

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

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

Mr. Jody Brandenburg, Chair – Good morning. It’s good to be with everybody in person. Welcome to the Board of Funeral, Cemetery, and Consumer Services. It’s March 3, 2022. Ms. Simon, will you make your preliminary remarks and do the roll call, please?

Ms. Ellen Simon – Yes, Mr. Chairman. My name is Ellen Simon. I am the Assistant Director for the Division of Funeral, Cemetery, and Consumer Services. Today is March 3, 2022, and it is about 10 A.M. This is a public meeting of the Board of Funeral, Cemetery, and Consumer Services. Notice of this meeting has been duly published in the Florida Administrative Register. This meeting is taking place in Tallahassee FL at the Department of Revenue Capital Circle Office Center in Southwood. An agenda for this meeting has been made available to interested persons, and extra copies are located in the meeting room. Ms. LaTonya Bryant is recording the meeting and minutes will be prepared.

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. Mr. Chairman, if I could have a moment before taking roll?

Chair Brandenburg – Please do.

Ms. Simon – At this point I will take the roll:

Joseph “Jody” Brandenburg, Chair
Keenan Knopke, Vice Chair
Andrew Clark (**EXCUSED**)
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
Jasmin Richardson, Department Staff
Crystal Grant, Department Staff
Larry Holsey, Department Staff

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

Chair Brandenburg – Thank you. Again, welcome everyone. I want to take special notice that we have with us, Juhan Mixon. He’s the Executive Director of the Independent Funeral Directors of Florida. Thank you for being with us, Juhan. I’d like to call upon Darrin Williams, please.

Mr. Darrin Williams – Thank you so much, Mr. Chairman. I just wanted to take this opportunity to thank you for your leadership over the last two (2) years, as we transitioned through this COVID meeting format. Thank you for your leadership

in guiding us as we navigate through these various cases. Also, a special recognition to Ms. Schwantes, Ms. Simon and the Division staff for giving us the materials that we need, because I know it's kind of difficult with the virtual meeting process, but I'm glad we have the opportunity to meet in person. So, I just wanted to thank both entities, you as the Chairman as well as Ms. Schwantes, as the Executive Director, for the leadership of her team in giving us assistance and being of great help. Ms. Bryant just does a great job in making sure we have the material and if we run into troubles, she's there, along with Ms. Richardson. Thank you again, Mr. Chairman, for the opportunity.

Chair Brandenburg – And also with us, I'd like to recognize the Executive Director of the FCCFA, John Ricco. Thank you, John.

B. Action on the Minutes
(1) February 3, 2022

Chair Brandenburg – Action on the minutes from the February 3, 2022 meeting.

MOTION: Ms. Sanjena Clay moved to adopt the minutes of the meeting. Mr. Ken Jones seconded the motion, which passed unanimously.

C. Old Business
(1) Application(s) for Funeral Establishment
(a) Recommended for Approval with Conditions
1. Washington Memorial & More Funeral Service Industry LLC (Butler)

Ms. Simon – Is there a representative of this entity here today? Hearing no response. A fourth application for a funeral establishment was received on February 3, 2022. The application was complete when submitted. The Funeral Director in Charge listed is Monica Waldon (F339959); however, the Division subsequently received notification that she is no longer the proposed FDIC. A supplement was sent out to the Board indicating who the proposed FDIC was now. The application contains conflicting information regarding the visitation chapel. The application package from the January 2022 meeting is also included. A background check of the principals revealed no criminal history. Board members, the recommendation has been changed since the coversheet was created and sent to the Board. The Division is recommending denial. The reason the Division is recommending denial is that the FDIC that was listed on your supplement indicated that she was going to be responsible for arranging and coordinating the preparation of bodies for the funeral home, which indicates to me that perhaps there is no intention to stay with Weston's. I'm not sure what it indicates, but that is a concern to us, and what also is a concern to us is the continuing contrary information concerning the visitation chapel.

Mr. Keenan Knopke – Mr. Chair?

Chair Brandenburg – Go right ahead.

Mr. Knopke – I'll make the motion to deny the application for all the reasons that Ms. Simon has indicated, as well as if you read through the original Board packet from last month to this month, the conflicts of who's going to do what, where it's going to get done, who's in charge and who's not in charge continue. Until we get a sound plan for them, and it stays more than a couple of days; a sound plan that outlines the application that we can verify and investigate prior to, I think it's absolutely crazy to go forward.

Mr. Jones – Second.

Chair Brandenburg – Again, is there anyone here representing Washington Memorial & More? Or, Ms. Lesesne? Sharon Lesesne? Hearing no response from either question. So, we have a motion to deny and it's been seconded. And all those in favor, aye?

Board Members – Aye.

Chair Brandenburg – And any opposed? And that motion carries. Thank you.

(2) Application(s) to Organize a New Cemetery Company - Request for Extension (Phase 2)

(a) Recommended for Approval without Conditions

1. Hope Eternal Gardens, LLC

Ms. Simon – The Division received a request for a 12-month extension. The application for a cemetery license (Phase 1) was originally presented at the April 1, 2021 Board meeting and was approved subject to the conditions as set forth in the Board minutes from the April 1st meeting, which are included. The Applicant was to return to the Board before April 2022 with documentation of meeting Phase 2 of the application requirements. On February 3, 2022, the Division received an email requesting a 12-month extension, and justification for the request. The Division recommends approving the 12-month extension.

Chair Brandenburg – Do you represent?

Ms. Wendy Wiener – I do represent the applicant. It's nice to see everybody in person. I am here to answer any questions.

Chair Brandenburg – Ok. Board?

Mr. Williams – Mr. Chair? Just one question for Ms. Wiener. Do you have any documentation from the Southwest Water Management District in terms of them taking responsibility for the delay?

Ms. Wiener – Not on me. There may be such a thing. Just COVID and employees sick with COVID and not being able to address an issue that was going to be an issue and is now not an issue, just took a long time. I would mention that twelve (12) months is actually a pretty quick timeframe to get to Phase 2 approval. We often end up having to request extensions on those timeframes and recognizing that the law does give the Board to grant up to two (2) 12-month extensions. So, it was aspirational to think they would get here during COVID in twelve (12) months, especially when they are where there are wetlands. So, no, but if the Board requires it, I'm sure I can gather the emails from the South Florida Water Management District where they ultimately say that they're not going to seek reparations, but things are moving forward now and I think we are on our way.

Ms. Simon – Before going forward, Ms. Wiener, please speak more closely into the microphone. And anybody that comes before the Board, please remember to speak clearly into the microphone.

Ms. Wiener – Yes, ma'am.

Ms. Simon – Thank you.

Mr. Knopke – Mr. Chair?

Chair Brandenburg – Yes, Mr. Knopke?

Mr. Knopke – I'll make the motion to approve the extension. I've worked, not with this water management district, but with two (2) others over the years, and Ms. Wiener is correct. They do not do anything quickly. I will be very impressed if they get it through with the next 12-month period.

MOTION: Mr. Knopke moved to approve the requested twelve (12) month extension. Mr. Jay Lyons seconded the motion, which passed unanimously.

Ms. Wiener – Thank you.

Chair Brandenburg – Thank you, Ms. Wiener.

(3) Motion for Reconsideration (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 a representative from Signature here?

Mr. Christopher Butler – Good morning. Yes.

Ms. Simon – Thank you. Mr. Griffin?

Mr. Marshawn Griffin – Marshawn Griffin for the Department. Signature Memorial Funeral & Cremation Services, LLC (“Respondent”), is a funeral establishment currently licensed under Chapter 497, Florida Statutes. On February 3, 2022, a hearing not involving disputed issues of material fact was held in the instant matter. The Board ordered that Respondent waived its right to a hearing in the above referenced causes. The Board later voted to revoke Respondent’s licensure as a funeral establishment. On February 3, 2022, Respondent filed an appeal with the First District Court of Appeal. In the interest of judicial economy, the Department files the attached Motion for Reconsideration requesting the Board to reconsider its Order revoking Respondent’s license and its Order finding Respondent waived its right to a hearing in this matter. If this Order is granted these two (2) cases will be referred to the Division of Administrative Hearings for a hearing pursuant to section 120.57(1), Florida Statutes. The Department requests that the Board grant this Motion.

Ms. Simon – Do you have any comments to make, Mr. Butler.

Mr. Butler – Good morning, and thank you, Ms. Simon. May I, Sir Chairman?

Chair Brandenburg – Please do.

Mr. Butler – Thank you. I’m only here to answer any questions and to support Mr. Griffin’s Motion.

Chair Brandenburg – Thank you, Counselor Butler. Any questions.

Mr. Knopke – Mr. Chair, I’m going to recuse myself on this matter, as well as D. (1)(a), (1)(b), (1)(c), and (2)(a), as I was on Probable Cause Panel A.

Chair Brandenburg – Thank you. So, there is a request that we grant this Motion.

Mr. Williams – Mr. Chair?

Chair Brandenburg – Ms. Clay?

MOTION: Mr. Clay moved that the Respondent shall pay a \$4000 fine and its license shall be placed on a one-year probation.

Chair Brandenburg – Is there a second?

Mr. Williams – Mr. Chair, a question?

Chair Brandenburg – Is there a question?

Rabbi Lyons – Mr. Williams has a question first.

Chair Brandenburg – I understand. I wanted to ask if there was a second.

Rabbi Lyons – Second.

Chair Brandenburg – Mr. Williams?

Mr. Williams – Mr. Griffin, could you explain to the Board what the next steps would be if we approve this? What happens moving forward? Is the licensee able to continue practicing? What is the next step, if we approve this?

Mr. Griffin – The firm is able to continue practicing. Whenever an appeal is filed following the revocation of licensure, the person who has had their license revoked has the ability to request the District Court of Appeal (DCA) to stay the entrance of the Order of Revocation. It is very hard to overcome a request for stay. The facts in this case do not give the Department grounds to basically oppose the stay. So, they would be able to continue doing business, just as they would as (inaudible) an appeal. If this Motion is granted, then within the next week or two (2) I'd refer this matter to the DOAH for a formal hearing on the counts.

Mr. Williams – Mr. Chair, a follow up, please?

Chair Brandenburg – Go right ahead.

Mr. Williams – So, I guess I'm going back. Last month, it was the recommendation of the General Counsel's office to revoke the license, correct? I'm just trying to understand if that was the recommendation, and now we're saying due to the interest of the economy...

Mr. Griffin – The reason why I'm saying judicial economy is that at this appeal, if he wins on this appeal, the best the DCA can do is ship the case back (inaudible). So, to avoid having to go through all of that, we just skip it and go straight to DOAH. And just to understand, if the Department prevails at DOAH on all counts, we'll still be recommending the same penalty that was recommended last time.

Mr. Williams – Ok. I just wanted to understand the process and if that was the recommendation and now, they're saying due to the interest of the economy...

Mr. Griffin – Judicial economy.

Mr. Williams – I guess if we had known that last month then we may not have been here. I'm just trying to put all of the pieces together so that I can better understand the process, so that when we do have future cases like this understanding how we may need to take action in terms of voting. That's the only reason I brought that up.

Mr. Griffin – I understand.

Mr. Butler – Sir Chairman, may I add a comment for Mr. Williams' comment?

Chair Brandenburg – Go right ahead, Mr. Butler.

Mr. Butler – Thank you. It appears that Mr. Williams is inquiring about the steps needed to take for a revocation of the license for Signature. However, I'm going to reiterate what I stated last month was that the allegations do not rise to the level of a revocation and neither was Signature Memorial placed on proper notice. There is a concept under our Constitution called due process that each of these funeral homes is entitled to. So, I'm not here to educate anyone on the steps it takes to properly revoke someone's license, but I believe it involves some sort of due process.

Chair Brandenburg – There is a motion, and is there a second? Ms. Munson?

Ms. Rachelle Munson – Just a question for the record. If it's the request for the Board to return this to DOAH for a s. 120.57(1) hearing, have we identified what the material facts are?

Mr. Griffin – Yes. So, in the original Board packet that was presented to the Board in February, we included the pleading that was submitted by the Respondent basically identifying the facts that were in dispute. As an officer of the court, and as an attorney, I can represent that I have seen the Motion. It meets the bare minimum required to comply with Rule 28-106.201, Florida Administrative Code. It is a sufficient petition.

Ms. Munson – I just wanted to clarify for the Board, just in layman's term, that you understand what's going on is that the parties have now determined that there are issues of material fact in dispute that the Department has recognized, and on that

basis they are taking this case back to DOAH. I don't know if you are clear on what those material facts are, but they are identifying that they do in fact exist.

Ms. Simon – Mr. Griffin, is that fine?

Mr. Griffin – Yes, that's fine.

Chair Brandenburg – So, we have a motion. Is there a second?

Rabbi Lyons – Second.

Chair Brandenburg – It's been seconded. All those in favor, aye?

Board members – Aye.

Chair Brandenburg – And any opposed? That motion carries. Thank you, Mr. Butler.

Mr. Butler – Thank you, Sir Chairman. May I be excused?

Chair Brandenburg – Go right ahead.

D. Disciplinary Proceeding(s)

(1) Settlement Stipulations (Probable Cause Panel A)

(a) Related Cases – ATN-37706

1. Orn-8 Luxury Designs, LLC d/b/a A Mortuary Service: DFS Case No. 287746-21-FC; Division No. ATN-37706 (F451458)

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

Mr. Griffin – Orn-8 Luxury Designs, LLC, d/b/a A Mortuary Service (“Respondent”) is a funeral establishment, license number F451458. The Department conducted an inspection of Respondent and found that Respondent advertised preneed sales without the benefit of licensure. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides that Respondent shall pay a fine in the amount of \$1,750 and have its license placed on probation for six (6) months. The Department requests that the Board accept this Settlement Stipulation.

Rabbi Lyons – Mr. Chair?

Chair Brandenburg – Go right ahead.

Rabbi Lyons – I have a comment to make, which is that these guys are advertising preneed on their website, and there's a \$1750 fine. Then the next item, the FDIC is going to have his own fine. That totals about \$3000 altogether. We have another item where the allegation is that there were actually eight (8) preneed contracts that were written without a preneed license, which means someone actually took money from the consumer without being authorized to do that, and it's a \$2000 fine. So, it doesn't seem like it calculates, and I would like to really make a request that we go back to the rules meeting and the disciplinary guidelines be more in line with each other.

Mr. Griffin – If I may?

Chair Brandenburg – Please.

Mr. Griffin – I will point out that the way that the disciplinary guidelines are written, they are on a continuum and they're a pretty broad continuum from pretty much 95% of the violations are punishable with the exact same penalty range, which is a reprimand, fine of \$1000-\$2500, six (6) months to one (1) year of probation, up to one (1) year suspension, up to permanent

revocation. That's an overwhelming amount of the violations, if you look through 69K-30.001, Florida Administrative Code. So, I'm just kind of laying the landscape of how the penalty guidelines are currently written.

Chair Brandenburg – Is there anyone here representing Orn-8? Is Counselor Cunningham here? No response. So, we have before us a Settlement Stipulation.

MOTION: Mr. Hall moved that Respondent shall pay a fine in the amount of \$1,750 and have its license placed on probation for six (6) months. Mr. Christian Jensen seconded the motion.

Chair Brandenburg – Ms. Munson?

Ms. Munson – Just a point of clarification. It's probably just a scrivener's error, but the stipulation contained in the material actually shows \$1250, so either the summary sheet or the stipulation needs to be adjusted.

Mr. Griffin – The stipulation is incorrect. The way we've settled every one of these cases involving the advertising on the website is \$1750 for the establishment, \$1250 for the FDIC.

Ms. Munson – Before it's submitted or signed off on, I'd just note it.

Chair Brandenburg – Thank you for catching that. Thank you very much. So, all those in favor, aye?

Board members – Aye.

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

2. Stubbs, Leonardo: DFS Case No. 287747-21-FC; Division No. ATN-37706 (F045211)

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

Mr. Griffin – Marshawn Griffin for the Department. Leonardo Stubbs ("Respondent") is a funeral director and embalmer, licensed under Chapter 497, Florida Statutes. Respondent is the funeral director in charge ("FDIC") of Orn-8 Luxury Designs, LLC, d/b/a A Mortuary Service ("Orn-8"), a funeral establishment, license number F451458. The Department conducted an inspection of Orn-8 and found that Orn-8 advertised preneed sales without the benefit of licensure. Respondent as FDIC of Orn-8 is subject to discipline based on Orn-8'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 in the amount of \$1,250 and have his license placed on probation for six (6) months. The Department requests that the Board accept this Settlement Stipulation.

MOTION: Mr. Hall moved that Respondent shall pay a fine in the amount of \$1,250 and have its license placed on probation for six (6) months. Mr. Jensen seconded the motion, which passed unanimously.

(b) Related Cases – ATN-34023

1. Kitchens, Timothy E.: DFS Case No. 278063-21-FC; Division No. ATN-34023 (F043499)

Ms. Simon – Presenting for the Department is Mr. Bossart. Ms. Wiener, are you representing the Respondent in this case?

Ms. Wiener – I am.

Mr. James Bossart – Good morning.

Ms. Clay – Before we start, I'd like to disclose that fact that I do know Timothy Kitchens, but that should in no way interfere with any decision or comment made, but I just wanted to bring that up.

Chair Brandenburg – Thank you for that declaration. Mr. Bossart?

Mr. Bossart – Thank you, sir. This is James Bossart for the Office of the General Counsel. Timothy E. Kitchens (Respondent) is licensed as a funeral director and embalmer licensed under Chapter 497, Florida Statutes. Respondent is the owner and funeral director in charge (FDIC) of Timothy E. Kitchens Funeral Home, Inc. (funeral establishment), a funeral establishment licensed under Chapter 497, Florida Statutes, license number F059562. It is alleged that the funeral establishment entered into five (5) preneed funeral contracts with Florida consumers without benefit of licensure, and engaged in incompetency, negligence, or misconduct in activities regulated under Chapter 497, Florida Statutes. As FDIC, the Respondent is responsible for these violations. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides that Respondent shall pay an administrative fine of \$2000 and undergo one (1) year of probation. I will also add that it is my understanding that monies have been refunded in all five (5) preneed contracts to the consumers. The Department requests that the Board accept this Settlement Stipulation.

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

Ms. Wiener – The latter, sir. Thank you.

Chair Brandenburg – Thank you. Board? Mr. Jensen?

Mr. Jensen – Has the Department conducted any sort of routine inspection to find out whether there are any other contracts besides these five (5)? Anybody?

Ms. Simon – Sir, I would need to spend some time looking it up, and I can't do it during this case, but I can say that we do an inspection on an annual basis of the facility and it is done on a fiscal year perspective. So, either it has recently been done, or it's about to be done.

Mr. Jensen – So, these are just five (5) that we know about?

Ms. Simon – Yes, sir.

Mr. Jensen – Ok. Thank you.

Ms. Wiener – Mr. Chairman, might I address Mr. Jensen's question?

Chair Brandenburg – Go right ahead.

Ms. Wiener – Thank you. Mr. Jensen, actually when this matter came to the attention of Mr. Kitchens, at my direction, I had him go through all of his files to determine if there were additional preneed contracts that he had entered into, and there were a total of eight (8), as is referenced in your Board packet. All of those have actually been addressed. So, did self-disclose on the remaining contracts and is well aware of the limitations of the law now.

Mr. Jensen – Thank you, Mr. Chairman.

Chair Brandenburg – Thank you.

MOTION: Mr. Jones moved that Respondent shall pay a fine in the amount of \$2000 and have its license placed on probation for one (1) year. Mr. Hall seconded the motion, which passed unanimously.

Chair Brandenburg – Thank you.

2. *Timothy E. Kitchens Funeral Home, Inc.: DFS Case No. 278061-21-FC; Division No. ATN-34023 (F059562)*

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

Mr. Bossart – Thank you. This is James Bossart for the Office of the General Counsel. Timothy E. Kitchens Funeral Home, Inc. (Respondent), is a funeral establishment licensed under Chapter 497, Florida Statutes, license number F059562. Respondent entered into five (5) preneed funeral contracts with Florida consumers without benefit of licensure, and engaged in incompetency, negligence, or misconduct in activities regulated under Chapter 497, Florida Statutes. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides that Respondent shall pay an administrative fine of \$2000 and undergo one (1) year of probation. Again, I will reiterate that all monies have been refunded to the consumers. The Department requests that the Board accept this Settlement Stipulation. Thank you.

Chair Brandenburg – Thank you.

MOTION: Mr. Hall moved that Respondent shall pay a fine in the amount of \$2000 and have its license placed on probation for one (1) year. Mr. Jensen seconded the motion, which passed unanimously.

Mr. Bossart – Thank you.

Chair Brandenburg – Thank you.

Ms. Simon – Mr. Jensen?

Mr. Jensen – Yes, ma’am?

Ms. Simon – For the sake of clarity on your question, the Division did perform an inspection in the fall of 2021, and they passed the inspection.

(c) Vinson Funeral Home: DFS Case No. 283110-21-FC; Division No. ATN-36059 (F040451)

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

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

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

(2) Material Facts Not Disputed (Section 120.57(2) Hearings) (Probable Cause Panel A)
(a) Tillman, Jeffrey Lee: DFS Case No. 275817-21-FC; Division No. ATN-31875 (F044406)

Ms. Simon – Is Mr. Tillman or a representative of Mr. Tillman here?

Mr. Michael Martinez – Yes.

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

Mr. Griffin – Marshawn Griffin for the Department. The above-referenced matter is presented to the Board for consideration of the Motion for Determination of Waiver and for Final Order by Hearing Not Involving Disputed Issues of Material Fact (Motion) in the matter of Jeffrey Lee Tillman (Respondent). Respondent was the funeral director in charge of Riverside Florida Funeral Homes, LLC d/b/a Sunshine Mortuary and Cremations (“Sunshine Mortuary”), a funeral establishment formerly licensed under Chapter 497, Florida Statutes, license number F206395. The Division alleges Sunshine Mortuary engaged in the following:

- Violated a lawful order of the Board

- Demonstrated fraud, deceit, negligence, or incompetency in the practice of activities regulated under Chapter 497, Florida Statutes
- Guaranteed the price of goods and services at a future date without the benefit of licensure
- Engaged in activity for which a license is required under Chapter 497, Florida Statutes, without holding such license in good standing

Respondent as FDIC of Sunshine Mortuary is subject to discipline based on Sunshine Mortuary's violation of Chapter 497, Florida Statutes. The Motion demonstrates Respondent has alleged that there are no material facts in dispute and for this matter to proceed as an informal hearing before the Board, and requests the Board adopt the factual allegations in the Administrative Complaint and issue an appropriate penalty.

Chair – Thank you. Do you need any type of motion?

Mr. Griffin – Yes. A motion to find that the timely filed Election of Proceeding indicating that Respondent timely filed an Election of Proceeding.

MOTION: Mr. Hall moved that Respondent timely filed an Election of Proceeding for an informal hearing. Mr. Williams seconded the motion, which passed unanimously.

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

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

Mr. Griffin – Now that the Board has adopted the findings of fact, it appropriate for the Board the find that the Respondent has violated the statutory violations as alleged in the Administrative Complaint, although I assume that counsel is going to argue otherwise.

Mr. Martinez – Can you rephrase that again?

Mr. Griffin – I was advising the Board that now that they've adopted the factual allegations in the Administrative Complaint that it is appropriate to find that the legal allegations are violations of Chapter 497 as alleged in the Administrative Complaint.

Mr. Martinez – We're not really disputing the allegations or the legal conclusion. We're really here on the issue of mitigation.

Chair Brandenburg – Please introduce yourself. State your name.

Mr. Martinez – I apologize. Sorry about that. Michael Martinez, and I'm representing Mr. Tillman.

Chair Brandenburg – You're of counsel?

Mr. Martinez – I am of counsel. Yes, sir.

Chair Brandenburg – Thank you.

Mr. Martinez – We do agree with the statement. Our issue here is really as it relates to penalty and mitigation of the circumstances surrounding this situation, that's why we are not trying to get to a formal hearing. We don't dispute that the events occurred. We just want to give background and an explanation of what occurred there. It's kind of an unbelievable situation, but we'll get into all of that, I think.

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

Mr. Griffin – The Department also offers into evidence, the investigative report with exhibits, a copy of which has previously been furnished to the Board to establish a prima facie case for the violations alleged in the Administrative Complaint. As to penalty, the Department is recommending that Respondent pay a \$4000 fine and two (2) years of probation. The way that that is calculated is that all four (4) violations are going to be determined under the pre-January 2019 version of the penalty guidelines, for which a violation of s. 497.152(1)(a), Florida Statutes, is a \$1000 to \$2500 fine and up to six (6) months to one (1) year probation. So, \$1000 per count. There are four (4) counts, \$4000. Six (6) months of probation per count. There are four (4) counts, two (2) years of probation.

Chair Brandenburg – Thank you. Counselor, did you want to address the Board with a mitigating statement?

Mr. Martinez – Yes, I would. I would like to make statements and also my client would like to make just a very brief statement. Previously, I established who I am. I worked for the Department of Business and Professional Regulation for fifteen (15) years, during the time when the Board was partially housed over there. So, I worked on these issues and many other boards, and I do understand the regulatory responsibilities, roles and challenges. I want to apologize for the amount of documents that were included under our case, but this situation is so crazy. I don't want to get up here and state a bunch of facts without support and a record that you all had in front of you so you know that I'm not trying to make this up, but this is really the situation that occurred in this case. So, that's why there are so many materials there. I appreciate the professionalism that Mr. Griffin showed us throughout this process, and I really appreciate the Department's Open Government Section, because they turned over hundreds and hundreds of documents that I had to go through to understand what really happened, what was going on and how we got here today, in this situation. The first thing that we want to say is in no way are we at all trying to minimize the injuries that were suffered to the Schneiders in this situation that they suffered, that the contracts were written. We're not disputing that those things happened. We thin its operant and just unimaginable that people would be taken advantage of in these situations.

In support of our request for leniency, I would indicate that from the very beginning my client fully cooperated. He cooperated with the investigators for the Department. He cooperated with the Sheriff's Department's investigators. And the Sheriff's Department was involved because of the gentleman named Mr. Mackey. I included his mugshot in these materials. The other thing about that mugshot is that it shows he's a wanted criminal right now. They're after him. This individual has infiltrated numerous funeral home establishments. He did it in the past. He was convicted of a felony, and despite having been convicted of a felony, he was put on probation and the condition of probation was that he stay completely out of the funeral home business. So, he had a fifteen (15) year sentence hanging over his head and he was ordered to stay away from the funeral home industry and yet he infiltrated these businesses and has continued to do so, including this one. My client had no knowledge of his involvement, no knowledge of these contracts. The irony is that this individual crafts these items, this criminal conduct, to avoid being captured. For example, in the contract, he doesn't list my client's number. The purchasers weren't relying on looking him up and saying he's a licensed individual. They literally picked deceased people's licenses to avoid detection, to slow down the ultimate investigation. They didn't want anyone reaching out to my client to inquire about what was going on, that type of thing. Within the complaint, it references the fact that my client's number wasn't used, but of course his number wasn't used. He didn't write the contracts. He never sold the contracts. He never received any compensation for any kind of preneed. He wasn't involved at all. Of course, he didn't sign the agreement, because again he was in no way involved. Who's trying to stop Mr. Mackey, this gentleman who was doing this conduct both before and after my client was there? The Sheriff's Department is after him. The Department of Corrections has dealt with him. The Probation Department is supervising him. The Board's investigators and even the Division of Insurance Fraud has also prosecuted this gentleman in the past. So, all of these people are cooperating in chasing him.

When I look through these materials and I see your investigators going from building to building and taking pictures where they've just missed him, and he's gone and it's an empty building. So, they've worked very hard in cooperating with local law enforcement to try to stop this individual. There's all kind of documentation. There are emails from the Sheriff's Department's investigators. There are memos from your investigators. There are funeral home programs, and all those documents show that when my client stopped being involved, when he was contacted and he pulled his license out of there, there was conduct afterwards from the same individual through this same business, you know, working and being involved. So, there was no funeral director in charge at that point. So, it wasn't negligence of the funeral director. There literally was no funeral director. And then even when the business itself closed, the funeral home license was given up, there still was conduct after that, also. So, without any licensure, this guy is on a rampage. It's horrific what he's done. Ultimately, my client understands that there's tremendous responsibility that comes with this license and that's why we're not going to a hearing. We're here to say, yes,

when you're the licensee, when you hang your license that's what you're accepting. But, at some level, when you consider the penalty, whether he should be more adept than all of Florida Law Enforcement, Corrections, Probation, our investigators and everybody else, I think this individual is going to eventually pay the price. He was convicted of a felony in the past. Eventually, he'll get pulled over and he'll get arrested. Actually, after all this happened, he was pulled over for driving without a license. He was sitting in jail, while he was on probation, and he bonded out and now he's running around. So, all of this well after my client. This was three (3) years ago and this worked its way through, and this worked its way through and part of it because they spent a tremendous amount of time researching and working to build the case to help them stop Mr. Mackey. When you look at your initial probable cause report, you don't see him listed. The only place you'll see Mr. Mackey in that report is on the complaint, because the complainant dealt with him. That's who they know. If you read the complaint, you'll see the owner's listed and you will see Mr. Mackey listed, but you will not see my client listed, because he never had any interactions with them until after this whole situation occurred.

He's borrowed money, and he's gotten representation and when he knew the Board was meeting, this one and other ones that were coming up on the phone, he wanted to come up here physically and look you in the eye and let you know that he takes his license seriously and it's extremely important to him. He drove up here from Miami Gardens, spent a couple of nights, and he's here because he does take this seriously and knows how hard this whole Department has worked, and a lot of other individuals, to try to corral this one individual, and it hasn't been successful. It is terrible, and Mr. Tillman just wanted to come up and express his feelings and his deep regret about this situation.

Chair Brandenburg – Good morning, Mr. Tillman.

Mr. Jeffrey Tillman – Good morning.

Chair Brandenburg – As usual, we'd like to swear you in, please.

Mr. Tillman – Okay.

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

Mr. Tillman – I do.

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

Mr. Tillman – My full name is Jeffrey Lee Tillman. My last name is spelled T I L L M A N.

Chair Brandenburg – Thank you. Did you want to address the Board?

Mr. Tillman – Yes, I would like to address the Board. I know my license was hanging at that establishment, so I'm guilty of that, but I didn't have any knowledge that this was going on. I trusted the two (2) women who had the occupational license, and I thought everything was going accordingly. It was when Jessica Cordero, the inspector, said that that place looked like another place that they had shutdown is when I got aware that something was wrong. I couldn't get the money that I was owed and the two (2) ladies said that when business was picking up better, because they were saying business was slow, that they'd give me a call and they would try to pay the money that they owed me. There's no excuse. My license was hanging up there, but I'm very sorry about what happened to the victims and if there was anything that I could have done, I would have done. I'm just asking for mercy from the Board.

Chair Brandenburg – You have stated that your license was hanging there and obviously it was because they need a funeral director in charge.

Mr. Tillman – Yes.

Chair Brandenburg – How involved were you in the business of being a funeral director in charge and overseeing the operation and legal aspects of that operation?

Mr. Tillman – I was there every day until they couldn't pay me.

Chair Brandenburg – You were on premises there?

Mr. Tillman – Yes.

Chair Brandenburg – Were you waiting on families?

Mr. Tillman – I saw, during that six-month period, I talked to two (2) families.

Chair Brandenburg – Who was waiting on the families while you were the funeral director in charge?

Mr. Tillman – I was.

Chair Brandenburg – They only had two (2) families in six (6) months?

Mr. Tillman – I don't know the exact month, but that's all that I saw, because they had other funeral directors that were part-time, I guess, with the establishment that would come up there. One was Walter Wilson and I can't think of the other's name.

Chair Brandenburg – With all due respect, as the funeral director in charge, you're supposed to know those things, because your license is in jeopardy.

Mr. Tillman – Yes.

Chair Brandenburg – And you chose to hang your license there.

Mr. Tillman – Yes, I chose to hang my license there or put my license on that establishment, but by the recommendation of Mr. Walter Wilson, who was supposedly a friend of mine, but Mr. Wilson passed away, but I did that on the strength of him because he was very knowledgeable about every aspect of the funeral business, and I trusted his judgment. I'm just telling you.

Chair Brandenburg – Where is your funeral director's license hanging now?

Mr. Tillman – I don't hang my funeral director's license any place anymore. I learned my lesson.

Chair Brandenburg – Are you working in funeral service at the present time?

Mr. Tillman – Yes, I am, but I refuse to hang my license on any establishment. This has traumatized me. What the family went through while my license was on that facility, I can't do that. If I hang my license any place it will be with a person who is a funeral director and also has license.

Chair Brandenburg – Unfortunately, this is not a new story with this Board. We see occasionally, and of course we hear of incidents that don't count, occasions where funeral directors hang their license so that they can have a funeral director in charge, and really not know what goes on with that business. I think we have an example of that with you.

Mr. Tillman – While I was there, until I couldn't get paid, I was aware of what was going on. And while I was there, it wasn't much business, and that's the truth. And then when they couldn't pay me what was agreed upon, the contract that I signed, when they couldn't do that, I had bills to pay, so I still had to try and do something else so that I could pay my bills.

Chair Brandenburg – I understand.

Rabbi Lyons – Mr. Chair, may I ask a couple of questions?

Chair Brandenburg – Go right ahead.

Rabbi Lyons – Thanks. I'm just a little bit confused. Was Mr. Mackey hired by the funeral home or the entire thing was fraud?

Mr. Tillman – The entire thing, as I understand it, was fraud, because I didn't even know that he was a part of that. I was dealing with Cynthia Williams and Lawanda was the other lady. Those were the people that I thought was doing the business.

Rabbi Lyons – So, did they hire him?

Mr. Tillman – I don't know about that.

Mr. Jones – Mr. Chair, if I may? Rabbi Lyons, I'm sorry. Are you finished?

Chair Brandenburg – Go right ahead.

Rabbi Lyons – It looked like the attorney was going to try to answer that question.

Mr. Martinez – Based on my review of all the records, there wasn't really evidence necessarily that I saw that he was technically employed. He was involved with the owners to some extent. They were involved in this situation. But the fact that he was an actual employee or listed, I don't believe he was. As part of the probation conditions, he had to report and put W2s down for everywhere he worked and gotten salaries for tax reporting, and that would have been an immediate violation of his probation if he'd reported actually working for them. So, what it sounded like some of her statements were that she trusted him, and she came and spoke to her, and I think he targets people that are in trouble, and he went in there. And as Mr. Tillman said, he reached out to an experienced person and asked them about this particular funeral home and in the past, they'd had a good reputation, but obviously that was going south as some point. But I don't believe he was technically a listed employee, nor do I think that in the report that I looked at, or any of the reports, that they list him as an employee, from the Department's perspective, but Mr. Griffin can speak to that, I guess.

Chair Brandenburg – Just one thing. You mentioned a lady's name that you knew of, that was writing preneed. Is that correct?

Mr. Tillman – I didn't know anything about her writing preneed.

Chair Brandenburg – Ok. That answers my question. I'm sorry. Go right ahead.

Mr. Jones – That's fine. Thank you. Was Mr. Mackey licensed? Is he a licensed funeral director?

Mr. Tillman – Not that I know of.

Mr. Jones – Mr. Tillman, you said you were there overseeing, to some degree. You never saw Mr. Mackey at the facility?

Mr. Tillman – No.

Mr. Jones – So, as far as him being present, non-licensed in your facility, you never observed him there?

Mr. Tillman – I dealt with the two (2) ladies. That's who I thought I was representing.

Mr. Jones – And they're both licensed?

Mr. Tillman – Neither one of them is licensed, as far as...

Mr. Jones – So, you were the only licensed individual at the facility?

Mr. Tillman – Yes.

Mr. Jones – Thank you.

Rabbi Lyons – Mr. Chair?

Chair Brandenburg – Go right ahead.

Rabbi Lyons – We have the images of checks made out to the funeral home. How did those checks get cashed? Did they get cashed into the funeral home's account? Where did that money go?

Mr. Martinez – I didn't put absolutely every document in your packet, or you would have had thousands of pages. The way it was transpired was that he was meeting with people and he wasn't at the facility, but he would set up deals and work behind the scene to set up this criminal conduct, as opposed to physically being there, because he's not allowed to be physically working for these individuals. That's what I'm saying. They were involved. The owners of the funeral home had signed off on some of those documents and they cashed them, but it didn't go into a trust account. They were just running the money through and then I don't know how the money was transferred to Mr. Mackey as part of this scam. There was no allegation of advertising, you know, out in the open advertising preneed, or any knowledge of my client that any preneed was being written at all. It only came to light after the fact, which is how these situations come up, but it was his infiltration of this business and others. I understand what you're saying. We accept responsibility, but if it was a result of him being the qualifier then those conduct wouldn't have occurred when there was no longer someone who was qualifying them. When the business was still in operation and had a license, the conduct went on even when my client wasn't the funeral director in charge, nor was anybody else. Again, I understand what you're seeing. It's your responsibility. We get that, but this guy is not stopped by the fact that somebody is there or not there, period.

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

Mr. Hall – Mr. Tillman, obviously what Mr. Brandenburg said is true. A lot of people will set up and use an FDIC at their funeral home and then they use unlicensed people to direct funerals, to fill in at the cemeteries while the other people, unlicensed people are actually directing that service. But you mentioned there was a contract you had with them. What did they pay you for your license to be hung there?

Mr. Tillman – The contract was for me to be the funeral director in charge of that establishment. The ladies told me they would pay me \$1300 a month.

Mr. Hall – And in that period of time, you only saw two (2) families?

Mr. Tillman – Yes.

Mr. Hall – So, really, it's probably pretty easy to figure out that they were just using you for your license.

Mr. Tillman – That's why I was just there the six (6) months, and I wouldn't have been there that long, but I was trying to get the pay that they owed me from the first couple of months that I was working there.

Chair Brandenburg – Mr. Jensen?

Mr. Tillman – The ladies who had the establishment license said business was slow and that they'd call me when someone comes in. That's really the truth about how it worked.

Mr. Hall – Whether you were seeing families or not, they needed your license there to keep the establishment open, so that's basically what they were paying you for.

Mr. Tillman – I thought they were paying it for me to be the funeral director in charge of the establishment and oversee.

Mr. Hall – That's what I'm saying, to keep their license. Yes, sir.

Mr. Tillman – That was my understanding.

Chair Brandenburg – Mr. Jensen?

Mr. Jensen – Thank you, Mr. Chair. Mr. Tillman?

Mr. Tillman – Yes?

Mr. Jensen – So, obviously you've got to have some culpability here, as the funeral director in charge.

Mr. Tillman – Yes.

Mr. Jensen – Just out of curiosity, I see you don't like the \$4000 fine and two-year probation. What do you think is fair?

Mr. Tillman – What I think is fair is six (6) months – a year, \$1000 or \$1500. My situation is, I'm still trying to collect money from people that I have been funeral director in charge of. I'm struggling. I was duked just like the victims were duked. That's not an excuse, but it is the truth.

Mr. Jensen – Thank you.

Chair Brandenburg – Mr. Williams?

Mr. Williams – Thank you. Mr. Tillman, I know you stated you were there for six (6) months, but how often were you at the funeral home?

Mr. Tillman – I was there every day until I couldn't get paid.

Mr. Williams – So, during the six (6) months, you were at the funeral home every day?

Mr. Tillman – Yes.

Mr. Williams – And so, you never ran into Mr. Mackey?

Mr. Tillman – I never, but Jessica Cordero, one of the State's inspectors, came there, and how I got wind that something was wrong was when she said this place looks like another establishment, and she said the name of the person who had that establishment, but I didn't know anything about that. I said, "no, this is Lawanda and Cynthia Williams' establishment," and that's who I honestly thought was running it and were the owners of the establishment. But that put my ears up, because I know Jessica Cordero. She's a very honest, very diligent inspector. To me, she was warning me and I'm saying I had thousands of dollars that I needed to collect, so I thought I'd try to get this and get out. The first opportunity that I got I wrote the Board that I'm no longer funeral director in charge of the establishment.

Mr. Williams – So, during your time as the FDIC, were you ever able to review contracts and files to see what was taking place, in terms of other cases that you may not have been aware of?

Mr. Tillman – I didn't even know there were any other cases. That's what I'm telling you. To me, this was a new establishment. The only business that I thought was being transacted was the people that I saw who came through the door.

Mr. Jones – Mr. Chair, if I may ask one question?

Chair Brandenburg – Go right ahead, Mr. Jones.

Mr. Jones – Was restitution made back to the families?

Mr. Tillman – I don't know whether restitution was made.

Mr. Martinez – I don't think there was restitution. There was a recovery from the fund. I don't know if that's what you're asking. Yes, they did apply for and receive recovery.

Mr. Jones – From the Division?

Mr. Martinez – Yes. What happened was, the funeral home, well, first to clarify, every day for the full six (6) months, which was kind of a compound question. I think his testimony was that he was there every day in the beginning, then it tapered off when there were issues, just to be clear, because I don't want to misstate anything. So, after he pulled his funeral director in charge license, they still had their license and they continued to operate for a period without any funeral director in charge. Nobody was there. Nobody's license was officially there. They operated for another several months and transacted business without a funeral director in charge, and that's when some other people were impacted, at least according to the media reports I googled and read. So, based on my research, that's what I saw.

Mr. Jones – Thank you.

Chair Brandenburg – Mr. Hall?

Mr. Hall – Mr. Tillman, in your testimony, I think to a certain point, you were a victim. However, the statement you made a few moments ago that even after our inspector told you that there was a problem, and tried to help you and warn you of the problem so you could get out, you stayed and you continued to stay because you needed to collect money, so your hands weren't totally clean there. Is that correct?

Mr. Tillman – I understand what you're saying, but when they said no business is going on, I didn't know that there was business going on and Mr. Mackey was representing himself as Shawn something, Funeral Director. Let me try to explain to you what I'm saying. As far as my understanding from reading the material, there were other funeral directors. Mr. Wilson and another were at the establishment and they were seeing people.

Chair Brandenburg – Thank you for your comments. Mr. Griffin?

Mr. Griffin – I think the timeline here is very important in this matter. Mr. Tillman came on as FDIC on February 26, 2018, as indicated in your Board packet. Then the contracts were written on April 19, 2018, both of them, and he doesn't stop being the FDIC of the establishment until August 12, 2018. Now, by his own testimony here, he was there every day, and this was within the first two (2) months of his employment as FDIC. So, notwithstanding, I think the violations are very clear that this happened under his watch, that he was negligent for not doing, from what it sounds like, any supervision at all. I don't know how to reconcile he was there every day, but somehow missed these two (2) people. Nevertheless, the Department stands by its recommendation for penalty. However, if the Board is inclined to deviate from that at all, the Department would definitely stress that a condition of any probation would be that he does not serve as an FDIC during the period of that probation.

Chair Brandenburg – Thank you. Board?

Rabbi Lyons – May I ask a question?

Chair Brandenburg – Rabbi?

Rabbi Lyons – I think this is a question for Mr. Griffin. Is it the expectation that the FDIC has access to the bank statements of the funeral home, that they know what's going on in the books?

Mr. Griffin – They should, if they're putting their name down as being the funeral director in charge. So, funeral directors in charge are provided for in s. 497.380(7), Florida Statutes, and the language is very broad about what they are responsible for.

Chair Brandenburg – It's in the statute.

Mr. Martinez – We stipulate that they're responsible for everything that occurred. We're not trying to say that you're not. I struggle with that as a lawyer and a prior prosecutor. I looked at it and said is it really true that you have to be some kind of

super investigator that prevents things that everybody else cannot? And the answer is it is their responsibility. It is what it is. That's just the way that the statute's written.

Rabbi Lyons – Mr. Chair, I'm sorry to dwell on this.

Chair Brandenburg – Go right ahead.

Rabbi Lyons – The images of the checks in our Board packets have the thumbprints on them. So, that's usually an indication that somebody went to some type of check cashing place and the money didn't go into the account. So, from my point of view, if the money went into the account, and Mr. Mackey is working in the field and never comes in, so Mr. Tillman never saw him. I get that. But if the money is going into the account and the funeral director is supposed to know what is going on in the books, then he should have seen it and asked about it. Now, on the other hand, and I'm trying to get to the bottom of this, so, the way that it was is this was a total fraud scheme and basically the name of the funeral home was being used to gain the trust of the purchaser, but the money never went to the funeral home and everybody got ripped off here, and that's a whole different story. So, is that it?

Mr. Martinez – Based on my review of the record that wouldn't be an accurate statement to say that there was no involvement by the funeral home, because I do believe that one of the owners of the funeral home indicated that they trusted this other gentleman and was somehow involved in part of this process. So, I can't say that it was a 100% scam. This individual I do believe has done 100% scams with a fake funeral home with the same name. I'm not saying that that hasn't occurred, but I'm not in good conscious going to tell you that after the review of the record that's what the case was in this one. We're not saying that there's no responsibility. We're not going there.

Chair Brandenburg – Thank you. Mr. Jones?

Mr. Jones – I think that Mr. Griffin said that part of that stipulation was no FDIC.

Mr. Griffin – No, what I said was that if you were inclined to deviate from what the Department requested that we would want that as a provision. However, the Board is entitled to make whatever penalty recommendation they want. So, if you feel that it's necessary than you can make it a part of the motion.

MOTION: Mr. Jones moved that the Respondent shall pay a \$4000 fine and two (2) years of probation, one year of which he cannot serve as an FDIC. Mr. Williams seconded the motion, which passed with one (1) dissenting vote.

Chair Brandenburg – Thank you, Mr. Tillman. Mr. Martinez, thank you for appearing before the Board.

Mr. Martinez – Thank you.

Mr. Tillman – I'd like to thank the Board. Thank you.

Mr. Jones – Good luck, Mr. Tillman.

Chair Brandenburg – Good luck to you.

(3) *Material Facts Not Disputed (Section 120.57(2) Hearings) (Probable Cause Panel B)*
(a) *McRae Funeral Services: DFS Case No. 285315-21-FC; Division No. ATN-36904 (F070325)*

Ms. Simon – This item has been pulled from today's agenda.

Mr. Griffin – That will be resolved via a Settlement Stipulation at the April Board meeting. The Respondent reached out to me after the Board packets were issued, so we'll be settling that matter and its companion case.

Chair Brandenburg – Thank you. Thank you for your work on these.

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) Academy of Graduate Embalmers of Georgia, Inc. (41609)
(b) Live Oak Bank (43408)
(c) Matthew international (30408)
(d) National Funeral Directors Association (136)
(e) WebCE (43)
(f) 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. Hall moved to approve the applications. Mr. Knopke seconded the motion, which passed unanimously.

(2) Provider Approval - Recommended for Approval without Conditions – Addendum C
(a) Selected Educational Trust (43808)

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 CE Provider.

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

H. Application(s) for Embalmer Apprentice
(1) Informational Item (Licenses Issued without Conditions) – Addendum E
(a) Belzi, Bernard F566145
(b) Hendrick, Adam C F565628

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 Laws and Rules Examination
(1) Informational Item (Licenses Issued without Conditions) – Addendum F
(a) Direct Disposer
1. Aubrey, Meghan F
2. Gilley, Trevor B
(b) Funeral Director (Internship and Exam)
1. Evans, Christopher M

2. *Gavin, Thomas J*
3. *Kopchak, Mary A*
- (c) *Funeral Director and Embalmer (Endorsement)*
 1. *Brunwasser, Jeremy*
 2. *Declemente, John A*
 3. *Warring, Nicole M*
- (d) *Funeral Director and Embalmer (Internship and Exam)*
 1. *Coryell, Brandy N*
 2. *Cruz, Reyes*
 3. *Vandercook, Stacie J*

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. *Godfrey, Rodney K*

Ms. Simon – Ms. Wiener, are you representing this individual?

Ms. Wiener – I am.

Ms. Simon – Mr. Godfrey submitted an application for a funeral director and embalmer license on January 24, 2022, at which time the application was incomplete. A completed application was received on February 3, 2022. Mr. Godfrey did not receive an A.S. degree in Mortuary Science and instead completed the diploma program through Gupton Jones College in 1990. The Division is recommending denial.

Chair Brandenburg – Thank you. Ms. Wiener, did you want to address the Board?

Ms. Wiener – I would, thank you.

Chair Brandenburg – Go right ahead.

Ms. Wiener – Mr. Chairman and Board members, this is a matter no unlike many matters that have come before you in recent years. Mr. Godfrey’s education was not that of an A. S. degree, but based on the comparison table that has been provided in the Board packet, you will see that the education that he received at Gupton Jones is substantially equivalent to or even in some ways superior to that required of an A.S. degree in Mortuary Science, as awarded by St. Pete College. Mr. Godfrey is here to answer any questions that you may have. He has been continuously licensed for many, many years and will be a credit to the profession here in Florida and we would ask that the Board approve his application.

Chair Brandenburg – Thank you.

Mr. Williams – Mr. Chair?

Chair Brandenburg – Mr. Williams?

Mr. Williams – This question is for Ms. Simon. What is the Division’s position, or reason for denial?

Ms. Simon – As in previous matters, Mr. Williams, the reason for the Division’s position is that there was no Associates degree conferred in this matter and the diploma program is insufficient, with regards to the Division’s opinion.

Mr. Williams – Just a follow-up, Mr. Chair?

Chair Brandenburg – Go right ahead.

Mr. Williams – Ms. Wiener, you mentioned the Board has granted this in the past. Have we already set a precedent in reference to this with the diploma vs. other types of degrees? Is that what you're referring to?

Ms. Wiener – Yes, Mr. Williams, I am. A precedent has been set many times. In fact, I have not yet brought an application to you in this same situation that has not been approved by the Board. The law does require the Associates degree. However, the law goes on to state that the standard for licensure by endorsement is that the education of the applicant must be substantially equivalent to or superior to that required for licensure in Florida. At the same time, Florida has had an Associates degree requirement. However, what I have done to make it more simple for the Board, and the Board is familiar with this format, is I have provided a comparison table showing the education required for an Associates degree in Florida and that required of Mr. Godfrey when he got his education at Gupton Jones, a well-known mortuary college. And so, we argue, and have argued in the past that his education is substantially equivalent or superior to that required in Florida and thus is qualified for licensure.

Mr. Williams – One last follow-up, Mr. Chair? I'm sorry.

Chair Brandenburg – Go right ahead.

Mr. Williams – Question for Ms. Simon. Will there be an opportunity for us to provide some clean up language in this in reference to this?

Ms. Wiener – Really soon.

Mr. Williams – We keep fighting this, but I think if we had some clean up language that this may not happen again.

Ms. Wiener – It's coming.

Chair Brandenburg – It's coming?

Ms. Wiener – Yes.

Ms. Mary Schwantes – Mr. Chair, may I address that?

Chair Brandenburg – Ms. Schwantes?

Ms. Schwantes – Thank you. Mr. Williams, the Department's Agency Bill for this year actually clears this up and we're hoping that it passes. I'll give another report about that in the legislative review, during my Executive Director's Report, but in the meantime, we have to follow the current law.

Chair Brandenburg – Thank you. Mr. Jones?

Mr. Jones – I have a question for Mr. Godfrey, once he's sworn in.

Ms. Simon – Sir, can you 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. Rodney Godfrey – I do.

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

Mr. Godfrey – Rodney Keith Godfrey, G O D F R E Y.

Ms. Simon – Thank you, sir.

Mr. Jones – Mr. Godfrey, only two (2) questions. One, the only disciplinary action you've had was the death certificate issue?

Mr. Godfrey – Yes, sir.

Mr. Jones – Nothing since then?

Mr. Godfrey – Nothing since.

Mr. Jones – I see a Georgia license in '92, but I didn't see clarification. Were you licensed in Georgia?

Mr. Godfrey – Yes. I've been continuously licensed in Georgia since '92.

Mr. Jones – And you're licensed where else? Just in Georgia?

Mr. Godfrey – Just in Georgia.

Mr. Jones – Okay. Thank you.

Ms. Wiener – I think there's a typo in one of the materials. I apologize for that. That's a typo.

Mr. Jones – Because it looked like it was two (2) different states, but it kind of dropped Georgia, so I was confused.

Ms. Wiener – Nope, it's Georgia.

Mr. Godfrey - I've been continuously licensed in Georgia since '92.

Mr. Jones – Thank you.

Chair Brandenburg – Mr. Jensen?

Mr. Jensen – In Section 6 of the application, it says you took the Arts and the Science section of the National Boards, but it does not say whether you passed it, but I assume you've taken it?

Mr. Godfrey – Yes, sir.

Mr. Jensen – Okay. There's nothing there. I was just curious.

Mr. Godfrey – I had those results sent to the Board, I think.

Mr. Jensen – Okay. And you took that in 1990?

Mr. Godfrey – Yes, sir.

Mr. Jensen – Thank you.

Chair Brandenburg – Ms. Clay?

Ms. Clay – As you know, I'm new to the Board. I'm just curious as to how the comparative analysis was made of the transcript of the school that he did not get a degree from vs. what's required by the Florida Statutes and the Board.

Ms. Wiener – Thank you, Ms. Clay. I'm happy to answer that. Some years ago, when this started to become an issue and we really needed to be able to embrace out of state funeral directors that are qualified to come into the State of Florida where we have a significant shortage of funeral directors, we developed this comparison table by taking the requirements to obtain the Associates degree from St. Pete College, which is a well-known college from which many Florida licensees receive their education, and then we compare those requirements with the official transcript of the applicant. And so that's how we create

the comparison table. Going basically line by line to make sure that the applicant has the education that we can represent to be substantially equivalent to that that would be required in Florida.

Ms. Clay – As a follow up, who are “we”?

Ms. Wiener – By we, I mean my team. Myself, my associate, Lauren Pettine, our paralegal, Misty Burch. We all go through the process together. Misty Burch, of course, was formally one of the employees of the Division that reviewed license applications for funeral directors and embalmers and that nature, so she has a good skill set for that.

Chair Brandenburg – Mr. Knopke?

Mr. Knopke – A couple questions for Mr. Godfrey. How many death certificates did you leave signed?

Mr. Godfrey – One (1).

Mr. Knopke – Have you done that anywhere else?

Mr. Godfrey – No.

Mr. Knopke – And the reason for doing the one was simply...

Mr. Godfrey – I was trade embalming for the firm. I came at about 2 o'clock that morning to do the prep work. The funeral director at that establishment said this family was coming in at 9 o'clock, so he asked if I could just sign the death certificate so that they could get the death certificate that morning to handle their business. And that was the only reason.

Mr. Knopke – Okay. Thank you.

Chair Brandenburg – Thank you. Mr. Hall?

Mr. Hall – Mr. Godfrey, are you sweating yet?

Mr. Godfrey – Yes, sir.

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

Ms. Wiener – Thank you, Board.

Chair Brandenburg – Good luck.

Mr. Hall – Congratulations.

Mr. Godfrey – Thank you.

2. Purinton, Anthony B

Ms. Simon – Is Mr. Purinton in the room?

Mr. Anthony Purinton – I am present.

Ms. Simon – Thank you, sir. Mr. Purinton submitted an application for a funeral director and embalmer license on January 21, 2022, at which time the application was complete. Mr. Purinton did not receive an A.S. degree in Mortuary Science and instead completed the diploma program through New England Institute of Applied Arts of Sciences in 1986. As a result of not receiving the A.S. degree, the Division is recommending denial.

Chair Brandenburg – Good morning, sir.

Mr. Purinton – Good morning.

Chair Brandenburg – Would you like to address the Board?

Mr. Purinton – Sure.

Chair Brandenburg – Let's swear you in.

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

Mr. Purinton – I do.

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

Mr. Purinton – Anthony, and last name P U R I N T O N.

Chair Brandenburg – Thank you. Go right ahead.

Mr. Purinton – So, I am a Maine licensed funeral director. I've been a licensed funeral director for thirty-five (35) years. I owned my own funeral home for thirty (30) years. I just sold it in July, because I get tired of the cold Maine winters, and decided to come down here. For schooling, I actually went to the University of Southern Maine and at that time, when I went back in 1986, the requirements were so many credits in science and business. I know that I did turn that information in. I believe I earned somewhere in the range of thirty (30) to thirty-five (35) credits. Then I went to the New England Institute of Applied Arts and Sciences, which was in Kenmore Square in Boston. I completed the schooling there, graduated with honors. I went back to the State of Maine and took the practical and the law test after serving my apprenticeship. I ended up purchasing my funeral home thirty (30) years ago. The funeral business was started in 1855, and I took it over from a fourth generation when I was twenty-six (26) years old, and then I ended up selling it in July of this year.

Chair Brandenburg – Thank you. Board?

Mr. Knopke – Question?

Chair Brandenburg – Go right ahead.

Mr. Knopke – Any discipline in your background?

Mr. Purinton – None whatsoever. If I may continue? I am a member of the National Funeral Directors Association, the Maine Funeral Directors Association, in which I serve as a director of that, as well. I'm sure that they can share with you numerous continuing education units that I actually even just got this year at the National Funeral Directors Convention, as well.

Chair Brandenburg – Thank you.

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

Chair Brandenburg – Congratulations.

Mr. Purinton – Thank you.

Mr. Jones – Good luck.

Mr. Purinton – Thank you.

J. Application(s) for Internship

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

(a) Funeral Director

1. Reeder, Raegan N F562806

(b) Funeral Director and Embalmer

1. Castellanos, Diana E F568659

2. Durham, Terry M F567243

3. Gallo, Lily A F443588

4. Marsh, Tiffany A F563991

5. Matos, Danei A F563903

6. Mickler, McKenzie J F423207

7. Pierre, Brenda E F568683

8. Searls, Carolyn M F331065

9. Upson, Susan H F569613

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.

(2) Application to Renew Internship

(a) Recommended for Approval without Conditions

1. Niles, Stephen T F481279

Ms. Simon – Is Stephen Niles or a representative of Stephen Niles here today? Hearing no response. An application to renew the concurrent internship license was received on December 29, 2021. The wrong form was used by the applicant for the renewal application and, on January 21, 2022, the Division received the correct application form. The Applicant has previously been licensed as a concurrent intern and the current license expired on December 30, 2021. The Division is recommending approval.

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

(b) Recommended for Denial

1. Torres Latorre, Evelin F287480

Ms. Simon – An application to renew the funeral director internship license was received on February 8, 2022. The Applicant has previously been licensed as a funeral director intern and 69K-18.002, Florida Administrative Code, only permits one (1) internship in a lifetime. The current license expired on February 2, 2022. Because the internship expired before the application to renew was received, the Division is recommending denial.

Chair Brandenburg – Good morning.

Ms. Lisa Coney – Good morning.

Chair Brandenburg – Did you want to address the Board?

Ms. Coney – Lisa Coney, with Dignity Memorial.

Chair Brandenburg – Let's swear you in.

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

Ms. Coney – I do.

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

Ms. Coney – Lisa Coney, C O N E Y. Evelyn could not join us today. I think that the last year of being an intern in Miami, through a pandemic, has been eye opening, challenging, and very frustrating. She talked to me about making a mistake and waking till the last minute to send in her request for an extension. It was dated January 28th, but not received by the Department, or stamped by the Department until 2/9. She believed that she sent it in time. I had some strong language with her about why did she not overnight this and copy this so that we could give her an electronic advance copy and she said that she was told that it was only P.O. Box, so she couldn't overnight. It is not an excuse. It should have been done in advance. I apologize for that on her behalf. I would just respectfully request that we not end someone's potential career over a couple days of a date stamp. I had to send something to the Division recently, as well. I overnighted it for first morning delivery and it wasn't received for nine (9) days. So, in the days of whatever it is that we're living through, mail takes longer. Evelyn was trying to be independent and not bother her supervisor to intervene and send things, and in trying to take care of this herself, she made a mistake. We, as an industry, as a profession, are desperate for people to want to serve now more than ever. Miami has been especially brutal, and I would just ask for grace and consideration that perhaps she could be approved. I don't know, after what she's been through, that she will stay in our industry forever, but I'd sure like to give her the opportunity to continue to learn and see if that's possible.

Chair Brandenburg – I think this Board would not want a person's career ruined over a six (6) day tardiness on a routine form being sent to the Board. So, Board, what's your pleasure? Mr. Hall?

Mr. Hall – Will you describe her performance as an employee with your company?

Ms. Coney – It has been a hard year, especially in Miami. It has been a long learning curve. She's very frustrated. We're trying to coach her through that. She's definitely done everything that's been put in front of her.

Mr. Hall – Do you feel potential to move forward?

Ms. Coney – I hope so. Yes, I do hope so. I have another intern that sent in an application that was well in advance of her renewal, but not in enough time to make this Board agenda, even though it was two (2) weeks early. So, she's going to have a three (3) week gap waiting for the next Board meeting. I don't know if we, but I'd love to consider moving to date stamps or encouraging people to overnight or accepting emails so that we don't have these continued postal service kind of delays or Cashier's Office and eight (8) days to get upstairs delays. I hate that these young ladies are going to be penalized for something that is...

Chair Brandenburg – Thank you. Mr. Knopke, do you have a motion?

Mr. Knopke – I've got sort of a motion and a direction. I would suggest or make a motion to the Board to set this aside to a later portion of the meeting today, so your client can put in a written petition for waiver of the rule and then we can take that up and reconsider where you are when we get that in writing here today, and then possibly approve it at that point. I asked Ms. Munson, could we waive the rule? Her comment back was, "I don't have a written petition to waive the rule." And I put you on the spot, Ms. Munson, and I'm sorry.

Ms. Simon – Mr. Chairman, if I may?

Chair Brandenburg – Go right ahead, Ms. Simon.

Ms. Simon – The problem with that, Mr. Knopke, is if we were to have a petition for waiver, that is something that needs to be published in order for the Board to rule on it. So, that would be a delay of another month.

Mr. Knopke – {Inaudible}.

Chair Brandenburg – Ms. Clay?

Ms. Clay – I just want clarification. Is the issue that you only can be an intern once in a lifetime? Is that the issue? Or is the issue that the application was sent in late?

Chair Brandenburg – Ms. Simon?

Ms. Simon – The issue is that the application was sent in late and that the internship already expired. To respond to Mr. Knopke's question, we already reached out to the intern, and we offered her the opportunity to withdraw this and to enter a petition for waiver, and we had no response.

Ms. Coney – I apologize. I was not aware of that. I spoke with her and her supervisor and it just sounded like she was very overwhelmed by the information she was receiving and overwhelmed with the year past, in general, and I was just hoping to fall on the sword.

Mr. Williams – Mr. Chair?

Chair Brandenburg – Just a moment. Were you finish, Mr. Knopke?

Mr. Knopke – Yes. I'm going to ramble for a moment to try to figure out, either from Ms. Simon or Ms. Schwantes, how we can get this situation resolved here today or to come up with a way to contact the applicant and ask her if she wants to be in this deal or not. They've offered an opportunity to withdraw, waive or whatever, and there might be a window to do that today. Can we do something? Six (6) or eight (8) days to me...

Chair Brandenburg – Six (6) days.

Mr. Knopke – I mean, six (6) days seems like a short period of time, a hard window to fall into and lose your internship. Whether she goes on and becomes licensed somewhere else, that's up to her, but we need employees. We need people that have spent time in our businesses {inaudible} warm bodies, but you're going to be three (3) or four (4) months before they can probably do anything for you other than walk around.

Chair Brandenburg – To further clarify, if it would have been received before February 2nd, we wouldn't be having this discussion.

Ms. Coney – I know her supervisor dated it January 28th and that they told me it was put in the mail. So, in my guess, if we were relying on a postage date instead of a date that it was grabbed from a PO Box in Tallahassee, after who knows what, perhaps it was on time.

Chair Brandenburg – Mr. Jones?

Mr. Jones – Lisa, you said they could not send it overnight because of the PO Box? Clarify. Is that an issue for the Division?

Ms. Coney – I guess the PO Box does not get overnight. I don't know.

Mr. Jones – Can you send it to a street address? She could have used the street address.

Ms. Coney – She said she was advised to use the PO Box. That's the Revenue Processing. That's what it says on the application. I don't know who she spoke with when she called. My other intern said the same thing when she called and got advice and was told she had to send it to the Cashier's Office.

Mr. Jones – So the PO Box is on the application?

Ms. Coney – Yes, at the bottom.

Mr. Jones – I'm just trying to clarify.

Ms. Simon – The address is on there.

Mr. Knopke – The street address is there.

Mr. Jones – It is also?

Ms. Coney – But on the bottom it says send it to Revenue Processing, which is a PO Box. That's where you're directed to mail.

Mr. Jones – I just wanted to clarify.

Ms. Coney – These are excuses, and in my opinion, it should have been done earlier, and I apologize for that. I'm sympathetic to her. I don't excuse her waiting until the last minute, but I hate the idea that someone has gone to mortuary science college, has served in a year through a pandemic, has learned everything she's learned as a result,, and we demoted her to be an associate with no funeral director duties, when her licensed lapsed, and we are planning to terminate her, based on what happens now, and she knows that.

Chair Brandenburg – Mr. Williams?

Mr. Williams – My only question is, and maybe Ms. Simon or Mr. Chair can give me some understanding, but will we be setting a precedent if we move forward with this, in terms of other cases that may come before the Board with a date conflict or things like that? I just don't want us to get backed into a corner, in reference to others utilizing this as a case of reference.

Chair Brandenburg – I think we can safely say that every case stands on its own and the Board makes its decisions on every case individually. Now, Ms. Wiener, did you want to address the Board?

Ms. Wiener – I do. More so in keeping with the conversation that Mr. Knopke started, and maybe with the Division. If she withdraws her application today, and files a petition for waiver of the rule, then if the rule is waived, then her internship can continue, or will it be backdated to the date of the expiration of her internship?

Ms. Simon – Are you asking me?

Ms. Wiener – Anybody who can answer. Sure.

Ms. Simon – If you're asking me, what I would tell you is if it is tabled today and there is a petition for waiver, what will happen is it would be a legal fiction to extend it.

Chair Brandenburg – Thank you. Is there a motion?

MOTION: Mr. Knopke moved to table the application until the next meeting. Mr. Hall seconded the motion.

Mr. Jensen – Mr. Chair – Is there an option to just approve it and be done with it?

Chair Brandenburg – Yes.

Mr. Knopke – Well, no you can't. You've got to {inaudible}.

Chair Brandenburg – No you don't. The Board can approve it.

Ms. Wiener – I think the hard parts going to be that while the Board has the authority to approve it, I suspect that because of the publication requirement, that could create a precedent that you maybe don't want.

Ms. Munson – Mr. Chair?

Mr. Hall – Could it be approved subject to? If we approved it today and tie it to the publication, is that possible?

Ms. Clay – It seems like we're trying to make this ball fit into a square peg. There are already rules established that we are totally trying to work around. My comment is just that dates are important, and we establish dates for a reason. It seems like

we're just working around that. I just want to admonish us to not try and make the rule work around the rule. To move this on, I am going to second the motion.

Chair Brandenburg – There's a motion to table, and it's been seconded. Ms. Wiener?

Ms. Wiener – Thank you. If it's tabled, then a petition for waiver of the rule can be filed. The rule itself that we're looking to have waived says, "the application to renew internship must be filed before the initial internship period ends." So, if in fact the waiver is granted at the next Board meeting, then I think that would treat her application as though it was timely filed and would allow her to continue her internship as though it was renewed.

Ms. Munson – That would be the argument to make.

Ms. Wiener – So, I would then suggest that you allow the tabling to go forward so that we have an opportunity to file that petition.

Chair Brandenburg – So, we have a motion to table, and it's been seconded. And all those in favor, aye?

Board members – Aye.

Chair Brandenburg – And any opposed?

Mr. Jensen – Opposed.

Chair Brandenburg – One opposed. And that motion carries. Thank you.

Ms. Wiener – Thank you.

Ms. Coney – Thank you, Board. Nice to see you all in person again.

- K. Application(s) for Monument Establishment Sales Agent**
(1) Informational Item (Licenses Issued without Conditions) – Addendum H
(a) Harward, Gena F F050039
(b) Vanest, Troy A F461770

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

- L. Applications(s) for Preneed Branch License**
(1) Recommended for Approval without Conditions – Addendum I
(a) Degusipe Funeral Home LLC (F053087) (St Petersburg)

Ms. Simon – Pursuant to s. 497.553, Florida Statutes, the applicant listed on Addendum I has applied for a preneed branch license. The application was complete without reportable criminal or disciplinary history and accompanied by the required fee. The recommendation is that the applicant be approved for a preneed branch license.

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

Chair Brandenburg – I'd like to declare my affiliation with SCI Funeral Services of Florida LLC, and that affiliation will in no way affect my ability to make a fair and unbiased decision on anything coming before the Board today.

- M. Applications(s) for Registration as a Training Agency**
(1) Informational Item (Licenses Issued without Conditions) – Addendum J
(a) A Mortuary Service LLC (F234250) (Oakland Park)
(b) SCI Funeral Services of Florida LLC d/b/a Aycock at Tradition (F155176) (Port St Lucie)

- (c) *SCI Funeral Services of Florida LLC d/b/a Kays-Ponger & Uselton Funeral Home and Cremation (F288713) (Punta Gorda)*
- (d) *SE Combined Services of Florida LLC d/b/a Blount & Curry Funeral Home – Macdill Chapel (F078972) (Tampa)*
- (e) *SE Combined Services of Florida LLC d/b/a Blount & Curry Funeral Home. Oldsmar/West Hillsborough Chapel (F078973) (Tampa)*
- (f) *SE Combined Services of Florida LLC d/b/a Blount & Curry Funeral Home – Terrace Oaks Chapel (F078953) (Temple Terrace)*
- (g) *Wilder Funeral Home (F040746) (Homosassa Springs)*

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

(2) Request(s) for Waiver

(a) Approved with Conditions

1. Phillip & Sons The Funeral Directors Inc. (F562777) (Melrose)

Ms. Simon – Phillip & Sons The Funeral Director Inc, applied for funeral establishment licensure based upon a change of ownership and the application was approved with conditions, at the December 2021 Board meeting. The funeral establishment licensure was issued on or about January 19, 2022. This newly approved establishment (F562777) is now seeking registration as a training agency and approval of a waiver of Rule 69K-18.004, Florida Administrative Code, regarding certain requirements for licensure as a training agency. Additionally, this establishment is seeking to continue their training agency status that they had under license number F306540. The Division is recommending approval subject to the conditions as follows:

- 1) That Rule 69K-18.004, Florida Administrative Code, be waived as requested by the licensees, provided there has been no dispute by the public within thirty (30) days of the date the request was published; and
- 2) That the application for Registration of a Training Agency be granted so that the aforementioned funeral establishment may continue to be registered as a Training Agency under the new ownership.

Mr. Knopke – Mr. Chairman?

Chair Brandenburg – Go right ahead.

Mr. Knopke – Assuming we approve, and it goes through the process, it goes back to the date of the sale and there’s no gap for any interns?

Ms. Simon – Yes, sir.

Mr. Knopke – Thank you.

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

2. Whitehead Funeral Home Inc d/b/a Comforter Funeral Home (F564780) (Port St Joe)

Ms. Simon – Based upon a change of ownership, Whitehead Funeral Home Inc, recently applied for new funeral licensure and, in January 2022, that new license was issued (F564780). Under previous ownership, this entity had been registered as a training agency. This entity is now seeking registration as a training agency under its new license, and approval of a waiver of Rule for 69K-18.004, Florida Administrative Code, regarding certain requirements for licensure. The Division is recommending approval subject to the conditions as follows:

- 1) That Rule 69K-18.004, Florida Administrative Code, be waived as requested by the licensees, provided there has been no dispute by the public within thirty (30) days of the date the request was published; and

- 2) That the application for Registration of a Training Agency be granted so that the aforementioned funeral establishment may continue to be registered as a Training Agency under the new ownership.

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

N. Notification(s) for Change of Location

- (1) *Informational Item (Licenses Issued without Conditions) – Addendum K*
(a) *Cremations America LLC (F274944) (Coral Gables)*

Ms. Simon – This is an informational item. The establishment listed on Addendum K 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.

O. Application(s) for Direct Disposal Establishment

- (1) *Recommended for Approval with Conditions*
(a) *Boatwright Mortuary Services LLC d/b/a Eternal Peace (Lauderhill)*

Ms. Simon – An application for direct disposal establishment licensure was received on January 18, 2022. The application was incomplete when submitted. A completed application was received on February 14, 2022. The Division is recommending approval subject to the condition that the direct disposal establishment passes an onsite inspection by a member of Division Staff.

Chair Brandenburg – By the way, I just want to mention that the d/b/a on this is Eternal Peace, so mortuary will not be in the name that they use.

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

P. Application(s) for Funeral Establishment

- (1) *Recommended for Approval with Conditions*
(a) *A Good Shepherd's Funeral Home South LLC d/b/a AGS Funeral Home (Homestead)*

Ms. Simon – An application for funeral establishment licensure was received on January 18, 2022. The application was incomplete when submitted. A completed application was received on February 3, 2022. The application contains an error regarding a visitation chapel. Contrary to what is found in the application, this establishment will not be operating a visitation chapel. The Division is recommending approval subject to the condition that the establishment passes an onsite inspection by a member of Division Staff.

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

Q. Application(s) for Removal Service

- (1) *Recommended for Approval with Conditions*
(a) *Affinity Removal Services LLC (Fort Lauderdale)*

Ms. Simon – An application for removal service licensure was received on November 16, 2021. The application was incomplete when submitted. A completed application was received on January 27, 2022. A background check of the principals revealed a criminal history for its principals. In spite of that, the Division is recommending approval subject to the condition that the removal service passes an onsite inspection by a member of Division Staff.

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

(b) Jacksonville Removal Service LLC (Jacksonville)

Ms. Simon – An application for a removal service was received on December 13, 2021. The application was incomplete when submitted. A completed application was received on February 5, 2022. The Division is recommending approval subject to the condition that the removal service passes an onsite inspection by a member of Division Staff.

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

(c) Redline Mortuary Removal & Transport LLC (Mulberry)

Ms. Simon – An application for removal service licensure was received on January 18, 2022. The application was incomplete when submitted. A completed application was received on February 3, 2022. The Division is recommending approval subject to the condition that the removal service passes an onsite inspection by a member of Division Staff.

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

(d) Valarie's Haven LLC d/b/a Valarie's Haven Transportation Services (Tampa)

Ms. Simon – An application for removal service licensure was received on January 3, 2022. The application was incomplete when submitted. A completed application was received on January 28, 2022. The Division is recommending approval subject to the condition that the removal service passes an onsite inspection by a member of Division Staff.

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

Chair Brandenburg – We'll take a break. Let's come back at 12:15.

*****BREAK*****

Chair Brandenburg – Welcome back. Welcome back. Ms. Simon?

R. Preconstruction Performance Bond(s)

(1) SCI Funeral Services of Florida, LLC d/b/a Hillcrest Memorial Gardens (Ft. Pierce)

Ms. Simon – SCI Funeral Services of Florida, LLC d/b/a Hillcrest Memorial Gardens intends to construct a new mausoleum building consisting of 228 crypts and 200 niches. Pursuant to s. 497.272, Florida Statutes, typically a preconstruction trust must be in place if sales are going to occur prior to completion. However, s. 497.272 provides that in lieu of a preconstruction trust fund, the cemetery company may provide a performance bond in an amount by a surety company acceptable to the regulator. In this matter, with the application, the cemetery agrees to complete said construction in accordance with the terms of the construction agreement with Mausoleum USA, which is included within your Board packages. The Division recommends approval of the aforementioned preconstruction performance bond without conditions.

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

(2) SCI Funeral Services of Florida, LLC d/b/a Star of David Cemetery of the Palm Beaches (Palm Beach Gardens)

Ms. Simon – SCI Funeral Services of Florida, LLC d/b/a Star of David Cemetery of the Palm Beaches intends to construct a new mausoleum building consisting of 700 crypts and 250 niches. The licensee has submitted for approval a performance bond, in lieu of a preconstruction trust. The mausoleum project and the bond are included within your Board package. The Division recommends approval of the aforementioned preconstruction performance bond without conditions.

MOTION: Ms. Clay moved to approve the preconstruction performance bond. Mr. Jensen seconded the motion, which passed unanimously.

S. Related Items

(1) Recommended for Approval with Conditions

(a) Quality Vaults Inc d/b/a Quality Vaults & Monuments (Lake Wells) (Monument Establishment Retailer)

Ms. Simon – An application for monument establishment retail licensure was submitted on May 20, 2021. The application was incomplete when submitted. The application was completed on February 2, 2022. The Division recommends approval subject to the conditions:

- 1) That the establishment pass an on-site inspection by a member of Division Staff.
- 2) That the Board approves the signed Stipulation for Licensure included in the packet.

MOTION: Mr. Hall moved to approve the application subject to the condition that the establishment passes an onsite inspection by a member of Division Staff and that the Board approve the signed Stipulation for Licensure included within the packet. Mr. Jones seconded the motion, which passed unanimously.

(b) Quality Vaults and Monuments, Inc. (Lake Wales) (Monument Retail Sales Agreement)

Ms. Simon – Quality Vaults and Monuments, Inc submits a monument retail sales agreement for approval. If the form is approved, it is to be used for the sale of monuments through its monument retailer establishment. The Division recommends approval with the condition that two (2) full sized print-ready copies of the preneed sales agreement are received by the Department within sixty (60) days of this Board meeting.

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

T. Request to Change Status of Licensed Cemetery

(1) Recommended for Denial

(a) Avon Park Cemetery Association d/b/a Bougainvillea Cemetery (Avon Park)

Ms. Simon – This item has been withdrawn from the agenda.

U. Request(s) to Renew License (Criminal History)

(1) Recommended for Approval with Conditions

(a) Williams, Michael L F045425

Ms. Simon – Mr. Williams has applied to renew his funeral director and embalmer license (F045425). Mr. Williams has relevant criminal and adverse licensing history, to wit in September 2019, Mr. Williams pled no contest to Felony Driving with a Suspended License, and in November 2020, in DFS Case No. 217639-17-FC, Mr. Williams was issued a Consent Order, which ordered him to pay \$5,000 and be placed on probation for three (3) years. Additionally, during the period of probation, the consent order prohibited Mr. Williams from being the FDIC of any location. The Division is recommending approval subject to the condition that the licensee continues in a probationary status through November 17, 2023, pursuant to the Consent Order in Case No. 217639-17-FC.

Mr. Knopke – Mr. Chair?

Chair Brandenburg – Go right ahead.

Mr. Knopke – Why is he asking to renew it now?

Ms. Simon – I believe he did request to renew it previously, and there was an assumption that it had already been approved. But, it hadn't and that's why its coming before the Board now. Particularly, in light of the fact that there was criminal history and adverse licensing history.

Mr. Knopke – I guess when you get down to reading through the packet, I'm inclined not to renew it. There are burial permits that he {inaudible}, he created, he lied. I'm inclined not to renew it. When you look through the history, the previous case, not the 2019, but the 2020 case where he was FDIC of a facility, he misled and lied about where a baby was. He falsified burial transit permits. It just goes on from there, and I wonder why we would want to have somebody like this licensed and in front of families every day.

Rabbi Lyons – Just to clarify, that's all the discipline that was at that November 2020 meeting, correct?

Mr. Knopke – Yes.

Rabbi Lyons – So, the Board already acted on that with the fine and probation.

Mr. Knopke – We've acted on it, but now it's up for renewal.

Ms. Simon – Well, in particular, I wanted to find out if Mr. M. Williams was here today or if there was a representative of Mr. M. Williams here today. Hearing no response.

Chair Brandenburg – Thank you. Go right ahead.

Mr. Knopke – Would it be fair to Mr. M. Williams to table this to the next meeting and take it up? I'm happy to make the motion to deny the renewal and do so.

Ms. Clay – Mr. Chair, just a question. Mr. M. Williams was aware that we were going to be here to discuss this, right?

Ms. Simon – Mr. M. Williams was put on notice of today's meeting and of what we were going to be discussing. Yes, ma'am.

Ms. Clay – Thank you.

Mr. Hall – Was that a motion, Mr. Knopke?

MOTION: Mr. Knopke moved to deny the request for renewal. Mr. Hall seconded the motion.

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

Chair Brandenburg – Mr. Jensen?

Mr. Jensen – Is there any indication that the \$5000 was paid from the 2020 meeting?

Ms. Simon – Yes, sir.

Mr. Jensen – It was paid?

Ms. Simon – Yes, sir.

Mr. Jensen – I must have missed that. Thank you.

Chair Brandenburg – So, there's a motion before the Board, and a second that it be tabled.

Mr. Knopke – No, to deny renewal.

Chair Brandenburg – I’m sorry, I thought I heard that. It’s to deny renewal, and it’s been seconded. And all those in favor, aye?

Board members – Aye.

Chair Brandenburg – And any opposed?

Mr. Jensen – Opposed.

Chair Brandenburg – One opposed, and the motion carries.

Ms. Munson – Mr. Chair, if we could get a specific statement on the record as to the reason for the denial.

Mr. Knopke – The reason for the denial is he entered into a contract for cremation services of human remains and in November 2016, it was later determined that the remains had not been cremated. They were at a different crematory. On February 13, 2017, Respondent filed a false and fraudulent burial transit permit reportedly issued by Florida Department of Health, Bureau of Vital Statistics, authorizing the cremation. That was the primary point.

Ms. Munson – The information was in the Board packet. I just wanted to clarify that that was the information that was stated in the previous stipulation outline, and the denial for the renewal is based on that previously adjudicated information.

Ms. Simon – I assume that Mr. Knopke is saying that due to that egregious conduct, that was the basis for the denial.

Mr. Knopke – Yes.

Ms. Munson – Thank you.

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

Ms. Simon – At this time, I will call on our Executive Director, Mary Schwantes.

Ms. Mary Schwantes – If I may. Mr. Chairman?

Chair Brandenburg – Go right ahead, please.

Ms. Schwantes – Thank you, sir. Just a couple of things to cover today. First, I want to welcome you all to Tallahassee, especially the new Board members. It’s nice to see everybody in person. This is the last week of our early legislative session. The last day of the session is March 11th. I’m going to talk about legislative updates first. There are, as we’ve talked about before, basically five (5) bills that we’ve been following that impact Chapter 497. The first one I want to talk about, of course, is our Department Agency Bill: HB959/SB1874. Within that bill there are four (4) provisions that relate to Chapter 497. Two (2) make it easier for out of state licensees to become funeral directors and/or embalmers in Florida. We saw this issue come up earlier in the meeting. The changes will make it much easier for the Division to review and make clear recommendations to the Board on the applications that come in for licensure by endorsement. There is a change that removes the cap on fees for transferring burial rights. And the final change revises the scope of funeral directing to effectively allow staff to handle certain functions which are administrative in nature (like scheduling the time of a service) but will still require funeral directors to make the other arrangements. The status on that bill is we anticipate that these bills will pass both Houses soon. None of the final amendments that have been filed for the Agency bill impact our statutes. Bills go through three (3) total readings. The 1st reading happens when they pass their committees. After that, there are two (2) readings on the floor and then a vote. So, that’s just some general background on how that works. HB959 has passed all three (3) committees and is in its second reading before the full House. It is on the Special- Order Calendar for today, so hopefully we’ll have good news when we get out of this meeting on that. And again, it will be put through for a vote. The Senate version of the bill, SB1874, has also passed its three (3) committees and is now in readings before the Senate, with no date set. But again, we highly anticipate that these bills will pass prior through by the end of the session.

The next bill I want to talk about is HB7039/SB852. These are known as the Reviser's Bill. The purpose of the bill was to eliminate redundant rulemaking authority. So, for example, in our chapter, it eliminates the requirement that the Department adopt rules for implementation of the statute. Specifically, there are two (2) sections in 497 that are impacted by this:

- 497.15 involving compliance examinations of existing licensees – the bill provides the elimination of the requirement that the Department may adopt rules for the implementation of this section.
- 497.16 regarding receivership proceedings – similar to the preceding provision, the bill provides for the elimination of the requirement that the Department may adopt rules for the implementation of this section.

The proposed changes to 497 are very minor with no significant impact. The bill passed as SB852 and was approved by the Governor on February 24, 2022.

The Sovereign Immunity bill, HB0985/SB974, proposes changes to s. 497.167. These bills increase the limits of the state's waiver of sovereign immunity for some public entities, and again, our statute is impacted by that. Basically, if the underlying bills pass then our statute will be amended to incorporate the changes in the reference number. In the House, it passed three (3) of its three (3) committees, with the Committee Substitute Text filed on February 28, 2022. In the Senate, it passed three (3) of its three (3) committees, so it's moving forward.

HB403/SB280 on Local Ordinances, again these were minor changes proposed within our chapter, basically to correct statutory references in the event that the underlying subject of this bill is changed. In the House, it passed all committees. Now it is in its second reading before the House, with no date set. And in the Senate, it was passed by the Senate on January 27th, and is in messages to House. So, it would be expected to pass through the House if it continues. And again, relatively minor, no significant impact to us, other than reference changes.

HB1215/SB1588 are the Abandoned and Historic Cemeteries bills. These basically adopt the recommendations of the Task Force that was created last year. I know we talked in more depth about this at the last meeting. This proposes changes to section 497.005 (definitions). The proposed changes regard the definition of a "legally authorized person." Specifically, the bill proposes that a legally authorized person may include "a member of a representative community organization" when no legally authorized person in a higher priority is available. In the House, that bill has passed all of its committees, and is now in 2nd reading on the House floor, with no date set. In the Senate, it is still in the 1st of its three (3) committee reviews, which is before the Government Oversight and Accountability Committee, with no date set. So, the passage of that bill is relatively uncertain, but it has moved forward fairly well within the House.

(2) FCCS Financial Statements (Informational)

Ms. Schwantes – Let's turn next to the Department/Division's Financial Statements, and those are in your Board packet. We present these to the Board on an annual basis, usually between December and March. They are based upon the prior fiscal year. Before getting into these, I will point out that I just caught a typo. It states some of these were prepared back in 2020. I can assure you they were not. They were prepared for this Board meeting, in November of 2021 and updated after that, prior to being submitted to you all. I want to go briefly through each of them, particularly as we have new Board members. If any of you have questions as I'm going through them, please let me know. I'm going to talk about them probably a little bit out of order, from the order that you received them. As in prior years, the format used for the statements is basically the same, from year to year. The format and the numbers presented are the result of many hours of work between Division and Department budget staff translating legislative budget information and general ledger codes into a more usable format for our purposes and for our licensees to review. The presented financials are for the Board's information only; no Board action is required. However, as always, we appreciate input and questions on any of these matters. If there are questions to which I cannot now respond, we will consult with appropriate staff and provide a response at the next Board meeting.

The reports are submitted to meet statutory requirements. Specifically:

497.103(2)(n) – the Department has the "authority to develop and submit to the legislature from time to time budgets for the implementation of this chapter." You all know we submit budgets on an annual basis to the Legislature and have to have them approved annually.

497.140 fees –

497.140(1)(b) – Provides that the Department shall at least every other year provide the Board with estimates as to projected costs in implementing this chapter and projected fee collections under this chapter for the following two (2)

years, and information on the balances of regulatory trusts, and other information that the Department deems material to the setting of fees by the Board at the proper levels.

So, let's get into the statements themselves. Again, I need to discuss them in a little bit of a different order than I think they are included in your packets. I would like to remind you all that our fiscal year is July 1st – June 30th. We are now in fiscal year 2021-2022.

Let's look first at the [Regulatory Trust Fund \(RTF\) Balance Sheet](#).

DIVISION OF FUNERAL, CEMETERY, AND CONSUMER SERVICES
Regulatory Trust Fund (RTF) Balance Sheet
Fiscal Years 2016-2017 through 2021-2022

	Actual FY 2016-2017	Actual FY 2017-2018	Actual FY 2018-2019	Actual FY 2019-2020	Actual FY 2020-2021	Projected FY 2021-2022
Beginning Balance	\$ 4,581,025	\$ 5,034,830	\$ 5,093,900	\$ 5,242,184	\$ 5,041,671	\$ 5,235,584
Revenues¹						
Preneed Fees	723,675	648,991	679,846	660,768	676,680	660,660
Other Fees	743,177	282,306	725,449	264,382	809,580	266,110
Licenses	1,752,702	1,868,585	1,636,314	1,838,185	1,716,367	1,854,018
Fines and Penalties	161,847	106,015	112,254	88,476	181,002	135,000
Interest Earnings	71,449	89,509	120,703	171,032	80,418	46,222
Sale of Goods/Services (Public Records)	8,235	5,930	6,330	5,328	6,522	5,743
Sale of Vehicle	-	-	-	-	-	-
Refunds		173	650	161	-	350
Total Revenue	\$ 3,461,085	\$ 3,001,509	\$ 3,281,546	\$ 3,028,331	\$ 3,470,569	\$ 2,968,103
Less Expenditures:²						
Operating Category						
Operating (based on historical expenditures and currently approved budget)	(2,032,467)	(2,043,221)	(2,164,510)	(2,254,230)	(2,161,634)	(2,518,403)
Total Operating Category	(2,032,467)	(2,043,221)	(2,164,510)	(2,254,230)	(2,161,634)	(2,518,403)
Non-Operating Category						
Transfer to Administrative Trust Fund (DFS Agency Support)	(687,312)	(656,057)	(709,606)	(733,845)	(875,000)	(875,000)
State Refunds (Refunds to Licensees on overpayments, etc.)	(9,696)	(7,935)	(4,927)	(1,298)	(3,909)	(5,500)
Service Charge to General Revenue (Revenue Fee payable to General Revenue)	(272,371)	(241,589)	(259,470)	(243,208)	(276,638)	(237,420)
Other Adjustments (Administrative Assessment/Treasury Matters)	(5,518)	(6,042)	(5,912)	(6,228)	(5,615)	(3,051)
Total Non-Operating Category	(974,896)	(911,623)	(979,915)	(984,579)	(1,161,162)	(1,120,971)
Total Expenditures	\$ (3,007,363)	\$ (2,954,844)	\$ (3,144,425)	\$ (3,238,809)	\$ (3,322,796)	\$ (3,639,374)
Accounting Adjustments (Prior Year Certified Reversions and other adjustments)	83	12,406	11,163	9,964	46,140	37,089
Ending Balance	\$ 5,034,830	\$ 5,093,900	\$ 5,242,184	\$ 5,041,671	\$ 5,235,584	\$ 4,601,402

¹Revenues include fees from e-commerce transactions, certifications, exams, filings, fingerprints, inspections, unlicensed activity, and fees collected for preneed contracts; licenses for a variety of services including preneed sales agents, preneed branches, monument dealers, embalmers, embalming facilities, cinerator facilities, cemeteries, funeral directors, funeral establishments, etc.; interest earnings on investments; and penalties.

² Operating Category Expenditures based upon Operating Category Budget as approved in General Appropriation Act

I don't know which page that is in the packet, but there are four (4) statements. So, if you all will take a look at that. This shows actual information for fiscal years 2016/17 through 2021/22, with projected information through fiscal year 2021/22. The main points are that you will note the ending balance continues to swing up and down each year. As pointed out in prior year reports, this is in part a result of the swing in licensing fee income, in that some licenses only renew every other year, so the income that you see reflects that swing back and forth. The projected end of year balance for FY2021-2022 is about \$4.6 million. This is what I sometimes refer to as our savings account in that the RTF is what funds our Division and our operations. When our budget exceeds our income, we have to go to the RTF to dip into the savings, if you will. The primary purpose of this balance sheet is to provide detail on the income/revenues and show the impact on the overall ending balance in the Regulatory Trust Fund. Detail regarding the expenditures is shown on our budget document.

Our preneed fees are roughly consistent over the years, generally averaging around \$674k per year. Other fees and licensing fees swing back and forth between years as I previously explained. At this time, interest earnings are very small – projected to be less than \$50K for FY21-22. That is a huge difference than in prior years interest income for us, and you will see the impact in the projections going forward. They have decreased significantly over the past few years, decreasing from the high of \$171k

in 2019-2020. We have to plan as if they will continue to decrease. So, when we're doing budget proposals and looking at our projections, we do look at that. As before, we have tried to provide a general description of items in areas where we use a term which may not be a common term – i.e. “state refunds” (in the non-operating category) are refunds to licensees on overpayments, etc., and that explanation is in the footnotes. Any questions on this form? Seeing none from the Board members. And also, so that you all know, these statements are usually provided with the minutes, when the minutes are filed for this meeting.

Let's turn next to the [Preneed Funeral Contract Consumer Protection Trust Fund \(CPTF\)](#).

DIVISION OF FUNERAL, CEMETERY, AND CONSUMER SERVICES
Preneed Funeral Contract Consumer Protection Trust Fund (CPTF)
Historical Information 7/1/2011 - 6/30/2021

	FY 2011-2012 ¹	FY 2012-2013	FY 2013-2014	FY 2014-2015 ²	FY 2015-2016 ³	FY 2016-2017 ⁴	FY 2017-2018 ⁵	FY 2018-2019 ³	FY 2019-2020	FY 2020-2021
Beginning Balance (from prior year Trial Balance/General Ledger)	\$ 8,101,140	\$ 8,232,198	\$ 8,409,683	\$ 8,597,165	\$ 8,650,132	\$ 8,745,843	\$ 8,825,677	\$ 8,881,821	\$ 8,983,562	\$ 9,213,834
Revenues:										
Preneed Fees	99,041	100,691	193,268	115,476	117,436	120,573	107,936	113,795	110,092	112,831
Interest Earnings	197,219	154,291	93,228	136,886	133,891	137,720	157,032	217,576	298,512	160,521
Total Revenue	\$ 296,260	\$ 254,982	\$ 286,496	\$ 252,362	\$ 251,327	\$ 258,294	\$ 264,968	\$ 331,371	\$ 408,604	\$ 273,352
Less Expenditures:										
CPTF Claim Payments	(156,954)	(82,208)	(82,655)	(192,102)	(139,407)	(167,619)	(197,635)	(207,182)	(175,628)	(117,573)
Administrative Assessment on Investments (Treasury Investment Charges)	(9,860)	(9,988)	(10,185)	(10,369)	(10,444)	(10,545)	(10,599)	(10,696)	(10,896)	(11,140)
Refunds						(676)	(70)	(29)	-	-
Total Expenditures	\$ (166,814)	\$ (92,196)	\$ (92,840)	\$ (202,471)	\$ (149,851)	\$ (178,840)	\$ (208,304)	\$ (217,906)	\$ (186,524)	\$ (128,713)
Estimated Ending Balance	8,099,502	8,394,984	8,603,339	8,647,056	8,751,608	8,825,297	8,882,341	8,995,286	9,205,643	9,350,473
Other Adjustments (usually investment related)	1,612	10,489	(6,175)	3,077	(5,765)	300	(521)	(11,723)	8,192	9,406
Actual Ending Balance (from Trial Balance/General Ledger)	\$ 8,232,198	\$ 8,409,683	\$ 8,597,165	\$ 8,650,132	\$ 8,745,843	\$ 8,825,677	\$ 8,881,821	\$ 8,983,562	\$ 9,213,834	\$ 9,367,880

Larger Failures/Closings/License Revocations Impacting CPTF Claims Payments

- ¹ FY2011-2012 - Brant Funeral Services, LLC d/b/a Brant Funeral Chapel
- ² FY2014-2015 - JGR Funeral Services, Inc.; and Funeraia Nacional Sur Corporation d/b/a Funeraia La Catolica, Inc
- ³ FY2015-2016 - Cunningham's Funeral Home; and EA Stevens Funeral Home, P.A.
- ⁴ FY2016-2017 - Cemetery Professionals, LLC [Beaches Memorial Gardens]
- ⁵ FY2017-2018 - Cemetery Professionals, LLC [Beaches Memorial Gardens]

This shows historical information on the CPTF from 7/1/2011 – 6/30/2021. The main points that I want to give on this is that the total ending balance for 2020-21 is \$9.37 million, which is higher than the prior year by about \$154,000. Not as high an increase as in prior years but still a steady increase. Our preneed fees are \$1 per contract. They remain fairly consistent over the years. If you disregard the high year of \$193k, which was received in 2013-14, the income from fees continues to average a bit under \$111k per year. Our preneed fees have not shown great growth over the years, with exception of 2013-14, and I don't have an explanation for that. It was a stellar year for sales is the best that I can give. The bulk of revenue has come from interest earnings, which have varied significantly over the years, and which I also just explained have decreased in the past year. They are expected to decrease in the upcoming years. Total revenue through these years consistently exceeded \$250K with a larger increase to \$408k in FY2019-2020, and I don't have explanation for that other than interest income was particularly high that year.

With regard to the expenditures, claim payments, from the CPTF historically are generally between \$55K - \$85K per year, at least until the years after 2014. Regarding high claim payments in recent years shown on this report, the footnotes on the bottom of page show the failures/closings/or revocations which impacted the claims payments in those years. Most recent impact of course is still Beaches Memorial Garden in 2016-2017. Last year's claim payments totaled \$117,573, which was a decrease of approximately \$58k from the prior year. The bottom line on this, income coming in has been historically sufficient to cover claims expenses. The build-up in trust funds is probably more a result of interest over the years. Again, we expect continued decrease in interest income. So, we'll be looking to see the impact overall, going forward.

Mr. Jones – Mary, are you all working 100% from the trust fund or, I guess general revenue, if any is associated with this?

Ms. Schwantes – So, our Division and our operations are funded through licensing fees and the preneed contract fees and all which go into the Regulatory Trust Fund, which officially funds our Division. There are economies that certainly are had in being part of a larger Department that uses general revenue in other areas. As an example of that, we are able to use the State Vehicle Fleet for our particular use. The cars are not owned by us or paid by these funds from the Regulatory Trust Fund, and yet we are able to use those, which reduces our travel expenses and things of that nature. That's just one of the economies. The other thing would be, to a great extent we are able to take advantage of improved technology through Microsoft tools and

some of the general stuff. When I'm talking about that, I'm not talking about our basic operating systems that have our licensing information. As you all know, we have been band-aiding those for years.

Mr. Jones – And that's the reason I was asking. Looking at that as we move forward, because we've said over the years we continue to band-aid. Looking at new systems, is that a funding issue from the trust fund or is that a GR issue? So, it's basically just moving forward within the trust fund adequately and then getting the approval to get the budget? Or do you have the budget authority to those?

Ms. Schwantes – We do not have budget authority, nor at this point, do we have funds available to us, and you'll see that in the projections going forward over the next couple of years. In order to replace our outdated licensing systems that we use specifically for this Division, those funds would need to come from the Regulatory Trust Fund. They would not be coming from general revenue. However, again, we are able to take advantage of being part of a larger Department in that there are other Divisions, for example, the Fire Marshall's Office uses FACTS/DICE, which we also use for purposes for some of our education information and such like that for our licensees. And so, if there's an upgrade to the Fire Marshall's systems, we kind of try to tag along on that, at least in terms of trying to get our systems updated, too. The Department is, as a whole, looking at upgrading a lot of those common systems and we have asked to be "guinea pigs" in that. Whatever it takes to help in facilitating those changes and making us a part of that. There's also a business analysis going on with our Division, actually it just started, where we will be taking a look at our system needs and how they can correlate to some of the system needs from the other Divisions. Does that help?

Ms. Jones – Yes, thanks.

Ms. Schwantes – Any other questions about that?

Let's move on to looking at budget. This will be the [FCCS Budget Fiscal Years FY2018-2019/FY2019-2020/FY2020-2021/FY2021-2022](#) (current fiscal year).

DIVISION OF FUNERAL, CEMETERY, AND CONSUMER SERVICES (FCCS)
FCCS Budget Fiscal Years FY2018 - 2019 / FY2019 - 2020 / FY2020 - 2021/ FY 2021-2022

OPERATING CATEGORY	FISCAL YEAR 2018 - 2019 PROJECTED AND ACTUAL EXPENDITURES General Appropriation Act - Amount Approved: \$2,213,651 ¹			FISCAL YEAR 2019 - 2020 PROJECTED AND ACTUAL EXPENDITURES General Appropriation Act - Amount Approved: \$2,322,568 ¹			FISCAL YEAR 2020 - 2021 PROJECTED AND ACTUAL EXPENDITURES General Appropriation Act - Amount Approved: \$2,368,098 ¹			FISCAL YEAR 2021-2022 PROJECTED AND ACTUAL EXPENDITURES General Appropriation Act - Amount Approved: \$2,512,676 ¹				
	ADJUSTED APPROPRIATION	ACTUAL EXPENDITURES	ACTUAL BALANCE ²	ADJUSTED APPROPRIATION	ACTUAL EXPENDITURES	ACTUAL BALANCE ²	ADJUSTED APPROPRIATION	ACTUAL EXPENDITURES	ACTUAL BALANCE ²	ADJUSTED APPROPRIATION	FY PROJECTED EXPENDITURES	6/30/22 PROJECTED BALANCE ³	10/31/21 ACTUAL EXPENDITURES	10/31/21 ACTUAL BALANCE ³
	OPERATING CATEGORY	\$ 1,771,536	\$ 1,485,209	\$ 86,549	\$ 1,796,890	\$ 1,777,176	\$ 12,718	\$ 1,867,726	\$ 1,779,890	\$ 47,836	\$ 1,900,253	\$ 1,822,785	\$ 77,468	\$ 591,230
SALARIES AND BENEFITS (INSURANCE, RETIREMENT)	66,678	50,624	16,054	67,092	69,181	27,911	67,239	64,815	32,424	67,933	65,016	2,917	12,586	55,347
OTHER PERSONAL SERVICES (NON FTE EMPLOYEES)	307,827	309,635	2,152	291,627	261,903	29,504	326,327	193,689	132,638	361,327	395,215	23,112	92,586	296,741
EXPENSES (BUSINESS OVERHEAD EXPENSES)	9,500	5,898	3,602	9,500	9,500	9,500	-	-	-	-	-	-	-	-
OPERATING CAPITAL OUTLAY EQUIPMENT (OVER \$1,000)	39,100	14,061	25,039	39,100	15,164	23,936	39,100	36,000	3,100	39,100	20,000	19,100	8,738	30,362
ELECTRONIC COMMERCE FEES (BANK FEES FOR CREDIT CARD TRANSACTIONS)	18,549	64,112	15,637	39,549	72,394	32,850	39,549	76,888	37,341	121,549	92,890	28,656	16,538	40,340
CONTRACTED SERVICES (BOARD/COMMITTEE ADMINISTRATION)	8,700	2,288	6,412	8,700	928	7,772	8,700	4,880	4,120	8,700	6,000	2,700	317	8,383
OPERATION OF MOTOR VEHICLES STATE VEHICLES ASSIGNED TO FCCS)	8,764	8,764	-	19,620	19,620	-	20,131	20,131	-	14,662	14,662	-	14,662	-
RISK MANAGEMENT (INSURANCE FOR DIVISION OPERATIONS)	4,162	3,032	1,130	4,162	2,416	1,746	4,162	3,968	284	4,162	4,162	-	827	3,335
LEASE / LEASE PURCHASE EQUIPMENT (EXPENSES)	11,223	8,781	2,442	11,677	11,677	-	11,673	11,673	-	10,697	10,697	-	-	10,697
TRANSFERS TO/ FROM HUMAN RESOURCES SUPPORT (PEOPLE FIRST SYSTEM)	-	-	-	-	-	-	-	-	-	-	-	-	-	-
TOTAL OPERATING CATEGORY	\$ 2,213,651	\$ 1,485,209	\$ 86,549	\$ 2,322,568	\$ 2,300,048	\$ 148,472	\$ 2,444,697	\$ 2,365,634	\$ 261,063	\$ 2,518,493	\$ 2,364,493	\$ 153,999	\$ 708,506	\$ 1,760,788
NON-OPERATING CATEGORY														
TRANSFERS TO ADMIN TRUST FUND (SFS AGENCY SUPPORT - LEGAL, INFORMATION TECHNOLOGY, ADMINISTRATION)	\$ 875,000	\$ 708,006	\$ 166,994	\$ 880,000	\$ 733,854	\$ 146,146	\$ 875,000	\$ 875,000	\$ -	\$ 875,000	\$ 875,000	\$ -	\$ 142,338	\$ 732,672
STATE REFUNDS (REFUNDS TO LICENSEES ON OVERPAYMENTS, ETC.)	17,000	4,927	12,073	20,000	1,298	18,702	17,000	3,909	13,091	17,000	5,500	11,500	1,215	15,785
SERVICE CHARGE TO GENERAL REVENUE (REVENUE FEE PAYABLE TO GENERAL REVENUE)	300,000	246,347	53,653	300,000	282,479	17,521	300,000	276,618	23,382	300,000	234,000	66,000	68,427	276,583
OTHER ADJUSTMENTS (ADMINISTRATIVE ASSESSMENT/TREASURY MATTERS)	6,688	5,907	781	6,688	6,288	400	6,688	6,613	75	6,688	3,901	2,787	-	6,688
TOTAL NON-OPERATING CATEGORY	\$ 1,218,688	\$ 965,787	\$ 277,920	\$ 1,218,688	\$ 1,020,919	\$ 214,769	\$ 1,218,688	\$ 1,161,147	\$ 77,540	\$ 1,218,688	\$ 1,119,700	\$ 109,299	\$ 208,900	\$ 1,011,779
TOTAL OPERATING AND NON-OPERATING CATEGORIES	\$ 3,432,339	\$ 2,450,996	\$ 364,469	\$ 3,541,256	\$ 3,320,967	\$ 363,241	\$ 3,663,385	\$ 3,526,781	\$ 338,603	\$ 3,737,181	\$ 3,484,193	\$ 263,298	\$ 917,406	\$ 2,772,567

¹ General Appropriation Act - approved budget amounts only involve Operating Category Items
² Difference between Adjusted Appropriation and Actual Expenditures
³ Difference between Adjusted Appropriation and Projected Expenditures
⁴ Difference between Adjusted Appropriation and Actual Expenditures from 7/1/2021 to 10/31/21

Now, normally on these, in the prior years, you'll have seen that we only reported on three (3) fiscal years. We dropped off that earlier year. Because of COVID and some of the impact of recent years, I asked that they retain that for your review this particular time so that we can keep the four (4) fiscal years in and you'll see the clear impact. The main points that I want to give on this is that this statement provides detail on the operating and non-operating aspects of our Division budget over this four (4) year period. Projected information is presented for FY2021-2022, with actual expenditures through 10/31/21, and that's in that last table that you're seeing. As a reminder, the operating budget is the budget that the Division has control over. We submit our proposed operating budget to our Agency Budget Office during the summer of the year before it would go into effect. So, last summer, we presented the proposed budget for FY2022-2023, which doesn't start until this July. That was mostly approved during this last legislative session, but I don't have the final...

Chair Brandenburg – It's not part of the table?

Ms. Schwantes – It is not part of the table. I'm just trying to explain how we present our budget.

Chair Brandenburg – Got it.

Ms. Schwantes – We have to plan so far in advance. The non-operating budget primarily involves cost allocations to our Division for support provided by the Department. For example, information technology, legal and administration. The Division has no control or say in how those items are allocated. That is performed on an agency basis, as approved by the CFO. So, for example, our attorneys are part of the non-operating budget. This process on this, each year the Legislature approves our operating budget in the General Appropriation Act. During the year, that amount may be adjusted by combined efforts of our Budget Office and legislative staff/committees. For example, there may be a salary change as a result of new legislation that’s in the middle of the year and that would result in our Budget Office getting in touch with the Legislative Office and adjusting our budget accordingly. You will see that the adjusted appropriation amount for FY20-21 was \$2,444,607, and that’s shown in that third table.

If you look at FY2020-2021, which is the one that we just finished up, in the operating category, the adjusted appropriation was about \$2.44 million. Our actual expenditures were about \$2.16 million. That’s mostly a result of vacancies that we have had. I think I’ve previously reported to the Board that we have operated over the last two (2) to three (3) years with three (3) vacancies at any given time. And with a staff of only twenty-seven (27), that’s a significant amount. So, savings there are to a great extent a result of those vacancies. The balance, and we came in under budget in the operating category by \$283k, and again, that’s mostly a result of vacancies, but also because that hit during the COVID period when a lot of people were still working from their homes, or reducing travel. There were travel savings during those COVID periods. In the non-operating category, the appropriation was \$1.24 million. Our actual expenditures increased from the prior year to \$1.2 million. So, the balance, we came in under budget by about \$78k, in that category. The bottom line, for both operating and non-operating budgets is that we came in under budget by \$360K, which is fairly consistent with the prior year but significantly less “wiggle room” than you’ll see that we had in 2018-2019. Our budget is definitely getting tighter each year. Looking at the projected and actual expenditures for FY2021-2022, we still anticipate coming in under budget at end of year, but it will be much, much tighter on the operational budget, ending at about a \$152k excess. Again, that depends on staffing and vacancies. Any questions with regard to that or with regard to any of the categories? Obviously, it does not include FY2022-2023. That’s still being processed through the legislative process, and I don’t have all the paperwork on that yet. I see Mr. Knopke. Yes, sir?

Mr. Knopke – Just a quick question. When you come in under budget, are you at risk, in the future, of having that excess taken away or are you at risk of being required to lower your projections going forward?

Ms. Schwantes – That’s a hard question to answer, to be honest.

Mr. Knopke – Ok.

Ms. Schwantes – You have to be very careful in how far under budget you are. As an example, if a vacancy for a given position stays open for too long, you’ll lose that position. So, to that extent, you would. It would impact your budget as well.

Mr. Knopke – That answers the question. Thank you.

Ms. Schwantes – And again, when we say we’re under budget, that money is still part of the Regulatory Trust Fund. It’s not like it goes anywhere else.

The final sheet of the financials that we want to look at, and it’s the one that gets everybody’s attention every year, is the [Projected Regulatory Trust Fund Balances](#).

DIVISION OF FUNERAL, CEMETERY, AND CONSUMER SERVICES
PROJECTED REGULATORY TRUST FUND BALANCES

PROJECTED REGULATORY TRUST FUND BALANCES (with NO projected additional operating expenses)¹

	Actual FY 2016-2017	Actual FY 2017-2018	Actual FY 2018-2019	Actual FY 2019-2020	Actual FY 2020-2021	Projected FY 2021-2022	Projected FY 2022-2023	Projected FY 2023-2024	Projected FY 2024-2025	Projected FY 2025-2026	Projected FY 2026-2027	Projected FY 2027-2028	Projected FY 2028-2029	Projected FY 2029-2030	Projected FY 2030-2031
Estimated Beginning Balance	\$ 4,581,025	\$ 5,034,830	\$ 5,093,900	\$ 5,242,184	\$ 5,041,671	\$ 5,235,584	\$ 4,601,402	\$ 4,010,831	\$ 3,324,560	\$ 2,733,989	\$ 2,047,718	\$ 1,457,147	\$ 770,876	\$ 180,305	\$ (505,966)
Total Revenue	3,461,085	3,001,509	3,281,546	3,028,331	3,470,569	2,968,103	3,172,021	2,968,103	3,172,021	2,968,103	3,172,021	2,968,103	3,172,021	2,968,103	3,172,021
Operating Expenditures	(2,032,407)	(2,043,221)	(2,164,510)	(2,254,230)	(2,161,634)	(2,518,403)	(2,533,403)	(2,533,403)	(2,533,403)	(2,533,403)	(2,533,403)	(2,533,403)	(2,533,403)	(2,533,403)	(2,533,403)
Non-Operating Expenditures	(974,896)	(911,623)	(979,913)	(984,579)	(1,161,162)	(1,120,971)	(1,229,189)	(1,120,971)	(1,229,189)	(1,120,971)	(1,229,189)	(1,120,971)	(1,229,189)	(1,120,971)	(1,229,189)
Accounting Adjustments (prior year certified reversions/other)	83	12,406	11,163	9,965	46,140	37,089	-	-	-	-	-	-	-	-	-
Estimated Ending Balance	\$ 5,034,830	\$ 5,093,901	\$ 5,242,184	\$ 5,041,671	\$ 5,235,584	\$ 4,601,402	\$ 4,010,831	\$ 3,324,560	\$ 2,733,989	\$ 2,047,718	\$ 1,457,147	\$ 770,876	\$ 180,305	\$ (505,966)	\$ (1,096,537)

¹ Assumes revenue and expenditures do not change after 2023. Additionally, assumes NO changes to information technology or FCCS infrastructure. Projected Operating Expenditures for FY 2022-2023 assumes funding of Legislative Budget Request

PROJECTED REGULATORY TRUST FUND BALANCES (WITH projected additional operating expenses)²

	Actual FY 2016-2017	Actual FY 2017-2018	Actual FY 2018-2019	Actual FY 2019-2020	Actual FY 2020-2021	Projected FY 2021-2022	Projected FY 2022-2023	Projected FY 2023-2024	Projected FY 2024-2025	Projected FY 2025-2026	Projected FY 2026-2027	Projected FY 2027-2028	Projected FY 2028-2029	Projected FY 2029-2030	Projected FY 2030-2031
Estimated Beginning Balance	\$ 4,581,025	\$ 5,034,830	\$ 5,093,900	\$ 5,242,184	\$ 5,041,671	\$ 5,235,584	\$ 4,601,402	\$ 4,010,831	\$ 3,060,997	\$ 2,206,863	\$ 1,257,029	\$ 402,895	\$ (546,939)	\$ (1,401,073)	\$ (2,350,907)
Total Revenue	3,461,085	3,001,509	3,281,546	3,028,331	3,470,569	2,968,103	3,172,021	2,968,103	3,172,021	2,968,103	3,172,021	2,968,103	3,172,021	2,968,103	3,172,021
Operating Expenditures	(2,032,467)	(2,043,221)	(2,164,510)	(2,254,230)	(2,161,634)	(2,518,403)	(2,533,403)	(2,533,403)	(2,533,403)	(2,533,403)	(2,533,403)	(2,533,403)	(2,533,403)	(2,533,403)	(2,533,403)
Additional Operating Expenditures*	(974,896)	(911,623)	(979,913)	(984,579)	(1,161,162)	(1,120,971)	(1,229,189)	(1,229,189)	(1,229,189)	(1,229,189)	(1,229,189)	(1,229,189)	(1,229,189)	(1,229,189)	(1,229,189)
Non-Operating Expenditures								(263,563)	(263,563)	(263,563)	(263,563)	(263,563)	(263,563)	(263,563)	(263,563)
Accounting Adjustments (prior year certified reversions/other)	83	12,406	11,163	9,965	46,140	37,089	-	-	-	-	-	-	-	-	-
Estimated Ending Balance	\$ 5,034,830	\$ 5,093,901	\$ 5,242,184	\$ 5,041,671	\$ 5,235,584	\$ 4,601,402	\$ 4,010,831	\$ 3,060,997	\$ 2,206,863	\$ 1,257,029	\$ 402,895	\$ (546,939)	\$ (1,401,073)	\$ (2,350,907)	\$ (3,205,041)

²Additional Operating Expenditures include the following:

Items	Projected Cost:
Contracted Services based on Three FTEs: Financial Examiners/Analyst 1 positions	159,801
One OPS position @ 17.00 per hour	35,359
Increase Travel Expenditure	50,000
Information Technology Maintenance	8,000
Federal Reserve Median 2023 Core Inflation @ 2.2% ³	10,403
Total	263,563

³<https://www.federalreserve.gov/monetarypolicy/files/fomcprotabl20210922.pdf>, applied to the 2023 Expenses and Contracted Services.

This spreadsheet has two (2) tables on it. The first table is if there are no projected additional operating expenditures and that means status quo, no new staff, no new systems, no changes, this is it. Again, for these purposes, we cannot assume huge increases in interest income, as an example. You pretty much have to be very conservative when you're looking at these on an ongoing basis. The main points here, the top table shows the current structure. We have assumed absolutely no changes to our information technology, which we are band-aiding, and that's not a tenable situation going forward. We are still experiencing crashes with these systems.

Chair Brandenburg – Were there funds lost in prior years about upgrades and your informational technology that weren't implemented?

Ms. Schwantes – Yes, sir.

Chair Brandenburg – Considerable?

Ms. Schwantes – Off the top of my head, I want to say it was about \$1.2 million. Does that sound right? That was approved for information technology upgrades, but the methodology by which those upgrades would be made was never agreed upon in final terms. So, although the funds were allocated, we were never given spending authority to use them. It never came into the Regulatory Trust Fund, so it's not like funds came in and went out. They were approved from another source. They were listed at one point in time, but we were never given spending authority to do that. As I recall, it had to do with things being in the cloud or not in the cloud or what was the most feasible thing to do to replace our systems. Beyond that, I really can't say.

Mr. Jones – What are the goals moving forward, system wise, because you were just talking about systems and band-aids?

Ms. Schwantes – System wise, our goal, our best-case scenario would be, again looking at the economies of working with other Division's and our Department's OIT Division, to be part of changes from other Divisions. And, through whatever means, perhaps be able to take advantage of general revenue, if we're able to. I'm not on the budget side there, so I'm not sure legally where the limits are on any of that. But that would probably be the best-case scenario in terms of timing and probably also funding for the replacement of the systems. We do not have funds in our savings account to replace the systems.

Mr. Jones – Do we have costs/figures? Do we know what we would like? Or are there any systems you've looked at that we would like and could scope out?

Ms. Schwantes – We do not at this time. We are going through that business analysis for the purpose. It's been five (5) years since that happened before, and so we'll be doing that again. And again, they're trying to combine us with other Divisions. Agent and Agency Services, for example, does a lot of licensing and their licensing system is similar to the one that we use.

Mr. Jones – Okay.

Ms. Schwantes – So, overall, the Division costs continue to significantly impact the RTF balance over the years by decreasing the balance, and again, that's because our expenditures are exceeding our income. In prior years, we estimated that the decrease would be roughly \$200K - \$300K each year over the course of the years going forward. However, recent legislative changes to salary and other matters outside the Division's control (such as increases to the non-operational budget) and the

significant decrease in interest income have increased the amount by which the RTF balance is expected to decrease. So, last year, we thought that there would be about \$500K left in 2029-2030. However, at this time, we are estimating that the RTF balance will be approximately \$180K at the end of FY2028-2029, heading into negative balance numbers a year earlier than we previously estimated. Again, that's beyond anyone's control, within our Department certainly. So, this assumes no changes. If you look at the bottom table, it shows the results with some infrastructure and other necessary changes made during the years, but still no new data systems. Still not the big-ticket items that would replace those systems. That table shows that the RTF balance would decrease even faster, hitting a negative balance by FY2027-2028. So, unfortunately each year that we've come to you with these projections we've gotten closer and closer and closer to a very limited savings account. Both tables clearly illustrate that status quo is not a long-term solution to either operational or funding concerns. Most of our licensing fees, etc., have not been increased since 2005, and sometimes even before that. I have done the statutory research and found that some fees were not increased since the 1990s. So, we are looking at various long-term funding options. I don't want to leave here with everybody thinking we are only looking at fees. I want to assure you that's not the case. We look at all options including options potentially for use of general revenue funds. We hope very much to be able to address these issues this coming fiscal year as we head into legislative session for 2023, because it will involve, I think, some legislative changes and certainly some rulemaking. Any questions? So, hopefully these are still of help. We will continue to present them on an annual basis and we very much appreciate your indulgence in going through this with me.

(3) Florida Laws and Rules Exam Pass/Fail Rates (Informational)

Ms. Schwantes – At the Board's February meeting, questions were raised during the public comments regarding the pass/fail rates for the Florida Laws and Rules Exam. As indicated at that time, the pass/fail rates over the past five (5) years have remained fairly consistent, with passing rates at about 47-50% overall through the years. Using information provided from Pearson Vue, we have provided a number of tables and graphs illustrating that data. That information is in the Board packets. I additionally asked for information on Florida vs. Non-Florida residents, because I know that was one of the issues that came up at that meeting. You will see that there is not much difference in the pass/fail rates between those groups either, and they have remained steady over the last five (5) years. So, hopefully those graphs and tables are of help to the Board. Are there any questions on these reports?

Chair Brandenburg – Good report.

Mr. Hall – Thank you. Whoever did it, excellent job.

Ms. Schwantes – So, that ends the Operational Report. The next Board meeting will be a videoconference meeting on Thursday, April 7, 2022. Thank you, Mr. Chair.

Chair Brandenburg – We've got those down pretty packed. Thank you for your report, Ms. Schwantes. Board, I'd like to shift gears and go back to Item U on your agenda. It's been called to my attention that our actions may have created some type of a challenge to the vote for licensure denial. So, Ms. Simon, would you clarify this for us?

U. Request(s) to Renew License (Criminal History) ***(1) Recommended for Approval with Conditions*** ***(a) Williams, Michael L F045425***

Ms. Simon – Yes, sir. A question was posed to Mr. Knopke when this case was discussed as to wasn't this gentleman already disciplined, previously disciplined for this same activity, and he was. The concern from the Division is that by denying his application for renewal of licensure, we are creating a double jeopardy, where he is being punished for the same thing twice, and that is the concern of the Division. If the Board shares the concern of the Division, I would ask that there be a motion to recall the case and to again discuss the issues.

MOTION: Chair Brandenburg moved to recall the case. Mr. Knopke seconded the motion, which passed unanimously.

Ms. Simon – I'm not sure whether I need to read through the coversheet again, as we know we are here for discussion of the renewal of licensure.

Chair Brandenburg – Just your recommendation.

Ms. Simon – The Division is recommending approval subject to the condition that the licensee continues in a probationary status through November 17, 2023, pursuant to the Consent Order in Case No. 217639-17-FC.

Mr. Knopke – Could we consider adding to that probation to make it longer?

Ms. Simon – The problem is, if you are going to ask for additional probation, based upon the same facts for which a Consent Order has already been issued, the same problems may remain.

Chair Brandenburg – So, the Division is recommending to continues in a probationary status through November 17, 2023, pursuant to the Consent Order in Case No. 217639-17-FC. Is there a motion?

MOTION: Mr. Jones moved to approve the application subject to the condition that the licensee continues in a probationary status through November 17, 2023, pursuant to the Consent Order in Case No. 217639-17-FC. Mr. Knopke seconded the motion, which passed unanimously.

Chair Brandenburg – Thank you, Board, for your attention to this matter. Thank you very much.

W. Chairman's Report (Verbal)

Chair Brandenburg – Welcome everybody. I said it before. It's great to be back with everybody and see old friends, meet new friends. I appreciate everybody's attendance. I always appreciate the Board and how prepared the Board is. I always appreciate Board counsel, Ms. Munson. Ellen Simon is always prepared for these meetings and really guides us through it and certainly deserves a lot of the credit for the ease at which we go through these meetings. So, thank you for that.

Ms. Simon – Thank you, sir. It is all based on everybody else sitting here.

Chair Brandenburg – So, again, thank you and I look forward to being with you again someday.

**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
MARCH 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 02/16/22 – Notice of Correction		

(2) 69K-12.011 Annual Inspection Fees for Monument Establishments (Action)

Ms. Munson – This rule is in need of a notice of change. It has come to our attention that the language of the rule itself as recommended and amended reflects language that is retroactive, which is not allowed with rulemaking, so we’re needing to strike the language, effective July 1, 2021, and just have it read as you see it printed in your material:

69K-12.011 Annual Inspection Fees for Monument Establishments.

~~Effective July 1, 2021, e~~Each monument establishment shall pay an annual inspection fee of \$225 that is payable upon application for licensure and upon each renewal of such license.

Rulemaking Authority 497.103(1)(bb), (5)(a), 497.553(1) FS. Law Implemented 497.103, 497.550, 497.553(1) FS. History–New 5-16-07, Amended 5-19-09, _____.

It’s not flying through the rulemaking process with the retroactive date stated there, so we need to remove it so we can hopefully bring this rule to closure. Because it is a change in language and considered to be a notice of change, the Board will still need to answer the questions that I normally ask for rulemaking. Those three (3) very ministerial questions are required for amendment to any rule that’s being contemplated. So, if the Board so approves, I’d like to request that we correct the language to remove the retroactive phrase effective July 1, 2021, and I’d need the Board’s approval to accept and so approve.

MOTION: Mr. Williams moved to approve the correction of the language to remove the retroactive phrase effective July 1, 2021. Rabbi Lyons seconded the motion, which passed unanimously.

Ms. Munson – Because there is no substantive change, we’ve asked these questions before, but I have to ask them again. They’re very familiar. I just ask that you indulge. Will the proposed rule amendment have an adverse impact in small business or will the proposed rule amendment be likely to directly or indirectly increase regulatory costs to any entity, including government, in excess of \$200,000 in the aggregate, in Florida, within one (1) year after the implementation of the rule?

MOTION: Mr. Knopke moved that the proposed rule amendment will not have an adverse impact in small business or will the proposed rule amendment be likely to directly or indirectly increase regulatory costs to any entity, including government, in excess of \$200,000 in the aggregate, in Florida, within one (1) year after the implementation of the rule. Rabbi Lyons seconded the motion, which passed unanimously.

Ms. Munson – Should a violation of this rule or any part of this rule be designated a minor violation? It was not previously stated to be so.

Rabbi Lyons – Can you repeat the question?

Ms. Munson – Should a violation of this rule or any part of this rule be designated a minor violation?

Rabbi Lyons – As opposed to?

Ms. Munson – A major violation. There is a section of rules where we have citations, we have minor violations, as far as discipline is concerned. The Board previously voted that this is should not be designated as a minor violation.

Rabbi Lyons – So, what would it be designated as?

Ms. Munson – It just would be a violation.

Rabbi Lyons – Just a violation?

Ms. Munson – Yes.

Rabbi Lyons – Not major, not minor? I don't understand. Is this that they're paying a fee in order to have an inspection?

Ms. Munson – Correct.

Rabbi Lyons – So, if they failed to pay the fee {inaudible}? Ok.

Ms. Munson – Ok.

MOTION: Mr. Knopke moved that a violation of this rule or any part of this rule shall not be designated a minor violation. Mr. Jones seconded the motion, which passed unanimously.

Ms. Munson – The rule is required by statute, so I still need to ask does the Board feel this rule should have an expiration date? If so, no later than five (5) years of the effective date of this proposed rule, the Board shall review it, consider the amendment/modification or repeal of this rule if review determines this rule creates barriers to entry for private business competition, it's duplicative, outdated, obsolete, overly burdensome or imposes excessive fees. Again, the Board previously voted that this rule does not have a Sunset Provision because it is required by statute. When statute becomes extinct, so will the rule.

MOTION: Mr. Knopke moved that rule should not have an expiration date. Mr. Jones seconded the motion, which passed unanimously.

Ms. Munson – And I would just like to make just a small point of clarification. When this Board previously reviewed the rule, it was noted that because it does now include monument establishments in total that it would be an increase in fees or impact fees. There has been a clarification made that because this rule is required by statute, the rule itself is not involving any increase in fees. It's actually a statutory requirement that these fees be increased, so there is no fee impact with regard to the rule designation. And there was previous discussion, and it was an open discussion, but I wanted to clarify for any previous record that any increase in fees is not a result of this rule. Rather, it is a result of statute.

Chair Brandenburg – Thank you.

Ms. Simon – Are you done, Ms. Munson?

Ms. Munson – I am done. Thank you, ma'am.

Ms. Simon – Mr. Chairman, if I may return to item V. (4) on the agenda.

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

Ms. Simon – While it is informational in nature, I wanted to make sure there were no questions from the Board.

Chair Brandenburg – I just have one observation.

Ms. Simon – Yes, sir?

Chair Brandenburg – There are fines in here that haven't been paid and the parties sold the business. Is there anything we can do in those situations?

Ms. Simon – Which are you referring to?

Chair Brandenburg – Dees-Parrish Funeral Home and Debra Parrish. One for funeral home and one for the funeral director.


Ms. Simon – I'm afraid not, sir. If they have relinquished their licenses, if they no longer have licenses, we really can't. While we probably could take action to enforce the requirements, the Order, it would cost more for the Board to do that.

Chair Brandenburg – Thank you.

Ms. Simon – Any other questions?

Monthly Report of Fines and Costs Assessed and Paid
 Division of Funeral, Cemetery and Consumer Services
 Date of Board meeting: March 3, 2022
 Date report was prepared: February 18, 2022

Licensee	Board Meeting	Case No.	Total Fine & Cost Due	Date Due	Paid in Full?	Comments
Marion Graham Mortuary	Jan/Feb 2022	280739-21-FC	\$4,000			
Joy McCartney	2/3/2022	282878-21-FC	\$1,250			
Paradise Funeral Chapel LLC	2/3/2022	App for Licensure	\$1,500			
Stonemor Florida LLC DBA Forrest Hills Memorial Park	2/3/2022	282705-21-FC	\$800			
All Points Removal Service	1/6/2022	286302-21-FC	\$2,500			
Whitfield Funeral Home	1/6/2022	284339-21-FC	\$1,800	28-Feb-22		
Alvin Whitfield	1/6/2022	284340-21-FC	\$1,300	28-Feb-22		
Northstar Funeral Services of Florida, LLC, d/b/a Moss-Feaster Funeral Homes & Cremation Services	1/6/2022	280403-21-FC	\$1,500		Paid in Full	
Peter Mackerowski	1/6/2022	286926-21-FC	\$2,000			
St. Fort's Funeral Home, Inc.	1/6/2022	280742-21-FC	\$500		Paid in Full	
Rose Hill Cemetery Company	1/6/2022	282700-21-FC	\$2,000		Paid in Full	
Naples Funeral Home, Inc.	1/6/2022	282694-21-FC	\$750		Paid in Full	
D & L Removal & Transport, Inc	1/6/2022	283168-21-FC	\$1,500	28-Feb-22		
Michael J. Sanders	1/6/2022	277016-21-FC	\$1,500	28-Feb-22		
Foundation Partners of Florida LLC D/B/A Steele's Family Funeral Service	1/6/2022	277013-21-FC	\$1,500	28-Feb-22		
Metro	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		Paid in Full	
Southwest Professional Services, Inc.	11/4/2021	282717-21-FC	\$750	12/17/2021	Paid in Full	
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	
Callahan Funeral Home, Inc.	Oct-21	278180-21-FC	\$1,000	11/18/2021	Paid in Full	

 2-18-2022

Y. Public Comments (Verbal)

Ms. Simon – Is there any public comment to be made at today’s meeting?

Rabbi Lyons – Mr. Chair?

Chair Brandenburg – Yes?

Rabbi Lyons – Just with the item that we brought up for the second vote, based on double jeopardy, I originally voted against it, because I didn’t think it was fair to take away the license after already disciplining him. But, I do agree with Ms. Simon that if somebody falsifies a burial transit permit, then they should not be able to do business in Florida at all, or at least not in the funeral industry, but they certainly cannot continue to be a {inaudible}, in my opinion. So, I agree with the notion behind it. And, again, you know, we’re talking about the rules. If there was some type of designation, you know major violation, minor violation, egregious violation, that type of thing. I mean there’s sort of a sacred trust between the cemetery and the funeral home that the burial transit permit is legit. So, the idea that somebody would falsify a burial transit permit, that collapses the whole system. So, I definitely would agree to throw the book at them.

Chair Brandenburg – Thank you.

Z. Upcoming Meeting(s)

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

AA. Adjournment

Chair Brandenburg – Board members, anything for the good of the cause? If not, the meeting is adjourned.

The meeting was adjourned at 1:15.