

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

Tuesday, October 20, 2020

1 Commerce Way
Diamond Mine Room – 2nd Floor
Little Rock, AR
9:00 A.M. – 12:10 P.M.

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

Member(s) Absent: Chuck Dearman, Professional Member and James Bruce Smithson, Professional Member.

Staff present: Robert Akers, Director, Funeral Services Division, Eddie Davis, Security Director, Darriel Ezell, Inspector, Amy Goode, Executive Secretary, 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. **Administrative**
 - a. **Approval of the September 15, 2020, meeting minutes.**

Motion made by Curl to approve the September 15, 2020 meeting minutes as submitted by Staff, seconded by Perry, all in favor. Motion carried.

4. **New Business**
 - a. **Funeral Directors and Embalmers – To consider applications for reinstatement**
[[A.C.A. §17-29-306 Renewal](#)]
 - i. **Nickolaus Mahomes – Board ID. No. 21914.** Mr. Mahomes allowed his funeral director's license to lapse for non-payment December 31, 2016. [Rule IX. 4.](#) States that when any person is in arrears for more than three (3) years, is required to pay

delinquent fees of (\$460.00), in addition to appearing before the Board. Mr. Mahomes passed his background check and is pending Board approval.

Nickolaus Mahomes was present representing himself.

Motion made by Whitwell to grant Mahomes request for reinstatement of his Funeral Director's license once the fees are paid, seconded by Hodges, all in favor. Motion carried.

b. Embalmers & Funeral Directors – Establishments Seeking Approval

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

- i. Proctor Cremation Services – Board ID No. 25177.** Requests a [Type C](#) establishment license and is located at 435 Adams Avenue SE, Camden, Arkansas. Inspector Ezell inspected the Type C Crematory establishment owned by Proctor Funeral Homes, Inc on **Tuesday, September 22, 2020**. They were granted their Temporary Certificate of Authorization to Operate a Crematory on Tuesday, September 22, 2020. Currently, the primary operator will be Kyle Mosley, Board ID No. 24421. However, several licensees have received manufacturer training. Applicants were granted a permit to construct the crematory on September 17, 2019. All required documentation submitted is pending Board approval.

Richard Mosley was present representing Proctor Cremation Services.

Motion made by Curl to approve the Type C Crematory establishment license for Proctor Cremation Services, seconded by Hodges, all in favor. Motion carried.

- ii. Simply Cremation Care – Board ID No. 25239.** Requests permission to move their [Type A](#) establishment license currently located at 108 S. Fir Street, Searcy, Arkansas to Sullivan Funeral Care, LLC located at 111 W. Wilbur Mills Ave., Kensett, Arkansas. The establishments are both owned by Mark Sullivan and Sullivan Funeral Care, LLC. Inspector Ezell inspected the Type A establishment on **Thursday, September 29, 2020**. The only change to this establishment is the physical location. All required documentation submitted is pending Board approval. This request is required in accordance with [A.C.A. §17-29-304 \(k\)](#).

Mark Sullivan was present representing Simply Cremation Care and Sullivan Funeral Care.

Motion made by Whitwell to approve the relocation request of Simply Cremation Care to Sullivan Funeral Care, seconded by Curl, all in favor. Motion carried.

5. Hearings

a. In the matter of Christopher D. Ross, Board ID No. 22249, a Licensed Funeral Director – Case No. 19-33.

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

Amanda Gibson, Board Counsel, represented the Board;

Michelle Satterfield, Court Reporter;

Christopher D. Ross, Respondent was present and represented by counsel Agather McKeel;

Will Small and Jolanda Moore Small, Witnesses was present.

Court Reporter swore in witnesses.

Hearing Officer, Russ Galbraith called the hearing on the record at 9:23 A.M. and explained the purpose of the hearing. Mr. Galbraith noted Respondent Ross was present and had received 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.

Ms. Gibson stated she had Board's Packet Exhibits 1-10 prepared to enter into the record. There were no objections to the exhibits. Respondent Exhibit 1 was also allowed into the record.

Board member Steve Whitwell recused himself from the hearing due to his cemetery Arkansas Memorial Gardens being mentioned in the complaint.

Complainant Will Small stated he had paid Respondent a down payment of \$975 for a headstone for his mother grave. After several months of calling the Respondent about the headstone and there being repeated problems as to why it was not completed, he asked for a refund. As of the date of the hearing, he had not received a refund from the Respondent.

The board found factual allegation 12 should be amended that the response was one day late.

The board found charge 1 should amended to remove allegation 11.

Motion made by Curl to find factual allegations 1-4, 6-10, and 12 with amendment true, seconded by Hodges, all in favor. Motion carried.

Motion made by Hodges to find factual allegations 5 and 11 unproven, seconded by Curl, all in favor. Motion carried.

Motion made by Curl to find charges 1 and 2 true, seconded by Hodges, all in favor. Motion carried.

Motion made by Curl that Respondent shall make restitution of \$975 to Will Small within ten (10) business days in the form of a cashier's check or money order, and his funeral director license be suspended for 180 days, seconded by Hodges. All in favor. Motion carried.

Record was closed at 12 PM.

6. **Old Business**

a. Embalmers and Funeral Directors Rule Discussion Continued.

At the request of Mr. Curl this item was deferred until November.

7. **Complaints - 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 embalmer and funeral director complaints to present to the board.

Case No. 20-22. Inspection of the establishment revealed numerous violations including the lack of posting hours of operation, noncompliance with preparation room requirements, failure to maintain the establishment such as to ensure no hazard is presented to the health safety and welfare of the public, and a lack of price cards in the selection room.

Case No. 20-26. Applicant for apprentice funeral director seeks waiver of prior felony convictions of fraudulent use of a credit card, theft of property, and filing a false report.

Case No. 20-27. Applicant for apprentice funeral director seeks waiver of prior felony convictions of leaving the scene of an injury accident.

Motion made by McClain to accept recommendation by staff, seconded by Curl, all in favor. Motion carried.

8. **Adjournment**

Motion made by Curl to adjourn at 12:10 PM, seconded by Hodges, all in favor. Motion carried.