

NORTH CAROLINA
WAKE COUNTY

BEFORE THE NORTH CAROLINA
BOARD OF FUNERAL SERVICE
CASE NOS. M22-0017/C23-0035

In the matter of:)
)
James F. Johnson & Sons, Inc. d/b/a)
Johnson & Sons Funeral Home, Barbara)
Lindsey Johnson, and Willie Sylvester Meadows)
Respondents.

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 December 6, 2023 and at the time the Board made this decision on December 6, 2023. The record further reflects that Board members Christian E. Watson and J. Stephen Herndon 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. Mr. Thomas Hilderbrand recused himself from the hearing and deliberations of this case. At the hearing, Catherine E. Lee, General Counsel, appeared for Board staff and Jeffrey Gray appeared as administrative law counsel for the Board. Respondents were represented by Charles Francis, Esq.

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. Watson, Mr. Herndon, and Mr. Hilderbrand, stated that they had a conflict of interest or the appearance of a conflict of interest.

PETITIONER’S LIST OF EXHIBITS

1. iGov Profile for Respondent Johnson & Sons Funeral Home
2. iGov Profile for Respondent Barbara Johnson
3. iGov Profile for Respondent Willie Sylvester Meadows
4. iGov Profile for Garcia F. Johnson
5. Consent Order for Board Case No. M16-050 against Garcia F. Johnson (May 10, 2017)
6. Consent Order for Board Case No. M22-0017 against James F. Johnson & Sons, Inc. d/b/a Johnson & Sons Funeral Home and Barbara Lindsey Johnson (June 8, 2022)
7. Consent Judgment, *NC Board of Funeral Service v. Garcia F. Johnson* (22 CVS 1288) (Rockingham County Superior Court)
8. Notice of Hearing to Show Cause and Order for Continuance

9. Affidavit of Service of Notice of Hearing to Show Cause
10. 2023 Establishment Renewal Application of Johnson & Sons Funeral Home
11. C23-0035 Complaint
12. C23-0035 Documents in Support of Complaint
13. C23-0035 Response
14. C23-0035 Rebuttal

RESPONDENTS' LIST OF EXHIBITS

1. A Homegoing Celebration for Mrs. Nina Mae Britt Blackwell

FINDINGS OF FACT

1. James F. Johnson & Sons, Inc. d/b/a Johnson & Sons Funeral Home ("Respondent Establishment") is licensed as Funeral Establishment No. 0897 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. Barbara Lindsey Johnson ("Respondent Johnson") is licensed as Funeral Director No. 2588 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).
3. For all times relevant to this proceeding, Respondent Johnson has been a shareholder and an officer of Respondent Establishment.
4. Willie Sylvester Meadows ("Respondent Meadows") is licensed as Funeral Director No. 2876 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).
5. On or about May 14, 2022, Respondent Meadows became the licensed manager of Respondent Establishment.
6. On June 8, 2022, Respondent Establishment and Respondent Johnson entered into a consent order (the "Consent Order") with the Board to resolve certain violations of statutes and rules governing the practice of funeral service, including but not limited to aiding and abetting the unlicensed practice of funeral service.
7. Under the terms of the Consent Order, the at-need establishment permit of Respondent Establishment and the funeral director license of Respondent Johnson were suspended until

at least June 8, 2027, on certain terms and conditions, including but not limited to Respondent Establishment disassociating its business operations from Garcia Fenwick Johnson in all ways. Specifically, Respondent Establishment and Respondent Johnson were ordered to:

- a. prohibit Garcia Fenwick Johnson from interacting directly with consumers in any way;
 - b. prohibit Garcia Fenwick Johnson from directing the manner in which employees of Respondent Establishment perform funeral services;
 - c. prohibit Garcia Fenwick Johnson from completing any contracts or Statements of Funeral Goods and Services Selected on behalf of Respondent Establishment;
 - d. prohibit Garcia Fenwick Johnson from filing documents related to death care with any state or local regulatory agencies on its behalf;
 - e. prohibit Garcia Fenwick Johnson from engaging directly in financial transactions with consumers;
 - f. prohibit Garcia Fenwick Johnson from embalming dead human bodies; and
 - g. prohibit Garcia Fenwick Johnson from holding himself out to the public as the person responsible for the operations of Respondent Establishment.
8. Garcia Fenwick Johnson previously was licensed by the Board as Funeral Service License No. 1075; however, said license was voluntarily surrendered to the Board to resolve Board Case No. M16-0050 in May 2017.
9. Garcia Fenwick Johnson has not been licensed by the Board since May 2017.
10. On August 4, 2022, the Board obtained a Consent Judgment from Rockingham County Superior Court, ordering Garcia Fenwick Johnson to disassociate himself from the operations of Respondent Establishment in all ways, as set forth in Paragraph 6 above.
11. On June 29, 2022, Ms. Britt and her family met with Garcia Fenwick Johnson while making arrangements for her deceased mother, Mrs. Nina B. Blackwell.
12. At hearing, Ms. Britt testified credibly about her interactions with Garcia Fenwick Johnson. Specifically, Ms. Brett testified credibly that:
- a. During the arrangements conference on June 29, 2022, Garcia Fenwick Johnson discussed with her family members the pricing of funeral goods and services with Ms. Britt;
 - b. After Ms. Britt and her family selected the funeral goods and services for Ms. Blackwell, Garcia Fenwick Johnson prepared a contract for Ms. Britt to sign. After

he prepared it, Respondent Meadows entered the arrangements conference only to sign the contract and then left immediately;

- c. After signing the contract, Ms. Britt met with Garcia Fenwick Johnson to discuss payment arrangements for Ms. Blackwell's services. Ms. Britt gave Garcia Fenwick Johnson checks to pay for Ms. Blackwell's services; and
 - d. After the arrangements conference on June 29, 2022, Garcia Fenwick Johnson continued to interact directly with Ms. Britt about making full payment for Ms. Blackwell's goods and services and about the details of preparing Ms. Blackwell for her funeral that occurred on July 3, 2023.
13. At hearing, Garcia Fenwick Johnson testified credibly that he was present for the arrangements conference held at Respondent Establishment on June 29, 2022 on behalf of Ms. Blackwell and that he had taken payment related to Ms. Blackwell's funeral from Ms. Britt.
 14. On December 31, 2022, Respondent Establishment submitted to the Board its 2023 Funeral Establishment Renewal Application (the "Application"). In the Application, Respondent Establishment identifies "Garcia F. Johnson" as holding 33 1/3 ownership interest in Respondent Establishment.
 15. At hearing, Garcia Fenwick Johnson testified that he holds an ownership interest in the funeral home owned by James F. Johnson & Sons, Inc. in High Point, NC but not in the funeral home owned by James F. Johnson & Sons, Inc. in Reidsville, NC. The Board does not find Mr. Johnson's testimony about his ownership interest in Respondent Establishment to be credible.

CONCLUSIONS OF LAW

1. Respondents are 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. Respondents are subject to jurisdiction before the Board.
3. The Board is authorized under Article 3A, Chapter 150B of the North Carolina General Statutes to hear this matter.
4. To the extent that the Findings of Fact contain conclusions of law, or that the Conclusions of Law are findings of fact, they should be so considered without regard to their given

labels. Charlotte v. Heath, 226 N.C. 750, 755, 40 S.E.2d 600, 604 (1946); Peters v. Pennington, 210 N.C. App. 1, 15, 707 S.E.2d 724, 735 (2011).

5. The acts and omissions of the Respondents described in Findings of Fact Nos. 1-13 violate the terms of the Consent Order.
6. The acts and omissions of Respondents described in Paragraphs 1-13 constitute fraud or misrepresentation in the practice of funeral service and the operation of the Respondents' business, in violation of N.C. Gen. Stat. §§ 90-210.25(d)(4) and 90-210.25(e)(1)(b).
7. The acts and omissions of Respondents described in Paragraphs 1-13 constitute aiding and abetting the unlicensed practice of funeral service, in violation of N.C. Gen. Stat. §§ 90-210.25(d)(4) and 90-210.25(e)(1)(h).
8. The Board concludes that one or more of the violations described in Conclusions of Law Nos. 1-13 above were committed by an owner, officer, operator, manager, member, or partner of Respondent Establishment, or by any agent or employee of Respondent Establishment 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 Establishment, or to place Respondent Establishment on probation, and to assess a civil penalty not to exceed \$5,000.00.

FINAL AGENCY DECISION

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

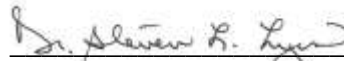
1. The stay of suspension previously imposed on the Funeral Establishment Permit of Respondent Establishment in the Consent Order entered by the Board on June 8, 2022 is hereby lifted. The Funeral Establishment Permit of Respondent Establishment is hereby actively suspended for a period of five (5) years, beginning on the effective date as set forth in Paragraph 9 below.
2. Board staff is directed to move the Rockingham County Superior Court for a motion to show cause as to why Garcia Fenwick Johnson should not be held in civil or criminal contempt of court, in violation of the Consent Judgment entered in *NC Board of Funeral Service v. Garcia Fenwick Johnson*, 22 CVS 1288.
3. 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.

4. Pursuant to N.C. Gen. Stat. § 150B-45(a), 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 that 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.
5. 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 20th day of December, 2023.

By:



Dr. Steven L. Lyons, President
N.C. Board of Funeral Service