

NORTH CAROLINA
WAKE COUNTY

BEFORE THE NORTH CAROLINA
BOARD OF FUNERAL SERVICE
CASE NO. M21-0081

In the matter of:)
)
Brown’s Mutual Burial Association)
of Greensboro, Inc. d/b/a Brown’s MBA and)
Charles Eugene Coote, Jr.)
)
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. Brown’s Mutual Burial Association of Greensboro, Inc. d/b/a Brown’s MBA (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, Mr. Charles Eugene Coote, Jr. (“Respondent Individual”) has been the secretary-treasurer of Respondent MBA.
3. On or about June 25, 2021, Inspector Stoessner conducted an audit of Respondent MBA (hereinafter the “2021 Audit”).
4. During the 2021 Audit, Inspector Stoessner obtained evidence that tends to show Respondents violated statutes and rules governing the practice of funeral service as follows:
 - a. Respondent MBA 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, in the amount of One Hundred Thirty-Three and 21/100 Dollars (\$133.21);
 - b. Respondent MBA failed to maintain a reserve account of at least Twenty-One Dollars (\$21.00) per member, pursuant to Article 13(b), N.C. Gen. Stat. § 90-210.81, resulting in a cash shortage of Two Thousand Three Hundred Sixty and 93/100 Dollars (\$2,360.93);

- c. 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; and
 - d. Respondent MBA failed to maintain a board of directors of seven (7) members, in accordance with Article 4, N.C. Gen. Stat. § 90-210.81.
5. To date, Board staff has not received evidence tending to show that the violations identified herein have been corrected.

CONCLUSIONS OF LAW

1. Respondent is subject to jurisdiction before the Board.
2. The acts and omissions of Respondents described in Paragraphs 1-5 violate N.C. Gen. Stat. § 90-210.81, in that Respondent MBA failed to maintain a reserve account of at least Twenty-One Dollars (\$21.00) per member, resulting in a cash shortage of Two Thousand Three Hundred Sixty and 93/100 Dollars (\$2,360.93).
3. The acts and omissions of Respondents described in Paragraphs 1-5 violate N.C. Gen. Stat. § 90-210.81 in that Respondent MBA spent 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 1-5 violate N.C. Gen. Stat. § 90-210.95 by failing to maintain a bond for the secretary-treasurer of the mutual burial association.
5. The acts and omissions of Respondents described in Paragraphs 1-5 violate N.C. Gen. Stat. § 90-210.81 by failing to maintain a board of directors of seven (7) members, in accordance with N.C. Gen. Stat. § 90-210.81.
6. Pursuant to N.C. Gen. Stat. § 90-210.85, the Board has the authority to revoke the mutual burial association license of Respondent MBA for any violation of Article I3E, Chapter 90 of the North Carolina General Statutes; to transfer all members to another burial association in good financial standing; and to impose any other sanction allowed by law or within its equitable powers as an administrative tribunal.
7. Pursuant to N.C. Gen. Stat. § 90-210.92, the Board has the authority to remove Respondent Individual as Secretary-Treasurer of Respondent MBA.

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. Within sixty (60) days, the burial association shall hold a valid meeting of its members to vote on voluntarily dissolution. If a quorum of the members votes in favor of voluntary dissolution, the assets of the burial association shall be liquidated in accordance with N.C. Gen. Stat. § 90-210.107(i), such that the burial association shall:
 - a. Cease accepting new members;
 - b. Collect all debts owed to the association and pay all debts owed by the association from monies on hand, including the reserve;
 - c. Distribute pro rata any remaining monies on hand and in the reserve; among those who were members of the association and whose transfer could not be accomplished on the date that the liquidation order was issued by the Board of Funeral Service. Each member's distributive share shall be determined by dividing the amount of the member's benefit by the aggregate benefits of all members of the association and then multiplying the total amount of money available for distribution by the percentage so derived. Assessments owed by the members to the association at the time of distribution shall be taken into account and shall be offset against the members' distributive shares;
 - d. Issue a certificate to members in an amount that equals the difference between the distributive share issued in (c) of this subsection and the full

amount of the member's association benefit. Any certificate issued shall supersede and supplant any other certificate already issued by the association. The certificate shall be on a form prescribed by the Board and shall be prepared and distributed by the association at its expense.

- e. File a final report with the Board on or before December 31 in the year in which the order of liquidation was issued. This report shall show all receipts and disbursements, including the amount distributed to each member, since the last annual report of the association was filed with the Board.
2. If a quorum of the burial association's members does not vote in favor of voluntary dissolution within sixty (60) days following the Effective Date of this Consent Order, the burial association license of Respondent MBA shall be deemed dissolved and liquidated. Respondent MBA's agreements for members' benefits, records, property, and unexpended balances of funds shall be transferred to a financially sound mutual burial association that agrees in writing to accept the transfer.
3. 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.
4. 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.
5. 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.
6. 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.
7. Respondents hereby waive any requirement under any law or rule that this Consent Order be served upon them.
8. 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

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Statutes and shall be subject to public inspection and dissemination pursuant to the provisions thereof.

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CONSENTED TO:

Charles Eugene Coote, Jr.

Charles Eugene Coote, Jr. Date: 11-5-21

Brown's Mutual Burial Association of Greensboro, Inc.

By: Charles Eugene Coote, Jr. Date: 11-5-21
Charles Eugene Coote, Jr.
Secretary-Treasurer

By Order of the North Carolina Board of Funeral Service, this the 5 day of November 2021.

By: [Signature]
Don D. Brown
Board President