

BEFORE THE MISSISSIPPI STATE BOARD OF FUNERAL SERVICE**MISSISSIPPI STATE BOARD OF
FUNERAL SERVICE****V.****JOSHUA HUGHES****COMPLAINANT****FS License NO. 9224****RESPONDENT****FINAL ORDER**

The above-entitled matter came before the Mississippi State Board of Funeral Service ("Board") on January 11, 2021, in Flowood, Rankin County, Mississippi, pursuant to a Notice of Hearing and Complaint issued to Joshua Hughes. Joshua Hughes referred to herein as "Respondent".

A quorum of the Board members was present via Zoom and participated throughout the hearing and deliberation in the matter. Edward Wiggins, Jr., Special Assistant Attorney General, 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. Joshua Hughes provides service in Grenada, Grenada County, Mississippi, as a funeral services practitioner, holding License Number FS-9224 issued by the Board.
3. This matter arose as a result of a complaint filed by the Board ("Complainant") against the Respondent on or about December 17, 2020 that allowed Respondent to file a written response. Respondent failed to provide a written response to the complaint.(See Exhibit A)
4. On December 20, 2019, the Board sent a letter to the Respondent at his address of record registered with the Board office, directing Respondent to provide a written response to the Board regarding the allegations of the complaint. The Respondent did not provide a written response and only provided documents.(See Exhibit B)

5. Thereafter, on December 17, 2020, the Board initiated the instant proceedings with a Notice of Hearing and Complaint, which was served on the Respondent at his address of record registered with the Board office.

6. The Complainant appeared and fully participated in the hearing held before the Board.

7. The Respondent appeared for, and was not represented at, the hearing held before the Board, nor did he file an objection or opposition to the Complaint filed in this matter. Therefore, the facts in this case are undisputed and set forth hereinbelow.

8. On or about July 23, 2018, Respondent was indicted for the following in the Circuit Court of Grenada, Mississippi:

- a) Conspiracy to Commit a Crime in violation of *Mississippi Code Ann.* § 97-1-1;
- b) Insurance Fraud in violation of *Mississippi Code Ann.* §7-5-303;
- c) Insurance Fraud in violation of *Mississippi Code Ann.* §7-5-303. (See Exhibit C)

9. On or about August 15, 2019 Respondent entered a plea of guilty to the felony crime of Count I: Conspiracy to Commit a Crime (*Miss. Code Ann.* §97-1-1) which was accepted by the Court. Respondent was subsequently ordered to immediately resign from the office of alderman as of the date of the plea of guilty.

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

CONCLUSIONS OF LAW

1. The Board has jurisdiction over the Respondent and the subject matter in this case pursuant to §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 §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, including, but not limited to probation, as the Board finds proper for any violation of the statutes and/or rules and regulations governing the licensing and regulation of funeral establishments, funeral directors and funeral service practitioners.

4. The Board therefore concludes that the evidence clearly and convincingly establishes a basis for disciplinary action pursuant to §73-11-57 in that Respondent violated one and/or more of the following:

¹ Unless otherwise indicated, all statutory reference is to the Mississippi Code of 1972, as amended.

- i) The conviction of a felony by any court in this state or any federal court or by the court of any other state or territory of the United States; having been convicted of or pled guilty to a felony in the courts of this states or any other state, territory or country which would prevent a person from holding elected office. Conviction, as used in this paragraph, shall include a deferred conviction, deferred prosecution, deferred sentence, finding or verdict of guilt, an admission of guilty, or a plea of *nolo contendere* in violation of *Miss. Code Ann. §73-11-57 (1) (c)*;
- ii) Violation of any provision of this chapter or any rule or regulation of the Board in violation of *Miss. Code Ann. §73-11-57 (g)*; and
- iii) Any or conduct, whether the same or of a different character than specified above, which constitutes or demonstrates bad faith, incompetency or untrustworthiness; or dishonest, fraudulent or improper dealing; or any other violation of the provisions of this chapter, the rules and regulations established by the board (Rule 2.10(f)) or any rule or regulation promulgated the Federal Trade Commission relative to the practice of funeral service or funeral directing in violation of *Miss. Code Ann. §73-11-57(v)*.

By such conduct the Respondent further 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 §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:

- A. Respondent is hereby assessed a monetary penalty in the amount of Five Hundred Dollars (\$500.00) for the first violation cited herein, Seven Hundred Fifty Dollars (\$750.00) for the second violation and Seven Hundred Fifty Dollars (\$750.00) for the third violation, for a total of Two Thousand Dollars (\$2,000.00). Within thirty (30) calendar days from the date this Final Order is executed, the Respondent must pay the monetary penalty in full or make arrangements with the Board office to pay the penalty in four (4) monthly installments of at least Five Hundred Dollars (\$556.25). The first installment payment is due and payable to the Board within thirty (30) calendar days from the date this Final Order is executed and the remaining installment payments shall be due on the 15th day of each month immediately following thereafter until paid in full. If the Respondent fails 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 and potentially subject License Number FS-9224 to revocation.

The monetary penalty must be paid by money order or certified or cashier's check, payable to the Mississippi State Board of Funeral Service. The Respondent shall be liable for the payment of the monetary penalty.

- B. The Funeral Service License Number FS-9224 issued to Joshua Hughes is placed on probation for at least one (1) year from and after the date that this Final Order is signed by the Board. This probation will begin **only after** the Respondent has satisfied the provisions described above in Paragraph A regarding the monetary penalty.
- C. If, however, the Respondent does not meet the pre-condition described above in Paragraph A, the probation will remain in effect until further order of the Board.
- D. After the Respondent has met the requirements specified above in Paragraph A, the Respondent's licensure PROBATION shall be subject to the following terms and conditions:
 - (1) The Respondent shall be placed on probation for no less than one year from and after the date that the Board executes this Final Order.
 - (2) The Respondent shall pay the monetary penalty as set forth in this Final Order of Two Thousand Dollars (\$2,000) and cost of the court reporter of Two Hundred Fifty Dollars (\$225) for a total of (\$2,225.00).
 - (3) The Respondent shall appear and report to the Board as requested by the Board.
 - (4) The Respondent shall promptly advise the Board in writing of any changes in address, practice, professional status, ownership, management or compliance with this Final Order. He shall inform the Board in writing within no more than seven (7) calendar days of any change concerning the aforesaid information or conditions.
 - (5) Respondent 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 Respondent is responsible for demonstrating compliance with each and every provision of this Final Order. The Respondent may be required to furnish the Board with additional information as may be deemed necessary by the Board or its representatives. It is the Respondent's 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.
 - (6) Those time periods during which the Respondent does not provide funeral service in the State of Mississippi will not be credited toward any period of probationary time.

- E. It is the Respondent's responsibility to ensure all payments and documentation required to be filed with the Board pursuant to this Final Order are timely filed by those making the payment or preparing the report, evaluation, or documentation. Failure to make payment on or before the due date is a violation of this Order.
- F. Respondent 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 as a result of a breach of the conditions of this Final Order shall be on the Respondent to demonstrate compliance with this Order.
- G. If the Board has probable cause to believe Respondent has failed to comply with or has violated any of the requirements for staying the suspension as outlined in this Final Order, the Board may remove the stayed suspension.
- H. Further, 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 may be subject to additional disciplinary action, up to and including license revocation, by the Board.
- I. There shall be no automatic termination of probation after the end of the Respondent's probation period. At the end of the probation period, the Respondent may petition the Board in writing for termination of probation and full reinstatement of license without restrictions or conditions. If the Respondent has satisfactorily complied with all conditions of this Final Order, there are no outstanding complaints or other disciplinary actions or proceedings pending against the Respondent; and the Respondent is otherwise fit and competent to act as a funeral establishment, funeral director and funeral service licensee, the Board will terminate probation. If the Respondent fails to make such a written request or petition, then his license probationary status shall continue, subject to the terms and conditions set forth in this Final Order.
- J. Any money paid by the Respondent 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 in the form of a certified check or money order(s) shall be made payable to Mississippi State Board of Funeral Service and delivered to: Della Smith, Executive Director, Mississippi State Board of Funeral Service, 3010 Lakeland Cove, Suite W, Flowood, Mississippi 39232-9709.

- K. Respondent shall be responsible for all costs and expenses associated with carrying out the provisions of this Final Order including court reporter costs.

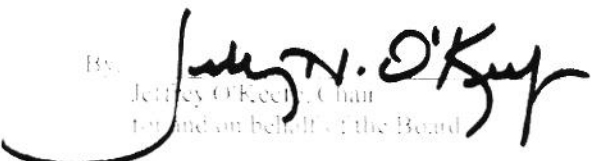
I. This Final Order is conclusive evidence of the matters described herein and may be considered by the Board in determining appropriate sanctions in the event of subsequent violation by the Respondent.

M. This action and order of the Board shall be public record. It may be shared with other licensing boards (in- and out-of-state) and the public and may be reported to the appropriate entities as required or authorized by state and/or federal law or guidelines. This action shall be spread upon the Minutes of the Board as its official act and deed.

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 13th day of March, 2021

MISSISSIPPI STATE BOARD
OF FUNERAL SERVICE

By: 
Jeffrey O'Keefe, Chair
for and on behalf of the Board