

NORTH CAROLINA  
WAKE COUNTY

BEFORE THE NORTH CAROLINA  
BOARD OF FUNERAL SERVICE  
CASE NOS. M18-0049

In the matter of:

Gilliam Memorial Mortuary, Inc.  
and Janice Ray Owens,

Respondents.

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**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. Respondent Gilliam Memorial Mortuary, Inc. (hereinafter "Respondent Establishment") is licensed by the Board as Funeral Establishment No. 853 and Pre-Need Establishment No. 550 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. Janice Ray Owens (hereinafter "Respondent Owens" or, collectively with Respondent Establishment, "Respondents") is licensed as the Funeral Service Licensee No. 2226 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 Owens holds an ancillary preneed sales license on behalf of Respondent Establishment.
3. Respondent Owens serves as the licensed manager of Respondent Establishment.
4. On or about June 28, 2018, Board Inspector Christopher Stoessner conducted an Examination of Trust and Insurance-Funded Preneed Contracts of Respondent Establishment (the "2018 Examination").
5. During the 2018 Examination, Inspector Stoessner determined that Respondents were not maintaining a separate cash journal or separate cash receipt book designated for preneed, showing all preneed payments collected, as required by N.C. Gen. Stat. § 90-210.68(a) and 21 NC Admin. Code 34D .0301(c)(2). Respondents took steps to address this issue immediately following the 2018 Examination and represent to the Board that they have rectified this violation.

6. During the 2018 Examination, Inspector Stoessner determined that Respondents had failed to maintain copies of bank statements and deposit slips from financial institutions in which trust funds are deposited, certificate of deposit records, and trust accountings for the following closed trust-funded preneed contracts, in violation of N.C. Gen. Stat. § 90-210.68(a) and 21 NC Admin. Code 34D .0301(c)(4):

- a. Willie Carter; and
- b. Evelyn Wynn

Respondent Owens represents that she was not the licensed manager at the time these contracts were made with Respondent Establishment, and that she was not the direct cause for the violations. However, Respondents acknowledge that said violations need to be addressed and corrected within the preneed contract files.

7. During the 2018 Examination, Inspector Stoessner determined that Respondents had failed to maintain copies of payment verification or documentation for the following closed insurance-funded preneed contracts, in violation of N.C. Gen. Stat. § 90-210.68(a) and 21 NC Admin. Code 34D .0301(c)(5):

- a. Willie Herbert

Respondent Owens represents that she was not the licensed manager at the time the contract was closed with Respondent Establishment, and that she was not the direct cause for the violation. However, Respondents acknowledge that said violations need to be addressed and corrected within the preneed contract file.

8. N.C. Gen. Stat. § 90-210.68(a) and 21 N.C. Admin. Code 34D .0302 requires every preneed licensee to submit a preneed annual report to the Board by March 31 of each year, setting forth information on its preneed funeral contract sales and performance of such contracts.
9. On or about September 28, 2018, the Board voted to issue Respondents a Letter of Caution, warning them to comply with all statutes and rules cited as violations in the Report of Examination of Trust and Insurance-Funded Preneed Contracts prepared by Inspector Christopher Stoessner in 2018 (the "Letter of Caution").
10. In the Letter of Caution, dated October 4, 2018, Respondents were directed to file their 2017 Preneed Annual Report within fifteen (15) days. Respondents were warned that, if the 2017 Preneed Annual Report was not received within fifteen (15) days, a Notice of Hearing on these violations would be issued.
11. Respondents received the Letter of Caution on October 19, 2018.
12. Board staff received Respondents' 2017 Annual Report on or about December 28, 2018.

### CONCLUSIONS OF LAW

1. The acts and omissions of Respondents described in Paragraphs 1-12 violate N.C. Gen. Stat. § 90-210.68(a) and 21 N.C. Admin. Code 34D .0302, which requires every preneed licensee to submit a preneed annual report to the Board by March 31 of each year, setting forth information on its preneed funeral contract sales and performance of such contracts.
2. The acts and omissions of Respondents described in Paragraphs 1-12 violate N.C. Gen. Stat. § 90-210.25(e)(1)(j), which prohibits violating the provisions of Articles 13A, 13D, 13E, and/or 13F of Chapter 90 of the North Carolina General Statutes, all rules and regulations of the Board, or 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 1-12 violate N.C. Gen. Stat. § 90-210.68(a) and 21 NC Admin. Code 34D .0301(c)(2), by failing to maintain a separate cash journal or separate cash receipt book designated for preneed, showing all preneed payments collected.
4. The acts and omissions of Respondents described in Paragraphs 1-12 violate N.C. Gen. Stat. § 90-210.68(a) and 21 NC Admin. Code 34D .0301(c)(4) by failing to maintain copies of bank statements and deposit slips from financial institutions in which trust funds are deposited, certificate of deposit records, and trust accountings for all closed trust-funded preneed contracts.
5. The acts and omissions of Respondents described in Paragraphs 1-12 violate N.C. Gen. Stat. § 90-210.68(a) and 21 NC Admin. Code 34D .0301(c)(5) by failing to maintain copies of payment verification or documentation for the following closed insurance-funded preneed contracts.
6. The acts and omissions of Respondents described in Paragraphs 1-12 violate N.C. Gen. Stat. § 90-210.69(c)(6), which prohibits violating preneed provisions of the Board's laws and rules.
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 Establishment, to place Respondent Establishment on probation, and to assess a civil penalty not to exceed \$5,000.00.
8. Pursuant to N.C. Gen. Stat. §§ 210.25(e)(1)b. and j., and 210.69(c)(4) and (6), the Board has the authority to suspend, revoke, or refuse to issue or renew the funeral service license of Respondent Owens. If the Board concludes that Respondent Owens has 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 Owens on probation and to assess a civil penalty not to exceed \$5,000.00.

9. Pursuant to N.C. Gen. Stat. §§ 90-210.69(c) and (e), 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 Establishment, to place Respondent Establishment 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 places on probation for one (1) year the Pre-Need Establishment Permit of Respondent Funeral Home, No. 550, on the following terms and conditions:
  - a. Respondent Funeral Home shall timely file its 2018 Preneed Annual Report, which is due on or before March 31, 2019;
  - 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 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.
2. The Board hereby puts on probation the Funeral Service license of Respondent Owens for one (1) year, on the following terms and conditions:
  - a. Respondent Owens shall not violate any law or rule of the Board during the period of probation;
  - b. Respondent Owens shall timely respond to any and all Board and/or Board staff correspondence; and
  - c. Respondent Owens 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.

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CONSENTED TO:

Janice Owens, ESL Date: 01/07/2019  
Janice Ray Owens *Isaiah 41:10*

Gilliam Memorial Mortuary, Inc.

Janice Owens, ESL Date: 01/07/2019  
Janice Ray Owens, Manager *Isaiah 41:10*

By Order of the North Carolina Board of Funeral Service, this the 07 day of January, 2019.

By:

J. Stephen Hendon  
J. Stephen Hendon  
Board President


### CERTIFICATE OF SERVICE

I hereby certify that the foregoing **Consent Order** was served upon the following persons by mailing a copy, by US Mail, First Class, postage prepaid, and addressed as follows:

Janice Ray Owens, Manager  
Gilliam Memorial Mortuary, Inc.  
706 Ghent Street  
Windsor, NC 27983

Janice Ray Owens  
103 Betty Drive  
Elizabeth City, NC 27909

This, the   9   day of January, 2019.

  
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Catherine E. Lee  
General Counsel