

NORTH CAROLINA
WAKE COUNTY

BEFORE THE NORTH CAROLINA
BOARD OF FUNERAL SERVICE
CASE NO. M21-0095, M23-0010

In the matter of:)
)
William Harvey Knotts, II d/b/a)
Nelson Funeral Service and William)
Harvey Knotts, II,)
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. William Harvey Knotts, II d/b/a Nelson Funeral Service (hereinafter “Respondent Funeral Home”) is licensed by the Board as Funeral Establishment Permit No. 0172 and Preneed Establishment Permit No. 0890 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. William Harvey Knotts, II (hereinafter “Respondent Individual”) is licensed by the Board as Funeral Service Licensee No. 1142 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 matter, Respondent Individual has served as the sole proprietor and licensed manager of Respondent Funeral Home.
4. For all times relevant to this matter, Respondent Individual has held a preneed sales license on behalf of Respondent Funeral Home.
5. On or about July 26, 2021, former Board inspector Terri Robinson conducted a preneed examination of trust and insurance-funded preneed contracts for which Respondents serve as trustee. During the examination, Inspector Robinson found evidence tending to show that Respondents:
 - a. failed to file at least five trust funded preneed contracts prior to the examination date; and
 - b. failed to close at least one preneed trust account within 30 days of the contract beneficiary’s death.

6. As a result of the preneed examination, the Board initiated Disciplinary Case No. M21-0095.
7. On or about November 10, 2021, the Board voted that Respondents be issued a letter of caution to resolve Disciplinary Case No. M21-0095, contingent upon Respondent Individual taking Board-sponsored continuing education courses on preneed laws and rules, as well as the FTC Rule, on or before June 30, 2022. The Board sent Respondents the letter of caution on or about November 22, 2021, which Respondents received on or about November 24, 2021.
8. On or about December 28, 2021, Board Inspector Debbie Hamm conducted a follow-up preneed examination of trust and insurance-funded preneed contracts for which Respondents serve as trustee. During the examination, Inspector Hamm found evidence tending to substantiate the findings that Inspector Robinson had found during her July 2021 examination. Specifically, Inspector Hamm found evidence tending to show that:
 - a. Of the ten (10) trust-funded preneed contract files reviewed by Inspector Hamm, eight (8) contracts were not filed with the Board within ten (10) days of sale, in violation of N. C. Gen. Stat. § 90-210.67(d) and 21 NC Admin. Code 34D .0105.
 - b. At least one certificate of performance was not properly completed by Respondents, as required by N.C. Gen. Stat. § 90-210.68(a) and 21 NC Admin. Code 34D .0301(b); and
 - c. At least one certificate of performance had not been filed with the Board within ten (10) days of payment, as required by N.C. Gen. Stat. § 90-210.64(a) and 21 NC Admin. Code 34D .0303(b).
9. On or about March 18, 2022, the Board informed Respondents in writing of several upcoming continuing education courses for which Respondents could register to satisfy the terms and conditions of the letter of caution before June 30, 2022. Respondents did not respond to the Board's correspondence.
10. Respondents failed to comply with the terms of letter of caution. Specifically, Respondents did not take either continuing education courses directed by the Board on or before June 30, 2022.
11. On or about September 29, 2022, the Board sent Respondents written correspondence, informing Respondents of their failure to comply with the terms of the letter of caution and offering another opportunity to take the required continuing educations in October 2022. In response, Respondents took the Board-sponsored FTC Rule continuing education course in October 2022, but did not take the Board-sponsored Preneed continuing education course.

12. Following receipt of the Board's Notice of Hearing in this matter, Respondent Individual took the Board-sponsored Preneed continuing education course on July 27, 2023.
13. Respondents previously have entered into a Consent Order with the Board on or about January 9, 2019 to resolve Disciplinary Case No. M18-0013, in which Respondents admitted to various violations of statutes and rules governing the practice of preneed funeral service, including but not limited to the failure to timely file preneed contracts and certificates of performance with the Board.
14. Pursuant to the 2019 Consent Order, the preneed establishment permit and all ancillary preneed sales licenses of Respondent Funeral Home were placed on a two-year suspension that was stayed upon certain terms and conditions, including but not limited to Respondent Funeral Home passing without substantial deficiencies a preneed examination of its preneed contracts prior to the expiration of the stayed suspension and Respondent Funeral Home's compliance with laws governed by the Board during the period of stayed suspension.
15. Respondents did not comply with the terms and conditions of the 2019 Consent Order, in that they did not pass without substantial deficiency the preneed examination conducted by Inspectors Robinson and Hamm in 2021 and did not comply with all laws governing the practice of preneed funeral service during the period of stayed suspension. Specifically, after execution of the 2019 Consent Order on January 9, 2019, Respondent Funeral Home failed to timely file at least eight (8) preneed contracts and at least one (1) certificate of performance with the Board, and failed to properly complete at least one (1) certificate of performance.

CONCLUSIONS OF LAW

16. The acts and omissions of Respondents described in Paragraphs 1-15 constitute a violation of the 2019 Consent Order.
17. The acts and omissions of Respondents described in Paragraphs 1-15 constitute a failure to timely complete and/or file with the Board certificates of performance for performed preneed contracts, in violation of N.C. Gen. Stat. § 90-210.64(a) and 21 N.C. Admin. Code 34D .0303(b).
18. The acts and omissions of Respondents described in Paragraphs 1-15 constitute a failure to timely file multiple preneed contracts with the Board, in violation of N.C. Gen. Stat. § 90-210.67(d), and 21 NCAC 34D .0105.
19. The acts and omissions of Respondents described in Paragraphs 1-15 constitute a failure to retain the physical files for multiple preneed contracts sold, in violation of N.C. Gen. Stat. § 90-210.68(a), and, 21 NCAC 34D .0301(b), (c)(4).

20. The acts and omissions of Respondents described in Paragraphs 1-15 constitute a failure to retain completed certificates of performance for matured or cancelled preneed contract files, in violation of N.C. Gen. Stat. § 90-210.68(a) and 21 NCAC 34D .0301(b) and (e).
21. The acts and omissions of Respondents described in Paragraphs 1-15 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.
22. The acts and omissions of Respondents described in Paragraphs 1-15 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.
23. One or more of the violations described in Paragraphs 16-22 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 Home on probation, and to assess a civil penalty not to exceed \$5,000.00.
24. Respondent Funeral Home committed one or more of the violations described in Paragraphs 16-22. 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.
25. Respondent Individual committed one or more of the violations described in Paragraphs 16-22 but remains fit to practice. Pursuant to N.C. Gen. Stat. § 90-210.25(e)(2), the Board has the authority to place Respondent Individual on probation and to assess a civil penalty not to exceed \$5,000.00.
26. Respondent Individual committed one or more of the violations described in Paragraphs 16-22. 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 sales license of Respondent Individual, or to place Respondent Individual on probation, and to assess a civil penalty not to exceed \$5,000.00.

27. Respondents committed one or more of the violations described in Paragraphs 16-22. Pursuant to N.C. Gen. Stat. § 90-210.23(d1), the Board has the authority to recover costs, other than attorneys' fees, of holding the hearing, not to exceed \$2,500.00.

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. The preneed establishment permit and all ancillary preneed sales licenses of Respondent Funeral Home are hereby voluntarily surrendered. Board staff shall take possession of, and shall audit, existing preneed contracts for which Respondent Funeral Home serves as trustee. Following the audit, Board staff shall transfer said preneed contracts to a successor preneed establishment that shares common ownership with Respondent Funeral Home, provided that such successor preneed establishment must be in good standing with the Board.
2. Respondent Individual shall not apply for, or renew, a preneed sales license on behalf of himself in the future.
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 Funeral Home 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 Respondents 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:

William Harvey Knotts d/b/a Nelson Funeral Service

By: W. H. Knotts, II
William Harvey Knotts, Sole Proprietor

Date: 8/18/23

W. H. Knotts, II
William Harvey Knotts

Date: 8/18/23

By Order of the North Carolina Board of Funeral Service, this the 13 day
of September 2023.

By: Dr. Steven L. Lyons
Dr. Steven L. Lyons
Board President