

NORTH CAROLINA
WAKE COUNTY

BEFORE THE NORTH CAROLINA
BOARD OF FUNERAL SERVICE
CASE NO. C22-0106

In the matter of:)
)
H.D. Pope Funeral Homes, Inc. and)
Zelma Phyllis Green Stith,)
Respondents)

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. H.D. Pope Funeral Homes, Inc. (hereinafter “Respondent Funeral Home”) is licensed by the Board as Funeral Establishment Permit (“FE Permit”) No. 0732 and Preneed Establishment Permit (“PN Permit”) No. 0860 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. Zelma Phyllis Green Stith (hereinafter “Respondent Individual”) is licensed by the Board as Funeral Service Licensee No. 1588 and, therefore, is subject to Chapter 90 of the North Carolina General Statutes and Title 21, Chapter 34 of the North Carolina Administrative Code. For all times relevant to this matter, Respondent Individual has been the licensed manager of Respondent Funeral Home and has held a preneed sales license on behalf of Respondent Funeral Home.
3. Respondent Funeral Home is located in Rocky Mount, NC. It has held its Funeral Establishment Permit since August 2002 and its Preneed Establishment Permit since September 2002.
4. On or about December 22, 2022, Board staff received a complaint from Bernett Harper (the “Complainant”) against Respondent Funeral Home, in which Complainant alleges that an unlicensed representative of Respondent Funeral Home, Kenneth Arrington, prevented her and her sister from exercising their disposition rights over their deceased mother’s funeral services. Specifically, Complainant alleges that Mr. Arrington told her that her sister only could exercise disposition rights because her sister held power of attorney over the decedent. Board staff assigned Case No. C22-0106 to the Complainant’s complaint.
5. Respondents were provided the opportunity to submit a response to Complainant’s complaint, and they did so on or about January 24, 2023. In the response,

Respondents alleged that Complainant signed the funeral contract; paid \$6,000.00 toward the funeral contract; and was in agreement with the funeral services selected.

6. In rebuttal, the Complainant alleges the following:
 - a. Complainant and her sisters initially met with Mr. Arrington on or about July 27, 2022, to make arrangements for her mother's funeral services. No other representative on behalf of Respondent was present for the arrangements conference.
 - b. At the arrangements conference, Mr. Arrington did not provide Complainant with a Statement of Funeral Goods and Services Selected that was signed by a licensee of the Board.
 - c. On or about July 28, 2022, Complainant went to Respondent Funeral Home to pay \$6,000.00 toward the decedent's funeral goods and services. During this meeting, Complainant met with Mr. Arrington only and provided him with the payment. During this meeting, and after Complainant provided Mr. Arrington with the payment, Mr. Arrington told Complainant that she did not have the right to make any decision on funeral goods and services because her sister had "power of attorney before and after death." Thereafter, Respondent Funeral Home finalized arrangements for decedent's funeral goods and services without the Complainant's involvement, and contrary to the Complainant's wishes.
 - d. After the decedent's funeral services, Respondent reimbursed the Complainant's sister only for excess funds paid toward the funeral goods and services, in the amount of \$135.00.
7. A Board inspector investigated the allegations related to Case No. C22-0106 and found evidence tending to show that Complainant and her sisters only met with Mr. Arrington to make arrangements for the decedent's funeral services, and not with any licensee of the Board.

CONCLUSIONS OF LAW

8. Respondents are subject to the jurisdiction of the Board.
9. The acts and omissions of the Respondents described in Paragraphs 1-7 violate N.C. Gen. Stat. §§ 90-210.25(e)(1)(b), which prohibits fraud or misrepresentation in obtaining or renewing a license or in the practice of funeral service or operation of a licensee's business.

10. The acts and omissions of the Respondents described in Paragraphs 1-7 violate N.C. Gen. Stat. §§ 90-210.25(e)(1)(h), which prohibits aiding or abetting an unlicensed person to perform services under Article 13A of Chapter 90 of the North Carolina General Statutes.
11. The acts and omissions of the Respondents described in Paragraphs 1-7 violate N.C. Gen. Stat. §§ 90-210.25(e)(1)(j), which prohibits licensees from violating or cooperating with others to violate any provisions of this Article or Articles 13D, 13 E, or 13F of Chapter 90 of the North Carolina General Statutes, any rules and regulations of the Board, or the standards set forth in the Funeral Industry Practices, 16 C.F.R. 453 (1984), as amended from time to time.
12. The acts and omissions of the Respondents described in Paragraphs 1-7 violate N.C. Gen. Stat. § 90-210.25(e), which requires a funeral director or funeral service licensee to give a consumer making such arrangements a written statement duly signed by a licensee of said funeral establishment showing the price of the service as selected and what services are included therein, the price of each of the supplemental items of services or merchandise requested, and the amounts involved for each of the items for which the funeral establishment will advance moneys as an accommodation to the person making arrangements, insofar as any of the above items can be specified at that time, and which has printed, typed or stamped on the face thereof: "This statement of disclosure is provided under the requirements of North Carolina G.S. 90-210.25(e)."
13. The acts and omissions of the Respondent Individual described in Paragraphs 1-7 violate N.C. Gen. Stat. § 90-210.25(d)(2), which requires the licensed manager to oversee the daily operations of the funeral establishment.
14. One or more of the violations described in Paragraphs 8-13 were committed by an owner, officer, operator, manager, member, or partner of Respondent Funeral Home or by an agent or employee of Respondent Funeral Home with the consent of a 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 permit of Respondent Funeral Home, to place Respondent Funeral Homes on probation, and to assess a civil penalty not to exceed \$5,000.00.
15. Respondent Funeral Home committed one or more of the violations described in Paragraphs 8-13. Pursuant to N.C. Gen. Stat. § 90-210.69(c), the Board has the authority to revoke, suspend, or refuse to issue or renew the preneed establishment permit and all ancillary preneed sales licenses of Respondent Funeral Home, or to place Respondent Funeral Home on probation, and to assess a civil penalty not to exceed \$5,000.00.

16. Respondent Individual committed one or more of the violations described in Paragraphs 8-13 but remains 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 and to assess a civil penalty not to exceed \$5,000.00.
17. Respondent Individual committed one or more of the violations described in Paragraphs 8-13. Pursuant to N.C. Gen. Stat. § 90-210.69(c), the Board has the authority to revoke, suspend, or refuse to issue or renew the preneed sales license of Respondent Individual, or to place Respondent Individual 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, 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 funeral service license of Respondent Individual and the at-need establishment permit, preneed establishment permit, and all ancillary preneed sales licenses of Respondent Funeral Home are hereby suspended for a period of two (2) years, except that said suspension is stayed upon the following terms and conditions:
 - a. Respondents shall not allow an unlicensed representative of Respondent Funeral Home to engage in the practice of funeral service, as defined by N.C. Gen. Stat. § 90-210.20(k);

- b. Within thirty (30) days from the date this Consent Order takes effect, Respondent Funeral Home shall pay a compromise penalty of One Thousand Five Hundred Dollars (\$1,500.00) to the Civil Penalty and Forfeiture Fund in accordance with Article 31A of Chapter 115C of the North Carolina General Statutes;
 - c. During the period of stayed suspension, Respondent Individual shall not serve as the licensed manager of Respondent Funeral Home; and
 - d. During the period of stayed suspension, Respondents shall comply with all statutory and regulatory provisions governing the practice of funeral service.
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 after the effective date of this Consent Order, 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 the Board and Respondents and reflect 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:


H.D. Pope Funeral Homes, Inc.

By: 
Hubert Daniel Pope
President

Date:

8-8-23

Zelma Phyllis Green Stith


Zelma Phyllis Green Stith

Date:

8-8-23

By Order of the North Carolina Board of Funeral Service, this the 10th day of August 2023.

By:




Dr. Steven L. Lyons
Board President

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **Consent Order** was served upon the following persons by email and US Mail, First Class, postage prepaid, and addressed as follows:

Chrystal Redding, Esq.
Chrystal Redding, Attorney at Law
223 South West Street, Ste 900
Raleigh, NC 27603
Email: Reddinglawfirmnc@gmail.com

This, the 11 day of August, 2023



Catherine E. Lee
General Counsel