

NORTH CAROLINA
WAKE COUNTY

BEFORE THE NORTH CAROLINA
BOARD OF FUNERAL SERVICE
CASE NO. M20-0011

In the matter of:)
)
Herring Funeral Care & Cremations, LLC,)
and Sharon Arlene Worrell,)
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:

1. Respondent Herring Funeral Care & Cremations, LLC (hereinafter “Respondent Funeral Home”), is licensed by the Board as Funeral Establishment (hereinafter “FE”) No. 6 and Preneed Establishment (hereinafter “PNFE”) No. 845 and, therefore, is subject to Chapter 90 of the North Carolina General Statutes and Title 21, Chapter 34 of the North Carolina Administrative Code.
2. Respondent Sharon Arlene Worrell (hereinafter “Respondent Individual”) is licensed by the Board as Funeral Director License No. 3989 and, therefore, is subject to Chapter 90 of the North Carolina General Statutes and Title 21, Chapter 34 of the North Carolina Administrative Code. Respondent Individual also holds an ancillary preneed sales license on behalf of Respondent Funeral Home.
3. For all times relevant to this Notice of Hearing, Respondent Individual has been the licensed manager of Respondent Funeral Home.
4. On or about August 29, 2019, Inspector Robinson-McLean conducted a funeral establishment inspection (hereinafter the “2019 Inspection”) and a preneed examination and audit (hereinafter the “2019 Examination”) of Respondent Funeral Home.
5. During the 2019 Examination, Inspector Robinson-McLean obtained evidence that tends to show Respondents violated statutes and rules governing the practice of preneed funeral service as follows:
 - a. On or about May 8, 2019, Respondents closed an irrevocable trust-funded preneed contract for [REDACTED] (BFS No. 538882) and provided the preneed funds to [REDACTED] in the amount of One Thousand Eight Hundred and 24/100 Dollars (\$1,800.24), in violation of N.C. Gen. Stat. § 90-210.65.

- b. Respondents failed to retain an application for insurance and/or an insurance policy for the insurance-funded preneed contract file of [REDACTED], in violation of N.C. Gen. Stat. § 90-210.68(a) and 21 NCAC 34D .0301(c)(5).
 - c. Respondents failed to retain beneficiary designation documents or instruments of assignment for the insurance-funded preneed contract files of [REDACTED] in violation of N.C. Gen. Stat. § 90-210.68(a) and 21 NCAC 34D .0301(c)(5).
6. Following the 2019 Examination, Respondents took action to rectify the violations identified in Paragraph 5(b) and (c) above.
 7. Respondents remain fit to practice preneed funeral service.

CONCLUSIONS OF LAW

1. Respondent is subject to jurisdiction before the Board.
2. The acts and omissions of Respondents described in Paragraphs 1-7 constitute the improper closure of an irrevocable trust-funded preneed contract, in violation of N.C. Gen. Stat. § 90-210.65.
3. The acts and omissions of Respondents described in Paragraphs 1-7 constitute a failure to properly maintain accurate and complete preneed records and forms, in violation of N.C. Gen. Stat. § 90-210.68(a) and 21 N.C. Admin. Code 34D .0301(c)(5).
4. The acts and omissions of Respondents described in Paragraphs 1-7 constitute a failure to retain multiple applications for insurance, insurance policies, beneficiary designation documents, or instruments of assignment for insurance funded preneed contracts sold, in violation of N.C. Gen. Stat. § 90-210.68(a) and 21 NCAC 34D .0301(c)(5).
5. The acts and omissions of Respondents described in Paragraphs 1-7 violate N.C. Gen. Stat. § 90-210.25(e)(1)j., which prohibits violating or cooperating with others to violate the laws, rules and regulations of the Board, or the standards set forth in Funeral Industry Practices, 16 C.F.R. § 453 (1984), as amended from time to time.
6. The acts and omissions of Respondents described in Paragraphs 1-7 violate N.C. Gen. Stat. § 90-210.69(c)(6), which prohibits violating or cooperating with others to violate the laws, rules and regulations of the Board, or the standards set forth in Funeral Industry Practices, 16 C.F.R. § 453 (1984), as amended from time to time.

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 preneed establishment permit of Respondent Funeral Home is hereby on probation for a period of two (2) years on the following conditions:
 - a. All employees of Respondent Funeral Home shall take a Board-sponsored course on preneed statutes and rules on or before December 31, 2021; and
 - b. During the period of probation, Respondent Funeral Home shall comply with all statutory and regulatory provisions governing the practice of funeral service.
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 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.

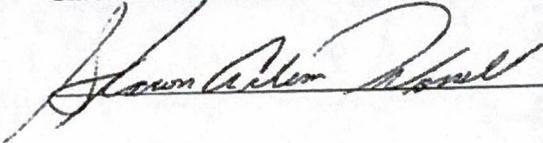
3. This Consent Order shall take effect immediately upon its execution by all parties and reflects the entire agreement between Respondents and the Board, there being no agreement of any kind, verbal or otherwise, which varies, alters, or modifies this Consent Order.
4. No modification or waiver of any 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]

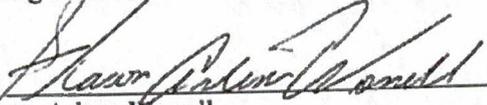
In the Matter of: Herring Funeral Care & Cremations, LLC
and Sharon Arlene Worrell,
Board Case No. M20-0011
Consent Order
Page | 5

CONSENTED TO:

Sharon Arlene Worrell

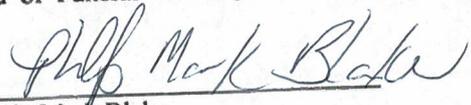
 Date: 8.7.2020

Herring Funeral Care & Cremations, LLC

By:  Date: 8.7.2020
Sharon Arlene Worrell
Manager

By Order of the North Carolina Board of Funeral Service, this the 12 day of
August, 2020.

By:


Phillip Mark Blake
Board President