

BEFORE THE MISSISSIPPI STATE BOARD OF FUNERAL SERVICE

DESHUNDA BOLDEN

COMPLAINANT

v.

NO. 346930177

GRANT FUNERAL HOME, LLC,
CHRISTOPHER THOMAS, IN HIS
CAPACITY AS OWNER OF GRANT
FUNERAL HOME, LLC AND ROBERT
SCOTT, IN HIS CAPACITY AS LICENSEE
IN CHARGE OF GRANT FUNERAL
HOME, LLC

RESPONDENTS

FINAL ORDER

The above-entitled matter came before the Mississippi State Board of Funeral Service ("Board") in Flowood, Rankin County, Mississippi, pursuant to a Notice of Hearing and Complaint issued to Grant Funeral Home, LLC, and Christopher Thomas as the owner and Robert Scott as the licensee in charge of Grant Funeral Home, LLC. Christopher Thomas and Grant Funeral Home, LLC may be collectively referred to herein as "Respondents" and/or individually referred to as "Respondent".

A quorum of Board members was present throughout the hearing and deliberations in the matter. The Complainant, Deshunda Bolden, and the Respondents and Robert Scott appeared and, although having been previously informed of the right to be represented by legal counsel, elected to proceed in the matter without legal counsel. The case was called for hearing without objection from any party.

Gloria J. Green served as Administrative Hearing Officer, presided at the hearing and was directed to prepare the Board's written decision in accordance with its deliberations. The Board, having held the hearing and considering the evidence presented, makes the following findings, conclusions and order based on clear and convincing evidence:

FINDINGS OF FACT

1. The Board is established pursuant to Title 73, Chapter 11 of the Mississippi Code of 1972, as amended, and is charged with the duty of licensing and regulating funeral establishments and the business and practice of funeral service and funeral directing.

2. The Respondent Grant Funeral Home, LLC is the holder of a funeral establishment license number FF- 0634 issued by the Board and is, therefore, subject to Title 73, Chapter 11 of the Mississippi Code of 1972, as amended.

3. Respondent Christopher Thomas ("Respondent Thomas") was at all times mentioned herein, and still is, the unlicensed owner of Grant Funeral Home, LLC and is, therefore, subject to Title 73, Chapter 11 of the Mississippi Code of 1972, as amended.

4. Respondent Robert Scott, the holder of license number FD-1196, became the licensee in charge of and/or the funeral professional responsible for Grant Funeral Home, LLC around March 2016. Respondent Scott is, therefore, subject to Title 73, Chapter 11 of the Mississippi Code of 1972, as amended. Respondent Scott was not the licensee in charge of Grant during the time of the Complainant's dealings with the Funeral Home. Accordingly, only Grant Funeral Home and Christopher Thomas remain as Respondents in this proceeding.

5. This proceeding arose as a result of a complaint filed with the Board on or about April 4, 2016, by the Complainant, Deshunda Bolden, alleging that the Respondents charged more than contracted for funeral services for her father, failed to refund amounts owed to her as agreed, provided funeral services to her family without the assistance of a properly licensed funeral director or funeral service practitioner and filed a death certificate falsely representing the identity of the funeral director who handled her father's funeral arrangements.

6. On February 19, 2016, the Complainant's father, Joseph Edinburgh, Jr., died at Sanctuary Hospice in Tupelo, Lee County, Mississippi. Steve Hunley, the Respondent's fiancé and Respondent Thomas' brother, transported the body to Respondent Grant Funeral Home.

7. The Complainant and her brother, Joseph M. Edinburgh, made arrangements with Grant Funeral Home for their father's funeral services. Joseph M. Edinburgh entered into a contract with Respondents on or about February 20, 2016, for Joseph Edinburgh, Jr.'s final disposition. The total contract price was Nine Thousand One Hundred Forty-Five Dollars (\$9,145.00). The funeral services contract reflects that a payment of One Thousand Dollars (\$1,000.00) was made on the contract, leaving a balance of Eight Thousand One Hundred Forty-Five Dollars (\$8,145.00) owing for the funeral services of Joseph Edinburgh. The contract covered goods and services for pickup and embalming, casket, service car, hearse service, chapel service, restoration and grooming, vault outside case, and professional service.

8. On or about February 22, 2016, Joseph Mylon Edinburgh signed an Assignment Blank agreeing to pay Grant Funeral Home the sum of Eight Thousand One Hundred Forty-Five Dollars (\$8,145.00). The next day, February 23, 2016, Bankfirst Financial Services of Macon, Mississippi, made an official check payable to Joseph M. Edinburgh for Joseph Edinburgh, Jr. in the amount of Six Thousand One Hundred Eighty-Five Dollars and Forty-Four Cents (\$6,185.44). Respondents deposited the check into Respondent Grant Funeral Home's bank account on or about February 25, 2016.

9. According to the Complainant, Respondent Thomas said that it would take five (5) working days for the of Six Thousand One Hundred Eighty-Five Dollars and Forty-Four Cents

(\$6,185.44).00-check to clear the bank and that the cost of the funeral services had to be paid in full before the day of her father's funeral, which was February 27, 2016. Thereafter, she and Steve Hunley said the Complainant paid the Respondents in full for her father's funeral and that the Respondents promised to refund the money paid by her.

10. The record before the Board reflects that on February 26, 2016, the Respondents issued two (2) cash payment receipts to "LaShunda and Patsy Edinburgh" for funeral services for Joseph Edinburgh, Jr: one receipt was for Two Thousand Six Hundred Ninety-Five Dollars (\$2,695.00) and another receipt for Seven Thousand One Hundred Ninety-Five Dollars (\$7,195.00). On March 25, 2016, a Grant Funeral Home check was made payable to Steve P. Hunley, the Respondent's fiancé, for "J.E." in the amount of One Thousand Five Hundred Dollars (\$1,500.00).

11. In explaining the cash payment receipts, Respondent Thomas said that the Seven Thousand One Hundred Ninety-Five Dollars (\$7,195.00)-receipt was actually for payment received by cash and check -- Six Thousand One Hundred Eighty-Five Dollars and Forty-Four Cents (\$6,185.44) was paid by check and the remaining amount was paid in cash. With respect to Grant Funeral Home's One Thousand Five Hundred Dollars (\$1,500.00)-check, Respondent Thomas said that the check was written to refund a headstone payment of One Two Thousand Two Hundred Thirty-Five Dollars(\$1,235.00) and a Two Hundred Sixty-Five Dollars (\$265.00)-refund from the funeral bill. There was no documentation presented to show the existence of a purchase for a headstone.

12. The Complainant said that Grant Funeral Home's One Thousand Five Hundred Dollars (\$1,500.00)-check was not honored by the bank.

13. The Respondents represented that the funeral arrangements were handled by Kenneth Mays, a licensed funeral director. However, the Complainant and Steve Hunley (who admittedly rendered funeral services for Grant Funeral Home without a license) testified that Kenneth Mays was not involved in the funeral arrangements for the Complainant's father; that the funeral arrangements were made by Respondent Thomas; and that only unlicensed individuals (at least four) handled the funeral on the day of Joseph Edinburgh's funeral.

14. Respondent Thomas and his witness, Loretta Hunley, also identified unlicensed individuals who acted for Grant Funeral Home at the funeral of Joseph Edinburgh, Jr. Respondent Thomas said that Kenneth Mays was supposed to be at the funeral to direct the funeral services.

15. Henry Gilaze, a Board Investigator, stated that Respondent Thomas told him that a man from Tennessee was handling the funeral arrangements for Joseph Edinburgh, Jr.

16. Joseph Edinburgh's death certificate shows the funeral director as Kenneth Mays, License Number 1151. Kenneth Mays' does not hold a Mississippi funeral service or funeral directing license and, therefore, is not authorized to engage in the practice or business of funeral directing or service in the State of Mississippi.

17. On or about October 1, 2015, the Board acted to suspend the funeral establishment license of Grant Funeral Home pursuant to a Stipulation and Consent Order entered by the Board and the Respondents. The suspension, however, was stayed and Grant Funeral Home's establishment license was placed on probation for one year, up to and including October 1, 2016. The Stipulation and Consent Order was the result of, among other things, the Respondents conducting funerals and funeral type business out of Grant Funeral Home without a Mississippi funeral director or funeral service licensee in charge of Grant and engaging in the practice of funeral directing without a license.

Based upon the foregoing Findings of Fact, the Board makes the following:

CONCLUSIONS OF LAW

1. The Board has jurisdiction over the Respondents and the subject matter in this case pursuant to Sections 73-11-49 and 73-11-57.¹ Venue is likewise properly placed before the Board to hear this matter in Flowood, Rankin County, Mississippi.

2. This matter was duly and properly convened and all substantive and procedural requirements under law have been satisfied.

3. The Board has statutory authority pursuant to Section 73-11-57 to suspend or revoke a license, reprimand a licensee, impose a fine or monetary penalty on the licensee, and/or to take any other action in relation to a license as the Board finds proper for any violation of the statutes and/or rules and regulations governing the licensing and regulations of funeral establishments, funeral directors and funeral service practitioners.

4. This administrative action against Respondent Robert Scott should be dismissed because he was not involved in the facts or circumstances that form the basis of the Complaint.

5. Respondent Grant's testimony regarding the payment received for Joseph Edinburgh, Jr.'s funeral is unsupported by the record and unconvincing. The evidence that the Board found credible clearly and convincingly shows that the Respondents were paid more money than was due under the contract for Joseph Edinburgh Jr.'s funeral services. The Respondents' receipt of funds in excess of the contract price without refunding the excess amount to the financially responsible person constitutes unprofessional conduct in the practice of funeral service or funeral directing as set forth in Section 73-11-57(1)(p).

6. Grant Funeral Home's license was under probation and a stayed suspension, pursuant to the 2015 Stipulation and Consent Order, during all times relevant to this matter. The Stipulation and Consent Order was based on, among other things, the fact that Respondents had allowed unlicensed funeral service and funeral directing to be engaged in at Grant Funeral Home. The Stipulation and Consent Order specifically provided that a condition of probation and the stayed suspension was that the Respondents comply with all state and federal laws, rules and regulations governing the operation of funeral establishments and/or the practice or

¹ Unless otherwise indicated, all statutory reference is to the Mississippi Code of 1972 (Revised 2012).

business of funeral directing and/or funeral service. The further provided that the Respondents' failure to comply with governing laws and rules constitutes a violation of probation and the Order. Yet, during the pendency of probation, the Respondents engaged in the same conduct that led to the Stipulation and Consent Order and the stayed suspension. The evidence clearly and convincingly shows that Respondent Thomas, who is not licensed to do so, made the funeral arrangements for Joseph Edinburgh, Jr. and that only unlicensed persons rendered funeral services for Grant Funeral Home for the funeral of Joseph Edinburgh, Jr. By such conduct, the Respondents violated several prohibitions regarding the unlicensed practice of funeral service and/or funeral direction and the operation of a funeral establishment, including: i) conducting funerals and funeral type business out of Grant Funeral Home without a Mississippi funeral director or funeral service licensee in charge of said establishment as prohibited by Section 73-11-55(3); ii) engaging in the practice of funeral directing and/or funeral service without a license as prohibited by Section 73-11-51(1); iii) permitting a person "other than a funeral service or funeral directing licensee to make arrangements for a funeral and/or form of disposition" as prohibited by Section 73-11-57(1)(f); and iv) knowingly performing any act that in any way assists an unlicensed person to engage in the practice or business of funeral service or funeral directing as prohibited by Section 73-11-57(1)(l).

7. Based on the Findings of Fact and Conclusions 5 and 6 above, the Respondents also failed to comply with the laws, rules and regulations governing funeral establishments and the practice of funeral directing and/or funeral service in the State of Mississippi in violation of Section 73-11-57(1)(g).

Given the entire evidence produced in the record before the Board, the Board finds the following order and discipline to be appropriate under the circumstances.

ORDER

IT IS THEREFORE ORDERED that, for each of the violations cited above (jointly and severally), the funeral establishment license, Number FE-0634, issued to Respondent Grant Funeral Home is hereby suspended. This suspension shall be stayed and the funeral establishment license shall be placed on probation for a period of one year, up to and including January 18th, 2017.

IT IS FURTHER ORDERED that the Respondents shall comply with the following terms and conditions within the prescribed time frames:

1. Respondents shall pay a monetary penalty of Five Hundred Dollars (\$500.00) for each of the violations cited above, for a total of Three Thousand Dollars (\$3,000.00).
2. Respondents shall pay to the Board the costs and fees associated with the Board's investigation and proceedings in this matter in the amount of Two Hundred Twenty-Five Dollars (\$225.00).

3. The monetary penalty, costs and fees imposed by this Final Order shall be paid to the Board in twelve (12) equal monthly installments of Two Hundred Sixty-Eight Dollars and Seventy-Five Cents (\$268.75), commencing on March 1, 2017, and continuing on the 1st day of each successive month thereafter until the entire amount of the penalty is paid in full.

The monetary penalty, costs and fees must be paid by money order or certified or cashier's check, payable to the Mississippi State Board of Funeral Service. The Respondents shall be jointly and severally liable for the payment of the monetary penalty, costs and fees. If the Respondents fail to make a monthly installment payment, the remaining balance will be due immediately and the failure to pay shall be deemed a violation of this *Order*.

IT IS FURTHER ORDERED that the Respondent shall comply with the following conditions during the period of probation:

1. The Respondent(s) shall appear and report to the Board as requested by the Board.
2. The Respondent(s) shall promptly advise the Board in writing of any changes in address, practice, professional status, ownership, management or compliance with this *Final Order*. Respondent(s) shall inform the Board in writing within no more than seven (7) calendar days of any change concerning the aforesaid information or conditions.
3. At the end of each three-month quarter period during probation, the Respondent(s) shall provide the Board with a copy of the statement of goods and services, embalming law and such other information as the Board may require for each final disposition arrangement made during that quarter.

The quarterly reports must be received by the Board by the fifteenth (15th) calendar day of the following month or the date specified by the Board for any other report.

4. Respondent(s) shall cooperate with the Board, its attorneys, investigators, and other representatives in the investigation of Respondents' operation, practices and compliance with the provisions of this Final Order. The Respondents are jointly and severally responsible for demonstrating compliance with each and every provision of this Final Order. The Respondent(s) may be required to furnish the Board with additional information as may be deemed necessary by the Board or its representatives. It is the Respondents' responsibility to fully comply with all such requests in a timely fashion. Failure to satisfactorily comply with such requests will be deemed a violation of probation and stay of suspension.
5. Respondent(s) shall be subject to random and unannounced inspections by Board staff, investigators and/or other representatives.

6. Those time periods during which the Respondent Grant Funeral Home does not operate as a funeral establishment and provide funeral service in the State of Mississippi will not be credited toward any period of probationary time.
7. Grant Funeral Home shall maintain a current active license and retain a Mississippi funeral service or funeral directing licensee to remain in charge of and have personal supervision of Grant Funeral Home.

IT IS FURTHER ORDERED the Respondents shall comply with the terms of this Final Order and all state and federal statutes and regulations concerning the operation of funeral establishments and/or the practice or business of funeral directing and/or funeral service. Failure to do so shall constitute a violation of probation and of this Order. The burden of proof for any action brought against the Respondent(s) as a result of a breach of the conditions of this Final Order shall be on the Respondent(s) to demonstrate compliance with this Order.

IT IS FURTHER ORDERED that if any Respondent fails to comply with any terms or conditions of probation and stay of suspension, the period of stay described above shall be lifted and the license or licenses shall be suspended until such time as the Board re-imposes the stay of suspension.

IT IS FURTHER ORDERED that if any Respondent fails to comply with the laws and regulations governing the operation of funeral establishments and/or the practice or business of funeral directing and/or funeral service and/or with any terms or conditions of this Final Order, the Respondent or Respondents may be subject to additional disciplinary action, up to and including license revocation, by the Board.

IT IS FURTHER ORDERED that there shall be no automatic termination of probation after the end of the probation period prescribed by this Final Order. At the end of the one year probation period, the Respondents may petition the Board in writing for termination of probation and full reinstatement of the funeral establishment license without restrictions or conditions. If the Respondents have satisfactorily complied with all conditions of probation and stay of suspension and this Final Order and there are no outstanding complaints or other disciplinary actions or proceedings pending against the Respondents, the Board will terminate probation. If the Respondents fail to make such a written request or petition, then the probationary status shall continue for Respondents' funeral establishment license.

IT IS FURTHER ORDERED that any money paid by the Respondents shall be deemed received by the Board when noted in the Board's record by Board staff. Further, any correspondence, report or documentation from or for the Respondents shall be deemed received by the Board when the Board's date stamp is affixed to the correspondence.

The monetary penalty, costs, fees and/or other report or documentation required by this Final Order shall be delivered to: Della Smith, Executive Director, Mississippi State Board of Funeral Service, 3010 Lakeland Cove, Suite W, Flowood, Mississippi 39232-9709.

IT IS FURTHER ORDERED that this Final Order is conclusive evidence of the matters described herein and may be considered by the Board in determining appropriate sanctions in the event of subsequent violation by the Respondent.

IT IS FURTHER ORDERED that this action and order of the Board shall be public record and may be shared with other licensing boards (in- and out-of-state) and the public. This disciplinary action shall be spread upon the Minutes of the Board as its official act and deed and shall be reported to and posted with the appropriate authorities and published as the need may arise.

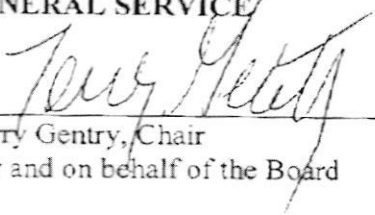
IT IS FURTHER ORDERED that the Complaint against Robert Scott is dismissed.

IT IS FURTHER ORDERED that upon execution of this Final Order by affixing the Board authorized signature below, the provisions of this Final Order shall become the final order of the Board.

SO ORDERED, this the 18th day of January 2017.

**MISSISSIPPI STATE BOARD
OF FUNERAL SERVICE**

By: _____


Terry Gentry, Chair
for and on behalf of the Board