

Arkansas State Board of Embalmers and Funeral Directors  
Board Meeting

MINUTES

Wednesday, May 11, 2016  
101 East Capitol Avenue  
Arkansas River Room, 3<sup>rd</sup> Floor  
Little Rock, AR  
Approximately 1:15 p.m. - 3:45 p.m.

Chairman James Terry Woodard called the meeting to order. Members present were: Vice Chairman Bobby Thurman, Bobby Burns, Patricia Roberts, Sylvester Smith, and John Wilkerson. Staff that were present: Amy Goode, Executive Secretary, Tammy Leakey, Inspector, and Julie Chavis, Assistant Attorney General was Board Counsel. Daniel Faulkner, Assistant Attorney General is the newly appointed Board Counsel.

1. **Call to Order**- Introduction of Board members and anyone wishing to speak before the Board today.
2. **Agenda Adoption** - Motion made by Burns to adopt the agenda as, seconded by Wilkerson, all in favor. Motion carried.
3. **Establishment Licenses seeking approval – Inspector Leakey**
  - a. **Legacy Funeral Home and Cremations – 1806 N. Hazel Street, Hope, AR – Inspected May 10, 2016. Manager and owner of record: Michael J. Smith, Embalmer of record Sylvester Smith, and cremation provider will be Legacy Enterprises.** Motion made by Burns to approve Legacy Funeral Home and Cremation as a Type A establishment, seconded by Thurman, all in favor. Motion carried.
4. **Hearing**
  - a. **In the matter of Weems Family Funeral Service, a Type A Funeral Establishment and Timothy Weems, a Licensed Funeral Director and Manager – Case#16-1**

Assistant Attorney General Karen Wallace served as Hearing Officer and swore in witnesses.  
Assistant Attorney General Julie Chavis represented the Board.  
Timothy Weems represented himself.  
Amy Goode – Executive Secretary witness for the Board.  
Court Reporter – Tiffanie Harrison - Harrison Court Reporting.  
Ms. Wallace swore in the witnesses for the record.

Hearing Officer Karen Wallace called the hearing on the record and explained the purpose of the hearing. Ms. Wallace explained that the Board would base its decision solely on evidence presented today and 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, to promote a fair hearing. This hearing is subject to the Freedom of Information Act and is open to the public. Wallace allowed Ms. Chavis to enter Board compilation exhibits 1 after the consideration of all parties and there were no objections.

### **FINDING OF FACTS**

1. Respondent Funeral Home was licensed as a Funeral Establishment Type A in the State of Arkansas at all times relevant to this complaint.
2. Respondent Timothy Weems held a funeral director's license issued by the Board and served as the licensed funeral director under whose general management and supervision Weems Family Funeral Service, a licensed Funeral Establishment Type A, operates. In connection with all matters described in the hearing notice, Respondent Weems was so licensed at all times relevant to the matters addressed therein.
3. On January 6, 2016, the Board received a "Revocation Order" from the Arkansas Insurance Commissioner revoking the Prepaid Funeral Benefit Permit of Timothy Weems, the Producer's License (Funeral Expense License) of Timothy Weems, and the Producer's License (Funeral Expense License) of Weems Family Funeral Services, LLC.
4. On January 6, 2016, the Board filed its own complaint against Timothy Weems and against Weems Family Funeral Service for violations of Ark. Code Ann. § 17-29-311(a)(15), concerning violations of applicable law or regulations with regard to prearranged or prepaid funeral services, such violations having been determined to have occurred by the Arkansas Insurance Commissioner.
5. On January 11, 2016, Timothy Weems signed the certified mail receipt verifying receipt of the complaint.
6. As of the date of the hearing notice, Timothy Weems had not filed a response to the Board's complaint.

Motion made by Burns that factual allegations A.1. – A. 6. were proven, seconded by Thurman, all in favor. Motion carried.

Motion made by Thurman that charges C.1.-C.3. were proven, seconded by Wilkerson, all in favor. Motion carried.

### **CONCLUSIONS OF LAW**

7. Respondent's actions, as set out in Finding of Fact # 3, constitute violations of Arkansas Code Annotated § 17-29-311(a)(15), specifically, violations of applicable law or regulations with regard to prearranged or prepaid funeral services, such violations having been determined to have occurred by the Arkansas Insurance Commissioner.
8. Respondent's actions, as set out in Finding of Fact #6 constitutes violations of Arkansas Code Annotated § 17-29-311(a)(18) and Board Rule XV(4), in that he failed to respond to the complaint within the fifteen-day time period.

### **ORDER**

Pursuant to Arkansas Code Annotated § § 17-29-307 (a), the Board hereby:

1. Suspends the Funeral Establishment Type A license of Weems Family Funeral Service, LLC, for six (6) months. Mr. Weems informed the Board that he has one memorial service to conduct the weekend of May 13-15, 2016. The Establishment License is suspended for six (6) months beginning Sunday, May 15, 2016.
2. When the six (6) month suspension has expired, Mr. Weems may come back in front of the Board to seek reinstatement of the Funeral Establishment Type A license of Weems Family Funeral Service, LLC.

Motion made by Smith to suspend Weems Family Funeral Service for six (6) months beginning Sunday, May 15, 2016, then Mr. Weems would be required to seek reinstatement before the Board, seconded by Burns, all in favor. Motion carried.

#### **5. Administrative**

- a. **Approval of March 17, 2016 regular meeting minutes** - Motion made by Burns to approve the March 17, 2016 board meeting minutes as delivered with no necessary corrections, seconded by Thurman, all in favor. Motion carried.

- b. Approval of April 13, 2016 teleconference minutes** - Motion made by Burns to approve the April 13, 2016 teleconference board meeting minutes as delivered with no necessary corrections, seconded by Thurman, all in favor. Motion carried.
- c. Approval of March – April 2016, DF&A financial reports and trial balance** - Motion made by Burns to approve the March through April 2016 DF&A financial reports, seconded by Thurman, all in favor. Motion carried

## **6. New Business discussion**

- a. Executive Secretary requests approval for consideration to attend CLEAR conference in Portland, Oregon – September 14-17, 2016. Conference registration for non-members is \$620 and the Executive Leadership Program for Regulators is \$585, then hotel rate is \$169 and of course the flight and that the two Boards split the cost.** Motion made by Burns to approve half the costs for Executive Secretary to attend the Conference with the Arkansas Burial Association Board to help with the costs as well, seconded by Smith, all in favor. Motion carried.
- b. Complaint process** – Staff recommendation that we restrict the details during the complaint review process until the case is referred for hearing, then the Board would hear all the details of the case. The process can be fine-tuned during rule making process. Legally speaking less discussion by the Board is best.
- c. Board's permission to speak with BLR drafters** – Executive Secretary explained that she would like to seek passing a Human Dignity act. Also require a funeral director technical certificate or at the minimum utilize the twenty (20) classroom hours currently in law to become a licensed funeral director. The Board felt that the funeral director apprenticeship should be reconsidered.
- d. Fee Proposal** - Executive Secretary did produce the current fees and proposed fees for the Board. After little discussion, the Board Counsel suggested he should look at some law changes that could affect our fee increases. The Executive Secretary will work on scheduling a rule promulgation workshop.

## **7. Complaints**

- a. Case#15-42 – In the matter of Reddick Funeral Home, a Type A Licensed Funeral Establishment and Na'Kenna Brown, a Licensed Funeral Director and Manager – 2<sup>nd</sup> review tabled for further investigation.**
- b. Case#16-10 - In the matter of Reddick Funeral Home, a Type A Licensed Funeral Establishment and Na'Kenna Brown, a Licensed Funeral Director and Manager**
- c. Case#16-11 - In the matter of Reddick Funeral Home, a Type A Licensed Funeral Establishment and Billy Reddick, a Licensed Funeral Director and Owner**

Motion made by Thurman to proceed to a hearing in July due possible violations, seconded by Wilkerson, all in favor. Motion carried.

## **8. Attorney updates –Daniel Faulkner**

- a. 2014 Appeal status - Javier Buck and Richardson Memorial Funeral Home – update since last meeting.** Mr. Faulkner will handle the APA appeal on June 27, 2016 before Judge Mackey Pierce.
- b. 2014 Appeal status– Effie Collins and Collins Chapel**

**c. 2011 Appeal Status - Elmer Davis**

Julie Chavis has filed an order of appearance and there is a motion to dismiss pending on both cases for length of time.

**9. Meeting dates:**

- a. May 12, 2016 – 9 am**
- b. July 21, 2016 – 9 am**
- c. September 15, 2016 – 9 am**
- d. November 10, 2016 – 9 am**

**10. Adjournment**

Motion made by Thurman to adjourn at approximately 3:45 p.m., seconded by Smith, all in favor. Motion carried.