

October 24, 2007

Meeting of the Louisiana State Board of Embalmers and Funeral Directors was called to order at 9:25 a.m. by the board's president, Eugene B. Pellerin, at the board's office located at 3500 North Causeway Blvd., Suite 1232, Metairie, Louisiana.

Present: Eugene B. Pellerin, President  
Stephanie R. Navarre, Vice-President  
Craig G. Gill, Secretary  
Oscar A. Rollins, Treasurer  
Robert Babineaux  
Gregory Strother  
Andrew W. Hayes, Consumer Representative

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

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

No one was present to address the Board.

For informational purposes, board members were presented with a listing of the complaint summary for 2006/2007, complaints pending at the close of fiscal year 2006/2007, and a listing of complaints filed for fiscal 2007/2008 to date.

The inspector's report was then presented to the board members by Mr. Daigle.

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

Williams & Southall Funeral Home, Thibodaux, was given 60 days by the inspector, to repair the carport (The funeral home apartment will be torn down and the roof and carport on funeral home remodeled).

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

Motion was made by Mr. Babineaux, seconded by Mr. Rollins and passed that the Executive Director's report be accepted as presented.

Ms. Scardino advised the board members that in the process of handling the Acadian Funeral Home file following the recent hearing that the MurSimCo. 1035 exchange report due at the end of 2006 was found in the Acadian Funeral Home file. Due to this filing error, Ms. Scardino requested that the members revisit the motion to schedule a formal hearing for MurSimCo. and Seale Funeral Home regarding the alleged failure to file the necessary end of year report.

Motion was made by Mr. Babineaux, seconded by Ms. Navarre and passed that the motion to schedule a formal hearing for both firms be rescinded.

Mr. Rasch will serve notice to Mr. Moity, counsel to Mr. Stutts and Acadian Funeral Home, in order to schedule the video deposition of Mr. Eddie Provost, witness in the hearing entitled "In the Matter of Acadian Funeral Home, New Iberia re: alleged failure to timely refund excess insurance proceeds collected."

Minutes of the September 2007 board meeting were not available at the time of this meeting.

Financial information, update on the board's budget for fiscal 2007/2008, as well as the proposed budget for fiscal 2008/2009 were presented to the board members for their consideration.

Motion was made by Mr. Gill, seconded by Mr. Rollins and passed that the

financial information, as well as the Proposed Budget be reviewed by the Board members and that a decision be made at tomorrow's meeting.

Hearing entitled "In the Matter of Deanna Gremillion, Coy Gremillion and Magnolia Funeral Home" was convened at 10:20 a.m.

Messrs. Babineaux and Strother recused themselves from participation in this hearing.

Testimony was received from Coy Gremillion, Deanna Gremillion and Glen Shepherd . Hershhal Douglas was served with a subpoena by Mr. Daigle but did not appear as ordered.

Mr. Pellerin called for a recess beginning at 11:30 AM until 1:30 PM so as to allow some additional time for Mr. Gremillion to secure and at least produce via fax, the documents that should have been produced prior to today, and which should have been provided in keeping with the subpoena/notice for board review

Information gathered by the Board's staff with regard to the complaint filed by Anita Goldsmith regarding the burial of her mother by Rabenhorst Funeral Home at Resthaven Gardens of Memory was presented to the board members.

Motion was made by Mr. Gill, seconded by Ms. Navarre 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 recommendation of the complaint review committee.

Ms. Scardino advised that a letter was forwarded to the Cemetery Board for further handling by that entity.

Information gathered by the Board's staff concerning the complaints filed by Lois Bernard, Tony Ducote, and Pamela Clark (Clark Ducote Funeral Home) regarding allegations of solicitation and unprofessional conduct by Mothe Funeral Home was presented to the members.

Motion was made by Mr. Strother, seconded by Mr. Rollins and passed that there appeared to be no violation 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.

Correspondence from Sidney L. Harp, II, Security Plan, concerning Security policies being honored by a provider other than SCI was presented to the Board..

Motion was made by Mr. Gill, seconded by Mr. Strother and passed, with Mr. Babineaux opposed, for a letter to be sent to Mr. Harp advising that he has the right to continue handling policies as he has in the past; that this Board does not oversee insurance policies; and, that such an offering to service insurance policies is not an inducement for business.

Information gathered by the Board's staff concerning the complaint filed by Shannon Mackenzie against Jacqueline Wesley and A. Wesley Funeral Home alleging that her husband's remains were not embalming as required by law was presented to the members.

Motion was made by Mr. Rollins, seconded by Mr. Strother and passed that this matter be tabled as Ms. Wesley's has requested that an Admission and Consent form be sent to her attorney, who is awaiting a copy of same so that he might confer with his

client as to which avenue she should take with regard to this matter. .

A request from SFLIC and/or Lewis Funeral Home regarding review and approval of an advertisement which they want to place in a local newspaper was presented to the Board Members.

Motion was made by Mr. Babineaux, seconded by Mr. Hayes and passed with Ms. Navarre opposed, to accept the advertisement as it reads. Mr. Rasch is to forward a letter with the decision reached by a majority of the members.

Hearing entitled "In the Matter of Deanna Gremillion, Coy Gremillion and Magnolia Funeral Home" was reconvened at 1:30 PM.

Once again Messrs. Babineaux and Strother noted that they recused themselves from participation in this hearing.

Not all of the documents which were previously subpoenaed by the Board were produced. But the board members did review the documentation that was faxed over on behalf and at the request of Mr. Gremillion.

Motion was made by Mr. Rollins, seconded by Mr. Gill and passed that the formal hearing process be concluded at 1:55 PM.

Motion was made by Ms. Navarre, seconded by Mr. Rollins and passed that Coy A. Gremillion and/or I Site, Inc., D/B/A Magnolia Funeral Home, Alexandria did not violate the provisions of LA R.S. 37:846 A (14) ( see LA R.S. 37:842 D. 1) in that there was insufficient evidence to prove that there was no licensed full time manager of the entity during the years 2000 through 2005. Therefore, these charges are dismissed.

Motion was then made by Ms. Navarre, seconded by Mr. Gill and passed that Coy

A. Gremillion and/or I Site, Inc., D/B/A Magnolia Funeral Home, Alexandria have violated the provisions of LA R.S. 37:846 A. (14) (See LA R.S. 37:842 D. 1.) in that the entity was not managed by a full time licensed manager during the year 2006.

Motion was made by Mr. Gill, seconded by Ms. Navarre and passed that Coy A. Gremillion and/or I Site, Inc., D/B/A Magnolia Funeral Home, Alexandria have not violated the provisions of LA R. S. 37:846 A. (14) (See LA R.S. 37:842 D. 1.) in that there was insufficient evidence to prove that there was no licensed full time manager of the entity in 2007. Therefore, this charge is dismissed.

Motion was made by Ms. Navarre, seconded by Mr. Gill and passed that Deanna Gremillion and/or I Site, Inc., D/B/A Magnolia Funeral Home, Alexandria have violated the provisions of LA R.S. 37:846 A. (14) (See LAC Title 46, Part XXXVII, Chapter 9, §903. A. 1. and/or 6.) in that the internship served by Ms. Gremillion during the months of October, November, and December 2006 were not served under the direct supervision of the designated supervisor.”

Motion was made by Ms. Navarre, seconded by Mr. Gill and passed that Mrs. Gremillion be granted credit for 7 months served (January through June 2007 and September of 2007).

Motion was made by Ms. Navarre, seconded by Mr. Gill and passed that Magnolia Funeral Home be fined TWO THOUSAND FIVE HUNDRED (\$2,500.00) DOLLARS for the violations as noted herein above as well as the court reporter and general counsel’s fees. 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

Magnolia Funeral Home, Alexandria shall be suspended until such time as all directives of the Board are met.

Motion was made by Mr. Strother, seconded by Mr. Hayes and passed that the request for review and approval of the Grant's Westside Funeral Services Advertisement be tabled until tomorrow's meeting.

Correspondence from the LaVille Funeral Home regarding "misleading job titles" on a competitor's web page was presented to the Board members. Mr. Rasch was requested to forward a letter regarding this matter to the Ardoin Funeral Home.

Mr. Rasch advised that an appeal has been filed and a court hearing date has been set for November 28, 2007 with regard to the revocation of the licenses of Mortuary Services of LA and Charles Curtis, Jr. He further advised that a status conference and hearing is to be held with Judge Ledet on November 1, 2007.

An informal meeting with Ken Batiste regarding his signing of a blank death certificate West Funeral Home, Natchez, Ms. was convened at 2:35 p.m. Mr. Danny Holiday advised that he was an attorney and would be representing Mr. Batiste.

Also in attendance at this meeting was Bubba Lang, Vice Chair of the Mississippi Funeral Service Board, Tommy Wells, Secretary-Treasurer, Dolores Kenney, Executive Director, and Gloria Green, Assistant Attorney General from Mississippi who represented the Mississippi Board.

Mr. Batiste was questioned regarding the three jobs which he currently holds, that of manager of Webb Funeral Home, Natchez, trade embalmer at Marshall's, Bude, Mississippi, and trade embalmer at Richardson Funeral Home, Clinton, LA.

Mr. Batiste admitted to signing the blank death certificate in order to assist West Funeral Home and has agreed to not sign another death certificate if he is not in attendance with the family that is being serviced. Mr. Batiste apologized for any wrong doing that he was guilty of and promised to obey the laws of the State of Louisiana in the future.

Motion was made by Ms. Navarre, seconded by Mr. Gill and passed that the informal hearing be concluded at 3:40 PM.

Motion was then made by Ms. Navarre, and seconded by Mr. Gill and passed that the meeting be adjourned at 3:40 p.m., with the balance of the agenda to be continued and completed tomorrow morning.

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Secretary

Approved \_\_\_\_\_, 2007

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President



October 24, 2007

The continuation of the scheduled meeting of the Louisiana State Board of Embalmers and Funeral Directors was called to order at 9:20 a.m. by the board's President, Eugene G. Pellerin, at the board's office located at 3500 North Causeway Blvd., Suite 1232, Metairie, Louisiana.

Present: Eugene B. Pellerin, President  
Stephanie R. Navarre, Vice-President  
Oscar A. Rollins, Treasurer  
Craig Gill, Secretary  
Robert Babineaux  
Gregory Strother  
Andrew W. Hayes, Consumer Representative

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

As has been required by law, time was set aside for "Public Comment Time." No one was present who wished to address the Board.

A continuance was granted by the Board's President, Mr. Pellerin, in the hearing

entitled "In the Matter of W.D. Walker and Our Christian Funeral Home" due to previous court requirements re delinquent sales tax by representatives of Our Christian Funeral Home, who requested the continuance.

Motion was made by Mr. Gill, seconded by Mr. Rollins and passed that a letter be drafted to Miller Funeral Home re: pre-need funds which Ruby Ward has once again inquired about, together with the opinion which was received from the Attorney General. The Board's General Counsel, Mr. Rasch, advised that this might very well be a civil matter to be settled by the courts.

A warning written out on an Investigation Report by the Mr. Daigle, the Board's Inspector, which was given to Albert Burl was presented to the Board members for informational purposes only.

The request for approval of the General Counsel's contract was tabled until later in this meeting.

As previously reported by Mr. Rasch, he has scheduled a video deposition with Mr. Provost on November 14, 2007 at 11:00 a.m. in Lafayette.

A request from Winnfield Funeral Home for review and approval of the title "Community Relations Representative" to be utilized on business card was presented to the members. .

Motion was made by Mr. Babineaux, seconded by Mr. Rollins and passed that there was no violation with the "Community Relations Representative" title to be used on business cards.

Information gathered by the Board's staff with regard to the complaint filed by

Kimberly Broussard against Wes Castille, Kemp David and Martin & Castille Funeral Home concerning the odor emanating from her husband's tomb in the Broussard Family Cemetery was presented to the members.

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

Board members were presented with a copy of an article which appeared in the *Mortuary Management* magazine with regard to the Louisiana State Penitentiary selling caskets made by inmates.

Motion was made by Mr. Gill, seconded by Ms. Navarre and passed that a letter be drafted advising the Louisiana State Penitentiary about the Law re: selling of caskets. Mr. Rasch was requested to forward a letter to the Director of the Department of Corrections with a copy to Warden Burl Cain requesting information regarding the alleged sale of caskets. Mr. Rasch is also to inquire as to what funeral home(s) they have contracted with to bury their unclaimed bodies.

A discussion followed regarding the Grant's Westside Funeral Services advertisement which was submitted to the Board Members for their review.

Motion was made by Ms. Navarre, seconded by Mr. Rollins and passed that a letter be forward to the funeral home advising that the Board members see no apparent violation with the advertisement as it was submitted to the board.

Once again the Financial information, budget overview for fiscal 2007/2008 and

the proposed budget for 2008/2009 was reviewed.

Motion was made by Mr. Gill, seconded by Mr. Strother and passed that the proposed budget for 2008/2009 be accepted with a corrected typographical error and that the other financial information be accepted as presented. .

A copy of an advertisement from Moses Richmond of Cook-Richmond Funeral Home was submitted to the Board members for their review.

Motion was made by Mr. Babineaux, seconded by Mr. Gill and passed that a letter be drafted to accept the advertisement as it was submitted.

Mr. Babineaux was informed that Mr. Pellerin, Mr. Rollins, Ms Navarre, Mr. Rasch and Ms. Scardino were in attendance at the meeting with the Attorney General re: the pending Opinion from the Attorney General's office. Mr. Babineaux also requested that he be informed as to any future meetings that may be so scheduled.

Mr. Gill inquired about Mr. Daigle's computer and the repairs being made, as to the progress.

Motion was made by Mr. Gill, seconded by Mr. Rollins and passed that the Board members go into Executive Session at 11:00 a.m. to discuss job performance and review the proposed contract for the Board's general counsel.

Motion was made by Mr. Gill, seconded by Mr. Rollins and passed that the Board members return to the regularly scheduled meeting at approximately 11:35 a.m.

A break for lunch followed.

At the request of Attorney Regina S. Wedig and Attorney Edward N. George a public hearing ensued re: proposed rule changes which were published in the

September 20, 2007 *Louisiana Register*.

Oral presentations were given by Regina Wedig, Attorney representing both SCI and Legacy Funeral Holdings, Huey Campbell representing SCI, S.J. Brasseaux representing SCI, William Wimberly representing Legacy Funeral Holdings, Gerald Musacchia, Kelly Owens, Edward N. George, Attorney representing Lake Lawn Metairie Funeral Home, St. Bernard Memorial Funeral Home, and Greenwood Funeral Home, Louis Mulheisen, Jr., Muhleisen Funeral Home and Boyd Mothe, Jr., Mothe Funeral Homes.

Following all presentations, a motion was made by Mr. Rollins, seconded by Mr. Hayes and passed that the discussions be concluded at 3:15 PM.

Mr. Brasseau requested and was provided with clarification of the "inducement regulation". Mr. Brasseau advised that his organization has a program called the Affinity Program with a special discount for VFW members which are given both at need and pre need. Federal Express employees are also offered these benefits.

Jerry Schoen of Lake Lawn Metairie Funeral Home informed the Board Members that Lake Lawn Funeral Home is the last of the 3 facilities that will be reopened and that the Grand Opening is set for November 1, 2007. The Lake Lawn Funeral Home at the time of this meeting was 90% finished. He also informed the Board that the Katrina Memorial received \$100,000.00 from the NFDA in a special ceremony at the convention.

Mr. Babineaux asked Mr. Schoen about the service for Harry Lee as it was an extremely large event. Mr. Babineaux suggested that the event could be a continuing education seminar regarding how it was organized and handled.

Mr. Wimberly advised that he feels that notification should be afforded to all licensees with regard to any proposed rule changes.

There followed a discussion regarding the renewal of the Board's general counsel's contract.

Motion was made by Mr. Babineaux, seconded by Ms. Navarre and passed that Mr. Rasch's contract be approved for a two year period beginning July 1, 2008 and ending June 30, 2010 at an hourly rate of \$145.00. Total contract is not to exceed \$140,000.00.

There being no further business, the meeting was adjourned at 3:50 p.m.

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Secretary

Approved \_\_\_\_\_, 2007

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President

