

MINUTES
BOARD OF FUNERAL, CEMETERY AND CONSUMER SERVICES
VIDEOCONFERENCE MEETING
JANUARY 5, 2023 - 10:00 A.M.

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

Ms. Jill Peeples – Good morning. This is Jill Peeples, Chair of the Board of Funeral, Cemetery and Consumer Services. This is a videoconference meeting. Today is January 5, 2023. It is 10 o'clock AM. And I would like to turn it over to Ms. Ellen Simon, please.

Ms. Ellen Simon – Thank you, Madam Chair. Good morning. My name is Ellen Simon. I am the Assistant Director for the Division of Funeral, Cemetery, and Consumer Services. Today is January 5, 2023, and it's approximately 10:00 A.M. This is a public meeting of the Board of Funeral, Cemetery, and Consumer Services. This meeting is being held by videoconference. Notice of this meeting has been duly published in the Florida Administrative Register. An agenda for this meeting has been made available to interested persons. Both the link and call-in number is on the agenda, which has been made available to the public. The call-in number and other information relating to this Board meeting has also been published on the Division's website. Ms. LaTonya Bryant is recording the meeting and minutes will be prepared.

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

As always, we need everyone that is on the call to place their phone or audio feed on mute, if you are not speaking. As you can tell from earlier this morning, the ambient noise coming from someone's phone or audio, which is not muted, causes severe disruption to the meeting. If you are not muted, you may be muted by Division staff. As a result, you may need to call back into the meeting because that may be the only way to unmute your phone. Also, if you are using your computer or smartphone for your audio feed, please remember to speak directly into the microphone on your device. To do so otherwise negatively impacts the recording of this meeting. Just as in a live meeting, persons speaking are requested to identify themselves for the record each time they speak. Participants are respectfully reminded that the Board Chair, Ms. Peeples, runs the meeting. Persons desiring to speak should initially ask the Chair for permission.

As a reminder to Board members, you are to refrain from commenting on facts not included within your Board packages, and instead base your decision solely on the information in your Board packages, as well as testimony provided at this meeting. Additionally, ongoing investigations are private and confidential and are not to be discussed, even for the purposes of confirming there is an investigation. Just a few words about Item U on your agenda, which is Public Comment. Public Comment is reserved for general comments by the public and not for re litigation of any matter before the Board. Please be aware that if Public Comment is used as an attempt to re litigate a matter that is being heard on this agenda, the Board will be instructed that the comment is not appropriate for Public Comment, and it should not be considered for further discussion.

As a final reminder, Board meetings are public meetings under Florida Law, and anything said via chat is subject to a public records request. This feature should only be used for technological issues you may be experiencing, and all inquiries in chat should be directed to Mary Schwantes, Executive Director. She is monitoring the chat feature and, as necessary, will forward your inquiry to someone who can assist in resolution of the problem. At this point I will take the roll:

Jill Peeples, Chair
Andrew Clark, Vice Chair
Joseph "Jody" Brandenburg
Sanjena Clay
Vincent "Todd" Ferreira
Christian "Chris" Jensen
Kenneth "Ken" Jones

Janis Liotta
Jay Lyons
Darrin Williams

Also noted as present:

Mary Schwantes, Executive Director
Rachelle Munson, Board Legal Advisor
Marshawn Griffin, Department Legal Counsel
LaTonya Bryant, Department Staff
Jasmin Richardson, Department Staff

Ms. Simon – Madam Chairperson, there is a quorum for the business of the Board.

Chair Peebles – Thank you, Ms. Simon.

B. Action on Minutes

- (1) *October 17, 2022*
- (2) *December 1, 2022*

Chair Peebles – Board members?

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

Mr. Jody Brandenburg – Madam Chair?

Chair Peebles – Yes, sir. Mr. Brandenburg?

Mr. Brandenburg – I'd like to declare my affiliation with SCI Funeral Services of Florida LLC, and this affiliation will not affect my ability to render a fair and impartial decision on any items before the Board today.

Chair Peebles – Thank you, Mr. Brandenburg. Ms. Simon?

C. Old Business

- (1) *Recommendation for Approval with Conditions*
 - (a) *Request(s) for Transfer of Trust*
 - 1. *StoneMor Florida Subsidiary, LLC d/b/a MacDonald Funeral Home (F038725) (Tampa)*

Ms. Simon – This trust transfer request was presented at the May 5, 2022, Board meeting, and was approved subject to conditions as set forth in the Board minutes included within your Board package. The transfer was not completed and any requests for extensions within the allotted time frame has lapsed, therefore, StoneMor is re-submitting this request of trust transfer and is seeking board approval. As some background information, on February 3, 2022, the Board approved acquisitions by StoneMor of a funeral establishment related to MacDonald Funeral Home & Cremation Inc well as the licensing of this location as preneed branch under StoneMor's preneed main license (F038725). StoneMor acquired all the assets and liabilities for the funeral and preneed for this location, and today StoneMor seeks approval of the transfer of The First Florida Trust jointly under Cadence Bank, N.A. and Argent Trust Company to the Preneed Funeral Trust Agreement, State of Florida, under Regions Bank (Regions). If approved, Regions is or will be trustee, all as more specifically set out in Mr. Kupits' letter dated March 4, 2022, which is included within your Board package. The Division recommends approval of their request subject to the following conditions:

- 1) That the representations of StoneMor, as set forth in representatives' attached correspondence be deemed material to the Board's decisions herein.
- 2) That within ninety (90) days of this Board Meeting Regions provide the FCCS Division (ATTN: LaShonda Morris), the effective date of the transfer and certifications including the following:

- ⊙ A letter signed and dated by one of its officers, certifying the dollar amount of trust assets being transferred to the trust as identified in representatives' attached correspondence dated March 4, 2022.
 - ⊙ Acknowledgement of receipt of the amount of trust assets being transferred as specified under the former trust, as identified in representative's attached correspondence dated March 4, 2022.
- 3) That the Board's executive director, for good cause shown, may extend the compliance time frame for the above specified conditions, an additional 90 days.

Chair Peeples – Thank you, Ms. Simon. Board member?

MOTION: Mr. Chris Jensen moved to approve the request subject to the conditions recommended by the Division. Ms. Sanjena Clay seconded the motion, which passed unanimously.

D. Disciplinary Proceedings

(1) Settlement Stipulation (Probable Cause Panel A – No Recusal Needed)

(a) Related Cases: ATN-36164

1. Ray Williams Funeral Home, Inc.: DFS Case No.: 283180-21-FC, Division No. ATN-36540 (F041189)

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

Mr. Marshawn Griffin – Marshawn Griffin for the Department. Ray Williams Funeral Home, Inc., (“Respondent”) is a funeral establishment, licensed under chapter 497, Florida Statutes, license number F041189. The Department conducted an inspection of Respondent and found that Respondent advertised preneed sales without the benefit of licensure and failed to maintain a nonporous surface on its preparation room floor. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides that Respondent shall pay a fine in the amount of \$2,000. The Department requests that the Board accept this Settlement Stipulation.

Chair Peeples – Thank you, Mr. Griffin. Board members?

MOTION: Mr. Brandenburg moved to accept this Settlement Stipulation, which provides that the Respondent shall pay a \$2,000 fine. Ms. Janis Liotta seconded the motion, which passed unanimously.

2. Rhodes, Jeffrey Lynn: DFS Case No. 283184-21-FC, Division No. ATN-36540 (F044240)

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

Mr. Griffin – Marshawn Griffin for the Department. Jeffrey Lynn Rhodes (“Respondent”) is a funeral director and embalmer, licensed under chapter 497, Florida Statutes, license number F044240. Respondent is the funeral director in charge of Ray Williams Funeral Home, Inc., (“Ray Williams”), a funeral establishment, license number F041189. The Department conducted an inspection of Ray Williams and found that Ray Williams advertised preneed sales without the benefit of licensure and failed to maintain a nonporous surface on its preparation room floor. Respondent as FDIC of Ray Williams is subject to discipline based on Abbreviation’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 \$1,200. The Department requests that the Board accept this Settlement Stipulation.

Chair Peeples – Thank you, Mr. Griffin. Board members?

MOTION: Mr. Jensen moved to accept this Settlement Stipulation, which provides that the Respondent shall pay a \$1,200 fine. Mr. Ken Jones seconded the motion, which passed unanimously.

(2) Motion for Final Order by Hearing Not Involving Disputed Issues of Material Fact (Probable Cause Panel A – No Recusal Needed)

(a) Leonardo, Alberta: DFS Case No. 273845-20-FC, Division No. ATN-35429 (F044032)

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

Mr. Christopher Butler – Good morning. Yes. This is Attorney Butler, here on behalf of Ms. Leonardo.

Ms. Simon – Good morning, Mr. Butler. Presenting for the Department is Ms. Marshall.

Ms. Kimberly Marshall – Thank you. 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 Alberta Leonardo (Respondent). The Division alleges Respondent engaged in the following:

- Respondent failed to provide a purchaser of funeral goods and services with a detailed written agreement.
- Respondent failed to obtain written authorization to embalm a body.
- Respondent failed to ensure that a funeral establishment maintained a fully completed Bodies Handled Report.

The Motion demonstrates Respondent failed to timely file a responsive pleading contesting the allegations in the Administrative Complaint and requests the Board adopt the factual allegations in the Administrative Complaint and issue an appropriate penalty. At this time, it would be appropriate for the Chair to entertain a motion determining whether the Respondent has waived the right to a hearing under Section 120.57(1), based upon the Respondent's failure to timely file a response.

Chair Peebles – Thank you, ma'am. Board members, do we have a motion?

Mr. Butler – May I address the Board, please? This is Attorney Butler.

Chair Peebles – Yes, sir. Please, sir. Thank you.

Mr. Butler – Thank you very much, Madam Chair. I would respectfully request that this matter be rolled to the very next Board meeting. The motion, I received it on a couple of days before Christmas. And I haven't had sufficient time to respond to it because it was postmarked in Tallahassee on December 19, 2022, and I received it a few days later in my office. And then it was processed. I haven't had an opportunity to formulate a response, but I believe this Motion is moot, if I have to respond now, and I will tell you why. Jim Bossart and I were working on a Settlement Stipulation in this regard back in June, and Jim told me that he was working on it. So, our response that we did submit was accepted for about six (6) months. And then Mr. Bossart finally responded to me with a settlement offer. Therefore, I would like to have an opportunity to respond to the Motion properly so that we can possibly continue our settlement negotiations. I believe that the confusion came where there's a discrepancy in the case number. So, when I searched for my correspondences with Mr. Bossart, I searched by case number and not a lot came up. But then when I typed in different numbers for the last digit, that's when all the communications came up with regarding this matter. I was under the impression that we were settling the matter back in 2021 of December, but then I hadn't heard from Mr. Bossart. So, I would like an opportunity to submit a response to the Motion for Determination of the Waiver, because we did file a response. We did elect the proceeding. And it was accepted for six (6) months before this Motion came about. And I have only had about maybe a week after receiving this Motion. So, I would respectfully request that the Board continue this matter to the next docket to allow me an opportunity to formally respond.

Chair Peebles – Ms. Munson, from the Board to you as our legal counsel, are we okay to remove this item per Mr. Butler's request to the next meeting?

Ms. Rachelle Munson – Given the history that he's just identified, the Department has not identified they're having any knowledge of it. So there appears to be a very clear legal discrepancy. I will defer to the Department to see if they have, or they'd like to add anything from the Office of General Counsel. But given the explanation just provided, I think it would be appropriate to postpone the matter.

Chair Peebles – Thank you. Ms. Munson.

Ms. Munson – Yes, ma'am.

Chair Peebles – Ms. Marshall?

Ms. Marshall – Yes, thank you. So first of all, I'd like to add that these materials were electronically provided to Mr. Butler on December 16th, so that was almost three weeks ago. So, I don't think that lack of time to respond is necessarily an issue here. The other thing is I have absolutely no record of any sort of settlement negotiations in this case. Nonetheless, I think the materials that were included with the Motion for Waiver in this case make it very clear that this was an untimely response and that this case is currently ripe for an informal hearing at the Board, regardless.

Ms. Munson – My only comment to that is if there's information on this record that a settlement agreement with a member of Office General Counsel who is no longer here to identify whether that information is accurate, and I don't know, Ms. Marshall, Mr. Griffin, that you can speak to that. It seems like it is almost an element of due process just to confirm one way or another whether that is in fact the case.

Mr. Griffin – Regardless of whether or not there are settlement negotiations, that does not disturb or does not remove an attorney or someone's obligation to timely respond to the complaint. So, no matter what, we can be in settlement negotiations, but you still have an obligation to respond within twenty-one (21) days. There's no legal defense of we're in negotiations.

Mr. Butler – Respectfully, Mr. Griffin, I believe you're confusing the issues. The response was submitted. First of all, I want to go back and address Ms. Marshall. We have not received anything electronically with regards to this motion. I would encourage Ms. Marshall to check our emails. I have not received anything electronically. The first thing I received was this postmarked December 19th with regards to this Motion. With respect to Mr. Griffin's argument, although it may be [inaudible], he is correct that we, you know, have an obligation to respond within twenty-one (21) days. However, the response was extended by Mr. Bossart, and it was [inaudible] by the Department. Albeit if it were a few days late, the Department accepted that and didn't say anything for six (6) months. Six (6) months later, I received an email from Mr. Bossart that I have here. I have no reason to misrepresent these facts to the Board. I'm simply requesting an opportunity for due process purposes to respond to the Motion that I feel is moot based on discussions I've had with Mr. Bossart that I can verify and based on the settlement communications that I've had with Mr. Bossart. It clearly shows where he says that he will get back with me in June after his response. And that didn't happen until December. Ladies and gentlemen of the Board, I just would request an opportunity to respond to the Motion and to put forth, you know, our legal argument here as we have not been afforded that opportunity with a Motion that was mailed out of Tallahassee on December 19th and was received by my office on December 22nd, one (1) day before my office closed for the holiday break. We just would like an opportunity to respond.

Chair Peeples – Thank you, Mr. Butler. Ms. Simon, may I ask a question? Will we need a motion to table this to February? What would be the appropriate action?

Ms. Simon – I apologize, Madam Chair. I believe that will be a question appropriate for Ms. Munson.

Chair Peeples – Okay. Ms. Munson?

Ms. Munson – This is the Office of General Counsel. I don't -- it would be -- and, of course, the Board has full authority as to procedurally how it wants to proceed. If the Board feels that this needs to be tabled until the next meeting, you have the request from the Respondent asking that it's so and if the Board has the authority to approve it or not approve it. It's just that simple.

Chair Peeples – Would we need a motion, Ms. Munson?

Ms. Munson – Formally, you can take the motion so you can have a vote to confirm whether or not it is approved or not approved to postpone.

Mr. Brandenburg – Madam Chair?

Chair Peeples – Yes, sir. Mr. Brandenburg?

MOTION: Mr. Brandenburg moved to table this item until the next meeting. Ms. Clay seconded the motion, which passed unanimously.

Chair Peeples – Thank you, Mr. Butler.

Mr. Butler – Thank you very much, Madam Chair, and Happy New Year to everyone.

(b) Premier Funeral Services & Cremations, Inc.: DFS Case No. 245296-19-FC, Division No. ATN-27409 (F041518)

Ms. Simon – Presenting for the Department is Ms. Marshall. Before Ms. Marshall begins, is there a representative of the entity or for the entity on the call today?

Ms. Wendy Wiener – Yes. Wendy Wiener, representing the licensee.

Ms. Simon – Thank you.

Ms. Marshall – The above-referenced matter is presented to the Board for consideration of the Motion for Final Order by Hearing Not Involving Disputed Issues of Material Fact (Motion) in the matter of Premier Funeral Services & Cremations, Inc. (“Respondent”). The Division alleges Respondent engaged in the following: Respondent advertised and sold preneed contracts without being properly licensed to do so and, in doing so, practiced outside the scope of its licensure and engaged in negligence, incompetency, or misconduct in the practice of a regulated activity. Respondent further sold at-need services to a consumer and failed to provide the consumer with a signed contract. The Respondent in this case has returned an election proceeding requesting a hearing not involving disputed issues of material fact. At this time, it will be appropriate for the Chair to entertain a motion determining that the Respondent has requested such a hearing.

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

Ms. Wiener – I think, as Ms. Marshall said, we have some preliminary matters that have to be taken care of first. The Board needs to take up a motion to consider this matter.

Chair Peeples – Thank you, ma'am. Board members, your pleasure?

MOTION: Mr. Jones moved that there were no material facts in dispute and that Respondent has requested an informal hearing. Mr. Williams seconded the motion, which passed unanimously.

Ms. Marshall – Now that the Board has determined, the Respondent has requested an informal hearing in this matter. The Department requests the Chair entertain a motion adopting the allegations of facts set forth in the Administrative Complaint.

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

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

Chair Peeples – Board members?

Ms. Wiener – And now I think I get to talk now.

Chair Peeples – Ms. Wiener?

Ms. Wiener – Thank you. Thank you very much. Before this Board concludes that there are no facts alleged in the Administrative Complaint that are actually supportive of violations, we need to take a careful look at them. This matter dates back to activities that occurred in 2013 and 2016. So, between ten (10) years ago and seven (7) years ago, during a routine inspection, not an inspection predicated upon a consumer complaint, but during a routine inspection, the Division found that the firm's website made reference to preplanning a funeral. That the firm made arrangements for a preneed contract in 2013

and sold one (1) at-need contract in 2014 but failed to obtain a signature. So, the imposition of discipline in this case and whether or not these allegations support a conclusion of law that there was a violation of Chapter 497 is limited solely to those allegations. That there was preplanning offered on the website, that there was one (1) preneed contract entered into in 2013, and there was one (1) at-need contract without a signature in 2014. That's all that is before you today. Despite whatever is in the Board packet, those are the allegations of the complaint. And your consideration of discipline in this manner or whether there was any violation at all is limited to what's contained in that Administrative Complaint.

Now the first allegation is that the firm advertised preneed. The materials in your packet absolutely do not support a conclusion of law that that occurred. On Page 51 of 213, the relevant screenshot (inaudible) and it's many, many places, actually, in your Board packet. It comes up over and over and over again. It shows that there is a description of preplanning. It says when you are preplanning, these are things to consider. It doesn't offer preplanning. It doesn't suggest that there is a capacity to enter into a preneed contract at this funeral home. It is simply a description of preplanning. And there's another description adjacent to it, which has nothing to do with preplanning and just has to do with planning for after death. So, this allegation is absolutely without evidence to substantiate a violation of Chapter 497. So, let's turn our attention to the two (2) contract related allegations. First, there's an allegation that the firm entered into a prearrangement in August of 2013 but was not licensed to do so. So, ten (10) years ago, the operator of this licensee did not realize that it was violating Chapter 497 in any way by guaranteeing a price after death. As you all know as businesspeople, generally accepted definition of a contract includes consideration changing hand. That means a contract is not a contract until money changes hands. Ten (10) years ago, in this industry, as this Board knows, because many of you were around, there was a broad misunderstanding about whether just offering to hold a price until someone died -- and this was an imminent contract, by the way; less than ninety (90) days occurred between the date of the contract and the death of the beneficiary -- that just offering to honor -- I'll honor these prices when you die. Let me write this up for you. I'll honor these prices, taking no money, entering into no actual contract. There was a broad misunderstanding that this was not preneed and that it didn't violate Chapter 497. Everyone has been educated since then. It does, in fact. The law is in fact violated when a price is guaranteed when there is not a preneed contract. But in this single instance, I would ask you to take into consideration that it occurred ten (10) years ago, and the licensee firmly understands now that that is not something that is appropriate and has not engaged in those activities since the time of this inspection, which was in 2016. The operator simply did not know that the kindness of offering to guarantee a contract would put him in violation of Chapter 497. There's also a single allegation that the firm entered into an at-need contract but did not obtain the consumer signature.

Now the only evidence before you in your entire Board packet is a single page which shows that this contract was made via telephone. There was not a situation where the consumer was signing this contract. It was made via telephone. And that is based upon the evidence in your Board packet which is adjacent to the contract showing that the payment -- the only evidence of payment on that contract says phone order. And then on the contract, it indicates that the contract was paid in full. Now while a signature may have been able to have been obtained later, discipline for that oversight that occurred nine (9) years ago seems overreaching. It seems unnecessary. Reduced to essentials, this case should actually either be dismissed, or if this Board desires to impose a penalty, that penalty should be only related to the prearrangement, the guaranteeing of the prices. And this Board has established over time that the amount of money fined a licensee when a preneed contract is entered into, an actual preneed contract where money changes hands but there's not a preneed license in place, is \$300 per contract. There have been several cases. I know some of you on this Board recall those cases where that was the figure. So, this case should either be dismissed, or there should be a penalty imposed of no more than \$300 against this licensee. And of course, I'm available to answer any questions that you have.

Chair Peeples – Thank you, Ms. Weiner. Board members? Yes, sir. Mr. Jensen?

Mr. Jensen – Yes, I do have a question first of the Department. When exactly was this discovered? Is it 2016? Or was it more recent?

Ms. Marshall – So, the allegations date back, February of 2017 was when this inspection was done, and these violations were discovered.

Ms. Wiener – It was actually in 2016. I think the examination report is dated 2017. That's correct. But the actual inspection occurred in late 2016.

Ms. Marshall – Yes, that's correct. I'm sorry. September of 2016. My apologies. The case was opened up in February of '17.

Mr. Jensen – Why did it take so long to get before the Board? What happened there?

Ms. Marshall – Honestly, I could not say. I've only been in this position since September, but we are certainly making every effort to get things moving along as well as possible. Marshawn, I think, would be able to speak to that as well.

Mr. Griffin – Marshawn Griffin for the Department. Basically, what happened is when Jim Bossart had this case, this was traveling along with three (3) other cases. And basically, the Department made an offer. And we basically were stuck in settlement negotiations. The Department had an offer. Premier did not want to accept that offer. We basically kept circling the drain hoping for instead of bringing it to the Board immediately, kept waiting, trying to see if we were going to get a settlement. So that's basically what it comes down to is that this complaint was filed in 2020. There were extensive negotiations between Jim and Wendy regarding Premier and several other entities that are in the same bundle of cases.

Chair Peeples – Mr. Jensen, did that answer your question, sir?

Mr. Jensen – Yes, ma'am, it did. Thank you.

Chair Peeples – Thank you.

Mr. Clark – Madam Chair.

Chair Peeples – Yes, sir. Mr. Clark?

Mr. Clark – I have a question for Ms. Weiner if that's all right?

Chair Peeples – Yes, sir.

Mr. Clark – You mentioned on the preneed from August that the person passed away ninety (90) days later. Do you have any knowledge that, you know, the director in that moment was thinking of what he was writing as more of a price quote versus a preneed, knowing that the death was about to occur? I understand that he indicated they would lock in the price. But it just feels like if the funeral director knew this is someone who's going to pass away soon, were they thinking of it in terms of a price quote versus a preneed?

Ms. Wiener – Well, you'll see in your Board packet that the licensee actually admits that it was offering to hold prices for people for after they passed. They knew they didn't have a preneed license. And they were specifically trying to avoid violating Chapter 497. And they said, "I'm sorry, we can't write a preneed contract for you, but we will honor these prices at the time of the beneficiary's death." The licensee was guilty of kindness, but that kindness does technically violate Chapter 497. And unfortunately, ten (10) years ago, that was not as widely known as it is now. For those of you who have attended any of the educational talks that I give around the state, I am constantly reminding people that, in fact, you may not guarantee a price. You cannot say, "I know grandma is in hospice, and she's going to probably die tomorrow. I'll honor this price. These will still be the same prices." You cannot say that without technically violating Chapter 497. And that's what happened in this case.

Mr. Clark – Thank you. That's helpful. I agree. Starting my 12th year on the Board, I think that is a fair summation of kind of how we view preneed. And ten (10) years ago, perhaps, you know, that was a business decision [inaudible]. So, thank you for that. That's all I have.

Chair Peeples – Thank you, Mr. Clark. Any other Board members with questions?

Rabbi Lyons – Madam Chair.

Chair Peeples – Yes, sir?

Mr. Jensen – Madam Chair?

Chair Peeples – I think Rabbi Lyons is first and then Mr. Jensen.

Rabbi Lyons – Question for Ms. Marshall, please? What is the Department suggesting in terms of discipline?

Ms. Marshall – So I can tell you what the guidelines are. For Counts 1 and 2, relating to the preneed contract, the guidelines call for a reprimand, a fine of \$1000 to \$2,500 and also probation from six (6) months to one year. For Counts 3 and 4, concerning failure to provide a written contract, the guidelines call for, again, a reprimand, a fine of \$500 to \$1,000 and a probation, again, six (6) months to one (1) year.

Chair Peeples – Mr. Jensen?

Mr. Jensen – Madam Chair. I'd like to make a motion that this just be absolved altogether due to the time that this happened. And also, it wasn't discovered till 2016, and the time since then. I do believe ten (10) years ago, on preneed, that that was a fairly common practice. And I think we should just get rid of this altogether. Just dismiss it.

Mr. Ferreira – I'll second.

Chair Peeples – Okay. I have Mr. Ferreira second to Mr. Jensen's motion. Do we have any other discussion from Board members on the motion?

Rabbi Lyons – Madam Chair?

Chair Peeples – Yes, sir?

Rabbi Lyons – If I could ask Mr. Jensen to clarify the premise of dismissing it. Is it just the timing, or was there another factor?

Mr. Jensen – Due to the timing of all three (3) issues. The three (3) issues being, (1) the preneed contract, (2) the at-need contract, and (3) this was found out in 2016. The time since then, dismiss the whole case, is my motion.

Mr. Williams – I have a question.

Chair Peeples – Mr. Williams?

Mr. Williams – Yes. So, I agree with Board member Jensen. I guess my thing is are we setting a precedent in terms of Mr. Griffin stated, there are some other cases that are similar to this? So, are we going to continue to dismiss those cases because of the lag in time? Because Mr. Griffin said there were negotiations going on back and forth, and parties were just not able to agree. So, I don't think it was a lack of the Department not bringing the case before the Board. I think they were trying to do their part in trying to settle the matter before it comes to the Board. So, I'm just kind of lost on that and would like to see if Mr. Griffin can chime in or Ms. Marshall in reference to that.

Ms. Marshall – Absolutely. And that is a concern of ours, certainly. Not wanting to create a precedent that once a case reaches a certain age, that age alone is reason enough to dispose of it. We do have, not a lot, but a number of cases that are sort of in the same situation as this one where settlements have been going back and forth over a couple of years. And we certainly don't want to set that precedent that if a case can get dragged out long enough that that will absolve them of discipline, basically.

Ms. Wiener – Madam Chair.

Chair Peeples – Mr. Williams, did that complete your question and answer?

Mr. Williams – Yes, ma'am.

Chair Peeples – Okay. Ms. Weiner?

Ms. Wiener – Thank you. I think the key consideration here is that this Administrative Complaint about a contract from 2013 and 2014 wasn't even brought until 2020. We did engage in some settlement negotiations after the matter was brought in 2020. But the matter was not even brought until 2020. These allegations, two (2) of which are completely unsubstantiated. Phone contract, no contract necessary. Preplanning on the website, not a violation of law. There's no offer to sell preneed on this contract. But the one (1) violation that you could lawfully in my opinion find discipline for is a single contract in 2013 where there was an offer to hold prices until such time as the decedent died. So, this is a different circumstance. I certainly will represent to this Board that I will not come before you for every matter and say, well, it's been a really long time, so you can't prosecute it. If it's been a really long time and it's a real violation and I don't have a good defense, I'm not going to use the "it's been a really long time" defense.

Chair Peeples – Thank you, Ms. Weiner. Ms. Munson, you had your hand up.

Ms. Munson – I just wanted the record to reflect that every case is fact specific. So, I don't want the Board to think that a decision on a case creates some type of standard for every case that will come before you with similar circumstances. Because cases are facts specific, you'll have to really look at each case and the facts that lie within them.

Chair Peeples – Thank you, Ms. Munson. We have a motion and a second. Mr. Jones?

Mr. Jones – Just quick question for Ms. Marshall or Marshawn. You said we've got several cases, and this is for the Board and new members, too, that are pending. What is the length of time you will try to negotiate? Or when do we cut negotiations and bring it to the Board? Is there a defined timeline? Or is it really open?

Mr. Griffin – There's not a defined timeline. I mean, obviously, OGC prefers to settle a matter, because that cuts off any sort of a potential appellate right. I would rather, you know, spend more time trying to negotiate, but, you know, I think based off of comments here, and I think, you know, we can definitely adopt a new standard and new practice wherein we will just have one negotiation or one offer, one month, and then it's going to the Board. Because honestly, where we're kind of running into a problem is that we have several cases where the Department's offer a statutorily a legal offer. However, it's a situation where there may be a lot of violations such that it gets to a very large settlement offer. And so, rather than negotiating, I think from now on, we'll just cut out the amount of time we waste time negotiating and just bring it to you or take it to DOAH.

Mr. Jones – That just helps clarify, Marshawn, for us, how you're doing it and for future. So, thank you.

Chair Peeples – Thank you, Mr. Jones. Are there any other Board members' discussion or questions for Ms. Weiner? Hearing none, we have a motion and a second on the table. What is the Board members' pleasure?

Mr. Jensen – We already made the motion. Let's vote.

Chair Peeples – Ok.

Mr. Brandenburg – Call the question.

Chair Peeples – Let's take a vote. All in favor of the motion say yes.

Board members – Yes.

Chair Peeples – All opposed say no.

Rabbi Lyons – No.

Mr. Williams – No.

Chair Peeples – Ms. Simon, will you do us a roll call vote on this, please?

Ms. Simon – Yes, ma'am. Please answer yay if you agree with the motion and nay if you do not. Mr. Clark?

Mr. Clark Yay.

Ms. Simon – Mr. Brandenburg?

Mr. Brandenburg Yes.

Ms. Simon – Mr. Ferrara?

Mr. Ferrara – Yes.

Ms. Simon – Mr. Jensen?

Mr. Jensen – Yes.

Ms. Simon – Mr. Jones?

Mr. Jones – Yes.

Ms. Simon – Ms. Liotta?

Ms. Liotta – Yes.

Ms. Simon – Rabbi Lyons?

Rabbi Lyons – No.

Ms. Simon – Ms. Clay?

Ms. Clay – Yes.

Ms. Simon – Mr. Williams?

Mr. Williams – No.

Ms. Simon – Chair Peeples?

Chair Peeples – Yes.

Ms. Simon – And that motion passes.

Chair Peeples – Thank you.

Ms. Simon – May I move on the agenda?

Chair Peeples – Yes, ma'am.

(3) Motion for Final Order by Hearing Not Involving Disputed Issues of Material Fact (Probable Cause Panel A)
(a) Carl J. Carnegie d/b/a Carnegie's Monument Sales and Service: DFS Case No. 297725-22-FC, Division No. ATN-39259 (F037632)

Ms. Simon – Presenting for the Department is Ms. Marshall.

Ms. Marshall – The above-referenced matter is presented to the Board for consideration of the Motion for Final Order by Hearing Not Involving Disputed Issues of Material Fact (Motion) in the matter of Carl J. Carnegie, d/b/a Carnegie's Monument Sales and Services (Respondent). The Division alleges Respondent relocated its business operations and did not report the change in address to the Board or obtain a new license reflecting the new address. 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. At this time, it would be appropriate for the Chair to entertain a motion finding that the Respondent has indicated that he is not disputing any issues of material fact and adopt the factual obligations in the Administrative Complaint.

Chair Peebles – Thank you, Ms. Marshall.

Mr. Jones – Madam Chair?

Chair Peebles – Mr. Jones, do you need to recuse yourself, sir?

Mr. Jones – Yes, ma'am. I was going to recuse myself on this as being on Probable Cause Panel A, please.

Chair Peebles – Thank you, sir. Is there a representative on the call today for this establishment?

Mr. Tom Carnegie – Yes. Tom Carnegie. I'm here.

Chair Peebles – Okay. Thank you, sir. Ms. Marshall has spoken. What is the Board's pleasure?

MOTION: Mr. Brandenburg moved that moved that there were no material facts in dispute and that Respondent has requested an informal hearing. Mr. Williams seconded the motion, which passed unanimously.

Chair Peebles – Ms. Marshall?

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

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

Chair Peebles – Mr. Carnegie, would you like to speak to the Board, sir?

Mr. Carnegie – Yes, I can speak to the Board.

Ms. Simon – Mr. Carnegie? Excuse me one moment. Can you please raise your right hand to be sworn in?

Mr. Carnegie – Yes.

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

Mr. Carnegie – Yes.

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

Mr. Carnegie – Carl J. Carnegie. C-A-R-N-E-G-I-E.

Ms. Simon – Thank you, sir. Please continue. I just had to interrupt you for that.

Mr. Carnegie – Okay. I wasn't in the knowledge of once we start actually manufacturing [inaudible] that we had to file a form for relocation. It's under the same license, but the location had changed, getting out of our home into an actual place. And I wasn't aware that we had to file a form until it was brought to my attention. I did file a form with the change of address, and I think it should be in your hands by now. So that was why. There was oversight on my part, the reason why it wasn't done earlier. I wasn't aware. I wasn't in the knowledge of that's how it should be. If I'd have been aware of it, then I would have made that correction earlier than what I already did. My whole thing in my business is to apply myself up under the laws of the State of Florida and not to try to get by on the State. So that was a complete oversight on my part.

Mr. Brandenburg – Madam Chair.

Chair Peeples – Yes, Mr. Brandenburg?

MOTION: Mr. Brandenburg moved that the Respondent shall pay a fine of \$300. Mr. Ferreira seconded the motion, which passed unanimously.

*(4) Motion for Final Order by Hearing Not Involving Disputed Issues of Material Fact (Probable Cause Panel B)
(a) American Removal Service, LLC: DFS Case No. 297735-22-FC, Division No. ATN-37452 (F372065)*

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

Mr. Williams – Madam Chair?

Chair Peeples – Yes, sir?

Mr. Williams – I need to recuse myself for Items D (4) (a) through (f) as I served on Probable Cause Panel B.

Chair Peeples – Thank you, Mr. Williams. 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 American Removal Service, LLC, (Respondent). The Division alleges Respondent changed its place of business without notifying the Department. The Motion demonstrates Respondent has determined there are no material facts in dispute and waived its right to a hearing in this matter failed to timely file a responsive pleading contesting the allegations in the Administrative Complaint and requests the Board adopt the factual allegations in the Administrative Complaint and issue an appropriate penalty.

Chair Peeples – Board members?

MOTION: Mr. Brandenburg moved that Respondent has waived its right to a request to proceeding in this matter. Mr. Clark seconded the motion, which passed unanimously.

Chair Peeples – Mr. Griffin?

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

Chair Peeples – Board members?

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

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

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

Chair Peeples – Board members?

MOTION: Ms. Clay moved to find the Respondent in violation of the statutes as charged in the Administrative Complaint. Rabbi Lyons seconded the motion, which passed unanimously.

Chair Peeples – Thank you. Mr. Griffin?

Mr. Griffin – The Department also offers into evidence the investigative report with exhibits, a copy of which has previously been furnished to the Board to establish a prima facie case for the violations alleged in the Administrative Complaint. As to penalty, the Department is recommending that the Board impose a \$2000 fine and one (1) year of probation.

Chair Peeples – Board members?

Mr. Clark – Madam Chair, I have a question.

Chair Peeples – Yes, sir. Mr. Clark.

Mr. Clark – This may be a question for Marshawn or the Division. But on Page 29, the entity indicates that they're working on updating their license and that they'll update the Department. Has that happened?

Mr. Griffin – I have not received any updates from the investigative file to that effect. Let me look at our automated licensing information system to see if there's any correspondence. So, the last correspondence that we received or looking back, we notified them that they needed to renew their license in September 2022. Yes, the last correspondence that we have from the licensee is that letter that you're referring to, at least from what I can see from the side that OGC has access to because we don't have access to the investigative. That's a separate thing within the Division.

Mr. Clark – So does that mean they did not renew their license? What I'm trying to determine is if there's a way that we can identify whether they're still operating or not.

Mr. Griffin – Well, their license has not been renewed. It expired December 1, 2022. However, I believe that pursuant to 497.153(1), in the beginning, it talks about that the expiration nonrenewal surrender of a licensure under this chapter does not eliminate the jurisdiction of the Department with the licensing authority to investigate and that prosecutions can be continued.

Mr. Clark – Thank you, Madam Chair. That's all I have.

Chair Peeples – Board members, what's your pleasure, please?

Rabbi Lyons – Madam Chair?

Chair Peeples – Yes, sir?

Rabbi Lyons – So, the previous matter that we did a \$300 fine for was pretty similar violation, if I'm understanding everything correctly. So, it would seem that a \$2,000 fine would be quite a jump. I mean, I realized they didn't take the time to be here, but still. That'd be my comment to the Board.

Mr. Griffin – And the Department would just point out that the \$2,000 fine is within the penalty guidelines, which calls for \$1,000 up to \$2,500 fine.

Chair Peeples – Rabbi Lyons, will that be a motion from you, sir?

Rabbi Lyons – No, ma'am.

Chair Peeples – Board members, what is your pleasure regarding the discipline for a motion, please? Board members?

MOTION: Mr. Jones moved that the Respondent shall a \$1000 fine. Ms. Liotta seconded the motion, which passed unanimously.

Ms. Munson – Does that include a probation?

Chair Peeples – I think their motion, Mr. Jones and Ms. Liotta, was just \$1,000 fine only. Correct?

Mr. Jones – My logic was based on the fact that they're not currently licensed. If they come back for license, then that will be addressed potentially.

Ms. Munson – Okay. Thank you.

Chair Peeples – Thank you, Ms. Munson.

(b) D&L Removal and Transport, Inc.: DFS Case No.: 300633-22-FC, Division No. ATN-38585 (F053091)

Ms. Simon – Presenting for the Department is Ms. Marshall.

Chair Peeples – Ms. Marshall.

Ms. Marshall – Thank you. Kimberly Marshall for the Department. This 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 D&L Removal and Transport (Respondent). The Division alleges Respondent relocated its business to a new address and failed to obtain a new license reflecting the new address. The Motion demonstrates Respondent failed to timely file a responsive pleading contesting the allegations in the Administrative Complaint and requests the Board adopt the factual allegations in the Administrative Complaint and issue an appropriate penalty. At this time, it would be appropriate for the Chair to entertain a motion determining whether the Respondent has waived its right to a hearing under Section 120.57(1) based on the Respondent's failure to timely file a response.

Chair Peeples – Thank you, Ms. Marshall. Board members?

MOTION: Mr. Jones moved that Respondent has waived its right to a request to proceeding in this matter. Mr. Clark seconded the motion, which passed unanimously.

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

Chair Peeples – Board members?

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

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

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

Chair Peebles – Thank you. Ms. Marshall?

Ms. Marshall – The Department also offers into evidence the investigative report with exhibits, a copy of which has previously been furnished to the Board to establish a prima facie case for the violations alleged in the Administrative Complaint. As to penalty, the Department is recommending that Respondent's license be revoked subject to and without the ability to re-apply for licensure for a period of two (2) years, and that she cannot be re-licensed until she provides proof of payment of the fines imposed in the Consent Order underlying this action.

Chair Peebles – Is there a representative of D&L Removal and Transport Inc. on the call?

Ms. Tracy Tameleo – Yes, I'm here, ma'am.

Chair Peebles – Ms. Simon, would you please swear this person in and get their name, please?

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

Ms. Tameleo – I do.

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

Ms. Tameleo – My name is Tracy Tameleo. T-A-M-E-L-E-O.

Ms. Simon – Thank you, ma'am.

Ms. Tameleo – Thank you.

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

Ms. Tameleo – I've just been told that the lawyer who's representing the business has requested, I guess, a postponement of this, because the owner of the company is not well. He hasn't had a chance to talk with him. I think that I've submitted all the paperwork that needs to be submitted in order to regain the licensing in the new address, but I'm not sure. So, the lawyer has requested to postpone this matter.

Chair Peebles – Ms. Simon, has the Board office received any information regarding this comment?

Ms. Simon – The Division office has not. Ms. Marshall may be asked the same question about the Office of the General Counsel.

Ms. Marshall – I have not received anything either and I was not even aware that this licensee was represented.

Chair Peebles – Yes, Ms. Tameleo? Did you have a comment, ma'am?

Ms. Tameleo – Yes. I've been in contact with Jasmin Richardson and sent all of the paperwork to her. And the lawyer also emailed her this morning, requesting notice of the motion and I don't think she ever got back to him.

Ms. Jasmin Richardson – This is Jasmin Richardson. I'm just going to respond. I'm out of the office currently on sick leave. However, I am on the meeting. But if you look further down on the agenda, they have submitted an application to change the location. So, there's an application in our office and on the agenda for change of location.

Chair Peebles – Thank you, Ms. Richardson. Ms. Munson, if I may ask regarding this case that we have here that we're talking about currently, as Ms. Richardson just mentioned, that there is a request for change of location. Can you give the Board members any direction of what our next step needs to be? Do we need to finish this case, then we'll handle that one as it goes down?

Ms. Munson – I would just caution the Board when you say finish this case, if the party is saying that their attorney is requesting a continuance, I don't know if you're planning to rule on it in light of that {inaudible} that request did not take place or what? Because when you say finish it, I don't really know what that meant.

Chair Peeples – Well, I mean just continue on as we're going through, or should we get a motion to table it as the request has been made by Ms. Tameleo?

Ms. Munson – I'm just bifurcating it. And I will request that if you have a request from the party's counsel to continue [inaudible]. If you find the reason to be supportable, then the Board has every authority to continue it.

Chair Peeples – And we can just take a motion if the Board decides to table it at the request for counsel to be involved. Is that correct?

Ms. Munson – That is correct. I don't know what may come up with the discussion during the latter part of the agenda with the other item. I don't know what will come up with that discussion.

Chair Peeples – Okay. Thank you, ma'am. Board members?

Ms. Clay – Madam Chair, if I may ask a question?

Chair Peeples – Yes, ma'am.

Ms. Clay – It seems that we're being told that there is counsel who is requesting that this be postponed and there's no documentation of that. Can the actual person request that this be postponed just so that we have a clear understanding since we don't have any proof that the counsel did make that request? Can she just simply make the request and we vote on it based on her request?

Chair Peeples – Ms. Simon?

Ms. Simon – The licensee can always make the request. Yes.

Ms. Clay – I'm sorry. I could not understand you. Whoever Caller 1 is keeps interfering.

Ms. Simon – Ms. Clay, the licensee can always make the request. It's up to the Board as to whether to accept it.

MOTION: Ms. Clay moved that the matter be tabled until the next meeting. Ms. Liotta seconded the motion.

Chair Peeples – Is there any discussion by the Board on the motion? Mr. Jensen?

Mr. Jensen – Madam Chair, I just like to point out, I mean, this is from 2020 what we're talking about presently, and the thing coming up later is 2023. So, I would think that we need to, as you say, put this to rest and be done with this. I mean, this matter was from 2020. So, I don't understand how they're both tied in together.

Chair Peeples – Thank you, Mr. Jensen. Is there any other discussion before we take a roll call vote on the motion that's in front of us? Ms. Simon, will you do a roll call vote regarding the motion to table this until the February 2023 meeting, please?

Ms. Simon – If I may, Madam Chair? I believe Mr. Clark was raising his hand.

Chair Peeples – Okay. I'm sorry. Mr. Clark?

Mr. Clark – Thank you. I have a quick question for Ms. Munson. I know we're discussing a vote on the discipline matter. If the attorney is only requested a continuance on the discipline matter and not the new application, do we have the authority to postpone both of those knowing that they are tied together?

Ms. Munson – Mr. Griffin is coming out of his chair.

Mr. Griffin – If you know they're represented, it's generally you just resolve everything when counsel is present.

Mr. Clark – Thank you.

Ms. Munson – I didn't know what he was going to say, but yes, that's exactly what I would suggest.

Mr. Clark – Thank you so much. Thank you, Madam Chair.

Chair Peeples – Thank you. Mr. Clark. Ms. Simon, could you do a roll call vote, please?

Ms. Simon – Yes, ma'am. For those in favor of postponing this matter until the February agenda, say yay. Those not, say nay.
Mr. Clark?

Mr. Clark – Yes.

Ms. Simon – Mr. Brandenburg?

Mr. Brandenburg – Yes.

Ms. Simon – Mr. Ferreira?

Mr. Ferreira – Yes.

Ms. Simon – Ms. Clay?

Ms. Clay – Yes.

Ms. Simon – Mr. Jensen?

Mr. Jensen – No.

Ms. Simon – Mr. Jones?

Mr. Jones – No.

Ms. Simon – Ms. Liotta?

Ms. Liotta – Yes.

Ms. Simon – Rabbi Lyons?

Rabbi Lyons – Yes.

Ms. Simon – Mr. Williams?

Chair Peeples – Mr. Williams is recused, ma'am.

Ms. Simon – Thank you. And Madam Chair?

Chair Peeples – No.

Ms. Simon – That motion passes.

Chair Peeples – Thank you.

Ms. Simon – As that matter has been continued till February, may I move on to the next matter on the agenda?

Chair Peeples – Yes, ma'am.

(c) Goldberg, Justin: DFS Case No. 280017-21-FC, Division No. ATN-35604 (F064462)

Ms. Simon – Is there a representative of Mr. Goldberg on the line today?

Ms. Wiener – Yes. Wendy Wiener, here for Justin Goldberg.

Ms. Simon – Thank you, Ms. Wiener. 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 Final Order by Hearing Not Involving Disputed Issues of Material Fact (Motion) in the matter of Justin Goldberg (Respondent). The Division alleges Respondent became a beneficiary of a financial arrangement designed to pay for chapter 497, Florida Statutes, merchandise or services. The Motion demonstrates Respondent has alleged that there are no material facts in dispute. However, the Respondent is alleging that there are facts, the undisputed facts do not constitute a violation of law. So, after the Board determines whether or not the Respondent has elected an informal hearing and voted on that, then we'll need to have argument as to whether or not the facts of the Administrative Complaint, as alleged, constitute a violation of law.

Chair Peeples – Thank you, Ms. Griffin. Board members?

MOTION: Mr. Jensen moved that Respondent has waived her right to a request to proceeding in this matter. Mr. Jones 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.

Chair Peeples – Board members?

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

Chair Peeples – Mr. Griffin?

Mr. Griffin – The Department asserts that the Board's findings of fact, as alleged, support a finding of violations of Chapter 497, Florida Statutes. Specifically, the Department has provided the Board with an audio recording of Justin Goldberg calling Prudential with the proposed {inaudible} insured. There's an audio recording about four (4) minutes long, where Justin Goldberg identifies himself as "I'm trying to become the beneficiary on this policy." The Board packet also contains documentation which shows that in April of 2019, Justin Goldberg executed a document where there's an application to make Mr. Goldberg a beneficiary on this policy and then it was later attempted to be changed in May. The Department would assert that notwithstanding, the Department is aware that notwithstanding, we anticipate that the Respondent may argue that the named insured, you know, that this was all action of the named insured. However, I think that this Board should give that argument no weight when you consider the fact that you literally have a telephone call from the named insured involving himself in this process.

Chair Peeples – Ms. Wiener, is this appropriate time for you to kind of address the Board, ma'am?

Ms. Wiener – I believe it is. Thank you, Madam Chair. Good morning, again, Board members. So that's actually not the argument that we're going to make. Mr. Goldberg did become the beneficiary of a life insurance policy. However, that's not

unlawful. It's not a violation of Chapter 497. This case absolutely should be dismissed out of hand. It is legally impossible for Mr. Goldberg to have violated the law that he is charged with violating. Let's talk about that law for a moment. The law prohibits any arrangement to provide merchandise or services as defined in the chapter by which payment is different than authorized in the law and by which the provider of merchandise or services is a beneficiary. So, let's look carefully at that language. It prohibits a provider of merchandise or services from becoming that beneficiary. Mr. Goldberg is not a provider of merchandise or services. He works for a provider of merchandise or services. But this case is not against the one he works for. This is a case against Mr. Goldberg. Mr. Goldberg cannot provide merchandise or services. He's not a funeral home. He's not the owner of a funeral home. He's not a cemetery. He is not a licensee other than he is a sales agent. So, there is no legal way he could violate this law because he's simply not a provider of merchandise or services.

Then let's talk about the fact that the thing that was going to be purchased with these insurance proceeds, and I'll sum up 205 pages of Board materials momentarily. But the thing that was going to be acquired was a private estate. So, let's sum up that 205-pages in your Board packet. Mr. Summers, elderly gentleman, bought a mausoleum crypt for his deceased wife. He visited nearly daily, and he brought lots and lots of household items and placed them in front of the crypt. The placement of those items was becoming an inhibition for others to visit their loved ones. And Mr. Goldberg was tasked with speaking to Mr. Summers about this situation. And so, they looked at some other options for Mr. Summers. And Mr. Summers really, as you can tell from reading your Board packet, Mr. Summers warms up quickly to everyone he engages with. He offered to make the insurance investigator for Prudential the beneficiary of his policy. He offered to make the investigator for the State, not the investigator, not a beneficiary, but he offered some you can stay in my house, you can drive my extra car. He warms up to whoever he's interacting with. And he was interacting with Mr. Goldberg quite a bit. So, they looked at other options for Mr. Summers' wife, including transfer to another mausoleum space or building a private estate. Mr. Summers decided on a private estate, but he didn't have the funds to do that without gaining access to his insurance policy benefits. So, they looked at life settlement. That was not an option for Mr. Summers. He tried to assign the policy to the cemetery, but that ended up failing. And ultimately, he asked Mr. Goldberg, begged Mr. Goldberg, to become the beneficiary of the policy so that upon Mr. Summer's death, Mr. Goldberg, with the insurance proceeds, could buy an interment right, the private estate and anything else that was needed in order for he and his wife to both be entombed in a private estate.

Mr. Summers is a sad elderly gentleman. He visited that cemetery over and over and over. He called Mr. Goldberg his son. Mr. Goldberg took pity on him. He begged Mr. Goldberg to accept his life insurance proceeds. But what Justin Goldberg did not agree to do was he did not agree to provide mausoleum spaces because he doesn't have mausoleum spaces or merchandise or services to provide. And so, it is legally impossible for this Board to find that the fact that he became the beneficiary of this policy completely with the knowledge and at that moment understanding of Mr. Summers as is borne out completely. I hope that each of you Board members took some time to read through this file and read carefully the very thorough report from the Prudential investigator. And you can hear, on the audio recording that Mr. Griffin made mention of, you can hear Mr. Summers in the background. You can hear them talking. The investigator for Prudential even identifies that he's saying, "Oh, you're like my son. Oh, it's going to be -- this is -- " Mr. Goldberg is comforting him. There are words, nice words being exchanged between them. He's obviously there. It was confirmed that he was there. He voluntarily made Mr. Goldberg the beneficiary of this life policy so that Mr. Goldberg could do the thing that Mr. Summers couldn't do, which was to pay for a private estate and have his wife transferred there. But no matter what, at the end of the day, the law is clear that the provider of merchandise or services is the one that is restricted by this law, because what this law is meant to do is it's meant to ensure that every arrangement to pay for funeral goods and services, to pay the funeral home, to pay the cemetery for goods and services is as established in Chapter 497. There's just no case against Mr. Goldberg. Just as the insurance investigator for Prudential found, the allegations in this case are unsubstantiated.

Mr. Griffin – If I may, a brief rebuttal.

Chair Peoples – Yes, sir, Mr. Griffin.

Mr. Griffin – So, let's start off with Mr. Goldberg provide services by working for a cemetery that sells mausoleums. And as a sales agent for that cemetery, he's providing the service of selling stuff to people on behalf of his employer. Number two, this is not property. This is a mausoleum. These are things that are covered by Chapter 497. Number three, a desire to help somebody does not obviate a violation. You know, counsel for Respondent pointed out that Mr. Summers offered the Department investigators and somebody from Prudential to become beneficiaries. Do you know what those two (2) people did versus what Mr. Goldberg did? They said no. Mr. Goldberg could have done this whole arrangement the correct way.

Instead, he chose not to do it correctly. Finally, you have to make your decision based off of the facts in front of you. Most of what Ms. Wiener has talked about is something that needs to be testified to by Mr. Goldberg. He's not here today. So, in as much as she speaks to what hypothetically may have happened, you need to hear some sort of evidence here. And there's nothing there. So, in as much as, like, her argument is not fact. And that's what the Department would point to. So, we would argue that there is sufficient evidence to show that Mr. Goldberg violated the statutes as charged in the Administrative Complaint.

Chair Peeples – Ms. Wiener?

Ms. Wiener – Thank you. First of all, a mausoleum space is an interment right. It's not services, and it is not merchandise. The provider of services and merchandise contemplated in this law is clearly the funeral establishment or the cemetery, not the individual preneed salesperson. He was a preneed salesperson. The only service he could provide was selling a preneed contract. He was not licensed as a funeral director. He was not going to provide funeral services. He was not licensed as a cemetery. We don't license cemetery salespeople in Florida. He was not going to provide cemetery services. He had no services or merchandise or interment rights to provide. There is no testimony necessary in this case because there is no allegation. There is no capacity for this Board to find that Mr. Goldberg had anything to provide that he could sell. He was not selling the mausoleum. That's the thing that is the subject of this case is a private estate, an interment right. And a private estate is not merchandise. A private estate is an interment right. It's an entombment right, but we refer to it as an interment right. He could not sell that. He offered, upon request from Mr. Summers, to become the beneficiary of this policy so that he could actually buy something from the provider of the cemetery space and the services and the merchandise. He wanted to buy it. He wasn't going to provide it. He was going to buy it. If he got the money, even if he got the money and kept the money, there was no way for him to provide it. He has to actually buy it from a licensee, which is not in violation of the law. Anyone can agree, whether they're licensed or not, to buy someone an interment right, no matter how they receive those funds.

Rabbi Lyons – Madam Chair?

Chair Peeples – Thank you, Ms. Wiener. Rabbi Lyons?

Rabbi Lyons – So, Ms. Wiener, if you have a situation and somebody is trying to pay for interment rights that they can't afford but they have a life insurance policy, the way that you're understanding the law is that for the cemetery to become the beneficiary of that policy, that would be in violation of the law. But for a salesperson to personally become the beneficiary of that life insurance policy, where that salesperson could be completely unscrupulous and might be in the act of taking advantage of an elderly person who is not in the capacity to make that decision, and they don't need to work for the cemetery anymore, because now they have a quarter million dollar life insurance policy that they're the beneficiary of, that that is not a violation of law.

Ms. Wiener – It's simply not a violation of the law. It may smack of some impropriety. But as you can see from a careful reading of the Prudential investigator's report, that is simply not a violation of the law. What if Mr. Summers was actually related to Mr. Goldberg? Could he then leave the life insurance policy to him? What if they were lifelong friends? What if they were neighbors down the street? There's no actual violation of the law. This feels like you want to say, oh, gosh, well, you were a preneed sales agent. Why did you become the beneficiary of this life insurance policy?

Rabbi Lyons – How did you personally become the beneficiary?

Ms. Wiener – That's right. But it wasn't simply a preneed sales agent relationship. This man came every day and cried and begged and talked. And they talked, and they talked, and they talked. And Mr. Goldberg thought he was doing a kindness for Mr. Summers. Now the appropriate way to do this would be to assign the insurance policy to the cemetery. That can happen.

Rabbi Lyons – But you just said that's a violation of the law.

Ms. Wiener – I said becoming a beneficiary is a violation of the law. It is a meaningful distinction. But the cemetery, because of Mr. Summer's erratic behavior, I believe, decided that it did not want to accept an assignment of those policies. So, Mr.

Goldberg, after much begging and pleading from Mr. Summers, agreed to become the beneficiary of the life policy for the sole purpose of buying this private estate and nothing more.

Rabbi Lyons – Madam Chair?

Chair Peeples – Yes, sir. Rabbi Lyons? Then Mr. Griffin.

Rabbi Lyons – Can you, Ms. Wiener, please explain the meaningful distinction between the cemetery having this policy assigned and the cemetery becoming the beneficiary of the policy?

Ms. Wiener – It's just a distinction in insurance law. It's a violation of a funeral home or a cemetery, a Chapter 497 licensee, to become a beneficiary of a life insurance policy. It is not a violation for them to receive an assignment. It's sort of a distinction without a difference, but it is what the law says.

Mr. Jensen – An assignment is only allowed on an at-need basis.

Chair Peeples – Mr. Jensen? Excuse me. Mr. Griffin was next, sir.

Mr. Griffin – Just briefly, two (2) things. One, Prudential does not investigate Chapter 497 licensees. They investigate insurance agents that are appointed with them. So, in as much as counsel for Respondent talks about Prudential found no violation, that's not relevant. Number two, I think the entire case of the Respondent falls apart with three (3) words that were just said by counsel for Respondent. "The appropriate way" to do this. An appropriate way implies there's an inappropriate way to do it. So, the Department rests.

Chair Peeples – Excuse me. Ms. Wiener, just real quick. Mr. Jensen, you were next, sir, then Ms. Wiener.

Mr. Jensen – Yes, one comment. And then a question for Mr. Griffin. As far as for Rabbi Lyons, I think the distinction is that in an at-need situation, you can have an insurance assignable. But on a preneed basis, you cannot. Now here's the question I have for Mr. Griffin. Although I do agree with Ms. Wiener that it is okay for Mr. Goldberg to be a beneficiary on that insurance. I mean, that is perfectly legal. However, I do believe Mr. Summers probably looked at Mr. Goldberg as the provider. So how do we distinguish that, is what I'm trying to grab a hold of here.

Mr. Griffin – And I think that that's the Department's entire argument is that Mr. Goldberg, as an agent of the company that was going to provide the services, that's the link.

Mr. Jensen – But technically, that's not illegal. Right? It's a little fishy, I agree. But is it, in fact, illegal?

Mr. Griffin – The Department asserts it's illegal. But I mean, the Board is permitted to make its own judgment.

Chair Peeples – Mr. Jensen, does that complete your questions and comments?

Mr. Jensen – Yes, ma'am. Thank you.

Chair Peeples – Thank you. Ms. Wiener?

Ms. Wiener – Thank you. To Mr. Jensen's comment, the evidence that Mr. Summers understood that Mr. Goldberg was not the provider is found in your Board packet. There are many, many references within your Board packet to Mr. Summers trying to buy the private estate from the cemetery. And ultimately, as you can see, he does actually buy it from The Gardens, another cemetery nearby, and he actually changes the beneficiary of the policy to The Gardens, or maybe he assigns the policy to The Gardens. Whatever the case may be, he does understand that Mr. Goldberg is not going to be the provider, but that Mr. Goldberg is going to be the purchaser of the private estate upon Mr. Summers' death. And Mr. Goldberg is here.

Chair Peeples – Ms. Wiener, if that completes yours, Mr. Griffin had his hand up next. Mr. Griffin?

Mr. Griffin – Page 194. There's the contract. It literally lists the purchaser as Mr. Summers, the seller as SCI with Goldberg signing on behalf of it. So, any sort of idea that there was going to be some sort of agreement for Mr. Goldberg to purchase it, I think it's once again defeated by the plain language of the document. It speaks for itself.

Ms. Wiener – I'm sorry.

Chair Peeples – Go ahead, Ms. Wiener.

Ms. Wiener – If that's the case, then Mr. Goldberg was just going to become the beneficiary of the life insurance policy, and he had nothing to do with this arrangement. And so that's why my argument defeats your argument. Mr. Goldberg agreed to help Mr. Summers get into a private mausoleum with his wife at his death. It was the only way that that was going to happen at the SCI Funeral Home. The provider indicated on the very contract, at Page 194 is, in fact, SCI. It's Forest Lawn. It's the cemetery. Mr. Goldberg was not the provider. It wasn't a contract for Mr. Goldberg to provide. He was the sales agent writing up the contract so that upon Mr. Summers' death, Mr. Summers was putting down the 5%, and upon his death, Mr. Goldberg could, in fact, pay for the rest of the contract for Mr. Summers. Obviously, there was a two-party contract. Mr. Goldberg is simply a preneed sales agent. He wasn't agreeing to provide the mausoleum. He didn't have that mausoleum to provide. Nothing on that contract, if you look carefully at that contract, and I had it on pages 191 and 192, but if you look carefully on that contract, you will see that there's not a single thing that Mr. Goldberg could provide to Mr. Summers before his death or after his death. All of those things had to be provided by the cemetery. Now you may not, as Board members, like this situation. But that does not mean that what occurred here is a violation of Chapter 497. What has been charged is a single charge, and that is that Mr. Goldberg was a provider of merchandise and services. We're not talking about merchandise and services here. I think those of you in industry on this Board know the difference between merchandise and services and an internment right. The gentleman was trying to acquire internment rights. So, in order for you to find that Mr. Goldberg violated this law, you have to find that he was a provider of merchandise and services. Without that finding, you cannot find that he violated this law.

Chair Peeples – Thank you, Ms. Wiener. Mr. Griffin, then Mr. Jensen.

Mr. Griffin – I think then this will be the last time. I would just point Page 192. It's not just buying internment rights. You're buying a bench. You're buying vases. You're buying a \$50,000 building. So, the Department has provided more than enough sufficient evidence to find a violation in this matter.

Chair Peeples – Thank you, Mr. Griffin. Mr. Jensen?

Mr. Jensen – Yes, I'd like to point out the Division's complaint is that Mr. Goldberg became a beneficiary of a financial arrangement designed to pay for a Chapter 497 merchandise or services. I mean, although it is fishy, again, I would like to ask Mr. Griffin, this is not a crime for this gentleman, Mr. Goldberg, to be a beneficiary of the insurance policy. So exactly what is the problem?

Mr. Griffin – I don't think that's a crime. I think that's your vote. That's not a, I mean...

Mr. Jensen – Legally, he can become a beneficiary of someone's life insurance if they want to make him a beneficiary. Whether Mr. Summers is all together there or not, that's to be determined maybe by a court or someone other than us. So, he can legally become a beneficiary. I do believe, yes, it does seem a little fishy just how this went on. And I understand what Mr. Goldberg was trying to accomplish here. However, I sort of have to agree with Ms. Wiener. What exactly rule did he violate? I don't see that here other than it just smells funny.

Mr. Griffin – So, the Department would point to the statutes that we allege in the Administrative Complaint. That's our position is that he violated both Sections 497.152(1)(b) and 497.170(1).

Mr. Jensen – I respectfully disagree, Chair, with Mr. Griffin on that he violated that because I do believe he can be a beneficiary. That's all I have. Thank you.

Chair Peebles – Thank you, Mr. Jensen. Ms. Wiener, you're representing Mr. Goldberg, but I noticed he is on this call today. Would you like to have him speak to the Board? If so, we would need to swear him in. Or are you speaking on behalf of him?

Ms. Wiener – Only if there is a specific question for him on this matter. Because this is a matter not involving material fact, in as much as Mr. Goldberg did become a beneficiary on this life insurance policy, this is a legal issue for the Board to determine. As Mr. Jensen said, it was not unlawful for Mr. Goldberg to become a beneficiary on a policy. That only becomes a violation of either of the statutes alleged as violated if, in fact, Mr. Goldberg is a provider of merchandise or services. He was a preneed sales agent. He was a provider of nothing at-need, certainly. He was a preneed sales agent. He was authorized by law to sell a preneed contract. Period. Nothing more. He was not a provider. So, that is our position that he could not have violated this law or either of those laws. One is predicated on the other. He could not have violated the law because he was not a provider.

Chair Peebles – Thank you, Ms. Wiener. Rabbi Lyons?

Rabbi Lyons – Thank you. One comment. I know there was some back and forth about internment rights being a service or merchandise or whatnot. And I see on the contract that there's an inscription, there's a right, there's interment services. So, I mean, all of those are services. That's a comment. Question for Mr. Griffin. What would you recommend as a disciplinary action?

Mr. Griffin – Well, we can't get to that point yet. That's premature. First, the Board needs to vote on whether or not he violated the law, so there would need to be a motion and a vote before we got to that point.

Chair Peebles – Thank you, Rabbi Lyons. We are at the area now to where, as Mr. Griffin stated, that we need to take a motion if he violated 497 Florida Statutes. What's the Board's pleasure?

MOTION: Mr. Ferreira moved to find the Respondent did not violate the statutes as charged in the Administrative Complaint. Mr. Jensen seconded the motion.

Chair Peebles – Is there any discussion on the motion? Hearing none, Ms. Simon, if you'll take a roll call vote on this, please, ma'am. Thank you.

Ms. Simon – Those agreeing with the motion, please say aye. Those not, nay. Mr. Clark?

Mr. Clark – Aye.

Ms. Simon – Ms. Clay?

Ms. Clay – Aye.

Ms. Simon – Mr. Brandenburg?

Mr. Brandenburg – Aye.

Ms. Simon – Mr. Ferrara?

Mr. Ferrara – Aye.

Ms. Simon – Mr. Jensen?

Mr. Jensen – Aye.

Ms. Simon – Mr. Jones?

Mr. Jones – Nay.

Ms. Simon – Ms. Liotta?

Ms. Liotta – Aye.

Ms. Simon – Rabbi Lyons?

Rabbi Lyons – No.

Ms. Simon – Mr. Williams?

Chair Peeples – He is recused, ma'am.

Ms. Simon – Excuse me. And Madam Chair?

Chair Peeples – Aye.

Ms. Simon – And that motion passes.

Chair Peeples – Thank you, Ms. Wiener.

Ms. Wiener – Thank you, Board.

Ms. Munson – Procedurally, that's a dismissal of the AC.

Chair Peeples – Yes, ma'am.

Ms. Munson – I'm just noting.

Ms. Simon – Shall I continue with the agenda, Madam Chair?

Chair Peeples – Can we take a 10-minute short break so we can come back and complete the agenda items hopefully between 12:30 and 1? It's 11:45. Let's come back at 11:55, please. Thank you.

*****BREAK*****

Ms. Simon – Madam Chair, if I could begin with the rest of the agenda?

Chair Peeples – Yes, ma'am. It's 11:56. Let's return, please.

(d) Jackson, Melinda Mezeline: DFS Case No. 287709-21-FC, Division No. ATN-37705 (F042470)

Ms. Simon – Is Ms. Jackson or representative of Ms. Jackson on the call? Hearing no response. Ms. Marshall?

Ms. Marshall – Thank you. Kimberly Marshall for the Department. The above-referenced matter is presented to the Board for consideration of the Motion for Final Order by Hearing Not Involving Disputed Issues of Material Fact (Motion) in the matter of Melinda Mezeline Jackson. The Respondent would at all times material to the complaint was the funeral director in charge ("FDIC") of A Mortuary Service LLC ("Mortuary Service"), a funeral establishment licensed under chapter 497, Florida Statutes, license number F234250. The Division alleges that the funeral establishment advertised preneed sales without the benefit of licensure and demonstrated negligence or incompetency in the practice of activities regulated under chapter 497, Florida Statutes. As FDIC, Respondent is responsible for these violations. 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. At this time, it will be appropriate for the Chair to entertain a motion determining that the Respondent has alleged there are no material facts in dispute and as requested an informal hearing in this matter.

MOTION: Mr. Brandenburg moved that Respondent has alleged there are no material facts in dispute and as requested an informal hearing in this matter. Ms. Clay seconded the motion, which passed unanimously.

Chair Peeples – Ms. Marshall?

Ms. Marshall – Thank you. Now that the Board has determined that the Respondent has requested an informal hearing in this matter, the Department believes it's appropriate for the Chair to entertain a motion adopting the allegations of fact as set forth in the Administrative Complaint.

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

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

Chair Peeples – Board members?

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

Ms. Marshall – 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. Now it would be appropriate for the Board to discuss penalty in this case.

Chair Peeples – Thank you, Ms. Marshall. Could you provide us what the ranges are, please, ma'am?

Ms. Marshall – Yes, one moment. I will get that for you. The guidelines, for this violation calls for a reprimand, a fine of \$1000 to \$2,500 plus costs. In addition, probation for six (6) months to one (1) year with conditions, suspension up to one (1) year, permanent revocation and restitution.

Mr. Jensen – Madam Chair?

Chair Peeples – Yes, sir. Mr. Jensen?

Mr. Jensen – Question for the Department. What are they wanting as a resolution to this?

Chair Peeples – Ms. Marshall, would that be for you?

Ms. Marshall – One moment, please.

Chair Peeples – Yes, ma'am.

Ms. Simon – Madam Chair?

Chair Peeples – Yes, ma'am, Ms. Simon?

Ms. Simon – If I may? Previously, for a violation of this type, we have, I believe, done \$1,250 and a one-year probation. Ms. Marshall may want to weigh in on that, but that's my understanding.

Ms. Marshall – I'm sorry, what was the recommendation from Ms. Simon?

Ms. Simon – Typically, what has happened in this case in the past, I believe, is \$1,250 and a one-year probation.

Ms. Marshall – And we're fine with that if that is the standard offered in these sorts of cases.

Chair Peeples – Mr. Jensen, did that complete your item?

Mr. Jensen – Madam Chair, that did complete my item.

MOTION: Mr. Jensen moved that the Respondent shall pay a \$1,250 fine and have her licensed placed on a one-year probation. Mr. Ferreira seconded the motion, which passed unanimously.

Rabbi Lyons – Madam Chair?

Chair Peeples – Yes, sir. Rabbi Lyons.

I may have missed it. I apologize. Did we ask if there was a representative on the call?

Chair Peeples – Yes, sir. We did.

Rabbi Lyons – Okay. Excellent.

Chair Peeples – Thank you. I appreciate that.

(e) Pinder, Rosalind Ann: DFS Case Nos.: 294356-22-FC and 295162-22-FC, Division Nos. ATN-38754 & ATN-38571 (F043106)

Ms. Simon – Is Ms. Pinder or a representative of Ms. Pinder on the call today? Hearing no response. Ms. Marshall?

Ms. Marshall – Thank you. Kimberly Marshall for the Department. This 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 Rosalind Ann Pinder (Respondent). The Division alleges that the Respondent engaged in the following misconduct while Respondent was acting as FDIC for an establishment. The establishment advertised preneed services while not being properly licensed to do so. While Respondent was acting as FDIC for an establishment, the establishment failed to pay fees owed to the Miami-Dade County Medical Examiner. The Motion demonstrates Respondent failed to timely file a responsive pleading contesting the allegations in the Administrative Complaint and requests the Board adopt the factual allegations in the Administrative Complaint and issue an appropriate penalty. So, at this time, it will be appropriate for the Chair to entertain a motion determining whether the Respondent has waived its right to a hearing under Section 120.57(1), Florida Statutes, due to their failure to timely file a response.

MOTION: Mr. Brandenburg moved that Respondent has waived her right to request a proceeding in this matter. Mr. Clark seconded the motion, which passed unanimously.

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

Chair Peeples – Board members?

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

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

Chair Peeples – Mr. Jensen?

Mr. Jensen – Yes, question for the Department. I see two (2) engagements here. Number one, preneed without a license, I get. Number two, I have a little question about whether we have a right to enforce that. It is state law that the medical examiner signoff on all cremations. However, I do know that counties have enacted some of these fees where the county [inaudible]. But is that our responsibility under 497? I don't find that anywhere.

Ms. Marshall – So, the Miami-Dade County Medical Examiner, specifically in Miami-Dade County, has placed its fee schedule in a municipal ordinance not simply in a document that they have promulgated, but it's actually in an ordinance. It has force of law. It is as effective as if they had violated a provision of Chapter 497. It is a legal violation, an amount owed to a governmental entity. And that is the reason that with Miami-Dade County specifically, we have been charging people for failing to pay this fee.

Chair Peeples – Mr. Jensen, does that complete your question?

Mr. Jensen – Well, yes and no, but I'll have to live with that. Thank you.

Chair Peeples – Okay. Is there a motion for the violation of Florida Statutes?

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

Rabbi Lyons – Madam Chair?

Mr. Brandenburg – Whoever is Caller 1 is interrupting the meeting.

Chair Peeples – Folks, if you are connecting by phone, please mute your phone. We have background conversations going on, and we cannot complete the business of the Board. So please mute your calls.

Rabbi Lyons – Madam Chair?

Chair Peeples – Yes, sir, Rabbi Lyons?

Rabbi Lyons – Can we ask Ms. Bryant to please mute Caller 15?

Ms. Clay – As well as Caller Number 1.

Chair Peeples – Ms. Bryant, is that an item you can assist us with, ma'am?

Rabbi Lyons – Thank you.

Ms. Simon – That is being done, Madam Chair.

Chair Peeples – Thank you. We appreciate that. Ms. Marshall.

Ms. Marshall – Thank you. 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 would recommend in this case a fine of \$2,000 and two (2) years of probation, if I may explain for a moment where I got that amount from. Count 1 is concerning selling preneed without a license, which the standard penalty on that is \$1250 plus a year of probation. Then Count 2 for failing to pay the medical examiner fees is a separate \$750 and six (6) months of probation. So, a total of \$2000 in fines and eighteen (18) months for probation.

Chair Peeples – Thank you, Ms. Marshall. Board members, what's your pleasure?

MOTION: Mr. Brandenburg moved that the Respondent shall pay a \$2,000 fine and have her license placed on a two-year probation. Ms. Liotta seconded the motion, which passed unanimously.

- (f) *SCI Funeral Services of Florida, LLC – Dade North d/b/a Caballero Rivero Dade North: DFS Case No. 297779-22-FC, Division No. ATN-38303 (F039496)*

Ms. Simon – This matter has been withdrawn.

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) *Cremation Association of North America (16008)*
(c) *International Order of the Golden Rule (2201)*
(d) *National Funeral Directors Association (136)*
(e) *The Dodge Institute for Advanced Mortuary Stu (81)*
(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.

Chair Peeples – Do we have a motion?

MOTION: Ms. Liotta moved to approve the applications. Mr. Ferreira seconded the motion, which passed unanimously.

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

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

Mr. Ferreira – Ms. Chair?

Chair Peeples – Yes, Mr. Ferreira?

Mr. Ferreira – I'm on this part, so I'm going to step away from this.

Chair Peeples – Thank you, Mr. Ferreira. Board members, what is your pleasure for a motion?

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

H. Application(s) for Embalmer Apprentice
(1) *Informational Item (Licenses Issued without Conditions) – Addendum D*
(a) *Callard, Amanda N F638772*
(b) *Carton, Donald C F638707*
(c) *Iverson, Jessica L F638971*
(d) *Lovette, Sydney K F638744*

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

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

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

(a) Funeral Director (Internship and Exam)

1. Ennis, Emily A
2. Hall, Nora E
3. Spence, Matthew K
4. Weems, Roy E

(b) Funeral Director and Embalmer (Endorsement)

1. Bailey, Michael D
2. Morrison Jr, Ted A
3. Smartt, Melissa D
4. Smith, Abigail N
5. Wolf, Keri D

(c) Funeral Director and Embalmer (Internship and Exam)

1. Dockins, Lula M
2. Merkel, Suzanne L
3. Somerville, David N
4. Walker, Brittany K
5. Webster, Diane M
6. Zylka, Hammah E

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.

(2) Recommended for Approval with Conditions (Examination)

(a) Funeral Director and Embalmer (Endorsement)

1. Nelson, Gene P

Ms. Simon – An application for a funeral director and embalmer license was received by the Division on June 3, 2022. The application was incomplete when submitted. A completed application was received on July 14, 2022. The applicant’s fingerprints were received with no relevant criminal history. Mr. Nelson has adverse licensing history which is included in your package. Also, the applicant does have a Mortuary Science Degree from Mt Hood Community College; however, the applicant did not take the National Board Examination to become licensed; instead, he only took the California State Law Exam. The Division recommends approval subject to the following conditions:

- 1) That the applicant passes both the Arts and Sciences section of the National Board;
- 2) Pursuant to the Settlement Stipulation included within your Board package, payment of a fine of \$2500; and
- 3) Pursuant to the Settlement Stipulation included within your Board package, that the applicant be placed on probation one (1) year following successful completion of the Florida Laws and Rules examination.

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

Mr. Luke Grabowski –Yes. Madam Chair. Luke Grabowski here from Pennington Law Firm on behalf of Mr. Nelson. And I believe Mr. Nelson is also on the line.

Ms. Simon – If I may?

Chair Peeples – Yes, ma'am, Ms. Simon.

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

Mr. Gene Nelson – Yes, I do.

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

Mr. Nelson – Gene Paul Nelson. N-E-L-S-O-N.

Mr. Clark – Madam Chair?

Chair Peeples – Yes, Mr. Clark?

Mr. Clark – Thank you, Madam Chair. I just need to state for the record that I have a prior affiliation with Mr. Nelson, and I'll recuse myself from this matter.

Chair Peeples – Thank you, Mr. Clark. Mr. Grabowski?

Mr. Grabowski – Yes, thank you, Madam Chair, members of the Board. Again, Luke Grabowski from the Pennington Law Firm on behalf of Mr. Nelson. I want to just briefly address the Board and give some background information about Mr. Nelson's application and also raise an objection to one of the conditions that's been proposed. Namely did Mr. Nelson take the National Board Exam? Mr. Nelson is a licensed funeral director of twenty-eight (28) years. Mr. Nelson graduated and received a degree in mortuary sciences in California in 1994. Then immediately thereafter took the California state exam. In 1994, California, like many states, did not recognize the National Board Exam [inaudible]. California actually didn't recognize that exam until sixteen (16) years later in 2010. Mr. Nelson passed the exam and spent the next twenty-seven (27) years practicing as a funeral director in California. Last year, Mr. Nelson made the decision to move to Florida with his wife. Purchased a funeral home, which they did, and the Board approved that late last year. And today, he's seeking the final piece of this puzzle, which is obtaining his funeral director embalmer license, which will allow him to operate his own funeral home, which he is unfortunately not able to do since he moved to Florida. The condition that we are objecting to, again, is the requirement that he takes the National Board Exam. We believe this condition is inequitable not only because Mr. Nelson is a funeral director with nearly three (3) decades of experience, but because it's simply not a requirement for this application under Florida law.

As you all know, the application for licensure by endorsement are governed by Sections 497.369, and 497.374 of the Florida Statutes. Both of those provisions were amended by HB 959 last year, and those changes took effect as of July of 2022. A majority of those provisions were left as they are. An applicant must submit an application, the application fee, must pass an exam on communicable diseases, must take the Florida Laws and Rules exam, must submit a background check. There's one (1) other requirement under both of those sections, and it gives applicants two (2) options to proceed with their application. The first is under Section 497.369(1)(b)1. It is a very clear requirement that says, and I'm going to quote the statute here, "Holds a valid license in good standing to practice embalming in another state of the United States and has engaged in the full-time, licensed practice of embalming in that state for at least 5 years." And then it says 'or.' And that's a very important word. The legislature chose to use the word 'or' and not 'and.' The second requirement is they can have that qualification, or they can meet the requirements for licensure by examination, which requires taking the National Board Exam.

I've diligently researched this issue, and I will represent to the Board there is no requirement in Florida law for an applicant by endorsement to complete the National Board Exam based on that provision I just read. The applicant must simply show that they have an active license in another state, which Mr. Nelson has, and they have engaged in a full-time practice for at least five (5) years, again, which Mr. Nelson has done. I also think it's important to note that both these provisions also specify that when an applicant has taken a state specific exam, there is now a presumption under Florida law that that exam is substantially equivalent to the requirements of Florida, which would be the National Board Exam. So, I think that demonstrates the legislative intent and what was done last year with those amendments to open up licensure by endorsement, so long as those minimum qualifications are met. And again, I will represent to this Board there's nothing in Florida law that requires Mr. Nelson to take the National Board Exam with this application. I also think the Board has already addressed this issue. I believe at the November meeting last year this Board did approve an application for funeral director by endorsement. The applicant did not complete both provisions of the National Board because the applicant met those minimal practice requirements. So, we would simply ask the Board to apply that same analysis to Mr. Nelson. And based on the clear wording of the statutes, we would ask the Board to approve this application without the condition that he take the National Board Exam. And with that, I'd be happy to answer any questions the Board may have.

Chair Peeples – Board members, does anyone have a question for Mr. Grabowski? Hearing none, what is the pleasure of the Board for this application?

Mr. Jensen – Madam Chair?

Chair Peeples – Yes, sir. Mr. Jensen.

Mr. Jensen – I do have a question for the Department. I know that we went through this situation here back where the legislature making it easier for funeral directors coming from other states. I do understand that. What is the Department's position on this? And also, why do we have a fine here of a couple thousand dollars? What did he do wrong to incur a fine?

Ms. Simon – If I may?

Chair Peeples – Yes, Ms. Simon.

Ms. Simon – It is our position that the applicant is required to take the National Exam in order to be licensed in this state. And the fine is based on circumstances that occurred prior to licensure for which the applicant has entered into a Settlement Stipulation for that fine and probation. Mr. Grabowski, is that correct?

Mr. Grabowski – Yes. Madam Chair, if I may?

Chair Peeples – Yes, sir.

Mr. Grabowski – We fully acknowledge, and this was something I addressed with the Board late last year. When Mr. Nelson moved to Florida, he was under some pretty dire circumstances and made a mistake in that he failed to notify the Division timely of his purchase of a funeral home. When Mr. Nelson learned of that mistake, and it was, I want to say within a month or so of it happening, Mr. Nelson actually contacted me, and I alerted the Division to this fact. And that's why it was presented to the Board last year. He simply made a mistake and wanted to make up for it. So that's why we brought it to the Division's attention. And that's what that additional fine is related to as part of that Settlement Stipulation once his license was issued.

Ms. Simon – So if I may, Mr. Jensen. The reason is because of the unlicensed activity that occurred upon Mr. Nelson's entry into the state.

Mr. Jensen – Very good. Thank you.

Chair Peeples – Any other Board members have any questions for Mr. Grabowski? Mr. Brandenburg? You are muted, sir. Mr. Brandenburg, you're muted.

MOTION: Mr. Brandenburg moved to approve the application subject to conditions 2) and 3) recommended by the Division. Ms. Liotta seconded the motion.

Chair Peeples – Is there any discussion on the motion? Mr. Jensen.

Mr. Jensen – Yes, Madam Chair. I'll just like to state that I think we're setting a dangerous precedent here. I mean, our laws in Florida, and a lot of states have different laws, but Florida has certain laws that the National Board should be taken. And that's for a reason. We have a lot of retirees, and it's out there to protect the consumers, so forth. Not to say that this gentleman has not been a good upstanding funeral director in California. That has nothing to do with it, and it's not a personal thing. It's just the rules for the State of Florida, so I would caution the Board that we may be setting a scary precedent here. That's all, Madam Chair.

Chair Peeples – Thank you, Mr. Jensen. We have a motion with conditions number two (2) and three (3). It does not include condition one (1). We have a second by Ms. Liotta. Is there any other discussion on the motion? Ms. Simon, if you will take a roll call vote, please, ma'am, on this item?

Ms. Simon – Yes, ma'am. The motion by Mr. Brandenburg is to approve the application subject only to conditions two (2) and three (3). If you approve that, please say aye. If you do not approve, nay. Mr. Clark?

Mr. Clark – I'm recused.

Ms. Simon – Okay. Thank you. Mr. Brandenburg?

Mr. Brandenburg – Aye.

Ms. Simon – Mr. Ferreira?

Mr. Ferreira – Yes.

Ms. Simon – Mr. Jensen?

Mr. Jensen – No.

Ms. Simon – Mr. Jones?

Mr. Jones – Sorry. Yes.

Ms. Simon – Ms. Liotta?

Ms. Liotta – Yes.

Ms. Simon – Rabbi Lyons?

Rabbi Lyons – Yes.

Ms. Simon – Mr. Williams?

Mr. Williams – Yes.

Ms. Simon – Ms. Clay?

Ms. Clay – No.

Ms. Simon – Madam Chair?

Chair Peeples – No.

Ms. Simon – That motion passes.

Chair Peeples – Thank you, Ms. Simon. Thank you, Mr. Grabowski.

Mr. Grabowski – Thank you, Madam Chair.

J. Application(s) for Internship

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

(a) Funeral Director and Embalmer

1. Brunke, Lauren A F635011

2. Mallozzi, Gina M F638697

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

(a) Funeral Director and Embalmer

1. Molina, Jesus D F092100

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

K. Application(s) for Monument Establishment Sales Agent

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

(a) Evans, Terrell O F633640

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

L. Application(s) for Funeral Establishment

(1) Recommended for Approval with Conditions

(a) All Veterans – All Families Burials & Cremations LLC (Sarasota)

Ms. Simon – An application for a funeral establishment based on a change of ownership, was received November 17, 2022. The application was incomplete when submitted. A completed application was received on December 9, 2022. The Funeral Director in Charge will be Jason Jacques (F244994). A background check of the principals revealed no relevant criminal history for the principals. The current establishment does not have a qualifying preneed license; however, an application for a preneed license has been submitted. The licensee did submit a letter stating they will fulfill all unfulfilled preneed contracts. The Division recommends approval subject to the following conditions:

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

Chair Peeples – Board members, what is your pleasure?

Ms. Simon – And if I may, before that, is there a representative of this entity on the call today?

Mr. Jason Jacques – Yes, this is Jason Jacques.

Chair Peeples – Ms. Simon, we did have a gentleman that replied as a representative.

Ms. Simon – Thank you, ma'am.

Mr. Brandenburg – Madam Chair?

Chair Peeples – Yes, sir. Mr. Brandenburg?

Mr. Brandenburg – I'd like to address Ms. Simon and the Division. For example, on Page 9 for these changes of ownership where the signature of the current owner is, would we please include on that the actual name? We can't tell by the signature of the owner. We'd like to know who the owner is.

Ms. Simon – Madam Chair?

Chair Peeples – Yes, ma'am?

Ms. Simon – We can attempt to address that by rule. Currently, we are unable to do that.

Chair Peeples – Thank you, Mr. Brandenburg. We will make a note of your request, and we appreciate you bringing it to our attention. Is there a representative of All Veterans-All Families Burials and Cremations LLC on the call today?

Mr. Jacques – Yes.

Chair Peeples – And can you state your name for the record, please?

Mr. Jacques – My name is Jason Jacques.

Chair Peeples – Can you spell your last name?

Mr. Jacques – Jacques. J-A-C-Q-U-E-S.

Chair Peeples – Thank you, sir. Board members, we have a funeral establishment application before us for this entity. What is the Board members' pleasure? Is there a motion?

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

Chair Peeples – Thank you, Mr. Jacques.

(b) Evans – McDonald Funeral Home LLC (Defuniak Springs)

Ms. Simon – Is there a representative of this entity on the call? Hearing no response. An application for a Funeral Establishment, based on a change of ownership, was received November 3, 2022. The application was incomplete when submitted. A completed application was received on November 23, 2022. A background check of the principals revealed no relevant criminal history for the principals. The current establishment does have a qualifying preneed license. However, an application for a preneed license has not been submitted. The licensee did submit a letter stating they will fulfill all unfulfilled preneed contracts. The purchase of the establishment was on September 8, 2022. The current owner stated they were not aware they had to submit a new application and submitted an application as soon as they were aware. The Division recommends approval subject to the condition that the establishment passes an onsite inspection by a member of Division Staff.

Chair Peeples – Thank you, Ms. Simon. Do we have a motion?

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

M. Application(s) for Preneed Main License

(1) Recommended for Approval without Conditions

(a) Karl N Flagg Serenity Memorial Chapel (F041190) (Palatka)

Ms. Simon –The Department received an application for preneed main licensure on October 17, 2022, which was incomplete at the time of submission. The application was deemed complete on November 22, 2022. A completed background check of all principals was returned without criminal history. Applicant's qualifying funeral establishment license is located at the address

listed on the coversheet of this Board package. If approved, will trust with IFDF and Great Western Insurance Company and use approved contracts. The Division recommends approval.

Chair Peeples – Thank you. Is there a representative of this entity on the call today?

Mr. Karl N. Flagg – Yes, Karl N. Flagg is representing.

Chair Peeples – Thank you, Mr. Flagg. Board members, what is your pleasure, please?

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

Chair Peeples – Congratulations, Mr. Flagg.

Mr. Flagg – Thank you so much. God bless you all.

Chair Peeples – Thank you.

N. Application(s) for Removal Service License
(1) Recommended for Approval with Conditions
(a) D & L Removal and Transport Inc (North Port)

Ms. Simon – Candidly I do not remember earlier if we decided that that would be tabled also until February.

Ms. Clay – Madam Chair, I believe we did decide that.

Chair Peeples – Yes, ma'am, Ms. Clay. We did, Ms. Simon.

Ms. Simon – Thank you.

(b) Eternal Peace LLC (Orlando)

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

Ms. Alexandria Jackson – Yes.

Ms. Simon – Thank you. What is your name, please?

Ms. Jackson – Alexandria Jackson.

Ms. Simon – Thank you. An application for a removal service was received on November 15, 2022. The application was incomplete when submitted. A completed application was received on December 8, 2022. A background check of the principals revealed no criminal history for its principals. The Division recommends approval subject to the condition that the removal service passes an onsite inspection by a member of Division Staff.

Chair Peeples – Board members, what is your pleasure? Is there a motion?

MOTION: Mr. Clark 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) JLS Removal LLC (Pembroke Pines)

Ms. Simon – Is there a representative of this entity on the call today? Hearing no response. An application for removal service licensure was received on October 24, 2022. The application was incomplete when submitted. A completed application was received on December 16, 2022. Fingerprints for all principals have been returned without reportable criminal history. The

Division recommends 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. Jensen seconded the motion, which passed unanimously.

- O. Application(s) to Renew Internship**
 - (1) Recommended for Approval without Conditions**
 - (a) Funeral Director and Embalmer**
 - 1. Rebello, Shannon M F022382**

Ms. Simon – Is Shannon Rebello or a representative on the call today? Hearing no response. An application to renew the funeral director and embalmer internship license was received on December 13, 2022. The Applicant was licensed as a funeral director and embalmer intern and the current license expired on December 22, 2022. The Division recommends approval without conditions.

Mr. Clark –Madam Chair?

Chair Peebles – Yes, sir, Mr. Clark?

Mr. Clark – Sorry. I just need to state for the record that I do have an affiliation with this applicant as well as the training agency, but that affiliation will not prevent me from rendering a fair and impartial decision.

Chair Peebles – Thank you, Mr. Clark. Board members, what is your pleasure, please?

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

- P. Collective Applications**
 - (1) Recommended for Approval with Conditions**
 - (a) Foundation Partners of Florida LLC (Naples)**
 - 1. Change of Ownership**
 - Cinerator Facility
 - Direct Disposal Establishment
 - Funeral Establishment (2)
 - Training Agency (Request for Waiver)
 - 2. New Application**
 - Preneed Branch (2)

Ms. Simon – This item has been withdrawn.

- Q. Contract(s) or Other Related Form(s)**
 - (1) Recommendation for Approval without Conditions**
 - (a) Preconstruction Performance Bond**
 - 1. SCI Funeral Services of Florida, LLC d/b/a Fernhill Memorial Gardens & Mausoleum (Stuart)**

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

Ms. Lisa Coney – I am a representative of Fernhill in this. Thank you.

Ms. Simon – Thank you. SCI Funeral Services of Florida, LLC DBA Fernhill Memorial Gardens & Mausoleum intends to construct a new mausoleum consisting of 768 niches and 306 crypts. The licensee has submitted for approval a performance bond, in lieu of a preconstruction trust. The mausoleum project and the bonds are summarized in the cover sheet within your Board package. Cemetery agrees to complete said construction in accordance with the terms of the included construction agreement with Ingram Construction Company Inc. The Division recommends approval without conditions.

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

Ms. Coney – Thank you, Board. Happy New Year.

Chair Peeples – Thank you, Ms. Coney.

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

Ms. Simon – The only report to submit to the Board is that the next Board meeting will be on February 2nd, and it will be held by video conference.

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

Ms. Simon – This is informational only.

Monthly Report of Fines and Costs Assessed and Paid
 Division of Funeral, Cemetery and Consumer Services
 Date of Board meeting: January 5, 2023
 Date report was prepared: December 21, 2022

Licensee	Board Meeting	Case No.	Total Fine	Date Due	Paid in Full?	Comments
Richard L. Macon, Inc. d/b/a Freeman Funeral Home	22-Nov	280688-21-FC & 287726-21-FC	\$5,000	1/1/2023		
Richard L. Macon	22-Nov	282871-21-FC	\$15,000	1/1/2023		
Ryan James Swann	22-Nov	296092-22-FC	\$1,000	12/16/2022		Sent to the OGC for failure to pay
Swann’s Mortuary	22-Nov	296091-22-FC	\$1,000	12/16/2022		Sent to the OGC for failure to pay
Family Funeral Home & Cremation Services	22-Nov	280010-21-FC	\$1,000	1/4/2023	Paid in Full	
Mercedes Miranda	Oct-22	283186-21-FC	\$2,300	12/16/2022		Sent to the OGC for failure to pay
Northstar Funeral Services of Florida, LLC d/b/a Homestead Crematory	Oct-22	283185-21-FC	\$3,000	11/28/2022		Sent to the OGC for failure to pay
Williams Funeral Home in Bartow, LLC	Oct-22	280750-21-FC	\$750	11/28/2022	Paid in Full	
Eric L. Wilson Funeral & Cremation Services PA	Oct-22	294352-22-FC & 295159-22-FC	\$2,750	11/28/2022		Sent to the OGC for failure to pay
H.W. Oldham Funeral Home	Oct-22	282703-21-FC	\$3,000	11/28/2022	Paid in Full	
Angels of Paradise, LLC	Oct-22	293372-22-FC	\$500	11/28/2022	Paid in Full	
Taylor Family Funeral Home & Cremation Center	Oct-22	211354-21-FC	\$500	11/28/2022	Paid In Full	
A Mortuary Sedrvce, LLC	Oct-22	287707-21-FC	\$1,500	11/28/2022	Paid in Full	
Keith Phillip Kronish	Oct-22	292037-22	\$4,500	11/28/2022	Paid In Full	
Integrity Funeral Services of Tampa, FL, Inc.	Oct-22	280393-21-FC	\$1,500	11/28/2022	Paid in Full	
Gloria Castillo	Oct-22	280401-21-FC	\$1,500	11/28/2022	Paid in Full	
Northwood Funeral Home & Crematory	Sep-22		\$2,500	9/18/2022	Paid in Full	
Scott Thomas Hickey	Sep-22	287726-21-FC	\$1,000	10/21/2022		Sent to the OGC for failure to pay
Horace Barrett, Jr.	1-Sep	256152-19-FC	\$3,000	10/21/2022		Sent to the OGC for failure to pay

	Holloway Funeral Home, LLC	Jul-22	287724-21-FC	\$3,000	9/19/2022	Paid \$1000	
	Gallaher American Family Funeral Home	Jun-22	278188-21-FC	\$250	8/15/2022		Sent to the OGC for failure to pay
	Vinson Funeral Home	March 3, 2022	283110-21-FC	\$250	May 9, 2022	Paid in Full	
	Paradise Funeral Chapel LLC	2/3/2022	App for Licensure	\$1,500	March 25, 2022		An Administrative Complaint was filed

ES 12-21-2022

S. Chair's Report (Verbal)

Chair Peeples – Thank you, Ms. Simon. I just want to say a lot of thanks. First, Happy New Year to everybody. And it's hard for me to write 2023 yet on a piece of paper, but Happy New Year to all. And I just want to say for the record thank you to Ms. Jasmin Richardson and Ms. LaTonya Bryant. Thank you for what you do for us in preparing us with these coversheets. It helps so much. And we do appreciate that. Mr. Griffin, Ms. Marshall, and Ms. Munson, thank you for what you do to keep us straight from a legal perspective. And Ms. Simon and Ms. Schwantes, we appreciate you all in your Executive Director and Assistant Executive Director positions. Thank you for all of that. So, I wish everybody a great beginning of their new year and look forward for some great things for our industry, the licensees, but especially the consumers of Florida. Thank you. Ms. Simon.

Ms. Simon – Thank you.

**T. Office of Attorney General's Report
(1) Attorney General's Rules Report (Informational)**

Ms. Simon – Ms. Munson?

Ms. Munson – This is provided for informational purposes only. Thank you, Madam Chair.

Chair Peeples – Thank you.

**BOARD OF FUNERAL, CEMETERY, AND CONSUMER SERVICES RULES REPORT
JANUARY 2023**

Rule Number	Rule Title	Date Rule Language Approved by Board	Date Sent to OFARR	Rule Development Published	Notice Published	Adopted	Effective
69K-5.007	Conversion Procedures	08/04/2022	08/19/2022	08/29/2022	09/15/2022	10/18/2022	11/07/2022
69K-12.011	Annual Inspection Fees for Monument Builders	09/02/2021	10/19/2021 03/04/2022	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 03/15/2022 – Notice of Change 04/04/2022 - JAPC Response	04/15/2022	05/05/2022

U. Public Comments (Verbal)

Ms. Simon – Is there anyone that has public comment to discuss at this point? Hearing no response. Madam Chair?

V. Upcoming Meeting(s)

- (1) *February 2nd (Videoconference)*
- (2) *March 2nd (Videoconference)*
- (3) *April 4th (Tallahassee)*
- (4) *May 4th (Videoconference)*
- (5) *June 29th (Videoconference)*

W. Adjournment

Chair Peeples – Yes, ma'am. We are at the end of our meeting today. Thank you all for participating, being a part of things. It is 12:42, and we will be adjourned. Thank you, folks.

The meeting was adjourned at 12:42.