

NORTH CAROLINA
WAKE COUNTY

BEFORE THE NORTH CAROLINA
BOARD OF FUNERAL SERVICE
CASE NOS. R21-0025, M21-0014,
C20-0064

In the matter of:

Carolina Cremation Services, LLC d/b/a
Carolina Cremation Center,
Respondent

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:

FINDINGS OF FACT

1. Carolina Cremation Services, LLC d/b/a Carolina Cremation Center (hereinafter "Respondent Crematory") holds Crematory Permit No. 0081 issued 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. Between approximately February 25, 2019 through January 31, 2020, Respondent failed to employ a crematory manager, in accordance with N.C. Gen. Stat. § 90-210.121(13). On or about October 9, 2019, the Board's Compliance Officer, Inspector Lisenbee, provided Respondent Crematory with a detailed Compliance Opinion (No. CO19-011), advising Respondent Crematory on the statutes and laws governing a crematory's obligations to employ a crematory manager.
3. Notwithstanding Compliance Opinion No. CO19-011, Respondent Crematory failed to employ a crematory manager in accordance with N.C. Gen. Stat. § 90-210.121(13) since on or about September 29, 2020. On or about April 15, 2021, Mr. Jordan Kim Key submitted an application for crematory manager on behalf of Respondent Crematory.

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4. Crematory Permit No. 0081 expired on December 31, 2020.
5. Respondent Crematory failed to deliver an application for renewal of said permit with payment of applicable renewal fee(s) to the Board by the close of business on February 1, 2021, thereby failing to renew said permit.
6. Since January 1, 2021, Respondent has engaged in the practice of funeral service and cremation, as defined in N.C. Gen. Stat. §§ 90-210.20(k) and 90-210.121(7).

7. On or about April 26, 2021, Respondent Crematory submitted its 2021 Crematory Licensee Renewal Application to the Board.

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8. On or about October 20, 2020, Board Inspector Christopher Stoessner conducted a routine crematory inspection of Respondent Crematory and found evidence tending to show violations of statutes and rules governing the practice of funeral service and cremation, as follows:
- a. Respondent Crematory did not employ a crematory manager, in accordance with N.C. Gen. Stat. § 90-210.121(13);
 - b. The crematory's manufacturer or other maintenance service representative recommended in July 2020 that the main chamber and after burner side walls and roof of the refractory needed to be replaced and Respondent Crematory had not done so, in violation of 21 NCAC 34C .0201(a)(2)(B);
 - c. Respondent Crematory did not have a pollution monitoring system to monitor and detect smoke when density exceeds applicable federal and state standards, whereupon the system will automatically stop the burner operation on a time setting of not less than three minutes, in violation of 21 NCAC .0201(a)(2)(D);
 - d. Respondent Crematory had cremated the following decedents without first obtaining positive identification of the human remains, in violation of N.C. Gen. Stat. § 90-210.125(a)(1):
 - i. Cassandra Denise Howard;
 - ii. Randy Lee Coe;
 - iii. Mary Osborne Richardson;
 - iv. Eddie Gray Wilkins
 - e. Respondent Crematory—in offering services directly to the general public—did not maintain a General Price List containing accurate price information, in violation of 16 CFR § 453.2(a) and N.C. Gen. Stat. § 90-210.123(d1);
 - f. Respondent Crematory—in offering services directly to the general public—did not include on its General Price List the price of direct cremation with container(s) purchased from funeral home, in violation of 16 CFR § 453.2(b)(4)(ii)(C)(2) and N.C. Gen. Stat. § 90-210.123(d1); and

- g. Respondent Crematory—in offering services directly to the general public—did not maintain on its General Price List casket price ranges or disclosures, in violation of 16 CFR § 453.2(b)(4)(iii)(A)(1)-(2) and N.C. Gen. Stat. § 90-210.123(d1);
 - h. Respondent Crematory—in offering services directly to the general public—did not maintain a Casket Price List, in violation of 16 CFR § 453.2(b) and N.C. Gen. Stat. § 90-210.123(d1);
 - i. Respondent Crematory did not maintain or use certificates of cremation that contain all required information, in that the certificates were missing the address of the crematory and the Crematory Manager's signature, in violation of N.C. Gen. Stat. § 90-210.121(5); and
 - j. Respondent Crematory's monthly cremation reports did not correspond with its files and records, in that Respondent Crematory failed to include all cremations performed on its September 2020 cremation report to the Board and failed to timely submit its month cremation reports to the Board in July 2020, August 2020, and January 2021, in violation of 21 NCAC 34C .0305.
9. Since October 20, 2020, Respondent Crematory has taken steps to resolve the deficiencies identified by Inspector Stoessner in the crematory inspection report.

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10. On or about August 29, 2020, the Board received a complaint from James Pearson (hereinafter "Complainant"). Evidence obtained in this matter tends to show the following:
- a. On or about July 30, 2020, Complainant met with Austin Martin, an unlicensed representative of Respondent Crematory, to sign cremation authorization documents, so that Respondent Crematory could cremate his deceased father, Michael Kraig Pearson (hereinafter "Decedent"). During this meeting, Mr. Martin discussed pricing and payment arrangements with the Complainant for the Decedent's direct cremation;
 - b. Respondent Crematory failed to obtain a cremation authorization form in compliance with N.C. Gen. Stat. § 90-210.125(a) prior to arranging for the cremation of the Decedent, in that the cremation authorization form did not provide the name and signature of the individual confirming the identity of the Decedent;
 - c. On or about August 12, 2020, the Decedent was cremated.
 - d. On or about August 15, 2020, Complainant went to Respondent Crematory to retrieve the Decedent's cremated remains. In doing so, he was given a box containing cremated remains that were labeled with his living sister's name, and not the name of the Decedent;

- e. The Form BFS 56G1 – Receipt of Human Remains, Record of Cremation, and Delivery by Crematory Licensee, signed by a representative of Respondent Crematory, bore the name of the Complainant's living sister, rather than the name of the Decedent;
- f. The Certificate of Cremation given to Complainant bore the name of the Complainant's living sister, rather than the name of the Decedent;
- g. On or about August 17, 2020, Complainant contacted Respondent Crematory and was told that Respondent Crematory had contracted with another crematory for the performance of the Decedent's cremation. Per the cremation authorization form, Complainant had not authorized another crematory to perform the Decedent's cremation.
- h. The death certificate filed by Respondent Crematory on behalf of the Decedent incorrectly provided that Respondent Crematory had performed the cremation of Decedent.

CONCLUSIONS OF LAW

- 1. Respondents are subject to jurisdiction before the Board.
- 2. The acts and omissions of Respondents described in Paragraphs 1-10 constitute fraud or misrepresentation in the operation of a licensee's business, in violation of N.C. Gen. Stat. § 90-210.123(g)(2).
- 3. The acts and omissions of Respondent described in Paragraphs 1-10 constitute violations of Article 13F of Chapter 90 of the North Carolina General Statutes, the rules of the Board, and Funeral Industry Practices, 16 CFR § 453, in violation of N.C. Gen. Stat. § 90-210.123(g)(10) as follows:
 - a. Practicing funeral service and cremation, as defined in N.C. Gen. Stat. §§ 90-210.20(k) and 90-210.121(7), without an active permit, in violation of N.C. Gen. Stat. § 90-210.123(a);
 - b. Practicing funeral service and cremation, as defined in N.C. Gen. Stat. §§ 90-210.20(k) and 90-210.121(7), without a crematory manager registered with the Board, in violation of N.C. Gen. Stat. §§ 90-210.121(13) and 90-210.123(d);
 - c. Failing to timely renew its crematory permit, in violation of N.C. Gen. Stat. § 90-210.123(e);
 - d. Cremating decedents without first obtaining cremation authorization forms in compliance with N.C. Gen. Stat. § 90-210.125;

- e. Failing to honor instructions given to it by an authorizing agent, by arranging for a non-authorized crematory to perform the Decedent's cremation, in violation of N.C. Gen. Stat. § 90-210.125(d);
 - f. Failing to maintain a cremation unit that has been maintained in accordance with recommended maintenance requirements specified by the machine's manufacturer or other maintenance service representative, in violation of 21 NCAC 34C .0201(a)(2)(B);
 - g. Failing to maintain a pollution monitoring system to monitor and detect smoke when density exceeds applicable federal and state standards, whereupon the system will automatically stop the burner operation on a time setting of not less than three minutes, in violation of 21 NCAC .0201(a)(2)(D);
 - h. Failing to label a container with cremated remains with the name of the decedent, in violation of 21 NCAC 34C .0205;
 - i. Failing to prepare and maintain an accurate Form 56G1 - Receipt of Human Remains, Record of Cremation, and Delivery by Crematory Licensee, in violation of 21 NCAC 34C .0303;
 - j. Failing to submit accurate monthly cremation reports to the Board no later than the tenth day of each month, in violation of 21 NCAC 34C .0305;
 - k. Failing to maintain or use certificates of cremation in compliance with N.C. Gen. Stat. § 90-210.121(5);
 - l. Knowingly making a false statement on a certificate of death or violating any provision of Article 4 or 16 of Chapter 130A of the General Statutes or any rules promulgated under those Articles, in violation of N.C. Gen. Stat. § 90-210.25(e)1)(m); and
 - m. Failing to comply with the standards set forth in Funeral Industry Practices, 16 CFR § 453, in violation of N.C. Gen. Stat. § 90-210.123(d1)
4. One or more of the violations described above were committed by an owner, partner, crematory manager, member, officer, crematory technician, or authorized employee, agent, or representative of Respondent Crematory. Pursuant to N.C. Gen. Stat. §§ 90-210.123(g), the Board has the authority to revoke, suspend, or refuse to issue or renew the crematory license of Respondent Crematory, or to place Respondent Crematory on probation, and to assess a civil penalty not to exceed \$5,000.00.

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 Respondent hereby waives 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 Respondent, it is ORDERED that:

1. The Crematory Permit of Respondent Crematory is renewed for 2021; provided, however, that the Crematory Permit of Respondent Crematory is suspended for two (2) years, but said suspension is stayed on the following conditions:
 - a. Respondent Crematory shall maintain a crematory manager for all times in accordance with N.C. Gen. Stat. § 90-210.121(13). Furthermore, Respondent Crematory shall keep the Board informed at all times of the names and addresses of the crematory manager and all crematory technicians, in accordance with N.C. Gen. Stat. § 90-210.123(d). Failure to comply with this provision shall result in the lifting of the stay of the suspension until such time that a show cause hearing can be held;
 - b. Respondent Crematory admits to the violations herein;
 - c. Respondent Crematory shall be placed on probation during the period of stayed suspension;
 - d. Respondent Crematory shall not violate any law or rule of the Board during the period of suspension;
 - e. Respondent Crematory shall timely respond to any and all Board and/or Board staff correspondence;
 - f. Respondent Crematory shall comply with all terms of this Consent Order;

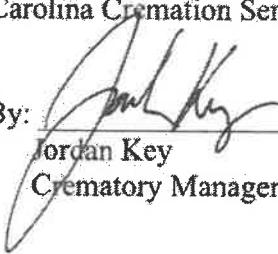
- g. Within thirty (30) days from the date this Consent Order takes effect, Respondent Crematory shall pay a compromise penalty of Two Thousand Five Hundred Dollars (\$2,500.00) to the Civil Penalty and Forfeiture Fund in accordance with Article 31A of Chapter 115C of the North Carolina General Statutes; and
 - h. All licensed employees and crematory technicians of Respondent Crematory shall complete a Board-sponsored continuing education course on cremation on or before December 31, 2021.
- 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:

Carolina Cremation Services, LLC d/b/a Carolina Cremation Center

By:


Jordan Key

Crematory Manager

Date:

5-10-2021

By Order of the North Carolina Board of Funeral Service, this the 12 day of May, 2021.

By:


Don D. Brown


Board President

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Consent Order was sent by United States Postal Service, First Class, postage prepaid, addressed to:

Robert Crawford, Esq.
The Law Offices of Robert O. Crawford, III, PLLC
4242 Six Forks Road, Ste 1550
Raleigh, NC 27609
Email: bob@crawfordlaw.biz

This the 13 day of May, 2021



Catherine E. Lee