

NORTH CAROLINA  
WAKE COUNTY

BEFORE THE NORTH CAROLINA  
BOARD OF FUNERAL SERVICE  
CASE NO. M21-0009

In the matter of:

Stephen Carraway, III d/b/a  
Albritton-Carraway Funeral Home  
and Stephen Carraway, III  
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 Respondent Funeral Home stipulate and agree to entry of the following Consent Order:

1. Respondent Stephen Carraway, III d/b/a Albritton-Carraway Funeral Home (hereinafter “Respondent Funeral Home”), is licensed by the Board as Funeral Establishment Permit No. 0005 and Preneed Establishment Permit No. 0030 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 Stephen Carraway, III (hereinafter “Respondent Individual” or collectively with Respondent Funeral Home as “Respondents”) is licensed by the Board as Funeral Service Licensee No. 147 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 and owner of Respondent Funeral Home.

2016 Preneed Examination

4. On or about January 14, 2016, former Board Inspector Inez Green (hereinafter “Inspector Green”) conducted a preneed examination and audit (hereinafter the “2016 Examination”) of the Respondent Funeral Home.
5. During the 2016 Examination, Inspector Green identified significant violations of the statutes and rules governing the practice of preneed funeral service, including the following:
  - a. Respondents failed to maintain a copy of the 2015 Application for License Renewal, 2014 Annual Report, and 2011 Examination Report, in violation of N.C. Gen. Stat. § 90-210.68(a) and 21 NCAC 34D .0301(a);

- b. Respondents failed to maintain a separate preneed receipt book, in violation of N.C. Gen. Stat. § 90-210.68(a) and 21 NCAC 34D .0301(c)(2);
  - c. Respondents failed to maintain recent financial statements from financial institutions at which preneed funds held in trust, in violation of N.C. Gen. Stat. § 90-210.68(a) and, 21 NCAC 34D .0301(c)(4);
  - d. Respondents failed to retain physical files for all active preneed contracts sold, in violation of N.C. Gen. Stat. § 90-210.68(a) and 21 NCAC 34D .0301(b);
  - e. Respondents failed to either execute or retain multiple applications for insurance, insurance policies, beneficiary designation documents, or instruments of assignment for insurance funded preneed contract, in violation of N.C. Gen. Stat. § 90-210.68(a) and 21 NCAC 34D .0301(c)(5);
  - f. Respondent Individuals failed to either execute or retain multiple applications for insurance, insurance policies, beneficiary designation documents, and/or instruments of assignments for insurance funded PNK(s), sold during times when they held no validly issued PNFE or preneed sales licenses; in violation of N.C. Gen. Stat. § 90-210.68(a), and, 21 NCAC 34D .0301(c)(5).
  - g. For all matured or cancelled preneed contract files, Respondents failed to maintain completed certificate of performance (hereinafter “COP(s)”), in violation of N.C. Gen. Stat. § 90-210.68(a), and 21 NCAC 34D .0301(b) and (e).
  - h. For all matured or cancelled preneed contract files, Respondents failed to complete and/or file all required COPs; in violation of N.C. Gen. Stat. § 90-210.64(a), and 21 NCAC 34D .0303(b).
6. On or about April 26, 2016, the Board issued Respondents a non-disciplinary letter of caution, contingent upon Respondent Individual’s attendance at a Board-sponsored continuing education course on preneed funeral planning on or before December 31, 2016. Upon information and belief, Respondent Individual did not attend the course, to date.

#### 2018 Preneed Examination

7. On or about April 2018, Board Inspector Stoessner conducted a funeral establishment inspection (hereinafter the “2018 Inspection”) and a preneed examination and audit (hereinafter the “2018 Examination”) of Respondent Funeral Home.

8. During the 2018 Inspection, Inspector Stoessner obtained evidence that tends to show Respondents violated statutes and rules governing the practice of funeral service as follows:
  - a. Respondents failed to maintain a General Price List that provided accurate price information and compliant embalming disclosures, in violation of 16 CFR §§ 453.2(a), 453.2(a)(2)(ii), 453.2(b)(4)(ii)(D), and 453.2(b)(4)(iii)(B);
  - b. Respondents failed to maintain a Casket Price List that provided the price of each casket not requiring special order, in violation of 16 CFS § 453.2(b)(2)(i);
  - c. Respondents failed to maintain compliant Outer Burial Container Price List disclosure, in violation of 16 CFR § 453.3(c)(2); and
  - d. Respondents failed to maintain completed BFS Form 56D for multiple at-need files, in violation of 21 NCAC 34C .0303(c).
9. During the 2018 Examination, Inspector Stoessner obtained evidence that tends to show Respondents violated statutes and rules governing the practice of preneed funeral service as follows:
  - a. Respondents failed to maintain a copy of the previous renewal application for the preneed establishment, in violation of N.C. Gen. Stat. § 90-210.68(a);
  - b. Respondents failed to maintain a separate preneed receipt book, in violation of N.C. Gen. Stat. § 90-210.68(a) and 21 NCAC 34D .0301(c)(2);
  - c. Respondents failed to retain physical files for all active preneed contracts sold, in violation of N.C. Gen. Stat. § 90-210.68(a) and 21 NCAC 34D .0301(b);
  - d. For all matured or cancelled preneed contract files, Respondents failed to maintain completed certificate of performance (hereinafter “COP(s)”), in violation of N.C. Gen. Stat. § 90-210.68(a), and 21 NCAC 34D .0301(b) and (e).
  - e. For all matured or cancelled preneed contract files, Respondents failed to complete and/or file all required COPs; in violation of N.C. Gen. Stat. § 90-210.64(a), and 21 NCAC 34D .0303(b).

10. On or about June 27, 2018, the Board issued Respondents a non-disciplinary letter of caution, advising Respondents of their obligation to comply with all statutes and rules governing the practice of preneed funeral service that were cited in the 2018 Examination.

2020 Preneed Examination

11. On or about November 16, 2020, Board Inspector Karen Davis-Brunson conducted a conducted a funeral establishment inspection (hereinafter the “2020 Inspection”) and a preneed examination and audit (hereinafter the “2020 Examination”) of Respondent Funeral Home.
12. During the 2020 Inspection, Inspector Davis-Brunson obtained evidence that tends to show Respondents violated statutes and rules governing the practice of funeral service as follows:
  - a. Respondents failed to maintain a General Price List that provided accurate price information and compliant embalming disclosures, in violation of 16 CFR §§ 453.2(a), 453.2(a)(2)(ii), 453.2(b)(4)(ii)(D), and 453.2(b)(4)(iii)(B);
13. During the 2020 Examination, Inspector Davis-Brunson obtained evidence that tends to show Respondents violated statutes and rules governing the practice of preneed funeral service as follows:
  - a. Although Respondents have not accepted preneed payments since the previous examination, Respondents failed to maintain a separate preneed receipt book, in violation of N.C. Gen. Stat. § 90-210.68(a) and 21 NCAC 34D .0301(c)(2);
  - b. Respondents failed to maintain recent financial statements from financial institutions at which preneed funds held in trust, in violation of N.C. Gen. Stat. § 90-210.68(a) and, 21 NCAC 34D .0301(c)(4);
  - c. Respondents failed to retain physical files for all active preneed contracts sold, in violation of N.C. Gen. Stat. § 90-210.68(a) and 21 NCAC 34D .0301(b);
  - d. For all matured or cancelled preneed contract files, Respondents failed to timely complete and/or file all required COPs; in violation of N.C. Gen. Stat. § 90-210.64(a), and 21 NCAC 34D .0303(b); and
  - e. For all matured or cancelled preneed contract files, Respondents failed to retain copies of all financial transactions pertaining to the close-out of the

funding insurance policy, in violation of N.C. Gen. Stat. § 90-210.48(a) and 21 NCAC 34D .0301(c)(5).

### **CONCLUSIONS OF LAW**

14. Respondents are subject to the jurisdiction of the Board.
15. The acts and omissions of Respondents described in Paragraphs 1-13 constitute a failure to comply with the FTC Rule, in violation of N.C. Gen. Stat. § 90-210.25(e)(1)(j).
16. The acts and omissions of Respondents described in Paragraphs 1-13 constitute a failure to complete and retain Board Form BFS 56D1 when returning/delivering cremated remains per the directive of the authorizing agent/cremation authorization form, as required by 21 NCAC 34C .0303(c).
17. The acts and omissions of Respondents described in Paragraphs 1-13 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(a), (b), (c)(4), and (c)(5).
18. The acts and omissions of Respondents described in Paragraphs 1-13 constitute a failure to retain recent financial statements from the financial institution that houses the preneed funds for all trust-funded preneed contracts, in violation of N.C. Gen. Stat. § 90-210.68(a) and 21 NCAC 34D .0301(c)(4).
19. The acts and omissions of Respondents described in Paragraphs 1-13 constitute a failure to timely complete and/or file with the Board certificates of performance for performed preneed contracts, in violation of N.C. Gen. Stat. § 90-210.64(a) and 21 N.C. Admin. Code 34D .0303(b).
20. The acts and omissions of Respondents described in Paragraphs 1-13 constitute a failure to maintain a separate cash journal or separate cash receipt book designated for preneed, showing all preneed payments collected, in violation of N.C. Gen. Stat. § 90-210.68(a), and, 21 NCAC 34D .0301(c)(2).
21. The acts and omissions of Respondents described in Paragraphs 1-13 constitute a failure to retain the physical files for all preneed contracts sold, in violation of N.C. Gen. Stat. § 90-210.68(a), and, 21 NCAC 34D .0301(b), (c)(4).
22. The acts and omissions of Respondents described in Paragraphs 1-13 constitute a failure to retain a completed certificate of performance for all matured or cancelled preneed contract files, in violation of N.C. Gen. Stat. § 90-210.68(a) and 21 NCAC 34D .0301(b) and (e).

23. The acts and omissions of Respondents described in Paragraphs 1-13 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.
24. The acts and omissions of Respondents described in Paragraphs 1-13 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.
25. One or more of the violations described in Paragraphs 14-24 were committed by any owner, officer, operator, manager, member, or partner of Respondent Funeral Home or by any agent or employee of Respondent Funeral Home with the consent of any person, firm, or corporation operating it, 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, to place Respondent Funeral Homes on probation, and to assess a civil penalty not to exceed \$5,000.00.
26. Respondent Individual committed one or more of the violations described in Paragraphs 14-24 but remains fit to practice. Pursuant to N.C. Gen. Stat. § 90-210.25(e)(2), the Board has the authority to place Respondent Individual on probation and to assess a civil penalty not to exceed \$5,000.00.
27. Respondent Funeral Home committed one or more of the violations described in Paragraphs 14-24. Pursuant to N.C. Gen. Stat. § 90-210.69(c), 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.
28. Respondent Individual committed one or more of the violations described in Paragraphs 14-23. Pursuant to N.C. Gen. Stat. § 90-210.69(c), the Board has the authority to revoke, suspend, or refuse to issue or renew the preneed sales license of Respondent Individual, or to place Respondent Individual 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 wishes 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 acknowledges 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 funeral service license of Respondent Individual and the preneed establishment permit and ancillary preneed sales licenses of Respondent Funeral Home are hereby suspended for a period of at least two (2) years, provided that said suspension shall be stayed 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;
  - b. Respondent Funeral Home shall submit to, and pass without substantial deficiency, a preneed examination and an at-need inspection conducted by a Board Staff Inspector, which should be conducted on or before June 30, 2023;
  - c. During the period of probation, Respondent Funeral Home shall comply with all statutory and regulatory provisions governing the practice of funeral service; and
  - d. Within thirty (30) days following the entry of this Consent Order, Respondents shall remit a compromise penalty of One Thousand Dollars (\$1,000.00) to the Civil Penalty and Forfeiture Fund in accordance with Article 31A of Chapter 115C of the North Carolina General Statutes.
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 the Board and Respondents and reflect 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]



7-Jun-2021 11:10 Fax

19196474465

p.10

In the Matter of: Stephen Carraway, III d/b/a Albritton-Carraway Funeral Home  
and Stephen Carraway, III  
Board Case Nos. M21-0009  
Consent Order  
Page | 9

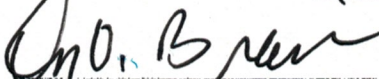
## CONSENTED TO:

Stephen Carraway, III d/b/a Albritton-Carraway Funeral Home

By:  Date: 6-7-21  
Stephen Carraway, III  
Owner

Stephen Carraway, III  
 Date: 6-7-21

By Order of the North Carolina Board of Funeral Service, this the 9 day of June, 2021.

By:   
Don D. Brown  
Board President