

FILED
Bd of Funeral, Cemetery & Consumer Svcs
Date: February 21, 2023
Initials of DFCCS Staffer: CAG



CHIEF FINANCIAL OFFICER
JIMMY PATRONIS
STATE OF FLORIDA

DEPARTMENT OF FINANCIAL SERVICES,
DIVISION OF FUNERAL, CEMETERY, AND
CONSUMER SERVICES,

Petitioner,

vs

CASE NO. 265820-20-FC

CAMPBELL'S HEADSTONES AND MEMORIAL
SERVICES LLC,
Respondent,

FINAL ORDER TO CEASE AND DESIST

THIS PROCEEDING came on for final agency action and the Chief Financial Officer or his designee, having considered the record in this case and the Administrative Complaint and being fully advised in the premises, finds that:

1. Campbell's Headstone and Memorial Services LLC ("Respondent") is a Florida limited liability corporation whose record address is 1196 SW 8th Street in Vero Beach, Florida. Walter Lomax Campbell IV ("Walter Campbell") is the owner and manager of Campbell's Memorial.

2. On November 18, 2020, the Department of Financial Services ("Department") issued an Administrative Complaint ("Complaint"), which is attached to this Final Order and labeled "Exhibit A," against Campbell's Memorial.

3. Respondent is not currently licensed and never has been licensed in this state with any license within the purview of chapter 497, Florida Statutes.

4. Walter Campbell is not currently licensed and never has been licensed in this state with any license within the purview of chapter 497, Florida Statutes.

5. On November 18, 2020, the Department filed an administrative complaint against Respondent, alleging that Respondent engaged in the unlicensed practice of activities requiring licensure pursuant to chapter 497, Florida Statutes. On December 8, 2020, Respondent timely submitted an Election of Proceeding requesting a hearing pursuant to section 120.57(1), Florida Statutes.

6. Although Respondent timely submitted a petition for a hearing pursuant to section 120.57(1), Florida Statutes, Respondent's petition failed to meet the requirements of section 120.569(2)(c), Florida Statutes, and Rule 28-106.2015(5), *Florida Administrative Code*.

7. On March 12, 2021, the Department issued an Order Dismissing Petition Without Prejudice ("Order") was entered on March 12, 2021, a copy of the Order is attached to this pleading as "Exhibit B". This Order provided that Respondent had twenty-one (21) days from the date of the Order to provide a petition for hearing that complied with section 120.569(2)(c), Florida Statutes, and Rule 28-106.2015(5), *Florida Administrative Code*. If Respondent failed to provide a sufficient petition in the time allotted by the Order, the Order provided that Respondent will have waived its right to a hearing in the above referenced cause.

8. Respondent failed to provide an amended petition for hearing or to request a hearing in accordance with sections 120.569, 120.57(1), or section 120.57(2), Florida Statutes.

9. Based upon Respondents' failure to respond to the Complaint or to request a hearing, the Chief Financial Officer finds that the Respondent has waived its right to a hearing and that this Final Order should be entered in this case.

FINDINGS OF FACT

10. The factual allegations in the Complaint are deemed admitted, fully incorporated by reference in this Final Order, and adopted as the Department's Findings of Fact in this case.

CONCLUSIONS OF LAW

11. Based upon the Findings of Fact adopted in this Final Order, the Department concludes that Respondent violated the specific statutes and rules charged in each count of the attached Complaint and the Department adopts the violations charged in each count of the Complaint as the Conclusions of Law in this case.

12. The failure of Respondent to answer the Complaint or to request a proceeding, taken together with the Findings of Fact and Conclusions of Law adopted in this Final Order, constitutes grounds for the Chief Financial Officer to enter this Final Order ordering the Respondents to cease and desist from engaging in the funeral establishment business.

IT IS THEREFORE ORDERED that:

(a) Respondent is prohibited from and shall cease and desist immediately from selling or offering to sell funeral services, on an at-need basis in this state.

(b) Respondent is prohibited from and shall cease and desist immediately from planning or arranging the details of any funeral service, including direct disposition, with the family or any friends of the decedent or any other person responsible for the service in this state.

(c) Respondent is prohibited from and shall cease and desist immediately from making, negotiating, or completing the financial arrangements for a funeral service on an at-need basis in this state.

(d) Respondent is prohibited from and shall cease and desist immediately from any use of any word, term, title, or picture that would imply that it is engaged in the practice of funeral

directing, or that it is holding itself out to the public as being engaged in the practice of a funeral establishment.

(e) Respondent is prohibited and shall cease and desist immediately from engaging in any financial dealings with funeral home customers that involve the collection of monies or the determination of funeral expenses.

(f) Respondent is prohibited and shall cease and desist immediately from holding itself out to the people of this state through an internet web site, or any other mode of advertisement, to be a licensed funeral establishment.

DONE and ORDERED this 21st day of February, 2023.



**DIVISION OF FUNERAL, CEMETERY,
AND CONSUMER SERVICES**



Mary Schwantes, Director

NOTICE OF RIGHTS

Any party to these proceedings adversely affected by this Order is entitled to seek review within **thirty (30) days** of the rendition of this Order, pursuant to section 120.68, Florida Statutes, and Rule 9.190, *Florida Rules of Appellate Procedure*. Review proceedings must be instituted by filing a petition or notice of appeal with the DFS Agency Clerk. Filing with the Agency Clerk may be accomplished via U.S. Mail, express overnight delivery, hand delivery, facsimile transmission, or electronic mail. The address for overnight delivery or hand delivery is DFS Agency Clerk, Department of Financial Services, 612 Larson Building, 200 East Gaines Street, Tallahassee, Florida, 32399-0390. The fax number is (850) 488-0697. The email address is DFSAgencyClerk@myfloridacfo.com. The petition or notice of appeal must also be filed with the appropriate district court of appeal within thirty (30) days of the rendition of this Order.


A true and correct copy of the foregoing order has been furnished to the parties below by regular U.S. Mail to the respondent and interoffice mail to the department staff on this 21st day of February, 2023:

91 7108 2133 3937 1956 8934

CAMBELL'S HEADSTONES AND MEMORIAL SERVICES LLC
1196 SW 8th Street
Vero Beach, Florida 32960

ELLEN SIMON, ASSISTANT DIRECTOR
Florida Department of Financial Services
Division of Funeral, Cemetery, and Consumer Services
200 E. Gaines Street
Tallahassee, Florida 32399-0361

KIMBERLY MARSHALL, ESQUIRE
Florida Department of Financial Services
Division of Legal Services
200 East Gaines Street
Tallahassee, Florida 32399

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CHIEF FINANCIAL OFFICER
JIMMY PATRONIS
STATE OF FLORIDA

DEPARTMENT OF FINANCIAL SERVICES,
DIVISION OF FUNERAL, CEMETERY, AND
CONSUMER SERVICES,
Petitioner,

vs

CASE NO. 265820-20-FC

CAMPBELL'S HEADSTONES AND MEMORIAL
SERVICES LLC,
Respondent,

ADMINISTRATIVE COMPLAINT

The Department of Financial Services, Division of Funeral, Cemetery, and Consumer Services (Department), files this Administrative Complaint before the Board of Funeral, Cemetery, and Consumer Services (Board), against Campbell's Headstones and Memorial Services LLC (Respondent) and alleges:

GENERAL ALLEGATIONS

1. Pursuant to section 20.121, Florida Statutes and chapter 497, Florida Statutes, and chapter 69K, *Florida Administrative Code*, the Department of Financial Services is the state agency charged with the regulation of funeral establishments and funeral establishment personnel in this state.

2 An investigation of Respondent was conducted in 2019 pursuant to an industry complaint.

ATN-34916



3. Respondent is a Florida limited liability corporation whose record address is 1196 SW 8th Street in Vero Beach, Florida. Walter Lomax Campbell IV (hereinafter Walter Campbell) is the owner and manager of Campbell's Memorial.

4. Respondent is not currently licensed and never has been licensed in this state with any license within the purview of chapter 497, Florida Statutes.

5. Walter Campbell is not currently licensed and never has been licensed in this state with any license within the purview of chapter 497, Florida Statutes.

6. At all times pertinent, Respondent, by and through Walter Campbell, has conducted funeral related services in this state which require a license issued pursuant to chapter 497, Florida Statutes. At no point did Respondent possess a license issued pursuant to chapter 497, Florida Statutes.

7. Respondent has advertised to sell and continues to advertise to sell funeral services in this state which requires licensure pursuant to chapter 497, Florida Statutes.

8. Specifically, Respondent is advertising its services in the planning or arranging, on an at-need basis, the details of a funeral service with the family or friends of the decedent or any other person responsible for the service; making, negotiating, or completing the financial arrangements for a funeral services on an at- need-basis; and the sale and manufacture of monuments, without being authorized pursuant to chapter 497 to provide such services or merchandise.

COUNT I

9. The above paragraphs one through eight are hereby realleged and fully incorporated herein by reference.

10. Respondent did advertise and continue to advertise to sell by an internet website, funeral services and other funeral related merchandise and services, including the manufacture and sale of monuments, and continues to advertise to sell, without being authorized pursuant to chapter 497 to provide such services or merchandise.

11. Section 497.372(1), Florida Statutes, in pertinent part, provides that the practice of funeral directing shall be construed to consist of the following functions which may only be performed by a licensed funeral director:

- (a) Selling or offering to sell funeral services on an at-need basis.
- (b) Planning or arranging, on an at-need basis, the details of a funeral service with the family or friends of the decedent or any other person responsible for the service.
- (c) Making, negotiating, or completing the financial arrangements for a funeral services on an at- need-basis.
- (g) Using in connection with one's name or employment the words or terms "funeral director," "funeral establishment," "undertaker," "mortician," or any other word, term, title, or picture, or combination of any of the above, that when considered in the context of which it was used would imply that such person is engaged in the practice of funeral directing or that such person is holding himself out to the public as being engaged in the practice of funeral directing.

12. Section 497.157(1), Florida Statutes, provides, in pertinent part, that no person shall engage in activity for which a license is required under this chapter without holding a license in good standing.

13. Section 497.380(3), Florida Statutes, in pertinent part, provides that no person may conduct, maintain, manage, or operate a funeral establishment unless a funeral establishment operating license has been issued under this chapter for that funeral establishment.

14. Section 497.550(1), Florida Statutes, in pertinent part, provides that no person shall conduct, maintain, manage, or operate a monument establishment in this state unless the monument establishment is licensed pursuant to this part.

15. Pursuant to section 497.152(1)(b), Florida Statutes, it is a violation to demonstrate negligence or incompetency in the practice of activities regulated by chapter 497, Florida Statutes.

16. Pursuant to section 497.152(5)(d), Florida Statutes, aiding, assisting, procuring, employing, or advising any person or entity to practice a profession or occupation regulated by this chapter without required licensure under chapter 497, Florida Statutes, constitutes grounds for discipline.

17. Pursuant to section 497.152(5)(e), Florida Statutes Aiding, assisting, procuring, employing, or advising any person or entity to operate or in operating an establishment regulated by chapter 497, Florida Statutes, without the required licensure, constitutes grounds for discipline.

18. Based on the foregoing, Respondent, by advertising its services in the planning or arranging, on an at-need basis, the details of a funeral service with the family or friends of the decedent or any other person responsible for the service; making, negotiating, or completing the financial arrangements for a funeral services on an at- need-basis; and the sale and manufacture of monuments, has violated or is accountable under the following provisions of chapter 497, Florida Statutes, which constitutes grounds for discipline: sections 497.157(1), 497.380(3), 497.550(1), 497.152(1)(b), (5)(d), and (5)(e), Florida Statutes, and is subject to discipline thereunder.

WHEREFORE, the Department respectfully requests that the Board enter an order imposing any or all penalties delineated within section 497.157, Florida Statutes; and any other relief that the Board is authorized to impose pursuant to the Florida Funeral, Cemetery, and Consumer Services Act.

DATED and SIGNED this 18 day of November, 2020.



/s/ James A. Bossart
James A. Bossart
Senior Attorney
Office of the General Counsel
Florida Department of Financial Services
200 East Gaines Street
Tallahassee, Florida 32399-0333
(850) 413-4124

NOTICE OF RIGHTS

Respondent has the right individually to request a proceeding to contest this action by the Florida Department of Financial Services ("Department") pursuant to sections 120.569 and 120.57, Florida Statutes, and Rule 28-106, *Florida Administrative Code*. The proceeding request must be in writing, signed by you, and must be filed with the Department within twenty-one (21) days of your receipt of this notice. Completion of the attached Election of Proceeding form and/or a petition for administrative hearing will suffice as a written request. The request must be filed with the Agency Clerk, at the Florida Department of Financial Services, 612 Larson Building, 200 East Gaines Street, Tallahassee, Florida 32399-0333. Your written response must be received by the Department no later than 5:00 p.m. on the twenty-first day after your receipt of this notice. Mailing the response on the twenty-first day will not preserve your right to a hearing.

FAILURE TO RESPOND IN WRITING WITHIN TWENTY-ONE (21) DAYS OF YOUR RECEIPT OF THIS NOTICE WILL CONSTITUTE A WAIVER OF YOUR RIGHT TO REQUEST A PROCEEDING ON THE MATTERS ALLEGED HEREIN AND A FINAL ORDER WILL BE ENTERED AGAINST YOU.

If Respondent request a proceeding, information must be provided that complies with the requirements of Rule 28-106.2015, *Florida Administrative Code*. As noted above, completion of the attached Election of Proceeding form conforms to these requirements. Specifically, your response must contain:

(a) The name, address, and telephone number, and facsimile number (if any) of the respondents (for the purpose of requesting a hearing in this matter, Campbell's Headstone and Memorial Services LLC is the "Respondent").

(b) The name, address, telephone number, facsimile number of the attorney or qualified representative of the respondents (if any) upon whom service of pleadings and other papers shall be made.

(c) A statement requesting an administrative hearing identifying those material facts that are in dispute. If there are none, the petition must so indicate.

(d) A statement of when the respondents received notice of the administrative complaint.

(e) A statement including the file number of the administrative complaint.

If a hearing of any type is requested, each party has the right to be represented by counsel or other qualified representative at your expense, to present evidence and argument, to call and cross-examine witnesses, and to compel the attendance of witnesses and the production of documents by subpoena.

If a proceeding is requested and there is no dispute of material fact, the provisions of section 120.57(2), Florida Statutes, apply. Each party may submit oral or written evidence in opposition to the action taken by the Department or a written statement challenging the grounds upon which the Department has relied. While a hearing is normally not required in the absence of a dispute of fact, if respondents feel that a hearing is necessary, one will be conducted in Tallahassee, Florida, or by telephonic conference call upon your request.

However, if Respondents dispute material facts which are the basis for the Department's action, they must request an adversarial proceeding pursuant to sections 120.569 and 120.57(1), Florida Statutes. These proceedings are held before a State Administrative Law Judge of the Division of Administrative Hearings. Unless the majority of witnesses are located elsewhere, the Department will request that the hearing be conducted in Tallahassee, Florida.

Failure to follow the procedure outlined with regard to any response to this notice may result in the request being denied. All prior oral communication or correspondence in this matter shall be considered freeform agency action, and no such oral communication or correspondence shall operate as a valid request for an administrative proceeding. Any request for an administrative proceeding received prior to the date of this notice shall be deemed abandoned unless timely renewed in compliance with the guidelines as set out above.

Mediation of this matter pursuant to section 120.573, Florida Statutes, is not available. No Department attorney will discuss this matter with any respondent during the time frame in which respondents have a right to request a hearing.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Administrative Complaint has been provided to the Respondent at 1196 SW 8th Street, Vero Beach, Florida 32960, by U.S. Certified Mail on this 18 day of November, 2020.

91 7199 9991 7039 5678 4993

/s/ James A. Bossart
JAMES A. BOSSART, ESQ.
Florida Department of Financial Services
Division of Legal Services
200 East Gaines Street
Tallahassee, Florida 32399-0333
(850) 413-4125
Attorney for Department

STATE OF FLORIDA
DEPARTMENT OF FINANCIAL SERVICES
OFFICE OF THE GENERAL COUNSEL

DEPARTMENT OF FINANCIAL SERVICES,
DIVISION OF FUNERAL, CEMETERY, AND
CONSUMER SERVICES,

Petitioner,

vs

CASE NO. 265820-18-FC

CAMPBELL'S MEMORIAL AND HEADSTONE
SERVICES LLC,,

Respondent,

ELECTION OF PROCEEDING

I have received and have read the Administrative Complaint filed by the Florida Department of Financial Services ("Department") against me, including the Notice of Rights contained therein, and I understand my options. I am requesting disposition of this matter as indicated below. (CHOOSE ONE)

1. I do not dispute any of the Department's factual allegations and I do not desire a hearing. I understand that by waiving my right to a hearing, the Department may enter a final order that adopts the Administrative Complaint and imposes the sanctions sought, including suspending or revoking my licenses and appointments as may be appropriate.
2. I do not dispute any of the Department's factual allegations and I hereby elect a proceeding to be conducted in accordance with section 120.57(2), Florida Statutes. In this regard, I desire to (CHOOSE ONE):
 - Submit a written statement and documentary evidence in lieu of a hearing; or
 - Personally attend a hearing conducted at an in-person Board meeting.
 - Attend that same hearing by way of a telephone conference call.
3. I do dispute one or more of the Department's factual allegations. I hereby request a hearing pursuant to section 120.57(1), Florida Statutes, to be held before the Division of Administrative Hearings. I have attached to this election form the information required by rule 28-106.2015, Florida Administrative Code, as specified in subparagraph (c) of the Notice of Rights. Specifically, I have identified the disputed issues of material fact.

TO PRESERVE YOUR RIGHT TO A HEARING, YOU MUST FILE YOUR RESPONSE WITH THE DEPARTMENT OF FINANCIAL SERVICES WITHIN TWENTY-ONE (21) DAYS OF YOUR RECEIPT OF THE ADMINISTRATIVE COMPLAINT. THE RESPONSE MUST BE RECEIVED BY THE DEPARTMENT NO LATER THAN 5:00 P.M. ON THE TWENTY-FIRST DAY AFTER YOUR RECEIPT OF THE ADMINISTRATIVE COMPLAINT.

The address for filing is: DFS Agency Clerk, Florida Department of Financial Services, 612 Larson Building, 200 East Gaines Street, Tallahassee, Florida 32399-0333.

Signature _____
Print Name _____

Date: _____

Address: _____

Date Administrative
Complaint Received: _____

If you are represented by an attorney or qualified
representative, please attach to this election form his
or her name, address, telephone and fax numbers

Phone No.: _____

Fax No.: _____

E-mail: _____

FILED

MAR 12 2021

Docketed By: JAS STATE OF FLORIDA
DEPARTMENT OF FINANCIAL SERVICES

DEPARTMENT OF FINANCIAL
SERVICES, DIVISION OF FUNERAL,
CEMETERY AND CONSUMER SERVICES,

Petitioner,

v.

CASE NO.: 265820-20-FC

CAMPBELL'S HEADSTONES & MEMORIAL
SERVICES,

Respondent.

**ORDER DISMISSING REQUEST FOR
ADMINISTRATIVE HEARING WITHOUT PREJUDICE**

THIS CAUSE is before me on a request for an administrative hearing filed on December 8, 2020 ("Petition"). The Petition was filed in response to the Department's November 18, 2020, Administrative Complaint.

A request for administrative hearing must comply with section 120.569(2)(c), Florida Statutes, and Rule 28-106.2015(5), *Florida Administrative Code*. Those provisions, when read together, require a petition for administrative hearing to include:

- (a) The name, address, any e-mail address, telephone number, and facsimile number, if any, of the respondent, if the respondent is not represented by an attorney or qualified representative.
- (b) The name, address, e-mail address, telephone number, and facsimile number of the attorney or qualified representative of the respondent, if any, upon whom service of pleadings and other papers shall be made.
- (c) A statement requesting an administrative hearing identifying those material facts that are in dispute. If there are none, the petition must so indicate.
- (d) A statement of when the respondent received notice of the administrative complaint.
- (e) A statement including the file number to the administrative complaint.

Section 120.569(2)(c), Florida Statutes, requires that a petition be dismissed if it is not in substantial compliance with subparagraph (5) above.

The instant request for administrative hearing does not comply with the above requirements of Rule 28-106.2015(5)(c), *Florida Administrative Code*. Most importantly, the Petition fails to identify those material facts that are in dispute. The Petition, therefore, is dismissed without prejudice. Respondent may, within 21 days from the date of this order, file an appropriate petition that complies with the requirements set forth above. The petition may be filed with the Department's Agency Clerk, by mail at 200 E. Gaines St., Tallahassee, FL 32399-0390; by e-mail at DFSAgencyClerk@myfloridacfo.com; or by facsimile at (850) 488-0697. If Respondent fails to file an appropriate petition within the time provided, Respondent will be deemed to have waived the right to an administrative proceeding.

DONE AND ORDERED this 12 day of March, 2021.



Julie Jones
Deputy Chief Financial Officer



Copies furnished to:

Campbell's Headstones & Memorial Services
1196 SW 8th Street
Vero Beach, Florida 32960

James A. Bossart
Senior Attorney
Department of Financial Services
200 East Gaines Street
Tallahassee, Florida 32399-0333