

June 22, 2010

Meeting of the Louisiana State Board of Embalmers and Funeral Directors was called to order at 9:10 a.m. by the board's President, Kelly Rush, at the board's office located at 3500 North Causeway Blvd., Suite 1232, Metairie, Louisiana.

Present: Kelly Rush, President  
Oscar A. Rollins, Vice-president \*  
Wall V. McKneely, Secretary  
Margaret Shehee, Treasurer  
Craig G. Gill  
Belva M. Pichon \*  
Andrew W. Hayes, Consumer Representative \*  
Paul "Wes" Castille  
Louis Charbonnet, III \*

\* Joined the meeting in progress

Also present: Michael H. Rasch, General Counsel  
Dawn P. Scardino, Executive Director  
Heidi L. Fontaine, Administrative Coordinator I  
M. Jude Daigle, Inspector/investigator

Ms. Kim W. Michel was attending a "Quick Books" training session.

As has been required by law, time was set aside as "Public Comment Time".

No one was present to speak during this time.

Board members were presented with a listing of the open matters remaining at the end of fiscal 2008/2009 together with a listing of the complaints filed for fiscal 2009/2010.

Motion was made by Mr. Gill, seconded by Mr. McKneely and passed that the information be approved as presented.

The inspector's report was presented to the board members.

Motion was made by Mr. Gill, seconded by Mr. McKneely and passed that the concerns expressed with regard to the location of the retort at Church Funeral Services and Crematory be tabled until the board's general counsel can consult with Mr. Singletary and Mr. Daigle and report his findings and/or advise re same back to the members later in the meeting.

The executive director's report was then presented to the board members.

Concerns brought to the board's attention with regard to a check received for reinstatement of an embalmer/funeral director license which was drawn on a check for a funeral establishment not operational since Hurricane Katrina were also tabled until such time as Mr. Daigle can contact the former licensee to ascertain what the account is being utilized for, if anything, as the funeral establishment is no longer licensed.

Motion was then made by Ms. Shehee, seconded by Mr. Rollins and passed that the report be approved as presented.

Mrs. Scardino advised that it was brought to her attention that there was an error in the previously approved minutes of September 9, 2009 with regard to the Winnfield Funeral Home notations. The minutes reflect that the fine levied against the funeral home was suspended **when in fact** the fine levied was not suspended. The error occurred in the transcription of the notes taken by staff during the meeting. The correction appears in bold within the copy of the minutes provided to board members this date. Everything else shall remain the same.

Motion was made by Mr. McKneely, seconded by Mr. Castille and passed that the correction as offered to the September 9, 2009 minutes be approved as presented.

Mrs. Scardino also advised that she was unable to e-mail the April 28-29, 2010 minutes as A T & T's service for internet and e-mail was out for several days.

Motion was made by Mr. McKneely, seconded by Mr. Castille and passed that the minutes for the April meeting be tabled until Wednesday morning so that board members may review same prior to approval or other action.

Financial information as well as an update upon the board's budget vs actual figures for fiscal 2009/2010 was presented to the members for their consideration.

Motion was made by Mr. Gill, seconded by Ms. Shehee and passed that the financial information be accepted as presented.

Formal Hearing entitled "In the Matter of Anthony P. Ducote and Clark-Ducote Funeral Home, LLC, Belle Chasse" was convened at 10:40 a.m.

Testimony was taken from Ms. Jennifer Guy and Anthony P. Ducote, and various documents were admitted into evidence, for the board's consideration.

With the submission of the matter, motion was made by Mr. Gill, seconded by Mr. Rollins and passed that this portion of the hearing process be closed and that the issue of responsibility and sanctions if appropriate be addressed later in the meeting.

Board members were presented with an update of the legislation which was addressed during the session which adjourned June 21<sup>st</sup>.

Mr. Charbonnet addressed the board members with concerns expressed to him and to other board members at a Tri-State Convention of the Association of Morticians and Funeral Directors about the inability of the board to require continuing education credits for renewal of a professional license. It is his desire, as well as others in his

community, that the board should strongly recommend that licensees go to continuing education programs offered throughout the year.

Followed a discussion of the pros and cons of the situation. Motion was made by Mr. Charbonnet, seconded by Mr. Castille and passed that Messrs. Charbonnet, Castille, and Rasch make an appointment to meet with our representative of the Attorney General's Office as well as the Attorney General, if possible, to ascertain if the board can strongly recommend attendance at continuing education programs, and issue a certificate or some type of recognition of attendance to the licensees at a program.

A list of the Retort Operators who did not renew their license was presented to the board members for their perusal.

As directed by the board, an Admission and Consent was offered to and subsequently signed by Trent M. Davis regarding his violation of LA R.S. 37:846 A. (9) in that he did in fact plead guilty in Federal Court to two counts of bank fraud, both of which are felonies.

Motion was made by Ms. Shehee, seconded by Mr. Rollins and passed that the Admission and Consent form as signed and submitted by Mr. Davis for the board's acceptance, consideration and decision be accepted by the Board at this time.

Motion was then made by Mr. McKneely, seconded by Mr. Rollins and passed that the license of Trent M. Davis be revoked and that he be cautioned by the board not to involve himself in any activity which would normally be performed by a licensed embalmer/funeral director, considering that his license has been revoked as a result of

this plea and this admission.

Additional information received by the board's office with regard to the complaint filed by Ann Birdwell against Andy Shehee and Kilpatrick's Rose-Neath Funeral Homes and Crematorium, Inc. was provided to the board members. Additional information was also provided by the Board Inspector/Investigator for the Board's Consideration.

Motion was made by Mr. Castille, seconded by Mr. Gill and passed that this matter be tabled until Wednesday's meeting in order to obtain a copy of the Statement of Funeral Goods and Services with regard to this particular case in order to further discuss the matter.

As directed by the board, an Admission and Consent was offered to Joseph H. Miller and the Miller Funeral Home with regard to the complaint filed by Jacqueline Robertson. Mr. Rasch advised that Mr. Miller did in fact have open heart surgery in Houston two weeks ago and asked that the matter to tabled until the next board meeting for adjudication, as this was Mr. Miller's request, if he was not in a position to make a final decision concerning this matter before his surgery. Ms. Rush directed that the matter be added to the next meeting's agenda.

Further discussion ensued regarding the hearing held this a.m. with Anthony P. Ducote, et al.

Motion was made by Mr. Gill, seconded by Mr. Rollins and passed that Anthony P. Ducote and the establishment known as Clark-Ducote Funeral Home, LLC, Belle Chasse, LA are found guilty of violating the provisions of LA R.S. 37:846 A. (5) and/or LAC Title 46, Chapter XXXVII, Chapter 1. §111 and/or §113 in that they collected funds

from Elder Outreach of Louisiana, Inc., D.B.A. South Lafourche Nursing Center and Arkansas Elder Outreach of Little Rock when in truth and in fact there was no contract signed by the family of Herbert Hooker for services and/or merchandise; that only a partial refund of monies collected were provided to the family; and, that authorizations from the legal next of kin were not received and the remains were never in the possession of Anthony P. Ducote and/or Clark-Ducote Funeral Home, LLC.

Ms. Shehee and Mr. Castille voted against this motion.

Motion was then made by Mr. Gill, seconded by Ms. Pichon and passed that Anthony P. Ducote and the establishment known as Clark-Ducote Funeral Home, LLC, Belle Chasse are fined the sum of FIVE HUNDRED (\$500.00) DOLLARS plus all costs of the hearing which include the court reporter and general counsel's fees. It is further ordered that imposition of the fines as levied herein above is suspended conditioned upon the hearing costs being received by the board within thirty (30) days notice of costs due; further conditioned upon the family of Herbert Hooker being reimbursed total amount received from the South Lafourche Nursing Center and Arkansas Elder Outreach of Little Rock (\$985.34) within thirty (30) days receipt of the Findings of the Board; and further, conditioned upon satisfactory completing a two year probation period which begins the date of these Findings. Should it be determined that any of the requirements has not been satisfied, then the license of Anthony P. Ducote and the establishment known as Clark-Ducote Funeral Home, LLC shall be suspended until such time as all directives of the Board are met.

At previously directed by the board, an Admission and Consent was offered to

and subsequently signed by Malcolm L. Gibson, Tiffany Philip and Professional Funeral Services, Inc., New Orleans with regard to the complaint filed by Sheila Fields.

Motion was made by Mr. McKneely, seconded by Ms. Shehee and passed that the Admission and Consent form as signed and submitted by the licensees for the board's acceptance, consideration and decision be accepted at this time.

Motion was then made by Mr. McKneely, seconded by Ms. Shehee and passed that Malcolm L. Gibson, Tiffany Philip, and Professional Funeral Services, Inc., New Orleans be found by their very admission to be guilty of violating the provisions of LA R. S. 37:846 A. (5), (6), and LAC Title 46, §113 B. (See LA R.S. Title 8:655 A. [4]) in that on or about May 8, 2009 they did conduct themselves in an unprofessional manner while attempting to assist the family in the handling of the arrangements for Wade Fields, and in finalizing the financial arrangements in an incomplete and insufficient manner. As such, Malcolm L. Gibson, Tiffany Philip, and Professional Funeral Services, Inc., New Orleans are fined the sum of FIVE HUNDRED (\$500.00) DOLLARS each. Imposition of the fines as levied shall be suspended conditioned upon each of the licensees listed herein above satisfactorily completing a probationary period of two years from the date of the issuance of the board's Order and Decree. Should there be any additional/new violation(s) by the licensees, then the fines as levied shall become due and payable immediately upon a finding of responsibility for any such violation.

Mr. Rasch advised the board members that he is once again scheduled to appear in Civil District Court on Friday, June 25<sup>th</sup> in an attempt to have the appeal filed by the Acadian Funeral Home, New Iberia dismissed. Board members will be appraised

of the outcome of said appearance.

Information gathered by the board's staff with regard to a complaint filed by Terry Coleman against Jim Bouché and the former United Funeral Service, Inc., New Orleans was presented to the board members.

Motion was made by Mr. Gill, seconded by Mr. Rollins and passed that a formal hearing be scheduled in order to address the concerns addressed in the complaint filed by Mr. Coleman.

Mr. Rasch advised the board of the information obtained by Mr. Daigle per the subpoena which was served on the LA State Penitentiary with regard to the handling of funeral services for inmates and the "allegations" as to the sale of caskets to several members of the general public.

Mr. Rasch requested that Mr. Daigle obtain an address to which we can forward any additional correspondence to negate his having to obtain admittance to the Penitentiary. Mr. Daigle was also requested to visit with the funeral establishment(s) in the area which appear to have handled services for inmates remains not claimed by their family to ascertain and/or verify how the situation is handled.

Information gathered by the board's staff with regard to a complaint filed by Enoch Boyt against Harles Smart, Jr., Harles Smart, Sr. and the former Smart & Son Funeral Home, Leesville was presented to the board members.

Motion was made by Mr. Castille, seconded by Mr. Rollins and passed that there appear to be no violations of the statutes, rules and/or regulations under which the board is empowered to operate, all as per the recommendation of the complaint review

committee, who determined that the failure to cancel the web site of the funeral establishment appeared to be an oversight which was corrected immediately upon the directive issued by the board.

Additional information gathered by the board's staff with regard to the complaint filed by Jerry Jeanne against Harles Smart, Jr., Harles Smart, Sr. and the former Smart & Son Funeral Home, Leesville was presented to the board members.

Motion was made by Mr. Castille, seconded by Mr. Rollins and passed that there appear to be no violations of the statutes, rules and/or regulations under which the board is empowered to operate, all as per the recommendation of the complaint review committee.

A directive was given, however, to the board's general counsel to write a letter of admonishment to Messrs. Smart, Sr., Smart, Jr., and Lesley Chaddick reminding them that a licensed establishment in the state of Louisiana is prohibited from sharing or permitting the use of said establishment, or from furnishing equipment for use therein, or from rendering personal service therein, or from, in any manner entering into any arrangement or agreement with any person, for and in the conduct of such business upon such premises, who is not himself maintaining a licensed funeral establishment.

Board members were advised of the staff's concerns regarding the current ownership of the Louisiana Undertaking Company, Inc., New Orleans and their efforts to obtain updated ownership information. Correspondence has in fact been forwarded to Robert Francois who has yet to respond to the initial inquiry. A directive was given that a subpoena be served on the current owners of record, the manager of the firm, as well

as the “general” manager requiring information to be provided to the board with regard to any ownership changes which have taken place since 1975.

Cornell Dukes an intern registered at Verrette’s Pointe Coupee Funeral Home, New Roads appeared before the board members to request reinstatement of his internship which has been placed in abeyance due to concerns about his not meeting minimum requirements for same.

Motion was made by Mr. McKneely, seconded by Ms. Shehee and passed that a formal hearing be scheduled in order to address this matter.

A request from Chanel Carter an intern at the Louisiana Undertaking Co., New Orleans to utilize the services of a trade embalmer not employed at Louisiana Undertaking to complete her embalmer internship was presented to the board members.

Mrs. Scardino was directed to find out who is doing the embalming at Louisiana Undertaking as the current designated manager is a funeral director only. The matter is to be tabled until additional information can be obtained.

Information gathered by the board’s staff with regard to the complaint filed by Royal J. David against William Bagnell and Bagnell & Son Funeral Home, Covington was presented to the board members.

Motion was made by Mr. McKneely, seconded by Ms. Pichon and passed that it appears there is insufficient information available at this time to make an informed decision; that further information is to be requested; and, the matter tabled at this time.

Information gathered by the board’s staff with regard to the complaint filed by

Alice White against Emmitt Richardson and the Richardson Funeral Home of River Ridge was presented to the board members.

Motion was made by Mr. Gill, seconded by Mr. Shehee and passed that there appear to be no violations of the statutes, rules and/or regulations under which the board is empowered to operate, all as per the recommendation of the complaint review committee.

Additional information gathered by the board's staff with regard to monies owed to the Webster Parish Tax Commission by Fayrine Kennon and/or the Kennon Mortuary, Minden was presented to the members for informational purposes only.

There being no further business to be addressed upon today's agenda, the meeting was adjourned at 2:50 p.m.

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Secretary

Approved \_\_\_\_August 12\_\_\_\_\_, 2010

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President