

*Arkansas State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services  
Board Meeting Minutes*

Tuesday, April 20, 2021

1 Commerce Way  
Riverview Room– 2<sup>nd</sup> Floor  
Little Rock, AR  
9:00 AM – 2 PM

Chairman Bill Booker, Professional Member called the meeting to order. Member(s) present: Billy Curl, Professional Member, Rausch Hodges, Professional Member, Commissioner Appointed Designee, Dan Honey, Compliance Attorney, Stephanie Neipling, Consumer Member, James Bruce Smithson, Professional Member, and Steve Whitwell, Professional Member and Vice-Chair.

Member(s) absent Commissioner Alan McClain, Consumer Member and Josephine Perry, Senior Citizens Member.

Staff present: Robert Akers, Director – Funeral Services Division, Eddie Davis, Security Director, Darriel Ezell, Inspector/Investigator, Amy Goode, Executive Secretary, Lorin Hillery, Auditor, Amelia Vestal, Senior Securities Examiner, and Amanda Gibson, Arkansas Insurance Department, Associate Counsel.

1. **Call to Order** – Introduction of Board members and staff.
2. **Approval of the Agenda**

Chairman Booker inquired if there was any desire to change or deviate from the proposed agenda. Hearing none, the Board preceded with the agenda as prepared by staff.

3. **New Business**

- a) **Embalmers & Funeral Directors – Establishments Seeking Approval**

[[A.C.A. §17-29-304 Funeral Establishment – Requirements](#), [§17-29-305 Examinations – Licenses](#)]

- i. **Ozark View Funeral Home – Board ID No. 25355.** Requests a **Type A** establishment license and is located at 1239 Hwy 65 South, Clinton, Arkansas. Inspector Ezell inspected the Type A Full-Service establishment owned by Dr. Keith Coward on **Monday, April 12, 2021**. The manager of record will be Joe Tsosie, Board ID No. 21835 and embalming will be done under the direction of Christopher H. Pressler, Board ID No. 21862. The establishment will use Arkansas Central Crematory Service, Board ID No. 20544, in Little Rock, Arkansas for their cremations. All required documentation submitted is pending Board approval.

Joe Tsosie and Dr. Keith Coward were present representing the funeral home.

Mr. Booker questioned the price lists, specifically the casket price list and outer burial container price list and advised reviewing “Complying with the Funeral Rule”, by the Federal Trade Compliance (FTC). Suggested becoming a member of the National Funeral Directors Association (NFDA) and having them review his GPL for FTC compliance.

Motion made by Curl to approve the Type A Establishment, seconded by Smithson, all in favor. Motion carried.

#### 4. Hearings

**a) IN THE MATTER OF  
Chaondy Thomas, Applicant for Funeral Director Apprentice, Respondent. Case  
No. 20-04.**

Russ Galbraith, Chief Deputy Commissioner | Arkansas Insurance Department, served as Hearing Officer.

Amanda Gibson, Board Counsel, represented the Board.

Chaondy Thomas, Respondent.

Tiffanie Harrison, Court Reporter.

Court Reporter swore in witnesses.

Hearing Officer, Russ Galbraith called the hearing on the record at 9:25 A.M. and explained the purpose of the hearing. Mr. Galbraith explained the hearing would be conducted pursuant to the Arkansas Administrative Procedures Act. The strict rules of introducing evidence do not apply and all parties will be given latitude in presenting testimony and evidence, to promote a fair hearing. This hearing is subject to the Arkansas Freedom of Information Act and therefore all parts of the hearing, including deliberations are open to the public. The Board will base its decision solely on evidence presented today.

Mr. Galbraith inquired if Mr. Thomas had received the notice of hearing and he indicated on the record, that it had been received and that he was not represented by counsel.

Ms. Gibson stated she had Board’s Exhibit Packet 1-6 prepared to enter into the record and explained the details of the packet. There was no objection to enter the exhibit packet.

Mr. Thomas currently works for Bethune Funeral Service in Eudora, AR and is appearing today to request a waiver of his prior felony conviction to become an apprentice funeral director. Mr. Thomas indicated his actions of setting his mother’s car on fire and reporting it stolen were the reasons he was convicted of insurance fraud and filing a false police report. Ms. Gibson stated that he was ordered as part of his punishment to make restitution of about \$14,000 to Shelter Insurance Company and court costs in the amount of \$535 and inquired if he had made any restitution. Mr. Thomas indicated he had started making payments last year. Ms. Gibson stated there was a petition filed in July of last year, because he had not made any payments. He stated he took a payment to the hearing that day, they informed him he had to make a payment that day.

Every time he gets paid, he pays on it and if he ever has any extra money. He is not sure how much he has paid, but he thinks roughly over \$2000. The payment is to be \$300 a month, but he was told that if he paid close to that amount each month, it would be fine. His testimony today is he tries to pay over \$200 a month. His next court date is May 10<sup>th</sup>. He believes that the court date is just to reevaluate and determine if he has been making payments. That if he is making restitution, there will not be any issue.

Mr. Darriel Ezell was sworn in. Mr. Ezell stated that he spoke with the sheriff's office and prosecutor office. His May 10<sup>th</sup> court date is a revocation hearing. The hearing has been rescheduled several times since October.

During deliberations, Mr. Whitwell stated that it was premature to decide. Mr. Honey stated we could request documentation of his payment history and he could reapply after his May 10<sup>th</sup> hearing.

The board found the following:

Allegations 1-7 were found proven or true, with an amendment to allegation 1 to state "may be employed with Bethune Funeral Service." Charge 1 was proven or found true.

Motion made by Honey to deny the request to waive the requirement to pass the background requirement, seconded by Hodges, all in favor. Motion carried.

Record closed at 10:20 AM. Break. Resumed 10:31 AM

**b) IN THE MATTER OF  
Timeless Funeral Home, L.L.C., Board ID # 20449, Michael McKinzie, a licensed  
Funeral Director, Embalmer, and Manager, Board ID #21902, and Consuela  
McKinzie, an unlicensed person, Respondents. Case No. 20-15 and 20-30.**

Russ Galbraith, Chief Deputy Commissioner | Arkansas Insurance Department, served as Hearing Officer.

Amanda Gibson, Board Counsel, represented the Board.

Michael and Consuela McKinzie and Timeless Funeral Home, Respondents.

Linda Clark, Complainant and Darriel Ezell, Inspector/Investigator were witnesses for the Board.

Tiffanie Harrison, Court Reporter.

Court Reporter swore in witnesses.

Hearing Officer, Russ Galbraith called the hearing on the record at 10:32 A.M. and explained the purpose of the hearing. Mr. Galbraith explained the hearing would be conducted pursuant to the Arkansas Administrative Procedures Act. The strict rules of introducing evidence do not apply and all parties will be given latitude in presenting testimony and evidence, to promote a fair hearing. This hearing is subject to the Arkansas Freedom of Information Act and therefore all parts of the hearing, including deliberations are open to the public. The Board will base its decision solely on evidence presented today.

Board exhibit packet 1-7 was presented, exhibit 1 was the notice of hearing and proof of service, exhibit 2 – order from case no. 20-15, exhibits 3-6 is the complaint and response, and exhibit 7 is the death certificate of the decedent. There were no objections and the exhibits packet were entered into the record. Respondents had exhibits 1-12 and those were entered into the record.

Board called Linda Clark. Carrie Jordan is her mother and the deceased, that died September 21, 2020. On September 22<sup>nd</sup>, she met at her mother's house with Consuela "Renee" McKinzie. She was not given a price list and that Ms. McKinzie stated she was giving her a discount and would do the visitation /memorial service and cremation for \$2,500.00. A few days later it went up to \$2,700.00, by the end it was \$3,100.00. Ms. Clark was never given a Statement of Goods and Services until after she filed the complaint. The total amount paid to the funeral home \$4,559.00. Insurance was to pay \$1,459 and the family paid a total of \$3,100.00. \$1,600 initially and \$1,500 when she picked up the cremains. No other employees were ever present except the day of the service when Michael McKinzie was present.

Mr. Curl stated he did not see a signature on the statement of funeral goods and services, which is required at the completion of the arrangements. Mr. Booker stated on page 46 of the board's exhibit packet, was some type of agreement that Ms. Clark agreed she signed, but she stated there was not a date at the top of it when she signed it. Mr. Booker inquired if she had received an agreement to the services from the funeral home. Mr. Booker noted there was charge for a hearse, Ms. Clark said Ms. McKinzie told her that was for transporting her mother from Little Rock to Dewitt. Mr. Booker asked Ms. Clark to describe in her own words what her complaint was against this funeral Home. Ms. Clark stated that, first they were very unprofessional. In 2008, they provided services for her grandmother and they dealt with Michael McKinzie, and they did not have any problems from him then. The only reason there was an issue this time, is because when we they first discussed the prices with Ms. McKinzie, she never talked to Mike. Ms. McKinzie made arrangements for \$2,500 for cremation and memorial service. She told her she would charge her for a rental casket, then it went to \$2,700, then there was a flower spray and then cost was \$3,100. Each time she spoke with her, the price changed. She never gave her a price list until the day she came to pick up the cremains.

Mr. Hodges inquired if she signed a cremation authorization, Ms. Clark stated if she did, she did not hand it to me. Mr. Hodges stated he did not see a signed cremation authorization in the packet. Ms. McKinzie provided a copy and it was marked Respondent's exhibit 13.

Mr. Booker asked for some clarification to who Renee is and if they were present? Michael McKinzie indicated that was his wife Consuela McKinzie. Ms. Gibson asked Ms. McKinzie if she went by Renee, she stated she went by Consuela. Ms. Clark stated that everyone in Dewitt referred to her as Renee. Ms. McKinzie stated she was known to some as Consuela and some as Renee, but through the funeral home she is referred to as Consuela.

Mr. Curl inquired if she ever received a copy of their GPL. It was unclear if or when she received a copy of the GPL. It appeared to be in October or November of 2020, which was after the death and cremation of her mother.

Mr. Whitwell inquired if she had any text communication with Mr. McKinzie. She stated she only spoke with him the day of the funeral and the day she picked up the cremains. Mr. Curl inquired of Ms. Clark, if she knew that Mr. McKinzie was aware, that Ms. McKinzie was making arrangements with her. She stated she was sure he was aware.

Ms. McKinzie asked Ms. Clark, how she received her phone number to call her when your mom died? Ms. McKinzie stated she did not have Ms. Clark's phone number.

Ms. Gibson called Consuela McKinzie. Ms. McKinzie stated she was a secretary and owner of the funeral home. Ms. Gibson asked Ms. McKinzie to describe in her own words what happened while making arrangements with Ms. Clark. Ms. McKinzie stated Ms. Clark's mom died September 21, 2020. On September 22<sup>nd</sup>, they were out of town and they received a call from her cousin Kim Brown saying that Ms. Linda Clark wanted them to call her because her mom had died, and she wanted to use their funeral home. Ms. McKinzie stated she told Kim Brown, that they do not call families, the family must call the funeral home. Ms. Clark called about thirty (30) minutes later and stated her mom had died and she was at Baptist in Little Rock. She explained to Ms. Clark that she needed to give the hospital their number to call them to make the removal. Ms. McKinzie stated that she did not make arrangements with Ms. Clark. On their way back from out of town, she thought she was their friend and they stopped by her mother's house and she went in to check on her. Ms. Clark stated she would call them later that day about arrangements, because of COVID. She stated she never had a face-to-face meeting with her about arrangements. Ms. McKinzie stated she was not a licensed funeral director.

Ms. Gibson inquired why she never responded to the complaint. Ms. McKinzie indicated she had responded by regular mail and that her certified mail was returned. It was addressed to the Department of Commerce, which Ms. Gibson indicated was not the correct entity. Ms. McKinzie further stated that was not her handwriting on the envelope. When they received the envelope back, it was torn open and only her and Michael's response was in there. She is not sure whose handwriting is on the envelope except the return address is her handwriting. The responses were not signed or notarized. Mr. Curl confirmed that Ms. McKinzie stated she was not a licensed funeral director. He inquired who waited on the families and she stated Michael did, but she was around. He inquired who made arrangements with Ms. Clark, she indicated Michael did and that because of COVID the communication and arrangements were done by phone and text. Mr. Booker pointed out that the bill was not itemized or specific as required by the FTC. The first call sheet was given to Ms. Clark to fill out, since they did not meet to make arrangements. Mr. McKinzie stated he sent her their GPL himself, but wasn't sure when.

Ms. Gibson called Michael McKinzie. He indicated he was the owner, embalmer, and manager at the funeral home. There are no other licensed funeral directors there. Mr. McKinzie stated when they got back to town, his wife stopped by to check on Ms. Clark and was there about five (5) minutes. All conversation he had was through text. He didn't see her until almost time to have the service. Mr. McKinzie indicated that when they leave the funeral home, they forward the phone to Ms. McKinzie's cell phone, but most of the messages he responded to them. Mr. McKinzie was asked to explain what those messages were about. He stated that they were about the type of service she wanted to have and how much she wanted to spend. Ms. Clark had conversations with both him and Ms. McKinzie. Most people know the funeral home phone is

transferred to their personal cell phones when they are not at the funeral home. Their hours of operation are posted, and they are from 10- 2 he thought. However, even when they are at the funeral home, the phone is forwarded to their cell phones. They do not have a land line and they use their cell phones. Ms. Gibson inquired how she could tell by looking at the text messages, which ones were sent by him vs. by Ms. McKinzie. He stated where it said, “Yes ma’am” and his wife probably didn’t. He further stated that anyone looking at the texts wouldn’t be able to tell who the messages were from.

Ms. Gibson called Darriel Ezell, Inspector/Investigator for the Board. The investigation started with a complaint about not receiving a price list and statement of goods and services from Timeless Funeral Home. During the investigation, he concluded that Ms. Consuela McKinzie, an unlicensed person, was making funeral arrangements with the family of the decedent. He found several FTC violations, regarding the funeral contracts and not being given a general price list. He further stated that it wasn’t the first time an unlicensed person had made funeral arrangements at this funeral home. However, no one was willing to file a formal complaint. Mr. Ezell explained there were other funeral homes in the area to meet the needs of the public.

Closing argument by Ms. Gibson was there is proof of unlicensed practice and that the Respondents were currently on probation. She would recommend revocation and a fine.

Mr. McKinzie stated that he is the one who made most of the arrangements with Ms. Clark. He further stated that there have been mistakes made and that he believes this Board likes to take licenses instead of giving warnings. If the Board, does take the funeral home license, he stated yes there was another funeral home in Dewitt, but they cater to the white community not the black community. Our funeral home caters to the small-town blacks, that can’t afford to go the white funeral home. They can’t afford to go to Stuttgart. He gives a discount because others can’t afford what some can.

Board went off the record at 12:15 to deliberate.

Mr. Booker stated that Mr. McKinzie has stated to us, “does the board give a warning” and if you were with us about a year ago, the action the board took was a warning in his opinion. We took action and placed it in abeyance for two (2) years with the understanding and hope there would be no further violations from this firm or licensee. We have had a complaint that brings us here today.

Board went back on the record at 12:46

Motion made by Smithson to find allegations 1-11 proven or true, seconded by Curl, all in favor. Motion carried.

Motion made by Curl to find charges 1-7 proven or true, seconded by Smithson, all in favor. Motion carried.

Motion made by Honey to move from abeyance of the suspension June 16, 2020 to go into effect immediately except for the current service in process, a fine of \$2,500 be levied against Consuela

McKinzie, a fine of \$2,500 be levied against the establishment to be paid by October 20, 2021, seconded by Smithson, all in favor. Motion carried.

Motion was amended by Honey and seconded by Smithson to add the deadline to pay the fine.

Record was closed at 12:50 PM.

## 5. **Lunch Break (12:50-1:30 PM)**

Mr. Booker had to leave the meeting and Mr. Whitwell took over chairing the remainder of the meeting.

## 6. **Administrative**

### a) **Approval of the March 16, 2021, meeting minutes.**

Motion made by Neipling to approve the March 16, 2021, meeting minutes as submitted by staff, seconded by Smithson, all in favor. Motion carried.

## 7. **New Business Continued**

### a) **Burial Associations – Semi-Annual Report Update**

[[A.C.A. §23-78-120 Semiannual Reports](#)]

Mr. Hillery stated that 6 associations have not reported or filed their December 2020 Semi-Annual Report. One (1) has a legitimate reason and the five (5) remaining keep saying they are working on it.

### b) **Perpetual Care Cemeteries – Annual Report Update.**

[[A.C.A. §20-17-1023. Annual Report of Condition of Cemetery Company](#)]

Ms. Vestal stated that Ms. Stephanie Webb requested an additional request for time to file the annual reports, due to health reasons, for Haven of Rest and Rest of Peace.

Motion made by Curl to grant an extension to file the annual reports until two (2) weeks after she returns to the office, seconded by Hodges, all in favor. Motion carried.

## 8. **Complaints**

Ms. Gibson stated she had two complaints to present to the board.

- **Case No. 20-32** – Complainant was upset that she had to pay for embalming despite giving oral authorization to embalm and having signed the statement of goods and services that included the charge for embalming. Complainant also signed an FTC disclosure that states she “was not told that embalming is required by law and was told

that the law does not require embalming except in certain cases. If embalming was provided, it was with permission of the undersigned.” Recommendation: As the investigation did not reveal any violations on the part of the funeral home, a recommendation is made to close the complaint.

Motion made by Hodges to close Case No. 20-32, seconded by Neipling, all in favor. Motion carried.

- **Case No. 21-08** – Complainant’s daughter lived in South Carolina and passed away in that state. An obituary appeared on Legacy.com and stated that a funeral home in Arkansas was the servicing funeral home. The investigation revealed this was an error committed by Legacy and it was corrected by naming the funeral home in South Carolina that was the servicing funeral home. Recommendation: As the investigation did not reveal any violations on the part of the funeral home, a recommendation is made to close the complaint.

Motion made by Hodges to close Case No. 21-08, seconded by Curl, all in favor. Motion carried.

9. **Next Meeting Date(s)**

- a) **Monday, May 17, 2021 (1:00 p.m.) Rules Sub-Committee**
- b) **Tuesday, May 18, 2021 (9:00 a.m.) Board Meeting and Hearings**

10. **Future Meeting Date(s):**

- a) **Monday, June 14, 2021 (1:00 p.m.) Rules Sub-Committee**
- b) **Tuesday, June 15, 2021 (9:00 a.m.) Board Meeting and Hearings**

11. **Adjournment**

Motion made by Hodges to adjourn at 2 PM, seconded by Curl, all in favor. Motion carried.