

NORTH CAROLINA
WAKE COUNTY

BEFORE THE NORTH CAROLINA
BOARD OF FUNERAL SERVICE
CASE NOS. C18-0046, C20-0005

In the matter of:

Alpha & Omega Funeral Services, Inc. d/b/a
New Beginning Funeral Home & Cremation
Respondent.

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CONSENT ORDER

THIS CAUSE, coming before the North Carolina Board of Funeral Service (hereinafter the “Board”) at its offices at 1033 Wade Avenue, Suite 108, Raleigh, North Carolina 27605, with a quorum present, the Board and Respondents stipulate and agree to entry of the following Consent Order:

1. Respondent Alpha & Omega Funeral Services, Inc. d/b/a New Beginning Funeral Home & Cremation (hereinafter “Respondent Funeral Home”) is licensed by the Board as Funeral Establishment No. 827 by the Board and, therefore, is subject to Chapter 90 of the North Carolina General Statutes and Title 21, Chapter 34 of the North Carolina Administrative Code, and the standards set forth in Funeral Industry Practices, 16 C.F.R. § 453 (1984).
2. For all times relevant to this Notice of Hearing, Mr. Daniel Worthington served as the licensed manager of Respondent Funeral Home. Mr. Worthington passed away on April 6, 2020.
3. Ms. Betty Barr Randolph was formerly licensed as Funeral Director No. 3067 and served as the manager of Randolph Funeral Home, FE Permit No. 259; Ms. Randolph’s individual license was revoked in 2012 and Randolph Funeral Home closed in 2011.
4. On January 27, 2017, an order was issued by Beaufort County Superior Court, finding that Ms. Randolph engaged in the practice of funeral service in North Carolina in violation of N.C. Gen. Stat. §§ 90-210.25 and 90-210.70 since July 2012. The court decreed that Ms. Randolph be perpetually enjoined and restrained from, in any manner, directly or indirectly, engaging in the practice of funeral service in North Carolina as defined in N.C. Gen. Stat. § 90-210.20 unless and until such time as Defendant is issued a license by Plaintiff to engage in the practice of funeral service; and that the costs of this action be taxed against Defendant.

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5. On or about May 10, 2018, Board staff received a complaint against Respondent from Wayne Anthony Jones (hereinafter “Complainant”). Board staff provided Respondent with an opportunity to respond to the Complainant’s allegations, but Respondent did not submit a written response. A Board inspector conducted an investigation and an

establishment inspection in August 2018. Evidence obtained in this matter tends to show the following:

- a. On or about January 29, 2018, the Complainant's brother, Mr. William Edwards Jones, Jr., passed away. Complainant's parents met with Ms. Randolph on behalf of Respondent to make arrangements for the decedent's funeral services. No licensed funeral director or funeral service licensee was present for the arrangements conference.
- b. Respondent Funeral Home and Ms. Randolph did not give Complainant's parents a statement of funeral goods and services selected at the arrangements conference and increased the verbally-quoted price three days later.
- c. Respondent Funeral Home and Ms. Randolph did not return all excess insurance funds received by them to pay for the services rendered.
- d. During the investigation, the Board inspector received the decedent's at-need file. Contained therein was a cremation authorization form containing the alleged signature of Mr. Worthington. However, Mr. Worthington denied signing the cremation authorization form and informed the Board inspector that Ms. Randolph forged his signature. During the investigation, Mr. Worthington also denied signing the cremation authorization form for Alice Singleton and stated that his signature thereon was a forgery.
- e. During the investigation, an employee of Respondent went to Ms. Randolph's personal residence to retrieve additional at-need file related to the decedent's services. Contained therein was a statement of goods and services signed by the decedent's parents but not by a funeral director or funeral service licensee.
- f. During the establishment inspection, the Board inspector identified multiple violations as follows:
 - i. Respondent's 2018 permit was not displayed;
 - ii. Respondent failed to refund all excess funds to the following consumers, as follows:
 1. William Edward Jones, Jr. - \$25.00
 2. Alice Singleton - \$70.00
 3. Annie Hodges - \$70.00
 4. Rosa Barrett - \$25.00
 5. Charles Mann - \$25.00
 6. Gladys Dills - \$25.00
 7. Ella Robinson - \$25.00

8. Jacqueline Murphy - \$25.00
9. Hannah Hines - \$25.00
10. Gladys Langley - \$25.00
11. Ortis Goddard - \$25.00
12. Hortense Burrus - \$70.00
13. Ella Harris - \$25.00
14. Cynthia Lovick - \$70.00
15. Janice Credle - \$25.00
16. Dorothy Edwards - \$25.00
17. Frankie Harris - \$25.00

iii. Respondent failed to retain a Statement of Funeral Goods and Services Selected that was signed by a licensee in the at-need file for the following individuals:

1. William Edward Jones, Jr.
2. Frankie Harris
3. Clifton Hollaway
4. Wanda Russell
5. Clifford Smith
6. Alson Pender
7. Charles Mann
8. William Boston, Jr.

iv. Respondent failed to retain a Statement of Funeral Goods and Services Selected in the at-need file for the following individuals:

1. Marlin Pope
2. Delphine Credle
3. Johnny Eason
4. Dwayne Whitney
5. Mary Cotton
6. Mamie Harris

v. Respondent did not retain a BFS Form 56D1 or its predecessor form in the at-need file for the following individuals:

1. William Edward Jones, Jr.
2. Marlin Pope
3. Clifton Hollaway
4. Wanda Russell
5. Clifford Smith
6. Helen Lewis
7. Earl O'Neal

8. Alson Pender
9. Delphine Credle
10. Willie Boston, Jr.
11. Alice Singleton
12. Johnny Eason

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6. On or about January 22, 2020, Board staff received a complaint against Respondent from Deidre Glaspie (hereinafter “Complainant”). Board staff provided Respondent with an opportunity to respond to the Complainant’s allegations, and Respondent did so on or about March 10, 2020. A Board inspector conducted an investigation thereafter. Evidence obtained in this matter tends to show the following:
 - a. On or about December 11, 2019, the Complainant’s grandmother, Dorothy Marie Rogers, passed away.
 - b. On or about December 12, 2019, Complainant met with a non-licensed individual behalf of Respondent Funeral Home to make arrangements for the decedent’s funeral services. No licensed funeral director or funeral service licensee was present for the arrangements conference.
 - c. Upon information and belief, Respondent Funeral Home did not give Complainant a statement of funeral goods and services selected at the arrangements conference and increased the verbally-quoted price thereafter.
 - d. Upon information and belief, Respondent Funeral Home allowed a non-licensed employee, Mr. Frederick Benston, to embalm the decedent.

CONCLUSIONS OF LAW

7. Respondent is subject to jurisdiction before the Board.
8. The acts and omissions of Respondent described in Paragraphs 1-6 constitute fraud or misrepresentation in the operation of a licensee’s business, in violation of N.C. Gen. Stat. § 90-210.25(e)(1)b.
9. The acts and omissions of Respondent described in Paragraphs 1-6 constitute aiding and abetting an unlicensed person to perform services under Articles 13A and 13F, Chapter 90, of the North Carolina General Statutes, in violation of N.C. Gen. Stat. § 90-210.25(e)(1)h.
10. The acts and omissions of Respondent described in Paragraphs 1-6 constitute violating or cooperating with others to violate any of the provisions of Articles 13A and 13F,

Chapter 90, of the North Carolina General Statutes, the standards set forth in the Funeral Industry Practices, 16 § C.F.R. 353, and any rules and regulations of the Board, in violation of N.C. Gen. Stat. § 90-210.25(e)(1)j., as follows:

- a. N.C. Gen. Stat. § 90-210.25(d)(1), for failing to conspicuously display its funeral establishment permit in the establishment;
 - b. N.C. Gen. Stat. § 90-210.125(a)(14), for failing to obtain the signature of a licensed funeral director or crematory licensee on a cremation authorization form prior to cremation;
 - c. 16 C.F.R. § 453.2(b)(5)(i), for failure to give consumers itemized written statement for retention to each person who arranges a funeral or other disposition of human remains, at the conclusion of the discussion of arrangements;
 - d. 16 C.F.R. § 453.6, for failure to retain a statement of funeral goods and services selected for at least one year after the date of the arrangements conference;
 - e. N.C. Gen. Stat. § 90-210.25(e), for failure to provide to consumers and retain a written statement duly signed by a licensee of said funeral establishment showing the price of the service as selected and what services are included therein, the price of each of the supplemental items of services or merchandise requested, and the amounts involved for each of the items for which the funeral establishment will advance moneys as an accommodation to the person making arrangements, insofar as any of the above items can be specified at that time;
 - f. 21 N.C. Admin. Code 34B .0613, for failure to retain a copy of the statement of funeral goods and services selected for at least two years; and
 - g. 21 N.C. Admin. Code 34C .0303(f), for failure to retain all records required by 21 N.C. Admin. Code 34C .0303(c), or those forms documenting the release of human remains from a funeral establishment on Board forms.
11. The acts and omissions of Respondent described in Paragraphs 1-6 constitute failure to refund any insurance proceeds received as consideration in excess of the funeral contract purchase price within 30 days of receipt.

BASED upon the foregoing Findings of Fact and Conclusions of Law, and in lieu of further proceedings, Respondent wishes to resolve this matter by consent and agree that Board staff and counsel may discuss this Consent Order with the Board *ex parte* whether or not the Board accepts this Consent Order as written.

Whereas Respondent acknowledges that it has read this entire document and understands it;

Whereas Respondent acknowledges that it enters into this Consent Order freely and voluntarily;

Whereas Respondent acknowledges that it has had full and adequate opportunity to confer with legal counsel in connection with this matter;

Whereas Respondent understands that this Consent Order must be presented to the Board for approval and that Respondents hereby waive any argument that any Board members considering this Consent Order are disqualified from participating in a hearing of this matter; and

Whereas the Board has determined that the public interest is served by resolving this matter as set forth below.

THEREFORE, with the consent of Respondents, it is ORDERED that:

1. The establishment permit of Respondent Funeral Home is hereby suspended for a period of five (5) years, provided, however, that said suspension is stayed on the following terms and conditions:
 - a. The establishment permit of Respondent Funeral Home shall be actively suspended for a period of at least two (2) years. Thereafter, Respondent Funeral Home shall be on probation for the remainder of the stayed suspension, during which time it shall comply with all statutes and rules governing the practice of funeral service;
 - b. Prior to completion of its active suspension, and on or before August 31, 2022, Respondent Funeral Home shall pay a compromise penalty of Five Thousand Dollars (\$5,000.00) to the Civil Penalty and Forfeiture Fund in accordance with Article 31A of Chapter 115C of the North Carolina General Statutes;
 - c. Within thirty (30) days following the entry of this Consent Order, Respondent Funeral Home shall provide to the Board evidence that it has refunded the moneys owed to the consumers identified in Paragraph 5(f)(ii) above;
 - d. Respondent Funeral Home shall disassociate its business from Betty Barr Randolph in all ways, including but not limited to any financial, operational and marketing relationship. Respondent Funeral Home shall not allow Ms.

Randolph to discuss funeral services with individuals on behalf of Respondent Funeral Home without prior written approval from the Board. If Respondent Funeral Home violates this condition, the stay of the suspension of the funeral establishment permit of Respondent Funeral Home shall be automatically lifted without further proceedings.

2. The Board shall retain jurisdiction under Article 3A, Chapter 150B for all administrative hearings held in connection with or pursuant to this Consent Order. If the Board receives evidence that Respondents have violated any term of this Consent Order or any other law or rule enforced by the Board, the Board shall schedule a show cause hearing for a determination of the violations. If the Board determines that a violation has occurred, the Board may impose such disciplinary action as it determines is appropriate and is authorized by law.
3. This Consent Order shall take effect immediately upon its execution by all parties and reflects the entire agreement between Respondents and the Board, there being no agreement of any kind, verbal or otherwise, which varies, alters, or modifies this Consent Order.
4. No modification or waiver of any provision of this Consent Order shall be effective unless it is in writing, adopted and approved by the Board, and signed by the parties affected.
5. Both the Board and Respondents participated in the drafting of this Consent Order. Any ambiguities herein shall not be construed against either party in any future civil or administrative proceeding.
6. Respondents hereby waive any requirement under any law or rule that this Consent Order be served upon them.
7. Upon its execution by the Board and Respondents, this Consent Order shall become a public record within the meaning of Chapter 132 of the North Carolina General Statutes and shall be subject to public inspection and dissemination pursuant to the provisions thereof.

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CONSENTED TO:

Alpha & Omega Funeral Services, Inc.
d/b/a New Beginning Funeral Home & Cremation

By: Matthew Donovan Phillips, Jr. Date: 08/03/2021
Matthew Donovan Phillips, Jr.
Manager

By Order of the North Carolina Board of Funeral Service, this the 12 day of
August, 2020.

By: Phillip Mark Blake
Phillip Mark Blake
Board President