

**MINUTES**  
**BOARD OF FUNERAL, CEMETERY AND CONSUMER SERVICES**  
**August 2, 2018 - 10:00 A.M.**  
**Betty Easley Conference Center**  
**4075 Esplanade Way, Room 166**  
**Tallahassee FL**

**THIS MEETING IS OPEN TO THE PUBLIC**

**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'. It's August 2, 2018 and we're in Tallahassee FL. I want to call the meeting to order. Ms. Simon, would you make your preliminary remarks and do the roll call, please?

Ms. Ellen Simon – Yes, Mr. Chairman. My name is Ellen Simon. I am Assistant Director of the Division of Funeral, Cemetery, and Consumer Services. Today is August 2, 2018. It is approximately 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. This meeting is taking place in Tallahassee FL at the Betty Easley Center in Southwood. An agenda for this meeting has been made available to all interested persons and extra copies are located in this meeting room. 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, I will take the roll:

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

**Also noted as present:**

Mary Schwantes, Executive Director  
Tom Barnhart, Board Legal Advisor  
James "Jim" Bossart, Department Counsel  
LaTonya Bryant, Department Staff  
Jasmin Richardson, Department Staff  
Miriam Del Valle, Department Field Staff  
Gene Brimmer, Department Field Staff

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

Chair – Thank you.

**2. Action on the Minutes**

**A. July 12, 2018**

Chair –The first item on the agenda is action on the minutes of the July 12, 2018, meeting.

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

3. **Old Business**

A. **Motion to Supplement Application**

(1) **Recommended for Approval without Conditions (Criminal History)**

(a) **Griffin, Thomas Jr. (F044005)**

Ms. Simon – Mr. Griffin applied to renew his Funeral Director and Embalmer license (F044005), and that application was presented to the Board in November 2017. At that point, the Board denied the application. The Board found that Mr. Griffin had stated “NO” to the criminal history question in error, as explained within your Board package. The relevant criminal history is as follows:

- In March 2016, Mr. Griffin pled no contest to Driving While License Suspended/Revoked as a Habitual Offender. He was placed on two (2) years of probation incarcerated for one (1) day and he was required to submit to ten (10) days of Jail Work Camp. Mr. Griffin was also required to pay \$670 in fines and costs.
- In July 2016, Mr. Griffin pled no contest to possession of Narcotic Paraphernalia. He was credited for two (2) days of incarceration and assessed \$270 in fines and costs.
- It appears the applicant violated his probation and an arrest warrant was issued. At the hearing on September 5, 2017, the applicant admitted the Violation of Probation allegations. His probation was reinstated at that hearing.

The Board denied the application because Mr. Griffin was still on criminal probation. The documentation provided in the Board package reflects that the applicant’s criminal probation has been terminated. As such, the applicant has supplemented his application and again requests that his license be renewed. The Division recommends approval without conditions.

Chair – Yes?

Ms. Wendy Wiener – Wendy Wiener here for Thomas Griffin. I’m simply here to answer any questions that the Board members may have. We provided a good deal of information in the supplement to the original application.

Chair – Thank you. Any questions?

Mr. Hall – Mr. Chair?

Chair – Yes, Mr. Hall?

Mr. Hall – My concern, Mr. Griffin, is a lot of these charges are current, and as the State defines it, it’s habitual. Even when they pull your license, you continue to drive and don’t make any attempt at all to play by the rules. Some of them are serious charges with drug paraphernalia, etc. Can you tell me why we should feel comfortable giving you a license?

Ms. Wiener – I think you would need to swear Mr. Griffin in.

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

Mr. Thomas Griffin – I do.

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

Mr. Griffin – Thomas James Griffin, Jr.

Ms. Simon – Mr. Griffin, please address Mr. Hall’s question.

Mr. Griffin – What was the question again, sir?

Mr. Hall – All of these charges, and there’s two (2) pages of them, are current. The oldest one goes back to 2016. Even when the State disciplines and pulls the license, you continue to drive anyway. As they define it, you’re a habitual offender. Then

there's the drug charges and the paraphernalia and so forth. They're serious charges. Why do we think you would play by the rules under our chapter?

Mr. Griffin – Currently, I do have my driver's license. Secondly, in the case of the drug paraphernalia, I wasn't driving in that time period. I had an individual driving my vehicle, but because it was my vehicle, and the person fled the scene, they charged me with the possession of the contents. At this time, I'm just trying to get everything back in place, as far as my career and everything else.

Mr. Hall – Even when you had your license suspended, and you were on probation, you violated your probation, drove anyway, you showed up at the Sheriff's Camp and had alcohol that day.

Mr. Griffin – When it comes to the Sheriff's Work Camp, I was not aware. It was a Florida State vs. Miami football game and I had gone to a party prior to that night. I wasn't under the understanding regarding the alcohol part. It didn't dawn on me until I went to Work Camp when they made me aware of it.

Ms. Wiener – Mr. Hall, if I might address that. As it turned out, if you read through the summary that was provided, the alcohol violation was not technically a violation. He was not prohibited from consuming alcohol and there was a bit of a mix up there. He was not above the limit that it would have actually been a violation, so there was a little bit of a mix up of what was charged there. Ultimately, as you know, there was a further mix, with regard to when he was off probation. So ultimately his criminal lawyer recommended that he simply plead guilty to that violation of probation, because at that point the probation was scheduled to be terminated anyway and had overlapped the time that it was supposed to have occurred so that was not technically a violation of the probation.

Chair – Mr. Williams?

Mr. Williams -Mr. Griffin, are you currently working at the establishment?

Mr. Griffin – I'm still at Strong & Jones Funeral Home. Yes, sir.

Mr. Williams – And what is your role there, currently?

Mr. Griffin – As of right now, I'm just a funeral attendant.

Mr. Williams – Okay. Could you tell us why we should approve the reinstatement of your license?

Mr. Griffin – The best reason is because I'm dedicated to my work. This is all I've been doing since 1991. I messed up. I had some things that played a role in my life that interfered with it, but I feel that I'm back on track, with a solid mind, and I'm ready to work.

Ms. Wiener – And Mr. Williams, if I might address that further. It has long been the outcome of these types of issues, with regard to traffic infractions, to license or renew licenses for applicants. Mr. Griffin's crimes, so to speak, really simply involved traffic infractions that were not injurious to the public. I don't believe that there is any evidence at all that the renewal of Mr. Griffin's funeral director and embalmers license would have any deleterious effect on his capacity to serve the public without providing injury or bringing about public harm. And I believe that is the standard by which you are guided. So, it does seem like a very long criminal history and frankly I was amazed at how many pieces of paper can be generated and how many entries in a court docket can be generated by what started as a random traffic stop, in which no one was doing anything wrong, but that is the nature of our criminal justice system. To me, it looks a lot more significant on paper than what it was, which is why we tried to provide the summary, for you, of the criminal record.

Mr. Williams – Mr. Chair?

Chair – Yes, Mr. Williams?

Mr. Williams – I guess I'm having reservations because if you are continuing these negative situations with traffic violations and things like that. What gives us the satisfaction that you will not have these same types of situations happening in the funeral industry? What gives us the satisfaction that you would abide by our rules to make sure you are an upstanding licensed funeral director and embalmer?

Ms. Wiener – When you answer Mr. Williams, can you address whether there's ever been any allegations?

Mr. Griffin – This is a family business that was started by my grandfather, so since the time that I've been working at the funeral home, I have never had an incident during or after funeral hours or anything. As a matter of fact, I've probably received the most appreciation cards from families in appreciation of the services I've provided over the years, and still to this day I still get appreciation cards. I just love my job. I might not get paid for what I'm worth, but I enjoy doing my duty.

Chair – When was the last time you embalmed?

Mr. Griffin – Probably back in '16, '17, right before the license was pulled or revoked.

Ms. Wiener – His license was not actually revoked. His license was not renewed. So, would it have been prior to the time that your license was not renewed, while you had an active license?

Mr. Griffin – Yes, prior to. I think it was back in October or somewhere around that time period.

Chair – What about making funeral arrangements?

Mr. Griffin – Same time period.

Chair – Nothing in January and February?

Mr. Griffin – After that time period, they took my name off of all the pictures and advertisements. I would see families when they came in, I'd seat them and have them wait for the funeral director to actually make arrangements. I assist them as far as I can until the actual funeral director and embalmer comes on the scene.

Chair – Thank you.

Mr. Knopke – Mr. Chair?

Chair – Mr. Knopke?

Mr. Knopke – Good morning, sir. You said a minute ago that you have your driver's license.

Mr. Griffin – Yes.

Mr. Knopke – Are there any restrictions on your driver's license at this point in time?

Mr. Griffin – No restrictions that I am aware of.

Ms. Wiener – There are none.

Mr. Knopke – We've heard that you're designated as a habitual offender. Does that still hang over you? Are you considered, by the State of Florida, to be a habitual offender?

Ms. Wiener – While I do not practice criminal law, I will say that my understanding is that that is not meant to be something that continues on his record. It was the thing that turned what would otherwise be a simple misdemeanor into a reportable felony. So, that's the concept of the habitual offender. It transforms that misdemeanor into the felony.

Ms. Simon – If I may?

Chair – Ms. Simon?

Ms. Simon – Mr. Knopke, when somebody is charged with three (3) Driving While License is Suspended, and convicted of three (3), the third or the fourth is a Driving While License is Suspended as a Habitual Offender. What that means is the next time he's charged with this crime, it would be as a felony, instead of a misdemeanor, but there's no lingering, as Ms. Wiener said, there's no lingering category of being a habitual offender.

Mr. Knopke – Okay. So, as an example, I've heard over the years in press, your license has been suspended because you're a habitual offender and you can never get your license back. Is that similar to that? I'm not saying he's not getting his license back. I'm not doubting that, but they've got this type of statute and maybe I'm just confused by it.

Ms. Wiener – I believe that that refers to driving under the influence of alcohol.

Mr. Knopke – Okay, thank you. That may answer the question. Thank you.

Chair – Thank you. Anyone else? Board?

Mr. Knopke – I'll make the motion to approve, although I will express that I have serious reservations. I know he hit a bump in his life and he struggled with that. I just hope if it passes that we're making the right decision. The Department's recommending you and that carries a lot of weight. I'm still hesitant, but I'm hoping you prove me right.

**MOTION:** Mr. Knopke moved to approve the license renewal. Mr. Clark seconded the motion, which failed with four (4) dissenting votes.

Mr. Jones – Mr. Chair, if I may?

Chair – Yes?

Mr. Jones – I didn't want to modify Mr. Knopke's motion, but I'll make a motion to approve, but I would like to see, with counsel and Mr. Griffin's approval, a probationary period with the approval. I've not decided six (6) months or a year, but I would feel more comfortable knowing that, during this time, if we approve it, Mr. Griffin has a probationary period and that's my recommendation for six (6) months of probation.

Ms. Simon – If I may add to that recommendation or motion, there's a \$50 delinquent fee that exists, so we would ask that that be added.

Mr. Jones – Agreed.

Chair – What was your probationary period?

Mr. Jones – Six (6) months.

Ms. Wiener – I don't think we were aware of the delinquent fee. We would have resolved that ahead of time.

**2<sup>nd</sup> MOTION:** Mr. Jones moved to approve the license renewal subject to the conditions that the applicant be placed on probation for six (6) months and the Department receipt of the \$50 delinquent fee. Mr. Knopke seconded the motion, which passed with three (3) dissenting votes.

Chair – Thank you.

Ms. Wiener – Thank you.

Mr. Barnhart – Ms. Wiener, wasn't there a Notice of Intent to Deny earlier in this case?

Ms. Wiener – Yes. I'll get with you after this meeting and we'll make sure that we resolve any outstanding litigation. I filed a petition on it, and then we ended up here.

Mr. Barnhart – I wanted to give the Board a chance to vacate, if they so desired, the Notice of Intent to Deny.

Ms. Wiener – Oh sure. That would probably help, Mr. Barnhart.

Mr. Barnhart – If it's your pleasure, it's not required that you do this.

Chair – Yes?

Mr. Knopke – I was just going to ask Mr. Barnhart, if we vacate the position, that allows this thing to get settled, as we just voted. Is that correct?

Mr. Barnhart – Right. The big difference would be that he wouldn't have to put on future applications that he'd ever been denied for this type of licensure.

Ms. Wiener – I don't think he'd have to report that anyway because the Notice of Intent to Deny never became final, because I filed a petition and then we resolved the matter.

Mr. Barnhart – He'd still have to, though. It's still in existence. It's up to you. You don't have to pursue that if you don't want to. You can just let it go.

Ms. Wiener – We would appreciate it if you feel that it would cause him to have a reportable denial on his record.

Mr. Barnhart – I'm not familiar with what the requirement is to report denials in other states. I just wanted to bring that up in case.

Ms. Wiener – Sure. We would certainly appreciate you taking the small extra step to vacate that Notice of Intent to Deny just in case there would be a lingering problem with that.

**MOTION:** Chair moved to vacate that Notice of Intent to Deny. Mr. Helm seconded the motion, which passed unanimously.

Ms. Wiener – Thank you very much.

**B. *Preneed License Renewal***

**(1) *Recommended for Approval with Conditions***

**(a) *International Cremation Society Inc. (Punta Gorda)***

Chair – Is there anyone representing International Cremation Society? Anyone representing International Cremation Society? Hearing none.

Ms. Simon – Mr. Chairman, the licensee failed to provide the Division or the Board, in connection with its application for renewal, several forms that were required to be filed by April 1, 2018. The materials were provided as of June 29, 2018, and were at least ninety (90) days late, which indicates that a late fee of \$1000 is due, of which the licensee has only remitted a total of \$200 in late fees to date. The Division recommends approval of the license, with the provision that it be suspended and that that suspension be lifted for a period of thirty (30) days. If the applicant pays the \$800 due to the Division within those thirty (30) days, that the suspension never takes place.

**MOTION:** Mr. Jones moved to approve the license renewal subject to the condition that the licensee pays to the Division the required late fee balance due in the amount of \$800.00 within thirty (30) days of this Board meeting. Mr. Hall seconded the motion, which passed unanimously.

*C. Request(s) to Renew License (Criminal History)*  
*(1) Recommended for Approval with Conditions*  
*(a) 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, to wit, 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 thirty-six (36) months. In December 2018, the applicant came before the Board with his request for renewal. At that time, the applicant was still on criminal probation. However, after much discussion by the Board, the applicant withdrew his application.

Based upon paperwork submitted by Mr. Long’s attorney, it appears that Mr. Long’s criminal probation has been terminated. While the Division recommended denial during the December 2017 meeting, the Division is now recommending approval subject to the condition Mr. Long is in compliance, with his continuing education requirements. This recommendation is based upon paperwork received on Mr. Long’s behalf.

Chair – Thank you. Will you swear Mr. Long in?

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

Mr. William Long – Yes I do.

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

Mr. Long – William Long.

Chair – Mr. Long?

Mr. Long – Yes sir?

Chair – It appears to me, with your immense power and wealth, that you contend that you are not guilty to any of the criminal charges against you.

Mr. Long – Yes sir.

Chair – I suppose my question is, could you not conjure up a not guilty plea on those charges?

Mr. Long – Mr. Brandenburg, unfortunately, I hate to state this, but I don’t feel I was represented appropriately by the counsel that I originally had. I went on their recommendation to enter a plea of no contest. We were prepared to go to trial to prove my innocence. However, I had no confidence in my first counsel who represented me in the criminal matter. I’d never been a position like that. I’ve been in the profession for thirty-eight (38) years. I’m a proud member of the profession. I simply went with, at the time, counsel’s advice to enter a plea of no contest. We were at docket sounding for trial when the State Attorney’s Office and the judge frankly said that if I entered a not guilty plea and proceeded to trial that he would, if I was found guilty, sentence me to the maximum allowable penalty. So, at the docket sounding, during the hearing in front of the judge, I had a sidebar with counsel and their recommendation was to take a plea agreement with the State Attorney’s Office and plead no contest. Being in that situation, at the time, I took counsel’s advice. As soon as that case was over, I did acquire a different defense attorney who represented me well.

Ms. Wiener – Was adjudication of guilt withheld?

Mr. Long – Pending the termination of probation, adjudication of guilt was withheld.

Ms. Wiener – Mr. Brandenburg, if I may?

Chair – As a graduate of the Seminole State Police Academy, a former deputy sheriff, a certificate holder from Florida Criminal Justice Program, police officer, among other things related to law enforcement, and your assertion of innocence, you didn't think about the plea that you eventually entered?

Mr. Long – Chairman Brandenburg, all I can tell you is that it was an extremely stressful time for me. I was under the gun. I had already served a few days in jail before docket sounding. It was a very unpleasant experience. I was under a tremendous amount of stress and I just simply took the advice of counsel that it was going to be a situation of "he said, he said" as to what happened. The sad part is you never know, going in front of a group of your peers or fellow citizens to decide the fate of your future. Again, I listened to counsel. We were confident in going to trial, but again, with what the judge stated from the stand, that if I were to take it to trial, and if I were to be found guilty, then I might face the maximum penalty. So, in that situation, at the moment, I simply took a sidebar with the attorney and I just said let's just get it over with, and that's what happened. It was a horrible time in my life. I regret it. It was an awful that happened, but I have never been in trouble before. I certainly know better. Again, I maintain the fact that I am actually innocent of the charges.

Ms. Wiener – Mr. Brandenburg?

Chair – So much of your defense is attributable to the actions, or inactions of your spouse. Are you still with that spouse?

Mr. Long – No sir, I am not.

Chair – You're legally divorced from them?

Mr. Long – No, I am not legally divorced. No sir, but I have zero contact. After this situation, nothing to do with them.

Chair – Ms. Wiener?

Ms. Wiener – Thank you. In much the same way that licensees that come before this Board often consider a settlement agreement rather than taking their matter to a full administrative hearing proceeding before the Division of Administrative Hearings, even when they dispute the facts that are alleged by the Department of Financial Services, Mr. Long simply considered what the worst possible outcome might be of the situation were he to go to trial. I believe we all know that juries are unpredictable. Certainly, so many potential licensees that come before you, with a criminal history, have opted to have an adjudication of guilt withheld. Of course, in the licensing system, you are required to report that as having pled no contest, but technically there is not an adjudication of guilt that is imposed on a licensee or a person who pleads no contest and has an adjudication of guilt withheld. It is a weighing of interest in the moment, at the time. I believe that you heard from Mr. Long. He made that choice to forego having the potential of an adjudication of guilt by a jury of his peers, and instead opted for, what is considered a settlement agreement.

Chair – Was there any consideration, in your own mind or the mind of your counsel, how this might affect your professional license and the renewal of your professional license.

Mr. Long – Chairman Brandenburg, in all honesty, again, this was a very tumultuous time in my life, extremely stressful. I honestly probably wasn't even thinking about that at the time. It was probably just a stupid mistake on my part not to consider that, but again when your placed in front of a jury of your fellow citizens, with what the judge stated from the bench that he would withhold adjudication of guilt if I accepted the plea agreement, as long as I successfully completed probation, which I've done. I had it terminated early. To answer your question, at that time, I just wanted the whole situation over.

Chair – Thank you.

Mr. Long – Yes sir.

Chair – Mr. Hall?

Mr. Hall – If you could maybe help me with a few questions that are running through my mind.



Mr. Long – Yes sir.

Mr. Hall – My first concern is that we're reviewing this as soon as it's been since the charges and stuff, just like the last case. Secondly, if I was charged with these type charges, someone is going to have to prove it on me. My intent would be to fight and see what the jury says, but when you're telling me that your defense attorney is saying we don't want to go to trial with this, does that lead me to believe that he didn't think he could win the case? Then we have a judge that's telling you he's going to give you the maximum sentence. A lot of it, like Mr. Brandenburg said, you're going back to your spouse as the creator of a lot of these problems. If I had a spouse that did that to me and had these charges brought against me and tarnished my record like this, I would have been divorced. I don't understand why that cord hasn't been cut, even if there's no contact. Help me with that.

Mr. Long – Number one, the judge simply stated if I were not to accept the plea agreement. Again, this is the docket sounding to go to trial.

Mr. Hall – I understand.

Mr. Long – The attorney and I were confident that logical thinking individuals would have found me innocent, however, again it's kind of a roulette. You're not sure what your fellowman is going to do. I just didn't want my life placed in the hands of six (6) or twelve (12) members of the jury to think things through logically. We felt confident in going to trial, but in order to end it, get it all over, the judge was going to withhold adjudication of guilt upon successful completion of probation. Under advice of counsel, I took his advice, and I chose to enter a plea of no contest. Relative to the divorce, that is pending. We're in the works with that, my attorney, Alan Taylor in Orlando. We did not pursue it until probation was terminated because he did not want my spouse to have an opportunity to come up with some bologna or some other garbage to accuse me of and cause me any problems, while I was on probation. That's why we chose not to file for divorce until I successfully completed the probation.

Mr. Hall – It's just difficult for me to understand if he felt that he could win that jury trial, and there was no doubt that he could do that, why he wouldn't have just cleaned your record. Like Mr. Brandenburg read, some of these people you worked for before, the police department, sheriff's department, some of these things that you provided us with, would you be eligible for rehire today with this record?

Mr. Long – No.

Mr. Hall – So the consequences of you having to plead that way, not just our industry, but any of these industries you listed that you were in, would make you eligible for rehire.

Mr. Long – Again, a certification in law enforcement, you're right, I cannot and no longer hold my certification in law enforcement. However, the thirty-eight (38) years in the funeral profession and having my own funeral home for twenty-eight (28) years, etc., I had no intention of going back into law enforcement. I'm a little too old for that now.

Mr. Hall – My question for you is if some of these companies that you listed that you worked for and the things that you've done in the past, if they won't relicense you because of these charges, why should we?

Mr. Long – I've never been in violation of Chapter 497. Again, I spent thirty-eight (38) years in this profession. I have never had any litigation filed against me, civil or criminal. This was an incident that happened. Again, it's one (1) blip on the screen of my entire professional career as a licensed funeral director. I've never stepped out of bounds with the Board of Funeral, Cemetery, and Consumer Services ever.

Mr. Hall – Well, not as far as charges, but these charges are what have you here now before the Board, so you are outside the lines there now.

Mr. Long – Yes sir, I understand.

Ms. Wiener – You mean with regard to any violation of Chapter 497, you've never been before the Board with any of that?

Mr. Long – Right. I spent a proud thirty-eight (38) years being a member of the funeral profession, and I am very happy with what I've accomplished, in this profession. I've never come before you asking for suspension to be lifted or a license violation. I've never come before you with that in thirty-eight (38) years.

Chair – At the last meeting you were before us, Ms. Wiener has document on page 2 of our electronic form, referring to Mr. Hall and what he stated, and part of it was "*I would rather see him come back before the Board at that point showing us that the drug tests were all good,*" and can you show us that, that the drug tests were all good?

Ms. Wiener – Yes. The termination of probation would not have been terminated but for all clean drug tests. It's a requirement of the criminal code that they will not terminate your probation early if you have failed your drug tests. So the fact that the termination of probation occurred early, as Mr. Long suggested at the last meeting, is indication that all the drug tests were good.

Chair – Thank you for that explanation. Are you currently under any requirement for drug testing?

Mr. Long – No sir. That was lifted at the time of early probation.

Chair – How many drug tests did you have?

Mr. Long – Once a month. Every time I reported to the probation office, they performed a drug test in the Department of Corrections Probation Office.

Ms. Wiener – And those were random, correct?

Mr. Long – Every month.

Ms. Wiener – They tell you when to report?

Mr. Long – Absolutely. They tell us when to report.

Chair – Thank you.

Mr. Knopke – Mr. Chair?

Chair – Mr. Knopke?

Mr. Knopke – When they tell you to report, how much notice do you get?

Mr. Long – It's actually set up on thirty (30) day increments. The date for the next appointment is set when you sit with the probation officer.

Mr. Hall – Mr. Chair?

Chair – Mr. Hall?

Mr. Hall – Just in reference to my concern in that last meeting that she mentions, I think it would be a very rare occasion that I would feel that we would approve something when someone is still under probation with the State. I don't know if that makes sense. It would be rare, so that was my concern at the time. I think at the time we were deciding whether it was best for him to withdraw so that he could come back and reapply at some point in time or should we go ahead and vote, and the concern at that time I believe was if it was voted on then it could potentially be denied, so you chose to withdraw. Is that true?

Ms. Wiener – That is correct.

Mr. Hall – That’s what we did. Okay. So my concern was there was probation and I’d rather see some time in between that and that was the clarification of what my concern was there.

Chair – Thank you, Mr. Hall. Board?

Mr. Knopke – Mr. Chair?

Chair – Mr. Knopke?

**MOTION:** Mr. Knopke moved to approve the license renewal subject to the condition that Mr. Long complies, with his continuing education requirements, and one (1) year of probation. Mr. Williams seconded the motion, which passed with two (2) dissenting votes.

Mr. Long – Thank you, Mr. Brandenburg.

Ms. Wiener – Thank you.

#### 4. Disciplinary Proceedings: Settlement Stipulations

##### A. Related Items

###### (1) Signature Memorial Funeral & Cremation Services, LLC:

(a) Case No. 195915-16-FC; Division No. ATN-26991 (F090323) (Probable Cause Panel B)

(b) Case No. 198401-16-FC; Division No. ATN-27106 (F090323) (Probable Cause Panel B)

(c) Case No. 204671-17-FC; Division No. ATN 28332 (F090323) (Probable Cause Panel A)

Ms. Simon – To present for the Department, Mr. Jim Bossart.

Chair – Welcome, Mr. Bossart.

Mr. Jim Bossart – Thank you, Mr. Brandenburg. May I proceed?

Chair – Please do.

Mr. Bossart – Yes sir. Members of the Board, my name is Jim Bossart and I represent the Department of Financial Services in this matter. The case before you is Signature Memorial Funeral & Cremation Services, LLC, Case Nos. 195915-16-FC, 198401-16-FC, and 204671-17-FC. Signature Memorial Funeral & Cremation Services, LLC (“Respondent”) is a Florida limited liability corporation doing business, licensed under Chapter 497, F. S., and under the same name as a funeral establishment (F090323), in Gainesville FL. Mr. Willie Owens was the FDIC of Signature Memorial.

The Department inspected the Respondent on May 13, 2016, and on January 10, 2017. The inspections found that the Respondent: failed to store and treat human remains with dignity and respect; failed to have a general price list; failed to adopt and implement standards for the proper investigation and resolution of complaints relating to the Respondent’s practice as a funeral establishment; failed to record the name of the deceased in respect to each dead human body handled by the Respondent; and failed to notify the Department at least ten (10) days before making major alterations or modifications to the physical structure of the funeral establishment, while in violation of ss. 497.152(1)(a), (b), (4)(h), (8), (12)(b), (14)(a), 497.380(1), 497.382(1), 497.386(1), (2), (4), F.S., as well as Rules 69K-21.002(4)(c), 21.003(1), 33.001(2)(a), (i), F.A.C.

Respondent has entered into this proposed stipulation. The proposed stipulation provides as follows: Respondent shall pay an administrative fine of \$3500. Furthermore, the Respondent expressly acknowledges that s. 497.386(2), F.S. provides that a dead human body may not be held in any place or in transit over 24 hours after death, or pending final disposition unless the body is maintained under refrigeration at a temperature of 40 degrees Fahrenheit, or below, or is embalmed or otherwise preserved in a manner approved by the licensing authority in accordance with the provisions of Chapter 497, F.S. Respondent also acknowledges that s 497.386(3), F.S., provides, in pertinent part, that a dead human body transported by a common carrier or any agency or individual authorized to carry dead human bodies must be placed in a carrying container adequate to prevent the seepage of fluids and escape of offensive odors.

Failure to pay the \$3500 administrative fine shall constitute a violation of the Consent Order and shall result in the immediate suspension of Respondent's license pursuant to s. 497.153(5)(c), F.S., until Respondent comes into compliance, including payment of the fine. The Department recommends that the Board approve this Settlement Stipulation.

Ms. Jean Anderson – Mr. Chairman?

Chair – Yes, Ms. Anderson?

Ms. Anderson – I served on Probable Cause Panel B and would like to recuse myself.

Chair – Thank you.

Mr. Clark – Mr. Chairman, in the Board packet there's a note about Hiers Baxley, as a response to some of the concerns. So there is somewhat of an affiliation but that affiliation will not impact my ability to render a fair and impartial decision.

Chair – Thank you for that declaration. Board?

Mr. Williams – Mr. Chair? Is Mr. Owens available today?

Mr. Bossart – No, he's not sir. He's not here.

Mr. Williams – Is Mr. Owens currently a licensed funeral director?

Mr. Bossart – I'll refer that to Ms. Simon.

Ms. Simon – Just one moment.

Mr. Williams – Okay.

Chair – Since Willie Owens was the FDIC of Signature Memorial...

Mr. Williams – So he's currently no longer there?

Mr. Bossart – Actually, I don't believe he is the FDIC of Signature anymore.

Chair – This item is Signature Memorial Funeral & Cremation Services. The next item pertains particularly to Mr. Owens.

Mr. Hall – Mr. Chair? So we're doing them one at a time and not taking this as a whole?

Mr. Barnhart – There's three (3) cases against the LLC and three (3) cases against the individual, as I understand it.

Ms. Mary Schwantes – That's correct.

Chair – I've been advised that we should take them separately.

Mr. Hall – But he's saying there's two (2) stips.

Mr. Barnhart – We're just talking about the LLC right now.

Mr. Hall – Okay.

Ms. Simon – Ms. Richardson?

Ms. Jasmin Richardson – He is currently licensed. I'm looking to see if he's the FDIC of Signature Memorial. And he is not the current FDIC.

Chair – So we have the Settlement Stipulation before the Board. Mr. Knopke?

Mr. Knopke – Payment of terms is thirty (30) days?

Mr. Bossart – Yes, I believe that is customary.

Mr. Knopke – And there is nobody here from Signature?

Mr. Bossart – No sir.

Chair – The stipulation was signed, by someone representing Signature Memorial.

Mr. Jones – Mr. Chair, may I ask a question of the Department?

Chair – Please.

Mr. Jones – I see the fines, but with all these charges with this settlement, do we ever ask for probation so that we can also have a better handle on the establishment as well?

Mr. Bossart – I believe we waived the probation and moved for a higher fine.

Mr. Jones – So we waived the probation?

Mr. Bossart – In return for a higher fine.

Mr. Jones – Okay.

Chair – And Mr. Knopke, to answer your question, I just checked the Settlement Stipulation and it does say thirty (30) days.

Mr. Knopke – Thank you.

Chair – Board, is there a motion?

Mr. Hall – Question?

Chair – Mr. Hall?

Mr. Hall – As Mr. Jones is saying, my concern is when we have a facility like this that is fined, is there anything red flagged that we can keep a watch on internally, since there's not a probation period? Obviously, if they don't pay the fine they're going to be suspended, but with all these serious accusations, can we request to send the inspector more often?

Ms. Simon – There would be an Order existing for discipline against the individual and if something else were to come up with Signature, this would be used as an aggravating circumstance, in terms of an inspection. Inspections, as you know, are done in funeral homes on an annual basis.

Ms. Schwantes – Let me add to that, though. They are done on an annual basis, but the timing can be moved, during that year, to review certain circumstances, and yes, we can have additional inspections or investigations as needed.

**MOTION:** Mr. Hall moved to approve the Settlement Stipulation, requiring the Respondent to pay an administrative fine of \$3500. Mr. Knopke Jones seconded the motion, which passed unanimously.

**(2) Willie Owens:**

- (a) Case No. 195918-16-FC; Division No. ATN-26991 (F046671) (Probable Cause Panel B)**
- (b) Case No. 198403-16-FC; Division No. ATN-27106 (F046671) (Probable Cause Panel B)**

*(c) Case No. 204672-17-FC; Division No. ATN-28332 (F046671) (Probable Cause Panel B)*

Ms. Simon – Again, presenting for the Department, Mr. Bossart.

Chair – Mr. Bossart?

Mr. Bossart – Thank you. This is Jim Bossart, representing the Department of Financial Services. The case before you is Willie Owens, Case Nos. 195918-16-FC, 198403-16-FC, and 204672-17-FC. This is the companion case of the preceding case we were just discussing concerning Signature Memorial. Mr. Willie Owens (Respondent) is a funeral director and embalmer licensed under Chapter 497, F.S. (F046671). Respondent was the FDIC of Signature Memorial Funeral & Cremation Services, LLC, a Florida limited liability corporation doing business licensed under Chapter 497, F.S. and under the same name as a funeral establishment (F090323) in Gainesville FL.

The Department inspected the Respondent on May 13, 2016, and on January 10, 2017. The inspections found that the Respondent: failed to store and treat human remains with dignity and respect; failed to have a general price list; failed to adopt and implement standards for the proper investigation and resolution of complaints relating to the Respondent's practice as a funeral establishment; failed to record the name of the deceased in respect to each dead human body handled by the Respondent; and failed to notify the Department at least ten (10) days before making major alterations or modifications to the physical structure of the funeral establishment, while in violation of ss. 497.152(1)(a), (b), (4)(h), (8), (12)(b), (14)(a), 497.380(1), 497.382((1), 497.386(1), (2), (4), F.S., as well as Rules 69K-21.002(4)(c), 21.003(1), 33.001(2)(a), (i), F.A.C. As FDIC of the funeral establishment, Respondent is responsible for funeral establishment's compliance with these statutes, pursuant to s. 497.380(7), F.S.

Mr. Owens has also entered into a proposed stipulation. The proposed stipulation provides as follows: Respondent shall pay an administrative fine of \$3500. Respondent expressly acknowledges that s. 497.386(2), F.S. provides that a dead human body may not be held in any place or in transit over 24 hours after death, or pending final disposition unless the body is maintained under refrigeration at a temperature of 40 degrees Fahrenheit, or below, or is embalmed or otherwise preserved in a manner approved by the licensing authority in accordance with the provisions of Chapter 497, F.S. Respondent also acknowledges that s 497.386(3), F.S., provides, in pertinent part, that a dead human body transported by a common carrier or any agency or individual authorized to carry dead human bodies must be placed in a carrying container adequate to prevent the seepage of fluids and escape of offensive odors.

Failure to pay the \$3500 administrative fine shall constitute a violation of the Consent Order and shall result in the immediate suspension of Respondent's license pursuant to s. 497.153(5)(c), F.S., until Respondent comes into compliance, including payment of the fine. The Department recommends that the Board approve this Settlement Stipulation.

Chair – Thank you, and I'll call attention to the Board members that the terms of the Stipulation Agreement provide that the fine shall be payable in six (6) payments: an initial payment of \$583.35 within thirty (30) days of the effective date and shall make monthly installment payments of \$583.33, due on the 21<sup>st</sup> of each month for five (5) consecutive months.

Ms. Anderson – Mr. Chairman?

Chair – Yes ma'am?

Ms. Anderson – My recusal continues.

Chair – Thank you for that statement.

Mr. Clark – Mr. Chairman, same disclosure, as we're listed in the response noted in the investigator's notes, so I will state my affiliation with Hiers Baxley, and I will participate in the discussion and voting.

Chair – Will it affect your ability to make a fair and impartial decision?

Mr. Clark – No sir.

Chair – Thank you. Board?

Mr. Knopke – Mr. Chair?

Chair - Yes sir?

Mr. Knopke – I'll make a motion to reject the Settlement Stipulation, based upon the gravity of the offenses and the fact that we're going to allow someone who did all this to make monthly payments. They need to, one be here, but second step up and pay the fine.

Mr. Hall – Are you amending it to require the full payment?

Mr. Knopke – Mr. Barnhart do we have to reject it first?

Mr. Barnhart – Yes, I think you should make a motion to reject it as it stands. If you want to make a counter proposal, you can do that afterwards.

**MOTION:** Mr. Knopke moved to reject the Settlement Stipulation as submitted. Mr. Hall seconded the motion, which passed with 3 dissenting votes.

Mr. Jones – Mr. Chair, may I ask a question?

Chair – Yes sir.

Mr. Jones – Is Mr. Owens currently an FDIC anywhere? Do we know where he's at? Where he's licensed?

Ms. Richardson – I do not.

Mr. Jones – In the Settlement Agreement, under number 4, it states that the Respondent denies the allegations. So he's denying that any of this happened under his watch? Is that correct? Yet, he entered into the Settlement Agreement.

Mr. Bossart – Yes sir.

Mr. Jones – Okay.

Mr. Knopke – And to tag onto that, he's not here to say anything about it.

Mr. Jones – I just wanted to clarify that.

Chair – He did sign the Settlement Stipulation. It appears to be Willie J. Owens.

Mr. Barnhart – Does anyone wish to give Mr. Bossart any guidance as to what might be acceptable?

Mr. Knopke – Do we need to do that in the form of a motion?

Mr. Barnhart – No, I think just some comments. Just give him some ideas on what might be acceptable, because if you don't have a stipulation, it would have to come back as an informal hearing.

Mr. Knopke – The fine of \$3500 is fine by me, payable within thirty (30) days, just like the other.

Mr. Jones – I think probation, as was asked earlier. This one bothers me without some form of probation or monitoring. I'm really looking to the Department.

Mr. Knopke – I would suggest two (2) years of probation.

Chair – So the suggestion is that the Settlement Stipulation be approved, although amended, to the \$3500 being paid in total within thirty (30) days and two (2) years of probation.

Mr. Barnhart – Board, do you wish to make that a counter proposal, or do you want Mr. Bossart to bring back a Stipulation with those provisions?

Mr. Knopke – I'll make it as a motion.

Mr. Hall – Second.

Chair – It doesn't require a motion, but since we've had that and it's been seconded. All those in favor, aye?

Board members – Aye.

Chair – And any opposed? And that motion does carry.

Ms. Simon – Mr. Barnhart, do we need a timeframe, in terms of the counter proposal?

Mr. Barnhart – I think typically we give them thirty (30) days to accept or reject.

Mr. Bossart – If I may ask, will that involve any stipulation?

Ms. Simon – So, within thirty (30) days, he has the ability to accept that Settlement Stipulation. And what does that mean? Does that become a Final Order?

Mr. Barnhart – No, I would have him come back before the Board for approval.

***B. SCI Funeral Services of Florida, LLC: Case No. 216393-17-FC; Division No. ATN-28009 (F039496) (Waiver of Probable Cause)***

Ms. Simon – Again, Mr. Bossart is representing the Department.

Chair – Excuse me just a moment. Excuse me, sir. Would you happen to be Mr. Owens?

Unidentified person – No sir.

Mr. Bossart – May I, sir?

Chair – Please.

Mr. Bossart – This is Jim Bossart with the Department of Financial Services. The case before you is SCI Funeral Services of Florida, LLC, Case No. 216393-17-FC. This investigation supports allegations that SCI Funeral Services of Florida, LLC (Respondent) is liable for the following violations: Respondent, at all times relevant to this Settlement Stipulation for Consent Order (Stipulation), was licensed as a cemetery company pursuant to Chapter 497, F.S. (F039496), doing business under the name of Caballero Rivero Dade North Cemetery, in Miami-Dade County FL. The investigation found that Respondent failed, without reasonable justification, to honor a contract for burial rights, in violation of s. 497.152(13)(a), F.S. The Respondent has entered into a proposed stipulation for a fine of \$2000. The Department recommends that the Board approve this Settlement Stipulation.

Chair – I'd like to declare my affiliation with SCI Funeral Services of Florida, LLC, and that affiliation in no way will affect my ability to make a fair and impartial decision on this matter or any matter coming before the Board today.

Mr. Helm – Mr. Chair, what item are we on now?



Mr. Williams – D.

Chair – 4. D. We seemed to have skipped to 4. D. Ms. Simon will explain.

Ms. Simon – For Signature Memorial, there were three (3) cases involved in one (1) Settlement Agreement, so we handled them as a group. For Willie Owens, there were three (3) cases involved in one (1) Settlement Agreement, so we handled those as a group, and that completed all six (6) items previously on the agenda.

Mr. Helm – So they only paid a \$3500 fine altogether?

Ms. Simon – Yes.

Mr. Bossart – Each licensee paid a \$3500 fine.

Mr. Helm – Okay. That wasn't the way I took it.

Chair – I didn't either.

Ms. Anderson – My recusal does not extend to this case.

Chair – Thank you.

Mr. Hall – Question, Mr. Chair?

Chair – Mr. Hall?

Mr. Hall – Just for information for me, was this a cemetery that was taken over from Stewart in the acquisition? Did you all inherit this cemetery?

Ms. Wiener – I believe that this misburial occurred prior to the current ownership.

Mr. Hall – Right before the acquisition of Stewart?

Ms. Wiener – That is to my recollection.

Mr. Hall – Okay.

Mr. Knopke – No.

Ms. Wiener – No? Was it during SCI's ownership?

Ms. Simon – Please raise your right hand to be sworn in. Do you swear to tell the truth, the whole truth and nothing but the truth?

Ms. Lisa Coney – Yes ma'am.

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

Ms. Coney – Lisa Coney, SCI Funeral Services, LLC. This is an SCI property. It was not a Stewart acquisition.

Mr. Hall – Did they finally give you a permanent solution? Did the family every come back?

Ms. Coney – Yes, it's all complete and totally resolved.

Mr. Hall – Okay.

Ms. Coney – This was a situation of a family plot. This was not outside of that family plot. It was such a big family so it was challenging to resolve, but it has been completely resolved.

Mr. Hall – Okay.

Chair – Thank you.

**MOTION:** Mr. Hall moved to approve the Settlement Stipulation, requiring the Respondent to pay a fine of \$2000. Mr. Jones seconded the motion.

Chair – Mr. Helm?

Mr. Helm – I just have a question, because I read the thing and I understand what's going on. I don't see where they failed to honor the burial right.

Mr. Bossart – The gravesite is listed on the contract, sir, and someone else is in the grave.

Ms. Wiener – To Mr. Helm's point, ultimately the contract was honored.

Mr. Helm – That's what I said I don't see where they failed to honor it. I understand there was a mistake made, but failing to honor it, I don't quite understand that charge.

Ms. Wiener – I think that the coversheet is a little bit misleading. The actual Stipulation makes reference to the original misburial. As Ms. Coney said, this was a family plot and one of the family members ended up in the bottom unit of the double-depth space that they were not supposed to be in.

Mr. Helm – Was that ever proven?

Ms. Wiener – Yes.

Ms. Coney – Yes, we did a disinterment and identification.

Mr. Helm – How'd you do the disinterment? Just curious.

Ms. Wiener – Ultimately, they authorized the disinterment.

Mr. Helm – Okay.

Ms. Coney – And I think the delivery of contract issue is a matter of timing, because we weren't able to perform the burial on the selected day.

Mr. Helm – Okay. Thank you.

Chair – So we have a motion and a second, before us, to approve the Settlement Stipulation. All those in favor, aye?

Board members – Aye.

Chair – And any opposed? The motion carries. Thank you.

Mr. Bossart – Thank you, sir.

**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) **Memoriams, By Ancestry (28208)**

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. Williams seconded the motion, which passed unanimously.

- 7. **Application(s) for Florida Law and Rules Examination**
  - A. **Informational Item (Licenses Issued without Conditions) – Addendum C**
    - (1) **Direct Disposer**
      - (a) **Hooker, Scott E**
    - (2) **Funeral Director (Internship and Exam)**
      - (a) **Mazzoni, Dillon J**
    - (3) **Funeral Director and Embalmer (Internship and Exam)**
      - (a) **Little-Griffiths, Carla D**
      - (b) **Valles Calderon, Stephanie**

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) **Funeral Director and Embalmer (Internship and Exam)**
    - (a) **Foster, Jason A**

Ms. Simon – An application, for a Funeral Director and Embalmer license, was received by the Division on July 11, 2018. The application was complete when submitted. A background check revealed a relevant criminal history to wit, in Alabama, March of 2000, Applicant pled guilty to two counts of Receiving Stolen Property and one count of Theft of Property (crimes categorized as felonies in Alabama, as well as Florida). The Applicant was sentenced to probation for five years and ordered to pay \$1916.50 in fines and costs. The Division is recommending approval without conditions.

Chair – Is Mr. Foster here? Jason A. Foster? Jason A. Foster? Hearing no response. Board?

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

- C. **Recommended for Approval without Conditions (Adverse Licensing History)**
  - (1) **Funeral Director and Embalmer (Endorsement)**
    - (a) **Pender, Chris M**

Ms. Simon – An application for a Funeral Director and Embalmer license was received, by the Division on May 16, 2018. The application was incomplete when submitted. All deficient items were returned on June 12, 2018. A background check revealed no relevant criminal history; however, the applicant does have adverse licensing history from the State of Connecticut. The Division is recommending approval without conditions.

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

- D. **Recommended for Denial (Criminal History)**
  - (1) **Funeral Director and Embalmer (Internship and Exam)**
    - (a) **Williams, Charles D**

Ms. Simon – Mr. Williams? If you are present, please step forward. An application, for a Funeral Director and Embalmer license, was received by the Division on May 31, 2018. The application was incomplete when submitted. All deficient items were returned, and the application was completed, on June 27, 2018. A background check revealed a relevant criminal history. Mr. Williams previously held a Funeral Director and Embalmer license, F044245, that expired August 31, 2005. The relevant criminal history is that in March 2006, Applicant was found guilty of Lewd and Lascivious Molestation and sentenced to twelve (12) years of incarceration followed by thirteen (13) years of probation. He is currently on probation. The Division is recommending denial. Mr. Barnhart?

Mr. Barnhart – Board members, if someone is still on probation, you can refuse to rule on an application pursuant to s. 497.141(5)(b), F.S., which says that the Board has authority to refuse to rule on an initial application if the investigation or prosecution is not yet complete. It would be my opinion that the prosecution is not complete until all terms of probation are satisfied.

Chair – Thank you. Mr. Williams, did you want to address the Board, or are you here to answer questions?

Mr. Charles Williams – I'm here to answer your questions.

Chair – Please be sworn in.

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

Mr. C. Williams – I do.

Ms. Simon – State your name for the record.

Mr. C. Williams – Charles D. Williams.

Chair – Thank you. Mr. Hall?

Mr. Hall – Question for Mr. Barnhart. You're saying it could be delayed through the probation or go ahead and deal with it now? Those are the options?

Mr. Barnhart – You have the authority to decide to not rule upon this application if you so desired, if it is established that the person is still on probation.

Chair – Did you say rule on it, or deny it?

Mr. Barnhart – Well, the statute says “may refuse to rule on an initial application...”

Mr. Helm – So that means they wouldn't have a denial, right?

Mr. Barnhart – Right. You would not grant the license, but you would just cite that statute as your authority for not ruling upon the application.

Mr. Knopke – Mr. Chair?

Chair – Yes?

Mr. Knopke – Question for Mr. Barnhart. As attorney for the Board, are you recommending that?

Mr. Barnhart – Well, I certainly think that's an option if it is determined that these allegations are correct and that he is currently under probation, then that would be my recommendation, but the Board can decide otherwise as well. It says may, it doesn't say that you have to.

Mr. Knopke – You refer to these actions still going on. So you're saying that since he is on probation that the actions of the court continue?

Mr. Barnhart – Right. I think the prosecution is not yet complete until someone is completely free of probation and reporting requirements, to the court.

Mr. Knopke – Okay.

Chair – How much longer is your probation?

Mr. C. Williams – Ten (10) years.

Chair – Ten (10) more years?

Mr. C. Williams – Nine (9) years.

Chair – Nine (9) more years?

Mr. C. Williams – Yes sir. I've been on probation currently for three (3) years.

Chair – Thank you.

Mr. Williams – Mr. Chairman?

Chair – Mr. Williams?

**MOTION:** Mr. Williams moved to deny the application based on the Division's recommendation.

Mr. Hall – I'm confused. Are we denying?

Mr. Williams – I'm recommending denial.

Mr. Hall – I'll second it.

Mr. Barnhart – Board members, what would be the grounds for the denial?

Mr. Williams – Division, what was your reason for recommending denial?

Ms. Simon – The Division was recommending denial based on the criminal history and the fact that Mr. C. Williams is currently on probation.

Mr. Barnhart – My recommendation would be if you want to not give the license to Mr. C. Williams that you make a motion that you are not going to rule upon the application based upon s. 497.141(5)(b), F.S.

Chair – Rather than deny? Is that what you're saying?

Mr. Barnhart – Right. Because the statute says may refuse to rule upon the application. It doesn't say that you may deny it, just that you may refuse to make a ruling upon the application because of it.

Ms. Simon – With that being said, you had said that that is discretionary because that's a "may." So, their options are to not rule on this application or to deny the application.

Mr. Barnhart – I think the grounds for not licensing this individual are cited in s. 497.141(5)(b), F.S. The other ground for denial, as I understand it, if he would say that he's not approved and is not an unreasonable risk to the public, I think that's going to be out of the realm.

Chair – Mr. Hall?

Mr. Hall – The confusion on my part is if we deny, the denial is on the record based on the criminal history. From my perspective, and I don't know about Mr. D. Williams', I'm looking at the one that has the most teeth, the strongest.

Mr. Barnhart – In my opinion, the one that the most teeth is s. 497.141(5)(b), F.S., because it gives you the authority to refuse to rule upon the application. The standard of unreasonable risk to the public, I think, is a tougher standard to try to overcome because all the person would have to prove is that they are not an unreasonable risk to the public, and I don't think that's a very hard bar to satisfy, in my opinion.

Mr. Hall – Does that give the applicant the ability to continue to come back if we don't rule on it?

Mr. Barnhart – An applicant can always come back to reapply.

Mr. Williams – Mr. Chair?

Chair – Yes, Mr. Williams?

Mr. Williams – I withdraw my motion.

**MOTION:** Mr. Williams moved to refuse to rule on the application pursuant to s. 497.141(5)(b), F.S. Mr. Hall seconded the motion, which passed unanimously.

**8. Application(s) for Internship**

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

**(1) Funeral Director and Embalmer**

- (a) Klootwyk, Joseph L F283418**
- (b) Orrett, Amanda-Mae B F291824**
- (c) Ridener, Daniel C F288332**
- (d) Stone, Maria G F288333**
- (e) Wentz, Billy B F293534**

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

**9. Consumer Protection Trust Fund Claims**

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

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.

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

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

**A. Informational Item – Addendum F**

- (1) Lakeside Funeral Home LLC d/b/a Lakeside Funeral Home & Cremation Care (F076320) (Royal Palm Beach)**

Ms. Simon – This item is informational only. Pursuant to ss. 497.380(12)(b), 497.604(7), 497.606(7), F. S., the establishment has applied for approval of a change of location of their business. The Board has requested to be notified of these changes in location. Accordingly, Addendum F has been provided. No approval by the Board is required.

Chair – Just please note that this change of location has not been inspected yet.

11. **Application(s) for Registration as a Training Facility**  
A. **Informational Item (Licenses Issued without Conditions) – Addendum G**  
(1) ***Wolf Funeral Services Inc. d/b/a Haught Funeral Home (F068748) (Plant City)***

Ms. Simon – This item is informational only. Pursuant to Rule 69K-1.005(12)(b), F. A. C., the Division has previously approved this application.

12. **Application(s) for Monument Establishment Sales Agent License**  
A. **Informational Item (Licenses Issued without Conditions) – Addendum H**  
(1) ***McAllister, Patty F291555***

Ms. Simon – This item is informational only. Pursuant to s. 497.554(3)(a), F.S., the Division has previously approved this application.

13. **Application(s) for Funeral Establishment**  
A. **Recommended for Approval with Conditions**  
(1) ***Flagler Family Funeral Home Inc. (Bunnell)***

Ms. Simon – Is there anyone here representing this funeral establishment? An application for a Funeral Establishment was received on July 9, 2018. The application was complete when submitted. The Funeral Director in Charge will be Paul Chambery (F065699). A background check of the principals revealed no relevant criminal history. The establishment is recommended for approval subject to the condition that the establishment passes an onsite inspection by a member of Division Staff.

**MOTION:** Ms. Anderson moved to approve the application subject to the condition that the establishment passes an onsite inspection by a member of Division Staff. Mr. Jones seconded the motion.

Chair – The name Paul Chambery raises a question that there was another funeral home where he was the owner. Is he FDIC at any other location? I know you would have previously checked that. All those in favor, aye?

Board members – Aye.

Chair – And any opposed? And that motion carries.

- (2) ***Gracefully Southern LLC d/b/a Coast to Coast Cremations (Ocala)***

Ms. Simon – An application for a Funeral Establishment was received on July 10, 2018. The application was complete when submitted. The Funeral Director in Charge will be Joshua Matthews-Leverette (F086691). A background check of the principals revealed no relevant criminal history. The establishment is recommended for approval subject to the condition that the establishment passes an onsite inspection by a member of Division Staff.

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

Chair – Mr. Mixon would you want to address the Board? Please be sworn in.

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

Mr. Juhan Mixon – I do.

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

Mr. Mixon – Juhan Mixon. In this instance, I just clarified with counsel. This is a corner piece of property. It has two (2) addresses. There are three (3) buildings on the two (2) pieces of property, of which at least two (2) of them are connected, by a walkway. It does have two (2) addresses. It used to be Roberts Funeral Home. I think if you google it and look at it, it's going to be very confusing to the public. I'm sure counsel can speak to that. I have not talked to her in advance. I apologize for that. I did not have time. I just wanted the Board to be aware of it and know that it could be an issue.

Chair – Thank you. There's been a motion.

Ms. Wiener – Mr. Chair? Just to clarify, it does meet the statutory criteria for licensing. It does have a separate postal street address.

Chair – Thank you. It would still be subject to passing the onsite inspection.

Mr. Knopke – Just a question to Ms. Simon. I'm familiar with the facility in question. It was a part of Stewart Enterprises at one point and I was responsible for it. I would ask that the inspectors, when they do their inspection, if they have the authority to look at it to see if having two (2) licenses, almost in one (1) building, even though there are two (2) street addresses, that it would be confusing to the customer. They'd walk up there and fine two (2) different businesses in one (1) physical structure. As Mr. Mixon described it, the buildings connect. They are together. It's one (1) building. The question is would the inspector look at this as one (1) location as opposed to two (2) locations?

Ms. Simon – The inspector would look at this as two (2) locations.

Mr. Knopke – Even though the buildings are all the same?

Ms. Simon – As Ms. Wiener stated, the law states that it would be a different street address.

Mr. Knopke – Okay.

Ms. Wiener – Perhaps this is something for maybe later today. I do admit that there is the potential for confusion caused by the current statutory criteria, and in fact, you do have and have licensed, around the State, strip malls with more than one (1) establishment in them because they do have separate postal street addresses. That is allowed, so maybe for this afternoon.

Mr. Knopke – Thank you.

Mr. Mixon – Thank you.

Chair – Motion's been made and seconded. All those in favor, aye?

Board members – Aye.

Chair – And any opposed? That motion carries. Thank you.

Ms. Wiener – Thank you.

***B. Recommended for Approval without Conditions  
(1) All Veterans – All Families Funerals & Cremations LLC (Sarasota)***

Ms. Simon – An application for a Funeral Establishment license, due to a change of ownership, was received by the Division on June 15, 2018. The application was complete when received. The change of ownership is due to the licensee changing from a sole proprietorship to a LLC. The Funeral Director in Charge will be Frank Terry Jr (F023120). A background check of the



principals revealed no relevant criminal history. This funeral establishment is not the qualifying entity for a preneed license. The establishment passed its inspection on July 3, 2018. The Division is recommending approval without conditions.

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

*C. Recommended for Denial  
(1) Zion Hill Mortuary Inc. (Tampa)*

Ms. Simon – Is there a representative here from Zion Hill Mortuary, Inc.?

Mr. Dwayne Matt – Yes.

Ms. Simon – Please step forward. An application for a Funeral Establishment was received on June 19, 2018. The application was incomplete when submitted. All deficient items were returned on July 6, 2018. The Funeral Director in Charge will be Dwayne Matt (F045183). A background check of the principals revealed no relevant criminal history. The Applicant answered “no” to a question as to whether there was adverse licensure history; however, the answer should have been “yes”. The Consent Orders for both Zion Hill Mortuary Inc. and Dwayne Matt are included as part of your Board package.

The Division communicated with Mr. Matt, who signed the original application, via telephone on four (4) different occasions between July 18, 2018 and July 23, 2018. Mr. Matt chose to update the application originally tendered for Zion Hill Mortuary, Inc. Two (2) documents were forwarded to the Division on July 23, 2018. These documents included an Adverse Licensing Action History form which consisted on two (2) pages. That form has been provided within your Board package, but was not included with the originally submitted application. Additionally, Mr. Matt submitted an amended version of page three of the original application for funeral establishment licensure. Under the section entitled, “Adverse Licensing History Questions,” Mr. Matt amended his responses to questions (a) and (d). These two documents submitted on July 23, 2018, are included in the Board package. The Division believes there was more than one misrepresentation on the original application. As such, the Division is recommending denial.

Mr. Knopke – Mr. Chairman?

Chair – Yes.

Mr. Knopke – I know Dwayne. We met in my office. This subject of the location of this firm came up, but none of the other information came up. We were talking about pet cemeteries and other stuff like that. In an abundance of caution, I want to recuse myself. I will not participate in the participation of this action.

Chair – Thank you. Mr. Matt, do you want to address the Board or just here to answer questions?

Mr. Dwayne Matt – I can answer questions, if you have any questions for me.

Chair – Okay. Please be sworn in.

Mr. Matt – Yes sir.

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

Mr. Matt – I do.

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

Mr Matt – Dwayne Matt.

Chair – Thank you. Board members, any questions for Mr. Matt or what is your pleasure?

Mr. Hall – Mr. Char?

Chair – Mr. Hall?

Mr. Hall – Can you explain to us, Mr. Matt, what the issue was with the inconsistencies in the application and so forth that we're dealing with?

Mr. Matt – At the time of my application, I was not aware that a case was still pending. I served a family, I did a prearrangement. The family member was told that she was supposed to get twice as much money back from the prearrangement, which caused a case to be open. I refunded all the money to the client and rendered the services. I responded to complaint, but I wasn't aware that it was still open.

Chair – Ms. Simon?

Ms. Simon – Mr. Chairman, I have also spoken with Mr. Matt, and I have spoken with the consumer involved in that allegation. I was told that Mr. Matt insisted on leaving her a check, which she has rejected, because she contends that more money is due to her.

Chair – Is that an open case?

Ms. Simon – That is an open case.

Chair – So it has not been resolved?

Ms. Simon – It has not been resolved.

Chair – Mr. Helm?

Mr. Helm – When you speak of an open case, is it just open between them two (2) or with the Department?

Ms. Simon – With the Department.

Mr. Barnhart – When you say open case, do you mean something in addition to the prior discipline of 2015?

Ms. Simon – Yes.

Mr. Williams – Mr. Chair?

Chair – Mr. Williams?

Mr. Williams – Mr. Matt, when you say your refunded the money to the consumer, does that encompass what Ms. Simon just said?

Ms. Simon – What the consumer indicated to me was that Mr. Matt insisted that she take the check. However, she contacted me and said that she was not accepting the check and she felt that that was not a resolution of the claim.

Mr. Williams – So the funds have not been returned.

Ms. Simon – Correct.

Mr. Williams – Okay.

Chair – Mr. Matt?

Mr. Matt – The monies all have been given to the client. She’s saying that she did not want to accept it. For whatever reason, she was told that she was supposed to get twice as much money back from a former preneed agent that formerly worked for me. They don’t know how the preneed works, and she thought that I was freezing my prices from fifteen (15) years ago and was not entitled to go off the current pricelist, which caused all the confusion. Great Western paid the claim. I think it was \$15k, the funeral came up to \$11k, and I gave her all the money left from the services. She didn’t want to accept it because she was told she was supposed to get like \$8k for whatever reason. She was told to sign off on it and I don’t know why. We rendered the services, we refunded all the monies and I didn’t know that the case was even open.

Ms. Simon – If I may?

Chair – Yes.

Ms. Simon – The issue is not the outstanding factual circumstance. The issue is that there is an investigation still open and based on previous action taken by the Department against Mr. Matt, we have previously sent out letters indicating that matters are closed when they are closed. There was no such letter sent out in this matter.

**MOTION:** Mr. Hall moved to deny the application. Mr. Williams seconded the motion.

Mr. Barnhart – Once again, we have a pending investigation or prosecution of a matter that is not presently before the Board, but it is a public case, correct?

Ms. Simon – It is not public, however, Mr. Matt eluded to it in his application.

Mr. Barnhart – Okay. Possibly, you’d want to invoke that statute we talked about before about there being a pending investigation or prosecution, to which is not yet complete. You can do that or you can make a motion to deny based on prior discipline. Mr. Matt, I think you said that you answered the question “no” on the application because you didn’t know that the case was still open?

Mr. Matt – Yes sir.

Mr. Barnhart – Well, if you look at this question, doesn’t it say “*Have you ever had any death care industry license revoked, suspended, fined, reprimanded, or otherwise disciplined, by any regulatory authority in Florida or any other state or jurisdiction?*”? Wouldn’t your discipline in 2015 require you to answer that question “yes”?

Mr. Matt – Yes, and that may have been a mistake on my behalf. I could have just checked the wrong box. I wasn’t trying to hide anything; I just didn’t know that this prior case was open. I’ve had other complaints that...

Mr. Barnhart – Once again you’re saying the prior case was open. Wasn’t the 2015 case closed?

Mr. Matt – Yes sir.

Mr. Barnhart – So that did apply to that question, correct?

Mr. Matt – As you stated, yes sir. I would like to say that I didn’t know about this until I applied for the licensure in Tampa. I don’t know what else I could have done besides giving her all the money and she didn’t want to accept it, and that’s why the case is still open. I’ve done everything and satisfied everything that I know to do. I don’t know what else I can do in a matter like this.

Ms. Simon – As Mr. Barnhart was indicating, this description by Mr. Matt only bears on one (1) misrepresentation in the application. The other deals with adverse licensure history that has nothing to do with any current investigation. I just wanted to make it clear to the Board members.

Chair – So, we have a motion to deny and it’s been seconded.

Mr. Hall – Does Mr. Barnhart want us to extend that further to address previous discipline and the open case?

Mr. Barnhart – The motion to deny, I didn't hear what the grounds were for that motion. I think you have a couple of options there. You can move to deny because of adverse licensure history or you could cite that investigation not being complete. There's an open case, apparently and it's disclosed in the application, so it's public record at this point. You can cite that instead or you can do a motion to deny based on adverse disciplinary history and what appears to be a misrepresentation on the application.

Ms. Simon – If the Board is inclined to deny the application, I would suggest that you go by the second approach and not deny. If you're planning to deny, not ruling on the application, or not giving Mr. Matt the licensure, and you could take one route or the other, I would suggest the second route.

Mr. Hall – May I ask one more question of Mr. Matt, Mr. Chair? You mentioned that the preneed was with Great American, but you didn't freeze your cost. Is that correct?

Mr. Matt – No sir. Great Western was the insurance company and they paid the claim. It was like \$15k. We had surrendered the contract about fifteen (15) years ago. The whole thing is she was thinking that I was supposed to only get the prices from fifteen (15) years ago and we're always told to go off the current pricelist and whatever's left over we give the difference to the client, and that's what I did.

Mr. Hall – You said you surrendered the contract fifteen (15) years ago? You wrote it then?

Mr. Matt – Yes, we wrote the contract about fifteen (15) years ago.

Mr. Hall – And she was under the impression that you're supposed to lock in the cost from fifteen (15) years ago?

Mr. Matt – Yes sir.

Mr. Hall – Is that not the way it works?

Mr. Matt – No sir. We lock in services and merchandise, not the prices.

Mr. Hall – No. The Division needs to...

Mr. Barnhart – Board members, we're not here to discuss the open case. Do you want to use that as a reason for not voting on the application or do you want to make a different motion and cite the reasons for your motion?

Mr. Hall – And your recommendation is to cite previous adverse licensing history and the open case?

Mr. Barnhart – If you want to deny. You also have the option to refuse to rule on this application because of the pending investigation, which is now public.

**2<sup>nd</sup> MOTION:** Mr. Hall moved to refuse to rule on the application pursuant to s. 497.141(5)(b), F.S. Mr. Williams seconded the motion, which passed unanimously.

Chair – Mr. Matt?

Mr. Matt – Sir, I'm at the mercy of this Board. This is all I have.

Mr. Barnhart – You have not been denied. I think it would serve your best interest to see if you can get this present problem resolved. I think that is your best option.

Mr. Matt – I don't know what else I can do.

Mr. Barnhart – Apparently there's an investigation and you'll need to work with the Board staff or possibly a prosecutor to get this in their hands to try and resolve whatever the problem is.

Mr. Matt – I've never had this happen before. I've been writing preneed since '02. We rendered all the services and gave her the money. I don't understand what else I can do.

Mr. Clark – What we just voted on had nothing to do with that case. We're just stating that we want to wait and find out more information on that case. I just want to make sure he understands that, because you just referred to this preneed. We weren't discussing a resolution on that matter. I just don't want him to leave confused about what we just voted on and why we voted that way.

Ms. Simon – I was under the impression that part of that had to do with the misrepresentation on the application concerning that, but I might be incorrect.

Mr. Barnhart – I don't think your motion was trying to determine whether there was a misrepresentation. Now if your motion was to deny it, then I think that's one of the reasons why you might have denied it. That plus the previous discipline, but the fact that you're voting to not rule on the application now, there's been no denial. The reason they don't want to go through with the vote is because of this pending matter, so it would be in your best interest to figure out, with the Department, what you need to do to resolve that matter.

Mr. Matt – Sir, I've asked what is it that I can do. I talked with Kurt Schuller. He just says make sure the lady gets the money, and I've done that. I don't know what else I can do. She's upset because she was told she was getting \$8000 back and she's not going to be satisfied with getting the \$4000 back.

Mr. Barnhart – The Department can make the decision to close that investigation if they believe you've done everything that your need to do.

Mr. Matt – I have done everything, sir. Everything that I know to do. I've been a funeral director for twenty-five (25) years, and I'm a former Board member of this very same Board.

Mr. Barnhart – I don't know what to tell you except that I believe the investigator's got to make a decision to either recommend closure of the case or proceed to probable cause if there's been a violation.

Ms. Simon – The Division.

Ms. Mary Schwantes – It's not the investigator, it's the Division.

Mr. Barnhart – He's part of the Division, right?

Ms. Simon – Yes, but it's the Division that's responsible for that determination.

Mr. Barnhart – Somebody is. Somebody in the Division.

Chair – Mr. Hall?

Mr. Hall – Has the Division received copies of at-need and preneed contracts from them?

Ms. Simon – Again, Mr. Hall, this is based on the fact that there is an ongoing investigation. To discuss the facts, to go into the facts really is not relevant, at least in my estimation. I don't mean to be rude.

Mr. Hall – I'm just saying if the inspector would receive the at-need and the preneed contract they could probably come to a solution to help him satisfy this lady, is my thought.

Mr. Matt - I've already turned that in to the inspector.

Mr. Hall – I'm not trying to get into it, but that's the only way you can sort out if he's paid her the right amount.

Chair – Is there any way that the Division could expedite this investigation and get it resolved one way or the other for Mr. Matt so that once it's resolved he could reapply, because he hasn't been denied?

Ms. Simon – No.

Chair – Okay.

Ms. Simon – I say that in that there are many steps that need to be taken in part of this and I do not believe the matter can be expedited as a result of that.

Chair – Okay. Thank you, Mr. Matt.

**14. Application(s) for Preneed Main License**  
**A. Recommended for Approval without Conditions**  
**(1) Maloney Funeral Home LLC (Sarasota)**

Ms. Simon – The Department received the application for a preneed main license on June 22, 2018 and no deficiencies were noted. The principal and sole owner of the limited liability company is Ralph D. Maloney, and a completed background check of all principals was returned to the Division without criminal history. Applicant's qualifying funeral establishment license (F568639) located at the same address listed in the Board packet was obtained as of May 2018. If this application for preneed license is approved, this entity will sell trust-funded preneed through Funeral Services Inc. (Live Oak Banking Company), and utilize its approved pre-arranged funeral agreement form(s). The Division is recommending approval without conditions.

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

**15. Application(s) for Preneed Branch License**  
**A. Recommended for Approval with Conditions – Addendum I**

Ms. Simon – Pursuant to s. 497.453, F. S., the applicants listed have applied for a preneed branch license. All Division records indicate that the applicants qualify for branch licensure. The Division is recommending approval.

**MOTION:** Mr. Hall moved to approve the application(s). Mr. Knopke seconded the motion, which passed unanimously.

Ms. Simon – I'd like to take Gracefully Southern, one of the items on that list, out of your motion and handle that distinctly. I say that because there are conditions listed for Gracefully Southern, LLC, and there are no conditions listed for the other applicants.

Chair – Okay. The condition is approval of the funeral establishment application, also presented at this meeting. I believe we did approve that.

Mr. Helm – We did.

Chair – Are we okay?

Ms. Simon – We're okay.

**16. Application(s) for Removal Facility**  
**A. Recommended for Approval with Conditions**  
**(1) East Coast First Call LLC (Rockledge)**

Ms. Simon – An application for a Removal Service was received on June 5, 2018. The application was incomplete when submitted. All deficient items were returned on July 9, 2018. A background check of the principals revealed no relevant

criminal history. The Division is recommending approval subject to the condition that the facility passes an onsite inspection by a member of Division Staff.

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

**(2) Stone Removal Services LLC (Orlando)**

Ms. Simon – Is a representative from Stone Removal here?

Mr. Rujai Stone – Yes ma’am.

Ms. Simon – Please step forward. The application for a Removal Service was received on April 10, 2018. The application was incomplete when submitted. All deficient items were returned on July 9, 2018. A background check of the principals revealed relevant criminal history for one of its principals, in that on November 14, 2013, Mr. Stone was convicted of Reckless Driving. Mr. Stone was ordered to do the following: serve 20 days in the Orange County Jail; serve probation for 12 months; undergo a Substance Abuse Evaluation; attend a Victim Awareness Program; complete 50 Hours of Community Service; and pay fines and costs of \$948.26. Additionally, Mr. Stone’s driver’s license was suspended for six months. The Division is recommending approval subject to the condition that the facility passes an onsite inspection by a member of Division Staff.

Chair – Mr. Stone, did you want to address the Board or are you here to answer questions the Board may have?

Mr. Stone – I can answer questions or whatever you wish of me.

Ms. Simon – Please raise your right hand to be sworn in. Do you swear to tell the truth, the whole truth, and nothing but the truth?

Mr. Stone – Yes ma’am.

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

Mr. Stone – Rujai Enoch Stone.

Ms. Simon – Mr. Chairman?

Chair – Yes ma’am. We have before us a recommendation to approve passing an onsite inspection.

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

Ms. Simon – If I may, we noticed that on the list of principals there are no names indicated as a principal for the facility. We assume it is you that is the only principal, but I’d like you to state that on the record, please.

Mr. Stone – Yes ma’am. I am the only principal. It was just a typographical error on my part.

Chair – An omission?

Mr. Stone – It was an omission. Yes, sir. I listed my date of birth rather than my name.

Ms. Simon – Thank you, sir.

Chair – Thank you for catching that.

**17. Contract(s) or Other Related Form(s)**

**A. Recommended for Approval with Conditions**  
**(1) Preneed Sales Agreements**  
**(a) ClearPoint Federal Bank & Trust (Ponte Vedra Beach)**

Ms. Simon – ClearPoint Federal Bank & Trust (CFB&T) submits these preneed sales agreement forms for approval: Florida Carriage Funeral Planning Agreement (Form T3035-04-FL), Funeral Planning Agreement (70/30) (Form T4072-07-FL), and a Funeral Planning Agreement (90/10) (Form T4077-08-FL). If these preneed sales agreement forms are approved, they are to be used for the sale of trust-funded preneed contracts by various licensed preneed main establishments and their related preneed branches. The Division recommends approval subject to the condition that two full sized print-ready copies of each contract are received, by the Department, within 60 days of this Board meeting.

Ms. Wiener – Mr. Chairman?

Chair – Yes ma'am?

Ms. Wiener – This is Wendy Wiener, for ClearPoint Federal Bank & Trust. There is one required correction to the forms, which Mr. B. Williams brought to my attention earlier. On the third form, in the electronic package, page 9 of 10, under AMOUNT TO BE PLACED IN TRUST, the language should read, "*The Funeral Provider will place 100% of the mounts contributed by the Purchaser in a trust with ClearPoint Federal Bank & Trust ("ClearPoint") for the use, benefit and protection of the Purchaser. Funeral Provider may receive a current distribution from trust of no more than 10% of the amounts contributed by Purchaser.*" The prior language was a holdover from a previously approved form and we meant to make that correction, and apparently nobody picked it up.

Chair – Let's change the 90% to 100%.

Ms. Wiener – And then they can receive a current distribution of 10%. The money has to come into trust and then flow back.

Chair – Thank you. Noting that correction, is there a motion?

**MOTION:** Mr. Hall moved to approve the request subject to amended language and the condition that two full sized print-ready copies of each contract are received, by the Department, within 60 days of this Board meeting. Mr. Williams seconded the motion, which passed unanimously.

**18. Application(s) for Embalmer Apprenticeship**  
**A. Request to Extend Embalmer Apprenticeship**  
**(1) Recommended for Denial**  
**(a) Cruz, Reyes**

Ms. Simon – This item has been removed from the agenda and will appear at a subsequent meeting.

Chair – Thank you.

**19. Executive Director's Report**  
**A. Operational Report**

Ms. Simon – At this point, I will turn the meeting over to our Division Director, Ms. Mary Schwantes.

Ms. Schwantes – Thank you. A couple of things. I'll try and keep it brief in the interest of time. The first of the Department's Public Workshops for Open Discussion on Matters Regarding the Death Care Industry and Chapter 497, Florida Statutes, was held in Tallahassee on July 23<sup>rd</sup>. It was well attended and we appreciate all input received. Written comments were received via email through COB on Monday, July 30<sup>th</sup>. Again, much thanks to those in the industry who are participating in these meetings and opportunities to provide information to the Department that might impact potential legislation in 2019.



The second of the workshops will follow this Board meeting, beginning at 1:00 p.m. today in this conference room. We hope that many of you will be able to attend. As before, we expect to have a period for the receipt of written comments, following the meeting, so please take advantage of that if you have input but are not able to attend this meeting or any of the meetings. And remember, all notices are posted on our website if you need further information

I want to give you a brief report for the end of the fiscal year. June 30<sup>th</sup> marked the end of the 17-18 Fiscal Year (FY). Over 203,000 deaths occurred in Florida, with the percentage of cremations increasing slightly from 66% to 67%. So there is a slight increase over the last several years. The Division regulates 23 different types of licenses and over 10,000 licensees. During this FY, the Division conducted 1,478 inspections, 225 investigations and 109 examinations. 3,470 applications (including for renewals) were processed, with only 512 requiring additional information from the licensees/applicants. So that's both an increase in the number of applications that we are processing, but also a decrease in the number of problematic applications from the licensees and we like seeing that trend.

Couple of updates on ongoing projects. PNRS, the new online preneed remittance system is live! We are very excited about this new system and hope it will be a huge help to the licensees as well. If you have any questions or problems using the system, please call the Division. And, finally, an update on the replacement of the Microsoft Access database systems. The paperwork necessary to obtain the \$1.2 million allocated for replacement of these systems was submitted to Legislative Staff. A meeting was held and questions answered. At this time, we do not know if there will be additional questions from Legislative Staff regarding the supporting documentation. We do not have the funds in hand, so we have not been able to begin the process of the replacement of those systems with those funds. And again, remember we only have one (1) fiscal year to use the funds, so we are hoping the funds will be released soon and we can start the replacements.

The next Board meeting is a telephonic meeting on September 6<sup>th</sup>. The next in-person meeting will take place in Miami on October 4<sup>th</sup>. That ends the Operation Report. Thank you, Mr. Chair.

Chair – Thank you.

Mr. Helm – When is our year up on the funds?

Ms. Schwantes – It's fiscal year, so we have from July 1<sup>st</sup> to June 30<sup>th</sup>, so we are already a month behind on being able to use those funds.

Chair – Thank you.

Ms. Schwantes – Thank you.

### ***B. Rulemaking Cleanup Project***

Ms. Simon – I have submitted to the Board members a memorandum, followed by amended forms. The forms were amended, as was a rule, based on questions from the Joint Administrative Procedures Committee (JAPC). These decisions were made jointly, by the Office of the General Counsel, as well as the Division. These forms and rule have previously been addressed, by the Board; however, there are proposed amendments that are included in your Board package. It would be appropriate for the Board to entertain a motion to accept the changes to the rules/forms included in your Board package.

**MOTION:** Mr. Jones moved to approve the amended forms and rule submitted. Mr. Hall seconded the motion, which passed unanimously.

### **20. Chairman's Report (Verbal)**

Chair – No report.

### **21. Public Comments (Verbal)**

Chair – Is there anyone from the public that would like to make comments? Hearing none.

## 22. Office of Attorney General's Report

### A. Attorney General's Rules Report

Ms. Simon – Mr. Barnhart?

Mr. Barnhart – Board members, in the Rules Report, you will notice there's a lot of JAPC letters. I believe we're seeing that we've been working on responding to them. I have a couple of matters, because of those letters, to run by you in just a minute. Are there any questions about the Rules Report as it stands?

Chair – No.

Mr. Barnhart – We've had a lot of letters from JAPC and sometimes it's hard to determine exactly who has the rulemaking authority, in this chapter. Whether it's the Department, the Division, or the Board. Well, as a result of numerous letters from JAPC, they indicated what they thought, in some cases, was the Division's or Department's rulemaking authority versus the Board's, and then some in which they indicated the same way and we decided that we'd continue to try to push through certain rules, from the Board's perspective. I met with Ellen Simon, Megan (rules attorney at DFS), and I believe Mary was involved in some of those meetings, at least, and we determined that four (4) rules should be withdrawn from the development by the Board so that the Department and the Division could pursue development of those rules. My request to you, the following rules I would like to see withdrawn from development so that the Department and rules attorney can pursue developing these rules for development: 69K-7.009, 7.0095, 7.012, and 7.0125, F.A.C.

Chair – Do you need a motion on that?

Mr. Barnhart – Yes, if I could, that we remove these from our development so that the Department can proceed with developing the rules.

Chair – Is there a motion?

Mr. Knopke – Which rules are they?

Mr. Barnhart – The titles of those rules are: 69K-7.009 (Reporting Requirements for Preneed Licensees Filing an Initial Application to Utilize a Letter of Credit or Surety Bond in Lieu of Maintaining a Trust Fund); 7.0095 (Preneed Trust fund; financial reports); 7.012 (Criteria for Filing a Surety Bond in Lieu of Maintaining a Trust Fund); and 7.0125 (Alternative Form of Security for Permanent Outer Burial Receptacle Manufacturers). That sounds like a title that could be changed, as it is a little awkward. Those are the four (4) rules that I would like the Department to authorize us to file a Notice of Withdrawal and let the Department proceed with developing those rules.

**MOTION:** Mr. Helm moved to withdraw rules 69K-7.009, 7.0095, 7.012, and 7.0125, F.A.C. from development so that the Department can pursue developing these rules for development. Mr. Clark seconded the motion, which passed unanimously.

Mr. Barnhart – Also Board members, I would like to ask the Rules Committee to meet in the next two (2) to three (3) weeks, if possible, and it could be by telephone, to deal with different things regarding veterans and veterans' spouses, under HB29. I'd be working with Ellen and Mary and their rules attorney, Megan, about what those rules should look like, as far as possible amendments to them. That would be basically the reason for meeting. We can do it by telephone. We just have to advertise it like a regular Rules Committee meeting.

Chair – Let's notice that and do it telephonically. The Rules Committee is Mr. Bill Williams, Mr. Ken Jones, and myself, so yes we'd like to do that.

Mr. Barnhart – And if I could ask those three (3) individuals to let me or Ellen know what dates you are available to do it by telephone in the next two (2) to three (3) weeks. We just need a week to advertise it, by the next two (2) to three (3) weeks or so.

Chair – Ms. Schwantes, yes ma'am?

Ms. Schwantes – Yes, Mr. Chair. Mr. Barnhart, I’m sorry. If you all would let me know, we’ll organize it. Ms. Simon is going to be out of the office for a little while.

Chair – We’ll do that.

Ms. Simon – Please keep in mind that the Legislature required these rules to be implemented, so we need to meet as soon as we can in order to get that facilitated.

Chair – Good. We’re willing to do that, I believe. Any other questions or comments?

Mr. Barnhart – One more important thing. One of the comments JAPC made to 69K-30.001 is that they didn’t like the very last mitigating or aggravating circumstance on (6)(m), which presently says, “*Any other aggravating and mitigating circumstances.*” They don’t like the uncertainty of that phrase. It used to be okay, but now it’s not according to JAPC. So my recommendation is that someone file a motion to authorize us to eliminate (6)(m), so it would now read just (6)(a) – (6)(l). You have it all in front of you and can see what that would involve. Once we do that, I think we’re pretty much going to go through and get this thing totally approved. There might be some tweaks, within the next several months, that we might need to make, but the vast majority of the work has been done.

**MOTION:** The Chair moved to authorize the elimination of 69K-30.001(6)(m), Mr. Jones seconded the motion.

Chair – Mr. Helm?

Mr. Helm – Mr. Barnhart, on (k), they have “and.” Do we need to include that to have it taken out, too?

Mr. Barnhart – The language that’s being proposed is to say “and” and then (l) would be the last factor. So we’d be adding “and” and then we’d be eliminating what you see there at the end.

Mr. Helm – No, in (k), not (l).

Mr. Barnhart – Right. At the very end (k), that would be the next to last aggravating or mitigating factor and we will be adding “and” and then (l) would be the last one.

Chair – So there’s been a motion made and seconded. All those in favor, aye?

Board members – Aye.

Chair – And any opposed. And that motion carries.

**BOARD OF FUNERAL, CEMETERY AND CONSUMER SERVICES RULES REPORT  
AUGUST 2018**

Rule Number	Rule Title	Date Rule Language Approved by Board	Date Sent to OFARR	Rule Development Published	Notice Published	Adopted	Effective
69K-1.003	Miscellaneous Fees; Name Changes and Duplicate Licenses		6/11/2018	6/19/2018 Vol. 44/119			
69K-1.004	Exemption of Spouses of Members of Armed Forces from Licensure Renewal Provisions		6/11/2018	6/19/2018 Vol. 44/119			
69K-1.005	Licensure Application Procedures		6/11/2018	6/19/2018 Vol. 44/119			
69K-5.002	Application for Preneed License		6/11/2018	6/19/2018 Vol. 44/119			
69K-5.0021	Application for Preneed Branch Office License		6/11/2018	6/19/2018 Vol. 44/119			
69K-5.003	Application for Preneed Sales Agent License and Appointment		6/11/2018	6/19/2018 Vol. 44/119			
69K-5.012	Application and Renewal Procedures for Broker of Burial Rights License		6/11/2018	6/19/2018 Vol. 44/119			

69K-5.0016	Preneed License; Financial Requirements	05/03/2018	5/14/2018	5/23/2018 Vol. 44/101	6/7/2018 – Vol. 44/111 6/20/2018 JAPC letter rec'd 7/10/2018 JAPC response 7/11/2018 Notice of Correction-Vol. 44/134 7/18/2018 Notice of Change – Vol. 44/139		
69K-7.009	Reporting Requirements for Preneed Licensees Filing an Initial Application to Utilize a Letter of Credit or Surety Bond in Lieu of Maintaining a Trust Fund	05/03/2018	5/15/2018	5/23/2018 Vol. 44/101	6/7/2018 – Vol. 44/111 6/21/2018 JAPC letter rec'd 7/16/2018 JAPC response		
69K-7.0095	Preneed Trust fund; financial reports	05/03/2018	5/14/2018	5/23/2018 Vol. 44/101	6/7/2018 – Vol. 44/111 6/20/2018 JAPC letter rec'd 7/16/2018 JAPC response		

Rule Number	Rule Title	Date Rule Language Approved by Board	Date Sent to OFARR	Rule Development Published	Notice Published	Adopted	Effective
69K-7.010	Reporting Requirements for Preneed Licensees Utilizing a Surety Bond or Letter of Credit in Lieu of Maintaining a Trust Fund	05/03/2018	5/15/2018	5/23/2018 Vol. 44/101	6/7/2018 – Vol. 44/111 6/21/2018 JAPC letter rec'd 7/16/2018 JAPC response		
69K-7.011	Criteria for Filing a Letter of Credit in Lieu of Maintaining a Trust Fund	05/03/2018 (voted to repeal)	5/14/2018		05/22/2018 - Vol. 44/100 6/6/2018 JAPC letter rec'd 6/11/2018 JAPC response 6/12/2018 Notice of Correction-Vol. 44/114	6/27/18	7/17/2018
69K-7.012	Criteria for Filing a Surety Bond in Lieu of Maintaining a Trust Fund	05/03/2018	5/15/2018	5/23/2018 Vol. 44/101	6/7/2018 – Vol. 44/111 6/21/2018 JAPC letter rec'd 7/16/2018 JAPC response		
69K-7.0125	Alternative Form of Security for Permanent Outer Burial Receptacle Manufacturers	05/03/2018	5/15/2018	5/23/2018 Vol. 44/101	6/7/2018 – Vol. 44/111 6/21/2018 JAPC letter rec'd 7/16/2018 JAPC response		
69K-7.017	Trust Fund Deposits; Funeral and Burial Services and Merchandise Preneed Contract Payments	05/03/2018	5/15/2018	5/23/2018 Vol. 44/101	6/7/2018 – Vol. 44/111 6/21/2018 JAPC letter rec'd 7/16/2018 JAPC response		
69K-10.003	Remittances to the Preneed Funeral Contract Consumer Protection Trust Fund	05/03/2018	5/14/2018	5/23/2018 Vol. 44/101	6/7/2018 – Vol. 44/111 6/20/2018 JAPC letter rec'd 7/16/2018 JAPC response 7/24/2018 Notice of Correction-Vol. 44/143		
69K-17.002	Application Fees; Licensure by Endorsement for Embalmers and Funeral Directors		6/11/2018	6/19/2018 Vol. 44/119			
69K-17.003	Fees		6/11/2018	6/19/2018 Vol. 44/119			

Rule Number	Rule Title	Date Rule Language Approved by Board	Date Sent to OFARR	Rule Development Published	Notice Published	Adopted	Effective
69K-17.0030	Direct Disposer/Establishment; Fees		6/11/2018	6/19/2018 Vol. 44/119			
69K-18.001	Embalmer Intern Training Program		6/11/2018	6/19/2018 Vol. 44/119			
69K-18.002	Funeral Director Intern Training Program		6/11/2018	6/19/2018 Vol. 44/119			
69K-18.003	Concurrent Internships		6/11/2018	6/19/2018 Vol. 44/119			
69K-25.001	Licensure by Endorsement; Embalmers		6/11/2018	6/19/2018 Vol. 44/119			
69K-25.002	Licensure by Endorsement; Funeral Directors		6/11/2018	6/19/2018 Vol. 44/119			
69K-25.003	Licensure as Temporary Embalmer or Temporary Funeral Director; Manner of Requesting and Fee; Practice Limitations; Expiration		6/11/2018	6/19/2018 Vol. 44/119			
69K-27.001	Embalmer Apprentice Program		6/11/2018	6/19/2018 Vol. 44/119			
69K-30.001*	Disciplinary Guidelines and Penalties for Funeral Directors and Establishments, Embalmers, Removal Refrigeration Services, Direct Disposers and Establishments, and Cinerator Facilities	04/05/2018	03/24/2017 (RD) 04/06/2018 (RN) 07/05/2018 (Notice of Change)	04/14/2017 Vol. 43/73	4/16/2018 – Vol. 44/74 5/4/2018 JAPC letter rec'd 5/16/2018 JAPC response 05/25/2018 Notice of Correction – Vol. 44/102 7/3/2018 JAPC response 7/10/2018 JAPC letter rec'd 7/12/2018 Notice of Correction – Vol. 44/135 7/12/2018 Notice of Change – Vol. 44/135 7/12/2018 JAPC response		

Rule Number	Rule Title	Date Rule Language Approved by Board	Date Sent to OFARR	Rule Development Published	Notice Published	Adopted	Effective
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

### 23. Administrative Report

The information was provided on the Agenda.

### 24. Disciplinary Report

The information was provided on the Agenda.

### 25. Upcoming Meeting(s)

- A. September 6<sup>th</sup> (Teleconference)
- B. October 4<sup>th</sup> (Miami-Dade College – North Campus Building 3, 11380 NW 27th Avenue – Miami)

C. November 1<sup>st</sup> (Teleconference)

D. December 6<sup>th</sup> (Embassy Suites by Hilton Jacksonville Baymeadows – Jacksonville)

## 26. Adjournment

Chair – Board members? Anything good of the cause? Welcome back, to America, Mr. Jones. Glad to see you back. Mr. Barnhart, good to see you getting around and able to be with us.

Mr. Barnhart – Thank you.

The meeting was adjourned at 12:09 p.m.