

May 28, 2009

Meeting of the Louisiana State Board of Embalmers and Funeral Directors was called to order at 9:05 a.m. by the board's secretary, Oscar Rollins, at the board's office located at 3500 North Causeway Blvd., Suite 1232, Metairie, Louisiana.

Present: Kelly Rush, Vice-President, who joined the meeting in progress
Oscar Rollins, Secretary
Wall V. McKneely, Treasurer
Margaret Shehee
Craig G. Gill
Belva M. Pichon
Andrew Hayes, Consumer Representative
Eugene B. Pellerin

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 in attendance at a CPTP Class.

The meeting was then turned over to the Vice-President, Ms. Kelly Rush to chair.

As has been required by law, time was set aside for a Public Comment Time.

David Coughran and Bobbiann Williams Lewis addressed the board members regarding a conflict which they are experiencing between the curriculum required by the ABFSE versus local practices and customs being acquired during the required internship for licensure in Louisiana. A suggestion was offered by these parties that consideration be given by the Board to requiring the internship to be served after graduation. The matter is to be referred to the current Laws committee.

Mr. Coughran advised that he does not plan at this time to offer on-line courses as he believes that many of the courses required are better presented in a classroom environment.

An inquiry and request was submitted on behalf of the Board that Delgado think about sponsoring Continuing Education Programs, in as much as they are in a better position to secure quality programs and presenters.

For informational purposes, board members were presented with a listing of the complaint summary for 2008/2009.

The Inspector=s report was then presented to the board members by Mr. Daigle.

There followed a discussion regarding the unacceptable inspection report for All Faiths Funeral Home at Vivian, LA. Mr. Daigle attempted his inspection of the establishment on May 7, 2009 at 10:30 a.m., 1:00 p.m. and again at 3:00 p.m. The establishment, however, was not open.

Motion was made by Ms. Pichon, seconded by Mr. Gill and passed that a formal hearing be scheduled to address the alleged violations, all as per the recommendation of the complaint review committee.

The marginal inspection report for Miller-Pioneer Funeral Home, Inc., Minden was then presented by the inspector to the members for their consideration.

Motion was made by Mr. McKneely, seconded by Ms. Shehee and passed that upon receipt of the complaint which Mr. Daigle will file, that a formal hearing is to be scheduled regarding this matter due to the fact that this establishment has quite a

history of violations. The owner and manager of the firm are to receive subpoenas to appear.

Motion was made by Mr. McKneely, seconded by Mr. Gill and passed that the inspector=s report be accepted, as presented.

The minutes of the April 2009 meeting were presented to the Board Members for their approval.

Motion was made by Mr. Gill, seconded by Mr. Rollins and passed that the minutes as presented, be accepted.

The executive director=s report was then presented to the board members by Ms. Scardino.

Ms. Scardino advised the board members of the Continuing Education Attendance Rosters which were received six weeks following a program sponsored by the Individual Funeral Directors Association of LA, Inc. The rule requires that the roster be returned 15 days following the program.

Motion was made by Mr. Hayes, seconded by Mr. Rollins and passed that the current and past president of this association as well as Mr. Corey Tullier be invited to the next meeting in order to discuss the matter further. As such, this is to be tabled until the matter can be further discussed.

Ms. Scardino also advised of the various problems which the staff is experiencing with the computer equipment which will be four years old in July. She has obtained several bids on new equipment and now asked for approval to purchase new equipment. The price range is between \$7,500 and \$10,000.

Motion was made by Mr. Gill, seconded by Ms. Shehee and passed that Ms. Scardino be authorized to purchase new equipment within the price guideline provided.

Mr. Rasch advised that Bobby Culpepper, the attorney for Bertis Verrett has surrendered his client's 2009 license and advised that as such, he has agreed that he will not practice until such time as the current charges have been addressed and the board can then address the matter still pending before the board.

Motion was made by Mr. Pellerin, seconded by Mr. Gill and passed that the voluntary surrendering of Mr. Verrett's license be accepted and that pending the outcome of the criminal procedures, and the further matters to be addressed before the board that the license is revoked.

Motion was made by Mr. Gill, seconded by Mr. Rollins and passed that the executive director's report be accepted as presented.

Financial information with Budget updates, as well as the Profit & Loss Budget vs Actual was presented to the board members for their review and consideration.

Motion was made by Mr. Gill, seconded by Mr. Rollins and passed that the financial information, as well as the budget figures, be accepted as presented.

President Louis Charbonnet, III joined the meeting in progress at this time but did not seek to take the Chair and Ms. Rush continued to Chair the meeting.

A hearing was scheduled with regard to The Matter of James C. Hoover, Orlan Oscar Ross, Michael S. Clark and/or Carecorp L.L.C. D/B/A Heritage Funerals of Northwest Louisiana, Shreveport. Board members were advised that each of the individuals as well as the establishment has opted to enter into an Admission and

Consent and that said Admissions were presented for consideration and acceptance by the board members.

Motion was made by Mr. Gill, seconded by Ms. Shehee and passed that the Admission and Consent form submitted by James C. Hoover, individually, as the owner of Carecorp L.L.C. D/B/A Heritage Funerals of Northwest Louisiana, Shreveport be accepted in its entirety as there is sufficient basis within the Admission and Consent to do so.

Motion was then made by Ms. Shehee, seconded by Ms. Pichon and passed that James C. Hoover and the entity known as Heritage Funerals of Northwest Louisiana, Shreveport be and they are hereby found guilty of violating the provisions of LA R.S. 37:842 D. (1) in that, the establishment was never managed on a full time basis by a licensed funeral director and, accordingly, James C. Hoover and the establishment known as Heritage Funerals of Northwest Louisiana, Shreveport are hereby fined the sum of **TWO THOUSAND FIVE HUNDRED (\$2,500.00) DOLLARS.**

Motion was then made by Mr. Rollins, seconded by Ms. Shehee and passed that James C. Hoover and the entity known as Heritage Funerals of Northwest Louisiana, Shreveport be and they are hereby found guilty of violating the provisions of LA R.S. 37:842 D. (3) in that the establishment did not meet minimum qualifications for operation as a funeral establishment in that the entity was not climate controlled and, accordingly James C. Hoover and the establishment known as Heritage Funerals of Northwest Louisiana, Shreveport are hereby fined the sum of **TWO THOUSAND FIVE HUNDRED (\$2,500.00) DOLLARS.**

Motion was made by Mr. McKneely, seconded by Ms. Shehee and passed that James C. Hoover and the entity known as Heritage Funerals of Northwest Louisiana, Shreveport be and they are hereby found guilty of violating the provisions of LA R.S. 37:842 D. (3) in that, payroll taxes were not withheld from employees checks; and, that payroll records, when subpoenaed, were not provided; and, that employees advised they did not fill out W-4's as required; and, accordingly, James C. Hoover and the establishment known as Heritage Funerals of Northwest Louisiana, Shreveport are hereby fined the sum of **TWO THOUSAND FIVE HUNDRED (\$2,500.00) DOLLARS.**

Motion was made by Mr. McKneely, seconded by Ms. Shehee and passed that James C. Hoover and the entity known as Heritage Funerals of Northwest Louisiana, Shreveport be and they are hereby found guilty of violating the provisions of LA R.S. 37:846 A. (5) in that an NSF check was provided to the Board for renewal of the funeral establishment license, and for the renewal of the license of Michael S. Clark, the alleged designated manager of the establishment for 2009 and, accordingly, James C. Hoover and the establishment known as Heritage Funerals of Northwest Louisiana, Shreveport are hereby fined the sum of **TWO THOUSAND FIVE HUNDRED (\$2,500.00) DOLLARS.**

Motion was made by Ms. Shehee, seconded by Ms. Pichon and passed that James C. Hoover and the entity known as Heritage Funerals of Northwest Louisiana, Shreveport be and they are hereby found guilty of violating the provisions of LA R.S. 37:846 A. (1) in that, their advertising for "No Cost Cremation Option" was misleading to the general public and, accordingly, James C. Hoover and the establishment know as

Heritage Funerals of Northwest Louisiana, Shreveport are hereby fined the sum of **TWO THOUSAND FIVE HUNDRED (\$2,500.00) DOLLARS.**

Motion was made by Mr. McKneely, seconded by Mr. Hayes and passed that James C. Hoover and the entity known as Heritage Funerals of Northwest Louisiana, Shreveport be and they are hereby found guilty of violating the provisions of LA R.S. 37:848 A. In that, as per an obituary placed in *The Shreveport Times*, they have continued to advertise Heritage Funerals of Northwest Louisiana when in truth and in fact the funeral establishment's license was null and void due to the NSF check being presented to the Board; and, they continued to advertise services that could be rendered for "Life Legacy" donations through Heritage (March 2009 Golden Years Guide for the Good Life Publication) and, accordingly, James C. Hoover and the establishment know as Heritage Funerals of Northwest Louisiana, Shreveport are hereby fined the sum of **TWO THOUSAND FIVE HUNDRED (\$2,500.00) DOLLARS.**

Motion was then made by Mr. Pellerin, seconded by Mr. Charbonnet and passed that James C. Hoover be and he is hereby found guilty of violating the provisions of LA R.S. 37:848 A. in that he performed duties which are restricted to individuals holding a license issued by the Louisiana State Board of Embalmers and Funeral Directors and, accordingly James C. Hoover is hereby fined the sum of **TWO THOUSAND FIVE HUNDRED (\$2,500.00) DOLLARS.**

Motion was then made by Mr. Charbonnet, seconded Mr. McKneely and passed that James C. Hoover and the entity known as Heritage Funerals of Northwest Louisiana, Shreveport be and they are hereby found guilty of violating the provisions of

LA R.S. 37:848 D. 2. in that the remains of Melissa Taylor, Viola Roberts, Joseph McGuire, Ruth Busby, Anita Benson, Raymond Wilson, Johnny Mach Patterson, Jeffrey Donovan, and Lahoma Walker were not embalmed and/or refrigerated within 30 hours of death and, accordingly, and due to the grievous nature of these violations as well as the grievous nature of all of the violations listed herein above, James C. Hoover and the entity known as Heritage Funerals of Northwest Louisiana, Shreveport are fined the sum of **TWO THOUSAND (\$2,000.00) DOLLARS for each case listed.**

Mr. Pellerin voted against this motion.

Motion was made by Mr. Charbonnet, seconded by Mr. McKneely and passed that the Internal Revenue Service and the Louisiana Department of Revenue be notified of the failure of James C. Hoover and the entity known as Heritage Funerals of Northwest Louisiana, Shreveport to withhold payroll taxes from the employees of said firm including but not limited to Sondra Barnett, Kelly Owens, Orlan Oscar Ross, Michael S. Clark, and Jennifer Dumas.

It was further decreed, as per the norm, that James C. Hoover and the entity known as Heritage Funerals of Northwest Louisiana, Shreveport are granted thirty (30) days from the date of the receipt of this Order and Decree to pay the fines as levied.

Additionally, it was decreed that James C. Hoover and the entity formerly known as Heritage Funerals of Northwest Louisiana, Shreveport are to cease and desist from any activity which is granted to licensees of the Louisiana State Board of Embalmers and Funeral Directors until such time as they meet the qualifications for licensure under the provisions of LA R.S. 37:831 et seq. and secure said licenses, in keeping with the

laws, rules and regulations under which the Board and all Licensees must operate, as such further activity could lead to additional sanctions being levied.

Motion was made by Mr. McKneely, seconded by Mr. Rollins and passed that the Admission and Consent form submitted by Orlan Oscar Ross be accepted in its entirety as there is sufficient basis within the file, and the Admission and Consent.

Motion was made by Mr. Gill, seconded by Mr. Rollins and passed that Orlan Oscar Ross be and he is hereby found guilty of violating the provisions of LA R.S. 37:842 D. (1), 37:842 D. (3), and LA R.S. 37:848 A. 2., and accordingly, Orlan Oscar Ross is hereby fined the sum of **ONE THOUSAND FIVE HUNDRED (\$1,500.00) DOLLARS.**

It was further decreed that imposition of **ONE THOUSAND (\$1,000.00) DOLLARS** of said fine shall be suspended conditioned upon payment of the remaining **FIVE HUNDRED (\$500.00) DOLLARS** being received by the Board's office no later than 30 days of receipt of this Order and Decree. Failure to comply with this directive of the Board shall cause the license of Orlan Oscar Ross to automatically be suspended until the **entire fine** of \$1,500.00 is received by the Board's office.

Motion was made by Ms. Shehee, seconded by Mr. Pellerin and passed that the Admission and Consent form submitted by Michael S. Clark be accepted as there is sufficient basis within the file, and the Admission and Consent.

Motion was then made by Mr. Pellerin, seconded by Ms. Shehee and passed that Michael S. Clark be and he is hereby found guilty of violating the provisions of LA R.S.

37:842 D. (1) and LA R.S. 37:842 D. (3) and accordingly, Michael S. Clark is hereby fined the sum of **ONE THOUSAND (\$1,000.00) DOLLARS**.

It was further decreed that imposition of **FIVE HUNDRED (\$500.00) DOLLARS** of said fine shall be suspended conditioned upon payment of the remaining **FIVE HUNDRED (\$500.00) DOLLARS** being received by the Board's office no later than 30 days of the receipt of this Order and Decree. Failure to comply with this directive of the Board shall cause the license of Michael S. Clark to automatically be suspended until the entire fine of \$1,000.00 is received by the Board's office.

Mr. Gill took no part in the discussion and/or vote with regard to Michael S. Clark.

Attorney Mike Rasch advised the members that responses have been received from Winnfield Funeral Home of Shreveport as well as Good Samaritan Funeral Home of Shreveport with regard to the complaints filed by Carolyn Jacobi. He further advised that these responses have been forwarded to Ms. Jacobi, as is the usual procedure, for her input regarding same. Due to the fact that she travels extensively, he stated that there was not sufficient time for a response to be received from her. He asked that these complaints be tabled until the next meeting, as she would then have adequate time to address the request made. An additional request for a response outlining Mr. Rasch's request and the approval of the Board, will be forwarded on to her attention.

Motion was made by Mr. Gill, seconded by Ms. Pichon and passed that this matter be tabled until the next meeting as per the request of Attorney Mike Rasch.

Information gathered by the Board's staff with regard to the complaint filed by Stephanie Arant regarding services rendered for her uncle by Kilpatrick's Rose-Neath Funeral Home, Shreveport was presented to the board members.

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

Ms. Shehee did not participate in the discussion of this agenda item nor did she vote on the motion which passed.

Ms. Scardino provided the board members with photos which were e-mailed to the board's office by Charles Henderson of the Winnfield Funeral Home of Winnfield. These photos show that the repairs requested by the board have in fact been completed. Mr. Daigle is to visit this location in the near future to verify information provided as per the directive of the Chair.

Attorney Mike Rasch provided the members with an update on the current legislation which the board has been following.

Additional information gathered by the complaint review committee with regard to the complaint filed by LuVictoria Bridges-French regarding services rendered for her father by D. W. Rhodes Funeral Home was presented to the members.

Following the recommendations of the complaint review committee, motion was made by Ms. Shehee, seconded by Mr. McKneely and passed that there appears to be no violation of the statutes, rules and/or regulations under which the board operates.

An article which appeared in *THE DIRECTOR* which is a publication of the National Funeral Directors Association was presented to the members. Said article gave Louisiana an excellent rating with regard to new pre need regulations, which rating is based upon the recently passed legislation which revamped our pre need law.

Attorney Mike Rasch advised the members of a communication received from Rodney B. Hastings, Deputy Disciplinary Counsel of the Louisiana Attorney Disciplinary Board. Mr. Hastings requested information regarding the recent hearing which was scheduled before the board with regard to the complaint filed by Tonya Dotson against Winnifred Jackson and the Good Samaritan Funeral Home, Shreveport.

Mr. Rasch advised that he will be responding to the request for public records as is required by law and as per the directive of Mr. Charbonnet.

Several advisory opinions posted by the FTC staff were provided to the members for informational purposes. These opinions were requested by NFDA.

A request for approval of a sign to be erected at the former site of Lamana-Panno-Fallo Funeral Home was presented to the board.

The members felt there was no problem with the erection of said sign in that it will advise consumers of other options available to them for the services to be rendered for their loved one.

Ms. Scardino advised of the request from Claire Edsall to be allowed to serve an embalmer internship at Lake Lawn Metairie. He has applied for a work permit based upon her Texas Funeral Director license. The members felt there would be no problem in handling the matter as per her request.

There being no further matters to be discussed, the meeting was adjourned at approximately 11:45 a.m.

_____ Oscar A. Rollins, Secretary

Approved July 15, 2009

_____ Louis Charbonnet, III, President