman read the recommendations from the March 5, 2015 committee meeting.

MOTION

Mr. Horton moved that the committee recommend to the Board that for any person who does not renew their license within the six month late renewal period and has to apply for reinstatement, the reinstatement can be approved at the staff level, unless staff sees cause for the individual to appear before the Board, up to the five years. Ms. Cooper seconded the motion, which carried unanimously

D. Funeral Home Manager

Ms. Holleman read the recommendations from the March 5, 2015 committee meeting.

MOTION

Ms. Cooper made a motion that the committee recommends the Board determine “one year” for the purpose of managing a funeral home means that as long as a license was not lapsed for more than the six month late renewal period, then the one year could count. If a license lapses for more than the six month late renewal period, and the licensee has to reactivate the license, then the year starts over again from the date of reactivation. Mr. Nelson seconded the motion, which carried unanimously.

MOTION

Mr. Horton made a motion that the Board accept the committee’s recommendations. Mr. Evans seconded the motion, which carried unanimously.

Break – Mr. McKnight stated that the Board will break for 5 minutes

8. Disciplinary Hearing – Tracey Perlman

1. Case No. OIE 2013-64 Union Community, FE 523
2. Case No. OIE – 2014-11 William E. Free, III, FDE 1645

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

On January 2011, Respondent accepted pre-need funds for a funeral.

At the time of accepting the funds Ms. Minter was ill but not deceased.

Ms. Minter’s health improved, and the family requested a refund of the entire sum and Respondent refunded only a small portion.

Respondent failed to timely refund the remainder of the money.

Break – Mr. McKnight stated that the Board will break for 5 minutes

Executive Session

MOTION

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

Return to Public Session

MOTION

Mr. Baker made a motion that the Board return to public session. Mr. O’Steen 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 find the Respondent 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 probation, and a fine of \$500 per violation, for a total of \$1,500. Mr. O'Steen seconded the motion, which carried unanimously.

3. Case No. OIE – 2014-4 Leonard J. Hicks, FD 2120

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

Mr. Brandt, Esq. appeared on behalf of the respondent Leonard J. Hicks.

The witnesses for these cases were: Sharon Cook and Carsenna Nesbitt.

Ms. Perlman stated on or about January 28, 2014 Complainant contacted Respondent to make arrangements for her recently deceased grandfather. Complainant met with Respondent and advised him that she could not pay for the funeral in full up front. Complainant requested a payment arrangements and Respondent agreed to a payment plan.

Respondent requested and received five checks from Complainant payable to him; the checks were all dated January 28, 2014. Complainant and Respondent verbally agreed on the dates the checks would be cashed.

In furtherance of their agreement, Respondent drafted, signed, and pre-dated preneed funeral contracts to evidence and payment arrangement between him and the Complainant.

Shortly after completion of the contracts, Respondent's assistant notified Complainant that Respondent would not abide by the signed contract and the payment would need to be made up front. Complainant requested that her grandfather's body be transferred to a different facility. Complainant then discovered that the Respondent had embalmed her grandfather without authorization.

On January 29, 2014, Respondent released the deceased yet refused to provide an authorization release form. Respondent provided Complainant with a hand-written invoice for services provided including the unauthorized embalming.

Respondent only had custody of the deceased for slightly over 24 hours; however, Respondent charged Complainant \$200 for director services.

Respondent disclosed Complainant's finances regarding funeral services to other family members, when Complainant asked Respondent not to release this information.

Upon information and belief, and as a result, Respondent's conduct violates, Section 40-19-110(1), 40-1-110(1)(d), 40-1-110(1)(f), 57-13(A)(6) and 57-13(B)(1) which govern funeral directors in this state.

Michelle Cooper, of Monks Corner, arrived at 1:39 p.m.

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. O'Steen 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 dismiss the case because the state has not proven any violations. Mr. Nelson seconded the motion, which carried unanimously.

Lunch break

MOTION

Mr. Evans made a motion that the Board break for lunch at 2:30 p.m. and return at 3:30 p.m. Mr. Nelson seconded the motion, which carried unanimously.

9. 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.

New Business

Application Hearings

10. New Funeral Home or Ownership change

1. Ridgeway Funeral Home, LLC – Timothy “Chase” Ridgeway

Mr. Baker and Mr. McKnight stated they will recuse themselves if Mr. Ridgeway wishes. Mr. Ridgeway stated that is not necessary.

Mr. Horton stated he will recuse himself if Mr. Ridgeway wishes. Mr. Ridgeway stated, “yes, please”.

Mr. Ridgeway would like to open a funeral home and be the manager of Ridgeway Funeral Home, LLC.

MOTION

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

Mr. Baker added for the record that Mr. Ridgeway can advertise on sign only with no phone number and stating coming soon or future home of.

11. Reinstatement

1. Clifford E. Overstreet – Funeral Director/Embalmer

Ms. Holleman stated she told Mr. Overstreet that he could go, since his license can now be reinstated per the Board’s earlier motion on reinstatements.

2. Ernest M. Smith – Funeral Director/Embalmer

Ms. Holleman stated that Mr. Smith license was suspended on January 30, 2014, for filing a false income tax return. She stated on his renewal he indicated that he had not been arrested, charged, convicted or pled guilty for violation of any federal, state or local laws other than minor traffic violations.

On his 2010 renewal form he failed to disclose that he pled guilty to filing a false United States income tax return in violation of 26 U.S.C. 7206(1) and was sentenced to five (5) year probation.

On May 6, 2013, Mr. Smith’s license was suspended, until such time as a pardon may be obtained from his criminal conviction. At such time he may apply for reinstatement.

According to the Order from the Administrative Law Court, Mr. Smith’s license is suspended for one (1) year from the date of the Order and the Respondent must pay a fine of \$500 to the Board, due within sixty (60) days from the date of the Order.

Executive Session

MOTION

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

Return to Public Session

MOTION

Mr. Brown 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.

MOTION

Ms. Cooper made a motion that the Board must deny Mr. Smith's request to reinstate his license since statute 40-19-230(A)(2) and 40-19-230(B)(2) states "*has not been convicted of a violent crime or found guilty of a felony or crime of moral turpitude*". Mr. Nelson seconded the motion, which carried unanimously.

12. Apprenticeship

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

Ms. Holleman stated that Ms. Parks called and requested to be placed on the April 15, 2015 agenda.

2. Andre Lamont Locke – Apprentice Funeral Director

Ms. Holleman stated that Mr. Locke is applying for an Apprentice Funeral Director license. She informed the Board that Mr. Locke has done his apprenticeship more than five (5) years and needs Board approval to continue to meet his case requirements.

Mr. Locke has provided a statement of why it has taken him so long to do his apprenticeship and why he has not completed the apprenticeship.

MOTION

Mr. Evans made a motion that the Board grant Mr. Locke one (1) year to complete the 24 cases but that is it. Mr. Nelson seconded the motion, which carried unanimously.

13. Reciprocity

1. Cynthia Ann Apple – Funeral Director

Ms. Holleman stated Ms. Apple is reciprocating from Texas and her license issue date was July 22, 2008.

She stated Ms. Apple took the State Funeral Director exam that was given by The International Conference, and she has provided all required documents.

Ms. Holleman stated that staff has provided Texas Laws for the Board to review.

MOTION

Mr. Evans made a motion that the Board allow Ms. Apple to take the SC Law exam so she may be licensed once passed. Ms. Cooper seconded the motion, which carried unanimously.

14. Adjournment

MOTION

Mr. Evans made a motion the Board adjourn. Mr. Nelson seconded the motion, which carried unanimously.

The March 19, 2015, meeting of the SC Board of Funeral Service adjourned at 4:58 p.m.

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

Friday, March 20, 2015

15. Meeting Called to Order

Wallace McKnight, Jr., President, of Andrews, called the regular meeting of the SC Board of Funeral Service to order at 9:05 a.m. Other Board members present for the meeting included: Charlie Bradford Evans, Vice President, of Abbeville; Marcus D. Brown, Secretary/Treasurer, of Anderson; Michelle Cooper, of Monks Corner; William B. Horton, Jr., of Kingstree; Eddie Nelson, of Blythewood; and, John L. Petty, III, of Landrum.

Staff members participating in the meeting included: Alex Imgrund, Advice Counsel, Office of Advice Counsel; Tracey Perlman, Office of Disciplinary Counsel; Wendi Elrod, Program Assistant; Amy Holleman, Interim Administrator; Ernest Adams, Inspector, Office of Investigations and Enforcement; Stacey Hewson, Office of Advice Counsel; Sharon Cook, Investigator, Office of Investigations and Enforcement, and, Lamont Gleaton, Office of Disciplinary Counsel.

Members of the public attending the meeting included: Elizabeth Simmons, of the SC Morticians Association (SCMA); Alex Pate, of SC Department of Consumer Affairs (SCCA); Matalie Mickens, of SC Department of Consumer Affairs (SCCA); Daryl L. Bush, Esq., of Law Offices of Daryl Bush; Richard Thompson; and, Janice Thompson.

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, 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.

16. Introduction of Board Members and Persons Attending the Meeting

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

17. Approval of Excused Absences

Thomas E. Baker, II, of Kershaw; Mark R. O'Steen, of Spartanburg; and, Jeffrey K. Temples, of Columbia, were granted excused absences.

MOTION

Mr. Horton made a motion that the Board excuse Mr. Baker's; Mr. O'Steen's; and, Mr. Temples' absences. Mr. Evans seconded the motion, which carried unanimously.

18. Approval of consent Agreement (CA) – Tracey Perlman

Case No. OIE – 2013-56 Miller-Rivers-Caulder, FE 83

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

Ms. Perlman stated that the Respondent stipulates and admits that:

- a. Complainant was a resident of a group home operated by Chesco Services.
- b. Respondent regularly provides preneed contracts for residents of this group home.

- c. Respondent provided a Chesco case worker, Mrs. Pat McGill, with a life insurance funded non-guaranteed price irrevocable preneed contract for Complainant to sign.
- d. Mrs. Pat McGill had the Complainant sign the irrevocable preneed contract.
- e. Respondent never met with or discussed the preneed contract with Complainant.
- f. After Complainant moved out of the group home he requested a refund of the contract.
- g. Respondent advised Complainant that he had signed an irrevocable contract and the preneed benefit could be transferred to another funeral home, but the money could not be refunded.

Respondent admits that the conduct in this matter is in violation of regulation 57-13(A)(3) in that Respondent failed to explain to Complainant the costs of the services and the merchandise and disclose the range of prices for funeral good and service available.

Therefore it is agreed with Respondent's consent that:

- a. Respondent's license shall be publicly reprimanded.
- b. Respondent shall pay a civil penalty of Two Hundred and Fifty dollars (\$250.00) to the board within sixty (60) days of the effective date of this Agreement. 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.
- c. Respondent shall pay investigative costs in the amount of Fifty dollars (\$50.00) to the Board within sixty (60) days of the effective date of this agreement.
- d. Respondent acknowledges that Respondent has the right to a hearing and to be represented by counsel in this matter, and freely, knowingly, and voluntarily waives such rights by entering into this Consent Agreement. Respondent understands and agrees that by entering into this Consent Agreement Respondent voluntarily relinquishes any right to judicial review of the Board's action(s) which may be taken concerning any related matters.
- e. It is understood and agreed that if Respondent fails to meet the conditions agreed to in this Consent Agreement, Respondent's license may be immediately administratively suspended pending further order of the Board. Non-compliance may result in further discipline. Any license law violations by the Respondent shall constitute a failure to meet the conditions of this Consent Agreement.
- f. Respondent understands and agrees that this Consent Agreement will not become effective unless and until approved by the Board. Respondent understands and agrees that this Consent Agreement, if approved, will be disseminated as a public action of the Board in the manner provided by law. Respondent understands and agrees that if this Consent Agreement is not approved, it shall not constitute an admission against interest in this proceeding or prejudice the right of the Board to adjudicate this matter.
- g. Respondent shall promptly advise this Board in writing of any changes in address, practice, privileges, professional status, or compliance with this Agreement. Correspondence and copies of reports, notices and payments of fines mentioned herein shall be directed to the Board.
- h. Respondent understands and agrees that if this Consent Agreement is approved, it shall become a public document under the South Carolina Freedom of Information Act, section 30-4-10.
- i. This Consent Agreement shall take effect immediately upon receipt of a fully executed copy by the Respondent or counsel for the Respondent.

MOTION

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

19. Disciplinary Hearing – Tracey Perlman

1. Case No. OIE – 2014-19 Mitchell Dillard, FDE 1700

Ms. Perlman stated that this hearing has been continued.

2. Case No. OIE – 2014-22 Richard Keith Thompson, FDE 2745

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

Mr. Daryl Bush, Esq. appeared on behalf of the respondent Richard Keith Thompson.

Ms. Perlman stated that they have entered into a memorandum of agreement (MOA).

Mr. Bush stated that they and the State are in agreement as written.

Ms. Perlman stated that the Respondent stipulates and admits that:

- a. Respondent admits that on or about January 26, 2011, he became the manager of record for S.C. Franks Mortuary (hereinafter the "Mortuary") and S.C. Franks & Thompson Funeral Home (hereinafter the "Funeral Home").
- b. Respondent admits that during his tenure as manager, U.A. Thompson, the owner of the mortuary and funeral home, entered into both at-need and pre-need contracts without being licensed to do so.
- c. Respondent admits that on or about February 23, 2013, while taking possession of the Mortuary, the bankruptcy trustee discovered bodies and cremains left in the garage and other areas of the facility. The power was turned off in the building and the bodies appeared to have been left in the building for some time.
- d. Respondent admits that on or about February 28, 2013, the Board was notified by the bankruptcy trustee that the Mortuary was involved in bankruptcy proceedings and had lost possession of its facilities. In response to the closure and bankruptcy filing, the Board issued Temporary Suspension Orders for both locations.
- e. Respondent admits that on or about March 4, 2013, investigators from the Department of Labor, Licensing and Regulation toured the Funeral Home. During the tour, the investigators noted that bodies which had been moved from the Mortuary were being stored in a garage at the Funeral Home and were still awaiting cremation.
- f. Respondent admits that on April 12, 2013, the Board served Cease and Desist Orders on S.C. Franks and Thompson funeral Home, Melvin Davis, Jr., U.A. Thompson, Richard Keith Thompson and Dawnhaines Davis.
- g. Respondent admits that on April 24, 2013, the Board was contacted by Carolina Mortuary Service and Cremation regarding the body of Isabel Hernandez Teratol. Mr. Teratol had been dead since the first of February and S.C. Franks Mortuary was responsible for the preparation and shipping of the body. The body of Mr. Teratol was improperly prepared, the body was wrapped in newspaper and the shipping documents had been improperly completed.
- h. Respondent admits to working on the shipment of Mr. Teratol's body.

Ms. Perlman wanted to state for the record that Mr. Thompson has fully cooperated with all investigations surrounding this matter.

Executive Session

MOTION

Mr. Horton 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. Evans 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 find the Respondent has violated all six (6) violations Section 40-19-110(7), 40-19-110(12), 40-19-110(14), 40-19-110(15), 40-1-110(1) and 40-1-110(1)(f). The Board feels that the appropriate sanctions are to place the Respondent's license on probation for five (5) years, a public reprimand, pay a Three Thousand Dollar (\$3,000.00) fine for the six (6) violations, which should be paid within ninety (90) days of the effective date of the Board's Order. Mr. Horton seconded the motion, which carried unanimously.

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Ms. Perlman stated that this hearing has been continued.

20. Public Comments (no votes taken)

No public comments at this time.

Mr. Horton thanked Ms. Perlman, her staff and all of LLR staff for all they do.

21. Adjournment

MOTION

Mr. Evans made a motion the Board adjourn. Mr. Nelson seconded the motion, which carried unanimously.

The March 20, 2015, meeting of the SC Board of Funeral Service adjourned at 9:47 a.m.

The next meeting of the SC Board of Funeral Service is scheduled for April 15, 2015.