

Arkansas Insurance Department

Asa Hutchinson
Governor



Alan McClain
Commissioner

BEFORE THE STATE BOARD OF EMBALMERS, FUNERAL DIRECTORS, CEMETERIES, AND BURIAL SERVICES

IN THE MATTER OF
Davis-Strickland Funeral Home, Board ID #20397,
Shannon Strickland, Board ID #21100,
Matthew Strickland, Board ID #21027,
Strickland Memorial Lawn, and
Church Burial Association, Respondents

Case Nos. 18-11
 19-08
 20-20

Via Certified Return Receipt and First Class Mail 7020 0090 0000 1730 5354

December 16, 2020

Mrs. Matthew Strickland
Mr. Shannon Strickland
Davis-Strickland Funeral Home
P.O. Box 373
Dermott, AR 71638-0373

Dear Mrs. Strickland and Mr. Strickland:

Please find the following Notice of Public Hearing:

NOTICE OF PUBLIC HEARING

Please be advised that an administrative hearing will take place on January 19, 2021 at 9:00 a.m. at an official meeting of the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services, in the Diamond Mine Room on the 2nd Floor of the Department of Commerce Building, 1 Commerce Way, Little Rock, AR 72202. The hearing will be held before the Board

concerning the following matters. The Hearing is your opportunity to defend yourself against the following allegations.

ALLEGATIONS

I. Funeral Establishment

1. Respondents entered into a Consent Agreement with the Board on May 16, 2019 in which they were ordered to replace Matthew Strickland as manager with Shannon Strickland, and pay a monetary penalty within 60 days.
2. The Consent Agreement also placed the establishment license of the funeral home on probation for a term of one year.
3. The amount of the monetary penalty is \$1,000 and it remains unpaid.
4. The required forms removing Matthew Strickland as manager and designating Shannon Strickland as manager have not been submitted to the Board.
5. On March 6, 2019, a complaint was filed against the establishment. The complainant is Margaret Johnson. The establishment held the viewing on January 18, 2019, and the funeral on January 19, 2019.
6. The family opted for a burial, and at the time of the services, the ground was too wet for the burial.
7. Subsequently, the family called the establishment to schedule a date and time for the burial, and Respondents Matthew Strickland and Shannon Strickland stated they would call the family to let them know the date and time.
8. However, the family received no phone call from the establishment.

9. On January 28, 2019, the complainant's mother, Ardell Whitten, and the complainant's sister, Tanza Nelson, went to the establishment to request a refund for merchandise and services that were paid for but not used.
10. Matthew Strickland refused to refund the family at that time.
11. During the same meeting, Ms. Johnson asked Respondent Matthew Strickland about scheduling the burial.
12. Mrs. Strickland replied that the burial occurred the day before, on January 27, 2019.
13. There was a second meeting that occurred on January 29, 2019.
14. At that meeting, upon questioning by the family, the Respondents stated that they found out about the burial the day after the burial occurred.
15. Upon information and belief, at the second meeting, the Respondents stated that caretaker of the cemetery has keys to the funeral home, and that the caretaker buried the decedent on January 27, 2019.
16. Also at the second meeting, Respondents agreed to refund the money for the unused merchandise and services, but they stated that they could not issue the refund until the insurance money was received.
17. A third meeting occurred on February 1, 2019. At that meeting, Shannon Strickland agreed to refund the amounts of \$695 for the cemetery set up and \$350 for the outer enclosure.
18. Shannon Strickland further stated that they would have to wait until the insurance money arrived before the establishment could issue the refund.
19. The complainant, Mrs. Johnson, told Shannon Strickland that she knew the insurance company had already paid the funeral home because she spoke with the insurance company the day before.

20. Upon information and belief, Shannon Strickland agreed to issue the refund on February 7, 2019 and to draft an apology letter to each family member.
21. On February 7, 2019, the complainant's mother, Ardell Whitten called to inquire about the refund after not hearing from the funeral home. Shannon Strickland informed Mrs. Whitten that the refund would be ready on February 8, 2019.
22. On February 8, 2019, the refund was issued but Shannon Strickland failed to issue the apology letters.
23. On May 29, 2019, Ardell Whitten filed a complaint.
24. The substance of that complaint was that the decedent was buried without the knowledge of the family, and that the apology letters were never written.
25. Both complaints were received by Respondents on March 14, 2019.
26. Respondent Shannon Strickland's response stated that the funeral home and the family agreed that the funeral home would determine when to bury the remains because the family did not want to attend the burial due to the body having been committed at the church.
28. The response was received untimely, on April 8, 2019, and it was not notarized.
29. On July 23, 2020, the Board's Inspector inspected the establishment.
30. That inspection found the establishment to be in a substandard state, including a large hole in the lobby ceiling, spider webs and rat poison containers in the selection room, mildew or mold around the air conditioner vents, and general uncleanness.
31. The inspection also revealed the lack of caskets in the selection room, and the lack of price cards.
32. Lastly, the inspection also revealed that the establishment's general price list is not in compliance with the FTC.

II. Perpetual Care Cemetery

33. Respondents Matthew and Shannon Strickland operate a perpetual care cemetery, Strickland Memorial Lawn.

34. The Cemetery failed to file the cemetery and trustee reports for the current year, and as the prior owner has passed away, the cemetery has failed to file for a transfer of ownership.

35. Despite being served with a subpoena two times in 2020, the Respondents have failed to appear before the board to explain why the reports and the transfer of ownership have not been filed.

III. Burial Association

36. Respondents Matthew Strickland and Shannon Strickland operate Church Burial Association.

37. A Board audit of the Association revealed the following:

- (a) Incomplete reports;
- (b) Reports submitted untimely;
- (c) Untimely deposits of membership dues and fees (weeks or months after collection);
- (d) Allowing approximately nine (9) individuals who are not agents of the association to collect membership dues and fees;
- (e) Allowing the unlicensed agents to deduct their 20%-30% collector's fee from the membership dues prior to remitting the dues with the Secretary/Treasurer;
- (f) Failure to maintain copies of membership applications on file;
- (g) Failure to have a fidelity bond in place. The copy of the most recent bond on file with the Board is dated 2013; and

(h) Depositing membership dues into incorrect accounts, causing the new business account to be under-funded and the old business account to be over-funded.

APPLICABLE LAW AND REGULATIONS

1. Pursuant to Ark. Code Ann. § 23-61-1103(a)(6), the Board may “suspend or revoke permits or licenses when a licensee fails to comply with any of the laws governing the licensee or when a licensee fails to comply with a rule or order of the board.”
2. Pursuant to Ark. Code Ann. §§ 17-29-403, civil penalties of up to \$10,000.00 per violation may be imposed for a violation of the licensing law or Board regulations.
3. Ark. Code Ann. § 17-29-307(a) provides that the Board may “refuse to renew, or may suspend or revoke, a license issued under this subchapter if it finds, after a hearing, that a person or a funeral establishment licensed under this subchapter does not meet any requirement under this subchapter or § 23-61-1101 *et seq.*”
4. Board Rule XIV.3 requires “the personnel of a funeral establishment whose services are desired shall make every reasonable attempt to fulfill the needs and desires of the deceased and/or authorizing agent, both to service and merchandise...”
5. Board Rule II. 1. provides in part, “...In the case of earth interment and above ground entombment, the licensee shall be onsite supervising all matters until completion of the earth interment or above ground entombment except when the authorizing agent has contracted with the cemetery...to carry out those procedures...”
6. Ark. Code Ann. § 17-29-311(a) authorizes the Board to “issue letters of reprimand or caution, refuse to issue or renew a license, suspend or revoke any license for the practice of embalming or funeral directing, or may place the holder thereof on a term of probation after proper hearing upon finding the holder of the license to be guilty of acts of commission or omission,

including the following: ... (2) Misrepresentations made or fraud committed as a holder of a license... (18) Failure to answer a complaint within the fifteen-day time period...”

7. Board Rule XV.4 requires the response to the complaint to be submitted to the Board within fifteen (15) days.

8. Board Rule XV.5 requires the response to be notarized.

9. Ark. Code Ann. § 17-29-304(a)(3)(D) requires the establishment to “ensure that the interior of the funeral establishment is protected from exposure to outside elements.”

10. Ark. Code Ann. § 17-29-304(g)(2) requires the establishment to “display on site a reasonable number of caskets as determined by rule of the board.” Board Rule IV.2.(a)(4) requires the establishment to display at least five (5) caskets.

11. Board Rule XII.1 requires all funeral merchandise to have a visible price card.

12. Board Rule XII.4 requires every funeral firm to comply with the requirements of the FTC as they relate to funeral service.

13. Ark. Code Ann. § 17-29-304(g)(4) requires the establishment to “maintain the interior and exterior of the funeral establishment in a manner that does not present a potential or actual hazard to the health, safety, or welfare of the public.”

14. Ark. Code Ann. § 20-17-1023(a) requires the annual report of the condition of the cemetery company to be filed within seventy-five (75) days after the end of the calendar year.

15. Ark. Code Ann. § 20-17-1015(a) requires the trustee of the permanent maintenance fund to file the report of the condition of the fund within seventy-five (75) days after the end of the calendar year.

16. Ark. Code Ann. § 20-17-1012 requires application to be made to the Board whenever there is a change in the controlling interest in the cemetery or cemetery company.

17. Ark. Code Ann. § 23-78-120 requires each burial association to file a semiannual report twice per year, on or before June 30 and on or before December 31. That statute also includes provisions that specify how deficient reports are to be cured, and the deadlines therefor.
18. The Rules and Regulations Governing Burial Associations, Rule 26(a), provides that “all assessments, membership dues and/or other funds collected by any burial association must be deposited by the Secretary/Treasurer of the association within five (5) business days from the date collected and/or received by the association.”
19. Ark. Code Ann. § 23-78-113 requires an agent or representative to apply to the Board for an agent’s license prior to the individual representing a burial association.
20. The Rules and Regulations Governing Burial Associations, Rule 26(d) provides in part, “...Associations shall not permit agents to deduct the operating expense from collections prior to remitting them to the Secretary/Treasurer of the association...”
21. The Rules and Regulations Governing Burial Associations, Rule 10(b), requires membership fees of twenty-five cents (\$0.25) per member to be submitted along with each semiannual report.
22. The Rules and Regulations Governing Burial Associations, Rule 16, requires membership applications to be kept on file in the order in which they are received.
23. The Rules and Regulations Governing Burial Associations, Rule 7, requires any burial association with money on hand to have a bond with an approved corporate surety on the Secretary/Treasurer and any other person whose authorized signature is on the association’s accounts.

24. The Rules and Regulations Governing Burial Associations, Rule 9, provides in part that “all books, accounts and records must be kept at the main office of the association and in such a manner as to accurately reflect the condition of the association...”

CHARGES

1. Respondent’s actions, as set forth in Allegations 3 and 4, above, constitute violations of Ark. Code Ann. §23-61-1103(a)(6).
2. Respondent’s actions as set forth in Allegations 3 and 4, above, insofar as they constitute violations of Ark. Code Ann. § 23-61-1103(a)(6) triggers Ark. Code Ann. § 17-29-307(a) such that the funeral director licenses of Matthew Strickland and Shannon Strickland, and the establishment license of Davis-Strickland should be revoked.
3. Respondents’ actions, as set forth in Allegations 12, 14 and 15, above, constitute violations of Board Rule II. 1. in that there was no licensed funeral director present at the burial.
4. Respondent Shannon Strickland’s actions, as set forth in Allegation 18 above, constitute a violation of Ark. Code Ann. § 17-29-311(a)(2) in that he was untruthful about not being able to issue the refund because he stated the insurance funds had not yet been received.
5. Respondents’ actions, as set forth in Allegations 12, 14 and 15 above, in that the family was not present at the burial as they desired, constitute a violation of Board Rule XIV.3.
6. Respondents’ actions, as set forth in Allegation 28 above, in that the response to the complaint was received untimely and was not notarized, constitute a violation of Board Rule XV.4, Board Rule XV.5, and Ark. Code Ann. § 17-29-311(a)(18).

7. Respondents' actions, as set forth in Allegation 30 above, constitute a violation of Ark. Code Ann. § 17-29-304(a)(3)(D) in that the hole in the ceiling is insufficient to ensure the interior is protected from exposure to outside elements.
8. Respondents' actions, as set forth in Allegation 30 above, constitute a violation of Ark. Code Ann. § 17-29-304(g)(4) in that the presence of mold or mildew, spiderwebs, rat poison, and general uncleanliness is insufficient to ensure that the establishment does not present a potential or actual hazard to the health, safety or welfare of the public.
9. Respondents' actions, as set forth in Allegation 31 above, constitute a violation of Ark. Code Ann. § 17-29-304(g)(2) and Board Rule IV.2.(a)(4) in that there were no caskets in the selection room.
10. Respondents' actions, as set forth in Allegation 31 above, constitute a violation of Board Rule XII.1 in that there were no price cards.
11. Respondents' actions, as set forth in Allegation 32 above, constitute a violation of Board Rule XII.4 in that the General Price List is not compliant with the Federal Trade Commission requirements.
12. Respondents' actions, as set forth in Allegation 34 above, constitute a violation of Ark. Code Ann. § 20-17-1023(a) in that they failed to file the cemetery report.
13. Respondents' actions, as set forth in Allegation 34 above, constitute a violation of Ark. Code Ann. § 20-17-1015(a) in that they failed to file the trustee report.
14. Respondents' actions, as set forth in Allegation 34 above, constitute a violation of Ark. Code Ann. § 20-17-1012 in that they failed to apply for a transfer of ownership.
15. Respondents' actions, as set forth in Allegation 37(a) above, constitute a violation of Ark. Code Ann. § 23-78-120 in that the semiannual reports were inaccurate and incomplete.

16. Respondents' actions, as set forth in Allegation 37(a) and (b) above, constitute a violation of Ark. Code Ann. § 23-78-120 in that the semiannual reports were not corrected and re-submitted.
17. Respondents' actions, as set forth in Allegation 37(a) above, constitute a violation of Rule 10(b) requiring the semiannual reports to be accompanied by the fee of \$0.25 per member.
18. Respondents' actions, as set forth in Allegation 37(c) above, constitute a violation of Rule 26(a) requiring membership dues to be deposited within five (5) business days.
19. Respondents' actions, as set forth in Allegation 37(d) above, constitute a violation of Ark. Code Ann. § 23-78-113 in that the individuals collecting membership dues are not licensed agents of the association.
20. Respondents' actions, as set forth in Allegation 37(e) above, constitute a violation of Rule 26(d) in that they allowed the collectors to skim their collector's fee from the membership dues collected, prior to remitting the dues to the Secretary/Treasurer.
21. Respondents' actions, as set forth in Allegation 37(f) above, constitute a violation of Rule 16 in that they failed to maintain on file, membership applications.
22. Respondents' actions, as set forth in Allegation 37(g) above, constitute a violation of Rule 7 in that they do not have a fidelity bond in placed.
23. Respondents' actions, as set forth in Allegation 37(h) above, constitute a violation of Rule 9 wherein depositing membership dues in the wrong accounts causes the condition of the association to be reflected inaccurately.

TIME AND PLACE OF HEARING

Respondent is hereby notified that the Board will hold a hearing on the allegations set out above on January 19, 2021 at 9:00 a.m. in the Diamond Mine Room on the 2nd Floor of the Department of Commerce Building, 1 Commerce Way, Little Rock, AR 72202. The hearing will

be conducted pursuant to the Arkansas Administrative Procedure Act, Ark. Code Ann. § 25-15-201 *et seq.* You may appear in person, may be represented by counsel, and may offer witnesses, affidavits, or documentary evidence in response to the allegations contained herein.

If you fail to appear at the hearing, the Board will conduct the hearing in your absence.

You are also notified that all evidence, including any documents, and any oral testimony which the Board determines to be relevant, shall be introduced on the day of the hearing. No additions will be permitted nor will the record be allowed to be supplemented after the hearing is concluded.

Sincerely,



Amanda Gibson

Counsel for the State Board of
Embalmers, Funeral Directors,
Cemeteries, and Burial Services