

NORTH CAROLINA
WAKE COUNTY

BEFORE THE NORTH CAROLINA
BOARD OF FUNERAL SERVICE
CASE NO. M22-0014

In the matter of:

Charles, Banks and Gregory, L.L.C.
d/b/a E.F. Drum Funeral Home
Respondent.

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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 stipulate and agree to entry of the following Consent Order:

1. Charles, Banks and Gregory, L.L. C. d/b/a E.F. Drum Funeral Home ("Respondent Establishment") is licensed as Funeral Establishment No. 0147 and Preneed Establishment No. 0116 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. For all times relevant to this proceeding, Joe Michael Heller, who is licensed as Funeral Director No. 3465 by the Board, has served as the licensed manager of Respondent Establishment.
3. For all times relevant to this proceeding, Charles J. Stevenson, who is licensed as Funeral Director No. 3523 by the Board, has been the majority shareholder of Respondent Establishment.
4. On or about September 28, 2021, Inspector Debbie Hamm arranged to meet Mr. Stevenson at Respondent Establishment to conduct a routine funeral establishment inspection and routine preneed examination of Respondent Establishment for the afternoon of September 28, 2021.
5. Upon arriving at Respondent Establishment, Inspector Hamm observed a padlock and chains across the front door of the facility. Mr. Stevenson failed to meet Inspector Hamm at the facility, as they had previously agreed. After waiting for approximately one hour past the established meeting time, Inspector Hamm reached Mr. Stevenson by telephone, who told her that he would be unable to meet her. Inspector Hamm told Mr. Stevenson that they would need to reschedule the inspection and examination.
6. Inspector Hamm left messages for Mr. Heller and Mr. Stevenson by telephone on November 5, 2021; November 8, 2021; and November 10, 2021 to reschedule the inspection and examination. No representative of Respondent Establishment returned Inspector Hamm's calls.

7. On November 12, 2021, Inspector Hamm emailed Respondent Establishment in an effort to reschedule the inspection and examination. No representative from Respondent Establishment responded to her email.
8. On or about January 29, 2022, Respondent Establishment submitted to the Board its 2022 renewal applications for both its establishment permit and preneed establishment permit.
9. On its 2022 Establishment renewal application, Respondent Establishment attested in response to Question No. 3 that its preparation room satisfies the minimum statutory requirements of N.C. Gen. Stat. § 90-210.27A.
10. Upon receipt of the renewal application, Inspector Hamm again emailed Respondent Establishment on January 31, 2022 in an effort to reschedule the inspection and examination. No representative from Respondent Establishment responded to her email.
11. On February 4, 2022, Inspector Hamm emailed Respondent Establishment a third time in an effort to reschedule the inspection and examination. No representative from Respondent Establishment immediately responded to her email.
12. On March 8, 2022, Mr. Stevenson emailed Inspector Hamm, to inform her that:
 - a. The roof of Respondent Establishment had suffered damage following an individual falling through an area of the roof undergoing repair work;
 - b. Respondent Establishment currently has no working lights or HVAC system in its facility; and
 - c. The facility of Respondent Establishment currently is unusable.
13. Respondent Establishment no longer has access to a preparation room or a reposing room at its facility, as required by N.C. Gen. Stat. § 90-210.27A(a) and (c).
14. Respondent Establishment's attestation on Question No. 3 of its 2022 Establishment Renewal Application was false.

CONCLUSIONS OF LAW

15. The acts and omissions of Respondent described in Paragraphs 1-14 violate N.C. Gen. Stat. §§ 90-210.25(e)(1)b., which prohibits fraud or misrepresentation in renewing a license or in the practice of funeral service or operation of a licensee's business.

16. The acts and omissions of Respondent described in Paragraphs 1-14 violate N.C. Gen. Stat. §§ 90-210.25(e)(1)j., which prohibits violating any provision of Articles 13A, 13D, 13E, and/or 13F of Chapter 90 of the North Carolina General Statutes and all rules and regulations of the Board. Specifically:
- a. Respondent failed to timely furnish to the Board all information required by the Board that is reasonably relevant to the practice of funeral service, in violation of N.C. Gen. Stat. § 90-210.23(d);
 - b. Respondent prevented the Board from timely inspecting its facilities or examining its records, in violation of N.C. Gen. Stat. §§ 90-210.23(e), 90-210.27A(a)(6) and 90-210.68(a); and
 - c. Respondent failed to have access to a funeral establishment containing a preparation room and reposing room, as required by N.C. Gen. Stat. § 90-210.27A(a) and (c).
17. One or more of the violations described in Paragraphs 15-16 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.
18. Respondent Funeral Home committed one or more of the violations described in Paragraphs 15-16. 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, 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. Either Respondent Establishment has regained use of, and access to, the premises located at 210 N. Academy Street, Lincolnton, NC 28093, or the Board has approved an Application for Change of Location of Funeral Establishment submitted by Respondent Establishment; and
 - b. Within thirty (30) days following the effective date of this Consent Order, Respondent Establishment 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.
2. During the period of active suspension, all active preneed contracts for which Respondent Establishment currently serves as trustee shall be transferred to C & G Funeral Services, Inc. d/b/a Goodin-Drum Funeral Home (PN Establishment Permit No. 0404) ("Goodin-Drum"). Within fifteen (15) days following the Effective Date of this Consent Order, Respondent Establishment agrees to submit written acknowledgment from Goodin-Drum of Goodin-Drum'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 Goodin-Drum until such time that Respondent Establishment re-opens for business; that Goodin-Drum shall honor the preneed contracts as executed by Respondent Establishment; and that Goodin-Drum 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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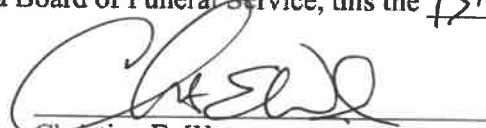
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CONSENTED TO:

Charles, Banks, and Gregory, L.L.C. d/b/a
E.F. Drum Funeral Home

By:  Date: 4/5/22
Charles Joseph Stevenson, Managing Member

By Order of the North Carolina Board of Funeral Service, this the 13th day of April, 2022.

By: 
Christian E. Watson
Board President

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Consent Order was served upon the following persons by mailing a copy via US Mail, First Class, Postage Prepaid, and addressed as follows:

Charles J. Stevenson, Registered Agent
Charles, Banks and Gregory, L.L.C. d/b/a
E.F. Drum Funeral Home
470 Stevenson Farm Rd
Statesville, NC 28625

This, the 18 day of April, 2022



Catherine E. Lee
General Counsel