

NORTH CAROLINA
WAKE COUNTY

BEFORE THE NORTH CAROLINA
BOARD OF FUNERAL SERVICE
CASE NOS. C20-0067, M21-0058,
C21-0050

In the matter of:

Mills Funeral Home, Inc.
and Craig Randolph Mills,
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. Mills Funeral Home, Inc. (hereinafter "Respondent Funeral Home"), is licensed by the Board as Funeral Establishment Permit No. 0391 and Preneed Establishment Permit No. 225 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. Craig Randolph Mills (hereinafter "Respondent Individual" or collectively with Respondent Funeral Home as "Respondents") is licensed by the Board as Funeral Service License No. 1837 and, therefore, is subject to Chapter 90 of the North Carolina General Statutes and Title 21, Chapter 34 of the North Carolina Administrative Code. For all times relevant to this matter, Respondent Individual served as the licensed manager of Respondent Funeral Home.
3. Prior to her death on June 17, 2021, Ms. Shirley Miller Mills was the sole shareholder of Respondent Funeral Home. As such, Respondent Funeral Home underwent a change of ownership on June 17, 2021.
4. Per N.C. Gen. Stat. § 90-210.25(d)(5), "[f]uneral establishment permits are not transferable. A new application for a permit shall be made to the Board within 30 days of a change of ownership of a funeral establishment."
5. On August 26, 2021, Respondent Funeral Home submitted an Application for Funeral Establishment Permit, which currently is pending before the Board.

C20-0067

6. Respondent Funeral Home entered into a Consent Order with the Board, effective February 14, 2018, to resolve violations of the Board's statutes and rules related to the administration of preneed contracts as set forth in Board Case No. M17-0031 (the "2018 Consent Order"). Pursuant to the terms of the 2018 Consent Order, Respondent Funeral Home was placed on probation until February 14, 2021.

7. On or about September 14, 2020, Board staff received a complaint from Linda Eure. Board staff provided Respondents with an opportunity to respond to Ms. Eure's allegations, and Respondents did so on or about September 28, 2020. Evidence obtained in this matter tends to show the following:
 - a. On or about June 20, 2020, Ms. Eure's husband died. Ms. Eure selected Respondent Funeral Home for the decedent's funeral services, which included cremation. Ms. Eure completed a standard cremation authorization form that directed the decedent's cremains be returned to her.
 - b. Following the cremation, Respondent Funeral Home failed to comply with the standard cremation authorization signed by Ms. Eure, in that it returned the decedent's cremains to the third party on or about July 11, 2020.
 - c. Ms. Eure repeatedly contacted Respondent Funeral Home in June and July 2020 to ascertain when she could pick up the decedent's remains but was told that the cremains were not yet available. Complainant ultimately was told in September 2020 that the Respondent Funeral Home had released the decedent's cremains to a third party.
8. On or about February 10, 2021, Respondent Funeral Home entered into a Consent Order with the Board to resolve Board Case No. C20-0067 (the "2021 Consent Order"). Pursuant to the terms of the Consent Order, the Funeral Establishment Permit of Respondent Funeral Home was placed on a two-year suspension to be stayed contingent upon Respondent Funeral Home's compliance with all laws and rules of the Board during the period of suspension.

M21-0058

9. Pursuant to N.C. Gen. Stat. § 90-210.68(a1) and 21 NCAC 34D .0302, Respondents had a duty to file its 2020 annual report of all preneed contract sales and performance of such contracts, if any, on or before March 31, 2021.
10. Respondents failed to deliver a completed preneed annual report to the Board by the close of business on March 31, 2021.
11. Pursuant to 21 NCAC 34A .0201(c), any preneed annual report not timely filed is subject to a \$150.00 late filing fee.
12. Respondent Funeral Home's failure to timely file its 2020 preneed annual report violates the terms of the Consent Order entered on February 10, 2021.
13. Respondents failed to file its 2019 preneed annual report on or before March 31, 2020.

C21-0050

14. On or about May 12, 2021, Board staff received a complaint from Valerie Howell. Board staff provided Respondents with an opportunity to respond to Ms. Howell's allegations, and Respondents did so on or about May 21, 2021. Evidence obtained in this matter tends to show the following:
- a. On or about April 29, 2021, Ms. Howell's mother, Ms. Bertha Cannon, died. Ms. Howell selected Respondent Funeral Home for the decedent's funeral services, which were to be earth burial.
 - b. Respondents removed the decedent from her residence to Respondent Funeral Home on April 29, 2021. Upon information and belief, Ms. Howell gave permission to Respondents for the embalming of decedent on April 29, 2021.
 - c. Respondents failed to place the decedent's unembalmed remains in a refrigeration unit following the removal. Respondents did not begin embalming the decedent until May 2, 2021, more than 24 hours after the decedent's death.
 - d. The decedent's family were unable to have an open casket funeral service for the decedent, as the decedent's remains were too decomposed following Respondents' failure to timely refrigerate or embalm the remains.

CONCLUSIONS OF LAW

- 15. Respondents are subject to the jurisdiction of the Board.
- 16. The acts and omissions of Respondents described in Paragraphs 1-14 violate the terms of the 2021 Consent Order.
- 17. The acts and omissions of Respondents described in Paragraphs 1-14 violated N.C. Gen. Stat. § 90-210.68(a1) and 21 NCAC 34D .0302, for failing to timely file a preneed annual report.
- 18. The acts and omissions of Respondents described in Paragraphs 1-14 violated N.C. Gen. Stat. § 90-210.67(d1) and 21 NCAC 34D .0302 by failing to timely pay a preneed annual report late fee.
- 19. The acts and omissions of Respondents described in Paragraphs 1-14 violated N.C. Gen. Stat. § 90-210.27A by retaining custody of unrefrigerated and unembalmed human remains for more than 24 hours.

20. Respondent Individual committed one or more of the violations described in Paragraphs 1-14 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.
21. Respondent Individual committed one or more of the violations described in Paragraphs 1-14. 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.
22. Respondent Funeral Home committed one or more of the violations described in Paragraphs 1-14. 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.

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 is hereby placed on a three (3) year suspension, provided however that said suspension shall be stayed on the following conditions:

- a. During the period of probation, Respondent Individual shall comply with all statutory and regulatory provisions governing the practice of funeral service.
2. Respondent Funeral Home's Application for Funeral Establishment Permit is hereby granted but placed on a three (3) year suspension, provided however, that said suspension shall be stayed on the following conditions:
 - a. Respondents shall submit the late fee of \$150.00 for its 2020 Preneed Annual Report within fifteen (15) days following the Effective Date of this Consent Order;
 - b. During the period of probation, Respondent Funeral Home shall comply with all statutory and regulatory provisions governing the practice of funeral service; and
 - c. Within thirty (30) days following the entry of this Consent Order, Respondents shall remit a compromise penalty of Five Thousand Dollars (\$5,000.00) to the Civil Penalty and Forfeiture Fund in accordance with Article 31A of Chapter 115C of the North Carolina General Statutes.
3. Respondent Funeral Home is eligible to apply for a preneed establishment permit in the future. However, any such preneed establishment permit that is issued shall be placed on a three (3) year suspension upon issuance, and said suspension shall be stayed on the following conditions:
 - a. During the period of probation, Respondent Funeral Home shall comply with all statutory and regulatory provisions governing the practice of funeral service; and
 - b. All employees of Respondent Funeral Home shall take a Board-sponsored course on preneed statutes and rules within six (6) months of the issuance of the preneed establishment permit.
4. 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.
5. 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.

6. 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.
7. 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.
8. Respondents hereby waive any requirement under any law or rule that this Consent Order be served upon them.
9. 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]

CONSENTED TO:

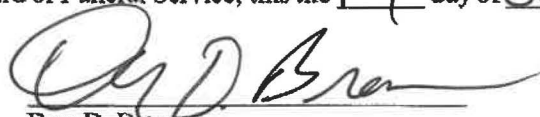
Mills Funeral Home, Inc.

By:  Date: 10/12/2021
Craig Randolph Mills
Manager

Craig Randolph Mills

 Date: 10/12/2021

By Order of the North Carolina Board of Funeral Service, this the 14 day of Oct,
2021.

By: 
Don D. Brown
Board President