

NORTH CAROLINA
WAKE COUNTY

BEFORE THE NORTH CAROLINA
BOARD OF FUNERAL SERVICE
CASE NOS. C23-0012 and C23-0019

In the matter of:)
)
Mills Funeral Home, Inc. and Craig)
Randolph Mills,)
Respondents.)

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL AGENCY DECISION

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 May 10, 2023 and at the time the Board made this decision on May 10, 2023. The record further reflects that Board members Christian E. Watson and J. 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. At the hearing, Catherine E. Lee, General Counsel, appeared for Board staff and Sabra Faires appeared as administrative law counsel for the Board. Respondents did not appear at the hearing.

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 Mr. Watson and Mr. Herndon, 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
2. iGov Profile for Respondent Mills Funeral Home
3. iGov Profile for Respondent Craig Randolph Mills
4. Consent Order for Board Case No. C20-0067 against Mills Funeral Home, Inc. and G. Nobles (Feb. 10, 2021)
5. Consent Order for Board Case Nos. C20-0067, M21-0058 and C21-0050 against Mills Funeral Home, Inc. and Craig Randolph Mills (Oct. 14, 2021)
6. Letter from Board Staff to Mills Funeral Home, Inc. re Board-Sponsored Preneed Review Continuing Education Course (October 6, 2022)
7. C23-0012 Complaint
8. C23-0012 Documents in Support of Complaint
9. C23-0012 Board Subpoena to Complainant

10. C23-0019 Complaint
11. C23-0019 Documents in Support of Complaint
12. C23-0019 Response
13. C23-0019 Rebuttal
14. C23-0019 Board Subpoena to Complainant
15. C23-0019 Investigation Report
16. C22-0081 et al. Final Agency Decision

RESPONDENTS' LIST OF EXHIBITS

None

FINDINGS OF FACT

1. Mills Funeral Home, Inc. (hereinafter "Respondent Mills FH"), is licensed by the Board as Funeral Establishment Permit ("FE Permit") No. 1048 and Preneed Establishment Permit ("PN Permit") No. 1048 and, therefore, is subject to Chapter 90 of the North Carolina General Statutes and Title 21, Chapter 34 of the North Carolina Administrative Code. Respondent Mills FH has held FE Permit 1048 since December 13, 2021, and PN Permit 1048 since January 13, 2022.
2. Prior to December 13, 2021, Respondent Mills FH held FE Permit No. 0391 and PN Permit No. 0225. Said permits were surrendered on or about December 13, 2021, following the death of Ms. Shirley Mills on or about June 17, 2021, who was the sole shareholder of Respondent Mills FH prior to her death.
3. Craig Randolph Mills (hereinafter "Respondent Mills" and collectively with Respondent Mills FH, the "Respondents") is licensed by the Board as Funeral Service License No. 1837 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 Mills served as the licensed manager and corporate officer of Respondent Mills FH. Respondent Mills holds a preneed sales license on behalf of Respondent Mills FH.

Prior Consent Orders between the Mills Respondents and the Board

4. Respondent Mills FH entered into a Consent Order with the Board, effective February 14, 2018, to resolve violations of the Board's statutes and rules related to the administration of preneed contracts as set forth in Board Case No. M17-0031 (the "2018 Consent Order"). Pursuant to the terms of the 2018 Consent Order, Respondent Mills FH was placed on probation until February 14, 2021.
5. On or about September 14, 2020, Board staff received a complaint from Linda Eure. Board staff provided Respondent Mills FH with an opportunity to respond to Ms. Eure's

allegations, and Respondent Mills FH did so on or about September 28, 2020. The Board assigned the complaint as Board Case No. C20-0067. Evidence obtained in that matter tended to show the following:

- a. On or about June 20, 2020, Ms. Eure's husband died. Ms. Eure selected Respondent Mills FH for the decedent's funeral services, which included cremation. Ms. Eure completed a standard cremation authorization form that directed the decedent's cremains be returned to her.
 - b. Following the cremation, Respondent Mills FH failed to comply with the standard cremation authorization signed by Ms. Eure, in that it returned the decedent's cremains to a third party on or about July 11, 2020.
 - c. Ms. Eure repeatedly contacted Respondent Mills FH in June and July 2020 to ascertain when she could pick up the decedent's cremains but was told that the cremains were not yet available. Complainant ultimately was told in September 2020 that Respondent Mills FH had released the decedent's cremains to a third party.
6. On or about February 10, 2021, Respondent Mills FH entered into a Consent Order with the Board to resolve Board Case No. C20-0067 (the "Feb. 2021 Consent Order"). Pursuant to the terms of the Feb. 2021 Consent Order, the Funeral Establishment Permit of Respondent Mills FH was placed on a two-year suspension to be stayed contingent upon Respondent Mills FH's compliance with all laws and rules of the Board during the period of suspension.
7. On or about May 12, 2021, Board staff received a complaint from Valerie Howell. Board staff provided Respondent Mills FH and Respondent Mills with an opportunity to respond to Ms. Howell's allegations, and they did so on or about May 21, 2021. The Board assigned the complaint as Board Case No. C21-0050. Evidence obtained in that matter tended to show the following:
- a. On or about April 29, 2021, Ms. Howell's mother, Ms. Bertha Cannon, died. Ms. Howell selected Respondent Mills FH for the decedent's funeral services, which were to be earth burial.
 - b. The Mills Respondents removed the decedent from her residence to Respondent Mills FH on April 29, 2021. Upon information and belief, Ms. Howell gave permission to the Mills Respondents for the embalming of decedent on April 29, 2021.
 - c. The Mills Respondents failed to place the decedent's unembalmed remains in a refrigeration unit following the removal. The Mills Respondents did not begin

embalming the decedent until May 2, 2021, more than 24 hours after the decedent's death.

- d. The decedent's family was unable to have an open casket funeral service for the decedent, as the decedent's remains were too decomposed following the Mills Respondents' failure to timely refrigerate or embalm the remains.
8. On or about October 14, 2021, the Mills Respondents entered into a Consent Order with the Board to resolve Board Case No. C21-0050, as well as Board Case No. M21-0058 for the Mills Respondents' failure to timely file the 2019 and 2022 preneed annual reports (the "Oct. 2021 Consent Order"). Pursuant to the terms of the Oct. 2021 Consent Order:
 - a. The funeral service license of Respondent Mills was placed on a three (3) year suspension. Said suspension was stayed upon certain terms and conditions, including but not limited to Respondent Mills FH's compliance with all statutory and regulatory provisions governing the practice of funeral service during the period of suspension.
 - b. Respondent Mills FH's pending application for a new funeral establishment permit was granted but placed on a three-year suspension. Said suspension was stayed upon certain terms and conditions, including but not limited to Respondent Mills FH's compliance with all statutory and regulatory provisions governing the practice of funeral service during the period of suspension.
 - c. Respondent Mills FH was held eligible to apply for a preneed establishment permit in the future, provided that any such preneed establishment permit issued would be placed on a three (3) year suspension that would be stayed upon the condition that employees of Respondent Mills FH take a Board-sponsored course on preneed statutes and rules within six (6) months of the issuance of the preneed establishment permit and that Respondent Mills FH comply with laws governing the practice of funeral service during the period of suspension.
 9. Neither Respondent Mills, nor any other employee of Respondent Mills FH, has taken a Board-sponsored course on preneed statutes and rules since the issuance of Respondent Mills FH's preneed establishment permit on or about January 13, 2022.

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10. In September 2021, Amber Parker made arrangements with Respondents for funeral services for her deceased mother.
11. At the time she made arrangements with the Respondents, Ms. Parker did not receive an itemized contract to memorialize the cost of the funeral goods and services for which she paid for her mother's funeral.

12. Ms. Parker paid for funeral services that were not provided for her mother. Specifically, Respondents were paid \$500.00 to prepare the Decedent's remains but failed to provide makeup or hair arrangements for the Decedent, and Respondents did not provide a limousine or other automotive equipment for which she was charged.
13. On or about February 10, 2023, Board staff received a complaint from Ms. Parker against Respondent Mills FH, with regard to Respondents' failure to provide an itemized contract at the time of arrangements and the failure to provide all services for which Ms. Parker paid.
14. Respondents were served with a copy of Ms. Parker's complaint. Respondents failed to respond to said complaint within ten (10) days as directed by the Board. To date, Respondents have not provided a written response to the Board.
15. At hearing, Ms. Parker testified credibly about the acts and omissions of Respondents.
16. Respondents did not appear at the hearing and presented no evidence in response to Ms. Parker's testimony.
17. At hearing, Board inspector Christopher Stoessner testified credibly as to his opinion that Respondents violated laws regulated by the Board by failing to provide Ms. Parker with an itemized contract at the time of arrangements and by failing to provide all services for which Ms. Parker paid.

BOARD CASE NO. C23-0019

18. On or about December 19, 2021, Natalia Gammons' mother, Pamela Marie Parker Ingram, died.
19. On or about December 21, 2021, Ms. Gammons contracted with Respondents for her deceased mother's funeral services. In so contracting, Ms. Gammons paid a total of \$12,390.14 through insurance proceeds and signed a Statement of Funeral Goods and Services Selected ("SFGSS"). Included in the funeral goods and services purchased was a headstone for Ms. Ingram for \$1,550.00; cemetery fees for \$1,395.00; and a processing fee of \$360.87.
20. Ms. Parker's funeral service occurred on December 26, 2021. Thereafter, Ms. Gammons' family asked Respondents for updates about the status of Ms. Ingram's headstone, but Respondents failed to provide a response.
21. On March 11, 2023, Ms. Gammons went to the cemetery at which her mother is buried and confirmed that no headstone for her mother had been placed. Ms. Gammons then went to Respondent Mills FH to inquire as to the status of the headstone. While on-site, a

representative of Mills FH showed Ms. Gammons a SFGSS purporting to be for Ms. Ingram that was unsigned by Ms. Gammons. This SFGSS listed a total amount of goods and services of only \$9,084.27 and did not reflect the headstone cost, cemetery fees, or processing fee that had been paid by Ms. Gammons. The representative of Mills FH told Ms. Gammons that she had not purchased a headstone.

22. On March 13, 2023, Ms. Gammons went to Respondent Mills FH with a copy of the SFGSS that she had signed on December 21, 2021. Ms. Gammons met with Respondent Mills, who again provided Ms. Gammons with the unsigned SFGSS that did not reflect the purchase of the headstone.
23. When Ms. Gammons questioned Respondent Mills about why two different SFGSS had been prepared with differing amounts of purchase price, Respondent Mills told Ms. Gammons that the Respondents had lost the SFGSS signed by Ms. Gammons.
24. Ms. Gammons questioned Respondent Mills about why he had not refunded to her the excess insurance proceeds that Respondents had received, if Respondents thought she only had purchased funeral goods and services amounting to \$9,084.27. Respondent Mills told Ms. Gammons that he had “overlooked” the difference.
25. On or about March 13, 2023, Board staff received a complaint from Ms. Gammons against Respondent Mills FH, with regard to the transaction set forth above.
26. Respondents were served with a copy of Ms. Gammons’ complaint on or about March 16, 2023. Respondents responded on or about March 22, 2023, admitting that Ms. Gammons had purchased the headstone when making arrangements and indicating that a headstone had now been ordered for Ms. Ingram.
27. At hearing, Ms. Gammons testified credibly about the acts and omissions of Respondents.
28. Respondents did not appear at the hearing and presented no evidence in response to Ms. Gammons’ testimony.
29. At hearing, Inspector Stoessner testified credibly about his investigation into the acts and omissions of Respondents, as it relates to Ms. Gammons’ complaint. Inspector Stoessner testified credibly that, during his investigation, Respondent Mills provided conflicting explanations as to why a fraudulent SFGSS had been prepared for Ms. Ingram’s disposition.
30. At hearing, Board inspector Christopher Stoessner testified credibly as to his opinion that Respondents engaged in fraud or misrepresentation in their transactions with Ms. Gammons.

31. Inspector Stoessner further testified credibly that, in his opinion, Respondents violated laws regulated by the Board when they failed to refund insurance proceeds received as consideration in excess of Ms. Ingram's funeral contract purchase price within 30 days of receipt.
32. Inspector Stoessner further testified credibly that, in his opinion, Respondents violated laws regulated by the Board when they failed to provide, within a reasonable time, either the goods and services contracted for, or a refund for the price of goods and services paid for but not fulfilled.

CONCLUSIONS OF LAW

1. Respondents are 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. Respondents are subject to jurisdiction before the Board.
3. The Board is authorized under Article 3A, Chapter 150B of the North Carolina General Statutes to hear this matter.
4. To the extent that the Findings of Fact contain conclusions of law, or that the Conclusions of Law are findings of fact, they should be so considered without regard to their given labels. Charlotte v. Heath, 226 N.C. 750, 755, 40 S.E.2d 600, 604 (1946); Peters v. Pennington, 210 N.C. App. 1, 15, 707 S.E.2d 724, 735 (2011).
5. The acts and omissions of the Respondents described in Findings of Fact Nos. 1- 32 violate the terms of the Feb. 2021 and Oct. 2021 Consent Orders.
6. The acts and omissions of the Respondents described in Findings of Fact Nos. 1-32 violate N.C. Gen. Stat. § 90-210.25(e)(1)(o), which prohibits licensees from failing to refund any insurance proceeds received as consideration in excess of the funeral contract purchase price within 30 days of receipt.
7. The acts and omissions of the Mills Respondents and the Haskins Respondents described in Findings of Fact Nos. 1-32 violate N.C. Gen. Stat. § 90-210.25(e)(1)(p), which prohibits licensees from failing to provide, within a reasonable time, either the goods and services contracted for, or a refund for the price of goods and services paid for but not fulfilled.
8. The Board concludes that one or more of the violations described in Conclusions of Law Nos. 1-7 above were committed by an owner, officer, operator, manager, member, or partner of Respondent Mills FH or by an agent or employee of Respondent Mills FH with the consent of any 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 Mills FH, or to place Respondent Mills FH on probation, and to assess a civil penalty not to exceed \$5,000.00.

9. The Board concludes that Respondent Mills committed one or more of the violations described in Conclusions of Law Nos. 1-7 and is no longer fit to practice. Pursuant to N.C. Gen. Stat. § 90-210.25(e)(1), the Board has the authority to suspend, revoke, or refuse to issue or renew the funeral service license of Respondent Mills.
10. The Board concludes that Respondent Mills FH committed one or more of the violations described in Conclusions of Law Nos. 1-7. 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 Mills FH, or to place Respondent Mills FH on probation, and to assess a civil penalty not to exceed \$5,000.00.
11. The Board concludes that Respondent Mills committed one or more of the violations described in Conclusions of Law Nos. 1-7. 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 Mills, or to place Respondent Mills on probation, and to assess a civil penalty not to exceed \$5,000.00.

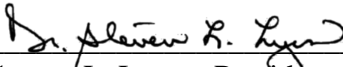
FINAL AGENCY DECISION

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

1. The stay of suspension previously imposed on the funeral service license of Respondent Mills in prior Board orders is hereby lifted.
2. The Funeral Service License of Respondent Mills, FSL 1837, is hereby revoked.
3. The stay of suspension previously imposed on the At-Need Establishment Permit of Respondent Mills Funeral Home, Inc. in prior Board orders is hereby lifted.
4. The At-Need Establishment Permit of Respondent Mills Funeral Home, Inc., FE Permit No. 1048, is hereby revoked.
5. The Preneed Establishment Permit and all ancillary preneed sales licenses of Respondent Mills Funeral Home, Inc., PN Permit No. 1048, are hereby revoked. Board staff is directed to remove all preneed contracts for which Respondent Mills Funeral Home, Inc. serves as trustee and to perform a full audit of all said preneed contracts. Upon completion of the audit, Board staff shall transfer the preneed contracts to a successor preneed funeral establishment.

6. Board staff is directed to pursue collection of all civil penalties previously assessed against Respondents through prior disciplinary action.
7. 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.
8. Pursuant to N.C. Gen. Stat. § 150B-45(a), 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 that 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.
9. 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 15th day of May, 2023.

By: 

Steven L. Lyons, President
N.C. Board of Funeral Service