

NORTH CAROLINA
WAKE COUNTY

BEFORE THE NORTH CAROLINA
BOARD OF FUNERAL SERVICE
CASE NO. M20-0020

In the matter of:)
)
Friendship Mutual Burial Association, Inc.,) CONSENT ORDER
and Kema Mainor Boney,)
Respondents.)

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. Friendship Mutual Burial Association, Inc. (hereinafter “Respondent MBA”), is a North Carolina corporation licensed by the Board as a mutual burial association 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. For all times relevant to this Notice of Hearing, Ms. Kema Mainor Boney (“Respondent Individual”) has been the secretary-treasurer of Respondent MBA.
3. On or about September 11, 2019, Inspector Stoessner conducted an audit of Respondent MBA (hereinafter the “2019 Audit”).
4. During the 2019 Audit, Inspector Stoessner obtained evidence that tends to show Respondents violated statutes and rules governing the practice of funeral service as follows:
 - a. Respondents spent more than the thirty percent (30%) of receipts and interest allowable toward legitimate operating expenses of Respondent MBA, pursuant to Article 13(a), N.C. Gen. Stat. § 90-210.81, thereby resulting in a cash shortage of approximately Fifty-Nine Thousand One Hundred Seventy-Eight and 32/100 Dollars (\$59,178.32).
 - b. Respondent MBA failed to maintain a bond for Respondent Individual as Secretary-Treasurer, naming the Board as the obligee/loss payee, as required by N.C. Gen. Stat. § 90-210.95.
5. Following the 2019 Audit, Rose Hill Funeral Home, Inc.—the funeral home with which Respondent MBA is affiliated—re-paid an amount equal to the cash shortage identified in Paragraph 4 to Respondent MBA.

6. On or about July 17, 2020, Respondent MBA provided Board staff with evidence that it had obtained a bond for the Respondent Individual as Secretary-Treasurer, naming the Board as the obligee/loss payee, as required by N.C. Gen. Stat. § 90-210.95.

CONCLUSIONS OF LAW

1. Respondent is subject to jurisdiction before the Board.
2. The acts and omissions of Respondents described in Paragraphs 1-6 violate N.C. Gen. Stat. § 90-210.64(a) and N.C. Gen. Stat. § 90-210.81 by failing to faithfully preserve and apply all burial association funds.
3. The acts and omissions of Respondents described in Paragraphs 1-6 violate N.C. Gen. Stat. § 90-210.81 by spending more than Thirty Percent (30%) of receipts and interest toward operating expenses of Respondent MBA.
4. The acts and omissions of Respondents described in Paragraphs 1-6 violate N.C. Gen. Stat. § 90-210.95 by failing to maintain a bond for the secretary-treasurer of the mutual burial association at all times.

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 burial association license of Respondent MBA is hereby suspended for a period of at least three (3) years, provided that such suspension is stayed on the following conditions:
 - a. The burial association license of Respondent MBA shall remain suspended for at least a period of three (3) years from the date of this Consent Order, and until such time as Respondent MBA submits to and passes without substantial deficiency an audit conducted by a Board Staff Inspector, which examination should be conducted on or before September 2023; and
 - b. During the period of stayed suspension, Respondent MBA shall comply with all statutory and regulatory provisions governing mutual burial associations.
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.

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CONSENTED TO:

Kema Mainor Boney

Kema Mainor Boney

Date:

7-27-2020

Friendship Mutual Burial Association, Inc.

By: Kema Mainor Boney

Date:

7-27-2020

Kema Mainor Boney
Secretary-Treasurer

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

By:

Phillip M. Blake

Phillip Mark Blake
Board President