

NORTH CAROLINA  
WAKE COUNTY

BEFORE THE NORTH CAROLINA  
BOARD OF FUNERAL SERVICE  
CASE NO. M18-065

In the matter of:

Fulton Mutual Burial Association,  
Respondent.

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**CONSENT ORDER**

The North Carolina Board of Funeral Service (the "Board"), having jurisdiction over this matter pursuant to North Carolina General Statute Section 90-210.105 and approved by majority vote with a quorum present, makes the following findings of fact and conclusions of law:

**FINDINGS OF FACT**

1. Fulton Mutual Burial Association (the "Respondent Burial Association") is licensed by the Board under Article 13E, Chapter 90 of the North Carolina General Statutes and is subject to jurisdiction before the Board.
2. Respondent John W. Fulton is secretary-treasurer of Respondent Burial Association.
3. On or about September 13, 2018, Board Inspector Christopher Stoessner conducted an examination of Respondent Burial Association's books and accords (the "2018 Examination"), pursuant to Article 4 of North Carolina General Statute section 90-210.81.
4. During the 2018 Examination, Inspector Stoessner found that Respondent Burial Association had a cash shortage of Seven Hundred Seventy-Two Dollars and 64/100 (\$772.64).
5. During the 2018 Examination, Inspector Stoessner found that Respondent Burial Association failed to maintain a bond for the Secretary-Treasurer, made payable to the Board as trustee, as required by North Carolina General Statute section 90-210.95.
6. During the 2018 Examination, Inspector Stoessner found that Respondent Burial Association's operating expenses exceeded thirty percent (30%) of the total of the assessments collected and the investment income of the burial association in one calendar year, in violation of North Carolina General Statute section 90-210.81.
7. During the 2018 Examination, Inspector Stoessner found that Respondent Burial Association failed to publish in a newspaper of general circulation in the county in which such association has its principal place of business, or mail to each member in good standing a statement showing total income collected, expenses paid, and burial benefits provided.

Based upon the findings of fact, the Board makes the following:

**CONCLUSIONS OF LAW**

1. Respondent Burial Association is subject to jurisdiction before the Board.
2. Respondent Burial Association has violated Article 4 of North Carolina General Statute section 90-210.81 by failing to faithfully preserve and apply all funds received by the Secretary-Treasurer.
3. Respondent Burial Association has violated North Carolina General Statute section 90-210.95 by failing to maintain a bond for the Secretary-Treasurer, made payable to the Board as trustee.
4. Respondent Burial Association has violated North Carolina General Statute section 90-210.81 when its operating expenses exceeded thirty percent (30%) of the total of the assessments collected and the investment income of the burial association in one calendar year.
8. Respondent Burial Association has violated Article 18 of North Carolina General Statute section 90-210.81 by failing to publish in a newspaper of general circulation in the county in which such association has its principal place of business, or mail to each member in good standing a statement showing total income collected, expenses paid, and burial benefits provided.
5. Pursuant to North Carolina General Statute sections 90-210.85 and 90-210.92, the Board has the authority to revoke the license of Respondent Burial Association, to remove John W. Fulton as Secretary-Treasurer, to transfer all burial association members to another burial association in good financial standing, and impose any sanction allowed by law or within its equitable powers as an administrative tribunal.

Based upon the foregoing and in lieu of further proceedings, Respondent wishes to resolve this matter by consent and agree that the Board staff and counsel may discuss this Order with the Board *ex parte* whether or not the Board accepts this Order as written.

Whereas Respondent acknowledges that it has read this entire document and understands it;

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

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

Whereas Respondent understand that this Consent Order must be presented to the Board for approval and that Respondent 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, it is ORDERED that:

1. The Board hereby revokes the burial association license of Respondent Burial Association. The Board stays said revocations on the following conditions:
  - a. Respondent Burial Association admit to the Findings of Fact and Conclusions of Law herein;
  - b. Respondent Burial Association shall voluntarily dissolve on February 28, 2019; provided, however, that:
    - i. Prior to the dissolution, the cash shortage of Seven Hundred Seventy-Two Dollars and 64/100 (\$772.64) shall be paid back to Respondent Burial Association;
    - ii. Prior to January 15, 2019, Respondent Burial Association shall mail, via US Mail, to each of its last known members in good standing, a notice indicating the date, time and location of a special meeting to be held for the purpose of voting on the proposed dissolution and on a date no later than February 15, 2019; and
    - iii. Prior to January 15, 2019, Respondent Burial Association shall publish, in a newspaper of general circulation in the county in which Respondent Burial Association has its place of business, a notice that: (1) advertises the date, time and location of a special meeting to be held for the purpose of voting on the proposed dissolution and on a date no later than February 15, 2019; and (2) advises all members impacted by the proposed dissolution to remit all current and pass assessment fees due and to provide Respondent Burial Association with a current mailing address and phone number for the head of household prior to February 28, 2019.
2. Failure to comply with the terms of this Consent Order shall result in the stay of the revocation being lifted immediately until the Board can 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 other disciplinary action as it determines is appropriate and authorized by law.

In the matter of Fulton Mutual Burial Association  
NC Board of Funeral Service Case No. M18-065  
Consent Order  
Page | 4

- 3. This Consent Order shall take effect immediately upon its execution by all parties and reflects the entire agreement between Respondent and the Board, there being no agreement of any kind, verbal or otherwise, which varies, alters, or adds to 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 Respondent participated in the drafting of this Consent Order. Any ambiguities herein shall not be construed against either party in any future civil or administrative proceedings.
- 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 Respondent, 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:

FULTON MUTUAL BURIAL ASSOCIATION

  
John W. Fulton, Secretary-Treasurer

By order of the North Carolina Board of Funeral Service, this the 19 day of December, 2018.

By:   
Matt Staton  
President

## CERTIFICATE OF SERVICE

I hereby certify that the foregoing Consent Order was served upon the Respondent by email and by U.S. Mail, first class, postage prepaid, and addressed as follows:

John W. Fulton, Secretary-Treasurer  
Fulton Mutual Burial Association  
PO Box 461  
Yanceyville, NC 27379  
Email: [fultonfuneralhome@ymail.com](mailto:fultonfuneralhome@ymail.com)

This, the 20 day of December, 2018.



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Catherine E. Lee  
General Counsel