



Alabama Board of Funeral Service

Special Called Meeting Minutes

May 8, 2017

Prior Notice

Prior notice of the Special called Board meeting was posted on the Secretary of State website on April 6, 2017.

Attendance

The following members were present: Mark N. Craddock, Lorenzo Wright, Calvin Meadows, Bart Kirtland, John C. Rudder, and Jason Wyatt. Staff present; Charles M. Perine, Executive Secretary, and E. Denise Grogan, Associate Executive Secretary, recording. Also, present general counsel for the Board T. Cameron McEwen.

The following member was absent: Sammy Seroyer

Call to Order

Having established a quorum, Mr. Craddock excused Mr. Seroyer's absence and called to order the special called meeting of the Alabama Board of Funeral Service at 10:00 a.m. on May 8, 2017 in Room 304 of the State House, 11 South Union Street, Montgomery, Alabama.

Consent Agreements

Mr. Perine informed the Board of the following consent agreements that were entered into between April 1, 2017 and May 7, 2017.

Case Number	Charge	Penalty
ABFS17-0024	Aided and abetted unlicensed person Unlicensed practice	Fined \$2,000.00 Managing Funeral Director on probation for 1 year Establishment on probation for 1 year
ABFS16-0027	Failed to pay establishment annual inspection fee and late penalties	Fined \$1,225.00

Mr. Meadows made a motion, seconded by Mr. Wright to accept the consent agreements as entered. The motion passed unanimously.

IGOV Solutions



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Mr. Perine reminded the Board that IGOV solutions developed and maintained the online licensure and renewal system utilized by the Board. Mr. Perine stated the current contract of \$1200.00 per month ended on May 1, 2017. Mr. Perine stated that if the current legislation passed the system would need upgrading to comply with new statutes. Mr. Perine requested the contract be extended only if the current legislation passed. Following discussion Mr. Meadows made a motion, seconded by Mr. Wyatt to extend the current contract only if the current legislation passed. The motion passed unanimously.

Administrative Hearing

Mr. Craddock yielded the floor to Mr. Salle' Administrative Hearing Judge from the Alabama State Personnel Department to begin Administrative Hearing ABFS17-0023.

ABFS17-0023: Alabama Board of Funeral Service v Randy Keahey, Sr., Mr. Salle' asked counsel to state their names for the record. Mr. Cameron McEwen stated he would be representing The Alabama Board of Funeral Service. Mr. Al Agricola stated he would be representing Randy Keahey. Mr. Salle' noted Mr. Keahey was present and asked if he received a copy of the complaint and understood the charges. Mr. Keahey stated he had received a copy of the complaint and he understood the charges. Mr. Agricola requested a continuance due to the fact he had just been retained by Mr. Keahey and needed time to adequately prepare. Mr. McEwen stated the Board had no objection to the continuance.

Mr. Salle' granted the motion for a continuance of ABFS17-0023 until 9:00 a.m. July 13, 2017 in Room 304 of the State House, 11 South Union Street, Montgomery, Alabama.

At 10:15 a.m. Mr. Craddock stated the Board would recess and reconvene with the Administrative Hearing of ABFS17-0025 at 1:00 p.m.

Attendance

The following members were present: Mark Craddock, Lorenzo Wright, Calvin Meadows, John C. Rudder, and Jason Wyatt. Staff present; Charles M. Perine, Executive Secretary, and E. Denise Grogan, Associate Executive Secretary, recording. Also, present general counsel for the Board T. Cameron McEwen.

The following members were absent: Sammy Seroyer, Bart Kirtland



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Call to Order

Having established a quorum, Mr. Craddock excused absence of Mr. Seroyer and Mr. Kirtland and reconvened the special called meeting of the Alabama Board of Funeral Service at 1:05 p.m. on May 8, 2017 in Room 304 of the State House, 11 South Union Street, Montgomery, Alabama.

Administrative Hearings

Mr. Craddock yielded the floor to Mr. Salle' Administrative Hearing Judge from the Alabama State Personnel Department to begin Administrative Hearing ABFS17-0025. Mr. Salle' noted for the record that the Respondents for ABFS17-0025 were not present and no contact had been received from the Respondents or their counsel. Mr. Salle' stated that the hearing would proceed without the Respondents presence and requested that Mr. McEwen introduce evidence that the Respondents were properly served with the date, time and location of the hearing.

Mr. Craddock noted for the record that he wished to recuse himself from the proceedings due to prior knowledge of the case. Mr. McEwen requested that Mr. Craddock be present as part of the quorum but not participate in questioning or deliberations. Mr. Salle' granted Mr. McEwen's request allowing Mr. Craddock to remain in the room.

Mr. Salle' introduced ABFS17-0025 Alabama Board of Funeral Service v Donald M. Phillips, Jr., James Carl Pritchard, Jr., and Alabama Funeral Homes charging five violations including; Count One: failing to maintain an identification system; Count Two: failing to use combustible cremation containers; Count Three: misrepresentation of facts; Count Four: demonstrating incompetence; Count Five: lack of full charge and control; After being sworn in by the court reporter Mr. Perine testified that proper service was given concerning notice of the hearing. Mr. McEwen introduced the evidence supporting Mr. Perine's testimony. Mr. McEwen introduced evidence related to a motion to continue filed by the Respondents concerning the 10:00 a.m. hearing. Mr. Perine testified that the Board received notice that the motion to continue was denied and the hearing scheduled for May 8, 2017 at 1:00 p.m.

Mr. Salle' requested that the proceedings stop due to the Respondents and their counsel arriving. Mr. Salle' informed the Respondents and their counsel that the only evidence that had been entered was documents showing proper service had been given.

Mr. Salle' asked Respondents and counsel to state their names for the record. Charles Gillenwaters stated he would be representing Donald M. Philips, Jr. James Carl Pritchard, Jr.,



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and Alabama Funeral Homes. Donald M. Phillips, Jr., and James Carl Pritchard, Jr. stated their names for the record.

Mr. Salle' asked for opening statements, Mr. McEwen and Mr. Gillenwaters declined. Mr. Salle' directed Mr. McEwen to call his first witness. The list of witnesses for ABFS17-0025 included Charles M. Perine, E. Denise Grogan, and Darrell Armour. After being sworn in by the court reporter the following witnesses; Mr. Perine, Mrs. Grogan, Mr. Armour, Mr. Phillips and Mr. Pritchard, disclosed their knowledge of AFBS17-0025 to Mr. Salle' and the Board as questioned by Mr. McEwen and Mr. Gillenwaters. Exhibits were entered into evidence.

At 2:20p.m. and 3: 45 p.m. Mr. Salle' granted five minute breaks for all parties.

Violations disclosed in the administrative complaint were as follows: §§34-13-121(g); 34-13-121; 34-13-121(i); 34-13-56(a)(2)(z); 34-13-112 of the Code of Alabama, 1975. Following questions from the Board and at the direction of Mr. Salle', Mr. McEwen and Mr. Gillenwaters gave their closing statements. Mr. Salle' gave the Board instructions for rendering a decision on the case.

Executive Session

At the conclusion of the Administrative Hearing Mr. Craddock asked the will of the Board in rendering their decision Mr. Meadows made a motion seconded by Mr. Rudder to go into Executive Session for 60 minutes to discuss the matter of ABFS17-0025. It was noted that there was a quorum of five members present with Mr. Craddock being recused from deliberations.

Yes votes: Mr. Wright, Mr. Rudder, Mr. Meadows, Mr. Wyatt.

Nay votes: None

Abstain: Mr. Craddock

Absent: Mr. Seroyer, Mr. Kirtland

The motion passed unanimously.

The Board members, excluding Mr. Craddock who had been recused, moved to an adjoining conference room at 4:50 p.m. to allow the Board to discuss the matter of ABFS17-0025. The audience was informed that the Administrative Hearing would resume after the executive session.

After all parties were called back into the room, Mr. Meadows called the Administrative Hearing back to order at 5:10 p.m. with the Board having a decision.

Mr. Meadows stated the following verdicts concerning each count as they relate to each Respondent:



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Violation	Donald M. Phillips, Jr.	Alabama Funeral Homes
Count 1. §34-13-121(g)	Guilty	Guilty
Count 2. §34-13-121(i)	Guilty	Guilty
Count 3. §34-13-56(a)(2)(z)	Guilty	No Count
Count 4. §34-13-121	Guilty	Guilty
Count 5. §34-13-112	Guilty	No Count

Mr. Wright made a motion, seconded by Mr. Rudder that Mr. Donald M. Phillips, Jr. be charged \$1,000.00 for Count One: Failing to Maintain an Identification System.

Yes votes: Mr. Wright, Mr. Rudder, Mr. Meadows, Mr. Wyatt.

Abstain: Mr. Craddock

Absent: Mr. Seroyer, Mr. Kirtland

The motion passed.

Mr. Wright made a motion, seconded by Mr. Wyatt that Alabama Funeral Homes be charged \$2,500.00 for Count One: Failing to Maintain an Identification System.

Yes votes: Mr. Wright, Mr. Rudder, Mr. Meadows, Mr. Wyatt.

Abstain: Mr. Craddock

Absent: Mr. Seroyer, Mr. Kirtland

The motion passed.

Mr. Wyatt made a motion, seconded by Mr. Rudder that Mr. Donald M. Phillips, Jr. be charged \$1,000.00 for Count Two: Failing to use Combustible Cremation Containers.

Yes votes: Mr. Wright, Mr. Rudder, Mr. Meadows, Mr. Wyatt.

Abstain: Mr. Craddock

Absent: Mr. Seroyer, Mr. Kirtland

The motion passed.

Mr. Rudder made a motion, seconded by Mr. Wyatt that Alabama Funeral Homes be charged \$2,500.00 for Count Two: Failing to use Combustible Cremation Containers.

Yes votes: Mr. Wright, Mr. Rudder, Mr. Meadows, Mr. Wyatt.

Abstain: Mr. Craddock

Absent: Mr. Seroyer, Mr. Kirtland

The motion passed.



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Mr. Wright made a motion, seconded by Mr. Rudder that Mr. Donald M. Phillips, Jr. be charged \$2,500.00 for Count Three: Misrepresentation of Facts.

Yes votes: Mr. Wright, Mr. Rudder, Mr. Meadows, Mr. Wyatt.

Abstain: Mr. Craddock

Absent: Mr. Seroyer, Mr. Kirtland

The motion passed.

Mr. Wyatt made a motion, seconded by Mr. Rudder that Mr. Donald M. Phillips, Jr. be charged \$1,000.00 for Count Four: Demonstrating Incompetence.

Yes votes: Mr. Wright, Mr. Rudder, Mr. Meadows, Mr. Wyatt.

Abstain: Mr. Craddock

Absent: Mr. Seroyer, Mr. Kirtland

The motion passed.

Mr. Rudder made a motion, seconded by Mr. Wright that Alabama Funeral Homes be charged \$2,500.00 for Count Four: Demonstrating Incompetence.

Yes votes: Mr. Wright, Mr. Rudder, Mr. Meadows, Mr. Wyatt.

Abstain: Mr. Craddock

Absent: Mr. Seroyer, Mr. Kirtland

The motion passed.

Mr. Wyatt made a motion, seconded by Mr. Wright that Mr. Donald M. Phillips, Jr. be charged \$1000.00 for Count Five: Lack of Full Charge and Control.

Yes votes: Mr. Wright, Mr. Rudder, Mr. Meadows, Mr. Wyatt.

Abstain: Mr. Craddock

Absent: Mr. Seroyer, Mr. Kirtland

The motion passed.

Mr. Rudder made a motion, seconded by Mr. Wright to suspend Alabama Funeral Homes' establishment license, Donald M. Phillips, Jr., funeral director and embalmer licenses for thirty days with three-year probation for Alabama Funeral Homes' establishment license and three-year probation for Donald M. Phillips, Jr., funeral director and embalmer licenses.

Yes votes: Mr. Wright, Mr. Rudder, Mr. Meadows, Mr. Wyatt.

Abstain: Mr. Craddock

Absent: Mr. Seroyer, Mr. Kirtland

The motion passed.



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Mr. Salle' informed all parties that the Boards findings would go out to the Respondents and no penalties would be in effect until the Final Order had been issued.

Adjournment

Being no other business, and no questions from the audience, Mr. Craddock asked for a motion to adjourn and reconvene at 9:00 a.m. on July 13, 2017, Mr. Wright moved to adjourn the meeting at 5:20 p.m. seconded by Mr. Meadows. The motion passed unanimously.

Minutes submitted by: E. Denise Grogan

X 

Mark Craddock
Chair

X 

Charles M. Perine
Executive Secretary