

**TENNESSEE BOARD OF FUNERAL DIRECTORS AND EMBALMERS**

**MINUTES OF BOARD MEETING**

**APRIL 8, 2014**

President Robert Starkey called the meeting to order at 10:00 a.m. in Conference Room 1-B, Davy Crockett Tower, Nashville, Tennessee.

Board members present: Robert Starkey, President; Anita Taylor, Vice President; Wayne Hinkle, David Neal, W. T. Patterson and Jane Gray Sowell.

Board member(s) absent: Robert P. Helms.

Staff present: Robert Gribble, Executive Director; Adrian Chick, Assistant General Counsel; Ellery Richardson, Assistant General Counsel; Genesis Johnson, Administrative Secretary; and Lisa Mosby, Administrative Assistant.

**ADOPTION OF AGENDA:**

A motion was made by Wayne Hinkle to approve the Agenda as printed.

Seconded by David Neal

Adopted by voice vote

**APPROVAL OF MINUTES:**

President Starkey announced that the March 11, 2014 Minutes will be presented for review/approval at the next board meeting.

**LEGISLATIVE UPDATE:**

Greer Kelly, a Legislative Liaison for the Department, updated the Board regarding Public Chapter No. 555 of the Public Acts of 2014 and HB1380/SB1675.

**PRESENTATION OF FINAL ORDERS AND LITIGATION MATTERS:**

**Docket No. 12.21-125033A**

**Complaint No. 2011027831**

- Respondent: Cremation Society of Tennessee Maury County, Columbia, Tennessee  
Establishment License No. 1230 (Closed)

Assistant General Counsel Adrian Chick informed the Board that this establishment is now closed and recommended that the Board close this complaint.

Jane Gray Sowell recused herself from participating in this matter.

A motion was made by Wayne Hinkle to accept Counsel's recommendation.

Seconded by Anita Taylor

Adopted by voice vote

**Docket No. 12.21-125034A**  
**Complaint No. 201105081**

- Respondent: Cremation Society of Tennessee, LLC, Spring Hill, Tennessee  
Establishment License No. 1208

Assistant General Counsel Adrian Chick presented an Agreed Final Order for the Board's consideration regarding Complaint No. 201105081.

Jane Gray Sowell recused herself from participating in this matter.

A motion was made by Wayne Hinkle to accept the Agreed Final Order as presented.

Seconded by Anita Taylor

Adopted by voice vote

**Docket No. 12.21-125035A**  
**Complaint No. 2011031291**

- Respondent: Covenant Funeral & Crematory, Chattanooga, Tennessee  
Establishment License No. 1070

Assistant General Counsel Adrian Chick presented a Final Order for the Board's consideration regarding Complaint No. 2011031291.

Anita Taylor recused herself from participating in this matter.

A motion was made by Jane Gray Sowell to accept the Final Order as presented.

Seconded by Wayne Hinkle

Adopted by voice vote

**LEGAL REPORT:**  
**ELLERY RICHARDSON, ASSISTANT GENERAL COUNSEL**

Abbreviations:

GPL – General Price List

CPL – Casket Price List

OBCPL – Outer Burial Container Price List

SFGSS – Statement of Funeral Goods and Services Selected

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**1. Case No.: L14-FUN-RBS-2014002991**

**Complaint:**

- Complainant's mother passed away and was released to Respondent funeral home.
- Complainant signed paperwork at the hospital to tell Respondent that he was the contact person and had possession of the deceased's dentures.
- Two hours later he called Respondent and was assured that Respondent would call him back.
- Complainant had to contact the answering service to confirm that the deceased had been picked up. The funeral home staff did not know that they had the deceased. Eventually the staff located the deceased and confirmed that they had her.
- When the complainant spoke with the manager, Respondent informed him that no one called him back because an employee was in embalming school and as such was not allowed to contact him.
- Complainant was unhappy with the services and had the deceased transferred to another funeral home. The other funeral home informed complainant that the deceased had already been embalmed by Respondent funeral home.
- Respondent refused to tell complainant who embalmed the deceased.
- The deceased did not look like herself and had to be buried without her dentures.

**Response:**

- Respondent admits that the employee who originally spoke with complainant on the phone failed to call him back in a timely manner.
- That evening, another employee saw that complainant had called and called him back, unknowing that complainant had already spoken with another employee, which led to confusion.

- During this phone conversation, complainant stated that he wished to have a traditional service with an open casket viewing in the same manner as other family members Respondent has served in the past. Based on that information, an employee proceeded with the embalming.
- Early the next morning, complainant called and informed Respondent that he was going to use another funeral home. Arrangements were made to transfer the body.
- The other funeral home presented Respondent with a check for the embalming. Because of the confusion with the removal, Respondent did not charge for the removal services. Later when Respondent realized that Complainant was upset about the embalming, Respondent returned that check.
- Respondent insists that the deceased's whereabouts were never in doubt.
- Respondent insists that they were always forthcoming with information.

**Recommendation:**

- Consent Order with civil penalty of \$500 and authorization for a formal hearing.

A motion was made by Wayne Hinkle to accept Counsel's recommendation.

Seconded by W. T. Patterson

Adopted by voice vote

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**2. Case No.: L14-FUN-RBS-2014003231**

**Complaint:**

- Complainant claims to be the wife of the decedent.
- Complainant claims that Respondent falsely documented that the decedent was divorced on the death certificate.
- Respondent did not contact Complainant regarding this error.
- Complainant states that the death certificate was never filed with the state.
- Complainant's benefits are now put on hold because of this error because the decedent was a member of the military.

**Response:**

- The decedent's mother and sisters made all the arrangements with the funeral home.
- The hospital's Notification of Death Record listed one of the decedent's sisters as his next of kin.

- The family listed the decedent's marital status as "divorced" on Respondent's form requesting Vital Record Information.
- Respondent never had a reason to think, believe, or know of an alleged wife.

**Additional Information:**

- The Health Department has confirmed that the death certificate has been filed.

**Recommendation:**

- Dismiss

A motion was made by Anita Taylor to accept Counsel's recommendation.

Seconded by David Neal

Adopted by voice vote

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**3. Case No.: L14-FUN-RBS-2014004561**

**4. Case No.: L14-FUN-RBS-2014004562**

**Complaint:**

- Complainant is another funeral home in the area and alleges that Respondents' advertising is misleading because it states that Respondents are the only locally owned funeral homes in the area. Complainant states that his family has locally owned his funeral home since 2001. Respondent knows this and still misleads customers with its advertising.

**Response:**

- Respondents state that Complainant's funeral home was purchased by a corporate firm prior to Respondents' beginning their business.
- Respondents ask that this complaint be dismissed.

**Recommendation:**

- Respondent #3: Consent Order with civil penalty of \$250 and authorization for a formal hearing.
- Respondent #4: Consent Order with civil penalty of \$250 and authorization for a formal hearing.

A motion was made by Jane Gray Sowell to accept Counsel's recommendation.

Seconded by Wayne Hinkle

Adopted by voice vote

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## CASES RE-PRESENTED TO THE BOARD

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### 5. Case No.: L13-FUN-RBS-2013021891

#### **Complaint:**

- The Complainant's brother passed away in August of 2013.
- The decedent was an employee of the Respondent funeral establishment and the Complainant's funeral bill was allegedly covered by the funeral establishment due to the decedent's employment; however, the Complainant later received a bill for the funeral services for \$9,177.54.
- During the period of visitation and services, the Complainant informed the Respondent that they wanted a new casket as the current one was actually the display model and it had a crack in the center of it, but the Respondent asked why the Complainant had such a problem with it if they were not paying for the services.
- Complainant also states that the Respondent worked with the decedent to have his life insurance policy changed to name the funeral establishment as the beneficiary of 50% of the policy.
- Complainant states that they were led to believe the insurance policy was not in force, as the decedent had not worked since being diagnosed with Stage 4 Cancer in 2012.
- Complainant was upset that a car was sent to the home of the decedent's girlfriend (who also worked at the funeral establishment) instead of the decedent's next of kin; furthermore, Complainant believes the flowers should have been given to the next of kin instead of the decedent's girlfriend.
- The Complainant did not say much about these issues at the time because they were under the impression that the Respondent was covering the funeral costs.

#### **Response:**

- Respondent failed to respond to the complaint.

#### **Recommendation:**

- Consent Order with \$1,250.00 civil penalty (includes no response) and authorization for hearing.

#### **Additional Information:**

- Current Consent Order against Respondent includes a charge of failure to respond to the complaint.

- In fact, Respondent did respond to the complaint within the time frame, but he directed his response to a different division within the Department.
- By the time the response was forwarded to the Funeral Staff, the Board had already considered the case and authorized a Consent Order that included a violation for failure to respond to the complaint.

**New Recommendation:**

- Amend the consent order to take away the language about failure to respond to the complaint and \$250 of the civil penalty issued for failure to respond. This leaves a consent order with a civil penalty for \$1000 and authorization for a formal hearing.

A motion was made by Jane Gray Sowell to accept Counsel's recommendation.

Seconded by David Neal

Motion was withdrawn by Jane Gray Sowell

A motion was made by Jane Gray Sowell to accept Counsel's recommendation.

Seconded by Wayne Hinkle

Adopted by voice vote

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**ADMINISTRATIVE MATTERS:**  
**ROBERT B. GRIBBLE, EXECUTIVE DIRECTOR**

**LICENSEE REPORT:**

**REPORT OF LICENSES ADMINISTRATIVELY APPROVED BY EXECUTIVE  
DIRECTOR PURSUANT TO BOARD AUTHORITY FOR THE PERIOD OF  
MARCH 11, 2014 – APRIL 7, 2014**

**Establishments**

**Type of License(s)**

Gateway Funeral Home & Cremation Center  
Clarksville, TN

New Establishment

**Individuals**

**Type of License(s)**

Delbrita Latrice Greene  
Nashville, TN

Funeral Director/Embalmer

Kayla Dawn Miller  
Englewood, TN

Funeral Director/Embalmer

Jeremy Wayne Sweeney Knoxville, TN	Funeral Director/Embalmer
Samantha Hood Williams Crossville, TN	Funeral Director/Embalmer
Dennis Ray Murphy Memphis, TN	Funeral Director/Embalmer Reciprocity – Arkansas
Joshua Allen Carter Greeneville, TN	Funeral Director Reapplication
Earl Franklin Hilley Soddy Daisy, TN	Embalmer Reciprocity – Georgia

**DISCIPLINARY ACTION REPORT:**

**REPORT OF CONSENT ORDERS ADMINISTRATIVELY  
ACCEPTED/APPROVED BY THE EXECUTIVE DIRECTOR  
PURSUANT TO BOARD AUTHORITY  
FOR THE PERIOD OF MARCH 1, 2014 – MARCH 31, 2014**

- Respondent: Covenant Funeral & Crematory, Chattanooga, TN  
 Violation: Failed to disclose to a family that the price being charged for a cash advance item was not the same as its cost to the establishment and failed to maintain a copy of the latest inspection results of the crematory used by the establishment  
 Action: \$1,500 Civil Penalty and \$200 Hearing Costs
- Respondent: Harold Dean Limburg, Greeneville, TN  
 Violation: Immoral conduct (engaged in sexual acts with an individual under the age of consent who was particularly vulnerable at the time)  
 Action: Suspension of funeral director and embalmer licenses for a period of six (6) months, \$1,000 Civil Penalty, and \$1,260 Hearing Costs
- Respondent: Carl R. Points, Columbia, TN  
 Violation: Solicitation of a dead human body by the licensee that occurred both when death was imminent and after death (handed out business cards to several family members when an individual was in a hospital intensive care unit and subsequently solicited the family via phone calls to their residence both before and after the individual's death)

Action: \$2,500 Civil Penalty

Respondent: Sellars Funeral Home at Mt. Juliet, Mount Juliet, TN  
Violation: Failed to maintain a copy of the latest inspection results of the crematory used by the establishment, ventilation fan in the preparation room was not operating properly, the high-end range for a direct cremation was inconsistent on different price lists, and an incorrect price list caused a family to be overcharged for an outer burial container

Action: \$250 Civil Penalty

Respondent: Smith Brothers Funeral Directors, Nashville, TN  
Violation: Failed to provide a response within the allotted time upon receiving notice that a complaint had been opened against the establishment

Action: \$250 Civil Penalty

**OPEN COMPLAINT REPORT:**

As of April 7, 2014 there were 61 open complaints.

A motion was made by Anita Taylor to accept the Executive Director's Report.

Seconded by Wayne Hinkle

Adopted by voice vote

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**ADJOURN:**

A motion was made by Wayne Hinkle to adjourn.

Seconded by Anita Taylor

Adopted by voice vote

The meeting was adjourned by President Robert Starkey at 10:47 a.m.

Respectfully submitted,

*Robert B. Gribble*

Robert B. Gribble, CFSP  
Executive Director