

NORTH CAROLINA
WAKE COUNTY

BEFORE THE NORTH CAROLINA
BOARD OF FUNERAL SERVICE
CASE NO. M21-0010

In the matter of:

Regional Orlanda Pruitt d/b/a Pruitt
Funeral Home, Regional Orlanda Pruitt,
and Russell T. Costner,
Respondents.

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FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL AGENCY DECISION

In accordance with N.C. Gen. Stat. § 150B-40(d), the North Carolina Board of Funeral Service (hereinafter the "Board") issues the following Findings of Fact, Conclusions of Law, and Final Agency Decision in this matter.

The record reflects that a quorum of the Board was present at the hearing held on January 13, 2022, and at the time the Board made this decision on January 13, 2022. The record further reflects that Board members Stephen Herndon and Steven Lyons did not participate in the hearing or deliberations of this case because they served on the Board's Disciplinary Committee at the time this particular matter was reviewed. At the hearing, Catherine E. Lee, General Counsel, appeared for Board staff; Jeffrey Gray appeared as administrative law counsel for the Board; Regina M. Taylor, Esq., appeared for Respondent Costner; and Robert O. Crawford, III, Esq. appeared for Respondent Pruitt Funeral Home and Respondent Pruitt.

Before the hearing, the following inquiry was read aloud in accordance with state ethics laws: "[d]oes any board member have any known conflict of interest with respect to this matter coming before the Board today? If so, please identify the conflict or appearance of conflict and refrain from any undue or inappropriate participation in the particular matter involved." No Board members, other than Mr. Herndon and Dr. Lyons, stated that they had a conflict of interest or the appearance of a conflict of interest.

PETITIONER'S LIST OF EXHIBITS

- Notice of Hearing and Proof of Service - Exhibit 1
- Pruitt Funeral Home Licensure Profile – Exhibit 2
- Costner Licensure Profile – Exhibit 3
- Pruitt Licensure Profile – Exhibit 4
- 2015 Preneed Establishment Examination – Exhibit 5
- 2016 Consent Order (Pruitt Funeral Home and Regional Orlanda Pruitt) – Exhibit 6
- 2020 Preneed Establishment Examination – Exhibit 7
- 2021 Preneed Establishment Examination – Exhibit 9
- Preneed Contract (December 10, 2020) – Exhibit 11

- Beneficiary Designation Documents for Griffin Insurance Policy – Exhibit 12
- Affidavit of Michael Hunter – Exhibit 13
- Consent Judgment (NCBFS v. Convenient Cremations, Rutherford County, Case No. 21 CVS 174) – Exhibit 14

RESPONDENTS' LIST OF EXHIBITS

None

FINDINGS OF FACT

1. Respondent Regional Orlanda Pruitt d/b/a Pruitt Funeral Home (hereinafter "Respondent Funeral Home"), is licensed by the Board as a Funeral Establishment Permit No. 0479 and Preneed Establishment Permit No. 0557 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. Regional Orlanda Pruitt (hereinafter "Respondent Pruitt" or collectively with Respondent Funeral Home and Respondent Costner as "Respondents") is licensed by the Board as Funeral Service Licensee No. 1194 and, therefore, is subject to Chapter 90 of the North Carolina General Statutes and Title 21, Chapter 34 of the North Carolina Administrative Code.
3. Russell T. Costner (hereinafter "Respondent Costner" or collectively with Respondent Funeral Home and Respondent Pruitt as "Respondents") is licensed by the Board as Funeral Director No. 3689 and, therefore, is subject to Chapter 90 of the North Carolina General Statutes and Title 21, Chapter 34 of the North Carolina Administrative Code.
4. Respondent Pruitt is the sole proprietor of Respondent Funeral Home and served as its licensed manager prior to October 20, 2020.
5. Since approximately October 20, 2020, Respondent Costner has been the licensed manager for Respondent Funeral Home.

2016 Consent Order to Resolve M16-0004

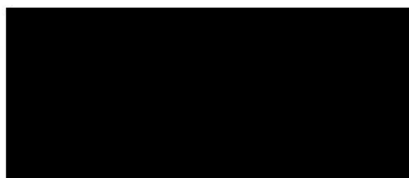
6. On or about July 8, 2015, Board Inspector Brett Lisenbee ("Inspector Lisenbee") conducted an examination of trust and insurance-funded preneed contracts and records ("2015 Examination") of Respondent Funeral Home, pursuant to N.C. Gen. Stat. § 90-210.68(a) and found evidence tending to suggest violations of statute and rules governing the practice of preneed funeral service. As a result, Board staff opened Board Case No. M16-0004.

7. On August 10, 2016, the Board and Respondents entered into a Consent Order ("2016 Consent Order") to resolve Board Case No. M16-004. In the 2016 Consent Order, Respondent Funeral Home and Respondent Pruitt admitted that they:
 - a. deposited preneed payments in their operating account prior to forwarding payments to the funding company, in violation of N.C. Gen. Stat. § 90-210.61(e);
 - b. failed to maintain accurate preneed records at all times and failed to file accurate preneed annual reports, in violation of N.C. Gen. Stat. § 90-210.68(a);
 - c. offered to engage or engaging in activities for which a license is required under Article 13D but without having obtained such a license; aided and abetted an unlicensed person or entity to offer to engage or engage in such activities; engaged in fraud or misrepresentation in preneed funeral planning; and violated or cooperated with others to violate any provision of Article 13D or the rules and regulations of the Board, in violation of N.C. Gen. Stat. § 90-210.69(c);
 - d. engaged in fraud or misrepresentation in the practice of funeral service; aided or abetted an unlicensed person to perform services under Article 13A; and violated or cooperated with others to violate any of the provisions of Article 13A or 13D or the rules and regulations of the Board, in violation of N.C. Gen. Stat. § 90-210.25(d)(4) and (e);
 - e. failed to maintain copies of their 2015 application for license renewal and its March 31, 2011 examination report, in violation of 21 NCAC 34D .0301(a) and (e);
 - f. failed to maintain files containing all preneed funeral contracts purchased, failed to maintain copies of the preneed statement of goods and services, and commingled matured/closed preneed contract files with active contract files, in violation of 21 NCAC 34D .0301(b) and (e);
 - g. failed to maintain a current and accurate cash receipts journal, showing all preneed payments collected, in violation of 21 NCAC 34D .0301(c)(2);
 - h. failed to maintain copies of bank statements and deposit slips from financial institutions in which trust funds are deposited and certificate of deposit records, in violation of 21 NCAC 34D .0301(c)(4) and (e);
 - i. failed to maintain copies of applications for insurance, insurance policies, beneficiary designation documents and/or instruments of assignment, in violation of 21 NCAC 34D .0301(c)(5) and (e);

- j. failed to update their preneed records at least annually, in violation of 21 NCAC 34D .0301(f); and
 - k. failed to file accurate annual preneed reports with the Board, in violation of 21 NCAC 34D .0302.
8. Pursuant to the 2016 Consent Order, Respondent Funeral Home's Preneed Establishment Permit and all ancillary sales licenses were placed on an active suspension for a period of six (6) months and thereafter placed on a stayed suspension for a period of eighteen (18) months.
9. Pursuant to the 2016 Consent Order, Respondent Pruitt's funeral service license was placed on a two (2) year probation.

2020 Preneed Examination

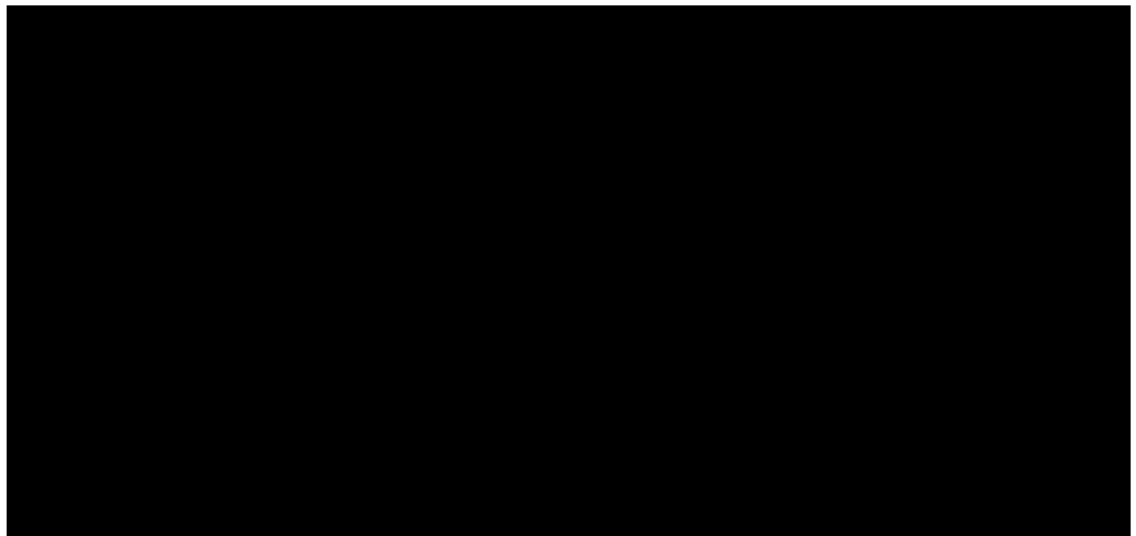
10. On or about December 9, 2020, Board Inspector Karen Davis-Brunson (hereinafter "Inspector Davis-Brunson") conducted a preneed examination and audit (hereinafter "2020 Examination").
11. During the 2020 Examination, Inspector Davis-Brunson found evidence tending to show Respondents had violated statutes and rules governing the practice of preneed funeral services, including the following:
- a. Respondents failed to maintain and make available copies of its past Preneed Funeral Establishment Permit renewal applications, in violation of N.C. Gen. Stat. § 90-210.68(a) and 21 NCAC 34D .0301(a)(1).
 - b. Respondents failed to maintain and make available copies of its past preneed annual reports, in violation of N.C. Gen. Stat. § 90-210.68(a) and 21 NCAC 34D .0301(a)(3).
 - c. Respondents failed to maintain a preneed receipt journal or book, or an equivalent thereto, showing all preneed payments collected, in violation of N.C. Gen. Stat. § 90-210.68(a) and 21 NCAC 34D .0301(c)(2).
 - d. Respondents failed to maintain a copy of deposit slip or certificate of deposit for the following preneed contracts:



- e. Respondents failed to retain copies of all prearrangement insurance policies (or the equivalent thereto), beneficiary designation documents, and/or instruments of assignment for the following preneed contracts, in violation of N.C. Gen. Stat. § 90-210.68(a) and 21 NCAC 34D .0301(c)(5):



- f. Respondents failed to file the preneed funeral contract of [REDACTED] within ten (10) days of the sale, in violation of N.C. Gen. Stat. § 90-210.67(d) and 21 NCAC 34D .0105.
- g. Respondents failed to retain in the closed preneed funeral files reviewed, copies of the preneed funeral contract, the certificate of performance, the preneed statement of goods and services selected, the at-need statement of goods and services selected, and/or financial closeout documentation, in violation of N.C. Gen. Stat. § 90-210.68(a) and 21 NCAC 34D .0301(b) and (c) for the following:



- h. Respondents failed to file a certificate of performance within ten (10) days of payment for [REDACTED] in violation of N.C. Gen. Stat. § 90-210.64(a) and 21 NCAC 34D .0303(b).

2021 Preneed Examination

- 12. On or about June 17 2021, Board Inspector Debbie L. Hamm (hereinafter “Inspector Hamm”) conducted a preneed examination and audit (hereinafter “2021 Examination”) of Respondent Funeral Home, pursuant to N.C. Gen. Stat. § 90-210.68(a).

13. During the 2021 Examination, Inspector Hamm found evidence tending to show Respondents had violated statutes and rules governing the practice of preneed funeral services, including the following:

- a. Respondents failed to maintain and make available copies of its past Preneed Funeral Establishment Permit renewal applications, in violation of N.C. Gen. Stat. § 90-210.68(a) and 21 NCAC 34D .0301(a)(1).
- b. Respondents failed to maintain and make available preneed contract files for the following consumers, in violation of N.C. Gen. Stat. § 90-210.68(a) and 21 NCAC 34D .0301(b) and (c):

[REDACTED]

- c. Respondents failed to maintain a copy of deposit slip or certificate of deposit for the preneed contracts file of [REDACTED] in violation of N.C. Gen. Stat. § 90-210.68(a) and 21 NCAC 34D .0301(b) and (c)(4).
- d. Respondents failed to deposit preneed funds in trust within five (5) business days for the preneed contract of [REDACTED] in violation of N.C., Gen. Stat. § 90-210.61(a)(1).
- e. Respondents failed to retain copies of prearrangement insurance policies (or the equivalent thereto), beneficiary designation documents, and/or instruments of assignment for the following preneed contracts, in violation of N.C. Gen. Stat. § 90-210.68(a) and 21 NCAC 34D .0301(c)(5):

[REDACTED]

- f. Respondents failed to file with the Board the preneed funeral contract of [REDACTED] within ten (10) days of sale, in violation of N.C. Gen. Stat. 90-210.67(d) and 21 NCAC 34D .0105.
- g. Respondents failed to retain copies of the preneed funeral contract, the certificate of performance, the preneed statement of goods and services selected, at-need statement of goods and services selected, and/or financial closeout documentation for the following contracts, in violation of N.C. Gen. Stat. § 90-210.68(a) and 21 NCAC 34D .0301(b) and (c):

- no certificate of performance;
 - ii. [REDACTED] - no certificate of performance, no at-need statement of goods and services selected, and no financial closeout documents;
 - iii. [REDACTED] - no certificate of performance, no preneed statement of goods and services selected, no at-need statement of goods and services selected, and no financial closeout documentation (no file located);
 - iv. [REDACTED] - no certificate of performance, no preneed statement of goods and services selected, no at-need statement of goods and services selected, and no financial closeout documentation (no file located); and
 - v. [REDACTED] - no certificate of performance, no preneed statement of goods and services selected, no at-need statement of goods and services selected, and no financial closeout documentation (no file located).
- h. Respondents failed to file a certificate of performance within ten (10) days of payment for [REDACTED], in violation of N.C. Gen. Stat. § 90-210.64(a) and 21 NCAC 34D .0303(b).

14. During the 2020 and 2021 Examinations, Inspectors Davis-Brunson and Hamm also found evidence tending to show that Respondent Funeral Home and Respondent Pruitt have continued aiding and abetting the unlicensed practice of preneed funeral service, as follows:

- a. On or about December 10, 2020, Respondent Funeral Home and Respondent Pruitt sold a preneed contract to consumer [REDACTED] that identifies Enloe Services, LLC d/b/a Enloe Mortuary ("Enloe Mortuary"), which holds Funeral Establishment Permit No. 0158 issued by the Board, as the beneficiary of the preneed contract. Prior to June 30, 1998, Enloe Mortuary held Preneed Establishment Permit No. 0581.
- b. On or about June 30, 1998, Enloe Mortuary voluntarily surrendered its Preneed Establishment Permit 0581 and agreed that it would not be issued a preneed establishment permit in the future, following the Board's receipt of evidence showing Enloe Mortuary's failure to properly deposit preneed payments and file preneed contracts with the Board.
- c. Of the ten (10) closed preneed contract files examined by Inspector Davis-Brunson during the 2020 Examination, nine (9) of the contracts were performed by Enloe Mortuary.

Aiding and Abetting Unlicensed Practice

15. Convenient Cremations, LLC is organized in North Carolina as a limited liability company, with a principal place of business located at 562 S. Broadway Street in Forest City, North Carolina. Respondent Funeral Home also is located at 562 S. Broadway Street in Forest City, North Carolina.
16. Respondent Pruitt is a member of Convenient Cremations, LLC.
17. Convenient Cremations, LLC is actively engaged in the provision of funeral services to consumers in North Carolina. Specifically, Convenient Cremations, LLC offers services including direct cremation, transportation and removal services, and filing of death certificates.
18. Convenient Cremations, LLC is not, and never has been, licensed by the Board as a crematory licensee or a funeral establishment.

CONCLUSIONS OF LAW

19. The acts and omissions of Respondents described in Paragraphs 1-18 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), and (c).
20. The acts and omissions of Respondents described in Paragraphs 1-18 constitute a failure to maintain and make available copies of its past Preneed Funeral Establishment Permit renewal applications, in violation of N.C. Gen. Stat. § 90-210.68(a) and 21 NCAC 34D .0301(a)(1).
21. The acts and omissions of Respondents described in Paragraphs 1-18 constitute a failure to timely file contracts with the Board, in violation of N.C. Gen. Stat. § 90-210.67(d) and 21 N.C. Admin. Code 34D .0105.
22. The acts and omissions of Respondents described in Paragraphs 1-18 constitute a failure to retain copies of prearrangement insurance policies (or the equivalent thereto), beneficiary designation documents, and/or instruments of assignment, in violation of N.C. Gen. Stat. § 90-210.68(a) and 21 NCAC 34D .0301(c)(5).
23. The acts and omissions of Respondents described in Paragraphs 1-18 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).
24. The acts and omissions of Respondents described in Paragraphs 1-18 constitute a failure to deposit preneed funeral funds into a trust account within five (5) days from the date of receipt, in violation of N.C. Gen. Stat. § 90-210.61(a)(1).

25. The acts and omissions of Respondents described in Paragraphs 1-18 constitute aiding and abetting an unlicensed person or entity to offer to engage or engage in preneed funeral service, in violation of N.C. Gen. Stat. §§ 90-210.25(e)(1)(h) and 90-210.69(c).
26. The acts and omissions of Respondents described in Paragraphs 1-18 constitute aiding and abetting an unlicensed person or entity to offer to engage or engage in funeral service, in violation of N.C. Gen. Stat. §§ 90-210.25(e)(1)(h) and 90-210.123(g)(8).
27. The acts and omissions of Respondents described in Paragraph 1-18 constitute fraud or misrepresentation in the practice of funeral service, in violation of N.C. Gen. Stat. §§ 90-210.25(e)(1)(b), 90-210.69(c)(3) and 90-210.123(g)(2).
28. The acts and omissions of Respondents described in Paragraphs 1-18 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.
29. The acts and omissions of Respondents described in Paragraphs 1-18 violate N.C. Gen. Stat. § 90-210.123(g)(10), 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.
30. The acts and omissions of Respondents described in Paragraphs 1-18 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.

FINAL AGENCY DECISION

The North Carolina Board of Funeral Service hereby issues the following decision:

1. The Preneed Establishment Permit and all ancillary Preneed Sales Licenses of Respondent Funeral Home are revoked.
2. The Funeral Director License of Respondent Costner is suspended but said suspension shall be stayed on the condition that Respondent Costner resign his position as licensed manager of Respondent Funeral Home.
3. The Funeral Service License of Respondent Pruitt is suspended, but said suspension shall be stayed on the following terms and conditions:
 - a. Within thirty (30) days following the effective date of this Final Agency Decision, Respondent Pruitt shall pay a civil 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.

- b. During the period of stayed suspension as set forth above, the licensure of Respondent Pruitt shall be on probationary status and he must comply with all statutes and rules governing the practice of funeral service.
4. The Board shall retain jurisdiction under Article 3A, Chapter 150B for all administrative hearings held in connection with, or pursuant to, this Final Agency Decision. If the Board receives evidence of any violations of the Board's statutes and rules identified during the period of stayed suspension, or any violation of the terms and conditions of this Final Agency Decision, 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.
5. Pursuant to N.C. Gen. Stat. § 150B-45(a)(2), Respondents have thirty (30) days from the date that they receive this Final Agency Decision to file a Petition for Judicial Review. The Petition for Judicial Review must be filed in the Superior Court of the county where the person aggrieved by the administrative decision resides, or in the case of a person residing outside the State, in the county where the contested case which resulted in the final decision was filed. Since this is an administrative appeal, no additional evidence will be taken. If a Petition is filed, a Superior Court Judge will review the Final Agency Decision to determine whether there were any legal errors in the Final Agency Decision.
6. This Final Agency Decision shall take effect upon service of Respondents, in a manner consistent with N.C. Gen. Stat. § 150B-42(a).

By order of the North Carolina Board of Funeral Service, this, the 1st day of February, 2022.

By:



Christian E. Watson, President
N.C. Board of Funeral Service