

NORTH CAROLINA
WAKE COUNTY

BEFORE THE NORTH CAROLINA
BOARD OF FUNERAL SERVICE
CASE NO. C21-0024

In the matter of:

Bass-Smith Funeral Home, Inc.
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:

FINDINGS OF FACT

1. Bass-Smith Funeral Home, Inc. (hereinafter "Respondent Funeral Home") holds Funeral Establishment Permit No. 0023 and Preneed Establishment Permit No. 0226 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. On or about February 26, 2021, the Board received a complaint from Kendra Quinlan (hereinafter "Complainant"). Evidence obtained in this matter tends to show the following:
 - a. On or about December 11, 2020, Complainant's husband, Michael Quinlan (the "Decedent"), died. Respondent Funeral Home handled the Decedent's removal that day.
 - b. On December 14, 2020, Complainant and her family met with Respondent Funeral Home for an arrangements conference to select funeral goods and services for the Decedent. During the conference, Complainant made arrangements for the Decedent's selection in a body donation program.
 - c. On or about December 15, 2020, Complainant was informed that the body donation program had cancelled its arrangements for the donation of Decedent's body because Respondent Funeral Home had not refrigerated the Decedent's unembalmed body between December 11, 2020 and December 15, 2020.

CONCLUSIONS OF LAW

1. Respondents are subject to jurisdiction before the Board.

2. The acts and omissions of Respondent described in Paragraphs 1-2 violate N.C. Gen. Stat. § 90-210.27A(1), in that Respondent failed to refrigerate an unembalmed body in its custody for more than 24 hours.
3. One or more of the violations described above were committed by an owner, partner, manager, member, operator, or officer of the funeral establishment, or by an agent or employee of the funeral establishment, with the consent of any person, firm or corporation operating the funeral establishment. 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 permit of Respondent Funeral Home, or to place Respondent Funeral Home 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 Funeral Establishment Permit of Respondent Funeral Home is suspended for twelve (12) months, but said suspension is stayed on the following conditions:
 - a. Respondent Funeral Home admits to the violation 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 Crematory shall pay a compromise penalty of One Thousand Five Hundred (\$1,500.00) Dollars to the Civil Penalty and Forfeiture Fund in accordance with Article 31A of Chapter 115C of the North Carolina General Statutes; and
- 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 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.
 - 3. 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.
 - 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 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.
 - 6. Respondent hereby waives any requirement under any law or rule that this Consent Order be served upon them.
 - 7. 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.
 - 8. Nothing in this Consent Order shall be construed as precluding Respondent from disputing any claim or issue other than the violation expressly acknowledged herein.

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CONSENTED TO:

Bass-Smith Funeral Home, Inc.

By: Mitchell D. Sigmon Date: 7-19-2021
Mitchell Derek Sigmon
Licensed Manager

By Order of the North Carolina Board of Funeral Service, this the 21 day of July,
2021.

By: Don D. Brown
Don D. Brown
Board President