

**MINUTES**  
**BOARD OF FUNERAL, CEMETERY AND CONSUMER SERVICES**  
**December 7, 2017 - 10:00 A.M.**  
**Claude Denson Pepper Bldg., Room 302**  
**111 W Madison Street**  
**Tallahassee FL 32399**

**1. Call to Order, Preliminary Remarks, and Roll Call**

Mr. Jody Brandenburg, Chair –Good morning, everyone. Welcome to the Board of Funeral, Cemetery, and Consumer Services’, December 7, 2017 meeting. I’d like to turn it over to Ellen Simon for preliminary remarks and roll call.

Ms. Ellen Simon – Thank you, Mr. Chairman. My name is Ellen Simon. I am Assistant Director for the Division of Funeral, Cemetery, and Consumer Services. Today is December 7, 2017 and it is 10:00, a.m. This is a public meeting of the Board of Funeral, Cemetery, and Consumer Services. Notice of this meeting has been duly published in the Florida Administrative Register. An agenda for this meeting has been made available to all interested persons and extra copies are available in this meeting room. This meeting is occurring in the Claude Denson Pepper Building in Tallahassee FL. Ms. LaTonya Bryant is recording the meeting and minutes will be prepared. Persons speaking are requested to identify themselves for the record each time they speak. Participants are respectfully reminded that the Board’s Chair, Mr. Brandenburg, runs the meeting. Persons desiring to speak should initially ask the Chair for permission. At this time, Mr. Chairman, I will take the roll:

Joseph “Jody” Brandenburg, Chair  
Keenan Knopke, Vice Chair **{ABSENT}**  
Jean Anderson  
Francisco “Frank” Bango  
Andrew Clark  
James “Jim” Davis  
Lewis “Lew” Hall  
Powell Helm  
Ken Jones  
Vanessa Oliver **{ABSENT}**

**Also noted as present:**

Mary Schwantes, Director  
Tom Barnhart, Board Legal Advisor  
James “Jim” Bossart, Department Counsel  
Dustin Metz, Department Counsel  
Matthew Daley, Department Counsel  
LaTonya Bryant, Department Staff  
Jasmin Richardson, Department Staff  
Elena Rodriguez, Department Field Staff  
Paul Rantuccio, Department Staff  
Christine Moore, Department Staff  
LaShonda Morris, Department Staff  
Nicole Singleton, Department Staff

Ms. Simon – Mr. Chairman, there is a quorum for the business of the Board.

Chair – Thank you. I’d like to call upon Mary Schwantes for remarks.

Ms. Mary Schwantes – Thank you, Mr. Chair. I asked the Chair if we could take this item a little bit out of order. It’s something that I normally would cover in the Executive Director’s Report, however, I thought that this announcement would be more fitting for the beginning. We’re very pleased to report that Governor Scott has reappointed Jody Brandenburg, Keenan Knopke, and Lew Hall to the Board. These reappointments are of course pending Senate confirmation, however, if you’d join us in congratulating these gentlemen back on the Board. We look forward to continuing to work with you.

Chair – Thank you. I am humbled but proud and ready to work.

2. **Action on the Minutes**  
A. *November 2, 2017*

Chair – The next item on our agenda is the action on the minutes from November 2, 2017.

**MOTION:** Mr. Andrew Clark moved to adopt the minutes of the meeting. Mr. Ken Jones seconded the motion, which passed unanimously.

3. **Old Business**  
A. *Request(s) to Take Additional Monies from the Care & Maintenance Trust*  
(1) *Recommended for Approval with Conditions*  
(a) *Beaches Memorial Services LLC d/b/a Ferreira Funeral Services (Jacksonville)*

Ms. Simon – The licensee is requesting the Board’s approval of the withdrawal of additional monies from the cemetery’s Care & Maintenance Trust fund, in an amount not to exceed \$15,000. Upon approval of licensure in 2016, the licensee was approved to withdraw up to \$10,000 from the Care & Maintenance Trust fund for plaques, markers, etc., for which money had been paid by consumers and the items were never purchased nor installed by the previous owners. This most current request is for an additional \$15,000 withdrawal, for which \$4,252.39 has already been spent and the withdrawal would be used as reimbursement. The Division recommends approval of the request with the modification that the amount permitted to be taken out of the Care & Maintenance Trust fund be no more than \$4,500.

Chair – Yes ma’am?

Ms. Wendy Wiener – Good morning, Mr. Chairman, Board members. I represent the owners and operator of Beaches Memorial Park...

Chair – Wendy Wiener speaking?

Ms. Wiener – Wendy Wiener, for the record. They had intended on attending this meeting but a personal matter came up late yesterday and I’d actually like to ask that the matter be, to some degree, modified for the Board to approve, at this time, only the amount that has actually been expended. It is entirely possible and likely that the owner and the operator will continue to approach the Board over the course of the next time periods with regard to these markers that have to be provided for consumers who have come into the funeral establishment and to the cemetery with proof that they did pay for markers and memorials to be installed by the former owners who, as you all know, committed a great deal of fraud. And so, rather than asking for a prospective amount, when they tried to determine if they would be able to in fact sort of actuarially figure out how much would be an appropriate figure, they just weren’t able to do so because the request for these markers and the installations have come in spurts. Nobody will come in for sixty (60) days and then four (4) people will come in within a week. So rather than to have you do any prospective approvals of additional sums, they will simply, as time moves forward, if there are additional needs, perhaps there will be none, but if there are additional needs then we’ll approach the Board for consideration of that request at that time.

Chair – What’s the total corpus of the cemetery’s Care and Maintenance Trust Fund?

Ms. Wiener – I believe it’s around \$280k. I believe, I don’t have that number on me, but that’s my recollection.

Chair – Is the company doing anything to be proactive in getting those customers in who previously had not had that merchandise taken care of? Are there any notices being sent out? Any public advertising to that effect going out?

Ms. Wiener – They have not engaged in advertising. We actually talked about that and thought that that could potentially engender some fraud that might be committed upon them. The problem with these particular contracts is that these aren’t persons of whom the owner and operator are even aware. There’s no record, with regard to these purchases, that are on the premises, so no amount of due diligence that would have been done even before the acquisition or after would have shown

them up. They just are people that come in. They have been, in the communities that they've been interacting, they have been, when people do come in, asking whether they know of other families or people that they know. So they're trying to do what they can.

Chair – How does this Board know that this request isn't being made by fraudulent family claims? How can you assure us that this is legitimate?

Ms. Wiener – The persons that present these contracts for fulfillment present, what appear to be, valid contracts, on the Beaches' letterhead. They look like all of the others that have previously been addressed in this same fashion. The process we would assume would be the same as the process was when we first started this, back when they acquired last year, which would be that the contracts in proof that the new owner and operator have provided the memorial would come to the Division. The Division's staff has a process in place to approve it and then it is the Division's staff that actually notifies Funeral Services Inc. that the claim, if you will, can be paid. So, we're doing what we can to assure that it's not up and up fraud.

Chair – Coming back to the Board for additional withdrawals is counter to the agreement that was presented to the Board for the change of ownership and was not part of the agreement with the Board or the Division, at the time.

Ms. Wiener – We recognize that and we appreciate the consideration on a go forward basis and for this request that's in front of you now. Of course, as you will no doubt recall, this sale was, the transaction and the approval thereof was done extremely quickly, to the benefit, I strongly believe not only of the community, which appears to be quite pleased with what's happening just in terms of reconciliation of problems at the cemetery, but also with the upkeep of the cemetery. It looks lovely, they're working on infrastructure, they're spending a ton of money, but not only was it to the direct benefit of the consumers, but I believe there was a great deal of bad press and I would say that it was to the direct benefit of the State, as well, because this really alleviated a potential problem and a very likely receivership situation. So, when the original amount was contemplated, I don't think anyone had any idea the degree of fraud that had been committed by the former owners. So, this is just one of those circumstances where I hope the Board members will take into consideration that this is the kind of thing that was basically unheard of. A unique set of circumstances and one of which we would request that the Board continue to try and take into consideration what's best for the consumers there. These people are putting a ton of money into reconciling these problems, a great deal of which they will never be compensated for, but this is the cemetery's money. They're not asking for additional funds from the Consumer Protection Trust Fund. This is the cemetery's money and they feel that this is the best use that can be made of these type of funds, at this time, and it is within the purview of the Board to approve a withdrawal of principle and income.

Chair – Thank you. Mr. Jones?

Mr. Jones – I was going to ask if we approve and continue with this, is there a timeline the Board would like to consider for the future? I'm just asking. We've been doing this for a year and we could be doing this for a while in the future.

Ms. Wiener – Might I address Mr. Jones?

Chair – Let me see if there's any other comments from Board members, at the present time. Mr. Hall?

Mr. Lew Hall – I have a separate one. Do you want to address his question first or do you want me to go ahead and ask my question, too?

Chair – Go ahead.

Mr. Hall – My question is this...

Ms. Jessica Renchen, Court Reporter – One second. I'm going to move this (fan) because it is bothering me.

Mr. Hall – Okay.

Ms. Renchen – So better.

Mr. Hall – On the withdrawals that you’re making annually, do you know roughly what they are? Are they under Unitrust or how are they withdrawn from that fund now?

Ms. Wiener – They are in the FSI Master Care and Maintenance Trust. I believe that they did make the Unitrust election. They have only owned the cemetery for a short period of time. It was in the middle of 2016 when they acquired, so I don’t know that they have enough real experience to know. In addition, as you may recall, they were bringing together, we had done a trust transfer request to get all of the money into the FSI Master Care and Maintenance Fund. I will tell you, of course I can’t give evidence, but I will repeat from them that they are expending sums well in excess of those that are being spun off by the trust, even if they make the Unitrust election.

Mr. Hall – Okay.

Ms. Wiener – As to Mr. Jones’ question regarding timing, I would hesitate to see a deadline, a hard deadline be put on only because if this were a circumstance where their due diligence could help them ascertain how many of these claims were potentially out there, then that would be workable, but this is a scenario where people are just coming in when they’re coming in, so as deaths occur and people own spaces there, they come in and then they’re presenting these contracts for memorials and for markers and that’s the funds that are being expended. So, I would expect from the timeframe that they have owned it and then the additional, so they spent the original \$10,000 that was agreed upon. Since then, they have an additional \$4252.39 that they’ve expended. They have one (1) or two (2) other claims that have come in recently, but I think they only total a couple hundred dollars, so it does appear to be slowing down, so I would not expect that you would continue to get significant requests, but what I don’t want to do is to represent to you that this is over and foreclose an opportunity that they might have later to come back and to pray for additional relief from the Board.

Chair – Board?

Mr. Powell Helm – Now did I understand you correctly? You’re only asking for the \$4252.39?

Ms. Wiener – That is correct. Rather than to do anything beyond that, because that is the actual amount that they have, at this point, submitted documentation to show that has been expended. Yes.

**MOTION:** Mr. Jones moved to approve request that \$4,252.39 is permitted to be taken out of the Care & Maintenance Trust fund. Mr. Hall seconded the motion.

Chair – One moment, please.

Mr. Tom Barnhart – It says with conditions.

Chair – Yes, the condition is \$4252.39...

Ms. Renchen – I’m sorry to interrupt.

Chair – I’m sorry, ma’am?

Ms. Renchen – I just don’t mean to interrupt, but it’s hard to see their names, so whenever you speak, if you could say your name before you speak, so I can get it down, that would make it a lot easier. And when you’re stating your motions, when you say “aye” I don’t know who’s saying it.

Chair – Please identify yourself.

Ms. Renchen – Yes, please.

Chair – Please identify yourself.

Ms. Renchen – Oh, I'm Jessica, the court reporter. I'm sorry. I'm trying to get everybody's name down when I'm typing it.

Ms. Wiener – Is this matter the matter about which...

Chair – We all have nametags.

Ms. Renchen – I know that, but I can't see these people over here.

Mr. Dustin Metz – I'm sorry. We have a court reporter for one of the disciplinary cases later on your agenda so I apologize for the interruption.

Chair – Is she court reporting on this case?

Ms. Renchen – No.

Chair – Thank you.

Mr. Hall – May I make a comment at this point?

Chair – Please do.

Mr. Hall – We've seconded this motion, but I would just say that my concern is the same as Ken's that at some point they've got to get a handle on it. I appreciate what they did. It was a mess and they stepped up and are making great improvements. It was a big blessing to us, the industry, the Division, etc., but at some point, with the amount that they have in the care and maintenance fund and if we keep expending the money for this, soon there's not going to be money there to take care of the cemetery, whether they're under Unitrust or whatever. So that's just my concern. At some point there either needs to be a cap or a timeframe as to the amount of money or the amount of time that they can draw on it.

Mr. Jones – My concern is the same as Lew's.

Ms. Wiener – And we appreciate that. As I said, it appears that the claims are slowing down. They are not big claims. These are for, because what is being expended for the trust is actually their wholesale cost. They're not getting the contract amount that the people sold these monuments for. They're just getting whatever they paid for them, so it's \$100, sometimes it's \$50, sometimes it's \$700, but they are relatively small figures at a time. They do appear to be slowing and so I have asked them to try to ascertain about how long they think it will go and I'll keep the Board and the Division informed.

Chair – We do thank you. We have a motion and a second to approval the amount of \$4252.39, and of course it's been seconded. All those in favor "aye?"

Board members – Aye.

Chair – And any opposed? That motion carries.

Ms. Wiener – Thank you.

Chair – Thank you.

Ms. Wiener – Appreciate it.

#### 4. **Disciplinary Proceedings:**

##### A. **Settlement Stipulation(s)**

###### (1) **Related Items (Case Nos - 203837-17-FC & 201957-17-FC)**

###### (a) **Abbey Affordable Cremations & Funeral Services, Inc.: Case Nos. 203837-17-FC; Division No. ATN-28206 (F041472 – Funeral Establishment) (Probable Cause Panel A)**

*(b) Abbey Affordable Cremations & Funeral Services, Inc.: Case Nos. 201957-17-FC; Division No. ATN-26994 (F041472 – Funeral Establishment) (Probable Cause Panel B)*

Ms. Simon – Mr. Bossart will be presenting for the Department.

Chair – Welcome to the podium, Mr. Bossart.

Mr. Jim Bossart – Thank you, sir. My name is James Bossart, and I represent the Department of Financial Services in this matter. The matter before you is Abbey Affordable Cremations & Funeral Services, Inc. The Department’s recommendation in this case is to approve the Settlement Stipulation requiring Abbey Affordable Cremations & Funeral Services, Inc., the Respondent, to pay a \$1500 administrative fine. The facts of this case are as follows. At all times relevant to this proceeding, Respondent was a Florida corporation doing business licensed under Chapter 497, F. S., and operating under license number F041472 in Largo FL. Mr. Donald Peter Koma is the sole officer, director, and owner of the business. Mr. Koma is personally licensed in this state as a direct disposer under license no. F047107. However, Mr. Koma is not licensed as a funeral director and never has been so licensed.

On or about May 19, 2016, Peter Donald Koma, in his capacity as an officer and director of the Respondent, and without the requisite licensure, met with and held himself out to Mr. and Mrs. John Plant and Mr. and Mrs. Robert Trintino as a Florida licensed funeral director by offering to sell, selling, and arranging funeral services for the deceased Paul Trintino. Such services included, but were not limited to: funeral services, embalming, visitation, as well as filing vital information i.e. the death certificate and burial transit forms.

Based upon the foregoing, Respondent violated ss. 497.157(1); 497.372(1)(a); (1)(b); and 497.601(2), F.S., by Donald P. Koma offering to sell, selling, and arranging funeral services for the deceased Paul Trintino beyond the scope permitted by Chapter 497, F.S., and the rules adopted thereunder. Therefore, Respondent is subject to discipline pursuant to ss. 497.152(1)(a), (5)(a) and (h), F.S.

The second matter is on or about November 25, 2016, Mr. Chad Dickey of Tampa FL passed away. On November 29, 2016, Chad Dickey’s spouse, a legally authorized person pursuant to s. 497.005(42)(c), F.S., signed a written authorization for cremation directing Respondent to cremate Mr. Dickey’s human remains. The written authorization recited that the cremation was to take place “subject to [Respondent’s] rules and regulations.” On November 29, 2016, the State of Florida, Department of Health, issued its burial transit permit authorizing the disposition of Mr. Dickey’s human remains. These facts notwithstanding, Respondent did not cremate the human remains of Chad Dickey until December 14, 2016.

Based upon the foregoing, Respondent violated s. 497.607(1), F.S., by failing to cremate Chad Dickey’s human remains within 48 hours after November 29, 2016, the execution date of the cremation authorization and the issue date of the burial transit permit. Respondent is therefore subject to discipline pursuant to s. 497.152(1)(a), F.S. Respondent has entered into a proposed stipulation whereby Respondent shall pay an administrative fine of \$1500. The Department recommends that the Board approve this Settlement Stipulation.

Ms. Jean Anderson – Mr. Chairman?

Chair – Yes ma’am?

Ms. Anderson – I served on Probable Cause Panel B in these cases and the related cases listed on the Agenda, so I’m recusing myself.

Chair – All of the related cases?

Ms. Anderson – Starting with case no. 201987—17-FC and those below.

Chair – Thank you.

Mr. Bossart – If I might, this is Ms. Rubenstein, Abbey Affordable’s attorney, if you have any questions.

Chair – Thank you. Mr. Rubenstein, would you want to make a statement to the Board or are you just here to answer question, if there are any?

Ms. Lauren Rubenstein – I’m here to answer any questions. My client has agreed to the stipulation.

Chair – Thank you. Board members, we have a Settlement Stipulation before us.

**MOTION:** Mr. Hall moved to approve the Settlement Stipulation, requiring the Respondent to pay a fine of \$1500. Mr. Clark seconded the motion, which passed unanimously.

Mr. Barnhart – The Stipulation was for both cases.

Chair – Thank you.

Ms. Simon – Is that okay?

Chair – Yes, perfect. I didn’t realize that.

**(2) Related Items (Case Nos - 201961-17-FC & 169273-15-FC)**

**(a) Koma, Donald Peter: Case Nos. 201961-17-FC; Division No. ATN-26994 (F047107 – Direct Disposer) (Probable Cause Panel B)**

**(b) Koma, Donald Peter.: Case Nos. 169273-15-FC; Division No. ATN-23444 (F047107 – Direct Disposer) (Probable Cause Panel B)**

Ms. Simon – Mr. Bossart will be presenting for the Office of the General Counsel.

Mr. Jim Bossart –Mr. Chairman?

Chair – Please.

Mr. Bossart – My name is Jim Bossart, and I represent the Department of Financial Services in this matter. This case is the case of Donald Peter Koma. The Department’s recommendation in this case is to approve the Settlement Stipulation requiring Donald Peter Koma (Respondent) to pay a \$1500 administrative fine and sit for and pass the Florida Law and Rules examination within sixty (60) days of the Board’s approval of this Settlement Stipulation.

Abbey Affordable Cremation & Funeral Services, Inc., at all times relevant to this proceeding, was a Florida corporation licensed under Chapter 497, F.S., operating under license number F041472 in Largo FL. Respondent is the sole officer and director of the corporation and the owner of the business. Although Mr. Koma is personally licensed in this state as a direct disposer, Mr. Koma is not licensed as a funeral director.

On two (2) separate occasions, Respondent represented himself to Florida consumers as a Florida licensed funeral director by offering to sell, selling, and arranging funeral services for the deceased without the requisite licensure. Based upon the foregoing, Respondent violated ss. 497.157(1); 497.372(1)(a); (1)(b); (1)(g); and 497.601(2), F.S., and therefore is subject to discipline pursuant to ss. 497.152(1)(a), (5)(a) and (h), F.S. Respondent has entered a proposed stipulation whereby Respondent shall pay an administrative fine of \$1500 and sit for and pass the Florida Law and Rules examination within sixty (60) days of the Board’s approval of this Settlement Stipulation. The Department recommends that the Board approve this Settlement Stipulation.

**MOTION:** Mr. Hall moved to approve the Settlement Stipulation, requiring the Respondent to pay a fine of \$1500 and sit for and pass the Florida Law and Rules examination within sixty (60) days of the Board’s approval of this Settlement Stipulation. Mr. Frank Bango seconded the motion, which passed unanimously.

**B. Material Facts Not Disputed (Section 120.57(2) Hearings)**  
**(1) Probable Cause Panel B**

*(a) Marcell Cremations, Inc.: Case No. 198424-16-FC; Division No. ATN-27205 (F050427 – Direct Disposal Establishment)*

Ms. Simon – This case will be presented by Dustin Metz, for the Department.

Ms. Anderson – Mr. Chairman, I served on Probable Cause Panel B and I am recusing myself.

Chair – Excuse us just a moment. Excuse us just a moment. We have a conversation going on up here.

Mr. John Rudolph – I'm sorry.

Chair – I'm sorry. Ms. Anderson?

Ms. Anderson – I'm recusing myself in this case as I served on Probable Cause Panel B.

Chair – Thank you.

Mr. Dustin Metz – I'm sorry, members. I have some handout materials for you.

Chair – Mr. Metz?

Mr. Metz – Thank you. Members, this is item 4. B. (1) (a) in your agenda. My name is Dustin Metz. I'm the attorney for the Department of Financial Services. This matter is regarding Case No. 198424-16-FC; Division No. ATN-27205 (F050427 – Direct Disposal Establishment), Marcell Cremations, Inc. We're here today for two (2) distinct reasons. The first is whether Marcell Cremations has waived its right to contest the material facts alleged in the Administrative Complaint, based on its untimely request for a hearing. The second issue to determine, if waiver is appropriate, is the penalty to be imposed. We are not here today...

Ms. Renchen – Just a minute, can you turn this way a little bit?

Mr. Metz – Yes, sorry. What we are not here today to do is to discuss the material facts in this case. If you determine the waiver is appropriate, then the material facts are admitted and you are free to impose discipline today. So, your materials include the investigative file, the licensee's response, the Administrative Complaint, the proof of service, the untimely request for hearing, communications between Respondent's counsel and the Department, and the Department's Motion for Determination of Waiver. I've also provided you with a packet of case law that supports the Department's legal position in this matter and select materials from a case against Respondent's direct disposer in charge and owner, Dianne McCloud, for context. So, the Department's counsel in this matter, Jim Bossart, and the Department's inspector, Elena Rodriguez, are present to testify under oath today and answer any questions, which is why I am presenting the case today instead of Mr. Bossart, who's here as a witness. Respondent's direct disposer and owner, Dianne McCloud, I believe is present today.

Ms. Dianne McCloud – Yes.

Mr. Rudolph – She's here.

Mr. Metz – Because communications between counsel are a relevant fact in determining whether or not there was a waiver in this case, to the extent that Mr. Rudolph intends to testify to those communications, he needs to be administered a testimonial oath. The allegations in this case are very simple. The Division alleges that Respondent failed to maintain unembalmed human remains at a temperature of 40 degrees Fahrenheit or below. Inspector Rodriguez is present to answer any questions regarding various inspections of this case. The Administrative Complaint was served on Respondent by certified mail on July 24, 2017. This was proper service under s. 120.60(5), F.S. The Notice of Rights attached to the Administrative Complaint clearly informed the Respondent that failure to dispute the material facts alleged in the Administrative Complaint within the requisite twenty-one (21) day timeframe would result in a waiver of the right to a hearing to contest those material facts. Mr. Bossart is present to answer any questions about communications between the parties after service of the Administrative Complaint. I'm here to provide you with argument that waiver is appropriate in this case.



So, first of all, there is simply no evidence in front of you today to rebut the Department's proof of service on July 24, 2017. If service is determined to be proper, then waiver is required, by both Rule 28-106.111(2) F.A.C., and s. 120.569(2)(c), F.S. Even if the request is one (1) day late, the request in this case was three (3) days late. Equitable tolling is the only defense that is recognized for untimely requests for a hearing. Equitable tolling occurs when a party has been misled or lulled into an action by a State agency in some extraordinary way. The Notice of Rights attached to the Administrative Complaint, the admissions and Respondent's request for a hearing, and the communications between Respondent's counsel and the Department's counsel disclose that Respondent was not misled or lulled into an action in this case. Rather, counsel simply missed the deadline. The record is clear that counsel discussed both complaints with the Department before the deadline, never requested an extension of time and failed to file the petition, in this case, within twenty-one (21) days of service. It is well settled in Florida law that an attorney's failure to meet a filing deadline does not give rise to the defense with equitable tolling. Respondent has asserted no extraordinary circumstance to excuse its late filing. Instead, there has been a series of legally insufficient, and frankly, incoherent claims that, I believe, Mr. Rudolph should address at this point. After that, I respectfully request to reserve time to question the witnesses before the Chair entertains any motions.

Chair – Thank you.

Mr. Rudolph – Can you swear me in?

Chair – Please.

Ms. Simon – Do you swear to tell the truth, the whole truth and nothing but the truth?

Mr. Rudolph – I do. When I called Deirdre Farrington...

Chair – Mr. Rudolph? Please identify yourself.

Mr. Rudolph – John Rudolph.

Chair – Thank you.

Ms. Renchen – I cannot hear. Y'all are going to have to stand over there, maybe, and face this way so that I can hear.

Mr. Rudolph – When I called Deirdre Farrington...

Chair – Excuse me. We're not going to change the room around for you.

Ms. Renchen – Okay.

Chair – So I suggest you position yourself somewhere in this room.

Ms. Renchen – Okay, that's fine. Will you give me about five (5) minutes to move my stuff around there?

Chair – No, but I'll give a minute to do that.

Ms. Renchen – Okay, well it's going to take more than a minute, sir.

Chair – Okay, well you're probably going to miss some of it.

Mr. Rudolph – No, she has the right to do that. Please? So that she take this...

Chair – Fine. We've all been here for some time in this room.

Mr. Metz – Mr. Chair, could we potentially postpone this hearing and take another matter out of order and reconvene this hearing?

Mr. Barnhart – During this meeting?

Mr. Metz – Yes.

Mr. Rudolph – She’s going to be coming back, I guess.

Mr. Metz – Right.

Chair – Do you know that she’s coming back?

Mr. Rudolph – I don’t know. She just left.

Mr. Jones – She left her backpack against the wall.

Chair – She could be at that table. We can pull up another table.

Mr. Hall – Would you like for me to change places with her through this interview?

Chair – Sure.

Mr. Hall – I’ll be happy to move over here.

Chair – Whatever it takes, but I just don’t want it to take twenty (20) minutes. I would suggest we take that table and move it up there.

Mr. Jones – You want to put her on the other side or here?

Mr. Hall – Do you want us to move her stuff over?

Mr. Jones – I don’t want to touch her stuff.

Chair – I suggest we move on from this particular case, take some others out of order, and then call you back.

Mr. Rudolph – Okay.

Chair – Thank you.

**5. Application(s) for Preneed Sales Agent**

**A. Informational Item (Licenses Issued without Conditions) – Addendum A**

Ms. Simon – This item is informational only. Pursuant to s. 497.466, F.S., the applicants have been issued their licenses and appointments as preneed sales agents.

**6. Application(s) for Continuing Education Course Approval**

**A. Recommended for Approval without Conditions – Addendum B**

(1) *Elite CME, Inc. (113)*

(2) *Florida Cemetery, Cremation & Funeral Association (75)*

(3) *National Funeral Directors and Morticians Association, Inc. (15608)*

(4) *National Funeral Directors Association, Inc. (136)*

Ms. Simon – Pursuant to s. 497.147, F.S., and Board Rule 69K-17.0041, F.A.C., the courses presented have been reviewed by the CE Committee and the Committee, as well as the Division, recommends approval of the applications for the number of hours indicated.

**MOTION:** Mr. Hall moved to approve the applications. Mr. Jones seconded the motion, which passed unanimously.

7. **Application(s) for Approval as a Continuing Education Provider**  
A. **Recommended for Approval without Conditions – Addendum C**  
(1) **Matthews International (30408)**

Ms. Simon – Pursuant to s. 497.147, F.S., and Board Rule 69K-17.0041, F.A.C., the firm(s) presented have been reviewed by the CE Committee and the Committee, as well as the Division, recommends approval of the applications to become a CE provider.

**MOTION:** Mr. Helm moved to approve the application. Mr. Clark seconded the motion, which passed unanimously.

8. **Application(s) for Florida Law and Rules Examination**  
A. **Informational Item (Licenses Issued without Conditions) – Addendum D**  
(1) **Direct Disposer**  
(a) **Cournoyer, Amy E**  
(2) **Embalmer (Internship and Exam)**  
(a) **Phillip Jr, Bernard S**  
(3) **Funeral Director (Internship and Exam)**  
(a) **Block, Carol T**  
(b) **Cucino, Peter J**  
(4) **Funeral Director and Embalmer (Endorsement)**  
(a) **Flowers, Brandy E**  
(5) **Funeral Director and Embalmer (Internship and Exam)**  
(a) **Bermudez, Abigail**  
(b) **Buggs, Alia S**  
(c) **Buggs, Brucia T**  
(d) **Matthews-Leverette, Joshua**  
(e) **Rhodes, Casandra M**  
(f) **Terry, Samantha J**  
(g) **Vargas, Lydzamadia**

Ms. Simon – This is an informational item. Pursuant to Rule 69K-1.005, F. A. C., the Division has previously approved these applications.

- B. **Recommended for Approval without Conditions (Adverse Licensing History)**  
(1) **Embalmer (Endorsement)**  
(a) **Wilburn Jr, Charles T**

Ms. Simon – An application for an embalmer license was received, by the Division, on November 2, 2017. The application was incomplete when submitted. All deficient items were returned on November 20, 2017. Mr. Wilburn has adverse licensing history from the state in which he is currently licensed:

- In March 2004, Mr. Wilburn’s license was revoked due to misrepresenting information on preneed contracts. In September 2008, his license was placed on indefinite probation and in June 2016 all sanctions were lifted and his license is unrestricted.

The Division is recommending approval without conditions.

Chair – Is Mr. Wilburn here? Mr. Wilburn? Mr. Wilburn? Hearing no response.

**MOTION:** Mr. Hall moved to approve the application. Mr. Bango seconded the motion, which passed unanimously.

9. **Application(s) for Internship**  
A. **Informational Item (Licenses Issued without Conditions) – Addendum E**  
(1) **Embalmer**

- (a) *Gross, Steven E (F055670)*
- (2) *Funeral Director*
  - (a) *Bolves, Keith A (F085651)*
  - (b) *Eady, Andre L (F028501)*
- (3) *Funeral Director and Embalmer*
  - (a) *Arbizu, Judith A (F214148)*
  - (b) *Harrison, Michael D (F212886)*
  - (c) *Jimenez, Cassandra L (F216929)*
  - (d) *Witter, Panton (F211476)*

Ms. Simon – This is an informational item. Pursuant to Rule 69K-1.005, F. A. C., the Division has previously approved these applications.

**10. Application(s) for Embalmer Apprenticeship**

- A. *Informational Item (Licenses Issued without Conditions) – Addendum F*
  - (1) *Hauser, Christopher F (F221384)*
  - (2) *Speach Jr, Albert J (F051913)*

Ms. Simon – This is an informational item. Pursuant to Rule 69K-1.005, F. A. C., the Division has previously approved these applications.

- B. *Recommended for Approval without Conditions (Criminal History)*
  - (1) *Amaro, Ivonne*

Ms. Simon – An application for an Embalmer Apprenticeship license was received, by the Division, on October 23, 2017. The application was incomplete when submitted. All deficient items were returned on November 13, 2017. A background check revealed a relevant criminal history:

- In October 2015, Ms. Amaro pled no contest to Possession of Marijuana and Possession of Drug Paraphernalia, both misdemeanors. Ms. Amaro was sentenced to thirty (30) days in Polk County Jail (time credited), one (1) year suspended license and a fine of \$158.32.

The Division is recommending approval without conditions.

**MOTION:** Mr. Helm moved to approve the application. Mr. Bango seconded the motion, which passed with one (1) dissenting vote.

**11. Notification(s) of Change in Location**

- A. *Informational Item (Licenses issued without Conditions) – Addendum G*
  - (1) *Frank Donald Terry Jr d/b/a All Veterans – All Families Funerals & Cremations (F072611)*
  - (2) *Integrity Funeral Home and Cremations Inc. (F086272) (Jacksonville)*
  - (3) *Serenity Funeral Home & Cremation LLC (F071434) (Fort Lauderdale)*

Ms. Simon – This is an informational item. Pursuant to ss. 497.380(12)(b), 497.604(7), 497.606(7), F.S., the establishments have applied for a change of location. The Board has requested that it be notified of these changes in location. Accordingly, the addendum has been provided to the Board. The requisite inspections have not yet been conducted.

**12. Application(s) for Registration as a Training Agency**

- A. *Informational Item (Licenses Issued without Conditions) – Addendum H*
  - (1) *Beckman-Atlantic Funeral Homes & Crematory Inc. d/b/a Beckman – Williamson Funeral Homes & Crematory (F135558) (Rockledge)*
  - (2) *Integrity Funeral Services of Tampa FL Inc. (F090836) (Tampa)*
  - (3) *Royal Palm North Funeral Chapel (F041687) (St. Petersburg)*
  - (4) *SE Combined Services of Florida LLC d/b/a Craig Flagler Palms Funeral Home (F141685) (Flagler Beach)*

Ms. Simon – This item is informational only. Pursuant to Rule 69K-1.005(12)(b), F. A. C., the Division has previously approved these items. That being said, Board members, item 12. A. (3), while it doesn't say it on the actual agenda, that was submitted by Work & Son Royal Palm North Funeral Chapel.

**B. Recommended for Approval (Adverse Licensing History) (Collective Item)**

**(1) Mullins Memorial Funeral Home & Cremation Services Inc. (F079335) (Ft Myers)**

**(2) Mullins Memorial Funeral Home & Cremation Services Inc. (F079336) (Cape Coral)**

Ms. Simon – Mullins Memorial Funeral Home & Cremation Service Inc., seeks approval for the following applications. There is no relevant criminal history; however, there is relevant adverse licensing history:

- In December 2015 Mullins Memorial Funeral Home & Cremation Service LLC (F066405) and Shannon Mullins (F044369) entered into a Settlement Stipulation and were ordered to pay \$1500 for each license for failure to report a change of ownership for the establishment.

More specifically, the entities that are being applied for is as follows:

- 1) Mullins Memorial Funeral Home & Cremation Service, training facility, license number #F079335, physical address: 3654 Palm Beach Blvd, Fort Myers, FL
- 2) Mullins Memorial Funeral Home & Cremation Service, training facility, license number #F079336, physical address: 1056 NE 7<sup>th</sup> Terrace, Cape Coral, FL

The Division is recommending approval without conditions.

**MOTION:** Ms. Anderson moved to approve the applications. Mr. Clark seconded the motion, which passed unanimously.

**13. Consumer Protection Trust Fund Claims**

**A. Recommended for Approval without Conditions – Addendum I**

Ms. Simon – The CPTF claims presented on the Addendum have been reviewed by the Division and the Division recommends approval for the monetary amounts so indicated.

Mr. Helm – Question?

Chair – Mr. Helm?

Mr. Helm – I wanted to ask it earlier, but I think this is an appropriate time to ask it. Probably, Ms. Wiener?

Ms. Wiener – Reporting, Wendy Wiener.

Mr. Helm – We see all these for Cemetery Professionals Beaches Memorial, and we all understand that. My question is, are any of these contracts being turned away and put back into Beaches Memorial?

Ms. Wiener – No. We talked...do you mean...well, tell me what you mean.

Mr. Helm – Are any of them redoing their contracts?

Ms. Wiener – Many of them are just claim fulfillments. There are some circumstances where there are cancellations, but the contracts, and I may need help on this, because I don't review these like your Division staff does. I was at the very beginning but I've not so much anymore. The Division staff and the licensee have a process that they've worked out, but I believe that there are some circumstances where the contracts that come in for cancellation, the people don't really want to cancel their contracts, they just want to get their contracts corrected, because what the former owners were doing was to enter into contracts where someone came in and they thought they bought a full service funeral, but really the way it got written up on the contract wasn't what the consumer wanted at all. So all of the circumstances tend to differ from time to time. There is a process in place between Division staff and Heather Maley, who is the significant other of the owner, Todd Ferreira. She is a CPA. She is running the finances of the operation, but there are a lot of different circumstances. I believe that some people do

rewrite preneed contracts with Beaches, but I would say that the majority, if I recall correctly from when I was doing them, are fulfillments. Would that be, am I close, anybody?

Ms. Christine Moore – You're close.

Ms. Wiener – I'm close. Anything to add?

Ms. Moore – Like you stated, they are doing the corrections for them to enter into valid contracts with Beaches. Not quite as much as I've seen that they've done for fulfillments, but they are canceling them to write new contracts.

Ms. Wiener – So, now a lot of them are cancellations. In the beginning, there were a lot of fulfillments because there was actually kind of a backlog at the very beginning.

Mr. Helm – Didn't you just say there were a lot of cancellations that they are redoing? Did you say that?

Ms. Moore – Yes sir. This is Christine Moore with the Department. They are being cancelled to enter into corrected contracts with Beaches.

Ms. Simon – Mr. Helm, if I may respond to your request for information? I contacted Beaches this week to ask them questions about the CPTF claims that are coming up and the information that I received from them is that no calls are being made to consumers regarding their contracts. These consumers have come into Beaches and requested that either their contracts be refunded or actually updating their contracts to correct the errors that Ms. Wiener referenced.

Ms. Wiener – That would make sense.

Mr. Helm – So we can safely say that not all of this money is coming out of the CPTF. It's coming back, correct? If they're redoing their contracts, then it's not...does anybody understand what I'm trying to say?

Mr. Hall – May I speak, Mr. Chair?

Chair – Yes, Mr. Hall.

Mr. Hall – If I'm hearing, I think what he's saying is, is it staying there at Beaches or are they taking their money and running.

Mr. Helm – Yes.

Mr. Hall – Are they staying with it and writing a new preneed with Beaches or someone so the money is not totally lost? Is that correct?

Mr. Helm – That's correct. And the way they answered me, that's correct. They're not all just taking their money and running.

Ms. Simon – Correct.

Mr. Helm – Okay.

Chair – Thank you.

Ms. Wiener – Thank you.

Chair – Anything else, Mr. Helm?

Mr. Helm – No. I would ask the percentage, but I know that couldn't tell me that, so that's okay.

**MOTION:** Mr. Hall moved to approve all the claim(s), for the monetary amounts indicated. Mr. Bango seconded the motion, which passed unanimously.

Chair – Excuse me, ma’am?

Ms. Renchen – Yes sir?

Chair – Do you want to sit here? Mr. Barnhart said you could sit here so you could see everybody.

Mr. Hall – I’m going to move right here so it won’t be so crowded.

Chair - Or we have a table set up here or at Mr. Hall’s place.

Ms. Renchen – That’s fine.

**14. Application(s) to Acquire Control of an Existing Cemetery Company**

**A. Recommended for Denial**

- (1) *Serenity Gardens Inc. of Santa Rosa (F039549) (Milton)*

Ms. Simon – This item has been removed from the agenda.

**15. Application(s) for Change of Ownership (Estes Funeral Options LLC)**

**A. Recommended for Approval with Conditions (Collective Applications)**

(1) *Application(s) for Cinerator Facility*

- (a) *Estes Funeral Options LLC d/b/a Abacos Crematorium (New Smyrna Beach)*

(2) *Application(s) for Direct Disposal Establishment*

- (a) *Estes Funeral Options LLC d/b/a Alavon Direct Cremation Service (Daytona Beach)*

- (b) *Estes Funeral Options LLC d/b/a Alavon Direct Cremation Service (Orange City)*

(3) *Application(s) for Funeral Establishment*

- (a) *Estes Funeral Options LLC d/b/a Alavon Cremation Service (New Smyrna Beach)*

(4) *Application(s) for Transfer of Preneed License*

- (a) *Estes Funeral Options LLC d/b/a Alavon Direct Cremation Service (South Daytona)*

Chair – Mr. Hall, are you good there?

Mr. Hall – I’m good.

Chair – Good deal. Move forward.

Ms. Simon – Estes Funeral Options LLC (Estes), a limited liability company, seeks approval for the following applications for a change of ownership: a funeral establishment, a cinerator facility, two (2) direct disposal establishments, and an application for transfer of a preneed license. The applications are being submitted due to a change of ownership from the current owner, Donald E. Teasdale to the proposed new ownership under Estes. The sole owner and principal of the Applicant is Jeremy S. Estes, and a background check of the principal(s) for the business revealed no relevant criminal history.

More specifically, the entities that are being acquired is as follows:

- 1) Alavon Direct Cremation Service d/b/a Abacos Crematorium LLC, a licensed funeral establishment and cinerator facility, license # F071614 and F061922, physical address: 1502 Industrial Dr, New Smyrna Beach
- 2) Donald E. Teasdale d/b/a Alavon Direct Cremation Service, a licensed direct disposal establishment, license # F041583, physical address: 731 Beville Rd, South Daytona
- 3) Donald E. Teasdale d/b/a Alavon Direct Cremation Service, a licensed direct disposal establishment, license # F072372, physical address: 230 S Volusia Ave, Orange City
- 4) Donald E. Teasdale d/b/a Alavon Direct Cremation Service, a licensed preneed main, license # F019339, physical address: 661 Beville Rd, Suite 110, South Daytona

Enclosed are the separate applications regarding the above listed properties and application for transfer of a preneed main license. If approved, Applicant will continue to sell preneed through Funeral Services Inc. (FSI) and use its approved prearranged funeral agreement form(s). Applicant is acquiring all preneed assets and liabilities for these locations and is assuming responsibility for any outstanding preneed contracts that have previously been issued by or for fulfillment at the above referenced locations. The Division has no record of disciplinary action regarding Estes. The Applicant's financial statements as of October 3, 2017, reflects the following:

Outstanding Preneed Contracts	= \$	0
Required Net Worth	= \$	10,000
Reported Net Worth	= \$	10,000

The Division is recommending approval of the applications referenced above, subject to the following conditions:

- 1) That the closing on the transaction to acquire ownership shall occur within 60 days of the date of this Board meeting.
- 2) That the closing on the transaction shall be substantially on terms and conditions as represented to the Board at this Board meeting.
- 3) That Applicant shall assure receipt by the Division within 75 days of the Board meeting, of a letter signed by applicant or applicant's attorney, addressed to the Division, certifying that closing has occurred and stating the date of closing, and stating that closing occurred on terms and conditions not inconsistent with those as represented to the Board at this Board meeting, and providing a copy of the fully Bill of Sale, Asset Purchase Agreement, or other document by which the acquisition transaction is consummated, executed by all parties, and any and all amendments, schedules, and other attachments thereto, also fully executed.
- 4) That the Director of the Division of Funeral, Cemetery, and Consumer Services may extend any deadline set out in these conditions, by up to 90 days, for good cause shown. The Director shall report any such extensions to the Board as an informational item.
- 5) That all representations by the applicant in the application and related materials provided to the Board or FCCS Division by the applicant, in support of the application(s), are deemed material to the Board's action herein.
- 6) That the establishment(s) under the application(s) herein pass an onsite inspection by a member of Division Staff.
- 7) That the Applicant (new owner or controlling party) shall assume all existing preneed liabilities of the location(s) being acquired.

Chair – Ms. Wiener, are you here to answer questions?

Ms. Wiener – I am, indeed.

Chair – Thank you. Board?

Ms. Wiener – Thank you.

**MOTION:** Mr. Jones moved to approve the applications subject to the conditions recommended by the Division. Mr. Hall seconded the motion, which passed unanimously.

Chair – Thank you.

Ms. Wiener – Thank you.

**16. Application(s) for Cinerator Facility**  
**A. Recommended for Approval *without* Conditions**  
**(1) Crevasse's Simple Cremations Inc. (Jacksonville)**

Ms. Simon – An application for a Cinerator Facility was received on September 7, 2017. The application was incomplete when submitted. All deficient items were returned on October 18, 2017. The Funeral Director in Charge will be Tara Miles (F060049). A background check of the principals revealed no relevant criminal history. The establishment passed its inspection on November 13, 2017. One moment.



Ms. Simon – In this case, this facility was previously a direct disposal establishment, and while the inspection was done for that establishment we need to have another inspection in relation to this application. To that extent, the Division recommends approval subject to the condition that an inspection be completed by Division staff.

**MOTION:** Mr. Hall moved to approve the application subject to the condition that an inspection be completed by Division staff. Mr. Clark seconded the motion, which passed unanimously.

Chair – Excuse ma’am.

Ms. Renchen – I’m ready.

Chair – Are you situated?

Ms. Renchen – Yes sir.

Chair – Let’s go back to that case, please.

## **ITEM REVISITED**

### **4. Disciplinary Proceedings:**

#### ***B. Material Facts Not Disputed (Section 120.57(2) Hearings)***

##### ***(1) Probable Cause Panel B***

##### ***(a) Marcells Cremations, Inc.: Case No. 198424-16-FC; Division No. ATN-27205 (F050427 – Direct Disposal Establishment)***

Ms. Simon – When we left off, Mr. Metz had presented his case and I had sworn in Mr. Rudolph.

Chair – Thank you.

Mr. Metz – If I could clarify, please. I had finished presenting my argument, however, I would like to put on witness testimony.

Mr. Barnhart – Let’s hear from Mr. Rudolph first, if you don’t mind, Mr. Metz.

Mr. Metz – Yes, sir.

Mr. Rudolph – When I sent this to Deirdre Farrington, she cleared her of it and then she sent it back.

Mr. Barnhart – Okay, let’s talk about what happened recently.

Mr. Rudolph – Well, what happened recently is when it came to me, I had a secretary who put it in the wrong file. When I finally found that file, I filed the application, but they’re saying the application was late, but it was because this secretary I had was putting things in all the wrong files. My partner has files misplaced, I have an affidavit that she put somewhere else that I can’t find, and I didn’t find this until and as soon as I found it I filed the application. So, I would like an opportunity to file this application. She did an affidavit, and I passed it around to you all, which shows that she did nothing wrong, but I understand, and she wishes to testify on it. Would you like to raise your hand?

Chair – Procedurally, where are we?

Mr. Barnhart – We can hear this.

Chair – Thank you. Please.

Ms. Simon – Do you swear to tell the truth, the whole truth and nothing but the truth?

Ms. McCloud – Yes.

Chair – Repeat your name, please.

Ms. McCloud – My name is Dianne McCloud.

Chair – Thank you.

Mr. Rudolph – Ms. McCloud, would you tell them?

Ms. McCloud – They're saying that they did not receive a file, but I know I received a file on September 28, 2016.

Mr. Barnhart – Which file are you referring to, ma'am?

Ms. McCloud – Well, he was saying he did not receive...

Mr. Barnhart – There are two (2) separate case numbers.

Mr. Rudolph – Marcel's Cremations.

Ms. McCloud – Right.

Mr. Rudolph – And we thought this was going to be on Dianne McCloud, but it's on Marcel's Cremations. And because I got it late, I filed it immediately.

Mr. Metz – First of all, I have a document here, that is from Mr. Bossart, clearly notifying Mr. Rudolph that the matter of Marcel's Cremations would be on for a Determination of Waiver for today's hearing.

Mr. Rudolph – And that's why, yes, he said it was going to be a Determination of Waiver.

Mr. Metz – For Marcel's Cremations?

Mr. Rudolph – For Marcel's Cremations.

Mr. Metz – May I put this in the record?

Mr. Rudolph – Because my secretary put it in a different file, when I found it, I immediately found it.

Mr. Barnhart – But as an attorney, aren't you responsible for any errors made by your secretary?

Mr. Rudolph – Yes I am. I am, but this is a severe thing to do to a person who really hasn't done anything wrong.

Mr. Metz – And members, the case law I provided you is specifically the Aleong case...

Mr. Rudolph – Oh, I know the law.

Mr. Metz – ...and the Environmental Resources case, both stand for the proposition that an attorney missing a filing deadline is not the type of extraordinary circumstance that is the only defense to an untimely filing. Equitable tolling, which is the only defense to an untimely filing, focuses on things the Department did to mislead the licensee into having a late response. There is absolutely zero argument, that's been presented, that the Department did anything wrong. All of the fault in this case frankly lies with Mr. Rudolph's secretary and that is not a sufficient reason to ignore the statutory requirement that an untimely petition be dismissed. Section 120.569(2)(c), F.S., requires you to dismiss that petition as untimely.

Chair – Are there any other exceptions, besides equitable tolling?

Mr. Metz – No sir. Equitable tolling is the only defense.

Chair – Thank you.

Ms. McCloud – This is my first time going through this. When all these charges started coming at me, I went ahead and hired an attorney to try to help me with it. I am sorry that I hired an attorney and thought that they were actually doing their job and now I'm here because they're saying it wasn't filed on time, because if I had known it was not going to be filed on time, just like I did with all the other papers, I also sent one (1) to the State and then I also sent one (1) to him, and I would have done that also. But when you put something in an attorney's hands you expect that person to represent you properly. So, I wish you would waive this and listen to whatever other charges we have on here with me.

Chair – Is there a motion? I would certainly entertain a motion finding that the Respondent was served with the Administrative Complaint, that the Respondent failed to respond within the allotted twenty-one (21) day period, and has waived the right to dispute the allegations of the Administrative Complaint.

Mr. Rudolph – May I request this?

Chair – Just one moment.

Mr. Barnhart – Have the waived the allegations of fact? There's still law that we have to deal with.

Chair – I was going to make that into another motion. So entertaining that motion, is there a motion? I have not heard a motion to that effect. So, Board, what is your pleasure?

Mr. Barnhart – Board members, I think you have two (2) options now. You can determine that the Department served the Respondent properly and that it was late and that the only hearing that would be proper at this point would be an informal hearing. If you feel uncomfortable making that ruling, you could ask the Division to refer it to the Division of Administrative Hearings and let them make the arguments there in front of an administrative law judge, which if the judge agrees with the Department, the Department would seek to have jurisdiction relinquished back to the Board so you could consider this matter in an informal hearing. Those are the two (2) options I think you have at this point.

Mr. Helm – I have a question, because I'm really confused. It's definite that they didn't respond within the time period.

Mr. Barnhart – That the request for formal hearing was not sent back to the Department timely.

Mr. Helm – That's a fact. Is that all we're making a motion for?

Mr. Barnhart – Well, the motion would be to find the request for formal hearing to be untimely and that it is proper to have an informal hearing before the Board. At the informal hearing, Ms. McCloud could present mitigating evidence, mitigating reasons why you might downgrade from the usual penalty, but it would be only for mitigation reasons.

Mr. Hall – Question, Mr. Barnhart? So you're saying if we do that then she testifies, the inspector testifies as to what they found in the informal hearing, and then would the Division offer what their recommendation is at that time?

Mr. Barnhart – We wouldn't be taking evidence, so to speak. It would only be evidence in mitigation to mitigate any penalty that might be imposed, if the Board believes there's been a violation of the law.

Mr. Hall – If we accept the first motion that Mr. Brandenburg offered, then is there a recommendation then from the Division, if we go with the first recommendation as to what action to take against the Respondent?

Mr. Barnhart – There could be a recommendation, but first of all I think you would have to find Marcel's Cremations to be in violation of the law, adopt the Administrative Complaint in its entirety, and find the Respondent in violation and then talk about the penalty, but Ms. McCloud would have an opportunity to present mitigating evidence as to why she thinks the penalty should be less than what's usually imposed.

Mr. Hall – And that would happen today?

Mr. Barnhart – Yes.

Chair – Talk about disputing the facts, please.

Mr. Barnhart – The facts would not be disputed. The allegations of fact in the Administrative Complaint would be deemed to be admitted at that point.

Chair – Mr. Rudolph?

Mr. Rudolph – I just want to talk to my client outside.

Chair – Sure.

Mr. Metz – We're discussing the possibility of a settlement.

Mr. Barnhart – Do you want to take a few minutes to do that while we go on with the rest of the agenda.

Chair – Yes.

***(2) Gracefully Southern LLC d/b/a Roberts of Ocala Funeral Homes and Cremation (Ocala)***

Ms. Simon – An application for a Cinerator Facility was received on October 16, 2017. The application was complete when submitted. The Funeral Director in Charge will be William Johnson (F049504). A background check of the principals revealed no relevant criminal history; however, William Johnson does have an adverse licensing history: William Johnson, F049504, license was suspended April 27, 2011 – April 27, 2012 and he was ordered to pay \$5000. The establishment passed its inspection on October 25, 2017. The establishment is recommended for approval without conditions.

Chair – Ms. Wiener?

Ms. Wiener – Here for questions.

Chair – Thank you.

Mr. Clark – Mr. Chairman?

Chair – Yes?

Mr. Clark – I need to disclose that I know William Johnson personally, but that affiliation will not impact my ability to render a fair and impartial decision.

Chair – Thank you for that.

**MOTION:** The Chair moved to approve the application. Mr. Helm seconded the motion, which passed unanimously.

**ITEM REVISITED**

**4. Disciplinary Proceedings:**

***B. Material Facts Not Disputed (Section 120.57(2) Hearings)***

***(1) Probable Cause Panel B***

***(a) Marcell's Cremations, Inc.: Case No. 198424-16-FC; Division No. ATN-27205 (F050427 – Direct Disposal Establishment)***

Chair – Mr. Rudolph?

Ms. McCloud – Excuse me, can I say something?

Chair – Yes ma'am.

Ms. McCloud – Right now, I don't even really know what's goind on. I don't know which case they're talking about.

Mr. Barnhart – It's Marcel's Cremations.

Ms. McCloud – Right. I know they're talking about Marcel's Cremations only, but what are they talking about with Marcel's Cremation?

Chair – I would advise you to consult with your counsel.

Mr. Rudolph – We've talked about that.

Ms. McCloud – Right, because they're talking about the three (3) findings on the investigation.

Mr. Barnhart – Mr. Rudolph, would you like to continue this matter until the next meeting so you can discuss the possible settlement?

Mr. Rudolph – If I could, please.

Mr. Barnhart – Would the Board be amenable to that and would the prosecutors be amenable?

Mr. Metz – Mr. Chairman, we may have a settlement.

Mr. Barnhart – Okay, but what I'd like to do is get that in writing so the Board can look at it and consider it so that we can move on.

Mr. Jones – Do you need a motion?

Chair – I would prefer to get it settled today, if at all possible.

Mr. Rudolph – Well, if we can. We're just going to have to talk.

Chair – Is there a possibility that it'll be today? If not, we can certainly continue it.

Mr. Metz – I can go back to my office and draft up a settlement agreement.

Mr. Barnhart – Well, we're not too far from finishing the meeting, though, are we?

Chair – We're a ways.

Mr. Rudolph – I wish we could remove this from the agenda now and let us work together with him on trying to get a settlement.

Chair – And present it at our next Board meeting, which would be a teleconference meeting?

Mr. Rudolph – Yes sir.

Mr. Metz – That's acceptable.

Chair – Okay. And no problems with the deemer or anything of that nature?

Mr. Rudolph – We'll waive it.

Mr. Clark – Mr. Chairman, could I just ask counsel to maybe explain what's going on to Ms. McCloud so she understands what we're talking about, because she seems a little confused. I want the Board counsel to explain it.

Mr. Barnhart – What they want to do is continue this matter until the next meeting to give you time to discuss the matter with your attorney so that he can get with the Department's attorney and possibly come to a settlement of this case. Now, if you don't want to do that you can proceed with an informal hearing, but what I'm hearing is that the Department is willing to talk about settlement and you may want to consider that, as opposed to going forward this morning.

Ms. McCloud – Okay.

Mr. Barnhart – Do you understand what I'm saying?

Ms. McCloud – Yes.

Mr. Barnhart – Okay. Your other case is still pending, I believe, so that's not before the Board today, but possibly you could resolve that case as well during these settlement negotiations.

Mr. Rudolph – That one, I've denied everything and I'm going forward with that.

Mr. Barnhart – Okay, but that doesn't prevent you from doing a settlement, the fact that the other case is pending.

Ms. McCloud – Okay.

Mr. Helm – Are we good with the deemer?

Ms. Simon – Yes, there's no deemer.

Mr. Barnhart – On discipline, there's no problem with deemer.

**MOTION:** Mr. Jones moved to continue the case to the January 4, 2018, teleconference meeting. Mr. Bango seconded the motion, which passed unanimously.

Chair – Thank you. We're going to be doing some housekeeping.

Mr. Barnhart – Are we going to take a break?

Chair – No, not a formal break.

Ms. Schwantes – Not a formal break. We're just taking a few minutes so that we can get the table reorganized.

Chair – Right.

Mr. Barnhart – Okay.

Mr. Helm – Ms. Simon?

Ms. Simon – Yes sir?

Mr. Helm – Are we going to start with Hagan Funeral Services when we start back?

Ms. Simon – Yes, Hagan.

Chair – Board, be prepared to continue with 17. A. (1). Mr. Hall, are you ready to move back?

Mr. Hall – I’m good.

Chair – Okay, I’d like to call the meeting back to order. Ms. Simon?

**17. Application(s) for Funeral Establishment**  
**A. Recommended for Approval *with* Conditions**  
**(1) Hagan Funeral Service (Monticello)**

Ms. Simon – An application for a Funeral Establishment license, due to a Change of Ownership, was received by the Division on October 20, 2017. The application was incomplete when received. All deficient items were received on November 7, 2017. The Funeral Director in Charge will be Shana Walker (F048940). A background check of the principals revealed no relevant criminal history. The Division is recommending approval subject to the condition(s) as follows:

- 1) That the closing on the transaction to acquire ownership shall occur within 60 days of the date of this Board meeting.
- 2) That the closing on the transaction shall be substantially on terms and conditions as represented to the Board at this Board meeting.
- 3) That Applicant shall assure receipt by the Division within 75 days of the Board meeting, of a letter signed by applicant or applicant’s attorney, addressed to the Division, certifying that closing has occurred and stating the date of closing, and stating that closing occurred on terms and conditions not inconsistent with those as represented to the Board at this Board meeting, and providing a copy of the fully executed Bill of Sale, Asset Purchase Agreement, or other document by which the acquisition transaction is consummated, executed by all parties, and any and all amendments, schedules, and other attachments thereto, also fully executed.
- 4) That the Director of the Division of Funeral, Cemetery, and Consumer Services may extend any deadline set out in these conditions, by up to 90 days, for good cause shown. The Director shall report any such extensions to the Board as an informational item.
- 5) That all representations by the applicant in the application and related materials provided to the Board or FCCS Division by the applicant, in support of the application(s), are deemed material to the Board’s action herein.
- 6) That the establishment passes an inspection by a member of Division Staff.

**MOTION:** Mr. Helm moved to approve the application subject to the conditions recommended by the Division. Mr. Bango seconded the motion, which passed unanimously.

**(2) Johnson-Overturf Funeral Home Inc. d/b/a Clayton Frank & Biggs Funeral Home (Crescent City)**

Ms. Simon – An application for a Funeral Establishment license, due to a Change of Ownership, was received by the Division on October 10, 2017. The application was incomplete when received. All deficient items were received on November 20, 2017. The Funeral Director in Charge will be Steven Teaford (F042888). A background check of the principals revealed no relevant criminal history. The Division is recommending approval subject to the condition(s) as follows:

- 1) That the closing on the transaction to acquire ownership shall occur within 60 days of the date of this Board meeting.
- 2) That the closing on the transaction shall be substantially on terms and conditions as represented to the Board at this Board meeting.
- 3) That Applicant shall assure receipt by the Division within 75 days of the Board meeting, of a letter signed by applicant or applicant’s attorney, addressed to the Division, certifying that closing has occurred and stating the date of closing, and stating that closing occurred on terms and conditions not inconsistent with those as represented to the Board at this Board meeting, and providing a copy of the fully executed Bill of Sale, Asset Purchase Agreement, or other document by which the acquisition transaction is consummated, executed by all parties, and any and all amendments, schedules, and other attachments thereto, also fully executed.
- 4) That the Director of the Division of Funeral, Cemetery, and Consumer Services may extend any deadline set out in these conditions, by up to 90 days, for good cause shown. The Director shall report any such extensions to the Board as an informational item.
- 5) That all representations by the applicant in the application and related materials provided to the Board or FCCS Division by the applicant, in support of the application(s), are deemed material to the Board’s action herein.
- 6) That the establishment passes an inspection by a member of Division Staff.

Ms. Simon – Is Mr. Overturf present? Can you step forward, please sir?

Mr. Helm – I have a question.

Chair – Good morning.

Mr. Overturf – Good morning.

Chair – Did you want to address the Board or are you just here to answer questions?

Mr. Overturf – Only to commend Ms. Simon for listening to my rant and rave through the process. She acted very professionally and I wanted to personally thank her for helping me understand this process.

Chair – Thank you. And Mr. Helm, you had a question of the Division?

Mr. Helm – Yes. You said there's no disciplinary action, but they had a \$400 fine, so is that not discipline?

Ms. Simon – One moment, sir.

Mr. Helm – On the adverse licensing form.

Chair – Just to check, what application do you have? The name?

Mr. Helm – It's in the funeral home's name.

Mr. Overturf – You're referring to the adverse licensing?

Mr. Helm – Yes.

Mr. Overturf – The question asked if we had any fines and I had a fine of \$400 several years back on our quarterly reporting. We sent out a contact. The process that the I-Trust program has in place, it doesn't automatically rollover and count that contract for the preceding month, so at the end of the year, the number that I reported on the annual COA differentiated from the quarterly and so therefore we were fined because everything wasn't complete by the deadline time.

Chair – Thank you. That is correct in our packet. Is there a motion?

**MOTION:** Mr. Hall moved to approve the application subject to the conditions recommended by the Division. Mr. Clark seconded the motion, which passed unanimously.

Mr. Overturf – Thank you very much.

Chair – Congratulations.

Ms. Simon – Mr. Helm, thank you for bringing that up.

Mr. Helm – I just wondered. I wasn't sure.

Ms. Simon – That was absolutely accurate.

**(3) *Legacy Funeral Holdings of Florida LLC d/b/a Highland Funeral Home (Apopka)***

Ms. Simon – An application for a Funeral Establishment was received on November 2, 2017. The application was complete when submitted. The Funeral Director in Charge will be Richard Prindiville (F068385). A background check of the principals



revealed no relevant criminal history. The Division recommends approval subject to the condition that the establishment passes an onsite inspection by a member of Division Staff.

**MOTION:** Mr. Hall moved to approve the application subject to the condition that the establishment passes an onsite inspection by a member of Division Staff. Mr. Bango seconded the motion, which passed unanimously.

Ms. Wiener – Thank you.

Chair – You're welcome.

**(4) Sellers Funeral Home Inc. d/b/a Cason Funeral & Cremation Services (Brooksville)**

Ms. Simon – An application for a Funeral Establishment license, due to a Change of Ownership, was received by the Division on November 6, 2017. The application was incomplete when received. All deficient items were received on November 20, 2017. The Funeral Director in Charge will be Brittney Sellers (F064324). A background check of the principals revealed no relevant criminal history. The Division is recommending approval subject to the condition(s) as follows:

- 1) That the closing on the transaction to acquire ownership shall occur within 60 days of the date of this Board meeting.
- 2) That the closing on the transaction shall be substantially on terms and conditions as represented to the Board at this Board meeting.
- 3) That Applicant shall assure receipt by the Division within 75 days of the Board meeting, of a letter signed by applicant or applicant's attorney, addressed to the Division, certifying that closing has occurred and stating the date of closing, and stating that closing occurred on terms and conditions not inconsistent with those as represented to the Board at this Board meeting, and providing a copy of the fully executed Bill of Sale, Asset Purchase Agreement, or other document by which the acquisition transaction is consummated, executed by all parties, and any and all amendments, schedules, and other attachments thereto, also fully executed.
- 4) That the Director of the Division of Funeral, Cemetery, and Consumer Services may extend any deadline set out in these conditions, by up to 90 days, for good cause shown. The Director shall report any such extensions to the Board as an informational item.
- 5) That all representations by the applicant in the application and related materials provided to the Board or FCCS Division by the applicant, in support of the application(s), are deemed material to the Board's action herein.
- 6) That the establishment passes an inspection by a member of Division Staff.

Mr. Hall – Question, Mr. Chair?

Chair – Mr. Hall?

Mr. Hall – This case and the next one has the same FDIC in charge?

Ms. Simon – That's correct. Brittney Sellers as the FDIC is the appropriate FDIC for this issue. The next, it will be taken off.

Mr. Wayne Sellers – Question?

Chair – Thank you, Mr. Hall.

Mr. Sellers – Wayne Sellers.

Chair – Yes sir?

Mr. Sellers – My name is Wayne Sellers. How are you doing, sir?

Chair – Good.

Mr. Sellers – What are the conditions?

Ms. Simon – Mr. Sellers, may I?

Chair – Please.

Ms. Simon – The conditions in this instance are several and they're pretty normal and standard in this type of exchange. The conditions include that the closing on the transaction to acquire ownership shall occur within 60 days of the date of this Board meeting, that the closing on the transaction shall be substantially on terms and conditions as represented to the Board at this Board meeting, and you can read the rest right there.

Mr. Sellers – Okay.

Ms. Simon – As I said, they're pretty standard.

Mr. Sellers – Okay, thank you.

Chair – It should be six (6) of them, itemized out.

Mr. Sellers – Okay, I see them right here. Thank you.

Chair – Thank you, Mr. Sellers.

**MOTION:** Mr. Jones moved to approve the application subject to the conditions recommended by the Division. Mr. Helm seconded the motion, which passed unanimously.

***(5) Warren Family Funeral Services LLC d/b/a Prestwood Funeral Home (Baldwin)***

Ms. Simon – An application for a Funeral Establishment license, due to a Change of Ownership, was received by the Division on September 13, 2017. The application was incomplete when received. All deficient items were received on October 27, 2017. As Mr. Hall mentioned, the correct Funeral Director in Charge in this matter will be Bryan Box (F064325). A background check of the principals revealed no relevant criminal history. The Division is recommending approval subject to the condition(s) as follows:

- 1) That the closing on the transaction to acquire ownership shall occur within 60 days of the date of this Board meeting.
- 2) That the closing on the transaction shall be substantially on terms and conditions as represented to the Board at this Board meeting.
- 3) That Applicant shall assure receipt by the Division within 75 days of the Board meeting, of a letter signed by applicant or applicant's attorney, addressed to the Division, certifying that closing has occurred and stating the date of closing, and stating that closing occurred on terms and conditions not inconsistent with those as represented to the Board at this Board meeting, and providing a copy of the fully executed Bill of Sale, Asset Purchase Agreement, or other document by which the acquisition transaction is consummated, executed by all parties, and any and all amendments, schedules, and other attachments thereto, also fully executed.
- 4) That the Director of the Division of Funeral, Cemetery, and Consumer Services may extend any deadline set out in these conditions, by up to 90 days, for good cause shown. The Director shall report any such extensions to the Board as an informational item.
- 5) That all representations by the applicant in the application and related materials provided to the Board or FCCS Division by the applicant, in support of the application(s), are deemed material to the Board's action herein.
- 6) That the establishment passes an inspection by a member of Division Staff.

**MOTION:** Mr. Jones moved to approve the application subject to the conditions recommended by the Division. Mr. Clark seconded the motion, which passed unanimously.

Chair – I have a question for the Division. When we get an application for a change of ownership or a new facility and the FDIC is listed do we do anything in the way of a background check or criminal history questions on the FDIC or adverse licensing?

Ms. Simon – In this matter, we do not, because that would be a licensee, so we’re familiar with the background. We do perform a background check only on the principals that are listed.

Chair – Thank you.

**18. Application(s) for Monument Establishment Retailer License**

**A. Recommended for Approval without Conditions**

**(1) Lake City Wilbert Vault, Inc. d/b/a Charles Custom Memorials (Starke)**

Ms. Simon – The application was received on October 25, 2017, and no deficiencies were noted on the application. Applicant’s principal and sole owner will be: Charles D. Charles, and a completed background check of principal revealed no criminal history. This application is being filed for a new monument establishment retailer license location. If approved, Applicant will operate at the above specified location and utilize the monument retail sales agreement that was previously approved by the Board at its June 27, 2007 Board meeting.

**MOTION:** Mr. Helm moved to approve the application. Mr. Jim Davis seconded the motion, which passed unanimously.

**19. Application(s) for Monument Establishment Retailer License and Monument Retail Sales Agreement**

**A. Recommended for Approval with Conditions (Collective Item)**

**(1) Mosley Monuments & Vaults LLC (Defuniak Springs)**

Ms. Simon – Mosley Monuments & Vaults LLC has submitted the following: (1) an application for a monument establishment retailer license and (2) a monument sales retail agreement. The application was submitted on 9-28-17 and all deficiencies were resolved as of 11-3-17. This application is being filed because of a change of ownership from a sole proprietorship to an LLC by Applicant’s sole owner and principal, James D. Mosley. A completed background check of Applicant’s principal was returned without criminal history. If approved, Applicant will operate as a monument establishment retailer at the above specified location and utilize the attached monument sales retail agreement, also being presented for at this Board meeting. The Division recommends approval subject to the condition that two (2) full sized print-ready copies of the monument retail sales agreement are received by the Department within 60 days of this Board meeting.

Chair – Thank you. Mr. Helm did you review the retail agreement?

Mr. Helm – I did. First of all, can we break this off because the monument establishment is fine, but the contract is not?

Ms. Simon – If we can take those as separate motions?

Chair – Please.

**MOTION:** Mr. Helm moved to approve the application for monument establishment retailer license. Ms. Anderson seconded the motion, which passed unanimously.

Chair – Now the question arises on the monument sales retail agreement. Mr. Helm?

Mr. Helm – I’m assuming he should already have one of these. If he’s using this, then we must have missed something. He has no name or dates on this for the deceased. There is no mark for name and dates on here. Also, the contract number, I’m assuming that 880 is the contract number but I believe it should say contract number.

Chair – Is there anyone representing Mosley Monuments & Vaults here? Mosley Monuments & Vaults? Hearing no reply.

Ms. Simon – We have a couple of options, Mr. Chairman. We can suggest that the Board take a motion to approve this retailer sales agreement subject to the condition that the changes that you suggested be imposed and that the Division reviews those changes and finds them adequate to meet your concerns. Or you can deny this now.

Mr. Helm – I’ll make that motion.

**MOTION:** Mr. Helm moved to approve the agreement subject to the conditions that the changes suggested by the Board be imposed and that the Division reviews those changes and finds them adequate; and two (2) full sized print-ready copies of the monument retail sales agreement are received by the Department within 60 days of this Board meeting. Mr. Bango seconded the motion, which passed unanimously.

Ms. Simon – Mr. Helm, if I may? You outlined the contract number as well as the name and date of the decedent. Is that correct?

Mr. Helm – Yes.

Ms. Simon – Was there anything additional?

Mr. Helm – I don't believe so.

Ms. Simon – Okay. Thank you.

**20. Application(s) for Monument Establishment Sales Agent License**  
**A. Informational Item (Licenses Issued without Conditions) – Addendum J**

Ms. Simon – This item is informational only. Pursuant to s. 497.554(3)(a), F.S., the applicants have already been issued licensure as monument establishment sales agents.

**21. Application(s) for Preneed Main License**  
**A. Recommended for Approval without Conditions**  
**(1) Fountain Funeral Home, Inc. (Avon Park)**

Ms. Simon – The Department received the application on November 3, 2017 and all issues with the application were resolved as of November 20, 2017. The principal and sole owner of the corporation is Julia A. Hitt, and a completed background check of all principals was returned to the Division without criminal history. Applicant previously held a preneed license (License # F019460) from May 2005 through June 2011. Its qualifying funeral establishment license (License # F092399) located at the above address was first obtained as of May 2005, and an application for a change of ownership of the funeral establishment was submitted and approved in August 2016. If this application for preneed license is approved, Applicant will continue to honor any existing preneed contracts that were previously written under the former preneed license # F019460, and will sell trust-funded preneed through Funeral Services Inc. (Sabal Trust Company), and utilize its approved pre-arranged funeral agreement form(s).

The Applicant's financial statements as of September 30, 2017, reflects the following:

Outstanding Preneed Contracts	= \$	35,845
Required Net Worth	= \$	10,000
Reported Net Worth	= \$	198,052

The Division recommends approval without conditions.

Mr. Hall – Question, Mr. Chair?

Chair – Mr. Hall?

Mr. Hall – Maybe for our colleague, Mr. Davis, on one line, the Tax Agreement, what is that? Is it that taxes due on the financials? Can you explain it?

Ms. Simon – What page?

Mr. Hall – It's on Page 17. It shows \$45,205.44 and it just says Tax Agreement. I thought maybe that was something new on Trump's new tax code. Is it possibly back taxes and they've made some type of agreement on paying it?

Mr. Davis – It’s very possible. {inaudible}

Chair – It is on Page 17, under Long-Term Liabilities.

Mr. Hall – Mr. Davis, if the net worth is adequate, do you feel comfortable with that, as a CPA?

Mr. Davis – Yes. It looks adequate to me.

**MOTION:** Mr. Hall moved to approve the application. Mr. Bango seconded the motion, which passed unanimously.

***(2) Gracefully Southern, LLC (Ocala)***

Ms. Simon – The Department received the application on October 16, 2017 and there were no deficiencies noted on the application. The members of the LLC are William A. Johnson, Joshua Matthews-Leverette, and Jason M. Schappert, and a completed background check of all principals were returned to the Division without criminal history. Applicant obtained its qualifying funeral establishment license (License # F211908) as of October 27, 2017. If this application for preneed license is approved, Applicant will sell trust-funded preneed through Funeral Services Inc., and utilize its approved pre-arranged funeral agreement form(s).

The Applicant’s financial statements as of August 28, 2017, reflects the following:

Outstanding Preneed Contracts	= \$	0
Required Net Worth	= \$	10,000
Reported Net Worth	= \$	10,000

The Division recommends approval without conditions.

Ms. Wiener – Mr. Chairman?

Chair – Ms. Wiener?

Ms. Wiener – Just a point of clarification for this an any others with regards to Funeral Services, Inc., Live Oak Banking Co. has been the trustee for some time. I think that just hasn’t been updated on your coversheets.

Chair – Thank you for that clarification.

**MOTION:** Mr. Helm moved to approve the application. Mr. Jones seconded the motion, which passed unanimously.

***B. Recommended for Approval with Conditions***  
***(1) Nefesh Monuments Inc. (Atlantis)***

Ms. Simon – The Department received the application on October 17, 2017 and all outstanding issues associated with the application were resolved as of November 22, 2017. The principals of the corporation are Haryl Askotzky, Norbert Baumann, Jay Lyons, and Elchonon Zohn. A completed background check for Mr. Askotzky, Mr. Baumann, and Mr. Lyons have been returned to the Division without criminal history. The completed background check for Mr. Zohn is pending receipt to the Division. Applicant was approved for the qualifying monument establishment builder license located at the above address at the November 2, 2017 Board teleconference meeting. If this application for preneed license is approved, Applicant will sell trust-funded preneed through Funeral Services Inc., and utilize its approved pre-arranged funeral agreement.

The Applicant’s financial statements as of October 16, 2017, reflects the following:

Outstanding Preneed Contracts	= \$	0
Required Net Worth	= \$	10,000
Reported Net Worth	= \$	10,155

The Division recommends approval subject to the condition that a completed background check for Applicant's principal, Elchonon Zohn is returned to the Division without criminal history within 30 days of this Board meeting.

Mr. Helm – Quick question?

Chair – Mr. Helm?

Mr. Helm – Why hasn't his criminal history come back and the rest of them have? Does anyone know?

Ms. Simon – Ms. Morris?

Ms. Lashonda Morris – If I may. Lashonda Morris with the Division. Mr. Zohn was out of state, so he had to get his fingerprints taken out of state and it took him a while, but he's done that. However, because the results came back eligible both times, he had to do it two (2) times, according to the law, and so that's what we're waiting for.

Mr. Helm – So it's just a technicality, correct?

Ms. Morris – I guess you can say that. We're waiting for the FBI results to come back.

**MOTION:** Mr. Helm moved to approve the application subject to the condition that a completed background check for Applicant's principal, Elchonon Zohn is returned to the Division without criminal history within 30 days of this Board meeting. Mr. Hall seconded the motion, which passed unanimously.

**22. Application(s) for Preneed Branch License**

**A. Recommended for Approval without Conditions – Addendum K**

Ms. Simon – The applications were complete without reportable criminal or disciplinary history. It appears that the applicants qualify for branch licensure and the Division recommends approval of the preneed branch licenses.

**MOTION:** Mr. Clark moved to approve the applications. Ms. Anderson seconded the motion, which passed unanimously.

**23. Request(s) for Withdrawal from Cemetery Care and Maintenance Trust**

**A. Recommended for Approval without Conditions**

**(1) Oakdale Cemetery Association (Deland) (F039443)**

Ms. Simon – On November 16, 2017, Cheryl Lankford, President of the Oakdale Cemetery Association Board sent a request regarding withdrawal from their cemetery care and maintenance trust fund. In her letter dated November 16, 2017, Ms. Lankford explains that the cemetery is a non-profit association and the reason for requesting this reimbursement is due to clean-up of tree damage that was caused by Hurricanes Matthew and Irma that occurred within the past two (2) years. All reserve monies that the cemetery had set aside were used for expenses associated with the clean-up of the cemetery property that stemmed from the tree damage. This has resulted in a deficit to the cemetery reserve monies which will affect both the cemetery's ability to meet payroll for its employees, as well as its ability to continue to make needed improvements to the cemetery property. Therefore, Oakdale Cemetery is requesting a withdrawal against its cemetery care and maintenance trust fund in the amount of \$50,687 for these expenses related to the overall maintenance of the cemetery.

Based upon its review, the Division asserts that Ms. Lankford's request to use funds from the cemetery care and maintenance trust for expenses associated with repair or restoration to the cemetery grounds due to destruction is deemed permissible use of the cemetery care and maintenance trust fund as defined under s. 497.005(11), F. S. The cemetery care and maintenance trustee reports for calendar years 2016 and 2017 indicate that the current balance of the trust is more than \$500,000. As permitted under s. 497.2675(2)(a), F. S., the amount of trust income remitted to the cemetery during those two (2) years totaled approximately \$32,859; however, that trust income was expended during clean-up of tree damage to the cemetery property. Thus, this has created a deficit for the cemetery with no further reserve left for required routine cemetery upkeep and maintenance. Therefore, the Division is recommending approval for withdrawal from the trust in the amount of \$50,687.

Chair – Board?

Mr. Helm – Mr. Chairman, may I ask a question?

Chair – Please do.

Mr. Helm – If I'm reading this right, what they're saying is they don't have the money to pay their help if we don't do something. Is that correct?

Ms. Simon – That was how I read it. Yes, sir.

**MOTION:** Mr. Helm moved to approve the request for withdrawal from the trust in the amount of \$50,687. Mr. Davis seconded the motion, which passed unanimously.

**24. Request(s) to Renew License (Criminal History)**  
**A. Recommended for Approval *without* Conditions**  
**(1) Williams, Michael L (F045425)**

Ms. Simon – Mr. Williams has applied to renew his Funeral Director and Embalmer license (F045425); however, there was a reported criminal history on file. The relevant criminal history is that in April 2016, Mr. Williams pled no contest to Driving with a Suspended license. Mr. Williams was ordered to attend Defensive Driving School and assessed a fine of \$322.

The Division is recommending approval of the renewal.

**MOTION:** Mr. Jones moved to approve the request. Mr. Clark seconded the motion, which passed unanimously.

**B. Recommended for Denial**  
**(1) Long, William T (F043767)**

Ms. Simon – Mr. Long has applied to renew his Funeral Director and Embalmer license (F043767); however, there was a reported criminal history on file. The relevant criminal history is that in February 2017, Mr. Long pled no contest to Felony Possession of Cocaine and Felony Domestic Battery. Mr. Long was placed on Drug Offender probation for 36 months.

The Division is recommending denial of the renewal.

Chair – Ms. Wiener?

Ms. Wiener – Thank you, Mr. Chairman. Members of the Board, I'd like for you to, in a few moments, hear directly from Mr. Long and also from his employer, Mr. Gillaspie, about his background and the reasons that we think that he is appropriate to continue on as a funeral director and embalmer with his licensure status intact. This is a situation where the circumstances of the criminal activity have nothing whatsoever to do with his capacity to practice his profession. As Mr. Long will explain, this was a scenario that occurred over a period of time. It was isolated. It was related to a very tumultuous marriage and it resulted in a mistake that was made by Mr. Long. He ultimately, at the advice of his criminal attorney, did plead no contest, simply to put the matter behind him, as in the criminal law context is often the outcome for people in certain circumstances. But we do believe that notwithstanding the fact that he continues to be on probation for some period of time, that he is appropriate to continue his licensure status. So I'd like to give Mr. Long an opportunity to be sworn in by the Division and then present some testimony on his behalf.

Mr. Helm – May I, please?

Chair – Mr. Helm?

Mr. Helm – What is your basis for denial? Do you have that written down?

Ms. Simon – Yes sir. The basis of denial is that Mr. Long has a criminal record from February of this year. The criminal record was based on two (2) felonies and the fact that Mr. Long is currently on probation for thirty-six (36) months. That's the basis for the recommendation of denial.

Mr. Helm – Okay.

Ms. Wiener – Thank you.

Ms. Simon – Can you please raise your right hand?

Chair – Anything else, Mr. Helm?

Mr. Helm – No. You don't have a specific rule written down?

Ms. Simon – The Division can take into account a criminal history of the applicant. Right now, I do not have it at my fingertip.

Mr. Barnhart – Under s. 497.141(5)(a), F.S., the statute provides that renewal is not permissible or should not occur unless the applicant demonstrates that issuance of a license does not create a danger to the public. That's the standard that you should be applying.

Mr. Helm – Thank you. I just wanted to know what it was, first.

Ms. Wiener – We intend to present testimony to provide that standard. Thank you.

Ms. Simon – Can you please raise your right hand to be sworn in?

Mr. William Long – Yes ma'am.

Ms. Simon – Do you swear to tell the truth, the whole truth and nothing but the truth?

Mr. Long – Absolutely.

Ms. Simon – Please state your name for the record.

Mr. Long – William Long. Mr. Chairman, Mr. Brandenburg, members of the Board, I just humbly stand before you today. As Ms. Wiener so eloquently put it, I entered into a very tumultuous relationship with an individual that resulted in some extremely negative situations that occurred in my life. I have spent forty-seven (47) years in the funeral profession. I am proud of the service that I have spent in this profession. I appreciate the professionalism that this Board exhibits and I am here to answer any questions that any of you may have of me. Again, I just humbly request renewal of my license. This is negatively impacting me in my community, the families in which I serve. Negatively impacting the new owner of the funeral home and his ability to move forward in our profession and move forward in our business. Again, I'm here to answer any questions that any of you may have.

Chair – I do have a question.

Mr. Long – Yes sir, Mr. Brandenburg?

Chair – On your application for renewal, it talks about background questions and asks you if there are any felonies or misdemeanors, no matter when committed...and you answered no.

Mr. Long – Yes sir, Mr. Brandenburg, I did do that. I did that simply because I thought when Judge Zambrano withheld adjudication that I was not guilty of a crime, so I obviously misread the question. I just simply sent in my renewal as I normally would, via the computer, and I answered no. Staff brought that to my attention and it was simply a mistake on my part.



Chair – Board members, that’s page 3 of your packet. I did have another question. On your “Open Letter of Appeal to the Honorable Members of the Board of Funeral and Cemetery Services,” you talk about the accusation of domestic battery and then beside that you have, what do you have beside that?

Mr. Long – I’ve been accused of possession of cocaine or a controlled substance.

Chair – It says here, on what I have, “Adjudicated Not Guilty.”

Mr. Long – My apologies again. Ms. Wiener had me adjust my terminology since I submitted this letter. Judge Zambrano withheld adjudication of guilt. He did not adjudicate me not guilty.

Chair – That’s a lot of difference between adjudicated not guilty, and the same way on the other one you had listed adjudicated not guilty.

Mr. Long – Yes sir, I understand that. My apologies.

Ms. Wiener – When you answered the questions in that way, did you have any intentions to mislead the Board?

Mr. Long – No, absolutely not.

Ms. Wiener – I believe you also, at that time, submitted the requisite documentation from the court system.

Mr. Long – Yes, absolutely. All court documents were submitted to staff.

Chair – I believe you stated that your probation’s end date was December 2017.

Mr. Long – Again, sorry Mr. Brandenburg.

Chair – The indications are that the probation end date is 2020. Could you explain that difference between what you gave us and what is actual?

Mr. Long – Absolutely, Mr. Brandenburg. When I met with defense counsel and it was advised to me not to place my future in the hands of a jury, that it was easier to plead no contest, I thought by pleading no contest that the sixteen (16) month probation was to run concurrent and come to find out, since again submitting this letter to you, that it is not running concurrent. It simply terminates at the successful completion or halfway through it. It’s not going to go for thirty-six (36) months. I think at the successful completion of sixteen (16) months I automatically drop off probation.

Ms. Wiener – And that’s what you were told by your criminal attorney?

Mr. Long – That’s what I was told by my criminal attorney.

Mr. Barnhart – But to be released after eighteen (18) months, don’t you have to file a motion to get that approved by the court?

Mr. Long – It is already in the court documentation that it automatically ends.

Mr. Barnhart – I’ve never heard of that.

Mr. Long – Judge Zambrano allowed that.

Mr. Barnhart – If you complete everything up to that date?

Mr. Long – If I complete everything up to that date. Yes, sir.

Ms. Simon – Is that in the Order of Drug Offender Probation?

Mr. Long – Yes.

Ms. Simon – That it states that?

Mr. Long – Yes, it should be in there.

Ms. Simon – I did not see that.

Ms. Wiener – Perhaps that's a supplemental. Mr. Chairman, Mr. Gillaspie was a witness at the hearing that Mr. Long attended and we also wanted to very briefly offer some testimony from him. So, perhaps he can clarify.

Chair – Let's put a hold on that for just a moment. Did we find anything in there that mentions eighteen (18) months of probation?

Ms. Simon – As opposed to sixteen (16)? If do not see that. The only thing I see is Drug Offender Probation for a period of thirty-six (36) months. I do not see language regarding early termination.

Mr. Long – Mr. Brandenburg, again, it is no way my intent to mislead you. My attorney, Mr. Damore, I don't know if I can reach him and put him on speaker phone, but he can confirm that it is an automatic withdrawal.

Chair – I understand. All we have to go by is what's before us.

Mr. Long – Yes sir.

Ms. Wiener – Perhaps if there is consideration of granting his request to be renewed, it could be upon the condition that we provide affirmation of that fact to corroborate his testimony. I believe Mr. Gillaspie can corroborate that as well.

Chair – Mr. Gillaspie needs to be sworn in.

Ms. Simon – Will you please raise your right hand? Do you swear to tell the truth, the whole truth and nothing but the truth?

Mr. Jonathan Gillaspie – Yes.

Ms. Simon – Please state your name for the record.

Mr. Gillaspie – Jonathan Gillaspie. Permission to speak?

Chair – Go right ahead.

Mr. Gillaspie – I was actually there for that court appearance and when everything took place, we were all under the impression that the probation was going to end. I thought it was the 18<sup>th</sup>, so I've been counting down the days, too. Under Wendy's guidance, we revealed that it was a longer time period. I just want to clarify what we all thought when the probation was going to be terminated. We understand now that it is longer, but I know it's not in writing there, but what everybody thought from what Mr. Damore had expressed and Judge Zambrano.

Ms. Wiener – I'd like for you to be able to speak to the Board for a moment about Mr. Long's fitness to practice his profession. As Board counsel, Mr. Barnhart stated, the standard for this Board is that a renewal cannot be granted unless Mr. Long shows that he is not a danger to the public, the public with which he will interact, and I believe Mr. Long's testimony has spoken to that but If you can speak to that as well.

Mr. Gillaspie – Absolutely. During the time that I've had an opportunity to work with Mr. Long, his quality and care for loved ones, as far as embalming, has been excellent. His time arrangements with families, he's caring, compassionate, understanding. I've never had a family upset in any way, shape, or form. He does a wonderful job supporting the family during their time of need and I have 100% trust in his abilities.

Chair – Thank you. Mr. Helm?

Mr. Helm – How long have you known him?

Mr. Gillaspie – Going on two (2) years.

Ms. Wiener – Mr. Gillaspie acquired Mr. Long's business a couple of years ago.

Mr. Gillaspie – Four (4) years this December.

Chair – Mr. Hall.

Mr. Hall – Couple of questions. Has there been any mandatory drug testing?

Mr. Long – Yes, absolutely.

Mr. Hall – No problems with the tests?

Mr. Long – No sir.

Mr. Hall – Okay. To me, as far as the testimony he provides as your employee, it doesn't matter. That wouldn't weigh into it for me. It looks like when you look at the paperwork you had an exemplary career up to this point, then you had some bad choices.

Mr. Long – I made some very bad choices.

Mr. Hall – With bad choices comes consequences. That's my concern from the public safety. The fact that you had it up to this point then you made these choices, what guarantee can you give us that that's not going to happen again?

Mr. Long – Mr. Hall, I've absolutely transformed my life. I am in the midst of a legal divorce for one. Two, I just completed my Master's Degree program. I'm on into my Doctorate Degree program. I am attending the university online and I'm going for my Doctorate in Psychology. I am the former Vice Chairman of the Volusia County Council. I'm a former City Councilman for the City of DeBary. I'm an ordained minister and I have not intent to stand in front of you again provided you give me the opportunity to practice my profession.

Mr. Hall – Was your intent with these degrees to go and pursue another career?

Mr. Long – Actually, bereavement counseling in addition to funeral service.

Mr. Hall – So have we decided exactly how many months we think are left on that probation?

Ms. Wiener – It's a thirty-six (36) month term. We can, as I said, I can contact Mr. Long's criminal attorney and get additional documentation on the termination of that probation. We would certainly welcome a ruling from this Board that his licensure be contingent upon receiving that.

Mr. Hall -What would the Division or Chair's position be if we waited and tabled until we get the accurate information?

Chair – We can discuss that. There's inconsistencies that concern me and if there's inconsistencies in the information provided this Board, I'd be concerned about inconsistencies in dealing with client families. The inconsistency is on your application to the background questions, no instead of yes; the inconsistency of you describing it as adjudicated not guilty in two (2) places; and the inconsistency of the probation end date, this month. Those are inconsistencies that are obviously concerning to me.

Mr. Long – I can appreciate that, Mr. Brandenburg. My apologies again. I never meant to mislead the Board, the Division, the Department or Staff in any way, shape, or form. Again, it was a tremendously difficult situation for a person like me to be in,

to go into the criminal prosecution system. I've never been in that situation before. Using terminology and verbiage that would come from a defense attorney vs. from a layman who doesn't understand completely how you explain that. The bottom line is Mr. Hall, I am required to have random drug tests every month, as I see my probation officer. Absolutely, my probation will end in June, automatically. That is by Judge Zambrano's Order. That can be proven. Again, ladies and gentleman, I'm just simply at the point where I really want to remain in this profession. I have done an outstanding job, in my personal opinion, and the opinions of my employer and the opinions of the people I know. I've actually worked for corporations and people who actually are on this Board and I don't think any of them would have actually ever noticed anything about me that would question my ability as a funeral director.

Chair – Mr. Barnhart?

Mr. Barnhart – Board members, the representations about the probation end date and the adjudication questions, I don't think you need to spend too much time dealing with that because I've seen lots of applications and this is something that is confused very easily by people not familiar with the criminal law system. It does concern me that the application said no, as far as criminal history, and it bothers me that it's pretty recent. It was earlier this year as far as when the charges were resolved and I don't see the automatic termination of probation after eighteen (18) months. I don't see it in the Order and I'm not familiar with that ever being done at the front end saying that it's going to be automatically expiring at the conclusion of fifty percent (50%) of the probation term. Those are the kinds of things I'm struggling with.

Ms. Wiener – If you'd like, Mr. Long and try and reach his criminal attorney and have them provide a...

Mr. Barnhart – If he had the documentation available, that would be one thing, but why would it not be in the Order imposing the probation?

Ms. Wiener – So let's say this. Frankly, to me, the term of the probation is relevant but not, and this is why. Today, as he stands before you, he is indeed on criminal probation, but I believe that he meets the qualifications or the standard to be approved while on criminal probation. Whether that term is to expire early or to complete throughout the full term as originally ordered, the facts, as presented through Mr. Long's letter and his testimony, show that he is not a danger to those with whom he interacts in conducting his business as a funeral director. There is not a single allegation that he has ever engaged in violence or inappropriate activity or taking money or doing anything that would have any impact whatsoever on his ability to practice his profession. These two (2) incidents are, as indicated by the court records and by Mr. Long, isolated and related to a tumultuous marital relationship that is being resolved. We're certainly happy to provide additional information, as I said, clarifying from the criminal attorney the exact terms of that. I do want to make sure that, as Mr. Barnhart noted, it's not unusual for people who go through the criminal court system and understand that their adjudication of guilt has been withheld to think that that means they have not been adjudicated guilty and therefore adjudicated not guilty. So, as Mr. Barnhart said, it's a tricky play on words in a lot of the minds of layman, but we believe that there is just no evidence to support any conclusion that he would in any way endanger the customers with whom he interacts.

Chair – Thank you. Would you like to make a statement?

Ms. Simon – Yes. Mr. Chairman, since Mr. Long has already indicated that he has worked for members of the Board, I think it would be appropriate at this time that we identify those members and they state that continuing to work on this case they will not be biased or they will be biased and should recuse themselves.

Chair – Can you identify the Board members?

Mr. Long – I understand that. Mr. Brandenburg, frankly, with Hardage Giddens in Jacksonville back in '82. I believe you were there.

Chair – Was I?

Mr. Long – Yes sir. And, Stewart Enterprises, Keenan Knopke.

Chair – He's not here.

Mr. Long – He's not here.

Ms. Simon – Are those the only two (2)?

Mr. Long – The only two (2).

Chair – I would certainly say I'd like to declare my affiliation with SCI Funeral Services of Florida and that affiliation in no way will impair my ability to make a fair and impartial decision on this case before the Board or anything coming before the Board today. Mr. Hall?

Mr. Hall – I'm glad that you're through this period, hopefully, and that you're turning it around, you're advancing your education, you're involved in the church, it sounds like. If I'm being honest with you, would I seek counsel from you as a grief counselor or whatever, with your record, I would not, at this point. I think there's a period of proof that you have to spend to prove yourself again and I don't know if we're at that point. From a minister's standpoint, in my church, if there's a stumble, there's a period of time they have to prove themselves, and go through a disciplinary period and to me, that's where we're at here. I hope you can turn that around, but at this point, looking at the record, the probation, and the seriousness of the crimes, I would move to deny.

**MOTION:** Mr. Hall moved to deny the request. Mr. Helm seconded the motion.

Chair – Ms. Wiener?

Ms. Wiener – Mr. Hall, would it be sufficient if you would run a probationary period for Mr. Long's funeral director and embalming license, consistent with whatever term he is on criminal probation for so that you could ensure that there aren't any issues or additional reporting? What we're talking about, and I tuned into your phrase "a time to prove yourself," and I think that would enable Mr. Long to continue to prove himself during that time period.

Mr. Hall – My feeling is that at the end of that probationary period, he has the ability to come back before the Board and reapply. To me personally, I would rather see him come back before the Board at that point showing us that the drug tests were all good, showing us what he's done, whether it be educational or whatever he's pursuing at this point and prove it to me at that point, instead of allowing him to be back before families. I have some of the same concerns that Mr. Brandenburg has with the inconsistencies. Mine is a public safety issue for the public. While I understand he didn't have any issues for years, there's been some poor decisions and I'm concerned about that. If I hear you right, you're asking me to put him back before families during this thirty-six (36) months and allow that to continue.

Ms. Wiener – That is correct, but remember, this incident occurred in 2016. What month was it?

Mr. Long – November of 2016.

Ms. Wiener – In November of 2016, and of course he continued to practice up until the expiration of his license, again without incident. These actions really have no relationship to his funeral directing ability and I believe, as Mr. Gillaspie said, there has been no incident during that time period.

Mr. Long – Mr. Brandenburg, may I?

Chair – Yes.

Mr. Long – Mr. Hall, she brings up a very good point and I appreciate her acknowledging that. Bottom line is up until license renewal, I've been practicing as a licensed funeral director and embalmer for more than a year since these incidents occurred and without any reservation on any family's part. We receive notes and comments and surveys from our families that have not said anything negative about the way that I've approached them or handled them in any manner. I also, frankly, if you would be so kind, I appreciate her suggestion that obviously the judge felt it necessary to give me a period of time to prove myself and to pass mandatory drug testing each and every month, meet all my probation criteria, etc., that if I could remain in the funeral profession as a licensed funeral director and if at that time, at the conclusion of that probation, or if I should violate

that probation, the Board could pull my license then. But I have practiced in funeral service as a funeral director for more than a year since these instances occurred, and as an embalmer.

Mr. Hall – And in my opinion, and I don't know what steps we could have taken, but once you were charged with that we should have had some provision to stop that. If the judge that heard your case, and probably heard a lot more evidence than what we're hearing, felt that there was thirty-six (36) months necessary, I probably do too.

Mr. Long – It is eighteen (18) months, I assure you.

Mr Hall – Whatever the period. There were some serious charges here with some serious problems and looking at your record, there doesn't appear that there were any issues before that, but there were some bad choices made and I don't know what the guarantee is that it wouldn't happen with a family.

Mr. Long – You have my word.

Chair – So there's a motion before the Board and a second.

Ms. Wiener – If the Board is inclined to deny his license, we would request that you give him permission, as you so many times graciously in the past have done, to withdraw his application so that he does not have a denial of a license application on his record.

Chair – Well we do have a motion and a second. What would you like to do?

Ms. Wiener – If the Board is inclined to deny it, I think we would withdraw the license application.

Chair – I can't say what the Board is going to do. We have a motion to deny and a second. That's where we are.

Mr. Long – Mr. Chairman, on the advice of counsel, I respectfully request to withdraw my application?

Mr. Barnhart – Does the maker of the motion agree to that?

Mr. Hall – Division, can you give a comment?

Mr. Barnhart – The Board does not have to allow a withdrawal.

Chair – Well, there's a continuation of being licensed.

Ms. Wiener – No, his license has expired now.

Mr. Barnhart – When did it expire?

Ms. Wiener – At the conclusion of the term, just now.

Ms. Richardson – August 31, 2017.

Mr. Barnhart – August 31?

Ms. Richardson – Yes.

Chair – So, you haven't been practicing?

Mr. Long – I have, sir. I've been practicing for a nearly a year as a licensed funeral director until my license expired and Ms. Wiener told me that because of what comes before the Board, I had to stop.

Chair – It was discovered that you were eligible for renewal, but there were some inconsistencies.

Mr. Barnhart – But the Board had not made a decision until today, if they do so.

Chair – Right.

Mr. Hall – Speaking of consistency, have we not recently denied licensure for less offenses than what we're talking about on this particular candidate?

Chair – Mr. Barnhart?

Mr. Barnhart – In some cases, that's probably true, but I think it should be determined on a case by case basis as to whether the applicant has convinced you that there will not be a problem with him operating in the public. So I think it's a case by case basis. Sometimes the applicants don't even appear either and try to present some evidence. I think in the past, I don't know for sure, but I think in the past the Board has usually allowed people to withdraw their applications, but I don't know if that is something that you want to continue doing or if that has been done. It's really up to the Board, but the maker of the motion should agree to withdraw if it's their desire to do that.

Mr. Hall – I think that we had a similar situation even last month on our conference call.

Chair – I'd like to call on Ms. Simon for a Division statement.

Ms. Simon – Regarding the withdrawal of the application, my only concern is that that would be inconsistent to what did happen last month when we actually did deny a licensure request based upon similar circumstances, not mentioning the fine or the probation or things of that nature.

Mr. Barnhart – But I think the difference here is that they are requesting that they be allowed to withdraw, which I don't think was done in the other case and I go back to deciding each case on its own merits. Perhaps if they had been here and requested a withdrawal as opposed to being denied that you might have approved it. That's what they're doing here. So that's not the precedent that I'm worried about. It's the fact that they're asking that and it's up to the Board and maker of the motion.

Mr. Hall – If withdrawal is approved, what is the ability for him to reapply? Anytime?

Ms. Simon – The licensee can reapply for licensure. There's nothing barring that.

Mr. Hall – No timeframe or anything?

Ms. Simon – No sir.

Ms. Wiener – Of course we would make a measured determination about the likelihood of success when we reapply. I don't think that there's a concern that should be had that Mr. Long will act recklessly with regard to taking next steps on his application. In terms of precedent, this Board has many, many times allowed licensees to withdraw applications when it looked as though perhaps the Board was going to deny an application, and has even, to my recollection, offered that opportunity to other licensees. So, we would simply request the ability to be given that advantage.

Mr. Hall – But, if he was denied, he still has the availability to come back and apply anyway.

Ms. Wiener – Sure.

Mr. Hall – So there's no difference.

Chair – But he would not have a denial on his record.

Ms. Wiener – Right. Particularly in this circumstance, I appreciate your concerns. I understand Mr. Helm shares those concerns. From a legal standpoint, I still have concerns myself that there's no evidence to support a denial, because there's no real evidence of potential harm to the consumers that will purchase funerals or engage with Mr. Long in the funeral profession. I don't think that this is a scenario where the Board should deny a licensee an opportunity to withdraw their license.

Chair – Ms. Simon?

Ms. Simon – In point of fact, Mr. Hall., to address your concerns in terms of reapplying for renewal of license, that could only be done, I believe, within the next two (2) years. After that period, two (2) years from September, it would be an application for new licensure.

Ms. Wiener – That's correct.

Mr. Hall – About the time the probation is potentially up?

Ms. Simon – Yes sir.

Mr. Hall – Well, we think.

Ms. Simon – I'm just stating that so that you're aware.

Chair – If the make of the motion and the second of the motion would want to withdraw and have another motion to allow withdrawal, that would also be entertained. So, we can move forward with what we have or...

Mr. Hall – So, either is the same result from the perspective of them reapplying for licensure with the Division? The only difference is the gentleman does not have a denial on his record.

Chair – Right.

Mr. Hall – That's the only thing we're debating, right?

Mr. Barnhart – Right.

Chair – So, we have a motion before us to deny and we have a second before us to deny.

Mr. Hall – I would agree to a withdrawal.

Chair – Okay.

Mr. Barnhart – Is there a motion to allow withdrawal?

**MOTION:** Mr. Hall moved to allow the withdrawal. Mr. Helm seconded the motion, which passed unanimously.

## **25. Executive Director's Report**

### **A. Revised Meeting Calendar for 2018 (Verbal)**

Ms. Simon – At this time, the Division Director, Ms. Schwantes will discuss the first item.

Ms. Schwantes – Thank you. There is a handout available if the room, if you haven't already received one. Everyone at the Board table should have a revised calendar for 2018. At our previous meeting, we advised we might need to make some changes to the proposed 2018 calendar that was adopted at the time, due to room availability, etc. As you all know, all Florida hotels are significantly impacted in the springtime by spring break and peak seasons. We initially had proposed Orlando in February and Panama City Beach in April, but we could not find rooms, so we've had to switch those two, so now the Panama



City Beach meeting would be in February at the Sheraton Bay Point Resort and the April meeting will now be held in Orlando at the Doubletree by Hilton Downtown. We've been able to secure both meeting rooms and hotel lodging. We have also confirmed with the IFDF that their annual conference will take place from June 6 – 8, with the Board meeting being held on Thursday, June 7<sup>th</sup>, at the Saddlebrook Golf Resort. To make sure that at least State employees are in compliance with the State hotel limits, we will have an alternate hotel designated in case lodging at a cheaper rate is needed. We will be getting that information out to you shortly. Some of the other hotels or meeting locations you'll see are still listed as TBA. We'll be getting that information to you as soon as we have it. Are there any questions regarding the hotel rooms or the meeting locations?

Chair – Well, it certainly would be convenient to be able to hotel where the conference or the convention is being held. I will state that.

Ms. Schwantes – Absolutely.

Chair – That's certainly, I think, what the Board members would prefer.

Ms. Schwantes – Absolutely. I don't think there's as much of a concern for some of the Board members as there is for some of the State employees, but we will take a look at that for sure.

Chair – Thank you.

Ms. Schwantes – Okay.

#### ***B. Proposed Legislation 497.456(12), Florida Statutes***

Ms. Schwantes – As part of an agency bill, the Department will be proposing language setting a cap on the Consumer Protection Trust Fund of \$5 million and annually transferring amounts in excess of that \$5 million to the Regulatory Trust Fund for the benefit of this Division's operations. The proposed bill language was provided to the Board in the packet:

*Section 8. Subsection (12) of section 497.456, Florida Statutes, is amended to read:*

*497.456 Preneed Funeral Contract Consumer Protection Trust Fund. —*

*(12) Notwithstanding the fee structure in subsection (2), the department shall review the status of the trust fund on or before August 31 of each year ~~annually~~, and if it determines that the amount in the trust fund exceeds \$5 million, the department must transfer any funds in excess of this amount to the Regulatory Trust Fund for the purpose of providing for the payment of expenses of the licensing authority in carrying out its responsibilities under this chapter and as prescribed by rule. Additionally, if the department determines that the uncommitted trust fund balance exceeds \$1 million, the licensing authority may by rule lower the required payments to the trust fund to an amount not less than \$1 per preneed contract.*

We've talked about a lot of this before, at various Board meetings. The Division has multiple information technology and infrastructure issues. Significant funding is needed to correct some of these issues, and I'll give you two (2) major illustrations of that:

- We have eight (8) access database systems that are used to run the bulk of the systems that this Division operates from. Those access databases are no longer supported by either the Department's Information Technology Division or frankly by information technology. They are homegrown systems. They were developed within the Division and it is time to replace those systems with something better and newer. The initial estimated costs for those replacements is about \$1 million.
- We have additional staffing that is needed. When this Division was initially set up, the staffing was approved at the amount of about 32 people. We've consistently had around 25-26 fulltime employees (FTE) and that's what we're at now. We have 26 FTE employees and 2 OPS employees. Additional staffing is needed, in particular in the auditing and accounting areas, in order to assist with the examinations of the companies, particularly the major companies. We never

received funding for all of the positions that were authorized and we're currently operating with the 26 FTE employees and 2 OPS employees. We have, as you all are aware, made requests in the past years, for additional employees from the legislation, and each year it has been turned down. This last year, we requested six (6) new positions. Either the House or the Senate said three (3) would sound pretty good, but when they met all together and looked at the budget, they said zero (0).

So, the Department has been looking at various options on how to solve the funding issue, but the best solution that we arrived at is to cap the CPTF and transfer the funds in excess of the cap to the Regulatory Trust Fund for the Division's use. This is not a proposal that is new to anybody in the industry. I know that certain industry members have proposed something similar in the past. Just to cover a little bit of the historical overview of the CPTF, and we will do that again here in a few minutes with the financials, but just a few points to keep in mind for right now:

- Income into CPTF since 2009 is roughly about \$250k per year, including interest, which is the highest component of the income.
- Claims payments usually are around \$55k to \$85k per year. There have been some peak years in the recent eight (8) or nine (9) years that involved larger failures in which the claim payments have exceeded those amounts, but they never have exceeded \$200k.
- The CPTF now stands at \$8.8 million. So capping it at \$5 million will result in an "immediate" influx of \$3.8 million into Regulatory Trust Fund, which will enable the Division to begin making some of the necessary systems and other improvements.

The proposed legislative solution, again I understand that it's something that at least conceptually has been considered by this industry in the past. Our DFS Legislative Affairs Office, which is directed by BG Murphy, has discussed the matter with legislative staff. The DFS agency bill, which this is part of, will be sponsored by Senator Stargel and Representative Hager. Over the past few weeks, BG Murphy, Deputy Director Kimberly Renspie, Ellen Simon and I have met with representatives from three (3) associations: FCCFA, FMA, and IFDF. So far, we're getting favorable response on this, but as always, we are seeking industry input, so if anyone has any questions or concerns regarding the matter, I would ask that you please contact BG Murphy or me directly about it, and would ask if the Board has any questions at this point regarding the proposed language or comments.

Chair – Board members?

Mr. Jones – I'm glad to see this. It's long needed. I think it will go a long way. It's things we actually recommended several years ago, so good job.

Chair – I'd like to see the Board, as a group, at least support or approve the concept of the legislation and make sure that it's known that this body, at least, does not object but approves the concept of it. I'll make that motion.

**MOTION:** The Chair moved to approve the concept of the proposed legislation. Mr. Hall seconded the motion, which passed unanimously.

Chair – Thank you.

Ms. Schwantes – Thank you all very much, and we will keep you updated, of course, as things progress through the legislative session.

### ***C. Division Financial/Budget Issues (Verbal)***

Ms. Schwantes – Moving on to something that is new for the Board, or has not been presented in a long time. I want to cover some Division financial and budget issues. Again, handouts are available on the table and have also been prepared and provided to the Board members. So, I hope everybody has a copy of these documents. As I go through each of them, I want to make sure that they're well understood. Before getting started, I want to introduce you all to a Division staff member, who a lot of you may not have yet met. Paul Rantuccio is our Financial Administrator. He oversees the licensing arm of the Division here in Tallahassee and is also essentially our budget manager. Paul and I spent many hours working with the Department's Budget Office to translate the legislative budget information and general ledger codes that they work with and are familiar

with into a more business oriented presentation that we hope will be of use to the Board and industry. Anyway, Paul is going to keep me straight on these explanations – and I will be sure to turn to him if asked a question I cannot answer.

Let's briefly talk about statutory authority re budget and Board review of financials. S. 497.103(2)(n), F.S., provides that the Department has the "authority to develop and submit to the legislature from time to time budgets for the implementation of this chapter." I think everybody here in this room is aware that we have to submit budgets, not from time to time, but annually, to the legislature and in fact work on budgets a year in advance of when they're needed. For example, for the fiscal year 2018/2019 year, we actually submitted budget to our Budget Office for legislative consideration last summer. So we worked well in advance and they are submitted to degree of fiscal oversight.

Chair – That is not part of the documents?

Ms. Schwantes – That is not part of the documents. No, the statutory authority is not on the document itself. The other statutory authority that I want everybody to understand is s. 497.140(1)(b), F.S., and I'm going to read this one out. I think that this has come into play over recent years and you'll see why I am concerned about it and also concerned going forward that we do things a little bit differently. So, that says "it is the legislative intent that the costs of regulation under this chapter be provided for by fees collected under this chapter. The Board shall ensure that fees are adequate to cover all anticipated costs of implementation of this chapter. The Department shall at least every other year provide the Board with estimates as to projected costs in implementing this chapter and projected fee collections under this chapter for the following 2 years, information as to balances of regulatory trusts from fees collected, other information that the Department deems material to the setting of fees by the Board at proper levels, and a Department recommendation as to action, if any, regarding changing fee levels. The Board shall review such information provided by the Department and increase or decrease fees as the Board determines appropriate. If sufficient action is not taken by the Board within 6 months after notification by the Department that fees are projected to be inadequate, the Department shall set fees on behalf of the Board to cover anticipated costs." Just to be clear, I'm reading that statute because the language that I personally am concerned about is part of the section regarding fees. I'm not making kind of recommendation and the Department is not making any kind of recommendation as to fees at this point.

The reason I'm reading that is because it contains requirement that the Department provide financial information to this Board at least every other year. My understanding, however, is that financial information has not been provided to this Board since 2009, the last time that fee increase was considered and I don't even know what format that information was provided in, so we want to correct that. We don't want to come before this Board every other year and provide financial information, we want to provide it annually, and I'm thinking probably December is probably the best meeting of the year to do this. Even though we work on fiscal year basis, it gives us time within the Department to do end of fiscal year matters, bookkeeping, etc., and bring it before the Board. So, what we're looking at now, while we're looking at these financial statements if you will, in terms of where the Department is now, where the Division is now, financially, I would also like for the Board to be considering what kind of information you would like in the future. Will these work as a template going forward? It is a process to translate the language from the general ledger codes and to work with the Budget staff, who are very detail oriented and very used to seeing things in their format. So, we're looking for input from the Board with particulars on those matters. I appreciate any input on this, particularly regarding future templates and what information you want to see going forward.

Since we were just discussing the CPTF, let's start with that document first.

**DIVISION OF FUNERAL, CEMETERY, AND CONSUMER SERVICES**  
**Preneed Funeral Contract Consumer Protection Trust Fund (CPTF)**  
**Historical Information 7/1/2009 - 6/30/2017**

	FY 2009-2010	FY 2010-2011	FY 2011-2012 <sup>1</sup>	FY 2012-2013	FY 2013-2014	FY 2014-2015 <sup>2</sup>	FY 2015-2016 <sup>3</sup>	FY 2016-2017 <sup>4</sup>
<b>Beginning Balance (from prior year Trial Balance/General Ledger)</b>	\$ 7,626,314	\$ 7,850,201	\$ 8,101,140	\$ 8,232,198	\$ 8,407,010	\$ 8,593,348	\$ 8,645,844	\$ 8,740,734
<b>Revenues:</b>								
Preneed Fees	94,699	112,764	99,041	100,691	193,268	115,476	117,436	120,572
Interest Earnings	197,442	202,032	197,219	154,291	93,228	136,886	133,891	138,092
<b>Total Revenue</b>	\$ 292,141	\$ 314,796	\$ 296,260	\$ 254,982	\$ 286,496	\$ 252,362	\$ 251,327	\$ 258,664
<b>Less Expenditures:</b>								
CPTF Claim Payments	(55,667)	(55,908)	(156,954)	(82,208)	(82,655)	(192,102)	(139,407)	(167,619)
Administrative Assessment on Investments (Treasury Investment Charges)	(9,292)	(9,587)	(9,860)	(9,988)	(10,185)	(10,369)	(10,444)	(10,537)
<b>Total Expenditures</b>	\$ (64,959)	\$ (65,495)	\$ (166,814)	\$ (92,196)	\$ (92,840)	\$ (202,471)	\$ (149,851)	\$ (178,156)
Estimated Ending Balance	7,853,496	8,099,502	8,230,586	8,394,984	8,600,666	8,643,239	8,747,320	8,821,243
Other Adjustments (usually investment related)	(3,295)	1,638	1,612	12,026	(7,318)	2,605	(6,586)	(343)
<b>Actual Ending Balance (from Trial Balance/General Ledger)</b>	\$ 7,850,201	\$ 8,101,140	\$ 8,232,198	\$ 8,407,010	\$ 8,593,348	\$ 8,645,844	\$ 8,740,734	\$ 8,820,900

**Larger Failures/Closings/License Revocations Impacting CPTF Claims Payments**

<sup>1</sup> FY2011-2012 - Brant Funeral Services, LLC d/b/a Brant Funeral Chapel

<sup>2</sup> FY2014-2015 - JGR Funeral Services, Inc.; and Funeraia Nacional Sur Corporation d/b/a Funeraia La Catolica, Inc.

<sup>3</sup> FY2015-2016 - Cunningham's Funeral Home; and EA Stevens Funeral Home, P.A.

<sup>4</sup> FY2016-2017 - Cemetery Professionals, LLC [Beaches Memorial Gardens]

Main points to make about the information contained herein, this is the historical information of the CPTF from July 1, 2009 – June 30, 2017. The total balance 2016-17 now stands at about \$8.8 million. If you look at the revenues, the preneed fees (\$1 per contract) are fairly consistent over the years. If you disregard the high year of \$193k received in 2013-14, the income from fees has averaged about \$109k a year. Preneed fees have not shown great growth over the years with exception of 2013-14 peak. I don't have information as to why that year was so much higher. You all may have a better idea of that than I do. The bulk of revenue has come from interest earnings, which have varied significantly over the years, as I'm sure you all have seen with market fluxes. The total revenue through these years consistently exceeded \$250k. Looking at the expenditures, the claim payments. We talked about this just briefly a moment ago. Historically they are generally between \$55k - \$85k per year. There were high claim payments in four (4) years, as shown on this report, and there are footnotes on the bottom of page so that there is an indication of what failures/closings/or license revocations, which impacted the claims payments in those years. The most recent impact, of course, was that of Beaches Memorial Garden in 2016-2017. Throughout all these years, there have been no claim payments in excess of \$200,000. So the bottom line is that income coming in historically sufficient to cover claims expenses. The buildup in trust fund has resulted primarily as a result of interest over the years. Does the Board have any questions about this document? Mr. Chair, do you want me to open it to questions or should we open it to questions from the audience?

Chair – Which would you prefer?

Ms. Schwantes – I'm fine either way.

Chair – Any questions? It's clearly the continued growth. If you look at the first column, FY 2009-2010, starting at \$7.8 million and ending at 2016-2017 at \$8.8 million, a steady growth all the way up; 14% or something like that. Even with some of the larger failures/closings that we've had, we continue to grow it.

Ms. Schwantes – That's correct, sir.

Mr. Helm – I have just one question.

Chair – Mr. Helm?

Mr. Helm – If we drop this to \$5 million, what does that do to your interest?

Ms. Schwantes – It will drop the interest somewhat, too, and that is taken into consideration.

Mr. Helm – The somewhat is what I want to know how much.

Ms. Schwantes – It is taken into consideration in projections that we will show here towards the end, but it does drop proportionately. Any other questions?

Mr. Helm – No.

Ms. Schwantes – Moving on to the next document that you should have in front of you, this would be a balance sheet for the Regulatory Trust Fund (RTF). The fiscal year is 2014-2015 and then of course bringing it up current through 2017-2018. So we wanted to at least for purposes of this meeting today be able to show you some of the history of the last several years as well as what the projected balance sheet would look like.

**DIVISION OF FUNERAL, CEMETERY, AND CONSUMER SERVICES**  
**Regulatory Trust Fund (RTF) Balance Sheet**  
**Fiscal Years 2014-2015 through 2017-2018**

	Actual FY 2014-2015	Actual FY 2015-2016	Actual FY 2016-2017	Projected <sup>2</sup> FY 2017-2018
<b>Beginning Balance</b>	\$ 3,580,263	\$ 4,148,932	\$ 4,581,025	\$ 5,057,033
<b>Revenues<sup>1</sup></b>				
Preneed Fees	691,019	701,584	723,705	701,584
Other Fees	716,745	230,268	738,309	313,506
Licenses	1,762,569	1,948,812	1,735,452	1,897,709
Fines and Penalties	119,154	247,886	141,175	114,325
Interest Earnings	57,049	67,257	71,139	88,000
Sale of Goods/Services (Public Records )	7,635	6,805	8,255	7,250
Sale of Vehicle	1,643	-	-	-
<b>Total Revenue</b>	<b>\$ 3,355,814</b>	<b>\$ 3,202,612</b>	<b>\$ 3,418,035</b>	<b>\$ 3,122,374</b>
<b>Less Expenditures:</b>				
Operating Category				
Operating (based on historical expenditures and currently approved budget)	(1,772,618)	(1,774,597)	(1,967,130)	(2,261,623)
<b>Total Operating Category</b>	<b>(1,772,618)</b>	<b>(1,774,597)</b>	<b>(1,967,130)</b>	<b>(2,261,623)</b>
Non-Operating Category				
Transfer to Administrative Trust Fund (DFS Agency Support)	(783,259)	(735,775)	(687,312)	(843,742)
State Refunds (Refunds to Licensees on overpayments, etc.)	(5,632)	(3,674)	(9,696)	(5,000)
Service Charge to General Revenue (Revenue Fee payable to General Revenue)	(267,133)	(255,970)	(272,371)	(249,790)
Other Adjustments (Administrative Assessment/Treasury Matters)	(4,308)	(5,238)	(5,518)	(6,688)
<b>Total Non-Operating Category</b>	<b>(1,060,332)</b>	<b>(1,000,657)</b>	<b>(974,896)</b>	<b>(1,105,220)</b>
<b>Total Expenditures</b>	<b>\$ (2,832,950)</b>	<b>\$ (2,775,254)</b>	<b>\$ (2,942,026)</b>	<b>\$ (3,366,843)</b>
Accounting Adjustments ( Prior Year Certified Reversions and other adjustments)	45,805	4,735	-	-
<b>Ending Balance</b>	<b>\$ 4,148,932</b>	<b>\$ 4,581,025</b>	<b>\$ 5,057,033</b>	<b>\$ 4,812,564</b>

<sup>1</sup>Revenues include fees from e-commerce transactions, certifications, exams, filings, fingerprints, inspections, unlicensed activity, and fees collected for preneed contracts; licenses for a variety of services including preneed sales agents, preneed branches, monument dealers, embalmers, embalming facilities, cineratory facilities, cemeteries, funeral directors, funeral establishments, etc.; interest earnings on investments; and penalties.

<sup>2</sup> Operating Category Expenditures based upon Operating Category Budget as approved in General Appropriation Act

So, within the Regulatory Trust Fund, funds are set aside that are specific for the benefit of this Division and its operations. No other Divisions are able to use those funds as part of their budget. This balance sheet is meant to show from the funds that

are set aside for our purposes, if you add the income, you take the expenditures off, what's the balance at the end of the year, each of the years. You're going to note the ending balance swings up and down, in part as a result of the swing in licensing fee income, because some licenses only renew every other year so the income reflects that swing and it ends up being reflected in the bottom line. The projected end of year balance fy2017-2018 is about \$4.8 million. The primary purpose of this balance sheet is to provide detailed information on the income/revenues and to show the impact on the overall ending balance in the RTF. Detail regarding the expenditures will be shown on the next document.

With regards to revenues, the preneed fees are roughly consistent over the years, generally around \$700k. Other fees and licensing fees swing back and forth between years as previously explained and the interest earning is relatively small. We have tried to provide a general description of items in areas where it may not be a common term, i.e. "state refunds" are refunds to licensees on overpayments, etc. Again, details on expenses will be shown on next document. Are there any questions or comments regarding this?

Unidentified speaker – What is "Transfer to Administrative Trust Fund?"

Ms. Schwantes - "Transfer to Administrative Trust Fund" is actually the cost allocation that we are charged for the Department's assistance and support from other Divisions: Legal, Information Technology, Administration.

Mr. Buddy Bevis – How does that methodology work?

Ms. Schwantes – Paul, do you know?

Mr. Paul Rantuccio – The Department has to build up the comprehensive cost allocation plan for the entire Agency. Again, it is not strictly based on FTEs or personnel, it's a comprehensive plan and they take into consideration the many factors of the different divisions within the agency and they have developed a fair plan for the Divisions.

Mr. Bevis – But there's nothing based on FTEs?

Mr. Rantuccio – It's not strictly based on FTEs, no.

Mr. Bevis – Who is it fair to?

Mr. Rantuccio – The people who developed it, I guess.

Mr. Bevis – Because they're the ones that's getting money.

Mr. Rantuccio – No, it's used by the agency.

Mr. Bevis – The people who allocating?

Mr. Rantuccio – It comes from us, yes.

Ms. Schwantes – Again, this is for support to the Division. Otherwise, we would be, and we will explain this in the budget here in a minute, but otherwise we would have to pay attorneys directly, IT people directly, that kind of thing. So, it is only for the services that are provided to this Division, but the cost allocation methodology is complicated, as Paul indicated.

Mr. Rantuccio – That's true.

Mr. Bevis – I respect that it's complicated. What does everybody else do? Probably a lot more.

Mr. Rantuccio – They support us and provide for our administration, too. It takes care of attorneys...

Mr. Bevis – I would hate to see this Division pay more than some other Division.

Ms. Schwantes – It doesn't provide the detail on that.

Chair – Skip Knopke, you have a comment?

Mr. Skip Knopke – No, I figured out the answer. Thank you.

Chair – Okay.

Ms. Schwantes – Any other questions about this? Let's move on to the budget. Some of the expenditures may make more sense. The Division's budget for the fiscal years 2016-2017 and 2017-2018, you're going to see projected expenditures and then our actual expenditures in the very last columns, which are through October 31, 2017.

**DIVISION OF FUNERAL, CEMETERY, AND CONSUMER SERVICES (FCCS)**  
**FCCS Budget Fiscal Years 2016 - 2017 and 2017 - 2018**

	FISCAL YEAR 2016 - 2017 ACTUAL EXPENDITURES General Appropriation Act - Amount Approved: \$2,205,987 <sup>1</sup>			FISCAL YEAR 2017 - 2018 PROJECTED EXPENDITURES General Appropriation Act - Amount Approved: \$2,261,623 <sup>1</sup>			FISCAL YEAR 2017 - 2018 ACTUAL EXPENDITURES 7/1/2017 - 10/31/2017 General Appropriation Act - Amount Approved: \$2,261,623 <sup>1</sup>			
	ADJUSTED APPROPRIATION	ACTUAL EXPENDITURES	BALANCE <sup>2</sup>	ADJUSTED APPROPRIATION	PROJECTED EXPENDITURES	PROJECTED BALANCE <sup>3</sup>	FY ADJUSTED APPROPRIATION	FY PROJECTED EXPENDITURES	ACTUAL EXPENDITURES	10/31/2017 BALANCE <sup>4</sup>
<b>OPERATING CATEGORY</b>										
SALARIES AND BENEFITS (INSURANCE; RETIREMENT)	\$ 1,673,675	\$ 1,539,482	\$ 134,193	\$ 1,747,822	\$ 1,675,000	\$ 72,822	\$ 1,747,822	\$ 1,675,000	\$ 529,436	\$ 1,218,386
OTHER PERSONAL SERVICES (NON FTE EMPLOYEES)	40,809	35,964	4,845	66,387	66,000	387	66,387	66,000	16,736	49,651
EXPENSES (BUSINESS OVERHEAD EXPENSES)	294,827	260,195	34,632	291,827	275,000	16,827	291,827	275,000	149,982	141,845
OPERATING CAPITAL OUTLAY (EQUIPMENT OVER \$1,000)	29,500	20,598	8,902	9,500	4,000	5,500	9,500	4,000	-	9,500
ELECTRONIC COMMERCE FEES (BANK FEES FOR CREDIT CARD TRANSACTIONS)	58,100	15,068	43,032	39,100	20,000	19,100	39,100	20,000	17,799	21,301
CONTRACTED SERVICES (BOARD COUNSEL; TEST ADMINISTRATION)	92,549	65,890	26,659	99,549	75,000	24,549	99,549	75,000	59,285	40,264
OPERATION OF MOTOR VEHICLES (STATE VEHICLES ASSIGNED TO FCCS)	8,700	2,642	6,058	8,700	3,000	5,700	8,700	3,000	647	8,053
RISK MANAGEMENT (INSURANCE FOR DIVISION OPERATIONS)	12,138	12,138	-	7,417	7,417	-	7,417	7,417	7,417	-
LEASE / LEASE PURCHASE EQUIPMENT (COPIERS)	4,162	2,999	1,163	4,162	3,800	362	4,162	3,800	4,114	48
TRANSFER TO DMS FOR HUMAN RESOURCES SUPPORT (PEOPLE FIRST SYSTEM)	12,153	12,153	-	11,844	11,844	-	11,844	11,844	2,961	8,883
<b>TOTAL OPERATING CATEGORY</b>	<b>\$ 2,226,613</b>	<b>\$ 1,967,130</b>	<b>\$ 259,483</b>	<b>\$ 2,286,308</b>	<b>\$ 2,141,061</b>	<b>\$ 145,247</b>	<b>\$ 2,286,308</b>	<b>\$ 2,141,061</b>	<b>\$ 788,377</b>	<b>\$ 1,497,931</b>
<b>NON-OPERATING CATEGORY</b>										
TRANSFER TO ADMIN TRUST FUND (DFS AGENCY SUPPORT - LEGAL, INFORMATION TECHNOLOGY, ADMINISTRATION)	\$ 850,000	\$ 687,312	\$ 162,688	\$ 850,000	\$ 843,742	\$ 6,258	\$ 850,000	\$ 843,742	\$ 279,968	\$ 570,032
STATE REFUNDS (REFUNDS TO LICENSEES ON OVERPAYMENTS, ETC.)	17,000	9,696	7,305	17,000	15,300	1,700	17,000	15,300	1,745	15,255
SERVICE CHARGE TO GENERAL REVENUE (REVENUE FEE PAYABLE TO GENERAL REVENUE)	340,000	272,371	67,629	340,000	306,000	34,000	340,000	306,000	156,969	183,031
OTHER ADJUSTMENTS (ADMINISTRATIVE ASSESSMENT/TREASURY MATTERS)	5,518	5,518	-	6,688	6,688	-	6,688	6,688	-	-
<b>TOTAL NON-OPERATING CATEGORY</b>	<b>\$ 1,212,518</b>	<b>\$ 974,896</b>	<b>\$ 237,622</b>	<b>\$ 1,213,688</b>	<b>\$ 1,171,730</b>	<b>\$ 41,958</b>	<b>\$ 1,213,688</b>	<b>\$ 1,171,730</b>	<b>\$ 438,682</b>	<b>\$ 768,318</b>
<b>TOTAL OPERATING AND NON-OPERATING CATEGORIES</b>	<b>\$ 3,439,131</b>	<b>\$ 2,942,027</b>	<b>\$ 497,104</b>	<b>\$ 3,499,996</b>	<b>\$ 3,312,791</b>	<b>\$ 187,205</b>	<b>\$ 3,499,996</b>	<b>\$ 3,312,791</b>	<b>\$ 1,227,059</b>	<b>\$ 2,266,249</b>

<sup>1</sup> General Appropriation Act - approved budget amounts only involve Operating Category items  
<sup>2</sup> Difference between Adjusted Appropriation and Actual Expenditures  
<sup>3</sup> Difference between Adjusted Appropriation and Projected Expenditures  
<sup>4</sup> Difference between Adjusted Appropriation and Actual Expenditures from 7/1/2017 to 10/31/17

This is where you will find the breakdown of what goes into the operating categories vs. the non-operating categories. A couple of main points about this is it provides detail on operating and non-operating aspects of our Division's budget over the timeframe. Actual information provided for 2016-2017 with projected information for 2017-2018 and actual expenditures on the last column. Start with the basic explanation of terminology and process, when you're involved with the legislative budgeting process. The operating budget is that which the Division has some control over. We submit our proposed budget to our agency budget office during the summer of the year before it would go into effect and it goes into the legislative process and actually has to be approved by the Legislature before we can do anything with it. So, last summer, we presented the proposed budget for fy2018-2019. That budget will be reviewed during the upcoming legislative session, and hopefully approved.

The non-operating budget are those primarily involved cost allocations, which we've discussed briefly already, that are for support to our Division that's provided by the Department. Most of that is from the Information Technology Division, Legal Division, that's the prosecutors who handle these cases for the most part, and Administration. The Division has no control or say in how such items are allocated. It is performed on an agency basis, as approved by the CFO. It goes through a completely separate budget approval process, similar but it's separate.

Chair – Controlled expenses, not controlled expenses.

Ms. Schwantes – That's a good way to think of it, yes sir. Controlled expenses and not controlled expenses. Within the operating category, we'll see those items we can control: salaries and benefits; OPS employee salaries; our business overhead

expenses; the operating capital outlay for our major equipment; the e-commerce fees that are mostly for the online renewals we are being able to process now; contracted services, which is how we pay Tom Barnhart and how we pay the company that does the test administration for the Law and Rules exam. We do have a few State vehicles that are assigned to our Division and we budget for that. We are able to decrease costs in rental cars by maintaining those cars. We pay the Department's Risk Management Division for insurance, liability, and other insurance for our Staff and the operation of the vehicles and such. We also have to lease copiers and other equipment. We also have to pay for the pleasure of using the statewide People First system, which is our HR system where we report our timesheets.

In the non-operating category, the primary item would be the cost allocations as listed as and called the Transfer to Admin Trust Fund, and that basically is the cost allocation we've talked about before. The State refunds are the refunds to licensees on overpayments. There is a service charge to the general revenue, which is basically a mandatory revenue. Then there are other administrative assessment and treasury matter adjustments, basically accounting adjustments, as we go along.

Each year, the legislature approves our operating budget in the general appropriation act. For example, you will see that the amount approved for 2016-2017, if you look immediately under the subtitle for that year, you'll see a line that says General Appropriation Act-Amount approved \$2.2 million. That's how our operating budget goes to the Legislature and gets approved for that. Through the course of the year, that appropriation may be adjusted. It is a complicated process how that gets adjusted. As an example, when the Legislature rarely approves an increase in salary that's statewide for employees like they recently did, that is not something that we are expected to seek in advance so that would be an adjusted appropriation. That money comes in with all of the equivalent, not just the salaries, but all of the benefits and retirement, etc. that goes along with that, and would be adjusted during the course of the year. It's that not something that we have any control over but we're having to see it. That's why you have the difference in a lot of cases between the amount approved and the adjusted amount. In addition, we are able, within the Division, we have authority to transfer 5% between certain categories, not all categories, and again there's a lot of fiscal oversight on all of this. That also has make recommendations but I can't do it within the next two (2) days because it takes like two (2) weeks minimum, usually to get approval to do something. So, for example, if a contracting need is determined, I can pull 5% from salary and transfer it over to OPS or contracting in order to help with that kind of expense. We do have a little bit of flexibility within it, not a lot.

Mr. Jones – What is the amount of your Regulatory Trust Fund now? Do you know, Mary?

Ms. Schwantes – It should be on the prior page. If you go back to the balance sheet. The Regulatory Trust Fund's beginning balance in 2017-2018 was at \$5 million, projected ending balance would be at \$4.8 million.

Mr. Jones – There it is. Thanks.

Ms. Schwantes – This is something that you will see looking out through the years, there's some swing up and down, but generally speaking, between the operating and non-operating budget, we are dipping into the balance of the Regulatory Trust Fund, about \$200k a year, give or take.

Mr. Jones – One thing I was looking at is, going back to the Regulatory Trust Fund and pulling that \$3.8 million into that, if this is passed, what's your strategic plans for the next three (3) to five (5) years?

Ms. Schwantes – The next few years.

Mr. Jones – Go ahead. I'm sorry.

Ms. Schwantes – So, if you're looking at 2016-2017, our Operating Category, the adjusted appropriation was about \$2.2 million, our actual expenditures were \$1.9 million, partly as a result of vacancies at the time and some job changes. That's why we had a little more money there. So, we were under budget last year by \$259k. That was a great assistance to us. I know when I first came in and bought Surface Pro tablets for all of our field staff and some other upgrades, that's how we had the money to do that. Because of these vacancies, we were able to move the funds over, transfer between the accounts the 5% like we talked about and were able to get some better equipment and do some other improvements. We have a much tighter budget this year. Not expecting to be able to do that kind of thing this year.



So, you're looking at 2017-2018. We're filling the vacancies. We had two (2) vacancies last year and we are filling those. We actually have another vacancy that popped up recently, but we will be filling it. We're not leaving anything vacant as far as staffing goes. We're also incurring more travel expenses. That's partly as a result, to some extent, to Rules Committee meetings and expanded locations for the Board meetings. There's some savings there, as well. We're getting the benefit from, for example, at the IFDF conference they're supplying us with a meeting room. The same thing at the Miami-Dade College and that saves us a bit of money there. There still are some travel adjustments that we will be making as a result of some of these changes. We still anticipate coming in under budget at the end of year, but it's going to be much tighter than it was last year. We do not have any excess for contracting out exams. This is something that we've talked about doing with some of the larger exams on the preneed. It would be helpful to be able to contract some of that out but we don't have excess money this year. Any questions regarding the budget?

Chair – Statutorily, contracting that out, is there any conflict there?

Ms. Schwantes – No sir. We could hire an accounting firm to do it. There's a different bidding process and the contractual process is a lot more complicated, but it can be done. You just have to have funds.

Mr. Barnhart – And sometimes you can purchase those types of services right from the State contracts that have been approved for certain vendors.

Ms. Schwantes – That's true, too. And you can also hire employees as OPS. Any other questions about that? The final sheet is the projection.

**DIVISION OF FUNERAL, CEMETERY, AND CONSUMER SERVICES**  
PROJECTED IMPACT OF PROPOSED LEGISLATION REGARDING PRENEED FUNERAL CONTRACT CONSUMER PROTECTION TRUST FUND (CPTF) ON REGULATORY TRUST FUND BALANCES

Regulatory Trust Fund - Current Structure <sup>1</sup>														
	Actual FY 2014-2015	Actual FY 2015-2016	Actual FY 2016-2017	Projected FY 2017-2018	Projected FY 2018-2019	Projected FY 2019-2020	Projected FY 2020-2021	Projected FY 2021-2022	Projected FY 2022-2023	Projected FY 2023-2024	Projected FY 2024-2025	Projected FY 2025-2026	Projected FY 2026-2027	Projected FY 2027-2028
Estimated Beginning Balance	\$ 3,580,263	\$ 4,148,932	\$ 4,581,025	\$ 5,057,033	\$ 4,812,564	\$ 4,776,296	\$ 4,531,827	\$ 4,495,559	\$ 4,251,090	\$ 4,214,822	\$ 3,970,353	\$ 3,934,084	\$ 3,689,615	\$ 3,653,347
Total Revenue	3,355,814	3,202,612	3,418,035	3,122,374	3,348,679	3,122,374	3,348,679	3,122,374	3,348,679	3,122,374	3,348,679	3,122,374	3,348,679	3,122,374
Operating Expenditures	(1,772,618)	(1,774,597)	(1,967,130)	(2,261,623)	(2,261,623)	(2,261,623)	(2,261,623)	(2,261,623)	(2,261,623)	(2,261,623)	(2,261,623)	(2,261,623)	(2,261,623)	(2,261,623)
Non-Operating Expenditures	(1,060,332)	(1,000,657)	(974,896)	(1,105,220)	(1,123,324)	(1,105,220)	(1,123,324)	(1,105,220)	(1,123,324)	(1,105,220)	(1,123,324)	(1,105,220)	(1,123,324)	(1,105,220)
Accounting Adjustments (prior year certified reversions/other)	45,805	4,735	-	-	-	-	-	-	-	-	-	-	-	-
Estimated Ending Balance	\$ 4,148,932	\$ 4,581,025	\$ 5,057,033	\$ 4,812,564	\$ 4,776,296	\$ 4,531,827	\$ 4,495,559	\$ 4,251,090	\$ 4,214,822	\$ 3,970,353	\$ 3,934,084	\$ 3,689,615	\$ 3,653,347	\$ 3,408,878

<sup>1</sup> Assumes revenue and expenditures do not change after 2017. Additionally, assumes NO changes to information technology or FCCS infrastructure.

Regulatory Trust Fund - With Cap of Preneed Funeral Contract Consumer Protection Trust Fund (CPTF) at \$5 million <sup>2</sup>														
	Actual FY 2014-2015	Actual FY 2015-2016	Actual FY 2016-2017	Projected FY 2017-2018	Projected <sup>3</sup> FY 2018-2019	Projected FY 2019-2020	Projected FY 2020-2021	Projected FY 2021-2022	Projected FY 2022-2023	Projected FY 2023-2024	Projected FY 2024-2025	Projected FY 2025-2026	Projected FY 2026-2027	Projected FY 2027-2028
Estimated Beginning Balance	\$ 3,580,263	\$ 4,148,932	\$ 4,581,025	\$ 5,057,033	\$ 4,812,564	\$ 7,591,722	\$ 6,897,254	\$ 6,410,985	\$ 5,716,516	\$ 5,230,248	\$ 4,535,779	\$ 4,049,511	\$ 2,405,042	\$ 1,918,774
Total Revenue	3,355,814	3,202,612	3,418,035	3,122,374	7,164,106	3,122,374	3,348,679	3,122,374	3,348,679	3,122,374	3,348,679	3,122,374	3,348,679	3,122,374
Operating Expenditures	(1,772,618)	(1,774,597)	(1,967,130)	(2,261,623)	(3,261,623)	(2,711,623)	(2,711,623)	(2,711,623)	(2,711,623)	(2,711,623)	(2,711,623)	(2,711,623)	(2,711,623)	(2,711,623)
Non-Operating Expenditures	(1,060,332)	(1,000,657)	(974,897)	(1,105,220)	(1,123,324)	(1,105,220)	(1,123,324)	(1,105,220)	(1,123,324)	(1,105,220)	(1,123,324)	(1,105,220)	(1,123,324)	(1,105,220)
Accounting Adjustments (prior year certified reversions/other)	45,805	4,735	-	-	-	-	-	-	-	-	-	-	-	-
Estimated Ending Balance	\$ 4,148,932	\$ 4,581,025	\$ 5,057,033	\$ 4,812,564	\$ 7,591,722	\$ 6,897,254	\$ 6,410,985	\$ 5,716,516	\$ 5,230,248	\$ 4,535,779	\$ 4,049,511	\$ 2,405,042	\$ 1,918,774	\$ 1,224,305

<sup>2</sup> Assumes: 1) CPTF capped at \$5 million balance; 2) increase in Operating Category expenditures for information technology upgrades of \$1,000,000 in 2018-2019 and 2025-2026; and 3) increase in Operating Category expenditures of \$450,000 in annual expenditures from FY 2019-2020 for additional contracting funds, software maintenance fees, and 6 FTE positions

<sup>3</sup> Assumes CPTF funds in excess of \$5 million are transferred to RTF in FY2018-2019; additionally assumes no further income to RTF from the CPTF throughout projection

Ms. Schwantes - The projection has two (2) focuses. The top chart shows how the Regulatory Trust Fund will be impacted by staying status quo. That means not replacing the systems, which is an untenable position to be in, by not filling the positions or the other improvements that are needed. It also means that we would not be able to provide some of the online services that we talked about briefly and provide some of the other services that we've talked about to the industry, such as the industry being able to access their history online and such. So, status quo, you will the projection through 2018, the impact on the Regulatory Trust Fund and you can see that although some years go up because of that swing in income, overall it will decrease.

The bottom chart is assuming a number of things. It assumes that the proposed legislation has passed. That we were able to cap the CPTF trust fund at \$5 million and bring in an influx of \$3.8 million into the Regulatory Trust Fund for our benefit. It assumes that we are able to upgrade information technology to the tune of about \$1 million in 2018-2019, and again, because

you're looking at information technology, if you're proactively looking at planning towards the future, we need to look at doing that again in about seven (7) years. It builds in those two (2) assumptions. It assumes an increase in the operating category expenditures of about \$450k. That would allow us to have six (6) additional employees, which is what we talked about and what we were previously approved for, and also some excess for contracting for examinations. Again, that's something we believe is needed. Also for software maintenance fees. It also, in addition to assuming that the CPTF in excess of \$5 million will transfer to the RTF in 2018-2019, if you flip back to the CPTF historical information, you'll see that, as we talked about, basically the income is matching the paid claim payments currently. So, this assumption at the bottom of this page does not assume that we will be able to take anything in excess of \$5 million going forward. After that \$3.8 million, we cannot currently make the assumption that we would give anything above the \$5 million going forward. Would we, as a practical matter? Yes, I think realistically there would be some coming in, but we want to make these conservative estimates and so that's why the projection shows it like this.

Chair – It is conservative.

Ms. Schwantes – It is very conservative and that is also the way our Budget Office prefers for us to illustrate matters. Our Budget Office makes sure that we do not exceed budget. We are very closely fiscally monitored. So, the main point in seeing this is, again, it's not something I think has been brought to the Board's attention or to the industry's attention, the exact impact of the operating and non-operating budget and expenditures on the overall help of the Regulatory Trust Fund balance, but also because we appreciate the support for the proposed legislation. We think it's critical to meet critical needs. It is not a long term solution and we don't want to mislead anyone into thinking it is. We want to make it very clear that it is not a long term solution to this. Questions?

Mr. Hall – I'd like to say that I like transparency and we haven't seen anything like this since I've been on the Board, and I really appreciate this. It helps us, as a group, and the industry to understand what the challenges are and what the goals are, so I really appreciate the report. Whoever did it did a great job.

Ms. Schwantes – Thank you all. I know it's a lot to take in. I hope it at least gives you some idea of what it is we look at on a regular basis. As always, we're looking for feedback. If there's additional information that's needed, if there are tweaks to this kind of a format, if this format looks good, any of that, please give me a call. I would appreciate it and we plan to prepare this every December.

#### *D. Operational Report*

Ms. Schwantes – We are still waiting to hear from the Governor's Office regarding his appointment of the two pending consumer positions (CPA-James Davis position and Consumer-Vanessa Oliver position). Again, congratulations to the three members who have been reappointed to the Board. We will let you all know as soon as we hear anything on the remaining two positions and/or have confirmation from the Senate for the three (3) that have been reappointed. We don't expect any problems with that, of course.

Our last meeting, for the rulemaking session on the disciplinary guidelines, was on November 9<sup>th</sup>. A final draft was submitted to committee members and interested parties just before Thanksgiving. We had asked for written comments to be submitted to my attention by close of business on Friday, December 30<sup>th</sup>. The next steps after that, we will schedule another Rules Committee meeting in mid-January in Tallahassee to review the written comments and other discussion. Assuming that another Committee meeting is not needed after that, we will schedule a formal Rulemaking Workshop to discuss the final draft guidelines. Then, hopefully, if there are no further changes to the guidelines after that, we will be able to submit it to the Board in April. If we cannot make the April Board meeting, it may need to be postponed to the August meeting, because the June meetings are always significantly booked. So, it just depends on what kind of feedback we get, what comes back from the Rulemaking Workshop, how quickly all of this can be done. We would love to see it before the Board in April. Any questions on any of that?

Chair – And the April meeting is Orlando?

Ms. Lisa Coney – In the scheduling of the Rules meeting, is there any possibility of having that attached to the Board meeting, because travel to Tallahassee in mid-January when session starts January 9<sup>th</sup> is not only historically undesirable somewhere in

the 20 degrees and raining, but also really expensive and hard to get hotels, and we'll be meeting again within a week or two (2) anyway.

Ms. Schwantes – Mr. Chair?

Chair – Well, of course, January is a teleconference meeting and the February meeting is scheduled for Panama City.

Ms. Schwantes – February 1<sup>st</sup> in Panama City Beach.

Ms. Coney – Historically, January is our busiest funeral month and travel is a challenge already.

Ms. Schwantes – I understand what you're saying. We would have to look to see if the meeting room is available for other than just the Board meeting, because the arrangements were not made in advance. The meeting rooms were hard to get. Do you know, already, if we would be able to extend it?

Chair – Or maybe the afternoon before the meeting?

Ms. LaTonya Bryant – I don't know.

Ms. Coney – So, January in Tallahassee, when session starts on January 9<sup>th</sup>, is cold, expensive, and quite booked.

Ms. Wiener – I believe that Bill Williams, the other Rules Committee member, is not available the day before the Board meeting. I think when we were talking about this, he wasn't available the next week and I don't think he's available that day before.

Mr. Barnhart – What about the day of?

Ms. Wiener – I don't know about the day of. I think he might be traveling.

Ms. Coney – Just to make note, session starts January 9<sup>th</sup>, so that does put some pressure on the rooms and costs and availability here in Tallahassee.

Ms. Schwantes – Mr. Chair, we'll just have to look into it and see what's available and then we'll get back with the Committee members on what their concerns are.

Chair – Well, I think we have a standing offer from Mr. Jones to use a facility in Jacksonville and not incur any additional expense.

Mr. Jones – You do.

Chair – I really would like to move it along as quickly as we could, regardless of where we are. It's my desire to move it along. We've worked on this for so long. There's so many people that's been involved in this product. I would certainly like to have it ready to present to the Board meeting in April. If not then, when?

Ms. Schwantes – We'll see what we can do, then. We'll look at mid-January in Jacksonville. That concludes the Operational Report.

#### ***E. Report: Payment of Disciplinary Fines and Costs***

Ms. Simon – This item is informational only. Are there any questions?

Monthly Report of Fines and Costs Assessed and Paid  
 Division of Funeral, Cemetery and Consumer Services  
 December 7, 2017 Board Meeting  
 Date of Report: November 20, 2017

Licensee	Board Meeting	Case No.	Total Fine & Cost Due	Date Due	Paid in Full?	Comments
George E. Hewell & Son Funeral Home, Inc.	Oct-17	210017-17-FC	\$1,750	17-Nov-17	Paid in Full 10/30/2017	
Kotrady-Hudgins Funeral Services, LLC d/b/a St	Oct-17	210062-17-FC	\$1,750	17-Nov-17	Paid in Full 11/2/2017	
Gregory Dunphy	Dec-16	196606-16-F	\$2,500	Monthly payments of \$208.37	Paid in Full	
Jeannette Royal	Jun-16	164613-14-FC	\$5,000	12-Jan-16	Note A	
A. When payment in full becomes past due, the FCCS Division works with the DFS Legal Division to enforce payment. B. Once fines and costs are paid in full, licensee kept on this report 3 months, showing Paid in Full, and then dropped off report; also licensee dropped off report after disciplinary action filed due to nonpayment of the fine and costs. C. The Order re this case is still in process, so no Due date is not yet established. D. Due date has not passed, as of the date of this report. E. As of the date of this report, monthly payments were current.						

**26. Chairman's Report (Verbal)**

Chair – Again, welcome Mr. Knopke and Mr. Hall on their reappointment. I'd like to acknowledge Mr. Davis for being with us. Thank you for being with us today. That's all I have.

**27. Office of Attorney General's Report**  
**A. Attorney General's Rules Report**

Mr. Barnhart – Board members, the only new things that you'll see on the Rules Report are the effective dates of the two (2) rules that are at the bottom. Of course, those are amendments, they're not new rules. 21.003 has been effective for about a week or so and 33.001 became effective just yesterday. Are there any questions about the report? That's my report.

**BOARD OF FUNERAL, CEMETERY AND CONSUMER SERVICES RULES REPORT  
DECEMBER 2017**

Rule Number	Rule Title	Date Rule Language Approved by Board	Date Sent to OFARR	Rule Development Published	Notice Published	Adopted	Effective
69K-30.001*	Disciplinary Guidelines and Penalties for Funeral Directors and Establishments, Embalmers, Removal Refrigeration Services, Direct Disposers and Establishments, and Cinerator Facilities		03/24/2017 (RD)	04/14/2017			
69K-30.0021*	Minor Violations and Notice of Noncompliance for Funeral Directors and Establishments, Embalmers, Removal Services, Refrigeration Services, Direct Disposers and Establishments, and Cinerator Facilities		03/24/2017 (RD)	04/14/2017			
69K-30.003*	Citations for Funeral Directors and Establishments, Embalmers, Removal Services, Refrigeration Services, Direct Disposers and Establishments, and Cinerator Facilities (30.003)		03/24/2017 (RD)	04/14/2017			
69K-21.003	Inspection Criteria (Funeral Establishments).	09/07/2017	05/13/2017 (RD) 09/18/2017 (RN)	05/23/2017	09/26/2017 – Vol. 43/186	11/7/2017	11/27/2017
69K-33.001	Requirements Regarding Handling and Storing of Human Remains	10/05/2017	09/07/2017 (RD)	09/19/2017	10/18/2017 – Vol. 43/202	11/16/2017	12/6/2017

\*Note: Rule Development for 69K-30.001, .0021 and .003 noticed together; however, each proposed rule can be amended separately if needed

\*Note: Workshop on 69K-30.001, .0021 and .003 held June 6, 2017

\*Note: Rules Committee Meetings on 69K-30 held June 28, 2017, August 18, 2017, October 10, 2017 and November 9, 2017

**28. Administrative Report**

The information was provided on the Agenda.

**29. Disciplinary Report**

The information was provided on the Agenda.

**30. Upcoming Meeting(s)**

- A. January 4th (Teleconference)
- B. February 1st (Panama City)
- C. March 1st (Teleconference)
- D. April 5th (Orlando)

**31. Adjournment**

Chair – Board members? Good of the cause? Anything exciting happening?

Ms. Simon – If I may? I don't know if everybody here understands this, but to attend these Board meetings, at least Mr. Jones always comes over the morning of to travel here. Mr. Clark came over today and I'm not sure how four (4) or five (5) hours to travel this morning to get here. I'm not sure about the other Board members but I think that it's great that we have a Board that strives so hard to make sure everything is done well.

Chair - Thank you

Ms. Schwantes – Thank you all very much.

The meeting was adjourned at 1:15 p.m.