

NORTH CAROLINA  
WAKE COUNTY

BEFORE THE NORTH CAROLINA  
BOARD OF FUNERAL SERVICE  
CASE NOS. C20-0021/M20-0057;  
M22-0047

In the matter of:

Edward Kirk Rivers,

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 Respondents stipulate and agree to entry of the following Consent Order:

1. Respondent Edward Kirk Rivers (hereinafter "Respondent Individual") is licensed by the Board as Funeral Director No. 3676 and, therefore, is subject to Chapter 90 of the North Carolina General Statutes and Title 21, Chapter 34 of the North Carolina Administrative Code. Respondent Individual has held said licensure since December 1998.
2. Prior to January 2018, Respondent Individual was the owner and manager of Rivers Community Funeral Home (the "Closed Establishment"), which previously held Funeral Establishment Permit No. 0742 and Preneed Establishment No. 0925 before it closed.
3. On December 11, 2020, the Board issued a Final Agency Decision in Board Case Nos. C20-0021/M20-0057, in which the Board found, among other things, that Respondent Individual had misappropriated preneed payments in the amount of \$4,812.00 from a consumer in 2008 but made reimbursement in August 2020, following the filing of a consumer complaint with the Board.
4. In the Final Agency Decision, the Board ordered that Respondent's Funeral Director No. 3676 shall be on probation for a period of three years, beginning on December 11, 2020, contingent upon Respondent Individual's compliance with all statutes and rules governing the practice of funeral service during the period of probation.
5. On or about June 16, 2022, the Board received a copy of a preneed contract entered into by [REDACTED] and Respondent Individual on behalf of the Closed Establishment in August 2010 (the "Preneed Contract").
6. According to the Preneed Contract, [REDACTED] paid Respondent Individual \$1,500.00 to fund the Preneed Contract at the time it was made.

7. Respondent Individual did not place the preneed funds paid by [REDACTED] into a trust account or use the preneed funds to purchase a preneed insurance policy on her behalf.
8. Respondent Individual did not make an entry of [REDACTED] preneed payment on a separate cash journal or separate cash receipt book designed for preneed.
9. Respondent Individual did not file [REDACTED] preneed contract with the Board.
10. Respondent Individual did not retain a copy of the preneed contract file for [REDACTED]. Respondent Individual did not provide a copy of a preneed contract file for [REDACTED] to the successor trustee of the Closed Establishment's preneed contracts.
11. On or about September 6, 2022, Board Inspector Christopher Stoessner contacted Respondent Individual by telephone and by email to inquire as to the status of the \$1,500 preneed payment made by [REDACTED] to Respondent Individual.
12. Prior to the Board's issuance of a Notice of Hearing to Show Cause in the above-captioned matter, Respondent Individual failed to provide any information to Inspector Stoessner as to the status of [REDACTED] preneed payments.
13. The Board contends that, in the event of a hearing, the evidence would be adequate to prove the occurrences set out in the succeeding paragraphs. The Respondent disputes his receipt of the preneed funds from [REDACTED], but, in view of the time, cost, and uncertainty of a hearing, Respondents consent to the Findings of Fact, Conclusions of Law, and other terms of this Consent Order.

#### CONCLUSIONS OF LAW

1. Respondents are subject to jurisdiction before the Board.
2. The acts and omissions of Respondent described in Paragraphs 1-12 constitute a violation of the Final Agency Decision rendered in Board Case Nos. C20-0021/M20-0057.
3. The acts and omissions of Respondent described in Paragraphs 1-12 constitute fraud or misrepresentation in the operation of a licensee's business, in violation of N.C. Gen. Stat. §§ 90-210.25(e)(1)b and 90-210.69(c)(4).
4. The acts and omissions of Respondent Individual described in Paragraphs 1-12 constitute a failure to deposit preneed funeral funds into a trust account within five (5) business days from the date of receipt, in violation of N.C. Gen. Stat. § 90-210.61(a)(1).

5. The acts and omissions of Respondent Individual described in Paragraphs 1-12 constitute a failure to properly maintain accurate and complete preneed records and forms, in violation of N.C. Gen. Stat. § 90-210.68(a) and 21 N.C. Admin. Code 34D .0301(b), (c)(2) and (c)(4).
6. The acts and omissions of Respondent Individual described in Paragraphs 1-12 constitute a failure to timely file a preneed contract with the Board, in violation of N.C. Gen. Stat. § 90-210.67(d), and 21 NCAC 34D .0105.
7. The acts and omissions of Respondent Individual described in Paragraphs 1-12 constitute a failure to maintain a separate cash journal or separate cash receipt book designated for preneed, showing all preneed payments collected, in violation of N.C. Gen. Stat. § 90-210.68(a) and 21 NCAC 34D. 0301(c)(2).
8. The acts and omissions of Respondent Individual described in Paragraphs 1-12 constitute a failure to accurately complete their preneed annual reports, in violation of N.C. Gen. Stat. § 90-210.68(a) and 21 NCAC 34D .0302.
9. The acts and omissions of Respondent Individual described in Paragraphs 1-12 constitute a failure 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);
10. The acts and omissions of Respondent Individual described in Paragraphs 1-12 violate N.C. Gen. Stat. § 90-210.25(e)(1)j., which prohibits violating or cooperating with others to violate the laws, rules and regulations of the Board, or the standards set forth in Funeral Industry Practices, 16 C.F.R. § 453 (1984), as amended from time to time.
11. The acts and omissions of Respondent Individual described in Paragraphs 1-12 violate N.C. Gen. Stat. § 90-210.69(c)(6), which prohibits violating or cooperating with others to violate the laws, rules and regulations of the Board, or the standards set forth in Funeral Industry Practices, 16 C.F.R. § 453 (1984), as amended from time to time.

BASED upon the foregoing Findings of Fact and Conclusions of Law, and in lieu of further proceedings, Respondent 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 acknowledge that he has read this entire document and understands it;

Whereas Respondent acknowledge that he enters into this Consent Order freely and voluntarily;

Whereas Respondent acknowledge that he 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.

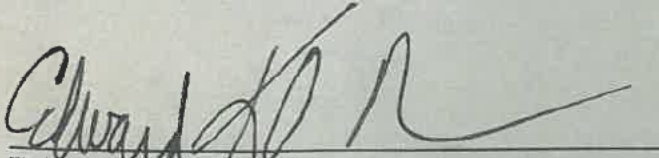
THEREFORE, with the consent of Respondent, it is ORDERED that:

1. The Funeral Director License of Respondent Edward Kirk Rivers shall be on probation for a period of three years, beginning on the date that this Consent Order takes effect, on the following terms and conditions:
  - a. Respondent agrees not to apply for a preneed sales license in the future. If a preneed sales license is submitted on Respondent's behalf in the future, Respondent agrees that Board staff shall be entitled to deny said application and that he waives any right to appeal such denial;
  - b. During the period of probation set forth above, Respondent must comply with all statutes and rules governing the practice of funeral service; and
  - c. Within ninety (90) days from the date this Consent Order takes effect, Respondent agrees to remit One Thousand Five Hundred (\$1,500.00) to the Board's Preneed Recovery Fund.
2. 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.
3. 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.

4. 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.
5. 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.
6. Respondents hereby waive any requirement under any law or rule that this Consent Order be served upon them.
7. 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.

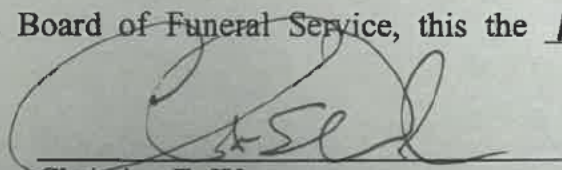
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CONSENTED TO:

  
Edward Kirk Rivers

Date: 12-12-22

By Order of the North Carolina Board of Funeral Service, this the 14<sup>th</sup> day of December, 2022.

By:   
Christian E. Watson  
Board President

### CERTIFICATE OF SERVICE

I hereby certify that the foregoing Consent Order was served upon the following person by depositing a copy of the foregoing document by electronic mail and US Mail, postage prepaid, First Class, and addressed as follows:

Edward Kirk Rivers  
101 Fairlead Drive  
Elizabeth City, NC 27909  
Email: [kirkrovers1@gmail.com](mailto:kirkrovers1@gmail.com)

This, the 15 day of December, 2022



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Catherine E. Lee  
General Counsel