

Louisiana State Board of Embalmers And Funeral Directors

Minutes of the Meeting

For

December 1, 2021

Board Members present:

Rodney McFarland , President

Willie P. Davis, Jr. , Vice President

Terry Luneau , Secretary

Shelton Dixon, Treasurer and Consumer Representative

Juan M. Joseph

Stephen Boudreaux

Louis Charbonnet

The meeting was called to order by the Board's President, Mr. McFarland at 9:00 AM, at the Board's office, located at 3500 N. Causeway Blvd. Ste. 1232 Metairie, Louisiana. Also, present was Kim W. Michel, Executive Director, Heidi Penouilh, Administrative Coordinator, IV, Jude Daigle, Inspector, Christopher Lento, General Counsel and Chanel R. Debose, Prosecuting Attorney. Mr. Southall and Mr. McKneely were not present for today's meeting.

Meeting of the Board via Zoom - NO PUBLIC ATTENDANCE ALLOWED AT THIS TIME DUE TO THE PANDEMIC

PRESENTATIONS:

There were no presentations for today's meeting.

PUBLIC COMMENTS:

There were no public comments made at today's meeting.

Motion was made by Mr. Luneau, seconded by Mr. Davis and unanimously passed that the Board move into Executive Session at 9:15 AM.

Motion was made by Mr. Luneau, seconded by Mr. Joseph and unanimously passed that the Board move out of Executive Session at 10:45 AM, for discussion of the following;

Ms. Michel advised that her first opportunity to retire would be in April 2023 and that the Board needed to consider hiring a part time clerical administrator to become familiar with the duties of the office and that the part time position would lead to a full-time position in April 2023.

Ms. Michel also advised the Board members with regard to the finances of the Board and that she was the sole administrator of the funds that the Board maintains in all financial institutions. Ms. Michel advised that although the Board's finances are audited annually, the Board needs to consider having a policy in place for her successor or a contract in order to protect the financial assets of the Board. There should be additional oversight to the finances other than a basic accounting of the totals provided at each meeting and the statements and purchases should be reviewed. Ms. Michel stated that by providing additional oversight, the audit findings could possibly be eliminated.

Ms. Michel stated that due to the Board employing only two office staff personnel, that the duties were complex for

each person and that the two positions, each, needed some time for attention and training for a smooth transition which will not be accomplished with a two week notice from the Executive Director.

Ms. Michel noted that the position would be a Civil Service position and that the application process would be made through the Department of State Civil Service (DSCS).

Motion was made by Mr. Joseph, seconded by Mr. Dixon and unanimously passed that the addition of employing a part time person be made part of the agenda for today's meeting.

Motion was made by Mr. Boudreaux, seconded by Mr. Dixon and unanimously passed that Ms. Michel begin the process for hiring a part time individual for the administrative duties in the Board's office.

COMPLIANCE, HEARING and/or ADMISSION AND CONSENT

The formal hearing in the Matter of Miller Funeral Home, Monroe convened at 11:00 AM.

Motion was made by Mr. Luneau, seconded by Mr. Davis and unanimously passed that the hearing be concluded and that the board move into Executive Session at 3:30PM for discussion of the hearing.

Motion was made by Mr. Boudreaux, seconded by Mr. Charbonnet and unanimously passed that Executive Session be concluded at 4:45 PM.

FINDINGS OF FACT and DECISIONS of the BOARD

This matter came before the Louisiana State Board of Embalmers and Funeral Directors for hearing on December 1, 2021.

Present:

CHANEL R. DEBOSE, Prosecuting Attorney, for and on behalf of the Louisiana State Board of Embalmers and Funeral Directors.

Ryan Seidemann, on behalf of Chris Lento, General Counsel, for and on behalf of the Louisiana State Board of Embalmers and Funeral Directors, via Zoom.

JOHN W. BECKNELL, III, Hearing Officer, for and on behalf of the Louisiana State Board of Embalmers and Funeral Directors.

KIM MICHEL, Executive Director, for and on behalf of the Louisiana State Board of Embalmers and Funeral Directors.

ARTHUR GILMORE, appearing on behalf of **STEVEN R. MILLER** and the entity operating as **MILLER FUNERAL HOME, INC.**

After considering the law, the evidence, the testimony of the parties, and the entire record of these proceedings, and made part of the record before the Board on December 1, 2021. The Board of Embalmers and Funeral Directors rules as follows:

FINDINGS OF FACT

That STEVEN R. MILLER is a licensed funeral director, (#U1369) and a licensed funeral establishment manager and the designated agent for the entity known as MILLER FUNERAL HOME, INC. (#2628), Monroe, Louisiana, and, therefore, subject to the jurisdiction of this Board;

That evidence contained within the record of these proceedings, together with the testimony of the witnesses made within the presentation, reflects that the Board was unable to conclude that Steven R. Miller and Miller Funeral Home, Inc. was guilty of violating the following statute: LA. R.S. 37:846 (A) (14) for violating Louisiana Revised Statute 40:47 as it relates to death certificates by failing to timely file a death certificate with the State Registrar within five days after the death or prior to the burial of Michael Robinson, Jr.;

That evidence contained within the record of these proceedings, together with the testimony of the witnesses made within the presentation, reflects that the Board was able to conclude that Steven R. Miller and Miller Funeral Home, Inc. is guilty of violating the following statutes: LA. R.S. 37:846 (A) (14) for violating Louisiana Revised Statute 40:52 as it relates to burial transit permits by burying the deceased, Michael Robinson, Jr. without a Burial Transit Permit as provided and required by Louisiana Revised Statute 40:52; LA. R.S. 37:846 (A) (5) for engaging in unprofessional, unethical, or dishonest conduct by failing to present the Statement of Funeral Goods and Services Selected Contract to Mr. Michael Robinson, Sr. for approval and signing during the process of making funeral arrangements for his deceased son, Michael Robinson, Jr.; and LA R.S. 37:846 (A) (5) for engaging in unprofessional, unethical, or dishonest conduct by allowing Michael Robinson, Sr. and/or Chandra Henderson, the father and mother of the decedent, Michael Robinson, Jr., to select a promotional funeral package or the Scott's Tribute memorial package despite the fact that Steven R. Miller and the entity operating as Miller Funeral Home knew or should have known that the family would not need all of the funeral goods and services that were included in the Scott's Tribute memorial promotional package for the graveside service selected by the family and provided by Miller Funeral Home.

CONCLUSIONS

As to **Steven R. Miller and the entity operating as Miller Funeral Home, Inc.**, the Board members found that Steven R. Miller and the entity operating as Miller Funeral Home, Inc. violated LA. R.S. 37:846 (A) (14) for violating Louisiana Revised Statute 40:52 as it relates to burial transit permits by burying the deceased, Michael Robinson, Jr. without a Burial Transit Permit. The Board found the afore-referenced parties guilty based upon the documentation entered into evidence and the testimony provided by the witnesses. The Board noted that the death certificate introduced into evidence showed that a date of issue for the burial transit permit was left blank. The evidence submitted and the testimony provided by the witnesses proved that Steven R. Miller and the entity operating as Miller Funeral Home, Inc. did not apply for a Burial Transit Permit. The evidence submitted and the testimony provided by the witnesses further proved that Steven R. Miller and the entity operating as Miller Funeral Home, Inc. buried the deceased, Michael Robinson, Jr., without a burial transit permit.

As to **Steven R. Miller and the entity operating as Miller Funeral Home, Inc.**, the Board members found that Steven R. Miller and the entity operating as Miller Funeral Home, Inc. violated LA R. S. 37:846 (A) (5) for engaging in unprofessional, unethical, or dishonest conduct by failing to present the Statement of Funeral Goods and Services Selected Contract to Mr. Michael Robinson, Sr. for approval and signing during the process of making funeral arrangements for his deceased son, Michael Robinson, Jr. The Board found the afore-referenced parties guilty based upon the documentation entered into evidence and the testimony provided by the witnesses. The Board noted the unsigned Statement of Funeral Goods and Services Contract entered into evidence; the testimony provided by Michael Robinson, Sr.; and the testimony of Chandra Henderson which was stipulated to by the parties. The Statement of Funeral Goods and Services admitted into evidence did not contain Michael Robinson Sr.'s nor Chandra Henderson's signatures. Additionally, Michael Robinson, Sr. testified that he was not given a copy of the unsigned Statement of Funeral Goods and Services Contract until after his son was buried.

As to **Steven R. Miller and the entity operating as Miller Funeral Home, Inc.**, the Board members found that Steven R. Miller and the entity operating as Miller Funeral Home, Inc. violated LA R. S. 37:846 (A) (5) for engaging in unprofessional, unethical, or dishonest conduct by allowing Michael Robinson, Sr. and/or Chandra Henderson, the father and mother of the decedent, Michael Robinson, Jr., to select a promotional funeral package or the Scott's Tribute memorial package despite the fact that Steven R. Miller and the entity operating as Miller Funeral Home knew or should have known that the family would not need all of the funeral goods and services that were included in the Scott's Tribute memorial promotional package for the graveside service selected by the family and provided by Miller Funeral Home. The

Board found the afore-referenced parties guilty based upon the documentation entered into evidence and the testimony provided by the witnesses. The Board noted that the Interview Worksheet entered into evidence suggested that a graveside service was selected. In the testimony provided by Michael Robinson, Sr., and the testimony of Chandra Henderson which was stipulated to by the parties, the parties stated that they had never presented a "Scott's Tribute Flyer" and nor did they present the flyer to anyone at Miller Funeral Home. The Board further noted that the "Scott's Tribute Flyer" introduced into evidence provided goods and services that were not provided to the family.

DECISION OF THE BOARD

Accordingly, for the reasons as stated and noted herein above;

IT IS ORDERED BY THE BOARD that Steven R. Miller, owner, manager, and designated agent of the entity operating as Miller Funeral Home, Inc., and the entity operating as Miller Funeral Home, Inc. are hereby found guilty of violating the provisions of LA. R.S. 37:846 (A) (14) as it relates to LA. R.S. 40:52 (Burial Transit Permits); LA. R.S. 37:846 (A) (5) (Unprofessional, Unethical, or Dishonest Conduct) (Failure to Present Statement of Funeral Goods and Services Contract for Signing); and LA. R.S. 37:846 (A) (5) (Unprofessional, Unethical, or Dishonest Conduct) (Selling Funeral Goods and Services Not Needed).

IT IS FURTHER ORDERED BY THE BOARD that pursuant to LA. R.S. 37:850, the penalty statute applicable to these violations, which states: Whoever violates the provisions of this Part shall be fined not less than five hundred dollars, nor more than two-thousand, five-hundred dollars, and costs of the court reporter and attorney for the board for each offense, or by imprisonment for not less than thirty days, nor more than one-hundred eighty days for each offense, or both such fine and imprisonment, Miller Funeral Home, Inc. and its representative, Steven R. Miller, are fined the sum of Five-Hundred (\$500.00) dollars for the above cited violation of LA. R.S. 37:846 (A) (14) as it relates to LA. R.S. 40:52 (Burial Transit Permits).

IT IS FURTHER ORDERED BY THE BOARD that pursuant to LA. R.S. 37:850, the penalty statute applicable to these violations, which states: Whoever violates the provisions of this Part shall be fined not less than five hundred dollars, nor more than two-thousand, five-hundred dollars, and costs of the court reporter and attorney for the board for each offense, or by imprisonment for not less than thirty days, nor more than one-hundred eighty days for each offense, or both such fine and imprisonment, Miller Funeral Home, Inc. and its representative, Steven R. Miller are fined the sum of Five-Hundred (\$500.00) dollars for the above cited violation of LA R.S. 37:846 (A) (5), (Unprofessional, Unethical, or Dishonest Conduct) (Failure to Present Statement of Funeral Goods and Services Selected Contract for Signing).

IT IS FURTHER ORDERED BY THE BOARD that pursuant to LA. R.S. 37:850, the penalty statute applicable to these violations, which states: Whoever violates the provisions of this Part shall be fined not less than five hundred dollars, nor more than two-thousand, five-hundred dollars, and costs of the court reporter and attorney for the board for each offense, or by imprisonment for not less than thirty days, nor more than one-hundred eighty days for each offense, or both such fine and imprisonment, Miller Funeral Home, Inc. and its representative, Steven R. Miller are fined the sum of Five-Hundred (\$500.00) dollars for the above cited violation of LA R.S. 37:846 (A) (5), (Unprofessional, Unethical, or Dishonest Conduct) (Selling Funeral Goods and Services Not Needed)

IT IS FURTHER ORDERED BY THE BOARD that Miller Funeral Home, Inc. and its representative, Steven R. Miller, are to pay the sum of One-thousand, Three-Hundred, Fourteen Dollars and Fifty Cents (\$1,314.50) for the court reporter's fees incurred by the Board for the handling of this matter on December 1, 2021, the date of the Hearing.

IT IS FURTHER ORDERED BY THE BOARD that Miller Funeral Home, Inc. and its representative, Steven R. Miller, are to pay the sum of Thirteen-Thousand, Five-Hundred, Fifty-Six Dollars, and Twenty-Five Cents (\$13,556.25) for the prosecuting attorney's fees incurred by the Board for the handling of this matter from the date the matter was accepted by the Board through December 1, 2021, the date of the Hearing.

IT IS FURTHER ORDERED BY THE BOARD that Miller Funeral Home, Inc. and its representative, Steven R. Miller, are to pay the sum of One-Thousand, Three-Hundred, Sixty-Five (\$1,365.00) Dollars for the hearing officer's fees incurred by the Board for the handling of this matter on December 1, 2021, the date of the Hearing.

IT IS FURTHER ORDERED BY THE BOARD that Miller Funeral Home, Inc. and its representative, Steven R. Miller, are to pay the sum of One-Thousand, Four-Hundred, Sixty-Two Dollars and Fifty Cents (\$1,462.50) for the general counsel's fees incurred by the Board for the handling of this matter on December 1, 2021, the date of the Hearing.

IT IS FURTHER ORDERED BY THE BOARD that the total assessed cost to Miller Funeral Home, Inc. and Steven R. Miller is Nineteen-Thousand, One-Hundred, Ninety-Eight Dollars, and Twenty-Five Cents (\$19,198.25) in fines and fees owed to the Board for the above cited violations. The above assessed fines, court reporter's fees, hearing officer's fees, and attorneys' fees are to be paid by Miller Funeral Home, Inc. and/or its representative, Steven R. Miller, within thirty (30) days of receipt of this decision.

IT IS FURTHER ORDERED BY THE BOARD that should the costs not be received by the Board within thirty (30) days of the notification of costs due, then the license of the establishment operating as Miller Funeral Home, Inc., Monroe, Louisiana shall be suspended until such time as all costs are paid.

Update with regard to Arthur Johnson of Rollins Funeral Home, Woodville, MS who made a removal in LA without notifying or reporting the death to the EBPCO. Ms. Michel filed a complaint letter to the Mississippi State Board of Funeral Service with regard to the issue outlined within the EPBCO letter. Ms. Michel received notice from MSBFS and the issue would be placed on the agenda of the MSBFS January meeting.

Ms. Michel presented the board members with a letter to Cease and Desist, addressed to David Whiddon, owner of 1st Call Transport. The letter outlines an issue that Mr. Whiddon has a refrigeration unit located in a warehouse where he is storing deceased human remains for funeral homes and for the Ascension Parish Coroner's office. The letter also outlined an issue with out of state funeral homes making removals in Louisiana as well as Mr. Whiddon representing himself as a funeral director as reported to the board by the East Baton Rouge Parish Coroner's office along with numerous other objections regarding the storing of deceased human remains.

The Ascension Parish Coroner's office called to inform Ms. Michel that the decedents, which were being held in the care of 1st Call Transport, have been removed from the location where the refrigeration unit is housed.

The contract for the Hearing Officer and Attorney, Mr. John Becknell, was presented to the Board for review and approval.

Motion was made by Mr. Dixon, seconded by Mr. Luneau and unanimously approved for the contract to be renewed for three years.

The Executive Director's report was not presented as it was incomplete.

Mr. Daigle presented his inspector's report as; 95,600 MILES IS THE TOTAL MILEAGE ON THE 2017 FORD FUSION AS OF TODAY ON MEETING DAY; Since the beginning of 2021 a total of 490 inspections have been done so far this year; 20 Inspections since the last meeting; This represents the total number of inspections since the beginning of 2021.

Motion was made by Mr. Davis, seconded by Mr. Boudreaux and unanimously passed that the Inspector's report be accepted as presented.

The minutes of November meeting was presented to the board for review and approval.

Motion was made by Mr. Boudreaux, seconded by Mr. Joseph and unanimously passed that the minutes be approved as presented.

The financial report and budget for FY 21/22 was presented for review and consideration.

Motion was made by Mr. Luneau, seconded by Mr. Boudreaux and unanimously passed that the financial report be accepted as presented.

The Complaint Review Committee's report was presented to the Board by Ms. Debose, Prosecuting Attorney.

Ms. Debose reiterated that the complaints are presented anonymously in numerical format to the Board with the Complaint Review Committee's decision based upon the information presented at the time of review. The numbered complaints presented in an open meeting remains anonymous while a complaint is pending further investigation and/or until such time as the complaint file has been closed.

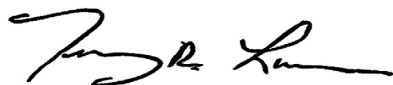
Three complaints were recommended for an informal hearing, all in keeping with the recommendation of the Complaint Review Committee. One complaint, although, did not appear to be a violation of the laws, rules and regulations under which licensees operate, a letter of admonishment will be forwarded to the licensee, all as per the recommendations of the Complaint Review Committee

Motion was made by Mr. Dixon, seconded by Mr. Davis and unanimously passed that the complaint report be accepted as presented per the recommendations of the Complaint Review Committee.

NEW BUSINESS

The next schedule of meeting for the board will be tentatively set for January 11, 2021 for a board meeting.

There being no further business, the meeting was concluded.



Terry Luneau, Secretary



Rodney McFarland, Sr., President



