

**NORTH CAROLINA
WAKE COUNTY**

**BEFORE THE NORTH CAROLINA
BOARD OF FUNERAL SERVICE
CASE NOS. M18-0013**

In the matter of:

Nelson Funeral Service,
and William Harvey Knotts, II,
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. Nelson Funeral Service, located in Rockingham, North Carolina; (hereinafter "Respondent Funeral Home") is licensed as Funeral Establishment No. 172 and Preneed Funeral Establishment No. 890 by the Board 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. William Harvey Knotts, II (hereinafter "Respondent Knotts" or, collectively with Respondent Funeral Home, "Respondents") is licensed as Funeral Service Licensee No. 1142 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). Respondent Knotts holds a preneed sales license on behalf of Respondent Funeral Home.
3. Respondent Knotts is the licensed manager of Respondent Funeral Home.
4. In October 2017, the Board entered into a Consent Order with Respondent Knotts (the "2017 Consent Order").
5. In the 2017 Consent Order, the parties agreed that Respondent Knotts had sold a trust-funded preneed contract to a consumer but had failed to timely negotiate the consumer's checks tendered as payment toward the contract and had failed to properly deposit the payments into a trust account used to fund the consumer's preneed funeral contract. The parties further agreed that Respondent Knotts had failed to timely file multiple preneed funeral contracts with the Board.
6. As a result of the findings of fact and conclusions of law set forth in the 2017 Consent Order, the funeral service license of Respondent Knotts was placed on probation for a period of three (3) years.

7. On or about January 30, 2018, Inspector Karen Davis conducted an examination of Trust and Insurance-Funded Preneed Contracts for which Respondents serve as trustee. During the 2018 Examination, Inspector Davis found that the following preneed contracts had not been timely filed with the Board within ten (10) days of the date of sale, as required by N.C. Gen. Stat. § 90-210.67(d) and 21 NC Admin Code 34D .0105:
 - a. Audrey Stuart;
 - b. Doney Washington;
 - c. James Watkins;
 - d. Ruth Watkins;
 - e. Odessa Brown;
 - f. Mexie Burnette;
 - g. James Heavner, Sr.;
 - h. Dorothy Hight;
 - i. Charles Ingram;
 - j. Delois Jones;
 - k. Margaret Livingston;
 - l. Robert Long;
 - m. Mildred McLaurin;
 - n. Thelma Creech;
 - o. Thelma Leak;
 - p. Lille Smith; and
 - q. Ezell Sanders.
8. During the 2018 Examination, Inspector Davis found that the Respondents did not properly calculate the credits owed to two consumers for cash advance and sales tax items on their closed inflation-proof preneed contracts, in violation of N.C. Gen. Stat. § 90-210.62(a).
9. During the 2018 Examination, Inspector Davis found that Respondents failed to retain a copy of an at-need Statement of Funeral Goods and Services Selected in the following closed preneed contract files, in violation of N.C. Gen. Stat. §§ 90-210.62(a), 90-210.68(a) and 21 NC Admin Code 34D .0301(b):
 - a. George Ellerbe;
 - b. Elease Davis;
 - c. Romell Jones;
 - d. James Smith Sr.; and
 - e. Lucius Thompkins
10. During the 2018 Examination, Inspector Davis found that Respondents failed to complete and file with the Board a Certificate of Performance within ten (10) days of payment and failed to maintain a copy of a Certificate of Performance in the following closed preneed contract files, in violation of N.C. Gen. Stat. §§ 90-210.68(a), (e)(3) and 90-210.64(a):
 - a. James Smith, Sr.;

- b. Lucius Thompkins;
- c. Arthur McLean; and
- d. Christopher Short.

CONCLUSIONS OF LAW

1. The acts and omissions of Respondent Knotts, described in Paragraphs 1-10, violate the terms of the Consent Order.
2. The acts and omissions of Respondents, described in Paragraphs 1-10, violate N.C. Gen. Stat. § 90-210.25(e)(1)j., which prohibits violating any provision of Articles 13A, 13D, 13E, 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.
3. The acts and omissions of Respondents, described in Paragraphs 1-10, violate N.C. Gen. Stat. § 90-210.69(c)(6), which prohibits violating preneed provisions of the Board's laws and rules.
4. The acts and omissions of Respondents, described in Paragraphs 1-10, violate N.C. Gen. Stat. § 90-210.67(d) and 21 NC Admin. Code 34D .0105, which requires preneed licensees to file all preneed contracts with the Board within ten (10) days of the date of sale.
5. The acts and omissions of Respondents, described in Paragraph 1-10, violate N.C. Gen. Stat. § 90-210.62(a) by failing to properly calculate the credits owed to two consumers for cash advance and sales tax items on their closed inflation-proof preneed contracts
6. The acts and omissions of Respondents, described in Paragraphs 1-10, violate N.C. Gen. Stat. § 90-210.68(a) and 21 NCAC 34D .0301(b) and (e), which requires every preneed licensee to keep a copy of each preneed contract, together with a copy of the certificate of performance, the preneed statement of funeral goods and services and a signed at-need statement of funeral goods and services, for each closed preneed contract file.
7. The acts and omissions of Respondents, described in Paragraphs 1-10, violate N.C. Gen. Stat. § 90-210.64(a) and 21 NCAC 34D .0303(b), which requires every preneed licensee to file with the Board a certificate of performance within ten (10) days after receiving payment.
8. 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 director's license of Respondent Knotts. If the Board concludes that Respondent Knotts 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 Knotts on probation and to assess a civil penalty not to exceed \$5,000.00.
9. 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 Funeral Home, or

to place Respondent Funeral Home on probation, and to assess a civil penalty not to exceed \$5,000.00.

10. Pursuant to N.C. Gen. Stat. §§ 90-210.69(c) and (f), 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 Funeral Home, or to place Respondent Funeral Home 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 suspends for at least two (2) years the preneed establishment permit and any and all ancillary preneed sales licenses of Respondent Funeral Home, provided that said suspension shall be stayed on the following terms and conditions:
 - a. Respondent Funeral Home shall undergo and pass without substantial deficiencies a preneed examination of its trust-funded and insurance-funded preneed contracts, to be conducted on or before January 2021, prior to the expiration of the stayed suspension;
 - b. Respondent Funeral Home shall not violate any law or rule of the Board during the period of suspension;
 - c. Respondent Funeral Home shall timely respond to any and all Board and/or Board staff correspondence;

- d. Respondent Funeral Home shall comply with all terms of this Consent Order; and
 - e. Within thirty (30) days from the date this Consent Order takes effect, Respondent Funeral Home shall pay a compromise penalty of Three Thousand (\$3,000.00) Dollars to the Civil Penalty and Forfeiture Fund in accordance with Article 31A of Chapter 115C of the North Carolina General Statutes.
2. The Board hereby puts on probation the Funeral Service license of Respondent Knotts for two (2) year, on the following terms and conditions:
- a. Within thirty (30) days from the date this Consent Order takes effect, Respondent Knotts shall pay a compromise penalty of Five Hundred (\$500.00) Dollars to the Civil Penalty and Forfeiture Fund in accordance with Article 31A of Chapter 115C of the North Carolina General Statutes.
 - b. Respondent Knotts shall not violate any law or rule of the Board during the period of probation;
 - c. Respondent Knotts shall timely respond to any and all Board and/or Board staff correspondence; and
 - d. Respondent Knotts 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:

William Harvey Knotts, II Date: 6/9/19
William Harvey Knotts, II

Nelson Funeral Service

William Harvey Knotts Date: 6/9/19
William Harvey Knotts, II
Manager

By Order of the North Carolina Board of Funeral Service, this the 9th day of 2019,
2019:

By: J. Stephen Herndon
J. Stephen Herndon
Board President

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Consent Order was sent by United States Postal Service, first class, postage prepaid, addressed to:

William Harvey Knotts, II, Manager
Nelson Funeral Service
1021 E. Washington Street
Rockingham, NC 28379

William Harvey Knotts, II
PO Box 746
Hamlet, NC 28345

This the 15 day of January, 2019.



Catherine E. Lee