

**MINUTES**  
**BOARD OF FUNERAL, CEMETERY AND CONSUMER SERVICES**  
**VIDEOCONFERENCE MEETING**  
**November 5, 2020 - 10:00 A.M.**

**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. This is a Videoconference meeting, on November 5, 2020. Ms. Simon, would you make your preliminary remarks and accomplish the roll call, please?

Ms. Ellen Simon – Yes, Mr. Chairman. My name is Ellen Simon. I am the Assistant Director of the Division of Funeral, Cemetery, and Consumer Services. Today is Thursday, November 5, 2020, and it is approximately 10:00 A.M. This is a public meeting of the Board of Funeral, Cemetery, and Consumer Services. This meeting is being held by videoconference and notice of this meeting has been duly published in the Florida Administrative Register. An agenda for this meeting has been made available to interested persons. Both the link and call-in number is on the agenda, which has been made available to the public. The call-in number and other information relating to the Board meeting has also been published on the Division's website. The Division staff present for this meeting are either in the Claude Denson Pepper Building in Tallahassee FL or are attending from the locations in which they are telecommuting. Ms. LaTonya Bryant is recording the meeting and minutes will be prepared.

As this is a videoconference of the Board, there are some items I need to draw your attention to. For one, as a general rule, please do not utilize your video camera for the meeting unless you are a Board member, Board counsel, or an authorized Division employee. If you have a matter listed on the agenda and intend to appear before the Board to represent yourself, or if you are an attorney that is representing a client, only turn your video camera option on when we have reached the agenda item that you want to be heard on or when you hear your name called. Then turn your video camera option off again as soon as your matter has been addressed by the Board. Additionally, we will need everyone that is on the call to phone or audio feed on mute, if you are not speaking. The ambient noise coming from someone's phone or audio, which is not muted, causes severe disruption to the meeting. If you are not muted, you may be muted by Division staff. As a result, please make sure to unmute your phone or audio feed when you are preparing to speak. Also, if you are using your computer or smartphone for your audio feed, please remember to speak directly into the microphone on your device. To do otherwise negatively impacts the recording of this meeting. Just as in a live meeting, 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. As a final reminder, Board meetings are public meetings under Florida Law, and anything said via chat is subject to a public records request. Board members are directed not to use the chat feature. Others should only use this feature for technological issues you may be experiencing, directing any inquiries in chat to Mary Schwantes, Division Director. She is monitoring the chat feature and, as necessary, will forward your inquiry to someone who can assist in resolution of the problem. At this time, Mr. Chairman, I will call the roll:

Joseph "Jody" Brandenburg, Chair  
Keenan Knopke, Vice Chair  
Andrew Clark  
Lewis "Lew" Hall  
Mr. Helm  
Ken Jones  
Darrin Williams

**Also noted as present:**

Mary Schwantes, Executive Director  
Rachelle Munson, Board Legal Advisor  
LaTonya Bryant, Department Staff

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

Chair – Thank you. I'd like to close disclose my affiliation with SCI Funeral Services, LLC and this will in no way affect my ability to make a fair and impartial decision on any item coming before the Board today. The first item is Old Business. Ms. Simon?

2. **Old Business**

A. *Petition(s) for Waiver of Rule*

(1) *Embalmer Internship*

(a) *Mazzoni, Dillon*

Ms. Simon – The applicant has been a licensed Funeral Director since August 2018. An application for an embalmer license by internship and examination, was received by the Division on July 7, 2020. The applicant was originally placed on the August agenda. At the August meeting, the applicant requested the matter be tabled and waived the requirements of s. 120 60(1), Florida Statutes. On or about September 22, 2020, the applicant submitted a Petition for Waiver of Rule 69K-18.001(2), Florida Administrative Code, or in the alternative, Waiver of Rule 69K-18.001(3), (4), and (5). Florida Administrative Code. The circumstances concerning this matter, are provided within your cover sheet. Subsequent to the agenda being published, the Settlement Agreement has been worked out between the parties where the applicant will retake two (2) quarters of his internship. He will pay a \$1000 fine, and he will be placed on probation for one (1) year. The Division is recommending that Agreement be accepted by the Board.

**MOTION:** Mr. Keenan Knopke moved to accept the Settlement Agreement, as presented. Mr. Lew Hall seconded the motion, which passed unanimously.

Ms. Simon – Ms. Munson, do we need to do anything else for that matter?

Rachelle Munson – So, let me just clarify. Thank you. Good morning, this is Rachelle Munson. Are we approving the Petition for Waiver?

Wendy Wiener – This is Ms. Wendy Wiener. I'd be glad to answer that question, Mr. Chairman.

Chair – Please go right ahead, Ms. Wiener.

Ms. Wiener – Thank you. Ms. Munson, the Petition for Waiver was presented in the alternative. I believe what the Board will be granting is the second of the two (2) options presented there in, which is for Mr. Mazzoni to retake the last two (2) quarters of his internship, as has been agreed to with the Division.

Ms. Munson – So, because of that remedy, you are withdrawing the Petition. Is that correct?

Ms. Wiener – This is one of those tricky ones. The State Rule says that you have to finish your internship within a one-year period. So, here in order for him to do two (2) more, because of the snafu with the State's system and not knowing that it wasn't an embalming training agency, I believe that they have to approve the Petition so that this portion of the rule is waived, because technically he'll be 18 months {inaudible}.

Ms. Munson – Which is why I was clarifying it. So, if the petition is on the table, we'll need to specifically vote on the approval or denial of the petition, so that an Order can be issued in accordance. I wasn't clear exactly what that vote represented.

Ms. Wiener – Thank you.

Ms. Simon – If we could have a motion by the Board to that effect.

Chair – Ms. Munson?

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

Chair – Ms. Munson, thank you for your sage advice.

Ms. Wiener – Thank you.

Ms. Munson – My pleasure.

**3. Disciplinary Proceeding(s)**

**A. Settlement Stipulations (Probable Cause Panel A)**

**(1) Brandon Cremation and Funeral Services Inc: DFS Case No. 255669-19-FC; Division No. ATN-33417 (F061189)**

Ms. Simon – Presenting for the Department will be Marshawn Griffin.

Marshawn Griffin – Marshawn Griffin for the Department. Good morning. Brandon Cremation and Funeral Services Inc. (“Respondent”) is a funeral establishment, licensed under Chapter 497, Florida Statutes, license number F061189. The Department conducted an inspection of Respondent and found that Respondent conducted activities regulated by Chapter 497, Florida Statutes, with an expired license. Respondent has prior discipline. On April 20, 2015, in ATN-24509, Respondent was issued a citation for a failure to be properly licensed in violation of s. 497.380(3), Florida Statutes. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides as follows: Respondent shall pay an administrative fine in the amount of \$500 and its license will be placed on probation for six (6) months. The Department requests that the Board accept this Settlement Stipulation.

Mr. Knopke – Mr. Chairman?

Chair – Go right ahead, Mr. Knopke.

Mr. Knopke – I need to recuse myself from Items 3. A. (1), (2), and (3), as I was on Probable Cause Panel A.

Chair – Well, again, thank you for your service on the Probable Cause Panel, and it's so noted. Thank you.

**MOTION:** Mr. Clark moved to accept the Settlement Stipulation, which provides that the Respondent pay an administrative fine of \$500 and its license will be placed on probation for six (6) months. Mr. Jones seconded the motion, which passed unanimously.

**(2) Related Cases – ATN-32350**

**(a) A L Hall Funeral Directors Inc. d/b/a Tillman Funeral Home: DFS Case No.: 254434-19-FC; Division No. ATN-32350 (F041664)**

Ms. Simon – Again, presenting for the Department, Marshawn Griffin.

Chair – Mr. Griffin, we're having trouble with your audio.

Mr. Griffin – No, I thought somebody else was talking, so I was waiting. A. L. Hall Funeral Directors Inc., d/b/a Tillman Funeral Home (“Respondent”) is a funeral establishment, licensed under Chapter 497, Florida Statutes, license number F041664. The Department conducted an inspection of Respondent and found that Respondent failed to use a Department approved form for its Bodies Handled Reports, failed to treat a body with dignity and respect, and demonstrated negligence or incompetency in the practice of activities regulated by Chapter 497, Florida Statutes. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides as follows: Respondent will pay a \$1,500 fine and its license will be placed on probation for one (1) year. The Department requests that the Board accept this Settlement Stipulation.

Mr. Hall – Mr. Chair?

Chair – Go right ahead, Mr. Hall.

Mr. Hall – Are they available? Are they on the call?

Chair – I was just about to ask if there's anyone representing A. L Hall Funeral Directors on the call. Hearing no response. Anyone representing A. L Hall Funeral Directors d/b/a Tillman Funeral Home on the call? No response. Mr. Hall, did you have a question?

Mr. Hall – Yes. My concern is, you know, we've got the issues with the baby that went almost five (5) years and they noted in the material that they had embalmed the body, but they still had the baby in their prep room for five (5) years. They also had a container of Viscera. The explanation was, it was a county case, that was left there with no ID on it. Then they called back the inspector and said that they found the tag when it was placed in another {inaudible}. They came back {inaudible} to my understanding, was an indigent cemetery there, and did burials with both of them. I just have a real concern about it taking five (5) years to do these things. I think, in relation to the fine and stuff, that it's very light. I should be punishable by more than that. We've even had cases like this in the past come up, and Kevin Davis from the college had given the Board information and guidelines as to what is the common practice for viscera, by not placing it back in the body, et cetera, and we've used that in the past. But, I have a real concern as to why this took so long. Their explanation was they get the to call them back. That doesn't stop them from going ahead with the Indigent Program in caring for this child or the viscera. So, I don't know how the other Board members feel, but I think it's deplorable.

Mr. Darrin Williams – Mr. Chair?

Chair – Who was that, please?

Darrin Williams – Darrin Williams.

Chair – Mr. Williams, go right ahead.

Mr. Williams – Yes, sir. This question, I guess, is for Mr. Griffin. Is there any part of the settlement agreement that calls for staff to do a follow-up inspection?

Mr. Griffin – No, however, I believe that we could just always do that just as a matter of course, but no, that's not explicitly provided for as a condition of probation.

Mr. Williams – And I would also like to echo what Mr. Hall was saying. I think that was kind of light. Could you give me the guidelines, or could you tell us the guidelines for this type of situation?

Mr. Griffin – Yes. Give me one second to pull up the complaints. Ok, so this case is decided under the pre- 2019 guidelines, as the inspection that occurred on December of 2018. As to Count One, the maximum penalty would be a reprimand, a fine of \$1000 to \$2500, six (6) months to one (1) year probation, with usual conditions, to suspension until compliant. As to Count Two, I believe it is the exact same.

Al Hall – Hello? This is Al Hall. I'm calling it.

Chair – We had paged you earlier in the call.

Mr. A. Hall – I didn't get a page. I didn't get it.

Chair – We verbally paged you when the case was called, Mr. Hall.

Mr. A. Hall – I'm so sorry. I didn't get it, sir.

Chair – Ok. We want to know if you're here to address the Board or you're merely here to answer questions regarding the Settlement Stipulation and the disciplinary issues?

Mr. A. Hall – I will do both, if necessary.

Chair – Thank you. Mr. Hall, did you have a question for Mr. A. Hall?

Mr. Hall – Yes. Mr. Hall, my question was the issue with the baby and the issue with the viscera. It went on for years before anything was done or to the indigent program to do burials with both of these. Is there an explanation? I know in the material it showed you had difficulty in reaching the family. They kind of abandoned the child, left town, etcetera. Is there a reason why you waited that many years to care for that baby?

Mr. A. Hall – It may appear that there was negligence, it may appear that there was an abandonment, but it definitely was not. I tried desperately to reach the parent. The aunt called me a couple of times and asked me to hold up on it. I would call back. She was trying to get in touch with the mother and the grandmother. They were trying to do a lawsuit and they asked me to hold off. We tried to protect the baby. We kept the baby in our care until...I even wrote trying to get the authorization to go ahead and cremate the baby. It was never an intent to abandon nor to disrespect the deceased baby in any manner. If anything, we went beyond the call trying to ensure that it was taken care of. I regret that the timeframe ran. I was hoping that they would get back in touch with us. If you look at some of the correspondence, we did try repeatedly to get in touch with the mother. We tried to get in touch with the former landlord where they lived. We contacted people in Pensacola where they had supposedly moved to. But as far as the negligence and abandonment of the baby, that never was our intent, never by me or anyone associated with us.

Mr. Hall – My question re the abandonment was for the family. Your letter in the material that we received says that the family basically abandoned the baby, wanted a big funeral, and when they didn't feel like they got the response they needed from the lawsuit, they kind of just went off the map, so to speak. The purpose of still once that happened, I feel like the baby should have been cared for and went on to the indigent burial. If they wanted to disinter later because of the lawsuit, they would have had that right, but to leave it there at your facility for those years, and also the viscera was left there for years, and there was no ID tag to it. I think then later you all responded back to the inspector saying that you did find the dislocated tag and you identified who that viscera belonged to. I'm just wondering how you came about being able to find out who a container of viscera would belong to. And you're aware that {inaudible} cases like this come up in the past. And Kevin from St. Pete College provided material to the Board on the proper care for viscera, and this doesn't come anywhere close. So, you are aware that that's not the way to handle the viscera. That it should have been put {inaudible}.

Mr. A. Hall – Yes, sir. I am the owner. The funeral director, the operational people who were fined for that, I take full responsibility for it. It's by virtue of my position, but we were able to identify based on other cases we had handled during that time period. I was not aware of the viscera, personally, but I take full responsibility for it, as it happened on my premises.

Mr. Hall – Does your firm usually place the viscera back before burial?

Mr. A. Hall – Do we normally do what, sir?

Mr. Hall – Does your firm usually place the viscera back into the cavity for the burial?

Mr. A. Hall – Oftentimes we do. We do what a lot of other firms do. Sometimes it is placed in the foot of the casket.

Mr. Hall – Has it been treated when you put it in the foot of the casket?

Mr. A. Hall – Oh, yes. Always. It's always treated. Yes, sir. That's something that I've seen, since I was a teenager. Sometimes it's almost impossible to place it back depending upon the nature of the body, the nature of the death, what have you, but I've seen that done before. But in this particular case, it was inadvertently left out. I talked to the funeral director who was responsible for it, and it was inadvertently left out. It had not been years, though.

Mr. Hall – The baby had been years?

Mr. A. Hall – Yes, the baby, I agree. Yes, the baby had been years.

Mr. Hall – How long was the viscera there?

Mr. A. Hall – I can't say. I'm caught off guard this morning, but less than a year, I believe.

Chair – May I interject? Mr. Griffin, would you again mention the penalty guidelines for Count One and Count Two?

Mr. Griffin – Yes. They're both a \$1000 fine up to \$2500 fine, six (6) months to one-year probation, and then suspension until compliant.

Chair – That was under the old guidelines. So, Board members we have before us a Settlement Stipulation that's been executed for a \$1500 fine and one-year probation. What is your pleasure, Board?

Mr. Williams – Mr. Chair?

Chair – Yes? Who's speaking?

Mr. Williams – This is Darrin Williams.

Chair – Hi, Mr. Williams.

Mr. Williams – Motion to deny the stipulation, if we could. I don't have a counter offer at this moment. I guess since it's under the old penalty guidelines, maybe Mr. Griffin could give me some recommendations. I don't know if this is the right avenue. Let me know if it is not, but that would be my motion, Mr. Chair.

**MOTION:** Mr. Williams moved to reject the Settlement Stipulation. Mr. Hall seconded the motion, which passed unanimously.

Chair – Mr. Williams, do have a modification of the Settlement Stipulation having to do with these disciplinary guidelines?

Mr. Williams – I would ask, Mr. Chair, if I could, Mr. Griffin if he could give me...you said the maximum is \$2500, Mr. Griffin?

Mr. Griffin – Yes. It's a \$1000 fine up to \$2500 fine, six (6) months to one (1) year probation and suspension until compliant as to both Counts, as the penalty range.

Chair – That's per count?

Mr. Griffin – Yes.

Mr. Williams – Ok. So, if I can, and if Mr. Hall would agree, I guess counsel can ask, a \$2500 fine and a one (1) year probation.

Chair – And that's in total, Mr. Williams?

Mr. Williams – Per count.

Chair – \$2500 per count and a one-year probation, for a total of \$5000 and a two-year's probation. Is that your motion?

Mr. Williams – Yes. Mr. Griffin, if you can help me out in terms of {inaudible} that's what I'm {inaudible}

Mr. Griffin – I mean, I guess part of my issue is that the whole idea of a settlement is to make some sort of offer to avoid going to hearing. At this point, what you're offering is the max. So, he has no reason to take that offer because he could go to a hearing. Yes, that would be within the penalty guidelines that is authorized under the old guidelines.

Chair – Thank you. And Mr. A. Hall, you heard what Mr. Williams mentioned, so do you have a compromise of any sort that would be acceptable to you on the Settlement Stipulation?

Mr. A. Hall – Yes, sir, I do. I regret this wholeheartedly. I've always tried to work within the boundaries of the law and practice of the profession. When I was first contacted with the proposed settlement, rather than prolonging it and going through the legalities of everything, I spoke with Mr. Griffin and agreed, in essence, to forgoing other proceedings based on the recommended stipulation that he has set forth that's been proposed. This now takes it totally away from what, and I hate to say what I was prepared for, but it does. It doubles everything. The original fine, or proposed fine was \$1500 and six (6) months to a year's probation. And right now, at my age now, this is a two-year period of probation proposed and a \$5000 fine. I'm somewhat at a loss right now.

Mr. Williams – So, Mr. Chair, what I'll do is I'll split the recommendation. So, the original proposal was \$1500 and six (6) months. Can we go \$2000 and one (1) year?

Chair – Mr. A. Hall, Board member Williams is recommending a \$2000 fine and a one-year probation. We probably need a motion to that effect. And, Mr. A. Hall, you can tell us whether it's acceptable to you or not. Mr. Williams has made the motion. Is there a second?

Mr. Hall – Is that per count, again?

Mr. Williams – I will say total, Mr. Hall, and if you have something to counter, but that would be my recommendation in this moment.

Chair – So, the only change from the original stipulation is there an additional \$500 in the fine, and it's still a one-year probation.

Mr. A. Hall – That's acceptable. I'll go with that. I accept that.

Mr. Jones – I'll second the motion, Jones.

Chair – The motion has been made and it's been seconded. All those in favor, aye?

Board members – Aye.

Chair – And any opposed?

Mr. Hall – No.

Chair – Hearing one (1) opposed, the motion carries. Thank you further for your discussion on this.

Ms. Munson – Chair Brandenburg? If I can just clarify what the actual resolution is. I heard that member Williams said it was per account originally, but then it was changed to totally, so I'm trying to figure out is it \$2000, is it \$1000 per Count totaling \$2000, and six (6) months per Count totaling a year? Is it \$2000 per Count totaling \$4000 and one (1) year per Count, but the second Count running simultaneously? I just want to make sure that the terms will be clear in the Order.

Chair – Thank you. Mr. Williams, is it your intent for \$1000 per Count, and a six (6) month probation per Count, for a total of \$2000 and one (1) year? Is that your intent?

Mr. Williams – Yes, sir. That is the intent.

Chair – It's been accepted by Mr. Al Hall. Thank you for your participation, Mr. Hall.

Mr. A. Hall – Thank you, and to the Board and to the profession, I want to apologize for any mishaps. This is my first time doing this. I'm not used to being on this side. Things happen, and I wish it hadn't occurred but I'm going to move forward. Thanks again for your time.

Chair – Thank you, and we will move on to the next case.

Mr. Clark – Mr. Chairman?

Chair – Yes?

Mr. Clark – I just wanted to clarify the record that I actually opposed that vote. This is Clark. I don't think anyone could hear me.

Chair – I didn't hear you, and I apologize, Mr. Clark, but I did hear Mr. Lew Hall. Unless there's any other opposed, the motion carries. Thank you for your clarification, Mr. Clark.

Ms. Simon – Mr. Chairman, may I continue with the agenda?

Chair – Please do, Ms. Simon.

Ms. Simon – I would like to remind everybody that's on the call to please mute your phones if you are not speaking. Already, there has been disruption to the meeting based upon people not muting their phone and the ambient noise is quite disturbing.

*(b) Miller, Isaac: DFS Case No. 260760-20-FC; Division No. ATN-32350 (F046777)*

Ms. Simon – Is Mr. Miller on the call today?

Isaac Miller – Yes.

Ms. Wiener – And this is Wendy Wiener, counsel for Mr. Miller.

Ms. Simon – Thank you, Ms. Wiener. Mr. Griffin, presenting for the Department.

Mr. Griffin – Marshawn Griffin for the Department. Isaac Miller (Respondent) is a funeral director and embalmer, licensed under Chapter 497, Florida Statutes, license number F046777. Respondent is the FDIC of A L Hall Funeral Directors Inc., d/b/a Tillman Funeral Home (Tillman), a funeral establishment licensed under Chapter 497, Florida Statutes, license number F041664. The Department conducted an inspection of Tillman and found that Tillman failed to use a Department approved form for its Bodies Handled Reports, failed to treat a body with dignity and respect, and demonstrated negligence or incompetency in the practice of activities regulated by Chapter 497, Florida Statutes. Pursuant to s. 497.380(7), Florida Statutes, Respondent as FDIC of Tillman is subject to discipline based on Tillman's violation of Chapter 497, Florida Statutes. Respondent has prior discipline by way of a 1994 Consent Order issued for violations unrelated to the violations alleged in this ATN. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides as follows: Respondent will pay a \$1,500 fine and his license will be placed on probation for one year. The Department requests that the Board accept this Settlement Stipulation. However, if the Board is not inclined to accept the stipulation, the Department would request that if a counter-offer is tendered to be in line with the offer tender to Al Hall Funeral Directors D/B/A Tillman.

Chair – Thank you, Mr. Griffin. Ms. Wiener, did you want to address the Board, or you're merely here to answer questions?

Ms. Wiener – My client and I are both here just to answer any questions.

Chair – Thank you so much. Board members, any questions? And, what is your pleasure on the Settlement Stipulation, with the understanding that Mr. Knopke is recused from this case, because of Probable Cause Panel A? Thank you again for that disclosure, Mr. Knopke.

Mr. Williams – Mr. Chair?

Chair – Yes?



**MOTION:** Mr. Williams moved to reject the Settlement Stipulation. Mr. Hall seconded the motion, which passed unanimously.

Chair – Mr. Williams, did you have a modification of the proposed Settlement Stipulation that you would like to offer?

Mr. Williams – Yes, Mr. Chair. So, to Mr. Griffin, will it be the same in line to the previous Settlement Stipulation’s guidelines?

Mr. Griffin – Yes, the guidelines are the same. The penalty guidelines for each Count are the same.

Mr. Williams – Ok. One second. Mr. Chair, I will recommend \$2000 and a two-year probation, and I look to my colleagues if they have any other recommendations.

Chair – So, the motion is a \$2000 fine and a two-year probation. Anything to add to that or to discuss from the Board members? Otherwise, we can vote on it and have Ms. Wiener's input with her client, while they're together there, and then we can go on with the new Settlement Stipulation.

Ms. Wiener – Mr. Chairman, might I ask a question or offer a comment?

Chair – Please do.

Ms. Wiener – The FDIC's liability for violations is a vicarious liability. The FDIC, by virtue of being the FDIC, takes liability for things that happen at the funeral home, whether they are themselves directly involved or not. I certainly can't reconcile an additional year of probation, additional discipline for the FDIC, in this matter. I have not had an opportunity to confer with my client about the acceptability of the increased fine. as was with the Tillman Funeral Home settlement, but I certainly can't understand why there would be additional discipline for the FDIC who is vicariously liable in this matter.

Mr. Williams – Mr. Chair?

Chair – Mr. Williams?

Mr. Williams – In response to Ms. Wiener’s statement, my position is, in the previous companion case, I felt that the terms of the Settlement Stipulation was very minimum. And so, in this same case, I think the terms of the Settlement Stipulation are minimum as well. And the FDIC was in charge, am I correct, of this case?

Ms. Wiener – Well, the FDIC is in charge of the facility, generally speaking. Whether they have anything whatsoever to do with the actual violations that occur, that's another issue, but, yes. By nature of being in charge of a facility, allowing their license to be hung as Funeral Director in Charge, they are in charge of that, but I would argue that that's no different than the owners' liability for this, and if I understand correctly, these two (2) settlements were supposed to mirror one another. I mean, that was the original intent of the Division, and I believe as Mr. Griffin said earlier, would be the continued request of the Division.

Mr. Williams – Mr. Chair, may I respond?

Chair – Please do, Mr. Williams.

Mr. Williams – Ms. Wiener, are you proposing to mirror the proposal that we voted on in the Settlement Stipulation of the companion case?

Ms. Wiener – {inaudible} Oh, I'm sorry. Go ahead.

Mr. Williams – No, I was asking would you recommend that we mirror the companion case, so that it will go in line to what your thoughts were, in that the Settlement Stipulations would mirror one another, from the A L Hall case with your client?

Chair – Ms. Wiener, go ahead.

Ms. Wiener – I would. Of course, Mr. Miller is on the line, so he would have to agree to that. This is such an unusual circumstance for everyone where we're on this Zoom meeting. Normally I would pull him over to the corner, and we would have a conversation. So, he's kind of on the spot. He would have to say whether he agrees to that, but I certainly would think that because these two (2) settlements were meant to mirror one another, that would not be an unreasonable result. Mr. Miller, I know you're on the spot on this, but would you agree to an increase of the fine, to \$2000 total and then one (1) year of probation?

Mr. Miller – No.

Ms. Wiener – What's that?

Mr. Miller – My answer is no.

Ms. Wiener – Ok. Well, then in that case, what we'll end up with, since the settlement proposal has been denied, then I guess this matter is at a conclusion, unless there is another offer that the Division wants to make that we can confer with. Otherwise, we'll have to bring this matter back to the Division later on.

Mr. Williams – Mr. Chair, do any of the other Board members have any recommendations for this? That was my only recommendation.

Mr. Hall – Mr. Chair, I have a comment.

Chair – Mr. Hall, go right ahead.

Mr. Hall – I know Mr. A. Hall casually, and I do that he probably didn't have any intention of this happening. It's a sad situation. However, the Board didn't create it. The Board, we just have to deal with the consequences of what's happened. So, to get a scolding from the State's Attorney's Office, I don't think is proper. I think we went within the guidelines. Mr. Williams made an offer earlier within the guidelines of what the State asked for, and then because it may not be accepted or they had worked on that, we've got scolded. I don't think that's proper, in my opinion. I think if the Attorney's office, or anybody on this call, if their little girl laid there in that prep room for five (5) years, or if their father's viscera was left there after he was buried, would have a whole different approach and a thought to this particular case. So, that's what concerns me. I know Mr. Hall may not want to pay the fine, and I get that. But we didn't create it, as a Board. So, to pin that on us is not right. His motion earlier was within the guidelines that were presented to us, and I think that was probably a good motion, but what we do with this one, the Board will have to decide, but that's my opinion.

Mr. Griffin – And, if I may, just explain. The point I was trying to make is that the point of a settlement offer is you're offering something less than the maximum in order to kind of encourage a settlement of the case. If you're offering the exact maximum, then the other side has no reason to take the offer, because they could go to a hearing and potentially get no worse result than what's being offered itself. So, I was not trying to scold the Board or, you know, or lecture the Board. Just as a practical matter, making an offer that is the max tends to basically work...

Mr. Hall – And I think in your position, I think the agreements help the meetings, because a lot of times you all can get them settled and help the meeting move along. I agree with that. However, the seriousness of this one, this particular case, if either one of those were my family member, or any of your family members, I think we would look at it totally different. And that's why I thought the maximum was in order. It's negotiated and it was voted on the other way, so that's fine, we'll move on, but that's my opinion on it. I think you all had the right to go in and negotiate it, and it's up to the Board to decide whether we feel that's appropriate for the offense.

Chair – Thank you. I'll call upon Ms. Weiner. Ms. Wiener, you've consulted with your client, and your client would not agree to a Settlement Stipulation with a \$2000 fine and a two (2) year probation. So, Ms. Munson, can you give us your usual sage advice as a Board attorney?

Ms. Munson – Yes. As we stand now, the Order will be issued indicating that the Board voted to reject the stipulation. Then it will go back to the parties with the Department or the Division and Ms. Wiener and her client to work out another settlement.

If they can't work out another settlement, then I guess Ms. Wiener will make a decision with the advice of her client as to how to move forward otherwise. But an Order will be written to reject the settlement, and that's all it will say.

Chair – So, from the Board's perspective, we don't have to have any other action on this Settlement Stipulation, is that correct?

Ms. Munson – That is correct, sir.

Chair – Thank you so much. Unless there is some input from Ms. Wiener or her client, we'll move on to the next case.

**(3) Related Cases – ATN-33105**

**(a) Florida Cremation Services LLC d/b/a Valles Funeral Home and Crematory; DFS Case No. 254489-19-FC; Division No. ATN-33105 (F067521)**

Ms. Simon – Is there a representative of that entity on the call today? Hearing no response. Mr. Bossart?

Mr. Bossart – Yes, Ms. Simon. May I proceed, Mr. Chairman?

Chair – Mr. Bossart, welcome to the call, and please go right ahead.

Mr. Bossart – Thank you, sir. This is James Bossart for the Office of the General Counsel. Respondent is licensed as a funeral establishment, license number F067521, located in Opa-Locka, Florida. Respondent failed to obtain a certificate of death within five (5) days after assuming control of a dead body. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides as follows: Respondent shall pay a \$3500.00 administrative fine. The Department requests that the Board accept this Settlement Stipulation. Thank you.

Chair – Thank you, Is there anyone here representing Florida Cremations Services LLC d/b/a Valles Funeral Home and Crematory? Again, Mr. Knopke has recused himself as being a member of Probable Cause Panel A. Is there anyone here representing Florida Cremations Services? Hearing none. Board, what is your pleasure?

**MOTION:** Mr. Powell Helm moved to accept the Settlement Stipulation, which provides that the Respondent shall pay a \$3500.00 fine. Mr. Hall seconded the motion, which passed unanimously.

**(b) Ribalta, Maykel; DFS Case No. 254491-19-FC; Division No. ATN-33105 (F076240)**

Ms. Simon – Is Ms. Ribalta on the call today? Hearing no response. Mr. Bossart?

Mr. Bossart – Thank you. May I proceed Mr. Chairman?

Chair – Please do, Mr. Bossart.

Mr. Bossart – This is the companion case to the previous case that you just heard. Respondent is a licensed funeral director and embalmer, license number F076240. Respondent was the FDIC of Florida Cremation Services LLC d/b/a Valles Funeral Home & Crematory (funeral establishment), a licensed funeral establishment, license number F067521, located in Opa-Locka, Florida. The funeral establishment failed to obtain a certificate of death within five (5) days after assuming control of a dead body. Respondent, as FDIC of the funeral establishment, is subject to discipline based on the funeral establishment's violation of Chapter 497, Florida Statutes. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides for a \$3500.00 administrative fine. The Department requests that the Board accept this Settlement Stipulation. Thank you.

Chair – Board, what's your pleasure?

**MOTION:** Mr. Helm moved to accept the Settlement Stipulation, which provides that the Respondent shall pay an administrative fine in the amount of \$3,500. Mr. Hall seconded the motion, which passed unanimously.

Chair – Ms. Simon, next item.

Ms. Simon – Yes, sir.

Mr. Williams – Mr. Chair?

Chair – Hold on. Mr. Hall, were you trying to get my attention?

Mr. Williams – No, this is Darrin Williams, Mr. Chair.

Chair – Mr. Williams?

Mr. Williams – I'd like to recuse myself from items 3. B. (1), (2), and (3), as I was on Probable Cause Panel B for those cases that will be coming before us.

Chair – Thank you for that declaration, Mr. Williams. Ms. Simon?

**B. Settlement Stipulations (Probable Cause Panel B)**

**(1) Alternative Transportation Services, Inc.: DFS Case No. 267466-20-FC; Division No. ATN-35119 (F365680)**

Ms. Simon – Is there a representative of Alternative Transportation Services, Inc. on the phone today? Hearing no response. Mr. Bossart?

Mr. Bossart – Thank you. Alternative Transportation Services, Inc. (“Respondent”) is a removal service, licensed under Chapter 497, Florida Statutes, license number F365680. The Department conducted an inspection of Respondent and found that Respondent had relocated its place of business and operations to 7740 Tanglewood Trail, New Port Richey, Florida, without notifying the Department of the relocation. Respondent has subsequently submitted a new application for licensure as removal service. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides as follows: Respondent shall pay an administrative fine of \$1,750.00 and should Respondent’s application for licensure be granted it will undergo a one-year period of probation. The Department requests that the Board accept this Settlement Stipulation. Thank you.

Chair – Thank you, Mr. Bossart. Is there a representative of Alternative Transportation Services on the call? One more time, Alternative Transportation Services? Hearing none. Board?

**MOTION:** Mr. Hall moved to accept the Settlement Stipulation, which provides that the Respondent shall pay an administrative fine of \$1,750.00 and should Respondent’s application for licensure be granted it will undergo a one-year period of probation. Mr. Helm seconded the motion, which passed unanimously.

**(2) Carriage Florida Holdings, Inc., d/b/a All Cremation Options: DFS Case No. 258265-20-FC; Division No. ATN-32458 (F060701)**

Ms. Simon – Is there a representative of All Cremation Options on the call?

Michael Elliott – Yes. This is Mike Elliott, in-house counsel for Carriage.

Ms. Simon – Thank you, sir. Mr. Griffin representing the Department.

Mr. Griffin – Marshawn Griffin for the Department. Carriage Florida Holdings, Inc., d/b/a All Cremation Options (“Respondent”) is a direct disposal establishment, licensed under Chapter 497, Florida Statutes, license number F060701. The Department conducted an inspection of Respondent and found that Respondent engaged in activities regulated under Chapter 497, Florida Statutes, with an expired license. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides as follows: Respondent shall pay a fine of \$300. The Department requests that the Board accept this Settlement Stipulation.

Chair – Thank you. Mr. Elliott, would you want to address the Board, or are you merely here to answer any questions that the Board might have?

Mr. Elliott – I'm here to answer any questions the Board may have. Thank you for your time.

Chair – Thank you so much. Board?

**MOTION:** Mr. Knopke moved to accept the Settlement Stipulation, which provides that the Respondent shall pay a fine of \$300. Mr. Clark seconded the motion, which passed unanimously.

Chair – Thank you, sir.

***(3) Carriage Team Florida (Funeral) LLC d/b/a Conrad & Thompson Funeral Home: DFS Case No. 255950-19-FC; Division No. ATN-33232 (F041353)***

Ms. Simon – Mr. Elliott, are you representing this licensee as well?

Mr. Elliott – That's correct. Thank you.

Ms. Simon – Mr. Griffin, representing the Department.

Mr. Griffin – Marshawn Griffin for the Department. Carriage Team Florida (Funeral) LLC d/b/a Conrad & Thompson Funeral Home (“Respondent”) is a funeral establishment, licensed under Chapter 497, Florida Statutes, license number F041353. The Department conducted an inspection of Respondent and found that Respondent failed to keep its body cooler at a temperature of 40 degrees Fahrenheit or less. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides as follows: Respondent shall pay a \$850 fine and its license will be placed on probation for six (6) months. The Department requests that the Board accept this Settlement Stipulation.

**MOTION:** Mr. Knopke moved to accept the Settlement Stipulation, which provides that the Respondent shall pay a \$850 fine and its license will be placed on probation for six (6) months. Mr. Helm seconded the motion, which passed unanimously.

***(4) Williams, Michael L.: DFS Case No. 217639-17-FC; Division No. ATN-29160 (F045425)***

Ms. Simon – Is Mr. Williams on the call today?

Michael Williams – Yes, I am.

Ms. Simon – Excellent. If you can, please raise your right hand and be sworn in. Do you swear to tell the truth the whole truth and nothing but the truth, so help you God?

Mr. M. Williams – Yes, I do.

Ms. Simon – Please state your name and spell your last name for the record.

Mr. M. Williams – Michael Williams, W I L L I A M S.

Ms. Simon – Thank you, sir. Mr. Bossart, representing the Department.

Mr. Bossart – Yes, ma’am. Thank you. James Bossart for the Department. Michael L. Williams (“Respondent”) is a funeral director and embalmer, licensed under Chapter 497, Florida Statutes, license number F045425. Respondent was the funeral director in charge (FDIC) of Rahming-Poitier Funeral Directors Corp., (funeral establishment) a funeral establishment doing business in Deerfield Beach, Florida, license number F079857. The Department conducted an investigation of Respondent and found that the funeral establishment provided a false burial transit permit. Respondent, as FDIC, is responsible. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides as follows: Payment of a \$5000.00 fine,

and three years of probation, during which time he may not serve as an FDIC. The Department requests that the Board accept this Settlement Stipulation. Thank you.

Chair – Thank you. Mr. Williams?

Christopher Butler – Good Morning.

Chair – Are you on the call to address the Board, or are you here to answer questions?

Mr. M. Williams – My attorney is on the line, so I'm just listening, sir.

Chair – Thank you. Please identify yourself. Is this Mr. Butler, his counsel?

Mr. Butler – Good morning, Mr. Chair. Yes, this is Attorney Chris Butler. Can you hear me OK?

Chair – We can. Good volume. Thank you.

Mr. Butler – Thank you. Good morning.

Chair – Good morning. Did you want to address the Board or are you merely here to answer questions?

Mr. Butler – Mr. Williams and I are present to answer any questions that the Board may have.

Chair – Thank you. Board members, your pleasure, please?

Mr. Clark – Mr. Chairman?

Chair – Go right ahead.

Mr. Clark – For either Mr. Butler or Mr. Williams, for the overcharged cemetery spaces, have those been refunded? The purchasers have been refunded?

Mr. Butler – Mr. Chair, may I address this question?

Chair – Please do, Mr. Butler.

Mr. Butler – Mr. Clark, I do not believe that those matters have been served upon Mr. Williams to allow him to properly respond to questions regarding the overfunded, or any alleged overfunded cemetery plots. Mr. Williams is FDIC, and he's vicariously liable here with regards to the complaint, actually the complaint that's dated February 7<sup>th</sup>, so we have...

Mr. Bossart – May I say something to the Board? The matter about the overcharged cemetery plot is a second investigation that is not part of this Administrative Complaint and the Settlement Stipulation has agreed to dismiss that investigation in return for this Settlement Stipulation.

Chair – Thank you, Mr. Bossart.

Mr. Bossart – What this matter concerns is solely the first investigation, the false burial transit permit provided to the crematorium.

Mr. Butler – Thank you, Mr. Bossart.

Unidentified Caller – Hello?

Chair – Yes? Who's speaking, please?

Unidentified Caller – That's all I had to say.

Chair – Ok. Thank you.

Mr. Knopke – Mr. Chairman? Mr. Knopke has a question.

Chair – Please, Mr. Knopke.

Mr. Knopke – Directed to Mr. Bossart, in the part that you read in the beginning of the introduction...

Mr. Bossart – Funeral home (inaudible)?

Mr. Knopke – No, sir. It looks like the last sentence of the third paragraph. The settlement contemplates the Department will not proceed in filing an Administrative Complaint against Respondent, based upon the allegations in ATN-32977.

Mr. Bossart – I didn't...

Mr. Knopke – Pardon?

Mr. Bossart – Beg your, pardon? I'm sorry. I didn't hear the last of your sentence.

Mr. Knopke – You were breaking up when you read that originally, and I think you may have offered some comment after that. I did not hear that clearly. Could you repeat it?

Mr. Bossart – That was the second investigation. We're not proceeding against Mr. Williams on that second investigation, based upon this Settlement Stipulation, if the Board approves it

Mr. Knopke – A follow up to that, is that the one that the attorney...

Mr. Bossart – That was the first one. He's speaking of the first investigation. There were two (2) separate investigations separated in time, that's why they haven't been brought together. This stipulation envisions dismissing the second investigation, which concerns the overcharged cemetery plots. I'm not sure how the file was even presented to the Board, but nevertheless, that is the case.

Mr. Knopke – Ok. So, if we approve this settlement, the one regarding the overcharging the cemetery lots goes away. Is that part of this agreement?

Mr. Bossart – It goes away concerning Mr. Williams. We're proceeding at the moment against Rahming-Poitier on both investigation files.

Mr. Knopke – Ok, and I assume that person is the owner of the business, or can you get into that because it's an ongoing investigation?

Mr. Bossart – It's not ongoing. The owner of Rahming-Poitier is a gentleman named Theodus Times, who is not licensed. (inaudible) your question.

Mr. Knopke – Ok.

Mr. Butler – And I'm not sure that that individual is associated with Rahming-Poitier Funeral Home, any longer. However, what brings us here today is related to the increased fines and the combined suspension that Mr. Williams has agreed, prior to (inaudible) in September, to accept. Now, I have identified, I'm sorry, but I know we say that we were here to merely answer questions, but I guess this would be considered addressing the Board. With all due respect, I hope you'll allow it. Since I've come into the case, on September 22nd, by virtue of the (inaudible) motion to substitute counsel, I have conducted some investigation to determine the source of the allegations. So, basically, the material facts are (inaudible), with regards to Mr.

Williams. Mr. Williams, by virtue of him being the licensed funeral director, is responsible, but he's not responsible for the action that has occurred under this regime by step. But he has taken remedial action. He takes full responsibility, you know, what he can, within reason to accommodate any individuals allegedly harmed by any of these circumstances. But today, you know, he is here to ask the Board to accept his proposed stipulation that has been executed by the Department, as it pertains to the first investigation.

Chair – Thank you, Mr. Butler. To recap the terms of the Settlement Stipulation: payment of a \$5000 fine, three (3) years of probation, during which time he may not serve as an FDIC. Board, what is your pleasure or additional comments?

Mr. Williams – Mr. Chair, just a question.

Chair – Go right ahead. Is that Mr. Williams?

Mr. Williams – Yes sir. Mr. Chair, If I can ask a question to Mr. Butler?

Chair – Please do.

Mr. Williams – Mr. Butler, you stated he was not in charge, in your statement. I was trying to read it. It was breaking up, so I don't know.

Mr. Butler – Yes, Mr. Williams. Mr. Chairman, may I address?

Chair – Please do, Mr. Butler.

Mr. Butler – Thank you very much. No, Mr. Williams. I think there was some miscommunication on our technological end. By virtue of Mr. M. Williams being the licensed funeral director, he is ultimately in charge of the establishment, but only vicariously. He has staff, we had staff who were directly responsible for any perceived fraudulent report, but, of course, he is the FDIC. So, no, I didn't say that he was not in charge. He is, by virtue of being the FDIC, the person who committed the alleged infractions here.

Chair – Thank you.

**MOTION:** Mr. Jones moved to accept the Settlement Stipulation, which provides that the Respondent shall pay a \$5000.00 fine, and three (3) years of probation, during which time he may not serve as an FDIC. Mr. Knopke seconded the motion, which passed unanimously.

Chair – Thank you, Mr. M. Williams. Thank you, Mr. Butler.

Mr. Butler – Thank you.

**C. Settlement Stipulations (Waiver of Probable Cause)**

**(1) Affordable Cemetery Monuments, Plaques & Property: DFS Case No. 270186-20-FC; Division No. ATN-35072 (F455378)**

Ms. Simon – Is there a representative of this establishment on the call today?

Lisa DeGiovine – Yes, Lisa DeGiovine.

Ms. Simon – Good morning Ms. DeGiovine. Mr. Griffin?

Mr. Griffin – Marshawn Griffin for the Department. Affordable Cemetery Monuments, Plaques & Property (“Respondent”) is monument establishment retailer licensed under Chapter 497, Florida Statutes, license number F455378. The Department conducted an investigation of Respondent and found that Respondent engaged in activities requiring licensure under Chapter 497, Florida Statutes, without the benefit of licensure. Respondent has entered into a proposed Settlement Stipulation. The



proposed stipulation provides as follows: Respondent will pay a fine of \$1,500 and have its license placed on probation for one (1) year. The Department requests that the Board accept this Settlement Stipulation

**MOTION:** Mr. Knopke moved to accept the Settlement Stipulation, which provides that the Respondent shall pay a fine of \$1,500 and have its license placed on probation for one year. Mr. Helm seconded the motion.

Chair – The Chair has a question for Ms. DeGiovine. All these years you operated without a license. Can you explain to the Board why you chose to operate without a license?

Ms. Simon – Mr. Brandenburg, before that question is answered, if I can swear Ms. DeGiovine in?

Chair – Please do.

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

Ms. DeGiovine – Yes.

Ms. Simon – Please spell your last name for the record.

Ms. DeGiovine – D E G I O V I N E.

Chair – Thank you.

Ms. DeGiovine – Yes?

Chair – Ms. DeGiovine, did you understand The Chair’s question?

Ms. DeGiovine – Yes, sir. When you say all these years, how many years are you talking about?

Chair – Can you tell me?

Ms. DeGiovine – I’ve only been operating on my own for fifteen (15) months. I worked for a gentleman that was in the industry for thirty-three (33) years before he passed away. I worked for him for ten (10) years as a secretary and an errand runner, until the last year that he became bedridden. So, I have only been operating under Affordable Monuments for fifteen (15) months. Mr. Williford, prior to him passing away, I do not believe was licensed for at least the ten (10) years that I was with him. I don't know, I don't have access to that information. You guys do and you're able to see. And neither did the gentleman that was working for him at the time that was selling monuments. So, I never knew this Board even existed until my competition made a complaint against me for doing business without a license.

Chair – During the fifteen (15) months that you owned it, did anyone counsel with you that you are supposed to be operating under a license?

Ms. DeGiovine – No, I found out I was supposed to be operating under a license from staff at Florida Memorial Funeral Home. I had my city license, I had my county license, and I had my LLC. Those are the only licenses I was understood that I needed to have.

Chair – Thank you for that response.

Ms. DeGiovine – If I may say one other thing? This is the second time I’m being brought up against. This is going to be my second fine of \$1500, my second year of probation against my license. When I first turned in my first application, for my monument establishment license, I filled it out with my name, not my business name, but my personal name and all my personal information, and then I was told I had to put in the business name. Now, when I was applying for my monument establishment license, I never even knew that I needed a second license to sell the monuments. That came to my attention

three (3) days after my monument establishment license was approved. I got an e-mail from Ms. Richardson telling me I didn't list an agent. And I didn't know what she was talking about, and she asked me who's going to be selling monuments. And I said, it's just me. And she said, well, you're required to have a separate license for that, which I knew nothing about, and I don't understand why I wasn't told that through the whole licensing process. This is the most confusing process I've ever gone through in my life. I've even asked members on the Board for guidance on other things not related to this, but they don't even know. They take weeks to get back to me to get answers, so it's very confusing to me. I will say this. I'm a very small, veteran owned business, and I feel that I do a very great service to my community. Again, I said this at the last hearing I was at, we have to remember, I was brought to the attention because my competition filed a complaint against me. I'm not in front of this Board because I got caught stealing or ripping off customers. I have all the small, little funeral homes in Brevard County that support me, they back me up and they're the ones that feed me all my customers, and they all stand behind me and they have for a long time. That's why at the last hearing we had last month, Mr. Knopke made a comment that something seems fishy and I was very insulted by that, because I do a very honest business. Whenever cemeteries call me to install VA markers, I do them for free. I have [inaudible] families. So far this year, I've donated two (2) cemetery spaces at Florida Memorial. I've donated three (3) markers, I do what I can do to help out my community, and I just feel like I'm getting pushback from between SCI and the State. And I don't understand why. I understand this whole committee exists to protect the consumer, but yet I feel like I'm trying to be pushed out of the industry so that the only two (2) people that can monopolize this industry in my county is SCI, which are the two (2) cemeteries, Fountainhead and Florida Memorial. Again, it would have been nice if it would have been brought to my attention at the same time I was applying for my first license. If somebody had said to me, you need a license for this, instead of coming back around a second time and saying, OK, we're going to put you on probation for a year again, and fine you another \$1500.

Chair – During the time between receiving your monument establishment retailer license, how many sales did you make without being a licensed agent?

Ms. DeGiovine – I'm going to say probably between my same answer between 50 and 75. I don't have an exact amount. I will say that the investigator, Mr. Brimmer, came in. He looked through my files, he had open range to my office. He took photos and I was 100% cooperative. My office was set up exactly the way it should be. Everything was on display. Prices were on display. Everything was the way it should be. Again, I'm here not because of wrongdoing to a consumer. I'm here because my competition wanted to stop me from doing business for the meantime.

Mr. Williams – Mr. Chair?

Mr. Hall – Mr. Chair?

Chair – Mr. Knopke, do you have any response?

Mr. Knopke – No. If she thought I was taking a cheap shot at her, I'm sorry. It wasn't intended that way. I do think she needs to understand that this Board is there to make sure everybody plays on the same field, the level field, whether you be a big company or a little company, or whatever. Certain municipalities or agencies require licenses. You just can't go and conduct businesses because you're little, or big, or whatever.

Ms. DeGiovine – Yes, I understand that. And the moment I found out I needed to be licensed, I took every step. I had no reason to avoid getting licensed through this Department. I have the money to pay for the license. I got background checks, so there would have been no reason for me to stop at you guys. I went and spent all kinds of money, and on top of that, the most important thing is that I took over this business for Mr. Williford when he was known as East Coast Monuments, before I could even make my first dollar. I had to go out and obtain a \$30,000 loan, so I could pay off debt to the monument companies that Mr. Williford did not take care of. Had I not taken care of that debt, which I was not obligated to, there would have been dozens of people and families that would not have gotten their markers, unless they paid for them over again. And I'm still, to this day, paying back that loan. So, I just want you to understand what kind of person I am. That's why it offended me when you said, something seems fishy. You don't know everything I've gone through to keep this business going in my town because it's much needed.

Mr. Knopke – Again, I did not know that, nor is there any reason for me to know that. The point, well...

Ms. DeGiovine – I thought it was in the reports that Mr. Brimmer had. I thought you guys had access to all that.

Mr. Knopke – What I have access to is what the Department sends us in a Board package. If it was in there, it was in there. My point is...

Ms. DeGiovine – I have a license now. I'm doing what I'm supposed to be doing. I'm licensed. I understand I have to renew it every whenever. Trust me, that'll be the one thing I'll be on top of because I don't want to go through this again. It's very frustrating. But you will see me sitting in on every single one of these meetings so I can learn what to do and what not to do.

Mr. Knopke – I commend you for even saying you're going to do that. We will look forward to having you. The thing, I guess, the fishy part, when I stated it, was you worked for Mr. Williford for years. And whether he operated with or without a license, I don't know. But I would assume he probably did at some point. In a small business, most people know everything that's going on, or at least my experience has been that. And that's why I may have made that comment; If you worked for him for that long, gosh, you might have known about this. But, it wasn't meant to accuse you of anything at all.

Ms. DeGiovine – I understand that, and I appreciate it. And like I said, I don't have access. The Board has access to see when Mr. Williford was last licensed. As far as I'm concerned, every year, the only two (2) licenses I renewed for Mr. Williford were his city and his county, and then his LLC, of course, nothing else. As I stated, even the gentleman he had selling monuments for him, I never renewed a license for him, either. So, all I did is I opened up a business under my new name, knowing what I know. That's all I did.

Chair – This is Brandenburg, and I do have an additional comment to make. It rather disturbs me that you seem to be displaying a resentment over the fact that you have to get a monument establishment retail license that's required by everybody else. So, that's my only comment.

Ms. DeGiovine – I apologize. You may have misunderstood me. I have no quarries about being licensed. Zero, at all. There's other underlying issues that haven't been brought up yet, in front of this Board, that may very well be brought up that I'm getting pushback from SCI. I have no problem with being licensed. Zero. Everybody should be licensed. And, I'm sorry, there was a miscommunication there. I have no problem being licensed. The only problem I have is I'm being hit a second time with a second \$1500, and another year of probation, which the probation I really don't care about, because I do things by the book, anyway. So, I don't fear the probation. It's the second \$1500 fine. It would have been nice to know that I had to do the second one, under my own name, if I was going to be selling the monuments. Once again, something that could have been brought to my attention, at the time that I was applying for the monument establishment license. All somebody had to ask me is who's going to be selling monuments, and I would have done them all at the same time.

Mr. Helm – Mr. Chair?

Chair – Go right ahead, Mr. Helm.

Mr. Helm – Ms. Munson? Are you there, Ms. Munson?

Ms. Munson – I am.

Mr. Helm – Would it be all right if I offered this lady some advice?

Ms. Munson – Oh, absolutely.

Mr. Helm – Lisa?

Ms. DeGiovine – Yes, sir?

Mr. Helm – There's organization in the state, and it's called Florida Monument Builders. I believe if you get in touch with them, you'll find out all the information you need to know.

Ms. DeGiovine – Ok. Well, I had nobody to guide me there when I started all this. The one person that could have guided me died.

Mr. Helm – Ok. Well, I think if you get ahold of that organization, you won't have any problems anymore.

Ms. DeGiovine – Ok, and what's it called again?

Mr. Helm – Florida Monument Builders.

Ms. DeGiovine – Ok.

Mr. Helm – The man you want to speak to is Don Ray.

Ms. DeGiovine – Ok.

Mr. Helm – All right?

Ms. DeGiovine – Yes, sir.

Mr. Helm – I'm done.

Chair – Thank you, Mr. Helm. So, we have a proposed Settlement Stipulation before us, that provides for Respondent to pay a fine of \$1500, and have its license placed on probation for one (1) year. Board, what's your pleasure?

Mr. Helm – We've already got a motion and a second.

Chair – I'm sorry, we do. I'll call the question. All those in favor, aye?

Board members – Aye.

Chair – Any opposed? And the motion carries.

Ms. Simon – Mr. Chairman?

Chair – Ms. Simon?

Ms. Simon – Can we go back, at this point, to 3. A. (2) (b), Isaac Miller? Ms. Wiener has asked that the case be recalled.

**3. Disciplinary Proceeding(s)**

**A. Settlement Stipulations (Probable Cause Panel A)**

**(2) Related Cases – ATN-32350**

**(b) Miller, Isaac: DFS Case No. 260760-20-FC; Division No. ATN-32350 (F046777)**

Chair – Thank you so much. I'll call on Wendy Wiener at this point.

Ms. Wiener – Thank you, Mr. Chairman. My client, I think, misunderstood where the process was going. So, Mr. Williams had made an initial motion for a \$2000 fine and two (2) years of probation. Conversation ensued regarding why that would be higher than the funeral establishment's discipline. Mr. Williams, I believe, asked whether Mr. Miller would accept the same discipline as the funeral establishment. Mr. Miller misunderstood. He will accept that that pursuant to the Settlement Stipulation, if the Board makes an approved the motion for the same discipline as the establishment. So, we just wanted to clear up that communication while we were still all here together in this meeting, in the event that Mr. Williams wanted to re-introduce his motion or take some other action.

Mr. Williams – Mr. Chair, may I?

Chair – Mr. Williams, go right ahead.

Mr. Williams – Mr. Chair, I'll reintroduced my previous proposed motion of the same as the companion case with A L Hall Funeral.

Chair – And that is with a \$2000 fine and a one-year probation. Is that correct?

Mr. Williams – Yes, sir.

Chair – Thank you so much.

Mr. Jones – Second.

Chair – And it's been seconded. All those in favor, Aye?

Mr. Knopke – Mr. Chair?

Chair – Mr. Knopke?

Mr. Knopke – I'm sorry. I'm just making sure that the record reflects that I'm still recused, because this was a Probable Cause Panel, A case.

Chair – Perfect. Thank you for that disclosure. And all those in favor, Aye?

Board members – Aye.

Chair – And any opposed?

Unidentified Board member – Opposed.

Chair – I heard one opposed. Are there others opposed? Thank you. Now, Ms. Weiner, your client has agreed to this?

Ms. Wiener – He has. Yes, thank you so much.

Chair – Thank you so much.

Ms. Wiener – Thank you.

***(2) Related Cases – ATN-N/A***

***(a) Battle Memorial Funeral Home: DFS Case No. 270313-20-FC; Division No. N/A (F040619)***

Ms. Simon – Mr. Griffin, representing the Department.

Mr. Griffin – Marshawn Griffin for the Department. Battle Memorial Funeral Home (“Respondent”) is licensed under Chapter 497, Florida Statutes, as a funeral establishment, license number F040619. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides as follows: Respondent’s license is permanently revoked, Respondent is permanently ineligible for licensure under Chapter 497, Florida Statutes, and no principal of Respondent shall ever be eligible to act as a principal for an establishment licensed under Chapter 497, Florida Statutes. The Department requests that the Board accept this Settlement Stipulation. Due to unusual circumstances surrounding the stipulation, if the Board asks me questions I'm available to answer them.

Chair – Thank you. Anyone representing Battle Memorial Funeral Home on the call this morning?

Ms. Wiener – I represent Battle.

Chair – Thank you, Ms. Wiener, for that notation. Are you here to address the Board or merely to answer questions that the Board may have?

Ms. Wiener – Just questions.

Chair – Thank you. Mr. Griffin did indicate that he was here to answer questions if the Board had any. Otherwise, Board what's your pleasure?

**MOTION:** Mr. Knopke moved to accept the Settlement Stipulation, which provides that Respondent's license is permanently revoked, Respondent is permanently ineligible for licensure under Chapter 497, Florida Statutes, and no principal of Respondent shall ever be eligible to act as a principal for an establishment licensed under Chapter 497, Florida Statutes. Mr. Williams seconded the motion, which passed unanimously.

***(b) Battle, Victor B.: DFS Case No. 270312-20-FC; Division No. N/A (F046411)***

Ms. Simon – Mr. Griffin is representing the Department.

Mr. Griffin – Marshawn Griffin for the Department. Victor B. Battle ("Respondent") is licensed under Chapter 497, Florida Statutes, as a funeral director and embalmer, license number F046411. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides as follows: Respondent's license is permanently revoked, Respondent is permanently ineligible for licensure under Chapter 497, Florida Statutes. Furthermore, Respondent shall never be eligible to act as a principal for an establishment licensed under Chapter 497, Florida Statutes. The Department requests that the Board accept this Settlement Stipulation, and if the Board has any questions, I am available to answer them, given the unique nature of the stipulation.

Chair – Thank you so much. And Ms. Wiener, I assume you are here for the same purpose?

Ms. Wiener – Yes, sir.

Chair – Thank you.

Mr. Helm – Mr. Chair, may I ask a question, please?

Chair – Is this Mr. Helm?

Mr. Helm – Yes.

Chair – Go right ahead, sir.

Mr. Helm – Marshawn, or Ms. Wiener, can you just give me a brief background on this, because somehow or another I'm not remembering this case?

Chair – I think it would be appropriate for Mr. Griffin to do that.

Mr. Griffin – So, what has occurred is that the Department had reason to believe that Victor Battle and Battle Memorial had engaged in some degree of violation of Chapter 497, Florida Statutes. We came into a situation where there were certain records being held and in lieu of proceeding with the investigation, the licensee proceeded or offered to permanently surrender their license and to never reapply, in lieu of the Department proceeding with the investigation. Because there were certain collateral effects that may have happened, if the Department's investigation proceeded.

Chair – Thank you, Mr. Griffin. Board?

**MOTION:** Mr. Knopke moved to accept the Settlement Stipulation, which provides that Respondent's license is permanently revoked, Respondent is permanently ineligible for licensure under Chapter 497, Florida Statutes. Furthermore, Respondent shall never be eligible to act as a principal for an establishment licensed under Chapter 497, Florida Statutes. Mr. Jones seconded the motion, which passed unanimously.

**(3) Related Cases – ATN-32785**

**(a) Prestwood Funeral Home: DFS Case No. 269739-20-FC; Division No. ATN-32785 (F040708)**

Ms. Simon – Is there a representative of Prestwood Funeral Home on the call today? Hearing no response. Mr. Griffin?

Mr. Griffin – Marshawn Griffin for the Department. Prestwood Funeral Home (“Respondent”) is funeral establishment, licensed under Chapter 497, Florida Statutes, license number F040708. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides as follows: Respondent's license is permanently revoked. Respondent and all of its principals are permanently barred from licensure under Chapter 497, Florida Statutes. The Department requests that the Board accept this Settlement Stipulation.

Mr. Hall – Mr. Chair?

Chair – Yes?

Mr. Hall – My I ask a couple of questions before we vote?

Chair – Go right ahead, Mr. Hall.

Mr. Hall – First I want to say whoever prepared this packet, and everybody involved in this did one incredible job. It was detailed. It's laid out. It was a great job preparing this packet for us to look at. I'll say that first. On the insurance company, I see where they requested restitution back from the funeral home or from Prestwood to get the money back on the policies they paid out where the people weren't deceased. The odds of that happening are probably slim to none. Are they not?

Mr. Griffin – I currently know that he is on the hook to do, I mean, he is currently, Roy Vance Prestwood is currently enrolled. And there was a criminal prosecution that accompanied these cases. He's currently required to pay restitution, I think, to eighteen (18) consumers. That's the only restitution that I'm aware of, in this case, is the court ordered restitution. And I believe it's in the amount of a couple of hundred or more than \$100,000, if I recall correctly.

Mr. Hall – My concern is, and I guess it would have to almost come from Homesteaders, is they're saying now they will not file a claim anymore without a death certificate. I think any firm, whether it be trust or insurance companies, is foolish to do that anyway. But what happens to these consumers, now? Do we know? I mean, is Homesteaders probably not going to pay it since they paid it once, or what what's going to happen to the consumers of all these policies when one of them passes?

Chair – I believe that part of the packet indicated that Homesteaders had reached an agreement with Prestwood and has assured all those policyholders that they will be recognized. Now, the agreement of restitution at \$750 a month, with those items that I can see, will take a total of twenty-six (26) years to pay.

Mr. Griffin – And if I can speak to that? So, before this matter, I've been in communication and had a meeting with the Division and I met with the state attorney that prosecuted this case or actually supervised the attorney that prosecuted the case. It's our understanding that Mr. Prestwood has represented as he will be able to pay back that money, and they have mechanisms in place basically that it's not just two (2) years that. They have mechanisms in place to increase the amount of time, but he is under the supervision of the court and thus obligated to continue making those payments.

Mr. Hall – These individuals, I'm assuming, had insurance licenses. Have those been terminated? Are we aware of that? Do we know that?

Mr. Griffin – I'm not aware of that.

Ms. Simon – If I may? Mr. Deason is on the line, and he may be able to provide you some answers on that.

Chair – Mr. Deason, would you care to comment? And does Mr. Deason need to be sworn in?

Ms. Simon – Mr. Jim Deason is one of our field investigators and he does not need to be sworn in, in order to provide comments.

Chair – Thank you. Mr. Deason, I will call upon you.

James “Jim” Deason – Yes, sir. Concerning the insurance policies, the money has been restored to Homesteaders and those policies have been reinstated, so those are just like they were at the time they were purchased. So, at this point, that issue has been repaired. That was part of the criminal case that has already been completed. I was the investigator who handled that, so I can answer any questions that you have about it.

Mr. Hall – I was just worried about the consumer, and I was going to ask if it could even come from the guaranteed fund of the State [inaudible]. Again, I said your name on our Mr. Deason and you all did a great job on this package.

Mr. Deason – Thank you, sir.

Mr. Hall – Make a motion to approve the share.

**MOTION:** Mr. Hall moved to accept the Settlement Stipulation, which provides that Respondent’s license is permanently revoked. Respondent and all of its principals are permanently barred from licensure under Chapter 497, Florida Statutes. Mr. Knopke seconded the motion, which passed unanimously.

Chair – I know that there’s a slight possibility, but is Investigator James Garner on the call? Well, I’d like to go on the record as Mr. Hall stated what a thorough investigation and detailed information provided on this case.

*(b) Prestwood, Roy V.: DFS Case No. 269742-20-FC; Division No. ATN-32785 (F048145)*

Ms. Simon – Is Mr. Prestwood on the call? Hearing no response. Mr. Griffin?

Mr. Griffin – Marshawn Griffin for the Department. Roy V. Prestwood (“Respondent”) is a funeral director and embalmer, licensed under Chapter 497, Florida Statutes, license number F048145. Respondent is the FDIC of Prestwood Funeral Home a funeral establishment, licensed under Chapter 497, Florida Statutes, license number F040708. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides as follows: Respondent’s license is permanently revoked. Respondent is permanently barred from licensure under Chapter 497, Florida Statutes. Furthermore, Respondent is barred from acting as a principal of any entity licensed under Chapter 497, Florida Statutes. The Department requests that the Board accept this Settlement Stipulation.

Mr. Helm – Mr. Chair?

Chair – Mr. Hall? I’m sorry, Mr. Helm?

Mr. Helm – Yes, sir. Is Mr. Deason still on the phone?

Chair – Mr. Griffin?

Mr. Helm – No, Mr. Deason. I think that’s right.

Mr. Deason – Yes, I’m still here, Mr. Helm.

Mr. Helm – I have a question for you before we accept this thing, because I’m trying to learn a little bit here. How did your funds get replaced back to the insurance company?



Mr. Deason – Mr. Prestwood, during the initial part of the investigation, he made a cash payment. There was a civil suit associated with this as well, as well as a criminal. He paid restitution to Homesteaders for the policies that had been...I'm sorry, I broke up a little bit. Mr. Prestwood had paid back the money taken out for the insurance policies and once Homesteaders received those funds back, they reinstated the policies. So, he made restitution to Homesteaders for those isolated insurance contracts.

Chair – Mr. Helm?

Mr. Helm – Then, why can we not get restitution back for our Consumer Protection Fund that we've had to pay out already? Why can we not do that before we cut this? If we accept to revoke his license, then we have no way to. Can we not try to get this money back to our Consumer Protection Fund? Does everybody understand what I'm saying?

Chair – Yes, I do.

Mr. Griffin – That's the criminal case. Anything that he pays restitution for in that case, it's barred from CPTF.

Mr. Helm – Sorry, Mr. Griffin, but I've got all kinds of conversations go on.

Mr. Griffin – That's fine.

Mr. Helm – So, try it one more time.

Mr. Griffin – Yeah. So, any restitution that's paid out of the criminal case, that is barred from CPTF claims, because essentially for any money that is paid on that restitution, that constitutes a refund. The statute authorizing a payment from the CPTF clearly states that anything that's been refunded is not part of what you make a claim for.

Mr. Helm – I don't understand. It's not refunded to us, so we lost that money.

Mr. Griffin – I guess I'm talking for everybody. For the people related to the criminal case, those people will be barred by making CPTF claims to the extent that they receive any restitution.

Mr. Helm – Ok, I understand that, but I understand what you just said, anyway. Why can we not try to collect for the fund that's missing already, that we've already paid out?

Mr. Griffin – I mean, I don't know if this disciplinary process is the...At a certain point, all we can do is, we can take away his license and then we can tell him he can never be a licensee again. We're kind of limited in basically extracting compliance from somebody who has no intent of ever being licensed by us.

Mr. Helm – Well, that's what I'm saying. Before we revoke his license or accept that, can we not do the other before and then take that away?

Mr. Griffin – Well, I think the ultimate problem is, is that if the end result is, is that his plan is to give up the license and never be in the business again, then he has no reason to pay the money. Essentially what he'd be doing is saying, you can't fire me, I quit. What we're saying is that you can't give up your license. We're going to make you keep the license so that we can try and make you pay back restitution, to which he has no reason to pay it.

Mr. Knopke – At that point, when renewal comes up, he doesn't renew and walks away.

Mr. Griffin – Exactly.

Mr. Helm – I understand, Keenan, but what I'm trying to say is, can we get something before we accept the revocation, so it's before? You understand what I'm saying?

Mr. Griffin – I think as a practical matter, I don't think that this disciplinary process is the way to do it. Because, once again, he has no reason to comply with any Order, because you are essentially saying we will not accept your surrender of the license that you don't want anymore. We're not going to accept it until you pay back this money, and if you don't pay back the money, you will lose the license. In that, he has no reason to pay us back.

Mr. Knopke – Powell, I agree with where you're trying to get to, but more important to me is getting him out and never having a vehicle for him to get back in. Because, if you let him back in, he'll do it again.

Mr. Helm – Well, I understand that, and I understand what everybody's doing, but what I'm trying to say is, is there any way we could at least have a flag hanging over his head saying that you owe us this money? The insurance company got their money back. I think it's only fair that we get our money back. Whether we get it back or not, I still think we should try.

Mr. Griffin – And I don't dispute that. I think the issue is, it's kind of the limitations as to what we can accomplish in the disciplinary process. And I think that that probably would require something outside of s. 120, F.S., to try and make that claim. That may be something that we'd have to file in circuit court to actually sue him, because I don't think that using this process is the way that we get to that.

Mr. Helm – I'm sorry. I didn't understand what you said last.

Mr. Griffin – I don't think that our disciplinary process is the way we get to that outcome, because, once again, we can order him to pay all the money in the world, but what he's going to say is that I don't want the license anymore, so I'm not going to pay it.

Mr. Helm – Did you not say something about some kind of a suit to try to collect the money.

Mr. Griffin – That is what I'm saying. I'm saying that this, what we're talking about right now, today, is a Chapter 120 situation. I think that your way to get that money back is something outside of Chapter 120, which may involve filing suit in circuit court, but that has no bearing on what we do under 120.

Mr. Helm – Ok, one more question. Then if we accept the revocation, is still possible to go after that money, with a civil suit?

Mr. Griffin – I would believe so, because that's a completely different thing than the licensure.

Chair – Chapter 120 doesn't allow us to do that.

Mr. Helm – I'm sorry, Mr. Brandenburg. Doesn't allow us to do what?

Chair – Go after him civilly for reimbursement on this.

Mary Schwantes – Mr. Chairman, this is Mary Schwantes. May I make a couple of comments?

Chair – I was about to call on you, Ms. Schwantes.

Ms. Schwantes – Thank you, sir. So, to the Board members, we are very concerned, as well as you all are about situations like this, where we have improper activities by these licensees. One of the things that we are doing, and I don't mean for this to impact on this case in particular, just as general information. But one of the things that we are doing as a Division, more frequently now, is coordinating with our Division of Insurance Fraud and also with the local authorities. As you've seen here, where restitution was sought through the criminal prosecution and as a result of both our coordination efforts and the efforts of our fraud investigators and the local authorities in this case, action was taken. Sometimes it is determined that they don't want to pursue the criminal activity, but in this particular case, they did. And when we discovered about the restitution that was being made, we became involved, as Mr. Griffin has already pointed out, so that we could make sure that the consumers are best benefited by this scenario by the restitution that's coming in, and that the at least the eighteen (18) contract holders mentioned, I believe, are best protected in this situation. The other thing that we did, as Mr. Griffin has already pointed out, is we made sure that it was understood that with regard to any payment that is issued from the restitution payments, when our

staff will look at any claim that has made against the CPTF. Just as they would if there were other trust funds available from another source, they will take that into consideration, and it will not be paid from the CPTF fund. And that is what Mr. Griffin was talking about, just as if there were funds elsewhere, available through other trust funds. I hope that answer some of the concerns there. We have had conversations. I will not get into specific conversations with counsel on some of these matters, but we've had conversations on some of the different options. And we are much more closely coordinating these kinds of matters, with our fraud and criminal prosecution partners. Be clear about that.

Chair – Thank you for that information, Ms. Schwantes.

Ms. Schwantes – Thank you, sir.

Chair – Board?

**MOTION:** Mr. Hall moved to accept the Settlement Stipulation, which provides that Respondent's license is permanently revoked. Respondent is permanently barred from licensure under Chapter 497, Florida Statutes. Furthermore, Respondent is barred from acting as a principal of any entity licensed under Chapter 497, Florida Statutes. Mr. Knopke seconded the motion, which passed unanimously.

***D. Material Facts Not Disputed (Section 120.57(2) Hearings) (Probable Cause Panel A)***  
***(1) Tri County Mortuary Transfer Services: DFS Case No. 243586-19-FC; Division No. ATN-32475 (F152956)***

Ms. Simon – Is there a representative of this entity on the call today? Hearing no response. Mr. Griffin? You're on mute.

Mr. Knopke – Mr. Chair, before he starts, this is Mr. Knopke, I need to recuse myself on 3. D. (1) and (2), as I was on Probable Cause Panel A.

Chair – Thank you so much. Mr. Griffin?

Mr. Griffin – Marshawn Griffin for the Department. The above-referenced matter is presented to the Board for consideration of the Motion for Determination of Waiver and for Final Order by Hearing Not Involving Disputed Issues of Material Fact (Motion) in the matter of Tri County Mortuary Transfer Services (Respondent). On September 11, 2020, the Department filed an Administrative Complaint against Respondent that alleges Respondent engaged in activities requiring licensure under Chapter 497, Florida Statutes, with an expired license. Based on the foregoing, Respondent has violated ss. 497.152(5)(a) and 497.385(1)(j), Florida Statutes, and is subject to discipline. The Administrative Complaint was served on Respondent by Certified Mail on September 14, 2020. Included in the Administrative Complaint was a Notice informing Respondent that failure to respond in writing within twenty-day (21) days of publication or service, or by October 5, 2020, it would constitute a waiver of the right to request a proceeding on the matters alleged in the Administrative Complaint, and an Order of Suspension or Revocation by the Board would be entered against Respondent.

The Department did not receive an Election of Proceeding form or any other response from Respondent by October 5, 2020. This fact is attested to by the affidavits executed by the Division Director, Mary Schwantes, and the Agency Clerk, Julie Jones. Respondent's failure to follow the response, constitutes a waiver of the right to request reseeded other matters alleged in the Administrative Complaint. Therefore, the Department requests the Chairman of the Board to entertain a motion finding that Respondent, Tri County Mortuary Transfer Services was served with the Administrative Complaint by publication containing a Notice of Rights and an Election of Proceeding form and that they failed to respond within the allotted twenty-one (21) day period and has therefore waived its right to request a proceeding involving undisputed issues of material fact in this matter. A copy of this memo along with a copy of the Motion for Determination of Waiver and for Final Order by Hearing Not Involving Disputed Issues of Material Fact have been sent by US mail and e-mail to Respondent's last known address and e-mail address of record. At this time, it would be appropriate to the Chair to entertain a motion determining whether the Respondent has waived its right to a s. 120.57(1), F.S. Hearing, based on Respondent's failure to file a timely response.

**MOTION:** Mr. Williams moved that Respondent has waived its right to a s. 120.57(1) Hearing based on the Respondent's failure to timely file a response. Mr. Jones seconded the motion, which passed unanimously.

Mr. Griffin – Now that the Board has determined the Respondent has waived his right to request a proceeding in this matter, the Department believes that it is appropriate at this time for the Chair to entertain a motion adopting the allegations of the facts as set forth in the Administrative Complaint.

**MOTION:** Mr. Hall moved to adopt the allegations of the facts as set forth in the Administrative Complaint. Mr. Williams seconded the motion, which passed unanimously.

Mr. Griffin – The Department now contends that the Board’s finding of facts support a finding of violations of Chapter 497, Florida Statutes, as charged in the Administrative Complaint. The Department believes that it is appropriate at this time for the Chair to entertain a motion finding Respondent in violation of Florida Statutes as charged in the Administrative Complaint.

**MOTION:** Mr. Helm moved to find the Respondent in violation of the statutes as charged in the Administrative Complaint. Mr. Hall seconded the motion, which passed unanimously.

Mr. Griffin – The Department also offers into evidence the investigative report with exhibits, a copy of which has previously been furnished to the Board to establish its prima facie case for the violations of the alleged and the Administrative Complaint. As to penalty in this matter, the violation in this case occurred in 2018, under the old penalty guidelines. Under the pre-2019 penalty guidelines, the appropriate penalty for Respondent’s violation is a \$300 fine. The Department requests that the Respondent be fined \$300.

**MOTION:** Mr. Jones moved that the Respondent be fined an administrative fine of \$300. Mr. Helm seconded the motion, which passed unanimously.

Ms. Simon – If I may, before I go on, Ms. Munson? Is there a way, on these cases, that we can make it so the entire file does not have to be included along with the Order? It makes the Order quite voluminous when we do that. So, is there a way to do it, a statement that could be made, that makes it so that we don’t have to attach those files?

Ms. Munson – It’s absolutely up to the Board what they want to attach with it. It’s standard. It’s not common that the investigative file is always attached, but I notice that it happens with this Board. It is standard, however, that the Administrative Complaint and the Motions are attached. And the Administrative Complaint usually outlines in great detail or enough detail that the information from the investigative report is reflected.

Chair – Perhaps, if it’s the Board’s pleasure, you could guide us through that at each juncture, Ms. Munson? I think the Board would appreciate that.

Ms. Munson – Sure. Absolutely.

Chair – Thank you so much.

Ms. Simon – Next item.

Ms. Munson – Just to be clear, though, for that one, was the motion to include the investigative file or not?

Ms. Simon – If by including it, we need to attach it to the Board Order, I’d rather not.

Ms. Munson – And, honestly, for each of those that are listed here today, we don’t need them included. We can reference in the Order that the investigative file does exist, so if there’s any additional research, but for any of these, I can say, in advance, Chair Brandenburg, that the investigative file does not necessarily have to be included, by the wording of the Administrative Complaints, as they exist.

Chair – Good. That’s a good suggestion, Ms. Simon. Are there any Board members that might object to that? Hearing none, I would like for us to move forward in that direction. Thank you.

## **(2) *Related Cases – ATN-32439***

*(a) Coleman's Mortuary; DFS Case No. 243324-19-FC; Division No. ATN-32439 (F040636)*

Ms. Simon – Ms. Janjic, are you on the call?

Danijela Janjic – Yes, I am.

Chair – Go right ahead, please.

Ms. Janjic – Danijela Janjic, for the Department. The above-referenced matter has been scheduled for an Informal Hearing to consider the attached Motion for Determination of Waiver and for Final Order by Hearing Not Involving Disputed Issues of Material Fact. Coleman's Mortuary (Respondent) is currently licensed as a funeral establishment, license number F040636. The Department's conducted a routine inspection of Coleman's Mortuary and observed several violations. On September 11, 2020, the Department filed a four (4) count...

Ms. Simon – If I may, Mr. Chairman? Anybody that is on the phone, please mute your phone if you are not making any statements to the Board. Ms. Janjic, I apologize.

Janjic – On September 11, 2020, the Department filed a four (4) count Administrative Complaint against Respondent, alleging that:

- 1) Respondent violated sections 497.152(5)(b) and 497.380(3), Florida Statutes, by operating a funeral establishment with an expired license and is therefore subject to discipline;
- 2&3) Respondent by failing to retain copies of all signed contracts and written arrangements for final disposition of dead human bodies furnished to customers for at least two years has violated sections 497.152(1)(b), 497.152(11)(a), Florida Statutes, and Rule 69K-21.006, Florida Administrative Code; and
- 4) Respondent by failing to practice the minimum standards in relation to its handling, storage, and transport of its biomedical waste has violated Rule 69K-21.003(7), Florida Administrative Code, and Section 497.152(1)(b), Florida Statutes, and is subject to discipline.

Based on the foregoing, Respondent violated ss. 497.152(1)(b), 497.152(5)(b), 497.152(11)(a), 497.380(3), Florida Statutes, and Rules 69K-21.003(7) and 69K-21.006, Florida Administrative Code. The Department obtained service of the Administrative Complaint on Respondent on or about September 28, 2020, by certified mail. Respondent timely filed his Election of Proceeding on or about October 5, 2020, alleging that that he did not dispute any of the Department's factual allegations and requested a hearing by written submission. Based on Respondent's Election of Proceeding, Respondent is waiving his right to request a proceeding in this matter, as alleged in the Administrative Complaint. A copy of this memo, along with a copy of the Motion for Determination of Waiver and for Final Order by Hearing Not Involving Disputed Issues of Material Fact, have been sent by U.S. Mail to Respondent's last known address of record. At this time, it would be appropriate for the Chair to entertain a motion determining whether the Respondent has waived its right to a s. 120.57(1), F.S. Hearing, based on Respondent's response to the Administrative Complaint.

Chair – Is there a motion?

**MOTION:** Mr. Hall moved that Respondent has waived its right to a s. 120.57(1) Hearing based on the Respondent's response to the Administrative Complaint. Mr. Williams seconded the motion, which passed unanimously.

Christopher Coleman – Hello?

Chair – Yes?

Mr. Coleman – Yes, this is Christopher Coleman. I said earlier that I was here. I didn't know whether I had to say anything.

Chair – Yes, Mr. Coleman. Let us get through the initial part.

Mr. Coleman – Ok, that's fine.

Chair – I'll call upon you, and we also do have your most recent statement on file also that we can discuss for you.

Mr. Coleman – Thank you.

Chair – Thank you for letting us know. You will have an opportunity to address the Board, Mr. Colman.

Mr. Coleman – Ok.

Chair – All right. Ms. Janjic?

Ms. Janjic – So, I know there was a motion, but was there a second and was it approved? I just want to make sure before moving on.

Chair – Yes.

Ms. Janjic – Now that the Board has determined that the Respondent is not contesting the factual allegations in the Administrative Complaint, the Department believes that it is appropriate at this time for the Chair to entertain a motion adopting the allegations of the facts as set forth in the Administrative Complaint.

**MOTION:** Mr. Helm moved to adopt the allegations of the facts as set forth in the Administrative Complaint. Mr. Jones seconded the motion, which passed unanimously.

Ms. Janjic – The Department now contends that the Board findings of fact supports a finding of violations of Chapter 497, Florida Statutes, as charged in the Administrative Complaint. The Department believes that it is appropriate at this time for the Chair to entertain a motion finding Respondent in violation of Florida Statutes, as charged in the Administrative Complaint.

**MOTION:** Mr. Helm moved to find the Respondent in violation of the statutes as charged in the Administrative Complaint. Mr. Williams seconded the motion, which passed unanimously.

Ms. Janjic – And I guess this is the time to allow Respondent to make a comment regarding the penalty. The Department recommends a penalty of \$4300.00 and one a (1) year probation. As for the fine, that \$300 would be for the first count, which is the fine for the failure to timely renew; as to Counts 2 and 3, it would be \$1500 per count, and that's in regards to the failure to provide a written contract; and a \$1000 fine for that biomedical waste.

Ms. Simon – Mr. Colman, if you would raise your right hand to be sworn in. Do you swear to tell the truth, and nothing but the truth, so help you God?

Mr. Coleman – Yes.

Ms. Simon – Please state your name and spell your last name for the record.

Mr. Coleman – Christopher Coleman, C O L E M A N.

Chair – Mr. Coleman, did you want to address the Board or you're merely here to answer questions that the Board may have?

Mr. Coleman – If I can, the probation thing, I don't have a problem with, but the fees, I need some help with that. \$4300, that's total, right?

Chair – Yes.

Ms. Janjic – That's what's recommended.

Mr. Coleman – Does that all have to be paid at one time?

Chair – I'm sorry, I didn't understand your question.

Mr. Coleman – Does the \$4300 have to be paid all at one time, or do I have the option to pay within the year of probation?

Chair – It's customary that it be paid in thirty (30) days.

Ms. Munson – However, the Board has the discretion to vary those terms.

Chair – That's correct.

Chair – Is everything clear with the biomedical waste?

Mr. Coleman – Yes, sir. That problem was delayed between me and the company, because we were thinking about getting another company. So, they had me on a payment hold, but during the time that, even my license being renewed I was out sick with COVID, so there are a lot of little things that kind of fell through the cracks. That's the reason why I did not dispute anything that the Board found. So, I'm back in the swing of things, but if the amount can be reduced, possibly, or even extended through the year of probation, that would help me a lot.

Chair – Mr. Colman, I do see your letter that all Board members received, too, and that you've made the declaration that you will have all contracts signed by the consumers. Do you understand the importance of that?

Mr. Coleman – I do and I'm going to tell you what the problem was, not that it negates my responsibility as a funeral director. Those were only two (2) isolated cases. I have my files since I started the funeral home. So, any file that I've had in the past, those contracts have been signed. Another thing that I had a situation with is we've been doing a lot of funeral funding with our families, and sometimes in the process between the secretary and myself, the document doesn't get signed, or gets signed and sent off to them, and we don't get a copy for ourselves. So, we rectified that situation. And the license, you know, I've learned that whenever I get that notice, go ahead and do it then, because I wasn't looking to be out with COVID during the time that it was important for me to have my license renewed. But, during June, July and the first part of August, I was out. So, if the Board would consider that I would greatly appreciate it.

Chair – Thank you.

**MOTION:** The Chair moved that the Respondent be fined an administrative fine of \$2000 and be placed on a one-year probation. Mr. Jones seconded the motion, which passed unanimously.

Chair – Thank you, Mr. Coleman. Good luck to you.

Mr. Coleman – Thank you. I appreciate the Board.

Ms. Munson – Mr. Chair, if I may?

Chair – Mr. Coleman? Just to address the question, there is not a payment schedule. That is due within thirty (30) days.

Mr. Coleman – Yes sir, I got you.

Chair – And, Ms. Munson?

Ms. Munson – That was it. That was my question, sir. Thank you.

Chair – Thank you.

Mr. Coleman – So, let me just ask a question. So, is there going to be a document sent to me, or do I just go ahead and sent it automatically this week? How do we handle that?

Chair – Ms. Simon?

Ms. Simon – There's going to be a document sent to you. However, Mr. Coleman, we have another case that involves you that's next on the agenda.

***(b) Coleman, Christopher T: DFS Case No. 268818-20-FC; Division No. ATN-32439 (F045343)***

Ms. Simon – Ms. Janjic, for the Department.

Ms. Janjic – Thank you. Danijela Janjic for the Department. The above-referenced matter has been scheduled for an Informal Hearing to consider the attached Motion for Determination of Waiver and for Final Order by Hearing Not Involving Disputed Issues of Material Fact. Christopher T Coleman (Respondent) is currently licensed as a funeral director and embalmer under Chapter 497, Florida Statutes, license number F045343. Respondent is the FDIC of Coleman's Mortuary, a funeral establishment, license number F040636. On September 11, 2020, the Department filed a three (3) count Administrative Complaint against Respondent, alleging that:

- 1&2) Coleman's Mortuary by failing to retain copies of all signed contracts and written arrangements for final disposition of dead human bodies furnished to customers for at least two (2) years has violated section 497.152(1)(b), 497.152(11)(a), Florida Statutes and Rule 69K-21.006, Florida Administrative Code. Pursuant to section 497.380(7), Florida Statutes; and
- 3) Coleman's Mortuary by failing to practice the minimum standards in relation to its handling, storage, and transport of its biomedical waste has violated Rule 69K-21.003(7), Florida Administrative Code, and Section 497.152(1)(b), Florida Statutes. Pursuant to section 497.380(7), Florida Statutes.

Based on the foregoing Respondent violated ss. 497.152(1)(b) and 497.152(11)(a), 497.380(3), Florida Statutes, and Rules 69K-21.006 and 69K-21.003(7), Florida Administrative Code. Pursuant to s. 497.380(7), F.S., Respondent, as the FDIC of Coleman's Mortuary is subject to discipline. The Department obtained service of the Administrative Complaint on Respondent on or about September 28, 2020, by certified mail. Respondent filed his Election of Proceeding on or about October 5, 2020, noting that that he did not dispute any of the Department's factual allegations and wished to submit a written statement and documentary evidence in lieu of a hearing. Based on Respondent's Election of Proceeding, Respondent is waiving his right to request a proceeding on the matters, as alleged in the Administrative Complaint. A copy of this memo, along with a copy of the Motion for Determination of Waiver and for Final Order by Hearing Not Involving Disputed Issues of Material Fact, have been sent by U.S. Mail to Respondent's last known address of record. At this time, it would be appropriate to the Chair to entertain a motion determining whether the Respondent is waiving its right to a s. 120.57(1), F.S. Hearing, based on the Respondent's response to the Administrative Complaint.

Chair – Is there a motion?

**MOTION:** Mr. Helm moved that Respondent has waived its right to a s. 120.57(1) Hearing based on the Respondent's response to the Administrative Complaint. Mr. Clark seconded the motion, which passed unanimously.

Ms. Janjic – Now that the Board has determined that the Respondent is not contesting the factual allegations in the Administrative Complaint, the Department believes that it is appropriate at this time for the Chair to entertain a motion adopting the allegations of the facts as set forth in the Administrative Complaint.

**MOTION:** Mr. Helm moved to adopt the allegations of the facts as set forth in the Administrative Complaint. Mr. Jones seconded the motion, which passed unanimously.

Ms. Janjic – Thank you, sir. The Department now contends that the Board findings of fact supports a finding of violations of Chapter 497, Florida Statutes, as charged in the Administrative Complaint. The Department believes that it is appropriate at this time for the Chair to entertain a motion finding Respondent in violation of Florida Statutes as charged in the Administrative Complaint.

**MOTION:** Mr. Helm moved to find the Respondent in violation of the statutes as charged in the Administrative Complaint. Mr. Hall seconded the motion, which passed unanimously.



Ms. Janjic – As for the penalty, the Department recommends the following penalty. It would be \$4000.00 and one a (1) year probation. Again, it's \$1000 for the biomedical waste count and \$1500 for the two (2) counts for failure to provide a written contract, which is under the penalty guidelines.

Chair – Thank you. This is Chair Brandenburg. I'd like to suggest and make a motion of something just a little bit different on this.

**MOTION:** The Chair moved that the Respondent shall be placed on a one-year probation with the condition of passing an onsite inspection within forty-five (45) days.

Mr. Helm – No fine?

Chair – I'm sorry?

Mr. Helm – No fine?

Chair – No.

Ms. Simon – Mr. Brandenburg, if he does not pass an inspection, then it would be a violation of the Order?

Chair – Yes.

Mr. Jones – Second, Jones.

Chair – There's been a motion made, and it's been seconded. All those in favor, Aye?

Board members – Aye.

Chair – And any opposed?

Mr. Helm – No.

Chair – One? I heard two (2) opposed. Are there any other opposed? The motion carries.

Ms. Simon – Mr. Brandenburg is that one-year probation consecutive to the first one?

Chair – Well, the first one was for the establishment.

Ms. Simon – That's true. Yes, sir.

Chair – The second one was to the licensee.

Ms. Simon – Yes, sir. I apologize.

Chair – That's all right.

Ms. Munson – I do have a question.

Ms. Janjic – The Department also offers into evidence the investigative report with exhibits, a copy of which has previously been furnished to the Board to establish its prima facie case for the violations of the alleged and the Administrative Complaint. But I don't know how you're going to be taking it, or attaching it, but I would just like to offer it as evidence.

Chair – Is there a motion to that effect?

Ms. Janjic – Yes, sir.

**MOTION:** Mr. Hall moved to accept the investigative report into evidence. Mr. Jones seconded the motion, which passed unanimously.

Chair – Mr. Colman, are you still with us?

Mr. Coleman – Yes, yes, I am.

Chair – Good, and you understand the importance of passing an onsite inspection within the next forty-five (45) days?

Mr. Coleman – Yes, sir. Not a problem.

Chair – Thank you so much.

Ms. Simon – And just one (1) other item, and I apologize. I know Ms. Munson is trying to get your attention. But, considering this is a case against Christopher Coleman, was it your intention that one (1) of the disciplinary actions was that Coleman's Mortuary passed an on-site inspection?

Chair – Yes, that was my intention. And thank you, Ms. Munson. I didn't recognize you. So, yes, that was the intention of the motion.

Ms. Munson – Thank you for that. My other question, because I was going to ask about that, is the forty-five (45) day? And this might be directed to staff. So, are we saying that we'll be able to administer this inspection within forty-five (45) days of the Final Order, or as soon as? I mean, the window may be open. I just wanted to clarify that since we mentioned that it would be a violation.

Ms. Simon – I expect that, I apologize, sir.

Chair – That is reasonable, forty-five (45) days?

Ms. Simon – From the time that the Final Order is being executed, yes, sir.

Ms. Munson – Ok. Thank you.

Chair – Thank you.

Ms. Simon – Next case on the agenda.

Mr. Williams – Mr. Chair?

Chair – Mr. Colman?

Mr. Coleman – Yes, I just wanted to tell the Board thank you. Hopefully, I won't have to do this ever again, but thank you very much for everything.

Chair – Well, I think we understand your bout with the Coronavirus, and we know that you will abide by the statutes and the rules that are necessary.

Mr. Coleman – Yes, sir.

Chair – We're glad you're well, Thank you.

Mr. Coleman – All right, thank you. Thank you for your time.

Mr. Williams – Mr. Chair?

Chair – Yes?

Mr. Williams – This is Darrin Williams. I would like to recuse myself from 3. E. (1) (a) and (b), Probable Cause Panel B.

Chair – Ok. It's noted, and thank you for calling it to our attention. We appreciate that and thank you for your service.

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

***(1) Related Cases – ATN-32518***

***(a) St Fort's Funeral Home Inc.: DFS Case No. 244271-19-FC; Division No. ATN-32518 (F039876)***

Ms. Simon – Is the representative of the establishment on the line?

Evans St. Fort – Yes.

Ms. Simon – Thank you, sir. Ms. Janjic?

Ms. Janjic – Yes, Danijela Janjic, for the Department, and I would just like to note before moving on that these two (2) are going to be companion cases. The first one is the St. Fort's Funeral Home. The above-referenced matter has been scheduled for an Informal Hearing to consider the attached Motion for Final Order and for Final Order by Hearing Not Involving Disputed Issues of Material Fact. St Fort's Funeral Home Inc. (Respondent) is currently licensed as a funeral establishment under Chapter 497, Florida Statutes, license number F039876. On August 21, 2020, the Department filed a Three-Count Administrative Complaint against Respondent, alleging that:

- 1) Respondent by transacting its business under a name other than the name by which it is licensed has violated sections 497.152(1)(b) and 497.380(14), Florida Statutes;
- 2) Respondent by advertising under a name other than the name reflected by the records of the Board and the Department has violated sections 497.152(1)(b), Florida Statutes and Rule 69K-21.001(4), Florida Administrative Code; and
- 3) Respondent by advertising goods and services in a way that is false, fraudulent, deceptive, or misleading in form or content has violated sections 497.152(1)(b) and 497.152(9)(f), Florida Statutes, and Rule 69K-21.001(2)(c) and (d), Florida Administrative Code.

Based on the foregoing, Respondent violated ss. 497.152(1)(b), 497.152(9)(f), 497.380(14), Florida Statutes, and Rules 69K-21.001(2)(c) and (d) and 69K-21.001(4), Florida Administrative Code. The Department obtained service of the Administrative Complaint on Respondent on or about September 3, 2020 by Certified Mail. On or about September 23, 2020, Respondent timely filed an Election of Proceedings alleging that he was not disputing any of the Department's factual findings and requested a hearing by written submissions. Based on Respondent's Election of Proceedings, Respondent is waiving its right to request a proceeding in this matter, as alleged in the Administrative Complaint, in a formal, contested hearing. A copy of the memo along with a copy of the Motion for Determination of Waiver and for Final Order by Hearing Not Involving Disputed Issues of Material Fact have been sent by US mail to Respondent's last known address of record. At this time, it would be appropriate for the Chair to entertain a motion determining whether the Respondent has a right to a Section 120.57(1) Hearing based on Respondent's response to the Administrative Complaint.

**MOTION:** Mr. Knopke moved that Respondent has waived its right to a s. 120.57(1) Hearing based on the Respondent's response to the Administrative Complaint. Mr. Hall seconded the motion, which passed unanimously.

Ms. Janjic – Now that the Board has determined that the Respondent is not contesting the factual allegations in the Administrative Complaint, the Department believes that it is appropriate at this time for the Chair to entertain a motion adopting the allegations of the facts as set forth in the Administrative Complaint.

**MOTION:** Mr. Knopke moved to adopt the allegations of the facts as set forth in the Administrative Complaint. Mr. Helm seconded the motion, which passed unanimously.

Ms. Janjic – The Department now contends that the Board findings of fact supports a finding of violations of Chapter 497, Florida Statutes, as charged in the Administrative Complaint. The Department believes that it is appropriate at this time for the Chair to entertain a motion finding Respondent in violation of Florida Statutes as charged in the Administrative Complaint.

**MOTION:** Mr. Knopke moved to find the Respondent in violation of the statutes as charged in the Administrative Complaint. Mr. Helm seconded the motion, which passed unanimously.

Ms. Janjic – The Department, in this case, offers into evidence the investigative report with exhibits, a copy of which has previously been furnished to the Board to establish its prima facie case for the violations of the alleged and the Administrative Complaint. As to the recommended penalty, the Department recommends the following: \$3500 and a one (1) probation. The breakdown is \$1000 for transacting under a different name; \$1000 for advertising under a different name; and \$1500 for false advertising.

Chair – Thank you. And we have a representative of St. Fort’s Funeral Home. I believe they indicated that they were on the call. Who would that be, please?

Mr. St. Fort – Yes, good afternoon. My name is Evans St. Fort with St. Fort’s Funeral Home.

Chair – Thank you.

Ms. Simon – Mr. St. Fort, if you can raise your right hand to be sworn in. Do you swear to tell the truth, the whole truth, and nothing but the truth, so help you God?

Mr. St. Fort – Yes, I do.

Ms. Simon – Please state your name and spell your last name for the record.

Mr. St. Fort – My name is Evans St. Fort. Last name is spelled S T F O R T.

Chair – Thank you, Mr. St. Fort. Are you here to address the Board or merely answer questions of the Board?

Mr. St. Fort – I'd like to address and answer questions, if there's any questions.

Chair – Go ahead, please and address the Board.

Mr. St. Fort – Ok, so we had created a website and the website was strictly to offer a lower cost service to our clients and the reason for that was because we did not want to decrease the prices that we had at St. Fort's Funeral Home. When the website was created, it wasn't created to confuse or to deceive or to, you know, lie to any of our clients. It was strictly just to offer a lower cost service. We live in an online industry. Nowadays, there's not that many brick and mortar stores anymore. And so, when we operated this website, we used the current address here at St. Fort’s Funeral Home, and we unfortunately weren’t aware that we had to have a separate location to have this company run out of. As soon as we received a letter from the State saying that we weren't supposed to have this company run at this location, we cooperated immediately and took down anything tied into that company, which was strictly just a website. We did not do much business with this website. And so, when we got the fine, I think maybe about a year later, I was a little bit surprised that they were finding me this much money. Not to mention, we have never been in any situation with the State, in terms of any wrongdoings. So, I'm also asking that we can consider, if there are any fines that would please reduce the fines. And especially with the probation, I don't feel that that's just to keep us on probation for something that wasn't intentional in that we cooperated immediately once we were told to take the website down. If I were to go online today and type in cremation, there are going to be thousands of companies that pop up online. And the only reason, again, we did this was because, in our markets today, the prices are very competitive. And so, we also wanted to be competitive. We were not trying to be a different company. This was all being run under the same company, but again, we weren't aware, and we did cooperate. So, I'm asking if you can consider, please reducing the probation and these {inaudible}.

Chair – Thank you, Mr. St. Fort. Did you ever consider licensing Cremations of South Florida as a separate licensed entity?

Mr. St. Fort – So, the goal, when we created Cremations of South Florida, we said that if Cremations of South Florida did business, we would go ahead and open up a second location and purchase a retort and operate that business out of that location. But again, there was no business that was really done on that.

Chair – So, it was essentially an unlicensed speculation?

Mr. St. Fort – Well, here's the other thing. I was not aware that I could not have a cremation website. So, I know that it was wrong, but we were not aware. For instance, if you go online, on certain websites, you can purchase flowers, you can purchase urns, you can do all sorts of things nowadays. So, when we created this website, we thought that under St. Fort's Funeral Home, we could offer cremations at a different price. Again, it was just that we weren't aware.

Chair – Thank you for that explanation. Board, are there any questions of Mr. St. Fort?

Mr. Clark – Mr. Chairman, I have a quick comment.

Chair – I'm sorry? Who was that, Mr. Clark?

Mr. Clark – Yes, sir.

Chair – Go right ahead, sir.

Mr. Clark – Mr. St. Fort, you said you didn't do many calls. How many calls did you do?

Mr. St. Fort – I would say, honestly, maybe about five (5).

Mr. Clark – Did you say five (5)?

Mr. St. Fort – Yes, sir.

Mr. Clark – Were there other calls that maybe started from that website you were able to redirect them to your funeral home?

Mr. St. Fort – Yes. Exactly. So, the couple calls that we did get, we just redirected them to St. Fort's.

Mr. Clark – Did they pay the St. Fort's Funeral Home price or the \$595?

Mr. St. Fort – So, we kept them at the \$595 because they found the website.

Mr. Clark – Then, how many calls would you say you did, like referrals, to St. Fort's?

Mr. St. Fort – So, what happened was with the calls that we did get that we kept at the \$595, there were a couple of clients that called us and said that they wanted to use our services for a funeral. And at the time on the website, we were strictly advertising cremations, but we promptly converted, maybe I'd say one (1) or (2) clients to St. Fort's.

Mr. Clark – OK, and then my last question. I understand you took down the site, but how long was that site active?

Mr. St. Fort – I think maybe, and I'm not sure, this is me just speculating, but maybe a year at most.

Mr. Clark – Thank you, Mr. Chair. That's all I've got, Mr. Chairman.

Mr. Hall – Mr. Chair?

Chair – Mr. Hall?

Mr. Hall – It really sounds like, what he needs to do is he has a funeral home and then he needs a direct disposal license, and it does require that second location. But it kind of goes back, if we're trying to stay consistent with earlier, where she wasn't aware she needed the license and so forth. You probably need to go on the site for the Division, and it will explain all the different licensing options and so forth. If not, then they really need to seek some legal advice to help walk them through this. I think, you know, that would end up being cheaper than the fines and the discipline. But it sounds like what he was trying to do is, like you said, speculate and put a direct disposer license operation, but in the funeral.

Chair – Thank you, Mr. Hall. Board, what's your pleasure? Are there any other questions for Mr. St. Fort?

Mr. Knopke – Mr. Chairman? Mr. Knopke.

Chair – Mr. Knopke, you go right ahead.

Mr. Knopke – Just I wanted to make sure that I understood Mr. St. Fort correctly. All the families, the five (5) or so calls that you got or whatever number you got, all of those were met? Did all those families come into St. Fort's to complete their arrangements?

Mr. St. Fort – So, most of them would start the process over the phone and then they would come in to finalize everything. So, yes, they would come in to pay, they would come in to pick up the ashes. Nothing was done at a separate place.

Mr. Knopke – Ok. So, it wasn't an all online business where you never saw them? They did eventually come in to sign paperwork, pick up remains, and that type of thing?

Mr. St. Fort – Yes.

Mr. Knopke – A follow up question, Mr. Chair? Through St. Fort's, how many calls do you do annually?

Mr. St. Fort – Right now we average about anywhere from 250 to 300.

Mr. Knopke – Ok, thank you.

Chair – Anything else? Board, what's your pleasure? Ms. Munson, were you trying to get my attention? Merely a twitch, huh?

Ms. Munson – Yes, sir.

Chair – Thank you. I missed you in the past when you were trying to get my attention. So, I wanted to make sure we're all the same wavelength.

Ms. Munson – Thank you for consideration.

**MOTION:** Mr. Jones moved that the Respondent be fined an administrative fine of \$1500.

Chair – Is there a second? So, Mr. Jones' motion for a \$1500 fine has died for lack of a second.

**MOTION:** Mr. Knopke moved that the Respondent be fined an administrative fine of \$2500 and be placed on a one-year probation. Mr. Clark seconded the motion, which passed unanimously.

Chair – Next case. And I would like to make a point. After this is the last disciplinary action, and I expect to be able to take a short break. I wanted to get through the disciplinary action, if we could.

*(b) St Fort, Evans S: DFS Case No. 244273-19-FC; Division No. ATN-32518 (F045239)*

Ms. Simon – Ms. Janjic?

Ms. Janjic – Danijela Janjic for the Department. This is the companion to the previous case. The above-referenced matter has been scheduled for an Informal Hearing to consider the attached Motion for Final Order and for Final Order by Hearing Not Involving Disputed Issues of Material Fact. Evans S St Fort (Respondent) is currently licensed as a funeral director and embalmer under Chapter 497, Florida Statutes, license F045239. Respondent is the FDIC of St Fort’s Funeral Home, Inc. (St Fort’s), a funeral establishment, license number F039876. On August 21, 2020, the Department filed a three (3) count Administrative Complaint against Respondent, alleging that:

- 1) St Fort’s by transacting its business under a name other than the name by which it is licensed has violated sections 497.152(1)(b) and 497.380(14), Florida Statutes. Pursuant to section 497.380(7), Florida Statutes.
- 2) St Fort’s by advertising under a name other than the name reflected by the records of the Board and the Department has violated section 497.152(1)(b), Florida Statutes and Rule 69K-21.001(4), *Florida Administrative Code*.
- 3) St. Fort’s by advertising goods and services in a way that is false, fraudulent, deceptive, or misleading in form or content has violated sections 497.152(1)(b) and 497.152(9)(f), Florida Statutes, and Rule 69K-21.001(2)(c) and (d), *Florida Administrative Code*.

Based on the foregoing, Respondent violated ss. 497.152(1)(b), 497.152(9)(f), 497.380(14), Florida Statutes, and Rules 69K-21.001(2)(c) and (d) and 69K-21.001(4), Florida Administrative Code. Pursuant to section 497.380(7), Florida Statutes, Respondent as FDIC of St Fort’s is subject to discipline. The Department obtained service of the Administrative Complaint on Respondent on or about September 9, 2020 by Certified Mail. On or about September 23, 2020, Respondent timely filed an Election of Proceedings alleging that he was not disputing any of the Department’s factual findings and requested a hearing by written submissions. Based on Respondent’s Election of Proceedings, Respondent is waiving its right to request a proceeding in this matter, as alleged in the Administrative Complaint, in a formal, contested hearing. A copy of the memo along with a copy of the Motion for Determination of Waiver and for Final Order by Hearing Not Involving Disputed Issues of Material Fact have been sent by US mail to Respondent’s last known address of record. At this time, it would be appropriate for the Chair to entertain a motion determining whether the Respondent has a right to a Section 120.57(1) Hearing based on Respondent’s response to the Administrative Complaint.

**MOTION:** Mr. Hall moved that Respondent has waived his right to a s. 120.57(1) Hearing based on the Respondent’s response to the Administrative Complaint. Mr. Helm seconded the motion, which passed unanimously.

Ms. Janjic – Now that the Board has determined that the Respondent is not contesting the factual allegations in the Administrative Complaint, the Department believes that it is appropriate at this time for the Chair to entertain a motion adopting the allegations of the facts as set forth in the Administrative Complaint.

**MOTION:** Mr. Helm moved to adopt the allegations of the facts as set forth in the Administrative Complaint. Mr. Knopke seconded the motion, which passed unanimously.

Ms. Janjic – The Department now contends that the Board findings of fact supports a finding of violations of Chapter 497, Florida Statutes, as charged in the Administrative Complaint. The Department believes that it is appropriate at this time for the Chair to entertain a motion finding Respondent in violation of Florida Statutes as charged in the Administrative Complaint.

**MOTION:** Mr. Knopke moved to find the Respondent in violation of the statutes as charged in the Administrative Complaint. Mr. Helm seconded the motion, which passed unanimously.

Ms. Janjic – The Department also offers into evidence the investigative report with exhibits, a copy of which has previously been furnished to the Board to establish its prima facie case for the violations of the alleged and the Administrative Complaint. As to the recommended penalty, the Department recommends the following: \$3500 and a one (1) year probation. Again, the breakdown is \$1000 for transacting under the different name; \$1000 for advertising under a different name; and \$1500 for false advertising.

Chair – Thank you. Mr. St. Fort, did you want to just answer questions from the Board or address the Board again?

Mr. St. Fort – Both.

Chair – Ok, please address the Board.

Mr. St. Fort – So, you know, we just talked about the previous case, which is exactly the same thing. I feel that it would be right for us to just strictly deal with the current probation and fine under St. Fort's Funeral Home. I don't see why I would also personally have to pay a fine and also have to be on probation for the same thing that is being held against St. Fort's. So, I'm just asking that you guys, please consider, since we've already been fined at St. Fort's Funeral Home for this same situation, I would personally appreciate it if we can consider not having to also fine me personally and put me on probation. You know, obtaining a funeral directors license is hard enough. I, again, have never been in any situation with the State. This is the first time I had to appear in front of the State. So, I'm just asking for some consideration, please.

Chair – Mr. St. Fort, just as a reminder of the reason for the second issue here is not just because you're the funeral director, but you're the funeral director in charge. We take that as quite a responsibility, so that's the difference. Thank you. Board? Mr. Helm?

Mr. Helm – Well, so I'll say a \$500 fine and a one-year probation.

Chair – That's in the form of a motion. Is there a second?

Mr. Jones – Second, Jones.

Chair – So there's a motion made and a second. All those in favor, aye?

Board members – Aye.

Chair – And any Opposed?

Mr. Hall – No

Mr. Knopke – No.

Chair – How many opposed, please?

Mr. Knopke – Knopke, no.

Mr. Clark – Clark, no.

Mr. Hall – Hall, no.

Mr. Knopke – Let's do a roll call.

Chair – Roll call?

Ms. Simon – Yes, sir. Mr. Clark?

Mr. Clark – No.

Ms. Simon – Mr. Hall?

Mr. Hall – No.

Ms. Simon – Mr. Helm?

Mr. Helm – Yes.

Ms. Simon – Mr. Jones?



Mr. Jones – Yes.

Ms. Simon – Mr. Knopke?

Mr. Knopke – No.

Ms. Simon – Mr. Williams?

Mr. Williams – I’m recused from this case.

Ms. Simon – Excuse me. I believe that the NOs have it. I've written down four (4) for NO and two (2) for YES, but that can't be right based on what we heard.

Mr. Knopke – I don't believe you called the Chair.

Ms. Simon – Mr. Brandenburg?

Chair – No.

Ms. Simon – That motion fails.

Mr. Knopke – I’ll make a motion to do the same as I did before.

**MOTION:** Mr. Knopke moved that the Respondent be fined an administrative fine of \$2500, and be placed on a one-year probation. Mr. Clark seconded the motion, which passed unanimously.

Chair – Thank you. I've got 12:48. How about a twelve (12) minute break? We'll give everybody time to do what they need to do, and we'll readjourn at one o'clock. Ok. That doesn't take a motion.

Mr. St. Fort – Thank you.

Chair – You're welcome, Mr. St. Fort.

\*\*\*\*\*BREAK\*\*\*\*\*

Chair – We'll reconvene. Ms. Simon?

Ms. Simon – I know that we have Mr. Jones on the line. Is Mr. Williams here?

Mr. Williams – Yes.

Ms. Simon – Ok, great. Thank you.

**4. 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.

**B. Recommended for Approval without Conditions (Criminal History)**  
**(1) Gallegos, Gina M (Appointing Entity: SCI Funeral Services of Florida LLC –F019227) (Altamonte Springs)**

Ms. Simon – Is Ms. Gallegos on the call? Hearing no response. On October 9, 2020, the Appointing Entity applied electronically for the above named for licensure as a preneed sales agent, and Applicant answered “Yes” to the background

question regarding criminal history on the application due to reportable criminal history that required disclosing. In March 2018, Ms. Gallegos was charged with a misdemeanor of Driving Under the Influence (DUI), to which she pled no contest. This criminal offense occurred in Hillsborough County, Florida. As a result, Ms. Gallegos' Driver's License was suspended and she was placed on probation for 12 months which was terminated in December 2018 upon completion of a driver's course. She was also required to complete 50 hours of community service, and was fined a total of \$1,586.00 as penalty. Ms. Gallegos has satisfied all required conditions of the judgment and has paid all fees due as of to date. There are no other disciplinary issues related to this applicant. The Division recommends approval without conditions.

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

**5. Application(s) for Continuing Education**

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

- (1) *Funeral Service Academy (23408)*
- (2) *International Cemetery, Cremation and Funeral Association (22808)*
- (3) *National Funeral Directors Association (136)*
- (4) *New Jersey Funeral Service Education Corp (7002)*
- (5) *The Academy of Graduate Embalmers of Georgia (35211)*
- (6) *WebCE (43)*

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. Knopke seconded the motion, which passed unanimously.

Chair – I'd like to commend the CE Committee. Thank you so much for what you bring to the Board, for our review. It is really appreciated.

**6. Consumer Protection Trust Fund Claims**

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

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

Mr. Helm – I have a question, Mr. Brandenburg?

Chair – Mr. Helm?

Mr. Helm – How many companies was this ICS Cremations? We've been keeping an eye on them for a long time.

Chair – The Division could probably add to this more accurately, but they were a large company that sold preneed cremation throughout the State of Florida. They were rather aggressive in their pre-need sales over the years. So, I think we'll probably see a lot more of these defaulting seller claims on ICS. Ms. Simon or anyone else want to address that?

Ms. Simon – No, except that there's more than one (1) license involved in this. I believe that there were three (3) licenses involved in ICS, although only one (1) preneed. But, that is what led to more business being conducted.

Mr. Helm – Ok, because I know ever since I've been on the Board, they've been coming like that.

Chair – They absolutely have. You're right.

7. **Application(s) for Florida Law and Rules Examination**
- A. **Informational Item (Licenses Issued without Conditions) – Addendum D**
- (1) **Direct Disposer**
    - (a) *Edgley, Michael R*
  - (2) **Funeral Director (Internship and Exam)**
    - (a) *Eady, Andre L*
    - (b) *Jackson, Eugenia E*
    - (c) *Wilson, Leslie A*
  - (3) **Funeral Director and Embalmer (Endorsement)**
    - (a) *Carver, James C*
    - (b) *Gray, Robynne E*
    - (c) *McElroy, Karl J*
    - (d) *Moore, Mary K*
    - (e) *Varney, William*
  - (4) **Funeral Director and Embalmer (Internship and Exam)**
    - (a) *Etienne, Kailey*
    - (b) *Flanigan, Keelin B*
    - (c) *Hall, Angelia D*
    - (d) *Heath, William T*
    - (e) *Ingram, Clarenca Q*
    - (f) *Lambe, Richard C*

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

8. **Application(s) for Internship**
- A. **Informational Item (Licenses Issued without Conditions) – Addendum E**
- (1) **Funeral Director**
    - (a) *Castro Perez, Diangelo F234279*
    - (b) *Dorsett, Kristina L F444787*
    - (c) *Gavin, Thomas J F461779*
    - (d) *Hugli III, John R F462902*
    - (e) *Lubrin, Naomi E F468606*
    - (f) *Vanest, Troy A F461770*
  - (2) **Funeral Director and Embalmer**
    - (a) *Goldberg, Madison E F466247*
    - (b) *Nunez, Sarah A F466696*
    - (c) *Prevert Lorvely F462274*
    - (d) *Ruiz, Zenovia F462933*
    - (e) *Slagle, Meghan A F087919*
    - (f) *Weems, Roy E F087450*

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

- B. **Recommended for Denial**
- (1) **Funeral Director**
    - (a) *Evans, Christopher*

Ms. Simon – I believe Mr. Evans is on the call with us.

Christopher Evans – Yes, ma'am, I am.

Ms. Simon – Thank you. Mr. Evans was originally issued a funeral director intern license on May 11, 2018. This license

expired on May 11, 2019. I'm going to break. If you are not speaking, please put your phone on mute as the ambient noise is very distracting. The Division did not receive any Supervisor Quarterly Reports for the period of his internship. His former supervisor, Quinton Douglas, submitted a letter dated September 3, 2020, indicating that Mr. Evans only completed one (1) quarter of his internship. At no point has Mr. Evans ever requested an extension of his internship. On September 15, 2020, Mr. Evans submitted a second application for funeral director intern licensure, over a year after his internship expired. The application was complete when submitted. The Division is recommending denial, based upon Rule 69K-18.002, F.A.C.

Mr. Williams – Mr. Chair?

Chair – Yes?

Mr. Williams – I'm going on record to acknowledge my affiliation or my knowing the applicant, Mr. Christopher Evans. My relationship with him will not hinder my vote in this case.

Chair – Thank you, and that was Mr. Williams?

Mr. Williams – Yes, sir.

Chair – Thank you.

Ms. Simon – Ok, if I may, Mr. Evans, if you could please raise your right hand and be sworn in. Do you swear to tell the truth, the whole truth, and nothing, but the truth, so, help you God?

Mr. Evans – I do.

Ms. Simon – Please state your name and spell your last name for the record.

Mr. Evans – Christopher Evans, E V A N S. Permission to speak, Mr. Chair?

Chair – Please, Mr. Evans.

Mr. Evans – Ok. Mr. Chair, Members of the Board, I do appreciate the opportunity to be able to address you on this afternoon and the purpose of my inclusion on this call is for me to humbly request your consideration to waive the rule of an intern license not being able to be renewed. At the time of my first internship, which occurred on the date indicated, I was enrolled in the Technical Certificate program at the Florida State College in Jacksonville and it was also at that time that I was employed in another profession. And that particular job ended in June of that year, and I was unemployed for those summer months, into which point, I was employed with a temporary employment agency between the months of August and November, of that same year. Also, within that timeframe, I began to experience extenuating family crises that were beyond my control, to which point postponed my current course of study, as well as inadvertently discontinued my internship, which is why only one (1) quarterly report was submitted.

Certainly, according to s. 497.379, F.S. the licensing authority may adopt rules that allow funeral director intern to renew her or his director intern license for an additional one-year period, if the funeral director intern demonstrates her or his failure to complete the internship before expiration of the license due to personal injury, an illness, etc. So, I'm humbly asking that the Board considers my situation as a substantial hardship. And to this point, I am aware that my internship has expired for over a year, and since then, I have completed the course of study, of which I was enrolled. And I've taken all the necessary Boards provided by the International Conference of Funeral Services Examining Boards, and that Board Examination was completed in the month of August. I have every intention of successfully completing this internship, if granted the opportunity. I take full responsibility in not completing the first internship. However, I humbly request that you reconsider waiving the rule of the intern license being renewed.

Ms. Simon – Mr. Chairman?

Chair – Ms. Simon?

Ms. Simon – If the applicant is requesting a waiver of the rule, then he needs to make a motion or at least a pleading requesting a waiver of the rule and we need to notice it before there is any decision made. And, if that's going to be done, if the applicant is going to be requesting something of that nature, we would request a waiver of any of the timeframes in Chapter 120, F.S., in order to deal with that request.

Chair – Mr. Evans, do you understand what Ms. Simon saying? There has to be a formal request for waiver of the rule.

Mr. Evans – Yes, sir, Mr. Chair. This particular request was actually included in my internship application.

Ms. Munson – It's not the same. If I may, Chair Brandenburg?

Chair – Please.

Ms. Munson – Mr. Evans, I understand your statement about the request included in the application, however, what you are technically requesting, and maybe legal assistance could be helpful to you, but I'm just going to just totally give you the overview. You might have been here at the earlier part of this meeting where the very first case involved a request for a Petition for Variance of a Rule. That is what you are requesting to open up an opportunity for your application to be heard [inaudible] Chapter 112.542, Florida Statutes, and title it Petition for Variance. Name the rule that you want to be considered, and it would be that reflecting this internship expiration that by rule you only had one (1) time to apply, I believe it is, and list the reason in that petition in that document. It doesn't have to be really long or illegal, but at least state why you are requesting, what is your substantial hardship and how will the purpose of the statute still be served if granted. And that has to be submitted prior to a Board meeting, because we have to publish it fourteen (14) days before a Board meeting, to see if anybody in the public has any comments they want to make about it or issue they want to raise about it. And after it goes through that fourteen (14) day window, we bring it before the Board and the Board actually votes to approve or deny that particular petition. It's not as simple as just making a statement on the application. It is a formal requirement, and that's what the Assistant Director, Ms. Simon, was trying to explain. And if you have any more questions you can call staff or you can call the Board office, where it can be explained again in even greater detail, if that's helpful to you. But, I don't know if we're at a juncture, whether because of the rule your application is being denied, because the rule doesn't allow it to be approved otherwise, that the Board may offer you an opportunity to withdraw it and then perhaps bring it back maybe with a petition to see if you can get a waiver to the petition for the application to be considered under variance circumstances.

Mr. Evans – Understood.

Chair – Do you want to withdraw this application at this point, Mr. Evans?

Mr. Evans – This is the internship application, correct?

Ms. Munson – I believe that's application that's before us, for the funeral director intern.

Mr. Evans – Yes, ma'am.

Ms. Munson – I don't want to misstate anything, so I was letting staff confirm, but that's what I saw in the materials.

Mr. Evans – Ok, if that's necessary for me to start the process, I guess, in a more appropriate manner in following the correct protocols and I'm ok with that.

Chair – Thank you. Ms. Simon, can you commit to communicating with Mr. Evans and helping him through the process?

Ms. Simon – Mr. Brandenburg, I can commit to speaking with Mr. Evans, if he were to contact me. I'd be happy to walk him through that process. However, I also think, for the record, we need an affirmative statement saying that he is withdrawing his application, if that is what he chooses to do.

Chair – Mr. Evan, are you withdrawing your application?

Mr. Evans – Yes, sir, Mr. Chairman.

Chair – Thank you, and we have a commitment from Ms. Simon to communicate with you if you'll contact her. Thank you.

Ms. Simon – Moving on.

Ms. Munson – Ms. Simon, I am going to just ask the Board to just have a vote accepting that withdrawal. It's because we've had this type of discussion before.

Chair – So, you want the Board to do what, Ms. Munson?

Ms. Munson – When we get into these little sticky areas, I'd just like to know that the application was presented for withdrawal, and the Board voted to accept the withdrawal.

**MOTION:** Mr. Knopke moved to accept the withdrawal of the application. Mr. Jones seconded the motion, which passed unanimously.

Chair – Thank you.

**9. Application(s) for Embalmer Apprentice**

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

- (1) *Graham, Jamari F468533*
- (2) *Manning, Rebecca N F462934*
- (3) *Mallia, Jilliana F468143*
- (4) *Soler, Alberto A F467999*
- (5) *Wilson, Cameron D F462264*

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

**B. Recommended for Denial (Criminal History)**

- (1) *Moore, Brandon E*

Ms. Simon – Is Mr. Moore on the call? Hearing no response. An application for an embalmer apprentice license was received by the Division October 1, 2020. A background check revealed a relevant criminal history to wit, Mr. Moore pled Guilty or No Contest to Obtaining Property by Worthless Check, Felony Attempted Aggravated Child Abuse, Driving without a Valid Driver's License and Possession of Narcotic Paraphernalia. The Division is recommending denial.

**MOTION:** Mr. Hall moved to deny the application, based on the criminal history. Mr. Knopke seconded the motion, which passed unanimously.

Ms. Simon – Mr. Brandenburg, I believe that that can fall under 69K-1.008, F.A.C. Ms. Munson, do you need to have specific reasons for denial by the Board?

Ms. Munson – I do, actually.

Ms. Simon – Ok. Mr. Brandenburg, I believe, at least one of the reasons to deny based on the criminal history, will be 69K-1.008, F.A.C

Chair – Mr. Knopke, is that a part of your motion?

Mr. Hall – If we say criminal history as stated, is that sufficient? Ms. Munson, if we say criminal history, as stated, is that sufficient?

Ms. Munson – Well, the Order wouldn't know what's stated.

Mr. Hall – Ms. Simon just read it.

Ms. Munson – As reflected in the application, is what it would say.

Mr. Hall – Ok. Is that criminal history stated in the application?

Ms. Simon – It is and under 69K-1.008, F.A.C, we're dealing with applicants with criminal records. That's why I pointed that one out specifically. That's already been ruled on, Mr. Chairman?

Chair – Yes. Is the motion clarified to deny based on the criminal history in the application information? Is that part of the motion, Mr. Knopke? And the second?

Mr. Knopke – Mr. Chair, Mr. Hall made the motion.

Chair – Ok.

Mr. Knopke – I think he added that, and I did the second and I accept that.

Chair – Thank you. All those in favor, aye?

Board members – Aye.

Chair – Any opposed? And that motion carries.

Ms. Simon – Thank you, sir.

- 10. Application(s) for Monument Establishment Sales Agents**  
**A. Information Item (Licenses Issued without Conditions) – Addendum G**  
**(1) DeGiovine, Lisa F464334**

Ms. Simon – This is also an informational item. Pursuant to s. 497.554, Florida Statutes, the Division has previously approved the applicant listed on the Addendum G.

- 11. Notification(s) of Change in Location**  
**A. Informational item (Licenses Issued without Conditions) – Addendum H**  
**(1) Just4Cremation.com LLC (F407083) (Deland)**  
**(2) Shalom Funeral Chapel LLC (F108917) (Fort Myers)**

Ms. Simon – This is an informational item. The establishments listed on Addendum H have applied for a change of location of their businesses. The only criteria for approval is that the new location pass inspection by the Division of Funeral, Cemetery, and Consumer Services, at which time that notification of change of location would be granted.

- 12. Application(s) for Funeral Establishment**  
**A. Recommended for Approval with Conditions**  
**(1) Isaac L Brown d/b/a Brown's Funeral Home (Riviera Beach)**

Ms. Simon – Is there a representative of the applicant on the line? Hearing no response. An application for a funeral establishment was received by the Division on September 8, 2020. The Funeral Director in Charge will be Trenise Knowles (F083171). The Division recommends 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, which passed unanimously.

**(2) NCS Marketing Services LLC d/b/a National Cremation Society (The Villages)**

Ms. Simon – The application was received by the Division on July 8, 2020. The Funeral Director in Charge will be Lori Banes (F162403). A background check of the principals revealed no criminal history. The Division recommends approval subject to the condition that the establishment passes an onsite inspection by a member of Division Staff.

Ms. Simon – I believe Ms. Coney is on the line representing the applicant.

Chair – Ms. Coney, did you want to address the Board, or you're merely here to answer questions? Hearing no response.

**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, which passed unanimously.

**(3) Neptune Management Corp d/b/a Neptune Society (Palm Harbor)**

Ms. Simon – The application for a funeral establishment was received by the Division on July 14, 2020, and was complete by October 6, 2020. The Funeral Director in Charge will be Russell Lavender (F083512). The Division recommends 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. Clark seconded the motion, which passed unanimously.

**(4) Peaceful Rest Funeral Home and Cremation Inc (Tampa)**

Ms. Simon – The application for a funeral establishment was received by the Division on August 12, 2020, and it completed by September 24, 2020. The Funeral Director in Charge will be Al Hicks (F043983). The Applicant included in its application package a letter from Haught Funeral Home, dated July 14, 2020, indicating that Haught would be providing refrigeration, embalming, and cremation services for Peaceful Rest Funeral Home and Cremation, Inc. On October 29, 2020, the Division received another letter, included as part of the Board package, indicating that Haught Funeral Home would no longer be providing the embalming room, cremation, or refrigeration facilities for the Applicant. The Division recommends approval subject to the condition(s) as follows:

- 1) That the establishment passes an inspection by a member of Division Staff.
- 2) That the Applicant provide the Division with a signed letter on a licensee's letterhead indicating that it will provide embalming, cremation, and refrigeration services to Peaceful Rest Funeral Home and Cremation, Inc. The licensee providing these services is to be within 75 miles of Peaceful Rest Funeral Home and Cremation, Inc.

Ms. Simon – Is there a representative of the entity on the line? Hearing the response.

Mr. Knopke – Mr. Chair?

Chair – Please go ahead.

Mr. Knopke – I've got concerns about this. I mean, in the past, we've approved people subject to inspections, but this one we're asking to approve it with the idea that they're going to go find somebody now. They should have done this all ahead of time, everything listed in number two, in my opinion.

Chair – I certainly understand what you're saying, Mr. Knopke. Is there a resolution you'd like to propose?

Mr. Knopke – Ms. Simon, is there a deemer issue here?

Ms. Simon – The completed application was done by September 24<sup>th</sup>.



Mr. Knopke – Yes, sounds like there would be. Well, we can get it on the December agenda, and it would still be, if I’m doing my math right, it would still be within the time periods provided by s. 120.60. Ms. Munson, am I saying that correctly?

Ms. Munson – Ninety (90) days would take us, I guess, to December 24<sup>th</sup>?

Chair – Yes. So, that answers your question.

Mr. Knopke – Do we need to make a motion to that effect?

Chair – You could make a motion to table it.

Mr. Knopke – I would make a motion to table it to the next meeting, and hopefully the applicant will have all of number two done by them.

**MOTION:** Mr. Knopke moved to table the application to the next meeting. Mr. Jones seconded the motion, which passed unanimously.

Chair – Thank you.

#### ***(5) The Family Funeral Home LLC (Miami)***

Ms. Simon – The change of ownership application for a funeral establishment was received on by the Division on August 18, 2020, and it was completed by September 21, 2020. The Funeral Director in Charge will be Vancinia Jones (F068390). A background check of the principals revealed a relevant criminal history for the principal, Terilyn Rahming, to wit, in 2019, Ms. Rahming pled no contest to operating a vehicle without a valid license. The Division recommends approval with the following conditions:

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

Ms. Simon – Is there a representative of the entity on the call? Hearing no response.

Mr. Knopke – Ms. Simon, are the recommendation under A B C D E F customary conditions?

Ms. Simon – Yes, they are.

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

#### **13. Application(s) for Preneed Main License** **A. Recommendation for Approval without Conditions**

*(1) Shalom Funeral & Cremation Services Co d/b/a Cherfils Funeral Home (Hollywood) (F200359)*

Ms. Simon – Based upon e-mail correspondence, the matter has been withdrawn.

**14. Application(s) for Removal Service**

**A. Recommended for Approval with Conditions**

*(1) Alternative Transportation Service Inc (New Port Richey)*

Ms. Simon – The application was received on August 13, 2020. The application was incomplete but completed by September 8, 2020. Fingerprints for all principals have been returned with no criminal history. The Division recommends approval subject to the condition that the facility passes an onsite inspection by a member of Division Staff.

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

*(2) Kenneth W Boggs LLC d/b/a KB Mortuary Transport (Port St Joe)*

Ms. Simon – The application was received on by the Division on August 20, 2020. The application was incomplete when submitted. A completed application was received on September 14, 2020. A background check of the principals revealed no relevant criminal history. The Division recommends approval subject to the condition that the facility passes an onsite inspection by a member of Division Staff.

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

**B. Recommended for Approval without Conditions**

*(1) Firstcal 24/7 LLC (Riverview)*

Ms. Simon – The application was received on by the Division on September 8, 2020. The application was complete at that time. The removal service passed its onsite inspection on October 1, 2020. The Division recommends approval without conditions.

Mr. Knopke – Mr. Chair, this is Mr. Knopke.

Chair – Go ahead, Mr. Knopke.

Mr. Knopke – I'm recusing myself on this item. It's not because of anything bad. We just have a business relationship with this particular company.

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

**15. Related Items (Collective Coversheet)**

**A. Recommended for Approval with Conditions**

*(1) Miami Monument Company Corp (Miami)*

*(a) Monument Establishment Retailer*

*(b) Retail Contract*

Ms. Simon – Miami Monument Company Corp, a corporation, seeks approval of the application for Monument Establishment Retailer licensure and the contract for business the entity proposes utilizing. The Division received the application for licensure and the contract on or about September 21, 2020. The application was not complete when received but completed as of October 9, 2020. The Division recommends approval of the application and the contract subject to the condition that two (2) two–full–sized print–ready copies of the contract are received by the Department within sixty (60) days of this Board meeting.

Mr. Helm – I have a question.

Chair – Mr. Helm, go right ahead.

Mr. Helm – Is the contract a two-page contract? The sales agreement?

Ms. Simon – That's what we received. Yes, sir.

Mr. Helm – It's two (2) pages?

Ms. Simon – Yes, sir.

Mr. Helm – Ok. I think this is a different one than what I usually look at, but I believe it had everything on it, but you had to put them both together.

Ms. Simon – That's my understanding, sir.

Mr. Helm – Ok.

Mr. Knopke – Mr. Chair, I've got a question, too, please.

Chair – Mr. Knopke?

Mr. Knopke – First, a comment. Internment I don't believe is the right word. I think it should be interment. That needs to be corrected. And also, at least on some other sellers that sell merchandise that go in other cemeteries other than theirs, there's a place to where they know that the merchandise that they're selling will be accepted. I'm asking Ms. Simon to confirm that under the monument section of 497, that requirement is there, too. Because I don't see a place here where the seller is actually affirming that what they're selling to go in any cemetery will be accepted, if I'm making sense.

Chair – I agree with Mr. Knopke.

Ms. Simon – You are, and I apologize.

Mr. Helm – It's on the bottom of the first page, Mr. Knopke.

Mr. Knopke – The first page, Powell?

Mr. Helm – Yes, the first page.

Mr. Knopke – Ok.

Mr. Helm – The memorial or marker meets...

Mr. Knopke – Yeah, I see that. Ok, and then up at the top where the internment is misspelled is where the cemeteries named goes. OK, thank you very much. I did not see that down there in the small print. Thank you.

Mr. Helm – That's why I said this contract is a little bit different, so you had to search for things.

Mr. Knopke – They should have done spellcheck, too.

Chair – Is there a motion?

Ms. Simon – If there is a motion, I apologize. If you're so inclined, please make it a condition that they change the verbiage as to interment on the print ready contracts that are provided to the division.

Chair – Is there a motion to that effect?

Mr. Knopke – You make the motion with the condition that in term it be spent correctly, spelled throughout the agreement.

**MOTION:** Mr. Knopke moved to approve the application for licensure and the contract subject to the condition that interment be correctly spelled throughout the agreement and two (2) two–full–sized print–ready copies of the contract are received by the Department within 60 days of this Board meeting. Mr. Helm seconded the motion, which passed unanimously.

Ms. Simon – Just to confirm, this was the approval for both the application for licensure and the contract, correct?

Mr. Helm – Yes.

Ms. Simon – Thank you. Moving on.

Mr. Clark – I would also note that portrait is misspelled on page two. I don't know that we need to fix that, but I just noticed.

Chair – You know, I saw that, Mr. Clark, and neglected to mention that, too.

Mr. Knopke – I can include that in my motion.

Chair – And its seconded and all those in favor, aye?

Board members – Aye.

Chair – And any opposed? And that motion carries.

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

**A. Recommended for Approval with Conditions**

**(1) Preneed Sales Agreement(s)**

**(a) Fisk Funeral Home Acquisition LLC d/b/a Fisk Funeral Home & Crematory (F019437) (Kissimmee)**

Ms. Simon – Fisk submits the preneed sales agreement included in your package for approval entitled: Prearranged Funeral Agreement (Form 161636OMGPreArrangedFuneral\_Form.indd 1). If approved, this agreement will be used for the sale of preneed contracts by the above named preneed main establishment and its related preneed branches. The Division recommends approval subject to the condition that two–full–sized print–ready copies of the revised preneed sales agreement are received by the Department within sixty (60) days of this Board meeting.

**MOTION:** Mr. Helm moved to approve the agreement subject to the condition that two (2) full–sized print–ready copies of the revised preneed sales agreement are received by the Department within sixty (60) days of this Board meeting. Mr. Hall seconded the motion, which passed unanimously.

**(b) Funeraria Porta Coeli LLC d/b/a Porta Coeli Funeraria y Crematorio (F019206) (Kissimmee)**

Ms. Simon – Funeraria Porta Coeli submits the preneed sales agreement included in your package for approval: Prearranged Funeral Agreement (Form161636PortaCoeliPreArrangedFuneral\_Form.indd 1). If approved, this agreement will be used for the sale of preneed contracts by the above named preneed main establishment and its related preneed branches. The Division recommends approval subject to the condition that two–full–sized print–ready copies of the revised preneed sales agreement are received by the Department within sixty (60) days of this Board meeting.

**MOTION:** Mr. Jones moved to approve the agreement subject to the condition that two (2) full–sized print–ready copies of the revised preneed sales agreement are received by the Department within sixty 60 days of this Board meeting. Mr. Knopke seconded the motion, which passed unanimously.

Chair – Thank you.

*(c) Osceola Memory Gardens, LLC d/b/a Osceola Memory Gardens Cemetery, Funeral Homes & Crematory (F019229) (Kissimmee)*

Ms. Simon – Osceola submits the attached preneed sales agreement for approval: Prearranged Funeral Agreement (Form161636OMGPreArrangedFuneral\_Form.indd 1). If approved, this agreement will be used for the sale of preneed contracts by the above named preneed main establishment and its related preneed branches. The Division recommends approval subject to the condition that two–full–sized print–ready copies of the revised preneed sales agreement are received by the Department within 60 days of this Board meeting.

**MOTION:** Mr. Knopke moved to approve the agreement subject to the condition that two (2) full–sized print–ready copies of the revised preneed sales agreement are received by the Department within 60 days of this Board meeting. Mr. Helm seconded the motion, which passed unanimously.

*(d) SCI Funeral Services of Florida, LLC (F019227) (Altamonte Springs)*

Ms. Simon – SCI submits the preneed sales agreement forms: (1) All Faiths Cremation Society Preneed Funeral Agreement, (2) National Cremation Society Preneed Funeral Agreement, (3) National Cremation & Burial Society, and (4) Neptune Society Preneed Funeral Agreement. If the forms are approved, they are to be used for the sale of trust-funded preneed contracts by this preneed licensee and its 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 sixty (60) days of this Board meeting.

**MOTION:** Mr. Knopke moved to approve the agreement subject to the condition that two (2) full–sized print–ready copies of each contract are received by the Department within sixty (60) days of this Board meeting. Mr. Helm seconded the motion, which passed unanimously.

**17. Executive Director’s Report**  
*A. Operational Report (Verbal)*

Ms. Simon – At this time, I will turn the meeting over to Mary Schwantes, your Executive Director.

Ms. Schwantes – Mr. Chair, if I may?

Chair – Please go right ahead.

Ms. Schwantes – Thank you. Good afternoon. Last year, I believe we reported to the Board that the State Auditor General would be conducting an operational audit of the Division. For purposes of the audit, the auditors reviewed the period of July 1, 2017 through January 31, 2019. This operational audit was recently completed and the Auditor's Report, which is number 2021-046, is published on its website, at [www.flauditor.gov/pages/reports.aspx](http://www.flauditor.gov/pages/reports.aspx). There were five (5) findings relating to the Division, three (3) of which involve IT matters. The Division's responses to the findings are posted as part of the published report. I invite everyone to read it. Overall, we feel the five (5) report findings were reasonable and all issues are already being addressed. If there are any questions concerning the report, please contact me later. Although the report is published and the Division's efforts to resolve any issues are well underway, the State auditing process does not end there. Within the next six (6) months or so, the Department's internal Office of the Inspector General will initiate a review of the Division's efforts to address the findings raised in the Auditor General's report. And after that, probably in about a year, the Auditor General's Office will again review the findings with the Division to determine if there are any outstanding report issues.

Moving on. I wanted to tell you that we are already monitoring Tropical Storm Eta, which is currently over portions of Central America, and I believe actually it is downgraded to a depression. But anyway, as the storm moves back into the ocean it is expected to strengthen again and had on a more north-western course, potentially impacting The Keys and southern areas of Florida on Monday morning. It's too soon to tell if the storm will strengthen to hurricane force again, however, we will continue to closely watch it. And if it does turn into hurricane impacting any areas in Florida, as always, we will follow up with our establishment licensees afterwards to determine if there were any damage, refrigeration or other concerns of note.

Finally, I want to give you an update on the Board Appointment Process. So, it's been several months since I reported on this matter, primarily because there's been nothing to report. And, unfortunately, matters are still status quo, with regard to the Board Appointment Process. The CFO submitted nominations for the vacant or termed Board positions to the Governor's Office earlier this year, but we have not received news from the Governor's Office as to further progress on these matters. So, we do not know how much longer the process will take. We'll continue to update the Board even when there's no substantial news, and no change on these matters.

So, the next Board meeting will be held by videoconference and takes place on Thursday, December 3rd. It is our hope, our plan, actually, that we will be able to present the Financial Statements at that time. And we will be back again before the Board, with a recommendation regarding further meetings, also in December. This ends the Operational Report. Thank you, Mr. Chair.

Chair – Thank you, Ms. Schwantes

***B. Report: Payment of Disciplinary Fines and Costs (Informational)***

Ms. Simon – This is an informational report of the payment of disciplinary fines and costs.

Mr. Hall – Ms. Simon, may I ask a question? The one (1) appeal on Wilson-Wolfe?

Ms. Simon – Yes, sir?

Mr. Hall – Is he appealing the fine? Or, what's happening?

Ms. Simon – I believe that he is appealing the Order that was entered. I don't know if he has effectively requested a stay on the fine, but at this point, that's the status.

Mr. Hall – Ok. Thank you.

Chair – Please help me find that on the table, on the form.

Ms. Simon – It's the second to the last entry on the first page.

Chair – And remind me...

Ms. Simon – Mr. Wilson-Wolfe was in front of the Board in September, for discipline, and there was discipline entered, I believe, and it was a timely appeal that was entered.

Mr. Helm – He had a misspelled name on the ledger, Mr. Brandenburg. Do you remember that? I think it was two (2) misspelled words or something.

Chair – Ok. Thanks for jogging my memory, Mr. Helm. Thank you.

Ms. Simon – Are there any other questions or comments?

Mr. Helm – Briefly, Ms. Simon, if you don't mind. I'm sorry, but Lisa DeGiovine, the woman that was on earlier, what was that fine for on that one?

Ms. Simon – I believe it was the same as requested for her establishment. I think it was \$1500? I think it's on here what it was, on the form.

Mr. Hall – Yes. It shows \$1500.

Mr. Helm – See, I'm trying to find it. No, all I've got is her name.

Mr. Hall – Towards the top of the page.

Ms. DeGiovine – Mr. Chairman?

Chair – Just a moment, please.

Mr. Hall – Number nine, on the page.

Ms. Simon – It's the third column, where it says Total Fines and Costs Due.

Mr. Helm – Yes. What was it for?

Ms. Simon – What do you mean? I'm sorry, sir.

Mr. Helm – What did we fine her for?

Ms. Simon – We had a settlement agreement before the Board at the last meeting, I believe it was the last meeting, for operating without a license.

Mr. Helm – Well, what did we fine her for again today?

Ms. Simon – We fined the establishment, not her.


Mr. Helm – Oh, ok.

Chair – Thank you. I appreciate it.

Ms. Simon – Any other questions or comments? Hearing none. I don't mean to rush you.

Monthly Report of Fines and Costs Assessed and Paid  
Division of Funeral, Cemetery and Consumer Services  
Date of Board meeting: November 5, 2020  
Date report was prepared: September 22, 2020

Licensee	Board Meeting	Case No.	Total Fine & Cost Due	Date Due	Paid in Full?	Comments
Beacon Direct Cremations, Inc.	1-Oct-20	243099-19-FC	\$1,500	20-Nov-20		
John Kuge	1-Oct-20	243105-19-FC	\$1,500	20-Nov-20		
Cremations of Greater Tampa Bay	1-Oct-20	258286-20-FC	\$1,000	20-Nov-20		
Thomas Cohen	1-Oct-20	339720-18-FC	\$2,500	20-Nov-20		
R. Butts, Inc. d/b/a Butts Memorial Chapel	1-Oct-20	256607-19-FC	\$1,500	15-Dec-20		
Rickey Sharnard Butts	1-Oct-20	256616-19-FC	\$1,500	15-Dec-20		
Bradwell Mortuary	1-Oct-20	259030-20-FC	\$2,000	20-Nov-20		
Monte C. Bradwell	1-Oct-20	259031-20-FC	\$2,000	20-Nov-20		
Lisa DeGiovine	1-Oct-20	269799-20-FC	\$1,500	20-Nov-20		
Marc Brooks	1-Oct-20	255318-19-FC	\$4,000	15-Nov-20		
Cremation Services of Mid-Florida, Inc.	1-Oct-20	264437-19-FC	\$3,000	15-Nov-20		
Jessica Jones	1-Oct-20	241661-19-FC	\$2,000	15-Nov-20		
Combs Funeral Home	1-Oct-20	258590-20-FC	\$1,500	15-Nov-20		
Marquis Turner	1-Oct-20	258594-20-FC	\$1,500	15-Nov-20		
Stonemor Florida Subsidiary LLC d/b/a Roberts Funeral Homes Bruce Chpael East	9/3/2020	254449-19-FC	\$1,000	10/15/2020	Yes	
Stonemor Florida Subsidiary LLC d/b/a Roberts Funeral Homes Bruce Chpael West	9/3/2020	254441-19-FC	\$1,000	10/15/2020	Yes	

FLORIDA KEYS FUNERAL SERVICES LLC D/B/A KEY WEST MORTUARY	9/3/2020	243116-19-FC	\$2,250	10/15/2020	Yes	
SCI d/b/a Forest Lawn South d/b/a Forest Lawn Memorial Gardens South	13-Aug-20	244893-19-FC	\$3,000	9/21/2020	Yes	
John Comerford	13-Aug-20	255522-19-FC	\$1,500	9/21/2020	Yes	
Faith Memorials Inc d/b/a Comerford Vault Memorial	13-Aug-20	255516-19	\$1,500	8/20/2020	Yes	
Dillon Roberts	13-Aug-20	233486-18-FC	\$2,000	9/21/2020	Yes	
Buy and Sell Cemetery Plots, LLC	13-Aug-20	233374-18-FC	\$1,500	10/8/2020		
Camel Funeral Home	13-Aug-20	254447-19-FC	\$2,500	10/8/2020		
D.A. Boyd and Sons Funeral Home	13-Aug-20	243552-10-FC	\$500	10/8/2020	Yes	
Gainer-Pollard Funeral Home LLC	13-Aug-20	254989-19-FC	\$3,000	10/8/2020		
John Hanks	13-Aug-20	230107-18-FC	\$2,500	10/8/2020	Yes	
John A. Hanks d/b/a John Hanks Memorial Services	13-Aug-20	230153-18-FC	\$4,000	10/8/2020	Yes	
Wilson Wolfe, Inc., d/b/a Sweet Dreams Memorial	8/13/2020	256163-19-FC	\$4,000	9/24/2020		On appeal
Anthony M. White d/b/a A.M. White Mortuary	7/22/2020	256169-19-FC	\$2,000	9/14/2020	Yes	
Anthony M. White	7/22/2020	253551-20-FC	\$2,000	9/14/2020	Yes	
Trahan Mortuary Services, Inc. d/b/a Pensacola Crematory	7/22/2020	255306-19-FC	\$2,000	9/14/2020	Yes	
Ana Alicia Logan	7/22/2020	254473-19-FC	\$500	9/14/2020	Yes	
Cremation Service of Florida LLC	7/22/2020	243562-19-FC	\$300	9/21/2020	Yes	
Kalis-McIntee Funeral & Cremation Center	7/22/2020	243608-19-FC	\$300	9/21/2020	Yes	
Carriage Funeral Holdings, Inc. d/b/a Emerald Coast Funeral Home and Reception Center	7/22/2020	255311-19-FC	\$850	9/14/2020	Yes	
Carriage Funeral Holdings, Inc. d/b/a Lee County Cremations Services	7/22/2020	254944-19-FC	\$300	9/14/2020	Yes	
Stone Brothers Funeral Chapel	7/22/2020	243594-19-FC	\$300	9/14/2020	Yes	
A Good Shepherd's Funeral Home and Cremation	2-Apr-20	243596-19-FC	\$300	7/24/2020	Yes	
Stone Removal Services, LLC	6-Feb-20	243150-19-FC	\$300	3/30/2020	Yes	
Darice Conception	5-Dec-19	233390-18-FC	\$2,500	6-Feb-20		A
<p>A. When payment in full becomes past due, the FCCS Division works with the DFS Office of the General Counsel to enforce payment.  B. Once fines and costs are paid in full, licensee kept on this report 3 months, showing Paid in Full, and then dropped off report; also licensee dropped off report after disciplinary action filed due to nonpayment of the fine and costs.  C. The Order re this case is still in process, so no Due date is not yet established.  D. Due date has not passed, as of the date of this report.  E. As of the date of this report, monthly payments were current.</p>						 10-22-2020

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

Chair – At the risk of being repeatedly redundant, I want to again compliment all the Board members for their dedication to the obvious time spent on the Board packets and the study. And I know I say this a lot, but it is from the heart, and thank you, each one of you. It's such a pleasure to work with you. That's the end.

Ms. Simon – Thank you, Mr. Chairman.

19. **Office of Attorney General's Report**  
**A. Attorney General's Rules Report (Informational)**

Ms. Simon – Ms. Manson?

Ms. Munson – Thank you, Ms. Simon. I just wanted to note that the only two (2) items you see listed on this report would be the Rules Report, and it, again, primarily just highlights the two (2) rules that were most recently available. And that's the emergency rule, which is now since expired regarding the inspection deadlines. And it was a new rule, 69K-1.006 that we contemplated opening, so that subsequent to the emergency rule's expiration, we would have some type of promulgation on the book in permanent form that would allow us to use our judgement or some type of variance for inspections, making inspections, completing inspections, just deadlines related to inspections. So, that was the purpose, if you recall, for the creation of 1.006. As you are very familiar with the rulemaking process, once we open it up for rulemaking, and it hits publication, it's open for public comment, including comment from the Joint Administrative Procedures Committee (JAPC), of which you also will find in the additional materials that were supplemented for this meeting, a copy from the Chief Attorney



who oversees the functions and review of this Board's rulemaking, Jamie Jackson. And in her JAPC Letter dated October 28, 2020. She had various substantive questions. She had one (1) technical question regarding the inclusion of a law implemented. And she had various substantive questions regarding the purpose and, more importantly, the authority for the rule. I noticed that the rule language itself was not included, but I just wanted to highlight that the most, the biggest area or the biggest section of that rule was specifically noting that during COVID-19, the public Health Emergency, that we tried to make an attempt to waive the inspection deadlines. What you also may know about this Board is that our Board rules and our Department rules seem to overlap, and there's a question, an ongoing question, about where authority actually lies. There's not a question that the Board has the authority to modify, amend, or create rules that deal with licensing. But the Department has an area that I believe this attorney, this Chief Attorney is questioning, whether the area of inspections, she, I think may be arguing, falls more under the purview of the Department's jurisdiction and not the Board's. So, it's a very technical area, and it is kind of messy. I believe that staff may have some additional comment, because there may be a feeling that the creation of this new rule, given the changes with the availability of inspections and no anticipation of unnecessary delays in the imminent future, may actually exist, that we may no longer need the rule, but I will turn it over to Ms. Simon or Ms. Schwantes, to provide any additional comment, from that perspective.

Chair – Ms. Munson, from your interpretation of the JAPC letter, is there any action that needs to be taken by this Board?

Ms. Munson – If we determine that we want to move forward with the rule, we will have to respond to each of the issues presented in the letter. If we determine that we want to withdraw the rule, I would need a vote from the Board identifying the withdrawal of the rule, and I will issue a letter to JAPC noting that on today's meeting, the Board voted to withdraw the rule, and from that perspective, we will have nothing else to do with that.

Chair – Is there a deadline on that?

Ms. Munson – Not necessarily.

Chair – If so inclined, should we act on that today, or do we have plenty of time to study it?

Ms. Munson – I'm going to turn it over to Ms. Simon or Ms. Schwantes to see if there's any additional direction regarding what the necessity is to act on it or not. And maybe this might be a good time, Ms. Simon.

Chair – Thank you.

Ms. Simon – I believe that we need to respond to the JAPC letter, and responding to the JAPC letter, we can either try to explain away the answers to JAPC's questions, and that letter is included within your package. Or, we can decide that the rule is no longer needed. If the Board will recall, this is a rule that was implemented because, specifically, in Broward and Dade, but at one point we were concerned about the State, our inspectors were not conducting onsite inspections for our initial licensure. And we were looking for a rule that would clarify the fact that entities did not need an onsite inspection before they were licensed and instead the inspection would take place after the State of Emergency or close enough there to. That need no longer exists, as we have inspectors that are up to date with all inspections. So, as a result of that, I felt that the rule was no longer necessary. And, if we do have a crisis again, we will start rulemaking again. I don't think there is any emergency situation that has been created. It was more in line of we continue to indicate on each application that the inspection did not need to take place. In essence, we were enforcing a rule, or we were stating it so many times, it was a rule. And because of that, we needed an actual rule. Well we're no longer saying that, so I don't think the rule is needed. Does that make sense?

Chair – What happens if we do nothing?

Ms. Simon – Well, the questions are outstanding from the Joint Administrative Procedures Act and Ms. Munson will need to respond to them. And the answers would be quite easy if we were withdrawing the rule. But now, we would get together to formulate a response to JAPC. The rule would still go forward, but the rule right now is not necessary. And in fact, the way it might be read is that onsite inspections are not necessary before licensure, because the Division can do those inspections after the State of Emergency. And I don't think that we ever intended that to happen, if our inspectors were able to do the initial inspections timely.

Chair – Should we entertain a motion then to eliminate that rule?

Ms. Simon – To withdraw rulemaking. That's how it would be read.

Chair – Right.

Mr. Knopke – Mr. Chair?

Chair – Mr. Knopke?

Mr. Knopke – Question for Ms. Simon or Ms. Schwantes. If we move to withdraw the rule, does that put us in any delayed process if another pandemic or emergency occurs. Would we have to start over? Would it delay people in becoming licensed that may need to be licensed, and that type of thing?

Ms. Simon – Actually, it wouldn't, because, as I mentioned, we kept saying that meeting, after meeting, that the initial inspection wasn't needed, and could be done at the end of the State of Emergency. And because we did that, it was as if we were using a rule that had yet to be incorporated, by repeating that over and over again. So, it was in an abundance of caution, that we were establishing a rule to permit us to recommend that to the Board. And now that recommendation isn't necessary. And if it happens again in the future, if we find ourselves repeating ourselves, again, we would institute rulemaking. I don't think it would stop anybody from being licensed for that reason. The Board would still take action and make the recommendations on conditions.

Ms. Munson – If I may interject? If I can just offer just a little more clarification. You might recall that this started with the information that Ms. Simon just gave and what the Board was doing by constantly allowing that type of inspection variance was operating under the non-rule policy, because the rule did not allow for us to do that. So, what we instituted was an emergency rule. The emergency rule, however, was only good for ninety (90) days, but it was in play and it covered the timeframe, I guess, that we may have needed. As you can see, it was adopted on August 27th and it ran for ninety (90) days from that effective date of August 27th. If we run into another emergency, we have the opportunity to institute another emergency rule for that new public emergency, because you only get one emergency rule per a specific situation. So, if there's a new public emergency, we can institute a new emergency rule. The reason that the emergency rule pretty much stated the same thing that this rule stated, and it didn't get caught up under JAPC's scrutiny is because emergency rules don't go through the regular rulemaking process, you might recall. They are published and it's considered an emergency, so there's no holdup, there's no delay. It goes on the books as soon as it's admitted and accepted by the Department of State. When you want to undergo regular rulemaking, that is an entirely different process. It requires a lot more scrutiny, and is published for public comment and for JAPC review. The emergency rule and this rule said pretty much the same thing, but the emergency rule was able to go by because it was not under the scrutiny as the process for a regular rule. And in response to your question, Mr. Knopke, if there is another emergency, we will have the opportunity to institute another emergency rule. I will only, in fair disclosure to this Board, that if we consider future permanent rulemaking in the future, the type of information you received in this JAPC letter is a heads up to everyone, because JAPC is pretty much putting us on notice that be careful about entering into any type of rulemaking that the Board may not have the authority to do. And inspections, specifically, was highlighted as an area that JAPC is questioning whether the Board has the authority to enter into rulemaking for. I just wanted to make that full disclosure.

Chair – Ms. Munson, do you do you have language for a motion to do away with the rulemaking?

Ms. Munson – I do. The Board would simply say that we move to withdraw the rule from the rulemaking process.

Chair – Can I make that motion?

Ms. Munson – Absolutely.

**MOTION:** The Chair moved to withdraw the rule from the rulemaking process. Mr. Jones seconded the motion, which passed with one (1) dissenting vote.

Chair – Thank you.

Ms. Munson – I was just going to note that I will issue a JAPC letter, which I will copy Ms. Schwantes and Ms. Simon on, indicating that the Board voted for that withdrawal, which should bring an end to it. Thank you.

Ms. Simon – Thank you, Ms. Munson.

**BOARD OF FUNERAL, CEMETERY, AND CONSUMER SERVICES RULES REPORT  
NOVEMBER 2020**

Rule Number	Rule Title	Date Rule Language Approved by Board	Date Sent to OFARR	Rule Development Published	Notice Published	Adopted	Effective
69KER20-1	Licensure Compliance Regarding Inspection Deadlines.	07/22/2020	08/31/20	N/A	N/A	08/27/20	08/27/20
69K-1.006	Licensure Requirements Regarding Inspections.	07/22/2020	09/16/20 (RD)	09/24/20	10/09/20		
69K-18.001	Embalmer Intern Training Program.		08/12/2019(RD)	08/20/2019 Vol.45/No.162			
69K-18.002	Funeral Director Intern Training Program.		08/12/2019(RD)	08/20/2019 Vol.45/No.162			
69K-18.003	Concurrent Internships.		08/12/2019(RD)	08/20/2019 Vol.45/No.162			
69K-21.005	Display of Licenses.		09/26/2019(RD)	10/03/2019 Vol.45/No.193			
69K-24.034	Operating Procedures for Refrigeration Services.		09/26/2019(RD)	10/03/2019 Vol.45/No.193			

**From:** [Rachelle Munson](#)  
**To:** [Schwantes, Mary](#); [Simon, Ellen M](#)  
**Cc:** [Bryant, LaTonya](#)  
**Subject:** FW: Comment letter re 69K-1.006  
**Date:** Thursday, October 29, 2020 1:26:13 PM  
**Attachments:** [image002.png](#)  
[69K-1.006 Letter.pdf](#)

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Good Afternoon,

Yesterday, I received a JAPC letter regarding Rule 69K-1.006. If possible, I would like to include on the agenda as an informational item with my report. Your consideration is appreciated.



Rachelle Munson  
Assistant Attorney General  
Administrative Law Bureau  
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**From:** Jackson, Jamie <[JACKSON.JAMIE@leg.state.fl.us](mailto:JACKSON.JAMIE@leg.state.fl.us)>  
**Sent:** Wednesday, October 28, 2020 1:00 PM  
**To:** Rachelle Munson <[Rachelle.Munson@myfloridalegal.com](mailto:Rachelle.Munson@myfloridalegal.com)>  
**Subject:** Comment letter re 69K-1.006

Hello Rachelle,

Please find attached the comment letter regarding rule 69K-1.006; a hard copy will not follow. Should you have any questions or any issues accessing the letter, feel free to reach out to me.

Sincerely,  
Jamie

**Jamie L. Jackson**  
Chief Attorney, Joint Administrative Procedures Committee  
The Florida Legislature  
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111 West Madison Street  
Tallahassee, Florida 32399-1400  
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Representative Cindy Polo  
Representative Holly Raschein  
Representative Jason Shoaf  
Representative Clovis Watson, Jr.

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THE FLORIDA LEGISLATURE  
JOINT ADMINISTRATIVE  
PROCEDURES COMMITTEE

October 28, 2020

Ms. Rachelle Munson  
Assistant Attorney General  
Office of the Attorney General  
PL-01, The Capitol  
Tallahassee, Florida 32399-1050

**RE: Department of Financial Services, Board of Funeral, Cemetery, and Consumer Services  
Rule 69K-1.006**

Dear Ms. Munson:

I have reviewed the above-referenced rule and offer the following comments for your consideration and response:

- 69K-1.006:** Law Implemented  
It appears that section 497.103, F.S., should be cited as a law implemented by this rule. Additionally, please see the comment below regarding rule 69K-1.006(1), as additional revisions may be necessary consistent with the resolution of that comment.
- 69K-1.006(1):** It is unclear what specific license types will be required to undergo an on-site inspection based upon this subsection. Currently, only licensure statutes for three license types are cited as laws implemented by this rule. Additionally, it is unclear whether all license types, such as preneed sales, would require an on-site inspection. *See* §§ 120.52(8)(d), 120.545(1)(i), Fla. Stat. (2020). Please revise to set forth the specific license types required to undergo and revise the citations for this rule as appropriate.
- 69K-1.006(2):** Subsection (2) states, "The deadline and terms for completing on-site inspections shall be determined by the Board." Have these criteria been set forth in other Board rules? If so, please revise this language to provide a reference to those rules so that the requirements can be ascertained. If not, pursuant to section 120.52(8)(d), Florida Statutes, a rule that is vague, fails

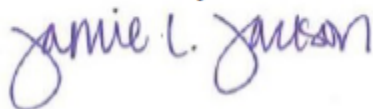
Ms. Rachelle Munson  
October 28, 2020  
Page 2

to establish adequate standards for agency decisions, or vests unbridled discretion in the agency is an invalid exercise of delegated legislative authority. Please review and advise.

**69K-1.006(3):** Please be aware that language specific to the current state of emergency will require further revisions to this rule text once it is no longer applicable.

If you have questions, please do not hesitate to contact me. Otherwise, I look forward to your written response.

Sincerely,



Jamie L. Jackson  
Chief Attorney

JJ:df #183026

**20. Public Comments (Verbal)**

Ms. Simon – Are there any comments on items that are on today's agenda?

Mr. Jones – Mr. Chair?

Chair – Yes, please?

Mr. Jones – I've got one thing I'd like to bring up if I could?

Chair – Please, Mr. Ken Jones.

Mr. Jones – I just wanted to bring up that I spoke with Ms. Simon, and I will be dealing with the Division on doing a letter, but just wanted to give an update on House Bill 607 that was approved this session. It allows Advanced Practice Registered Nurses (APRN) the ability to act as a practitioner. The Board of Nursing had been developing rules to implement this. In the middle of October, they had the rules finished and started taking applications. Currently fifty-two (52) APRNs have been approved. Five (5) of them are requesting access to our Electronic Death Registration System (EDRS). We just want to let, and I'll be notifying the Medical Examiner's Commission tomorrow, that the APRNs can perform the same functions as a Florida physician/or practitioner. They can sign the same documents, which means they can also sign records. So, we will be modifying or electronic death system, in the drop-down box, to include APRNs so that you can choose them. We are requesting they all be online users, so that they're easily acceptable within our EDRS, and we will keep you posted as it goes forward. I just wanted to give you an update.

Chair – And they'll all be online? We anticipate they'll all be online users?

Mr. Jones – Yes, sir. I am pushing that they all be online users. You might see some once in a while sign a faxed registration, because they're still working with another practitioner or group, but them representing themselves as an APRN eponymous practitioner, they will be online. That's it for me. Thank you.

Chair – Thank you. I appreciate it. Any other public comment? Hearing none.

**21. Upcoming Meeting(s)**  
*A. December 3<sup>rd</sup> (Videoconference)*

Chair – Again, the next upcoming meeting, December 3<sup>rd</sup>, Videoconference.

**22. Adjournment**

Chair – And without any further comment, the meeting is adjourned. Thank you.

The meeting was adjourned at 2:05 P.M.