

NORTH CAROLINA
WAKE COUNTY

BEFORE THE NORTH CAROLINA
BOARD OF FUNERAL SERVICE
CASE NO. M16-045

In the matter of:)
)
Stokes Mutual Burial Association,)
and Marian Sherrod Lewis)
Respondents.)

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

In accordance with 26 N.C. Admin. Code 3.0126 and N.C. Gen. Stat. § 150B-40(d), the North Carolina Board of Funeral Service 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 and at the time the Board made this decision. The record further reflects that Board member Matt P. Staton served as presiding officer at the hearing. Board members Mark Blake, Don Brown, Charles J. Graves Michael C. Stone, and Chris Watson participated in the hearing; Board member Craig Olive was absent from the hearing and did not participate. The record also shows that Steve Herndon and Valdus T. Lockhart did not participate in the hearing or deliberations of this case since they served on the Board’s Disciplinary Committee. Catherine E. Lee, General Counsel, appeared for the Board; Margaret A. Craven appeared as administrative counsel for the Board; and Robert L. Schupp appeared as counsel for Stokes Mutual Burial Association (hereinafter “Respondent Stokes MBA”) and Marian Sherrod Lewis (hereinafter “Respondent Lewis” and, collectively with Respondent Stokes MBA, “Respondents”).

Before the hearing, the following inquiry was read aloud in accordance with state ethics laws: “Does any Board member have any known conflict of interest with respect to any 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 member identified a conflict of interest or the appearance of a conflict.

PROCEDURAL HISTORY OF THE CASE

On February 8, 2017, the Board entered into a Consent Order with Respondents to resolve Board Case No. M16-045 (hereinafter the “Consent Order”). On January 16, 2018, a Notice of Hearing to Show Cause was issued regarding Board Case No. M16-045 and set the hearing date for February 14, 2018. The Notice of Hearing to Show Cause was properly served on Respondents on January 22, 2018. On January 29, 2018—upon request by Respondents for a continuance of the hearing—the Board issued an Order Allowing Continuance, and the original hearing date was reset for April 11, 2018, at 1:30 p.m. The hearing took place as scheduled by the Order Allowing Continuance on Wednesday, April 11, 2018, at 1:30 p.m., at the Board’s offices at 1033 Wade Avenue Suite 108, Raleigh, North Carolina 27605.

PETITIONER'S LIST OF EXHIBITS

1. Board Database Printouts
2. Notice of Hearing to Show Cause
3. Consent Order
4. Preneed Examination Report - Detailed
5. Amended Preneed Examination Report - Detailed

RESPONDENT'S LIST OF EXHIBITS

None.

FINDINGS OF FACT

1. Marian Sherrod Lewis (hereinafter "Respondent Lewis") is licensed by the Board as Funeral Director No. 3728 and, therefore, 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).
2. Prior to August 2017, Stokes Mortuary, Inc. (hereinafter "Funeral Home") was licensed by the Board as Funeral Establishment No. 569 and Preneed Funeral Establishment No. 419 ("Preneed Establishment") by the Board and was 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).
3. In or about August 2017, Respondent Lewis, in her capacity as the manager and corporate officer of the Funeral Home, voluntarily surrendered the licenses and permits for the Funeral Home and the Preneed Establishment.
4. Prior to February 8, 2017, Respondent Stokes Mutual Burial Association (hereinafter "Respondent Stokes MBA" and collectively "Respondents") was a North Carolina corporation licensed by the Board as a mutual burial association and, therefore, was 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).
5. Respondent Lewis served as the secretary-treasurer of Respondent Stokes MBA prior to its revocation on February 8, 2017.
6. On February 8, 2017, the Board entered into a Consent Order with Respondents to resolve Board Case No. M16-045 (hereinafter the "Consent Order").
7. The Consent Order ordered, in part, that:

The funeral directing license of Respondent Lewis is hereby revoked and the at-need and preneed establishment permits of [Stokes Mortuary, Inc.] are hereby revoked; except that said revocations shall be stayed on the following conditions:

- a. The funeral directing license of Respondent Lewis shall be placed on probation for a period of five (5) years from the date this Consent Order takes effect;

....

- c. Respondent Lewis shall reimburse to Stokes Mutual Burial Association the amount of \$44,107.87 and provide proof of said reimbursement to Board staff on or before December 31, 2017. If Respondent Lewis fails to provide proof of said reimbursement on or before December 31, 2017, then Board staff shall issue a Notice of Hearing to Show Cause immediately without further Board vote or action.

8. Respondents failed to comply with the terms of the Consent Order. Specifically, Respondents did not reimburse the \$44,107.87 owed to Respondent Stokes MBA on or before December 31, 2017, nor did she provide any proof of the required reimbursement to the Board staff on or before December 31, 2017.
9. Respondent made two payments totaling less than \$500.00 towards the amount owed under the Consent Order.
10. Respondent was required by law to carry a bond policy which has since reimbursed the Board of Funeral Services for the amount owed by Respondent.

Based upon the foregoing FINDINGS OF FACT, the Board makes the following:

CONCLUSIONS OF LAW

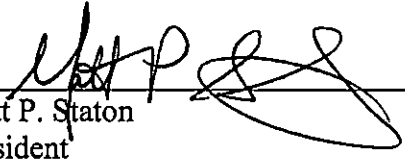
1. Respondents are subject to jurisdiction before the Board.
2. Respondents were properly served with process.
3. The Board is authorized under Article 3A, Chapter 150B of the North Carolina General Statutes to hear this matter.
4. The acts and omissions of Respondents, described in Paragraphs 1-8 above, violate the terms of the Consent Order upon which the revocation of her funeral directing license was stayed.

FINAL AGENCY DECISION

Based upon the foregoing Findings of Fact and Conclusions of Law, the North Carolina Board of Funeral Service hereby issues the following decision:

- I. The Funeral Directing license of Respondent Marian Sherrod Lewis is hereby revoked.
- II. This decision shall take effect upon service of this Final Agency Decision on the Respondent.
- III. Pursuant to N.C. Gen. Stat. § 150B-45(a)(2), 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 which 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.

By order of the North Carolina Board of Funeral Service, this, the 8 day of May, 2018.

By: 
Matt P. Staton
President

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Findings of Fact, Conclusions of Law, and Final Agency Decision was sent by United States Postal Service, Certified Mail, Return Receipt Requested, postage prepaid, addressed to:

Robert L. Schupp
The Law Office of Robert L. Schupp
PO Box 582
Willow Spring, NC 27592
Phone: 910-262-8792
Fax: 919-800-3680



This the 9 day of May, 2018.

A handwritten signature in black ink, appearing to read 'Catherine E. Lee', written over a horizontal line.

Catherine E. Lee