

MINUTES
BOARD OF FUNERAL, CEMETERY AND CONSUMER SERVICES
VIDEOCONFERENCE MEETING
April 1, 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. Today is April 1, 2021. Ms. Simon, would you make your preliminary remarks and accomplish the roll call, please?

Ms. Ellen Simon – Yes, Mr. Chairman. Good morning. My name is Ellen Simon. I am the Assistant Director of the Division of Funeral, Cemetery, and Consumer Services. 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 attending from the locations in which they are telecommuting. Ms. LaTonya Bryant is recording the meeting and minutes will be prepared.

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

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

Also noted as present:

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

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

Chair – Thank you.

2. Action on Minutes

A. March 4, 2021

Chair – Board members?

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

3. Old Business

A. Conditions of Licensure

(1) James C. Boyd Funeral Home Winter Haven Inc. (Winter Haven)

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

Anthony Mathews – Yes, ma'am. Good morning.

Ms. Simon – Good morning. Board members, during the March 4, 2021 Board meeting, the Board approved the application for funeral establishment licensure based upon a change of ownership submitted by James C Boyd Funeral Home Winter Haven Inc. However, the conditions placed upon the licensee were unclear. As a result, the Division is bringing this matter before the Board again, and as result of the item being unclear, the Division recommends that the Board motion to rescind the previous Order so we could hear this case again today.

MOTION: Mr. Keenan Knopke moved to rescind the previous Order. Mr. Williams seconded the motion, which passed unanimously.

Chair – Thank you. Ms. Simon?

Mr. Andrew Clark – Mr. Chairman?

Chair – Go right ahead.

Mr. Clark – I just wanted to state for the record that I do have an affiliation with Steele Family Funeral Services, which will be providing refrigeration and cremation support to this entity, but that affiliation will not prevent me from rendering a fair and impartial decision.

Chair – Thank you, Mr. Clark.

Mr. Clark – Thank you, sir.

Chair – Ms. Simon?

Ms. Simon – Yes, sir. The Division recommend approval of the application subject to the conditions found in your Board package. And, if I may have the representative of James C Boyd Funeral Home, raise his right hand to be sworn in. Do you swear to tell the truth, the whole truth, and nothing but the truth, so help you God?

Mr. Mathews – I do.

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

Mr. Mathews – Anthony Mathews, M A T H E W S.

Ms. Simon – Thank you, sir.

Chair – I believe the clarification that was needed on the motion was something that I had suggested, which was that this funeral establishment honor all preneeds that were written, and in the future honor all of those prearrangements. And, Mr. Knopke, I believe you made the motion and merely said, “with Mr. Brandenburg’s statements”, so, would you care to make the motion and then verbalize what I said?

Mr. Knopke – I’ll make the motion again. The motion should have said that I make a motion to approve, as long as the purchaser of Boyd Funeral Home acknowledges that they will honor the preneeds written by prior owners that are valid, the valid preneed that were written prior to their ownership.

Chair – In addition to the Division’s recommendations?

Mr. Knopke – Yes. The other conditions that the Division placed on it.

Mr. Jones – I’ll second Jones.

Chair – Mr. Mathews is on the line. Mr. Mathews, were you here to answer any questions, or did you want to address the Board?

Mr. Mathews – I would like to address the Board.

Chair – Please feel free to do that now.

Mr. Mathews – Thank you, sir. The previous owner never had a preneed license, so there was never any preneed sold. There’s no known preneed out there, from the previous owner that she knows of. But, if a preneed should ever arise from that prior business, yes, we will honor it.

Chair – Thank you.

Mr. Mathews – Thank you.

Chair – So, there’s been a motion made and it’s been seconded. Ms. Munson, are we on the clear with everything, or do we need any other discussion?

Ms. Rachelle Munson – I think we are clear. I’m just curious though. The statement that Mr. Mathews made indicating that the previous owner did not have a preneed license. I hate to put a condition in there if such a condition does not have a need behind it. Do we know that there are or is this just supposition? I just wasn’t clear about placing a condition that may not exist.

Chair – Mr. Matthew said that there was no known preneed. I think the Board’s concern is that there may have been preneed written that he doesn’t know about that will need to be honored in this change of ownership.

Ms. Munson – If they were valid. So, if the individual did not have a license, they could not have been valid. I just wanted to make sure I understood what we were saying with that.

Chair – I’m sorry?

Ms. Munson – I have no additional comment. Thank you.

Chair – There’s been a motion and a second and all those in favor, aye?

Board members – Aye.

Chair – Any opposed? The motion carries. Thank you, Mr. Mathews for coming on with us.

Mr. Mathews – Yes, sir. Thank you all.

B. Request to Lift Probation

(1) Duvigneaud, Fritz: DFS Case No. 150332-14-FC; Division No. ATN-21439 (F023251)

Ms. Simon – On January 11, 2016, a Consent Order was issued, which placed the licensee on probation for two (2) years. The Order provided that, prior to the lifting of probation, the Respondent must attend an in-person meeting of the Board, and demonstrate compliance with the Order and demonstrate by testimony, presentation of letters of recommendation from friends or associates in the industry, and other indicia of rehabilitation, that he is able to resume practicing with reasonable care and safety, and in compliance with the laws of the State of Florida and rules of the Board. And, while the original Consent Order only placed the licensee on probation for two (2) years, the next Consent Order that was issued extended that period of probation for another two (2) years. Both Orders are in your Board package. The letters of recommendation are also included in the Board package. And I believe that the licensee's attorney is on the call. Ms. Daughton?

Maureen Daughton – Yes, that's correct. This is Maureen Daughton representing Mr. Duvigneaud, and I believe my client is also on the line.

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

Ms. Daughton – Mr. Chair, thank you. Good morning. I would like to make just a very brief presentation, and my client is certainly here to answer questions as well.

Chair – Thank you. Would you make your presentation?

Ms. Daughton – Yes. Thank you. Again, my name is Maureen Daughton, representing Mr. Fritz Duvigneaud. Mr. Duvigneaud was placed on probation in January 2016. And, as Ms. Simon has already indicated, a condition of that probation was that he come back in front of the Board. We have submitted five (5) letters from people in which Mr. Duvigneaud has a relationship in the industry, as well as members of the community who speak to his efforts to assist those in his community at their time of need. We are asking that the probation be lifted, if that is the consensus of the Board. And, as I stated, Mr. Duvigneaud is on the line and available to answer any questions that this Board may have. Thank you, Mr. Chair.

Chair – Board Members?

Mr. Lew Hall – Mr. Chair?

Mr. Knopke – Mr. Chair? I'll yield to Mr. Hall.

Chair – Mr. Hall, go right ahead.

Mr. Hall – Just a question for the Division. Do you know when their last physical inspection was, Ms. Simon? We had some issues, we had some photographs. Do you when we did the last physical inspection of the facility?

Ms. Simon – I'm not sure, but I will try to look it up while we're on the phone.

Mr. Hall – Ok, thank you.

Mr. Knopke – Mr. Chair? Mr. Knopke.

Chair – Go ahead, Mr. Knopke.

Mr. Knopke – Question for Ms. Simon or Ms. Schwantes. Has the fine been paid? The \$2500?

Ms. Simon – Both, the fine of \$1500 and the fine of \$2500 have been paid.

Mr. Knopke – Ok, next question. Have both probations been served or completed, as far as the time involved?

Ms. Simon – The time involved has been completed. Yes, sir.

Mr. Knopke – Ok.

MOTION: Mr. Knopke moved to lift the probation, subject to the most recent inspection of the facility meeting the standards of the Department. Mr. Williams seconded the motion, which passed unanimously.

Chair – Thank you, Ms. Daughton. Thank you, Mr. Duvigneaud. Good luck to you.

Ms. Daughton – Thank you very much.

Mr. Fritz Duvigneaud – Thank you, Board.

4. **Disciplinary Proceeding(s)**

A. Motion for Board to Enter an Order Dismissing Petition without Prejudice

(1) Marion Graham Mortuary; DFS Case No. 265816-20-FC; Division No. ATN-34877 (F040391)

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

Mr. Marshawn Griffin – Marshawn Griffin for the Department. Before we begin, is a representative from Marion Graham here? Is Dr. Elliot Graham here?

Dr. Graham – Yes, I'm sorry.

Mr. Griffin – Marshawn Griffin for the Department. The above-referenced matter is presented to the Board for consideration of the Department's Motion for Board to Enter an Order Dismissing Petition without Prejudice (Motion) in the matter of Marion Graham Mortuary (Respondent). On August 18, 2020, the Department filed an Administrative Complaint against Respondent. On September 11, 2020, Respondent timely submitted an Election of Proceeding requesting an administrative hearing pursuant to section 120.57(1), Florida Statutes. The Department asserts that although Respondent has requested a hearing pursuant to section 120.57(1), Florida Statutes, Respondent's request failed to abide by the requirements of section 120.569(2)(c), Florida Statutes, and Rule 28-106.2015(5), Florida Administrative Code. The Department's Motion requests that this Board determine that Respondent's petition for hearing has failed to comply with the requirements of section 120.569(2)(c), Florida Statutes, and Rule 28-106.2015, Florida Administrative Code. The Department requests that this Board enter an Order dismissing Respondent's petition and providing Respondent with an additional twenty-one (21) days in which to respond to the Administrative Complaint.

Chair – Dr. Graham, do you wish to address the Board, or are you merely here to answer questions?

Dr. Graham – {inaudible}

Chair – I'm sorry, I didn't understand you.

Dr. Graham – Not for the dismissal.

Chair – Thank you. Board, what's your pleasure?

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

Chair – Please go right ahead, Mr. Helm.

Mr. Helm – Mr. Griffin, I want to make sure I understand this. We're dismissing one and giving him an additional twenty-one (21) days? Is that correct?

Mr. Griffin – Yes.

MOTION: Mr. Helm moved to enter an Order to dismiss Respondent’s petition and provide Respondent with an additional twenty-one (21) days in which to respond to the Administrative Complaint. Mr. Jones seconded the motion, which passed unanimously.

Chair – Thank you, Dr. Graham, for being on the call.

B. Settlement Stipulations (Probable Cause Panel A)

(1) Related Cases – ATN-30799

(a) Ray Williams Funeral Home: DFS Case No. 230489-18-FC; Division No. ATN-30799 (F041189)

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

Mr. James Bossart – Thank you.

Mr. Knopke – Mr. Chairman?

Chair – Mr. Knopke, go right ahead.

Mr. Knopke – Let me recuse myself on 4. B. (1) and (2), as I was on the Probable Cause Panel A.

Chair – Thank you so much.

Mr. Bossart – May I proceed, Mr. Chairman?

Chair – Please go right ahead, Mr. Bossart.

Mr. Bossart – Thank you. Good morning to the Board. This is James Bossart for the Office of the General Counsel. Ray Williams Funeral Home, Inc. (Respondent), is a Florida corporation doing business licensed under Chapter 497, Florida Statutes, as a funeral establishment, license number F041189, in Tampa, Florida. The Department conducted an investigation of Respondent and found that Respondent sold three (3) preneed funeral contracts without benefit of licensure. However, subsequent investigation, after the filing of the Administrative Complaint, revealed that an unlicensed individual, Early Mae Hicks, falsely representing herself to be authorized to act on behalf of the funeral establishment, and actually sold the preneed policy, and that the funeral establishment neither had knowledge of nor consented to the sale.

Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides as follows: Respondent agrees to execute an affidavit attesting to the fact that the funeral establishment neither had knowledge nor gave consent to Early Mae Hicks to solicit preneed funeral contracts on behalf of Respondent, nor did Respondent make any representation whatsoever to any potential purchaser that Early Mae Hicks was authorized to represent the Respondent. A copy of the affidavit is attached to the stipulation hereto as an exhibit. The Department acknowledges that Respondent has complied with this provision. Respondent also agrees to voluntarily testify (if necessary) at any future administrative proceeding that may be filed against Early Mae Hicks concerning the facts attested to in the aforementioned affidavit. In return, the Department agrees to dismiss the Administrative Complaint filed in this action, Case No. 230489-18-FC, with prejudice. The Department requests that the Board accept this Settlement Stipulation.

Chair – Thank you.

Mr. Hall – Mr. Chair?

Chair – Yes? Go right ahead.

Mr. Hall – Just a comment. In looking at the packet on this case, this individually, this agent wrote these as if they were final expense policies. So, they would not have had to have a preneed license anyway. On the applications they are checked off.

There's no pricing for professional fees, the merchandise or anything that is required on the preneed. They even wrote down in the special note that it was a final expense policy. So, those could have been written by an agent out in the field. That's just like an ordinary life policy, and the funeral home may not have known anything about it. So, it wasn't written as a preneed contract. It was written as a final expense policy.

Chair – Thank you for that clarification.

Mr. Hall – If he could comment on that.

Chair – Yes.

Mr. Williams – Mr. Chair?

Chair – Go right ahead.

Mr. Williams – I have a question, maybe for Ms. Wiener. Is Ms. Early Mae Hicks employed or have any type of employment with the firm? Or, maybe you can help me, as I was trying to look through. What's the connection between the firm and Ms. Hicks, because I'm sure there has to be some type of connection?

Ms. Wendy Wiener – She was an insurance agent in the area, and you'll have this case, and the case behind it, and then on next month's agenda you will also have some other cases. She apparently gathered up some information from funeral homes around the area. They did not authorize her to sell preneed on their behalf. I think she thought she was validly selling final expense policies, as Mr. Hall just noted, and given his insurance history and background, he certainly understands the nuances here. For as long as I can remember, there has been a confusion around the selling of final expense and the selling of preneed that is funded by an insurance policy. I believe Ms. Hicks didn't realize that she was actually violating the law, but she did write up forms that had the funeral homes names on them. And, so that's where when the Division came in and did an inspection, it appeared that these firms were writing preneed. But, as it turns out, it was simply this agent who was out in the field, thinking she was selling a final expense policy. Probably thinking she was doing it the right way. Given her history, I can't imagine she would have been going around violating the law in this fashion, consistently as she did. But, she was telling people in the community that they could use their policies at the funeral home of their choice. And if they said, oh, I like this funeral home, then she was writing it up using that funeral home's name. So, you will see this again. It's going to come before you again in May, as I said.

Mr. Williams – Great. Thank you. Mr. Chair, a follow up, please?

Chair – Please go right ahead, Mr. Williams.

Mr. Williams – So, maybe this question is for Ms. Simon. Ms. Simon, is the Division looking into this individual to see what we can do, because it seems like this person is making this type of situation for firms and it's going to continue to come up? So, what are we doing, I guess, as a Division to try to assist firms so that they're not in this type of situation in the future?

Mr. Griffin – If I may?

Chair – Ms. Simon?

Ms. Simon – Actually, if I could let Mr. Griffin answer this question.

Chair – I'm sorry. Go right ahead, Mr. Griffin?

Mr. Griffin – So, Ms. Hicks is currently licensed under Chapter 626, Florida Statutes. So, we're reaching out to the Division, which is regulated by the Division of Insurance Agent and Agency Services. So, as it stands right now, this Board, what we could do is essentially try and offer or issue in Order of Intent to Cease and Desist for unlicensed practice. We may run into a potential issue based on the fact that there isn't much conduct to cease anymore, because we have no evidence that she is still writing these contracts. So, what OGC is going to do is reach out to the Bureau of Investigations and see whether or not, or if

we can work on doing a resolution on their side of things. If we can't resolve it there, then we'll have to look at some other options. But, because these Chapter 626 licensees have the reciprocal administrative action statutes, such that action taken against the administrative action or license, you know, in one context affects the other. So, this is going to have to basically require some of their investigations and OGC is working on trying to set up a meeting so that we can discuss this.

Chair – Thank you, Mr. Griffin.

Ms. Wiener – And, Mr. Chairman, can I add something to that, if you don't mind?

Chair – Ms. Wiener, go right ahead.

Ms. Wiener – Thank you. You'll note in the Administrative Complaint that it's been nearly ten (10) years since this matter occurred. I do think that the insurers have gotten a lot savvier about the distinction between the way that final expense must be sold without reference to any funeral home whatsoever. I personally have been engaged to train insurance agents by the insurance companies that I represent. We've issued directives out to their field staff. The way it's supposed to be done is, you say, "Oh, Ms. Smith, you live in Tampa. In Tampa the average cost of a funeral is \$7000 a year. That's how much insurance you need." They buy a final expense policy for that amount, and that's how it works. But, that was not always the understanding of the field. There was a lot of overlap and misunderstanding, and so I suspect that's what happened here, but it has been a number of years since these matters occurred.

Chair – Thank you, Ms. Wiener.

Mr. Hall – Mr. Chair?

Chair – Go right ahead, Mr. Hall.

Mr. Hall – I think the Division did a good job in the way that they handled this. But it's going back to what Mr. Williams asked. Anybody can continue to write final expense contracts out there. And as long as they do two (2) things on this like she did, check off the things that apply to attract and just give a total, and not itemize them like we do on a preneed contract, it will qualify as final expense. The other thing that they can't do, which she did, is under the beneficiary section there, you cannot list a funeral home name there. The only thing she did wrong on one of them is she took the insured, Mr. Graham, and made him the beneficiary. It would be hard to collect that one. He's insured and the beneficiary. So, other than that, as long as she doesn't come in and list the funeral home as the beneficiary, and she doesn't do the itemization like we do on preneed, anybody can continue to write them. You're going to have agents out there doing it, and just say call XYZ Funeral Home in the area. It's just like a regular life contract. I think the Division did a good job in the way they handled it.

Chair – Thank you, Mr. Hall. Is there a motion to accept the Settlement Stipulation?

MOTION: Mr. Hall moved to accept the Settlement Stipulation, which provides that the Administrative Complaint filed in this action, Case No. 230489-18-FC, be dismissed with prejudice in return for the Respondent's testimony (if necessary) at any future administrative proceeding that may be filed against Early Mae Hicks. Mr. Williams seconded the motion, which passed unanimously.

Chair – Thank you, Ms. Wiener.

Ms. Wiener – Thank you.

(b) Rhodes, Jeffrey: DFS Case No. 230490-18-FC; Division No. ATN-30799 (F041189)

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

Mr. Bossart – Thank you. This is James Bossart for the Office of the General Counsel. Jeffrey Rhodes (Respondent) is licensed, under Chapter 497, Florida Statutes, license number F044240, as a funeral director and embalmer and is an owner and the licensed funeral director in charge (FDIC) of Ray Williams Funeral Home, Inc. (funeral establishment), a funeral

establishment, licensed under Chapter 497, license number F041189, and doing business in Tampa, Florida. The Department conducted an investigation of the funeral establishment and found that the funeral establishment sold three (3) preneed funeral contracts without benefit of licensure. However, subsequent investigation, after the filing of the Administrative Complaint, revealed that an unlicensed individual, Early Mae Hicks, falsely representing herself to be authorized to act on behalf of the funeral establishment actually sold the preneed policy and that the funeral establishment neither had knowledge of nor consented to the sale.

Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides as follows: Respondent agrees to execute an affidavit attesting to the fact that the funeral establishment neither had knowledge nor gave consent to Early Mae Hicks to solicit preneed funeral contracts on behalf of Respondent, nor did Respondent make any representation whatsoever to any potential purchaser that Early Mae Hicks was authorized to represent the Respondent. A copy of the affidavit is attached to the stipulation hereto as an exhibit. The Department acknowledges that Respondent has complied with this provision. Respondent also agrees to voluntarily testify (if necessary) at any future administrative proceeding that may be filed against Early Mae Hicks concerning the facts attested to in the aforementioned affidavit. In return, the Department agrees to dismiss the Administrative Complaint filed in this action, Case No. 230490-18-FC, with prejudice. The Department requests that the Board accept this Settlement Stipulation.

MOTION: Mr. Helm moved to accept the Settlement Stipulation, which provides that the Administrative Complaint filed in this action, Case No. 230490-18-FC, be dismissed with prejudice in return for the Respondent's testimony (if necessary) at any future administrative proceeding that may be filed against Early Mae Hicks. Mr. Hall seconded the motion, which passed unanimously.

Ms. Munson – This is Ms. Munson. I noticed that the attorney is present, and also for the prior. I'd just like to know if the Respondent is present, for my personal recordkeeping.

Ms. Wiener – The Respondent is not present.

Ms. Munson – Thank you.

Chair – Ms. Wiener, do you want to address the Board on that?

Ms. Wiener – No, sir.

Chair – Thank you.

Ms. Wiener – Thank you.

Chair – Thank you, Ms. Munson.

(2) Related Cases – ATN-32723

(a) Roy Mizell and Kurtz Funeral Home, Inc.: DFS Case No. 258536-20-FC; Division No. ATN-32723 (F04029)

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

Mr. Griffin – Marshawn Griffin for the Department. Roy Mizell and Kurtz Funeral Home ("Respondent"), is a funeral establishment, license number F040429. The Department conducted an investigation of Respondent and found that Respondent demonstrated negligence or incompetency in the practice of activities regulated under Chapter 497, Florida Statutes. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides as follows: Respondent will pay a \$3,000 fine and its license will be placed on probation for one (1) year. The Department requests that the Board accept this Settlement Stipulation.

Chair – Thank you. I see that Ms. Wiener is of counsel. Did you want to address the Board, or you're merely going to answer questions?

Ms. Wiener – Just to answer your questions, sir.

Chair – Thank you. Board?

MOTION: Mr. Hall moved to accept the Settlement Stipulation, which provides that the Respondent shall pay a \$3,000 fine and its license will be placed on probation for one (1) year. Mr. Clark seconded the motion, which passed unanimously.

(b) Kurtz, Richard A.: DFS Case No. 258539-20-FC; Division No. ATN-32723 (F046309)

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

Mr. Griffin – Marshawn Griffin for the Department. Richard A. Kurtz (“Respondent”) is funeral director and embalmer, licensed under Chapter 497, Florida Statutes. Respondent is the funeral director in charge (“FDIC”) of Roy Mizell and Kurtz Funeral Home (“Mizell and Kurtz”), a funeral establishment, license number F040429. The Department conducted an investigation of Mizell and Kurtz and found that Mizell and Kurtz demonstrated negligence or incompetency in the practice of activities regulated under Chapter 497, Florida Statutes. Respondent as FDIC of Mizell and Kurtz is subject to discipline based on Mizell and Kurtz’s violation of Chapter 497, Florida Statutes. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides as follows: Respondent will pay a \$3,000 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, Mr. Griffin. Ms. Wiener, again. Do you want to address the Board, or are you merely here to answer question?

Ms. Wiener – Just to answer questions, sir, but Ms. Munson may ask, Mr. Kurtz was trying to dial in. He didn't have access to video. He may or may not have been able to do so, but anyway, otherwise, I'm just here to answer questions.

Chair – Thank you. Board?

MOTION: Mr. Hall moved to accept the Settlement Stipulation, which provides that the Respondent shall pay a \$3,000 fine and his license will be placed on probation for one (1) year. Mr. Helm seconded the motion, which passed unanimously.

Ms. Wiener – Thank you.

Chair – Thank you, Ms. Wiener.

C. Settlement Stipulations (Waiver of Probable Cause)

(1) Related Cases – ATN-30800 (No Board Member Recusal Necessary)

(a) Alex 2002 LLC d/b/a Carnegie & Dallas Funeral Services: DFS Case No. 230287-18-FC; Division No. ATN-30800 (F059665)

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

Mr. Bossart – Thank you. This is James Bossart for the Office of the General Counsel. Alex 2002 LLC d/b/a Carnegie & Dallas Funeral Services (“Respondent”) is a funeral establishment, licensed under Chapter 497, Florida Statutes, license number F059665. The Department conducted an investigation of Respondent and found that Respondent sold preneed funeral contracts without benefit of licensure. However, subsequent investigation, after the filing of the Administrative Complaint, revealed that an unlicensed individual, Early Mae Hicks, falsely representing herself to be authorized to act on behalf of the funeral establishment actually sold the preneed policy and that the funeral establishment neither had knowledge of nor consented to the sale.

Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides as follows: Respondent agrees to execute an affidavit attesting to the fact that the funeral establishment neither had knowledge nor gave consent to Early Mae Hicks to solicit preneed funeral contracts on behalf of Respondent, nor did Respondent make any representation whatsoever to any potential purchaser that Early Mae Hicks was authorized to represent the Respondent. A copy of the

affidavit is attached to the stipulation hereto as an exhibit. The Department acknowledges that Respondent has complied with this provision. Respondent also agrees to voluntarily testify (if necessary) at any future administrative proceeding that may be filed against Early Mae Hicks concerning the facts attested to in the aforementioned affidavit. In return, the Department agrees to dismiss the Administrative Complaint filed in this action, Case No. 230287-18-FC, with prejudice. The Department requests that the Board accept this Settlement Stipulation. Thank you.

Chair – Thank you, Mr. Bossart. I see that counsel for Respondent is Robert Saylor? Is Mr. Saylor online with the meeting? Mr. Saylor? Hearing no answer. Board?

Mr. Hall – May I ask a question of Mr. Bossart?

Chair – Go right ahead, Mr. Hall.

Mr. Hall – Mr. Bossart, I agree with this. It's very similar to the other case. I agree they may not have known about the lady offering contracts on their behalf. Again, if she was selling it on the final expense, you wouldn't have to be a licensed preneed person. On their pricelist, if you look at their website, this firm does have advertised that they do prearrangement. Other than that, I would say it's identical to the other one, but the website states that they offer preneed arrangements. Did the Division or did you see that at all?

Mr. Bossart – Yes, sir. I understand that {inaudible}. However, in the interest of settlement, it was deemed necessary to dismiss the entire complaint, but point out that the first count of the complaint is untenable. And if we were to try to proceed on, that we couldn't proceed on it, but we dismissed it {inaudible} be opening up the Division to attorney's fees. So, in the interest of settlement and to get their cooperation in the case against Early Mae Hicks, we looked the other way on the advertising, or I hope.

Chair – As a follow up then to Mr. Hall's question, Mr. Hall if I may?

Mr. Hall – Yes.

Chair – So, this Settlement Stipulation does not preclude the pursuit of an investigation for offering to sell preneed on their website. Is that correct?

Mr. Bossart – If it's a new investigation, no, I don't think so. If they're doing it there presently, certainly not.

Chair – Thank you. Thank you, Mr. Hall.

Mr. Knopke – Mr. Chair?

Chair – Mr. Knopke?

Mr. Knopke – Do we know if they're licensed to sell preneed right now?

Mr. Bossart – I would defer that to Ms. Simon. I don't believe they are. It may have changed.

Ms. Simon – They are not.

Chair – Thank you, Mr. Knopke. Thank you, Mr. Bossart. Ms. Simon? Is there a motion?

MOTION: Mr. Knopke moved to accept the Settlement Stipulation, which provides that the Administrative Complaint filed in this action, Case No. 230287-18-FC, be dismissed with prejudice in return for the Respondent's testimony (if necessary) at any future administrative proceeding that may be filed against Early Mae Hicks. Mr. Clark seconded the motion, which passed unanimously.

(b) Dallas, Theodore: DFS Case No. 230292-18-FC; Division No. ATN-30800 (F045327)

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

Mr. Bossart – Thank you. This is James Bossart for the Office of the General Counsel. Theodore Dallas (Respondent), at all times relevant, was a funeral director and embalmer licensed under Chapter 497, license number F045327. Respondent, at all times relevant, was the owner and funeral director in charge (FDIC) of Alex 2002 LLC d/b/a Carnegie & Dallas Funeral Services (funeral establishment), a Florida limited partnership doing business licensed under Chapter 497, Florida Statutes, as a funeral establishment, license number F059665, in Clearwater, Florida. The Department conducted an investigation of Respondent and found that the funeral establishment sold preneed funeral contracts without benefit of licensure. However, subsequent investigation, after the filing of the Administrative Complaint, revealed that an unlicensed individual, Early Mae Hicks, falsely representing herself to be authorized to act on behalf of the funeral establishment actually sold the preneed policy and that the funeral establishment neither had knowledge of nor consented to the sale.

Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides as follows: Respondent agrees to execute an affidavit attesting to the fact that the funeral establishment neither had knowledge nor gave consent to Early Mae Hicks to solicit preneed funeral contracts on behalf of Respondent, nor did Respondent make any representation whatsoever to any potential purchaser that Early Mae Hicks was authorized to represent the Respondent. A copy of the affidavit is attached to the stipulation hereto as an exhibit. The Department acknowledges that Respondent has complied with this provision. Respondent also agrees to voluntarily testify (if necessary) at any future administrative proceeding that may be filed against Early Mae Hicks concerning the facts attested to in the aforementioned affidavit. In return, the Department agrees to dismiss the Administrative Complaint filed in this action, Case No. 230287-18-FC, with prejudice. The Department requests that the Board accept this Settlement Stipulation. Thank you.

Chair – Thank you, Mr. Bossart. Is Robert Saylor, counsel for the Respondent, on the call? Robert Saylor? Hearing no response. Board?

MOTION: Mr. Helm moved to accept the Settlement Stipulation, which provides that the Administrative Complaint filed in this action, Case No. 230287-18-FC, be dismissed with prejudice in return for the Respondent’s testimony (if necessary) at any future administrative proceeding that may be filed against Early Mae Hicks. Mr. Knopke seconded the motion, which passed unanimously.

D. Material Facts Not Disputed (Section 120.57(2) Hearings) (Probable Cause Panel A)
(1) Marion Graham Mortuary; DFS Case No. 243643-19-FC; Division No. ATN: 32444 (F040391)

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

Mr. Knopke – Mr. Chairman?

Chair – Go right ahead, Mr. Knopke.

Mr. Knopke – I’m on Probable Cause Panel A, and I should have recused myself on this one earlier, so I’m recusing myself on 4. D. (1).

Chair – Thank you for that disclosure.

Ms. Simon – Mr. Griffin?

Mr. Griffin – Sorry about that. I was muted and had the mic off. Marshawn Griffin for the Department. The above-referenced matter is presented to the Board for consideration of the Motion for Determination of Waiver and for Final Order by Hearing Not Involving Disputed Issues of Material Fact (Motion) in the matter of Marion Graham Mortuary (Respondent). The Division alleges Respondent engaged in the following: Respondent engaged in activities regulated under Chapter 497, Florida Statutes with and expired license; Respondent failed to store human remains with dignity and respect; and Respondent failed to timely notify the Department about a change in ownership. Respondent filed a timely petition for formal administrative hearing. The matter was referred to the Division of Administrative Hearings (DOAH), in Case Number 20-1382. On April 8, 2020, DOAH in Case Number 20-1382, issued an Order Relinquishing Jurisdiction and Closing File, relinquishing jurisdiction

back to the Department and referring this matter for a hearing pursuant to section 120.57(2), Florida Statutes. The Motion requests the Board adopt the factual allegations in the Administrative Complaint and issue an appropriate penalty.

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

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

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

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

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

Mr. Griffin – And I believe a representative from Marion Graham is here. The Department also offers into evidence the investigative report with exhibits, a copy of which has previously been furnished to the Board to establish its prima facie case for the violations as alleged in the Administrative Complaint.

Chair – What was the last part, Mr. Griffin?

Mr. Griffin – The Department enters into evidence, essentially the investigative report, as to establish a prima facie case for the violations as alleged in the Administrative Complaint. The Department recommends the following penalty in this case: Respondent shall pay a fine of \$2,300, and one (1) year of probation. And the rationale behind it is that it's a \$300 fine for Count One, the failure to timely renew the application. This is consistent with the manner in which we resolved all of the failure to renew cases from the 2018 renewal cycle. As to Count Two, a \$1,000 fine and one-year probation. This case, although the Administrative Complaint was filed in 2019, and the body was discovered in 2019, the facts as alleged by the Department state that the licensee received the body in 2014. So, because we have a situation where you have an ongoing course of conduct that violates statutes that covers two (2) different disciplinary guidelines, and because our statutes are fickle in nature, there is case law that says that if you have two (2) different disciplinary guidelines that apply, you have to give the licensee the benefit of the least restrictive one, which is why we're asking for a \$1000 fine and one-year probation as to that count. And then as to Count Three, we're asking for a \$1000 fine for a violation of 497.152(1), F.S.

Chair – Thank you, Mr. Griffin. I see that Dr. Graham is on the call. Dr. Graham, would you want to address the Board, or are you merely here to answer questions, sir?

Dr. Graham – Yes. {inaudible}. We are still going through probate. My father passed in February of 2018.

Ms. Simon – I'm sorry, sir. If I can interrupt? I don't remember whether Dr. Graham was sworn in, in the last case. Mr. Chairman?

Chair – Please swear in Dr. Graham. And Dr. Graham, we're having trouble hearing you. Maybe you're too close to the microphone, but at least I'm having difficulty. So, go right ahead, Ms. Simon.

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

Dr. Graham – Yes.

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

Dr. Graham – Elliot Graham, G R A H A M.

Chair – Thank you, Mr. Graham. Go right ahead. You were addressing the Board.

Dr. Graham – In the Count about changing ownership, we have not changed ownership {inaudible}. My father passed in February 2018, and then my mother passed the following year. So, we're still going through all of that, so their estate are still the owners of a funeral home. So, that is why we are asking if you could wait on that violation, because {inaudible}, because we're still going through that with the probate, with the court system. That's what we're going through. On the second case, with several {inaudible}. That is from the {inaudible}. They had given that little baby to us, and we reached out several times to them, of course, you know, after a while, we total lost connection with them. So, that is what happened on that second one for that. Of course, you know, when I reached out to the State to ask them what could we do, of course, they told me what to do with the little baby. So, of course, you know, we have done that part of it. {Inaudible} with these cases.

Chair – Thank you, Dr. Graham. Mr. Griffin, on the change of ownership, do you have any comment on that?

Mr. Griffin – Well, if you take the facts as alleged by Mr. Graham, there was at least a one-year delay between the death of the...Marion Graham is the listed owner. So, if we take his argument, as he stated, that they didn't change it after the death in 2018, or at least notify the Department that there was an issue with it. And additionally, unfortunately, due to the fact that the Respondent has waived their right to a formal hearing in this matter. They waived the right to dispute facts. They had their chance to dispute facts at DOAH. When DOAH asked them to respond to the Order for a more definite statement, they did not respond, So, we are not dealing with it now, but I will defer to the Board's judgement as to the appropriate penalty in this case.

Chair – Thank you. There's been a recommended penalty of \$2300 and one (1) year of probation.

Mr. Williams – Mr. Chair?

Chair – Go right ahead.

Mr. Williams – I have a couple of questions. May I?

Chair – Mr. Williams, go right ahead.

Mr. Williams – My questions are, I guess, for Mr. Graham. On page 108, it shows the photo of the situation we're talking about with the remains of the baby. So, I'm bothered because we're talking about five (5) years and it's almost like a slap on the wrist that counsel is given us, in terms of no type of resolution with this baby, which died in 2014, and now we're talking about in 2019, the inspection was done. So, that's like a five-year timeframe, but nothing was done. And it's like we're not even assessing anything to this firm. I'll let counsel respond to that, then I have a couple more follow-up questions after that. Mr. Griffin?

Dr. Graham – If I can? With my father passing. I didn't know of that, so I reached out to ask the State what should I do, what are my options. That is what I did, and this is how this all came about when my dad passed away, with the administration before us. That's the only thing I can say. This was not my doing. This was something I saw when I became Funeral Director in Charge, and I asked what I could be done with this baby. I was given the options and I followed through with {inaudible}. So, I totally understand that part of it. So, hopefully that kind of explains why {inaudible}. Because I reached out to the State and asked, "What are my options with this baby," with us not being able to contact the family. We have no information on the baby, so what can I do at this point? So, that's how this came about for that one. If I can, also with the change of ownership, my mom actually has been, we are going through the process {inaudible}, and that actually has been the reason for the delays. Because when my father passed, my mother was going through that process of her own, {inaudible} mentally unstable. And then she passed, {inaudible}, and this is why the ownership issued has not been settled yet. My brother and I go back and forth in the court system.

Chair – Dr. Graham? What is the status of the baby at this time, in this day?

Dr. Graham – So, the baby has been buried. So, what we did was we dressed her appropriately. We put her on a pamper, we put her on a onesie, and we also put her on a small gown. Then after that we took her out to the cemetery and we buried her. We said a prayer, the submittal and the benediction. That's what we did.

Chair – So, she has been interred?

Dr. Graham – Yes.

Chair – Thank you.

Mr. Griffin – If I can address Mr. Williams' question that was posed to the Department? Part of the rationale for Count two, the count regarding the failure to treat a body with dignity and respect, we are creatures of statute. And because this has to be adjudicated using the prior version of the rules based on the nature of the violation, under those rules the maximum fine that can be assessed as a \$1000 fine. You know, that's just the nature of what the rules were at the time the violation was committed. Even though it did happen over a five-year period, we did have two (2) different versions of disciplinary guidelines. And so, like I said, because of case law that OGC is aware of, when you have two different versions of discipline for a crime or course of conduct that happened over a period of time, the defendant or Respondent is entitled to the more favorable read of the punishment guidelines.

Mr. Williams – Ok. Mr. Chair?

Chair – Mr. Williams, go right ahead.

Mr. Williams – Ok. Ms. Simon or counsel, if you can help me. I just want to follow the timeline correctly. The owner died on February 11, 2018. The license expired on November 30, 2018. It was renewed on January 18, 2019. So, how was the license renewed with a deceased person?

Mr. Griffin – So, the owner, and Ms. Simon may be able to better answer, but I believe that the owner is not required to submit the renewal documentation. I believe that any manager or FDIC can do that, however.

Mr. Williams – With the owner's name on it?

Chair – I don't think the renewal process requires the owner's name. Is that correct, Ms. Simon?

Ms. Simon – I believe that you are correct, Mr. Chairman. And I'm not sure, to be candid, I am not sure at this point whether we knew that he had passed at the time of renewal.

Mr. Williams – So, I guess, Ms. Simon, or, Mr. Chair, if I may?

Chair – Please go ahead.

Mr. Williams – Is it the firm's responsibility to let the Department know of the owner's transition, or some type of communication, to your point exactly?

Mr. Griffin – Yes, sir. I believe s. 497.380(12), Florida Statutes, requires a licensee to properly notify the Department or the Division about a change in ownership. Let me just double check. Yes, 497.380(12)(a), Florida Statutes.

Mr. Williams – Thank you.

Mr. Griffin – And even though the phrase promptly determined may be nebulous and hard to ascertain, at the time this complaint was filed we were dealing with at least, even if you take the events as alleged by Mr. Graham in his response to the Department, over a one-year period before, you know, because we weren't notified at the time of the inspection, or the

inspection is when we determined that the owner had passed. So, there was some time-period between the death and the first time the Department became aware of it.

Mr. Williams – Ok.

Dr. Graham – {Inaudible} we submitted...

Ms. Simon – Excuse me. I'm sorry, but we're having a really hard time with the record in this matter, because it's very hard to understand you. If you can either step away from the receiver or somehow speak more clearly. Otherwise, we will not be able to establish a record in this matter.

Dr. Graham – {Inaudible}. Can you guys hear me okay now?

Chair – No, it's not much better. How are you entering the conference?

Dr. Graham – I'm just on audio.

Chair – Ok, we do continue to have a problem with clearly hearing what you are stating.

Dr. Graham – {Inaudible}

Mr. Hall – Is he on speakerphone instead of a receiver?

Dr. Graham – No, I'm on a receiver. Should I try to call in. I could call in.

Mr. Jones – I think the call in would be better. Instead.

Dr. Graham – Ok, let me try to call in. So, I'm going to disconnect and try to call in.

Ms. Simon – Mr. Chairman, can I try to go through another part of the agenda while we're waiting?

Chair – Yes. Let's move on to the next part of the agenda.

5. Application(s) for Preneed Sales Agent
A. Informational Item (Licenses Issued without Conditions) – Addendum A

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

6. Application(s) for Continuing Education
A. Course Approval - Recommended for Approval without Conditions – Addendum B
(1) Independent Funeral Directors of Florida Inc (135)
(2) LifeNet Health of Florida (22608)
(3) M.K. Jones & Associates, Inc (9605)
(4) National Funeral Directors Association (136)
(5) SCI Management – Dignity University (99)
(6) Wilbert Funeral Services (39408)

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 on Addendum B.

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

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

Dr. Graham – Hello?

Chair – Hello?

Dr. Graham – Can you hear me?

Chair – Dr. Graham, are you back?

Dr. Graham – Yes.

Chair – It seems to be clearer.

Ms. Simon – Let me recall that case, which is item number 4. D. (1) Marion Graham Mortuary.

4. Disciplinary Proceeding(s)

D. Material Facts Not Disputed (Section 120.57(2) Hearings) (Probable Cause Panel A)

(1) Marion Graham Mortuary: DFS Case No. 243643-19-FC; Division No. ATN: 32444 (F040391)

Chair – Dr. Graham, are you addressing the Board?

Dr. Graham – Right. So, the acknowledgment that Mr. Graham passed, we did that whenever we changed the Funeral Director in Charge. We turned in that form to the State.

Chair – Thank you.

Dr. Graham – Because again, my father was sick for eight (8) months. So, we knew the time was coming. So, we called and we asked what do we need to turn in when the time comes, if he passes.

Chair – And you subsequently notified the Division when he did pass?

Dr. Graham – Right. So, we turned in the change of funeral director in charge.

Mr. Griffin – That does not prove that...that's just saying that they have a new director. That's not notifying the Department that he is no longer the owner. It's just saying that there's a new director taking charge.

Dr. Graham – Right. So, what we did was when we called it in we asked what do we need to do to change everything over. They said the first thing to do was make sure you have a funeral director in charge. Make sure that gets turned in, so we did that. And then they said once the ownership has been changed, you need let us know. And the ownership hasn't changed yet. Marion Graham is still the owner of his funeral home.

Mr. Jones – Mr. Chair, if I may? This is Mr. Jones.

Chair – Mr. Jones, go right ahead.

Mr. Jones – Looking at this case and looking at Mr. Griffin's earlier statements about what the Division can do based on the duality of provisions, and what's proposed I'll make a recommendation.

MOTION: Mr. Jones moved to accept the Settlement Stipulation, which provides that the Respondent shall pay a fine of \$2,300, and one (1) year of probation. Mr. Clark seconded the motion, which passed with two (2) dissenting vote.

Chair – Ms. Munson?

Ms. Munson – Just for clerical clarification, may I have confirmation from Dr. Graham of the mailing address? I have two (2) of them, and I just don't think both of them are accurate. So, could you just give me the address of record for mailing purposes? Is that the 1504 Gandy Street?

Dr. Graham – Yes, 1504 Gandy Street is the physical address for the funeral home.

Ms. Munson – Ok.

Dr. Graham – I'm sorry?

Ms. Munson – There's not a Gandy and then a letter T, or anything like that, sir?

Dr. Graham – No, it's just Gandy, G A N D Y.

Ms. Munson – Thank you, sir.

Dr. Graham – Right. So, yes. I will admit we have had mail being taken from us. So, you know, I strongly encourage, please send us an email anything of importance and please send it certified mail to us.

Ms. Simon – While we will not be sending out any Orders via certified mail, we will include an e-mail on that.

Dr. Graham – Thank you.

Chair – There's been a motion made and seconded, and we had a vote. And I think there was two (2) nays, And the motion carries. Ms. Simon?

Mr. Hall – Can I ask a question of Mr. Jones before we leave this?

Chair – Mr. Hall?

Mr. Hall – There was a big delay in the years and stuff. Do you know, Mr. Jones, if this was a physician-attended death? Was it from a hospital? I know they stated they had difficulty getting with the family, et cetera. So, I was just wondering whether you know if it was a physician-attended death that would have given them the information on the mother and the family? Would you know?

Mr. Jones – I don't. I can pull and look, but I did not.

Mr. Hall – I'm just curious if there was a death record filed. And I'm like Mr. Williams. I'm terribly bothered by the treatment and the delay with the child. They seemed to be of no importance to them. But, during all that time, I think they could have went to the county and got to county to step in with some type indigent burial or cremation, or something for this child, but anyway. I just was curious about that. Thank you.

Mr. Jones – I can look. I think it was in 2014, so I'll go back and see.

Mr. Hall – Ok. Thank you.

Chair – Thank you. Ms. Simon?

8. **Application(s) for Florida Law and Rules Examination**
- A. **Informational Item (Licenses Issued without Conditions) – Addendum D**
- (1) **Direct Disposer**
 - (a) *Krupp, Erik*
 - (2) **Funeral Director (Internship and Exam)**
 - (a) *Peterson, Jeannette*
 - (3) **Funeral Director and Embalmer (Endorsement)**
 - (a) *Huff, Patrick*
 - (b) *Moloney, Michael S*
 - (c) *Westry, Kyjuan T*
 - (4) **Funeral Director and Embalmer (Internship and Exam)**
 - (a) *Brewer, Christopher L*
 - (b) *Gonzalez, Estefany A*
 - (c) *Schmidt, Amanda D*
 - (d) *Williams, Selena N*

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.

9. **Application(s) for Internship**
- A. **Informational Item (Licenses Issued without Conditions) – Addendum E**
- (1) **Funeral Director**
 - (a) *Everett, April D F496804*
 - (2) **Funeral Director and Embalmer**
 - (a) *Delapenha, Gabriel A F497295*
 - (b) *Meeks, Cheryl T F081346*
 - (c) *Mitzelfeld, Cassandra F497897*
 - (d) *Peavy, Marlon T F496746*

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. **Application to Renew Concurrent Internship**
- (1) **Recommended for Approval without Conditions**
 - (a) *Little, Christin R F423298*

Ms. Simon – If I may have one moment?

Chair – Take your time.

Ms. Simon – An application to renew the concurrent internship license was received on February 16, 2021. The current internship license, F423298, expired on February 17, 2021. Ms. Little has not passed both sections of the National Board Examinations. The Division is recommending approval without conditions.

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

- (2) **Recommended for Denial**
 - (a) *Evans, Christopher F079271*

Ms. Simon – An application for a funeral director internship license was received on September 15, 2020. This application was set on the November 2020 Board agenda but was withdrawn by the applicant. In or about September 2020, the applicant informed the Division that he had completed his internship and he would be submitting an application for a funeral

director license by internship and examination. That application was received by the Division in September 2020. However, upon contacting the individual who supervised the applicant's internship, the Division learned he had only completed one (1) quarter of the program. On or about March 9, 2021, the Division received a Petition for Waiver of Rule 69K-18.002, Florida Administrative Code. Both the Petition and the application for internship are attached. The Division is recommending denial of the Petition and application for internship.

Mr. Williams – Mr. Chair?

Chair – Yes? Go ahead, Mr. Williams.

Mr. Williams – I would like to disclose my affiliation. I know the applicant that we're talking about, but my voting would not be impaired by the decision made today.

Chair – Thank you for that declaration, Mr. Williams.

Ms. Wiener – Mr. Chairman, this is Wendy Wiener. I represent the applicant in this matter. May I address the Board?

Chair – I'm sorry? You represent the applicant?

Ms. Wiener – I do. Yes.

Chair – Go right ahead.

Ms. Wiener – Thank you. Board members, this matter was before you in November of 2020 and if you will recall, the application was ultimately withdrawn, but it wasn't a perfunctory withdrawal. The application was withdrawn because of what appeared at that moment to be a procedural shortcoming, with regard to Mr. Evans' application. He initially submitted his applications after having conversation with Ms. Richardson. He is available to address the Board today and can explain what he understands fully as a misunderstanding, a miscommunication among them. He obviously knew he had not completed his internship. I mean, there was nothing more to it. He had to leave his internship after a period of time and so he knew that it wasn't completed, and he can address that momentarily. I just want to note that in November of 2020, despite that these issues all apparently occurred in August and September of 2020, there was no concern raised about any miscommunication, any misrepresentation, or anything of that nature. The matter came before you. Mr. Evans made a presentation. The problem was that he had not submitted a request for waiver that had then gone to be published in the Florida Administrative Weekly, as is required by statute and rule. And so, I would ask that you take a moment to hear from Mr. Evans and understand what his misunderstanding was and his miscommunication. This is a gentleman who has spent years preparing for a career in funeral service. You can see from his education that he is well postured to perform as a funeral director, and I would ask that you consider his request for waiver and allow him to complete his internship and continue to pursue his career. And I know that he is here. I don't see an active camera.

Chair – Mr. Evans? Christopher Evans?

Mr. Christopher Evans – Yes, sir, Mr. Chair?

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

Mr. Evans – I do.

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

Mr. Evans – My name is Christopher Marvin Evans, E V A N S.

Ms. Simon – Thank you, sir.

Chair – Mr. Evans, did you want to address the Board?

Mr. Evans – I do, Mr. Chair

Chair – Go right ahead, please.

Mr. Evans – Ok. Thank you, Mr. Chair. Thank you, Board members for taking the time out to hear me. Thank you, Ms. Wiener. Just like my lawyer said, I understand and know for myself that internship was not completed because of the hardships that were stated. However, there were times within that year that my former supervisor would call me to perform occasional work for him on Saturdays, and sometimes I was able to agree and on most of the other occasions I wasn't able to. But, for the times that I did agree, I obviously needed the money because of the hardships that were already described. So, at the time, when I passed my Board Exam in September, I made a call to the Division and stated my case, because I perhaps thought that the work that I did perform, even though it wasn't written on any reports, it would perhaps suffice. Well, that's when I was instructed to talk with my supervisor and in speaking with my supervisor, I asked him that same question, and he said he probably wouldn't be able to put those on any reports, so he said, No. And then he followed along with his due diligence and let the Division know what was already confirmed that an internship wasn't completed, which is when I called back to see what other options that I had. And then, that's when I was recommended to submit another internship application, as well as writing a statement, as to why an internship wasn't completed. Certainly, it was not in any way of me trying to be misleading or to lie, or any of that sort of thing. Perhaps it was a way of me being overzealous, because I thought that it would work in my favor, because I thought I understood the rules. So, here on today, I'm just humbly asking for another opportunity to fulfill the rule of the State so I that I can continue to pursue being a funeral director in the State.

Chair – Mr. Evans, are you currently employed with a funeral home?

Mr. Evans – I'm not, but within the application that I've resubmitted, there's a funeral home that has agreed for me to perform my internship.

Chair – Thank you. Which funeral home is that?

Mr. Evans – Funerals by T S Warden.

Chair – Thank you.

Mr. Williams – Mr. Chair?

Chair – Go right ahead.

Mr. Williams – I see, for my fellow Board members, on Page 2 there's a notarized affidavit from Ms. Richardson in the Division office. Is the question that is raised for the denial based on nonsubmittal of the quarterly reports by the supervising LFD?

Ms. Simon – If I may respond, Mr. Chairman?

Chair – Go right ahead.

Ms. Simon – Thank you for asking that, Mr. Williams. The question that was raised is not the issue of failing to submit the quarterly reports, because there was no internship that was completed for those quarterly reports, so they could not have been submitted. And, there may have been, on occasion, work that was done, but nothing that would encompass more than a quarter, as we have that one quarterly report. As well, we received an application for funeral director and embalmer by internship and examination. So, we received that and the statements that were made to Ms. Richardson were that the internship had been completed. And that's what the question is why we are here today.

Mr. Williams – OK. So, it was stated on one application that the internship was completed, but on something else the internship has not been completed?

Ms. Simon – Yes, sir.

Chair – How much of an internship has been completed?

Ms. Simon – Mr. Chairman, we have one (1) quarter.

Chair – So, if the Board decided to allow Mr. Evans to go on with his internship, it would only be for three (3) quarters? Could we do that?

Mr. Williams – Mr. Chair?

Chair – Mr. Williams?

Mr. Williams – Well, I think I know where you may be going. If anything, I will make a recommendation to do the whole internship over. This would be just starting over anew, instead of finishing the three (3) quarters, because I'm not sure what's the relationship with the applicant and the firm that he was under. So, would completing a new internship altogether be a possibility?

Chair – So, is that your motion?

Mr. Williams – I'm asking the question. Is that possible? And then I can put it in motion if that is allowable, Ms. Simon or Mr. Chair.

Chair – It's at the Board discretion, Mr. Williams.

Mr. Williams – Well, I'll make a motion to deny the Division's recommendation.

MOTION: Mr. Williams moved to grant the applicant a one-year internship with the condition of submitting the quarterly reports as indicated by the Division. Mr. Jones seconded the motion, which passed with one (1) dissenting vote.

Ms. Simon – Mr. Chair, I believe there also needs to be a motion that's made on the Petition, because the Petition for Waiver Variance was filed in this case.

MOTION: Mr. Knopke moved to approve the Petition. Mr. Williams seconded the motion, which passed unanimously.

Chair – Thank you, Mr. Evans and good luck. And, thank you, counsel.

Ms. Wiener – Thank you.

Mr. Evans – Thank you.

10. Application(s) for Embalmer Apprentice

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

- (1) Allen-Williams, Ebonie R F494093
- (2) Garrick, Torian D F497888
- (3) Henson, Sadie V F497879
- (4) Smith, Jordan C F497768

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.

11. Notification(s) of Change in Location

A. Information Item (Licenses Issued without Conditions) – Addendum G

- (1) Faithful Heritage Holdings Inc d/b/a A Direct Cremations (F429216) (Gainesville)

(2) SE Combined Services of Florida LLC d/b/a West Palm Crematory (F078943) (West Palm Beach)

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

12. Application(s) for Direct Disposal Establishment

A. Recommended for Approval with Conditions

(1) 1st Angel's Awaiting; Crematorium LLC (North Miami Beach)

Ms. Simon – An application for a direct disposal establishment was received on by the Division on February 1, 2021. While the application was incomplete when submitted, a completed application was received on February 22, 2021. A background check of the principals revealed no criminal history for its principals. The Division is recommending approval subject to the condition that the establishment passes an onsite inspection by a member of Division Staff

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

13. Application(s) for Funeral Establishment

A. Recommended for Approval with Conditions

(1) Thomas's Memorial Mortuary and Cremation Services Corp (Crystal River)

Ms. Simon – An application for a funeral establishment was received on by the Division on December 3, 2020. The application was incomplete when submitted, and completed as of March 11, 2021. A background check of the principals revealed no criminal history for its principals. 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.

14. Application(s) to Organize a New Cemetery Company (Phase I)

A. Recommended for Approval with Conditions

(1) Hope Eternal Gardens LLC (Punta Gorda)

Ms. Simon – The application was received by the Division on January 28, 2021 and no deficiencies were noted. A completed background check of all owners revealed no criminal history. This application is being for development of a cemetery to do business at the location specified on the cover memo. The principals of the LLC will be Manuel C. Alonso and Lauren Robie. As outlined in the proposed business plan that was made available to the Board members, development of the cemetery is to be for green burials; in- ground lawn burials, as well as in-ground niche burials, and a garden columbarium, which may contain approximately 2,640 cremation niches. Much of the sales are expected to be generated from in-ground burials with cremation niches comprising the remainder of sales. If this application is approved, the applicant will operate under the name: Hope Eternal Gardens, LLC.

An application for a license for a new cemetery is processed in two (2) separate phases. In Phase 1, the Board seeks to determine if the applicant has met the statutory criteria of s. 497.263(2), Florida Statutes, which is outlined within your Board package. This application is before this Board for the Phase 1 determination. If the Board determines that the Phase 1 statutory criteria are met, the Division will notify the applicant to that effect, and then the applicant then has twelve (12) months to come back before the Board and demonstrate that it has by then complied with the statutory criteria set forth in s. 497.263(3), Florida Statutes, which is outlined within your Board packet. The Division recommends that the Board finds that the statutory criteria for Phase 1 of the Application to Organize a New Cemetery Company has been met. It is expected that Applicant will appear in person before the Board after the completion of Phase 2 of the application, which will be within the next twelve (12) months. The required steps for Phase 2 are as follows:

1. That applicant establish a care and maintenance trust fund containing not less than \$50,000, certified by a trust company operating pursuant to Chapter 660, F.S., a state or national bank holding trust powers, or a savings and loan association holding trust powers, pursuant to a Board approved trust agreement.
2. Receipt by the Division an opinion or certification from a Florida title company or a letter signed by applicant's attorney, certifying that the Applicant holds unencumbered fee simple title to all land as described to the Board in the materials provided to the Board herewith.
3. Receipt by the Division from Applicant or Applicant's attorney of evidence of approval of local zoning authorities, if approval is required. If no approval is required, Applicant may provide evidence of approval from residents adjacent to the proposed cemetery location.
4. That Applicant provides to the Division satisfactory evidence that it has fully developed at least 2 acres for use as burial space, and such development includes a roadway(s) to the developed section(s) within the first 12 months of operation.
5. That Applicant provides notification to the Division of the designated general manager of the cemetery who has 3 years of cemetery management experience, and the ability to operate a cemetery.
6. Receipt by the Division from Applicant's attorney, a written and signed attestation that the cemetery land identified in the application has been recorded in the public records of real estate in the county in which the cemetery land is located. Such notice must be clearly printed in at least 10-point type on the face of the deed or in a separate document containing a description of the property, the following language: "The property described herein shall not be sold, conveyed, leased, mortgaged, or encumbered without the prior written approval of the Department of Financial Services, as provided in Chapter 497, Florida Statutes."
7. Pursuant to Rule 69K-5.004, F.A.C., That Applicant provides a completed Application to Transact Cemetery Business, Form DFS-CEM, and a license fee of \$255 to \$4,905 depending on the applicant's most current annual gross sales, refundable if license is not issued.

Again, the Division recommends that the Board find that Phase 1 has been met.

Chair – Thank you, Ms. Simon. Board? Again, the Division recommends that the Board find the statutory criteria for Phase 1 of the application to organize a new cemetery has been met. Is there a motion?

Mr. Helm – Mr. Chair, this is Helm. May I ask a question?

Chair – Please, Mr. Helm, go right ahead.

Mr. Helm – I'm just wondering if there is a particular reason why it was done in January, and we're not seeing this until April? Was something going on? I'm not trying to stir up anything. I'm just kind of curious.

Ms. Wiener – Mr. Chairman, this is Wendy Wiener. I can address that issue.

Chair – Ms. Wiener, go right ahead.

Ms. Wiener – Mr. Powell, the application to form a new cemetery company and to create a new cemetery is the most comprehensive application that there is. And so, it often takes quite a while to get all of the components together, to get the business plan together, to get everything that is needed. And so, this application has actually been underway at my office for probably the better part of six (6) months. And so, ultimately, we were able to get the remaining components together. And we are proud to submit it. I think this is fantastic. And I, among the cemetery applications that I have submitted, this is certainly among the most comprehensive and thorough business plan that I've seen presented.

Mr. Helm – I'm learning this, Wendy, so I'm just asking. So, when you applied, say January 28th, you really didn't have everything ready to go that you needed, as far as for the cemetery? Is that what you're saying?

Ms. Wiener – If January 28th was the day that we submitted the application, it takes a long time for the Division to process the application. So, really, that's not that long. If we applied at the end of January, then I give LaShonda huge props for getting it reviewed and prepared and to you for the April Board meeting. It's a heavy lift from the Division side. There is a lot to review, and they go through it very, very thoroughly, and so, you know, it's just how long it takes.

Mr. Helm – Ok, I was just curious. Thank you.

MOTION: Mr. Helm moved that the statutory criteria for Phase 1 of the Application to Organize a New Cemetery Company have been met. Mr. Jones seconded the motion, which passed unanimously.

Chair – I see, Mr. Alonso and Ms. Robie are on. Congratulations.

Lauren Robie – Thank you, Mr. Chairman.

Chair – I look forward to receiving your Phase 2.

Manuel "Chris" Alonso – Thank you all.

Ms. Wiener – Thank you.

Chair – Thank you, counselor.

15. Application(s) for Preneed Branch License

A. Recommended for Approval without Conditions – Addendum H

(1) CEJ South Inc d/b/a Family-Funeral & Cremation (F484918) (Mary Esther)

(2) Gratitude and Compassion LLC d/b/a Coast to Coast Cremations (F459067) (Ocala)

Ms. Simon – The applicants listed on Addendum H have applied for preneed branch licensure. The applications were complete without reportable criminal or disciplinary history and were accompanied by the required fee. The record indicates that the applicants qualify for branch licensure, and the Division recommends approval of the applications.

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

16. Application(s) for Removal Service

A. Recommended for Approval with Conditions

(1) G&C Removal Service LLC (Fort Pierce)

Ms. Simon – An application for a removal facility was received by the Division on December 14, 2020. The application was incomplete when submitted, and the completed application was received on March 4, 2021. A background check of the principals revealed no criminal history. The Division is recommending approval subject to the condition that the facility passes an onsite inspection by a member of Division Staff.

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

(2) Nature Coast Mortuary Transport Inc. (Crystal River)

Ms. Simon – An application for removal service licensure was received on March 1, 2021. The application was complete when submitted. Fingerprints for all principals have been returned with no criminal history. The Division is recommending approval subject to the condition that the facility passes an onsite inspection by a member of Division Staff.

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

(3) Tender Touch Mortuary Transport LLC (Lake Worth)

Ms. Simon – An application for a removal service was received by the Division on January 4, 2021. While the application was incomplete when submitted, a completed application was received on March 16, 2021. A background check of the principals

revealed no criminal history. The Division is recommending approval subject to the condition that the facility passes an onsite inspection by a member of Division Staff.

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

B. Recommended for Approval without Conditions
(1) FirstCal 24/7 LLC (Clearwater)

Ms. Simon – An application for removal service licensure was received on February 18, 2021. Fingerprints for all principals have been returned with no criminal history. The new location passed its inspection on March 16, 2021. The Division is recommending approval without conditions.

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

17. Collective Application(s)

A. Recommended for Approval with Conditions

(1) Change of Ownership

(a) Faithful Heritage Holdings Inc. (Gainesville)

- **Application(s) to Acquire Control of an Existing Cemetery Company (3)**
- **Application for Funeral Establishment License**

Ms. Simon – Faithful Heritage Holdings, Inc. (FHHI), a corporation, seeks approval of the following applications for a change of ownership: 3 (three) applications to acquire control of a cemetery company and an application for a funeral establishment license. More specifically, the entities that are being acquired are as follows:

- 1) Work & Son – Osiris Inc d/b/a/ Royal Palm North Cemetery, a licensed cemetery company, license # F039668, physical address: 2600 Gandy Blvd, St. Petersburg;
- 2) Work & Son – Royal Palm Acquisition Inc d/b/a/ Royal Palm South Cemetery, a licensed cemetery company, license # F039669, physical address: 101 55th St, St. Petersburg;
- 3) Work & Son – Sarasota Memorial Inc d/b/a/ Sarasota Memorial Park, a licensed cemetery company, license # F039746, physical address: 5833 S. Tamiami Trail, Sarasota; and
- 4) Work & Son – Osiris Inc d/b/a/ Royal Palm North Funeral Chapel, a licensed funeral establishment, license # F041687, physical address: 2600 Gandy Blvd, St. Petersburg.

Enclosed within your package are the separate applications for each of the aforementioned properties. The change of ownership is the result of an asset purchase where FHHI is acquiring the assets and liabilities as specified in the Sales Purchase Agreement included in your Board package. The principals of the corporation will be Quintin Graciano and Ruth A. Thornquest, and fingerprints for the principals were returned without relevant criminal history. Applicant confirms that if there are currently any unfulfilled preneed contracts sold at the aforementioned locations, the obligation to fulfill those preneed contracts will be assumed by the new owners. The Division recommends approval subject to the following conditions:

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

- 5) That all representations by the applicant in the application and related materials provided to the Board or FCCS Division by the applicant, in support of the application(s), are deemed material to the Board's action herein.
- 6) That the establishment(s) under the application(s) herein pass an onsite inspection by a member of Division Staff.
- 7) That the Applicant (new owner or controlling party) shall assume all existing preneed liabilities, (if any), of the location(s) being acquired.
- 8) That the Applicant has remitted payment of all application fees due to the Department.

Chair – Board?

Mr. Hall – Mr. Chairman?

Chair – I'm sorry? Who was that?

Mr. Hall – I had some questions for Ms. Wiener before we get to that point.

Chair – Go right ahead, Mr. Hall.

Mr. Hall – Ms. Wiener, just a couple of things. On a letter from you it's stating that the fees have been temporarily waived. What is the reason?

Ms. Wiener – They have been paid now. If you will recall, this sale is the result of a bankruptcy proceeding. And, the way it worked, a handful of suitors submitted applications. The fees were waived until the bankruptcy court determined who would be the successful bidder, and at that point, the fee payment was triggered. Those fees have been paid.

Mr. Hall – Ok. Ms. Simon had mentioned it is an asset liability purchase, and if I remember correctly, the trustees had said that they would also provide a letter that they would not go back to the CPTF, as they would be paying for any claims that come back on that. Is that going to happen also?

Ms. Wiener – Mr. Hall, we confirmed that the applicant will assume any preneed liabilities that appear. So {inaudible} that statement, they're not seeking to pursue the Consumer Protection Trust Fund. They'll be responsible for all of the preneed liabilities.

Mr. Hall – Will they provide something in writing, as they suggested in that meeting?

Ms. Wiener – Well, I'm not sure exactly what that...that might have been a reference from the bankruptcy attorney. We have provided in writing a statement that all preneed liabilities will be assumed, known or unknown. will be assumed by the applicant.

Mr. Hall – My final question was on the financials that we got on the owners. At the bottom of the page, it's showing us they have a guarantee that each of them has signed. Personal guarantees on some type of loan. Do you know what that's on?

Ms. Wiener – I believe that is related to other business operations that they have. This is a very experienced owner-operator. They own a number of locations in South Carolina. They will soon on some locations in North Carolina, and if you'll recall correctly, they acquired the Thomas' operations in Gainesville. So those guarantees, I believe, are related to one or more of those acquisitions.

Mr. Hall – But this doesn't have anything to do with any type of mortgages back to the cemeteries?

Ms. Wiener – Correct. No, it does not.

Mr. Hall – I've got a little concern, well I've got a lot of concern, because one of the owners, we're like we're at \$45,000, and a guarantee of \$6 million.

Ms. Wiener – Yes. Actually, LaShonda brought that to our attention. I have new financial statements for them, and the Division has them as well, but we got them over to you all too late to include in the Board packet. Those have been corrected. They did not include their holdings in the entity that they actually own on their personal financial statements as they should have. So, they left those figures of in error. So, you will see their revised financial statements that do reflect their holdings if Faithful Heritage Holdings.

Mr. Hall – Do you know approximately what the net worth is?

Ms. Wiener – I don't have them with me. The net worth of Faithful Heritage is \$1,000,008. They are each 50% owners, So, you can just drop \$900,000 onto that figure and you would be in the ballpark.

Mr. Hall – So, you're saying to add \$900,000 to their current net worth? But these other two are still in play at \$42,500 and the \$6 million that they've guaranteed?

Ms. Wiener – Those guarantees do continue to exist. Yes.

Mr. Hall – If they had to back those up, there's still a huge negative net worth then, if you're saying just add \$900,000 to that. That's what I'm understanding. Is that correct?

Ms. Wiener – Well, that's the, I mean, I'm just doing the math. The net worth of the applicant is \$1,000,008 and change. So, if they're each 50% owners, I'm just taking \$900,000 in net worth and dropping it onto their obligations. Interestingly, the guarantees, those amounts are sort of double reported. This form that has been in use at the Division for a million years is not necessarily the best at capturing personal financial statements from people with more complex business arrangements. So, the assets, or the liability rather, I believe, is basically included on both their first personal financial statements, but it's also included as a liability on the company's financial statement as well. So, it's sort of double reported. These are company obligations, but as the owners of the company, the principals were asked to sign a guarantee, as is often the case. But these are not direct liabilities of theirs. They are liabilities of Faithful Heritage Holdings that have been guaranteed by the owners, and you'll see that there are significant assets associated with the Faithful Heritage Holdings. I think they have \$10 million and change in assets.

Mr. Hall – Well, the guarantees alone are over 10 million, over here between these two (2) individuals. So, it's not as healthy as it appears.

Ms. Wiener – Well, I don't know. I suspect that the way that that form is written, that those guarantees overlap one another, because they are both 50% owners in the company. I can certainly find that out. I will tell you that your experience so far in Florida, with the Faithful Heritage Holdings ownership of the former Thomas properties, the Forest Meadows properties, has been a positive one. I know that the bankruptcy court looked carefully at the bidders to determine how that process went. And likewise, they are well known to the South Carolina regulators for having acquired some cemeteries that we're in trouble there and have turned those cemeteries around. And I would lastly add this. The net worth of the individuals, while included in the packet, I don't believe it is a criteria on which the Board can disapprove an application to acquire. It is the applicant's financial standing that is the key, if you will.

Chair – Board?

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

Ms. Wiener – Thank you.

Chair – Thank you.

- (b) *Roberts Funeral Home of Dunnellon LLC (Dunnellon)*
- *Cinerator Facility*
 - *Funeral Establishment*

- *Transfer of Preneed*

Ms. Simon – Roberts Funeral Home of Dunnellon LLC, a limited liability company, seeks approval of its applications for cinerator facility licensure, funeral establishment licensure and transfer of preneed main license. A completed background check of the principal(s) for the business revealed no relevant criminal history. The change of ownership is due to the death of Patricia Roberts. The applicant will continue to trust through IFDF. More specifically, the entities being acquired are:

- 1) Roberts Funeral Home of Dunnellon LLC, a cinerator facility, license number #F240209, physical address: 19939 E Pennsylvania Avenue, Dunnellon, FL 34432
- 2) Roberts Funeral Home of Dunnellon LLC, a funeral establishment, license number #F240208, physical address: 19939 E Pennsylvania Avenue, Dunnellon, FL 34432
- 3) Roberts Funeral Home of Dunnellon LLC, a preneed license, license number #F019306, physical address: 19939 E Pennsylvania Avenue, Dunnellon, FL 34432

The applications for each of the properties mentioned are included within your Board package. The Division recommends approval subject to the following conditions:

- a) That the closing on the transaction to acquire ownership shall occur within 60 days of the date of this Board meeting.
- b) That the closing on the transaction shall be substantially on terms and conditions as represented to the Board at this Board meeting.
- c) That Applicant shall assure receipt by the Division within 75 days of the Board meeting, of a letter signed by applicant or applicant's attorney, addressed to the Division, certifying that closing has occurred and stating the date of closing, and stating that closing occurred on terms and conditions not inconsistent with those as represented to the Board at this Board meeting, and providing a copy of the fully executed Bill of Sale, Asset Purchase Agreement, or other document by which the acquisition transaction is consummated, executed by all parties, and any and all amendments, schedules, and other attachments thereto, also fully executed.
- d) 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.
- e) 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.
- f) That the establishments pass an onsite inspection by a member of Division Staff.

Mr. Clark – Mr. Chairman?

Chair – Go right ahead.

Mr. Clark – I just want to state for the record that Mr. Jack Roland is personally known to me, but that affiliation will not prevent me from rendering a fair and impartial decision.

Chair – And I would like to make the same declaration.

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

(2) *New Application(s)*

(a) *Gulf to Bay Cremation LLC (Clearwater)*

- *Direct Disposal Establishment*
- *Preneed License*

Ms. Simon – Gulf to Bay Cremation LLC a limited liability company, seeks approval of its applications for direct disposal establishment licensure and a preneed main license. A completed background check of the principal(s) for the business revealed no relevant criminal history. The applicant will trust through FSI. More specifically, the entities that are being applied for is as follows:

- 1) Gulf to Bay Cremation LLC, a direct disposal establishment, physical address: 587 S Duncan Ave, Clearwater, FL 33756
- 2) Gulf to Bay Cremation LLC, a preneed license, physical address: 587 S Duncan Ave, Clearwater, FL 33756

Enclosed are the separate applications regarding the aforementioned entities. The Division recommends approval of the applications, subject to the condition that the establishments pass an onsite inspection by a member of Division Staff.

Mr. Knopke – Mr. Chairman?

Chair – Go right ahead, Mr. Knopke.

Mr. Knopke – I'm recusing myself. I know the principal involved and would rather sit on the sideline.

Chair – Thank you for that declaration. Board?

MOTION: Mr. Jones moved to approve the applications subject to the condition that the establishments pass an onsite inspection by a member of Division Staff. Mr. Helm seconded the motion, which passed unanimously.

(b) Stokes Monument Company (Orlando)

- **Monument Establishment Retailer**
- **Monument Retail Sales Agreement**

Ms. Simon – Stokes Monument Company LLC has submitted an application for a monument establishment retailer license and (2) a monument sales retail agreement. The application was incomplete when submitted, and a completed application was received on March 19, 2021. A completed background check revealed not criminal history for its listed principal. If approved, Applicant will operate as a monument establishment retailer at the above specified location and utilize the monument retail sales agreement, if approved. Section 497.273, Florida Statutes, authorizes cemeteries to sell monuments, markers, etc., for use only within their cemetery grounds. Section 497.005(49), Florida Statutes, defines a monument establishment as a facility that operates independently of a cemetery and that offers to sell monuments to the public for placement in a cemetery. The Division recommends approval, subject to the following condition:

- 1) That the company submit proof of registration with the Division of Corporations.
- 2) That two (2) full sized print-ready copies of the monument retail sales agreement are received by the Department within sixty (60) days of this Board meeting.

Ms. Wiener – Mr. Chairman, this is Wendy Wiener. I represent Stokes Monuments, and would request permission to address the Board on this matter.

Chair – Go right ahead, Ms. Wiener.

Ms. Wiener – Thank you. I have reviewed the Board packet and have conferred with both Ms. Simon and Ms. Schwantes, with regard to this matter, over the course of the last couple of weeks, after I was retained by the owners of Strokes Monuments. I certainly am aware of the language set forth in section 497.273, F.S., that is referred to in your Board packet. But, that law has to be read together with the definition in Section 497.005(49), F.S., which is also referenced in the Board packet. And that is that definition of a monument establishment, which is a business or a facility, that operates independently, and this definition actually says of a cemetery or a funeral home that offers to sell monuments to the public for placement in a cemetery. So, though the Division Director, Assistant Division Director, and counsel for the Division were not around when that definition was added, I was. And I know many of you on the Board were, as well. And I believe that I correctly stated that the intention of that definition was to make clear that cemeteries and funeral homes can sell monuments for placement in cemeteries, whether their own cemetery or another cemetery, and that operated independently reference was meant to specifically carve out cemeteries and funeral homes that were engaged in that practice, and have been engaged in that practice. Certainly, since I've been practicing law before this Board, which began at its first meeting in October of 1993, and I would believe well before that time. The Board, as the regulator, has the capacity to interpret the laws that it administers, and its interpretation, pursuant to case law, is given great weight. And so, the deference that is afforded to a regulator when administering its own laws, is significant. And so, I think that this Board, and I would argue that this Board should read these laws together and in the context of the historical operation of cemeteries and their capacity to sell monuments for placement in other cemeteries. And I would ask the Board to conclude that the monument establishment licensure applied for is unnecessary, and allow the applicant to withdraw the applications and the submissions, and to direct the Division to issue refunds of any application fees that have been paid to the Board, And I'm available to answer any questions that anyone has.

Chair – Thank you.

Mr. Knopke – Mr. Chair?

Chair – Go right ahead, Mr. Knopke.

Mr. Knopke – As Chairman of the first Board that Ms. Wiener appeared before, I would agree 100% with her. Cemeteries have sold monuments and memorials to go in other cemeteries for years and years, in Florida and in other states. For this to be interpreted in the way that it's been interpreted, it's not consumer friendly and it's not business friendly. What it will do is require consumers to only buy monuments, or other cemeteries, from a monument establishment or a funeral home that's not regularly engaged in that practice. That will not be to the benefit of the consumer by providing more competition. Secondly, it will require existing cemeteries that do this to go out and get a monument license, set up a separate business, causing them to raise prices, and to not create competition in the marketplace either. Last but not least, it's kind of underhanded in the way the Department, in my mind and my feelings, have gone at this. They've help this person get to the point of applying for a license that they don't need. They're asking them to pay the fees, only to set them up by not advising them that they're going to need a preneed agent or licensed monument seller to sell. Then, they will have to come back with {inaudible} or probably discipline if this gets approved. So, I will make the motion that Ms. Wiener stated she would like to see applied here. And if we can go back in the tape, we can get it, or she can do it again.

Ms. Wiener – I'd be happy to restate the proposal or the requested course of action from the Board, if you would like, Mr. Chairman.

Chair – Go right ahead.

Ms. Wiener – We would ask that the Board conclude that the monument establishment licensure applied for is not necessary, permit the applicant to withdraw the application and any submissions that have been made, and to direct the Division to issue a refund for any application fees.

Chair – So Mr. Knopke, is that your motion?

Mr. Knopke – Yes. And to take it a step further, anybody that's on this Board who has a cemetery company that operates, obviously in Florida, know that you're going to have to, if the motion fails, you're going to have to apply for new licenses for that business, as well as set up a separate company.

Chair – So, there's been a motion. Is there a second?

MOTION: Mr. Knopke moved to conclude that the monument establishment licensure applied for is not necessary, permit the applicant to withdraw the application and any submissions that have been made, and to direct the Division to issue a refund for any application fees. Mr. Hall seconded the motion, which passed unanimously.

Ms. Wiener – Thank you, Mr. Chairman.

Mr. Helm - Mr. Chairman?

Chair – Next item.

Mr. Helm – Question?

Chair – Who is this, please?

Mr. Helm – Mr. Helm.

Chair – Mr. Helm, go right ahead.

Mr. Helm – I was trying to get in, but I couldn't get in. I understand what everybody's saying, but this monument company has a specific address. This is not the cemetery's address. Is it?

Ms. Wiener – That was pursuant to direction from the Board's staff. Luckily, if in fact he had wanted to have a monument establishment license, there are cemetery owners that want to set up separate monument establishment businesses, and they may certainly do so, although it is not required pursuant to the longstanding interpretation of the regulator. In this particular case, he had another street address that he could use for this purpose. So, that was the course of action there, Stokes Monuments, however, is simply a fictitious name, a DBA, if you will, of the cemetery. So, these have been sales by the cemetery.

Chair – Thank you. And, of course, that motion carries.

18. Executive Director's Report
A. Operational Report (Verbal)

Chair – Ms. Schwantes? Your Operational Report, please.

Mary Schwantes – Yes sir. Thank you, Mr. Chairman. Can everybody hear me?

Chair – A little low in volume.

Ms. Schwantes – Ok. Is it better now?

Chair – Yes, it is.

Ms. Schwantes – Great, thank you. Ok, for the Executive Director's report, I'd like to continue our legislative updates for the 2021 regular legislative session. The session began on March 2nd, and is expected to adjourn later this month on April 30th. The update that I provide following is on the bills that we've been monitoring and reporting on before in prior months. As before, because we've discussed these during the last few meetings, I'm only going to provide an update on the bill status. However, if you have any questions, I can provide more details regarding the bills themselves.

So, the first matter to provide a status on is the Deregulation bill. This is House Bill 471 and Senate Bill 344. The status on these bills is the House Bill must go through four (4) committees. There is not a change from our prior meeting. The Bill is now in a subcommittee, the Regulatory Reform Subcommittee, for the first committee that it has to pass. It's been there since February 8th, with no action and no hearing date set. The Senate Bill passed the first of its three (3) committees, the Governmental Oversight and Accountability Committee, on March 17th. It is now in the Appropriations Committee, with no hearing date set.

The next bills to discuss are the Abandoned Cemeteries bills. This is House Bill 37 and Senate Bill 222. The status on these bills is the House Bill passed the first of its three (3) committees, which was the Government Operations Subcommittee, on March 24th. It next goes before the Infrastructure and Tourism Appropriations Subcommittee. No date has been set for its review. The status of the Senate Bill has not changed since our last meeting. The Senate Bill passed the first of its three (3) committees, the Governmental Oversight and Accountability Committee, on February 17th. Since February 22nd, it has been referred to its second committee, the Appropriations Subcommittee on Transportation, Tourism, and Economic Development, with no date set for its review.

The third bill to discuss is on Animal Cremations. This is House Bill 295 and Senate Bill 526. There's no change on the status of the House Bill since our last meeting. The House Bill was filed on February 17th. It is in the first of its three (3) committees, the Regulatory Reform Subcommittee, with no date set for review. There's no change to the status of the Senate bill. It passed the first of its three (3) committee stops, the Agriculture Committee, on February 4th, and is now in the Judiciary Committee, with no date set for its review. Although it's not certain, of course, it does not currently appear likely that these bills are going to pass this session.

Next, COVID-19 Liability Shields for Businesses. This is House Bill 7 and Senate Bill 72. I see Mr. Chairman nodding his head on this, so I hope that you all have been keeping up with the news on these issues. Both bills passed their respective Houses

and were signed by the Governor on March 29th. The law went into effect the same day. We're very pleased to see those bills pass.

Final Disposition of Fetal Remains. This is House Bill 1437 and Senate Bill 1984. The status on this bill is the House Bill is in its first committee stop, the Professions and Public Health Subcommittee, with no date set for review. The Senate Bill, just filed on March 1st, received its three (3) committee referrals. The first committee will be the Children, Families and Elder Affairs Committee, but it has not yet been assigned to that committee for review. So, although the referrals are listed, the assignment has not gone out.

The Department Bill is House Bill 1209 and Senate Bill 1408. The status on these bills - with amendments, the House Bill passed the first of its three (3) committees, the Insurance and Banking Subcommittee, on March 17th. A committee substitute for the bill was filed. The bill is now in its second stop, the State Administration and Technology Appropriations Subcommittee with no date set for its review. As amended as to the Chapter 497 issues, the House Bill removed the proposed changes to the quorum requirements of the Board that we had proposed, so the statute would still require a quorum of six (6) to conduct business, under the House bill, as amended. It removed the proposed changes expanding disqualification of applicants based upon criminal background. So, if passed, the current policies and practices regarding review of criminal background would still apply. It added a proposal that came in from the industry associations requesting a bridge for interns for the funeral director and combo licenses only. It allows licensed funeral director interns and licensed funeral combination funeral director and embalmer interns meeting specified requirements to continue performing as interns pending licensure approval. The bill allows for a funeral director or combo intern, to continue to perform the tasks, functions, and duties related to funeral directing after the expiration of his or her intern license, and until a funeral director or combo license is issued or denied, or for a period of ninety (90) days, whichever occurs sooner, if he or she has completed the educational credentials required for a license as a funeral director or combo license, and has applied for the licensure. So, it does allow for that, the bridge, as we talked about. And, it added a proposal, again from the industry associations, that preneed contracts that become at-need contracts prior to the funds being paid into the trust, then the money would not have to be paid into trust. It changes that preneed contract to an at-need contract in that case. And, if the preneed contract has been fulfilled, the provision requiring deposits to be made within thirty (30) days after the end of the calendar month in which payment is received would not apply. So, that is the House Bill. The House Bill currently is different as amended than the Senate bill. The Senate bill that is still in process is as originally filed. Though the Senate bill passed the first of its committee stops, the Banking Insurance Committee, on March 10th, a committee substitute bill was filed on March 11th. However, the substitute again does not change any of the originally proposed changes to Chapter 497. The bill is now in the Appropriations Committee with no date set for its review. And, obviously as these bills continue to pass through their respective houses, they will be conformed at some point.

A new bill has been filed, and we're calling it the Seminole County Exemption. It is House Bill 1593, filed by Representative David Smith. There is no related Senate bill. The bill provides that the provisions of Chapter 497, as well as the rules adopted by the Department pursuant to that chapter, would not apply to cemeteries of less than three (3) acres that are located in the unincorporated area of Seminole County and do not sell burial spaces or burial merchandise. The bill does not propose any changes to Chapter 497. It is separate and stands alone. We understand the impetus for this bill is Geneva Cemetery. Established around 1880, this small historic cemetery holds about twelve (12) burials per year. The cemetery wants to build an above ground columbarium with about 240 niches for cremains. It's believed that the cost for interment in the columbarium will pay for the perpetual care of the cemetery. The status on this bill is that it was filed on March 1st. It's a very short bill. It has passed all three (3) assigned committees as of March 29th, and is now pending before the House for the second reading. Again, there's no corresponding Senate bill.

A brief update on other ongoing projects. The Board Appointment Process, again, there's no update at this time. As always, we truly want to thank the Board members, particularly those whose terms have already expired who are continuing to serve, for their continued dedication and commitment to the Board and the industry. It's very much appreciated, I know by the industry, but also certainly by our staff at the Division.

Regarding Board meetings, the Division is planning two (2) Legislative Workshops for the 2022 legislative year, which involves an early legislative session. We want to begin planning very early for legislative proposals for the 2022 session. So, the workshops will likely be in August and September, probably in Tallahassee. So that Board members can participate in these workshops, which we believe is extremely important, we are considering holding them around the same time as the

Board meetings for that month. More details about the workshops and a proposed calendar for Board meetings for Fiscal Year 21/22 will be presented to the Board next month in May. Having said that, the next Board meeting will be a videoconference meeting held on Thursday, May 6, 2021. This ends the Operational Report. Thank you, Mr. Chair. Thank you, Board members.


Chair – Thank you. Any questions for Ms. Schwantes? Thank you for your report. Ms. Simon?

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

Ms. Simon – This is informational only, if there are no questions.

Monthly Report of Fines and Costs Assessed and Paid
 Division of Funeral, Cemetery and Consumer Services
 Date of Board meeting: April 1, 2021
 Date report was prepared: March 22, 2021

Licensee	Board Meeting	Case No.	Total Fine & Cost Due	Date Due	Paid in Full?	Comments
Benboe Funeral Home	3/4/2021	270820-20-FC	\$1,500	4/23/2021		
Capital Transport Services LLC	3/4/2021		\$1,500	4/23/2021		
Jessica Ingram	3/4/2021	270823-20-FC	\$1,500	4/23/2021		
Deborah Faniel Jenkins d/b/a Faith Funeral	3/4/2021	276635-20-FC	\$2,000	4/23/2021		
Debra Lynn Parrish	3/4/2021	257475-20-FC	\$1,000	4/23/2021		
Dees-Parrish Family Funeral Home	3/4/2021	257474-20-FC	\$1,000	4/23/2021		
Bryan Box	3/4/2021	273795-20-FC	\$5,250	4/23/2021		
DM Baker Mortuary	3/4/2021	243309-19-FC	\$500	4/23/2021		
Going Home Cremation Services, Inc	1/7/2021	239742-19-FC	\$3,000	3/15/2021	Yes	
Alexander Funeral Home	1/7/2021	270659-20-FC	\$1,500	4/27/2021	Yes	
Donald D. Alexander	1/7/2021	270662-20-FC	\$1,500	4/27/2021	Yes	
Chestnut Funeral Home	1/7/2021	254987-19-FC	\$2,500	2/26/2021	Yes	
Charles Chestnut	1/7/2021	261483-20-FC	\$2,000	2/26/2021	Yes	
Anthony Siders	1/7/2021	269133-20-FC 269187-20-FC	\$2,000	5/22/2021		
Brown Memorial Funeral Home & Cremation Service LLC	3-Dec-20	243275-19-FC	\$300	1/24/2021	Yes	
JL Locke & Company	3-Dec-20	243567-19-FC	\$300	15-Jan-21	Yes	
Richard L. Macon Funeral Home, Inc. d/b/a Freeman Funeral Home	3-Dec-20	243147-19-FC	\$300	18-Jan-21		
Floyd Brian Garrett	3-Dec-20	261898-20-FC	\$1,500	15-Jan-21	Yes	
Miami Funeral Services & Crematories d/b/a National Funeral Homes	3-Dec-20	243581-19-FC	\$4,000	1/22/2021	Yes	
Holmes Funeral Directors	3-Dec-20	285585-20-FC & 258293-20-FC	\$5,000	1/22/2021	Yes	
Callahan Funeral Home Inc.	3-Dec-20	243532-19-FC	\$300	15-Jan-21	Yes	
Jay Funeral Home	3-Dec-20	243330-19-FC	\$300	15-Jan-21	Yes	
Brandon Cremation and Funeral Services Inc	5-Nov-20	255669-19-FC	\$500	12/21/2020	Yes	
A L Hall Funeral Directors Inc. d/b/a Tillman Funeral Home	5-Nov-20	254434-19-FC	\$2,000	2/22/2021	Yes	
Isaac Miller	5-Nov-20	260760-20-FC	\$2,000	1/1/2021	Yes	
Florida Cremation Services LLC d/b/a Valles Funeral Home and Crematory	5-Nov-20	254489-19-FC	\$3,500	12/21/2020	Yes	
Maykel Ribalta	5-Nov-20	254491-19-FC	\$3,500	12/18/2020	Yes	
Alternative Transportation Services	5-Nov-20	267466-20-FC	\$1,750	1/15/2021	Yes	
Michael Williams	5-Nov-20	217639-17-FC	\$5,000	2/16/2021	Yes	
R. Butts, Inc. d/b/a Butts Memorial Chapel	1-Oct-20	256607-19-FC	\$1,500	27-Apr-21	Yes	
Rickey Sharnard Butts	1-Oct-20	256616-19-FC	\$1,500	27-Apr-21	Yes	
Marc Brooks	1-Oct-20	255318-19-FC	\$4,000	15-Nov-20		SEND TO OGC
Wilson Wolfe, Inc., d/b/a Sweet Dreams Memorial	8/13/2020	256163-19-FC	\$4,000	2/15/2021		SEND TO OGC
A. When payment in full becomes past due, the FCCS Division works with the DFS Office of the General Counsel to enforce payment. B. Once fines and costs are paid in full, licensee kept on this report 3 months, showing Paid in Full, and then dropped off report; also licensee dropped off report after disciplinary action filed due to nonpayment of the fine and costs. C. The Order re this case is still in process, so no Due date is not yet established. D. Due date has not passed, as of the date of this report. E. As of the date of this report, monthly payments were current.						

 3-23-2021

19. Chairman's Report (Verbal)

Chair – I have no report, other than the usual. Our next meeting is in May and I look forward to being with you then.

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

Ms. Simon – Ms. Munson?

Ms. Munson – Nothing to report. No rules. This is informational. Thank you.

Chair – That's good news. Thank you.

BOARD OF FUNERAL, CEMETERY, AND CONSUMER SERVICES RULES REPORT
APRIL 2021

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

There are no rules pending.

21. Public Comments (Verbal)

Ms. Simon – Are there any public comments on today's meeting? Hearing no response. Mr. Chairman?

Mr. Jones – Mr. Chair?

Chair – Mr. Jones, go right ahead.

Mr. Jones – Just a quick update. Most of you have heard, some of you have not. FEMA has come out with the Coronavirus Response or Relief Supplemental Appropriation Act of 2021, where they are going to reimburse funeral expenses for decedents who died of COVID from January 20, 2020. They have not given a stop date on that. They're looking to fund up to \$9000 per individual, \$35,000 per family, where they will be requesting the expenses from funeral establishments, a copy of the death record with cause of death. The family will go online, make an application with FEMA, upload those documents, and then FEMA work with them. So, just so you're aware, there's no start date. We had a call with FEMA on Tuesday nationally, Vital Statistics. There's not a start date yet for this. I'll provide information as I get it, but I wanted to bring it up. Families that feel that their family members died of COVID, but it's not listed on the death record, FEMA is recommending that they get back with the medical certifier and talk to them. That is all the information I have at this time, unless there's any questions.

Chair – Mr. Jones, is there a provision for the unpaid funeral bill to be paid to the funeral provider?

Mr. Jones – Not that they discussed. It was a little question as to if there was preneed, it's not covered. They won't reimburse the family from what they told us. Now, FEMA is still coming up with their requirements. They did indicate if funeral expense were paid by insurance, they would reimburse the family. No mention of reimbursing any funeral home or State agency for work associated with this.

Chair – Ok. Mr. Jones, if the death occurred in 2020, but the family requests additional services in 2021, is there discussion of that being reimbursed? It's all part of the same COVID death.

Mr. Jones – It showed that this starts with the January 20, 2020. They did not give a stop date, so we're not clear how far they'll go and what they'll cover for 2021 deaths. FEMA has not put anything out on that.

Chair – Thank you.

Ms. Lisa Coney – Mr. Chairman?

Mr. John Ricco – Mr. Chairman?

Chair – Let me recognize Ms. Coney first. I believe she requested to be recognized, Mr. Ricco.

Ms. Coney – Good afternoon, Board. This is Lisa Coney, and I'm sure that John Ricco and I are here to make the same comments. FCCFA has been working very closely with NFDA, ICCFA and FEMA to ask all those specific questions about how this impacts our profession. I understand that preneed contracts, because they provide specific average for that funeral event, that those would not be reimbursable costs. The cost must be incurred. The family must have paid it, so this is not going to be payable to a funeral home. And it would not be payable to an individual if that individual had not incurred the cost. And, on a call yesterday with FEMA, we asked the specific question, because so many families that had deaths early in the COVID pandemic and opted not to have services at that time and chose something with a memorial service or a burial at a later date when their family could gather. And, FEMA is going to recognize those things as long as they are not covered by the preneed contract. It will be determined on a case by case basis specific to the individual and specific to the cost incurred. One of the points that FEMA made is that it is one (1) application for one (1) individual or one (1) death. So, if there are multiple contracts, then it would all have to land on one (1) application. There won't be multiple applications. And that would include, even though a preneed contract would not be covered, we all know that there's frequently costs above a preneed contract. Those costs that are not specifically covered could be part of the FEMA payment reimbursement to a family member. So, there's going to be a lot to learn, but FCCFA is going to be very intimately involved and will share information with all of you and with all of our families.

Chair – Just for clarification, is this funeral and cemetery expense?

Ms. Coney – Yes, sir. It is.

Chair – Thank you.

Ms. Coney – But both of those contracts would be part of one (1) application.

Chair – Thank you. Mr. Ricco?

Mr. Ricco – Yes, thank you, Mr. Chair. Just the only other point of just clarification just so you all are crystal clear on this, is what Lisa said, and she covered most of everything that I was going to mention, is that when she says one (1) application, you only get to apply once. So, if a family has had a cremation and is going to wait to do an interment, say, six (6) months from now. They should wait until all expenses have been incurred and file after they've extended everything that they're going to on that particular service, because you can't apply for a cremation and then come back six (6) months later and say we've now had the interment, and now we want to submit those expenses. They have to wait until all expenses have been incurred.

Chair – Thank you so much for the clarification.

Mr. Jones – One more, Mr. Chair. FEMA was, and I wish I would have been your call. On our call, FEMA was pretty adamant that it is to the person that paid the expenses. So, there may be some problems or some issues if that person is not by Florida statute entitled to receive a death certificate with cause of death, I've got to work that out. Majority of the time they probably are, but there will be some instances that the person who paid is not immediate family, and we'll work with funeral homes and the individuals. So, as Lisa and John said, we've got a lot still to figure out on this, but I wanted to bring it up. Thanks, Lisa and John. Both associations have done a good job. I've received from John and Ruth information on this that they've sent out. It has been very good, So, I appreciate you all including me, also.

Chair – Thank you for that relevant information. That's very important.

22. Administrative Report

The information was provided on the Agenda.

23. Disciplinary Report

The information was provided on the Agenda.

24. Upcoming Meeting(s)

- A. May 6th (Videoconference)
- B. June 24th (Videoconference)
- C. July (TBD)
- D. August 5th (TBD)
- E. September 2nd (TBD)
- F. October 7th (TBD)
- G. November 4th (TBD)
- H. December 2nd (TBD)

25. Adjournment

Chair – Any other comment? Again, thank you, Board members. Always appreciate you. The time and effort that you put into these meetings are obvious at every meeting. So, again, we appreciate each and every one of you. The meeting is adjourned.

The meeting was adjourned at 12:25.