

NORTH CAROLINA  
WAKE COUNTY

BEFORE THE NORTH CAROLINA  
BOARD OF FUNERAL SERVICE  
CASE NOS. C23-0036, C23-0043,  
M23-0057

In the matter of: )  
 )  
First Family Funeral & Cremation )  
Service Inc. and Ebony Kirsha Garner, )  
Respondents )

**CONSENT ORDER FOR  
EBONY KIRSHA GARNER**

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. First Family Funeral & Cremation Service Inc. (hereinafter “Respondent Establishment”) is licensed by the Board as Funeral Establishment Permit (“FE Permit”) No. 0855 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 Establishment has held FE Permit 0855 since May 17, 2016, and is located in Charlotte, North Carolina.
2. Ebony Kirsha Garner (hereinafter “Respondent Individual” and collectively with Respondent Establishment, the “Respondents”) is licensed by the Board as Funeral Service License No. 3495 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 Garner has served as the licensed manager and corporate officer of Respondent Establishment.
3. Respondent Individual has held her Funeral Service License since October 2019 and has not received any prior disciplinary action from the Board.

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4. On April 7, 2023, Mr. Gerard Twine died. Respondent Establishment took possession of Mr. Twine’s body on or about April 14, 2023.
5. Respondents failed to file a death certificate for Mr. Twine with the local county registrar within five days following his death. Specifically, Respondent Individual did not begin to create Mr. Twine’s death certificate through NC Dave until April 22, 2023. Thereafter Mr. Twine’s death certificate was not completed until on or about May 30, 2023.

6. Mr. Twine's family and representatives for the healthcare facility at which Mr. Twine died made repeated efforts to contact Respondents between April 2023 and May 2023, in an effort to obtain the completed death certificate. Though Respondent Individual did attempt to work with Mr. Twine's family and representatives for the healthcare facility, the health certificate was not completed until the end of May.

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7. On or about February 26, 2023, Ms. Eleanor Willis died. Respondent Establishment took possession of Ms. Willis' body thereafter.
8. Respondents failed to file a death certificate for Ms. Willis with the local county registrar within five days following her death. Specifically, Respondents did not obtain a death certificate signed by a healthcare provider until after May 30, 2023.
9. Ms. Leano, who is a nurse practitioner, and her colleagues from the facility at which Ms. Willis died made repeated efforts to contact Respondent Establishment so that a health care provider from the facility could sign Ms. Willis' death certificate. Respondents failed to respond to repeated calls and messages left by the healthcare facility. Respondent Individual did make several attempts to communicate with the health care providers in order to obtain the death certificate through the NC Dave system.
10. Ms. Willis' unembalmed remains were not placed into refrigeration by Respondents until approximately six (6) days following her death. Respondents arranged for refrigeration of Ms. Willis' remains on March 3, 2023, with a crematory for which Respondents did not have in place a refrigeration agreement as required by the Board.

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11. On or about November 7, 2023, Board staff received a preneed recovery fund application from Gina Lynn Horton, alleging that Respondents had forged her name to an assignment of benefits form, so that a death benefit for Jeremiah Williams would be paid directly to Respondent Establishment for Mr. Williams' funeral goods and services. Though Respondent Individual was the licensed manager for Respondent Establishment at the time, she was on maternity leave and was not involved with the transaction at issue for Mr. Williams' death benefits.
12. On November 9, 2023, while onsite at Respondent Establishment, Board Inspector Debbie Hamm observed the remains of Mr. Thomas Jefferson Allen, Jr. enclosed

in a body bag, which had been in the possession of Respondent Establishment since November 6 without being embalmed or refrigerated.

### **CONCLUSIONS OF LAW**

13. Respondent Individual 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).
14. Respondent Individual is subject to jurisdiction before the Board.
15. The Board is authorized under Article 3A, Chapter 150B of the North Carolina General Statutes to hear this matter.
16. The acts and omissions of Respondent Individual described in Paragraphs 1-12 violates N.C. Gen. Stat. § 90-210.25(e)(1)(j), which prohibits licensees from violating or cooperating with others to violate any of the provisions of this Article or Articles 13D, 13E, or 13F of this Chapter, any 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. Specifically, Respondent Individual failed to oversee the daily operations of Respondent Establishment, in violation of § 90-210.25(d)(2)(a).
17. The acts and omissions of Respondent Individual described in Paragraphs 1-12 violates N.C. Gen. Stat. § 90-210.25(e)(1)(m), which prohibits licensees from violating or cooperating with others to violate any provision of Article 4 or 16 of Chapter 130A of the General Statutes or any rules or regulations promulgated under those Articles as amended from time to time.
18. The acts and omissions of Respondent Individual described in Paragraphs 1-12 violates N.C. Gen. Stat. § 90-130A.115(b), which requires that a licensee who first assumes custody of a dead body shall file the death certificate with the local registrar within five days of the death.
19. The Board concludes that Respondent Individual committed one or more of the violations described in Paragraphs 16-18 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.

BASED upon the foregoing Findings of Fact and Conclusions of Law, and in lieu of further proceedings, Respondent Individual 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 Individual acknowledges that she has read this entire document and understands it;

Whereas Respondent Individual acknowledges that she enters into this Consent Order freely and voluntarily;

Whereas Respondent Individual acknowledges that she has had full and adequate opportunity to confer with legal counsel in connection with this matter;

Whereas Respondent Individual understands that this Consent Order must be presented to the Board for approval and that Respondent Individual 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 Individual, it is ORDERED that:

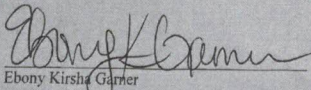
1. The funeral service license of Respondent Individual shall be placed on probation for a period of two (2) years, beginning on the Effective Date of this Consent Order, upon the following terms and conditions:
  - a. During the period of probation, Respondent Individual shall comply with all statutory and regulatory provisions governing the practice of funeral service;
  - b. Respondent Individual shall not serve as a licensed manager of a funeral establishment during the period of probation; and
  - c. Within thirty (30) days following the entry of this Consent Order, Respondents shall remit a compromise penalty to the Board in the amount of Five Hundred Dollars (\$500.00), which the Board shall remit to the Civil Penalty and Forfeiture Fund in accordance with Article 31A of Chapter 115C of the North Carolina General Statutes.
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 Establishment 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 the Board and Respondent Individual and reflects the entire agreement between Respondent Establishment 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 Individual 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 Individual 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 Respondent Individual, 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.

CONSENTED TO:

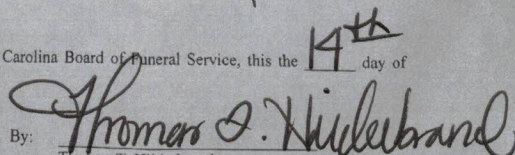
Ebony Kirsha Garner

  
Ebony Kirsha Garner

Date: 2/12/24

By Order of the North Carolina Board of Funeral Service, this the 14<sup>th</sup> day of February, 2024.

By:

  
Thomas T. Hilderbrand  
Board President