

**BEFORE THE STATE BOARD OF EMBALMERS, FUNERAL DIRECTORS,
CEMETERIES, AND BURIAL SERVICES**

**IN THE MATTER OF:
RHODES & SON FUNERAL HOME,
CINDY RHODES, OWNER,
BOARD ID #20176**

**AND JIMMY L. RHODES, JR.,
A LICENSED FUNERAL DIRECTOR
AND EMBALMER,
BOARD ID #21674**

**CASE NUMBERS: 19-01
19-12**

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

A hearing on the above-referenced matter was held before the Arkansas State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services (the "Board") on May 16, 2019, at the Arkansas Insurance Department, First Floor Hearing Room, 1200 W. 3rd St., Little Rock. The Respondents failed to appear. Amanda Gibson, Associate Counsel at the Arkansas Insurance Department appeared on behalf of the Board. Finding proper notice was given to the Respondents, the Board, from all the evidence presented, issues the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

1. Respondent Jimmy Rhodes serves as the licensed funeral director under whose general management and supervision Rhodes and Son Funeral Home, a licensed funeral establishment Type A, operates. Rhodes and Son ("Funeral Home") was so licensed at all times relevant hereto.
2. Respondent Jimmy Rhodes is licensed as a funeral director and embalmer, and was so licensed at all times relevant hereto.

3. The Funeral Home has two locations: 701 N. 9th St., Augusta, AR 72006 and 12749 Hwy. 64 East, McCrory, AR 72101. Both locations were so licensed as a Type A establishment at all times relevant hereto.
4. Respondent Cindy Rhodes is the owner of the funeral home and was the owner at all times relevant hereto.
5. On or around December 31, 2018, the Funeral Home sent a check to the Board for license renewals. The check was returned for insufficient funds.
6. On January 10, 2019, the Board received a complaint filed by Yarbrough Mortuary Services, Inc. (“Yarbrough”). On or around May 7, 2018, Yarbrough provided services to Respondent Funeral Home in the amount of \$687.50. During the interactions between Cindy Rhodes and Yarbrough, Cindy Rhodes consistently acted in a dishonest manner, including writing a hot check. To date, Yarbrough has not been paid for its services rendered to the Funeral Home.
7. On January 15, 2019 the Board sent the complaint to Respondents and requested a response.
8. On February 20, 2019, the Board again requested a response to the complaint and an explanation for the bad check.
9. Respondents did not respond to the complaint.
10. Respondents have since cured the hot check written to the Board for renewal fees by submitting a cashier’s check.
11. On April 8, 2019, the Board received a complaint from Joe Kyle (“Complainant Kyle”).
12. On April 11, 2019, the Board sent the complaint to Respondents. On April 15, 2019 the Board hand delivered a copy of the complaint to Respondents and requested a response. Cindy

Rhodes acknowledged in writing that she received a copy of the Kyle complaint and that a written response is required to be given the Board. Respondents did not respond to the complaint.

13. Complainant Kyle and his two brothers went to the Funeral Home on July 21, 2018 to make arrangements for their mother. Cindy Rhodes was the only person they interacted with during this meeting, and she made funeral arrangements.

14. The Kyle family paid Cindy Rhodes \$6,271.82 for services, arranged on an at-need basis.

15. Approximately one month later, the Kyle family learned that their mother had a prepaid contract with another funeral home, Thompson-Wilson Funeral Home, in McCrory. A claim was made on that policy and payment was made in the amount of \$4,115.00 to Rhodes Funeral Home.

16. When questioned about the insurance payment, Cindy Rhodes initially told Complainant Kyle that someone had broken into the funeral home and stolen the insurance check.

17. Later, when confronted by a copy of the insurance check that bore her signature on the back and had been cashed, Cindy Rhodes then admitted to Complainant Kyle that she had the money and would write him a check.

18. On September 26, 2018, Cindy Rhodes issued a check to Kyle for \$4,246.55. That check was not honored upon presentment to the bank for payment.

CONCLUSIONS OF LAW

1. Respondents' actions, as set forth in Finding of Fact 5, constitute a violation of Board Rule IX.1(c) in that a check with insufficient funds does not meet the requirement that the renewal fee accompany the renewal application.

2. Respondent Cindy Rhodes' actions, as set forth in Finding of Fact 6, constitute a violation of Ark. Code Ann. § 17-29-307(c) in that refusing to pay a vendor for services rendered constitutes a threat to the public health, safety or welfare.

3. Respondent Cindy Rhodes' actions, as set forth in Finding of Fact 6, further constitute a violation of Ark. Code Ann. § 17-29-311(a)(2) in that she was dishonest in her dealings with Yarbrough.
4. Respondents' actions, as set forth in Findings of Fact 7 through 9, constitute a violation of Ark. Code Ann. § 17-29-311(a)(18) in that they failed to respond to the complaint within the required timeframe.
5. Respondents' actions, as set forth in Findings of Fact 7 through 9, further constitute a violation of Board Rule XV.4 in that they failed to respond to the complaint within the required timeframe.
6. Respondents' actions, as set forth in Finding of Fact 12, constitute a violation of Ark. Code Ann. § 17-29-311(a)(18) in that they failed to respond to the complaint within the required timeframe.
7. Respondents' actions, as set forth in Finding of Fact 12, constitute a violation of Board Rule XV.4 in that they failed to respond to the complaint within the required timeframe.
8. Respondent Cindy Rhodes' actions, as set forth in Finding of Fact 13, constitute a violation of Ark. Code Ann. § 17-29-311(e), in that she held herself out to be a licensed funeral director when making arrangements, when she was not so licensed.
9. Respondent Cindy Rhodes' actions, as set forth in Findings of Fact 16 and 17, constitute a violation of Ark. Code Ann. S 17-29-311(a)(2), in that she lied to Complainant Kyle then promised to write him a check.
10. Respondent Cindy Rhodes' actions, as set forth in Finding of Fact 18, constitute a violation of Ark. Code Ann. S 17-29-311(a)(2), in that she wrote a hot check.

ORDER

Based upon the testimony and evidence presented at the hearing, the Board hereby orders:

1. That the Type A Establishment license held by Rhodes and Son Funeral Home, at both Augusta and McCrory locations, is hereby **REVOKED**.
2. That the Embalmer license held by Jimmy L. Rhodes, Jr., is hereby **REVOKED**.
3. That the Funeral Director license held by Jimmy L. Rhodes, Jr., is hereby **REVOKED**.
4. That Respondents shall make restitution via **CASHIER'S CHECK or MONEY ORDER** payable to Joe Kyle in the amount of **\$4,246.65**. The cashier's check or money order must be mailed to the Arkansas Insurance Department- Funeral Services Division, ATTN: Amy Goode, 1200 W. 3rd St., Little Rock, AR 72201.
5. That Respondents shall make restitution via **CASHIER'S CHECK or MONEY ORDER** payable to Yarbrough Mortuary Services in the amount of **\$694.50**. The cashier's check or money order must be mailed to the Arkansas Insurance Department- Funeral Services Division, ATTN: Amy Goode, 1200 W. 3rd St., Little Rock, AR 72201.
6. Respondents shall submit the cashier's checks or money orders as described above, within **90 DAYS** from the date of receipt of this Findings of Fact, Conclusions of Law, and Order.
7. Should Respondents fail to make restitution within 90 days, then civil monetary penalties shall be levied as follows:
 - a. \$10,000.00 upon Cindy Rhodes, individually;
 - b. \$10,000.00 upon Jimmy L. Rhodes, Jr., individually; AND
 - c. \$10,000.00 upon Rhodes and Son Funeral Home.

Pursuant to the Arkansas Administrative Procedure Act, Ark. Code Ann. § 25-15-212, the Respondents may petition for judicial review of this decision by filing a petition in the Circuit

Court of the county in which they reside or do business, or in the Circuit Court of Pulaski County, within thirty (30) days after service of this Order.

IT IS SO ORDERED THIS 16TH DAY OF MAY, 2019.

**STATE BOARD OF EMBALMERS,
FUNERAL DIRECTORS,
CEMETERIES, AND BURIAL
SERVICES**

By:



Amanda Gibson
Counsel for the Board