

MINUTES
South Carolina Board of Funeral Service
Board Meeting

10:00 a.m., October 22, 2015
Synergy Business Park
110 Centerview Drive, Kingstree Building Room 108
Columbia, South Carolina

Thursday, October 22, 2015

1. Meeting Called to Order

Wallace McKnight, Jr., President, of Andrews, called the regular meeting of the SC Board of Funeral Service to order at 10:12 a.m. Other Board members present for the meeting included: Michelle Cooper, of Moncks Corner; D'Michelle P. DuPre, of Chapin; Stephen R. Gantt, of Greenwood; Charvis K. Gray, of Piedmont; William B. Horton, Jr., of Kingstree; S. Lee McMillan, Jr., of Myrtle Beach; Eddie Nelson, of Blythewood; Mark R. O'Steen, of Spartanburg; and Jeffrey K. Temples, of Columbia.

Staff members participating in the meeting included: Donnell Jennings, Advice Counsel, Office of Advice Counsel; Tracey Perlman, Office of Disciplinary Counsel; Wendi Elrod, Program Assistant; Amy Holleman, Administrator; Monaca Harrelson, Administrative Assistant; Jeanie Rose, Administrative Assistant; Lamont Gleaton, Administrative Specialist II, Office of Disciplinary Counsel; Sharon Cook, Investigator, Office of Investigations and Enforcement; 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; and Robbie Boland, Program Coordinator, Office of Investigations and Enforcement.

Members of the public attending the meeting included: Elizabeth Simmons, of the SC Morticians Association (SCMA); Matalie Mickens, of SC Department of Consumer Affairs (SCDCA); Travis Dayhuff, Esq., of Nelson Mullins Riley & Scarborough LLP; Susan Nelson, of Nelson Mullins Riley & Scarborough LLP; Kyle Russell, of Russell Funeral Chapel; Isaac Jackson, of Davis Funeral Service LLC; Sallie M. Davis, of Davis Funeral Service, LLC; Hazel Cauthen, of Lancaster Funeral Home; Steven Greene, of Lancaster Funeral Home; Jerry Hartley, of Jerry L. Hartley Funeral Home; Brenner Hartley, of Jerry L. Hartley Funeral Home; Matt Tucci; Steve Whitesell, of Whitesell Funeral Home; Dan Lynam, of The Palmetto Mortuary; and Mike Keith, of The Palmetto Mortuary.

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.

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, was granted an excused absence.

50 **MOTION**

51 Ms. Cooper made a motion that the Board excuse Mr. Petty's absence. Mr. Temples seconded the
52 motion, which carried unanimously.

53
54 **4. Approval of Minutes for the July 23, 2015 board meeting**

55 **The changes are as follows for July 23, 2015:**

56 A. On page 1, line 13; change "Monk" to "Moncks". So it should read "Moncks Corner"

57
58 **MOTION**

59 Mr. Horton made a motion that the Board approve the minutes from the July 23, 2015, board meeting with
60 changes. Mr. Nelson seconded the motion, which carried unanimously.

61
62 **5. President's Remarks – Wallace McKnight**

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

64
65 **6. Administrator's Remarks – Amy Holleman**

66 Ms. Holleman stated that the Board has three new Board members appointed, Stephen Lee McMillan, Jr.,
67 Charvis Kejuan Gray and Stephen R. Gantt.

68
69 Ms. Holleman informed the Board that the agency has installed a new access system for security
70 reasons. So the Board members have been issued new badges that will have access to the elevators,
71 front door of the building and access to the stairs.

72
73 She also stated that the agency has new tablets that the Board members will use for Board meetings.

74
75 **A. Financial report**

76 Ms. Holleman presented the financial statements which shows a negative balance and asked if anyone
77 has questions please contact her.

78
79 Ms. Holleman stated that the Board of Funeral Service doesn't renew until June 2016. She stated it will
80 probably take three renewal periods to get the negative balance back in the positive.

81
82 **7. Reports**

83 **A. Inspection Report – Ernest Adams**

84 Mr. Adams informed the Board that he and Mr. Poole conducted 195 inspections from July 10, 2015
85 to October 13, 2015.

86
87 Mr. Nelson inquired on what type of things are inspected during an inspection.

88
89 Mr. Adams stated that during an inspection they check the preparation room, cars and all price lists
90 for compliance.

91
92 **B. Office of Investigations and Enforcement (OIE) Report**

93 Ms. Wolfe stated that the Office of Investigations and Enforcement (OIE) currently has 18 active
94 investigations, 20 do not open cases, six opened cases, 19 cases pending Investigative Review
95 Committee (IRC), and one closed case from January 1, 2015 through October 14, 2015. The oldest
96 active case is 310 days.

97
98 **C. Office of Disciplinary (ODC) Counsel**

99 Ms. Perlman presented the Board with the report from the Office of Disciplinary Counsel (ODC). She
100 included in the report that ODC opened ten cases, seven cases are pending action, three cases
101 pending hearings, and nine cases were closed.
102

103 Mr. Nelson asked how long does it takes to get the final order after the Board hears the case and
104 makes a ruling.
105

106 Ms. Perlman stated the final order is written by Advice Counsel and usually this should be within 60
107 days.
108

109 **8. Approval of Consent Agreement (CA) – Tracey Perlman**

110 1. Case No. OIE – 2014-39 – Gerard H. Mikell, Sr., FDE 1243

111 This proceeding was recorded by a court reporter in order to produce a verbatim transcript should one
112 be necessary.
113

114 Ms. Cooper recused herself from this case.
115

116 Ms. Perlman stated that Mr. Mikell signed a consent agreement, which she read for the record.
117

118 The Respondent stipulates and admits that:
119

- 120 A. Respondent is the funeral director at Suburban Funeral Home, Inc. (FE 72) located at North
121 Charleston South Carolina.
- 122 B. On or about June 29, 2014, Respondent was contacted by the family of Nathaniel W. Moultrie,
123 Jr. (Decedent). The Decedent had a Guaranteed Price Preneed Contract with the Respondent
124 and his establishment in which burial space, services and other merchandise related to
125 conduct a funeral and burial would be provided for the cost of \$4,756.40.
- 126 C. On or about July 16, 2014, the Decedent's family (Complainant) notified the South Carolina
127 Department of Labor, Licensing and Regulation (LLR) voicing their dissatisfaction with the
128 services provided by the Respondent, noting the following problems:
 - 129 1. The Complainant notified the Respondent about the Decedent's passing and was
130 told that the corresponding obituary would be placed in the paper on Monday, June 30,
131 2014. However, the obituary notice was not placed in the paper until Thursday, July 3,
132 2014. The complainant was told that the \$400.00 fee towards filing the obituary would
133 be refunded due to the delay, but the Respondent had yet to do so.
 - 134 2. The Complainant was notified by the Respondent that the funeral service was
135 scheduled for Monday, July 7, 2014, at 11:00 a.m. with burial to follow the same day
136 for 3:00 p.m. at Beaufort National Cemetery. However, when the Complainant started
137 to leave the funeral service for the burial at the cemetery, the Respondent stated that
138 they missed the appointment for the 2:00 p.m. burial and that the burial needed to be
139 rescheduled for Friday, July 11, 2014, at 2:00 p.m. The Complainant later found out
140 from the cemetery that the Respondent failed to contact the cemetery to set the
141 appointment. This caused the burial of the Decedent to be rescheduled and prevented
142 some of the family to attend the burial and obtain the closure surrounding the
143 Decedent's passing. Although Respondent made a request to the cemetery for burial
144 on Monday, July 7, 2014, at 3:00 p.m., he did not obtain a confirmation from the
145 ceremony that the appointment was reserved.
146

147 Respondent admits to violations Section 40-19-110(1), 57-13(A)(1), and 57-13(A)(6).
148

149 Therefore it is agreed with Respondent's consent that:

- 150
151 A. Respondent's license shall be publicly reprimanded.
- 152 B. Respondent's license shall be placed in a probationary status for a period of one (1) year from
153 the effective date of this Agreement.
- 154 C. Respondent shall pay a civil penalty of One Thousand Five Hundred dollars (\$1500.00) to the
155 board within ninety (90) days of the effective date of this Agreement. Said fine is not deemed
156 paid until received in full by the Board. Failure to pay the fine as ordered shall result in the
157 immediate administrative suspension of the referenced licenses until such time as the civil
158 penalty is paid in full.

159
160 **MOTION**

161 Mr. Nelson made a motion that the Board accept this Consent Agreement. Dr. DuPre seconded the
162 motion. So there are nine yays and one nay.

163
164 **9. Motion for Reconsideration – Tracey Perlman**

- 165 1. Case No. OIE – 2014-8 – Whitesell Funeral Home, FE 684

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

168
169 Ms. Perlman stated that board staff received a Motion for Reconsideration on behalf of Whitesell
170 Funeral Home requesting a Motion for Reconsideration regarding the finding pronounced at the
171 January 22, 2015 hearing. She stated the Motion was received from Mr. Matthew E. Cox, Esq., which
172 was Mr. Whitesell's attorney. Now Mr. Whitesell is being represented by Travis Dayhuff, Esq.

173
174 The grounds for Reconsideration are as follows:

- 175
176 1. Steve Whitesell has been a Funeral Director and Embalmer for multiple years. In 2008, Mr.
177 Whitesell met with a family friend who requested that Steve handle his funeral, as his wife's has
178 been handled.
- 179 2. Mr. Bryson had no means to pay Whitesell Funeral Home in advance through a pre-needs
180 contract and did not obtain a statutory insurance policy. Mr. Whitesell also owns Fort Mill Funeral
181 Home and if a pre-needs contract could have been entered, Mr. Whitesell could have had Mr.
182 Bryson enter into one through that Funeral Home.
- 183 3. Instead, Mr. Bryson made Mr. Whitesell a beneficiary under a then existing life insurance policy of
184 Mr. Bryson. Mr. Whitesell, as beneficiary, would have seen that Mr. Bryson's wishes were
185 honored.
- 186 4. Mr. Bryson moved to North Carolina to be with a formerly estranged son, and later suffered from
187 dementia. Mr. Bryson's son held the power of attorney. Mr. Bryson could have changed the
188 beneficiary at any time. He did not. Mr. Whitesell remained the beneficiary and holds the money
189 as such.
- 190 5. Mr. Whitesell does not desire to keep the money, but did not understand any law that required him
191 to assign the proceeds to the Funeral Home in North Carolina.
- 192 6. The Board at a hearing on January 22, 2015, found that Mr. Whitesell violated S.C. Code Ann. §
193 40-1-110(f) (has committed a dishonorable, unethical, or unprofessional act that is likely to
194 deceive, defraud, or harm the public) and S.C. Code Ann. § 40-19-110(12) (violating applicable
195 state laws relating to the prearrangement or pre-financing of a funeral).
- 196 7. The Board voted to revoke Mr. Whitesell 's funeral license.
- 197 8. We move for a rehearing, as we do not believe that revocation of Whitesell Funeral Homes,
198 license is warranted. We contend that the facts and circumstances regarding this matter are
199 unique. We do not believe that the Board adequately took into account the relationship between
200 the parties, their long-standing friendship and the exemplary professional history of Mr. Whitesell.

201 9. Additionally, we believe that the facts in this matter do not meet the statutory definition of pre-
202 needs as defined by the State of South Carolina in S.C. Code Ann. §§ 32-7-10 and 32-7-20. Mr.
203 Whitesell did not receive any monies in 2008, when Mr. Bryson made Mr. Whitesell his beneficiary
204 or prior to his death. Specifically, insurance policies, except those issued under S.C. Code Ann. §
205 38-55-330, are exempted from the pre-need's statute.
206

207 **Executive Session**

208 **MOTION**

209 Mr. Nelson made a motion that the Board enter into executive session for legal advice. Mr. O'Steen
210 seconded the motion, which carried unanimously.
211

212 **Return to Public Session**

213 **MOTION**

214 Dr. DuPre made a motion that the Board return to public session. Mr. Gray seconded the motion,
215 which carried unanimously.
216

217 Mr. McKnight stated, for the record, that no votes were taken during executive session.
218

219 **MOTION**

220 Ms. Cooper made a motion that the Board deny the request for reconsideration. Mr. O'Steen
221 seconded the motion, which carried unanimously.
222

223 Mr. Nelson left at 12:00 p.m. because he had a service to attend.
224

225 **Old Business**

226 **Application Hearings**

227 **10. New Funeral Home or Ownership change**

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

229 Ms. Holleman stated that Mr. Hartley was approved at the August 28, 2014, Board of Funeral Service
230 board meeting as owner and manager of Jerry L. Hartley Funeral Home, LLC. But since it is over one
231 year from approval he must reappear for an extension.
232

233 Mr. Hartley stated that he ran into some issues with wet springs, property easement issues, and the
234 Department of Health and Environmental Control (DHEC) processing a specialized septic system for
235 the funeral home. He stated they hope to have all issues resolved and be in the funeral home by
236 Thanksgiving.
237

238 **MOTION**

239 Mr. Horton made a motion that the Board approve the request for an extension. Mr. O'Steen
240 seconded the motion, which carried unanimously.
241

242 **Lunch break**

243 **MOTION**

244 Mr. Horton made a motion that the Board break for lunch at 12:32 p.m. and return at 1:30 p.m. Mr.
245 Temples seconded the motion, which carried unanimously.
246

247 **New Business**

253
254 **Application Hearings**

255 **11. New Funeral Home or Ownership change**

256 1. Davis Funeral Home – Isaac Jackson

257 Ms. Holleman stated that Davis Funeral Home was owned by Mr. Raymond F. Davis, Jr., and his wife,
258 Sallie M. Davis and that Mr. Davis was the manager.

259
260 However, Mr. Davis passed away so the ownership is changing to Ms. Sallie M. Davis and Mr.
261 Raymond F. Davis, Sr. The proposed manager is Isaac Jackson.

262
263 Mr. Horton inquired on if Ms. Davis or Mr. Davis is licensed. Mr. Jackson stated they are not licensed.

264
265 Ms. Holleman stated that it is customary when a licensed funeral home owner dies the new owners
266 are allowed to keep the same name for posterity reasons.

267 **MOTION**

268
269 Mr. Horton made a motion that the Board approve the application with Mr. Jackson as manager. Mr.
270 Temples seconded the motion, which carried unanimously.

271
272 2. Russell Funeral Chapel, Inc – Kyle Manning Russell

273 Ms. Cooper recused herself in this matter.

274
275 Ms. Holleman stated that the previous owner/manager was Otto M. Russell, who passed away on
276 February 13, 2015. Now Mr. Kyle Manning Russell is the proposed owner/manager for Russell
277 Funeral Chapel, Inc.

278
279 Mr. Horton asked if Mr. Russell has read and understands the SC laws and regulations as stated on
280 the application and will work a minimum of 35 hours a week. Mr. Russell stated yes to both.

281
282 Mr. Horton asked if they currently sale preneed. Mr. Russell stated they do.

283
284 **MOTION**

285 Mr. Horton made a motion that the Board approve the application with Mr. Russell as manager,
286 pending receiving a favorable preneed letter. Mr. Temples seconded the motion, which carried
287 unanimously.

288
289 3. The Palmetto Mortuary – Michael Lee Keith

290 Ms. Holleman stated this was Palmetto Mortuary of South Carolina owned by Cremation Society of
291 South Carolina and managed by Mr. Keith. She stated the new owners are Daniel P. Lynam and T.
292 Miller Corp. and Mr. Keith will remain the manager.

293
294 Mr. Temples stated that he sees on the application that Mr. Keith has a non-compete clause. He
295 stated that was under the previous owner, which is no longer in effect.

296
297 **MOTION**

298 Ms. Cooper made a motion that the Board approve the application with Mr. Keith as manager,
299 pending passing inspection. Mr. O'Steen seconded the motion, which carried unanimously.

300
301 **12. Reinstatement of License after Five (5) Years**

302 1. Steven F. Greene – Funeral Director/Embalmer

303 Ms. Holleman stated that Mr. Greene is requesting to reinstate his license even though his
304 license expired in 2008. She stated since his license expired over five years ago regulation
305 requires him to meet all requirements including retaking the exam as outlines in Section 57-09(D).
306

307 *“An embalmer or funeral director whose license has been expired for more than five (5)*
308 *years must reapply and meet all of the requirements, including re-examination, at the time*
309 *of application, for licensure”.*
310

311 Mr. Greene stated he retired and moved to Illinois and never requested a license in that state.
312

313 **Executive Session**

314 **MOTION**

315 Mr. Temples made a motion that the Board enter into executive session for legal advice. Dr. DuPre
316 seconded the motion, which carried unanimously.
317

318 **Return to Public Session**

319 **MOTION**

320 Dr. DuPre made a motion that the Board return to public session. Mr. Gray seconded the motion,
321 which carried unanimously.
322

323 Mr. McKnight stated, for the record, that no votes were taken during executive session.
324

325 **MOTION**

326 Ms. Cooper made a motion that since Mr. Greene has been licensed for over 30 years and has
327 passed the National exams, the Board should grant him sixty (60) days to pay licensing fees and must
328 take and pass the SC Law exam. Mr. Gray seconded the motion, which carried unanimously.
329

330 2. Matthew Michael Tucci – Funeral Director

331 Mr. Temples recused himself in this matter.
332

333 Mr. Temples left at 2:21 p.m. because he had a service to attend.
334

335 Ms. Holleman stated that Mr. Tucci is requesting to reinstate his license which expired in 2010.
336 She stated since his license expired over five years ago regulation requires him to meet all
337 requirements including retaking the exam as outlines in Section 57-09(D). She also read Section
338 40-19-230(E) for the record.
339

340 *“A person holding a license under this chapter may have the license renewed for a two-*
341 *year period by applying within thirty days preceding or following the expiration of his*
342 *license, upon forms provided by the board and payment of a renewal fee as established*
343 *by the board in regulation. A person who fails to renew the license, at the discretion of the*
344 *board, may have it renewed by making application and appearing before the board and*
345 *paying a renewal and revival fee established by the board. The license of a person who is*
346 *engaged actively in the military service of the United States may be held in abeyance for*
347 *the duration of service, and the licensee may be relieved of the payment of renewal fees*
348 *as the board considers justifiable and expedient”*
349

350 Mr. Tucci stated he moved to Florida and was working with SCl and wasn't required to have a
351 license in that state since he wasn't working as a funeral director.
352
353

354 Mr. Horton asked Mr. Adams, Funeral Board Inspector, if the South Carolina State Funeral
355 Director exam is mirrored from the National Funeral Director exam.
356

357
358 Mr. Adams stated that it is modeled after the National exam.
359

360 **Executive Session**

361
362 **MOTION**

363 Mr. Horton made a motion that the Board enter into executive session for legal advice regarding the
364 application. Mr. McMillan seconded the motion, which carried unanimously.
365

366 **Return to Public Session**

367
368 Mr. Horton asked a question as they were going into executive session. He wanted to know the exact
369 date Mr. Tucci's license expired.
370

371 Ms. Holleman stated the license expired on June 30, 2010.
372

373 **Executive Session**

374
375 **MOTION**

376 Ms. Cooper made a motion that the Board enter into executive session for legal advice regarding the
377 application. Mr. Gray seconded the motion, which carried unanimously.
378

379 **Return to Public Session**

380
381 **MOTION**

382 Mr. McMillan made a motion that the Board return to public session. Mr. Gray seconded the motion,
383 which carried unanimously.
384

385 Mr. McKnight stated, for the record, that no votes were taken during executive session.
386

387 Ms. Cooper stated that Mr. Tucci's license wasn't expired over five years because of the six month
388 grace period as outlined in Regulation 57-12. Mr. Tucci's five year mark would be December 30,
389 2015.
390

391 **MOTION**

392 Ms. Cooper made a motion that the Board grant Mr. Tucci's request and allow him six months from
393 the date of this meeting to complete the required continuing education and pay the required fees. Mr.
394 Horton seconded the motion, which carried unanimously.
395

396 **13. Election of Officers**

397 **Mr. Horton was asked to stand in for Mr. McKnight to run the meeting.**

398
399 **1. Nomination for President**

400 Ms. Cooper nominated Mr. William Horton, Jr. for president. Mr. Gray seconded the motion, which
401 carried unanimously.
402

403 **2. Nomination for Vice President**

404 Mr. McMillan nominated Mr. Eddie Nelson, for vice president. Mr. Gray seconded the motion, which
405 carried unanimously.
406

407 **3. Nomination for Secretary/Treasurer**

408 Ms. Cooper nominated Mr. Jeff Temples, for Secretary/Treasurer. Mr. McKnight seconded the
409 nomination. There being no further nominations, the nominations were closed.
410

411 Mr. Horton left at 4:33 p.m. because he had a service to attend.
412

413 **14. Election of IRC member(s)**

414 Ms. Holleman stated that since Mr. Elwood stepped down as an IRC member there is currently one more
415 slot available. She stated that Mr. Pennington, Mr. Miller and Mr. Crawford are still members of the IRC.

416 Ms. Cooper nominated Mr. Brad Evans.
417

418 Mr. McKnight nominated Mr. Ken Beasley.
419

420 Both are former Board members.
421

422 Ms. Cooper asked if there can only be four IRC members. Mr. Jennings stated that is up to the Board.
423

424 **MOTION**

425 Ms. Cooper made a motion that the Board have a maximum of five IRC Professional members. Dr.
426 DuPre seconded the motion, which carried unanimously.
427

428 **Nomination for IRC member**

429 Ms. Cooper made a motion that Mr. Evans and Mr. Beasley be nominated to the IRC along with the
430 current three members. Mr. McMillan seconded the motion, which carried unanimously.
431

432 **15. Appointment of Media Designee**

433 Ms. Holleman stated this will be the Board member that will be consulted in the event of any media
434 issues.
435

436 Mr. Jennings suggested that the Board may want to have the Media Designee default to the Board
437 President so they will not need to vote on a new Media Designee every year.
438

439 **MOTION**

440 Mr. McMillan made a motion that the Board have the Media Designee default to the Board President. Mr.
441 Gray seconded the motion, which carried unanimously.
442

443 **16. Executive Session – Inspector General Report update**

444 **Executive Session**

445 **MOTION**

446 Mr. Horton made a motion that the Board enter into executive session for legal advice with Ms. Holleman
447 attending. Mr. McMillan seconded the motion, which carried unanimously.
448

449 **Return to Public Session**

450 **MOTION**

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

455
456 Mr. McKnight stated, for the record, that no votes were taken during executive session.

457
458 **17. Public Comments (no votes taken)**

459 No public comments at this time.

460
461 **18. Adjournment**

462 **MOTION**

463
464 Mr. O'Steen made a motion the Board adjourn. Mr. Horton seconded the motion, which carried
465 unanimously.

466
467 The October 22, 2015, meeting of the SC Board of Funeral Service adjourned at 3:36 p.m.

468
469 The next meeting of the SC Board of Funeral Service is scheduled for December 9, 2015.

DRAFT