

West Virginia Board of Funeral Service Examiners
BOARD MEETING
February 4, 2014

The meeting was called to order at 1:00 p.m. by President Chad Harding. Members present: Chad Hutson, Keith Kimble, Ira Handley, John Stump, Chad Harding and Sarah Lobban. John Fahey was absent. Non members present, Regina Foster, Executive Director and Constance Sloan, Administrative Assistant.

Chad Hutson moved to go into Executive Session pursuant to WV Code 6-9-4(4), seconded by Sarah Lobban. The motion carried unanimously.

On motion of Ira Handley, seconded by Keith Kimbl3 , the Board voted to return to public session

The Board then moved to the recommendations of the Complaint Committee as follows:

COMPLAINT 2013-03:

The original complaint form was filed in this office on February 28, 2018. Complainant alleged that Bartlett Funeral Home obtained her father's body without her permission and embalmed him without her permission. There were no other facts to go on. Complainant was contacted by phone and asked for a detailed statement so the Complaint Committee would have the information it needed to make a decision. By letters dated June 19 and September 6, 2013, the Board again requested the complainant to provide us with a detailed statement about her complaint. On September 25, 2013 we received the statement by email and notified Bartlett Funeral Home of the complaint. In addition to the removal and embalming without her permission, the complainant says that employees at the funeral home were rude and disrespectful to her and that one employee released confidential information relating to her plans for cremation of her father which caused her problems in the community.

The Board also contacted Grafton City Hospital relating to the release of the deceased and received a very detailed account from them . According to the hospital, they talked with the complainant a the time her father was taken to the hospital and based on the information of the person who came to the hospital with her father, he had expressed his desire to go to Bartlett. According to the hospital the complainant agreed to the removal; however, the following morning complainant called the hospital stating that she had not given permission for her father's release; that she didn't have money for a funeral and that Mr. Green (a neighbor) had gone to the courthouse to try and get appointed as executor of her father's estate and that cremations weren't legal in West Virginia. An employee of the hospital assured her that creations could be done in this state.

The complainant then contacted Donald G. Ford Funeral Home to make the removal from Bartlett and to proceed with the paperwork for cremation. When Mr. Ford contacted Bartlett he was told he had to pay a removal fee and embalming fee, however, they later stated that there would be no charge for either service.

Bartlett responds that they acted appropriately and provide documents which purport to show that the deceased had previously been to their funeral home and picked out funeral services. There was no contract and there is no written instructions from the deceased that the services be provided by the funeral home. He did list his daughter as his next of kin and also his neighbor, Mr. Green, as a care giver and instructed that Mr. Green be contacted as his daughter was in California. No where does it give Mr. Green authority to make final disposition arrangements.

In her time of grief, it is conceivable that the complainant did not understand what she was being told the night her father died. It is also believable that the employees of the funeral home tried to argue with her over the funeral arrangements and they may have had good intentions but lacked specific written instructions from the deceased. The final call is by the next of kin.

After discussion of the facts of the complaint, it appears that the complainant has no evidence to substantiate her complaint and thus there does not appear to be a violation of the Funeral Service Examiners Act and the complaint should be dismissed. However, the Committee feels that the respondent funeral home be advised that they should endeavor to personally obtain permission from the next of kin prior to making removals or embalmings and that staff should refrain from discussing or making funeral arrangements. This is a job solely for a licensed funeral director.

COMPLAINT 2013-07:

This complaint was originally received May 2, 2012. Because the complaint dealt with criminal activity both on the preneed side and otherwise, the complaint was referred first to Ralph Layton of the Attorney General's Office and then to the Parkersburg Police Department.

The complainant is a ward of the State and at the time of the filing of this complaint was a patient at Sharp Hospital, Weston, having been committed there by Order of the Wood County Court for arson of his home. Although the complainant is a patient of a mental facility, he has never been declared incompetent, and according to his case worker, is quite capable to handling his affairs. He is only required to have a Medical Power of Attorney for his medical treatment while at Weston or such other facility as he may be transferred to.

The Complainant alleges that during his commitment at Weston he entered into two preneed contracts with Kimes Funeral Home in Parkersburg, WV. One for himself for the purchase of a copper casket and the other for funeral arrangements for his brother. He also made Mr. Kimes his Power of Attorney and entrusted him to hold several thousand dollars of Travelers Checks. Sometime in 2012 complainant attempted to transfer his preneeds to another funeral home in Parkersburg and Mr. Kimes advised that funeral home that the complainant was incompetent and could not make that decision. Kimes also advised the other funeral director that he did have some Travelers Checks but that they had been cashed. The complainant had a list of the check numbers and denominations and had American Express trace the checks. Copies of the cashed checks were provided to this office and were subsequently provided to the Attorney General and the Parkersburg PD.

Mr. Layton's investigation of the matter resulted in Kimes being required to repay the complaint the \$5,000 in travelers checks that Kimes had cashed and used for his own interest, and to refund

him the cost of the bronze casket which was purchased supposedly under a preneed contract, however, the casket was at the funeral home and the funds were never put in trust.

Although the AG did find that Kimes had violated the law in not only this complaint but in other contacts as well, and then instructed Kimes to return money to the complainant, they did not refer the matter to law enforcement.

The Parkersburg Police Department made an investigation and determined that the checks were cashed, but since Kimes had repaid the money they decided not to prosecute and closed the case.

Kimes initially defended his action saying the complainant was mentally incompetent, however, he obviously did not believe him to be so mentally incompetent that he had the complainant make him his POA and proceeded to enter into a preneed contract with him for himself as well as one for his brother. In addition, he accepted five thousand dollars in Travelers Checks to “hold” for the complaint. Mr. Kimes responded that “. . . I have not been charged with any crime with any law enforcement agency and all matters dealing the Pre-Need Division of the State Attorney General’s Office have been cleared up.”

After reviewing the police reports, the conversations with Board staff and the Attorney General’s Office and with Mark Hickman of Vaughan Funeral Home, the Committee is of the opinion that Mr. Kimes did not act in a professional manner and that he acted in a willful departure from accepted standards of professional conduct (§30-6-23(a)(3)). The Committee recommends that Kimes be REPRIMANDED for his handling of Norman Reynolds’ money and be warned that future such conduct will result in disciplinary action.

COMPLAINT 2013-14

The file contains numerous letters from the complainant alleging a conspiracy between Reasner Funeral Home, an attorney, and members of her extended family. Most are confusing and incoherent. She also claims an investigation of the deceased’s doctor by the FBI which seems to be substantiated by a copy of some correspondence but which does not pertain to her complaint that her husband’s body was sent to Reasner without her permission.

It is unclear why the Ohio ME released the body to Reasner without authorization from his wife, if, in fact, they knew he was married. There were police officers at his home and it would seem that they would have made notation of her being his wife. However, the Ohio ME evidently believed that Reasner Funeral Home was supposed to receive the body and released complainant’s husband to them.

The funeral home states that they were unaware until after the deceased’s sister came in to make the arrangements that he was married and called complainant to ask her to come in and bring the marriage license. (The sister supposedly told the police, at the time of death, that the deceased and complainant had divorced but were living together).

The complainant went to the funeral home and provided the death certificate. She made no demands that the deceased be moved to another funeral home nor did she protest that he had been improperly removed from Ohio without her consent. Complainant advised the funeral home that

she had no money to pay for a funeral. As this was an Ohio death, there were no funds available from Ohio to pay for the funeral. The deceased's mother and sister offered to pay for the funeral expenses and the complainant, who was accompanied by a friend, signed a waiver of her right to make final disposition.

There is some reference to Bill Watson, an attorney in Wellsburg, being involved in this "cover up". However, Mr. Watson is the attorney for the family of the deceased in an oil/gas lease dispute and has advised us that he knows nothing about this matter. The funeral home states that they called their attorney. Not Mr. Watson, for advice on the waiver.

The EMS report lists several narcotic medicines that were prescribed to the deceased, and it seems that the doctor who prescribed those meds also was injecting him with experimental medicines. This appears to be the basis of the FBI investigation.

Most of her complaints relate to activities which are not under the jurisdiction of this Board. There is also the issue of a headstone being purchased by the mother for his grave but again, the complainant had no money for the headstone and as a general rule that would be a part of the final disposition. In addition, the deceased is buried in a plot owned by his mother.

The complainant has lost her husband and daughter to tragic deaths and I am advised that her friend, who accompanied her to the funeral home, died approximately 2-3 weeks later. These tragic events no doubt contribute to her confusion.

There is nothing to indicate that the funeral home violated the provisions of the Funeral Service Examiners Act and the Committee recommends that this complaint be dismissed.

JOSHUA GREEN - APPRENTICE APPLICATION

The applicant has been convicted of DUI, third offense, and is currently on parole in Monongalia County through October, 2014. The Administrative Assistant has talked with the parole officer who states that Mr. Green spent one year on home confinement and has completed his classes for reinstatement of his driver's license, has had no dirty urine or drug screens and has been a model parolee. The applicant has been an employee of the funeral home for some time and has decided to make that his career choice. He meets the educational requirements to begin the apprentice program. The Committee recommends that his application be accepted on a probationary status and that his period of probation run concurrent with his current parole in Monongalia County.

On motion of John Stump, seconded by Chad Hutson, the recommendations of the Complaint Committee were unanimously accepted by the Board.

On motion of Ira Handley, seconded by Keith Kimble, the Minutes of the October 8, 2013 meeting were approved unanimously.

On motion of John Stump, seconded by Sarah Lobban, the Financial Reports for May, June, July and August 2013 were unanimously approved.

On motion of Ira Handley, seconded by Keith Kimble, the P-Card reports for April, May, June, July and August 2013 were unanimously approved.

The Board considered the reinstatement of Mark S. Strickland's Funeral Service License. On motion of Ira Handley, seconded by Keith Kimble, the Board voted unanimously to reinstate his license conditioned on his obtain all continuing education hours up to date and his passing the WV Board exam.

On motion of Ira Handley, seconded by Sarah Lobban, the Board approved payment of the membership dues for the coming year to the WV Licensing Boards Association.

Licenses were signed for the following individuals and facilities:

Funeral Homes

Stockert-Paletti

Apprentice:

Emily R. Rosinski

Crematory Operator:

Brian O'Dale Stewart

Matthew A. Chambers

James E. Davidson, II

Ronald R. Withrow

Crematory License:

Tri-State Cremation Society

The next meeting of the Board will be at the Board's office in Morgantown on Monday, June 9, 2013 at 1:00 pm with the Complaint Committee meeting at 10:00 am. that day.

There being no other business to be considered, on motion of Ira Handley, seconded, by Chad Hutson, and unanimously adopted, the meeting was adjourned.

Chad R. Harding, President

Regina J. Foster, Executive Director