

ARKANSAS STATE BOARD OF EMBALMERS AND FUNERAL DIRECTORS

*Secretary's Report
May 2013- May 2014*

Current members of the State Board are: President James Terry Woodard, Wynne, AR, 1st District – professional member; Bobby Burns, Beebe, AR, 2nd District- professional member; Bobby Thurman, Eureka Springs, AR, 3rd District- professional member; Eddie Hawkins, Texarkana, AR, 4th District- professional member; Ben Brazzel, Hope, AR, 4th District replaced Eddie Hawkins in July 2013, Jerry Adams, Lonoke, AR, At-Large position - professional member ; Patricia Roberts, Prescott, AR, Senior Citizen Representative and Mary Ann Allen, McGehee, AR, Consumer Representative, however Ms. Allen resigned from the Board in August 2013 since she was moving out of state. We are currently awaiting the Governor to name her replacement.

Current Staff: Amy S. Goode, Executive Secretary; Boyd Heath, Inspector, Lori Nofziger, Administrative Specialist and Kat Hodge, Board counsel

Over the course of this reporting period the Board convened on six occasions to conduct Board business. Board activities included reviewing complaints, convening hearings when appropriate, hearing applications for reinstatement, reviewing applications for new establishments, establishment inspections, monitoring the apprenticeship program, licensing, and responding to public inquiries. The Board is currently working on rule and fee changes. A rule committee was formed and has since met four times.

The Board also reviews and approves applications for Continuing Education programs. The Board co-sponsored a 6 hour CE program in September of 2013 in conjunction with ARORA. It was an outstanding program that was well attended and reviewed. The Board tries to sponsor at least one program a year, provided we can find quality speakers at an affordable price. All programs that are approved are listed on the web site, www.arkansas.gov/fdemb.

Compilation of Board Activities

COMPLAINTS/HEARINGS

The Board reviewed 24 complaints. These complaints dealt with allegations of fraud, failure to provide services as contracted, misrepresentation, practicing without a license, solicitation, possible FTC violations, unethical, and unprofessional conduct. After review of the complaints and consultation with Board counsel it was determined that there was sufficient evidence of possible violations in 17 of the complaints, further investigation resulted in all 17 being set for Hearings. All other complaints were dismissed for insufficient evidence or actions and or activities outside the scope of the Board's authority. There were 7 hearings set for licensure and apprenticeship approval.

a. In the Matter of: Herman Eaton, a licensed funeral director

Hearing officer Johnson explained that the hearing would follow the Administrative Procedures Act and allowed Attorney Ohrenberger to enter Board's exhibit 1 a compilation of 34 pages and there was no objections from Mr. Eaton.

Attorney Ohrenberger opened with a brief statement. The 2nd page of Board's exhibit 1 is a table of contents and on page 3 is a copy of the notice of hearing. This sets out the law and the allegations that brought us here today. The matter before us on

Mr. Herman Eaton a licensed funeral director whom has been licensed since 1999 and he has plead guilty in federal court on two felony charges. This is a violation of our licensure law. Evidence that will be presented this morning is that Mr. Eaton was convicted 2012 for attempted racketeering which is a Class C felony and a violation of the federal Hobbs Act. Also for money laundering, this is also a Class C felony. Under our licensing law if an individual is convicted of a felony that is grounds for discipline by this Board. Under "Charges" section that is Ark. Code Ann § 17-29-311(a)(1).

If the Board finds the facts presented today to be true, the potential range for sanctions include revocation of license, suspension of a license, or a monetary penal of up to \$10,000. Can also include other conditions such as probation, continuing education requirements, and additional examination requirements; the Board has quite a broad range of options. The primary evidence that will be presented comes from both the plea agreement and then the formal judgment that the court entered in that federal case by Judge Leon Holmes on May 16, 2012. The way this matter came before us today, was that Mr. Eaton submitted his renewal in December 2012. However, he disclosed and rightfully so disclosed that he had this conviction. A new license has not been issued, but the Administrative Procedures Act provides that when there is a pending a disciplinary matter that holds up the renewal; the current license will remain in force until such time a hearing is conducted on the disciplinary matters and until the time for any potential appeal has expired. Mr. Eaton's 2012 are still current and this hearing will be to determine if there is any disciplinary action and whether or not the Board will allow a renewal for 2013.

Motion made by Burns to find factual allegations 1-5 be found true, seconded by Adams, all in favor. Motion carried.

Charges C. 1

Motion made by Allen to that charge C.1 be found true, second by Thurman, all in favor.

FINDINGS OF FACT

A.1. Respondent is currently licensed as a funeral director in the State of Arkansas. His license was first issued on October 20, 1999.

A.2. In making application for renewal of his funeral director license for 2013, Respondent disclosed that he has been convicted of a felony.

A.3. In fact, in United States of America v. Herman Eaton, United States District Court, Eastern District of Arkansas, Case No. 4:11-CR-213 JLH, in May of 2012, Respondent pleaded guilty to and was convicted of:

1. Attempted racketeering/Hobbs Act, a Class C felony, in violation of 18 U.S.C. § 1951(a); and
2. Money laundering, a Class C felony, in violation of 18 U.S.C. § 1956(a)(3)(A).

A.4. In May of 2012, Respondent was sentenced to incarceration in the United States Bureau of Prisons for period of sixteen months, followed by an additional two years of supervised release. Respondent was also ordered to pay \$200 in criminal monetary penalties.

A.5. Respondent was released from prison on December 7, 2012, but he remains under supervised release.

CONCLUSIONS OF LAW

C.1. Although Respondent timely submitted his 2013 funeral director license renewal to the Board, a renewal license has been administratively withheld pending the results of this hearing. Pursuant to Ark. Code Ann. § 25-15-211(b), Respondent's 2012 license remains in effect until the last day for seeking review of the final Board order on adjudication in this matter.

C.2. Ark. Code Ann. § 25-15-211(b) provides: "When a licensee has made timely and sufficient application for the renewal of a license . . . with reference to any activity of a continuing nature, the existing license shall not expire until the application has been finally determined by the agency and, in case the application is denied or the terms of the new license limited, until the last day for seeking review of the agency order, or a later date fixed by order of the reviewing court."

C.3. Based on the facts set forth in paragraphs A.2 through A.3 above, Respondent is guilty of having been convicted of a felony in violation of Ark. Code Ann. § 17-29-311(a)(1).

ORDER

In light of the violations found in this order, the Board orders that Respondent's funeral director license shall be suspended until he is released from the supervised release imposed in connection with the judgment entered against him in the United States District Court for the Eastern District of Arkansas, Case No. 4:11-CR-213 JLH. At the conclusion of his supervised release, Respondent must appear before the Board to request reinstatement of his funeral director license. This period of suspension shall take effect thirty days from the date that this order is served upon the Respondent.

Pursuant to the Arkansas Administrative Procedure Act, Ark. Code Ann. § 25-15-212, Respondent may petition for judicial review of this decision by filing a petition in the circuit court in the county in which he resides or does business or in the Circuit Court of Pulaski County within thirty days after service of this order.

b. In the matter of Dial & Dudley Funeral Home

Hearing officer Johnson explained that the hearing would follow the Administrative Procedures Act and allowed Attorney Hodge to enter Board's exhibit compilation 1 of 10 pages and there were no objections from the Dial's. Attorney Hodge had a brief opening that we here today on the matter of Dial & Dudley's failure to renew their license in a timely manner that was due on December 31, 2012 and they did not pay those license renewal fees until January 23, 2013. The Board office received notice from the Health Department that death certificates had been filed during the time prior to renewal. Hodge also explained that the complaint was not answered in the fifteen day requirement. Operating an establishment without proper licensure and not answering a complaint are violation of the Board's law.

Mrs. Dial opened with that due to health issues they had failed to renew their license. She had been in the hospital with pneumonia and the Mr. Dial had been involved in a serious car accident in October 2004. He has multiple surgeries to repair and trying save his fingers. After several attempts to save them that had to amputate them during the time licenses were due.

Mrs. Dial first wanted to say she was sorry, that life had got in the way. She also stated that all license renewals were ready and on her desk, but she was in the hospital during that time. The death certificates that were filed were filed by Darrell Drennan whom does hold a current license. Executive Secretary explained that she had emailed correspondence between April 1 and April 3, 2013. The three services were cremations. Mr. Dial stated that they were a mom and pop operation. The family's they service are their top priority.

Executive Secretary wanted to clarify that during a phone conversation that took place after the May 21, 2013 meeting, that I informed Mrs. Dial that the matter had been set hearing; so there was no reason to answer the complaint. The time to answer the complaint had already expired prior to the meeting on May 21st that had originally been scheduled for May 28, 2013.

Motion made by Thurman that the factual allegations A1-A7 be found true, seconded by Burns. All in favor, motion carried.

Motion made by Roberts that the charges C1-C2 be found true, seconded by Brazzel. All in favor, motion carried.

Motion made by Burns to issue a letter of reprimand, seconded by Adams. All in favor, motion carried.

FINDINGS OF FACT

A.1. Respondent Dial & Dudley Funeral Home is currently licensed as a Funeral Establishment Type A in the State of Arkansas. Respondent's license was first issued on April 25, 2008.

A.2. Respondent's Funeral Establishment license for licensure year 2012 expired on December 31, 2012, and Respondent failed to renew its license until January 23, 2013. As a result, Respondent did not possess a valid Funeral Establishment license from January 1, 2013 to January 22, 2013.

A.3. During the period of time from January 1, 2013 to January 22, 2013, Respondent provided funeral services in connection with the following three decedents:

- a. Deceased R.N., who died on January 9, 2013;
- b. Deceased D.H., who died on January 1, 2013; and
- c. Deceased M.H., who died on January 2, 2013.

A.4. On or about March 13, 2013, the Board sent a formal complaint, via certified mail, to Respondent in connection with the allegations described in paragraphs A.1 through A.3 above. Respondent, through its representative Joyce Dudley, received and signed for the certified mailing of the Board complaint on March 14, 2013.

A.5. The Board received no response to its complaint whatsoever from Respondent until April 3, 2013 – more than fifteen days after Respondent received the complaint – when Reynae Dial, on behalf of Respondent, responded to a follow-up email about the complaint from the Board's Executive Secretary.

A.6. In her April 3, 2013 email on behalf of Respondent, Ms. Dial indicated that she was not sure how to respond to the Board complaint and asked the Board's Executive Secretary for assistance. The Board's Executive Secretary responded to that email on the same day, recommending to Ms. Dial that she should answer the complaint to the best of her ability.

A.7. As of June 11, 2013, the Board had not received a response to the complaint from Respondent.

CONCLUSIONS OF LAW

C.1. The facts set forth in paragraphs A.2 through A.3 establish that Respondent Dial & Dudley Funeral Home is guilty of operating or maintaining a funeral establishment in the State of Arkansas without a license. Respondent therefore violated Ark. Code Ann. § 17-29-311(e) and is guilty of three separate violations of this statute, one for each funeral service conducted during the time period when Respondent did not possess an active, valid license.

C.2. The facts set forth in paragraphs A.4 through A.7 establish that Respondent Dial & Dudley Funeral Home is guilty of failing to answer a complaint within the fifteen-day time period. Respondent therefore violated Ark. Code Ann. § 17-29-311(a)(18).

ORDER

Based upon the testimony and evidence admitted during the hearing, including testimony concerning medical hardship suffered by the Respondent/Managers, the Board determined that Respondent should be issued a letter of reprimand for the violations found in this order.

c. In the matter of Arkansas Funeral Care

Hearing officer Johnson explained that the hearing would follow the Administrative Procedures Act and allowed Attorney Hodge to enter Board's exhibit compilation 1 of 11 pages there was no objection from Mr. Wood.

Hodge had a brief opening informing the Board that we were here on the matter of Arkansas Funeral Care and Buie Funeral Home concerning a violation of Rule XIV. Buie Funeral Home maintains they provided the initial services for the family, but that the family decided to use Arkansas Funeral Care. Buie Funeral Home relied on Board's Rule XIV to seek reimbursement for the transportation and embalming before being received by Arkansas Funeral Care.

Le Roy Wood had two documents for Attorney Hodge to review. It was a statement from Glenda Beard that took the call from the family to make the removal. Hodge had no objection and it was entered into the record as Respondent Exhibit 1. The other document was a letter from the family and Ms. Johnson stated Ms. Hodge would have to review. Hodge allowed the letter to be entered into the record as Respondent Exhibit 2.

Motion made by Thurman to find factual allegations A1-A7 true, seconded by Roberts. Adams abstained, all remaining members were in favor, motion carried.

Motion made by Thurman to find charge C1 true, seconded by Roberts. Adams abstained, all remaining members were in favor, motion carried.

Motion made by Thurman to issue a civil penalty in the amount of \$1,500 against AR Funeral Care to paid within 30 days; the Board will forgive the civil penalty if office receives proof of payment of \$1,440 to Buie Funeral Home. Adams abstained, all remaining members were in favor, motion carried.

FINDINGS OF FACT

- A.1. Respondent Arkansas Funeral Care, LLC is currently licensed as a Funeral Establishment Type A in the State of Arkansas. Respondent was so licensed at all times relevant to the matters addressed herein.
- A.2. On or about February 16, 2013, complainant Buie Funeral Home, a licensed funeral establishment, was engaged to remove the body of the deceased Jimmy Lunsford from the hospital where Mr. Lunsford expired and to transport the body to the Buie Funeral Home location in Sheridan, Arkansas.
- A.3. In addition to picking up and transporting the body, Buie Funeral Home also embalmed the body of the decedent.
- A.4. The family of the deceased ultimately decided to use Respondent, rather than Buie Funeral Home, as the servicing funeral home.
- A.5. On or about February 17, 2013, a representative of Respondent picked up the body of the decedent from Buie Funeral Home. Respondent did not make payment to complainant Buie Funeral Home for any of its costs at the time Respondent removed the body from Buie Funeral Home.
- A.6. On February 28, 2013, complainant Buie Funeral Home sent documentation of its charges to Respondent and requested Respondent to make payment within five business days.
- A.7. As of June 11, 2013, the Respondent has not made payment to complainant Buie Funeral Home for any portion of Buie's charges for the services provided in connection with the removal, transportation, and embalming of the decedent.

CONCLUSIONS OF LAW

- C.1 The Findings of Fact as set out above constitutes a violation of Rule XIV of the Rules and Regulations of the Arkansas State Board of Embalmers and Funeral Directors. Respondent's violation of a Board Rule constitutes a violation of Ark. Code Ann. § 17-29-311(a)(10).

ORDER

In light of the violations found in this order, the Board imposes a civil penalty on the Respondent in the amount of \$1,500, which must be paid to the Board within thirty days of the date of this order. However, the Board will waive imposition of the civil penalty if Respondent pays to Buie Funeral Home restitution in the amount of \$1,440

d. In the matter of Bobby Acklin, Applicant for Funeral License Reinstatement

Hodge explained this was a rather large exhibit, lots of historical information. Essentially, Mr. Acklin's license was suspended in 2005 indefinitely; concerning two issues one on the manner of how the funeral home Acklin was manager handled the cremains of Benny Doss. The other issue was how N. B. Carter was dissolving and the Board had concerns that it was not being closed down properly.

Mr. Acklin thanked the Board for allowing him to be there; that he had tried to contact the family about the cremains, but the never came to get them. That's what he recalled. No money was owed. He brought the cremains to the hearing.

Motion made by Brazzel to allow the reinstatement of Mr. Acklin's funeral directors license, seconded by Roberts. Adams opposed, remaining board members were in favor. Motion carried.

FINDINGS OF FACT

1. Applicant has submitted a request to the Board to have his Funeral Director's license reinstated.
2. On December 5, 2005, Applicant, Bobby Acklin, appeared before the Board at a hearing concerning a complaint, stemming from services arranged on behalf of Benny Dean Doss.
3. At the December hearing, members of the Doss family testified (1) that the Doss family met with an individual who identified himself as Bob Acklin (the Applicant) at N.B. Carter Funeral Home to discuss service arrangements for Benny Dean Doss; (2) that as a part of the arrangements Mr. Doss was to be cremated; (3) that sometime after the May 2005 funeral, N.B. Carter Funeral Home ceased doing business; and (4) that the Doss family had not been able to reach Applicant and had not yet received Mr. Doss's cremains.
4. Based on the testimony presented at the December 2005 hearing, the Board found that: (1) Applicant was the managing funeral director for Mr. Doss's funeral arrangements; (2) Applicant had failed to provide copies of Mr. Doss's death certificates in a timely manner, and (3) that Applicant provided Mr. Doss's "cremains" to the Doss family at the December 2005 hearing.
5. Following the hearing, the Board concluded that Applicant had failed to fulfill the needs and desires of the arrangers as to both services and merchandise. Accordingly, the Board found that Applicant violated Board Rule XIV-Funeral Services Practices by failing to timely provide copies of death certificates and by failing to timely deliver to the family Mr. Doss's "cremains."
6. As a result of the above findings and conclusions, the Board suspended indefinitely, pending resolution of issues concerning the closure of N.B. Carter Funeral Home and the possible utilization of unlicensed persons to make funeral arrangements with families.
7. Pursuant to Ark. Code Ann. § 17-29-311, the Board "may issue letters of reprimand or caution, refuse to issue a license or to renew a license, suspend or revoke any license for the practice of embalming or funeral directing or may place the holder thereof on a term of probation after proper hearing upon the finding the holder of the license to be guilty of acts of commission or omission, including but not limited to the following:

* * *

- (2) Misrepresentations made or fraud committed as a holder of a license;
- (7) Allowing personnel unlicensed pursuant to this subchapter to execute contracts for funeral services;
- (8) Aiding or abetting an unlicensed person to practice embalming or funeral directing;
- (9) Violation of any provision of this subchapter and § 17-29-201, et seq.;
- (10) Violation of any state law or municipal or county ordinance or regulation affecting the handling, custody, care, transportation, or final disposition of dead human bodies;

CONCLUSION OF LAW

C.1 The Board may refuse to reinstate Applicant's Funeral Director's license based upon a finding that Applicant violated any of the above provisions, violated any of the Board's Rules and Regulations, and/or upon a finding that Applicant has not resolved the issues identified in the Board's previous findings of fact.

ORDER

The Board has determined that applicant's license should be reinstated.

e. In the matter of Kayla Nugent, an applicant for an apprentice funeral director and embalmer license

Attorney Hodge had a brief opening to explain for the record the reason of the hearing on Ms. Nugent. Ms. Nugent is an applicant for an apprentice funeral director and embalmer license and self-reported on her applications that she had a felony conviction. She has a criminal history and should that history affect her ability to obtain license.

Ms. Nugent has completed her probation and fines in 2013. Sentenced in 2009 and released in 2011 and is currently not on any probation. Her parole officer wrote a letter of recommendation on Ms. Nugent's behalf.

Motion made by Thurman to allow Ms. Nugent to serve her funeral director and embalmer apprentice, seconded by Brazzel. All in favor, motion carried.

FINDINGS OF FACT

1. Applicant has submitted an application to the Board to apprentice in the business of funeral directing pursuant to Rule V of the Rules of the Arkansas State Board of Embalmers and Funeral Directors.
2. In making application to the Board to apprentice in the science of embalming and in the business of funeral directing, Applicant self-disclosed her past criminal convictions.
3. In July 2009, Applicant was convicted of Furnishing Prohibited Articles. According to correspondence submitted with her application, Applicant placed chewing tobacco, a cellular phone charger, and candy bars outside of a county jail, which permitted inmates to access the articles.
4. Applicant was sentenced to forty-eight (48) months probation.
5. While on probation, Applicant was charged with Residential Burglary. According to the correspondence submitted with her application, Applicant was driving a vehicle in which the passenger broke into a home. As a result, Applicant was sentenced to two (2) years' incarceration in the Arkansas Department of Community Correction.
6. Applicant served nine months in the Arkansas Department of Community Correction, and served the remainder of her sentence on parole. She completed her incarceration in November 2011 and completed her sentence in January 2013, which included payment of fines and completion of probation.
7. Though Applicant has submitted two applications to have her criminal record sealed, those applications have been denied.
8. Applicant's request is supported by letters from Jill L. Johnson, Director of Community and Corporate Training, and Krystie Williams, Parole Officer.
9. Pursuant to Ark. Code Ann. § 17-29-311, the Board "may . . . refuse to issue a license . . . for the practice of embalming or funeral directing or may place the holder thereof on a term of probation after proper hearing upon the finding the holder of the license to be guilty of acts of commission or omission, including the following: (1) Conviction of a felony."

CONCLUSION OF LAW

C.1 The Board may refuse to approve Applicant's application to apprentice in the business of funeral directing based on her felony conviction.

f. In the matter of Bradford Funeral Home LLC., Elizabeth Christine Lemons-Case#13-09

Hearing officer Johnson explained that the hearing would follow the Administrative Procedures Act and allowed Hodge to enter Board's compilation exhibit 1 pages 1 through 39 into the record, since there were no objections from Christine Lemons. Attorney Hodge had a brief opening that we were here on the complaint case #13-09 initiated by Rose Ann Collins concerning a purchase of a casket from Bradford Funeral Home and Ms. Collins alleges in her complaint that she purchased a casket from Bradford Funeral Home; and subsequently learned that the casket was a used casket. The Collins family purchased a

casket from Bradford, but used Powell Funeral Home for her late husbands' funeral service and eventually bought a new casket from Powell. Ms. Collins filed a complaint against Bradford concerning the first casket she purchased. Johnson gave Ms. Lemons the opportunity for an opening statement. Ms. Lemons stated that the opening Ms. Hodge had given was correct.

Factual Allegations

- A.1. Respondent Bradford Funeral Home, LLC is currently licensed as a Funeral Establishment Type A in the State of Arkansas. Respondent was so licensed at all times relevant to the matters addressed herein.
- A.2. Respondent Elizabeth Christine Lemons is the Manager, Owner and Funeral Director at Bradford Funeral Home.

Collins v. Bradford Funeral Home and Elizabeth C. Lemons, Case No. 13-09

- A.3. On May 1, 2013, the Board received a complaint from Rose Ann Collins and other members of the Collins family concerning a complaint that Bradford Funeral Home had sold to them a used casket.
- A.4. The Collins family visited Bradford Funeral Home to purchase a casket for Charles Collins, deceased.
- A.5. The family met with Nan Turner, an employee at the Bradford Funeral home. Nan Turner is not a licensed funeral director.
- A.6. Upon arrival at the funeral home, Ms. Turner showed the Collins family an 18 Gauge Black Brushed stainless steel casket from the display floor. The casket was purchased new from the Thacker Casket Company in December 2011 and remained on the showroom until the Collins family purchased it in April 2013.
- A.7. The Collins family selected that casket and had it delivered to Powell Funeral home later that day. The casket was detailed by Deanna Ybanez and Nan Turner prior to delivering it to Powell Funeral Home. At the time the casket was delivered, none of the Powell Funeral Home funeral directors were present.
- A.8. Amy Hyatt at Powell Funeral Home received the casket.
- A.9. On Friday, the Collins family was advised by Tyler Hyatt at Powell Funeral Home to come and view the casket.
- A.10. The family observed cosmetic and other stains on the pillow and interior of the casket, hair in the casket, scratches, and other physical damage.
- A.11. The Collins family then purchased a different casket from the Powell Funeral Home.

At the conclusion of the testimony given the Board made the following decisions.

Motion made by Burns to find factual allegations A.1-A.11 be found true, striking the first sentence of A.11 as factual, second by Brazzel, all in favor. Motion carried.

Motion made by Burns that charges C.1-C.6 were not substantiated by the testimony presented, second by Thurman, motion carried three to two.

Conclusions of Law

In the matter of *Collins v. Bradford Funeral Home and Elizabeth C. Lemons*, Case No. 13-09, the allegation that Respondent sold a used casket was unsubstantiated, and the Board dismisses that claim.

g. In the matter of Bradford Funeral Home LLC., Elizabeth Christine Lemons-Case#13-11

Hearing officer Johnson explained that the hearing would follow the Administrative Procedures Act and allowed Hodge to enter Board's compilation exhibit 2 pages 1 through 13 into the record, since there were no objections from Ms. Lemons. Attorney Hodge had a brief opening that case #13-11 was another public generated complaint initiated by Stephanie Reynolds. Reynolds alleges in her complaint that she sought the services of Bradford Funeral Home in connection with the death of her uncle. Reynolds uncle had pre-paid burial insurance at Powell Funeral Home. Reynolds visited the Bradford Funeral Home and arranged to have those services with Nan Turner who is not a licensed funeral director. That Reynolds signed a contract for a certain amount of services, but when the contract was submitted to Powell Funeral Home for reimbursement that a second contract was submitted for a higher amount that bore her signature that she did not sign. She is

filing a complaint for misrepresentation in the contract, the forgery of her signature, and her inability to get a copy of the death certificate in a timely manner. Ms. Lemons did not have an opening statement.

Ms. Nan Turner admitted to making arrangements with Ms. Reynolds, per the instructions from Ms. Lemons.

Reynolds v. Bradford Funeral Home, E. Christine Lemons, Manager, Owner, and Funeral Director, Case No. 13-11
Findings of Fact

- A.1. Respondent Bradford Funeral Home, LLC is currently licensed as a Funeral Establishment Type A in the State of Arkansas. Respondent was so licensed at all times relevant to the matters addressed herein.
- A.2. Respondent Elizabeth Christine Lemons is the Manager, Owner and Funeral Director at Bradford Funeral Home.
- A.12. On or about May 21, 2013 the Board received a complaint from Stephanie Reynolds ("Complainant").
- A.13. On or about November 13, 2012, the Reynolds family engaged the Bradford funeral home to provide funeral services for Floyd Keim, deceased.
- A.14. Nan Turner assisted the Reynolds/Keim Family with funeral arrangements. Turner is not a licensed funeral director.
- A.15. At the time of his death, Keim had an insurance policy.
- A.16. On or about November 13, 2012, Complainant signed a Statement of Funeral Goods and Services for the amount of \$3,972.62 with the Bradford Funeral Home. The statement is signed by C. Lemons; however, C. Lemons was not present when Complainant made arrangements with Bradford Funeral Home.
- A.17. Thereafter, Complainant took her copy of the Statement of Funeral Goods and Services and a copy of Keim's death certification to Powell Funeral Home to file an insurance claim.
- A.18. During the claims process, the Powell Funeral Home received a second Statement of Funeral Goods and Services and death certificate from Bradford Funeral Home for Floyd Keim.
- A.19. The second bill showed a balance of \$6,128.65. The second statement contains Complainant's signature; however, Complainant did not sign the second statement. Her signature has been forged.
- A.20. There was also a delay in Complainant receiving the death certificate from Bradford Funeral Home.

Motion made by Burns, to find factual allegations A.1-A.2 and A.12-A.20 to be found true, seconded by Brazzel, all in favor. Motion carried.

Motion made by Burns, to find charges C.1 (2), (7), (8), (9), (10), C.2-C.3 to be substantiated, seconded by Adams, all in favor. Motion carried.

Motion made by Thurman, to find charges C.1 (14), C.4 (1), (2), (3), C.5, and C.6 to not be substantiated, seconded by Brazzel, all in favor. Motion carried.

Motion made by Thurman, to suspend E. Christine Lemons funeral director license #4471 for a period of 6 months, fine the Bradford-Kensett location Board ID#24051 a \$5,000 civil penalty to be payable within ninety (90) days; seconded by Brazzel, all in favor. Motion carried.

Conclusions of Law

In the matter of Reynolds v. Bradford Funeral Home, E. Christine Lemons, Manager, Owner, and Funeral Director, Case No. 13-11, based upon factual findings in A.1-A.2 and A.12- A.20, Respondent is guilty of violating Arkansas Code Annotated § 17-29-311(a)(2), (7), (8), (9), and (10); Arkansas Code Annotated § 17-29-311(h), and Board Rule IV.2(f).

h. In the matter of Bradford Funeral Home LLC., Elizabeth Christine Lemons-Case#13-12

Hearing officer Johnson explained that the hearing would follow the Administrative Procedures Act and allowed Hodge to enter Board's compilation exhibit 3 consisting of 3 pages and exhibit 11B consisting of 32 pages into the record, since there were no objections from Ms. Lemons. Attorney Hodge had a brief opening that case #13-12 was a generated complaint initiated by Dr. G. Scott Dicus, M. D. alleging his signature has been forged on a death certificate for Willie Mae Mashburn.

E. Christine Lemons did admit in the answer she filed with the Board, that she or another in her office had forged Dr. Dicus's signature on the death certificate for Willie Mae Mashburn. She also admitted the same for the record and that they did not have Dr. Dicus's permission. Ms. Lemons further explained to the Board that they did not do it to intentional harm, but to help the family. They had several mistakes on the death certificate and it kept being returned by the Health Department.

Ms. Turner did agree that she did admit on page 7 of exhibit 11B in a statement to the White County Sherriff's Office that she had signed Dr. Dicus's name.

Dr. G. Scott Dicus, M.D. v. Bradford Funeral Home, E. Christine Lemons, Manager, Owner, and Funeral Director, Case No. 13-12

Findings of Fact

A.1. Respondent Bradford Funeral Home, LLC is currently licensed as a Funeral Establishment Type A in the State of Arkansas. Respondent was so licensed at all times relevant to the matters addressed herein.

A.2. Respondent Elizabeth Christine Lemons is the Manager, Owner and Funeral Director at Bradford Funeral Home.

A.21. On or about May 29, 2013, the Board received a complaint from Dr. G. Scott Dicus, M.D., (Complainant) concerning forgery of a death certificate for Willie Mae Mashburn.

A.22. Ms. Mashburn died at the White County Medical Center in Searcy, Arkansas on February 23, 2013.

A.23. Ms. Mashburn was cared for by the Bradford Funeral Home in Bradford, Arkansas.

A.24. Dr. Dicus's signature is forged on Ms. Mashburn's death certificate. At the request of the White County Coroner's Office, Dr. Dicus reviewed the certificate and confirmed the forgery.

A.25. Additionally, the cause of death has been forged. The cause of death is typed and misspelled. Dr. Dicus handwrites his portion of the death certificate, including the cause of death.

A.26. Respondents E. Christine Lemons admitted that she signed Dr. Dicus's name to Ms. Mashburn's death certificate after it was returned by the Arkansas Department of Health for corrections.

Motion made by Thurman to find factual allegations A.1, A.2, and A.21-A.25 substantiated; A.26 was unsubstantiated, seconded by Brazzel, all in favor. Motion carried.

Motion made by Thurman that charges C.1 (2) (14) and C.3 were found true; all other remaining charges were found not true, seconded by Brazzel, all in favor. Motion carried.

Conclusions of Law

In the matter of *Dr. G. Scott Dicus, M.D. v. Bradford Funeral Home, E. Christine Lemons, Manager, Owner, and Funeral Director, Case No. 13-12*, based upon factual allegations in A.1-A.2 and A.21-A.26, Respondent is guilty of violating Arkansas Code Annotated 17-29-311(a)(2) and (14), and Board Rule IV.2(f).

i. In the matter of Bradford Funeral Home LLC., Elizabeth Christine Lemons-Case#13-16

Hearing officer Johnson explained that the hearing would follow the Administrative Procedures Act and allowed Hodge to enter Board's compilation exhibit 7 consisting of 3 pages into the record since there were no objections from Ms. Lemons. Ms. Barnett was called and indicated she is a nurse for Hospice Home Care in Searcy. She initiated the complaint in case #13-16 after being contacted by the White County Coroner's Office to review. Ms. Barnett confirmed after reviewing that her signature was forged on the death certificate of John Richard Foster. The death certificate had already been filed with the Health Department prior to her reviewing it.

Ms. Lemons was questioned by Burns whether or not she had signed Ms. Barnett's signature. She indicated she believed it was Ms. Barnett's signature she had signed.

Jeanie Barnett, RN-Hospice Home Care v. Bradford Funeral Home, Elizabeth C. Lemons, Manager, Owner, and Funeral Director, Case No. 13-16

Factual Allegations

A.1. Respondent Bradford Funeral Home, LLC is currently licensed as a Funeral Establishment Type A in the State of Arkansas. Respondent was so licensed at all times relevant to the matters addressed herein.

A.2. Respondent Elizabeth Christine Lemons is the Manager, Owner and Funeral Director at Bradford Funeral Home.

A.49. On or about July 3, 2013, the Board received a complaint from Jeanie Barnett, RN, at Hospice Home Care concerning the forging of several death certificates.

A.50. After reviewing the files, Complainant discovered that several death certificates filed with the Arkansas Department of Health contained a forged signature. Specifically, Complainant identified the death certificate of John Richard Foster, Jr. as one that contained a forged signature.

A.51. All of the death certificates were handled by Bradford Funeral Home.

A.52. E. Christine Lemons admits that she signed Complainant's name to John Richard Foster's death certificate after it was returned for corrections by the Arkansas Health Department.

Motion made by Burns to find factual allegations A.1-A.2, and A.49-A.52 true, seconded by Brazzel, all in favor. Motion carried.

Motion made by Brazzel that charges C.1 (2) (14) and C.3 were found true; all other remaining charges were found not true, seconded by Burns, all in favor. Motion carried.

Conclusions of Law

In the matter of *Jeanie Barnett, RN-Hospice Home Care v. Bradford Funeral Home, Elizabeth C. Lemons, Manager, Owner, and Funeral Director*, Case No. 13-16 based upon factual allegations in A.1-A.2 and A.49-A.52, Respondent is guilty of violating Arkansas Code Annotated 17-29-311(a)(2) and (14), and Board Rule IV.2(f).

j. In the matter of Bradford Funeral Home LLC., Elizabeth Christine Lemons-Case#13-14

Hearing officer Johnson explained that the hearing would follow the Administrative Procedures Act and allowed Hodge to enter Board's compilation exhibit 5 consisting of 8 pages into the record since there were no objections from Ms. Lemons. Hodge gave a brief opening that Ms. Bell had filed a complaint with this Board alleging her signature had been forged on several death certificates all handled by Bradford Funeral Home. Shawna Bell stated for the record she was a nurse with Hospice Home Care and she did file the complaint in exhibit 5. She had been contacted by the White County Sheriff's Department concerning death certificates for Betty Jean Wadley, Perry Edward Paul, and James R. Menser. She stated that she had informed Detective Manues that she had not signed those death certificates.

Lemons did admit in her statement with the sheriff's office that she had signed Ms. Bell's name to Perry Edward Paul's death certificate. She further stated that the Menser one was only one they did not remember signing, but did admit to others. Turner admits that in the statement she gave the sheriff's office she did sign Bell's name to James Roger Menser's death certificate.

Shawna Bell, RN-Hospice Home Care v. Bradford Funeral Home, Elizabeth C. Lemons, Manager, Owner, and Funeral Director, Case No. 13-14

Factual Allegations

A.1. Respondent Bradford Funeral Home, LLC is currently licensed as a Funeral Establishment Type A in the State of Arkansas. Respondent was so licensed at all times relevant to the matters addressed herein.

A.2. Respondent Elizabeth Christine Lemons is the Manager, Owner and Funeral Director at Bradford Funeral Home.

A.38. On or about May 25, 2013, the Board received a complaint from Shawna D. Bell, RN, ("Complainant") a nurse at Hospice Home Care concerning the forging of several death certificates.

A.39. After reviewing the files, Complainant discovered that the death certificates filed with the Arkansas Department of Health for James R. Menser; Perry Edward Paul; and Betty Jean Wadley contained a forged signature.

A.40. All of the death certificates were handled by Bradford Funeral Home and signed by Christine Lemons.

A.41. E. Christine Lemons admitted that she signed Complainant's name to Perry Edward Paul's death certificate after it was returned for corrections by the Arkansas Health Department.

Motion made by Burns to find factual allegations A.1, A.2, and A.38-A.41 substantiated, seconded by Brazzel, all in favor. Motion carried.

Motion made by Thurman that charges C.1 (2) (14) and C.3 were found true; all other remaining charges were found not true, seconded by Adams, all in favor. Motion carried.

Conclusions of Law

In the matter of *Shawna Bell, RN-Hospice Home Care v. Bradford Funeral Home, Elizabeth C. Lemons, Manager, Owner, and Funeral Director*, Case No. 13-14, based upon factual allegations in A.1-A.2 and A.38-A.41, Respondent is guilty of violating Arkansas Code Annotated 17-29-311(a)(2) and (14), and Board Rule IV.2(f).

k. In the matter of Bradford Funeral Home LLC., Elizabeth Christine Lemons-Case#13-13

Hearing officer Johnson explained that the hearing would follow the Administrative Procedures Act and allowed Hodge to enter Board's compilation exhibit 4 consisting of 30 pages into the record since there were no objections from Ms. Lemons. Hodge gave a brief opening that this was another similar case involving forged death certificates. This was a complaint initiated by John Tyler Hyatt. In addition, to being employed by Powell Funeral Home he is also the White County Chief Deputy Coroner. The complaint resulted when Mr. Hyatt was reviewing death certificates; one of the deceased was not embalmed and was to be cremated. He further contacted the crematory to see if they were holding the body for that period of time un-embalmed. He was informed they had already cremated and the death certificate they used was signed by the White County Coroner David Powell, Jr. However, during that time Mr. Powell had knee surgery and Hyatt was handling all the coroner calls.

Lemons denied signing Tyler Hyatt's name on the death certificates for Batchelor or Gilbert. She did agree that there was a difference in the signatures on the death certificates. Ms. Lemons further stated she did not believe that any of her employees would have signed them. That in the statements that herself and Ms. Turner had given to the investigator they had admitted their wrongs, but she would never sign Mr. Hyatt's name. Ms. Turner stated she had never signed Mr. Hyatt's name.

Thurman clarified with Ms. Lemons if any other employees could have signed them, she indicated there were two other employees who were not present. She stated that no one from her funeral home would have signed them.

J. Tyler Hyatt, White County Chief Deputy Coroner. v. Bradford Funeral Home, E. Christine Lemons, Manager, Owner, and Funeral Director, Case No. 13-13

Factual Allegations

A.1. Respondent Bradford Funeral Home, LLC is currently licensed as a Funeral Establishment Type A in the State of Arkansas. Respondent was so licensed at all times relevant to the matters addressed herein.

A.2. Respondent Elizabeth Christine Lemons is the Manager, Owner and Funeral Director at Bradford Funeral Home.

A.27. On or about May 31, 2013, the Board received a complaint from J. Tyler Hyatt, White County Chief Deputy Coroner (Complainant) concerning forgery of a death certificates for Isaac Batchelor and Carmeletta Denise Gilbert.

A.28. Complainant is the Chief Deputy Coroner for White County, Arkansas.

A.29. On or about October 2012, Complainant was contacted concerning the death of Isaac Batchelor. He signed a death certificate on or about October 22, 2012.

A.30. A death certificate for Isaac Batchelor was filed with the Arkansas Department of Health. The death certificate filed with the Arkansas Department of Health is not the same death certificate signed by Complainant.

A.31. The death certificate filed with the Arkansas Department of Health has J. Tyler Hyatt's signature. However, Complainant did not sign it. It is forged.

A.32. Additionally, the death certificate filed with the Arkansas Department of Health contains several other discrepancies. The name of the deceased is has been altered; the deceased's wife's name is incomplete, the cause of death is typed not handwritten, and the name of the crematory is slightly different.

A.33. Complainant was also contacted concerning the death of Carmeletta Denise Gilbert.

A.34. A death certificate for Carmeletta Denise Gilbert was filed with the Arkansas Department of Health. The death certificate filed with the Arkansas Department of Health is not the same death certificate signed by Complainant.

A.35. The death certificate filed with the Arkansas Department of Health has J. Tyler Hyatt's signature. However, Complainant did not sign it. It is forged.

A.36. In addition to the above, the White County Coroner's Office discovered at least four additional death certificates that contained forged signatures. The forged death certificates were filed with the Arkansas Department of Health for John Richard Foster; Judy Ann Camden; Sandra Kay Cook; and Arnold Deed West.

Motion made by Burns that factual allegations A.1, A.2, and A.27-A.36 to substantiated, A.37 was found to be unsubstantiated, seconded by Brazzel, all in favor. Motion carried.

Motion made by Burns that no charges were substantiated, seconded by Thurman, Adams abstained. Motion carried 3-1.

Conclusions of Law

In the matter of *J. Tyler Hyatt, White County Chief Deputy Coroner v. Bradford Funeral Home, Elizabeth C. Lemons, Manger, Owner, and Funeral Director*, Case No. 13-13, based upon the factual allegations in A.1-A.2 and A.27-A.36 the complaint against Respondent was unsubstantiated and the Board dismisses that claim.

I. In the matter of Bradford Funeral Home LLC., Elizabeth Christine Lemons-Case#13-15

Hearing officer Johnson explained that the hearing would follow the Administrative Procedures Act and allowed Hodge to enter Board's compilation exhibit 6 containing 6 pages into the record since there were no objections from Ms. Lemons. Hodge called David R. Powell, Jr. Powell discovered the forgery after it was brought to his attention by Mr. Hyatt. Mr. Powell stated someone had to start the death certificate process. The coroner or deputy coroner did not initiate the death certificate for Veronica Forrester. A forged death certificate with no cause of death was filed with the crematory.

Lemons stated Nan Turner picked up the death certificate from Ciley Johnson at Powell's Funeral Home and they faxed the death certificate to the crematory. She further stated there was no cause of death because there were mistakes on it and they had to return it.

Lemons called Detective Donnie Manues; he is a Lieutenant for the White County Sherriff's Department and chief investigator in the case. He stated that they could not determine forgery in the Powell and Hyatt cases. However, the case was not closed it is still an active investigation. Russell Lemons questioned Manues if he felt Christine's intent was to defraud or harm anyone. Manues stated that during the initial interview he had with Lemons she was not truthful with him. She lied to him about the heart of these forgery matters. At first blaming on medical staff, Powell Funeral Homes staff, and then she finally admitted the truth. When he asked her if she intended to defraud people or were you just trying to expedite services for her clients, which is a common interrogation technique. When he gave her that out, she immediately accepted it and provided a statement in reference to that. Manues clarified it was two part question, "was she intending to defraud during her initial interview? If you want to call being deceptive defrauding, then yes, but as the interview proceeded she was truthful." Lemons never admitted to the Powell, Hyatt, and a few others, but this is still an open investigation.

David Powell, White County Coroner v. Bradford Funeral Home, Elizabeth C. Lemons, Manager, Owner, and Funeral Director

Factual Allegations

A.1. Respondent Bradford Funeral Home, LLC is currently licensed as a Funeral Establishment Type A in the State of Arkansas. Respondent was so licensed at all times relevant to the matters addressed herein.

A.2. Respondent Elizabeth Christine Lemons is the Manager, Owner and Funeral Director at Bradford Funeral Home.

A.42. On or about June 4, 2013, the Board received a complaint from David Powell, White County Coroner concerning the forging of death certificates.

A.43. On or about February 19, 2013, Veronica May Forrester died at the emergency room of White County Medical Center in Search. Her death was reported to David Powell's office and was fielded by Chief Deputy Coroner Tyler Hyatt.

A.44. Ms. Forrester's body was released to Bradford Funeral Home.

A.45. On March 4, 2013, Hyatt received a death certificate for Ms. Forrester from the Bradford Funeral Home. The certificate had to be returned to Bradford for corrections. On March 18, 2013, Hyatt received a corrected death certificate, which indicated that the body was to be cremated. Upon checking with S&S Crematory, Hyatt discovered that Ms. Forrester already been cremated. The crematory reported that David Powell had signed Ms. Forrester's death certificate.

A. 46. David Powell did not sign the death certificate on file with S&S Crematory. Powell reviewed a copy of the Forrester death certificate and confirmed that his signature is forged.

A.47. Additionally, the cause of death is not indicated on the death certificate.

A. 48. Further, during the time that the Forrester death certificate was signed, Powell was unable to perform official duties as Coroner because of medical issues. Tyler Hyatt was fulfilling the obligations of the Coroner's office.

Motion made by Thurman that factual allegations A.1, A.2, and A.42-A.48 with necessary amendments to the dates in A.42 and A. 45 be found factual, seconded by Brazzel, all in favor. Motion carried.

Motion made by Burns that no charges were substantiated, seconded by Thurman, Brazzel abstained, Adams opposed, Motion carried 2-1.

Disciplinary action in cases 13-12, 13-14, and 13-16

Motion made by Thurman that the Board suspend Lemons funeral directors license #4471 an additional 6 months that will run concurrent with the initial suspension. Issue a civil penalty in the amount of \$1,000.00 payable in 90 days or her license will be revoked. The Bradford-Kensett Funeral Home license #24051 location will be suspend the for one year and the Bradford Funeral Home license #502 and Board ID #20503 location will be suspended for one year including a \$5,000 civil penalty payable within 90 days or both locations licenses will be revoked, seconded by Brazzel, all in favor. Motion carried.

ORDER

1. Respondent, E. Christine Lemons, is ordered to pay a civil penalty in the amount of \$1,000.00. The penalty must be paid in full within 90 days of receipt of this Order.
2. Respondent's, E. Christine Lemons, Funeral Director's license is suspended for one year. If Respondent, E. Christine Lemons, fails to pay the civil penalty of \$1,000 within 90 days, then her Funeral Director's license will be revoked.
3. Respondent, Bradford Funeral Home/Kensett, Arkansas, is ordered to pay a civil penalty in the amount of \$5,000.00. The penalty must be paid in full within 90 days of receipt of this Order.
4. The establishment license for Respondent, Bradford Funeral Home/Kensett, Arkansas, is suspended for one year. If Respondent, Bradford Funeral Home, Kensett, fails to pay the civil penalty of \$5,000 within 90 days, then its establishment license will be revoked.
5. Respondent, Bradford Funeral Home/Bradford, Arkansas, is ordered to pay a civil penalty in the amount of \$5,000.00. The penalty must be paid in full within 90 days of receipt of this Order.
6. The establishment license for Respondent, Bradford Funeral Home/Bradford, Arkansas, is suspended for one year. If Respondent, Bradford Funeral Home/Bradford, Arkansas, fails to pay the civil penalty of \$5,000 within 90 days, then its establishment license will be revoked.

m. In the matter of Powell Funeral Home LLC., John Tyler Hyatt and David R. Powell, Jr. Case #13-17, 13-18, and 13-19

Prior to the beginning of the hearing, the complainant requested that the Board dismiss all three complaints. Accordingly, the Board received no evidence, made no findings of fact or conclusions of law, and the complaints were dismissed.

n. In the matter of Kay Murray, a licensed funeral director and embalmer

Hearing officer Johnson explained the reason for the hearing and that the hearing would follow the Administrative Procedures Act. Hodge stated the parties had agreed to introduce two exhibits by stipulation the Board's compilation exhibit 1 pages 1 through 8 into the record and Respondent Exhibit 2 of 2 pages. Ms. Murray had no objection to the exhibits being entered.

Hodge explained the matter before the Board was that Ms. Murray is a current licensed embalmer and funeral director. Ms. Murray self-reported a felony conviction for the Board to consider; she wants to continue working in the funeral industry. She wants to explain her criminal history and ask the Board to consider allowing her to keep her license.

Ms. Murray stated she received her license February 2012 and she was employed as Funeral Director and Embalmer at Roller Funeral Home prior to her conviction. She further stated that she had a domestic dispute with her husband that led to her shooting him in the arm. At that time their relationship was not good and this incident has caused them to completely change their lives. Ms. Murray completed anger management and they are receiving marriage counseling. She did receive probation and stated that it took something like this happening for them to change the way they were living. She deeply regrets what has happened and that her husband has forgiven her. Mr. Murray was present with her today. She was asking for the Board's forgiveness, that this has been her dream and hopes the Board will allow her to continue. She has been placed on five years' probation, but her probation officer has said that if she completes everything without further incident and pays her fines that the length of time would be shortened.

Mr. Murray stated that his wife has a passion for this business and asked the Board to let her continue. He stated their relationship is stronger because of this incident.

Thurman stated he had spoken at the school and she was in attendance. Brad Hays has spoken good things about her and stated her instructors spoke highly of her. She was good student and graduated 2nd in her class with a 3.8 GPA.

Motion made by Burns to find factual allegations 1-6 true, seconded by Roberts, all in favor. Motion carried.

Motion made by Burns to find charge C.1 factual, seconded by Roberts, all in favor. Motion carried.

Motion made by Burns to allow Ms. Murray's licenses to remain in force on a probationary period to run concurrently with the term of her probation resulting from her criminal conviction. Violation and/or revocation of criminal probation shall require a hearing before this Board to determine further action, seconded by Roberts, all in favor. Motion carried.

FINDINGS OF FACT

10. Respondent is a licensed funeral director and embalmer in the State of Arkansas.
11. Respondent has self-disclosed a felony conviction.
12. According to Respondent, she was convicted of a felony in January 2013 after a domestic dispute with her husband.
13. Following her felony conviction, Respondent ceased working as a licensed funeral director and embalmer.
14. Respondent seeks to resume working in the profession of funeral directing and embalming.
15. Pursuant to Ark. Code Ann. § 17-29-311, "the State Board of Embalmers and Funeral Directors may issue letters of reprimand or caution, refuse to issue or renew a license, suspend or revoke any license for the practice of embalming or funeral directing, or may place the holder thereof on a term of probation after proper hearing upon finding the holder of the license to be guilty of acts of commission or omission, including the following: (1) Conviction of a felony."

CONCLUSIONS OF LAW

C.1 Because of Plaintiff's felony conviction, the Board may suspend, revoke, issue letters of reprimand or caution, or place Respondent on a term of probation.

ORDER

The Board has determined that Respondent's felony conviction should not disqualify her from practicing as a licensed funeral director and/or embalmer. However, Respondent is hereby placed on a term of probation to run concurrently with the term of probation resulting from her criminal conviction. Violation and/or revocation of Respondent's criminal probation shall serve as grounds for a hearing before this Board to determine whether or not Respondent's license should be revoked or whether some other discipline is required.

o. In the matter of Karonda T. Smith-Applicant for Registration as a Student Funeral Director

Hearing officer Greg Kirkpatrick called the hearing on the record. Mr. Kirkpatrick confirmed with Ms. Smith that she did receive the notice of hearing for today's hearing. Kirkpatrick stated for the record that this hearing would be conducted pursuant to the Arkansas Administrative Procedures Act. The strict rules of introducing evidence do not apply and will give latitude in presenting testimony and evidence. This hearing is subject to the Freedom of Information Act and is open to the public. Kirkpatrick allowed Ms. Hodge to distribute Board's compilation exhibit 1 consisting of 18 pages that was stipulated by both parties. There was no objection from Ms. Smith to allow the exhibit to be entered into the record.

Hodge informed the Board that Ms. Smith had made application to the Board to begin her student funeral director apprenticeship. In making application, she disclosed two felony convictions. As required by the Board's statute she must appear before the Board to get approval. Ms. Smith stated that funeral directing as been her passion and she would like the Board to consider allowing her to become a funeral director. She hopes that the Board will not continue to hold her accountable for what she has done in the past.

FINDINGS OF FACT

16. Applicant has submitted an application to the Board to apprentice in the business of funeral directing pursuant to Rule V of the Rules of the Arkansas State Board of Embalmers and Funeral Directors.

17. Applicant has been accepted as an apprentice at Richardson Memorial, License # 437, under the supervision Booker Johnson, License # 1653; Javier Buck, License # 2300; and Brandon Murray, License # 22252.

18. In making application to the Board to apprentice, Applicant self-disclosed her past criminal convictions.

19. According to documents submitted with her application, Applicant has a felony conviction for Hot Check and Forgery violations. She was also convicted for overdrawing unemployment benefits.

20. Applicant's request to apprentice is supported by letters from Michael Smith, Police Chief of Stuttgart Police Department; LaVerne McDonald, Stuttgart Police Department; Marianne Maynard, Mayor of the City of Stuttgart; and Neil Maynard.

21. Pursuant to Ark. Code Ann. § 17-29-302(a)(3), every person that desires to engage in the business of funeral directing shall serve as an apprentice for twenty-four (24) months.

22. Pursuant to Ark. Code Ann. § 17-29-311, the Board "may . . . refuse to issue a license . . . for the practice of embalming or funeral directing or may place the holder thereof on a term of probation after proper hearing upon the finding the holder of the license to be guilty of acts of commission or omission, including the following: (1) Conviction of a felony."

CONCLUSIONS OF LAW

Because of Applicant's felony conviction, the Board may refuse to issue Applicant a license in the business of funeral directing based on her felony convictions.

ORDER

The Board has determined that Applicant's felony conviction should not disqualify her from seeking a license to practice as a licensed funeral director and/or embalmer.

Motion made by Thurman to find factual allegations 1-7 to be found true, seconded by Brazzel, all in favor. Motion carried.

Motion made by Thurman to find charges C. 1 true, seconded by Brazzel, all in favor. Motion carried

Motion made by Brazzel to allow Ms. Karonda Smith to serve her funeral director apprenticeship, seconded by Thurman, all in favor. Motion carried.

p. In the matter of: Jon Ball, Applicant for Reinstatement as a Funeral Director and Embalmer

Hearing officer Ms. Johnson called the hearing on the record. Ms. Johnson confirmed with Mr. Ball that he did receive the notice of hearing for today's hearing. Johnson stated for the record that this hearing would be conducted pursuant to the Arkansas Administrative Procedures Act. The strict rules of introducing evidence do not apply and will give latitude in presenting testimony and evidence. This hearing is subject to the Freedom of Information Act and is open to the public. Johnson allowed Ms. Hodge to distribute Board's compilation exhibit 1 consisting of 20 pages that was stipulated by both parties with one redaction. The redactions are pages 12-14 that were letters in support of Mr. Ball from Chris Flanagan, but subsequently he was hired as counsel. There was no objection from Mr. Flanagan to allow the exhibit to be entered into the record with the stipulation. Mr. Ball was sworn in by Ms. Johnson.

Motion made by Thurman that the factual allegations 1-12 be found true with the redaction of Chris Flanagan in 11, seconded by Burns, all in favor. Motion carried.

FINDINGS OF FACT

23. Applicant has submitted an application to the Board to reinstate his license to engage in the business of funeral directing and embalming to the Arkansas State Board of Embalmers and Funeral Directors.

24. Applicant was licensed in 2000 while working at Roller Citizen Funeral Home in West Memphis, Arkansas. He was employed as a full time Funeral Director and Embalmer until December 2004.

25. In making application to the Board for reinstatement, Applicant self-disclosed his past criminal history and convictions.

26. In June 2006, Applicant was arrested for possession of methamphetamine precursors (Sudafed pills), and was subsequently convicted, in June 2007, and sentenced to eighteen (18) months in the Mississippi Department of Correction and three and one half (3 1/2) years' probation.

27. Upon his release from the Mississippi Department of Correction, Applicant relocated to Jonesboro, Arkansas and lived there from December 2007 through March 30, 2010.

28. In March 2010, Applicant was arrested for possession of a controlled substance with intent to deliver and drug paraphernalia.

29. On April 30, 2010, Applicant entered Sober Living. He was subsequently convicted of a lesser charge, possession of a controlled substance, and sentenced to complete the Sober Living 18 month program and three years' probation.

30. Applicant completed the program in October 2011.

31. In late 2011, Applicant learned that Mississippi had issued a warrant for his arrest for violation of probation (imposed in June 2007). Applicant self-reported to Mississippi and was released to back to the Sober Living program. The case was subsequently closed on July 5, 2012.

32. Applicant's probation in Arkansas was complete on July 25, 2013.

33. Applicant's request for reinstatement is supported by letters from Jennifer Davidson, Executive Assistant for GYST House, Inc.; Khepra Liddell, Assistant Administrator, Sober Living; Kent Hale; Dennis E. Hall, Jr., Roller Family Funeral Home; Regan Hill, Stevens Funeral Home; Rausch Hodges, Stevens Funeral Home.

34. Pursuant to Ark. Code Ann. § 17-29-311, the Board "may . . . refuse to issue a license . . . for the practice of embalming or funeral directing or may place the holder thereof on a term of probation after proper hearing upon the finding the holder of the license to be guilty of acts of commission or omission, including the following: (1) Conviction of a felony."

Motion made by Thurman that charge C.1 be found true, seconded by Burns, all in favor. Motion carried

CONCLUSIONS OF LAW

The Board may refuse to issue Applicant a license in the business of funeral directing and embalming based on his felony convictions.

Motion made by Adams to allow Jon Ball to reinstate licenses upon passing Arkansas Laws, Rules, and Regulations Exam and payment of delinquent fees in the amount of \$920.00, seconded by Roberts, all in favor. Motion carried.

ORDER

Based upon the evidence and testimony presented at the hearing, the Boards finds that Respondent's license as a Funeral Director and Embalmer may be reinstated conditions upon Respondent: (1) Taking and passing the required exams; and (2) payment of delinquent fees in the amount of \$920.00.

q. In the matter of: Reddick Funeral Home, Billy Reddick, Manager and licensed funeral director

Hearing officer Ms. Johnson called the hearing on the record. Ms. Johnson confirmed with Mr. Reddick that he did receive the notice of hearing for today's hearing. Johnson stated for the record that this hearing would be conducted pursuant to the Arkansas Administrative Procedures Act. The strict rules of introducing evidence do not apply and will give latitude in presenting testimony and evidence. This hearing is subject to the Freedom of Information Act and is open to the public. Johnson allowed Ms. Hodge to distribute Board's compilation exhibit 1 consisting of 23 pages and exhibit 2 consisting of 2 pages that was stipulated by both parties. The respondent entered exhibits R1 consists of 3 pages document and R2 consists of 8 pages that was stipulated by both parties.

Attorney Hodge stated that this case is more fact extensive, James Johnson is the complainant in this matter and he filed a complaint against Billy Reddick and Reddick Funeral Home. Mr. Johnson essentially made funeral arrangements for his deceased family member and those were arrangements were secured by insurance policies. Mr. Johnson claims he went to the funeral home and made arrangements for his aunt and was never given a signed statement of funeral goods and services. Sometime after that, Mr. Reddick contacted Mr. Johnson informing him that there was a balanced owed roughly of \$1,500.00 dollars. Mr. Johnson disputed that figure, stating that when he initially came into make funeral arrangements all of the fees and charges should have been secured by the two insurance policies that his aunt had left. In response to the complaint, Mr. Reddick produced certain documents including a signed statement of funeral goods and services and some receipts that Mr. Johnson alleges contains a forged signature. Mr. Reddick also initiated a small claims action against Mr. Johnson to recover the \$1,500.00. Mr. Johnson did prevail in that case in circuit court and maintains that the judge found that the documents produced by Mr. Reddick did not bare his original signature. The charges in the complaint the Board will consider are whether or not Mr. Reddick violated this Board's rule by providing falsifying documents and misrepresentation as a holder of a license. In addition, did he violate the Board's rules when he failed to provide Mr. Johnson with a statement of funeral goods and services?

Mr. Reddick stated that he would in turn provide to the Board proof that Mr. Johnson was given a signed statement of funeral goods and services the day the arrangements were made. He would also show the Board that Mr. Johnson signs his name 4 or 5 different ways. He would also prove that at Reddick Funeral Home they operate under a Funeral Director Assistance program that our arrangements are made on computer and once complete they printed out.

Mr. Johnson stated that he informed Mr. Reddick that his aunt had two insurance policies and some funds left in her account at the nursing home. That would be all the funds he would have for his aunt's funeral. That amount totaled \$4,697.65, which included both polices and left over funds from the nursing home. He had known Mr. Reddick for years and he had also done his brothers funeral. He made arrangements with Mr. Reddick, picked out a casket and discussed other details. Mr. Johnson stated that Mr. Reddick assured him that everything would be covered. Ms. Hodge inquired if Mr. Johnson received any documentation after that meeting that day and he stated "No." He claimed he never saw the funeral contract until February 2013.

Mr. Reddick stated Mr. Johnson came in on February 8, 2013 and paid \$125.00 towards the bill. Mr. Johnson denied that he did. Mr. Reddick inquired from Mr. Johnson if he was satisfied with the services he received from Reddick Funeral Home. Mr. Johnson stated he was satisfied with the appearance of his aunt, but he was dissatisfied in how the issue was handled.

Mr. Reddick did confirm that Mr. Johnson did prevail in the small claims case he had filed. Mr. Reddick was questioned by Thurman why there was difference in the amount of the account from the date the arrangements were made \$1,835.05 and the next day when a payment was applied the receipt show a balance due of \$1,934.00. Mr. Thurman stated the difference was \$98.95 which Mr. Reddick stated was for a limo that Mr. Johnson added. Their charge for a limo is \$185.00. Mr. Reddick stated that he and Mr. Johnson go way back and perhaps he gave them a price break. Mr. Reddick could not answer Mr. Thurman's question why it was different, since he did not write the receipt. Mr. Burns questioned when Mr. Johnson received the unsigned bill. Mr. Johnson stated on February 8, 2013. Mr. Burns confirmed with Mr. Reddick that he was appealing the district court decision on the grounds that signatures were different. Judge stated he was not a signature expert and could not determine, so case was dismissed.

Board consulted Hodge on charge C. 1 dealing with the signatures. Since charge C.1 is under appeal, could the Board delay findings while it's under appeal. Hodge stated that the case was dismissed in small claims even though its pending appeal actually has no bearing on the Board's decision. The Board can look at their exhibits to determine whether or not there was a forgery. What the district court does is separate from you enforcing your rule, but you can give their decision weight when you address your charges. However, if the Board finds charge C.1 factual it's advises they go back and add an additional finding.

Motion made by Roberts, to find factual allegations 1-11, 13-14 were found factual with amendments to A.4 to July 16, 2012 and A.5 to funds totaling \$4,697.65, factual allegation A.12 was unfounded, seconded by Thurman, all in favor. Motion carried.

FINDINGS OF FACT

A.1. Respondent Reddick Funeral Home is currently licensed as a Funeral Establishment Type A in the State of Arkansas. Respondent was so licensed at all times relevant to the matters addressed herein.

A.2. Respondent Billy Reddick is currently licensed as a Funeral Director in the State of Arkansas. Respondent was so licensed at all-time relevant to the matters addressed herein.

A.3. On September 23, 2013, the Board received a complaint from James Johnson.

A.4. On July 16, 2012, Mr. Johnson met with Billy Reddick, owner of Reddick Funeral Home, to make arrangements for his deceased aunt, Virgie Lee Leake.

A.5. Ms. Leake had funds totaling \$4,697.65.

A.6. During his meeting with Mr. Reddick, Mr. Johnson selected a casket and was told that the casket and all funeral services would not exceed the available funds (\$4,697.65).

A.7. Mr. Johnson was not provided a statement of funeral goods and services selected.

A.8. The services were held on July 23, 2012.

A.9. Mr. Johnson had no further contact with either Respondent until January or February 2013 when Respondent requested that Mr. Johnson to pay the balance due on Ms. Leake's funeral.

A.10. On February 8, 2013, Mr. Johnson went to Reddick Funeral home to request records regarding Ms. Leake's funeral arrangements. He was provided an unsigned funeral contract. The unsigned contract is inconsistent with the arrangements Mr. Johnson made with Mr. Reddick on July 18, 2012 and does not reflect all of the payments made to Reddick Funeral Home.

A.11. According to that contract, the remaining balance owed for Ms. Leake's funeral is \$1,835.05.

A.12. On September 10, 2013, Respondent initiated a small claims action against Mr. Johnson for the unpaid funeral bill in the principal amount of \$1,560.85.

A.14. Mr. Johnson prevailed in that action.

Motion made by Burns that charge C.1 was unfounded there was not enough evidence presented to support fraud, seconded by Thurman, motion carried 2-1 with two abstaining.

Motion made by Thurman that charge C.2 be found true, seconded by Roberts, motion carried 2-1 with two abstaining.

CONCLUSIONS OF LAW

C.1 Based upon the above factual allegations, Respondent violated Rule XII (1) of the Rules and Regulations of the Arkansas Board of Funeral Directors and Embalmers when he failed to provide Complainant with a statement of goods and funeral services at the time funeral arrangements were completed and prior to the time of rendering the service, and/or providing the merchandise for Mrs. Virgie Lee Leake.

ORDER

The Board orders that Respondent will be issued a written reprimand.

Motion made by Roberts that the Respondent Reddick be issued a written letter of reprimand, seconded by Thurman, motion carried 2-1 with two abstaining.

Compilation of Board Activities

Exam – ICFSEB

Time Frame	Examinees	Pass	Fail
May 2013 – April 2014	64	35	29

Registered Apprentices

Registered Apprentices	Funeral Director	Embalmers
	96	51

Licensed Funeral Directors and Embalmers

Licensed Individuals	Funeral Director	Embalmers
	41	16

Establishment Licenses Issued

Board ID	Name	City	Date	Manager	Owner
24270	Colonial Southern Services	Carlisle	7/18/2013	Harold Reed	CSE, LLC
24264	Clinton Funeral Service	Clinton	7/31/2013	Darriel Ezell	E & O, Inc.
24322	Bradford Memorial Funeral Home	Bradford	12/12/2013	Cynthia Medlock	Cynthia and J. C. Medlock

Board ID	Name	City	Date	Manager	Owner
24337	Serenity Funeral Home of Little Rock	Little Rock	1/17/2014	Herman Mitchell	Serenity Funeral Home, LLC
24338	Kincaid Funeral Services	Helena	1/30/2014	Beulah Screws	Beulah Screws
24342	Bishop-Crites Funeral Home	Greenbrier	1/31/2014	Jeffery Crites	Jeffery Crites
24357	Kincaid Funeral Services	Forrest City	3/24/2014	Beulah Screws	Beulah Screws
24366	Peaceful Rest Funeral Home	West Helena	4/7/2014	Edward Shelton	Randy Williams
24374	Hardwicke Funeral Home	Clarksville	4/25/2014	Amos Pledger	Pledger Cogan Family, LLC
24376	Bishop-King Funeral Home, LLC	Lake Village	4/29/2014	Randall Skyler King	Randall Skyler King

Transport Licenses Issued

Board ID	Name	City	Date	Manager	Owner
24289	1 st Class Transport	North Little Rock	9/3/2013	Aaron Shelton	Aaron Shelton
24296	ALC Services	Wilburn	9/18/2013	Anita Prince	Anita Prince
24367	The Elite Above & Beyond Transport	Conway	4/17/2014		Jim Smith

Crematory Licenses Issued

Board ID	Name	City	Date	Manager	Owner
24241	A & J Services	Heber Springs	7/31/2013		Jim Thomas & Alton Brownderville
24325	D E Crematory Company	England	12/18/2013		Tammy Gunn

Financial

Funds collected from July 1, 2013 to date:	\$143,727.00 (\$10,000 less than last year)
Projected Fund balance, June 30, 2013	\$231,921.00
Budget for FY 15 (July 1, 2014-June 30, 2015)	\$209,607.00
Transfer to Burial Board July 1, 2014	\$50,500.00