

NORTH CAROLINA
WAKE COUNTY

BEFORE THE NORTH CAROLINA
BOARD OF FUNERAL SERVICE
CASE NO. C22-0042

In the matter of:

Phillips Brothers and Anderson
Memorial Mortuary Inc. and Charles Lee
Edwards,
Respondents.

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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 Phillips Brothers & Anderson Memorial Mortuary (hereinafter "Respondent Funeral Home"), is licensed by the Board as Funeral Establishment Permit No. 0465 and Preneed Establishment Permit No. 0837 and, therefore, is subject to Chapter 90 of the North Carolina General Statutes and Title 21, Chapter 34 of the North Carolina Administrative Code.
2. Respondent Charles Lee Edwards (hereinafter "Respondent Individual" or collectively with Respondent Funeral Home as "Respondents") is licensed by the Board as Funeral Director No. 3633 and, therefore, is subject to Chapter 90 of the North Carolina General Statutes and Title 21, Chapter 34 of the North Carolina Administrative Code.
3. Since approximately August 2021, Respondent Individual has been the licensed manager of Respondent Funeral Home. Respondent Individual currently holds a preneed sales license on behalf of Respondent Funeral Home.
4. On or about August 31, 2010, the Complainant's father, Mr. Alston Vines, met with representatives of Respondent Funeral Home for a pre-arrangement conference.
5. During the pre-arrangement conference, Mr. Vines completed paperwork to change the beneficiary of a pre-existing insurance policy (the "Policy") to be Respondent Funeral Home. The change of beneficiary form was notarized by Agnes Clemmons, who Respondent Individual identified to Inspectors Stoessner as a representative of Respondent Funeral Home.
6. Respondent Funeral Home did not complete the preneed contract for Mr. Vines in writing on a form prescribed by the Board.
7. Respondent Funeral Home did not file with the Board a preneed contract on Mr. Vines' behalf.

8. Respondent Funeral Home did not retain a copy of a preneed contract for Mr. Vines.
9. On or about March 19, 2022, Mr. Vines died. The family of Mr. Vines chose to make funeral service arrangements for Mr. Vines with a funeral home other than Respondent Funeral Home.
10. On or about April 7, 2022, Respondents received the death benefit from the Policy, made payable to Respondent Funeral Home in the amount of \$3,685.00. Respondents did not remit the proceeds from the Policy to the successor funeral home chosen to perform at-need services, or to anyone else per the terms of the policy within thirty (30) days of receipt.
11. On or about May 31, 2022, Inspector Stoessner advised Respondents that the proceeds of the Policy should be paid by Respondent Funeral Home to the performing funeral home or per the terms of the policy. On or about June 3, 2022, Respondents remitted the proceeds from the Policy to the performing funeral establishment.
12. In October of 2011, the family of Ms. Vines paid for two burial plots at Homestead Memorial Gardens as a Cash Advance item reflected on the At-Need SGFSS ["contract"] for Ms. Betty Vines. Upon Mr. Vines' death in March 2022, it is alleged that the Respondents charged the family of Mr. Vines \$750 for Mr. Vines' burial plot. Upon information and belief, Respondents charged the family of Mr. Vines \$750 for a burial plot that the family already had purchased.

CONCLUSIONS OF LAW

1. Respondents are subject to jurisdiction before the Board.
2. The acts and omissions of Respondents described in Paragraphs 1-12 constitute a failure to properly maintain accurate and complete preneed records and forms, in violation of N.C. Gen. Stat. § 90-210.68(a) and 21 N.C. Admin. Code 34D .0301(c)(2) and (c)(4).
3. The acts and omissions of Respondent Funeral Home described in Paragraphs 1-12 constitute a failure to fully complete and execute a preneed contract in writing on a form prescribed by the Board, as required by N.C. Gen. Stat. § 90-210.62 and 21 N.C. Admin. Code 34D .0101.
4. The acts and omissions of Respondent Funeral Home described in Paragraphs 1-12 constitute a failure to timely file a preneed contract with the Board, in violation of N.C. Gen. Stat. § 90-210.67(d), and 21 NCAC 34D .0105.

5. The acts and omissions of Respondents described in Paragraphs 1-12 constitute a failure to accurately complete their preneed annual reports, in violation of N.C. Gen. Stat. § 90-210.68(a) and 21 NCAC 34D .0302.
6. The acts and omissions of Respondents described in Paragraphs 1-12 constitute a failure to refund any insurance proceeds received as consideration in excess of the funeral contract purchase price within thirty (30) days of receipt, in violation of N.C. Gen. Stat. § 90-210.25(e)(1)(o).
7. The acts and omissions of Respondents described in Paragraphs 1-12 constitute a failure to provide a refund for the price of goods and services paid for but not fulfilled, in violation of N.C. Gen. Stat. § 90-210.25(e)(1)(p).
8. The acts and omissions of Respondents described in Paragraphs 1-12 violate N.C. Gen. Stat. § 90-210.25(e)(1)j., which prohibits violating or cooperating with others to violate the laws, rules and regulations of the Board, or the standards set forth in Funeral Industry Practices, 16 C.F.R. § 453 (1984), as amended from time to time.
9. The acts and omissions of Respondents described in Paragraphs 1-12 violate N.C. Gen. Stat. § 90-210.69(c)(6), which prohibits violating or cooperating with others to violate the laws, rules and regulations of the Board, or the standards set forth in Funeral Industry Practices, 16 C.F.R. § 453 (1984), as amended from time to time.

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 establishment permit and preneed establishment permit of Respondent Funeral Home are hereby suspended for a period of five (5) years, provided, however, that said suspensions are stayed on the following terms and conditions:
 - a. The preneed establishment permit of Respondent Funeral Home shall be actively suspended for a period of at least one (1) year. During the period of active suspension, Respondent Funeral Home is prohibited from selling any preneed contracts or accepting any preneed funds to fund any new or existing preneed contract. Respondent Funeral Home shall retain custody of the preneed contracts for which it currently serves as trustee, provided that Respondent Funeral Home complies with all statutes and rules regulating preneed contracts during the period of active suspension, including but not limited to timely filing of all Preneed Annual Reports. Upon Respondent Funeral Home submitting to, and passing without substantial deficiency, a preneed examination conducted by a Board Staff Inspector on or before December 2023, the active suspension shall be stayed. 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 as set forth above, and on or before December 31, 2023, 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 Seven Hundred Fifty Dollars (\$750.00) to the family of Mr. Vines.
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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In the Matter of: Phillips Brothers and Anderson Memorial Mortuary, Inc.
and Charles Lee Edwards
Board Case No. C22-0042
Consent Order
Page | 6

CONSENTED TO:

Phillips Brothers and Anderson Memorial Mortuary, Inc.

By: Charles Lee Edwards Date: 12-12-22
Charles Lee Edwards
Manager

Charles Lee Edwards Date: 12-12-22
Charles Lee Edwards

By Order of the North Carolina Board of Funeral Service, this the 14th day of December, 2022.

By: Christian E. Watson
Christian E. Watson
Board President

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Consent Order was served upon the following person by depositing a copy of the foregoing document by electronic mail and US Mail, postage prepaid, First Class, and addressed as follows:

W. Walton Kitchin, Esq.
Colombo Kitchin Attorneys
1698 East Arlington Blvd
Greenville, NC 27858
Email: wkitchin@ck-attorneys.com

Counsel for Respondents

This, the 15 day of December, 2022



Catherine E. Lee
General Counsel