

NORTH CAROLINA
WAKE COUNTY

BEFORE THE NORTH CAROLINA
BOARD OF FUNERAL SERVICE
CASE NOS. M23-0058

In the matter of:

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CONSENT ORDER

Charles Mortuary, Inc. d/b/a Cofield Mortuary
and Bettie Grace Cofield,
Respondents.

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:

FINDINGS OF FACT

1. Respondent Charles Mortuary, Inc. d/b/a Cofield Mortuary (hereinafter "Respondent Funeral Home"), is licensed by the Board as Funeral Establishment Permit No. 0108 and Preneed Establishment Permit No. 0596 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 Funeral Home is located in Weldon, North Carolina.
2. Respondent Bettie Grace Cofield (hereinafter "Respondent Individual" or collectively with Respondent Funeral Home as "Respondents") is licensed by the Board as Funeral Service Licensee No. 170 and, therefore, is subject to Chapter 90 of the North Carolina General Statutes and Title 21, Chapter 34 of the North Carolina Administrative Code.
3. For all times relevant to this matter, Respondent Individual has been a shareholder and licensed manager of Respondent Funeral Home and has held a preneed sales license on behalf of Respondent Funeral Home.
4. On or about October 12, 2023, Board Inspector Christopher Stoessner conducted a preneed examination and audit of trust-funded and insurance-funded preneed contracts for which Respondents serve as trustee (the "2023 Examination").
5. During the 2023 Examination, Inspector Stoessner found evidence tending to show violations of statutes and rules governing the practice of funeral service, in that Respondents:
 - a. Overcharged the family of [REDACTED] for services in the amount of \$878.29 when they failed to properly calculate refunds pursuant to an inflation-proof preneed contract;
 - b. failed to file with the Board a certificate of performance for the following contracts within ten (10) days following receipt of payment:

North Carolina Board of Funeral Service
In the matter of: Charles Mortuary, Inc. d/b/a
Cofield Mortuary and Bettie Grace Cofield
Case No. M23-0058
Consent Order

- i. [REDACTED] (date of death 01.15.2023)
- ii. [REDACTED] (date of death 03.09.2023)
- iii. [REDACTED] (date of death 01.13.2023)
- iv. [REDACTED] (date of death 07.22.2023)
- v. [REDACTED] (date of death 03.19.2023)
- vi. [REDACTED] (date of death 05.16.2023)
- vii. [REDACTED] (date of death 03.31.2023)

c. failed to complete and retain certificates of performance for the following contracts, by failing to list the "amount paid" toward the contract:

- i. [REDACTED]
- ii. [REDACTED]
- iii. [REDACTED]
- iv. [REDACTED]

6. In August 2021, the Board issued Respondents a letter of caution related to Board Case No. M21-0049, in which the Respondents were advised of evidence tending to show that they failed to properly calculate refunds owed to consumers for two inflation-proof preneed contracts and advised on their need to comply with statutes and rules governing preneed funeral service, going forward.
7. Respondent Bettie Grace Cofield remains fit to practice. Following the 2023 Examination, Respondents took corrective action to address the deficiencies identified in the 2023 Examination.

CONCLUSIONS OF LAW

1. Respondents are subject to jurisdiction before the Board.
2. The acts and omissions of Respondents described in Paragraphs 1-7 constitute a failure to properly calculate refunds owed to a consumer pursuant to an inflation-proof preneed contract, in violation of N.C. Gen. Stat. §§ 90-210.63A(c) and 90-210.64.
3. The acts and omissions of Respondents described in Paragraphs 1-7 constitute a failure to timely retain and/or file with the Board certificate of performances for performed preneed contracts, in violation of N.C. Gen. Stat. § 90-210.64(a) and 21 N.C. Admin. Code 34D .0303(a) and (b).
4. The acts and omissions of Respondents described in Paragraphs 1-7 violate N.C. Gen. Stat. § 90-210.69(c)(6), which prohibits violating or cooperating with others to violate the laws,

North Carolina Board of Funeral Service
In the matter of: Charles Mortuary, Inc. d/b/a
Cofield Mortuary and Bettie Grace Cofield
Case No. M23-0058
Consent Order

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.

5. The acts and omissions of Respondents described in Paragraphs 1-7 violate N.C. Gen. Stat. § 90-210.25(e)(1)), 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.
2. 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.
3. Pursuant to N.C. Gen. Stat. §§ 90-210.69(c)(6) and (d) 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.
4. 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.
5. Pursuant to N.C. Gen. Stat. § 90-210.69(c)(6), the Board has the authority to revoke, suspend, or refuse to issue or renew the preneed sales license of Respondent Individual, to place Respondent Individual 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, 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

North Carolina Board of Funeral Service
In the matter of: Charles Mortuary, Inc. d/b/a
Cofield Mortuary and Bettie Grace Cofield
Case No. M23-0058
Consent Order

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 Board hereby suspends for three (3) years the preneed establishment permit and any and all ancillary preneed sales licenses of Respondent Funeral Home, provided however that the suspension shall be stayed on the following terms and conditions:
 - a. On or before June 30, 2024, all licensees of Respondent Funeral Home shall take a Board-sponsored continuing education course on preneed statutes and rules;
 - b. Respondents shall not violate any law or rule of the Board during the period of suspension;
 - c. Respondents shall timely respond to any and all Board and/or Board staff correspondence;
 - d. Respondents shall comply with all terms of this Consent Order; and
 - e. Within thirty (30) days from the date this Consent Order takes effect, Respondents shall pay a compromise penalty of Two Thousand Dollars (\$2,000.00) Dollars to the Civil Penalty and Forfeiture Fund in accordance with Article 31A of Chapter 115C of the North Carolina General Statutes.
2. The Board hereby puts on probation the Funeral Service License of Respondent Individual for three (3) year, on the following terms and conditions:
 - a. Respondent Individual shall not violate any law or rule of the Board during the period of probation;
 - b. Respondent Individual shall timely respond to any and all Board and/or Board staff correspondence; and
 - c. Respondent Individual shall comply with all terms of this Consent Order.
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 Respondents, collectively or individually, 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.

North Carolina Board of Funeral Service
In the matter of: Charles Mortuary, Inc. d/b/a
Cofield Mortuary and Bettie Grace Cofield
Case No. M23-0058
Consent Order

- 4. 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.
- 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 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.
- 7. Respondents hereby waive any requirement under any law or rule that this Consent Order be served upon them.
- 8. 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.

CONSENTED TO:

Charles Mortuary, Inc. d/b/a Cofield Mortuary

Bettie Grace Cofield
Bettie Grace Cofield
Manager

Date: 3/11/2024

Bettie Grace Cofield
Bettie Grace Cofield

Date: 3/11/2024

By Order of the North Carolina Board of Funeral Service, this the 10 day of April, 2024.

By: Thomas Hilderbrand
Thomas Hilderbrand
Board President