

BEFORE THE MISSISSIPPI STATE BOARD OF FUNERAL SERVICE

In the Matter of:

**FREDDIE DAVIS, INDIVIDUALLY AND
dba WESTHAVEN FUNERAL HOME AND
WESTHAVEN MEMORIAL FUNERAL
HOME, INC.**

Respondents

FINAL ORDER

The above-entitled matter came before the Mississippi State Board of Funeral Service (“Board”) on April 4, 2022, in Flowood, Rankin County, Mississippi, pursuant to a Notice of Hearing and Complaint issued to Westhaven Funeral Home and Freddie Davis. Freddie Davis referred to herein as “Respondent”.

A quorum of the Board members was present 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. Westhaven Funeral Home (“Funeral Establishment”) is the holder of a license number FE-9541 issued by the Board and, therefore, is subject to Title 73, Chapter 11 of the Mississippi Code of 1972, as amended.

3. At all relevant times, Freddie Davis (“Respondent”) was licensee in charge of, and/or the individual responsible for Westhaven Funeral Home. Respondent is also a funeral director, holding license number FD-0675 issued by the Board. Accordingly, Respondent is subject to Title 73, Chapter 11 of the Mississippi Code of 1972, as amended.
4. The Board’s Statute at Miss. Code Ann. Section 73-11-57(k)(ii): Failure to give full cooperation to the board and/or its designees, agents or other representatives in the performance of official duties of the board. Such failure to cooperate includes but is not limited to (ii) Not furnishing, in writing, an adequate explanation covering the matter contained in a complaint filed with the board.
5. Between the period of December 31, 2020 and January 8, 2021, Respondents engaged in conduct allegedly leading to delays in the handling of affairs, damaged steel vault and emotional distress. Complainant secured counsel who contacted the respondent(s) regarding issues including the unavailability of the mortician, the delay in receiving the death certificate, no acknowledgement of the military service of the deceased, and an alleged crack in the vault. At all relevant times, Alexander Booth worked as an employee to Respondent, Freddie Davis, and contacted Mr. Davis regarding dissatisfied communications from the complainant. Mr. Booth testified the deceased had been on life support with cancer and also mentioned having to start over the preparation due to missed deadlines. Gladys Hobson served as the mortician and dressed and redressed the deceased and testified frigid fluid was utilized which customarily requires an additional charge.

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:

- i) Failure to give full cooperation to the board and/or its designees, agents or other representatives in the performance of official duties of the board in violation of Miss. Code Ann. §73-11-57 (k) (ii): Not furnishing, in writing, an adequate explanation covering the matter contained in a complaint filed with the board;

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

- 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 Permitting of a person other than a funeral service or funeral directing licensee to make arrangements for a funeral and/or form of disposition in violation of Miss. Code Ann. §73-11-57 (f); 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 by the Federal Trade Commission relative to the practice of funeral service or funeral directing in violation of Miss. Code Ann. §73-11-57(p)(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 hearing costs (\$315.00) and a monetary penalty in the amount of Five Hundred Dollars (\$500.00) for the first violation cited herein, One Thousand Dollars (\$1,000.00) for the second violation and Five Thousand Dollars (\$5,000.00) for the third violation, for a total of Six Thousand Eight Hundred Fifteen Dollars (\$6,815.00). 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 One Thousand Seven Hundred Three Dollars and Seventy Five Cents (\$1,703.75). 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 Numbers FE-9541 and FD-0675 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 hearing cost and monetary penalty.

- (1) The Respondent shall pay the monetary penalty as set forth in this Final Order of Six Thousand Five Hundred Dollars (\$6,500) and cost of the court reporter of Two Hundred Fifty Dollars (\$315) for a total of (\$6,815.00).
- (2) The Respondent shall appear and report to the Board as requested by the Board.
- (3) 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.

- (4) 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.
- B. 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.
- C. 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.
- D. 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

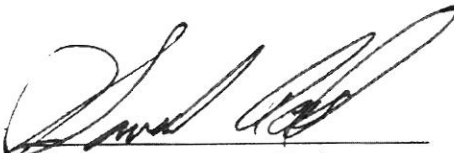
Respondent may be subject to additional disciplinary action, up to and including license revocation, by the Board.

- E. 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.
- F. 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.
- G. Respondent shall be responsible for all costs and expenses associated with carrying out the provisions of this Final Order including court reporter costs.
- H. 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.
- I. 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 24 day of June, 2022.

**MISSISSIPPI STATE BOARD
OF FUNERAL SERVICE**

By 
Samuel Reed, Chair
for and on behalf of the Board