

MINUTES
BOARD OF FUNERAL, CEMETERY AND CONSUMER SERVICES
VIDEOCONFERENCE MEETING
October 7, 2021 - 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’ Videoconference meeting. It’s October 7, 2021. Ms. Simon, now that I have called this meeting to order, would you offer your preliminary remarks and do a 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, October 7, 2021, as Mr. Chairman indicated. 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 monitoring from their individual offices. 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. If you are planning on participating by video, please ensure that you are properly attired for the meeting. In the past, we have had the experience of people not being properly attired and it is detrimental to the meeting process, as it could be disruptive. If you are not planning to participate by video, please ensure that your camera is off.

Additionally, we need everyone that is on the call to place their 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, if you have called in, you may need to call back into the meeting because that may be the only way to unmute your phone. 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. As such, this feature should only be used for technological issues you may be experiencing, directing any inquiries in chat to Mary Schwantes, our Executive 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 point I will take the roll:

Joseph “Jody” Brandenburg, Chair
Keenan Knopke, Vice Chair
Andrew Clark
Sanjena Clay (**EXCUSED**)
Lewis “Lew” Hall
Christian “Chris” Jensen
Ken Jones
Jay Lyons
Darrin Williams

Also noted as present:

Mary Schwantes, Executive Director

Rachelle Munson, Board Legal Advisor
Marshawn Griffin, Department Legal Counsel
LaTonya Bryant, Department Staff

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

Chair – Thank you, Ms. Simon.

2. Action on the Minutes

A. August 5, 2021

Chair – Action on the minutes for the August 5, 2021 meeting? What is your pleasure, Board?

MOTION: Mr. Lew Hall moved to adopt the minutes of the meeting. Mr. Andrew Clark seconded the motion, which passed unanimously.

B. September 2, 2021

Chair – And on the September minutes, I'd like to call your attention to the roll call on that. And I apologize to Ms. Bryant that I didn't touch this earlier. The roll call lists Darrin Williams as absent. I'd like to change that to excused absence. So, with that change, is there a motion?

MOTION: Mr. Ken Jones moved to adopt the minutes of the meeting with the amendment made by the Chair. Mr. Hall seconded the motion, which passed unanimously.

Chair – At this point I'd like to declare my affiliation with SCI, Funeral Services of Florida, LLC, and that affiliation will in no way affect my ability to make fair and impartial decisions on anything coming before the Board today. Ms. Simon?

Ms. Simon – Mr. Chairman, I neglected to call Mr. Jensen's name during the roll call. May I do so now?

Chair – Please.

Ms. Simon – Mr. Jensen, are you here, present today?

Mr. Jensen – Yes, ma'am. I'm here and present.

Ms. Simon – Thank you, sir.

Chair – We're glad you're with us.

Mr. Jensen – Thank you, Chairman.

3. Disciplinary Proceeding(s)

A. Settlement Stipulations (Probable Cause Panel A)

(1) Hernando Crematory, Inc.: DFS Case No. 282516-21-FC; Division No. ATN-35950 (F040852)

Ms. Simon – Presenting for the Department is Mr. Griffin.

Mr. Marshawn Griffin – Marshawn Griffin for the Department. Hernando Crematory, Inc., (“Respondent”) is a cinerator facility, licensed under Chapter 497, Florida Statutes, license number F040852. The Department conducted an inspection of Respondent and found that Respondent engaged in activities requiring licensure under Chapter 497, Florida Statutes, with an expired license. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides that Respondent shall pay a \$250 fine. The Department requests that the Board accept this Settlement Stipulation.

Mr. Keenan Knopke – Mr. Chairman?

Chair – Go right ahead.

Mr. Knopke – I need to recuse myself from items 3.A. (1) - (5), as I was on Probable Cause Panel A.

Chair – I had that on my notes and failed mentioned that. Thank you.

Mr. Knopke – Thank you, sir.

Chair – Is there anyone here representing Hernando Crematory? Is there anyone on the call representing Hernando Crematory? Hearing none. So, Board, before us we have a Settlement Stipulation.

MOTION: Mr. Hall moved to accept the Settlement Stipulation, which provides that the Respondent shall pay a \$250 fine. Mr. Jay Lyons seconded the motion, which passed unanimously.

(2) Related Cases – ATN-36440

(a) Charlow, Jonnye: DFS Case No. 282725-21-FC; Division No. ATN-36440 (F043602)

Ms. Simon – Is a representative of this individual on the call today? Hearing no response. Mr. Griffin?

Mr. Griffin – Marshawn Griffin for the Department. Jonnye Charlow (“Respondent”) is a funeral director and embalmer, licensed under Chapter 497, Florida Statutes. Respondent is the Funeral Director in Charge (“FDIC”) of Charlow Funeral Home (“Charlow Funeral”), a funeral establishment, license number F041810. The Department conducted an inspection of Charlow Funeral and found that Charlow Funeral advertised preneed arrangements without the benefit of licensure. Respondent as FDIC of Charlow Funeral is subject to discipline based on Charlow Funeral’s violation of Chapter 497, Florida Statutes. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides that Respondent shall pay a \$1,250 fine and her license will be placed on probation for one (1) year. The Department requests that the Board accept this Settlement Stipulation.

Rabbi Lyons – Mr. Chair, may I ask a question of Mr. Griffin?

Chair – Rabbi Lyons, go right ahead.

Rabbi Lyons – Ok. Can I just ask you to cite the exact line, which is problematic? We have a packet, and we have Exhibit One on page 36 in our packet. Can I just ask you to cite the exact line from the website that is problematic?

Mr. Griffin – It's the whole section that talks about preplanning. Like, if you don't have a preneed license, you should not be asking or representing to the public, or talk to the public, or talking to the public about preplanning of any sort of services.

Rabbi Lyons – So, am I to understand that it's the general use of the term preplanning?

Mr. Griffin – Yes. Not only that, but their website literally says prearrangements. An arrangement {inaudible} within Chapter 497.

Rabbi Lyons – If I have a monument company and I don't have a preneed license, and we advertise something like, you know, {inaudible} an order, prearrange for monument, that type of thing. People come in and they buy a monument and we install it at the cemetery the next day. So, in other words, the service that we provided, from the consumer’s point of view, they have the peace of mind that they were looking for. From the statute’s point of view, there was no preneed to sell {inaudible} it was an at-need sale. The language you’re advertising is prearrange. Is that a problem?

Mr. Griffin – In your hypothetical, you've already taken this person's money. You've already installed the monument. You’ve already provided services. So, there's no way that that's not preneed. The person's not dead, so, I mean, I think that that's on all fours of the definition of preneed services. And I would point out that, you know, as Chapter 497, the definitions statute,

which is s. 497.005(61), Florida Statutes. "Preneed contract means any arrangement or method of which the provider or purchaser of merchandise or service has actual knowledge, whereby any person agrees to furnish funeral merchandise or service in the future."

Rabbi Lyons – In the future.

Mr. Griffin – Right. So, if the person hasn't died yet, you're providing the monument prior to their death.

Rabbi Lyons – Right, but I'm not doing it in the future. I'm doing it in the present.

Mr. Griffin – For a future need. The person is not dead.

Rabbi Lyons – Ok, but that's not the definition. The definition of preneed does not distinguish between whether the person is alive or dead. It distinguishes between whether we're holding money for a future service or whether we're providing the service presently.

Mr. Griffin – Ok. The Department stands by its legal interpretation of the statute. As a Board member, you're empowered to make a wise decision on this matter, and so the Department defers to your decision-making process on this case.

Rabbi Lyons – Ok. So, back to my question. What I'm more afraid of is that there are services that are provided by a number of different entities licensed under Chapter 497, that in reality are at-need services. But, from the consumer's point of view, you know, satisfy what they're trying to accomplish from, you know, a preplanning, prearranging, to make sure their kids don't have the burden point of view.

Mr. Griffin – First off, we can't look at hypotheticals. We have to look at the facts that are presented before us. The facts in this case are you have a funeral establishment that has a website that expressly uses the phrase prearrangement. It talks about having people come in to discuss things and that's falls under preneed, as defined within Chapter 497, Florida Statutes.

Rabbi Lyons – Ok, so that's my question. So, the answer to my original question was what language is problematic, and the answer is, "we'd be pleased to meet with you and discuss further. Arrangements can be made in the comfort of your home by checking one of the buttons below, and we'd be pleased to meet you and discuss further." That's the problem. Correct?

Mr. Griffin – Yes.

Rabbi Lyons – That was my question. Thank you very much. I appreciate that.

Chair – Thank you. So, we have a Settlement Stipulation before us. Board, what's your pleasure with this?

MOTION: Mr. Hall moved to accept the Settlement Stipulation, which provides that the Respondent shall pay a \$1,250 fine and her license will be placed on probation for one (1) year. Mr. Jones seconded the motion, which passed unanimously.

(b) Charlow Funeral Home: DFS Case No. 282722-21-FC; Division No. ATN-36440 (F041810)

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

Mr. Griffin – Marshawn Griffin for the Department. Charlow Funeral Home ("Respondent") is funeral establishment, licensed under Chapter 497, Florida Statutes. The Department conducted an inspection of Respondent and found that Respondent advertised preneed arrangements without the benefit of licensure. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides that Respondent will pay a \$1,750 fine and its license will be placed on probation for one (1) year. The Department requests that the Board accept this Settlement Stipulation.

MOTION: Mr. Hall moved to accept the Settlement Stipulation, which provides that the Respondent shall pay a \$1,750 fine and its license will be placed on probation for one (1) year. Mr. Chris Jensen seconded the motion, which passed unanimously.

(3) Related Cases – ATN-36445

(a) Ritchie, Richard M.: DFS Case No. 283112-21-FC; Division No. ATN-36445 (F043714)

Ms. Simon – Is Mr. Ritchie on the call today or a representative of Mr. Ritchie?

Mr. Richard Ritchie – I'm on the call.

Ms. Simon – Thank you, sir. Mr. Griffin?

Mr. Griffin – Marshawn Griffin for the Department. Richard M. Ritchie (“Respondent”) is a funeral director and embalmer, licensed under Chapter 497, Florida Statutes, license number F043714. At all times relevant to this Settlement Stipulation, Respondent was the Funeral Director in Charge (“FDIC”) of Winslow Honors Funeral Chapel (“Winslow Honors”), a funeral establishment, license number F040061. The Department conducted an inspection of Winslow Honors and found that Winslow Honors advertised preneed arrangements without the benefit of licensure. Respondent as the FDIC of Winslow Honors is subject to discipline based on Winslow Honors’ violation of Chapter 497, Florida Statutes. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides that Respondent shall pay a fine in the amount of \$1,250 and his license will be placed on probation for one (1) year. The Department requests that the Board accept this Settlement Stipulation.

Chair – Did I hear Mr. Ritchie on the call?

Mr. Ritchie – Yes, sir.

Chair – Mr. Ritchie, this is Jody Brandenburg. Did you want to address the Board or you’re merely here to answer questions?

Mr. Ritchie – I’d just like to say that I had no...

Ms. Simon – Mr. Ritchie, before you continue, if you could 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. Ritchie – Yes ma’am.

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

Mr. Ritchie – Richard M. Ritchie, R I T C H I E.

Ms. Simon – Thank you, sir.

Chair – Thank you, Mr. Ritchie. If you would like, you may address the Board. Go right ahead.

Mr. Ritchie – I had no knowledge that they put up these advertisements. As soon as I found out about it, I turned in my license to the Board and I was no longer the FDIC for that firm. So, that was done without my knowledge. I’m sorry about that.

Chair – Thank you. Mr. Griffin, do we know that Richard Ritchie was the FDIC, sir?

Mr. Griffin – Yes, sir. In fact, I will direct the Board’s attention to Page 10 of the probable cause packet. It was received by the Department on August 21, 2019. But however, the form is dated July 23, 2021. It’s the form for Mr. Ritchie, basically divesting himself as being the FDIC of Winslow Honors. If I could further direct the Board to Page 27, which is the inspection report of the packet, the 51-page PDF, you’ll notice that the inspection was conducted on March 3, 2021. Though the inspection happened in March, he resigns as FDIC in July, and we received notice of it in August.

Chair – Thank you. Mr. Ritchie, who is the FDIC at this location?

Mr. Griffin – It’s George Massey.

Chair – Thank you. Mr. Ritchie, anything else you want to say to the Board?

Mr. Ritchie – No, sir. Other than like I said, as soon as I found out, I resigned. I spoke to the inspector and Mr. Winslow, and they said there were no problems when she came and inspected the thing. I spoke to her over the phone.

Chair – Thank you. Board?

Rabbi Lyons – Mr. Chairman, may I ask Mr. Griffin a question?

Chair – Yes, Rabbi Lyons.

Rabbi Lyons – Just, again, I mean, this looks like the same website as the one before.

Mr. Griffin – If I could direct you to Page 40 of your packet. Something I did notice, because I think that all of these cases involve getting websites from the same person who keeps selling everyone the same website. Paragraph two, “Prepayment will protect you from the rising costs of prices and it will not be a financial burden on your loved ones. Please plan ahead and you’ll know that your wishes will be fulfilled.” So that is nothing if not a naked offer to take payment beforehand prior to the death of someone for services.

Rabbi Lyons – Excellent.

Chair – Thank you, Mr. Griffin. Board?

MOTION: Mr. Jensen moved to accept the Settlement Stipulation, which provides that the Respondent shall pay a \$1,250 and his license will be placed on probation for one (1) year. Mr. Clark seconded the motion, which passed unanimously.

Chair – Thank you, Mr. Ritchie.

Mr. Ritchie – You’re welcome. Thank you.

(b) Winslow Honors Funeral Chapel: DFS Case No. 283111-21-FC; Division No. ATN-36445 (F040061)

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

Mr. Griffin – Winslow Honors Funeral Chapel (“Respondent”) is a funeral establishment, licensed under Chapter 497, Florida Statutes. The Department conducted an inspection of Respondent and found that Respondent advertised preneed arrangements without the benefit of licensure. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides that Respondent shall pay a fine in the amount of \$3,000. The Department requests that the Board accept this Settlement Stipulation. And if I can go ahead and cut off a potential question, and I’d be more than willing to resubmit this matter to a later Board. Part of the reason that the \$3000 fine in this case was assessed is because the licensee has a prior citation for a similar violation. So, I just noticed that it is not in the Board packet. So, in all fairness to the licensee, I can represent this matter at the next Board meeting and include that documentation.

Chair – Is there anyone representing Winslow Honors Funeral Chapel? I see a gentleman waving his hand. Would you care to speak to us, but you must be sworn in first?

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? Sir, we are unable to hear you. We are still unable to hear you. Sir, we are still unable to hear you. We are unable to hear you.

Chair – Sir, at the bottom of your page there's a microphone, and presently it's on. Can you turn it off and then turn it back on to see if that helps?

Ms. Mary Schwantes – Mr. Chair?

Chair – I was about to call upon Ms. Bryant to see if she could help us out. Go right ahead.

Ms. Schwantes – I was just going to suggest, since Ms. Bryant is tied up at the moment, but I was going to suggest that the gentlemen hang up and call back in. Perhaps we could come back to this item again later on the agenda.

Chair – Sir, would you care to log off and then log back in? We'll go on to another item, and then when you call back in, hopefully we'll be able to hear you and we'll address your comments. Do you understand me? Just raise your hand if you do. I'm not sure if the gentleman hears me. If you hear me, please raise your hand. Mr. Massey?

Ms. Simon – Mr. Chairman, it does not appear we hear him. We can come back to this matter later on the agenda, if you prefer.

Chair – Let's do that.

Ms. Simon – Ok, moving on to the next case.

(4) Related Cases – ATN-35250

(a) Vinson, Daniel B.: DFS Case No. 270655-20-FC; Division No. ATN-35250 (F043456)

Ms. Simon – Is Mr. Vinson or a representative of Mr. Vinson on the call today?

Ms. Wendy Wiener – This is Wendy Wiener. I represent Mr. Vinson, and also the licensee for the next matter.

Ms. Simon – Morning, Ms. Wiener. Mr. Bossart is presenting for the Department.

Mr. Griffin – Marshawn Griffin appearing on behalf of Jim Bossart. Daniel B. Vinson (“Respondent”) is a funeral director and embalmer, licensed under Chapter 497, Florida Statutes. Respondent is the Funeral Director in Charge (“FDIC”) of Vinson Funeral Home, Inc. (“Vinson Funeral”), a funeral establishment, license number F040451. The Department conducted an inspection of Vinson Funeral and found that Vinson Funeral advertised preneed arrangements on its website without the benefit of licensure. Respondent as FDIC of Vinson Funeral is subject to discipline based on Vinson Funeral’s violation of Chapter 497, Florida Statutes. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides that Respondent shall pay a \$1,250 fine and his license will be placed on probation for one (1) year. The Department requests that the Board accept this Settlement Stipulation.

Chair – Thank you. Ms. Wiener, are you here to answer questions or would you care to address the Board?

Ms. Wiener – Sir, I'm just here for questions.

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

Rabbi Lyons – Mr. Chair?

Chair – We have a question from Rabbi Lyons.

Rabbi Lyons – Sorry. Just a comment that I did want to just mention. This is a lot like the other websites, the previous websites. The one distinction over here that I noticed that is that all of them had a button, you know, to fill out a form. This one actually had the form in our packet. So, they had a whole form for prearrangements. So, I just wanted to point that out.

Chair – Thank you.

MOTION: Mr. Hall moved to accept the Settlement Stipulation, which provides that the Respondent shall pay a \$1,250 fine and his license will be placed on probation for one (1) year. Mr. Darrin Williams seconded the motion, which passed unanimously.

Chair – Thank you, Ms. Wiener.

(b) Vinson Funeral Home, Inc.: DFS Case No. 270637-20-FC; Division No. ATN-35250 (F040451)

Ms. Simon – Ms. Wiener is representing the entity. Mr. Griffin?

Mr. Griffin – Vinson Funeral Home, Inc. (“Respondent”) is a funeral establishment, licensed under Chapter 497, Florida Statutes. The Department conducted an inspection of Respondent and found that Respondent advertised preneed arrangements on its website without the benefit of licensure. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides that Respondent shall pay a \$1,750 fine and his license will be placed on probation for one (1) year. The Department requests that the Board accept this Settlement Stipulation.

Chair – Ms. Wiener, do you want to address the Board or you’re merely here to answer questions should they arise?

Ms. Wiener – The latter, thank you.

MOTION: Mr. Jones moved to accept the Settlement Stipulation, which provides that the Respondent shall pay a \$1,750 fine and his license will be placed on probation for one (1) year. Mr. Williams seconded the motion, which passed with one (1) dissenting vote.

Rabbi Lyons – Mr. Chair?

Chair – Rabbi Lyons, go right ahead.

Rabbi Lyons – The gentlemen that was trying to get on sent a text message to everybody that he’s on the phone.

Chair – Thank you. Ms. Simon, can we go back to that?

Ms. Simon – Yes, sir. That is 3. A. (3) (b).

(b) Winslow Honors Funeral Chapel: DFS Case No. 283111-21-FC; Division No. ATN-36445 (F040061)

Ms. Simon – I believe Mr. Griffin already previously presented this to the Board.

Chair – Just a moment please. And who do we have representing Winslow Honors Funeral Chapel?

Mr. Gregory Massey – My name is Gregory Massey. I’m the current Funeral Director in Charge.

Chair – Thank you, sir. Did you want to address the Board or you're merely here to answer questions?

Mr. Massey – I’m merely here to answer questions, but I failed to hear after Mr. Ritchie gave his testimony, I failed to hear what Mr. Griffin was stating about the case. I had technical difficulties on this side.

Chair – Ok. Let's swear him in.

Ms. Simon – Before you go on, Mr. Massey, if you could 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. Massey – Yes, I do.

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

Mr. Massey – Gregory Massey, M A S S E Y.

Chair – So, it seems that Mr. Massey has a question of Mr. Griffin. Go ahead and ask your question, Mr. Massey.

Mr. Massey – I failed to hear, you were going to table something for the next meeting. I didn't know what. I had technical difficulties and was unable to hear.

Mr. Griffin – So, I was explaining that part of the reason that the settlement offer in this case is slightly different than the settlement offer in other cases involving similar violations of an establishment is that Winslow Honors has a prior citation or notice of noncompliance that was issued for a similar violation. And so, that was taken into account when making the settlement offer. I realized that that prior discipline, I apologize to Winslow Honors and to the Board that that documentation was omitted from the packet that was presented to the Board. So, in the interest of fairness, I pointed out that if need be, the Department and OGC would be willing to resubmit this matter to a later meeting of the Board and include that documentation just to make sure everything's neat and clean.

Chair – Thank you. Mr. Massey, that's the reason that Mr. Griffin had said that. I'd like to call upon Ms. Munson. Is it necessary that we table this to another meeting or, with Mr. Griffin's declaration, can we move forward with it?

Ms. Rachelle Munson – Having not seen the paperwork in question, if that paperwork would make a difference in how you choose to vote on this matter, it would be necessary to table the matter. If the Respondent is going to stipulate as to the nature and the details of that information, and advise the Board on the record with the stipulation, there won't be a need to table it.

Chair – Thank you.

Mr. Williams – Mr. Chair?

Chair – Go right ahead.

Mr. Williams – Thank you. Ms. Munson or Mr. Griffin, so if I'm hearing correctly, the documentation that you would present at the next Board meeting, would it make any difference or is it just documents that are already filed with Department staff and it's just a matter of placing it in our package? Because, I feel if the documentation is already on file with the Department, we can continue with this and vote on this matter today versus tabling it.

Mr. Griffin – Yes. It's a Notice of Noncompliance issued by the Division to the licensee. The only reason I brought that up is, you know, this one is a little bit different than the other ones. We have a kind of a consistency with how we're resolving them. So, I just kind of wanted to cut off any sort of inquiry and kind of address that issue ahead of time.

Ms. Munson – If I may interject. If for any reason, for example, this Notice of Noncompliance is presented and the Respondent would say, "I never got that, I never saw that. That is not what was issued to me." If there's any dispute of that documentation, then that would, of course, bring a reason for discussion and additional review. But, again, the gentleman is stipulating to the facts as Mr. Griffin is presenting that a Notice of Noncompliance was in fact issued under whatever terms or details that are being presented, then there really probably would not be any additional need for further review.

Chair – So, Mr. Massey, since the Board is ready to move forward with this and go ahead and accept so a Settlement Stipulation that had already been agreed upon, do you have any objection to that?

Mr. Massey – I don't have any objection. I was a funeral director at the time this came through and I'm familiar with the website. We had that removed some time ago and was not aware that it had reappeared. I think that the company uses a template. We're ready to move on with the stipulation. My only concern is what is the method of payment and how the payment needs to be done.

Chair – The actual payment? Is that what you're saying?

Mr. Massey – Yes, sir.

Chair – The payment is due in thirty (30) days, which is standard, and I believe that's what's on the Settlement Stipulation.

Mr. Griffin – Mr. Massey, what will happen is that sometime after this meeting, a document will be generated, called a Consent Order, and that Consent Order will adopt the terms of the Settlement Stipulation, provided that it's approved. The payment would be due in thirty (30) days of the date that the Consent Order is filed. The Consent Order is also going to have an invoice on with it. So, basically, all Winslow Honors would need to do is send a check or money order with the invoice to the Department. And the invoice will contain an address. And I believe the Settlement Stipulation also contains that address, but just to ensure that it is processed correctly by the Department, the invoice should accompany the payment that is sent to the Department. But once again, what sets that thirty (30) day time limit is the entry of the Consent Order.

Chair – Thank you so much. Mr. Massey, is there anything else you wanted to address with the Board?

Mr. Massey – No, sir. I thank you and the Board for your time.

Chair – Thank you so much.

Mr. Massey – Thank you. I apologize for technical difficulties.

Chair – So, we have a Settlement Stipulation before us. I don't remember whether there was a motion to accept.

MOTION: Mr. Hall moved to accept the Settlement Stipulation, which provides that the Respondent shall pay a \$3,000 fine. Mr. Jones seconded the motion, which passed unanimously.

Chair – Thank you, again, Mr. Massey, and good luck to you, sir.

Mr. Massey – Thank you and the Board. God bless you.

(5) Related Cases – ATN-36707

(a) Zipperer, Anthony: DFS Case No. 283117-21-FC; Division No. ATN-36707 (F027281)

Ms. Simon – Is Mr. Zipperer or a representative of Mr. Zipperer on the call today? Hearing no response. Mr. Griffin?

Mr. Griffin – Marshawn Griffin for the Department. Anthony Zipper (“Respondent”) is a funeral director and embalmer, licensed under Chapter 497, Florida Statutes, license number F027281. Respondent is the Funeral Director in Charge (“FDIC”) of Zipperer’s Funeral Home (“Zipperer’s Funeral”), a funeral establishment, license number F040684. The Department conducted an inspection of Zipperer’s Funeral and found that Zipperer’s Funeral website advertised preneed sales without the benefit of licensure. Respondent, as FDIC of Zipperer’s Funeral is subject to discipline based on Zipperer’s Funeral’s violation of Chapter 497, Florida Statutes. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides that Anthony Zipperer will pay a fine in the amount of \$1,250 and be placed on six (6) months of probation. The Department requests that the Board accept this Settlement Stipulation.

MOTION: Mr. Hall moved to accept the Settlement Stipulation, which provides that the Respondent shall pay a \$1,250 fine and be placed on six (6) months of probation. Mr. Jensen seconded the motion, which passed unanimously.

(b) Zipperer’s Funeral Home: DFS Case No. 283113-21-FC; Division No. ATN-36707 (F040684)

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

Mr. Griffin – Zipperer’s Funeral Home (“Respondent”) is a funeral establishment, licensed under Chapter 497, Florida Statutes. The Department conducted an inspection of Respondent and found that Respondent’s website advertised preneed sales without the benefit of licensure. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides that Respondent shall pay a fine in the amount of \$1,750 and be placed on six (6) months of probation. The Department requests that the Board accept this Settlement Stipulation.

Chair – Board? Rabbi Lyons? Hello? Rabbi Lyons, I can't hear you. I'm sorry, I can't hear you.

Mr. Griffin – I think I can anticipate where this is going.

Rabbi Lyons – Ok, again, Mr. Griffin, this is a different web company than the previous.

Mr. Griffin – It is. It does...

Rabbi Lyons – Can you hear me?

Ms. Munson – We have to let everybody just have a chance to speak and answer, because I don't know if Ms. Bryant is going to be able to record it properly.

Chair – Ok. I'll start with this. Rabbi Lyons, do you have a question?

Rabbi Lyons – Can you hear me?

Chair – I can hear you now.

Rabbi Lyons – Can you hear me now?

Chair – {Inaudible} and we'll hear you.

Rabbi Lyons – No.

Ms. LaTonya Bryant – His audio is delayed for some reason.

Chair – Do you suggest that he log back in?

Ms. Bryant – Yes, that may help.

Chair – Rabbi, can you hear me? Raise your hand if you can hear me. Would you care to log back in and perhaps we can hear you?

Rabbi Lyons – Can you hear me? Ok, thank you, Mr. Griffin, this is a different website company? This is a general one and not the other one? So, if I could just...

Ms. Bryant – He's still delayed.

Rabbi Lyons – {Inaudible} the specific line, which is a problem?

Mr. Griffin – So, the issue is offering to make the prearrangements. That is the Department's...

Rabbi Lyons – Can you hear me now?

Chair – Yes, we can hear you.

Rabbi Lyons – OK.

Chair – We can hear you. Rabbi, did you hear what Mr. Griffin just said? Rabbi, raise your hand if you heard me.

Rabbi Lyons – Can you hear me?

Chair – Yes, go ahead and speak. We cannot hear you.

Rabbi Lyons – Can you hear me?

Chair – I heard that. Ok, it looks like he has left the meeting. Let's go on to the next case, and come back to the last Zipperer case on there.

Ms. Simon – Yes, sir.

Chair – Mr. Williams, did you want to make a declaration?

Mr. Williams – Yes, sir, Mr. Chairman. Thank you for the opportunity. I would like to disclose that I was on Probable Cause Panel B and will recuse myself for 4. B. (1) and 4. B. (2) A. and B.

Chair – Thank you so much.

Mr. Williams – Thank you.

Chair – Ok, Ms. Simon.

Ms. Simon – Yes, sir.

B. Settlement Stipulations (Probable Cause Panel B)
(1) Callahan Funeral Home, Inc.: DFS Case No. 278180-21-FC; Division No. ATN-36049 (F067310)

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

Mr. Griffin – Callahan Funeral Home, Inc., (“Respondent”) is a funeral establishment, licensed under Chapter 497, Florida Statutes. The Department conducted an inspection of Respondent and found that Respondent engaged in activities requiring licensure under Chapter 497, Florida Statutes, with an expired license. Respondent has prior discipline by way of a Final Order issued on December 15, 2020, in case number 243532-19-FC for a similar violation. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides that Respondent shall pay a \$1,000 fine. The Department requests that the Board accept this Settlement Stipulation.

Mr. Hall – Mr. Chair?

Chair – Go ahead, Mr. Hall.

Mr. Hall – Mr. Griffin, what is the maximum fine for this? I mean, it seems like a light fine for the seriousness of it. The fact that it's a repeat, also.

Mr. Griffin – Let me just pull it up, I believe it's \$2500, but before I lead you guys down The Primrose path, let me pull up the rule, please.

Chair – While he's checking that, Rabbi, I see you're back on. Can you unmute and say something?

Rabbi Lyons – Can you hear me, Mr. Chair? Can you hear me now?

Chair – Yes, I can. Thank you.

Rabbi Lyons – Ok.

Chair – Current counselor Griffin is researching.

Mr. Griffin – So the maximum for a second is a \$1000-\$2500 fine.

Mr. Hall – For a second offense?

Mr. Griffin – Yes.

Mr. Hall –Are we looking at doing any type of fine back to the FDIC, also?

Mr. Griffin – No. OGC has traditionally taken the position on these cases to not go after the FDIC for the failure to timely renew.

MOTION: Mr. Jones moved to accept the Settlement Stipulation, which provides that the Respondent shall pay a \$1,000 fine. Mr. Knopke seconded the motion, which passed unanimously.

Chair – And shall we go back?

Ms. Munson – Did we confirm that Callahan was not present?

Ms. Simon – Yes.

Ms. Munson – Thank you.

Ms. Simon – If we can go back right now, Mr. Chairman, to item number 3. A. (5) (b), Zipperer’s Funeral Home.

(b) Zipperer’s Funeral Home: DFS Case No. 283113-21-FC; Division No. ATN-36707 (F040684)

Chair – And from that, you had a question, Rabbi Lyons, and we couldn't hear you. Now, go right ahead.

Rabbi Lyons – Thank you. Thanks for the accommodation. Sorry about the technical difficulties here. Ok. So, this is a different website than the other ones were. I was going to ask Mr. Griffin to call out the problematic line, please.

Mr. Griffin – Yes, it's the content on Pages 33 and 34 of the packet. I understand that this one may be slightly different in as much as it doesn't say that you need to pay now. But the Department's position is that offering to make any sort of planning ahead, a form of arrangement, it just gets you into the preneed sphere.

Rabbi Lyons – Again, the general use of the term, or a specific line?

Mr. Griffin – Ok. So, it's the whole section that talks about preplanning. So, if you have something on your website that says plan ahead, and you do not have a preneed license, OGC is going to draft an Administrative Complaint.

Rabbi Lyons – What if the services that would actually be provided that are advertised through that are not something that would qualify as an actual preneed service?

Mr. Griffin – I mean, the whole....

Rabbi Lyons – What if I decided to go with an urn, buy it right now, take it home empty, and that's what the funeral home is advertising?

Mr. Griffin – Once again, it's selling merchandise prior to the time of need.

Rabbi Lyons – Selling merchandise prior to the time of need is not what we saw from s. 497.005(61), F.S. It was providing the service at a future time.

Mr. Griffin – Once again, I defer to the Board's judgement. If the Board does not feel that this is a violation, the Board is equipped to basically take all necessary steps to affect that resolution.

Rabbi Lyons – My understanding is that there's no specific line which is problematic. It's the general use of the term pre-plan?

Mr. Griffin – Yes. Preplan, talking about making arrangements ahead of time, all of this. If a person was not licensed as a funeral director, it's a form of making arrangements beforehand, which the Department has interpreted to mean that it's engaging in preneed.

Rabbi Lyons – Mr. Chair, and my fellow Board members, I have a problem with this. There are a lot of things out there that people do that they do without a preneed license. They're not taking the consumer's money and doing so on the promise of providing something in the future. They're providing it at the time. In the mind of the consumer, they have the peace of mind that they are now all set in their preplanning. If there's a specific line like we saw before, fill out this form, or you are prepaying. That was a real egregious one, right? Prepaying can save you time or something like that. That does sound like they're taking your money for a prearrangement. But the idea that you can come to a funeral home and they could give you advice, and then you say, "Oh those are really nice guys." And you know, and that's all that's actually being advertised. If we over define the definition of advertising for preneed licensure, we're going to end up overregulating. You're going to have a lot of honorable people not doing anything wrong, going into doing something wrong. So, I would humbly suggest that we either have specific language, which is a problem, or we dismiss the case. But we shouldn't create a standard that, you know, if somebody shows up to a funeral home without a raincoat, and it's raining, and the funeral director says to him, you know, "Hey, maybe you should plan ahead." No, that can't be a violation.

Chair – I don't think he'd put that on his website, but yes.

Mr. Jensen – Mr. Chair?

Chair – Go right ahead.

Mr. Jensen – I understand where Rabbi Lyons is coming from. A lot of people do unfunded arrangements, I get that. However, if you look at Page 36 of the packet, it clearly says pay for funeral arrangements, including clergy, florist, and transportation. So, in my mind, that's definitely a prearranged funeral. If you look at Page 36. I understand where you're going Rabbi Lyons. If it didn't use the word pay, I can stand behind you, but it definitely says pay right there on 36.

Rabbi Lyons – Ok, good. Alright, that's perfect. That satisfies me. That looks good.

Chair – Ok. So, we have a motion, and we have a second. And all those in favor, aye?

Board members – Aye.

Chair – And any opposed? And the motion carries.

Ms. Wiener – Mr. Chairman, this is Wendy Wiener. Before you go on, can I address an issue that Mr. Jensen just raised? I want to make sure that there's consistency across the Division and I feel like something that he said could give licensees on this call a misunderstanding.

Ms. Munson – Do you want to hold that for public comment? Or are you the attorney representing in all these cases?

Chair – I don't think this is the proper time to do that.

Ms. Munson – It is not if you're not affiliated with this case by representation or direct involvement.

Ms. Wiener – It's not. I'm not disputing anything that happened. Mr. Jensen said something that I don't believe is consistent with the Division or the Board's prior actions and if there are licensees on this call, they're going to come away with a perception that could get them into trouble.

Chair – I don't think that needs to be discussed at this point in time. Feel free to discuss it with the Division. Feel free to discuss it with Mr. Jensen. Feel free to discuss it with Ms. Munson.

Ms. Wiener – Ok.

Ms. Simon – May I continue, Mr. Chairman?

Chair – Please do.

Ms. Simon – I believe we have already handled 3. B. (1), which is Callahan Funeral Home. So, we're moving on.

(2) Related Cases – ATN-35777

(a) Thornbery, Andrew: DFS Case No. 280951-21-FC; Division No. ATN-35777 (F082869)

Ms. Simon – Is Mr. Thornbery, or a representative of Mr. Thornbery on the call today?

Ms. Leslie Evans – Yes. My name is Leslie Evans, I'm here for Mr. Thornbery, and I also represent the next licensee as well.

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

Mr. Griffin – Marshawn Griffin for the Department. Andrew Thornbery (“Respondent”) is a funeral director and embalmer, licensed under Chapter 497, Florida Statutes. Respondent is the Funeral Director in Charge (“FDIC”) of Warren Family Funeral Homes, Inc., d/b/a Newcomer Cremations, Funeral & Receptions (“Warren Family”), a funeral establishment, license number F439364. The Department conducted an investigation of Warren Family and found that Warren Family advertised in a manner that was misleading. Respondent, as FDIC of Warren Family, is subject to discipline based upon Warren Family’s violation of Chapter 497, Florida Statutes. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides that Respondent will pay a \$500 fine and his license will be placed on probation for six (6) months. The Department requests that the Board accept this Settlement Stipulation.

Chair – Ms. Evans, good morning. Did you want to address the Board or are you merely here to answer questions?

Ms. Evans – I’m just here for questions.

Chair – Thank you. Board, we have a Settlement Stipulation before us. Ms. Evans is here to answer any questions you may have. What is your pleasure, Board? Rabbi Lyons?

Rabbi Lyons – Ok, sorry. I'm just trying to understand the timeline here. They advertised based on a price list that they have that they claim was the last one that they asked for. They got a Cease and Desist Order on October 29th and then there was a complaint to the Department received on November 10th. Am I correct that that's the timeline?

Mr. Griffin – That sounds about right.

Rabbi Lyons – So, that would be eleven (11) days for them to figure out what's going on.

Mr. Griffin – The licensee used February values, not aware that the prices had changed in April. So, then to then represent in October, based off of the February values is incorrect, That's misleading. Now had there been something in there that said, based off a February 2020. But the issue is, is that there's a circular in the packet on Page 24. It doesn't have that, like, tie in language to indicate this is based off of a number we took in February.

Rabbi Lyons – Wait a minute. That's Page 24?

Mr. Griffin – Yes.

Rabbi Lyons – Hold on one second. Ok, so if this advertisement would have said, you know, in even the fine print, based on GPL data February 2020, then everything would be fine?

Mr. Griffin – Yes sir. And if you look on Page 41 of the packet, there is a version of that advertisement that contains that language.

Rabbi Lyons – That's what I saw that on.

Mr. Griffin – Right. The issue is that you have stuff that doesn't contain that stuff that you've sent out after the price change.

Rabbi Lyons – Got it.

Chair – Rabbi Lyons?

Rabbi Lyons – Yes?

Chair – Are you receiving your Board packet on a timely basis?

Rabbi Lyons – Yes, I am. I got two (2) different prints of an advertisement that I didn't realize they were different, so, I didn't see that carefully.

Chair – I just wanted to make sure. We made some changes, and I just wanted to make sure you're receiving it. Mr. Knopke?

MOTION: Mr. Knopke moved to accept the Settlement Stipulation, which provides that the Respondent shall pay a \$500 fine and his license will be placed on probation for six (6) months. Mr. Hall seconded the motion, which passed unanimously.

Chair – Thank you, Ms. Evans.

(b) Warren Family Funeral Homes, Inc. d/b/a Newcomer Cremations, Funerals & Receptions: DFS Case No. 280392-21-FC; Division No. ATN-35777 (F439364)

Ms. Simon – Presenting for the Department is Mr. Griffin.

Mr. Griffin – Marshawn Griffin for the Department. Warren Family Funeral Homes, Inc. d/b/a Newcomer Cremations, Funeral & Receptions (“Respondent”) is licensed as a funeral establishment. The Department conducted an investigation of Respondent and found that Respondent advertised in a manner that was misleading. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides that Respondent will pay a \$1,250 fine and its license will be placed on probation for one (1) year. The Department requests that the Board accept this Settlement Stipulation.

MOTION: Mr. Clark moved to accept the Settlement Stipulation, which provides that the Respondent shall pay a \$1,250 fine and its license will be placed on probation for one (1) year. Mr. Hall seconded the motion, which passed unanimously.

Chair – Ms. Munson, would it be appropriate if I ask Ms. Evans if there is civil litigation in this case.

Ms. Munson – That would be inappropriate if it has no bearing on your ruling.

Chair – Thank you so much. Ms. Simon?

*C. Settlement Stipulations (Waiver of Probable Cause - No Board Member Recusal Necessary)
(1) Macon, Richard Ezell: DFS Case No. 278566-21-FC; Division No. ATN-36234 (F047905)*

Ms. Simon – Mr. Griffin?

Mr. Griffin – Marshawn Griffin for the Department. Richard Ezell Macon is licensed as a funeral director and embalmer, under Chapter 497, Florida Statutes, license number F047905. Richard Ezell Macon Funeral Home and Cremation is not currently licensed and never has been licensed in this state with any license within the purview of Chapter 497, Florida Statutes. The Division conducted an investigation of Respondent and alleges the Mr. Macon advertised the operation of the Richard Ezell Macon Funeral Home and Cremation, an unlicensed entity. The funeral home never actually existed. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides that Respondent shall pay

an administrative fine in the amount of \$1,000. The Department recommends that the Board approve this Settlement Stipulation.

MOTION: Mr. Knopke moved to accept the Settlement Stipulation, which provides that the Respondent shall pay a \$1000 fine. Mr. Jensen seconded the motion.

Chair – Is there anyone here representing Richard Macon? Anyone here representing Richard Macon? Hearing none.
Mr. Hall?

Mr. Hall – Mr. Griffin, how long did he operate this funeral home without a license?

Mr. Griffin – I am not aware, because I believe our investigation didn't show that he actually conducted any business. I think it was just advertisements, if I recall correctly.

Mr. Hall – Looking at it, he used somebody else's pictures and information. He says he's been in the business for fifty (50) years. He obviously knows he can do this. I'm trying to figure out why we wouldn't take his license. We can't take it from the funeral home. They didn't have any. Why wouldn't we just take this gentleman's license?

Mr. Griffin – Well, I think, what was contemplated is, so there's Richard Ezell Macon and then there's Richard L Macon. The building that he displays is Richard L Macon's funeral establishment. So, I believe that that may have been contemplated in making the offer, as opposed to making up an establishment out of whole cloth, it was basically the same establishment that he has some sort of attachment to or some sort of affiliation with and just saying that it's him at that establishment.

Mr. Hall – But my understanding is that that person said it's not him, and so it's fraud, right?

Mr. Griffin – Yes, it would be making a misrepresentation. And the Board has the ability to reject a Settlement Stipulation.

Mr. Hall – I mean, we have a motion and a second. I don't know if those individuals would consider that or not, but I think the guy's license should be removed, myself.

Chair – But we've not had a vote yet. Would the person making the second want to withdraw that second?

Mr. Jensen – I will withdraw it, Mr. Chairman.

Chair – Thank you. And the person making the motion, would you care to withdraw that motion?

Mr. Knopke – That's fine with me, and I'll make the motion, or I'll let Mr. Hall make the motion.

Chair – Mr. Hall, go right ahead.

Mr. Hall – Yes, I would make a motion for revocation.

Mr. Williams – Second, Williams.

Mr. Griffin – Wait, we can't do that. This is the Settlement Stipulation. So, the licensee has to be here. They have to have a chance to be heard. They've made a bargain for exchange for a \$1000 fine.

Ms. Munson – I was about to clarify that. Technically, the Board would make a motion to reject the Settlement Stipulation and an Order would be issued for that particular rejection. You can perhaps make a suggestion to the Office of General Counsel that you would prefer a revocation in this matter, which they would need to come back to present to the Board.

Chair – Is there a motion to reject the Settlement Stipulation?

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

Chair – Ms. Munson, was your comment or advice on the next step for a new Settlement Stipulation?

Ms. Munson – The Board may move to suggest that revocation be the penalty for this matter, for the Department to take that to the Respondent.

MOTION: Mr. Hall moved to suggest that the Department consider revocation be the penalty for this matter. Mr. Knopke seconded the motion, which passed unanimously.

Chair – Thank you.

Ms. Simon – Mr. Chairman?

Chair – Ms. Simon?

Ms. Simon – Before we move on to the next item on the agenda, in an abundance of caution, I would like to recall one of the cases. It is unclear for the record, whether a motion and a second were actually made on the record. May I do, sir?

Chair – Of course.

Ms. Simon – Ok, the case is Zipperer’s Funeral Home, 3. A. (5) (b).

(b) Zipperer’s Funeral Home: DFS Case No. 283113-21-FC; Division No. ATN-36707 (F040684)

Ms. Simon – There was a vote to accept the settlement agreement, but it is unclear whether there was actually a motion and a second on the record.

Chair – We’re talking about Anthony Zipperer or Zipperer’s Funeral Home?

Ms. Simon – Zipperer’s Funeral Home, sir.

Chair – Ok, and we had the gentleman, Mr. Massey on the call with us. Oh, that was a different case. Sorry. OK, so here we are with Zipperer’s Funeral Home, and pulling it up. We have a Settlement Stipulation for \$1,750 and placed on six (6) months of probation. Is there a motion?

MOTION: Mr. Hall moved to accept the Settlement Stipulation, which provides that the Respondent shall pay a \$1,750 fine and be placed on six (6) months of probation. Mr. Jones seconded the motion, which passed unanimously.

Mr. Knopke – Mr. Chairman?

Chair – Yes, Mr. Knopke?

Mr. Knopke – Just want the record to reflect that I’m still recused since we went back to that case.

Chair – Thank you, Ms. Simon, for calling our attention to that.

Ms. Simon – Yes, sir.

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 Denial (Criminal History)

(1) Hasbrouck, Daren R (Appointing Entity: SCI Funeral Services of Florida, LLC)

Ms. Simon – Is Daren Hasbrouck or a representative of Daren Hasbrouck on the call right now?

Ms. Wiener – This is Wendy Wiener. I represent Mr. Hasbrouck, and I believe that he is also going to be joining.

Ms. Simon – Thank you, Ms. Wiener. On August 24, 2021, an application was received by the Division for Mr. Hasbrouck as a preneed sales agent, and no deficiencies were noted. As a result, a temporary preneed sales agent license was issued. However, during the review of Mr. Hasbrouck’s background check it was revealed that he did in fact have reportable criminal history that required disclosing. In 2018, a misdemeanor charge for obstruction of an officer, later amended to disorderly conduct, was filed against Mr. Hasbrouck by the State Court of Hall County of Georgia. Mr. Hasbrouck pled no contest to all charges and was sentenced to two (2) days confinement which was suspended upon payment of fine. Therefore, the application was not accurately completed. The Division recommends denial of this applicant.

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

Ms. Wiener – This time, the former, Mr. Chairman. And thank you for the opportunity to do so. The applicant before you, Mr. Hasbrouck, is himself a former funeral director. He had absolutely no intent to mislead the Board, the Division, his employer. He simply failed to read the questions on the application carefully. He was going through paperwork with his employer, for whom he had already passed the employer’s background check, as well as the Department of Financial Services’ background check for the insurance agents license that he holds in good standing here in the state. The incident giving rise to this reportable criminal history was such that in his mind, it was a personal incident between himself and his longtime life partner. Ultimately, and you’ll see her statement included in your Board packet materials. Ultimately, the incident actually led him to right his life and get him on the path that he’s on now. When he was completing the preneed sales agent application, as I indicated, he had already submitted application through his employer, SCI. He had passed the background check. He had submitted an application for an insurance agents license that was issued without incident, further causing him to just breeze through the application materials without, as I said, an intent to deceive anyone, including this Board. The applicant, as I noted at the outset, is a former funeral director. Unfortunately, he left the profession after suffering a very severe personal loss in his own life. His license was not revoked. There was never any disciplinary action taken against the license that he held in good standing in North Carolina. Once he left the death care industry, he began a career in another heavily regulated industry, which is the pest control industry. He began as an employee and ultimately became the owner of the pest control company for which he worked. And finally, I would call your attention to the lack of severity of the incident in this case. It’s not something that Mr. Hasbrouck would have any meaningful reason to hide. This was a personal argument between himself and his longtime life partner, and the lack of severity is demonstrated by the imposition of the penalty in the court system. He was issued at \$275 fine. Incarceration was suspended upon payment of that fine. And therefore, this is not the kind of criminal history that typically is a bar to licensure in this situation, and so we would ask that you favorably consider Mr. Hasbrouck’s application.

Chair – Thank you. Mr. Knopke?

MOTION: Mr. Knopke moved to approve the application with a six (6) month probation. Mr. Clark seconded the motion, which passed unanimously.

Chair – Thank You.

Ms. Munson – I never ask this question, but I am inclined to ask. Are there any special terms of this six (6) month probation for this applicant? Or just the Order will reflect six (6) months of probation.

Mr. Knopke – Good question, Ms. Munson. Thank you for asking it. I would add to my motion then to clarify it, that the employer be required to report to the Board any complaints or adverse actions that they take upon the applicant in this first six (6) months.

Chair – Who made the second on this, please?

Mr. Jones – Jones, second.

Chair – So, we have the amended motion and second. And then all in favor, aye?

Board members – Aye.

Chair – And any opposed? And that motion carries.

Ms. Wiener – Thank you.

Chair – Thank you, Ms. Wiener.

5. Application(s) for Continuing Education

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

- (1) *Cremation Association of North America (16008)*
- (2) *Independent Funeral Directors of Florida Inc. (135)*
- (3) *International Order of The Golden Rule (2201)*
- (4) *National Funeral Directors Association (136)*

Ms. Simon – Pursuant to s. 497.147, F.S., and Board Rule 69K–17.0041, F.A.C., the courses presented on Addendum B 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.

6. Consumer Protection Trust Fund Claims

A. Recommended for Approval without Conditions – Addendum C

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

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

7. Application(s) for Embalmer Apprentice

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

- (1) *Awbrey, Angela C F533827*
- (2) *Cappola, Dana C F533388*
- (3) *Lyon, Emily F533841*
- (4) *Pearson, Larry F533878*
- (5) *Riley, Sydney N F531994*
- (6) *Villarin, Alfredo J F536570*
- (7) *Williams Sr, Gaylon M F530804*
- (8) *Wren, April F533321*

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 Florida Law and Rules Examination**
- A. **Informational Item (Licenses Issued without Conditions) – Addendum E**
- (1) **Funeral Director (Internship and Exam)**
 - (a) *Potter, Damion A*
 - (b) *Rocker, Darlene M*
 - (c) *Summers, Jessica D*
 - (d) *Thomas, Marc L*
 - (2) **Funeral Director and Embalmer (Endorsement)**
 - (a) *Breen, Shane W*
 - (b) *Davis, Lindsey*
 - (c) *Reid, Tanya Y*
 - (3) **Funeral Director and Embalmer (Internship and Exam)**
 - (a) *Carr, Lindsay M*

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 (Educational Requirements)**
- (1) **Funeral Director (Endorsement)**
 - (a) *Veg, Michael R*

Ms. Simon – If I could just have one moment.

Chair – Take your time.

Ms. Simon – Thank you, sir. Mr. Veg submitted an application for a funeral director license on October 16, 2020, at which time the application was incomplete. A completed application was received on September 6, 2021. The applicant’s fingerprints were returned without criminal history. Contrary to other cases that the Board has seen of this nature, Mr. Veg, the applicant, did not receive an A.S. degree in Mortuary Science and instead has a Bachelor of Science in Business Administration. He did not have a degree period in mortuary science. Mr. Veg passed the State Board Examination for Virginia on March 16, 2016, and received a license in Nevada, which is currently active and in good standing. However, the State of Nevada does not require a degree in funeral services or coursework in mortuary sciences. As a result, the Division is recommending denial. Is Mr. Veg or a representative of Mr. Veg on the call today? Hearing no response. Board members?

Mr. Knopke – Mr. Chair?

Chair – Go right ahead.

Mr. Knopke – I’m usually the proponent in this group, or along with others, to license these people because of the desperate need for funeral directors. However, in this case, I’m going to make the motion to deny. One, because he wasn’t here to explain it, but more importantly, he didn’t meet one of the very basic requirements. And so, with that I’ll make the motion to deny.

MOTION: Mr. Knopke moved to deny the application. Mr. Hall seconded the motion, which passed unanimously.

- (2) **Funeral Director and Embalmer (Endorsement)**
 - (a) *Austin, Donna W*

Ms. Simon – The application for a funeral director and embalmer license was submitted on June 4, 2021, at which time the application was incomplete. A completed application was received by the Division on August 25, 2021. Again, unlike other cases we have had of this nature, a different case other than what we have historically seen, Ms. Austin did not receive her A.S. degree or a diploma in Mortuary Science, and instead has a Bachelor of Science in Chemistry from Virginia State University. She also attended Cypress College, but again, she does not have a diploma from Cypress College, Ms. Austin received her funeral director license in Maryland on March 26, 1999, which is currently active and in good standing. Based upon the factors in this case, the Division is recommending denial.

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

Mr. Knopke – Was the Chairman going to ask if the applicant wanted to speak if they're on the call?

Dr. Donna Austin-Lee – Yes, this is Dr. Austin. I am on the call, and I am a graduate of Cyprus College in Cyprus, California.

Ms. Simon – Ms. Austin, before you continue, if you would 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?

Dr. Austin – I do.

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

Dr. Austin – My name is Dr. Donna Wells Austin.

Chair – Dr. Austin, did you want to address the Board?

Dr. Austin – Yes, I would like to address the Board. Thank you very much. I am a graduate of Cyprus College, Cyprus, California, in mortuary science. I was in a twelve (12) month program, which they give you a certificate. Now they have an associate program, but during that time, in 1982 to 1984, an AAS degree was not required. I am a veteran. I've served in the US Army for over fifteen (15) years, and I've served under 57 Fox, which is Grave Registration and Mortuary Affairs. I currently hold four (4) licenses: DC, Maryland, Virginia, and North Carolina. I am an adjunct professor at the University of DC, and I teach mortuary law, restorative art, and I run the Student Government Association with the University of the District of Columbia.

Chair – Why should you be licensed in Florida?

Dr. Austin – Because I am now a resident of Florida, I intend to retire in Florida, and therefore, I am seeking licensure in Florida to continue my mortuary science background. And I'm also a licensed insurance agent, and I specialized in preneed for over twenty (20) years.

Chair – Board members, would you care to ask Dr. Austin any questions?

Mr. Hall – Mr. Chair?

Chair – Mr. Knopke, go right ahead.

Mr. Knopke – I'm going to withdraw my second to Mr. Hall's motion at this moment.

Chair – Thank you. Mr. Hall?

Mr. Hall – Yes, I just want clarification. It's my understanding from the Division that there was not a degree in mortuary science. Can we get clarification there? Ms. Simon?

Dr. Austin – I was issued a Certificate of Completion in Mortuary Science.

Mr. Hall – Is that correct, Ms. Simon? Do we have a copy of that. You're on mute.

Mr. Knopke – You're muted, Ellen.

Ms. Simon – Thank you, sir. Upon a second review of the application, I do notice that on Page 10 of your PDF, there is a type of certification.

Mr. Hall – I would withdraw and move to approve.

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

Chair – Thank you for appearing before us, Dr. Austin, and best of luck to you in the State of Florida.

Dr. Austin – Thank you so much.

9. Application(s) for Internship

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

- (1) *Funeral Director and Embalmer*
 - (a) *Jepsen, Dillon M F535679*
 - (b) *Sullivan, Ricki L F444124*
 - (c) *Weathers, Angela K F534651*
 - (d) *Zelenty, Kerry A F531613*

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. Application to Renew Concurrent Internship

- (1) *Recommended for Approval without Conditions*
 - (a) *Washington, Tabitha D F341531*

Ms. Simon – An application to renew the concurrent internship license was received on August 10, 2021. The current license of the applicant expired on August 24, 2021. The Division is recommending approval without conditions.

MOTION: Mr. Knopke moved to approve the application. Mr. Clark seconded the motion.

10. Application(s) for Preneed Branch License

- A. Recommended for Approval without Conditions – Addendum G**
 - (1) *Crevasse’s Simple Cremation Inc (St Augustine)*

Ms. Simon – Pursuant to s. 497.453(7), Florida Statutes, the applicant listed on Addendum G has applied for preneed branch licensure. The application was complete without reportable criminal or disciplinary history and accompanied by the required fee. The record indicates that the applicant qualifies for branch licensure, and the Division recommends approval of the application.

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

11. Applications(s) for Registration as a Training Agency

- A. Information item (Licenses Issued without Conditions) – Addendum H**
 - (1) *Baldwin Brothers Memorial Care Services Inc d/b/a Baldwin Brothers (F414804) (Port Charlotte)*
 - (2) *Beggs Funeral Homes Inc d/b/a Beggs Funeral Home – Apalachee Chapel (F357318) (Tallahassee)*

Ms. Simon – This is an informational item where the Funeral, Cemetery, and Consumer Services Division has reviewed the applications listed on Addendum H and found them to be complete in that the applicants have met the requirements to be a training agency. Pursuant to Rules 69K-1.005, Florida Administrative Code, the Division has previously approved these applications.

12. Notification(s) of Change in Location

- A. Information Item (Licenses Issued with Conditions) – Addendum I**
 - (1) *Coleman’s Mortuary (F040636) (Hastings)*
 - (2) *Cremation Center of Tampa Bay LLC (F064328) (Tampa)*
 - (3) *Edward Rivero Funeral Home Incorporated (F458923) (Hollywood)*

Ms. Simon – This is an informational item. The establishments listed on Addendum I have applied for approval of 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.

Chair – Ms. Simon?

Ms. Simon – Yes, sir?

Chair – I'd like to call for a break. It's 11:35. Why don't we return in ten (10) minutes? How about if we return at 11:45? Thank you.

*****BREAK*****

Chair – Ms. Simon?

Ms. Simon – Yes, sir.

Chair – You want to go right ahead?

Ms. Simon – Thank you, sir.

13. Application(s) for Funeral Establishment
A. Recommended for Approval with Conditions
(1) Lake Osborne Funeral Services LLC (Lake Worth)

Ms. Simon – An application for a funeral establishment was received on August 23, 2021. The application was complete when submitted. The Division is recommending approval subject to the condition that the establishment passes an onsite inspection by a member of Division Staff.

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

(2) Washington Funeral Home LLC (Plant City)

Ms. Simon – A change of ownership application for a funeral establishment was received June 25, 2021. The application was incomplete but completed on August 16, 2021. The Funeral Director in Charge will be Anthony Washington (F043405). The current establishment does not have a qualifying preneed license. The Division is recommending approval subject to conditions that are not outlined in your Board package. The original one is that the establishment passes an onsite inspection by a member of Division Staff, but the additional condition is that of a \$1,250 fine and six (6) months of probation. I would ask if there is a representative of Washington Funeral Home LLC on the call today? Hearing no response. If I may, before the Board votes, this entity is represented by an attorney. We have been in contact with the attorney and the attorney is aware of the conditions we are requesting today.

Chair – There's no Settlement Stipulation?

Ms. Simon – No, sir.

MOTION: Mr. Hall moved to approve the application subject to the condition that the establishment passes an onsite inspection by a member of Division Staff, plus a \$1,250 fine and six (6) months of probation. Mr. Knopke seconded the motion, which passed unanimously.

14. Application(s) for Preneed Main License
A. Recommended for Approval without conditions
(1) Archer Funeral Home LLC (F416640) (Lake Butler)

Ms. Simon – Is a representative of Archer Funeral Home on the call today? Hearing no response. The Department received an application for a preneed license on May 11, 2021 which was incomplete. The application was deemed complete on September 29, 2021. Applicant’s qualifying funeral establishment license (License # F416640) is located at the same address listed on your coversheet. If approved, this entity will utilize insurance funded contracts. The Division is recommending approval without conditions.

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

(2) *Funeraria Borinquen LLC (F498640) (Kissimmee)*

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

Mr. Terry Roberts – Yes. Terry Roberts.

Ms. Simon – Thank you, Mr. Roberts. The Department received an application for a preneed license on July 30, 2021, which was incomplete at the time of submission. The application was deemed complete on August 25, 2021. A completed background check of all principals was returned without criminal history. If approved, this entity will utilize trust funded contracts with Clear Point Florida Preneed Master Trust. The Division is recommending approval without conditions.

Chair – Mr. Roberts. Did you want to address the Board or you’re merely here to answer questions?

Mr. Roberts – Just to answer questions.

Chair – Thank you. Board?

Mr. Knopke – Mr. Chair, this is Mr. Knopke, and it’s with great pleasure that I recommend approval.

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

Chair – Thank you, Mr. Roberts.

Mr. Roberts – Thank you, Board.

(3) *Just4Cremation.com LLC (F407083) (Deland)*

Ms. Simon – The Department received an application for a preneed license on July 21, 2021, which was incomplete at the time of submission. The application was deemed complete on August 30, 2021. If approved, the applicant will utilize trust funded contracts with Independent Funeral Directors of Florida Master Trust. The Division is recommending approval without conditions.

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

Chair – Board?

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

15. *Application(s) for Refrigeration Facility*

A. *Recommended for Approval with Conditions*

(1) *Arcelays Funeral Services LLC d/b/a Arcelays Cremation Services (Opa-Locka)*

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

Unidentified person – Yes.

Ms. Simon – Thank you, sir. An application for a refrigeration service license was received on July 27, 2021. The application was incomplete when submitted and deemed complete on August 20, 2021. The Division is recommending approval subject to the condition that the facility passes an onsite inspection by a member of Division Staff.

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

16. Application(s) for Removal Service

A. Recommended for Approval with Conditions

(1) CDD Commercial/Biohazard Cleaning and Removal Services Inc (Jacksonville)

Ms. Simon –An application for a removal service license was received on July 19, 2021. While incomplete at the time, it was deemed complete on August 13, 2021. The Division is recommending approval subject to the condition that the removal service passes an onsite inspection by a member of Division Staff.

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

(2) Danny Babcock d/b/a Reliable Solutions Treasure Coast (Fort Pierce)

Ms. Simon – An application for a removal service license was received on August 12, 2021. The Division is recommending approval subject to the condition that the removal service passes an onsite inspection by a member of Division Staff.

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

(3) Morningstar Transportation & Removal LLC (Miami Gardens)

Ms. Simon – An application for a removal service license was received on July 21, 2021. While incomplete at the time, it was deemed complete on August 30, 2021. The Division is recommending approval subject to the condition that the removal service passes an onsite inspection by a member of Division Staff.

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

(4) Screen Transport LLC (Miami Gardens)

Ms. Simon – An application for a removal service license was received on September 2, 2021. The Division is recommending approval subject to the condition that the removal service passes an onsite inspection by a member of Division Staff.

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

17. Collective Application(s)

A. Recommended for Approval with Conditions

(1) Change of Ownership – Foundation Partners of Florida LLC

(a) Beacon Direct Cremation, Inc. d/b/a Beacon Direct Cremation

- **Direct Disposal Establishment**

(b) Englewood Community Funeral Home

- **Cinerator Facility**
- **Funeral Establishment**

(c) Lighthouse Funeral Services, LLC d/b/a Palm State Crematory Services

- **Cinerator Facility**

Ms. Simon – Foundation Partners of Florida LLC seeks approval of the following applications for licensure that are based upon a change of ownership: a direct disposal establishment, a funeral establishment and a two (2) cinerator facilities license. More specifically, the entities that are being acquired is as follows:

- 1) Englewood Community Funeral Home Inc, a licensed cinerator facility, license #F067185, physical address: 3070 South McCall Road, Englewood, FL 34224. FDIC: David Gallentine, license #F042874
- 2) Englewood Community Funeral Home Inc, a licensed funeral establishment, license #F040778, physical address: 3070 South McCall Road, Englewood, FL 34224. FDIC: David Gallentine, license #F042874
- 3) Beacon Direct Cremation Inc, a licensed direct disposal establishment, license #F090834, physical address: 7210 Ulmerton Road, Ste E, Largo, FL 32811. FDIC: John Kuge, license #F048942
- 4) Lighthouse Funeral Services LLC, a licensed cinerator facility, license #F049261, physical address: 12660 34th Street North A-2, Clearwater, FL 33762

Included in your Board packet are the separate applications for the aforementioned properties. The change of ownership is the result of an asset purchase. Applicant confirms that if there are currently any unfulfilled preneed contracts sold at these locations, the obligation to fulfill those preneed contracts will be assumed by the new owners. The Division is recommending approval subject to the following conditions:

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

Mr. Clark – Mr. Chairman?

Chair – Go right ahead, Mr. Clark.

Mr. Clark – Sorry, I just want to state for the record, my affiliation with Foundation Partners Group of Florida and so I'll recuse myself from Item 17. A. (1), 17. A. (2), as well as 18. B. (1). Thank you, Mr. Chairman.

Chair – Thank you, Mr. Clark. Is there a motion?

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

- (2) *New Application*
 - (a) *FPG Florida LLC*
 - *Preneed Branch (2)*

Ms. Simon – FPG Florida LLC seeks approval of its applications for two (2) preneed branch licenses. The Division recommends approval subject to the condition that the previous applications be approved, which they were.

MOTION: Mr. Knopke moved to approve the applications. Mr. Jensen seconded the motion, which passed unanimously.

18. Contract(s) or Other Related Form(s)

A. Recommended for Approval without Conditions

(1) Preconstruction Performance Bond(s)

(a) SCI Funeral Services of Florida, LLC d/b/a Forest Lawn Memorial Gardens South (Ft. Lauderdale)

Ms. Simon – SCI Funeral Services of Florida, LLC d/b/a Forest Lawn Memorial Gardens South. Pursuant to s. 497 .272, Fla. Statutes, typically, a pre-construction trust must be put in place if sales are going to occur prior to completion. However, s. 497 .272(8) provides that in lieu of the pre-construction trust fund, the cemetery company may provide a performance bond in an amount and by a surety company acceptable to the regulator. The mausoleum project, and the bond, is summarized as follows:

SCI Funeral Services of Florida, LLC DBA Forest Lawn Memorial Gardens, South (F039471)

Address: 2401 Davie Rd, Ft. Lauderdale, Florida 33317

Project: Retro fit an existing mausoleum with 192 single crypt spaces

Bond Amount: \$919,183.20

Bond Number: 022231144

Surety Company: Liberty Mutual Insurance Company

Cemetery agrees to complete said construction in accordance with the terms of the construction agreement included within your Board package, with McCleskey Construction Inc. The Division recommends approval of the aforementioned pre-construction performance bond without conditions.

MOTION: Mr. Jones moved to approve the pre-construction performance bond. Mr. Clark seconded the motion, which passed unanimously.

B. Recommended for Approval with Conditions

(1) Request(s) for Trust Transfer

(a) FPG Florida LLC d/b/a Farley Funeral Home and Venice Memorial Gardens (F060727) (Bellevue)

Ms. Simon – FPG seeks approval of the proposed trust asset transfer as more specifically set forth in correspondence from Summer Bokhary, representative of Regions Bank, dated September 29, 2021. More specifically, FPG now seeks approval of the transfer of the following: the 78 FSI Master Trust Agreement, the 88 FSI Master Trust Agreement, and the FSI First Florida Trust Agreement, under Argent Trust Company to the FPG Florida, LLC Preneed Funeral and Cemetery Merchandise and Services Agreement, under Regions Bank (Regions). If approved, Regions is or will be trustee, all as more specifically set out in Ms. Bokhary's correspondence dated September 29, 2021.

The Division is recommending approval subject to the following conditions:

- 1) That the representations of FPG, as set forth in Representative's correspondence dated September 29, 2021 be deemed material to the Board's decisions herein.
- 2) That within 90 days of this Board Meeting Regions provide the FCCS Division (ATTN: LaShonda Morris), the effective date of the transfer and certifications including the following:
 - ⊙ A letter signed and dated by one of its officers, certifying that it meets one or more of the applicable criteria in s. 497.266(1), and s. 497.458(1(b), to act as trustee of the trust to be transferred pursuant to Representative's correspondence, dated September 29, 2021.
 - ⊙ A letter signed and dated by one of its officers, certifying the dollar amount of trust assets being transferred to the trust as identified in Representative's attached correspondence, dated September 29, 2021.
 - ⊙ Acknowledgement of receipt of the amount of trust assets being transferred as specified under the former trust, as identified in Representative's attached correspondence, dated September 29, 2021.
- 3) That the Board's executive director, for good cause shown, may extend the compliance time frame for the above specified conditions, an additional 90 days.

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

19. **Executive Director's Report**
A. Operational Report (Verbal)

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

Ms. Schwantes – Thank you, Ms. Simon. May I go ahead, Mr. Brandenburg?

Chair – Please do, Ms. Schwantes.

Ms. Schwantes – Thank you, sir. Good afternoon. First, I'll report on the Board Appointment Process for the five (5) positions with terms expiring on September 30th. As you know, we opened the application process for these five (5) positions in early August. The initial deadline for filing an application was August 27th. Last month, the application period was re-opened with a new deadline of September 30th, and again, that was a request from a number of our licensees. Obviously, that deadline has now passed. We received thirteen (13) completed applications. The Division will confirm certain information in the applications, then submit the information to the CFO's Office for their review. I do not know when the CFO will forward nominations to the Governor's Office. As before, however, we expect that those who are nominated will be notified so that they can complete the second phase of the process, which involves completing any required appointment forms for the Governor's office. Again, thank you to all of you who have expressed interest, to those who have applied, and particularly to our currently-sitting Board members who have agreed to continue to sit on the Board until the positions are filled. We very much appreciate that. As always, if there are any questions on this process, please contact me.

With regard to the EDRS project, I am very pleased to announce that the EDRS project has been completed and the changes to the system are now live. Effective October 1st, many funeral establishments and direct disposal establishments may use EDRS to satisfy the majority of the Bodies Handled Report requirements, which are found in section 497.382, Florida Statutes, and Rule 69K-20.001, Florida Administrative Code. Full directions for using EDRS for this purpose are available on our website. As you all know, these new functions to EDRS are the result of a very complex joint project with the Department of Health, Bureau of Vital Statistics and our Division. We're very, very glad to be able to offer Florida's funeral establishments and direct disposal establishments these additional options for completing their monthly Bodies Handled Report requirements and again, a huge, huge thanks to Ken Jones and his crew for their efforts in effectuating these changes. Thank you very much.

The next Board meeting will be a videoconference meeting on Thursday, November 4, 2021, and that ends the Operational Report. Thank you, Mr. Chair.

Chair – Thank you.

B. Rulemaking (Informational)

Ms. Simon – There is an informational email that is included in your Board package regarding rulemaking by the Office of the General Counsel.

From: [Ross, James](#)
To: [Simon, Ellen M](#)
Subject: Notification To The Board Regarding Rulemaking
Date: Tuesday, September 28, 2021 1:08:26 PM

The Department of Financial Services intends to publish Notices of Rule Development in the Florida Administrative Register regarding the following rule numbers:
69K-10.002; 69K-13.001; 69K-21.008; and, 69K-21.009, FAC.
Thank you,

James Ross
Senior Attorney
Office of the General Counsel
Department of Financial Services
200 E. Gaines St.,
J. Edwin Larson Bldg.
Tallahassee, FL 32399-0333
Phone: 850-413-4220
Fax: 850-413-0697
E-Mail: James.Ross@myfloridacfo.com

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

Ms. Simon – This is informational only.

Monthly Report of Fines and Costs Assessed and Paid
 Division of Funeral, Cemetery and Consumer Services
 Date of Board meeting: October 7, 2021
 Date report was prepared: September 22, 2021

Licensee	Board Meeting	Case No.	Total Fine & Cost Due	Date Due	Paid in Full?	Comments
Peavy Funeral Home	8/5/2021	280003-21-FC	\$500		Full	
Elliot Maurice Graham	8/5/2021	280740-21-FC	\$4,000			In process of being sent to the OGC
Morris Funeral Chapel	8/5/2021	278436-21-FC	\$250	9/13/2021	Full	
Marion Graham Mortuary	8/5/2021	265816-20-FC	\$2,000			In process of being sent to the OGC
Marion Graham Mortuary	8/5/2021	278140-21-FC	\$1,000			In process of being sent to the OGC
Jackson-McMurray Funeral Services	7/13/2021	280012-21-FC	\$250	8/30/2021	Full	
Jamoll L. Thomas d/b/a Exodus Removal Service:	7/13/2021	243526-19-FC	\$300	8/30/2021	Paid in Full	
Harry T. Reid Funeral Home	7/13/2021	279999-21-FC	\$450	8/30/2021	Full	
James Reid	7/13/2021	280406-21-FC	\$250	8/30/2021	Full	
Blackburn-Curry Funeral & Cremation, LLC	7/13/2021	278563-21-FC	\$500	8/30/2021	Full	
Dade & Broward Coaching Service, Inc	7/13/2021	277101-21-FC	\$500	8/30/2021	Full	
Rahming-Poitier Funeral Directors Corp	7/13/2021	265828-20-FC	\$25,000	20-Sep-21		In process of being sent to the OGC
Joseph Santiago	7/13/2021	185639-16-FC	\$1,300			Paid \$300
Hubbell Funeral Home	24-Jun-21	276846-21-FC	\$250	9/13/2021		In process of being sent to the OGC
Jerry Evans Funeral Home	24-Jun-21	280015-21-FC	\$250	8/30/2021	Full	
Phillips Mortuary	24-Jun-21	243521-19-FC	\$300	9/6/2021		In process of being sent to the OGC
Shane Obert Funeral Home, Inc.:	24-Jun-21	279998-21-FC	\$250	9/6/2021	Full	
Archer Funeral Home, Inc.:	24-Jun-21	278186-21-FC	\$250	8/30/2021		In process of being sent to the OGC
CL Page Mortuary d/b/a CL Page Funer	24-Jun-21	278183-21-FC	\$250	8/30/2021	Full	
Gause Funeral Home, Inc.	24-Jun-21	278141-21-FC	\$250	9/6/2021	Full	
Metro Crematory Inc.	24-Jun-21	278434-21-FC	\$250	9/6/2021		In process of being sent to the OGC
Charles Segal	24-Jun-21	229744-18-FC	\$1,500	9/8/2021	Full	
Bay Area Family Funeral Services, Inc.	24-Jun-21	277011-21-FC	\$1,750	9/6/2021	Full	
JMR Service Group, LLC	24-Jun-21	281351-21-FC	\$250	9/6/2021	Full	
Joseph Pinello	24-Jun-21	277027-21-FC	\$250	8/30/2021		In process of being sent to the OGC
Pinello Funeral Home, Inc.	24-Jun-21	277027-21-FC	\$250	8/30/2021		In process of being sent to the OGC
Nathan Woody	24-Jun-21	269812-20-FC	\$1,000	8/30/2021		In process of being sent to the OGC
Woody's Funeral Home	24-Jun-21	269814-20-FC	\$1,000	8/30/2021		In process of being sent to the OGC
Alphonso West Mortuary	24-Jun-21	278181-21-FC	\$2,000	8/30/2021	Full	
Mid-Florida Crematory	24-Jun-21	278190-21-FC	\$250	8/30/2021	Full	
Apyre National Cremation Services, Inc	6-May-21		\$500	7/12/2021	Full	
Demarien Hawk	5/6/2021	257472-20-FC	\$1,250	7/12/2021	Full	
Ivey Funeral Home	5/6/2021	257469-20-FC	\$1,750	7/12/2021	Full	
Keith Kronish	5/6/2021	268812-20-FC	\$1,000	7/12/2021	Full	
Marie Decker	5/6/2021	243582-19-FC	\$2,250	11/22/2021		
Elliot Maurice Graham	5/6/2021	265818-20-FC	\$2,000	7/12/2021		Sent to OGC
Island Bird	5/6/2021	277099-21-FC	\$250	7/12/2021	Full	
Merritt Funeral Home, Inc.	5/6/2021	277439-21-FC	\$250	7/12/2021	Full	
Capital Transport Services LLC	3/4/2021		\$1,500	6/30/2021		
Richard L. Macon Funeral Home, Inc. d/b/a Freeman Funeral Home	3-Dec-20	243147-19-FC	\$300	18-Jan-21		Sent to the OGC
Marc Brooks	1-Oct-20	255318-19-FC	\$4,000	15-Nov-20		Sent TO OGC

9-22-2021

Chair – Are there any questions on that? Any comments? Ok, I'm sorry. Go right ahead.

Ms. Simon – Yes, sir. Moving on.

20. Chairman's Report (Verbal)

Chair – Just want to thank the Board. It's just amazing to me that you always seem to come up with the right answers. There are so many choices that you have as Board members out there, but you collectively come up with the right answers, answers that make sense, answers that abide by statute and rules. So, I commend all the Board members, as you've heard me say before, but of course, I really mean it. Thank you so much.

Mr. Jensen – Thank you, Chairman.

Mr. Knopke – Thank you.

21. Office of Attorney General's Report

A. Attorney General's Rules Report (Informational)

Ms. Simon – Ms. Munson?

Ms. Munson – Thank you, Ms. Simon. I'll just note that the Rules Report, as always, is just included for informational purposes. You'll see at the previous meeting, Rule 69K-12.011 was open for development. Some language, which was presented, has been approved. You will see also in your Board packet additional discussion regarding that particular rule, and we'll move on to that in it's appropriate order.

**BOARD OF FUNERAL, CEMETERY, AND CONSUMER SERVICES RULES REPORT
OCTOBER 2021**

Rule Number	Rule Title	Date Rule Language Approved by Board	Date Sent to OFARR	Rule Development Published	Notice Published	Adopted	Effective
69K-12.011	Annual Inspection Fees for Monument Builders	09/02/2021					

B. Annual Regulatory Plan 2021-2022 (Ratification)

Ms. Munson – I'll note that also in your Board packet is the Annual Regulatory Plan. It is required to be approved by, I believe it's September 1st, and submitted to the Governor's Office. I reviewed the information. I believe I shared this at the previous Board meeting with the Chair, who was able to review the information in. It outlines any rules that may come up before the Board for rulemaking. It is not in any way dispositive. If any rules are not listed, as I've indicated before, you can still open them for rulemaking. It is set more as an annual guide. So, this information is set before the Board today for ratification. A motion is required to ratify the Annual Regulatory Plan, and with a proper vote supporting it.

MOTION: Mr. Knopke moved to ratify the Annual Regulatory Plan. Mr. Jones seconded the motion, which passed unanimously.

**Board of Funeral, Cemetery, and Consumer Services
2021-2022 Annual Regulatory Plan**

Section 1

Laws Enacted or Amended within the previous 12 months which create or modify the duties or authority of the Board.

Law	Mandatory rulemaking ? Yes/No	Is rulemaking necessary? Yes/No	Notice of Development Published? Yes/No If Yes, Citation	Expected publication date for NPRM	If rulemaking is not necessary? Explain
Sections 497.550, F.S. (Rule 69K-12.011, F.A.C.)	x	x	No	September 2021	

Section 2

Laws not listed above that the agency expects to implement by rulemaking by the following July 1.

Law	Is rulemaking intended to:	Simplify	Clarify	Increase efficiency	Improve coordination with other agencies	Reduce regulatory costs	Delete obsolete, unnecessary or redundant rules
Sections 497.453, F.S. (Rule 69K-5.0024, F.A.C.)		x	x	x			
Sections 497.141, 497.456, 497.458, 497.462, 497.464, F.S. (Rules 69K-10.001 and 10.003, F.A.C.)		x	x	x			
Sections 497.147, 497.162, 497.368, 497.369, 497.373, 497.374, 497.378, 497.379, 497.603, F.S. (Rules 69K-17.0041 and 17.0042)		x	x	x			
Sections 497.380, 497.382, 497.384, F.S. (Rules 69K-21.008 and 21.009, F.A.C.)		x	x	x			

Section 3:

Updates to 2020-21 Annual Regulatory Plan.

(120.74(1)(c), Florida Statutes)

There are no updates to the prior year's regulatory plan.

Section 4: Certification.

Pursuant to Section 120.74(1)(d), Florida Statutes, I hereby certify that I have reviewed this Annual Regulatory Plan and that the Board regularly reviews all of its rules to determine if the rules remain consistent with the Board's rulemaking authority and the laws being implemented, with the most recent comprehensive review having been completed August 1, 2021.

/s/ J.A. Brandenburg

J.A. Brandenburg, Chair

Board of Funeral, Cemetery, and Consumer Services

August 26, 2021

Date

/s/ Rachelle Munson

Rachelle Munson, Assistant Attorney General

Office of Attorney General

Board Counsel, Board of Funeral, Cemetery, and Consumer Services

August 26, 2021

Date

Chair – I want to tell you that working with Ms. Munson on this, and just the two (2) of us having the responsibility of developing the Annual Regulatory Plan and presenting it to the full Board really opened my eyes. So, thank you, Mr. Munson. Ms. Munson – As always, sir. Thank you, Chair. I will share that that Annual Regulatory Plan should be posted on your Board website for everyone to review, and the Department actually manages the maintenance of that information.

C. 69K-12.011, F.A.C. (Action)

Ms. Munson – I'm going to open this up for Ms. Simon to give preliminary information regarding 69K-12.011. There is a very comprehensive and pretty detailed memo from the assignment that's been provided to the Board really explain in summary that when we initially took the vote on 69K-12.011. We indicated that the rule change or rule amendment, the proposed rule change as it is, may not necessarily adversely impact fees. And with that information is correct in the aggregate, there seems to be some impact that may require the Department to deliver a SERC. And I believe that SERC is also included in your Board packet, but I just wanted Ms. Simon to give you any additional explanation she may want to add, regarding the SERC and the

necessity of the SERC itself. The SERC, by the way, is a document, a proposal that's actually presented by the Department, and will be submitted with the rulemaking document. I do not think I will share with you, because this will change is required by statute due to the changes in 497.550, with reference to 497.553. It should not be an impediment, but because of the monetary increase for inspection fees for the monument retailer establishments as a whole, there does appear to be some increase fees that a SERC are clearly represents and that the memo clearly articulates. Ms. Simon can feel free to give additional background at a level of understanding that the Board will better understand.

Ms. Simon – Thank you, Ms. Munson. I believe that this is pretty well laid out in the memo. Because of the change in the statutory guidelines or in the statutory mandate, monument retailer establishments are now required to pay an annual inspection fee. And as a result of that, there will be a financial impact to those licensees. Because of that, it would be appropriate for the Board, to make a motion and to vote on the finding that a SERC, a Statement of Estimated Regulatory Costs, is required.

Chair – By the way, the compact statement is Page 11, starting page 11.

MOTION: Mr. Knopke moved that a SERC is required. Mr. Hall seconded the motion, which passed unanimously.

Ms. Simon – As Mr. Knopke made a motion finding that the Statement of Estimated Regulatory Costs was required, the next motion that the Board would be appropriate to consider is approval of the Statement of Estimated Regulatory Costs (SERC) found within your Board package on Page 13 of the PDF.

MOTION: Mr. Knopke moved to approve the SERC. Mr. Hall seconded the motion, which passed unanimously.

Ms. Simon – Thank you, Board members, Ms. Munson, is that all that is needed on that issue?

Ms. Munson – It is, ma'am. Thank you.

Ms. Simon – I can't tell you how much I appreciate Ms. Munson. Her work on this project has been intense.

22. Public Comments (Verbal)

Ms. Simon – Is there any public comment to be made regarding today's agenda or public comments in general?

Mr. Bill Williams – Mr. Chairman? Bill Williams.

Chair – Mr. Williams, go right ahead.

Mr. B. Williams – Thank you, sir. I'd like to address a possible misunderstanding referencing the definition of preneed that was brought up earlier in a meeting. If you'll indulge me for just a second, Florida Statute 497.005, Definitions, sub paragraph 61 reads as follows: "A preneed contract means any arrangement or method of which the provider of funeral merchandise or services has actual knowledge, whereby any person agrees to furnish funeral merchandise or services in the future." What's important about this is to understand the definition does not make any reference to payment at all. {Inaudible} definition a licensee making prefunded prearrangements must have a preneed license or they're in violation of the law. This Board has long disciplined licensees for making prearrangements, funded or not, if they don't have a preneed license. I think Mr. Jensen is correct. There's quite a few licensees out there that's probably making unfunded prearrangements, but if they don't have a preneed license, they're doing so illegally. I know there was some discussion earlier about that, and I'd be more than happy to talk to anybody about it if they have questions.

Mr. Knopke – Mr. Chair?

Chair – Rabbi Lyons?

Rabbi Lyons – Thank you, Mr. Chair. Florida Statutes 497.002, Purpose and intent, says, "The Legislature recognizes that purchasers of preneed burial rights, funeral or burial merchandise, or funeral or burial services may suffer serious economic harm if

purchase money is not set aside for future use as intended by the purchaser and that the failure to maintain cemetery grounds properly may cause significant emotional stress. Therefore, it is necessary in the interest of the public welfare to regulate preneed sales and cemeteries in this state. However, restrictions shall be imposed only to the extent necessary to protect the public from significant or discernible harm or damage and not in a manner which will unreasonably affect the competitive market.” What then is the justification for the Department getting involved in a unfunded, potentially nonbinding, often time nonbinding agreement?

Mr. B. Williams – The whole problem, and it's really not a problem, and it's addressed very specifically in the definition preneed contract. And the definition, again, says, “*whereby any person agrees to furnish funeral merchandise or service in the future.*” And it makes no reference for whether it's funded or not. If it's funded, it's absolutely regulated. But the definition of a preneed contract basically states that you can't make a prearrangement funded or unfunded unless you have a preneed license. So, it's all in the definition of what the contract is, and so you got to look to those definitions to answer the question that you just asked under purpose and intent.

Ms. Wiener – Mr. Chair?

Rabbi Lyons – That's arguably based on the entire purpose of 497. If there's no money involved, then that's just not something that 497 is going to address. [Inaudible] you're talking about a contract, and with that money is exchanged.

Mr. B. Williams – It absolutely addresses it in the definition, and whether we agree with it or not, that's what the law says. And the law says you can't have any kind of agreement, even an unfunded prearrangement, unless you have a preneed license. Mr. Chair, I'll yield. There's quite a bit of people who would like to discuss this.

Chair – Mr. Knopke?

Mr. Knopke – Thank you, sir. Bill, well said. Rabbi, when the statute was changed, probably in '93 is when I believe this language was drafted and put into the statute, the problem that we were having in the industry was we had a lot of firms doing unfunded prearrangements and then not being in business or no money set aside for customers that had paid it. Secondly, there were families that thought that the price had been frozen, only to find out years later that the price was never frozen, and the person that even possibly made that agreement didn't exist any longer. It was tightened up by the industry, along with the CFO's office, who was then I believe was the Comptroller's Office, to protect the citizens of Florida. The industry has known about it for all these years. It's been taught in schools. It's been talked about at various Board meetings over the years, and the discipline has been pretty consistent over the years. If you make something without it, as Bill said, you're breaking the law. And people that do it to this day and say, “Well, I didn't know,” maybe they shouldn't be licensed, in my opinion, but I'll defer to others that Mr. Chairman wants to call upon.

Chair – Mr. Jensen?

Mr. Jensen – Yes, thank you, Mr. Chair. I understand what Mr. Williams is saying, and I know Ms. Wiener wanted to question in part. I still don't understand what's being questioned. The rules clearly state that there's a contract. If there's a contract that means money. If somebody wants to just make their wishes known, or write it down on a piece of paper, and say, “Hey, this [inaudible] funeral home if something happens to me [inaudible] to my kids. I mean, that's common in our industry, and it has been going on forever. I do not believe that constitutes a prearranged funeral plan. When you decide to have a contract, and accept any kind of monies for that, which is the basis of what we've pretty much discussed, then I think it falls under preplanning advanced planning, or whatever you want to call it, then that is what it is. But just the simple fact saying, “Hey, I want you XYZ Funeral Home and have XYZ casket and be buried at XYZ cemetery.” You know, those can all be changed up until the time of fulfillment. That's just like saying, you know, anything you want to say. So, I don't understand what we are talking about here, or what we're trying to decipher.

Mr. B. Williams – Mr. Chairman? May I address that?

Chair – Mr. Williams, go right ahead.

Mr. B. Williams – Mr. Jensen, it all goes back to the absolute definition of preneed, and it says, “Preneed contract means” and this is what it says, “means any arrangement or method of which the provider of funeral merchandise has actual knowledge to

furnish something in the future.” It doesn't say whether it's funded or not funded. And that's what this Board has upheld like Mr. Knopke said, since 1993, when there were problems in the industry. And that's the intent of this definition, to make sure that those things didn't happen anymore. So, whether there was money changing hands or not is not material, according to the definition that's in the statute.

Mr. Jensen – Well, two (2) words you said, one was contract and one agreeing to provide in the future. Making wishes known does not mention either one of those, so [inaudible].

Mr. B. Williams – Well, prearrangements are not defined in the statute. Preneed contract is. Preneed contract again says, “any arrangement or method.” It doesn't necessarily say anything about money changing hands. Not necessarily, it absolutely does not say anything about money changing hands. And that's why this Board and the Division, since the early 90s, like Mr. Knopke said, has always upheld this. If you don't have a preneed license, you can't make unfunded arrangements or funded arrangements.

Mr. Jensen – And I agree with you there. However, I sort of, I mean, honestly, Bill I know you and you know where I come from, and I've done a lot of preneed and I just don't see the harm in somebody saying, “Hey, I might like to do this,” but, you know, it's just like doing it. Until you have a contract, or something in writing, it really doesn't exist.

Ms. Munson – Chair, if I may interject just very, very briefly. I'm not going to go into any type of dissertation regarding what the Board may have previously done or what the Legislative intent is. What I'm hearing in this discussion, and I appreciate the discussion and public comment, is the identification of what the statute reads, subsection. 61 of 497.005. Mr. Williams absolutely read it verbatim. I do want to add, however, that if this issue ever came before a court for review, there may be a question as to a question of fact, perhaps, as to what an arrangement constitutes. We know in layman's terms that any contract would require consideration. If it was not the legislative intent that a contract can be created in the absence of consideration, that very well be the case. [Inaudible] on is the terms arrangement or method. They are not legal terms. They are lay terms, and someone may possibly have an opportunity to argue that, well, this was not any arrangement or method. So, I just wanted to through that out there, the differences in how this statute is being, to some extent, being considered. But, I just wanted to lay it out that there probably could be an opportunity for some type of appellate review, if there is a dispute of material fact, regarding whether an arrangement or method was in fact established. And I'll just leave it at that, because we really can go back and forth, I believe. I know Ms. Wiener had her hand up to add comment as well, but I just wanted to share that for the Board.

Chair – I was recognizing Ms. Wiener.

Ms. Wiener – Thank you, Mr. Chairman. It was 1995 when the statute was changed, only two (2) years after Chapter 497 brought preneed into its grasp. Mr. Knopke, at that time, was Chairman of the Board. There was a serious issue in Florida regarding not only unfunded prearrangement but insurance funded prearrangement, because prior to that time, insurance funded preneed was not regulated as preneed. It was considered prearrangement and because money did not flow to the funeral establishment, that funeral establishment often considered itself not to need a preneed license. And so, the matter was clarified. There is extensive legislative history on this topic from 1995. Listen, to Ms. Manson's point, I tell my clients all the time when they question the broadly worded definition of preneed contract, No, of course, that's not a contract. It fails the multipart test for determining whether an arrangement is a contract. We live in a regulated environment, and we have to go with the definitions that exist. While I would love to see something change there, what concerns me about this dialog today was a suggestion that arrangements without payment did not constitute preneed, and that flies in the face of the statutory definition, wrong or right, such as it is. And, in as much as this Board has, and as Bill mentioned, and as I said in an email, as Mr. Chairman directed that I do so, is I send an e-mail to the Division, this Board has many, many times, over the course of history, challenged and disciplined licensee for making unfunded prearrangements and for advertising any kind of unfunded prearrangement, preplanned inquiry, anything. In Florida, I think that the test that was established when Mr. Knopke was Chair, really was this: Does the consumer consider themselves to be off the market? If they do, then it's preneed. If they don't, then it's not. And so, I just wanted to raise this issue so that we didn't create a situation for the many licensees that listen into these meetings to think that they could go out and either advertise or engage an unfunded preneed or prearrangement and be immune from liability, disciplinary or otherwise. Thank you.

Chair – Thank you.

Ms. Schwantes – May I, Mr. Chair?

Chair – Ms. Schwantes?

Ms. Schwantes – Thank you, sir. First of all, I will, of course, always defer to Ms. Munson on whether we exceed the scope of appropriate public comments on this. However, I did want to thank industry members for coming forward to try to help clarify this issue. I know it has been questioned by some licensees, and I know there was a hypothetical question that was raised earlier, too. And I just want to reiterate for Board members individually, for any who are listening on the phone or reading the record later, if any of you, as a licensee, have a question about whether or not you are conducting something that may or may not be a violation of the advertising and/or the preneed rules, please contact us. We're happy to meet with you, to talk with you, and also to bring our General Counsel's Office in as necessary to discuss your particular situation rather than getting into some of these other issues with the Board. Thank you, Mr. Chair.

Chair – Thank you. Very good point there. Mr. Knopke?

Mr. Knopke – One quick question for Ms. Schwantes, if I may. Do you have any idea when you will be submitting the Board applicants to the CFO for consideration, when you all will finish your processing, for those who still want to get in letters of recommendation or stuff like that?

Ms. Schwantes – Oh, thank you, sir. Yes, go ahead and submit your letters of recommendation to LaTonya Bryant and we will add those to the file. They can be added, even after we have submitted the information up to the CFO's Office. We can still add, as we coordinate with the CFO's Office on this throughout the process. As to when we will actually get the information to the CFO's Office, my guess would be within the next few weeks, just because we check for conflicts and do a lot of background research, if you will, to confirm the information that has submitted.

Mr. Knopke – Thank you.

Chair – Last question. Mr. Jensen?

Mr. Jensen – Yes. Thank you, Chair. Just to clarify on the record, Ms. Wiener commented on what I was saying. I was certainly not wanting to advocate that people advertise prearranged funerals if you do not have a license. I'm certainly not for that or think that that would be appropriate at all. And I understand what was said about what actually constitutes a contract. That's another day. I just wanted to clarify that. I think everyone who advertises or solicits prearrangement should definitely have a license through the Department. My second question is for Mr. Jones. I looked at the integration of the Bodies Handled Reports and how it integrates with my funeral home software. Is there any more work going to be done on that to maybe where we can get EDRS to handle almost all, or all of it, for the Bodies Handled Reports?

Mr. Jones – That would be something that Ms. Schwantes and them would have to look at, as far as, you know, we've got certain things there. And Mary, do you want to address that, and I'll try to help?

Ms. Schwantes – Yes. If I might, Mr. Chair? Is that ok with you?

Chair – Go right ahead.

Ms. Schwantes – Thank you, sir. There are certain things we understand that EDRS cannot do. As you all know, one of the things is that a licensee who is not responsible for reporting the death record would still have to maintain the Bodies Handled Reports, the paper versions. And there are still things, even with the cinerator establishment facilities, and off the top of my head, I'm forgetting the other one. But right now, only the funeral establishments and the direct disposal establishments have the ability to use EDRS. So, there are certain circumstances where it is not possible right now for that system to be expanded for all licensees to use. So, I'm not really sure where your question was going with this. The only thing I can really think of and we would have to talk with Mr. Jones and his staff about further, would be right now for the funeral establishments and direct disposal establishments that are responsible for doing the death report and are able to use EDRS to fulfill the majority of the Bodies Handled Reports requirements, they still have to print it and sign it because EDRS does not have ability right now for electronic signatures. Correct, Mr. Jones?

Mr. Jones – We could, but it would require signature pads and others. And I was going to say to Mr. Jensen, if you've got some things you would like to see. let us know. I wanted Ms. Schwantes to kind of give you what we had to do to meet the statutes and the Division's requirements. But if you see some things you would like, give me a wish list. Mary and I can look at them and see if we can accomplish any of that.

Mr. Jensen – Fair enough. Thank you.

Mr. Williams – Mr. Chair?

Mr. Jones – Mr. Brandenburg? I had one other quick update when I may.

Chair – Mr. Williams, go right ahead.

Mr. Williams – Thank you so much, Mr. Chair. I would like to thank the Division, as well as my fellow Board members, for your thoughts and prayers during the recent transition of my mother, I just wanted to publicly let everyone know your thoughts and prayers were well received and we're doing the best we can. I just wanted to publicly thank each one of you for everything you have done by way of calls, text, or whatever you have done to show your appreciation and love for my family, through me. Thank you.

Chair – Certainly thinking of you. Mr. Jones?

Mr. Jones – One last thing. We have been asked by the industry to look at how we could help funeral directors with amendments. We did a pilot for a while. That pilot was successful. So, the latter part of September, we sent e-mails out to the funeral industry, where statewide funeral directors and funeral homes can do certain amendments. So, I just wanted to report that's going well. If there's any questions on that, please reach out to me or my Helpdesk, but that is statewide now, as long as the amendments are done within five (5) days, and those certified copies have been issued. So, hopefully that has been helpful during these times and I just wanted to report that it is now productional statewide.

Chair – That was a major, Mr. Jones. Thank you.

23. Administrative Report

24. Disciplinary Report

The information for both reports was provided on the Agenda.

25. Upcoming Meeting(s)

A. November 4th (Videoconference)

B. December 2nd (Videoconference)

26. Adjournment

Chair – I just want to thank everybody. I appreciate your participation and be safe out there. See you next trip.

The meeting was adjourned at 12:36.