

OCT 04 2018

NORTH CAROLINA
WAKE COUNTY

RECEIVED

BEFORE THE NORTH CAROLINA
BOARD OF FUNERAL SERVICE
CASE NOS. M17-025

In the matter of:

Cremation Society of Charlotte, Inc.,
Boston's Mortuary, Clarence J. Boston,
Donnica A. Boston, and Shelesceyah C.
McConnell,
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 Respondent Shelesceyah C. McConnell stipulate and agree to entry of the following Consent Order:

FINDINGS OF FACT

1. Cremation Society of Charlotte, Inc., (hereinafter "Respondent Crematory") is a corporation registered in North Carolina and licensed by the Board as Crematory No. 96 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. Clarence Boston ("Respondent C. Boston") is licensed by the Board as Funeral Service No. 2964 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).
3. Respondent C. Boston is the owner of Respondent Crematory.
4. Donnica A. Boston (hereinafter "Respondent D. Boston") is the manager of Respondent Crematory; is licensed as Funeral Director No. 4185; 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).
5. Boston's Mortuary (hereinafter "Respondent Mortuary") is licensed by the Board as Funeral Establishment No. 816 and Preneed Funeral Establishment No. 272; 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).
6. At all pertinent times referenced herein, and until approximately November 23, 2017, Shelesceyah C. McConnell (hereinafter "Respondent McConnell") was the manager of

- Respondent Mortuary. Respondent McConnell is licensed as Funeral Service No. 3208; 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).
7. Since approximately November 23, 2017, Respondent C. Boston has served as the manager of Respondent Mortuary.
 8. On September 14, 2017, pursuant to N.C. Gen. Stat. § 90-210.68(a), Board Inspectors Brett Lisenbee (hereinafter "Inspector Lisenbee") and Karen Davis (hereinafter "Inspector Davis") conducted a Funeral Establishment Inspection (hereinafter "2017 Inspection") of Respondent Mortuary.
 9. During the 2017 Inspection, Respondent D. Boston informed Inspector Licensee that Respondent Crematory had performed multiple cremations on behalf of Crown Memorial Park ("Crown"), which is not licensed to provide funeral services in North Carolina.
 10. The Board previously had warned Respondent Crematory against performing cremations on behalf of entities not licensed to practice funeral service in North Carolina. Specifically, on June 15, 2016, Board staff sent a Letter of Caution to all crematories in North Carolina—including one addressed to Respondent D. Boston as manager of Respondent Crematory—putting them "on notice that aiding or abetting a person who is not licensed by this Board to perform funeral services in North Carolina is grounds under which the Board may take disciplinary action against a licensee."
 11. During the 2017 Inspection, Respondent D. Boston told Inspector Lisenbee that she had received, on behalf of Respondent Crematory, the June 15, 2016, letter warning against the aiding and abetting of unlicensed practice.
 12. During the 2017 Inspection, Respondent D. Boston also indicated to Inspector Lisenbee that Respondent Crematory's affiliate, Respondent Mortuary, had handled two cremations for Crown in 2015 and 2016.
 13. On September 14, 2017, Inspector Lisenbee reviewed files located at Respondent Crematory containing records of funeral services provided for [REDACTED] in 2015 and [REDACTED] in 2016.
 14. In his review of the file for Ms. [REDACTED] Inspector Lisenbee determined that:
 - a. Ms. [REDACTED] died in hospice care on August 19, 2015.
 - b. On August 20, 2015, hospice care released Ms. [REDACTED] remains. The Body Release Form was signed by Leon Bolden, who is affiliated with Respondent Mortuary, but he signed on behalf of Crown to make the removal:

- c. Ms. [REDACTED] death certificate, dated August 20, 2015, notes the place of disposition as Respondent Crematory.
 - d. The death certificate was signed by Respondent C. Boston as funeral director.
 - e. The NC Crematory Authority form BFS-56G was signed by Leon Bolden who delivered the remains to Respondent Crematory on August 21, 2015. The form states that he is affiliated with Respondent Crematory.
 - f. Respondent Leon Bolden is the signatory on the form as the person performing the cremation and as the person who delivered the cremated remains to Respondent Mortuary on August 24, 2015.
 - g. Respondent Mortuary's at-need Statement of Funeral Goods and Services Selected for Ms. [REDACTED] (hereinafter "[REDACTED] SGSS") is dated August 20, 2015, and is signed by Respondent C. Boston.
 - h. The [REDACTED] SGSS shows a balance due of \$450.00 to be paid by Crown Memorial Park.
 - i. On August 24, 2015, Crown wrote a check to Respondent Mortuary for Four Hundred Fifty Dollars (\$450.00) with a memo line indicating [REDACTED]
15. In his review of the file for Ms. [REDACTED] Inspector Lisenbee determined that:
- a. On August 25, 2016, [REDACTED] died at Novant Health Medical Center.
 - b. On August 26, 2016, Ms. [REDACTED] daughter signed a Novant Health Center form to release the body to "Crown Funeral Services."
 - c. The release form's section entitled "Receipt of Body" is signed by Glen Peele who is affiliated with Respondent Mortuary, but he signed on behalf of Crown Memorial Park to make the removal.
 - d. The death certificate, dated September 6, 2016, notes the place of disposition as Respondent Crematory
 - e. The death certificate was signed by Respondent McConnell as funeral director.
 - f. The NC Crematory Authority form BFS-56G was signed by Glen Peele who delivered the remains to Respondent Crematory on August 30, 2016. The form states that he is "affiliated with" Respondent Mortuary.
 - g. Respondent D. Boston is the signatory on the form as the person performing the cremation and as the person who delivered the cremated remains to Respondent Mortuary on August 31, 2016.

- h. Respondent Mortuary's at need Statement of Funeral Goods and Services Selected for Ms. [REDACTED] (hereinafter "[REDACTED] SGSS") is dated August 25, 2016, and is signed by Respondent McConnell.
 - i. The [REDACTED] SGS shows a balance due of \$450.00 to be paid by Crown Memorial Park.
 - j. On August 30, 2016, Crown Memorial Park wrote a check to Respondent Mortuary for Four Hundred Fifty Dollars (\$450.00), with a memo line indicating [REDACTED] [sic].
16. In 2002, Mecklenburg County Superior Court ordered Crown, its employees, and agents enjoined from selling, offering to sell, arranging for, and offering to arrange for cremation services. The Court further ordered that Crown may refer members of the public to a licensed funeral establishment of such services, provided that the person is permitted to deal directly with the funeral establishment in making cremation arrangements and to make payment directly to the funeral establishment (the "2002 Order").
17. On April 10, 2018, the Mecklenburg County Superior Court found Crown to be in civil contempt of the 2002 Court Order and ordered that Crown cease and desist from all activities described in the 2002 Court Order.

CONCLUSIONS OF LAW

1. Respondents are subject to jurisdiction before the Board.
2. The acts and omissions of Respondents, described in Paragraphs 1-17, violate N.C. Gen. Stat. §§ 90-210.25(e)(1)h. and 90-210.123(g)(8) which prohibit aiding and abetting an unlicensed person to perform funeral services and cremation services, respectively.
3. The acts and omissions of Respondents, described in Paragraphs 1-17, violate N.C. Gen. Stat. §§ 90-210.25(e)(1)j., 90-210.123(g)(10) which prohibit violating any provision of Articles 13A and/or 13F of Chapter 90 of the North Carolina General Statutes, all rules and regulations of the Board, and the standards set forth in 16 C.F.R. § 453 (1984), as amended from time to time.
4. Pursuant to N.C. Gen. Stat. §§ 90-210.25(e)(1) and 210.123(g), the Board has the authority to suspend, revoke, or refuse to issue or renew the funeral service license of Respondent C. Boston. If the Board concludes that Respondent Boston committed any of the aforementioned violations, but remains fit to practice, pursuant to N.C. Gen. Stat. §§ 90-210.25(e)(2) and 90-210.123(h), the Board has the authority to place Respondent Boston on probation and to assess a civil penalty not to exceed \$5,000.00.
5. Pursuant to N.C. Gen. Stat. §§ 90-210.25(e)(1) and 210.123(g), the Board has the authority to suspend, revoke, or refuse to issue or renew the funeral directing license of

Respondent D. Boston. If the Board concludes that Respondent D. Boston committed any of the aforementioned violations, but remains fit to practice, pursuant to N.C. Gen. Stat. §§ 90-210.25(e)(2) and 90-210.123(h), the Board has the authority to place Respondent D. Boston on probation and to assess a civil penalty not to exceed \$5,000.00.

6. 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 McConnell. If the Board concludes that Respondent McConnell committed any 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 McConnell on probation and to assess a civil penalty not to exceed \$5,000.00.
7. 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 Mortuary; or to place Respondent Mortuary on probation, and to assess a civil penalty not to exceed \$5,000.00.
8. Pursuant to N.C. Gen. Stat. § 90-210.123(g) and (h), the Board has the authority to suspend, revoke, or refuse to issue or renew the crematory permit of Respondent; or to place the crematory permit of Respondent on probation, and to assess a civil penalty not to exceed \$5,000.00.
9. Respondents remain fit to practice.

BASED upon the foregoing Findings of Fact and Conclusions of Law, and in lieu of further proceedings, Respondent McConnell wishes to resolve this matter by consent and agrees 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 McConnell acknowledges that she has read this entire document and understand it;

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

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

Whereas Respondent McConnell understands that this Consent Order must be presented to the Board for approval and that Respondent McConnell hereby waives any argument that any Board members considering this Consent Order are disqualified from participating in a hearing of this matter; and

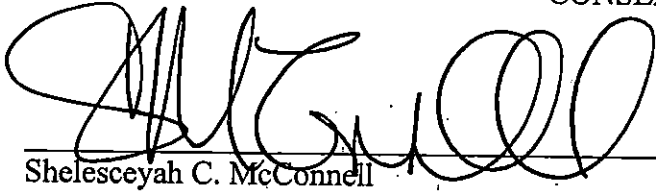
Whereas the Board has determined that the public interest is served by resolving this matter as set forth below.

THEREFORE, with the consent of Respondent McConnell, it is ORDERED that:

1. Respondent McConnell shall be issued a non-disciplinary letter of caution, whereby she is reminded to ensure that she does not aid and abet unlicensed individuals in the practice of funeral service, particularly when serving as the licensed manager of an establishment.
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 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.
3. 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.
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 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.
6. Respondents 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 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.

[THE REMAINDER OF THIS PAGE IS LEFT INTENTIONALLY BLANK]

CONSENTED TO:



Shelesceyah C. McConnell

Date:

10/1/2018

By Order of the North Carolina Board of Funeral Service, this the 10 day of October, 2018.

By:



Matt Staton
Board President

CERTIFICATE OF SERVICE

This is to certify that the undersigned has this date served the foregoing **Consent Order** upon the following named persons by depositing a copy of the foregoing document in the United States Mail, first class, postage prepaid, as follows:

Cremation Society of Charlotte, Inc.
Donnica A. Boston, Manager
4300 Statesville Road
Charlotte, North Carolina 28269

Clarence Boston
2917 Virginia Avenue
Charlotte, NC 28205

Donnica A. Boston
2917 Virginia Avenue
Charlotte, North Carolina 28205

Boston's Mortuary
Clarence Boston, Manager
4300 Statesville Road
Charlotte, North Carolina 28269

Shelesceyah C. McConnell
1827 Alexander Commons Drive, Apt. 208
Charlotte, North Carolina 28262

This the 15 day of October, 2018.



Catherine E. Lee