

MINUTES
BOARD OF FUNERAL, CEMETERY AND CONSUMER SERVICES
VIDEOCONFERENCE MEETING
May 6, 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 May 6, 2021. Ms. Simon?

Ms. Ellen Simon – Yes, Mr. Chairman. My name is Ellen Simon. I am the Assistant Director of the Division of Funeral, Cemetery, and Consumer Services. 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 their individual offices. Ms. LaTonya Bryant is recording the meeting and minutes will be prepared.

As this is a videoconference of the Board, there are some items I need to draw your attention to. For one, as a general rule, please do not utilize your video camera for the meeting unless you are a Board member, Board counsel, or an authorized Division employee. If you have a matter listed on the agenda and intend to appear before the Board to represent yourself, or if you are an attorney that is representing a client, only turn your video camera option on when we have reached the agenda item that you want to be heard on or when you hear your name called. Then turn your video camera option off again as soon as your matter has been addressed by the Board. If you are planning on participating by video, please ensure that you are properly attired for the meeting. In the past, we have had the experience of people not being properly attired and it is detrimental to the meeting process, as it could be disruptive. If you are not planning to participate by video, please ensure that your camera is off.

Additionally, we need everyone that is on the call to place their phone or audio feed on mute, if you are not speaking. The ambient noise coming from someone's phone or audio, which is not muted, causes severe disruption to the meeting. If you are not muted, you may be muted by Division staff. As a result, 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. And before I call the roll, Ms. Schwantes?

Ms. Mary Schwantes – Yes, thank you. Good morning Board members and all attending. Thank you for your patience, as we work through some of the technological challenges. We have four (4) newly appointed Board members who I would like to introduce at this time. First, Ms. Sanjena Clay – Ms. Clay fills one (1) of our consumer positions. Welcome, Ms. Clay. Chris Jensen – Mr. Jensen fills one of the two positions for a licensed funeral director who is associated with a funeral establishment, and we're glad to have you on board, Mr. Jensen.

Mr. Chris Jensen – Thanks.

Ms. Schwantes – Jay Lyons – Rabbi Lyons fills the position for a principal of a licensed monument builder establishment. Good morning, again, Mr. Lyons.

Mr. Jay Lyons – Good morning. Thank you.

Ms. Schwantes – And John Williams – John Williams fills the consumer/CPA position, which has been vacant since 2017. We're very glad to have him on board as well. Good morning. Finally, I would like to congratulate Mr. Clark on his reappointment to the Board. Mr. Clark now fills one of the two (2) positions for a person associated with a licensed cemetery. So, we are delighted to have a full 10-member Board again. This is the first time, I think, since 2017, and we look forward to working with each of you! Now with your permission, Mr. Chair, I think Ms. Simon is ready take roll.

Chair – Ms. Simon, go right ahead.

Ms. Simon – Thank you, Mr. Chairman:

Joseph “Jody” Brandenburg, Chair

Keenan Knopke, Vice Chair

Andrew Clark

Sanjena Clay

Lewis “Lew” Hall

Christian “Chris” Jensen

Ken Jones

Jay Lyons

Darrin Williams

John Williams

Also noted as present:

Mary Schwantes, Executive Director

Rachelle Munson, Board Legal Advisor

Marshawn Griffin, Department Legal Counsel

James Bossart, Department Legal Counsel

LaTonya Bryant, Department Staff

Ms. Simon – Mr. Chairman, there is a quorum of Board members present for the business of the Board, but before we head to the items on the agenda, I would like to add into the agenda, for good cause shown, if the Chair will allow me, the proposed resolution I'd like to read to the Board.

Chair – Please go right ahead, Ms. Simon.

**RESOLUTION
IN RECOGNITION AND APPRECIATION OF
DISTINGUISHED SERVICE
BY
POWELL HELM**

WHEREAS, Sections 497.101 and 497.102, Florida Statutes effectively establish the composition and authority of the Board of Funeral, Cemetery, and Consumer Services (the "Board"), which is comprised of ten members who serve 4 year staggered terms for the general purpose of overseeing the licensing and regulation of Florida's death care industry;

WHEREAS, Powell Helm was appointed by the Governor of Florida as a Board member in 2005 and graciously volunteered his time and expertise to the Board, providing invaluable insights, perspective, and guidance throughout his term with the Board;

WHEREAS, Powell Helm has served on the Board with great professionalism, dedication, and distinction;

WHEREAS, Powell Helm's participation in Board activities and recommendations throughout the years have greatly assisted the Board in fulfilling its mission;

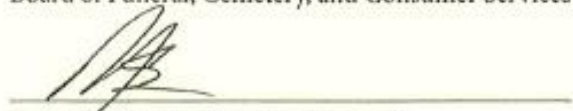
NOW, THEREFORE, BE IT RESOLVED that the Board of Funeral, Cemetery, and Consumer Services acknowledges and extends its gratitude to Powell Helm for his dedicated service to the Board, his notable contribution to the Board's mission, and his dedicated service thereby to Florida's death care industry and consumers.



**Adopted by the Board of Funeral, Cemetery,
and Consumer Services
On May 6, 2021**


Joseph Brandenburg, Chair
Board of Funeral, Cemetery, and Consumer Services


Keenan Knopke, Vice-Chair
Board of Funeral, Cemetery, and Consumer Services


Mary Schwantes, Executive Director
Board of Funeral, Cemetery, and Consumer Services

Ms. Simon – And Mr. Chairman, this is a proposed resolution for the Board to vote upon.

Chair – Is there a motion from the Board to accept the proposed resolution?

MOTION: Mr. Ken Jones moved to accept the proposed resolution. Mr. Darrin Williams seconded the motion, which passed unanimously.

Chair – Mr. Helm? I have the certificate here. Thank you so much for your distinguished service. Since the very beginning of this Board, when it was formed in 2005, Powell Helm was appointed by the Governor, and has served throughout, and we appreciate so much, your contributions. Thank you, Powell Helm. Mr. Helm, would you like to say a word or two, sir?

Mr. Powell Helm – Well, I'll just say, thank you and I enjoyed being with all of you. I enjoyed working with you. Maybe we'll cross paths down the road. I have a feeling that a couple of us are going to cross paths. I think Jody can still shoot a quail.

Chair – Thank you, Mr. Helm, and all the best to you and your family. I know that comes from all the Board. We appreciate you so much.

Mr. Helm – All right. Thank you all very much. Take care.

Chair – Thank you.

Mr. Keenan Knopke – I'll see you next week, Powell.

Mr. Helm – All right. Thank you, Keenan.

2. Action on Minutes

A. April 1, 2021

Chair – Is there a motion?

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

Chair – Ms. Simon?

3. Old Business

A. Motion for Reconsideration

(1) Stokes Monument Company

Ms. Simon – This is a Motion for Reconsideration of Stokes Monument Company. Mr. Griffin will be presenting for the Department. Mr. Griffin?

Mr. Marshawn Griffin – Marshawn Griffin for the Department. At the last Board meeting, the Board had for consideration an application for licensure that was issued to Stokes Monument Company, for licensure as a monument establishment retailer. The Board took a vote directing the Department to refund the application fee that was paid by Stokes, in connection with the application process. This raises two (2) issues. The first issue being that, under the plain language of s. 497.273, Florida Statutes, a copy of which is attached to the Motion, that the licensure as a monument establishment retailer is required for Stokes, as they are limited to only performing those actions within the confines of their cemetery, per the language in subsection one. The second part of the issue is that Rule 69K-12.002, Florida Administrative Code, expressly provides that application fees are non-refundable. So, as such, the proposed action by the Board runs afoul of this provision of Florida Administrative Code. So, at this time, the Division is requesting that the Board reconsider the matter of the application for licensure by Stokes. And, I believe that counsel for Stokes is present as well.

Chair – Thank you. Counsel for Stokes, would you please identify yourself? Counsel for Stokes, would you please identify yourself?

Wendy Wiener – This is Wendy Wiener. Can you not hear me?

Chair – We can barely hear you. Turn it up.

Ms. Wiener – It's as loud as it can be. I'll talk very loud. This is Wendy Wiener.

Chair – Now, I can hear you, Ms. Wiener. Thank you. Do you want to address the Board or you're merely here to answer questions?

Ms. Wiener – Questions only. Thank you.

Chair – Thank you. Board?

Mr. Knopke – Mr. Chair?

Chair – Go right ahead, Mr. Knopke.

MOTION: Mr. Knopke moved to reconsider the actions as requested by the Department. Mr. Jones seconded the motion, which passed unanimously.

Chair – Mr. Knopke, did you want to continue on?

Mr. Knopke – Yes, sir.

MOTION: Mr. Knopke moved to make the same motion as I did previously, in the last meeting, but delete the language dealing with requiring the Department or the State to make a refund. Mr. Lew Hall seconded the motion.

Chair – Thank you. Any discussion?

Ms. Simon – Mr. Chairman? If I may?

Chair – Ms. Simon?

Ms. Simon – Before there is a vote, I believe that there should be some discussion on the outstanding application, or what is going to be happening with the application today.

Mr. Knopke – Mr. Chairman?

Chair – Go right ahead.

Mr. Knopke – It was my intention, Ms. Simon, in my motion that the application be rejected as it was before. Because I think that's what we did previously.

Mr. Jay Lyons – Mr. Chair?

Chair – Just one moment here. I'm looking for something.

Ms. Simon – Mr. Griffin, do you have anything to add on this matter?

Chair – Excuse me. Excuse me, please.

Ms. Simon – I'm sorry, Mr. Brandenburg.

Chair – Looking at the minutes from Mr. Knopke's motion before, he moved to conclude that the monument establishment licensure applied for is not necessary. And permitted 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. So, if I understand Mr. Knopke, your motion stays the same except you're not directing the Division to issue a refund on any application fees.

Mr. Knopke – That is correct.

Chair – Thank you. And we had that motion, and we had a second. Any other discussion there?

Rabbi Lyons – Yes, Mr. Chair.

Chair – Who's speaking, please?

Rabbi Lyons – Jay Lyons, if possible?

Chair – Go right ahead, Rabbi Lyons.

Rabbi Lyons – Thank you. Can I just clarify when we speak in terms of application fees being nonrefundable, if the entire basis of the application was unnecessary, does that still fall into the category of an application fee being nonrefundable? Meaning it's not like they applied and decided that they didn't want it. They didn't really need to apply is what it sounds like.

Chair – Mr. Griffin?

Mr. Griffin – Under the plain language of the statute, a cemetery company can only sell monuments within the bounds of its cemetery. That's the language in s. 497.273(1), F.S. So, notwithstanding the Board's determination that the licenses on unnecessary, it's the Department's position that under Florida Statutes that the license is required. Furthermore, I would argue that further proposed changes to 497, 273, F.S., that take effect July 1st, basically kind of establish that the license is required. Because the changes basically remove that limitation that cemetery companies can only perform those functions within the boundaries of their cemetery.

Chair – Thank you, Mr. Griffin. Ms. Wiener, were you trying to get my attention?

Ms. Wiener – No, Mr. Chairman. I will note that I don't believe that the legislative history associated with the most recent change will confirm that the license was ever required. I think, instead, it will indicate quite plainly that the license was not required and that this was a clarification to be made. But, be that as it may, we find ourselves where we find ourselves today. So, Stokes Monuments does have a license application or a series of license applications before you so that in the event that it is determined that such a license is required, then he is not prejudiced over the course of this time period up until July 1st.

Chair – We have a motion, and that motion has been seconded and yes, Mr. Knopke?

Mr. Knopke – Just one question of Ms. Wiener. Ms. Wiener, what we're doing today, your client is satisfied with it. Is that correct?

Ms. Wiener – He's perfectly satisfied with a determination that no license is required. But likewise, if this Board determines that a license is required, then he has those applications before you, and he does understand that no matter what, he will not receive a refund of any application fees paid.

Mr. Knopke – The motion that I made is satisfactory?

Ms. Wiener – To Stokes Monuments? Yes, sir.

Mr. Knopke – Thank you.

Chair – Anything else, Mr. Knopke? So, we have a motion and it's been seconded.

Ms. Simon – Mr. Chairman? I apologize. Board counsel raised her hand for your attention.

Chair – Mr. Munson?

Ms. Rachelle Munson – I don't know if the Department was going to file any additional information, but when the motion was previously made and approved at the previous meeting, it was determined that because the way the statute is written, an

Order could not be issued, because the action was not enforceable by the black letter language of s. 497.273, Florida Statutes. So, if the motion on the table, again, is for the very same action that was presented at the previous meeting, again an Order may not be written because it is unenforceable because of the language of the statute. Understanding that with the legislative change that is in play effective July 1, this issue very well appears to become moot, but as of this time, and again, I'm not going to want to overstep the lanes of what the Department's presentation is with regard to this, but I just needed to state that information on the record, because I don't think it was clearly stated on the record previously.

Chair – Thank you. So, we have a motion and we have a second and all those in favor, aye.

Board members – Aye.

Chair – And any opposed?

Rabbi Lyons – I'm going to oppose based on my understanding of counsel.

Chair – One opposed? And that motion carries. Ms. Simon?

Ms. Munson – If I may? With the motion carrying, I just wanted the Board to understand, I'm not certain what action will take place, if an Order cannot be written. And, I'm not going to mention anything else about it just because I know it's the Department's role to make any incident intervening comments that they may choose to make. But I just wanted from the Office of the Attorney General standpoint, what that declaration would be. Thank you.

Chair – Thank you, Ms. Munson. Ms. Simon?

4. **Disciplinary Proceeding(s)**

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

(1) *Related Cases – ATN-33624*

(a) *Hawk, Demarien J.: DFS Case No. 257472-20-FC; Division No. ATN-33624 (F081293)*

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

Mr. Knopke – Mr. Chairman?

Mr. James Bossart – Good Morning, Mr. Brandenburg.

Chair – Excuse me. Mr. Knopke, you go right ahead, and you could do the same thing for the other items on the agenda if you wish to get it on out the way.

Mr. Knopke – I will. Excuse the interruption, Mr. Bossart. Let me recuse myself on items number 4. A. (1), (2), (3), (4), (5) on number...

Chair – 4. D.?

Mr. Knopke – B?

Chair – D as in David.

Mr. Knopke – Thank you, sir. And 4. D. I think that's it.

Chair – (1), (2) and (3)?

Mr. Knopke – Yes, D. (1), (2) and (3). Yes, you are correct.

Chair – Thank you. We appreciate that declaration. Good morning, Mr. Bossart.

Mr. Bossart – Good Morning, Mr. Brandenburg. May I proceed?

Chair – Please do.

Mr. Bossart – The case before the...

Chair – I'm sorry. Mr. Knopke, you did recuse yourself and for what reason? I'm sorry we didn't get that on the record.

Mr. Knopke – Because I was on Probable Cause Panel A.

Chair – Thank you so much for that. Mr. Bossart, will you try one more time without me interrupted?

Mr. Bossart – Thank you. sir. Demarien J. Hawk (Respondent) is a funeral director and embalmer, license number F081293. Respondent was the funeral director in charge (FDIC) of Ivey Funeral Home, LLC (Ivey Funeral), a Florida funeral establishment licensed under Chapter 497, Florida Statutes, license number F255319. Ivey Funeral Home is also the companion case to this matter and will be heard immediately after this one. A Division investigation revealed that Ivey Funeral advertised the sale of preneed contracts, without having a valid preneed license. As FDIC of Ivey Funeral, Respondent is responsible for these violations. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides as follows: Respondent shall pay an administrative fine of \$1,250 and undergo a one-year period of probation. The Department requests that the Board accept this Settlement Stipulation. Thank you.

Chair – Thank you. I note that Ms. Wiener is counsel. Ms. Wiener, do you want to address the Board or are you here merely to answer questions?

Ms. Wiener – No, sir. Just for questions.

Chair – Thank you. Board?

Mr. D. Williams – Mr. Chair?

Chair – Go right ahead.

Mr. D. Williams – A question for Ms. Wiener or her client. On Page 42 of the packet that we received, it states your client takes full responsibility, but then on Page 3, and I guess we will need some assistance from counsel, it states he denies the allegations. So, I just want to get some clarity on that two to make sure I'm hearing everything I want to hear. And then I have a follow up of that question.

Ms. Wiener – Certainly.

Chair – Ms. Wiener?

Ms. Wiener – Oh, I'm sorry.

Chair – Ms. Wiener, would you care to respond?

Ms. Wiener – Yes, thank you. Mr. Williams, the language that you have before you in the Settlement Stipulation is customary. It is typical, and I think you'll find it in most if not all of the Settlement Stipulations that are presented to you today. The initial response that was submitted regarding this matter makes it clear that the FDIC does certainly understand that he is responsible for all matters that occur at the funeral home and takes responsibility for those matters. However, we very strongly denied the allegations in the Administrative Complaint that those allegations amounted to a violation of Chapter 497. So, while those statements might seem to be counter to one another, they're actually consistent with one another.

Chair – Thank you so much.

Mr. D. Williams – Mr. Chair, may I have a follow up?

Chair – Please, Mr. Williams.

Mr. D. Williams – And also, Ms. Wiener, has your client updated their website and the brochure information? I saw the other old material, but I didn't know if there's updated material showing that everything has been updated to remove that language and also to know the difference of what was the violation of Chapter 497.

Ms. Wiener – They certainly do. That information, I believe, was updated at or around the time that the inspector was there and identified the problem. You will from time to time come across these cases because licensees often buy website templates from some very well-known death care industry players. Those templates contain that prearrangement tab on them. Licensees have to actively ask that that be removed or disabled. In this case, Mr. Hawk and the funeral establishment did not realize that that was even there, and that they were committing a violation. As soon as it was brought to their attention they took it down.

Mr. D. Williams – So...

Chair – I'm sorry. Go ahead, Mr. Williams.

Mr. D. Williams – So, your client is aware of the difference between preneed and prearrangements?

Ms. Wiener – Well actually, Mr. Williams, there's not really a difference between preneed and prearrangements. Back before 1995, I think, when we clarified the law, I believe Mr. Knopke was Board Chair at the time, we clarified the definition of a preneed contract in Chapter 497 to make it very clear that what used to be referred to as a prearrangement was {inaudible}.

Chair – So, Ms. Wiener?

Ms. Wiener – Sir?

Chair – Were you finished with your statement?

Ms. Wiener – I am. Yes, sir.

Chair – We were interrupted. Mr. Williams, any other questions?

Mr. D. Williams – No, sir, Mr. Chair. Thank you so much.

Chair – So, Board we have before us a Settlement Stipulation. What's your pleasure?

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

Chair – Ms. Simon?

(b) Ivey Funeral Home, Inc.: DFS Case No. 257469-20-FC; Division No. ATN-33624 (F255319)

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

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

Chair – Please do, Mr. Bossart.

Mr. Bossart – This is James Bossart for the Office of the General Counsel. This is the companion case to the previous case that you just heard. Ivey Funeral Home (Respondent) is a Florida funeral establishment licensed under Chapter 497, Florida Statutes, license number F255319. A Division investigation revealed that Respondent advertised the sale of preneed contracts,

without having a valid preneed license. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides as follows: Respondent shall pay an administrative fine of \$1,750 and undergo a one-year period of probation. Respondent did have prior discipline by way of citations issued in previous matters CN2009-1623624492 and ATN-24120, for unrelated violations. The Department requests that the Board accept this Settlement Stipulation. Thank you.

Chair – Thank you, Mr. Bossart. Ms. Wiener?

Ms. Wiener – Questions only, sir.

Chair – Thank you. Is there a motion.

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

Mr. Ivey – Excuse me. Can you hear me?

Chair – Is that Mr. Williams?

Mr. Ivey – No, this is Mr. Ivey of Ivey Funeral Home. Can you hear me?

Chair – Yes, I can, Mr. Ivey. You go right ahead, sir,

Mr. Ivey – May I speak?

Chair – Please do.

Mr. Ivey – The General Counsel mentioned previous violations in 2009. Is that correct?

Mr. Bossart – Yes, sir. It's a citation issued in 2009. I assume, due to the date of the numbering.

Mr. Ivey – Ok, I did not own a funeral home in 2009. I just bought the funeral home in 2018. We just opened in 2018, so I don't know about those violations.

Mr. Bossart – The Department stands corrected, then. Sir, you're quite correct. It's obvious these citations were issued to a previous licensee, if that's the case. Ms. Simon can confirm.

Mr. Ivey – Ok. I didn't know if you were saying that would apply to me and I wanted clarification. I just entered the funeral industry in 2018.

Chair – Mr. Ivey. This case is against Ivey Funeral Home, not you.

Mr. Ivey – No, I'm saying we've been on the opened.

Ms. Wiener – Mr. Chair, as owner of the funeral home...

Mr. Ivey – He was saying the funeral home was in violation Ivey Funeral Home in Live Oak just opened in 2018, sir.

Chair – Thank you.

Mr. Ivey – May I ask a question, Chair?

Chair – Please do.

Mr. Ivey – In reference to that, they thought we had previous violations, so is that the reason for the year of probation?

Mr. Bossart – I'm looking at statute.

Mr. Ivey – This is our first offense.

Mr. Bossart – The citation was issued in 2014. You were not the owner of Ivey Funeral Home in 2014, sir?

Mr. Ivey – {Inaudible} Our first body was in 2018. So, I didn't buy this funeral home until then. Maybe that's another Ivey Funeral Home somewhere else, I don't know. But, I just want the Board to know that this is our first alleged violation, this oversight of this listing on the website about preneed prearrangement. We apologize, but this is our first time before the Board. Was that the reason for the year of probation request, rather than just the fine? So, maybe the Board can help clarify.

Chair – Mr. Bossart?

Mr. Bossart – Perhaps Ms. Simon can clarify. Was this citation issued against a previous licensee?

Ms. Simon – It may have been. There were two (2) citations in 2009 and 2014. If Mr. Ivey just purchased the property in 2018, that would make sense. However, that would be a typical settlement or allegations of this nature, regardless of the past history. And I believe that that was a settlement agreement that was already entered into between the licensee and the Department. And, as I said, the type of disciplinary action entered into would be typical for this offense.

Mr. Ivey – Ok. Thanks for that clarification. I just wanted the Board to know that those previous violations were not, or should not be attributed to us, because we were not open until 2018, OK.

Chair – Mr. Ivey, I'll take the liberty of advising the Department to eliminate any indication of prior discipline, if that's what the Department finds {inaudible}. But, we still have a Settlement Stipulation before us. Thank you.

Mr. Ivey – Yes, sir.

Chair – There's been a motion made to accept the Settlement Stipulation, and it's been seconded. Mr. Knopke?

Mr. Knopke – Mr. Chair, I know that I recused myself, but I just want to make sure that Mr. Ivey, or anybody else in the future gets sworn in.

Chair – That's a good point. That's a good point. We missed that. So, there's a motion and a second, and all those in favor, aye?

Board members – Aye.

Chair – And any opposed? And that motion carries. Thank you, Mr. Ivey. Thank you, Ms. Wiener.

Mr. Ivey – Thank you.

(2) Related Cases – ATN-32423 (Items 4. A. (2) (a) and 4. A. (2) (b) inadvertently presented out of order)
*(b) Kronish, Sunshine & Company, Inc. d/b/a Kronish Funeral Services: DFS Case No. 243335-19-FC:
Division No. ATN-32423 (F230140)*

Ms. Simon – Is Mr. Kronish present for today's meeting?

Mark Sunshine – He is not. This is Mark Sunshine. I am both each of an employee, part owner and also attorney representing Mr. Kronish.

Ms. Simon – Thank you.

Rabbi Lyons – Mr. Chair?

Chair – Go right ahead.

Rabbi Lyons – Jay Lyons here. I need to recuse myself. Mr. Kronish and Mr. Sunshine, the two (2) principals of the company, are both dear friends of mine, honorable men, but I would not be able to judge this impartially.

Chair – Thank you for that declaration. And please note that Mr. Sunshine, on our screen, is Caller #19. So, go right ahead.

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

Mr. Griffin – Marshawn Griffin for the Department. Kronish, Sunshine & Company, Inc. d/b/a Kronish Funeral Services (“Respondent”) is a funeral establishment, licensed under Chapter 497, Florida Statutes. The Department conducted an inspection of Respondent and found that Respondent failed to timely renew its license, failed to have the prices for caskets for sale clearly and conspicuously marked, and failed to retain signed contracts and written arrangements for final disposition. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides as follows: Respondent shall pay a fine of \$1,000. The Department requests that the Board accept this Settlement Stipulation.

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

Mr. Sunshine – Answer question, sir.

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

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

Chair – Thank you, Mr. Sunshine.

Rabbi Lyons – Mr. Chair?

Chair – Mr. Lyons? Rabbi Lyons, go right ahead.

Rabbi Lyons – Sorry, I should have done this from the beginning to recuse myself from both items, but I need to recuse myself from this one as well, for the same reason, another friendship that I have with the owners.

Chair – Thank you so much.

Mr. Griffin – I apologize to the Board. I have the PDFs for all my packets together, and the first case I read off was the packet for the entity, not the individual. So, it's a little out of order from the way it's depicted on the agenda.

Chair – Ms. Munson, how do we resolve this?

Ms. Munson – The motion that was previously taken, if it applies to the entity, the motion could just simply be amended to reflect that that decision was based on the entity as presented and then we can go ahead and look at in the order that it was intended to be regarding the individual.

Chair – Is there a motion?

MOTION: Mr. Jones moved to amend the previous motion to reflect the correct item. Mr. Clark seconded the motion, which passed unanimously.

(a) *Kronish, Keith Phillip: DFS Case No. 268812-20-FC: Division No. ATN-32423 (F043802)*

Chair – Mr. Griffin?

Mr. Griffin – Marshawn Griffin for the Department. Keith Phillip Kronish (“Respondent”) is a funeral director and embalmer, licensed under Chapter 497, Florida Statutes. Respondent is the funeral director in charge (“FDIC”) of Kronish, Sunshine & Company, Inc. d/b/a Kronish Funeral Services (“Kronish Funeral”) a funeral establishment, license number F230140. The Department conducted an inspection of Kronish Funeral and found that Kronish Funeral failed to timely renew its license, failed to have the prices for caskets for sale clearly and conspicuously marked, and failed to retain signed contracts and written arrangements for final disposition. Respondent as FDIC of Kronish Funeral is subject to discipline based on Kronish Funeral’s violation of Chapter 497, Florida Statutes. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides as follows: Respondent shall pay a fine of \$1,000. The Department requests that the Board accept this Settlement Stipulation.

Chair – Thank you. Board?

MOTION: Mr. Hall moved to accept the Settlement Stipulation, which provides that the Respondent shall pay a \$1,000 fine. Mr. D. Williams seconded the motion.

Mr. Jensen – Mr. Chairman, I have a question.

Chair – Who’s this, please?

Mr. Jensen – Chris Jensen.

Chair – Yes, Mr. Jensen? Go right ahead.

Mr. Jensen – Just a quick question. In looking at all the different violations here, obviously each one of them have their own separate amount. How did everything get rolled up into one? And maybe this is for the Department. I’m just curious how everything got rolled up into one, as a \$1000 fine.

Mr. Griffin – So, we’ll start off with the failure to timely renew licenses. Under the old version of the disciplinary guidelines, which were in effect at the time when the inspection occurred, they permitted the Department to impose a fine of \$300 for the failure to timely renew. And then, regarding the remaining \$700 in violations, I believe what was contemplated between the parties was that even though the initial investigation alleged three (3) violations, if I recall correctly, I believe that the stipulation basically contemplated the \$700 being split, I believe, like \$350 apiece for the two (2) violations, for the failure to have the casket prices displayed, as well as the failure to produce the records, as requested. Part of the reason, or at least OGC, when contemplating this agreement, I took into account the fact that it wasn’t an issue where the licensee outright failed or refused to have a copy of the contracts. It was an issue that the contracts were not readily available, as requested out, those laws and statutes require that they basically be provided on demand and the issue and on demand. So, OGC was satisfied that this was not indicia of like an ongoing problem with the licensee and that the licensee is clearly committed to making or ensuring that this is not an issue in the future.

Mr. Jensen – Ok. Mr. Chair, may I ask a question?

Chair – Go right ahead, Mr. Jensen.

Mr. Jensen – In reference to what was just said, so the written the arrangements for final disposition, there were written arrangements, they just weren’t readily available. Is that correct?

Mr. Griffin – Right, but unfortunately, the way the statute works is, if we ask for it and you don’t have it, when we ask for it, it’s as though you didn’t have it.

Mr. Jensen – Ok. Yes, that’s a little different than the way I was read it. That’s good. Thank you.

Chair – Ok, there’s a person with their hand raised. Who’s that, please?

Mr. Sunshine – Mark Sunshine.

Chair – Mr. Sunshine, go right ahead.

Mr. Sunshine – So, I just want to...

Chair – Since you're of counsel, Ms. Munson, it's not necessary to swear Mr. Sunshine in?

Ms. Munson – No sir, if he's speaking as a representative, as legal counsel.

Chair – Go right ahead, Mr. Sunshine.

Mr. Sunshine – Thank you. First, I want to qualify my statement that I'm about to make by expressing my admiration and respect for the staff and the Board. It's possible to have a disagreement with somebody on something and still believe that they're doing an extraordinarily good job, which is what I believe the Department is doing. However, when we talk about readily available, the statute merely says and I'm going to read from the statute that one has to furnish for retention the contract. The statute does not say where those contracts need to be retained, and it doesn't say provide a time period nor do the administrative rules on how quickly they have to be produced. So, when we say readily available, we were able to produce those contracts in sixteen (16) minutes, and they were electronically stored.

Chair – Thank you very much.

Mr. Sunshine – The reason we were able to reduce those contracts in sixteen (16) minutes was we had them slightly offsite because Mr. Kronish was working remotely because his wife had terminal cancer at the time and was working on those contracts, as well as others from his home, which were eight (8) minutes away. We felt that we were in compliance with the statute, and I don't believe, notwithstanding the fact that we've agreed to this stipulation, I believe we were operating within both the confines of the statute as well as the administrative code. When I asked Mr. Griffin questions about how many minutes one has to do it, and whether or not electronic copies are acceptable, and what if it's ten (10) feet away and that contract was in a different doorway, he actually had to check some of those questions to see what the correct answer was. I felt at all times we were within the statute. We've amended our procedures so that we're within the Department's version of that statute, but I don't feel we were ever given appropriate notice of what the Department's interpretation of the statute was.

Chair – Thank you, Mr. Sunshine. So, we have before us a Settlement Stipulation with a motion to accept, and it's been seconded and all those in favor, aye?

Board members – Aye.

Chair – And any opposed? And that motion carries. Thank you, Mr. Sunshine.

(3) *Related Cases – ATN-36030*

(a) *MacDonald, Lowell J.: DFS Case No. 277022-21-FC: Division No. ATN-36030 (F042117)*

Ms. Simon – Is Mr. McDonald present for this meeting? Hearing no response. Presenting for the Department again is Mr. Griffin.

Mr. Griffin – Marshawn Griffin for the Department. Lowell J. MacDonald ("Respondent") is a funeral director and embalmer, licensed under Chapter 497, Florida Statutes, license number F042117. Respondent is the funeral director in charge ("FDIC") of MacDonald Funeral Home & Cremation Inc ("MacDonald Funeral") a funeral establishment, license number F039805. The Department conducted an inspection of MacDonald Funeral and found that MacDonald Funeral engaged in activities requiring licensure under Chapter 497, Florida Statutes with an expired license; and failed to maintain and produce, for inspection, its Bodies Handled Reports. Respondent as FDIC of MacDonald Funeral is subject to discipline based on MacDonald Funeral's violation of Chapter 497, Florida Statutes. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides as follows: Respondent shall pay an administrative fine in the amount of \$250. The Department requests that the Board accept this Settlement Stipulation.

Chair – Thank you. Is Mr. MacDonald present? Hearing none. Board?

Mr. D. Williams – Mr. Chair?

Chair – Go right ahead.

Mr. D. Williams – This question is for Mr. Griffin. Are these under the old rules? The violations.

Mr. Griffin – They're under the new rules of the statutes. New rules, post January 2019, which provide that for a violation of Section 497. I believe it's 152(5)(b), F.S., that the penalty for a failure to timely renew is a \$250 fine, if the license is expired. There's a different fine that is proposed if the license is under a different condition, such as suspended or revoked.

Chair – Thank you. Is there a motion?

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

Chair – Ms. Simon?

(b) MacDonald Funeral Home & Cremation Inc.: DFS Case No. 277019-21-FC: Division No. ATN-36030 (F039805)

Ms. Simon – Is someone present for this videoconference that is representing the entity? Hearing no response. Again, presenting for the Department is Mr. Griffin.

Mr. Griffin – Marshawn Griffin for the Department. MacDonald Funeral Home & Cremation Inc (“Respondent”) is a funeral establishment, licensed under Chapter 497, Florida Statutes, license number F039805. The Department conducted an inspection of Respondent and found that Respondent engaged in activities requiring licensure under Chapter 497, Florida Statutes with an expired license; and failed to maintain and produce, for inspection, its Bodies Handled Reports. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides as follows: Respondent shall pay an administrative fine in the amount of \$250. The Department requests that the Board accept this Settlement Stipulation.

Mr. Jensen – Mr. Chair?

Chair – Go right ahead, Mr. Jensen.

Mr. Jensen – Again, question for the Department. I mean there's two (2) different issues here. The Bodies Handled Report, I mean, the way I'm reading 497, the minimum fine is \$1000. So, again, how are we arriving at \$250?

Mr. Griffin – So, the failure to produce the Bodies Handled Report as alleged in the Administrative Complaint was the section that was alleged was I believe it is second 497.604(8)(b) I'm sorry. Well, so, although the Administrative Complaint (1)(b) provides for a thousand-dollar fine, the statute that is most on all fours and every violation of Chapter 497, Florida Statutes, implicates 497,152(1)(b), It's just very broadly written. The statute that is most on all fours with the actual violation of the s. 497.382(1), Florida Statutes, and Rule 69K-20.001, F.A.C., under the rules provide for notice of noncompliance for first violation. So, in the interest of settlement, OGC considered, when making the offer, to kind of take that into account when crafting the fine, as opposed to the \$1000.

Chair – Thank you. So, we have before us a proposal for a Settlement Stipulation. Is there a motion?

MOTION: Mr. Jones moved to accept the Settlement Stipulation, which provides that the Respondent shall pay a \$250 fine. Ms. Sanjena Clay seconded the motion, which passed unanimously.

Chair – Ms. Munson, may I call upon you for your sage explanation, if you will, of just as a general rule, how settlement stipulations are negotiated and the conclusions reached?

Ms. Munson – Absolutely, Chair. Thank you. And of course, Attorney Griffin can expound if he so chooses. When the Department finds some type of disciplinary issues that they feel they have the basis to issue an Administrative Complaint supported by probable cause findings, they have the opportunity to address the matter with the Respondent to determine rather than pursuing any extensive hearing matters or litigation if they can possibly reach an agreement. And, they look toward, of course, the guidelines for any disciplinary measure and take into consideration any aggravating or mitigating issues that may impact, to what extent. And when both parties agree, when you see it come before the Board, unless it is the variance that is so far outside of the realm of reasonable consideration, this is the document that both parties, the Department and the Respondent, have reviewed and agreed upon for various reasons, so that it can actually be the end of the matter. The Board, of course, has to have the opportunity to approve, and actually to deny and if so, if it rejects it, it would require that both parties, the Department and the Respondent present some type of counter settlement or present some type of alternate arrangements. Any changes to which of course would also require Board approval. But that's just a general description of what happens. And again, Attorney Griffin may want to add or detract from some of that. Thank you so much, Chair, for the opportunity.

Chair – Thank you. I thought an explanation may be necessary. Mr. Griffin?

Mr. Griffin – Yes, and if I may add that part of the consideration is that these Settlement Stipulations, to draw an analogy to criminal, are similar to a plea agreement. So, the entire point of these is to resolve the matter without going to formal discipline. And, the underpinning of a plea agreement is the idea that the prosecuting entity does not seek the maximum penalty that they normally could seek in exchange for as an inducement to settle the matter sensibly. If the offer from the Department is the maximum penalty, then no licensee ever would ever accept the offer because there's no point. You may as well take your chances at a hearing, because it can't get any worse than the max. So, that's kind of taken into account when making these offers.

Chair – Thank you both for your explanation. I hope that helps clarify how we reach the Settlement Stipulation. Ms. Simon?

(4) Related Cases – ATN-30801

(a) Smith, Lynda: DFS Case No. 230487-18-FC; Division No. ATN-30801 (F053994)

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

Ms. Wiener – Wendy Wiener for the Respondent.

Ms. Simon – Thank you, Ms. Wiener. Presenting for the Department is Mr. Bossart.

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

Chair – Mr. Bossart, you go right ahead, please.

Mr. Bossart – Thank you. This is James Bossart for the Office of the General Counsel. Lynda Smith (Respondent), is licensed under Chapter 497 as a funeral director and embalmer, license number F053994. Respondent is one of the principals and funeral director in charge (FDIC) of Smith Funeral Home (Smith Funeral), Inc. a licensed funeral establishment, license number F041906, doing business in St. Petersburg, Florida. The Department conducted an investigation of Smith Funeral and found that Smith Funeral sold a preneed funeral contract 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 and should be in your packet 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. 230487-18-FC, with prejudice. The Department requests that the Board accept this Settlement Stipulation. Thank you.

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

Ms. Wiener – The latter, sir.

Chair – Thank you. Board?

Mr. Hall – Mr. Chair?

Mr. D. Williams – Mr. Chair?

Chair – Who is this, please?

Mr. Hall – I think {inaudible}.

Chair – Mr. John Williams?

Mr. J. Williams – That wasn't me.

Chair – Mr. Darrin Williams?

Mr. D. Williams – May I ask a question?

Chair – Who's this, please?

Mr. D. Williams – Darrin Williams.

Chair – Go right ahead, Mr. Darrin Williams.

Mr. D. Williams – Mr. Chair, this question is for staff, or the Office of the General Counsel. Have we made any progress with trying to bring forth some charges or things against Ms. Hicks, because I know we have had some previous cases with this same situation? So, how close are we with trying to mitigate this situation? Because I think it's going to continue to come up. I think we're going to come into a larger issue.

Mr. Griffin – Marshawn Griffin, if I may? Last month, I had a meeting with the Bureau of Investigations. Ms. Hicks is not licensed under Chapter 497, Florida Statutes and as such, action would need to be handled by the Bureau of Investigation as part of the Division of Insurance, Agent and Agency Services. Last month, I met with the heads of the Bureau of Investigations, the top two (2) people in the Division, and basically, we formerly referred the Early Mae Hicks cases, and to be clear, there were I believe about four (4) entities impacted. We just had the stips kind of spread out over two (2) different meetings based on the time that we got them all settled. The matter is that the Bureau of Investigation has received those investigative files and they're beginning their process to begin investigating these matters. But, the matters have been formerly referred to the Bureau of Investigation who are taking action on it.

Chair – Thank you, Mr. Griffin. So, we have before us a Settlement Stipulation. Oh, I'm sorry. Mr. Darrin Williams, any more questions, sir?

Mr. D. Williams – No, sir.

Chair – We have before us a Settlement Stipulation. Is there a motion?

MOTION: Mr. J. Williams moved to accept the Settlement Stipulation, which provides that the Administrative Complaint filed in this action, Case No. 230487-18-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. Jensen seconded the motion, which passed unanimously.

(b) *Smith Funeral Home, Inc.: DFS Case No: 230486-18-FC; Division No. ATN-30801 (F041906)*

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

Mr. Bossart – Thank you. This is the companion case to the previous case just heard. Smith Funeral Home, Inc. (Respondent) is licensed as a funeral establishment, license number F041906, and doing business in St. Petersburg, Florida. Lynda Smith (Smith), license number F053994, is the owner of and is the licensed funeral director in charge (FDIC) of Respondent. 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 was attached to the packet 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. 230486-18-FC, with prejudice. The Department requests that the Board accept this Settlement Stipulation.

MOTION: Mr. Hall moved to accept the Settlement Stipulation, which provides that the Administrative Complaint filed in this action, Case No. 230486-18-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.

Chair – Thank you.

(5) *Related Cases – ATN-35117*

(a) *Watts, Jamie: DFS Case No. 267465-20-FC; Division No. ATN-35117 (F045470)*

Ms. Simon – I believe Ms. Wiener is representing Jamie Watts in this matter, and presenting for the Department is Mr. Griffin.

Ms. Wiener – That's correct.

Mr. Griffin – Marshawn Griffin for the Department. Jamie Watts (“Respondent”) is a funeral director and embalmer, licensed under Chapter 497, Florida Statutes, license number F045470. Respondent is the funeral director in charge (“FDIC”) of Cremation Service of Florida LLC (“Cremation Service”), a direct disposal establishment, preneed main, and preneed branch, license number F191953. The Department conducted an inspection of Cremation Service and found that Cremation Service engaged in activities licensed under Chapter 497, Florida Statutes with an expired license. Respondent as FDIC of Cremation Service is subject to discipline based on Cremation Service’s violation of Chapter 497, Florida Statutes. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides as follows: Respondent shall pay a fine in the amount of \$1,000. The Department requests that the Board accept this Settlement Stipulation.

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

Ms. Wiener – Just questions, sir. Thank you.

Chair – Thank you.

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

(b) Cremation Service of Florida LLC: DFS Case No. 268464-20-FC; Division No. ATN-35117 (F191953)

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

Mr. Griffin – Marshawn Griffin for the Department. Cremation Service of Florida LLC (“Respondent”) is licensed as a direct disposal establishment, preneed main, and preneed branch, license number F191953. The Department conducted an inspection of Respondent and found that Respondent engaged in activities licensed under Chapter 497, Florida Statutes with an expired license. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides that Respondent shall pay a fine in the amount of \$1,500. The Department requests that the Board accept this Settlement Stipulation.

MOTION: Mr. Jones moved to accept the Settlement Stipulation, which provides that the Respondent shall pay a \$1,500 fine. Mr. Clark seconded the motion, which passed unanimously.

Mr. D. Williams – Mr. Chair?

Chair – Yes, Mr. Williams? Mr. Darrin Williams. I’m trying for the record to differentiate between the two (2) Mr. Williams. Go right ahead.

Mr. D. Williams – Yes, sir. Mr. Chair, I served on Probable Cause Panel B, so I need to recuse myself from cases 4. B. (1), B. (2), B. (3), B. (4), and 4. E. (1) and (2). Thank you.

Chair – I appreciate that declaration. Thank you.

B. Settlement Stipulations (Probable Cause Panel B)
(1) Decker, Marie: DFS Case No. 243582-19-FC; Division No. ATN-30427 (F047210)

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

Mr. Paul Drake – My name is Mr. Paul Drake with the law firm of Grossman, Furlow and Bayo representing the Respondent.

Ms. Simon – Good morning, Mr. Drake. Presenting for the Department is Mr. Griffin.

Mr. Griffin – Marshawn Griffin for the Department. Marie Decker (“Respondent”) is a funeral director and embalmer, licensed under Chapter 497, Florida Statutes. At all times relevant to this Settlement Stipulation, Respondent was the funeral director in charge (“FDIC”) of Miami Funeral Services & Crematories Inc d/b/a National Funeral Homes (“Miami Funeral”). The Department conducted an investigation of Miami Funeral and found that Miami Funeral entered into a preneed contract without the benefit of licensure. Respondent as FDIC of Miami Funeral is subject to discipline based on Miami Funeral’s violation of Chapter 497, Florida Statutes. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides as follows: Respondent shall pay a \$2,250 fine and its license will be placed on probation for one year. The Department requests that the Board accept this Settlement Stipulation. The memo has a mistake. It states that she’ll pay a fine of \$2500, but the correct amount should be \$2250.

Chair – Thank you for that clarification, Mr. Drake, did you want to address the Board, or you’re merely here to answer questions?

Mr. Drake – Merely here to answer questions.

Chair – Thank you, Mr. Drake. Board?

MOTION: Mr. Knopke moved to accept the Settlement Stipulation, which provides that the Respondent shall pay a \$2,250 fine and its license will be placed on probation for one (1) year. Mr. Hall seconded the motion, which passed unanimously.

Mr. Drake – Thank you.

Chair – Thank you, Mr. Drake. I appreciate you being with us.

(2) *Shalom Funeral Chapel LLC: DFS Case No.: 273395-20-FC Division No. ATN-35246 (F108917)*

Ms. Simon – Is there a representative for the funeral home on the call today? Hearing no response. Presenting for the Department is Mr. Griffin.

Mr. Griffin – Marshawn Griffin for the Department. Shalom Funeral Chapel, LLC (“Respondent”) is a funeral establishment, licensed under Chapter 497, Florida Statutes, license number F108917. The Department conducted an investigation of Respondent and found that Respondent failed to have a funeral director in charge, advertised for services that were beyond the scope of its licensure, advertised in a deceptive manner, and 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 shall pay a \$1,500 fine and its license will be placed on probation for one (1) year. The Department requests that the Board accept this Settlement Stipulation.

MOTION: Mr. Hall moved to accept the Settlement Stipulation, which provides that the Respondent shall pay a \$1,500 fine and its license will be placed on probation for one (1) year. Mr. Knopke seconded the motion, which passed unanimously.

(3) *Related Cases – ATN-35245*

(a) *Lewis, Charles A.: DFS Case No. 273653-20-FC; Division No. ATN-35245 (F046290)*

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

Mr. Charles Lewis – Yes.

Ms. Simon – Thank you, sir. Presenting for the Department is Mr. Griffin.

Mr. Griffin – Marshawn Griffin for the Department. Before I proceed, is counsel for Mr. Lewis present?

Chair – Lauren Pettine?

Ms. Lauren Pettine – Yes, I’m afraid that Wendy Wiener has been unable to connect to her internet, so I’ll be filling in for her regarding Charles Lewis.

Chair – Thank you, counselor.

Mr. Griffin – Charles A. Lewis (“Respondent”) is a funeral director and embalmer, licensed under Chapter 497, Florida Statutes, license number F046290. Respondent is the funeral director in charge (“FDIC”) of Charles A. Lewis Funeral Home (“Lewis – Funeral”) a funeral establishment, license number F041842. The Department conducted an investigation of Lewis – Funeral and found that Lewis – Funeral failed to refrigerate or embalm a body within twenty-four (24) hours and demonstrated negligence or incompetency in the practice of activities regulated under Chapter 497, Florida Statutes. Respondent as FDIC of Lewis – Funeral is subject to discipline based on Lewis – Funeral’s violation of Chapter 497, Florida Statutes. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides as follows: Respondent shall pay a \$2,000 fine and his license will be placed on probation for one (1) year. The Department requests that the Board accept this Settlement Stipulation.

MOTION: Mr. Knopke moved to accept the Settlement Stipulation, which provides that the Respondent shall pay a \$2,000 fine and its license will be placed on probation for one (1) year. Mr. Jones seconded the motion.

Chair – Just a moment, please. I'm looking for something.

Rabbi Lyons – Can I, Mr. Chair?

Chair – Go right ahead.

Rabbi Lyons – Mr. Chair?

Chair – Go right ahead, please. I'm recognizing whoever's trying to get my attention. Rabbi Lyons, if you're speaking, we can't hear you,

Rabbi Lyons – Jay Lyons here, again.

Chair – Go right ahead, please.

Rabbi Lyons – I'll [inaudible]. Can you hear me, sir?

Chair – I can hear you now.

Rabbi Lyons – Yes, Jay Lyons here. I'm trying to get your attention.

Chair – I'm calling upon you but I can't...

Rabbi Lyons – That's a problem.

Chair – I'm recognizing Rabbi Lyons.

Ms. Simon – Rabbi Lyons, we are unable to hear you. You are fading in and out, and we cannot hear you at this moment. And we still cannot. You may want to hang up and call in again, if that is your wish.

Chair – Alright. It appears that Rabbi Lyons has left us, and will be, hopefully, returning to the meeting. So, we have before us a motion to accept the Settlement Stipulation, and it's been seconded. All those in favor, aye?

Board members – Aye.

Chair – And any opposed? And that motion carries. Ms. Simon?

Ms. Simon – I believe that Ms. Munson was trying to get your attention, Mr. Chairman.

Chair – I'm sorry. Go right ahead, Ms. Munson.

Ms. Munson – It's OK. I just want to clarify. I know when Board member Lyons left, I don't know if he's back. I wanted to make sure that the record reflects that I don't know if he was trying to give comment on the case. And if so, I just wanted the record to reflect that we gave him an opportunity to do so. I know we took a vote, but I didn't know if he had comment.

Chair – Thank you. When he comes back on, if you'll watch for me.

Ms. Simon – He's on.

Rabbi Lyons – Mr. Chair, am I audible?

Chair – Rabbi Lyons, go right ahead. While you were gone, we accepted the Settlement Stipulation and voted on that. But, would you care to address us?

Rabbi Lyons – Yes. Still germane to that, so if I could, I think this is maybe a question for counsel, but as far as these guidelines are concerned, we just in contrast, you know the first case that we had with Ivey Funeral Home was basically, they bought a boilerplate website that said preneed planning. Nobody noticed it until the inspector did. They got a \$1700 fine and a year of probation. Then we have another case here where the allegation is that they left a body unrefrigerated for twenty-four (24) hours, and they got a \$2000 fine and a year of probation. It sounds like those are very drastically different levels of breach of public trust, and not too different as far as the fine. So, I know we kind of touched on this earlier, but I am just a little bit confused about how the guidelines go for fining and probation.

Mr. Griffin – Well, so practically...

Chair – We're back to the Charles A. Lewis case, even though we've voted upon it. There is discussion, and I'm sorry, Mr. Griffin. Go right ahead.

Mr. Griffin – So, we are creatures of statute in as such, every penalty has a very limited range of penalties that are applicable to it. You know, even though this case had an issue of a body failing to be refrigerated, it's a very serious violation. However, we didn't have any issues of the body wasn't treated with dignity or respect, or any allegations that there was any sort of damage done to the body, so that was contemplated when making the offer. It's kind of hard to basically tell you that there's a checklist, and I can't do that, because we don't have like a checklist that says this violation gets this fine. Each case is assessed on a case by case basis. And so why, even though conduct may, facts may be similar, there's just certain intangible factors that go into each particular case. I will point out that if the Board is displeased with a potential offer, if you have concerns about an offer that's been made, the Board is empowered with the ability to reject the settlement offer and substitute or make a counter-offer, and the licensee has the discretion to choose to accept that or not.

Rabbi Lyons – Ok.

Chair – Thank you, Mr. Griffin. Rabbi, any other comments?

Rabbi Lyons – No. Thank you, Mr. Chair.

Ms. Munson – If I may, Chair Brandenburg? Only because every member is required to vote and it is clear that Member Lyons did not have the opportunity, if his vote can be registered yea or nay, it will be helpful for the record.

Rabbi Lyons – I'll vote in favor of the settlement.

Chair – Thank you so much. Thank you for that reminder, Ms. Munson. Next case, Ms. Simon?

(b) Charles A. Lewis Funeral Home: DFS Case No.: 273651-20-FC; Division No. ATN-35245 (F046290)

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

Mr. Griffin – Marshawn Griffin for the Department. Charles A. Lewis Funeral Home (“Respondent”) is a funeral establishment, licensed under Chapter 497, Florida Statutes, license number F041842. The Department conducted an investigation of Respondent and found that Respondent failed to refrigerate or embalm a body within twenty-four (24) hours and 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 shall pay a \$2,000 fine and its license will be placed on probation for one (1) year. The Department requests that the Board accept this Settlement Stipulation.

MOTION: Mr. Hall moved to accept the Settlement Stipulation, which provides that the Respondent shall pay a \$2,000 fine and its license will be placed on probation for one (1) year. Mr. Knopke seconded the motion, which passed unanimously.

(4) Related Cases – ATN-35554

(a) Loomis, Steven P: DFS Case No. 274959-21-FC; Division No. ATN-35554 (F045506)

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

Mr. Steven Loomis – Yes, ma'am. I am here.

Ms. Simon – Thank you, sir. Presenting for the Department is Mr. Griffin.

Mr. Griffin – Marshawn Griffin for the Department. Steven P. Loomis (“Respondent”) is a funeral director and embalmer. Respondent is the FDIC of Central FL Direct Cremations d/b/a Loomis Family Cremations (“Loomis Family”) is licensed as a direct disposal facility, licensed under Chapter 497, Florida Statutes, license number F041057. The Department conducted an inspection of Loomis Family and found that Loomis Family offered services beyond the scope of its licensure. Respondent as FDIC of Loomis Family is subject to discipline based on Loomis Family’s violation of Chapter 497, Florida Statutes. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides as follows: Respondent shall pay a \$1,000 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. Mr. Loomis, did you want to address the Board or are you merely here to answer questions that may arise?

Mr. Loomis – Just here for questions, sir.

Chair – Thank you.

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

Chair – Mr. Loomis, thank you for being with us.

Mr. Loomis – Thank you, sir.

(b) Central FL Direct Cremations d/b/a Loomis Family Cremations: DFS Case No.: 274952-21-FC; Division No. ATN-35554 (F041057)

Ms. Simon – And I believe that Mr. Loomis represents this entity. Presenting for the Department is Mr. Griffin.

Mr. Griffin – Marshawn Griffin for the Department. Central FL Direct Cremations d/b/a Loomis Family Cremations (“Respondent”) is licensed as a direct disposal facility, licensed under Chapter 497, Florida Statutes, license number F041057. The Department conducted an inspection of Respondent and found that Respondent offered services beyond the scope of its licensure. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides as follows: Respondent shall pay a \$1,000 fine and its license will be placed on probation for one (1) year. The Department requests that the Board accept this Settlement Stipulation.

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

Chair – Again, thank you, Mr. Loomis.

Mr. Loomis – Yes, sir. Thank you for your time.

C. Settlement Stipulations (No Board Member Recusal Necessary)
(1) Related Cases – ATN-30802 and ATN-32068
(a) Smith, Jerome: DFS Case No. 230448-18-FC; Division No. ATN-30802 (F043083)

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

Ms. Pettine – Lauren Pettine here for Mr. Smith.

Ms. Simon – Thank you, Ms. Pettine. Presenting for the Department is Mr. Bossart.

Mr. Bossart – Thank you. This is James Bossart for the Office of the General Counsel. Jerome Smith (Respondent), is a funeral director and embalmer licensed under Chapter 497, license number F043083. Respondent, at all times relevant, was the owner and funeral director in charge (FDIC) of Smith-Young’s Funeral Home, Inc. (funeral establishment), a Florida corporation doing business licensed under Chapter 497, Florida Statutes, as a funeral establishment, license number F040557, in Clearwater, Florida. The Department conducted an investigation of Respondent and found that Respondent sold a preneed funeral contract 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 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. 230487-18-FC, with prejudice. The Department requests that the Board accept this Settlement Stipulation. Thank you.

MOTION: Mr. Hall moved to accept the Settlement Stipulation, which provides that the Administrative Complaint filed in this action, Case No. 230487-18-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) Smith-Young’s Funeral Home, Inc.: DFS Case Nos: 230443-18-FC and 239788-19-FC: Division Nos. ATN-30802 and ATN-32068 (F040557)

Ms. Simon – I believe Ms. Pettine is representing the entity. Presenting for the Department is Mr. Bossart.

Mr. Bossart – Thank you. This is James Bossart for the Office of the General Counsel. Smith-Young’s Funeral Home, Inc. (Respondent), is a Florida corporation doing business licensed under Chapter 497, Florida Statutes, as a funeral establishment, license number F040557, in Clearwater, Florida. 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 that Jerome Smith, owner of 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. Jerome Smith, as owner of the 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 these actions, case numbers 230443-18-FC and 239788-19-FC. The Department requests that the Board accept this Settlement Stipulation. Thank you.

MOTION: Mr. Hall moved to accept the Settlement Stipulation, which provides that the Administrative Complaint filed in these actions, case numbers 230443-18-FC and 239788-19-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.

(c) Speights, Ferrell: DFS Case No. 239791-19-FC: Division No. ATN-32068 (F043145)

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

Mr. Bossart – Ferrell Speights (Respondent), is a funeral director and embalmer licensed under Chapter 497, license number F043145. Respondent, at all times relevant, was the owner and funeral director in charge (FDIC) of Smith-Young's Funeral Home, Inc. (funeral establishment), a Florida corporation doing business licensed under Chapter 497, Florida Statutes, as a funeral establishment, license number F040557, in Clearwater, Florida. Just as matter of clarification, Mr. Speights is the successor FDIC of Smith-Young's Funeral Home, as opposed to the earlier case of Mr. Jerome Smith. 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. 239791-19-FC, with prejudice. The Department requests that the Board accept this Settlement Stipulation.

MOTION: Mr. Jones moved to accept the Settlement Stipulation, which provides that the Administrative Complaint filed in this action, Case No. 239791-19-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.

Chair – At this point, I'd like to take the privilege, and Ms. Munson and I have not discussed, we have not rehearsed this, but having new Board members on board, under the disciplinary proceedings everything today has been considered under Settlement Stipulations. The landscape changes now somewhat as we move forward with those disciplinary cases that have not been settled by a stipulation. So, we will be considering cases where material facts are not distributed, and we will have to go through entirely different procedures here. But since we had new Board members, I just wanted to kind of let you know that the landscape is now changing. Ms. Munson, I didn't fall in the ditch, did I?

Ms. Munson – You did well. Thank you, Chair, for that.

Chair – All right. Thank you. Now, Ms. Simon?

Ms. Simon – Mr. Chairman, just to be clear, under Ferrell Speights, that motion to accept the settlement passed, correct?

Chair – That's correct.

D. Material Facts Not Disputed (Section 120.57(2) Hearings) (Probable Cause Panel A)
(1) Graham, Elliot Maurice: DFS Case No. 265818-20-FC; Division No. ATN-34877 (F045310)

Ms. Simon – Is Mr. Graham on the call or a representative of Mr. Graham? Hearing no response. Presenting for the Department is Mr. Griffin.

Mr. Griffin – Marshawn Griffin for the Department. The above-referenced matter is presented to the Board for consideration of the Motion for Determination of Waiver and for Final Order by Hearing Not Involving Disputed Issues of Material Fact (Motion) in the matter of Elliot Maurice Graham (Respondent). Respondent is the funeral director in charge (“FDIC”) of Marion Graham Mortuary (“Marion Graham”), a funeral establishment licensed under Chapter 497, Florida Statutes, license number F040391. The Division alleges Marion Graham engaged in the following:

- Failed to timely provide a refund
- Demonstrated negligence or incompetency in the practice of activities regulated under Chapter 497, Florida Statutes

Respondent as FDIC of Marion Graham is subject to discipline based on Marion Graham’s violation of Chapter 497, Florida Statutes. The Motion demonstrates Respondent has failed to timely file a responsive pleading contesting the allegations in the Administrative Complaint and requests the Board adopt the factual allegations in the Administrative Complaint and issue an appropriate penalty.

MOTION: Mr. Hall 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. Jones seconded the motion, which passed unanimously.

Ms. Simon – The next matter on your agenda is...

Mr. Griffin – No.

Chair – Ms. Simon?

Ms. Simon – I’m so sorry. I apologize.

Chair – That’s alright.

Mr. Griffin – I have two (2) things. First off, Elliot Graham is here. Second off, there's still more to go. Now that the Board has determined the Respondent has waived his right to request a proceeding in this matter, the Department believes that it is appropriate at this time for the Chair to entertain a motion adopting the allegations of the facts as set forth in the Administrative Complaint.

MOTION: Mr. Hall moved to adopt the allegations of the facts as set forth in both Administrative Complaint. Mr. Clark 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. Jones moved to find the Respondent in violation of the statutes as charged in the Administrative Complaint. Ms. Clay seconded the motion, which passed unanimously.

Mr. Griffin – And I believe the next step would be to discuss penalty. I believe Mr. Graham is here, so I believe it may be appropriate for the Board to hear from him before the Department makes its recommendation.

Chair – Reverend Graham? I'm sorry. Ms. Simon?

Ms. Simon – I just would want to swear him in.

Chair – I’m just calling on him now. Reverend Graham, have you joined the call, sir?

Mr. Elliot Graham – Yes. I’m here.

Chair – Do you want to address the Board or you're merely here to answer questions?

Mr. Graham – Yes sir. {Inaudible}

Chair – Reverend Graham, please be sworn in, if you will.

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

Mr. Graham – Yes.

Ms. Simon – And just as the last time when you were present before the Board, we're having a really hard time hearing you. I'm not sure what you did last time. Whether you got off the call, or somehow, but it's hard to hear you.

Mr. Graham – Is this better? Can you hear me now?

Chair – There's very much of an echo sound coming from you.

Mr. Graham – {Inaudible}

Ms. Simon – There's still an echo.

Chair – Go right ahead if you want to address the Board, and we'll attempt to be able to hear you. But if not, we may have to interrupt you.

Mr. Graham – {Inaudible} This was during COVID time, and I reached out to this person {Inaudible}. They never responded to me. I called them twice leading up to the {Inaudible}, have you received your refund, and I didn't get any kind of response from them. When I became aware of the situation, {Inaudible} to this. That's my only comment that I'd like to say. Thank you.

Chair – Thank you, Reverend Graham.

Ms. Clay – Mr. Chair?

Chair – Go right ahead.

Ms. Clay – I absolutely did not understand him. There's something going on with this microphone.

Chair – Is there anyone that can, Ms. Munson, can you interpret that and help Ms. Clay understand.

Ms. Munson – To be quite honest with you his audio was very muffled on my end, as well, so I would not want to identify myself as an interpreter of sorts for this particular issue. I was wondering if you needed to step back. I don't even know if everyone else heard, but simply is silent regarding it. I don't know if anyone understood him and clearly.

Ms. LaTonya Bryant – I'm sorry. I couldn't understand him. I'm sure I won't be able to understand him when I transcribe the minutes.

Chair – Reverend Graham, would you be able to step back from your microphone, and let's do a test and see if that helps?

Mr. Graham – How's that? Is that better?

Mr. D. Williams – Mr. Chair?

Mr. Graham – {Inaudible}

Mr. D. Williams – Mr. Chair?

Chair – We still cannot hear. Is someone trying to get my attention?

Mr. Griffin – He said he’s going to call back in on a telephone.

Chair – Ok. Let's table this while Mr. Graham comes back in on the call. So, Ms. Simon, let's go on to the next item, please.

(2) *Island Bird LDT LLC: DFS Case No.: 277099-21-FC Division No. ATN-36018 (F438948)*

Ms. Simon – Is there a representative of Island Bird on the call today? Hearing no response. Presenting for the Department is Mr. Griffin.

Mr. Griffin – Marshawn Griffin for the Department. The above-referenced matter is presented to the Board for consideration of the Motion for Determination of Waiver and for Final Order by Hearing Not Involving Disputed Issues of Material Fact (Motion) in the matter of Island Bird LDT LLC (Respondent). The Division alleges Respondent engaged in activities requiring licensure under Chapter 497, Florida Statutes, while its license was expired. The Motion demonstrates Respondent has alleged that there are no material facts in dispute, that Respondent waived it’s right to a hearing in this matter, and requests the Board adopt the factual allegations in the Administrative Complaint and issue an appropriate penalty.

Chair – Motion?

MOTION: Mr. Hall 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. Jensen seconded the motion, which passed unanimously.

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

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

Chair – Mr. Williams, are you trying to get my attention? John Williams?

Mr. J. Williams – No.

Mr. Graham – Hello?

Chair – Yes, who is this?

Mr. Griffin – That’s Mr. Elliot Graham.

Mr. Graham – Can you hear me?

Chair – Yes, we can now, but would you wait? We're finishing another case and will come right back to your case.

Mr. Graham – All right, thank you.

Chair – Thank you. Mr. Griffin?

Mr. Griffin – The Department also offers into evidence, the investigative report with exhibits, a copy of which has previously been furnished to the Board to establish a prima facie case for the violations alleged in the Administrative Complaint. As to penalty in this matter, the Department recommends that Respondent be issued a \$250 fine.

MOTION: Mr. Jones moved that the Respondent shall pay a \$250 fine. Mr. D. Williams seconded the motion, which passed unanimously.

Chair – Now, we're back to 4. D. (1).

Ms. Bryant – Excuse me, Jody. Marshawn, did we address the violations for that one? There was a motion for the findings of fact, but I didn't have anything down for the violations.

Mr. Griffin – I wasn't clear on that. And so, if we could go back? I'm sorry, I lost my place.

Chair – We're back to Island Bird.

Mr. Griffin – 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. D. Williams moved to find the Respondent in violation of the statutes as charged in the Administrative Complaint. Mr. J. Williams seconded the motion, which passed unanimously.

Chair – Ms. Bryant, did you get that OK?

Ms. Bryant – Yes.

Chair – Thank you. Ms. Munson, can we conclude this item and go back to Graham now? Is everything done on Island Bird?

Ms. Munson – Yes, sir, we may.

Chair – Thank you. Let's go back to the Graham case.

(1) *Graham, Elliot Maurice: DFS Case No. 265818-20-FC; Division No. ATN-34877 (F045310)*

Mr. Griffin – Before Mr. Graham addresses the Board, the Department also offers into evidence, the investigative report with exhibits, a copy of which has previously been furnished to the Board to establish a prima facie case for the violations alleged in the Administrative Complaint.

MOTION: Mr. D. Williams moved to accept into evidence, the investigative report with exhibits, a copy of which has previously been furnished to the Board to establish a prima facie case for the violations alleged in the Administrative Complaint. Ms. Clay seconded the motion, which passed unanimously.

Chair – Mr. Griffin, anything before we hear from Reverend Graham?

Mr. Griffin – The Department would recommend the following penalty of a \$2000 fine and that Mr. Graham's license be placed on probation for one (1) year.

Chair – Thank you. Mr. Graham? Thank you for rejoining the call. Perhaps we can hear you better now. You have been sworn in. Your comments, please.

Mr. Graham – Yes. So, if I would, during this period of receiving this refund, this was done at the beginning of COVID and communications was very limited during this. I was truly under the impression that, of course, the check was already being mailed directly to her. And, I actually called her the week of whenever the last thirty (30) days was coming up. I called her twice, and I did not get any kind of response from her. And then, of course, on day thirty-two (32), she filed a complaint. Then, once I received the complaint, that's when I found out that, of course, that the fax going out to FSI did not go through properly. When I became aware of that FSI and I rectified the problem as quickly as possible in this matter here. I actually know this lady. We went to church together. So, this is not something that was intentionally done. This was more of the fact that there was a lack of communication with COVID going on. So, that is my only comment. Through this process, she did receive her refund and there was no issue with her actually getting that refund. It was just a miscommunication with our fax machine and FSI. And FSI, of course, showed us a better way of communicating with them. So, that has come out from this

procedure. So, I would just like to say that. Thank you, and of course, you know, this is my first violation as an individual, so, thank you Board.

Chair – Do you feel like the communication part of it has been rectified and we shouldn't have a repeat of this in the future?

Mr. Graham – Correct. Yes, sir.

Chair – Thank you. Board, there's a recommendation before us.

Mr. J. Williams – Mr. Chairman?

Chair – Yes? Go right ahead.

Mr. J. Williams – This is John Williams, and just seeking some advice from counsel. I'm a Board member of FSI. I believe I could be impartial and fair, but I want to disclose that, and take the recommendation as far as my participation, or whether I should recuse myself.

Chair – Ms. Munson?

Ms. Munson – If that is the question, sir, I wasn't sure if it was a question to me. The fact that you have a relationship it is definitely worthy of disclosure. Whether or not you are able to issue a vote or provide a vote that's in an impartial and unbiased fashion, is a question that only you can answer. If you feel you cannot be impartial, then you will be required to recuse yourself. Other than that, if you feel that you can, then the recusal would not be necessary. The disclosure, however, is always necessary when an agenda item comes before, the Board where as you just indicated.

Mr. J. Williams – Ok, good, Yes. So, I wanted to make that disclosure. I do believe that I can be impartial.

Chair – Thank you so much for that disclosure.

Mr. Graham – If I may? FSI did not do anything wrong during this. I sent a fax over to them and I was under the assumption that the fax went through. That's what I did. And, the fax never went through. But, again, that wasn't brought to my attention until after I heard about the complaint, which was filed on day thirty-two (32)

Chair – Thank you. That was Mr. Graham speaking. Mr. Griffin, were you trying to speak?

Mr. Griffin – Yes, if I may? I would point out that in the investigative file, Marion Graham received the request on March 9, 2020. Then, the consumer did not file the complaint until April 14.

Chair – Thank you.

Mr. Jensen – Mr. Chairman?

Chair – Go right ahead.

Mr. Jensen – Chris Jensen here. Question for Mr. Griffin. It seems that Mr. Graham did give the refund, and, clearly, this is his first offense. How do we arrive at the recommended fine of \$2000 for a first offense?

Mr. Griffin – The disciplinary guidelines call for a penalty between \$1000 and \$2500. The Department made an offer to settle this matter with a \$1500 fine. Mr. Graham was unwilling to accept that offer. So, this was a matter where the offer of the Department was increased, in lieu of the fact that we're having a hearing.

Mr. Jensen – Got you. Thank you, Mr. Griffin.

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

MOTION: Mr. Jensen moved that the Respondent shall pay a \$2000 fine and his license shall be placed on probation for one (1) year. Mr. D. Williams seconded the motion.

Chair – All those in favor, aye?

Board members – Aye.

Chair – And any opposed?

Board members – Opposed.

Ms. Schwantes – Mr. Brandenburg, may I? This is Mary Schwantes.

Chair – Go right ahead, Ms. Schwantes.

Ms. Schwantes – Not to interrupt, we need to continue with this obviously, but I just wanted to ask for the record that when John Williams or Darrin Williams seconds a motion, please identify yourselves. It's difficult otherwise. Thank you.

Chair – Who seconded the motion, please?

Mr. D. Williams – Darrin Williams.

Chair – Darrin Williams did second the motion. So, we have a vote, and I was not able to determine the yeas and nays. So, Ms. Simon would you please take a roll call vote?

Ms. Simon – Yes, sir. Mr. Knopke?

Mr. Knopke – Ms. Simon, I recused myself on these in this section.

Ms. Simon – Mr. Clark?

Mr. Clark – No.

Ms. Simon – Mr. Hall.

Mr. Hall – Yes.

Ms. Simon – Mr. John Williams?

Mr. J. Williams – Yes.

Ms. Simon – Mr. Jones?

Mr. Jones – No.

Ms. Simon – Mr. Darrin Williams?

Mr. D. Williams – Yes.

Ms. Simon – Ms. Clay?

Ms. Clay – Yes.

Ms. Simon – Rabbi Lyons? Rabbi Lyons?

Ms. Munson – He looks frozen.

Ms. Simon – Well, let's keep going. Mr. Jensen?

Mr. Jensen – Yes.

Ms. Simon – Mr. Brandenburg, even without Rabbi Lyons' vote there are five (5) yeases and that would be the majority, as we only have nine (9) voting members.

Ms. Munson – We still would need to record the vote.

Mr. Hall – He's available again.

Ms. Simon – I'm not sure how to do that, because we cannot hear from him and he's not frozen.

Ms. Munson – Well, we still have to record it.

Chair – Rabbi Lyons, can you hear me?

Rabbi Lyons – Am I still frozen?

Chair – Yes, you are. We're voting. A voice vote was taken. Undetermined. Now we're taking a roll call vote. You vote yay or nay?

Rabbi Lyons – To the \$2000 fine and the one-year probation? Is that the question?

Chair – That's the question.

Rabbi Lyons – Yes, I'm opposed.

Chair – Yes, you're opposed? Ok, So, Ms. Simon, five (5) to three (3)?

Ms. Simon – Yes, sir.

Chair – And I vote yay, so that's six (6) to three (3), and the motion does carry. Thank you, Mr. Graham.

Mr. Graham – Thank you.

(3) Merritt Funeral Home Inc.: DFS Case No.: 277439-21-FC Division No. ATN-35949 (F040612)

Ms. Simon – I believe I did see a representative of Merritt Funeral Home on the call.

Ms. Lynn Merritt – Yes, ma'am.

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

Mr. Griffin – Marshawn Griffin for the Department. The above-referenced matter is presented to the Board for consideration of the Motion for Determination of Waiver and for Final Order by Hearing Not Involving Disputed Issues of Material Fact (Motion) in the matter of Island Bird LDT LLC (Respondent). The Division alleges Respondent engaged in activities requiring licensure under Chapter 497, Florida Statutes, while its license was expired. The Motion demonstrates Respondent has alleged that there are no material facts in dispute, that Respondent waived it's right to a hearing in this matter, and requests the Board adopt the factual allegations in the Administrative Complaint and issue an appropriate penalty.

MOTION: Mr. Hall 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. J. Williams seconded the motion, which passed unanimously.

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

MOTION: Mr. Hall moved to adopt the allegations of the facts as set forth in both Administrative Complaint. Mr. Clark 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. Hall moved to find the Respondent in violation of the statutes as charged in the Administrative Complaint. Mr. Clark seconded the motion, which passed unanimously.

Mr. Griffin – The Department also offers into evidence, the investigative report with exhibits, a copy of which has previously been furnished to the Board to establish a prima facie case for the violations alleged in the Administrative Complaint. As to penalty in this matter, the Department recommends that Respondent be issued a \$250 fine. Merritt Funeral is here.

Chair – Thank you. Representatives of Merritt Funeral Home, would you care to address the Board or you're merely here to answer any questions should they arise?

Ms. Lynette Merritt – Mr. Chairman, yes, I would love to address the Board if it is appropriate.

Ms. Simon – I'm sorry, Mr. Chairman, for interrupting.

Ms. Merritt – I'm sorry ma'am.

Chair – Thank you for the reminder. Thank you, Ms. Simon, for the reminder. Please be sworn in.

Ms. Simon – Whoever is going to speak, representing Merritt Funeral Home., please raise your right hand. Do you swear to tell the truth, the whole truth, and nothing but the truth, so help you God?

Ms. Merritt – I do.

Mr. David Merritt – I do.

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

Ms. Merritt – Good morning. My name is Lynette Merritt, and my family and I own Merritt Funeral Home, and I serve as the Secretary Treasurer of the corporation.

Mr. Merritt – And I am David Merritt, owner of the funeral home.

Chair – Thank you.

Mr. Merritt – I'm a licensed funeral director. I've been in business forty (40) years, and this is a first for me. We just wanted to kind of clarify some things. And my wife basically would like to explain.

Chair – Lynn Merritt, go right ahead and address the Board.

Ms. Merritt – Yes, sir. Thank you, Mr. Chairman. So, what happened was on December 30th, the inspector came to the funeral home and found that our license had expired, which I had no earthly idea. I had renewed funeral home establishment licenses back on November 12th for what I had assumed at the time was our Brooksville location, which was the location in violation and our Springhill location. And I had in my mind, I guess, that the cinerator facility, you know, probably came on a different year. So, that's my mistake, and I entirely own up to that, and I can assure you folks that our integrity means everything to us. So, upon the finding of our license being expired, I immediately got to reviewing my receipts of where I had paid for the previous licenses, and indeed, did find that that I did not renew that invoice. So, I wish I did, which I actually didn't receive in the mail. My husband has often joked to people, "Don't send my wife a bill because she'll pay it", which is the truth. So, I immediately called the Department, and Ms. Jasmine Richardson had e-mailed me the invoice. And as soon as I received the invoice with the registration code on it, I immediately went online that very day, and I renewed the license. So, I just wanted you folks to know that it was just an oversight, and this has never in the history happened to Merritt Funeral Home. We have never had any violations or complaints against us. We just simply wanted to let you folks know that, and that our integrity does mean everything to us.

Mr. Merritt – This is a first that we did not receive a notice to renew the license for Brooksville. Why we didn't, I don't know.

Ms. Merritt – I mean, of course, you folks have no proof that it was not sent out and I have no proof that we didn't receive it other than, you know, my word. And, we did not receive the notice. And, whenever we go online to renew that now it's not like, well I have a separate user ID name and password for each establishment. And I don't know if that's common for everyone or if it's just something that happened to us, but it seems like if I had one (1) username and password for all three (3) establishments that I would be able to see that all three (3) of them were due at the same time. Whereas, I had to login separately for each one (1). So, that's kind of the reason why I didn't notice that that one was due and not paid.

Chair – Thank you, Mr. and Ms. Merritt for that explanation. Board members, any questions for the Merritts?

Rabbi Lyons – Mr. Chair?

Chair – Go right ahead.

Rabbi Lyons – Ok, thank you. Jay Lyons here. I don't know if it's a question for the Merritts as much as it is a question for counsel. But, if they are saying under oath that they didn't receive the renewal notification, let's assume that's true. Does that make a difference as far as their disciplinary guidelines?

Mr. Griffin – No. First off, I would point out that the license, I believe, states the date it expires, and it's not like it's a random day. It's not like it's a driver's license where it expires based on the date you get it. It expires or everyone on the 30th day of November, or at least for this type of license. The licenses have a very regimented expiration cycle. So, the other thing is that their claim that they didn't get the notice, I think, is immaterial because once again, the license says when it expires, and the violation is failure to timely renew. They're not disputing that material fact. But, once again, the Board is empowered to impose whatever discipline it feels is appropriate. The Department is requesting a \$250 fine. The Board is free to elect or to request or impose whatever discipline, if any, it feels is appropriate.

Ms. Merritt – It's very easy for us to probably not pay much attention. We do about 500 calls a year between two (2) places. So, we're very busy, and maybe no excuse. And, maybe I even offered, I think, to you. I said let me it for ten (10) years. It's not like we didn't have the money to pay. It was just a total oversight. And when my wife said, because I'm really anal about my integrity in this business. I've been working in the funeral business over fifty (50) years, and in business for myself for forty (40), so my integrity means everything to me, especially in our community. We have a good name, and there's no reason why that we would lie and say we didn't receive it when she paid the other two (2). Saying that the State, I felt like, didn't send us a notice. are we to now contact the State every two (2) years and get the code numbers so that we can pay these things or is this is this is something that has never happened to y'all? I mean, has anybody else ever had that happen where they didn't receive a bill for it?

Chair – Really that's not an issue here. As you have licenses, it has an expiration date on it. I would advise you to walk around and look at your licenses and see what the expiration dates are and perhaps calendar on your calendar ahead. So, we have a recommendation of a \$250 fine and the facts are undisputed. Board, what's your pleasure?

Mr. Jensen – Mr. Chairman?

Chair – Go right ahead.

Mr. Jensen – Chris Jensen here. Just another question for Mr. Griffin. In the last case, Mr. Graham, he was basically charged an extra \$500 because he wanted to go to a hearing. And in this particular case, it's a bare minimum.

Mr. Griffin – There's no flex allowed with the violation. Once again, we are creatures of statute. So, the statutory violation that's alleged doesn't have arranged. For example, s. 497.152(1)(b), F.S., allows for \$1000 to \$2500. S. 497.152(5)(b), F.S., expressly states that if the license is expired the penalties shall be \$250 for a first violation. So, there is no room to move on that.

Mr. Jensen – Ok, Mr. Griffin. I appreciate that. As far as the merits, I can sympathize with their situation. However, I would agree with the Chairman here that it's on the license. There's nothing that can be done, I think \$250 is very reasonable.

Mr. Merritt – It wasn't really the \$250 that I was concerned about. Again, what I was mainly concerned about is it...

Chair – Mr. Merritt! Mr. Merritt! I didn't recognize you, please. We have a Board member that's speaking, and please don't interrupt the Board Member that's speaking. Mr. Jensen, go right ahead, please.

Mr. Merritt – I'm sorry.

Mr. Jensen – As I was saying, I think that the \$250 recommended by the Department is extremely fair in this case.

MOTION: Mr. Jensen moved that the Respondent shall pay a \$250 fine. Rabbi Lyons seconded the motion, which passed unanimously.

Chair – Thank you, Mr. and Ms. Merritt.

Mr. Merritt – Thank you.

E. Material Facts Not Disputed (Section 120.57(2) Hearings) (Probable Cause Panel B)
(1) Hancock, Charles: DFS Case No. 268724-19-FC; Division No. ATN-32722 (F029660)

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

Dan Moody – Yes. Dan Moody on behalf of Charles Hancock and Andrew Moody, also on behalf of Charles Hancock.

Ms. Simon – Thank you, sirs. Presenting for the Department is Mr. Bossart.

Mr. Bossart – Thank you. This is James Bossart for the Office of the General Counsel. 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 Hancock Funeral Home, Inc. (Respondent). Respondent is licensed as a funeral director and embalmer and monument establishment salesman, license number F029660. Respondent is the owner and FDIC of Hancock Funeral Home, Inc. ("Hancock Funeral"), a funeral establishment and apprentice/intern training agency, operating under license number F039972. A Department investigation determined that Hancock Funeral failed to provide a written contract for the purchase of a monument that listed in detail the items and services purchased together with the prices for the items and services purchased, and engaged in incompetency, negligence, or misconduct in activities regulated under Chapter 497, Florida Statutes. Based on the foregoing, Respondent has violated ss. 497.152(1)(b), (11)(a), (12)(b), F.S.. As FDIC of Hancock Funeral, Respondent is subject to discipline based on Hancock Funeral's violation of Chapter 497, Florida Statutes.

On October 14, 2020, the Department filed an Administrative Complaint against Respondent. A true and correct copy of the complaint is attached to your packet, as Exhibit A. The Department obtained service of the complaint on Respondent by certified mail. The Respondent timely acknowledged the Election of Proceedings form on November 9, 2020, as represented by

Respondent's Election of Proceedings. A true and correct copy of the form is attached as Exhibit B, Respondent indicated in election of proceeding alleging that there were no disputed issues of material fact and requesting a hearing pursuant to section 120.57(2), Florida Statutes. At this time, it would be appropriate for the Chair to entertain a motion determining whether the Respondent has waived its right to a s. 120.57(1) Hearing.

MOTION: Mr. Knopke moved that Respondent has waived its right to a s. 120.57(1) Hearing. Mr. Jones seconded the motion, which passed unanimously.

Mr. Bossart – 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. Hall moved to adopt the allegations of the facts as set forth in both Administrative Complaint. Mr. Knopke seconded the motion, which passed unanimously.

Mr. Bossart – 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. Hall moved to find the Respondent in violation of the statutes as charged in the Administrative Complaint. Mr. Knopke seconded the motion, which passed unanimously.

Mr. Bossart – 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. I would ask that the investigative report be received into evidence.

MOTION: Mr. Knopke moved to accept the investigative report be received into evidence. Ms. Clay seconded the motion, which passed unanimously.

Mr. Bossart – As to penalty, I'll defer until Mr. Moody has a chance to address the Board. Thank you.

Chair – Thank you. Mr. Moody, would you'd like to address the Board?

Mr. Moody – Yes, thank you, sir. My name is Dan Moody. On behalf of Mr. Hancock, I would like to thank everyone for giving us the opportunity to come before the Board and talk to you about the circumstances and the allegations that have been alleged here. I felt rather taken back here in light of what's just happened with the Board, because we didn't get to explain our position on the factual allegations. And I would ask, I have concern here now, because the Board has made a ruling based on, apparently, these election forms that, in my mind, is insufficient in some regard to what our intent was here. And, I would ask for the Board to reconsider where we are on this, because when we responded to this complaint, I guess Mr. Hancock and his funeral establishment, we set forth a very detailed response, denying some of the factual allegations. A lot of the factual allegations were denied, at least some of the material ones. We also set forth some affirmative defenses as to why we found that the allegations were insufficiently incorrect. The allegations of fraud again. So, what ended up happening is there was a Scriveners error where we were told by, Mr. Bossart, and I respect him, I think he's a good man, but that we elected this factual allegation clause, and I can go back and tell you where this all derives from. But it says on the Election of Proceedings, it says I do not dispute any of the Department's factual allegations. We do not dispute the factual allegations that there was no formal written contract, but there was a contract that took place whereby there was a monument set forth. the monument pricing was identified on {inaudible}. The terms of the overall contract were set forth. The factual allegations of this Administrative Complaint is that the detailed items were not put in the contract. Then {inaudible} conclusionary allegations throughout this Administrative Complaint that go on to basically take the statues and just say that he's guilty of this. We didn't elect or agree to that. I'm not going to have Mr. Hancock agree that he's committed fraud, or he's done all these things and the administrative Board here is looking at this like that is a factual allegation, because it's really a legal conclusion. So, I have a problem with this, with us going forward with this hearing and would ask that you reconsider and allow us, if this is going to be the case that these allegations that our conclusionary law, conclusionary allegations. They're not factual allegations

that he's committed fraud. That he's intentionally and negligently done certain things here. I can tell you we're not here today to have the Board impose those kinds of charges against him. And we would ask for an administrative hearing.

Chair – Thank you.

Mr. Moody – I would ask the Board to set aside, so we can have an administrative hearing. If the Board is willing to entertain the actual allegations that are contained, we would be willing to go forward with this hearing, but we're not going to have Mr. Hancock agree to these sectional statutes that are conclusionary in nature about fraud and things of that nature.

Chair – Ms. Munson, they've requested an administrative hearing. What's the Board's next step, please?

Ms. Munson – It appears that, although the information is being classified as a dispute with a legal conclusion, it is written up as they are material facts. So, if there is a dispute of material fact, then the Board pretty much will be faced with the understanding that it's a matter that would go before the Division of Administrative Hearings (DOAH). I believe it's Attorney Bossart who's presenting this case. I don't know if there's any clarifying information that he needs to provide at this time. But, of course, the Department has an opportunity to speak to that. But, the bottom line is there's a dispute of material facts and we're headed to DOAH. Attorney Bossart, are you wanting to provide any additional commentary?

Mr. Bossart – It was my understanding that by agreeing to this proceeding, Mr. Hancock was waving his right to request a formal 120.57(1) Hearing, and was willing to proceed under the present format for an informal hearing, and even asked for leniency on the penalty. Now that he is disputing the factual allegations of the complaint, I don't see any way to resolve it, if that's what he's actually intending to do, is submit it to the Division of Administrative Hearing.

Chair – What Board action needs to be taken now?

Mr. Bossart – I've been asked to refer the Board to Page 33 of the Board packet. Let me take a look at it, and see what it is. I'm not sure what that means.

Chair – That's just a signature line.

Mr. Jensen – Yes,

Mr. Bossart – I see that. I'm not sure what my associate was meaning by this. Other than the fact that he has been provided a copy to investigate a file and the motion.

Mr. Moody – If I may speak?

Chair – Just a moment, please, Mr. Moody. Thank you.

Ms. Simon – Mr. Chairman? I'm sorry. That was Page 33?

Mr. Bossart – Page 33 of the Board packet.

Chair – That appears to be an email from Dan Moody.

Mr. Bossart – Excuse me. If you would look at Page 30 Board packet, Mr. Moody agreed to the 120.57(2) Hearing. I guess you can withdraw that request, but that's what you agreed to.

Ms. Munson – He absolutely can withdraw it. The only reason I'm noting that is I believe he is indicating that there was some misunderstanding with regard to the presentation itself. If that is the factual information that's being presented for the record, that's the only reason why I wanted to give the Department an opportunity to clarify. I understand that. Once that statement is made, I disagree that there's a dispute to the material issue of fact. It really just shuts down the opportunity for the 120,57(2) Hearing.

Chair – So, I'll recognize Mr. Moody.

Mr. Moody – Yes. Thank you, sir. Mr. Chairman and Board, if you look back at our initial response, we adamantly denied the allegations concerning a lot of these matters. I don't want to beat this horse to hard, but the matters concerning fraud, those types of allegations have been heavily denied throughout. Where I think this case got off the track and where we are now is in the election form, there were four (4) possible elections. Under election number two (2), the form that was selected on number two (2) says I do not dispute the Department's factual allegations. I'd like to proceed. And that was a Scrivener's error, actually. We should have checked box three (3). And what ended up happening is, Mr. Bossart and I had a discussion about this and then I looked at the factual allegations again, and certain factual allegations we agreed to. There was a sketch, there was a meeting. Most of the allegations we can agree to. However, when it came to the conclusionary legal conclusions, where you have to have someone interpret facts to get to the conclusion, that's where we seem to differ. And this form doesn't account for that unless you apparently check number three (3). So, that's our position. We would certainly not want anything on Mr. Hancock's record suggesting that he did any of this with intent. In fact, there's no discernible harm alleged anywhere in the Administrative Complaint. This lady was not harmed in any way. He did not deceive or intend to defraud anyone in any way. The Board is going to come down on that side that he did and find him accordingly, we're not going to agree to that, and we will appeal this if we have to, but we're not here today for that purpose.

Mr. Bossart – That's literally what you said.

Chair – We understand, and we are merely acting on your election that was perhaps an error. And that's what we we're acting upon. But now that you've requested an administrative hearing, I thank the Board, Ms. Munson, needs to make a motion to refer this to administrative hearing. Is that correct?

Ms. Munson – And that will be correct. And just for some of the newer Board members, we're referring to Page 14 of your Board materials, where that Election of Rights form appears to have been filed back in November of last year. And, item number three (3) is what the Respondent's counsel is indicating they should have checked. By mentioning that today, it again shuts down our opportunity to proceed with a hearing issues of non-disputed material fact.

Chair – Thank you.

Mr. Griffin – If I may, real quick?

Chair – Who is this, please?

Mr. Griffin – Marshawn Griffin.

Chair – Mr. Griffin, go right ahead, please.

Mr. Griffin – So, there are two (2) things. Number one (1) is, and I just want to make clear, is counsel stating that they didn't understand in their April 1st communication that a 120.57(2) Hearing is a hearing not involving disputed issues of material fact?

Chair – Mr. Moody?

Mr. Griffin – That's why we're here. After the mixed up with the material fact or not, there's a letter stating you requested at 120.57(2) Hearing.

Mr. Moody – Well, there's an interpretation of fact. Someone can agree on what the facts are, and someone can disagree what they are. In terms of what's been alleged, the facts, we can agree to most of those with the exception of the broader allegations, which commingle conclusionary legal conclusions and that's where we have problems with what just happened earlier with the Board, in terms of most of the other facts. We can agree that, and for instance I'll give you an example. On or about February 6th, a monument was purchased in the amount of, and I'm paraphrasing here, \$1865. We can agree that the check was written for that amount. We can agree that there was a preliminary sketch of the monument, but this is just a preliminary sketch. It doesn't say that on that monument were the terms. The terms of the purchase price, the terms of the tower markers

and two (2) monuments, and other information on that sketch. So, we can agree to that, but what does that really mean? It was a meeting of minds and there was a contract. It just wasn't a formal contract where you have specific terms. So, we're close to being able to agree on some things, but we can't agree to these conclusionary statements where you just cite the statute, though it in there and say Mr. Hancock is guilty of all these things because he did this.

Mr. Griffin – So, then you're arguing that there's a dispute of law, not fact. Because the statutory allegations are the like, you're not disputing the facts in paragraphs one (1) through eight (8), you're just disputing the conclusions of law that should be drawn from those facts.

Mr. D. Moody – Yes, I guess we are. We are disputing some of the facts.

Mr. Andrew Moody – This is Andrew Moody, for the record. I think the issue on the need for additional facts within the complaint. Yes, there are some things we can agree to that are material, but there are additional facts contained therein that the Board does not have available to them to understand what is going on in this case. I think it comes down to contractual interpretations of what is a written contract. So, I think all of those things need to be considered and the Board needs to hear these facts and observe these facts before a decision is made.

Mr. Griffin – But, those are conclusions of law, which DOAH only here's disputes of fact.

Mr. D. Moody – But we have to deal with it. You can't just have one side telling the Board what the facts are. We should be able to tell the Board what our facts are and fill in the blanks of the other facts.

Mr. Griffin – So, then... OK, OK.

Chair – Mr. Griffin, go right ahead.

Mr. Griffin – I have nothing more. I'm just kind of {inaudible} because the hearing they've requested on April 1st is literally a hearing where you're stating there are no disputed facts. So, it's a weird hearing an attorney say, there are no disputed facts and we want a hearing on that. Then, at the final hearing date, say, Oh, wait, there's a dispute of facts.

Ms. Munson – If I may? This is Ms. Munson. When their matter is presented to DOAH, the Respondent is clearly going to have to identify which material facts are in dispute, and it has to be very clearly delineated. And if those material factual disputes are not delineated, then it's going to end up back before the Board, again, probably for some other type of action or review or with the Department, but it's not going to go to DOAH until, in any presentation that they present, until there's a delineation of what the material facts. We don't have to necessarily identify them right now. Their statement that they are disputing material issues is enough to shut this process down, but at DOAH, they're going to have to identify what those material disputes are.

Chair – So, a motion from the Board, Ms. Munson, would be to...

Ms. Munson – Accept the Respondent's identity that there are disputed issues of material facts, which require us to close this proceeding.

MOTION: Mr. Jones moved to accept the Respondent's identity that there are disputed issues of material facts, which require this proceeding to be closed. Mr. Hall seconded the motion, which passed unanimously.

Chair – Thank you, Mr. Moody. We appreciate your counsel.

Ms. Simon – Mr. Chairman?

Mr. Moody – Mr. Chairman, please? Mr. Chairman?

Chair – Go right ahead.

Mr. A. Moody – Yes, sir. First of all, I thank you for your time today and everyone's time. I'm also a funeral director myself going back way back. I appreciate what all you folks do. I will say this for the record that our response is a very lengthy response that identified the facts that we have dispute with, and that's already on file with them. Probably a five or six-Page affirmative defense in denial allegations.

Chair – Thank you, Mr. Moody. Ms. Simon?

(2) Hancock Funeral Home, Inc.: DFS Case No. 247426-19-FC; Division No. ATN-32722 (F039972)

Ms. Simon – Yes, I believe that the same motion will be used in the next case, which is Hancock Funeral Home. I can only assume that if there if the attorneys are claiming that there is a material dispute of fact in the Charles Hancock case, then they will be claiming the same thing in the funeral home case.

Chair – Is that correct, Mr. Moody?

Mr. D. Moody – Yes, sir. That's correct.

Chair – Thank you.

Mr. Jensen – Mr. Chairman?

Chair – Go right ahead.

Mr. Jensen – I have a question for Mr. Griffin. Is there a way or a language to resolve this now, with taken out the fraud allegations? As I'm hearing it, I feel like that's Mr. Moody's main concern, the fraud allegation.

Mr. Griffin – The Department's offer to resolve this case was a \$1000 fine and one-year probation. If they'll accept that, we can drop (1)(b) from the Administrative Complaint.

Ms. Munson – This is Ms. Munson. I just wanted to caution, I understand that this matter at best needs to be tabled. I do not want there to appear to be a rush to judgement when a statement of dispute was clearly made on the record for two (2) very viable cases. Since the Department is representative and the Respondent is represented by counsel, of course we can move forward, but I would just like to note for the record that we do so with caution, because that's a very serious allegation when a Respondent suggests that there are facts here and that they are disputed and that we request a greater review then to have the type of negotiation that could easily occur if the matter of tabled and is returned to the Department, and then brought back before the Board, if that is in fact the situation. I don't want the matter, at this particular Board hearing, to be misconstrued as to what we necessarily are trying to do here. I apologize for that interruption, but I just wanted to clarify that for the record.

Chair – Do we need a reading into the record of this, Ms. Simon?

Ms. Simon – If there is a statement from the attorneys for the licensee saying that there is a material fact in dispute, that's all they need to say and then the Board would make the same motion it made on the previous case in that matter.

Chair – What was the motion?

Ms. Simon – That the matter of material fact has been alleged to be in dispute, and this matter is going to be tabled as it will need to be sent to the Division of Administrative Hearings.

Chair – Mr. Moody, is that your claim on this case as well, sir?

Mr. D. Moody – Yes, it's the same that there is a material fact or facts in dispute.

Chair – So, Board, is there a motion?

MOTION: Mr. Knopke moved to accept the Respondent’s identity that there are disputed issues of material facts, which require this proceeding to be closed. Mr. Hall seconded the motion, which passed unanimously.

Chair – Thank you for your patience.

Mr. Moody – Thank you.

Ms. Simon – Mr. Chairman, we would request a short break before we move on with the rest of the agenda.

Chair – Thank you. I have 12:42. How about if we reconvene at one o'clock? Is that satisfactory? We'll reconvene at one o'clock. Thank you.

*****BREAK*****

Chair – Good afternoon. I have one o'clock, and I'll call the meeting back to order. Ms. Simon?

Ms. Simon – Yes, sir, if we can call a couple of matters out of order, beginning on number 14. A. (1), Apyre National Cremation Services Inc., located in Punta Gorda. Is that all right with you?

Chair – Yes. Give us just a moment.

Ms. Simon – May I begin?

Chair – Please begin.

14. Application(s) for Direct Disposal Establishment
A. Recommended for Approval with Conditions
(1) Apyre National Cremation Services Inc (Punta Gorda)

Ms. Simon – An application for a direct disposal establishment was received by the Division on March 1, 2021. The application was incomplete when submitted. A completed application was received on March 22, 2021. The Funeral Director in Charge will be Gregory Chubenko (F449738). A background check of the principals revealed no criminal history for its principals. The establishment passed its inspection on April 13, 2021. And contrary to what is listed within your Board package, the Division recommends approval subject to conditions. Those conditions being a \$500 fine and six (6) months up probation. This has already been discussed with Ms. Wiener and she agrees. Ms. Wiener represents the applicant.

Chair – What were those fines for?

Ms. Simon – There is an allegation that the applicant acted without licensure before, and this is a way of settling up both matters at one time.

Chair – Thank you.

Ms. Wiener – Mr. Chairman? I'm sorry.

Chair – Ms. Wiener, would you like to address the Board?

Ms. Wiener – Yes. Very briefly. First of all, thank you, Mr. Chairman, Ellie, and Board for taking this matter out of order. I appreciate that very much. The allegation that's being resolved actually has to do with an allegation of inappropriate advertising. That's what we agreed on. So, we are pleased to get this matter resolved and pay that administrative fine and go up to that six (6) months of probation, so we appreciate that.

Chair – Thank you.

MOTION: Mr. Knopke moved to approve the application subject to the condition that the applicant pay a \$500 fine and be placed on probation for six (6) months. Mr. Clark seconded the motion, which passed unanimously.

Chair – Ms. Simon?

Ms. Simon – Ms. Wiener, I apologize for that misstatement.

Ms. Wiener – No worries.

Ms. Simon – Moving on. If we could take another two (2) cases out of order?

Ms. Munson – Just to clarify, the applicant is not present, correct, for the record?

Ms. Wiener – No, just me on their behalf.

Ms. Simon – And, if I may take two (2) cases out of order, applications for Signature Memorial Funeral & Cremation Services, LLC. This is 15. B. (1).

Chair – Give us just a moment to get there.

Ms. Simon – Of course.

Chair – 15. B. (1). Ok, thank you.

Ms. Simon – Thank you, Mr. Chairman.

Mr. D. Williams – Mr. Chair?

Chair – Yes?

Mr. D. Williams – I want to disclose that I know the applicant of 15. B. (1), and I would like to declare that it will not interfere with how I will vote today.

Chair – Thank you for that declaration. We appreciate it, Mr. Darrin Williams.

15. Application(s) for Funeral Establishment

B. Recommended for Denial

(1) Signature Memorial Funeral & Cremation Services LLC (Gainesville)

Ms. Simon – A change of ownership application for a funeral establishment was received by the Division on December 10, 2020. The application was incomplete when submitted. A complete application was received on April 23, 2021. The Funeral Director in Charge will be Jeffrey Lynch (F043061). A background check of the principals revealed relevant criminal history for the principal, Tony Tanner. Also, the principal, Tony Tanner, was a principal of Tony Tanner Funeral Services (license numbers F048141 and F054862). Both licenses listed have previous adverse licensing history.

- On or about February 2013, Mr. Tanner pled No Contest to a 3rd degree Felony of Fraud (insufficient funds) and was sentenced to six (6) months' probation and court costs/fines of \$681.
- On or about September 2018, Mr. Tanner was found guilty of two (2) counts of Felony Grand Theft and was sentenced to two (2) years' probation and ordered to pay restitution in the amount of \$549.16 and court costs of \$1365.52.

Based upon these facts, the Division is recommending denial of this application.

Chair – Thank you. Anyone representing Signature Memorial?

Ms. Wiener – Yes, Mr. Chairman. Wendy Wiener, and again, Mr. Tanner and I appreciate the Board taking this matter out of order. For me, I have a trial that begins in about twenty-five (25) minutes. So, I just want to take just a couple of minutes to put some context around what's in your Board packet. And, of course, Mr. Tanner is here to answer any questions as necessary. Regarding the criminal history matters, as you know, applicants often come before you who do not consider themselves to have a criminal history because they have entered no contest pleas to resolve their criminal matters. That is an expeditious way to resolve a criminal matter, but it can have much longer reaching impacts than the licensees typically are aware. In the criminal context, it gets the matter over with an out of the way, but it can be impactful on a licensing procedure, whether the person is currently licensed, or attempts to be licensed, or the owner of a licensee in the future. So, the 2013 No Contest plea was for an insufficient funds payment matter. I think the more recent No Contest plea, to put some context around that, that is a matter where Mr. Tanner pled no contest to two (2) counts of grand theft. He was down and around South Florida. His brother was down and around South Florida. His brother, unfortunately, has a significant criminal history, which was not relevant to anything at the time, but his brother asked him to rent a hotel room for him because he didn't have the funds to rent a hotel room. Mr. Tanner rented that hotel room for him. Mr. Tanner never even went into the hotel room, he rented the room, he left. He paid for it, and then he left. Unbeknownst to him, his brother committed a crime and brought stolen property back to the hotel. Because he was the person on the hotel room, he was unfortunately brought into the matter and because of his brother's prior criminal history, he made the difficult decision to take the fall, if you will, for the grand theft charges so that his brother could avoid serious consequences. His brother, since that time, has been doing much better and everything is fine. And of course, Mr. Tanner immediately resolved all of the issues with regard to that criminal history, and satisfied all conditions thereto. And I believe that you could find that he is unqualified to be the owner of this particular funeral establishment. And then there is a follow-up application that can be heard behind this. And with that, I will conclude my remarks and allow the Board to ask any questions they have of Mr. Tanner or of myself.

Chair – I have a question. On Page 15, of a statement that appears to be from Mr. Tanner, he says I am not a convicted felon.

Ms. Wiener – That is correct. And as I mentioned at the outset, that is technically true. He pled no contest and so the convictions associated with a no contest plea are not the same as a court conviction, but they do have the same impact for purposes of this matter. Licensees are often, I would not use the word misinformed, but they often resolve matters with the no contest plea similarly to how our licensees try to resolve matters for settlement purposes without understanding the further consequences thereof.

Ms. Munson – This is Ms. Munson.

Chair – We have information that on or about September 2018 he was found guilty to two (2) counts of felony grand theft, and then he tells us that he is not a convicted felon. How do you how do you reconcile that?

Ms. Simon – Mr. Chairman?

Chair – Yes, go right ahead, Ms. Munson.

Ms. Simon – Actually, this is Ms. Simon.

Chair – I'm sorry.

Ms. Simon – In the manner of full disclosure, since Mr. Turner or Ms. Wiener did not provide any of the court documents, there's no way for us to verify what the factual circumstances were around either crime. However, what I can tell you is that online reporting is that the Grand Theft was adjudication withheld. So, in that respect, he would not be a convicted felon because of that. He was not adjudicated guilty.

Chair – We don't have that in our packet.

Ms. Simon – No, sir. You do not.

Chair – Ms. Munson, were you trying to get my attention?

Ms. Munson – I was actually just wanting to make a point of clarification. The statement of “I am not a convicted felon”, and I understand the explanation that has been provided. Notwithstanding Ms. Simon's comment regarding adjudication being withheld, a conviction made based on a plea by recognition of law is a conviction, I did not want to send mixed signals about what that language actually means. I understand it may have resulted from a plea or whatever the case may have been, but, again, notwithstanding adjudication withheld.

Mr. Jensen – Mr. Chair?

Chair – Go right ahead.

Mr. Jensen – Chris Jensen here. Question for Mr. Griffin. Is the Department's recommendation based upon the gentleman being a convicted felon?

Mr. Griffin – No. I was only just trying to opine on the fact about needing to clarify that you can enter a plea to a felony and not be a convicted felon. Sorry.

Ms. Simon – If I may respond to Mr. Jensen's question?

Chair – Go ahead, Ms. Wiener.

Ms. Simon – Actually, this is Ms. Simon. The Division that made this recommendation and the Division's recommendation is based on a number of factors. Not only the criminal cases, not only the fact that Mr. Tanner did not include on his application that he had criminal charges, not only once, but twice. Also, is the fact that the funeral establishment owned by Mr. Tanner previously has had much adverse licensing history, and that licensing history is included in your Board packet.

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

Mr. Tony Tanner – Good afternoon, Mr. Chairman. Thanks for allowing me the opportunity to speak.

Chair – Mr. Tanner, we need to swear you in.

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

Mr. Tanner – I do.

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

Mr. Tanner – Tony Tanner.

Ms. Simon – Spell your last name for the record, sir.

Mr. Tanner – T A N N E R.

Ms. Simon – Thank you.

Chair – Thank you. Did you want to address the Board or answer questions?

Mr. Tanner – I can do both, sir.

Chair – Which would you prefer?

Mr. Tanner – I'd like to address the Board.

Chair – Go right ahead.

Mr. Tanner – Thanks for the time to allow me to address the Board. Like Ms. Wiener currently stated about my charges and what they were for, I merely was doing a favor for my brother, unknowingly what he had done previously to me arriving. It had nothing to do with me. He has extinguished criminal history. I had a clean record, and I did take the fall, not knowing that in the future it would cause me some default. However, my previous funeral establishment, I only had three (3) license issues, and all of them were resolved. I was on probation for a year. The license was suspended for a year, and there was a \$250 fine. All those things were handled, and me personally, knowing that that would have nothing to do with the new establishment that I'm trying to take charge and gain ownership of. Again, I do appreciate the time to speak.

Chair – Thank you, Mr. Tanner. Board?

Rabbi Lyons – Mr. Chair, may I?

Chair – Go right ahead.

Rabbi Lyons – Yes. Jay Lyons here. Just to clarify. I'm looking at Page 13 of our packet, and it discloses that he was convicted of a felony and he pled no contest. So, I believe Ms. Simon said that one (1) of the factors was when filling out the application that he didn't disclose that. What am I missing?

Ms. Simon – Rabbi, If I may respond?

Rabbi Lyons – Yes, please.

Ms. Simon – Mr. Chairman?

Chair – Go right ahead.

Ms. Simon – I'm not sure when the adverse criminal history was actually filed, but in the application itself, there are many questions about an applicant's prior criminal history. On each of those questions he answered No. So, it is possible that the criminal history form came in later than the actual application.

Rabbi Lyons – Do we have the actual application in the package somewhere?

Ms. Simon – We do have the application, and if I can have a moment. On Page 5 of your PDF is the criminal history question.

Chair – No. No. No.

Ms. Simon – I'm sorry, Mr. Chair?

Chair – I was verbalizing what I saw about the answers, to the criminal history questions. No. No. No.

Ms. Simon – Thank you.

Chair – Rabbi Lyons, does that help you?

Rabbi Lyons – Yes, thank you.

Ms. Wiener – Mr. Chairman, might I address this issue very briefly?

Chair – Yes.

Ms. Wiener – Thank you, sir. So, if you're referring to Page 5 of the application, the question first asked about any felony or misdemeanor no matter when committed, which was directly or indirectly related to or involving any aspect of the practice of

the business of death care, to paraphrase. And the answer to that was no, and I believe that's a correct answer. The next question is any other felony not already disclosed, which was committed within the twenty (20) years, immediately preceding. Because Mr. Tanner does not have a felony conviction record, he did not answer that question to disclose the nolo pleas, the no contest pleas. Clearly, he failed to read the instructional paragraph immediately above, but I believe that was the reason for his answer, no there. And then, of course the answer to letter C is accurate itself. So, if Mr. Tanner wishes to address that he can, but I think that was the understanding that he did not have a felony record was the basis for his answer under B.

Chair – Thank you. Mr. Knopke, were you trying to get my attention earlier?

Mr. Knopke – Yes, sir. My concerns are obviously what's on the table, but the past licensing history. In one (1) case his license was suspended for a year and in another situation, he was fined \$2000. There was an un-embalmed body that an inspector found in a disaster pouch that had flies on it. I have real serious reservations on this one. This kind of compounds all the way through since 2010, 2012 and coming forward. Just a comment more than it was anything else.

Chair – Thank you. Ms. Simon?

Ms. Simon – Mr. Brandenburg, just in point of fact, while Mr. Tanner's Funeral home license was indeed suspended, it is still suspended, as Mr. Tanner never appeared back before the Board inquiring about the suspension as required on Page 35 of your PDF.

Chair – Thank you.

Mr. Hall – Mr. Chairman?

Chair – Mr. Tanner? Mr. Tanner?

Ms. Wiener – You're on mute.

Chair – Go right ahead, Mr. Tanner.

Mr. Tanner – If I may speak? The body was embalmed, and yes, it was in a disaster pouch. However, at that time, I was locked out of that facility {inaudible} two (2) weeks. The owner turned off the air conditioner and all licensed funeral directors and embalmers and funeral service practitioners, {inaudible} what happens when that type of situation takes place. But, for the record the body was embalmed. The body was not an un-embalmed body.

Chair – Thank you.

Mr. Hall – Mr. Chair?

Chair – Mr. Hall?

Mr. Hall – While we can debate all day on the felony charge and whether it's truly a felony or what, by his misrepresentation to the Police Department, he left a habitual, convicted felon out on the street for the public. We've had previous problems with him on licensure and we've had criminal background issues with him.

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

Chair – Thank you. Ms. Simon?

(2) Signature Memorial Funeral & Cremation Services of Williston LLC (Williston)

Ms. Simon – Mr. Chairman, the facts are substantially the same. Perhaps the date that the application was actually finished, which was April 23, 2021. This is the application that was submitted by Mr. Tanner and the adverse history that we discussed on the last case, as well as the criminal history, is involved in this as well.

Chair – Thank you. Ms. Wiener?

Ms. Wiener – Mr. Chairman, we will withdraw this application from consideration by the Board.

Chair – So, this application has been withdrawn?

Ms. Wiener – Yes, sir.

Chair – Any other action needed, Ms. Munson?

Ms. Munson – No, sir.

Chair – Thank you. So, this application has been withdrawn. Ms. Simon?

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) Education Workers Group (11208)
- (2) Elite Professional Education, LLC (113)
- (3) Funeral Service Academy (23408)
- (4) Ged Lawyers, LLP (17408)
- (5) Independent Funeral Directors of Florida Inc (135)
- (6) International Cemetery, Cremation and Funeral Association (22808)
- (7) Kates-Boylston Publications (29810)
- (8) SCI Management – Dignity University (99)
- (9) WebCE (43)

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

8. Application(s) for Florida Law and Rules Examination

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

- (1) Funeral Director (Internship and Exam)
 - (a) Zanders, Anthony Lee
- (2) Funeral Director and Embalmer (Endorsement)
 - (a) Fluker Jr, Aden P
 - (b) Keller, Guy D

- (c) *Raymond, Jacob D*
- (3) *Funeral Director and Embalmer (Internship and Exam)*
 - (a) *Bork, Sierra*
 - (b) *Pickett, Rakisha B*
 - (c) *Raymond, Christina*
 - (d) *Wojtowicz, Clarissa D*

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.

B. Recommended for Denial

- (1) *Funeral Director and Embalmer (Endorsement)*
 - (a) *Rumph, Richard A*

Ms. Simon – Mr. Rumph submitted an application for a funeral director license on April 8, 2021, at which time the application was incomplete. A completed application was received on April 22, 2021. The applicant's fingerprints returned with no criminal history. The applicant does not meet the educational standards set forth by section 497.373(1)(d), Florida Statutes, in that Mr. Rumph did not receive an A.S. degree and instead graduated with a Diploma in Funeral Service on February 6, 1987 from the Mid-America College of Funeral Service. He passed both the Art section and the Sciences section of the National Board Examination on February 5, 1987. Mr. Rumph received his Funeral Director license in Indiana on August 31, 1988 which is currently Active and is in good standings. If I may. Ms. Wiener has included charts as she normally does in a matter of this nature. And it just for edification that Indiana Code did not require a degree at the time of licensure. They only required semester hours. There was not {inaudible} individual did not receive an AA Degree at the college, the Ball University, I think he went to, That's the end of my presentation.

Chair – Thank you. I say that Lauren Pettine is on the call. Did you wish to address the Board?

Ms. Pettine – Yes, if you wouldn't mind, Mr. Chair.

Chair – As counsel?

Ms. Pettine – Yes.

Chair – Go right ahead.

Ms. Pettine – Sure. As you'll note in your Board packet, we have included comparison tables, which include Mr. Rumph's educational history from both Ball State College and Mid-America Funeral Service. Florida Statutes s. 497.374 specifically states that an AS degree is not necessarily required, but something that is substantially equivalent or more stringent than that was done at the time, And that's for licensure via endorsement. And as you can tell by these comparison tables, Mr. Rumph has frequently taken multiple courses that fulfill all the requirements of the Saint Petersburg College, which is an approved Mortuary Science School that does grant an AS here in Florida. So, he has completed a more stringent set of educational requirements and thus should be considered for licensure. Thank you.

Chair – Thank you. And the National Board Exams, what was his scores on that?

Ms. Simon – If I may have a moment to see if we have it in the Board package. He had an 89 score in the Arts and a 90 score in the Sciences in 1987.

Chair – Thank you. Board?

Mr. Knopke – Mr. Chair?

Chair – Mr. Knopke?

MOTION: Mr. Knopke moved to approve the application based upon the materials in the Board packet provided by Ms. Wiener, presented by Ms. Pettine outlining how the Florida requirements and the Indiana requirements match up. Mr. Hall seconded the motion.

Chair – For clarification, that's for a funeral director and embalmer by endorsement, correct?

Mr. Knopke – Yes.

Mr. D. Williams – Mr. Chair?

Chair – Yes, is there a question?

Mr. D. Williams – This is Darrin Williams.

Chair – Darrin Williams, go right ahead.

Mr. D. Williams – Quick question. Do we have to deny the Division's recommendation to approve Mr. Knopke's motion, or is it ok? I just want to make sure I'm voting correctly.

Chair – We can move ahead without addressing the Department's recommendation for denial.

Mr. D. Williams – Ok. Thank you.

Chair – You're welcome. So, there's a motion and a second, and all those in favor, aye?

Board members – Aye.

Chair – And any opposed? And the motion carries.

9. Application(s) for Internship

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

- (1) Funeral Director**
 - (a) Devine, James M F499507**
- (2) Funeral Director and Embalmer**
 - (a) Bex, Wende L F079270**
 - (b) Gordon, Lashaunda F501640**
 - (c) Hall, Gregory S F503781**
 - (d) Harris, Fern F503793**
 - (e) Jesch, Katyrina A F503792**
 - (f) Ohm, Christina F502621**
 - (g) Ponce, Alisia L F504721**
 - (h) Reed, Kayla D F501642**
 - (i) Woerter, Katherine E F499929**

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

B. Recommended for Denial (Criminal History)

- (1) Funeral Director and Embalmer**
 - (a) Gaines, Cappila L**

Ms. Simon – An application for a concurrent intern license was received by the Division on March 24, 2021 and was complete when submitted. A background check revealed a relevant criminal history. On or around January 2015, Ms. Gaines pled guilty to Theft of Government Property and Aggravated Identity Theft. Ms. Gaines was sentenced to one (1) year and one (1) day

imprisonment, thirty-six (36) months of probation and restitution of \$305,439. Ms. Gaines has successfully completed her probation and is making payments towards restitution. The Division is recommending denial of the application.

Chair – Is Ms. Gaines on the call? I believe earlier I saw her. Ms. Gaines?

Ms. Cappila Gaines – Yes, sir. I'm here.

Chair – Did you wish to address the Board or you're merely here to answer questions?

Ms. Gaines – If I could, can I address the Board please?

Chair – Of course, as long as you're sworn in.

Ms. Gaines – Yes, sir.

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

Ms. Gaines – I do.

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

Ms. Gaines – My name is Cappila Gaines, G A I N E S.

Ms. Simon – Thank you, ma'am.

Chair – Ms. Gaines, you indicated you wanted to address the Board, so go right ahead and address the Board.

Ms. Gaines – Thank you, Chairman. Thank you for the time and consideration, and to the Board as well. As Ms. Simon mentioned in 2010, I made a poor choice, and since then I've paid my debt to society. As she mentioned, I served a ten (10) month sentence in prison without disciplinary actions. Six (6) months re-entry program with excellent behavior. Three (3) years of probation, void of any derogatory remarks. Incurred monthly restitution. My decision is not to allow my past poor choices to determine my future has merit, strong morals, accountability, and reform my character complete with integrity. Although I suffered failure, I did not succumb. Gupton Jones offers an accelerated two-year program, and that's a distance learning program for funeral service program. Although quite rigorous, I completed its program in a year and graduated at the top percentile of my class. Since 2020, I've served as an apprentice at Coney's Funeral Home in Lakeland Florida, under the direction of Sonji Coney. Studies show that recidivism rate in America is 68%. In the world it's 33%. It says, more than half of prisoners have been incarcerated more than once. Re-entry into society can be overwhelming and sadly many people end up back in prison. I am determined for this not to be my story. My determination is to continue taking positive steps towards lessening the statistical rate of recidivism and show others in my same situation that hard work and staying focused, along with determination pays off. I ask, if given the opportunity of completing my internship with Coney's Funeral Home in Lakeland Florida, it will place me in a position not to only create this legacy for my family, it will also allow me to give my gift of caring and assisting families and adjusting to their new lives without their loved ones in these most terrible times. I will continue to exhibit the same showmanship with dignity and honor, praying that the Division and Board acknowledges my honesty and loyalty, and grant me the opportunity to practice funeral service.

Chair – Ms. Gaines, can please describe to the Board the actions that resulted in your arrest. What happened, in other words?

Ms. Gaines – I made a poor decision to do illegal taxes for different individuals in the community.

Chair – And that led to theft of government property?

Ms. Gaines – Yes, sir.

Chair – And aggravated identity theft? It was all tax preparation related?

Ms. Gaines – Yes, sir.

Chair – Where are you with your restitution?

Ms. Gaines – It's current.

Chair – I believe it was adjudicated \$200 a month?

Ms. Gaines – Yes, sir.

Chair – Thank you.

Mr. Jones – Mr. Chair, if I may ask questions?

Chair – Mr. Jones, go right ahead.

Mr. Jones – Ms. Gaines, you said that you had filed taxes for others, but I saw in your file you have ten (10) AKAs. How are your ten (10) AKAs relevant to the instances that you were doing it for other individuals? Can you clarify that for me?

Ms. Gaines – The taxes that were prepared for the other individuals, they were said to work for different companies that were under my name with the Division of Corporations, I believe. Does that answer your questions?

Mr. Jones – That's fine. Thank you.

Chair – Mr. Knopke?

Mr. Knopke – Ms. Gaines, so I understand what you said, you set up dummy corps and then filed tax returns for those corporations, yet it all came back to you. Correct? Is that what it is?

Ms. Gaines – They were actual companies and I placed those individuals as employees to those companies that were set up previously.

Mr. Knopke – Ok. So, these were ongoing businesses?

Ms. Gaines – That the individuals were set up under?

Mr. Knopke – Yes.

Ms. Gaines – I believe so.

Mr. Knopke – I mean, you said you set up ten (10) companies. So, I'm assuming, based upon what you said after that, that they were ongoing businesses, they had employees, they had income, they made sales, they did something.

Ms. Gaines – Not all of them. No.

Mr. Knopke – Ok. Some were, some weren't. Some were just nothing other than a place to file and get money, or information to file to get money. Correct?

Ms. Gaines – Correct. Now, the courts, and I do apologize, I'm unaware of the ten (10) AKAs that you're speaking of. I know of the three (3) AKAs, which were set up for individuals and I filed those taxes under.

Mr. Knopke – Ok. If I may, Mr. Chair?

Chair – Go right ahead.

Mr. Knopke – The Department's package says in 2015, you were convicted. You said 2010, you were charged. Is that right? I mean, that's big time-period there.

Ms. Gaines – No. What it is, in 2010, that's when the actual charge was. There was an investigation done for four (4) years before set allegations on me, and I'm searching for that right now. It said in the documents that I presented.

Mr. Knopke – Ok. I'm just looking at the Department's recommendation. It said on or around January 2015, Ms. Gaines pled guilty to theft of government property and aggravated identity theft.

Ms. Gaines – Right. That was after...

Mr. Knopke – You were arrested then in 2010?

Ms. Gaines – Yes. What the actual documents report is the actual crime happened in 2010. So, what I was charged 2010, and after their investigation, I received a report that I was being investigated, and that there were some charges that would be brought up against me. That trial actually started in 2014. Not the trial, but the court proceedings started in 2014. After 2014, I was sentenced in December of 2014, and I self-surrendered in Carswell Texas, May 1, 2015. The judge actually read all of the information given to her. The charges actually carried three (3) years of prison time. After reading the charges, she decided to actually give me a sentence of a year and a day. So, where the charge carried a mandatory three (3) year sentence, I was given the downward charge of a year and a day.

Chair – This is Jody Brandenburg. What concerns me, as a concurrent intern, as a funeral director and embalmer, you will have a lot of access to confidential information. You'll have access to Social Security numbers, not only of the deceased but other family members. And, I'm very concerned that if we grant this concurrent internship, I don't want you to have access to that information. Therefore, I'm making a motion to deny.

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

Chair – There is a motion to deny an it's been seconded. Ms. Gaines, you have your hand up.

Ms. Gaines – Yes, sir. If you will allow me to speak.

Chair – Go right ahead.

Ms. Gaines – Again, this happened back in 2010. I have since completed all that the courts opposed upon me. The criminal behavior that I exhibited back then was a poor choice. At this time, I've completed everything that there is to complete by the courts. I have successfully completed the educational requirements. There will never be that type of behavior happening in my life again. If the Board would consider giving me a chance to exhibit again my loyalty, my showmanship. I'd greatly appreciate it. If there is some type of probationary period that you could put me on, so I can prove to you that I am a different person, and if you notice, there has been no charges since 2000. Again, it was a mere bad decision, and I've been remedied everything that the courts had, and I give my word that nothing of the sort would ever happening again, and has not happened.

Chair – Thank you. We have we have a motion to deny, and it's been seconded.

Mr. D. Williams – Mr. Chair?

Rabbi Lyons – Mr. Chair?

Chair – Who's that speaking?

Mr. D. Williams – Darrin Williams.

Rabbi Lyons – You have a few people with their hands up.

Chair – Ok, I did see Mr. Knopke with his hand up.

Mr. Knopke – Mr. Chair, if I can ask her just a couple of more questions, if that's in order? The funeral home that you're currently working for, what's the name of the firm again?

Ms. Gaines – Coney's Funeral Home.

Mr. Knopke – In your day to day work, you're obviously, and I'm going to assume the answer, but I'm going to ask it. You're not seeing families from an arrangement standpoint or anything like that?

Ms. Gaines – I've sat in on seeing families. Yes.

Mr. Knopke – Have you been exposed to Social Security numbers and those types of things?

Ms. Gaines – They're in the office. I don't have a key to the file cabinet or anything, but they're in the office.

Mr. Knopke – They're in the office. You could walk in and that could be unlocked, and you could have access to that. I'm disappointed in your bad decisions. I don't know your life circumstances at that time. I'm impressed by where you've gotten to right now. The work you've done, the time you've spent in school, everything that you've done to change the picture. I've got the same concerns that Mr. Hall and Mr. Brandenburg have, because it's desires that we give something to happen and it goes south. Did your employer know of your background issues when they hired you?

Ms. Gaines – Yes.

Mr. Knopke – Ok. That's all my questions.

Chair – Thank you.

Rabbi Lyons – Mr. Chair?

Chair – Mr. Darrin Williams?

Mr. D. Williams – Yes, sir, Mr. Chair. Thank you. I just had a question. Has the full restitution been paid?

Ms. Gaines – No, sir. I'm current on that.

Mr. D. Williams – Ok. Yes, I know that was part of the court proceedings. So, in your own admission, you stated that you have completed everything that the court has required you to do. So, I wanted to make sure that was noted that your restitution has not been paid. Correct?

Ms. Gaines – Correct, I'm sorry.

Chair – Yes, I believe that disclosure was \$200 a month, Mr. Williams, and in the Division's write-up, it was noted that she is making payments towards restitution. So, any other questions? Rabbi Lyons?

Rabbi Lyons – Yes, I don't know if we can do this, but Ms. Gaines is suggesting that we put her on probation. Is there such a thing? Could we approve her as an intern on probation?

Chair – Yes, there is such a thing as that.

Rabbi Lyons – Can we require as part of that probation that she continues to work for the establishment that she's working for and that she leaves or whatever the circumstance is that she needs to come back to the Board? Meaning they're familiar with her, obviously they trust her. Could we make such a condition?

Chair – Well, at this point in time, we have a motion before the Board to deny. And it's been seconded. And unless the second wants to withdraw, and the motion maker wants to withdraw. Mr. Hall?

Mr. Hall – If I can ask a question of her, Mr. Chair?

Chair – Please do.

Mr. Hall – When you completed your application for the Division, and you checked in to Gupton-Jones, did you know there was a chance that with a felony charge you may not be licensed?

Ms. Gaines – Yes, sir.

Mr. Hall – And you decided to still proceed with the schooling?

Ms. Gaines – Yes, sir. Mr. Hall, I made a call to the State of Florida before I started this path and I was told that with such a background that I could be denied. But with good character, I could go before the Board and plead my case. So, I had enough trust and I believed that the Board would hear my case and understand that I'm just not the same person.

Mr. Hall – What is the balance that you now currently owe? I know we've been saying you're paying \$200, What is the balance on that now?

Ms. Gaines – So, at \$200 a month, and please, if I can make a correction? It's not \$200 a month, its \$153 a month. They adjusted the cost. The balance does not show, but I know that I'm still over \$100,000.

Mr. Hall – It started at \$305k? Is that my understanding?

Ms. Gaines – Yes.

Mr. Hall – You're paying \$150 a month and you think you're at \$100k?

Ms. Gaines – Well, in the beginning of me starting to pay the \$305k, there were other fees imposed that I had to pay upfront before leaving the halfway house. The last balance that I knew of was, it's still in the high marks, because I know it's been like five (5) years, so everything that's paid in the five (5) years.

Chair – Thank you.

Mr. J. Williams – Mr. Chair?

Chair – Any other questions? Mr. John Williams?

Mr. J. Williams – Yes. Ms. Gaines, it looks like there was some prior history before that in the 90s. I was wondering if you could speak to that.

Ms. Gaines – In the 90s?

Mr. J. Williams – Yes, 1993. Is there any additional criminal history?

Ms. Gaines – Past the federal charge? Before that, those were misdemeanors. It should show two (2) misdemeanors, petty theft. Is that the one you're referring to?

Mr. J. Williams – Yes. It looks like it. Was that two (2) separate incidents? One in 1991 and another in 1993.

Ms. Gaines – Now, the 1991...the one in 1993, is that a violation of probation?

Mr. J. Williams – From what I'm reading, it looks like it says grand theft.

Ms. Gaines – Again...

Chair – What page, John?

Mr. J. Williams – Yes, I'm scrolling down to it. It's Page 25, Page 26. But if you could just generally give us a little background on what happened in the 90s.

Ms. Gaines – I want to know a little bit more about the charge. In 1993, there was a violation of probation on a 1991 charge. The 1991 charge, I was with someone that was in a Department store. We were both accused of petty theft. In 1993, I believe I moved and the probation officer did not have my address. Actually, I was placed in the witness protection program and the probation officer didn't have the information of my whereabouts. Is that the one that you're looking at?

Mr. J. Williams – Misdemeanor petty theft.

Ms. Gaines – Ok.

Chair – Mr. Knopke?

Mr. Knopke – I was reading on Board packet, Page 29 where you've got a re-arrest in February of '93 by the Orange County Sheriff's Office for probation violation, First degree, \$100 or more.

Chair – We have before us a motion to deny, and it's been seconded. Are we ready for a vote? So, all those in favor, say aye.

Board members – Aye.

Chair – And any opposed?

Mr. Knopke – Opposed.

Rabbi Lyons – Opposed.

Chair – And the motion carries. Thank you.

Ms. Munson – Just to clarify. So, do we have who the oppositions were? I thought I heard more than one. Ms. Simon? Do we have who they are?

Ms. Simon – I did not call the roll. I heard two (2).

Chair – I heard two (2) as well.

Ms. Bryant – Mr. Knopke, Ms. Clay, Rabbi Lyons.

Chair – What did you say, Ms. Bryant?

Ms. Bryant – Ms. Clay, Rabbi Lyons, and Mr. Knopke.

Ms. Munson – There are three (3).

Chair – Ok, so, the motion carries. Next, Ms. Simon?

- C. *Application to Renew Concurrent Internship*
 - (1) *Recommended for Approval without Conditions*
 - (a) *Cruz, Reyes F069468*

Ms. Simon – An application to renew the concurrent internship license was received on March 24, 2021. The current internship license, F069468, expired on April 1, 2021. Mr. Cruz has not passed the National Board Examinations. The Division is recommending approval without conditions.

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

- (b) *Percival, Elsie F399534*

Ms. Simon – An application for a concurrent internship license was received on March 14, 2021. This application was not considered viable as the Applicant had previously been licensed as a concurrent intern and 69K-18.003, Florida Administrative Code, only permits one (1) internship in a lifetime. On or about April 15, 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 approval of both the petition and application for internship. In this respect, we are recommending that the entire internship, all four (4) quarters, begin again.

MOTION: Mr. Knopke moved to approve the application for internship and the petition. Rabbi Lyons seconded the motion.

Chair – Ms. Simon?

Ms. Simon – Before a vote is taken, I just wanted to make sure is Ms. Percival or a representative of Ms. Percival is on the phone right now.

Ms. Wiener – This is Wendy Wiener. I represent Ms. Percival and I am back from Court. So, thank you.

Chair – Ok. There's been a motion to approve, and it's been seconded. And all those in favor, aye?

Board Members – Aye.

Chair – Any opposed? And the motion carries.

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

- A. *Informational Item (Licenses Issued without Conditions) – Addendum F*
 - (1) *Allers, Kelly F501641*
 - (2) *Coryell, Brandy N F499532*
 - (3) *Dockins, Lula M F503834*
 - (4) *Kemp Jr, James L F499557*
 - (5) *Kenny, Amaris S F501639*
 - (6) *Sikes, Jonathan B F502654*
 - (7) *Vadi, Mabel F110470*
 - (8) *Weeks III, James C F501643*

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) *Carriage Florida Holdings Inc d/b/a Lee County Cremation Services (F065328) (Ft Myers)*
 - (2) *D Alan Moore Licensed Funeral Director (F049909) (Arcadia)*

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.

Chair – Let it be noted that one (1) of them has not been inspected yet, D Alan Moore. Thank you for the informational item.

12. Application(s) for Preneed Branch License

A. Recommended for Approval without Conditions – Addendum H

- (1) *Capstone Funeral Holdings of FL LLC d/b/a Sea Pines Memorial Gardens (Edgewater) (F427984)*
- (2) *Faithful Heritage Holdings Inc d/b/a Forest Meadows Cemeteries (Newberry) (F435089)*
- (3) *Faithful Heritage Holdings Inc d/b/a Forest Meadows Funeral Home (Gainesville) (F429215)*
- (4) *Faithful Heritage Holdings Inc d/b/a Royal Palm North Cemetery (St Petersburg) (F504015)*
- (5) *Faithful Heritage Holdings Inc d/b/a Royal Palm North Funeral Chapel (St Petersburg) (F504028)*
- (6) *Faithful Heritage Holdings Inc d/b/a Royal Palm South Cemetery (St Petersburg) (F504016)*
- (7) *Faithful Heritage Holdings Inc d/b/a Sarasota Memorial Park (Sarasota) (F504017)*

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. However, just as a statement on item number (6), Faithful Heritage Holdings, Inc. dba Royal Palm South Cemetery is located in St. Petersburg and not Coral Gables.

Chair – Is there a motion?

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

13. Application(s) for Cinerator Facility

A. Recommended for Approval with Conditions

- (1) *McAlpin Funeral Home Inc d/b/a McAlpin Crematory (Sneads)*

Ms. Simon – An application for a cinerator facility was received on by the Division on April 5, 2021. The application was incomplete when submitted. A completed application was received on April 19, 2021. The Funeral Director in Charge will be Laura Demaskowski-McAlpin (F089239). A background check of the principals revealed no criminal history for its principals. The Division is recommending approval subject to the condition that the facility passes an onsite inspection by a member of Division Staff. Is there a representative of the facility on the call today? Hearing no response. Board members?

MOTION: Mr. Hall 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.

15. Application(s) for Funeral Establishment

A. Recommended for Approval with Conditions

- (1) *Long-Granberry Funeral Services Inc d/b/a Battle Mortuary (Panama City)*

Ms. Simon – An application for a funeral establishment was received on by the Division on March 1, 2021. The application was incomplete when submitted. A completed application was received on March 25, 2021. The Funeral Director in Charge will be Gwenevere Long (F043130). 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. Is there a representative of the applicant on the call today? Hearing no response.

Ms. Gwenevere Long – Yes. I'm here.

Ms. Simon – Ok.

Chair – Who is that speaking, please?

Ms. Long – Gwenevere Long.

Chair – Thank you. Do you want to address the Board?

Ms. Long – No, I'm available for questions.

Chair – Thank you. Board, is there a motion?

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

Chair – Congratulations, Ms. Long.

Ms. Long – Thank you.

(2) *New Beginnings Corp d/b/a New Beginnings Funeral Home (Pembroke Pines)*

Ms. Simon – An application for a Funeral Establishment was received on by the Division on March 19, 2021. The application was complete when submitted. The Funeral Director in Charge will be Peta-Gaye Daley (F045161). 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. Is there a representative of the applicant on the call today?

Mr. Johnny Hodgson – Good afternoon. We're here.

Chair – Good. I see listings of New Beginnings. Did you want to address the Board or are you merely here to answer questions?

Mr. Hodgson – We're here to answer questions.

Chair – Thank you so much. Board?

Mr. Hodgson – Thank you.

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

Chair – Congratulations, New Beginnings.

Mr. Hodgson – Thank you, sir. Have a wonderful day.

Chair – Thank you.

(3) *Watson Milton Funeral Home LLC (Trenton)*

Ms. Simon – A change of ownership application for a funeral establishment was received by the Division on March 11, 2021. The application was incomplete when submitted. A complete application was received on March 30, 2021. The Funeral Director in Charge will be John Milton (F313074). A background check of the principals revealed no relevant criminal history for the principals. The establishment passed its inspection on April 2, 2021. The Division is recommending 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.

Is there a representative of the applicant on the call today?

Garrett Milton – Yes, ma'am.

Chair – And who might you be?

Mr. Milton – Mr. Chair, my name is Garrett Milton.

Chair – Hi. Mr. Milton.

Mr. Milton – Yes, sir.

Chair – Do you want to address the Board, or you're merely here to answer questions?

Mr. Milton – I'm just here to answer any questions, Mr. Chair.

Chair – Thank you. Appreciate you being with us today. Board?

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

Chair – Thank you and congratulations, Mr. Milton.

Mr. Milton – Thank you, Mr. Chair.

Rabbi Lyons – Mr. Chair, if I may before I move on?

Chair – Who is that?

Rabbi Lyons – Jay Lyons here. If I may, before we move on?

Chair – Rabbi Lyons, go right ahead.

Rabbi Lyons – Ok, thank you. I'm sorry, I apologize again. You know, first meeting here, so I'm just trying to get the procedural flow of things. Ok, is it possible to make a motion to reconsider a previous or past motion?

Chair – Ms. Munson?

Ms. Munson – Yes, it's appropriate. I mean, the Board is still in session. So, yes sir.

Rabbi Lyons – Ok, Could I make an official motion? We kind of had two (2) motions going on at the same time. Going back to item 9. B. (1), regarding Ms. Gaines?

Ms. Munson – My only comment to that is, well, actually there are a couple of comments. I don't know if Ms. Gaines is still on the line, so she has an interest in the outcome of this. And I don't know if she's able to speak to anything in her absence. In addition to that, I'd also like to note that it's totally up to the Chair and what order he wants to do it. If he doesn't want to address it at this time, but t the end of the meeting and continue with the rest of the business. Of course, he has the liberty to do that. So, with those two (2) considerations, it's just very much on the table, and I'm looking at this board trying to see if she's on the line, I can't figure that out.

Chair – Yes, she is.

Mr. Hall – She's on the line.

Ms. Munson – Ok. The Chair of the Board has discretion to entertain that motion, and if he so chooses, when to actually address the matter. So, I'll leave it at that.

Chair – Thank you. Rabbi Lyons, I will recognize you.

Rabbi Lyons – Ok, thank you. I'd like to make a motion to rescind the previously passed motion and to grant Ms. Gaines the internship, on probation, on immediate probation, an under the condition that she remains at the establishment that she's working with.

Ms. Munson – If I may, Chair? I'm just going to interject just for clarity for the record. I believe the request was to reconsider the motion or to reconsider the Board action that was previously voted on. So, we are in a position where we can present that. The previous motion was moved, it was seconded and it was voted upon. If you want the Board to reconsider that action, that would actually be the proper motion to make, and they can choose to reconsider it, or not. We can't just go back and redo it.

Rabbi Lyons – Thank you. Ok, I appreciate that.

MOTION: Rabbi Lyons moved to reconsider Item 9. B. (1) (a). Mr. Knopke seconded the motion for discussion purposes.

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

Board members – Aye.

Chair – And all those opposed?

Board members – No.

Chair – Ms. Simon?

Ms. Simon – Yes, sir? Let me take the roll.

Ms. Simon – Mr. Knopke?

Mr. Knopke – Yes, to reconsider.

Ms. Simon – Mr. Clark?

Mr. Clark – Yes, to reconsider.

Ms. Simon – Mr. Hall? Mr. Hall?

Mr. Hall – I'm sorry. I was muted. No.

Ms. Simon – Mr. John Williams?

Mr. J. Williams – No.

Ms. Simon – Ken Jones?

Mr. Jones – No.

Ms. Simon – Mr. Darrin Williams?

Mr. D. Williams – No.

Ms. Simon – Ms. Clay?

Ms. Clay – Yes.

Ms. Simon – Rabbi Lyons?

Rabbi Lyons – Yes.

Ms. Simon – Mr. Jensen?

Mr. Jensen – Yes.

Ms. Simon – Right now, Mr. Brandenburg, without your vote, there are five (5) in favor of reopening and four (4) Nos.

Chair – No. So, it's five (5) to five (5).

Ms. Simon – Ms. Munson, does that motion die if there's a tie? How does that work?

Ms. Munson – It means the motion fails.

Chair – Ok. Ms. Simon?

Ms. Simon – Mr. Chair, may I continue?

Chair – Please do.

16. Application(s) for Monument Establishment Retailer and Monument Retail Sales Agreement

A. Recommended for Approval without Conditions

(1) Lasting Impressions of Central Florida LLC (Longwood) (Establishment)

Ms. Simon – An application for monument establishment retail licensure was submitted on March 31, 2021. The application was complete when submitted. A completed background check revealed no criminal history for its listed principal. If approved, Applicant will operate as a monument establishment retailer at the address mentioned on your coversheet. The Division is recommending approval without conditions. Is there a representative of Lasting Impressions on the call today?

William Gray – Yes, ma'am. This is William Gray of Lasting Impressions.

Ms. Simon – Thank you, sir.

MOTION: Mr. Jones moved to approve the application.

Mr. Clark – Mr. Chairman? I have a question.

Chair – Go right ahead.

Mr. Clark – I have a question for Mr. Gray.

Ms. Simon – As a point of order, before we have discussion, we need a second.

Mr. Knopke – Second.

Chair – We have a motion to approve and it's been seconded. Mr. Clark?

Mr. Clark – I did have a question for Mr. Gray. I think he needs to be sworn in.

Ms. Simon – Mr. Gray, can you please raise your right hand to be sworn in?

Mr. Gray – Yes, ma'am.

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

Mr. Gray – Yes, ma'am.

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

Mr. Gray – My name is William, last name is Gray, G R A Y.

Mr. Clark – Mr. Gray, I know you're a licensed funeral director. For the record, are you currently working at a funeral home?

Mr. Gray – Yes, sir.

Mr. Clark – What funeral home are you working at?

Mr. Hall – Loomis Funeral Home.

Mr. Clark – Thank you. I have no other questions, Mr. Chair.

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

Board members – Aye.

Chair – And any opposed.

Mr. Clark – Opposed.

Chair – One (1) opposed and the motion carries.

***B. Recommended for Approval with Conditions
(1) Lasting Impressions of Central Florida LLC (Longwood) (Agreement)***

Ms. Simon – If the form is approved it will be used for the sale of monuments through its monument retailer establishment license. The Division recommends approval subject to the condition that two–full–sized print–ready copies of the monument retail sales agreement are received by the Department within sixty (60) days of this Board meeting.

Mr. Clark – Mr. Chairman, I have a question.

Chair – Go right ahead.

Mr. Clark – Mr. Gray, I know previously you've come before this Board and the plan was to sell monuments online. Is this sales agreement going to be completed online or will it be completed in person?

Mr. Gray – No, sir. It will be completed in person.

Mr. Clark – Thank you, I have no other questions.

Chair – Thank you. Board? The subject is a monument retail sales agreement. There's a recommendation to approve with conditions.

MOTION: Mr. Knopke moved to approve the agreement subject to the condition 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. Mr. Jones seconded the motion, which passed with one (1) dissenting vote.

17. Application(s) for Removal Service

- A. Recommended for Approval with Conditions**
 - (1) Lepole LLC (West Palm Beach)**

Ms. Simon – An application for a removal service was received on by the Division on September 18, 2020. The application was incomplete when submitted. A completed application was received on April 13, 2021. The Division is recommending approval subject to the condition that the facility passes an onsite inspection by a member of Division Staff.

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

18. Collective Application(s)

- A. Recommended for Approval with Conditions**
 - (1) Change of Ownership**
 - (a) Baldwin Brothers Memorial Care Services Inc d/b/ Baldwin Brothers (various cities)**
 - **Cinerator Facility (1)**
 - **Funeral Establishment (2)**

Ms. Simon – Baldwin Brothers Memorial Care Services Inc seeks approval of its application for cinerator facility licensure and applications for funeral establishment licensure. A completed background check of the principal(s) for the business revealed a relevant criminal history that has been presented to the Board on previous applications. The establishments passed inspection on April 13, 2021. More specifically, the entities that are being acquired is as follows:

- 1) Baldwin Brothers Southwest LLC, a cinerator facility, license number #F306478, physical address: 4320 Colonial Blvd, Fort Myers, FL 33966
- 2) Baldwin Brothers Southwest LLC, a funeral establishment, license number #F195595, physical address: 4320 Colonial Blvd, Fort Myers, FL 33966
- 3) Baldwin Brothers Southwest LLC, a funeral establishment, license number #F195594, physical address: 1605 Colonial Blvd, Fort Myers, FL 33907

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.

Mr. Knopke – Mr. Chairman?

Chair – Go right ahead.

Mr. Knopke – I need to disclose.

Chair – I think I hear you.

Mr. Knopke – Let me disclose that the President of Baldwin Brothers Southwest LLC is my brother, Skip Knopke. That relationship will not impede me from making a fair and impartial decision on this matter and/or item number A. (2) (a), as well.

Chair – Thank you for that disclosure. I appreciate that. I was going to call upon you.

Mr. Knopke – Yes, I knew you would, but I thought I'd jump on it first.

Chair – Good. So, Board?

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

- (b) Catholic Funeral Care LLC (Largo)**
 - **Funeral Establishment**
 - **Preneed Branch**

Ms. Simon – Catholic Funeral Care LLC seeks approval of its applications for funeral establishment licensure and preneed branch licensure. A completed background check of the principal(s) for the business revealed no relevant criminal history. The establishment passed its inspection on April 7, 2021. More specifically, the entities that are being acquired is as follows:

- 1) Pete Grasso Jr d/b/a Grasso Funeral, Memorial, and Cremation Services, a funeral establishment, license number #F076748, physical address: 12515 Ulmerton Rd, Largo, FL 33774
- 2) Veterans Funeral Care Florida LLC d/b/a Catholic Funeral Care, a preneed branch, physical address: 12515 Ulmerton Rd, Largo, FL 33774

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.

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

- (c) *JMC Family Enterprise Inc d/b/a Rolling Oaks Cemetery and Cremation Gardens (Port St Lucie)*
 - *Cemetery*
 - *Preneed (new)*

Ms. Simon – JMC Family Enterprise Inc (JMC), a corporation, seeks approval of an application to acquire control of an existing cemetery (F072542) due to a change in ownership, and an application for a new preneed main license. The change of ownership is due to a change of control via an asset purchase agreement, wherein JMC is acquiring all the cemetery and preneed assets of this location. The officers of the corporation will be: Kinndy Rodriguez and Jose Rodriguez. The fingerprints for the principals were returned without criminal history. More specifically, the entity that is being acquired is as follows:

Change of Ownership:

- 1) Rolling Oaks Cemetery and Cremation Gardens LLC d/b/a Rolling Oaks Cemetery, a licensed cemetery, license # F072452, physical address: 2200 SW Del Rio Blvd, Port St Lucie, FL 34953

New Application:

- 1) JMC Family Enterprise Inc d/b/a Rolling Oaks Cemetery and Cremation Gardens, a preneed main license, physical address: 2200 SW Del Rio Blvd, Port St Lucie, FL 34953

The separate applications are enclosed within your Board package. If approved, Applicant is assuming responsibility for any outstanding preneed contracts that have previously been issued by or for fulfillment at the above referenced location. The Care and Maintenance Trustee Report for CY 2019 is included in your Board package. The cemetery report appears to be in line with the reported gross sales for CY 2019 for the listed property being acquired. The Division has no record of disciplinary action regarding the Applicant. 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 2 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.

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

- (2) *New Application(s)*
 - (a) *Baldwin Brother Memorial Care Services Inc d/b/a Baldwin Brothers (various cities)*
 - *Cinerator Facility (1)*
 - *Funeral Establishment (2)*

Ms. Simon – Baldwin Brothers Memorial Care Services Inc seeks approval of its application for a cinerator facility licensure and applications for funeral establishment licensure. A completed background check of the principal(s) for the business revealed a relevant criminal history that has been presented to the Board on previous applications. More specifically, the entities that are being acquired is as follows:

- 1) Baldwin Brothers Memorial Care Services Inc, a cinerator facility, physical address: 1512 Airway Circle, New Smyrna Beach, FL 32168

- 2) Baldwin Brothers Memorial Care Services Inc a funeral establishment, physical address: 290 Nicholas Parkway NW, Cape Coral, FL 33991
- 3) Baldwin Brothers Memorial Care Services Inc. a funeral establishment, physical address: 1512 Airway Circle, New Smyrna Beach, FL 32168

The Division is recommending approval subject to the condition that the establishments pass an onsite inspection by a member of Division Staff

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

(b) *Sunset Funeral Chapel Inc (Naples)*

- *Funeral Establishment*
- *Preneed Main*

Ms. Simon – Sunset Funeral Chapel Inc seeks approval of its applications for funeral establishment licensure and preneed main licensure. A completed background check of the principal(s) for the business revealed no relevant criminal history. If approved, the applicant will utilize FSI to trust preneed contracts. More specifically, the entities that are being acquired is as follows:

- 1) Sunset Funeral Chapel Inc, a funeral establishment, physical address: 7795 Davis Blvd Unit 204, Naples, FL 34104
- 2) Sunset Funeral Chapel Inc, a preneed license, physical address: 7795 Davis Blvd Unit 204, Naples, FL 34104

The Division is recommending approval subject to the condition that the establishments pass an onsite inspection by a member of Division Staff.

Marcela Nadolny – Good afternoon. I'm Marcela, Funeral Director in Charge, and this is my husband, Jason. We already did have our inspection, and we were approved for the inspection.

Chair – Thank you. Board?

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

Ms. Nadolny – Thank you.

Chair – I'm sorry? Was someone trying to get my attention?

Ms. Nadolny – Thank you for your time.

Chair – You're welcome. At this point I'd like to disclose my affiliation with SCI Funeral Services, Florida, LLC, and that affiliation will in no way affect my ability to make a fair and impartial decisions on matters about to come before the Board.

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

A. *Recommendation for Approval without Conditions*

(1) *Preconstruction Performance Bond*

(a) *SE Combined Services of Florida, LLC. DBA Caballero Rivero Dade South (F039497) (Miami)*

Ms. Simon – This entity intends to construct a niche building consisting of 2,991 niche spaces composed of 1,476 exterior granite front niches and 1,515 luxurious glass front niches at a total cost of \$1,754,595.00. Pursuant to s. 497.272, Fla. Statutes, typically, a preconstruction trust must be put in place if sales are going to occur prior to completion. However, s. 497.272(8) provides that in lieu of the preconstruction trust fund, the cemetery company may provide a performance bond in an amount and by a surety company acceptable to the regulator. The licensee has submitted for approval a performance bond, in lieu of a preconstruction trust. The mausoleum project and the bond is summarized on the coversheet of your Board package.

The cemetery agrees to complete said construction agreement with Carrier Mausoleums Contractors U.S.A., Inc. found within the Board package, The Division recommends approval without conditions.

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

(b) SE Combined Services of Florida, LLC. OBA Caballero Rivero Southern (F039500) (North Miami)

Ms. Simon – This entity intends to have niches added to a structure on its property for a total cost of \$70,827.64. The licensee has submitted for approval a performance bond. The mausoleum project and the bond is summarized on the coversheet of your Board package. The cemetery agrees to complete said construction agreement with Carrier Mausoleums Contractors U.S.A., Inc. found within the Board package, The Division recommends approval without conditions.

MOTION: Mr. Hall moved to approve the performance bond. Mr. Clark seconded the motion, which passed unanimously.

(c) SE Combined Services of Florida, LLC. DBA Caballero Rivero Woodlawn North (F077499) (Miami)

Ms. Simon – This entity intends to have niches added to a structure on its property for a total cost of \$64,050.66. The licensee has submitted for approval a performance bond. The mausoleum project and the bond is summarized on the coversheet of your Board package. The cemetery agrees to complete said construction agreement with Carrier Mausoleums Contractors U.S.A., Inc. found within the Board package, The Division recommends approval without conditions.

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

(d) SE Combined Services of Florida, LLC. DBA Gulf Pines Memorial Park (F321687) (Englewood)

Ms. Simon – This entity intends to add niches to a structure on its property for a total cost of \$75,198.68. The licensee has submitted for approval a performance bond. The mausoleum project and the bond is summarized on the coversheet of your Board package. The cemetery agrees to complete said construction agreement with Carrier Mausoleums Contractors U.S.A., Inc. found within the Board package, The Division recommends approval without conditions.

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

(e) SE Combined Services of Florida, LLC. DBA Hodges Funeral Home at Naples Memorial Gardens (F039719) (Naples)

Ms. Simon – This entity intends to add niches to a structure property for a total cost of \$168,322.21. The mausoleum project and the bond is summarized on the coversheet of your Board package. The cemetery agrees to complete said construction agreement with Carrier Mausoleums Contractors U.S.A., Inc. found within the Board package, The Division recommends approval without conditions.

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

20. Request for Waiver of Payment of Late Fee
A. Southern Keys Cemetery Inc. (Key West)

Ms. Simon – Is a representative of this licensee on the call today? Hearing no response. The licensee's cemetery renewal fees were due to the FCCS Division by no later than December 31, 2020, but were, in fact, received on March 29, 2021. Pursuant to section 497.265(2), late fees are assessable in the aggregate amount of \$600. Licensee submits a written explanation of the cause of the late filing, which is included within your Board package. Licensee's cemetery renewal fees were filed timely in 2020, and there have been no other noted problems. Board?

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

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

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

Ms. Schwantes – Thank you. If I may, Mr. Brandenburg?

Chair – Go right ahead.

Ms. Schwantes – Thank you, sir. Good afternoon again, Board members. As you can tell from today's meeting, and all that has gone on, that we have had a very busy month since our April Board meeting. I want to again welcome the new Board members and, as always, thank you all for your continued service to the Board and the industry. The first item on my report for today is a legislative update. This will be the last legislative update for this session, so that's a good thing. The Legislative Session for 2021 ended last week on April 30th. So, the following is the update on the seven (7) bills we have been monitoring and reporting to you each month. Three (3) did not pass and four (4) did pass. So, the bills that died:

[Deregulation – HB0471/SB0344](#): These bills died in committee in their respective houses.

[Animal Cremation – HB1095/SB0526](#): Also, these bills died in committee in their respective houses.

[Final Disposition of Fetal Remains – HB1437 \(Rep. Barnaby\)/SB1984 \(Sen. Baxley\)](#): These bills also died in the first of their respective committee reviews.

The Bills that passed:

[COVID-19 Liability Shields for Businesses – HB0007/SB0072](#): I know you all know about this one. Both bills passed their respective houses and were signed by the Governor on March 29, 2021. The law went into effect on the same day.

[Abandoned Cemeteries - HB0037/SB0222](#): The House Bill passed on April 21, 2021. The House Bill was substituted for the Senate Bill and passed the Senate on April 29, 2021. The bill is on its way to the Governor for review and execution.

[Seminole County Exemption – HB 1593\(Rep David Smith\)/no related SB](#): This was a fairly new bill that was submitted that we reported on last month. It passed on April 29, 2021, and it is on its way for the Governor to review and sign.

[Department Bill – HB1209 \(Rep Fetterhoff\)/SB1408 \(Sen Burgess\)](#): As you all know, these involved multiple Divisions and multiple provisions for changes to different statutes that the Department regulates. But, as it relates to Chapter 497, I'll go over what passed. The bill passed the House on April 21, 2021. The House Bill was substituted for the Senate Bill and it passed the Senate on April 26, 2021, and it is on its way to the Governor for review and signing. To summarize, the proposed changes to Chapter 497 include the following, all of which will go into effect on July 1, 2021, assuming the Governor signs the bill:

- Board membership and appointment process reduces the number of nominees which must be submitted to the Governor by the CFO for each Board position. Currently, it is requiring that three (3) nominees be submitted for each position. It has been changed to 1-3. It will change the requirements regarding the CPA consumer representative on the Board to potentially result in more interest and applicants for this position. It clarifies that Board meetings may be held via communications media technology, such as videoconferences, and that does not depend on whether there is an emergency State Order in place of any kind. It eliminates the requirement that the Department adopt rules regarding the forms and procedures for application to the Board. As we've talked about before, that is primarily because it really is the Governor's Office that controls the procedure on that.
- As to unlicensed activity, the bill clarifies certain types of unlicensed practice and adds provisions, which will make unlicensed activity in the death care industry a felony of the third degree instead of the current misdemeanor. This is expected to more effectively deter such activities and protect the public.
- The bill provides a bridge for interns in funeral director and combo licenses only, which allows licensed funeral director interns and licensed combination funeral director and embalmer interns who meet 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 license and until a 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 and has applied for licensure.

- With regard to preneed contracts that become at-need contracts prior to funds being paid into trust, it clarifies that if a 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 does not apply.
- With regard to the cemetery sale of monuments, it allows a cemetery company to sell monuments for use within a cemetery it does not own.
- Finally, with regard to monument retail establishments, it requires a monument retailer, like a monument builder, to maintain a full-service place of business that includes an office for the conduct of its business; display a selection of monuments, markers, and related products for inspection by customers prior to sale; and have its office and display area normally open to the public weekdays during normal business hours. The bill also makes monument retailers, like monument builders, subject to inspection under Ch. 497, F.S.

So, that is the end of the report for Legislative Session 2021. Do you have any questions on that?

Now we're into Legislative Session 2022. With the end of this session, we are already planning on legislation for the next session in 2022. Next year's session, as you all know, starts early in January. That has effectively backed up all of the planning by two (2) months. So, we previously reported that we were planning a Legislative Workshop. We were actually planning two (2) in-person Legislative Workshops in August and September for the 2022 legislative year. We found out very late last week that we were going to need to change those plans as a result of the earlier deadlines brought about by the earlier session next year. So, the Department's Agency Bill will have to be completed and ready for filing much earlier than previously thought possibly as early as September. For that reason, we are now only going to have one (1) workshop. It will need to be in July in order to meet the deadlines. For reasons that I'm going to go into later when we discuss the Board meetings, the Legislative Workshop will be held by videoconference. The scheduled date for the workshop is Monday, July 12th, from 12 to 5, although currently we do not think it will actually go that long. We will be asking the industry associations for their early input to help in preparing the agenda for that workshop. Of course, trying to keep that meeting very much on track as we cover the items that are on the agenda. As we've stated before, we would really like for all Board members to attend that meeting.

I want to give you some updates on some ongoing projects, and just a few other matters. Last week, Governor Desantis extended Florida's State of Emergency, which was caused by COVID-19, by sixty (60) days. That Order, Executive Order 2021-94 was entered on April 27th. Earlier this week on May 3rd, Governor Desantis issued two Executive Orders (2021-101 and 2021-102), which effectively halted all remaining local government mandates and restrictions based on the COVID-19 State of Emergency. We've been asked if the most recent Orders, the ones that were entered this week, impacted the CFO's Directives which were issued last year. In particular, one of the inquiries was if the two (2) Orders entered this week resulted in the reinstatement of the 48-hour waiting period before human remains may be cremated. We've discussed the recent Executive Orders with our legal counsel and we do not believe that either of the most recent Orders impacts the CFO Directives that were issued in 2020. The CFO Directives are specifically tied to the Governor's Executive Order 20-52, which was entered on March 9, 2020. That's the original Order, which declared a State of Emergency for Florida. Since that Executive Order and its resulting State of Emergency was recently extended for sixty (60) days, by virtue of Executive Order entered last week, then we believe that the CFO Directives should still apply, at least for now. So, just in case that question comes up.

Mr. Jones – Ms. Schwantes?

Ms. Schwantes – Yes, sir?

Mr. Jones – Mr. Chair, if I may? Just for clarification, so we're saying that we will continue waiving the 48 hours, correct?

Ms. Schwantes – That is my understanding that the CFO's Directive still applies.

Mr. Jones – And, we're relating that to the 94 Executive Order?

Ms. Schwantes – To 20-52, which was the original March 9th State of Emergency.

Mr. Jones – Ok.

Ms. Schwantes – And, that was extended again in 2021-94. You are correct, sir.

Mr. Jones – Ok. I just wanted to get clarification. I've got a medical examiner meeting tomorrow, which would be of interest. Thank you.

Ms. Schwantes – That's another reason why I wanted to bring it up, so, very good. Thank you, sir.

Mr. Jones – Thank you.

Ms. Schwantes – All right. On to some great news for the industry. As many of you know, the Division, and Mr. Knopke has a question.

Chair – Ms. Schwantes, I think a couple of people have a question. Ms. Coney, did you have a question?

Ms. Lisa Coney – Just to the Director's point. We have the same concerns regarding the continued effectiveness of the CFO's Directives related to COVID, and we confirmed with the Governor's Office yesterday. The Florida Cemetery Cremation and Funeral Association asked those questions directly of the Governor's Office and have confirmed that those remain in full effect until the State of Emergency is lifted.

Chair – Thank you. Mr. Knopke?

Mr. Knopke – I have no question. I was trying to get your attention that you were muted.

Chair – Thank you. Thank you.

Ms. Schwantes – Ok.

Chair – Ms. Schwantes, you mentioned the Legislative Workshop. Did you give the date of that?

Ms. Schwantes – Yes, sir. It is on Monday, July 12th from 12 to 5, via videoconference at this time.

Chair – Thank you.

Ms. Schwantes – Mr. Chair, do you have other questions? Ok. Another project that we have been working on, we actually started this before the pandemic. We've been working with Department of Health, Bureau of Statistics on updates to EDRS, so that it may be used by our licensees to meet the current requirements for completing and maintaining Bodies Handled Reports. We know this is something that has been of great interest to the industry, and it is something that we also are glad to be able to be part of. The pandemic sidetracked us all a bit. I'm sure everybody understands that. But I'm very glad to report that the EDRS project is back on track, and we look forward to being able to offer this to our licensees as a solution for their concerns regarding Bodies Handled Reports. So, I want to particularly thank Board member Ken Jones, who as you know also heads the Bureau of Vital Statistics, and his staff for their help on this project, and I know Ken probably wants to provide an update on this as well. So, if I might turn it over to Mr. Jones for a moment?

Mr. Jones – Yes. Thank you. We are looking at what changes I need to make to our EDRS, so that the Bodies Handled Reports will seemingly do everything that we need. I'm looking at about a month. We will test it, and then it will be effective. We will also provide some training and also some other data as to what other reports, then you're going to use the Bodies Handled Reports. Funeral directors, establishments and everyone will be able to extract from our system. So, I will have an update on that within the month.

Chair – Thank you. There's been a couple of references to EDRS, and some of our Board members might not understand that acronym. Can you explain that, Mr. Jones?

Mr. Jones – EDRS is the Electronic Death Registration System. You'll hear us use E-Vitals, which is our electronic vital records system. It's where either birthing facilities or EDRS of deaths. Death records are filed online with the Department, by funeral directors, physicians and medical examiners. So, we do refer to EDRS. And, thank you. We're so used to doing that.

Chair – Good explanation. And, that explanation, by the way, comes from the father of the EDRS system in the State of Florida. So, thank you Father Jones.

Mr. Jones – You're welcome. Thank you. I give credit to Mr. Brandenburg as the grandfather, because he sat on the committee that helped put this language together.

Chair – Yes, thank you.

Ms. Schwantes – Mr. Chair, I have just a few more items, if I may?

Chair – Please.

Ms. Schwantes – Regarding the Board Appointment Process, I'm very, very glad that I no longer need to update the Board on the progress for Board appointments to fill the positions, which termed in September of 2019. However, in just a few months we will again have Board members whose terms expire, this time in September of 2021. So, I know it seems like we just completed the appointment process, but we will be starting it again very soon. And, so stay tuned for that and we will be getting something out, probably before the next meeting. The next Board meeting will be a videoconference meeting on Thursday, June 24, 2021. And as you all know the June meeting is normally held later in the month due to the preneed license renewal cycle. So, we have a few more weeks between meetings this time before the next meeting.

B. Proposed Board Meeting Schedule FY 2021/2022 (Action)

**Board of Funeral, Cemetery, and Consumer Services
Board Meeting Schedule FY 2021-2022**

	July
Legislative Workshop	Monday, July 12, 2021 Videoconference: 12:00 - 5:00 https://www.gotomeet.me/LaTonyaBryant/legislative-workshop-july (872) 240-3212 Access Code: 580-223-589

2021 Board Meeting Schedule (Tentative) (July - December)

July	August	September
Tuesday, July 13, 2021 Videoconference https://www.gotomeet.me/LaTonyaBryant/board-videoconference-july (224) 501-3412 Access Code: 371-999-485	Thursday, August 5, 2021 Videoconference https://www.gotomeet.me/LaTonyaBryant/board-videoconference-august (872) 240-3311 Access Code: 464-501-581	Thursday, September 2, 2021 Videoconference https://www.gotomeet.me/LaTonyaBryant/board-videoconference-september (312) 757-3121 Access Code: 767-612-469
October	November	December
Thursday, October 7, 2021 Videoconference https://www.gotomeet.me/LaTonyaBryant/board-videoconference-october (408) 650-3123 Access Code: 378-083-301	Thursday, November 4, 2021 Videoconference https://www.gotomeet.me/LaTonyaBryant/board-videoconference-november (646) 749-3122 Access Code: 817-576-541	Thursday, December 2, 2021 Videoconference https://www.gotomeet.me/LaTonyaBryant/board-videoconference-december (872) 240-3311 Access Code: 874-995-613

2022 Board Meeting Schedule (Tentative) (January - June)

January	February	March
Thursday, January 6, 2022 Videoconference https://www.gotomeet.me/LaTonyaBryant/board-videoconference-january (571) 317-3112 Access Code: 752-118-709	Thursday, February 3, 2022 Videoconference https://www.gotomeet.me/LaTonyaBryant/board-videoconference-february (312) 757-3121 Access Code: 540-266-813	Thursday, March 3, 2022 Videoconference https://www.gotomeet.me/LaTonyaBryant/board-videoconference-march (872) 240-3212 Access Code: 653-850-789
April	May	June
Thursday, April 7, 2022 Videoconference https://www.gotomeet.me/LaTonyaBryant/board-videoconference-april-6 (786) 535-3211 Access Code: 369-604-549	Thursday, May 5, 2022 Videoconference https://www.gotomeet.me/LaTonyaBryant/board-videoconference-may-9 (872) 240-3212 Access Code: 504-495-405	Tuesday, June 21, 2022 Videoconference https://www.gotomeet.me/LaTonyaBryant/board-videoconference-june-6 (408) 650-3123 Access Code: 294-181-013

Ms. Schwantes –Now, in your Board packets, you will find a calendar showing the Legislative Workshop I previously mentioned on which no Board action is needed, and the proposed Board meeting calendar for FY21/22. As a reminder, our fiscal years run from July 1st to June 30th every year. So, at this time we propose that all meetings be held virtually, and particularly because I know there has been Board interest in having a return to, at least some in-person meetings, I want to explain why we're recommending all virtual meetings at this time. First of all, we continue to have budget concerns, primarily resulting from uncertainties regarding increased expenses, which are beyond our control, and then pandemic related budget cuts. Earlier in the year you know that there was a budget cut of 6% for the current fiscal year that was the result of State financial concerns caused by the pandemic. In fact, the Division has been under staffed by two (2) positions this year to meet those budget concerns. We just didn't fill positions as they became vacant. So, the 6% cut, going back a little bit, the State budget process can be complicated. That's putting it mildly. The 6% cut was in the form of a quarterly holdback of funds so that they were not available for us to use, even though they had been budgeted, appropriated, everything. They basically were held back and we're not allowed to use them. About mid-May of this year, we expect to receive those 6% funds, which were held, and we expect to receive them all back. However, as I indicated, our fiscal year ends at the end of June. So, even though we get funds in May, we're not likely to use them all by the end of June. We cannot extend them into the next fiscal year for use. And so, the bottom line here that I'm getting at is when you see the financial statements that we normally prepare and provide to you annually, it's going to look like we had plenty of funds this year for travel, for in-person Board meetings, for other expenses, and I'm just asking that you all keep in mind, and I'm going to remind you again, about that hold back, because those funds were not available for our use. And again, we can't use them going into next year, which is what we're planning this calendar for Board meetings on.

The second reason we're proposing the videoconference meetings has to do with space concerns. Currently, as I've indicated to you before, we still have to comply with social distancing guidelines even during meetings and conferences. The most economical option to find a large conference room that will accommodate a socially distanced Board meeting, and all those who attend, is to use one of the available conference rooms in a State-run building. When we planned the agenda for this Board meeting and for all the Board meetings for the next fiscal year, and sent that out last week, state buildings were not open to the public. As of the day before yesterday they now are, or at least most of them are, but I know that there's still a transition period, and a lot of agencies are still coming back into the office environment and, you know, we've got to work within the confines of that. So, there's been a lot of changes. For those reasons, I am respectfully asking that the Board vote to approve the proposed meeting calendar, which includes a plan for holding all meetings by videoconference for this fiscal year. This will allow us to go ahead and post the meeting dates and times. In the event that situations improve over the next few months, either budget, you know, where we're able to confirm the budget a little bit more, or the situation changes with regard to office spaces, we'll be happy to come back before the Board with a proposal for at least a couple of in-person meetings during the fiscal year, provided that we are able to have enough time to properly notice them for the public. And so, Board action is required on that, Mr. Chair.

Chair – Thank you. You've had a chance to review the proposed 2021/2022, half the year, Board meeting schedule, Board members, are there any irreconcilable conflicts? Is there anything that you want to discuss about this before we take a motion and vote on it? Hearing none. Is there a motion?

Mr. Knopke – Mr. Chair? Mr. Knopke will reluctantly make a motion to approve the proposed calendar.

MOTION: Mr. Knopke moved to approve the proposed calendar as presented by the Division.

Chair – What is your reluctance, Mr. Knopke?

Mr. Knopke – I just want us to get back out where people can interact with us. That's all. I think it's good for all involved. It's good for staff, it's good for the Board members, it's good for the public. I understand the concerns of the Director and accept her recommendation.

Rabbi Lyons – Mr. Chair?

Chair – Go right ahead.

Rabbi Lyons – Ok. On that note, can we approve like a few months-worth and then, you know, reassess over the summer, if we can go back to live meetings? I'm asking procedurally. Is this all or nothing? That's my question. Let me clarify.

Chair – Ms. Munson?

Ms. Munson – My point was not to that. It was just to note that I would just like to advise the Board, I didn't bring it up earlier, but August 5th, I know that I have prearranged conflicts with another Board meeting. And, just to let you know, on that date you'll probably have Board Counsel coverage by another Attorney General.

Chair – What if we don't want that?

Ms. Munson – Well, then we have to do something about that date.

Ms. Schwantes – Mr. Chair, if I may?

Chair – You know we prefer you.

Ms. Munson – As do I.

Ms. Schwantes – Mr. Chair, if I may?

Chair – Yes, Ms. Schwantes?

Ms. Schwantes – Thank you, sir. So, going to Rabbi Lyons' question. We could approve just a few months at a time, however, it is easier as far as going ahead and legally posting everything so that the dates and times are firm, as they will not change, to go ahead and post it all and then we just change the location, as we need to, again, providing ample public notice before the meetings.

Chair – So, to answer Rabbi Lyons' question, it could be changed to in-person meetings. That this is not an all or none necessarily.

Rabbi Lyons – Can I specifically make a motion to approve the dates, but not commit to the teleconference?

Chair – We have a motion before us from Mr. Knopke. Mr. Knopke, do you want to withdraw your motion, or do you want to move forward with it?

Mr. Knopke – Mr. Chair, I'd move forward with it if there's a second, because Ms. Schwantes has already given us her thoughts that she will change it and go to in-person meetings if the funds are available, and we can't ask for anything more than that. And to delay posting it for everybody to know just isn't good practice, in my book, for what we're doing.

Mr. Hall – Second.

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

Board members – Aye.

Chair – And those opposed? And the motion carries. Rabbi Lyons, thank you for your input on that. And we certainly have Ms. Schwantes' assurance that if and when this can become available for in-person meetings, she will do her very best, and we appreciate that commitment from you, Ms. Schwantes

Ms. Schwantes – Thank you, Mr. Chair. That ended my report, by the way.

Chair – Thank you. Any questions? Any questions? Hearing none. Ms. Simon?

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

Ms. Simon – This is informational only. However, if there are any questions, I'd be pleased to answer them.

Chair – Yes, I think that we owe, particularly new members, an explanation of what's sent to the OGC and what the OGC is, and why that is done.

Mr. Jones – Mr. Chair?

Chair – Mr. Jones?

Mr. Jones – I'm sorry. I'm going to ask to be excused. I have a three o'clock meeting I have to go to, since we have no more voting items, if that's ok with you.

Chair – Thank you. You're excused.

Mr. Jones – Thank you. Goodbye everyone.


Mr. Knopke – Goodbye. Thanks, Ken.

Chair – Ms. Simon?

Ms. Simon – Yes, Mr. Chairman? What we do is, there is this report that is updated month after month. And when there are disciplinary items on the agenda, there are typically Consent Orders or Final Orders that are issued after those disciplinary hearings. And what will happen is, let's say somebody owes or some entity owes \$1000, \$2500, \$5000. That will be on this report, and after approximately three (3) months of it being paid, it will be taken off the report. So, that's how the flow works. When matters are sent to the OGC, it means that they're being sent to the Office of the General Counsel with a request to pursue administrative action, because the entities or the individuals have not followed the Consent Order or the Final Orders dictated by the Board. They have not paid their fine within thirty (30) days, they have not fulfilled other conditions within the time frame, but it usually is based on not paying a fine that they're being sent to the OGC. Again, after they've been paid, or after their license has been suspended indefinitely, they're taken off after three (3) months, because what happens is, in statute, the Office of the General Counsel sends the licensee a notice. And if within seven (7) days after sending the notice, they do not respond and they do not pay, their license will be suspended, based on Florida Statutes. Mr. Chairman, was that sufficient?

Chair – That was good. And I like to think of the Office of the General Counsel as our collection agency. So, the Division doesn't get involved in it, the Board doesn't get involved in it, and we've had very, very good success. As you can see, we've had very good success with that. Thank you for that explanation. Any questions on this report?

Monthly Report of Fines and Costs Assessed and Paid
 Division of Funeral, Cemetery and Consumer Services
 Date of Board meeting: May 6, 2021
 Date report was prepared: April 26, 2021

Licensee	Board Meeting	Case No.	Total Fine & Cost Due	Date Due	Paid in Full?	Comments
Bemboe Funeral Home	3/4/2021	270820-20-FC	\$1,500	4/22/2021	Yes	
Capital Transport Services LLC	3/4/2021		\$1,500	6/30/2021		
Jessica Ingram	3/4/2021	270823-20-FC	\$1,500	4/22/2021	Yes	
Deborah Faniel Jenkins d/b/a Faith Funeral	3/4/2021	278635-20-FC	\$2,000	4/22/2021		Sent to the OGC
Debra Lynn Parrish	3/4/2021	257475-20-FC	\$1,000	4/22/2021	Yes	
Dees-Parrish Family Funeral Home	3/4/2021	257474-20-FC	\$1,000	4/22/2021	Yes	
Bryan Box	3/4/2021	273795-20-FC	\$5,250	4/22/2021		Sent to the OGC
DM Baker Mortuary	3/4/2021	243309-19-FC	\$500	4/22/2021	Yes	
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	270682-20-FC	\$1,500	4/27/2021	Yes	
Chestnut Funeral Home	1/7/2021	254987-19-FC	\$2,500	2/28/2021	Yes	
Charles Chestnut	1/7/2021	261483-20-FC	\$2,000	2/28/2021	Yes	
Anthony Siders	1/7/2021	269133-20-FC 269187-20-FC	\$2,000	5/22/2021	Yes	
Richard L. Macon Funeral Home, Inc. d/b/a Freeman Funeral Home	3-Dec-20	243147-19-FC	\$300	18-Jan-21		Sent to the OGC
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	
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 A.L. Hall Funeral Directors Inc. d/b/a Tillman Funeral Home	5-Nov-20	255669-19-FC	\$500	12/21/2020	Yes	
Isaac Miller	5-Nov-20	254434-19-FC	\$2,000	2/22/2021	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	
Michael Williams	5-Nov-20	217639-17-FC	\$5,000	2/18/2021	Yes	
R. Butta, Inc. d/b/a Butta Memorial Chapel	1-Oct-20	258607-19-FC	\$1,500	27-Apr-21	Yes	
Rickey Shamard Butta	1-Oct-20	258616-19-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
<p>A. When payment in full becomes past due, the FCCS Division works with the DFS Office of the General Counsel to enforce payment. B. Once fines and costs are paid in full, licensee kept on this report 3 months, showing Paid in Full, and then dropped off report, also licensee dropped off report after disciplinary action filed due to nonpayment of the fine and costs. C. The Order re this case is still in process, so no Due date is not yet established. D. Due date has not passed, as of the date of this report. E. As of the date of this report, monthly payments were current.</p>						 4/27/2021

22. Chairman's Report (Verbal)

Chair – I have no report. I'd be willing to answer questions, and certainly put myself before you to answer any questions. But I have no formal report. Hearing no questions.

23. Office of Attorney General's Report

A. Attorney General's Rules Report (Informational)

Ms. Simon – Ms. Munson?

Ms. Munson – Just briefly, I just want to make a note of just three (3) items. One, as indicated in your materials, there are no rules open for development. So, you'll see why the report looks naked is because we don't have any current rulemaking underway.

**BOARD OF FUNERAL, CEMETERY, AND CONSUMER SERVICES RULES REPORT
MAY 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.

Second point I'd like to make is, just to clarify, especially for the benefit of new members, if there's an item before you that you vote on that requires an Order, the item or the Board action does not become official or final until the Order is actually issued. And the third item I'd like to mention is that although we are on a GoToMeeting and the chat feature is available, there's an opportunity to click on a chat feature for private discussions. These meetings are in The Sunshine, so everything we do should be in the public. So, I'd just like to disclose for the record that it has been just a matter of communication between myself and, I believe the individual from 9. B. (1) (a), Ms. Gaines. And her questions were very procedural in nature, wondering about an opportunity to reconsider, wondering about the 5-5 vote, and I explained to her, and I'll just read my response to her. I think she had three (3) notes of a private chat. And I just explained to her that all Notices of Intent to Deny and if it was this Board's intention to deny her application. I wanted to explain to her that all Notices of Intent to Deny have appeal rights. She should please feel free to contact the Board Office regarding that information. And additionally, please understand that the written notice, which she will receive, technically called the Notice of Intent to Deny, will also provide information regarding those appeal rights, And I just wanted to fully disclose that for the record. And for those Board members who may be concerned about, well, what does one do. It is up to the applicant, if they disagree with it, but they should understand that they have a right to appeal it.

Chair – Thank you. Rabbi Lyons, I'm recognizing you. You had your hand up.

Rabbi Lyons – Yes, sir. Thank you, Mr. Chair. Ms. Munson am I to understand if somebody uses the private chat with a Board member, that we need to disclose that?

Ms. Munson – Well, in my position it was, and I think it might have been explained some of the training, we should refrain from any private chatting, because any discussion, definitely not amongst Board members, yet all discussions among Board members have to be in the public. So, we don't want any discussion about Board matters between Board members that's not properly recorded or made in The Sunshine. If there is an applicant that may be corresponding with you, or someone on the particular line that maybe corresponding with you individually, I think it would behoove you to also disclose that so that it would not even have the appearance of impropriety, that someone's question or direction is being made by a Board member that could be considered an action of the Board or an opinion of the Board, when it's actually just an individual identifying maybe an opinion. So, I would refrain from any private chatting as it pertains to these public meetings.

Ms. Clay – Mr. Chairman?

Chair – I'm still recognizing Rabbi Lyons.

Rabbi Lyons – So, just for the purposes of disclosure in The Sunshine, Ms. Gaines did contact me privately via chat, and I did not respond.

Ms. Munson – Ok. Thank you.

Chair – Mr. Darrin Williams?

Mr. D. Williams – I would like to disclose the same. Ms. Gaines sent me a message at 2:25 PM, a private message.

Chair – Thank you. Ms. Clay?

Ms. Clay – I'd like to disclose the same thing. At 2:24, Ms. Gaines sent me a private message. I did not respond.

Mr. D. Williams – Same here.

Chair – Mr. Knopke?

Mr. Knopke – Same thing, and I tried to forward my message to Ms. Schwantes. And I also, earlier in the day, had sent a message to Ms. Schwantes to see if she could get Ellie to swear in the first person.

Chair – Thank you.

Ms. Munson – And if I may, Chair Brandenburg? I know Board member Clark has something to say. Just when we're having these meetings and I understand that with virtual it's a different setup, we might want to consider ourselves as if we were actually in person. Things that we could not normally do in person, we should not want to attempt to do in a virtual setting.

Chair – Thank you. Mr. Clark?

Mr. J. Williams – Mr. Chairman? I just want to make sure that I'm not missing any correspondence. So, are you referring to this internal chat? Is that how everybody got a message from that applicant?

Ms. Munson – Yes. And I think Ms. Simon or Ms. Schwantes can perhaps better explain how the GoTo set up works. But, you have an opportunity to enter into a chat mode with everyone, or pick individuals on the call that you can have a private discussion with.

Ms. Schwantes – Mr. Chair, if I may?

Chair – I'd like to recognize Mr. Clark. Did you have your hand up earlier? Did you want to speak?

Mr. Clark – Yes, sir. Thank you, Mr. Chairman. I was just going to share the same disclosure. She sent me a message privately, but I did not respond.

Chair – Thank you. Anyone else? Ms. Schwantes?

Mr. Jensen – Mr. Chair?

Ms. Schwantes – I'm sorry, I think Mr. Jensen had his hand up since you were going to Board members first.

Chair – I'm sorry. I didn't see that. Mr. Jensen, go right ahead.

Mr. Jensen – Yes, sir, same disclosure.

Chair – Thank you. Ms. Clay, I'm recognizing you.

Ms. Clay – Thank you, Mr. Chair. I just wanted to know if it's possible, since we're all under The Sunshine, that the chat can be disabled?

Ms. Schwantes – May I answer that, Mr. Chair?

Chair – Go right ahead.

Ms. Schwantes – I am not sure if chat can be disabled. We will look at that. However, Ms. Simon gives a warning at the very beginning of the meeting that chat should only be used for technological concerns. And it is helpful to that extent because we have had people, both Board members and attendees, I shouldn't say Board members because it's actually been attendees every time, that have contacted us and said that they're having problems, so we're able to get them assistance that way. So, it is

helpful for that reason. I also was contacted by Ms. Gaines, and did not notice, so I appreciate Ms. Munson bringing that up. I had it turned off by then, because we were much further along in the Board meeting, so I was not paying attention to the chat.

Chair – Thank you.

Ms. Simon – I don't know how to feel, because I didn't get noticed.

Chair – I do want to say and recognize the Board members for being so engaged in a long meeting today, and really sticking with it and, obviously, you studied your material and knew the facts. I just want to recognize the Board members and how proud I am of you. Thank you.

24. Public Comments (Verbal)

Ms. Simon – Mr. Chairman?

Chair – Yes?

Ms. Simon – There's one more item on the agenda. If I may call it.

Chair – Please, I think I know what it is.

Ms. Simon – Well, it is Public Comments. Is there any comment that needs to be made or that any individual would like to be made?

Chair – Ms. Coney?

Ms. Lisa Coney – Mr. Chairman, if I might? It's Lisa Coney. I'm with SCI, Funeral Services of Florida, LLC, and also SE Combined Services of Florida. I just wanted to make a very brief correction to the record, under Section 19 for Contracts and Other Related Forms. Items D and E are SCI Funeral Services of Florida, LLC, d/b/a those respective firms. And I didn't want to disrupt the proceedings earlier, and I wanted to verify with all the materials that we forwarded to the Board that I was, in fact, correct in those. But the first three (3) applications are DBAs of SE Combined Services of Florida LLC. The final two (2), items D and E, are DBAs of SCI, funeral Services of Florida LLC, and the materials that came in front of the Board are otherwise unchanged.

Chair – Ok, well, let the record reflect that. Any comment on that from Board members? Does it change in any way?

Board members – No.

Chair – Ok. Thank you.

Ms. Coney – Thank you.

Mr. D. Williams – Mr. Chair?

Chair – Go right ahead.

Mr. D. Williams – I just wanted to make a statement. I want to thank the staff. Over the last year they have been very great in terms of providing us the materials and things like that, especially, I will say the Unsung Hero, Ms. Bryant. She's always on top of it in terms of just getting our material out and I just want to thank her, because it's been different during this whole pandemic, so I just wanted to go on record and thank Ms. Bryant for her work and giving us the material and answering those questions, because it's not the same as when you're in person. And so, Mary, kudos to your staff as well. I just wanted to share that.

Ms. Bryant – Thank you, Darrin.

Chair – Thank you.

Ms. Schwantes – That’s great. Thank you, sir.

25. Upcoming Meeting(s)

- A. June 24th (Videoconference)
- B. July 13th (Videoconference)
- C. August 5th (Videoconference)
- D. September 2nd (Videoconference)
- E. October 7th (Videoconference)
- F. November 4th (Videoconference)
- G. December 2nd (Videoconference)

26. Adjournment

Chair – Well, our next meeting, of course, is a videoconference meeting on June 24th, so that varies a little bit from the first Thursday of the month. But there's reasons for it, and there's a lot of applications coming before us. So, June 24th. Thank you so much, appreciate you, and the meeting is adjourned.

The meeting was adjourned at 3:16.