State Board of Embalmers and Funeral Directors

December 7-8, 2010
University Plaza Hotel
333 S John Q Hammons Parkway
Springfield, Missouri 65806

OPEN MEETING MINUTES

Tuesday December 7, 2010
The meeting of the Missouri State Board of Embalmers and Funeral Directors was called to order by Gary Fraker, Chairman at 9:17 a.m. December 7, 2010.

Roll Call
Board members Present
Gary Fraker, Chairman
D. Todd Mahn, Vice Chairman
John McCulloch, Secretary
Martin Vernon, Member
Archie Camden, Public Member
James Reinhard, Member- Left meeting at 1:30 p.m. on 12-7-2010

Staff Present
Sandy Sebastian, Executive Director
Lori Hayes, Inspector
Tabatha Lenzini, Administrative Assistant
Sharon Euler, Legal Counsel
Randall Jennings, Examiner
Michelle Hankinson, Examiner

Approval of Open Agenda
A motion was made by John McCulloch and seconded by Martin Vernon to approve the amended open agenda. Motion carried with D.Todd Mahn, John McCulloch, Martin Vernon, Archie Camden and James Reinhard voting in favor with no votes in opposition.

Ron Marts/ Martron LLC, dba Marts Memorial Service
The board reviewed a request from Sam Mirable, Counsel to move the probation violation hearing on Ronald Marts, Marton, LLC dba Marts Memorial Services from 1:30 p.m. to 3:45 p.m. A motion was made by Martin Vernon and seconded by John McCulloch to approve request to move hearing. Motion carried

Executive Director Report
- NPS- Information regarding the recent indictment included in the material as well as the press release associated with such.

- Warren Funeral Chapel, Inc.- Information on the Consent Judgment and permanent injunction regarding Warren Funeral Home and Harold Warren, Sr. and Harold Warren, Jr. were shared with the Board.
- Buescher Memorial Home- Bueschers' status is still revoked. The case has been set for briefing in December. The consumer case has a hearing date of December 21, 2010 set. Sharon Euler added that the Attorney General's Office has requested a preliminary injunction and a hearing on such.
- Brandtonies- Sharon Euler shared with the Board that Brandtonies pled guilty to several counts of stealing with regard to preneed contracts and that sentencing is set for sometime in February, 2011. The recommendation from the Attorney General on what sentencing will be will depend on how much money is missing. Sharon also updated that there is a hearing set on February 22, 2011 to see how much money he can come up with to pay restitution

Renewal status from October 31, 2010 was shared with the board regarding-

- *Preneed Sellers*
- *Preneed Providers*
- *Preneed Agents*
- *Preneed Funeral Director Agents*

Open Meeting and Mail Ballot Minutes

A motion was made by James Reinhard and seconded by D. Todd Mahn to approve the following open meeting and mail ballot minutes:

July 22, 2010 Conference Call
September 20, 2010 Mail Ballot
September 29, 2010 Mail Ballot
October 1, 2010 Mail Ballot
November 5, 2010 Mail Ballot
November 10, 2010 Meeting Minutes

Motion carried with D. Todd Mahn, John McCulloch, Martin Vernon, Archie Camden and James Reinhard voting in favor with no votes in opposition.

Financial Examinations

Sandy Sebastian updated the public on the examination process. The public was told the Board is not out head hunting. There have been people to volunteer for examinations. Mid December Randall and Michelle should have a list to begin contacting.

A member of the public asked how many financial examinations have completed at this time, how much it cost per exam, how much revenue did the Board collect and is any money going to be swept away into general revenue. Sandy Sebastian answered 3 for sure that are done and that the cost per exam is not known at this time. Gary Fraker stated this is a new process and the board doesn't have the final of anything. Lori Hayes informed there are 141 active preneed agents; 926 preneed agent funeral

directors; 314 preneed sellers; 570 preneed providers. There were 14,172 contracts reported written totaling a little over 64 million dollars.

Connie Clarkston stated that the revenue is in the structure of the Board and those funds are funded very closely.

A member of the public asked what the Board was going to do with joint contracts? Did licensee get what they paid for? Response from the Board is that it is an ongoing process.

Sharon Euler stated she's heard rumors going around that funeral homes have heard they will have to shut down for a month for the Board to be on site doing the financial examination, if funeral homes hear rumors to call the board office to confirm.

Financial Examination Mission Statement
A motion was made by Martin Vernon and seconded by D. Todd Mahn to accept the mission statement relating to the financial examinations, which states:

The mission of the financial examination team of the Board shall be:

1. To ensure that the monies Missouri consumers have paid to take care of their final expenses are intact and funds will be available at the time of need whether the funeral home/seller is still in business or not;

2. To bring to the attention of the Board improprieties and/or misconduct of licensees related to preneed funeral contracts; and

3. To provide assurances of compliance to the public, consumers of the licensee, the licensee and other members of the death care industry.

Motion carried with D. Todd Mahn, John McCulloch, Martin Vernon, Archie Camden and James Reinhard voting in favor with no votes in opposition.

Te Board reviewed and discussed an email that Darlene Russell had sent to the Board office inquiring whether or not licensee would be able to respond to the audit. A motion was made by Martin Vernon and seconded by D. Todd Mahn requesting Sandy respond back to Darlene's e-mail. Motion carried with D. Todd Mahn, John McCulloch, Martin Vernon, Archie Camden and James Reinhard voting in favor with no votes in opposition.

Employer Notification
Discussion was held regarding notification being sent to employers relating to employee's licensure status. John McCulloch asked if someone owns a funeral home they are not told about things of employees of the establishment. For instance they get a HB600 letter, or an inspector goes in and tells him to change a contract but doesn't tell the owner. Sandy Sebastian stated all information is protected under law; nothing in our law that allows us to notify employer of licensees closed information. John

McCulloch asked what if we have them sign something releasing all information signed by both parties. Sandy stated if something is signed by the licensee authorizing release of closed information from their file to anyone the office would work to comply but saw concerns with tracking.

It was suggested by one member of the public to change inspection form to say the funeral director in charge has to sign inspection form not just a representative of the firm. It was also suggested by the same individual that in place of writing up people to get back to helping the establishments and the Funeral Director get a copy of report.

A member of the public asked for providers that have not renewed be posted on the web to protect the agents. The funeral director is responsible.

Gary Fraker responded that we currently do not post any disciplinary information on the web.

Open Discussion/Dialogue
D. Todd Mahn stated that the examination process is not as complicated as in black and white and not scary.

John McCulloch asked if the Board was going to talk about examination process. Sharon Euler indicated the Board had touched on it and that Randall and Michelle have a lot of experience in these types of examinations.

A member of the public asked if there was anything specific they look for? Michelle Hankinson answered they will want to know where contracts are kept, list of active preneed contracts, supporting documents, need a small work area, looking at each contracts, goods and services detailed, checking funds, ledger books, cross reference what consumer has paid. They will ask questions if they aren't sure how things work. Randall Jennings said they may have questions about some of the contracts they will ask questions for clarification. Those still in question will go to the board or board staff. If someone chose not to be a seller but still have active contracts in trust then they will be looking at this.

A member of the public stated they went to NPS arraignment. If they recover funds hate to see all those funds to go to receivership. Board will be faced with a crisis in 2011 and 2012 as there might be no money for orphan contracts. Funeral homes are not going to service the orphan contracts because they can't afford it. Board could sue but in turn they still go out of business. If the consumer asks for their money back after August 2008 they can have their money back. Prior to August 2008 that money is gone.

It was discussed that the location of March, 2011 meeting will be held in Jefferson City.

A motion was made by Martin Vernon and seconded by John McCulloch to adjourn for lunch at 11:43 a.m. Motion carried with D. Todd Mahn, John McCulloch, Martin Vernon, Archie Camden and James Reinhard voting in favor with no votes in opposition.

Probation Violation Hearing
Ronald Marts and Martron, LLC dba Marts Memorial Services
The board held a probation violation hearing on case EMB 11-001-PV and EMB 11-002 PV Ronald Marts and Marton, LLC, dba Marts Memorial Services

The board recessed from the hearing from 5:00 p.m. to 5:17 p.m. Licensee and Sam Mirabile, counsel fro licensee, were present for the hearing.

Prior to the hearing concluding and upon agreement from both parties, the decision was made to continue the hearing at a future date, as soon as possible; yet to be determined, based on such the hearing recessed at 7:55 p.m.

A motion was made by John McCulloch and seconded by Archie Camden to go in to closed session pursuant to Section 610.021 Subsection (14) and Section 324.001.8 RSMo for discussing educational transcripts and/or test scores and/or complaints and/or audits and/or investigative reports and/or other information pertaining to the licensee or applicant for licensure; Section 610.021 Subsection (1) RSMo for discussing general legal actions, causes of action or litigation and any confidential or privileged communications between this agency and its attorney; Section 610.021 Subsection (1) RSMo and 324.001.9 RSMo for deliberation on discipline; Section 610.021 Subsection (3) RSMo discussing hiring, firing, disciplining or promoting an employee of this agency; Section 610.021Subsection (13) RSMo for making performance ratings pertaining to individual employees; Section 610.021 Subsection (7) RSMo for reviewing testing and examination materials; Section 610.021 Subsection (14) and Section 324.001.8 RSMo. for proceedings required pursuant to a disciplinary order concerning medical, psychiatric, psychological, or alcoholism or drug dependency diagnosis or treatment of specific licensees; and Subsection (14) of 610.021 RSMo for the purpose of reviewing and approving the closed minutes of previous meetings. Motion carried with D. Todd Mahn, John McCulloch and Martin Vernon voting in favor with no votes in opposition. James Reinhard was not present for the meeting.

Wednesday, December 8, 2010

A motion was made by Archie Camden and seconded by Martin Vernon to adjourn the meeting. Motion carried with D. Todd Mahn, John McCulloch and Martin Vernon voting in favor with no votes in opposition. James Reinhard was not present for the meeting. The meeting adjourned at 4:30 p.m. on Wednesday December 8, 2010.

Executive Director: Sandy Sebastian

Approved by the Board on: 9/27-29/2011