

MINUTES
BOARD OF FUNERAL, CEMETERY AND CONSUMER SERVICES
VIDEOCONFERENCE MEETING
FEBRUARY 3, 2022 - 10:00 A.M.

A. Call to Order, Preliminary Remarks, and Roll Call

Mr. Jody Brandenburg, Chair – Good morning, everyone. Welcome to the Board of Funeral, Cemetery, and Consumer Services. This is a Videoconference meeting on February 3, 2022. Ms. Simon?

Ms. Ellen Simon – Yes, Mr. Chairman. Good morning. My name is Ellen Simon. I am the Assistant Director for the Division of Funeral, Cemetery, and Consumer Services. Today is Thursday, February 3, 2022, and it is approximately 10 A.M. This is a public meeting of the Board of Funeral, Cemetery, and Consumer Services. This meeting is being held by videoconference and notice of this meeting has been duly published in the Florida Administrative Register. An agenda for this meeting has been made available to interested persons. Both the link and call-in number is on the agenda, which has been made available to the public. The call-in number and other information relating to the Board meeting has also been published on the Division’s website. The Division staff present for this meeting are monitoring from their individual offices. Ms. LaTonya Bryant is recording the meeting and minutes will be prepared.

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

Additionally, we need everyone that is on the call to place their phone or audio feed on mute, if you are not speaking. The ambient noise coming from someone's phone or audio, which is not muted, causes severe disruption to the meeting. If you are not muted, you may be muted by Division staff. As a result, if you have called in, you may need to call back into the meeting because that may be the only way to unmute your phone. Also, if you are using your computer or smartphone for your audio feed, please remember to speak directly into the microphone on your device. To do so otherwise negatively impacts the recording of this meeting. Just as in a live meeting, persons speaking are requested to identify themselves for the record each time they speak. Participants are respectfully reminded that the Board’s Chair, Mr. Brandenburg, runs the meeting. Persons desiring to speak should initially ask the Chair for permission. As a final reminder, Board meetings are public meetings under Florida Law, and anything said via chat is subject to a public records request. As such, this feature should only be used for technological issues you may be experiencing, directing any inquiries in chat to Mary Schwantes, our Executive Director. She is monitoring the chat feature and, as necessary, will forward your inquiry to someone who can assist in resolution of the problem. At this point I will take the roll:

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

Also noted as present:

Mary Schwantes, Executive Director

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

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

Chair Brandenburg – Thank you, Ms. Simon.

B. Action on the Minutes
(1) January 6, 2022

Chair Brandenburg – Action on the minutes from the January 6, 2022 meeting.

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

C. Old Business
(1) Disciplinary Proceeding (Probable Cause Panel B)
(a) Department's Supplemental Submission
1. Marion Graham Mortuary: DFS Case No. 280739-21-FC; Division No. ATN-36090 (F040391)

Ms. Simon – This is a continuation of the disciplinary proceeding that was heard at the January meeting. Mr. Griffin?

Mr. Marshawn Griffin – Before we proceed, is a representative of Marion Graham on the call? Marshawn Griffin for the Department. This matter is before the Board, pursuant to its ruling at the January 2022 Board meeting, to keep the record open in this matter, to provide Respondent with a chance to provide documentation showing that it had already paid a fine associated with the ATN number in the above referenced cause. The Department also uses this opportunity to supplement the record with the Final Orders and invoices that were entered in Case Numbers 243643-19-FC, 265816-20-FC, and 278140-21-FC. Just to give the Board some information, at the last meeting, we had conducted the hearing in this matter up until the point where it was the Department's recommendation for discipline. The Department recommended that the Board impose a \$4000 fine and place the licensee's license on probation for a period of two (2) years. Marion Graham then alleged that they had paid an invoice and received a receipt from the Department for the same ATN as this particular matter. The Board left the matter open to give Marion Graham Mortuary an opportunity to provide some sort of proof or some sort of documentation showing this receipt that they had allegedly received. In the time period since the last Board meeting, I have received no correspondence or communication from Marion Graham Mortuary.

Chair Brandenburg – Thank you. Doctor Graham, are you on the call? Hearing no answer. We should proceed with considering the Department's request. Were there any Probable Cause Panel Members on this?

Mr. Darrin Williams – Yes sir, Mr. Chairman. This is Darrin Williams.

Chair Brandenburg – Ok, go right ahead.

Mr. Williams – Yes, sir. Thank you, Mr. Chairman. I would like to recuse myself from the items related to Probable Cause Panel B, as I served on the Panel for those matters, sir.

Chair Brandenburg – Thank you for that disclosure. So, Board, we have before us the disciplinary action. The Department's recommendation is for the Respondent to pay a \$4000 fine and for its license to be placed on probation. It's not stated for what period of time, so the Chair will entertain a motion.

Mr. Hall – Mr. Chair?

Chair Brandenburg – Go right ahead.

MOTION: Mr. Hall moved that the Respondent shall pay a \$4000 fine and its license shall be placed on a one-year probation. Mr. Keenan Knopke seconded the motion, which passed with two (2) dissenting votes.

Chair Brandenburg – Thank you.

Ms. Rachelle Munson – May I clarify? Was that one-year probation?

Chair Brandenburg – One-year probation, yes.

Ms. Munson – To Attorney Griffin, I know this was presented at the last meeting as an informal, but we continued it for this dispute. All that preliminary information regarding the allegation, violations being accepted, is that still a part of it?

Mr. Griffin – Yes, I would believe so. The Board moved on all of the motions. The only thing that was left was the Department's recommendation. They approved every motion. And if you go back, I believe the hearing took place, and from the transcript it's like, the recording of the last meeting was about two (2) hours and twelve (12) minutes, and it's at about the 48-minute mark.

Ms. Munson – I was just wanting to confirm, though since we kind of just picked it up in the middle, and I wanted that stated for the record. Thank you.

Chair Brandenburg – Thank you for your clarification on that, Ms. Munson.

D. Disciplinary Proceeding(s)

(1) Settlement Stipulations (Probable Cause Panel B)

(a) McCartney, Joy Marie: DFS Case No. 282878-21-FC; Division No. ATN-36432 (F055012)

Ms. Simon – Is Ms. McCartney, or a representative of Ms. McCartney on the call?

Ms. Joy McCartney – Yes, I am.

Ms. Simon – Thank you. Mr. Griffin?

Mr. Griffin – Marshawn Griffin for the Department. Joy Marie McCartney (“Respondent”) is a funeral director and embalmer licensed under Chapter 497, Florida Statutes. Respondent is the former funeral director in charge (“FDIC”) of Johnson-Nelson-Gill Funeral Home, LLC (“JNG Funeral”) a funeral establishment, license number F083511. The Department conducted an inspection of JNG Funeral and found that JNG Funeral advertised preneed sales without the benefit of licensure. Respondent as FDIC of JNG Funeral is subject to discipline based on JNG Funeral’s violation of Chapter 497, Florida Statutes. Respondent has entered into a proposed settlement stipulation. The proposed stipulation provides that Respondent shall pay a fine of \$1,250 and have her license placed on probation for six (6) months. The Department requests that the Board accept this Settlement Stipulation.

Chair Brandenburg – Ms. McCartney, would you care to address the Board, or you're merely here to answer questions that the Board may have?

Ms. McCartney – I'm here to answer any questions the Board may have.

Chair Brandenburg – Thank you so much.

William Gill – Mr. Chairman? This is Danny Gill. I'm the owner of Johnson-Nelson-Gill, also on the call, if you have any questions for me.

Chair Brandenburg – Thank you, Mr. Gill. Board?

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

Chair Brandenburg – Thank you, Ms. McCartney. Thank you, Mr. Gill.

(b) Stonemor Florida LLC DBA Forrest Hills Memorial Park: DFS Case No. 282705-21-FC; Division No. ATN-36738 (F079859)

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

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

Chair Brandenburg – Go right ahead, Mr. Bossart.

Mr. Bossart – Thank you. Stonemor Florida LLC d/b/a Forest Hills Memorial Park (Respondent) is licensed under Chapter 497, Florida Statutes, as a cemetery company, license number F079859, doing business in Martin County, Florida. The Department alleges that Respondent entered into a funeral contract with A.S. and charged and received \$398 for a layout and installation fee for the installation of a monument purchased from and to be installed by a person other than the cemetery company or its agents. Let me clarify something here at the moment. The cemetery company did not sell anything. The fee was simply a charge for the plot owner to install their own monument. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides that Respondent shall pay an administrative fine of \$800 and undergo nine (9) months of probation. The Department requests that the Board accept this Settlement Stipulation. Thank you.

Chair Brandenburg – Thank you. Mr. Williams, did you want to disclose your probable cause on this case?

Mr. Williams – Thank you so much, Mr. Chairman. I would like to disclose I served on Probable Cause Panel B and I will not be voting on this matter before the Board. Again, thank you, Mr. Chairman.

Chair Brandenburg – Thank you, Mr. Williams. Board?

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

Chair Brandenburg – Go right ahead, Mr. Knopke.

Mr. Knopke – Probably for Mr. Griffin, since there's no one there for Stonemor. My question is, in reading the package, the consumer purchased a memorial from Dignity, which they have the right to do. My question is, he alluded to it, but I want to make sure that the cemetery didn't do anything, as far as installation, other than marking the grave. They did not install the memorial. Correct?

Mr. Bossart – No, sir. The cemetery didn't do anything. This was simply a fee for the privilege of the plot owner to install their own monument.

Mr. Knopke – Ok. So, Dignity arranged for the installation of the marker?

Mr. Bossart – It was their monument, and they were to install it. They were also paid also, so they basically were charged twice.

Mr. Knopke – I'm sorry. My connection isn't good today. I'm sorry.

Mr. Bossart – No, it's very bad, sir. Dignity is the one who sold the monument and installed it. The cemetery had nothing to do with it, other than {inaudible}.

Mr. Knopke – That answers my question. Thank you very much.

MOTION: Mr. Knopke moved to accept the Settlement Stipulation, which provides that the Respondent shall pay a fine of \$800 and undergo nine (9) months of probation. Mr. Hall seconded the motion, which passed unanimously.

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

(a) *Signature Memorial Funeral & Cremation Services, LLC: DFS Case Nos.: 243515-19-FC and 255301-19-FC; Division Nos. ATN-31645 & ATN-33146 (F090323)*

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

Mr. Christopher Butler – Yes. Good morning, Ms. Simon. This is attorney Christopher Butler.

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

Mr. Knopke – Mr. Chairman, I need to recuse myself. I was on Probable Cause Panel A for this matter.

Chair Brandenburg – Thank you, Mr. Knopke.

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 Signature Memorial Funeral & Cremation Services, LLC (Respondent). The Division alleges Respondent engaged in the following:

- Respondent failed to have an FDIC
- Violated a lawful provision of Chapter 497, Florida Statutes
- Demonstrated negligence or incompetency in the practice of activities regulated under Chapter 497, Florida Statutes
- Failed to meet a qualification for licensure
- Failed to timely notify the Department about a change in its FDIC
- Failed to conspicuously display the price of caskets
- Advertised the sale of preneed arrangements without the benefit of licensure
- Failed to ensure that its operational personnel had completed the required health safety education training

The Motion demonstrates Respondent 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.

Chair – Is there a motion?

MOTION: Mr. Andrew Clark moved that Respondent failed to timely file a responsive pleading contesting the allegations in the Administrative Complaint. Mr. Williams seconded the motion.

Rabbi Lyons – Mr. Chair? Can I ask a question?

Chair Brandenburg – Yes, go right ahead, Rabbi Lyons.

Rabbi Lyons – Ok, thank you. Good morning, Mr. Chair. Just from a procedural point of view, I understand it is going to be a dispute on the very issue of whether or not they were properly served. So, Mr. Griffin, when do we deal with that?

Mr. Griffin – So, this motion is your mechanism for you to deal with that. So, if you don't find that they were properly serve then you cannot move in favor of the motion. If you find that they were properly served, then you would move to grant the motion.

Attorney Butler – May I speak, please, Sir Chairman?

Chair Brandenburg – Just a moment, please. Rabbi Lyons, did that answer your question?

Rabbi Lyons – Yes.

Chair Brandenburg – Thank you. Who's requesting to speak, please?

Attorney Butler – Sir Chairman, this is Attorney Christopher Butler, on behalf of Signature Memorial.

Chair Brandenburg – I'm sorry, counselor. I didn't recognize your voice, and there wasn't a name. Would you go right ahead?

Attorney Butler – Yes, Sir Chairman. Thank you very much. I would like to first point out that the first time I appeared before this Board, back in 2017, in person, was in the capacity as a representative for Signature Memorial. In the previous administrative proceeding before the Board, I entered a Notice of Appearance in that case, we resolved it, and it was never withdrawn. The reason I mentioned that fact is because due process, with regards to administrative actions, requires a diligence search, at least, to the extent to determine if there was former or previous counsel that could have provided the Department, or the Division, with some information, with regards to serving a personal service of the Respondent. I hadn't heard anything about it, as a matter of fact, because I'm, you know, interested in the Board and the Division. I often attend meetings whenever, even when I don't have clients, and I happen to notice on the agenda Signature Memorial Funeral and Cremation on there. So, I inquired with the Division attorney as to the reason they were on there, as I hadn't heard from them at all. And so, once I finally did reach out to them, of course, they were under the impression that me being their attorney would have received some notice. I agree with that and so does some case law, with regards to a diligent search. I realize that we're beyond the Division's efforts to serve Signature Memorial, but I've even offered to accept service of process after the fact, because the material facts here are heavily disputed.

For example, one (1) of the allegations in the Administrative Complaint is that Signature Memorial advertised preneed arrangements on their website. I contacted the website builder, you know, just as a preliminary discovery type issue here and was told that, that was Stock Option #33. Those were stock photographs and that language is provided and is just there. It's a stock photo. It's generic, a general website that they chose. So, apparently, you know, if anyone is so inclined, I don't think I have the ability to capture the screen, but if you go to RUNCFS.com, that is the name of the website builder. He directed me to #33, which was design #33, and it is almost to the word, but for the name of Signature Memorial, the template that they chose. Under Preneed Arrangement, it's the same photograph of the same individuals that's in the Board packet. So, Signature Memorial only selected the design from the web builder and the web builder only changed the names and placed it on the website. Now, according to the web builder, someone could have gone through the website and advised them, you know, or made those changes, because they automatically put them regardless when someone selects a design, the automatically put all those things on there. So, it was not Signature Memorial's idea or intent to advertise any preneed sales in violation of the Rule.

The second, well one (1) of the other things that they're charged with is not having an FDIC on Board. However, you know, the material facts of that are heavily in dispute, and I have to place on the record here to the extent that Mr. Rojas was in fact the FDIC during the three (3) months. However, the former FDIC did provide notice to the Board of his departure and who the new FDIC would be. Now, the rule does place a burden on three (3) individuals to notify the Board. One (1) being the former FDIC, the new FDIC, and the funeral home must provide the Division with notice of any change. That rule does not state that all three (3) of them have to provide separate notices, only one (1) of them. And here, even though the FDIC who was leaving, Amos Foster, I believe is his name, he did notify the Board of his departure, and he also notify the Board that Mr. Rojas would be taking over those duties. Unfortunately, due to some administrative issue here, Mr. Rojas finally did notify the Board, but he dated the date of his notice was November. It wasn't told or explained to him that he needed to backdate it, and I'm sure that he would not have, given the dignity and respect that Mr. Rojas has for the industry, as well as Signature Memorial. So, you know, those details, those minor, factual details, they amount to a material dispute of the material facts that were alleged here. There was just some mishap where the funeral home was not personally served, and due process, you know, requires the service.

And again, we're here and we're beyond that. And Mr. Griffin, on behalf of the Division, has asked the Board to, let's see, to find that the Respondent waive the right to elect a method of resolving this matter, that no material facts are {inaudible} holding a Hearing Not Involving Disputed Issues of Material Fact. While I understand that this isn't, you know, the hearing, my intention is to bring to the Board the material facts, as I have discovered them, being counsel for Signature Memorial since 2017, and then having an opportunity to read the technical violations here. Quite frankly, I think the violations in this complaint would amount to about an administrative fine of about \$2500 based upon the disciplinary guidelines and the grid

that we have here, and that is what I'm willing to proffer on behalf of the client to resolve this so that we can avoid, you know, having to go back to the DOAH, because of those facts that are materially and heavily disputed. You know, I don't believe that any of those alleged violations rise to the level of anything more than a fine, at the end of the day.

So, Sir Chairman, I am here to entertain any questions the Board may have in this regard, as I have conducted extensive research and discovery into the facts of this matter. The issue with the service of process, I can agree that the Department, pursuant to s. 120.60, Florida Statutes, under Licensure, has sufficiently attempted to serve the parties, but there are some requirements, some penalties, some sanctions that require personal service. And here, where I have appeared, and I've even offered to accept service of process so that we can forgo any procedural argument or issues in the future, to address these concerns and address the allegations in the complaint. However, Mr. Griffin was not inclined to do so, as he had already proffered the motion before the Board. But before I answer any questions from the Board, I'd like to point out a few things. First, with the Board packet, and I'm not sure if you guys have that in front of you. But, in the memorandum that was drafted by Mr. Marshawn Griffin. I'd like to direct you to the subject line, and the first word in Signature Memorial Funeral & Cremation Services, LLC, it's misspelled. It doesn't say Signature, and for some reason, it took me about an hour to figure out because I had to find out who was "Singature," because that could have been a different entity. And then I just, you know, assumed that it was a typographical error in the memorandum. The next issue I'd like to point out, on the memorandum, is on page 51. I believe it's a memorandum from the Probable Cause Panel. On page 51 of the Board packet, in the most recent Board packet that we have, it's a Memorandum of Finding of Probable Cause. The subject line is regarding, and again it's "Singature" Memorial "Fuenral." So, again, you know, chances are that's probably a typo. I figured out about an hour after I'm looking to see if there was such a funeral home with that name, or I believe that it was just a misspelling.

[speaker unknown]: {disruptive laughter}

Attorney Butler – I'm sorry, but that's not from my office, Sir Chairman. But I just wanted to point out those inconsistencies. And then the preneed part of the packet starts on page 52, and those are generic form portions of the website design that Signature Memorial selected, but the web designer does not provide a checkbox or anything for the funeral homes to omit or add any of those items. So, it was not intentional., Sir Chairman, I do appreciate the opportunity to address these issues with the Board, and I will stand by for any questions.

Chair Brandenburg – Thank you, Mr. Butler.

Mr. Williams – Mr. Chairman?

Chair Brandenburg – Go right ahead.

Mr. Williams – Mr. Chairman, I have some questions. Are we going to continue the motion that's on the floor, or are we just wanting to pause here to continue the conversation? That's the first question. The second question is, I thank Mr. Griffin for his information. I think that's just like a typo, because everything in the packet states what we're talking about. So, I think those two (2) errors are just typos, based on looking through the packet. So, I don't want to hang up this entire proceeding with just typos and not continuing the motion. So, I'm asking you, Mr. Chairman, are we going to continue the motion, or are we going to continue to have more conversation with questions about the case?

Chair Brandenburg – Thank you, Mr. Williams. It's my intent to continue with the motion. We have a motion, and it's been seconded. And all those in favor, aye?

Board members – Aye.

Chair Brandenburg – And any opposed? And that motion carries. Mr. Griffin?

Mr. Griffin – Now that the Board has determined the Respondent has waived its 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.

Attorney Butler – If I may speak, Sir Chairman?

Chair Brandenburg – Is there a motion?

MOTION: Mr. Chris Jensen moved to adopt the allegations of the facts as set forth in the Administrative Complaint. Mr. Williams seconded the motion.

Mr. Griffin – I believe Rabbi Lyons was muted? Did he vote to oppose the motion? I just want to make sure that the counts are correct, because I anticipate that we will be relitigating this issue at some point in the future.

Chair Brandenburg – Rabbi Lyons, how did you vote?

Mr. Hall – It's not working, Rabbi.

Chair Brandenburg – We can't understand you. Can you hear me? Raise your hand if you can hear me.

Rabbi Lyons – {Raises hand in response}

Chair Brandenburg – Ok. Raise your hand if you voted, NO.

Rabbi Lyons – {Raises hand in response}

Chair Brandenburg – So, we have one NO. And the motion carries. Thank you. Mr. Griffin?

Mr. Griffin – The Department 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. Ms. Sanjena Clay seconded the motion, which passed with one (1) dissenting vote.

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, the Department is recommending that Respondent's license should be revoked. And here's the rationale why. So, Count I in this Administrative Complaint alleged a violation of s. 497.152(1)(a), Florida Statutes, and Counts I, II and III of this complaint will be governed under the pre-January 1, 2019 version of the disciplinary guidelines. So, that's the old version of Rule 69K-30.001, Florida Administrative Code. So, Count I of this complaint alleged a violation of s. 497.152(1)(a), Florida Statutes. This is Respondent's second violation or subsequent violation of this. If you look on Page 37 of the packet, 37 and 44, Respondent has entered or has already been disciplined on this by virtue of the Administrative Complaints filed in Case Numbers 195915-16-FC, 198401-16-FC, as well as 204671-17-FC. So, the penalty guidelines for a second violation of s. 497.152(1)(a), Florida Statutes, call for a reprimand, a fine in the amount of \$2500 to \$5000, revocation and up to two (2) years of probation. The Administrative Complaint also alleges in Count II, the same arguments I just made, and it also alleges s. 497.152(1)(a), Florida Statutes. So, the penalty guidelines that I mentioned before, that's also appropriate as to Count II. Moving on to Count III, same thing, s. 497.152(1)(a), Florida Statutes. This is alleged in all three (3) of these counts. It's a second violation. Revocation is within the penalty guidelines for a second violation. Then we move on to Counts IV and V. Now, Counts IV and V, the advertising preneed without a license, as well as no health and safety education, those are both governed by the disciplinary guidelines currently in place, the post-January 1, 2019 disciplinary guidelines. And those guidelines, every violation of those guidelines, has extremely broad latitude. And even on a first violation, permanent revocation is a possible sanction for a first-time violation of s. 497.152(1)(a) and s. 497.152(1)(b), Florida Statutes, with both of which were alleged and Count IV. That's on a first violation. And then in Count V, for the failure to have the required health and safety education, it alleges s. 497.152(1)(b), Florida Statutes, once again, which has a potential for a permanent revocation on a first-time violation. So, the Department is asking for revocation, and we'll leave our case at that.

Attorney Butler – Sir Chairman, may I speak, please?

Chair Brandenburg – Thank you. Just a moment. Board members, any comment on Mr. Griffin’s presentation? Any comments or questions to Mr. Griffin?

Mr. Hall – Mr. Chair?

Chair Brandenburg – Mr. Hall?

Mr. Hall – I want to make a comment as to counselor’s comments earlier. He said that at times, he gets on the Board’s agenda, even when he doesn’t have a case. If he’s done that, he’s noticed that on these preneed contracts with these companies for their websites, we’ve fined numerous companies for that. It’s a cookie cutter type setup. They put it on all of them, but we’ve taken the position on the Board that this is their responsibility to know what they’re posting, what you’re putting on their site. His other comment that concerned is he said he was their attorney back in 2017. Seems like he would have been served. Licensees change attorneys. I don’t see how you can require the Division to know which attorney to send it to, or would we even have permission to do that? Because, licensees change attorneys, and I don’t know how he could expect that. That’s just my comment.

Chair Brandenburg – Thank you.

Attorney Butler – Sir Chair, may I address Mr. Hall’s comments?

Chair Brandenburg – Just a moment, Mr. Butler. Thank you. Board members, any other comments there?

Mr. Williams – Mr. Chairman?

Chair Brandenburg – Go right ahead.

Mr. Williams – Thanks, Mr. Chairman. Mr. Griffin, are you asking us to vote based off each count, or are we voting all in one? How are you recommending us to vote with these recommendations that you presented, just so I’m clear?

Mr. Griffin – Unfortunately, unlike A&A, there is no, a penalty of a certain amount gets converted into revocation. So, the Board can find revocation as to each count or impose revocation as to each count. There’s no way to kind of parse it out to say, suspension of X amount in this count, suspension X amount in this count, and then aggregate them together to get to revocation.

Mr. Williams – Ok, so we’re not necessarily voting on a count, we’re voting on your entire motion?

Mr. Griffin – Yes.

Mr. Williams – Ok, got it. I just want to be clear that I understand how we’re proceeding to vote, when we vote. Mr. Chairman, may I ask another question?

Chair Brandenburg – Go right ahead, Mr. Williams.

Mr. Williams – Just to add on to what Mr. Hall said, in reference to the counselor’s statement about he’s on the call at every meeting. I think we’ve had this case on the Board agenda for at least the last four (4) months, so in reference to being notified by Division or by Mr. Griffin, I think it’s been noticed that this has been going before the Board. So, I’m not sure how that information has been left off or whatever. I’m not sure if that’s where Mr. Hall was going, but just in reference to it, we’ve been talking about this over several months, and it’s been passed along, so I’m not sure how communication has been done, but I just wanted to add that as well.

Attorney Butler – Sir Chairman may I please address the comments?

Chair Brandenburg – Who is this, please?

Attorney Butler – This is Attorney Butler.

Chair Brandenburg – Mr. Butler, go right ahead.

Attorney Butler – Thank you, Sir Chairman. Mr. Hall, thank you for your comments. I do realize that counsel for the accused often changes; however, due process requires a diligent search and an affidavit from the Division that they've attempted to diligently search for some went to personally serve, and that was my point. I did not indicate, and forgive me if I was not clear, that I attend every Board meeting. That's not a true statement. But, the few and far between ones that I do attend, I learn from. However, the one that I did attend incidentally is where I saw a former client listed, and it did not appear that they were represented. Now due process requires Mr. Griffin, or someone on behalf of the Division, to file a or to present a statement or an affidavit that they pretty much left no stone uncovered. My name appears even in the report that Mr. Griffin has produced in Signature in the Board packet, for a previous. I'm still in the same location. My phone number has not changed. I did not receive any calls to inquire whether or not I had any information with regards to serving these individuals. So, that was my point with regards to the diligent search that is required for, you know, prior to a finding that the parties were unable to be personally served.

I would like to secondly address the licensing statute of Florida that does not support any revocation at this time. Florida Statute 120.60(5), under Licensing, states that no revocation, suspension, annulment or withdrawal of any license is lawful unless prior to the entry of a final order, the agency has served, by personal service or certified mail, an Administrative Complaint, which affords reasonable notice to the licensee of facts or conduct, which warrant the intended action. Here, the Board packet and the memorandum sent by Mr. Griffin does not warn of his intended action of revocation. Actually, there was no intended action. He's asking for the Board to adopt the factual allegations and issue an appropriate penalty. The fact that he's requesting revocation right now at this Board meeting is a surprise. And it, you know, it's not warranted. It's unlawful under the statute at this point, you know. While the Board, you know, may conduct business as it sees fit, I would just like to point out the law does not support any revocation or suspension at this time, unless there were facts, or he was placed on reasonable notice that the licensee's effects or conduct, which warrant the intended action. Even in the Motion, there's no intended action. If I may point to the wherefor clause of Mr. Griffin's Motion, it says, "as alleged in the Administrative Complaint," the last sentence in the wherefor, "impose discipline and enter a Final Order." Discipline, under those guidelines, because none of these offenses are subsequent offenses. The s. 497.152, Florida Statutes, is frequently and almost always alleged, and it has a reprimand and a fine of \$1000 to \$2500, six (6) months to one (1) probation with usual conditions to suspension until compliant. So here, Signature Memorial was not placed on any type of notice of any intent to revoke their licenses. And to add to that argument, when I contacted the Division, when I saw Signature Memorial listed, I was told that because they didn't file a response, they're more than likely looking at a fine for that. A subsequent conversation with Mr. Griffin, he asked for a significant fine. We engaged in some discussions, but the number I presume wasn't high enough, and it was rejected. At no time did Mr. Griffin acknowledge or state his intention for revocation. And with that being said, for this Board today to vote for revocation, it would be unlawful under the Statute 120.60(5).

I would also like to point to a case {inaudible} vs. Department of Professional Regulation, Board of Medical Examiners, It's a case from 1984 where a physician was deemed to have waived his election for formal disciplinary proceedings and agreed to an informal proceeding, based on notice that the severest form of discipline that could result from an informal proceeding would be probation. Examiners, after the informal hearing, violated due process, notwithstanding the fact that Administrative Complaint alleged the disciplinary violation that the Board to warrant suspension. The fact that that position was not placed on notice about any suspension, at the informal preceding level, that case was overturned. In another case, 1962. These cases are well-established cases under Florida law. This case stood for the rule that states administrative bodies are not exempt from constitutional requirement. That procedural due process of law must be accorded those persons appearing before them. Here, there was a lack of due process with regard to any intent under the statute to revoke any licensure of Signature Memorial. As a matter of fact, the Division has only stated to me their intentions to impose a high monetary fine. Therefore, I believe that a revocation order under these circumstances would be unlawful, as stated in s. 120.60(5), Licensing: No revocation, suspension, annulment or withdraw of any licensee is lawful, unless prior to the entry of a final order, the agency has served by personal service, an Administrative Complaint, which affords reasonable notice to the licensee of facts or conduct which warrant the intended action. So, the intended action here just became known. It's a surprise. That is an evidentiary objection, an unfair surprise, and it is unlawful at this point.

Chair Brandenburg – Thank you, Mr. Butler. Mr. Griffin?

Mr. Griffin – All right. So, there's a couple of things that we need to clear up. First off, s. 120.60, the portion of the statute that Mr. Butler omits is after no revocation, suspension, annulment, or withdrawal of license is lawful as prior to the entry, agency is served by personal service or certified mail, an Administrative Complaint, which affords reasonable notice to the licensee of the facts or conduct, and then after that sentence, "when personal service cannot be made, and the certified mail notices are returned undelivered, the agency shall cause a short play notice to the licensee to be published once each week for four (4) consecutive weeks in a newspaper published in the county of the licensees last known address. So, if we move to the Board packet, I believe it's Exhibit 2 of the Motion, which is on Page 19 of 157, is the attempt by the Department to serve via certified mail Signature Memorial. It was returned back to the Department. Now, if you'll notice, the certified mail tracking number that you can see on top of the page is also depicted on page 17, which is the certificate of service from the AC. So, we were unable to serve, via a certified mail. It was returned back to the Department of Financial Services. When that failed, then the Department tried to attempt to serve Signature Memorial, which is a limited liability corporation, through its registered agent, Tony Tanner. So, if you'll look on page 20, which is the Affidavit of Return of Non-Service, this is after Noland Process Servers attempted to serve Tony Tanner as the representative on February 12, 2021, February 16, 2021, February 24, 2021, March 17, 2021, March 23, 2021. These are right here. Unable to obtain service, and if you read the explanation of what happened, it's very clear that it appears that Tony Tanner was attempting to duck or avoid service of process. Only after that failed, did we publish the Notice in The Record, which is a newspaper that is published in Alachua County, which you can see on Page 21 and 22 of the Board packet.

Now, next to the claim of Mr. Butler that the licensee was not put on notice that revocation was a penalty that the Board was seeking. This is inherently the problem when a party does not respond to an Administrative Complaint. Because if you look on Page 14 of the Administrative Complaint, which is the last paragraph of the complaint, wherefore, the Department respectfully request the Board to enter an Order imposing any or all of the penalties delineated in Section 497.153(5), Florida Statutes, against Responded and any other relief that the Board is authorized to impose. So, let's look at s. 497.153(5), Florida Statutes, which lists revocation as an appropriate penalty. So, the licensee is put on notice by virtue of the Administrative Complaint that revocation is always a potential outcome in these matters. Next, to address the issue that they were never told about revocation. Mr. Butler and I have been in negotiations on this case since December of last year. He's known that revocation was what the Board was seeking the entire time. But notwithstanding that, there is nothing in writing saying that. We've had several conversations and attempted settlement negotiations, but unfortunately, the Department's position has been revocation is what it is seeking and no amount of fine is going to ameliorate that.

So, I believe, as to all of that the licensing, and if you remember back in the initial presentation that Mr. Butler made, one of the last things he talked about was Chapter 120.60 and how the Department had sufficiently complied with it. So, he's kind of arguing inconsistent points, because in the beginning of his presentation, we complied with s. 120.60, but now we didn't. Unfortunately, his client failed to respond to the complaint. The Department made numerous efforts to serve them and comply with Florida Statutes, as we're required to. The licensee failed to avail themselves of an opportunity to respond to the complaint, and that's why we're here. That's the way that the APA works it. The Department issues you a complaint, and as a licensee, you have twenty-one (21) days to respond to that complaint. If you choose not to respond to that complaint, unfortunately, you've exempted yourself from the hearing process and that's what's happened here today.

Chair Brandenburg – Thank you, Mr. Griffin.

Attorney Butler – Sir Chairman, may I please clarify a couple of things?

Chair Brandenburg – Just a moment, please. Mr. Jones?

Mr. Jones – Yes. I think that the Department has made a case, as well as Mr. Butler has made his, I'd like to make a motion of a \$5000 fine and two (2) years of probation.

Chair Brandenburg – Thank you, Mr. Jones. Mr. Jensen?

Mr. Jensen – Yes, sir. Just before we vote on that motion, I would like to possibly offer a counter to the motion. I see a \$25,000 fine and two (2) years of probation here, because there's five (5) counts.

Attorney Butler – Sir Chairman, may I please address the counter motion?

Chair Brandenburg – Not right now. Thank you.

Mr. Griffin – If I may? The \$25,000 is not supported, in complete fairness. The first three (3) counts do have a fine amount of up to \$5000 per second violation. However, Counts IV and V, the maximum financial fine that can be imposed is \$2500 for each of those counts. So, if going consistent with that, the maximum possible fine would be \$20,000 and not \$25,000.

Chair Brandenburg – So we have a motion that has died for the lack of a second. I've not heard a second to Mr. Jones' motion. Rabbi Lyons? We can't hear you. We can't hear you.

Ms. Clay – Mr. Chairman, maybe Rabbi Lyons could call in on his phone.

Chair Brandenburg – Could you do that, Rabbi Lyons?

Mr. Williams – Mr. Chairman?

Chair Brandenburg – Mr. Williams?

Mr. Williams – Could Mr. Griffin repeat the motion again, if that's possible?

Mr. Griffin – Which? The Motion for Final Order of waiver, or the Department's argument for a penalty?

Mr. Williams – I guess, the motion that would need to be stated so I can make sure we have it right, of what you're asking the Board. If that makes sense.

Mr. Griffin – So, the motion, as far as penalty?

Mr. Williams – Yes, the motion regarding penalty.

Mr. Griffin – So, for Count I, there's a violation of s. 497,152(1)(a), Florida Statutes. The Department is asking for revocation. But for a second violation of s. 497,152(1)(a), Florida Statutes, under the 2018 version of the penalty guidelines, it calls for a fine of \$2500 to \$5000, revocation or up to two (2) years of probation. There are three (3) counts that have that exact same penalty guidelines, that's Counts I, II and III. Counts IV and V only have a reprimand, a penalty of \$1000 to \$2500, six (6) months to one (1) year probation and up to one (1) year suspension or revocation. So, what I was just saying is, Mr. Jones had made the motion for \$5000 fine. I was just addressing that. I believe somebody else made a motion for \$25,000 fine. And I just wanted to point out that \$25,000 for it is not permissible under the statutes, as they've been alleged in the Administrative Complaint.

Chair Brandenburg – So, Mr. Griffin, if the Board wanted to make a motion for revocation, how would that be styled?

Mr. Griffin – You could find revocation based off of each count. Each one (1) of these counts has revocation as a potential penalty guideline.

Attorney Butler – Sir Chairman, may I please? I've been trying to speak for the past five (5) minutes. May I please?

Chair Brandenburg – And I've been not calling on you for just for a moment. Would you please?

Attorney Butler – Yes, sir. Thank you.

Chair Brandenburg – I'm giving Board members an opportunity.

Mr. Williams – Mr. Chairman?

Chair Brandenburg – Mr. Williams?

Mr. Williams – So, Mr. Griffin, I understand what you said about the different counts. I'm writing this down. Is there something I need to quote, in terms of chapter or anything, when making a motion? I'm just trying to make sure I have all the language together.

Mr. Griffin – Yes. So, under the penalty guidelines in Rule 69K-30.001, Florida Administrative Code, both the pre-2019 and the post-2019 version, the penalty guidelines list revocation as a potential sanction for each one (1) of these counts.

Mr. Williams – Got it.

Chair Brandenburg – Thank you. Mr. Jensen?

Mr. Jensen – Yes. Thank you, Chair. Mr. Griffin, a question? Can we have separate probations for each one (1) of these five (5) counts?

Mr. Griffin – You could recommend that the probation run consecutive.

Mr. Jensen – Mr. Chairman, may I restate my motion?

Chair Brandenburg – You may.

Mr. Jensen – I would move to Counts I through III, a \$5000 fine each, and two (2) years' probation; and on Counts IV and V a \$2500 fine each and one (1) year probation, which would make it a total of a \$20,000 fine, two (2) years of probation on Counts I through III, and one (1) year probation on Counts IV and V. Thank you, Mr. Chair.

Chair Brandenburg – Thank you.

Ms. Munson – May I just clarify?

Chair Brandenburg – Please do, Ms. Munson?

Ms. Munson – With that last motion, before anyone chooses to second and then vote on it, are you suggesting that that one-year probation run concurrent or subsequent to the two-year? Is there any designation you're providing, sir?

Mr. Jensen – I'm ok with concurrent.

Ms. Munson – Thank you.

Mr. Jensen – Yes, ma'am.

Chair Brandenburg – Now, Rabbi Lyons, did you get back on and you're able to unmute?

Rabbi Lyons – I'm muted.

Chair Brandenburg – We can hear you.

Rabbi Lyons – Ok. My intent was to second Mr. Jones' motion. I don't know if that is still a possibility.

Chair Brandenburg – No. That motion has been removed.

Ms. Munson – I don't know if he heard the other motion. The \$20,000?

Chair Brandenburg – We do not have a second on that.

Ms. Clay – Mr. Chairman, can we repeat that motion, just to make sure I have it?

Chair Brandenburg – Mr. Jensen, are you prepared to repeat that motion?

Mr. Jensen – Yes sir, I am.

Chair Brandenburg – Go right ahead.

Mr. Jensen – I'll make a motion that we fine the Respondent \$5000 on Counts I through III, with two (2) years' probation for each one of those and a \$2500 fine each for Counts IV and V, and a one-year probation for each of those. That is a total of \$20,000 in fines and the probations can run concurrently. Thank you, Mr. Chair.

Chair Brandenburg – Ms. Clay, is that what you needed?

Ms. Clay – That is. So, just to be clear, the \$5000 recommendation is for Counts I, II and III, which would total \$15,000? Am I correct?

Mr. Jensen – Yes, ma'am.

Ms. Clay – Ok.

Chair Brandenburg – Mr. Williams?

Mr. Williams – Yes, sir, Mr. Chairman?

Chair Brandenburg – I'm sorry, were you trying to get my attention?

Mr. Williams – No, sir. I was waiting after this motion to speak, sir.

Chair Brandenburg – So, without a second, that motion dies due to the lack of a second.

Ms. Munson – Is Mr. Lyons on the call?

Chair Brandenburg – Rabbi Lyons?

Rabbi Lyons – No, I wasn't trying to talk.

Chair Brandenburg – Thank you.

Mr. Williams – Mr. Chairman?

Chair Brandenburg – Mr. Williams?

Mr. Williams – I'd like to make a motion that we move forward with revocation per Counts I through V, as described and listed, as Mr. Griffin stated in all his language. I don't know if I need to repeat all that, Ms. Munson? Ok.

MOTION: Mr. Williams moved that the Respondent's license shall be revoked, as recommended by the Department. Mr. Hall seconded the motion.

Attorney Butler – Sir Chairman, if I may, please?

Chair Brandenburg – Mr. Butler, I'll call on you, please. So, we have a motion, and it's been seconded. Mr. Butler, go right ahead.

Attorney Butler – Thank you, Sir Chairman. I would like to just reiterate this matter is not about whether or not Signature Memorial was properly served. That is what Mr. Griffin would like to place there. This is about the due process requirement

with regards to the intended action. Yes, revocation is a potential, it's on the list in the statute, but it was not placed in the Motion and it was not placed in an Administrative Complaint with regards to being an intended action of the Board. Sir Chairman, as I stand here before you today and the Board, I would like to request that revocation not be on the table as it will be deemed unlawful. It is not lawful at this juncture. Revocation has to have been the intended action placed within the Motion and in the Administrative Complaint. Notwithstanding the fact that it remains on a list of potential penalties, it has to be the intended action selected by the Department and placed within the writing that places Signature Memorial on notice. That is the issue for today. Now, you know, we're not objecting to any type of fine that the Board may come up with, but my argument here today, under the law, is that revocation and suspension and annulment or withdrawal of license would be unlawful at this juncture for the lack of due process.

Chair Brandenburg – Thank you. So, we have a motion by Mr. Williams for revocation, and it's seconded by Mr. Hall. And all those in favor, aye?

Board members – Aye.

Chair Brandenburg – And any opposed?

Board members – Opposed.

Chair Brandenburg – I hear two (2) opposed. Ms. Simon? Ms. Simon?

Ms. Simon – Yes, sir?

Chair Brandenburg – Could we have a roll call vote, please?

Ms. Simon – Absolutely. Mr. Jensen?

Mr. Jensen – Opposed.

Ms. Simon – Mr. Clark.

Mr. Clark – Aye.

Ms. Simon – Mr. Hall?

Mr. Hall – Aye.

Ms. Simon – Mr. Williams?

Mr. Williams – Yes.

Ms. Simon – Ms. Clay?

Ms. Clay – Yes.

Ms. Simon – Mr. Jones?

Mr. Jones – No.

Ms. Simon – Rabbi Lyons?

Rabbi Lyons – No.

Ms. Simon – Mr. Chairman?

Chair Brandenburg – Yes.

Ms. Simon – So, it appears that the motion passed.

Chair Brandenburg – The motion has carried. Mr. Butler, thank you for coming before the Board today.

E. Application(s) for Preneed Sales Agent
(1) 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.

F. Application(s) for Continuing Education
(1) Course Approval - Recommended for Approval without Conditions – Addendum B
(a) Cremation Association of North America (16008)
(b) Elite Professional Education, LLC (113)
(c) Funeral Service Academy (23408)
(d) Independent Funeral Directors of Florida Inc (135)
(e) National Funeral Directors Association (136)
(f) Selected Independent Funeral Homes (137)
(g) WebCE (43)
(h) Wilbert Funeral Services (39408)

Ms. Simon – Pursuant to s. 497.147, F.S., and Board Rule 69K–17.0041, F.A.C., the courses presented on Addendum B have been reviewed by the CE Committee and the Committee, as well as the Division, recommends approval of the applications for the number of hours indicated.

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

(2) Provider Approval - Recommended for Approval without Conditions – Addendum C
(a) Live Oak Bank (43408)

Ms. Simon – Pursuant to s. 497.147, F.S., and Board Rule 69K–17.0041, F.A.C., the entity presented on Addendum C has been reviewed by the CE Committee and the Committee, as well as the Division, recommends approval of the application to become a CE Provider.

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

G. Consumer Protection Trust Fund Claims
(1) Recommended for Approval without Conditions – Addendum D

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

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

H. Application(s) for Embalmer Apprentice
(1) Informational Item (Licenses Issued without Conditions) – Addendum E
(a) Bialkoski, Kaitlyn A F560466
(b) Clark, Sarah C F555557
(c) East, Tejaun J F559942
(d) Jenkins, Jonathan D F560483
(e) Marino, Coral C F555558

- (f) *Miller, Jenna N F540520*
- (g) *Phelps Jr, Roger P F557522*
- (h) *Sambenedeto, Ellexas F560836*
- (i) *Turner, Jasmine T F562626*

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.

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

(1) Informational Item (Licenses Issued without Conditions) – Addendum F

- (a) *Direct Disposer*
 - 1. *Brown, Angela L*
- (b) *Funeral Director and Embalmer (Endorsement)*
 - 1. *Mayberry, Christopher D*
 - 2. *Moloney, Brian C*
 - 3. *Monchinski, Marie K*
- (c) *Funeral Director and Embalmer (Internship and Exam)*
 - 1. *Baloun, Emma L*
 - 2. *Bex, Wende L*
 - 3. *Daniel, Christopher L*
 - 4. *Freeman, Michelle D*
 - 5. *Loomis III, James R*

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.

(2) Recommended for Denial (Education Requirements)

- (a) *Funeral Director and Embalmer (Endorsement)*
 - 1. *LaFollette, Brian D*

Ms. Simon – Mr. LaFollette submitted an application for a Funeral Director license on September 29, 2020, at which time the application was incomplete. A completed application was received on December 10, 2021. The Division is recommending denial of the application based upon that he does not meet the educational requirements set forth in s. 497.373(1)(d), Florida Statutes. Is there a representative of Mr. LaFollette on the call today?

Ms. Wendy Wiener – Yes. Wendy Wiener, representing Mr. LaFollette, and Mr. LaFollette is here as well. Thank you.

Ms. Simon – Thank you. Board members?

Chair Brandenburg – Good morning, Mr. LaFollette. Ms. Wiener, did you want to address the Board or you're merely here to answer questions?

Ms. Wiener – We would like to address the Board just very briefly. Thank you, Mr. Chairman. May I proceed?

Chair Brandenburg – Yes.

Ms. Wiener – Thank you. As the Board can see from the materials submitted and included in your Board packet, you have before you the application of Mr. LaFollette, whose education is as identified on the comparison tables, with which this Board is quite familiar, identified as substantially equivalent to the education that would be required for an applicant seeking licensure in Florida at that same time. In addition, Mr. LaFollette has been successfully practicing funeral and embalming services since 1988. I'd like to ask Mr. LaFollette just to give you a brief rundown of his employment and professional experience so that this Board can understand the pride with which I offer this applicant to serve up Floridians here.

Chair Brandenburg – Mr. LaFollette, before you do that, please be sworn in.

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

Mr. Brian LaFollette – I do.

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

Mr. LaFollette – Brian LaFollette, L A F O L L E T T E.

Ms. Simon – Yes, sir.

Chair Brandenburg – Go right ahead, sir.

Mr. LaFollette – Mr. Chairman, and Board, good morning. I graduated high school mid-term so that I could get married and go to Mortuary College. And, in doing so, completed those duties in Texas. I went to work for SCI in 1988, and went to work for Restlawn Funeral Home, which was the largest at the time in Dallas, Texas, which handled about 3200 calls a year. I started out as a removal technician, funeral director and worked my way up to an operations manager. I was recruited back to SCI to be their general manager in Houston for their largest combo location at the time, which was Forest Park Lawndale. That particular location handled about 900 calls a year, and did about 1600 interments, with 288 acres of cemetery property. Then, in July of 2001, I left SCI to become a contractor for them, and 9/11 happened a couple of months later. I worked through as a contractor until coming back into operations in 2014, which is in Florida, as a general manager. I've been able to work up until this point.

Chair Brandenburg – Thank you.

Ms. Wiener – Thank you, Mr. LaFollette. So, Board, I would present this applicant to you as certainly qualified, based upon his professional experience, and his substantially equivalent education, which is evidence to you on the comparison tables that you have before you. Thank you.

Chair Brandenburg – Mr. LaFollette, are you currently employed by SCI?

Mr. LaFollette – Yes, sir, I am.

Chair Brandenburg – Ok, I want to disclose my affiliation with SCI and that affiliation will in no way affect my ability to render a fair and unbiased decision on this case or anything coming before the Board today. Thank you.

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

Chair Brandenburg – Thank you.

Ms. Wiener – Thank you.

Mr. LaFollette – Thank you, Mr. Chairman, and Board.

J. Application(s) for Internship

(1) Informational Item (Licenses Issued without Conditions) – Addendum G

(a) Embalmer

1. **Thompson, Linda B F052866**

(b) Funeral Director and Embalmer

1. **De La Rosa, Bianca I F347130**

2. **Dockins, Lula M F503834**

3. **Harrynarine, Sachin D F557477**

4. **James Jr, Andrew L F561145**

5. **Merkel, Suzanne L F555848**

6. *Norton, Anna C F557021*
7. *Phillip, Kristy S F557521*
8. *Rebello, Shannon M F022382*
9. *Webster, Diane M F555615*
10. *Zylka, Hannah F556942*

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 G.

- K. Application(s) for Monument Establishment Sales Agent**
- (1) *Informational Item (Licenses Issued without Conditions) – Addendum H*
 - (a) *Letter, Eric T F048674*
 - (b) *Letter, Savannah M F556928*
 - (c) *Ross, Kimberly R F039274*

Ms. Simon – Pursuant to s. 497.554, Florida Statutes, the Division has previously approved the applicants listed on Addendum H.

- L. Applications(s) for Registration as a Training Agency**
- (1) *Informational Item (Licenses Issued without Conditions) – Addendum I*
 - (a) *D Williams Mortuary Services LLC (F275029) (Gainesville)*
 - (b) *Richard Funeral Services Inc (F451467) (Haines City)*
 - (c) *Roberts Funeral Home of Dunnellon LLC (F504903) (Dunnellon)*
 - (d) *SCI Funeral Services of Florida LLC d/b/a Sound Choice Cremation (F288731) (Sarasota)*
 - (e) *Stonemor Florida Subsidiary LLC d/b/a Treasure Coast Seawinds Funeral Home & Crematory (F073381) (Stuart)*

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

- M. Notification(s) for Change of Location**
- (1) *Informational Item (Licenses Issued without Conditions) – Addendum J*
 - (a) *Winslow Honors Funeral Chapel (F040061) (Plant City)*

Ms. Simon – This is an informational item. The establishment listed on Addendum J has applied for approval of a change of location of their business. The only criteria for approval is that the new location pass inspection by the Division of Funeral, Cemetery, and Consumer Services.

- N. Application(s) for Broker of Burial Rights**
- (1) *Recommended for Approval without Conditions*
 - (a) *Gerard Jacques Surin (Apopka)*

Ms. Simon – The application was received on December 6, 2021. While it was incomplete at the time it was received, the application was deemed completed on December 27, 2021. The Division recommends approval without conditions.

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

- O. Application(s) for Centralized Embalming Facility**
- (1) *Recommended for Approval with Conditions*
 - (a) *Legends Crematory LLC d/b/a Legends C.E.F. (Pompano Beach)*

Ms. Simon – An application for a centralized embalming facility licensure was received on November 29, 2021. The application was incomplete when submitted. A completed application was received on December 13, 2021. The Division is recommending

approval subject to the condition that the centralized embalming facility passes an onsite inspection by a member of Division Staff.

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

P. Application(s) for Funeral Establishment

(1) Recommended for Approval *with* Conditions

(a) *Johnson & Family Life Celebration Center LLC (Pompano Beach)*

Ms. Simon – An application for a funeral establishment was received on January 10, 2022. The application was incomplete when submitted. A completed application was received on January 20, 2022. The Division is recommending approval subject to the condition that the establishment passes an onsite inspection by a member of Division Staff.

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

(b) *Paradise Funeral Home & Chapel LLC (Oakland Park)*

Ms. Simon – An application for a funeral establishment was received on September 21, 2020. The application was complete when submitted; however, it was placed on hold and not presented to the Board because there is a current licensee, Paradise Funeral Home LLC (F186246) at this location did not want to relinquish their license. However, now the application is before the Board. The Division is recommending approval subject to the condition that the establishment passes an onsite inspection by a member of Division Staff and that the current establishment relinquish their license to the Division.

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 and that the current establishment relinquish their license to the Division. Mr. Hall seconded the motion, which passed unanimously.

(c) *Schnauss North East Florida Funeral Home and Cremation Services LLC (Jacksonville)*

Ms. Simon – An application for funeral establishment licensure based on a change of ownership was received January 4, 2022. The application was complete when submitted. The Division is recommending approval subject to the following conditions:

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

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

(2) Recommended for Approval without Conditions
(a) Sunshine Cremation Services LLC (Boca Raton)

Ms. Simon – An application for a Funeral Establishment was received on December 6, 2021. The application was complete when submitted. The Funeral Director in Charge will be Keith Kronish (F043802). The establishment passed its inspection on December 20, 2022. The Division is recommending approval without conditions.

Rabbi Lyons – Mr. Chair?

Chair Brandenburg – Go right ahead.

Rabbi Lyons – I just want to disclose that I am friendly with several people involved here, but that's not going to affect my ability to be impartial.

Chair Brandenburg – Thank you for that disclosure.

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

Q. Application(s) for Monument Establishment Retailer
(1) Recommended for Approval with Conditions
(a) Foundation Partners of Florida LLC d/b/a Caloosa Memorials (La Belle)

Ms. Simon – An application for monument establishment retail licensure was submitted on October 28, 2021. The application was incomplete when submitted. The application was completed on January 6, 2022. The Division recommends approval subject to the condition the establishment pass an onsite inspection by a member of Division Staff.

Mr. Clark – Mr. Chairman?

Chair Brandenburg – Mr. Clark?

Mr. Clark – Mr. Chairman, I just wanted to state for the record my affiliation with Foundation Partners of Florida, so I'll recuse myself for this one.

Chair Brandenburg – Thank you for the disclosure.

Mr. Jensen – Mr. Chair, I believe Ms. Clay might have made a motion.

Chair Brandenburg – I'm sorry, I missed that. Ms. Clay, go right ahead.

MOTION: Ms. Clay 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.

R. Application(s) for Refrigeration Facility
(1) Recommended for Approval with Conditions
(a) Paradise Funeral Chapel LLC (Oakland Park)

Ms. Simon – An application for a refrigeration facility was received on November 17, 2021. The application was incomplete when submitted. A completed application was received on December 21, 2021. If you'll notice in your Board package, there is a Settlement Stipulation for Licensure, which includes a fine of \$1500 and probation for one (1) year. The Division recommends approval subject to the condition that the establishment pass an onsite inspection by a member of Division staff and that the Board approves the Settlement Stipulation for Licensure included within your Board packages.

Rabbi Lyons – Mr. Chair?

Chair Brandenburg – Go right ahead.

Rabbi Lyons – I just want to make sure I understand what happened here. It sounds like they were using the refrigeration facility as like an overflow auxiliary refrigeration. Somehow, they figured out that that was not in compliance, so they decided to get licensed, and the Department advised that they had a debt to pay to society, because the were first doing it without a license. Is that the idea behind the stipulation and the application for licensure today?

Ms. Wiener – That's correct. Yes.

Rabbi Lyons – Ok, sounds good to me.

MOTION: Rabbi Lyons moved to approve the application subject to the condition that the refrigeration facility passes an onsite inspection by a member of Division Staff and that the Board approves the Settlement Stipulation for Licensure. Mr. Hall seconded the motion, which passed with one (1) dissenting vote.

- S. **Application(s) for Removal Facility**
 - (1) **Recommended for Approval with Conditions**
 - (a) **The Caisson Team LLC (Ocala)**

Ms. Simon – An application for a removal service licensure was received on November 19, 2021. The application was incomplete when submitted. A completed application was received on January 17, 2022. The Division is recommending approval subject to the condition that the removal facility passes an onsite inspection by a member of Division Staff.

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

- T. **Application(s) for Transfer of Preneed License**
 - (1) **Recommended for Approval without Conditions**
 - (a) **M Alan Moore Crematory Services LLC d/b/a AM Cremation & Funeral Care (F217206) (Palmetto)**

Ms. Simon – The Department received an application for transfer of a preneed license on January 11, 2022, which was complete at the time of submission. Applicant’s qualifying funeral establishment license, #F523926, is located at the same address applied for. The Division is recommending approval without conditions.

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

Chair Brandenburg – Let's take about a ten (10) minute break. I've got about 11:30, so let's come back at 11:40. Thank you.

*****BREAK*****

Chair Brandenburg – Good morning, again. I guess everybody had time for a quick lunch. Ms. Simon?

- U. **Collective Application(s)**
 - (1) **Recommended for Approval with Conditions**
 - (a) **Affordable Choice Cremation LLC**
 - 1. **Change of Ownership**
 - **Direct Disposal Establishment (2)**

Ms. Simon – Affordable Choice Cremation LLC, seeks approval of two (2) applications for direct disposal establishment licensure which are based upon a change of ownership. More specifically, the entities that are being acquired is as follows:

- 1) Affordable Choice Cremation LLC, a licensed direct disposal establishment, license #F255221, physical address: 7410 S US Hwy 1 Suite 400, Port St Lucie, FL 34952. FDIC: Thomas Conway Jr., license #F054393; and
- 2) Affordable Choice Cremation LLC, a licensed direct disposal establishment, license #F398165, physical address: 1241 SE Indian Street Unit 110, Stuart, FL 34952.

The Division is recommending approval subject to the following conditions:

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

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

(b) Stonemor Florida Subsidiary LLC dba MacDonald Funeral Home and Cremation Services

1. *Change of Ownership*
 - *Funeral Establishment*
2. *New Application*
 - *Preneed Branch*

Ms. Simon – StoneMor Florida Subsidiary LLC d/b/a MacDonald Funeral Home and Cremation Services, seeks approval of the application for funeral establishment licensure which is based upon a change in ownership. Additionally, the applicant is seeking new preneed branch licensure. More specifically, the funeral establishment being acquired is as follows:

- 1) MacDonald Funeral Home & Cremation Inc, a licensed funeral establishment, license #F039805, physical address: 10520 N Florida Avenue, Tampa, FL 33612. FDIC: Lowell MacDonald, license #F042117

And the new preneed branch licensure will be for:

- 1) MacDonald Funeral Home and Cremation Services, a preneed license, physical address: 10520 N Florida Avenue, Tampa, FL 33612

The Division is recommending approval subject to the following conditions:

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

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

V. Executive Director's Report
(1) Operational Report (Verbal)

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

Ms. Mary Schwantes – Good morning. Mr. Chairman, may I?

Chair Brandenburg – Good morning. Go right ahead, please.

Ms. Schwantes – Thank you, sir. First of all, I want to update you all on the Board Appointment Process. Most of you, by now, know that the CFO has submitted his nominations to Governor DeSantis for each of the five (5) open Board positions. I'm very pleased to report that all three (3) of our current Board members who applied - Jody Brandenburg, Keenan Knopke and Darrin Williams - have been nominated. All nominees should follow up with the Governor's Office on the next phase of the application process. Hopefully the Governor will make decisions on these appointments in the near future. I'll probably not report again on this process unless we receive news from the Governor's Office or there are questions from the Board.

I want to give you an update on the legislative session. We're following five (5) bills, currently, including the DFS Agency Bill. They all impact Chapter 497. Again, I think everybody knows this is an early legislative year. The last day of session is March 11th, so we're already well into it.

Regarding the DFS Agency Bill, which is HB959, SB1874. As a reminder, there are four (4) provisions in the DFS bill, that relate to Chapter 497. To make it easier for out-of-state licensees to become funeral directors and/or embalmers in Florida, one removes the cap on fees for transferring burial rights, and one revises the scope of funeral directing to effectively allow staff to handle certain functions, which are administrative in nature, like scheduling the time of the service. So, the status on those bills in the House, HB959 was filed in the House by Representative Chip LaMarca, on December 17th. The bill passed the Insurance and Banking Subcommittee on January 19th. It passed the Finance and Facilities Subcommittee on January 27th. Next, it goes before the Appropriations Committee. There is no date set for that hearing, as of yesterday. A second committee substitute bill was filed on January 28th, but there were no changes to the proposals regarding Chapter 497, and hopefully, these bills are moving smoothly through the different houses. In the Senate, the Senate version of the Bill SB874, was filed on January 10th by Senator Jim Boyd. The bill passed the Senate Committee on Banking and Insurance on January 25th. It is now in the Appropriations Subcommittee on Agriculture, Environment and General Government, with no date set. The committee substitute bill was filed on January 27th, but no changes to the proposal regarding Chapter 497.

A bill that I mentioned last month is called the Reviser's Bill, SB852. On January 4th, Senator Kathleen Passidomo filed this bill. The stated purpose of the bill is to eliminate duplicative, redundant, or unused rulemaking authority, etcetera. We're still reviewing the bill; however, it does propose changes to Chapter 497. Basically, there are relatively minor changes with no significant impact on the regulation of the death care industry. It provides for the elimination of the requirement in s. 497.15 that the Department may adopt rules for the implementation of s. 497.16. There is a similar provision that eliminates the requirement that we adopt rules. The status on that is that it is an abbreviated committee process. It passed the Rules Committee on January 13th, went straight to the Senate Committee. Passed the Senate floor on January 19th and was immediately certified. It's now in House and Messages for considerations there, so we do expect that one will pass. The identical House bill is HB7039. And in the second reading in the House was on January 31st. No votes have been taken in the House.

A bill on Sovereign Immunity has been filed. This is HB985 and SB974. I'm going to talk about the Senate bill. There are some differences between the two (2), but we'll focus on the Senate bill. It poses changes to s. 497.167, Florida Statutes, which is the statute within our chapter titled Administrative Matters. And within that section, there's a section that concerns persons who are considered agents of the Department and says that they are covered by Section 768.28, in determining sovereign immunity protections. So, this bill changes provisions in Chapter 768 to increase the liability limits, state and local government's. Again, talking about the Senate bill. Specifically, it increases the limits of the state's waiver of sovereign immunity from \$200,000 per injured person and \$300,000 per incident, to \$300,000 per injured person, and \$400,000 per incident. The limits have to be

adjusted for inflation every ten (10) years in the future, and the bills proposed change to s. 497.167, which I've already referenced. It's basically for the purposes of incorporating any amendments that are made to s. 768.28, so they'll bring it into compliance. In the House, it passed two (2) of its three (3) committees. It's now in the Judiciary Committee, with no date set. The Bill has different provisions, again, on the limits. It's going to be interesting to see how the two (2) bills, the ultimate resolution, between the House and Senate Bills. In the Senate, it passed the Judiciary Committee on January 31st, and now is in Community Affairs with no date set.

HB403 and SB280, concerning local ordinances, proposes changes to 497.270, Florida Statutes, which has to do with minimum acreage: sale or disposition of cemetery lands. The bill poses changes primarily to Section 125.66. The change to s. 497.278, Florida Statutes, is just to change the section within 125.66, Florida Statutes, that was referenced in our chapter. So, if the bill passes and the section in 125.66 is changed, then our statute will be changed as well. Again, it's a relatively minor change with no significant impact on the regulation of the death care industry. In the House, it's passed its first committee. It's now in Civil Justice and Property Rights Subcommittee with no date set. And in the Senate, it's passed all three (3) of its committees, passed by the Senate, and now is in Messages to the House, with no date set. So, we do expect there'll be a reconciliation of those two (2) bills, probably sometime soon, and see that passed, in both houses.

And the final bill that we're monitoring that references Chapter 497, is the Abandoned and Historic Cemeteries Bill. You may remember that last year there were bills formed, filed, passed, and the task force was formed. Keenan Knopke actually sat on that task force. So, the new bill, HB1215 and SB1588, basically adopt the recommendations of the Task Force that was created last year, with some exceptions. This creates the Historic Cemeteries Program within the Division of Historical Resources of the Department of State. It provides the duties and responsibilities of the program. It creates the Historic Cemeteries Program Advisory Council within the Division. Not our Division, but the Historical Resources of the Department of State. It provides for membership terms and duties of the council. Revises the definition of the term *conservation easement* to include a right or interest in real property, which is appropriate to retaining structural integrity or physical appearance of certain cemeteries. It proposes changes to our chapter in our definitions, and that would be s. 497.005, Florida Statutes. The proposed changes are to subsection 43 of that section, which regards the definition of a legally authorized person. Specifically, the bill proposes that a legally authorized person definition be changed to include "a member of a representative community organization, when no legally authorized person in a higher priority is available." So, the proposed change to Chapter 497, as it is currently written, appears to be relatively minor, and we do not anticipate significant impact on the overall regulation of the deathcare industry. However, we're closely monitoring these bills for any changes. Having said all of that, the status is: in the House, it was filed on January 5th, by Representative Driscoll, and I hope I'm pronouncing that correctly. It's now in the first of its three (3) committee reviews, which is the Government Operations Committee, with no date set. So, it's early stages in the House for this bill. It is also early stages in the Senate for this bill. It was filed on January 6th. It's now in the first of its three (3) committee reviews before the Government Oversight and Accountability Committee with no date set. Again, as a reminder, most bills go through three (3) committee reviews before they even make it to the floor. That ends the legislative report, unless anybody has any questions about any of this.

The next Board meeting is currently expected to be a videoconference meeting on Thursday, March 3rd. If that changes, we will timely notify Board members and coordinate with you all. And also, of course, publish any changes as necessary. The Tallahassee in-person meeting is still under consideration for that date, but right now, plan on videoconference. This ends the Operational Report. Thank you, Mr. Chair. Thank you, Board members.

Mr. Jones – You're muted, Mr. Chair.

Chair Brandenburg – Now, I'm ok. Ms. Simon?

(2) Report: Payment of Disciplinary Fines and Costs (Informational)

Ms. Simon – This is informational only.

Monthly Report of Fines and Costs Assessed and Paid
 Division of Funeral, Cemetery and Consumer Services
 Date of Board meeting: February 3, 2022
 Date report was prepared: January 25, 2022

Licensee	Board Meeting	Case No.	Total Fine & Cost Due	Date Due	Paid in Full?	Comments
All Points Removal Service	1/6/2022	286302-21-FC	\$2,500			
Whitfield Funeral Home	1/6/2022	284339-21-FC	\$1,800			
Alvin Whitfield	1/6/2022	284340-21-FC	\$1,300			
Nordestar Funeral Services of Florida, LLC, d/b/a Moss-Feaster Funeral Homes & Cremation Services	1/6/2022	280403-21-FC	\$1,500			
Peter Mackerowski	1/6/2022	286926-21-FC	\$2,000			
St. Fort's Funeral Home, Inc.	1/6/2022	280742-21-FC	\$500			
Rose Hill Cemetery Company	1/6/2022	282700-21-FC	\$2,000			
Naples Funeral Home, Inc.	1/6/2022	282694-21-FC	\$750			
D & L Removal & Transport, Inc	1/6/2022	283168-21-FC	\$1,500			
Michael J. Sanders	1/6/2022	277016-21-FC	\$1,500			
Foundation Partners of Florida LLC D/B/A Steele's Family Funeral Service	1/6/2022	277013-21-FC	\$1,500			
Charles Hancock	12/2/2021	268724-20-FC	\$1,000		Paid in full	
Hancock Funeral Home	12/2/2021	268724-20-FC	\$1,000		Paid in full	
Marie Decker	May-21	243582-19-FC	\$2,250	11/22/2021	No	Sent to OGC for administrative action
Americare Funeral Services, LLC, d/b/a Lifesong	11/4/2021	280011-21-FC	\$500			
Southwest Professional Services, Inc.	11/4/2021	282717-21-FC	\$750	12/17/2021		
Debra Lynn Parrish	11/4/2021	282523-21-FC	\$1,000	12/17/2021		
Dees-Parrish Family Funeral Home	11/4/2021	280025-21-FC	\$1,000	12/17/2021		
Johnson-Nelson-Gill Funeral Home LLC	11/4/2021	282877-21-FC	\$1,750	12/17/2021	Paid in Full	
David Menneke	11/4/2021	276840-21-FC and 280022-21-FC	\$7,500	12/17/2021	Paid in Full	
Carol Y. Washington dba Washington Funeral Home	11/4/2021	283173-21-FC	\$1,250	12/17/2021	Paid in Full	
Florida Finest Family Cremations, LLC d/b/a Florida Family Cremations	11/4/2021	276834-21-FC and 280021-21-FC	\$7,500	12/17/2021	Paid in Full	
Hernando Crematory	Oct-21	282561-21-FC	\$250	11/18/2021	Paid in Full	
Jonnye Charlow	Oct-21	282725-21-FC	\$1,250	11/18/2021	Paid in Full	
Charlow Funeral Home	Oct-21	282722-21-FC	\$1,750	11/18/2021	Paid in Full	
Richard Ritchie	Oct-21	283112-21-FC	\$1,250	11/18/2021	Paid in Full	
Daniel Vinson	Oct-21	270655-20-FC	\$1,250	17-Jan-22	Paid in Full	
Vinson Funeral Home	Oct-21	270637-20-FC	\$1,750	17-Jan-22	Paid in Full	
Anthony Zipperer	Oct-21	283117-21-FC	\$1,250	11/18/2021	Paid	
Zipperer's Funeral Home	Oct-21	283113-21-FC	\$1,750	11/18/2021	Paid	

	Callahan Funeral Home, Inc.	Oct-21	278180-21-FC	\$1,000	11/18/2021		Sent to OGC
	Andrew Thornberry	Oct-21	280951-20-FC	\$500	11/18/2021	Paid	
	Warren Family Funeral Homes, Inc. d/b/a Newcomer Cremations, Funerals & Receptions	Oct-21	280392-21-FC	\$1,250	11/18/2021	Paid	
	Winslow Honors Funeral Chapel	Oct-21	283111-21-FC	\$3,000	11/18/2021	Paid	

 1-25-2022

W. Chairman's Report (Verbal)

Ms. Simon – Mr. Chairman?

Chair Brandenburg – I don't have a report at this time.

Ms. Simon – Thank you, sir.

**X. Office of Attorney General's Report
(1) Attorney General's Rules Report (Informational)**

Ms. Simon – Ms. Munson?

Ms. Munson – The report was provided for informational purposes. Thank you.

Ms. Simon – Thank you.

**BOARD OF FUNERAL, CEMETERY, AND CONSUMER SERVICES RULES REPORT
FEBRUARY 2022**

Rule Number	Rule Title	Date Rule Language Approved by Board	Date Sent to OFARR	Rule Development Published	Notice Published	Adopted	Effective
69K-12.011	Annual Inspection Fees for Monument Builders	09/02/2021	10/19/2021	10/29//2021	11/17/2021 12/21/21 – JAPC Letter 01/10/22 – JAPC Response 01/11/22 – JAPC Letter 01/11/22 – TOLLED		

Y. Public Comments (Verbal)

Ms. Simon – This is the opportunity for public comment. Are there any to be submitted today?

Mr. Jones – Mr. Chair, I have one question.

Chair Brandenburg – Go ahead, Mr. Jones.

Mr. Jones – Going back on what Mary had mentioned on Senate Bill for cemeteries and Mr. Knopke sitting on some of those. We get inquiries quite often wanting us to try to help with old abandoned cemeteries. We try to, but I'm not aware, and I'm only asking as the group, of any information that can be shared with groups, like University of South Florida, or others, that any of you may be aware of, of any data or storage of old cemetery records. I'm not aware of any archives or anything, so I'm just asking and bringing up the question.

Ms. Schwantes – Mr. Chair, may I?

Chair Brandenburg – I'm not aware of a central database. Mr. Knopke?

Mr. Knopke – Thank you, Mr. Chair. I'm going to turn the camera off just so you may be able to understand me. That's one of the things that the Task Force addressed. There is no central database or anything that's probably over fifty (50) years old, other than individual cemetery records that have been in place for licensed cemeteries or others. The idea behind the bill, it's multiple, but it's to create a place for these records under the Department of State. They take these records or log them into a computer system to have access for the public, when they're given information. The Task Force was specifically directed to deal with abandoned, neglected, {inaudible} or lost African American cemeteries. But in the process of the bill, it will take in others. There's a belief that there are literally thousands of cemeteries in Florida, that over time have just gone away. They're still there, but they were one (1) grave, two (2) graves, or it could be hundreds of graves in communities that moved, back in the 1800s and even early 1900s. The concern is that when finding these cemeteries, developers go in to develop property and then not knowing what to do, they bulldoze them away or just asphalt them over. You hear about that quite often and the Tampa Bay Area has had a couple of them recently. There's, I think, potentially another one in Miami right now. There were a couple in Tallahassee over the last couple years. So, the idea is to get the information into a database, so developers will know when they're going to develop land. They can just plugin and check. If there's one there, they need to figure out how to work around that. That's a lot of what the bill {inaudible}. And to help educate students about our history, whether it deals with African American history or other history withing our state, and so forth.

Mr. Jones – Keenan, the taskforce report, is that tied to the bill or is that a public report leading up to the bill? Is that something we could get access to? Because, as we get inquiries, that may help us help people.

Mr. Knopke – Yes. The Task Force report, I believe, was filed almost as a bill, or went through bill drafting. I know there were some changes to it. It {inaudible} Task Force Committee Bill, but it's a start. I'm sure the Department of State can get you a copy of it. If not, let me know and I will forward you the information on the contact person.

Mr. Jones – Thank you. That helps tremendously. Thank you, Mr. Chair.

Chair Brandenburg – Thank you. Lisa Coney?

Ms. Lisa Coney – Yes, sir. This is Lisa Coney. I'm with Dignity Memorial and I'm the immediate past president of the FCCFA, and I come to you in that role. I have received numerous inquiries about changes made to the Florida Law and Rules Exam and have spoken with several license applicants that are unable to pass it anymore, sometimes after multiple attempts. And it's been reported that the Law and Rules Exam changed substantially and deals less with the tasks of funeral directing or embalming and more with ownership and preneed and things that funeral directors seeking to pass that test and serve the public would really not have direct responsibility for, even though those are issues in our statute. So, they're not related to a funeral director being able to serve the public. So, I bring this to your attention only to say that we're all focused on getting and retaining quality staff, and obviously, when we're bringing them in from out of state, on-boarding them through licensure and getting this test is a critical step in that process. And I never heard this kind of complaint in, you know, thirty (30) years or mor, working with applicants that come before the Board. Only in the last year or so am I hearing about these kinds of difficulties. So, I wanted to bring it to your attention, and just ask in whatever capacity the Division or Board may influence this process that we return to the original test that was related to tasks of a funeral director or work on the study guide so that it's more helpful with the test that they're taking. Being all inclusive about things that have nothing to do with their licensure is becoming a problem for a lot of licensees now.

Chair Brandenburg – Ms. Simon?

Ms. Simon – Yes. Over the last two (2) years, and even over the last five (5), there have been no significant changes to the Law and Rules Exam. There has been a swap out maybe of one (1) or two (2) questions. Absolutely no significant changes. And it is the same tests as it was years ago. That's all I have to say.

Chair Brandenburg – Mr. Knopke, you had your hand raised?

Ms. Simon – He may be frozen.

Mr. Knopke – Camera off again, so maybe you hear me better. I'm not frozen, but it may look like it. Who controls these exams? Who controls the input of the questions, and so forth, that are on them?

Chair Brandenburg – Ms. Simon?

Ms. Simon – Yes. Again, it is the Division that controls that, and, as I said, there have been no significant changes to the exam over the last five (5) years, and even before that.

Ms. Coney – I'm only sharing this, because it's been reported to me from multiple sources. This isn't within my company. This is come from a lot of directions, and it's only in the last couple of years. You know, we can blame it on COVID, and we blame everything else on COVID. Maybe it's that we're so busy that they don't have the dedicated study time. I don't know, but it was reported that there are more questions related to things that don't affect funeral directing or embalming, and I'm simply sharing those concerns, because they were brought to me, and that's outside of my control. Thank you for listening. If there's an ability to review that and to make that the best product it can be, or review the study guide to make that the best product it can be, that would be in everyone's best interest, and I only bring it up for that reason.

Chair Brandenburg – Ms. Coney, you may have mentioned it before, but is there a particular part of the exam that they're having difficulty with?

Ms. Coney – I have heard about people who have attempted to take this two (2), three (3), four (4) times, which was unfamiliar to me before recently, and in asking those exact questions, it was reported that there were more questions that seemed to be related to ownership or to preneed and not to funeral directing. I haven't sat for that test, so I really don't know. I do have the study guide, and it's all inclusive. I'm just bringing it up because I hadn't heard it raised here before and we want people to be able to pass and serve.

Chair Brandenburg – Thank you. Ms. Simon?

Ms. Simon – Yes, Mr. Brandenburg. Just one more comment. In the last three (3) months, we have issued over forty (40) new licenses, and that's, I think, been rather consistent over time.

Chair Brandenburg – Do you have a pass/fail ratio?

Ms. Simon – Not right now, sir. No, but it has been consistent over time, from what I understand. And, as I said, there has been no change in the questions other than one (1) or two (2) at max. So, it is the same test that was provided years ago, essentially.

Chair Brandenburg – Ms. Schwantes?

Ms. Schwantes – Thank you, sir. We will be happy to look into the issue further and bring it back to the Board. I can bring it back as part of the Executive Director's Report and give you a pass/fail ratio at that point in time. Probably at our March meeting. However, as Ms. Simon already pointed out, we have changed very few questions over the last couple of years. There is a bank of questions, and it may be that the questions that were on these particular exams pulled from different parts of the bank in prior tests. I don't know. That is something that we would have to ask. Ms. Coney, if you become aware of certain questions, I know a lot of times, because we get calls as well, from the applicants with questions, you know, if there was a question that said XYZ, and they're specific. Anyway, if you have any specific examples, if you would get in touch with either Ms. Simon or myself, we'll be happy to look into that further, as well. But I can bring a report back to the Board at the next meeting, or the one after that, depending on how long it takes to coordinate with our testing vendor.

Chair Brandenburg – Maybe a pass/fail ratio over a period of time, so we can determine any significant change in the pass/fail ratio.

Ms. Schwantes – Yes, sir.

Chair Brandenburg – Thank you. Mr. Hall?

Mr. Hall – I don't know what the questions are that they are having issues with. I do know that I would agree with Lisa that in the last couple of years, it seems like we've had...we had an individual that came down from Cincinnati. He took it, I believe, five (5) times. Of course, it gets very costly. The individual was probably mid-forties. Not an old guy like me. So, I would have thought, but he finally got discouraged and went back to Cincinnati, to keep a job. We've had people in school making straight A's in school and they can't pass the rules and regs. So, we had individuals who were managers at operations that I knew up north and referred them to people on the beaches down here that they wanted to work for and they went through it about three (3) times. Do we give them a pass/fail, or do we give them a number on their score? Do we know that?

Chair Brandenburg – Ms. Simon?

Ms. Simon – We give them a pass/fail, but also, anytime that they want to dispute a question, anytime, they are more than welcome to do that, and we get those from location to location. It's a rather, simple process.

Mr. Hall – That would tell them how close they were to it, then. Are there multiple, like four (4) or five (5) different test, Ms. Simon, or just a pool? If they fail would they get another one, when they go back to retake it?

Ms. Simon – As Ms. Schwantes said, it is a pool of questions. And, the next time an applicant goes to take the exam, if they retake it, there are going to be questions that are different based on that pool.

Mr. Hall – Ok, and again, I don't know what the issues are, or what certain questions are they have, but I have noticed myself too, that the last couple of years, it seemed to become very difficult. Not like we've had in the past. I didn't know if anything had change or not. So, it's interesting that there's only been a couple of questions changed on it. Some of them are really struggling, but I don't know.

Chair Brandenburg – In the pool itself, there's only a couple of different questions. Is that correct?

Ms. Simon – No, sir. I'm sorry, if I may? That was not what I meant. In the pool themselves there are a number of questions, and they are randomly put into an exam. So, when somebody goes to take an exam and they need to retake it, it is not all the same questions. It was intentionally designed for that. I believe that was with the Board that it was designed years ago. Otherwise, you could memorize the questions.

Chair Brandenburg – Thank you.

Ms. Coney – I certainly didn't mean to bring this up to create any work. I know that the Division is stressed with all the tasks that are already in front of you. But it was brought to me by a manager who was very capable, who had been long licensed in another state, and is on, I believe, test three (3) or four (4). And then I heard it from so many different sources through the association, that I just thought it's prudent to bring it up because, obviously, we want the best trained people, but we don't want obstacles to their success. So, it needs to be something that's achievable, and it felt like something had changed. Again, I didn't take the test. I have the study guide. I'd like to think that I can pass it no matter what the pool of questions were, but I'm hearing more often about the struggles with that. So, I appreciate any help or direction the Division and Board can provide.

Chair Brandenburg – Thank you. Rabbi Lyons?

Rabbi Lyons – Can you hear me?

Chair Brandenburg – Yes.

Rabbi Lyons – Ok. I just want to make one comment. From what I'm hearing, it sounds like the {inaudible} Floridians, for lack of a better term, at least the people who are going to the mortuary school down here are doing ok, and {inaudible} anecdotes are people from Cincinnati or wherever. I have a friend from New York who took the test a few different times. So, it could just be that, you know, maybe something to keep in mind, also, with the pending legislation, that other states' similar laws, et cetera, might not be as similar as we think they are. And, again, anecdotally, but just with my own friend, I know that he didn't spend too much time studying, because you've figured that it was pretty similar to New York, and it just, you know, just isn't. So, obviously anecdotal, of course and that ends my comment. Thank you very much.

Chair Brandenburg – Thank you. Ok. Mr. Hall?

Mr. Hall – I was just going to expand on his comment. We've got an individual with us now that has a Bachelors' degree, straight A student at St. Pete, and I think he's on number three (3). So, that baffles me. I'm like Rabbi. If they come from another state, I can see them maybe struggling, but being here locally and these are people who have degrees, so it kind of surprises me a little bit. I'm confused on it.

Chair Brandenburg – Thank you. Mr. Jensen?

Mr. Jensen – Yes. I do realize there's a lot of different questions on the test and a lot to do with preneed, but I also happen to know that there is a lot of companies that do require a licensed funeral director to sign off on all preneeds that are written [inaudible] about preneed. That's just a comment. Thank you, Mr. Chairman.

Chair Brandenburg – Thank you. Any other comments?

Ms. Jasmin Richardson – I just want to say a couple of things. And just to kind of expound on what Ellen Simon said, if you speak to these people, just kind of make a point to tell them that they can actually contact Pearson Vue and request specifically a review of the examination. And they will review the examination questions that they got wrong. And in that time, when they're reviewing those questions that they got wrong, if they have any specific issues with that question, there's a space that they can review it and write notes. Then it comes to the Division, we look over it and see if it is sound to the statute. So, there is a specific way that they can go about reviewing the questions that they've gotten wrong, and in the event that they take it again and they happen to see those questions again, they will see, you know, the question that they got wrong, and hopefully we'll be able to, you know, get it right the next time. But there are specific ways that they can go about getting and reviewing those questions that they got wrong each time.

Mr. Hall – Thank you.

Chair Brandenburg – Very good information, Ms. Richardson.

Z. Administrative Report

This information was provided on the agenda.

AA. Disciplinary Report

This information was provided on the agenda.

BB. Upcoming Meeting(s)

- (1) March 3rd (Videoconference)
- (2) April 7th (Videoconference)
- (3) May 5th (Videoconference)
- (4) June 21st (Videoconference)

CC. Adjournment

Chair Brandenburg – Have a good weekend. Without further ado, the meeting is adjourned.

The meeting was adjourned at 12:14.