

NORTH CAROLINA  
WAKE COUNTY

BEFORE THE NORTH CAROLINA  
BOARD OF FUNERAL SERVICE  
CASE NO. C20-0067

In the matter of:

Mills Funeral Home, Inc. and  
Gary Franklin Nobles,  
Respondents.

)  
)  
) **CONSENT ORDER**  
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)

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. Mills Funeral Home, Inc. (hereinafter "Respondent Funeral Home") is licensed as At-Need Establishment Permit No. 0391 and Preneed Establishment Permit No. 0225 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. Gary Franklin Nobles (hereinafter "Respondent Individual") is licensed as Funeral Service License No. 1825 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).
3. On or about September 14, 2020, Board staff received a complaint from Linda Eure (hereinafter "Complainant"). Board staff provided Respondents with an opportunity to respond to the Complainant's allegations, and Respondents did so on or about September 28, 2020. Evidence obtained in this matter tends to show the following:
  - a. On or about June 20, 2020, Complainant's husband died. Complainant selected Respondent Funeral Home for the decedent's funeral services, which included cremation. Complainant completed a standard cremation authorization form that directed the decedent's cremains be returned to her.
  - b. Following the cremation, Respondents failed to comply with the standard cremation authorization signed by the Complainant, in that it returned the decedent's cremains to the third party on or about July 11, 2020.
  - c. Complainant repeatedly contacted Respondents in June and July 2020 to ascertain when she could pick up the decedent's remains but was told that the cremains were not yet available. Complainant ultimately was told in

September 2020 that the Respondents had released the decedent's remains to a third party.

4. Respondent Funeral Home previously entered into a Consent Order with the Board, effective February 14, 2018, to resolve violations of the Board's statutes and rules related to the administration of preneed contracts. Pursuant to the terms of that Consent Order, Respondent Funeral Home currently is on probation until February 14, 2021.

### **CONCLUSIONS OF LAW**

1. Respondent is subject to jurisdiction before the Board.
2. The acts and omissions of Respondents violate the terms of the Consent Order into which Respondent Funeral Home entered with the Board in February 2018.
3. The acts and omissions of Respondents described in Paragraphs 1-4, violate N.C. Gen. Stat. § 90-210.25(e)(1), which prohibits violating any provision of Article 13A and 13F of Chapter 90 of the North Carolina General Statutes, all rules and regulations of the Board, and the standards set forth in 16 C.F.R. § 453 (1984), as amended from time to time.
4. The acts and omissions of Respondents described in Paragraphs 1-4, violate N.C. Gen. Stat. § 90-210.130, by failing to properly release remains to an authorizing agent and in accordance with a duly-executed cremation authorization form.
5. One or more of the violations described above were committed by any officer, director, manager, partner, operator, or member of Respondent Funeral Home or by any person, employee, or agent with the consent of any person, firm, or corporation operating it. Pursuant to N.C. Gen. Stat. § 90-210.25(d)(4), the Board has the authority to revoke, suspend, or refuse to issue or renew the funeral establishment permits of Respondent Funeral Home, to place Respondent Funeral Home on probation, and/or to assess a civil penalty not to exceed \$5,000.00.
6. Respondent Individual committed one or more of the violations described above. Pursuant to N.C. Gen. Stat. §§ 210.25(e)(1), the Board has the authority to suspend, revoke, or refuse to issue or renew the funeral service license of Respondent Individual. The Board concludes that Respondent Individual committed the aforementioned violations but remain fit to practice. Pursuant to N.C. Gen. Stat. § 90-210.25(e)(2), the Board has the authority to place Respondent Individual on probation, to require satisfactory completion of remedial or education training, 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, Respondents wish 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 Respondents acknowledge that they have read this entire document and understand it;

Whereas Respondents acknowledge that they enter into this Consent Order freely and voluntarily;

Whereas Respondents acknowledge that they have had full and adequate opportunity to confer with legal counsel in connection with this matter;

Whereas Respondents understand 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 At-Need Establishment Permit of Respondent Funeral Home is suspended for two (2) years, but said suspension is stayed on the following conditions:
  - a. Respondent Funeral Home admits to the violations herein;
  - b. Respondent Funeral Home shall be placed on probation during the period of stayed suspension;
  - c. Respondent Funeral Home shall not violate any law or rule of the Board during the period of suspension;
  - d. Respondent Funeral Home shall timely respond to any and all Board and/or Board staff correspondence;
  - e. Respondent Funeral Home shall comply with all terms of this Consent Order;
  - f. Within thirty (30) days from the date this Consent Order takes effect, Respondent Funeral Home shall pay a compromise penalty of Two Thousand Five Hundred (\$2,500.00) Dollars to the Civil Penalty and Forfeiture Fund in accordance with Article 31A of Chapter 115C of the North Carolina General Statutes; and

- g. All licensed employees of Respondent Funeral Home shall complete a Board-sponsored continuing education course on cremation on or before June 30, 2021.
- 2. The Funeral Service License of Respondent Individual is suspended for two (2) years, but said suspension is stayed on the following conditions:
  - a. Respondent Individual admits to the violations herein;
  - b. Respondent Individual shall be placed on probation during the period of stayed suspension;
  - c. Respondent Individual shall not violate any law or rule of the Board during the period of suspension;
  - d. Respondent Individual shall timely respond to any and all Board and/or Board staff correspondence;
  - e. Respondent Individual shall comply with all terms of this Consent Order; and
  - f. Respondent Individual shall complete a Board-sponsored continuing education course on cremation on or before June 30, 2021.
- 3. 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 Respondent has 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.
- 4. This Consent Order shall take effect immediately upon its execution by all parties and reflects the entire agreement between Respondent and the Board, there being no agreement of any kind, verbal or otherwise, which varies, alters, or modifies this Consent Order.
- 5. 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.
- 6. Both the Board and Respondent 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.

7. Respondent hereby waive any requirement under any law or rule that this Consent Order be served upon them.
8. Upon its execution by the Board and Respondent, 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:

Mills Funeral Home, Inc.

By: Craig Randolph Mills Date: 2/9/2021  
Craig Randolph Mills  
Manager

Gary Franklin Nobles

Gary Franklin Nobles Date: 2/9/2021

By Order of the North Carolina Board of Funeral Service, this the 19<sup>th</sup> day of  
February, ~~2020~~  
2021.

By:

Don Brown  
~~Phillip Mark Blake~~ Don Brown  
Board President