

NORTH CAROLINA  
WAKE COUNTY

BEFORE THE NORTH CAROLINA  
BOARD OF FUNERAL SERVICE  
CASE NO. C20-0087

Lori's Funeral Home & Cremation )  
Services of Raleigh and Lori Chappell )  
Green Washington, )  
Respondents )

NORTH CAROLINA  
WAKE COUNTY

BEFORE THE NORTH CAROLINA  
BOARD OF FUNERAL SERVICE  
CASE NO. C20-0088

In the matter of: )  
 )  
Cutchins Family Mortuary & Cremations )  
and Joseph Benjamin Cutchins, Jr. )  
Respondents )

<b>FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL AGENCY DECISION</b>
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In accordance with N.C. Gen. Stat. § 150B-40(d), the North Carolina Board of Funeral Service (hereinafter the "Board") issues the following Findings of Fact, Conclusions of Law, and Final Agency Decision in this matter.

The record reflects that a quorum of the Board was present at the hearing held on April 14, 2021, and at the time the Board made this decision on April 14, 2021. The record further reflects that Board members Steven Lyons and Stephen Herndon did not participate in the hearing or deliberations of this case because they served on the Board's Disciplinary Committee at the time this particular matter was reviewed. Furthermore, Chris Watson recused himself from this matter. At the hearing, Catherine E. Lee, General Counsel, appeared for Board staff; Jeffrey Gray, Esq. appeared as administrative law counsel for the Board; and Hart Miles, Esq., appeared for Respondents.

Before the hearing, the following inquiry was read aloud in accordance with state ethics laws: "[d]oes any board member have any known conflict of interest with respect to this matter coming before the Board today? If so, please identify the conflict or appearance of conflict and refrain from any undue or inappropriate participation in the particular matter involved." No Board members, other than Dr. Lyons, Mr. Herndon, and Mr. Watson, stated that they had a conflict of interest or the appearance of a conflict of interest.

PETITIONER'S LIST OF EXHIBITS

1. Notice of Hearing for C20-0087

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2. Notice of Hearing for C20-0088
3. Return of Service for C20-0087 Notice of Hearing
4. Return of Service for C20-0088 Notice of Hearing
5. iGov Profiles for C20-0087 Respondents
6. iGov Profiles for C20-0088 Respondents
7. Complaint and Supporting Documents Submitted by [REDACTED]
8. First Citizens Master Preneed Plan for Cutchins Family Mortuary & Cremations (Sept. 30, 2020)
9. Negotiated Checks Paid by [REDACTED] toward Preneed Contracts
10. Response from C20-0087 Respondents
11. Response from C20-088 Respondents
12. Board Investigation Report for C20-0087 and C20-0088
13. Non-negotiated Refund Checks Made Payable to [REDACTED]
14. Preneed Receipts Written for Payments by [REDACTED]
15. Preneed Contract File for [REDACTED] Maintained at Cutchins Family Mortuary & Cremations
16. Preneed Contract Documents for [REDACTED] Maintained at Lori's Funeral Home & Cremation Services of Raleigh
17. Preneed Contract File for [REDACTED] Maintained at Cutchins Family Mortuary & Cremations
18. Preneed Contract Documents for [REDACTED] Maintained at Lori's Funeral Home & Cremation Services of Raleigh
19. Board Investigator's Summary of Financial Transactions between Respondents and the [REDACTED]
20. Affidavit of Marsha Cousins from State Employees' Credit Union
21. Facsimile from C20-0087 Respondents re Non-Negotiated Refund Checks
22. Documents and Certification Received from PNC Bank, N.A.
23. Rebuttal Submitted by [REDACTED]
24. Preneed Recovery Fund Application Submitted by [REDACTED]
25. Preneed Recovery Fund Application Submitted by [REDACTED]

RESPONDENTS' LIST OF EXHIBITS

1. Receipt from Financial Institution Showing Deposit of Funds into [REDACTED] trust accounts

FINDINGS OF FACT

1. Lori Chappell Green Washington (hereinafter "Respondent Washington") is licensed as Funeral Director No. 3678 and, therefore, is subject to Chapter 90 of the North Carolina

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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 proceeding, Respondent Washington served as the licensed manager of Lori's Funeral Home & Cremation Services of Raleigh ("Respondent Lori's Funeral Home"), which holds At-Need Establishment Permit No. 0218. Respondent Lori's Funeral Home 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. Joseph Benjamin Cutchins, Jr. (hereinafter "Respondent Cutchins") is licensed as Funeral Director No. 2738 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).
4. For all times relevant to this proceeding, Respondent Cutchins served as the licensed manager of Cutchins Family Mortuary & Cremations ("Respondent Cutchins Family Mortuary"), which holds At-Need Establishment Permit No. 0838 and Preneed Establishment Permit No. 0057. Respondent Cutchins Family Mortuary 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).
5. For all times relevant to this proceeding, Respondent Lori's Funeral Home did not hold a Preneed Establishment Permit.
6. For all times relevant to this proceeding, Respondent Washington held a preneed sales license on behalf of Respondent Cutchins Family Mortuary.
7. Respondent Washington currently is the sole proprietor of several funeral establishments in North Carolina, including Respondent Lori's Funeral Home and Respondent Cutchins Family Mortuary.
8. On or about November 17, 2020, Board staff received a complaint from [REDACTED] (hereinafter "Complainant"). Evidence obtained in this matter tends to show the following:
  - a. On or about September 2, 2016, Complainant's parents—[REDACTED]—entered into inflation-proof trust-funded irrevocable preneed contracts (the "Preneed Contracts") with Respondent Washington on behalf of Respondent Cutchins Family Mortuary.

- b. According to the terms of the Preneed Contracts, [REDACTED] paid ten dollars (\$10.00) in preneed payments upon execution of the Preneed Contracts and intended to make monthly installments of preneed payments thereafter.
- c. Between September 2016 and February 2020, [REDACTED] mailed to Respondent Washington checks that were intended as periodic preneed payments toward the Preneed Contracts, totaling \$1,850.00.
- d. The payments referenced in Paragraph 4(c) were given to Respondent Washington by [REDACTED] and made payable to "Lori's Cremation Services," "Lori's Cremation," "Lori's Co. Inc.," "Lori's & Co. Inc.," or "Lori's Inc."
- e. Of the payments referenced in Paragraph 4(c), Respondents only deposited approximately \$410.00 into trust.
- f. Respondent Washington negotiated the checks referenced in Paragraph 4(c). Thereafter, Respondent Washington attempted to refund these payments to the [REDACTED] at the [REDACTED] request, by issuing checks to the [REDACTED] totaling \$1,500.00. However, the checks that Respondent Washington issued to the [REDACTED] to refund the payments never were negotiated by [REDACTED]
- g. Respondent Washington failed to maintain complete and accurate preneed contract files for [REDACTED] in that the files were missing copies of preneed checks paid by [REDACTED], copies of deposit slips; and copies of receipts given to [REDACTED]
- h. Respondent Washington testified and accepted responsibility for failing to properly maintain the preneed contract files for [REDACTED] and indicated that this failure was an isolated incident.
- i. Respondent Washington demonstrated that the trust accounts of [REDACTED] were now properly funded.

#### CONCLUSIONS OF LAW

- 1. The acts and omissions of Respondent Washington described in Paragraphs 1-8 constitute a failure to deposit preneed funeral funds into a trust account within five (5) business days from the date of receipt, in violation of N.C. Gen. Stat. § 90-210.61(a)(1).

2. The acts and omissions of Respondents described in Paragraphs 1-8 constitute a failure to retain the complete physical files for preneed contracts sold, in violation of N.C. Gen. Stat. § 90-210.68(a) and 21 NCAC 34D .0301(b), (c).

### FINAL AGENCY DECISION

The North Carolina Board of Funeral Service hereby issues the following decision:

1. The Preneed Establishment Permit of Respondent Cutchins Family Mortuary & Cremations shall be issued a non-disciplinary letter of caution, in which the Board shall recommend that Respondent Cutchins take a Board-sponsored continuing education course on preneed laws and rules on or before December 31, 2021.
2. The Preneed Sales License of Respondent Washington shall be suspended for one year following the effective date of this Final Agency Decision, provided that said suspension shall be stayed upon the following terms and conditions:
  - a. Within ninety (90) days following the effective date of this Final Agency Decision, Respondent Washington shall pay a civil 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;
  - b. Respondent Washington shall take a Board-sponsored continuing education course on preneed laws and rules on or before December 31, 2021; and
  - c. During the period of stayed suspension, Respondent Washington shall comply with all statutory and regulatory provisions governing the practice of funeral service.
3. The Board shall retain jurisdiction under Article 3A, Chapter 150B for all administrative hearings held in connection with, or pursuant to, this Final Agency Decision. If the Board receives evidence of any violations of the Board's statutes and rules identified during the period of stayed suspension, or any violation of the terms and conditions of this Final Agency Decision, 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.

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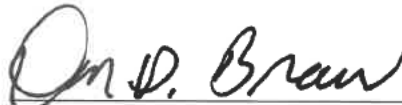
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4. Pursuant to N.C. Gen. Stat. § 150B-45(a)(2), Respondents have thirty (30) days from the date that they receive this Final Agency Decision to file a Petition for Judicial Review. The Petition for Judicial Review must be filed in the Superior Court of the county where the person aggrieved by the administrative decision resides, or in the case of a person residing outside the State, in the county where the contested case which resulted in the final decision was filed. Since this is an administrative appeal, no additional evidence will be taken. If a Petition is filed, a Superior Court Judge will review the Final Agency Decision to determine whether there were any legal errors in the Final Agency Decision.
5. This Final Agency Decision shall take effect upon service of Respondents, in a manner consistent with N.C. Gen. Stat. § 150B-42(a).

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

By:



Don D. Brown

N.C. Board of Funeral Service

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### **CERTIFICATE OF SERVICE**

I hereby certify that the foregoing **Findings of Fact, Conclusions of Law, and Final Agency Decision** was served upon the following persons by electronic mail and by US Mail, First Class, Postage Prepaid, and addressed as follows:

Hart Miles, Esq.  
Cheshire Parker Schneider, PLLC  
PO Box 1029  
Raleigh, NC 27602  
Email: [Hart.Miles@cheshirepark.com](mailto:Hart.Miles@cheshirepark.com)

*Attorney for Respondents*

This, the 13 day of May, 2021

  
\_\_\_\_\_  
Catherine E. Lee  
General Counsel