

**Minutes for the Meeting of the  
Louisiana State Board of Embalmers  
And Funeral Directors**

**January 14, 2015**

**Attending:**

**Louis Charbonnet, III, President**

**Patrick H. Sanders, Secretary**

**Gerard Schoen, III, Treasurer**

**Edward L. Muhleisen**

**J. Steven Cox**

**John Dansby, Consumer Representative**

The meeting was called to order by the Board's President, Louis Charbonnet, III at 9:10 AM, at the Board's office located at 3500 N Causeway Blvd. Suite 1232, Metairie, Louisiana. Also present was S. Beaux Jones, interim General Counsel, Kim W. Michel, Executive Director and M. Jude Daigle, Inspector, Heidi Penouilh, Administrative Coordinator II and Michael Rasch, General Counsel. Ms. Rush, Ms. Shehee and Mr. Brasseaux were not present at today's meeting.

**PUBLIC COMMENTS:**

No one was present to speak during this time.

**PRESENTATIONS:**

There were no presentations for today's meeting.

**COMPLIANCE HEARING**

The hearing entitled, In the Matter of Professional Funeral Services and Malcolm Gibson, New Orleans, convened at 10:15 AM.

For the record, Mr. Charbonnet recused himself from any participation in the matter.

Counsel present for the hearing was: Dianne T. Alexander, Prosecuting Attorney for the Board and Michael McKenna, Attorney for Malcolm Gibson.

Sworn testimonies were taken from: Kim W. Michel, Executive Director for the Board, M. Jude Daigle, Inspector/Investigator for the Board and Malcolm Gibson, E-2431.

A motion was made by Mr. Schoen, seconded by Mr. Sanders and unanimously passed to conclude the hearing at 11:40 AM.

**REGULATIONS, RULES AND PROCEDURES**

Ms. Michel advised the Board that the new rules regarding internships and casket display will be republished in the January 20, 2015 Louisiana State Register due to a clerical error thus invalidating the December 20, 2014 publishing. A notice was received from the LFDA requesting a Public Hearing upon the December 20, 2014. The Public Hearing regarding the matter is scheduled for March 2, 2015 beginning at 1:00 PM until 4:00 PM due to the January 20, 2015 publishing in the Louisiana Register.

The Attorney General's Opinion – "La Atty. Gen. Op. No. 13-0002A is and remains correct; Funeral Homes do not have the authority under present law to direct the disposition of human remains in the manner of coroners and the law does not authorize the return of such remains to coroner's offices when those with the authority to direct disposition refuse to cooperate." This was presented to the Board Members for their review and consideration.

After a lengthy discussion of the matter, Mr. Charbonnet advised that licensees need to be careful and mindful when making removals.

## **BOARD/STAFF ISSUES**

### **A. Executive Director's report by Kim W. Michel**

Motion was made by Mr. Schoen, seconded by Mr. Muhleisen and unanimously passed to accept the Executive Director's report as presented.

### **B. Inspector's report by M. Jude Daigle**

Motion was made by Mr. Schoen, seconded by Mr. Muhleisen and unanimously passed to accept the Inspector's report as presented.

## **MINUTES**

Motion was made by Mr. Cox, seconded by Mr. Schoen and unanimously passed to accept the minutes of the meetings for October 8, 2014.

## **FINANCIAL**

Financial Report and Budget update Fiscal 2014/2015

Motion was made by Mr. Schoen, seconded by Mr. Dansby and unanimously passed to accept the financial report and budget update for fiscal 2014/2015.

## **COMPLAINT SUMMARY**

For informational purposes only, the Board members were presented with a numerical listing of all open matters remaining at the end of fiscal 2013/2014, together with a numerical listing of the complaints filed for fiscal 2014/2015, to date.

## **CORRESPONDENCE**

A. Temporary licensees requesting their LA license:

- a. Michael R. Puckett, T/L 0463, who holds Mississippi license FS1059, currently employed with Resthaven Funeral Home, Baton Rouge.
- b. Tomothy Gibbons, T/L 0458, who holds an Illinois emb/fd license 034-016743, currently employed with Lake Lawn Metairie Funeral Home, New Orleans

Motion was made by Mr. Mulheisen, seconded by Mr. Cox and unanimously passed to accept the requests and issue LA licenses to Mr. Puckett and Mr. Gibbons.

## **EXECUTIVE SESSION**

Motion was made by Mr. Schoen, seconded by Mr. Sanders and unanimously passed to go into Executive Session at 12:00 p.m. for the following reasons:

for discussion in regard to the report, development, or course of action for legal strategies In the Matter Coy Gremillion and Magnolia Funeral Home and Crematory, Alexandria

for discussion in regard to the report, development, or course of action for legal strategies In the Matter of the St. Joseph's Abbey case

Motion was made by Mr. Schoen, seconded by Mr. Cox and unanimously passed that the Executive Session be concluded at 1:10 pm to take the following actions:

Upon the advice of the Board's General Counsel, a directive was issued by Mr. Charbonnet for Counsel to follow up regarding the appeal filed by Brian Thompson, Attorney, for Coy Gremillion, as it relates to the Matter of the Bruins Family against Coy Gremillion, Magnolia Funeral Home and Alexandria Crematory.

A directive was issued by Mr. Charbonnet to await the outcome of the current objection to the fees in the Matter of the St. Joseph's Abbey case, prior to filing an appeal. However, the Board explicitly withheld authority to file such appeal, at this time.

### **COMPLIANCE HEARING DECISION(S)**

A motion was made by Mr. Schoen, seconded by Mr. Dansby and unanimously passed to discuss the sanctions for the formal hearing, in the Matter of Malcolm Gibson and Professional Funeral Services, New Orleans. For the record, Mr. Charbonnet recused himself from any participation in the matter.

A motion was made by Mr. Schoen, seconded by Mr. Muhleisen and unanimously passed that Malcolm Gibson and/or the establishment known as Professional Funeral Services, Inc., New Orleans did deceptively and in a misleading manner use the name and likeness of the Louisiana Undertaking Company in advertising professional services through the combination of: (1) holding a memorial service at 1449 N. Claiborne Ave., New Orleans (former site of Louisiana Undertaking Company) while the former funeral establishment's sign was still in place; (2) using the name of the Louisiana Undertaking Company in the obituary of Emanuel Joseph Meteau, Sr.; and (3) by using the former phone number of the Louisiana Undertaking Company at that same time. The Board finds that the combination of these practices amounted to deceptive and misleading advertising in violation of La. R.S. 37:846 A. (10).

A motion was then made by Mr. Cox, seconded by Mr. Muhleisen and unanimously passed that Malcolm Gibson and/or the establishment known as Professional Funeral Services, Inc., New Orleans be and are hereby found guilty of violating the provisions of La. R.S. 37:846 A. (10), and accordingly, are fined the sum of FIVE HUNDRED (\$500.00) DOLLARS, the minimum amount allowable under La. R.S. 37:850, plus the costs of the hearing (including the prosecutor's fee of \$435.00 and the court reporter's fee of \$525.00) which become due and payable 30 days from receipt of these Findings of Fact and Decision of the Board.

It is also ordered by the Board that Malcolm Gibson and/or the establishment known as Professional Funeral Services, Inc., New Orleans remove any remnants of the former Louisiana Undertaking Company sign from the building at 1449 N. Claiborne Ave., New Orleans within 30 days of this notification.

It is also ordered by the Board that should the fine and/or costs not be received by the Board within thirty (30) days of the notification of fine/costs due then the license of the establishment known as Professional Funeral Services, Inc. New Orleans shall be suspended until such time as all directives of the Board are met.

### **NEW BUSINESS**

There was no new business to be discussed.

There being no further business to be addressed upon today's agenda, the meeting was then adjourned at 1:20 PM.

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Patrick Sanders, Secretary

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Louis Charbonnet, III - President Approved