

NORTH CAROLINA
WAKE COUNTY

BEFORE THE NORTH CAROLINA
BOARD OF FUNERAL SERVICE
CASE NO. C23-0006

In the matter of:

Blake Phillips Funeral Home LLC and
Vernon Blake Phillips,
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:

FINDINGS OF FACT

1. Blake Phillips Funeral Home LLC (hereinafter "Respondent Funeral Home") is licensed by the Board as Funeral Establishment Permit ("FE Permit") No. 0328 and Preneed Establishment Permit ("PN Permit") No. 1065 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 Funeral Home is located in Greenville, NC. It has held its Funeral Establishment Permit since February 2008 and its Preneed Establishment Permit since October 2022.
3. On its initial Application for Preneed Funeral Establishment Permit submitted to the Board by Respondent Individual on or about October 28, 2022, Respondents provided that Respondent Funeral Home did not have any unsatisfied civil judgments.
4. On its Preneed Funeral Establishment Renewal Application, submitted to the Board by Respondent Individual on January 6, 2023, Respondents provided that Respondent Funeral Home did not have any unsatisfied civil judgments against it.
5. Vernon Blake Phillips (hereinafter "Respondent Individual" and collectively with Respondent Funeral Home, the "Respondents") is licensed by the Board as Funeral Service License No. 3780 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 served as the licensed manager Respondent Funeral Home. Respondent Individual holds a preneed sales license on behalf of Respondent Funeral Home.

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6. On or about January 13, 2023, Board staff received a complaint from Cox Floral Expressions, Inc. (the “Complainant”) against Respondents, in which Complainant alleges that:
 - a. Between April 14, 2022, and June 30, 2022, Complainant provided fifteen (15) floral arrangements to Respondent Funeral Home for which Complainant was not paid by Respondent Funeral Home;
 - b. Respondent Funeral Home charged, and was paid by, consumers for said floral arrangements as cash advance items;
 - c. Complainant initiated a civil lawsuit for Respondent Funeral Home’s failure to remit payment owed and was awarded a judgment by the general courts.
7. Respondents were provided the opportunity to submit a response to Complainant’s complaint, and they did so on or about January 31, 2023. In the response, Respondents did not deny the allegations and provided that:
 - a. “[W]e find ourselves juggling monies in hopes the policy will pay in a timely manner which sometimes do”;
 - b. “The lack of payment was not intentional, the juggling put everything to a halt.”
 - c. “I will pay the entire bill owed in full in a few days.”
8. In reviewing Complainant’s complaint, Board staff obtained evidence tending to show that:
 - a. On August 10, 2020, the North Carolina Department of Revenue filed a Certificate of Tax Liability in Pitt County Superior Court against Respondent Funeral Home in the amount of \$8,556.49;
 - b. As required by N.C. Gen. Stat. 105-242(c), the Clerk of Pitt County Superior Court recorded the Certificate of Tax Liability in the same manner as a judgment. The recorded Certificate of Tax Liability is considered a judgment and is enforceable in the same manner as other judgments.
 - c. The liability set forth in the Certificate of Tax Liability has not been satisfied.
 - d. On September 2, 2022, a Complaint for Money Owed was filed by Complainant in Pitt County District Court, Small Claims Division, against Respondent Funeral Home, in the amount of \$5,914.75. On September 13,

2022, the Complaint for Money Owed and Magistrate Summons was served on Respondent Funeral Home, setting a trial date of October 3, 2022. The litigation was assigned Case No. 22 CVM 4164.

- e. On October 3, 2022, a hearing in Case No. 22 CVM 4164 was held and judgment in the amount of \$5,914.75 was entered against Blake Phillips Funeral Home LLC.
- f. The Judgment entered in Case No. 22 CVM 4164 was satisfied on or about February 15, 2023.

CONCLUSIONS OF LAW

- 9. Respondents are subject to the jurisdiction of the Board.
- 10. The acts and omissions of the Respondents described in Paragraphs 1-8 violate N.C. Gen. Stat. §§ 90-210.25(e)(1)(b) and 90-210.69(c)(4), which prohibits licensees from engaging in fraud or misrepresentation in obtaining or renewing a license.
- 11. The acts and omissions of the Respondents described in Paragraphs 1-8 violate N.C. Gen. Stat. §§ 90-210.25(e)(1)(b) and 90-210.69(c)(4), which prohibits licensees from engaging in fraud or misrepresentation in the practice of funeral service or operation of a licensee's business.
- 12. One or more of the violations described in Paragraphs 9-11 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.
- 13. Respondent Funeral Home committed one or more of the violations described in Paragraphs 8-11. 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.
- 14. Respondent Individual committed one or more of the violations described in Paragraphs 9-11 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.

15. Respondent Individual committed one or more of the violations described in Paragraphs 9-11. 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 preneed establishment permit and all ancillary preneed sales licenses of Respondent Funeral Home are revoked.
2. Respondents shall be eligible to re-apply for a preneed establishment permit or any ancillary preneed sales licenses one (1) year following the effective date of this Consent Order. However, any such preneed establishment permit shall be placed on a three (3) year suspension, which shall be stayed on the following conditions:
 - a. During the period of stayed suspension, Respondent Funeral Home shall comply with all statutory and regulatory laws governing the practice of funeral service; and
 - b. Respondents shall obtain a surety bond in an amount not less than Fifty Thousand Dollars (\$50,000.00) and shall maintain said bond for at least five

(5) years following the date that the preneed establishment permit has been granted. The surety bond obtained shall comply, in all ways, with 21 N.C.A.C. 34D .0203, in addition to any and all other applicable laws and rules.

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 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.
4. 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.
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 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.
7. Respondents 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 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:

Blake Phillips Funeral Home LLC

By: Vernon Blake Phillips Date: 7-27-23
Vernon Blake Phillips
Member-Manager

Vernon Blake Phillips

Vernon Blake Phillips Date: 7-27-23

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

By: Mr. Steven L. Lyons
Steven L. Lyons
Board President