

NORTH CAROLINA
WAKE COUNTY

BEFORE THE NORTH CAROLINA
BOARD OF FUNERAL SERVICE
CASE NOS. C23-0047, C23-0069

In the matter of:)
)
Monroe Mortuary Services, LLC and)
Benjamin Whitlock,)
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. Monroe Mortuary Services, LLC (hereinafter "Respondent Establishment") is licensed by the Board as Funeral Establishment Permit ("FE Permit") No. 0817 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 0817 since January 12, 2015, and is located in Polkton, North Carolina.
2. Benjamin Whitlock (hereinafter "Respondent Individual" and collectively with Respondent Establishment, the "Respondents") is licensed by the Board as Funeral Service License No. 1015 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 served as the licensed manager and member of Respondent Establishment.

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3. On or about June 6, 2023, Board staff received a complaint on behalf of Elvis V. Autry and Seressa E. Autry (the "Autrys") against Respondent Establishment. Evidence obtained in this matter tends to show the following:
 - a. On or about November 17, 2022, the Autrys contracted with Respondent Establishment for funeral goods and services on behalf of their deceased son, Deonte A. Autry ("D. Autry"), who died while on active duty with the United States Navy.
 - b. On or about November 17, 2022, the Autrys paid Respondent Establishment in full for D. Autry's funeral goods and services in the amount of Eleven Thousand and 38/100 Dollars (\$11,000.38) through assignment of an insurance policy. The Autrys did so upon the representation that Respondent Establishment would

reimburse the Autrys in full once the United States government remitted payment for the cost of D. Autry's funeral goods and services.

- c. Upon information and belief, the Autrys made funeral arrangements for D. Autry with Respondent Establishment through a meeting with an individual named Fred Allen, who is not licensed by this Board. According to the Autrys, no licensed funeral service licensee or funeral director was present during the Autry's arrangements conference for D. Autry.
- d. On or about January 30, 2023, the United States government paid Respondent Establishment in the amount of \$11,000.38 for reimbursement of D. Autry's funeral goods and services.
- e. Between January 30, 2023, and May 11, 2023, the Autrys made repeated efforts to contact Respondents for their reimbursement but without success.
- f. As of March 11, 2024, Respondents had not reimbursed the Autrys for their payment of Eleven Thousand and 38/100 Dollars (\$11,000.38). As such, Respondents have been paid twice for their provision of the same goods and services.
- g. Respondent Establishment charged the Autrys for a vault in the amount of Two Thousand Two Hundred and Seventy-Five Dollars (\$2,275.00). However, Respondent Establishment did not provide this vault to the Autrys for D. Autry's burial, as the United States government provided a vault without charge to the Autrys. As such, Respondent Establishment was paid twice for the vault—once by the Autrys and once by the United States government—without actually providing it.

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4. On or about July 19, 2023, Board staff received a complaint from Howard Pitt, Jr. of the Virginia Office of Vital Records against Respondent Establishment. Evidence obtained in this matter tends to show the following:
 - a. On or about November 19, 2022, Respondent Establishment took possession of D. Autry's remains from the Virginia Office of the Chief Medical Examiner, along with a paper death certificate to be completed and filed by Respondent Establishment.
 - b. Since November 19, 2022, Respondent Establishment has failed to complete and file D. Autry's death certificate with the Virginia Office of Vital Records, despite repeated requests from the Virginia Office of the Chief Medical Examiner that Respondent Establishment do so.

5. Respondent Individual remains fit to practice but does not remain fit to serve as a licensed manager of a funeral establishment.

CONCLUSIONS OF LAW

1. Respondents are subject to jurisdiction before the Board.
2. The acts and omissions of the Respondents described in Paragraphs 1-5 violate N.C. Gen. Stat. § 90-210.25(e)(1)(b), which prohibits fraud or misrepresentation in the operation of a licensee's business.
3. The acts and omissions of the Respondents described in Paragraphs 1-5 violate N.C. Gen. Stat. § 90-210.25(e)(1)(h), which prohibits the aiding or abetting of an unlicensed person to perform funeral service for which a license is required.
4. The acts and omissions of the Respondents described in Paragraphs 1-5 violate N.C. Gen. Stat. § 90-210.25(e)(1)(o), which prohibits the failure to refund any insurance proceeds received as consideration in excess of the funeral contract purchase price within 30 days of receipt.
5. The acts and omissions of the Respondents described in Paragraphs 1-5 violate N.C. Gen. Stat. § 90-210.25(e)(1)(p), which requires licensees 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.
6. The acts and omissions of the Respondents described in Paragraphs 1-5 violate 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.
7. The acts and omissions of the Respondents described in Paragraphs 1-5 violate N.C. Gen. Stat. § 90-210.25(d)(2), which requires the licensed manager of a funeral establishment to oversee the daily operations of the funeral establishment.
8. 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 Establishment, to place Respondent Establishment on probation, and to assess a civil penalty not to exceed \$5,000.00.
9. Pursuant to N.C. Gen. Stat. § 90-210.25(e)(1)j., the Board has the authority to suspend, revoke, or refuse to issue or renew the funeral service license of Respondent Individual. If the Board concludes that Respondent Individual committed one or more of the aforementioned violations 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, 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 Board hereby revokes the funeral establishment permit of Respondent Establishment, provided however that the revocation shall be stayed on the following terms and conditions:
 - a. Within thirty (30) days from the date this Consent Order takes effect, Respondents shall pay a compromise penalty of Five Thousand Dollars (\$5,000.00) Dollars to the Civil Penalty and Forfeiture Fund in accordance with Article 31A of Chapter 115C of the North Carolina General Statutes. Failure to timely pay said compromise penalty shall result in the immediate lifting of the stay of revocation, without further hearing by the Board;
 - b. Within fifteen (15) days of this Consent Order, Respondent shall submit proof to the Board that it has reimbursed Seressa Autry and Elvis V. Autry in the amount of Eleven Thousand and 38/100 Dollars (\$11,000.38). Failure to provide proof of such reimbursement shall result in the immediate lifting of the stay of revocation, without further hearing by the Board;
 - c. Respondent Individual shall not serve as the licensed manager of Respondent Establishment. Within thirty (30) days following the effective date of this Consent Order, Respondent Establishment shall identify to the Board a new licensed

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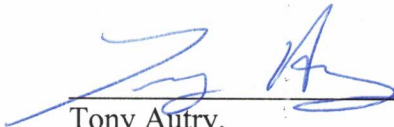
manager, whose licensure with the Board is in good standing. Failure to so identify a new licensed manager to the Board shall result in the immediate lifting of the stay of revocation, without further hearing by the Board;

- d. No unlicensed individual on behalf of Respondent Establishment shall engage in the unlicensed practice of funeral service, going forward. The Board shall immediately lift the stay of the revocation, without further hearing before the Board, upon receipt of evidence tending to show that unlicensed individuals have engaged in the unlicensed practice of funeral service, on behalf of Respondent Establishment;
 - e. Respondents shall not violate any law or rule of the Board during the period of suspension;
 - f. Respondents shall timely respond to any and all Board and/or Board staff correspondence; and
 - g. Respondents shall comply with all terms of this Consent Order.
2. The Board hereby puts on probation the Funeral Service License of Respondent Individual for three (3) year, on the following terms and conditions during the period of probation:
- a. Respondent Individual shall not serve as the licensed manager of any funeral establishment;
 - b. Respondent Individual shall not violate any law or rule of the Board;
 - c. Respondent Individual shall timely respond to any and all Board and/or Board staff correspondence; and
 - d. Respondent Individual shall comply with all terms of this Consent Order.
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, collectively or individually, 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 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.

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.

CONSENTED TO:

Monroe Mortuary Services, LLC



Tony Autry,
Member

Date: 3-12-24



Benjamin F. Whitlock

Date: 3-12-24

By Order of the North Carolina Board of Funeral Service, this the 13th day of March, 2024.

By: 
Thomas Hilderbrand
Board President