

Arkansas State Board of Embalmers and Funeral Directors  
Board Meeting

MINUTES

Thursday, October 3, 2013, 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, Jerry Adams, Bobby Burns, Patricia Roberts and Ben Brazzel. Board member Mary Ann Allen resigned from the Board in August 2013. 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. **Paula Kay Mazzia**
- b. **Bryant E. Mitchell**

All oral examinations were administered.

3. **Reinstatements**

- a. **Eric McKinney** – Mr. McKinney formerly contacted the Board's Executive Secretary about reinstating his licenses. Executive Secretary explained to the Board that it was 1999 the last year Mr. McKinney held a current license. He is required to appear before the Board, pass the ARLRR exam, and pay the delinquent fees of \$920.00 after successfully passing exam. Mr. McKinney stated he got burned out for awhile and chose a different career. During the time he was licensed he freelanced in Texarkana. Graduated in 1985 from Dallas. Motion made by Brazzel to reinstate Mr. McKinney's licenses after passing exam and paying required delinquent fees, seconded by Roberts, all in favor. Motion carried.
- b. **Garman Freeman** – No show
- c. **Joel Michael Matos** – Mr. Matos formerly contacted the Board's Executive Secretary concerning reinstating his funeral director license. He was licensed in 2004, but did not renew them the following year. Mr. Matos would be required to appear before the Board, pass the ARLRR exam, and pay the delinquent fees of \$460.00 after successfully passing exam. Mr. Matos stated he left the state and the business. He got involved in a church planning in Tennessee and failed to get a job out of state. Motion made by Brazzel to reinstate Mr. Matos funeral director's license after passing exam and paying require delinquent fees, seconded by Adams, all in favor. Motion carried.

4. **Administrative**

- a. Motion made by Burns to accept as written the minutes of the August 15, 2013 board meeting, seconded by Brazzel. All in favor, motion carried.
- b. Motion made by Brazzel to accept and approve the August & September 2013 trial balance and DF&A documents as delivered, seconded by Roberts. All in favor, motion carried.

5. **Attorney Updates**

- a. **Effie Collins Case** – Ms. Hodge stated she had spoke with Mark Ohrenberger previous Board Council during these cases. All parties had submitted their briefs in the Court of Appeals case. Mark had requested an oral argument in the Supreme Court which he said would take two-three months.

6. **Hearings**

- a. **In the matter of Karonda T. Smith-Applicant for Registration as a Student Funeral Director**  
Ms. Smith did not attend for the hearing, so the Board dismissed her request.

- b. **In the matter of Kay Murray, a licensed 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.

Kay Murray and Tim Murray were here on their own behalf.

Court Reporter – Ms. Sharon Hill

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 year's 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 2<sup>nd</sup> 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

1. Respondent is a licensed funeral director and embalmer in the State of Arkansas.
2. Respondent has self-disclosed a felony conviction.
3. According to Respondent, she was convicted of a felony in January 2013 after a domestic dispute with her husband.
4. Following her felony conviction, Respondent ceased working as a licensed funeral director and embalmer.
5. Respondent seeks to resume working in the profession of funeral directing and embalming.
6. 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.

#### **7. Complaints**

- a. **Case#13-07 – A. O. Smith Funeral Home V. AR Funeral Care-updated** – The Board received and considered the additional information concerning solicitation. The Board determined that there was not sufficient evidence of solicitation. Motion made by Burns to dismiss complaint for no violations, seconded by Roberts, all in favor. Motion carried.
- b. **Case#13-20 – Linda Rochell (Otis Robinson Family) V. Carolyn J. Stevenson, Serenity Gardens Funeral Service** – The allegations in this complaint appear to come from a personal nature. The only issue the Board would have control over is filing a fraudulent death certificate, but that error was caught and corrected. Motion made by Brazzel to dismiss complaint for no violations, seconded by Roberts, all in favor. Motion carried.
- c. **Case#13-21 - Sandra Benham V. Premier Funeral Home, Edward Shelton, Manager** – Complainant stated she was not aware she assigned the proceeds of insurance policy to pay for her father's funeral. Motion made by Adams to table and request insurance assignment and statement of funeral goods service from funeral home, seconded by Thurman, all in favor. Motion carried.
- d. **Case#13-22 – Angela Guinn V. Premier Funeral Home, Edward Shelton, Manager** – Complainant's issue is that the funeral home stole her burial plots. The funeral home is not customarily responsible for selling or marking the cemetery plots. That is handled by the family and the cemetery. Cemetery allowed for the family to use the plot. Motion made Burns to dismiss complaint for no violations, seconded by Brazzel, all in favor. Motion carried.
- e. **Case#13-24 – Mary Bellamy V. Cabot Funeral Home, Jeff Mock, Manager and John Harris, Owner** – Ms. Bellamy 's mother died she used Cabot Funeral Home and she was dissatisfied. They gave her a \$2,000 credit if she should use them again. Forty-one days later her father died. Her father was veteran. The funeral cost \$7,000 they applied the credit and her father had \$2,000 in veteran benefits. Bellamy's complaint is she paid the funeral bill and according the veteran benefits the person paying for the service should receive the benefit. The funeral home wrote the

check to the estate of her late father. The \$3,000 was paid by the estate of the late father, \$1,500 was paid from Mary Bellamy's account, and \$500 was paid from her husband's account. There was no specific rule violation and the Board felt this was an actual civil matter. Motion made by Brazzel that there was no violation of our rules, seconded by Burns, all in favor. Motion carried.

8. **Board Discussion**

- a. **International Conference of Funeral Service Examining Boards Annual meeting-** It will be held February 26-27, 2014 and Board Member training will begin February 25-26, 2014. President Woodard will attend as a Past President for the ICFSEB his registration will be paid, but the Board will reimburse his travel. Bobby Thurman will attend as a member of the ICFSEB exam committee and his expense are covered by them. That would allow for 2 additional members to attend along with the Executive Secretary. Board decided Bobby Burns and Ben Brazzel would attend, in addition the other previously mentioned members. Motion made by Adams to allow for travel beginning February 24, 2014 and returning February 28, 2014, seconded by Brazzel, all in favor. Motion carried.
- b. **Iron Horse Transport Complaint** – An Atkins police officer died while riding his motorcycle. His wife wanted his best friend to transport her husband to the cemetery on a trailer pulled by his motorcycle. The friend was not reimbursed for this service. Motion made by Burns no violations, seconded by Brazzel, all in favor. Motion carried.
- c. **Shown Requesting Opinion 20-17-102** – The Board discussed Ms. Shown's request. The Board instructed the Executive Secretary to send a letter stating that our office does not give legal advice and provide a copy of the law. Motion made Burns to send letter, seconded by Brazzel, all in favor. Motion carried.
- d. **Brian Gray Request** – Motion made by Burns judging by Mr. Gray's request that under current rules and regulations a Type A establishment is required, seconded by Adams, all in favor. Motion carried.
- e. **Unlicensed Individuals** – Motion made by Adams to table this discussion for further thought, seconded by Brazzel, all in favor. Motion carried.
- f. **Proposed Rules and Regulations** – Board decided to meet November 6, 2013 at 1:00pm to discuss rule changes.

9. **Meeting dates:**

- a. Next meeting scheduled for November 7, 2013.

10. **Adjournment**

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