

UNAPPROVED
VIRGINIA BOARD OF FUNERAL DIRECTORS & EMBALMERS
FORMAL ADMINISTRATIVE HEARING
April 24, 2013

The Virginia Board of Funeral Directors and Embalmers convened on April 24, 2013, at the Department of Health Professions, 9960 Mayland Drive, 2nd Floor, Board Room 2, Henrico, Virginia.

BOARD MEMBERS PRESENT: Blair Nelsen, President
Christopher Vincent, FSP
Mike Leonard, FSP
Bob Oman, FSP
Eric Wray, FSP
Randy Minter, FSP
Walter S. Ball, Citizen Member

DHP STAFF PRESENT: Lisa R. Hahn, Executive Director
Lynne Helmick, Deputy Executive Director
Kathy Petersen, Discipline Operations Manager
Tammie Jones, Adjudication Specialist
Gayle Miller, Senior Investigator - HQ

MEMBERS FROM THE OFFICE OF THE ATTORNEY GENERAL PRESENT: Charis Mitchell, Assistant Attorney General, Board Counsel

RESPONDENT'S COUNSEL : Richard Dezio, Esq.

OTHERS PRESENT: Gwen C. Russell, FSP
Mark Fisher, FSP

COURT REPORTER: Nerissia Bass, Certified Court Reporter
Farnsworth & Taylor Reporting

CALL TO ORDER The Formal Administrative Hearing of the Board was called to order at 10:08 a.m.

ESTABLISHMENT OF A QUORUM: With seven (7) members of the Board present, a quorum was established.

MATTER SCHEDULED: **Bennie Smith, FSP**
License Number: 0502-900252
Case Number: 148881

DISCUSSION:

Mr. Smith appeared before the Board in accordance with the Notice and Statement of Particulars dated April 1, 2013. Mr. Smith was represented by Richard Dezio, Esq.

The Board received evidence and sworn testimony from the Commonwealth’s witness regarding the matters as set forth in the Statement of Particulars.

Mr. Dezio did not present any additional evidence for the Board’s consideration and did not call any witnesses for testimony on Mr. Smith’s behalf.

CLOSED SESSION:

Upon a motion by Mr. Leonard, and duly seconded by Mr. Wray, the Board voted to convene a closed meeting pursuant to 2.2-3711.A(27) of the *Code of Virginia*, for the purpose of deliberation to reach a decision in the matter of Mr. Bennie Smith, FSP. Additionally, Mr. Leonard moved that Ms. Hahn, Ms. Helmick, Ms. Petersen, and Ms. Mitchell attend the closed meeting because their presence in the closed meeting was deemed necessary and would aid the Board in its deliberations. The Board convened into closed session at 10:24 a.m.

OPEN SESSION:

Mr. Leonard certified that the matters discussed in the preceding closed session met the requirements of § 2.2.-3712 of the *Code of Virginia*; Mr. Oman seconded the certification and the Board reconvened open session at 12:02 p.m.

ACTION:

Upon a motion by Mr. Minter, and duly seconded by Mr. Ball, the Board voted to reinstate the Funeral Service Provider license of Mr. Smith. A roll call was taken.

VOTE:

Mike Leonard	Yes
Eric Wray	No
Randy Minter	Yes
Blair Nelsen	No
Walter Ball	Yes
Bob Oman	Yes
Chris Vincent	No

The motion requires the affirmative vote of three-fourths of the members present at the hearing as noted in §54.1-2409 (D) of the *Code of Virginia*. The vote of four affirmative votes and three negative votes, therefore the motion fails. The reinstatement of the Funeral Service Provider’s license of Mr. Bennie Smith is denied.

ADJOURNMENT:

The Board adjourned at 12:14 p.m.

The decision shall be effective upon the entry by the Board of a written Order stating the findings, conclusions, and decision of this formal hearing panel.

Blair Nelsen, FSP, President

Lisa R. Hahn, Executive Director

Date

Date