

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

Tuesday, January 19, 2021

1 Commerce Way  
Diamond Mine Room– 2<sup>nd</sup> Floor  
Little Rock, AR  
9:02 A.M. – 2:22 P.M.

Chairman Bill Booker called the meeting to order. Member(s) present: Billy Curl, Professional Member, Rausch Hodges, Professional Member, Commissioner, Alan McClain, Professional Member, Josephine Perry, Senior Citizens Member, James Bruce Smithson, Professional Member, and Steve Whitwell, Professional Member and Vice-Chair.

Member(s) absent Stephanie Neipling, Consumer Member.

Staff present: Robert Akers, Director, Funeral Services Division, Eddie Davis, Security Director, Darriel Ezell, Inspector, Amy Goode, Executive Secretary, Amelia Vesta, 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. **Hearings**

- a. **In the matter of – Davis-Strickland Funeral Home, Board ID # 20397, Shannon Strickland, Board ID #21100, Matthew Strickland, Board ID # 21027, Strickland Memorial Lawn, and Church Burial Association – Case Nos. 18-11, 19-08, and 20-20.**

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

Amanda Gibson, Board Counsel, represented the Board.

Tiffanie Harrison, Court Reporter.

Shannon Strickland, Matthew “Peaches” Strickland, and Davis-Strickland Funeral Home, Respondents.

Court Reporter swore in witnesses.

Hearing Officer, Russ Galbraith called the hearing on the record at 9:05 A.M. and explained the purpose of the hearing. Mr. Galbraith noted Respondents were initially not present but had received proper notice of 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.

Margaret Johnson and Ardell Whitten were present to testify in the matter of Case No. 19-08.

Ms. Gibson stated she had Board's Exhibit Packet 1-17 prepared to enter into the record. Exhibit 18 is a letter that the complainant brought this morning, it is a letter from the decedent's brother. There were no objections to the exhibits.

Margaret Johnson stated the reason for their complaint, was that the funeral home was to contact them when they could bury their loved one, because the day of the service it was too wet. They were told their loved one was buried on a Sunday and they did not receive notice of the burial so they could attend. There was an issue with a refund due for services not provided and initially the funeral home did not want to refund. Family indicated that they were told, they had to re-embalm the body and the reason they would not issue a refund. The family was supposed to receive apology letters from the funeral about the mistakes but have not received them. Ms. Johnson stated that they were told by the funeral home that a caretaker came in the funeral home on Sunday and buried her.

Matthew "Peaches" Strickland and Shannon Strickland arrived at 9:25 AM.

Case No. 18-11 and 20-20

Mr. Ezell was called as the Board's next witness. He inspected the funeral home on July 23, 2020 and found the conditions of the funeral home to be in poor conditions. There was a hole in the ceiling of the lobby. Mr. Strickland indicated to the Inspector that an adjuster was coming to look at it. There was mold growing through the hole. When Mr. Ezell served the summons to appear for the hearing on December 21, 2020, the hole was still present. At the July inspection, there were no caskets in the selection room and was told they were on order. There was also mouse droppings and poison throughout the selection room. He was told these things would be corrected, but on subsequent visits they had not.

There were some noted FTC violations with regards to their General Price List. Certain disclosures that the FTC requires are missing from their GPL. Mr. Strickland had to explain some of the charges on the price list. Upon later visits there have been no repairs or corrections made.

Shannon Strickland from Monticello was present representing the funeral home, as an assistant manager. He stated that they didn't refund initially, because they were waiting to see if they could do a complete cemetery set-up. It was very flooded and couldn't even get their vehicles out there, and they did refund the money. According Mr. Strickland, the family had done the committal service at the church and told them to bury as soon as possible. Harold Freeman, a licensed funeral director and Thomas Swift, cemetery caretaker, buried the body.

Ms. Gibson directed Mr. Strickland to exhibit 5, the consent agreement signed by the Strickland's and the Board. Ms. Gibson stated Respondents were ordered to pay a fine within sixty (60) days of signing the agreement. She further clarified that they were ordered by the agreement to pay the civil penalty, remove Mrs. Strickland as manager, to which they agreed. He could not explain why the fine was not paid. Ms. Gibson reminded him that the consent agreement was entered in lieu of a hearing, because they did not have general liability insurance and conducted eleven (11) funerals during that time. That he was to be named manager, replacing his grandmother and none of that had been done. Ms. Gibson restated that they were ordered to pay a \$1,000 fine, to remove Matthew Strickland as manager to be replaced by you as the manager, and she reminded him he had just testified he was the assistant manager. So, the question is, why have you not complied with this order, by paying the fine and installing yourself as manager?

Mr. Strickland indicated that when we agreed to install me as manager that board members came to the funeral home with paperwork for him to sign then and he just assumed that it was that. He further stated that there was a newsletter on the website, that Mrs. Strickland had stepped down and he had become manager. He thought that was it when he signed that paperwork. He could not explain what website this was on.

Ms. Gibson inquired why he never complied with the requests from the Executive Secretary, requesting the response to the complaint from the Whitten family be notarized or why he didn't supply the requested documents. No explanation could be given. He also stated he never sent the apology letters, because they were to supply a list of names and addresses and they did not do that.

Ms. Gibson inquired about the conditions of the funeral home. Mr. Strickland indicated everything has been done, except the hole in the ceiling. Their insurance company would not cover the repair and that they would have to hire a contractor themselves. Mr. Strickland indicated that he had contacted a contractor, but he has not been able to come do the work because of the pandemic and he is backed up. He is to replace all the rotten boards around the funeral home.

In December when the inspector returned, they did have six (6) caskets in the selection room, but he did not inspect it on that day. The inspector stated in July there was rat poison and feces, in the selection room. Mr. Strickland stated their exterminator comes twice a month and they told him about seeing rats outside, and he placed the poison down and they did not know. He indicated that they noticed the rats when the city started the construction in October next to their building to add a bus stop.

#### Strickland Memorial Lawn

Ms. Gibson stated that the Strickland's were notified by Ms. Vestal last summer, that a transfer of ownership needed to occur and that the cemetery and trustee reports hadn't been filed. His grandfather Warren Strickland was the sole proprietor of the cemetery and it wasn't set-up for

his grandmother to take over. They had to contact an attorney to have an estate set-up and have an establish an executor. Their attorney Chuck Gibson is backed up but will be filing it soon.

Ms. Gibson asked why they failed to comply with the board's request and subpoenas to appear before them twice this past summer. Despite being personally served, you failed to comply. Mr. Strickland indicated that the first time Mrs. Strickland could not come, because she had a doctor's appointment and the second time he indicated he had spoken on the phone to someone and was told they had to get an attorney, so he thought it was taken care of and didn't have to come. Ms. Gibson explained that when you are served with a subpoena or notice of hearing, that you are required to appear. We did not receive any kind notice or explanation as to why you did not appear. So, it appears you just ignored the board's request.

Mr. Booker was very displeased with the lack of consideration that the Strickland's gave the family during their loved ones service, the lack of concern to comply with the board's consent agreement, the lack of concern to take care of the funeral home, cemetery, and the burial association's fiduciary duties as secretary-treasurer.

Ms. Vestal stated that she had not received the necessary transfer of ownership on the cemetery and did not have a conversation with the Strickland's indicating they did not have to appear.

Mr. Akers stated that he and Lorin Hillery, Auditor, performed a multi-year review of the Church Burial Association in August 2019. They solely were there to perform an audit of the burial association and was not there to deliver any paperwork on behalf of the Board, as indicated by Shannon Strickland. It was discovered that unlicensed people were collecting for the burial association. They would collect for stand-alone policies, prepaid contracts, and burial association policies. The individuals would take 20-30% off the top before submitting payments to the association. They were not making timely deposits into the burial association accounts. Additionally, they were depositing funds into the wrong accounts which then caused overstating the assets for the old business accounts. Mr. Akers does not believe the membership count is accurate and that they are overstating the membership.

Ms. Gibson stated that there has been sufficient evidence presented today to find violation against the licenses of Shannon Strickland, Matthew Strickland, Davis-Strickland Funeral Home and sufficient evidence to take action against the burial association's charter. With regard to the cemetery, if you allow the cemetery to retain the permit, your options other than taking no action, are those laid out in A. C. A. §20-17-1015 and 20-17-1023, with regard to the cemetery and trustee reports. You can order that additional contributions be made to the permit maintenance fund, no more than \$50 per day until the report is filed. Those reports were due on March 16, 2020, by calculation that was 309 days ago. If you wanted order a penalty for the late filing of those reports of \$1 a day, would be \$618 for both reports. Other option laid out in statues is to file suit in court to enforce filing of the reports and monetary penalties. You can revoke the permit under A. C. A. § 23-61-1109, then you would probably have to file suit to have a receiver appointed to undertake the responsibilities of the cemetery.

Mr. Strickland stated that he was put into a position unexpectedly. This was something his grandparents had always handled. Nothing was done intentionally.

Off the record for deliberations at 11:35 AM.

On the record at 12:40 PM.

Motion made by Curl to find factual allegations 1-37 true, with an amendment to 15 to include that funeral director Harold Freeman was present at the burial and 25 amended to say complaint by Ms. Johnson was received by respondents on March 14, 2019, seconded by Hodges, all in favor. Motion carried.

Motion made by Whitwell to find charges 1-2 and 4-23 true, charge 3 was found false, seconded by Curl, all in favor. Motion carried.

Motion made by Whitwell to impose the following against Strickland Memoria Lawn:

1. A fine of \$3,090 to be paid to the perpetual care trust fund within sixty (60) days and to provide proof of the additional payment to the board within five (5) business days.
2. Within sixty (60) days to provide proof that probate proceedings of Warren Strickland have been filed in the appropriate jurisdiction.

Seconded by Hodges, all in favor. Motion carried.

Motion made by Curl to impose the additional following:

1. The funeral director's license of Shannon Strickland is suspended for ninety (90) calendar days.
2. The funeral director's license of Matthew Strickland is suspended for ninety (90) calendar days.
3. Davis-Strickland will hire an Arkansas licensed manager, and if necessary, an additional Arkansas licensed funeral director.
4. Davis-Strickland will submit the appropriate form to the Board, designating the manager.
5. All reports that are past due, shall be filed within ninety (90) calendar days.
6. Within ninety (90) calendar days, the Church Burial Association will work to correct the deficiencies, to include the accounting problems with the old and new business, establish an accurate membership roster, and proof of a current fidelity bond.

Seconded by Smithson, all in favor. Motion carried.

Record closed at 12:52 PM.

Lunch break until 1:30 PM.

Deputy Commissioner Mel Anderson was designated by Commissioner Alan McClain as his designee, due to his departure.

#### 4. **Administrative**

**a. Approval of the November 17, 2020, meeting minutes.**

Motion made by Curl to approve the November 17, 2020 meeting minutes as submitted by staff, seconded by Hodges, all in favor. Motion carried.

**5. New Business**

**a. Embalmers & Funeral Directors – Establishments Seeking Approval**

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

- i. Arkansas Cremations – Board ID No. 25341.** Requests a **Type A** establishment license and is located at 10515 West Markham Street, Suite B1, Little Rock, Arkansas. Inspector Ezell inspected the Type A Full-Service establishment owned by Smith Family Funeral Homes on **Tuesday, December 29, 2020**. The manager of record will be Christa McElhaney, Board ID No. 22406 and embalming is not offered at this specific location. The establishment will use Smith-North Little Rock Crematory, Board ID No. 20563, in North Little Rock, Arkansas for their cremations. All required documentation submitted is pending Board approval.

Christa McElhaney, manager, was present on behalf of the establishment. Mr. Jeff Smith was given permission to leave and allow the manager to represent the establishment.

Motion made by Whitwell to approve the Type A establishment license to Arkansas Cremations, seconded by Smithson, all in favor. Motion carried.

- ii. Lively Transport – Board ID No. 25357.** Requests a **Type D** establishment license and is located at 3065 S. Hwy 367, #10, Cabot, Arkansas. Inspector Ezell inspected the Type D Transport establishment owned by Blake Lively on **Monday, January 11, 2021**. Mr. Lively has an acceptable driving record and received his blood borne pathogen training 2/8/2020. All required documentation submitted is pending Board approval.

Blake Lively was present on behalf of the transport establishment.

Motion made by Curl to approve the Type D establishment license, seconded by Hodges, all in favor. Motion carried.

- iii. R & B Transport Service – Board ID No. 25356.** Requests a **Type D** establishment license and is located at 600 East 5<sup>th</sup> Ave, Pine Bluff, Arkansas. Inspector Ezell inspected the Type D Transport establishment owned by Roderick Bailey, Sr. on **Thursday, January 14, 2021**. Mr. Bailey has an acceptable driving record and received his blood borne pathogen training 12/22/2020. All required documentation submitted is pending Board approval.

This matter was continued to the next meeting. Mr. Bailey could not be located to appear.

**b. Perpetual Care Cemeteries Application for Permit Amendment [A.C.A. § 20-17-1011 Permit-Amendment]**

- i. To consider amending the permit by the construction of a mausoleum in Riverwood Memorial Gardens, Maumelle (License No. #11850).

Chairman, Bill Booker recused from this agenda item, since the cemetery is owned by Denver Roller, Inc. Vice-Chairman Steve Whitwell assumed the role as chairman for this agenda item.

Ronnie Mayall was present representing the cemetery.

Motion made by Curl to approve the request by Riverwood Memorial Gardens, seconded by Smithson, all in favor. Motion carried.

**c. Board Member Travel Reimbursement and Stipends (*§25-16-902 Expense Reimbursement and §25-16-904 Stipend-Authorization for \$85*)**

- i. Board approval of travel reimbursement and stipends for calendar year 2021, in accordance with Ark. Code Ann. §25-16-902 and 25-16-904 respectively. Amount cannot exceed eight-five dollars (\$85.00) per day. Possible exceptions: Teleconference meetings.

Motion made by Curl to approve the reimbursement of travel and stipends for calendar year 2021, excluding teleconferences, seconded by Hodges, all in favor. Motion carried.

**6. Complaints**

**a. To consider the complaint(s) on-file with the State Board [A.C.A. §23-61-1111 Duties of the State Insurance Department]**

Ms. Gibson stated she had three (3) funeral director and embalmer complaints to present to the board.

**Case No. 20-23 and 20-28.** Recommend hearing by board staff and counsel.

These are companion cases. There was a question which funeral home was desired to be used by the family, and complaints were filed against both funeral homes. Potential violations include misrepresentations made, solicitation, and refusing to properly release the body to the person or entity having the legal right to have custody of the body.

**Case No. 20-30.** Recommend hearing by board staff and counsel.

An unlicensed individual made arrangements with the family and it is alleged that the GPL was not given to the family at the proper time. Further, the complainant alleges that the funeral home employee did not give her any straight answers as to how much money was owed after insurance

and a payment by other family members. The unlicensed individual also failed to respond to the complaint.

**Case No. 21-03.** Recommend hearing by board staff and counsel.

Referred to the Board by the Prepaid Division. Arkansas Insurance Department proceedings in the revocation of the prepaid permit and the insurance producer license. The respondent failed to pay a fine in a previous AID order, and subsequent revocation order required the establishment to make restitution to another funeral home who performed services for which respondent had already been paid. Respondent is currently in violation of two AID orders.

Motion made by Curl to accept the staff's recommendation to set these cases for hearings at a future date, seconded by Smithson, all in favor. Motion carried.

**7. Legislative Update**

Ms. Gibson stated there was a bill we had proposed adding a confidentiality provision, so that open investigations, examinations, and audits, etc. be kept confidential while that action was pending. Unfortunately, there was too much push back from the Arkansas Broadcasters Association, Arkansas Association of Counties, and the Arkansas Press Association. Representative Vaught had to withdraw that bill.

The next bill initially was going to conflict with our proposed rule provisions, for how long a body can go without embalming or refrigeration. We referenced a 24-hour and 48-hour period, because those are the time periods referenced in the Department of Health's rule. Representative Holcomb had filed the bill, but initially didn't have a 48-hour period, he had 36-hour period. However, since he changed it to 48 hours, there is no conflict. Our rules now are ready to go the Governor's office.

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

- a. No Rules Sub-Committee Meeting due to Presidents Day February 15th.**
- b. Tuesday, February 16, 2021 (9:00 a.m.) Board Meeting and Hearings**

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

- a. Monday, March 15, 2021 (1:00 p.m.) Rules Sub-Committee**
- b. Tuesday, March 16, 2021 (9:00 a.m.) Board Meeting and Hearings**

**10. Adjournment**

Motion made by Curl to adjourn at 2:22 PM, seconded by Anderson, all in favor. Motion carried.