

NORTH CAROLINA
WAKE COUNTY

BEFORE THE NORTH CAROLINA
BOARD OF FUNERAL SERVICE
CASE NO. M21-0101

In the matter of:)	
Stonemor North Carolina Funeral Services, Inc.)	CONSENT ORDER
d/b/a Pollock-Best Funeral Home)	
Respondent.)	

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 stipulate and agree to entry of the following Consent Order:

1. Stonemor North Carolina Funeral Services, Inc. d/b/a Pollock-Best Funeral Home ("Respondent Establishment") is licensed as Funeral Establishment No. 0472 and Preneed Funeral Establishment No. 0121 by the Board 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. Respondent Establishment's permits issued by the Board are registered to its facility located at 2015 Neuse Blvd. in New Bern, North Carolina.
3. Respondent leases its premises located at 2015 Neuse Blvd. in New Bern from Pollock Realty, LLC ("Landlord").
4. On or about September 10, 2021, the Landlord changed the locks on the facility located at 2015 Neuse Blvd. in New Bern, North Carolina. Thereafter, Respondent Establishment was provided access to the facility on September 11 and 13 of 2021 and October 8 and 9 of 2021 in connection with performing two cremation funeral services. Except for the dates of access identified in this paragraph, Respondent has been denied use and access to the facility for the purpose of providing funeral services after September 10, 2021.
5. On or about October 13, 2021, Robert James Burns, who is licensed as Funeral Service Licensee No. 1935, notified Board staff that Respondent Establishment had terminated his employment as licensed manager of Respondent Establishment, effective October 12, 2021.
6. Following Mr. Burns' termination from employment, Respondent Establishment no longer retains one or more licensee to perform funeral services for which a license is required.
7. Following Mr. Burns' termination from employment, Respondent Establishment no longer has a licensed officer of its corporation who is actively engaged in the operation of the funeral establishment.

8. Respondent Establishment does not have (and has not had since at least mid-October) a licensed manager who is overseeing the daily operations of the funeral establishment, or a licensed officer who is actively engaged in the operation of the funeral establishment, as required by N.C. Gen. Stat. §§ 90-210.25(d)(2) and 90-210.27A(e).
9. Because Respondent has been denied use and access to the facility for the purpose of providing funeral services, Respondent Establishment no longer has access to a preparation room or a reposing room at 2015 Neuse Blvd in New Bern, North Carolina, as required by N.C. Gen. Stat. § 90-210.27A(a) and (c). However, Respondent Establishment has not engaged in the practice of funeral service at any time while it has been denied access to its leased premises or after Robert James Burns' termination of employment.
10. To date, Respondent has not filed an Application for Change of Location of Funeral Establishment with the Board.

CONCLUSIONS OF LAW

11. While engaging in the practice of funeral service, Respondent Establishment is required: (i) to have in charge a licensed manager who oversees the daily operations of the funeral establishment pursuant to N.C. Gen. Stat. § 90-210.25(d); (ii) to maintain a licensed officer who is actively engaged in the operation of the funeral establishment pursuant to N.C. Gen. Stat. § 90-210.27A(e); and (iii) to have access to a funeral establishment containing a preparation room and reposing room pursuant to N.C. Gen. Stat. § 90-210.27A(a) and (c).

BASED upon the foregoing Findings of Fact and Conclusions of Law, and in lieu of further proceedings, Respondent Establishment wishes to resolve this matter by consent and agrees 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 Respondent acknowledges that it has read this entire document and understands it;

Whereas Respondent acknowledges that it enters into this Consent Order freely and voluntarily;

Whereas Respondent acknowledges that it has had full and adequate opportunity to confer with legal counsel in connection with this matter;

Whereas Respondent understands that this Consent Order must be presented to the Board for approval and that Respondent hereby waives 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 Respondent Establishment, it is ORDERED that:

1. The funeral establishment permit, preneed establishment permit, and all ancillary preneed sales licenses of Respondent Establishment are hereby actively suspended. Said suspension shall be lifted upon Respondent Establishment providing documentation to Board staff showing that the following terms and conditions have been met:
 - a. Respondent Establishment has designated a licensed officer of its corporation who is actively engaged in its operation;
 - b. Respondent Establishment has employed a licensed manager who is overseeing its daily operations; and
 - c. Either Respondent Establishment has regained use of, and access to, the premises located at 2015 Neuse Blvd. in New Bern, North Carolina, or the Board has approved an Application for Change of Location of Funeral Establishment submitted by Respondent Establishment.
2. During the period of active suspension, all active preneed contracts for which Respondent Establishment currently serves as trustee shall be transferred to Stonemor North Carolina Funeral Services, Inc. d/b/a Montlawn Memorial Park Funerals and Cremations (PN Establishment Permit No. 0760) ("Montlawn"). Within fifteen (15) days following the Effective Date of this Consent Order, Respondent Establishment agrees to submit written acknowledgment from Montlawn of Montlawn's agreement to serve as interim trustee of said active preneed contracts in accordance with Article 13D of Chapter 90 of the North Carolina General Statutes; to honor the preneed contracts as executed by Respondent Establishment; and to cooperate and assist with transferring any preneed contracts to another preneed establishment, should the preneed contract purchaser so choose. Within fifteen (15) days following the Effective Date of this Consent Order, Respondent Establishment shall notify the preneed contract purchasers by US Mail that their preneed contracts currently are in the custody of Montlawn until such time that Respondent Establishment re-opens for business; that Montlawn shall honor the preneed contracts as executed by Respondent Establishment; and that Montlawn shall cooperate and assist with transferring any preneed contracts to another preneed establishment, should the preneed contract purchaser so choose.
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 Respondent has 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 the Board and Respondent and reflects the entire agreement between Respondent 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 Respondent 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. Respondent hereby waives any requirement under any law or rule that this Consent Order be served upon them.
8. Upon its execution by the Board and Respondent, 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:

Stonemor North Carolina Funeral Services, Inc.
d/b/a Pollock-Best Funeral Home

By: 

John Paul Womble, Vice President

Date: 11/8/2021

By Order of the North Carolina Board of Funeral Service, this the 10 day of November, 2021.

By: 

Don D. Brown
Board President