

Arkansas State Board of Embalmers and Funeral Directors
Board Meeting

MINUTES

Thursday, January 16, 2014, 9:00am
101 East Capitol, Conference Room C
Little Rock, AR

President James Terry Woodard called the meeting to order. Members present were: Vice President Bobby Thurman, Bobby Burns, Jerry Adams, Patricia Roberts, and Ben Brazzel. Staff that were present: Amy Goode, Executive Secretary, Boyd Heath, Inspector, and Katina Hodge, Board Counsel.

1. **Introduction of the Board**

2. **Oral Examinations**

- a. **David Ray Bright** was administered his oral exam.

3. **Administrative**

- a. Motion made by Burns to accept as written the minutes of the November 7, 2013 board meeting, seconded by Roberts. All in favor, motion carried.
- b. Motion made by Thurman to accept and approve the October – December 2013 trial balance and DF&A documents as delivered, seconded by Roberts. All in favor, motion carried.

4. **Hearings**

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

Assistant Attorney General Peggy Johnson served as Hearing Officer and swore in witnesses.

Assistant Attorney General Kat Hodge represented the Board.

Jon Ball was represented by Chris Flanagan, Attorney at Law

Court Reporter – Ms. Faith Grigsby

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 given 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

1. 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.
2. 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.

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

4. 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.

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

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

7. 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.

8. Applicant completed the program in October 2011.

9. 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.

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

11. 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.

12. 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.

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

Assistant Attorney General Peggy Johnson served as Hearing Officer and swore in witnesses.

Assistant Attorney General Kat Hodge represented the Board.

Billy Reddick represented himself on behalf of Reddick Funeral Home

Na'Keena Brown witness appearing on behalf of Reddick Funeral Home

Court Reporter – Ms. Faith Grisby

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 given 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 balance 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.

5. Complaints

a. Case #13-25 – Purley, Deloris V. Richardson Memorial Funeral Home, Javier Buck Manager –

This complaint is before the Board today for a review, but there was no evidence to support a rule

violation. It was recommended that it not be set for hearing. Motion made by Burns there were no evidence to support any rule violations, seconded by Adams, all in favor. Motion carried.

- b. **Case #-13-26 – Austin, Romona V. Richardson Memorial Funeral Home, Javier Buck, Manager –** There is allegations in this complaint of solicitation between two funeral homes. There are also allegations that Karonda Smith acted as a funeral director without a license. Motion made by Burns to set for hearing, seconded by Adams, all in favor. Motion carried.

6. **Board Discussion**

- a. **Washington County Coroner-** The attorney inquired if the concern was that a coroner is authorizing cremations. Thurman stated that he is certifying all death certificates and stating all must go through him, because of the new ERAVE system. He is authorizing cremations to crematories, and were unsure the extent of the investigation prior to this release. The attorney stated, that she did think he had the authority to authorize a cremation. However, did not think he had the authority to not allow anyone else to sign off on a death certificate. Currently, that is what this coroner is doing and using an authorizing letter instead of the death certificate to allow crematories to cremate. Code 20-18-604 Subsection c gives consent of physician, medical examiner, or county coroner to certify the cause of death can release a body from the location of death for the purpose of final disposition. In that form, is he certifying the cause of death? It is believed that the Washington County Coroner is not doing that. The form he is using in lieu of the death certificate should still certify the cause of death. Currently, he is allowing funeral homes to go ahead and cremate, then the funeral home will have to get the physician to sign off on the cause of death certificate days later. Attorney stated if we read our rule and the statute together then he can authorize the cremation as the county coroner.
- b. **2014 Board Approval to reimburse Stipends and Travel Reimbursement –** Motion made by Thurman to approve the reimbursement of travel and allow payments of the board meeting stipends for the calendar year 2014, seconded Roberts. All in favor, motion carried.
- c. **Kincaid Funeral Services new location West Helena –** The location is going to be used for visitations and chapel services only. There would be no arrangements or pre-need arrangements being made at the location. Do they need a license? Motion made by Adams to table until Boyd could visit with Kincaid to find out the future use of the location, seconded by Burns, all in favor. Motion carried. Update: after additional discussion it was determined a license should be issued to the separate location, since they will be charging families for the use of their facilities to conduct those visitations and chapel services. License was issued January 30, 2014.
- d. **Javier Buck – email request for payment plan concerning civil penalty issued 2/15/13 –** Motion made by Burns to deny request for a payment plan, seconded by Brazzel, all in favor. Motion carried.

7. **Attorney Updates**

- a. **Effie Collins –** Mr. Steel has contacted Ms. Hodge that Ms. Collins would like to be reinstated. Ms. Collins and her counsel wanted the Board to consider to a consent agreement where the Board would allow her to enter back into the industry or would the Board want to set for hearing. Motion made by Burns that the in the matter of Effie Collins request for consent agreement be denied and the Board request the matter be set for hearing, second by Adams, all in favor. Motion carried.

8. **Meeting dates:**

- a. Next meeting scheduled for March 13, 2014.

9. **Adjournment**

Motion made by Brazzel to adjourn to meeting, seconded by Burns, all in favor. Motion carried.