

MINUTES
BOARD OF FUNERAL, CEMETERY AND CONSUMER SERVICES
VIDEOCONFERENCE MEETING
DECEMBER 7, 2023 - 10:00 A.M.

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

Ms. Jill Peeples – Good morning. This is Ms. Peeples, Chair of the Board of Funeral, Cemetery, and Consumer Services. This is a videoconference meeting. It is December 7, 2023, and it's 10 o'clock AM. I'll turn it over to Ms. Simon, for the next agenda item.

Ms. Ellen Simon – Thank you, ma'am. Good morning. My name is Ellen Simon. I am the Assistant Director for the Division of Funeral, Cemetery, and Consumer Services. Today is December 7, 2023, and it is approximately 10 AM. 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 are on the agenda, which has been made available to the public. The link and 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. 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's 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 V 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 has been 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
Kimberly Marshall, Department Legal Counsel
LaTonya Bryant, Department Staff

Ms. Simon – Madam Chair, we have a quorum for the business of the Board.

Chair Peeples – Thank you, Ms. Simon.

B. Action on Minutes

- (1) *September 20, 2023*
- (2) *October 12, 2023*

Chair Peeples – Board members?

MOTION: Mr. Darrin Williams moved to adopt the minutes both meetings. Ms. Sanjena Clay seconded the motion, which passed unanimously.

Chair Peeples – Ms. Simon?

C. Old Business

- (1) *Motion for Reconsideration*
 - (a) *Recommended for Denial*
 1. *Application(s) for Funeral Director Licensure by Endorsement*
 - a. *Marashio, Mark*

Ms. Simon – On October 19, 2023, Mr. Marashio's counsel, Wendy Wiener, submitted a Motion for Reconsideration of the Board's vote to withdraw his application for funeral director by endorsement at the October 12, 2023, Board meeting. All information remains the same as referenced in the enclosed cover letter for the October 12, 2023, Board meeting, except for the submission of three (3) letters from previous employers attesting to five (5) years and two (2) months of previous employment as a funeral director. Please refer to October Board package beginning on Page 7 of this Board package. Additionally, the proposed minutes for the October meeting can be found under item B of the December agenda. Mr. Marashio has not passed the National Board Examination as required by sections 497.373(2)(a) and 497.374(1)(b), Florida Statutes, and Rule 69K-16.002, Florida Administrative Code, as more fully described on Page 7 of this Board package. Therefore, he has not met the qualifications to be licensed as a Florida Funeral Director. Lastly, there is no statutory basis to reconsider the Applicant's request to withdraw his application. The applicant still has the opportunity to submit a new application to the Board. That is his recourse. The Division is recommending denial. Madam Chair?

Chair Peeples – Thank you, Ms. Simon. Ms. Pettine, I see you are on the video conference. Would you like to address the Board, please?

Ms. Pettine – I would. Thank you, Madam Chair and Board members. This matter comes to you, we filed a Motion for Reconsideration due to the motion to withdraw, which was voted on by this Board at the October Board meeting. I met Mr. Marashio that morning and had a very brief discussion with him regarding his application item and realized that he did not realize until that morning that he had the opportunity to retain representation. I should have at that time requested that this Board table the application in order to prevent delays from this submission as well as the cost of an initial fee to Mr. Marashio.

As such with filing this Motion of Reconsideration, I am asking this Board to please help correct my error when I should have requested that the Board table this matter. Thank you.

Chair Peeples – Thank you, Ms. Pettine. Board members. Ms. Clay?

Ms. Clay – Thank you. Ms. Pettine, did I understand you to say that you met this gentleman at the meeting?

Ms. Pettine – Yes, Board member Clay. I did indeed. We conversed very briefly prior to that Board meeting, which explains my lack of preparation and my mistake in asking for a withdrawal as opposed to a tabling of his application.

Ms. Clay – So, were you representing him before you met him?

Ms. Pettine – After I initially contacted him, we had a brief conversation. And as you may recall at the Board meeting, I asked if he would like to obtain representation at that time to which he stated yes.

Ms. Clay – I'm having a hard time in terms of the order in which things were done. So, if you met him at that time, you were not representing him at that time. As I recall, you walked out of the room and spoke with him, and then came back with him. But when he came before the Board, you were not his representative at that time. Am I correct?

Ms. Pettine – I spoke to him that morning, and he and I discussed the possibility should he require assistance on the Board meeting of me standing up and assisting with argument or moving forward on that. In any case, at this time, Mr. Marashio is indeed a client of WRW Legal and has been working with us since that initial contact.

Ms. Clay – And I indeed understand that. I was just trying to understand how you are coming before the Board now asking us to reconsider because of an error that you made when it wasn't actually your client at the time when the error was made.

Ms. Pettine – He was a client at the time that the motion to withdraw occurred and at the point where I was addressing the Board in October as Mr. Marashio and I did have enough opportunity to speak, and Mr. Marashio did indeed ascent to my representation.

Ms. Clay – Madam Chair, if I can ask another question?

Chair Peeples – Yes.

Ms. Clay – In terms of what you're coming to us to ask us to reconsider, based on the information presented to staff, he still fails to meet the qualifications, but you're not asking us to reconsider because he now is qualified. Am I correct?

Ms. Pettine – Board member Clay, I would also like to make argument that due to the submission of the letters from his employers of the previous five (5) years, which does take me into the next part of the argument, Florida Statutes 497.374 does provide a dichotomy or two (2) different paths of licensure via endorsement. And the first one is that the applicant holds the license to practice funeral directing, which is issued by another state, and has done so continuously for the previous five (5) years in a licensed capacity. At the time of the October Board meeting, Mr. Marashio had not submitted letters from his previous employers showing that documentary evidence of the previous five (5) years, which was lumping him into the second category under 497.374. But at this time, the Motion for Reconsideration has included those letters which show his continuous employment.

Chair Peeples – Ms. Pettine, Ms. Clay had asked the question that he still has not met the requirements and you did not answer that question, ma'am.

Ms. Pettine – He has met the requirements as issued under s. 497.374(2)(a), Florida Statutes. There's an either/or statement there. That first one states that a license shall be issued to an applicant where the applicant has held a valid license in good standing to practice funeral directing in another state in the United States and has engaged in the full-time licensed practice of funeral directing of that state for at least five (5) years or meets the qualifications for licensure in 497.373. Here, with the Motion for Reconsideration includes that Appendix A, which includes the letters proving that full-time employment for the

previous five (5) years. And in fact, this Board has previously evaluated a Massachusetts applicant under this same law. I believe [inaudible] would be from November of last year who after providing that proof of the five (5) years of continued licensed employment, as well as the qualifications of having that licensure in another state but lacking the National Boards has been approved by this Board before. And therefore, he does meet the qualifications in order to be licensed in the State of Florida.

Chair Peeples – Ms. Clay, does that complete your questions or do you have further questions, ma'am?

Ms. Clay – That completes my questions. Thank you.

Chair Peeples – Thank you. Mr. Williams, I think I saw your hand, sir.

Mr. Williams – Yes, ma'am, Madam Chair. Is there a part missing in section 497.373(2)(a), F. S.? Because according to counsel, what they referenced, I don't see that and maybe it's a piece I'm missing of what she quoted.

Chair Peeples – Ms. Pettine? Excuse me, Ms. Pettine. Ms. Munson, I saw your hand first, ma'am. Ms. Munson, we cannot hear you, ma'am.

Ms. Rachelle Munson – And I am not shown. Can you hear me now?

Chair Peeples – Yes, ma'am. No, ma'am, we cannot. Ms. Munson, we're not able to get any conversation. It kind of fades in and fades out. Would you like me to go on, Ms. Munson?

Ms. Munson – Can you hear me now?

Chair Peeples – Yes, ma'am.

Ms. Munson – You can hear me now?

Chair Peeples – Yes, ma'am.

Ms. Munson – Okay, good. I just wanted to clarify where we are procedurally. I know that we're getting into the merits of this. I know the Motion for Reconsideration was regarding the withdrawal of –

[Inaudible]

Ms. Munson – Is that me? Can you hear me?

Chair Peeples – No, ma'am. It's someone that's connected to the Board conference call that does not have their phone muted.

Ms. Munson – Okay, sorry. These technical issues always baffle me. I'm just trying to figure out where we are procedurally. I know we're talking a lot about the merits of this application. I think that the issue before us is whether or not the Board is considering the withdrawal that was made, and I'm also needing to confirm whether the withdrawal actually became effective because it becomes effective when the Order was filed. And I just needed to confirm that for this record. If the Order has not been filed, the Order is not effective. I just wanted to make that statement for the record.

Chair Peeples – Thank you, Ms. Munson. Ms. Simon, can you answer to Ms. Munson's comment regarding the filing of the Order?

Ms. Simon – Well, if I understand correctly, at this point, as Ms. Munson stated, there is a Motion for Reconsideration, and the Motion for Reconsideration must be discussed before the merits of the case are discussed.

Chair Peeples – Thank you.

Ms. Simon – That is my understanding.

Chair Peeples – Thank you, ma'am. Rabbi Lyons?

Mr. Jay Lyons – Good morning, everyone. Okay. So, I think based on the circumstances at the meeting where it did seem like he didn't have counsel and then he did have counsel, I would certainly not want to give the appearance that we're not giving somebody a fair chance.

MOTION: Rabbi Lyons moved to approve the Motion for Reconsideration. Mr. Andrew Clark seconded the motion.

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

Mr. Williams – Yes. So, with the motion to open for reconsideration, what are we attempting to do or what are we trying to do? Maybe I'm confused now.

Rabbi Lyons – No, we're going to talk about the application. And in response to Ms. Munson that we need to first before, you know, why should we talk about the merits of the application if the matter is not open yet, so let's either decide to shut the whole thing down and move on or let's open the matter for reconsideration, and we'll talk about the merits of the application. So, I'm moving that we open the matter for reconsideration and then we can discuss.

Chair Peeples – Ms. Simon?

Ms. Simon – If I may? If you could hear Mr. Jensen before me, that would be appreciated.

Chair Peeples – Thank you. Mr. Jensen?

Mr. Chris Jensen – Procedural question for Ms. Munson here. So, Ms. Pettine asked that we table this and not have it withdrawn. So, do we need to discuss that or no or just move straight into a reconsideration? I mean, she was asking for a table and the Department is recommending that there is no real reason to hear this again. So, I, like Mr. Williams, am a little confused on what we're actually doing.

Ms. Munson – So if I can clarify and Ms. Pettine can correct me. I believe she was indicating that at the October meeting, she should have asked for the item to have been tabled but she did not, an error in her part, and that's why the vote on the withdrawal itself took place. She wanted a vote to be on the tabling of it in hindsight, but it was a vote on the withdrawal of it, it was taken. The applicant requested it, the Board approved the request or accepted the withdrawal. Again, I'm not sure if the Order was issued. I'm not sure if the Order was effectively filed. If the Order was effectively filed, then a withdrawal is in place. And now, she's asking that that particular Order be rescinded and that the application be reopened. Long story short, worst-case scenario, if the withdrawal is not rescinded or it's not reconsidered, the applicant would have to pay a new application fee and do this process all over again in another meeting. And Ms. Simon can correct me if I'm wrong. We'll be back at this point again whenever that application is set again before this Board for review.

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

Mr. Jensen – Yes, ma'am. Thank you.

Chair Peeples – Ms. Simon, did you have your hand up?

Ms. Simon – I did. Thank you, Madam Chair. The only point I would like to make is that in reaction to Rabbi Lyons' comments, the discussion occurred at the October Board meeting, the discussion on the merits of the application. That occurred at that point and that is why we are back here today. At that point, the Board was considering denying as you can see from the minutes, but that would be why we were back on the agenda today.

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

Mr. Jody Brandenburg – Would you please repeat Rabbi Lyons’ motion?

Chair Peeples – Rabbi Lyons motion is for reconsideration, and Mr. Clark has seconded it.

Mr. Brandenburg – We have a vote on that?

Chair Peeples – Yes, sir, that's what we're trying to get to. We are having some discussion. Is there any further discussion before we take a vote? Seeing no hands. All in favor of the Motion for Reconsideration say yes.

Board members – Yes.

Chair Peeples – All opposed say no. I'm a no.

Ms. Clay – No.

Mr. Williams – No.

Chair Peeples – Okay. Ms. Simon, can we do roll call really quick, please, so we can get the yes, and no?

Ms. Simon – Yes, ma'am. If you agree with the Motion for Reconsideration, please answer by saying yay, otherwise nay. Mr. Clark?

Mr. Clark – Yay.

Ms. Simon – Mr. Brandenburg?

Mr. Brandenburg – Yay.

Ms. Simon – Ms. Clay?

Ms. Clay – No.

Ms. Simon – Mr. Ferreira?

Mr. Todd Ferreira – No.

Ms. Simon – Mr. Jensen?

Mr. Jensen – No.

Ms. Simon – Mr. Jones?

Mr. Jones – Yes.

Ms. Simon – Ms. Liotta?

Ms. Janis Liotta – Yes.

Ms. Simon – Rabbi Lyons?

Rabbi Lyons – Yes.

Ms. Simon – Mr. Williams?

Mr. Williams – No.

Ms. Simon – Madam Chair?

Chair Peeples – No.

Ms. Simon – Madam Chair, with that, the motion fails as there is an even vote.

Chair Peeples – Thank you, ma'am.

Ms. Simon – I believe, Ms. Munson, that's correct. If there is an even vote the motion fails, but I need her to weigh in on that.

Ms. Munson – That's accurate.

Chair Peeples – Ms. Munson, does that complete this item for this agenda item since it has failed?

Ms. Munson – It does. I'm curious what Ms. Pettine has to say though. It would just require them to resubmit a new application with their additional materials.

Ms. Simon – Actually, if I may? I'm sorry. I may be speaking out of turn, but I believe the motion fails and another motion is necessary. I'm not sure about that procedurally, but Ms. Munson, please.

Ms. Munson – This was a Motion for Reconsideration of Withdrawal. To ask another question would actually not be necessary. It's not whether to accept or deny. It's like do you want to reopen this case and not accept the withdrawal. So, another question wouldn't really matter at this particular point. It was a withdrawal.

Ms. Simon – Thank you.

Chair Peeples – Ms. Pettine?

Ms. Pettine – Thank you, Madam Chair. I believe that one of the items that Ms. Munson identified as a potential concern to Board members is that an Order had not been filed. Our office is in receipt of an Order regarding the Motion for Withdrawal to which we filed the Motion of Reconsideration. In any case, this applicant will be back at a Board meeting for discussion on the merits. But I would urge this Board, if possible, to please handle this matter now as opposed to requiring a reapplication process of this applicant.

Chair Peeples – Ms. Pettine, my understanding of Ms. Munson or if Ms. Simon needs to direct it differently, we had a Motion for Reconsideration presented. It has failed because it's five (5) to five (5). So, we will now go on to the next agenda item. And if the applicant would like to resubmit an application, they may. Is that correct, Ms. Munson?

Ms. Munson – Procedurally, it is. The Board has broad discretion if they wanted to not [inaudible]. The case before us was to address the withdrawal.

Ms. Simon – Madam Chair?

Ms. Munson – Ms. Simon?

Ms. Simon – I believe as that motion failed, I can call the next item on the agenda.

Chair Peeples – That would be great. Thank you.

Ms. Simon – Thank you.

D. Disciplinary Proceedings

(1) Related Items – Division Nos. ATN-37322 and ATN-39307 (Probable Cause Panel A)
(a) Request for Reconsideration by Board of Funeral, Cemetery and Consumer Services
1. Bonar, Brian: DFS Case No. 293064-22-FC; Division No. ATN-37322 (F042932)

Ms. Simon – Presenting for the Department, is Marshawn Griffin.

Mr. Marshawn Griffin – Marshawn Griffin for the Department. The above-referenced matter is presented to the Board for consideration of the Request for Reconsideration by Board of Funeral, Cemetery and Consumer Services (“Request”). Brian James Bonar (“Respondent”) was the funeral director in charge of Stonemor Subsidiary, LLC, d/b/a Forrest Hills – Palm City Chapel (“Palm City Chapel”), a funeral establishment and apprentice/intern training agency, license number F079848. On May 12, 2023, the Department filed an eleven-count Administrative Complaint alleging Palm City Chapel permitted an unlicensed individual to engage in preneed sales. Respondent timely submitted a petition for hearing alleging that there are no material facts in dispute and requesting a hearing pursuant to section 120.57(2), Florida Statutes. On June 29, 2023, a hearing not involving disputed issued of material fact was held in the instant matter. On August 4, 2023, the Board entered a Final Order fining Respondent \$11,000 and placing his license on probation for two (2) years. The Request asks that the Board reopen the case against Respondent, dismiss the case against the Respondent, and impose liability for the allegations in the Administrative Complaint against Stonemor Florida Subsidiary, LLC, a preneed main, license number F038725. The Department asks that the Board deny the Request.

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

Mr. Jones – Yes, I'd like to recuse myself as I served on Probable Cause Panel A for items under D (1) (a) and (b).

Chair Peeples – Thank you, Mr. Jones. Is there anyone representing Mr. Bonar? Ms. Wiener?

Ms. Wendy Wiener – Yes. Thank you, Madam Chair. This matter actually directly involves the next three (3) matters, and we would actually ask that the Board take up all four (4) of these matters together. This matter was to be placed on your agenda for last month, but Mr. Griffin kindly held it off so that the matters could all come together. This matter does involve allegations in giving the preneed licensee of StoneMor. And I will demonstrate that Mr. Bonar and Mr. Hankins and actually the licensees that are identified in the Administrative Complaints had no responsibility or capacity to actually control the preneed activities. And therefore, we would ask that you reconsider this matter and take all of these matters up together.

Mr. Griffin – And if I may? If Ms. Wiener's argument as to all these matters is essentially raising a disputed issue of material fact, which if she wants to now change her designation from an informal hearing not involving disputed issues of material fact, then if she's alleging a disputed issue of material fact, this Board doesn't have jurisdiction to even hear these cases. The three (3) current cases need to be referred to DOAH and then this Board needs to address the Brian Bonar Motion for Reconsideration. But even if the Board is not inclined to treat her allegations as a dispute of material fact, the Bonar matter is a completely separate matter from the other three (3) cases, and to be honest, Bonar, Hankins and one (1) of the StoneMor cases are related. There's a fourth case in this mix that is unrelated to any allegations of unlicensed preneed activity. So that's Department's position.

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

Ms. Clay – Madam Chair, just a clarification. Is the discussion whether or not to put the cases together?

Mr. Griffin – No, the first discussion is Mr. Brian James Bonar elected an informal hearing, had his hearing, this Board imposed discipline. After the fact, Wendy Wiener is now representing Mr. Bonar and is asking you to reconsider that discipline, and she also wants it to travel with two (2) other cases. So, the first question is whether or not you should reconsider the discipline that you imposed following an informal hearing where Mr. Bonar had a chance to be represented by counsel and chose not to be represented. That's the first matter. If you find that you want to reopen, then we can address this case with the other two (2) cases that are relevant and move forward.

Chair Peeples – Ms. Clay, does that complete your question?

Ms. Clay – It completes my question. Thank you.

Chair Peeples – Yes, ma'am. Mr. Williams?

Mr. Williams – Yes, ma'am. Madam Chair, I would just like to get Ms. Munson's opinion just to make sure that we don't get ourselves into any situations that may be difficult to get out of if we go one way versus the other.

Mr. Griffin – You're muted.

Ms. Munson – Can you hear me?

Chair Peeples – Yes, ma'am.

Ms. Munson – Good. Okay. Mr. Griffin accurately explained the procedural issues that are before you that Bonar case is a Motion for Reconsideration. That's a threshold issue and you have to deal with that individually first before you even determine whether or not the merits will be addressed. The others are cases of first appearance for you for this discipline issue. So, just as Mr. Griffin has explained, it is accurate, procedurally, and legally.

Chair Peeples – Board members, what is your thoughts regarding the request to reopen this case? Rabbi Lyons?

Rabbi Lyons – Sorry, just to clarify. If we would not reopen this case, then Mr. Bonar still has the option of going to DOAH? Is that correct?

Mr. Griffin – No, he doesn't. He already had his hearing. His hearing was June 29, 2023. That was his hearing, went through the whole hearing, the Board-imposed discipline. It's time to appeal that [inaudible]. So, if you guys do not accept this request, then the discipline you opposed back in June of this year stands.

Chair Peeples – Rabbi, does that complete your question?

Rabbi Lyons – Yes. Thank you.

Chair Peeples – Thank you. Mr. Brandenburg?

MOTION: Mr. Brandenburg moved to approve the Request for Reconsideration. Rabbi Lyons seconded the motion.

Chair Peeples – Ms. Simon, if you will, if you'll do a roll call vote on this, please ma'am.

Ms. Simon – Yes, ma'am. Those who want to reconsider, please answer by saying, "Yay." Those who do not, please answer by saying, "Nay." Mr. Clark?

Mr. Clark – Yay.

Ms. Simon – Mr. Brandenburg?

Mr. Brandenburg – Yay.

Ms. Simon – Ms. Clay?

Ms. Clay – No.

Ms. Simon – Mr. Ferreira?

Mr. Ferreira – Yes.

Ms. Simon – Mr. Jensen?

Mr. Jensen – No.

Ms. Simon – Mr. Jones?

Mr. Jones – Recused.

Ms. Simon – Excuse me. Thank you. Ms. Liotta?

Ms. Liotta – Yes.

Ms. Simon – Rabbi Lyons?

Rabbi Lyons – Yes.

Ms. Simon – Mr. Williams?

Mr. Williams – No.

Ms. Simon – Madam Chair?

Chair Peebles – No.

Ms. Simon – The motion to reconsider passes.

Ms. Munson – May I? This would be for Mr. Griffin just to clarify. So, if I'm understanding the Motion for Reconsideration, the Final Order regarding that case was filed effective August 4th?

Mr. Griffin – It was filed effective August 4th, and the appellate window has passed. This is just resurrecting a dead case several months later.

Ms. Munson – So, is the Department suggesting that this is timely enough to review even, or if it's untimely, how is it before you for reconsideration?

Mr. Griffin – Well, I mean, I think the Motion for Reconsideration, and I mean that is something I didn't address or didn't research because -- I mean, that would be a different matter whether or not the Motion itself was timely filed. But because -- see the motion wasn't filed on September 1st. So, I mean, I think if, you know, if there was any timing issue, I guess --

Ms. Munson – I mean, if it was filed effective August 4th...

Mr. Griffin – It's within thirty (30) days of the Order.

Ms. Munson – I just wanted to confirm that. I wasn't -- so if you're saying it's within thirty (30) days, I didn't know if it was outside of it August 4th, September 1st. I'm not going to cross those hairs, but I'm just clarifying that for the record.

Mr. Griffin – Which I -- hold on a second because there might be a --

Ms. Munson – And Ms. Wiener, I see your hand is up. I'm sure Madam Chair will address that. I just wanted procedurally to make sure everyone was clear on where we were.

Mr. Griffin – I mean, I will point out if this were a civil matter, which it is kind of, I mean, its Motion is untimely because you have fifteen (15) days from the date of the hearing to request basically a new trial, which is effectively what she's asking to do.

[Inaudible] of the Florida Rules of Civil Procedure. So, I don't even think this Board has jurisdiction to even hear the Motion, to be honest.

Ms. Munson – I'm not crossing hairs with the Department; I was just identifying procedurally. I told the Department this is a discipline case, it's not licensure, so it's not in my line. That's the only reason.

Chair Peeples – So, Mr. Griffin, what is your comment to the Board about proceeding, sir?

Mr. Griffin – I mean, I think procedurally, I think the Motion was untimely filed because he had fifteen (15) days from the date of the date of the trial but being generous just say the date of the Order. So, I would argue fifteen (15) days and fifteen (15) days is fifteen (15) days.

Chair Peeples – Mr. Griffin? Go ahead, Ms. Munson.

Ms. Munson – Because it was a Final Order, there was thirty (30) days to appeal it, so I would even go with the 30-day window. {Inaudible} with that conservative window if it was considered timely. And again, I am not taking this from Ms. Wiener because it's her representation, I'm just trying to keep procedurally clear.

Mr. Griffin – Procedurally, that depends. So, if you're treating it as an appeal, then that's different than treating it as a Motion for a new trial, which is what she's asking for. She's not asking to appeal because the appropriate remedy would have been to file this at the DCA, and the Board wouldn't have been involved at all. You file a Notice of Appeal, and this would be out of your hands altogether. So, because it's framed as a motion for rehearing, she's asking for a new trial.

Ms. Wiener – Madam Chair?

Chair Peeples – Ms. Wiener, one second please, ma'am. We've got a Motion for Reconsideration which we've previously already addressed this, Mr. Griffin, in the previous informal hearing. So, what is your direction to the Board before we get into any further discussion, sir?

Ms. Wiener – There was a vote.

Mr. Griffin – I mean, there was a vote. I didn't raise this issue timely, but there was a vote, so.

Chair Peeples – Okay. So, since there was a vote and the motion carries, we will proceed. Ms. Wiener?

Ms. Wiener – Thank you, Madam Chair and Board members. There is not an effort by the responsible licensee to be excused from discipline regarding this matter. The fact of the matter is simply this. The wrong licensees are identified as being responsible. Therefore -- I'm sorry. Mr. Griffin, are you –

Mr. Griffin – But by that argument, this Board cannot hear your case then. You're alleging a disputed issue of material fact and this Board does not have jurisdiction for that. It needs to go to DOAH.

Ms. Wiener – We're happy –

Mr. Griffin – It will go to DOAH, and I'll open up a new file against the preneed licensee too in an abundance of caution. But if that's how we're going to argue, it can't be done here. This Board cannot hear a disputed issue of material fact.

Ms. Wiener – Interestingly the facts are not in dispute. There was a preneed sales agent that sold preneed, and he was not licensed when he sold the preneed contract.

Mr. Griffin – But you're alleging that he's an employee of a different company that's not charged. That's a material fact.

Ms. Wiener – If you consider that a material fact sufficient to take this matter to DOAH, then we are happy for all three (3) of the next cases, and Mr. Bonar's case to proceed to DOAH at the same time, and you can name the right licensee at that time as well and we can take it up with DOAH and take it off the Board's agenda.

Mr. Griffin – And one (1) of these cases is unrelated. I would argue that the Forest Memorial case is separate from the other cases. It has nothing to do with whether or not a licensed person engaged in preneed sale, it's about an untimely refund. So, if that's the track we're taking, that case can go before the -- unless you're alleging that they timely made a refund.

Ms. Wiener – Well, no, I'm alleging that you're pursuing the cemetery for a refund when it was the preneed licensee –

Mr. Griffin – Okay. So then everything needs to go to DOAH because there's disputed issues of material fact. So then, we'll pull all of those cases from this, and I'll refile at DOAH.

Chair Peebles – Ms. Wiener, thank you.

Ms. Munson – So, my issue, my concern is always the Board members. I want to make sure the Board was clear. With regard to the Bonar case, it was the Final Order, there were thirty (30) days to appeal [multiple speakers]. You can't hear me?

Chair Peebles – No, ma'am, we can.

[Multiple Speakers]

Chair Peebles – Excuse me, one second, Ms. Munson. If you are connected to the video conference call and you're connected by your phone, please mute your phone because we cannot proceed with Board business. Thank you. Ms. Munson?

Ms. Munson – This is for the Board's edification. If the applicant or the Respondent in the Bonar case had any issues with its outcome, as Mr. Griffin previously indicated, the proper venue for that would have been the District Court of Appeal, and thirty (30) days were required to file it. Why this was not filed even if we're saying it's the wrong party involved or I don't know why it wasn't filed at the DCA, but that's a very strong argument at the DCA. I don't know why it was not timely filed there. So, the other cases that are before you if it's now the Department's issue that they are pulling them from this agenda to, I don't know, recertify under different names. I guess to be clear then, this is also, I guess, for Ms. Simon's confirmation, then all of D1 from my understanding is not being presented today for this particular meeting for various reasons. The last three (3) because they're being pulled by the Department, the first one Bonar because this isn't the proper venue for it. So, I just needed that clarified for the Board's edification as to where we were and what we were doing.

Chair Peebles – Thank you, Ms. Munson. Ms. Clay?

Ms. Clay – Just for clarification, what happens to that vote that we just had?

Ms. Wiener – It stands.

Ms. Munson – If that question is for me, if the Board did not have the authority to vote on the reconsideration, I would technically say that it should be rescinded so that the record is clear because you can't act outside of your authority. The Board can't just make votes without authority to do so. So, it doesn't stand if there is no authority for it to stand.

Ms. Clay – Does there need to be a formal rescension of the vote?

Ms. Munson – I think to clarify for this record, and again, I don't want to step into the lane of the Office of General Counsel, so please, Mr. Griffin just correct me or lead in this if you like. I think it should technically be rescinded for the Department to address it in the manner that it feels it needs to be addressed. This case is being brought to you by the Department, so it's really not my place to say anything in this.

Mr. Griffin – Bonar is only being brought forward because of the Motion for Reconsideration. Otherwise, this would not have been on your agenda, we would have proceeded forward because discipline had already been imposed in a Final Order

imposed and the appellate window has already passed. I mean, you file a motion, the motion has to be heard before the tribunal regardless of whether or not the merits of the motion.

Chair Peeples – Mr. Williams?

Mr. Williams – Yes, ma'am, Madam Chair. Question for Mr. Griffin. So, did we have the authority to make that vote that we just made based off of the timelines to make an appeal?

Mr. Griffin – Well, because it is framed as a request for a new hearing, it was untimely because it needed to be within fifteen (15) days of the return of the verdict and in a civil case, which will count the return of the verdict as the date and Final Order is issued. So, it was due on the 19th. Now, it would have been timely had it been filed as a notice of appeal and followed with the DCA because it would have been within that 30-day window.

Mr. Williams – Madam Chair?

Chair Peeples – Yes, Mr. Williams?

Mr. Williams – May I offer a motion to rescind the previous vote based off of the comments of Office of General Counsel?

Chair Peeples – Yes, sir.

MOTION: Mr. Williams moved rescind the reconsideration of this case. Chair Peeples seconded the motion.

Chair Peeples – Any discussion before we take a vote? Rabbi Lyons?

Rabbi Lyons – Okay. And then just to be clear, so then this whole thing is going to the District Court of Appeals or DOAH or wherever this is going now?

Chair Peeples – Yes, sir.

Mr. Griffin – No. If you don't deny this motion, that's it. Mr. Bonar's time to appeal has passed. He had his chance.

Chair Peeples – I'm sorry, Rabbi. D (1) (a) is what we had the motion on. D (1) (b) is kind of what is considered. Is this correct, Mr. Griffin? To the District Court of Appeals?

Mr. Griffin – No. Okay. So, you've got to think of them as two (2) different votes. You've got the Brian Bonar case which is by itself. That's the one you already had the hearing on. Then you have the three (3), the StoneMor for Palm City, Hankins, and the StoneMor Forest Memorial. Those are being pulled to go to DOAH, so they're no longer for consideration. We are going to file those at DOAH. The only thing for consideration right now is whether or not to rescind your vote for reopening Brian Bonar's case.

Chair Peeples – Thank you, Mr. Griffin. We have a motion by Mr. Williams, a second by Chair Peeples. Ms. Simon, we've had our discussion. I don't see any other hands. If you'll do a roll call vote, please ma'am.

Ms. Simon – Yes, ma'am. The vote on the motion to rescind the reconsideration, those wishing to do that, please answer by saying yay, otherwise nay. Mr. Clark?

Mr. Clark – Nay.

Ms. Simon – Mr. Brandenburg?

Mr. Brandenburg – Nay.

Ms. Simon – Ms. Clay?

Ms. Clay – Yes.

Ms. Simon – Mr. Ferreira?

Mr. Ferreira – Yes.

Ms. Simon – Mr. Jensen?

Mr. Jensen – Yes.

Ms. Simon – Mr. Jones?

Mr. Jones – Recused.

Ms. Simon – Thank you. Ms. Liotta?

Ms. Liotta – Nay.

Ms. Simon – Rabbi Lyons?

Rabbi Lyons – No.

Ms. Simon – Mr. Williams?

Mr. Williams – Yes.

Ms. Simon – Madam Chair?

Chair Peeples – Yes.

Ms. Simon – And that motion fails.

Chair Peeples – Well, the motion to rescind is approved. I have five (5) yes and four (4) no.

Ms. Simon – Yes, I apologize. You are absolutely correct. That motion passes. So, the motion to rescind the reconsideration is approved.

Chair Peeples – Ms. Munson?

Ms. Munson – I just hate to belabor this. Technically and again, this is Mr. Griffin's territory. But now that you've rescinded it, I just wanted to be clear that the Motion is still before the Board to rule on. Now, the Motion to Reconsider passed and you rescinded the passage of it, you still have to rule on the Motion that's before you. If this Board chooses to deny it, a basis for denial would be because it's deemed untimely. So, you can't just not act on the Motion before you and you need to act on it.

Mr. Brandenburg – That's what the first motion was.

Ms. Munson – Yes. But what happened with that Mr. Brandenburg is then there were some discussions regarding the merits of the Board's authority to actually vote on it. Perhaps after that discussion, the Board members, {inaudible} if it looks like it's untimely, then I don't feel that I should be supporting it. So, they rescinded it. So, the Motion is still before for you. If you choose to vote the same and say I support the Motion for Reconsideration, then that's your vote. That's what the discussion {inaudible} information.

Mr. Brandenburg – The motion wasn't for reconsideration. It was to approve the request.

Ms. Munson – For reconsideration.

Chair Peeples – And reopening the case.

Ms. Munson – That's what it says, Request for Reconsideration. If that's not what we are discussing, I'm sorry. I'm just reading the materials as they were presented.

Chair Peeples – Mr. Williams?

MOTION: Mr. Williams moved for denial based on untimely filing. Chair Peeples seconded the motion.

Chair Peeples – Ms. Simon, can we do a roll call vote, please?

Ms. Simon – Thank you, Madam Chair. This is to revote on whether the case should be reconsidered. And if you want the case to be reconsidered, please vote yay. Otherwise, vote nay. Mr. Clark?

Chair Peeples – Ms. Simon, I see Mr. Griffin has his hand up, please, ma'am.

Mr. Griffin – Madam Peeples, Ms. Wiener has had her hand up for a pretty long time.

Chair Peeples – I'm sorry. I'm sorry, Ms. Wiener. I did not see your hand.

Ms. Wiener – Oh, thank you. Thank you, Madam Chair. If this Board votes to deny on this untimely basis, then that's going to open a window for us to appeal this untimely denial. Will that win? Will that not win? I'm not 100% sure, because we were timely in the appellate window. We were not timely on the civil procedure window for a jury verdict. I don't know. I don't think this Board has enough information to know. I want the Board to know that we want the correct licensee to be held liable for this. And Mr. Bonar who no longer works for this company and no longer had access at the time he appeared before this Board to representation is being held liable for something that this Board should not be holding him liable for. And we're standing on ceremony. This Board regulates the death care industry. You're setting precedent here. This was a matter involving a preneed licensee, not a matter involving the funeral director in charge of the facility. This Board should be incredibly concerned not so much with this procedure. This entire matter should be proceeding against the correct licensee. If we need to go to DOAH to find out who the correct licensee is, we can do that. But there is a licensee for you to pursue, and that's the right one. Instead, we're standing on this ceremony of Mr. Bonar is the FDIC who had no control and now he's liable for \$11,000 in fines all because he did not recognize what he should have done early on. And now, this Board -- the bigger concern, frankly, should be what licensees are you holding accountable for what. Common sense and following that law is what should be paramount to this death care regulator in my opinion.

Chair Peeples – Thank you, Ms. Wiener. Mr. Griffin?

Mr. Griffin – A couple of things. Number one, Wendy was at the meeting where Mr. Bonar's disciplinary hearing was covered. We, in fact, had a very spirited discussion about a completely different case. If you guys will recall, it was the matter about whether or not -- I think it was [inaudible]. We had a very spirited debate on that. And the point I'm trying to get at is there was time if Mr. Bonar needed representation, he had had time to acquire representation. Number two, procedure is not something -- I mean, there's a reason why if you file something with the District Court of Appeals a day late, that's it, that's game. That's how the law works. There was an appropriate mechanism to appeal. It's called filing at the DCA. It's literally in the notice of rights. That's what happens with every Order is that the licensee is given a spoiler plate language that says, "If you have a problem with this, if you think it's legally insufficient, there's an avenue for redress." And that was not followed in this matter. Number three, the statutes are very clear that a FDIC is responsible for the acts and omissions of the place that they're in FDIC for. So, if there's a problem with that kind of vicar or that type of liability, then I think the correct answer is take it up with the legislature because they're the ones that wrote the statutes. Number four, I think the point of, well, and she kind of undercuts the point or the fourth point we don't need to get into. But I would just say that he had an opportunity to have a hearing. This is not a matter where there was a default hearing, we had a hearing. We went through a whole hearing. This was not a, well, he's not here, he was actually present at that meeting. You guys had his election of proceeding to review when you made your decision.

Chair Peeples – Thank you, Mr. Griffin. And as Chair Peeples, I would like to just make a comment. Not disputing a comment by Ms. Wiener, but I am FDIC at our firm, and I oversee, and I tell all of our team all the time whether it's preneed or at-need, it comes under me. So, I feel that I am responsible for that no matter if it's an independent firm or it's a corporate firm. I'd just like that for the record. And we do have a motion and we have a second. Mr. Jensen?

Mr. Jensen – I do have one quick question for Ms. Munson since she's the counsel for the Board. I'm wondering about the procedures here as have been mentioned that we don't even have jurisdiction here. So, I'm a little confused as to what we're actually voting on, and I don't want to paint myself in a corner. So, are we allowing this to completely open up? Are we just saying, no, we're not going to hear it again because it's already been ruled upon? I've heard we don't have jurisdiction and I've heard we should vote, so I'm confused.

Chair Peeples – Mr. Jensen, the motion that we have is to deny the Request for Reconsideration. That was the motion, and the second. We're in the discussion phase right now. So that is for D (1) (a) 1., which is where we are. Ms. Munson, I don't know if you'd like to add anything else to that.

Ms. Munson – Yes, that is exactly where we are, what we're voting on. And I don't know Mr. Jensen if you were asking, do you have the authority? If you have been presented with a motion, you have to vote on it because just ignoring it, I mean just like I indicated previously, if this was a motion to go before the Court, they couldn't just file it away thinking, well, it's a day late. They have to actually rule on it and say we are not supporting it because it's a day late. There has to be some official action on it because it was presented to the body for review.

Mr. Jensen – Okay. Thank you, Chair. Thank you, Ms. Munson.

Chair Peeples – Any other Board members? Mr. Ferreira?

Mr. Ferreira – Yes. For the record, just like Ms. Peeples, I oversee as FDIC over a couple of our locations. I oversee every inch of this business. I will tell you from working in and around larger business models or other companies that have a different business model, they have departments, and it doesn't necessarily work the way it would. It should but it doesn't necessarily work the way it does in Ms. Peeples' business and my business, because you have departments, and those departments don't necessarily always drive. And typically, you have sales managers who make these decisions who oversee those issues. So, I think in the future, we need to be careful with this and we need to look at possibly like Marshawn said, the FDIC and what they are responsible for. Because in these big groups, they have little or no say at all. So, I mean, that's my experience. Thank you.

Chair Peeples – Thank you, Mr. Ferreira. We're going to call the question. We have a motion, we have a second. Ms. Simon, if you'll do a roll call vote, please. Motion is to deny the request.

Ms. Simon – Those agreeing, please say, "Yay," otherwise, "Nay." Mr. Clark?

Mr. Clark – Nay.

Ms. Simon – Mr. Brandenburg?

Mr. Brandenburg – Nay.

Ms. Simon – Ms. Clay?

Ms. Clay – Yes.

Ms. Simon – Mr. Ferreira?

Mr. Ferreira – Yes.

Ms. Simon – Mr. Jensen?

Mr. Jensen – Yes.

Ms. Simon – Ms. Liotta?

Ms. Liotta – Nay.

Ms. Simon – Rabbi Lyons?

Rabbi Lyons – No.

Ms. Simon – Mr. Williams?

Mr. Williams – Yes.

Ms. Simon – Madam Chair?

Chair Peeples – Yes.

Ms. Simon – It appears that that motion passes.

Chair Peeples – Thank you, Ms. Simon.

(b) Motion for Determination of Waiver and for Final Order by Hearing Not Involving Disputed Issues of Material Fact

- 1. Stonemor Florida Subsidiary, LLC, d/b/a Forrest Hills – Palm City Chapel: DFS Case Nos. 293062-22-FC and 300644-22-FC; Division Nos. ATN-37322 and ATN-39307 (F079848)*
- 2. Stonemor Florida Subsidiary, LLC d/b/a Forrest Hills Memorial Park: DFS Case No. 300643-22-FC; Division No. ATN-39307 (F079859)*
- 3. Hankins, Victor: DFS Case No. 309070-23-FC; Division No. ATN-37322 (F044373)*

Ms. Simon – These items have been withdrawn from the agenda.

(2) Motion for Determination of Waiver and for Final Order by Hearing Not Involving Disputed Issues of Material Fact (Probable Cause Panel B)

- (a) Celebrations of Life Mortuary & Cremation Services, Inc: DFS Case No. 305841-23-FC; Division No. ATN-40160 (F487762)*

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

Ms. Kimberly Marshall – Thank you, Ms. Simon. Kimberly Marshall on behalf of the Department. Good morning, Board members. Good to see you all again. I'd like to note that Mr. Williams has recused from participating in this case and the next item as well due to his involvement in the Probable Cause Panel. I would, before I get started in my presentation of this case, like to request with the Board's approval that I present both cases and then when I'm done with the presentations, do one (1) collective disciplinary recommendation for all of them.

Chair Peeples – Yes, ma'am. Please proceed.

Ms. Marshall – Thank you, Madam Chair. Celebrations of Life Mortuary & Cremation Services, Inc. ("Respondent") is a funeral establishment, licensed under Chapter 497, Florida Statutes, license number F487762. The Department conducted an inspection of Respondent and found that Respondent permitted its unlicensed owner to engage in the practice of funeral directing. The disciplinary guidelines for these violations are as follows:

- Count I: *aiding, assisting, procuring, employing, or advising a person to practice a regulated profession without the required licensure*: Reprimand, fine of \$1,000 to \$2,500 plus costs, probation six (6) months to one (1) year with conditions, suspension up to one (1) year or permanent revocation of the license

The Motion demonstrates that Respondent failed to timely file a responsive pleading contesting the factual allegations in the Administrative Complaint, requests that the Board adopt the factual allegations in the Administrative Complaint, and requests that the Board issue an appropriate penalty in this matter.

Chair Peeples – Thank you, Ms. Marshall.

Ms. Marshall – Sorry, one moment, I need to give my first motion here. At this time, it'll be appropriate for the Chair to entertain a motion determining if the Respondent was properly served with the Administrative Complaint and failed to timely respond thus waiving the right to elected method of resolution.

MOTION: Mr. Jones moved that Respondent was properly served with the Administrative Complaint and failed to timely respond. Ms. Clay seconded the motion, which passed unanimously.

Ms. Marshall – The Department asks that the Chair entertain a motion determining that there are no material facts in dispute in this case.

MOTION: Mr. Jones moved that there are no material facts in dispute in this case. Ms. Liotta seconded the motion, which passed unanimously.

Ms. Marshall – Now that the Board has determined that there are no material facts in dispute in this matter, the Department ask the Chair to entertain a motion to adopt the allegations of fact as set forth in the Administrative Complaint.

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

Ms. Marshall – And is there a representative of this establishment on the call today? Anyone on behalf of Celebrations of Life? Hearing none. The Department 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 established in the Administrative Complaint. Now that the Board has adopted the findings of fact in this case, the Department asks the Chair to entertain a motion find that these facts constitute a violation of Florida Statutes as set forth in the Administrative Complaint.

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

Ms. Marshall – The next thing would be a penalty recommendation that, as previously mentioned, I'm going to hold off until the next item is presented.

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

Ms. Marshall – I think we're ready to move on to that.

Chair Peeples – Yes, ma'am. Are you ready to go to 2 (b), Ms. Marshall?

Ms. Marshall – Yes, I was planning for Ms. Simon to announce the case.

Ms. Simon – Thank you, ma'am.

(b) Celebrations of Life Mortuary & Cremation Services, Inc: DFS Case Nos.: 292039-22-FC and 300767-22-FC; Division Nos. ATN-37582 and ATN-38875 (F487762)

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

Ms. Marshall – Thank you, Ms. Simon. Again, Mr. Williams is recused from this case as well. Celebrations of Life Mortuary & Cremation Services, Inc. ("Respondent") is a funeral establishment, licensed under Chapter 497, Florida Statutes, license

number F487762. The Department conducted an inspection of Respondent and found as follows: Respondent permitted its unlicensed owner to engage in the practice of funeral directing. Further, Respondent failed to promptly cremate a body pursuant to a contract. The disciplinary guidelines for these violations are as follows:

- Count I: *aiding, assisting, procuring, employing, or advising a person to practice a regulated profession without the required licensure*: Reprimand, fine of \$1,000 to \$2,500 plus costs, probation six (6) months to one (1) year with conditions, suspension up to one (1) year or permanent revocation of the license
- Count II: *Failing without reasonable justification to timely honor a contract for funeral services*: Reprimand, fine of \$500 to \$1,000 plus costs, probation for up to 1 year with conditions, suspension up to one (1) year, or permanent revocation of the license

The Motion demonstrates that Respondent failed to timely file a responsive pleading contesting the factual allegations in the Administrative Complaint, requests that the Board adopt the factual allegations in the Administrative Complaint, and requests that the Board issue an appropriate penalty in this matter. So, I will move on to my motions here. At this time, it will be appropriate for the Chair to entertain a motion determining that the Respondent was properly served with the Administrative Complaint, and it failed to timely respond thus waiving the right to elect a resolution in this matter.

MOTION: Ms. Liotta moved that Respondent was properly served with the Administrative Complaint and failed to timely respond. Mr. Clark seconded the motion, which passed unanimously.

Ms. Marshall – The Department asks that the Chair entertain a motion determining that there are no material facts in dispute in this case.

MOTION: Ms. Liotta moved that there are no material facts in dispute in this case. Mr. Jensen seconded the motion, which passed unanimously.

Ms. Marshall – Now that the Board has determined that there are no material facts in dispute in this matter, the Department ask the Chair to entertain a motion to adopt the allegations of fact as set forth in the Administrative Complaint.

MOTION: Ms. Liotta moved to adopt the allegations of fact as set forth in the Administrative Complaint. Mr. Ferreira seconded the motion, which passed unanimously.

Ms. Marshall – All right. Once again, anybody on the line on behalf of Celebrations of Life? Hearing none. The Department is offering 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 that the Board has adopted the findings of fact in this case, the Department asks the Chairs to entertain a motion find that these facts constitute a violation of Florida Statutes as set forth in the Administrative Complaint.

MOTION: Ms. Liotta moved to find the Respondent in violation of the statutes as charged in the Administrative Complaint. Mr. Ferreira seconded the motion.

Chair Peeples – Mr. Brandenburg, do you have your hand up, sir?

Mr. Brandenburg – Yes. At the appropriate time, I want to make a motion on this discipline.

Chair Peeples – Yes, sir. That will be right after this motion, sir.

Mr. Brandenburg – Okay.

Chair Peeples – So we have a motion by Ms. Liotta, a second by Mr. Ferreira. Is there any discussion on the motion? Hearing none. All in favor of the motion say yes.

Board members – Yes.

Chair Peeples – All opposed say no. Motion carries.

Ms. Marshall – Moving on to the disciplinary recommendation, and this is for this item and the previous one. The combined recommendation for these items is revocation of the license.

Chair Peeples – Mr. Brandenburg?

MOTION: Mr. Brandenburg moved that the Respondent’s license shall be revoked. Mr. Ferreira seconded the motion, which passed unanimously.

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

Chair Peeples – If we may, Ms. Simon, before we go into agenda item E, it's 11:08. Let's take a quick 10-minute break and then we'll come back and try to complete the rest of the meeting at 11:18. Thank you.

Ms. Simon – Thank you, ma'am.

*****BREAK*****

Chair Peeples – Is Ms. Bryant back on yet?

Ms. LaTonya Bryant – Yes, ma'am. I'm here.

Chair Peeples – Thank you, ma'am. Are we back recording yet, ma'am?

Ms. Bryant – Yes.

Chair Peeples – Thank you, ma'am. If you will, Ms. Simon, do a roll call really quick to make sure we got everybody back, please?

Ms. Simon – Sure. I'd be happy to. Andrew Clark?

Mr. Clark – Here.

Ms. Simon – Jody Brandenburg?

Mr. Brandenburg – Present.

Ms. Simon – Sanjena Clay?

Ms. Clay – Present.

Ms. Simon – Todd Ferreira?

Mr. Ferreira – Here, ma'am.

Ms. Simon – Chris Jensen?

Mr. Jensen – Present.

Ms. Simon – Ken Jones?

Mr. Jones – Present.

Ms. Simon – Janis Liotta?

Ms. Liotta – Present.

Ms. Simon – Rabbi Lyons?

Rabbi Lyons – Present.

Ms. Simon – Darrin Williams? Darrin Williams?

Mr. Williams – Present.

Ms. Simon – Thank you. Madam Chair, everyone's here.

Chair Peeples – Thank you, ma'am. I'm here also and if we'll go to agenda item E (1) please.

Ms. Simon – Thank you, ma'am.

E. Application(s) for Preneed Sales Agent

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

Ms. Simon – This is an informational item. Pursuant to Section 497.466, Florida Statutes, the applicants on Addendum A have been issued their licenses and appointments as preneed sales agents.

(2) Recommended for Approval without Conditions (Adverse License History)

(a) Gauthier, Jerrie L (Appointing Entity: SCI Funeral Services of Florida LLC)

Ms. Simon – Is Jerrie Gauthier on the call today? Hearing no response. On September 27, 2023, an application was received for licensure as a preneed sales agent and appointment under SCI Funeral Services of Florida, LLC. Applicant answered “Yes” to the background question regarding adverse licensing history on the application due to reportable disciplinary history that required disclosing. Applicant provided the Division with a written explanation of the relevant disciplinary history, which was in September 2003, a Consent Order was entered against Ms. Gauthier by the Tennessee Board of Funeral Directors and Embalmers, in which she was ordered to pay a civil penalty in the amount \$750. Ms. Gauthier has paid all fines and there are no other disciplinary issues in relation to this applicant. As a result, the Division recommends approval.

Chair Peeples – Board members?

MOTION: Mr. Clark moved to approve the application. Mr. Jensen seconded the motion.

Chair Peeples – Any discussion on the motion? Rabbi Lyons?

Rabbi Lyons – Just to be clear, the idea here is because it was twenty (20) years ago, that's why we're not considering the previous discipline. Correct?

Ms. Simon – Madam Chair, may I respond?

Chair Peeples – Yes, ma'am.

Ms. Simon – That was the reason for the Division's recommendation. Yes, sir.

Rabbi Lyons – Excellent.

Chair Peeples – We have a motion and a second. Any further discussion on the motion? Hearing none. All in favor of the motion, say yes.

Board members – Yes.

Chair Peeples – All opposed say no. Motion carries.

F. Application(s) for Continuing Education

- (1) *Course Approval - Recommended for Approval without Conditions – Addendum B*
 - (a) *Colibri Healthcare (113)*
 - (b) *Cremation Association of North America (16008)*
 - (c) *Florida Cemetery, Cremation & Funeral Association (75)*
 - (d) *National Funeral Directors Association (49609)*
 - (e) *Wilbert Funeral Services (39408)*

Ms. Simon – The course presented on Addendum B has been reviewed by the CE Committee, and the Committee as well as the Division recommends approval for the number of hours so indicated.

Chair Peeples – Board members?

MOTION: Ms. Liotta moved to approve the applications. Mr. Jensen 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.

Chair Peeples – Mr. Jensen?

Mr. Jensen – I do have just one question for maybe Ms. Simon here. We see this a lot, so my understanding is these are claimed when the contract is serviced. Is that correct?

Ms. Simon – Well, yes sir. They are either claimed when the service is rendered or when an individual is requesting a refund.

Mr. Jensen – All right, very good. Thank you. Thank you, Chair.

Chair Peeples – Board members your pleasure?

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

H. Application(s) for Embalmer Apprentice

- (1) *Informational Item (Licenses Issued without Conditions) – Addendum D*
 - (a) *Lewis, Rhonda L F052405*
 - (b) *Morris, Kaylee S F724352*

Ms. Simon – This is an informational item. Pursuant to Rule 69K-1.005, F. A. C., the Division has previously approved the application 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 Examination)*
 - 1. *Cannon, Reginald*
 - (b) *Funeral Director and Embalmer (Endorsement)*
 - 1. *Hendrick, Adam C*
 - 2. *Kyle, Amanda J*
 - 3. *Lapointe, Stephen C*
 - (c) *Funeral Director and Embalmer (Internship and Examination)*

1. *Allers, Kelly A*
2. *Carbonell, Barbara E*
3. *Kania, Jessica M*
4. *Telhada, Victoria N*
5. *Willis, Essie M*

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 Denial*
 - (a) *Funeral Director (Endorsement)*
 1. *Biffany, Tara J*

Ms. Simon – Is there a representative of Tara Biffany on the call today?

Ms. Wiener – There is, Wendy Wiener. Thank you.

Ms. Simon – Thank you, Ms. Wiener. Ms. Biffany originally submitted an application for a funeral director license on April 20, 2023, that was presented at the July 13, 2023, Board meeting. Ms. Biffany’s application was withdrawn by counsel at that meeting after thorough Board discussion. Ms. Biffany submitted a second application for a funeral director license on October 25, 2023, at which time the application was deemed incomplete. A deficiency letter was issued November 20, 2023. Ms. Biffany’s fingerprints returned with no criminal history. While Ms. Biffany has recently passed the Arts section of the National Board Exam, section 497.141, F.S., provides that “an applicant who is not otherwise qualified for licensure is not entitled to licensure solely based on a passing score on a required examination.” Ms. Biffany has been licensed as a funeral director for only three (3) years; her license has been valid in Mississippi since August 11, 2020, and in Louisiana since February 3, 2023. As a result, Ms. Biffany has not engaged in full-time practice as a funeral director for five (5) years. And, as Ms. Biffany has not met the requirements under sections 497.374(1)(b)1 or 497.374(1)(b)2, F.S., she is not eligible for licensure. And if I may have a moment?

Chair Peoples – Yes, ma’am.

Ms. Simon – Ms. Wiener, in this packet, has submitted for the last Board meeting where this application was heard, a comparison of courses. And if the Board members will recall I have previously stated that there is nothing in the statute providing for education that is perhaps more stringent than that required by statute. The only comparison should be of examinations. Thank you, Madam Chair.

Chair Peoples – Thank you, Ms. Simon. Ms. Wiener?

Ms. Wiener – Thank you very much, Madam Chair. Good morning, again, Board members. So, the last time Ms. Biffany was before you, I took for granted that this Board would act as it had in every single other instance, in which a qualified, out of state funeral director was presented for licensure in Florida. And for that reason, I failed to orient the Board to some important historical information, and I don't want to make that mistake again. So let me take you back to the time before July 1, 2022. At that time there were two (2) paths to licensure as a funeral director by endorsement. The first, the funeral director could hold a valid license in another state so long as the funeral director had an associate degree or higher in mortuary science. Or the funeral director could hire a lawyer to make an argument to the Board that the funeral director's education and qualifications, often by way of apprenticeship or on the job training, which was required by their home state, was substantially equivalent to, or even better than, the education and qualification required to obtain the necessary associate degree in mortuary science. At least a dozen funeral directors came before this Board in the period leading up to the change in the law. And every single one of them was licensed by endorsement after the Board took into consideration their education, their training and were assured that they were qualified to act as funeral directors and sometimes funeral directors and embalmers here in the State of Florida. To date, not one (1) of those funeral directors has been back before you as the subject of disciplinary history. And to my knowledge, not a single one of them has even had an investigation opened against them. In essence, those persons have been a credit to the funeral directing profession here in the state of Florida. The Board, at that time, exercised its capacity to look at

the whole funeral director, the whole person, if you will, and made an informed decision regarding granting or denying licensure.

In 2022 in an effort to clear a path for qualified funeral directors to come to Florida, where we so badly need, because of our population, qualified persons to act as funeral directors, the legislature cleared a path for those licensees to be brought in by endorsement without having to hire a lawyer. And so, the law was changed to make it quite clear that a funeral director now had another path. And that path was to show that he or she had been licensed in good standing and employed as a full-time funeral director in another state for five (5) years. I wrote the law. I wrote the words of that law alongside members of the FCCFA and the IFDF. We moved that law forward and we have utilized that law to license additional funeral directors coming in from out of state, often without the need to hire counsel. Adding that provision to s. 497.374, however, was in no way meant to rob this Board of its capacity to view each applicant as a whole funeral director. The Board continues to have that capacity. The applicant before you now, Ms. Biffany, is indeed a qualified applicant. Following her appearance before this Board in the summer of this year, Ms. Biffany, who trained as a licensed apprentice, known as a resident trainee licensee funeral director for two (2) years, after she was fully licensed in Mississippi on August 11, 2020, and then in Louisiana after that, she has now secured the capacity, through the State of Louisiana, to take the National Board exam. Louisiana made the referral to the ABFSE, and she registered for, took, and passed national Board Arts on the first try. And I argue to you today, that Ms. Biffany qualifies to be licensed under two (2) of the paths that I have laid out.

First, your law requires, the law that we changed, requires that an applicant hold a license in good standing to practice funeral directing for at least five (5) years. Ms. Biffany was a resident trainee licensee. I invite you to go to the Mississippi Board of Funeral Directing; you will see that that is a license. She was licensed to learn to and practice funeral directing; that is how it works there. And that state requires that those resident trainees become licensed because they are actually engaged in funeral directing; they meet with families, they do the job during those two (2) years. The letter of Florida law does not draw any distinction in Section 497.374 between training related licenses and full funeral director's licenses. And so, the fact is that Ms. Biffany has been licensed, first as a resident trainee for two (2) full years, and now as a full funeral director licensee for three (3) years and three (3) months, bringing her total period of licensure to more than five (5) years. But the other part for her to be qualified to come into Florida as a funeral director by endorsement, is because this Board can certainly compare the outcome of her education to the outcome of a mortuary science student's education. What do the students actually learn at mortuary school today? They learn how to pass the National Board Exam. I mean, perhaps it's sad and in fact there is a lot of consternation within the industry, as those of you know, because the schools have to teach to the test now. They're not able to really teach a funeral director how to actually arrange for and direct funerals, instead they teach to the test.

And so, there is actually an effort underway in many states and we've talked about this even here in Florida at our Rules Committee meeting about abolishing the requirement to pass the NBE because it forces mortuary schools to teach to the test. But ultimately, the current Florida litmus test is the same. Was the student prepared to pass the National Board exam or not? In this case, the answer is that Ms. Biffany's education, while she was licensed as a resident trainee, clearly and certainly did prepare her to pass the test. This Board has two (2) valid paths to approve Ms. Biffany for licensure as a funeral director by endorsement. We ask that you choose either or both of them and permit her to join the ranks of the funeral directors who are now accredit to our profession right here in Florida. And I'm available to answer any questions that you might have.

Chair Peeples – Thank you, Ms. Wiener, and I respect your comments, but I do not agree with the two (2) year resident trainee aspect because that's similar to an apprentice here. So, we're talking about Florida, we're not talking about Mississippi right now. So, I respectfully do not agree that she's got the five (5) years' experience and I just cite that for the record. Board members, any questions for Ms. Wiener? What is your pleasure?

Mr. Jensen – Madam Chair?

Chair Peeples – Yes, Mr. Jensen?

Mr. Jensen – I do have a question for Ms. Biffany. So, going through this last time you were here, you had mentioned that you were looking forward to being a funeral director in Florida. Is that still the case?

Ms. Tara Biffany – No, sir.

Chair Peeples – One second please, sir. Ms. Biffany, you need to be sworn in, please, before you can speak. Ms. Simon?

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

Ms. Biffany – So help me God, I do.

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

Ms. Biffany – My name is Tara Biffany, B I F F A N Y.

Ms. Simon – If you can now answer Mr. Jensen's question.

Ms. Biffany – No, sir. I will not be in the FDIC. I am not an embalmer. I am just wanting my funeral director license in Florida.

Mr. Jensen – Okay, thank you. Thank you, Chair.

Chair Peeples – Mr. Ferreira?

Mr. Ferreira – If I'm not mistaken, she can still be an FDIC over a chapel with no prep room. That's my opinion. Is that right?

Ms. Wiener – That is correct.

Mr. Ferreira – Okay.

Chair Peeples – Any other Board members with questions? Mr. Jones?

MOTION: Mr. Jones moved to approve the application. Ms. Liotta seconded the motion.

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

Mr. Ferreira – What mortuary science school did she attend?

Ms. Wiener – She did not attend mortuary science school. Instead, she went through the Mississippi Resident Trainee Licensee Program, which is a two (2) year, full-time program where they train funeral directors; and she completed that program.

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

Mr. Ferreira – Yes, ma'am.

Chair Peeples – Thank you. Ms. Clay?

Ms. Clay – Just for clarification. Ms. Wiener, you indicated that she did take a Board exam, but it was not a Florida Board exam. Am I correct?

Ms. Wiener – You are correct, Ms. Clay. In fact, this is the predecessor process [inaudible] Laws and Rules Exam. Every applicant, whether they come to you via endorsement or otherwise, must take and pass Florida Laws and Rules. So, if you approve her to become licensed today, you will actually simply approve for her to take Laws and Rules. She cannot be licensed until she takes and passes Florida Laws and Rules exam. Yes ma'am.

Ms. Clay – So now that you've said that, for further clarification, so our vote today is simply to accept her so that she can become licensed?

Ms. Wiener – So that she can take the Florida Laws and Rules exam and if she passes Florida Laws and Rules, then her license would be issued forthwith shortly thereafter. Thank you.

Chair Peeples – Ms. Clay does that complete your question?

Ms. Clay – It does. Thank you.

Chair Peeples – Mr. Williams, did you have a question?

Mr. Williams – Yes ma'am. Just one clarification. So, s. 497.374(1)(b)(1), it states five (5) years -- it says license funeral director and five (5) years practicing. And I see that she's only at the most, you know, let's just say three (3) years, so she doesn't meet the threshold. I just want to make sure I'm reading correctly based off of what she has presented to the Board. Is that correct, Ms. Wiener?

Chair Peeples – Mr. William, if I may, please sir, as Chair Peeples, that's correct and that was the comment I made.

Mr. Williams – Okay.

Chair Peeples – She has not been a licensee in another state for more than five (5) years. Plus, as Mr. Ferreira asked the question, that this does not come into for the vote, but she did not attend a mortuary science school. So that kind of, hopefully, answers your question.

Mr. Williams – Yes ma'am, thank you.

Chair Peeples – Thank you. Mr. Ferreira?

Mr. Ferreira – I see here that she took the National Board. Is that right?

Ms. Wiener – Correct.

Chair Peeples – She only took the Arts section, sir.

Ms. Wiener – She's only going to be a funeral director, yes.

Chair Peeples – Ms. Wiener?

Ms. Wiener – Thank you. Respectfully, in response to Chair Peeples' comments, this Board is often very concerned with looking at the letter of the actual law. Ms. Biffany was in fact a funeral director licensee in the State of Mississippi for two (2) years before becoming a full funeral director licensee. We don't draw a distinction in that law, interestingly. It's quite interesting but the letter of the law says, "Licensed as a funeral director." Mississippi licenses funeral directors in two (2) phases. First as a resident trainee. In some states that's called a provisional license. And then as a full licensee. In this case, that is one (1) of the paths that this Board can consider when thinking about Ms. Biffany's obvious qualifications to come into this state as a funeral director by endorsement because, in fact, she did hold a license in Mississippi for more than five (5) years to serve in the capacity of a funeral director, first as a trainee and then as a full licensee for three (3) years and three (3) months.

Chair Peeples – Ms. Wiener, and respectfully back to you, I don't agree with the two (2) year resident in that that's a part of her five (5) years. So, I do, as Chair Peeples, I do not agree with that. Plus, she has not been to a mortuary science school which that's not part of the discussion, but as a Board member, that's my comments for the discussion today. Mr. Ferreira?

Mr. Ferreira – You know, I look at this and I think to myself, you know, if someone in another state was given a law degree and this is no attack on anything, I'm just using that as an idea, but if someone was given a law degree in California and didn't go to law school and he came to Florida and wanted to practice law and we expect the education, I just can't get over that. That's it.

Chair Peeples – Thank you, Mr. Ferreira. Mr. Jensen, then Ms. Clay.

Mr. Jensen – Yes, just a couple comments here to what Mr. Ferreira just said. So, if someone came with a law degree, we would expect them to pass the Florida Bar. Also Mr. Williams, I mean, I'm reading this and reading this, and I would have to agree with Ms. Wiener, it does not say you got to have a funeral director license. And if she had a license and she's got the time then, you know, if she tested out of the classes, you know, God bless her. I'm sad I didn't think of that. But, you know, hey, if you found another way because that's really what the school does, is train me to pass a National Board. She passed it, first try without school so, I don't know. I mean, I understand it's a tough one for people but, you know, the main concern we should have is if she [inaudible] to be a funeral director? It somewhat appears so. Thank you, Chair.

Chair Peeples – Thank you, Mr. Jensen. Ms. Clay?

Ms. Clay – Again, my concern is that we twist things around to, again, accommodate individuals rather than looking at what is placed in terms of qualifications. And we, again, keep trying to make the round peg fit into, I'll say this time, a square. And I'm just always amazed at how those of you in the funeral profession are not appalled at individuals who come before the Board and don't meet the qualifications and we still try to figure out a way around it. There is nothing formal that says that what is taught in one state, it's the same criteria taught in another state. And it's not just the law profession but there are dozens of professions that make that requirement, and the law is not one that we can follow from one state to another, or the qualifications. And so, I just want to put on record that I am opposed to this, and I find it somewhat disheartening that we are even going back over this again. Thank you.

Chair Peeples – Thank you, Ms. Clay. Ms. Simon, I'm going to call the question. We have a motion, we have a second, if you'll do a roll call vote on the motion by Mr. Jones, seconded by Ms. Liotta, to approve this funeral director application request.

Ms. Simon – Thank you, Madam Chair. Those approving say yay otherwise nay. Mr. Clark?

Mr. Clark – Nay.

Ms. Simon – Mr. Brandenburg?

Mr. Brandenburg – Yay.

Ms. Simon – Ms. Clay?

Ms. Clay – No.

Ms. Simon – Mr. Ferreira?

Mr. Ferreira – No.

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 – Yes.

Ms. Simon – Mr. Williams?

Mr. Williams – No.

Ms. Simon – Madam Chair?

Chair Peeples – No.

Ms. Simon – Can I just have one moment? That motion fails.

Chair Peeples – Thank you. We'll go on to agenda item...

Ms. Biffany – May I speak?

Ms. Wiener – Ms. Biffany, hold on just a moment.

Chair Peeples – Ms. Wiener, one second. I see fingers by Ms. Simon and possibly Ms. Munson. Ms. Simon?

Ms. Simon – Madam Chair, respectfully, before you move on, we need to have some ruling on Ms. Biffany, because the Board either needs to approve or deny. And I apologize. Ms. Munson may disagree.

Chair Peeples – Ms. Munson?

Ms. Munson – I would agree. I mean, you did a motion to see if the approval passed and now, is there a motion to deny?

Chair Peeples – Board members?

Mr. Williams – Madam Chair?

Chair Peeples – Yes, sir, Mr. Williams?

MOTION: Mr. Williams moved to deny the application based off of not meeting the qualifications that are stated in state statute. Mr. Ferreira seconded the motion.

Ms. Wiener – Madam Chair?

Chair Peeples – Any discussion? Rabbi Lyons?

Rabbi Lyons – Ms. Wiener has her hand up.

Chair Peeples – Okay sir. Ms. Wiener?

Ms. Wiener – Thank you. What is the point of regulation by a collegial body like a Board if you are simply going to pigeonhole people and make an interpretation about statutory language that leaves no room for your discretion? As I pointed out, as Mr. Jensen has pointed out, I know Ms. Peeples disagrees, but if you can show me in the statute where it says that her licensure as a funeral director had to be full funeral director and not a provisional license, then I think that you might have a bit of an easier time making an argument that she fails to qualify under the statute. Your law does not say that. It says licensure as a funeral director and she was licensed to practice funeral directing in the State of Mississippi for two (2) full years, before for three (3) years and three (3) months giving her five (5) years and three (5) months of licensure, plus the National Board Exam and a stellar history with no discipline and no criminal record. And yet despite the dozens and dozens of applicants that came before you in the past where this Board voted unanimously to approve out of state licensees, because we want to bring people to Florida that are good funeral directors, why again, why again, stand on the ceremony of this interpretation when in fact the

interpretation actually goes against a vote against Ms. Biffany? She should have credit for the five (5) years and three (3) months at this point in time. The law does not draw distinction.

Chair Peeples – Thank you, Ms. Wiener, and that's the same kind of comment we had earlier. Mr. Williams, we'll let you have your discussion then we're calling the votes, sir.

Mr. Williams – Yes ma'am. Thank you, Madam Chair. I guess my concern is, Ms. Wiener, you're correct we have approved licensees from out of state that met the requirements and qualifications. So, you know, I take offence that we have done this in the past because there was a need, there is a need for more licensed funeral directors but those licensed funeral directors that have come from out of state have met the Florida statutes that are listed in this document and that's how we move forward with it. But that's my comments Madam Chair.

Ms. Wiener – I'm sorry Mr. Williams, they simply have not...

Chair Peeples – Ms. Wiener, I called the question, ma'am.

Ms. Wiener – ...they did not meet those qualifications.

Chair Peeples – Ms. Wiener?

Ms. Wiener – They saw my comparison table.

Chair Peeples – Ms. Wiener?

Ms. Simon – Madam Chair, should I take the vote?

Chair Peeples – Yes, please, ma'am.

Ms. Simon – Okay. All of those in favor of denial answer by saying yay. Mr. Clark?

Mr. Clark – Yay.

Ms. Simon – Mr. Brandenburg?

Mr. Brandenburg – Nay.

Ms. Simon – Ms. Clay?

Ms. Clay – Yay.

Ms. Simon – Mr. Ferreira?

Mr. Ferreira – What was the motion? I want to make sure.

Ms. Simon – The motion was to deny, Mr. Ferreira.

Mr. Ferreira – Yes.

Ms. Simon – Mr. Jensen?

Mr. Jensen – No.

Ms. Simon – Mr. Jones?

Mr. Jones – No.

Ms. Simon – Ms. Liotta?

Ms. Liotta – No.

Ms. Simon – Rabbi Lyons?

Rabbi Lyons – No.

Ms. Simon – Mr. Williams?

Mr. Williams – Yes.

Ms. Simon – Madam Chair?

Chair Peebles – Yes.

Ms. Simon – That motion also fails. I'm not sure, Ms. Munson, what the next step is.

Ms. Biffany – May I say something?

Chair Peebles – No ma'am. If you'll please give me just a second Ms. Biffany. Ms. Munson, we've had two (2) motions, and both have failed because of equal five (5) to five (5).

Ms. Munson – Well, I don't know, I thought this motion to deny passed?

Chair Peebles – No ma'am. We had five (5) –

Ms. Munson – So five (5) Yays in favor of the denial?

Chair Peebles – Yes ma'am.

Ms. Munson – And how many nays, opposed to the denial?

Chair Peebles – We had five (5) for the denial and five (5) against.

Ms. Munson – I missed the fifth.

Chair Peebles – We have on the Yays, we have Mr. Clark, Ms. Clay, Mr. Ferreira, Mr. Williams and me, Chair. On the nays we have Mr. Brandenburg, Mr. Jensen, Mr. Jones, Ms. Liotta, and Rabbi Lyons. So, what is your recommendation or suggestion to the Board, please?

Ms. Munson – It's a stalemate. Neither motion properly passed so there's not been official Board action to act on it. I mean, I don't know if there needs to be additional deliberation or consideration. I do have a question, though, if I may, for the applicant, just as we move forward. Everyone keeps referring to the statute and the statute. The language of the statute for Ms. Wiener's benefit, she understands, does in fact matter. So, I just want to make sure that based on the reading of the statute, it says that the individual must have been engaged. First of all, let me address the full-time issue. Ma'am as a trainee -- and was she sworn in? I missed that.

Chair Peebles – Yes ma'am. She was.

Ms. Munson – Been a minute. So as a trainee, ma'am, what were your functions?

Ms. Biffany – My function initially was to take phone calls from families. I was to answer all questions regarding the Mississippi law as far as pricing, who needed a death certificate, how we were going to actually do the disposal of the body. And basically, bring the family in, have the conference, and walk with the family the entire time. I was also a preneed agent, so I was what was referred to as a bedside to graveside. So basically, I could sell you your preneed, I could walk you through everything, be over your service and afterwards also do your headstone. I could sell you your cemetery property; anything in between. And I would like to make one note in regard to schooling. They do not teach compassion. They do not teach you how to sit with a family and walk them to what is best for their family. Every family is different, and you had to take all of that into consideration. I learned that. I learned how to sit with them and exactly what was needed.

Ms. Munson – Because you did other functions, what percentage of your funeral directing training was full-time?

Ms. Biffany – 100%. In Mississippi they work you like crazy. We had Chinese math. You were paid hourly and then anything over forty (40) you were paid half. So, you had the phones, you were on call. Whenever you sit with a family afterwards is whenever you sold the preneed. And, again, you sold the cemetery property and the headstones at the time of the arrangement or thereafter. And all this through COVID.

Ms. Munson – Okay, this is my question I didn't know if any of that explanation would be helpful in determining possibly adjusting anyone's vote in the matter, because I have not heard any real information presented as to what she did as a trainee. The statute does require full-time license in funeral directing, and as a trainee in Mississippi I had no idea what that entailed.

Ms. Biffany – It is everything as far as from the initial call, all the way to the very end. I still have families that contact me. Whenever I was in Mississippi, I was also having grief counseling once a week. What we would do is I would find someone that could come in and speak to our group to try and help them go beyond their grief.

Chair Peeples – Thank you, Ms. Biffany. Ms. Munson, does that complete your questions?

Ms. Munson – It does complete my questions. I don't know if it affects anybody else's response or vote. Thank you, ma'am.

Ms. Simon – Madam Chair, the position, the legal position we're in right now is if there is no vote and there is no action taken within ninety (90) days, then the application is approved. That is the result of what happens here today. Does that make sense?

Chair Peeples – Yes ma'am. It does. Mr. Brandenburg?

Mr. Brandenburg – Because of my great respect for this Board and all the many years, it seems like we could reach a compromise position that I would like to present to the Board for their consideration.

MOTION: Mr. Brandenburg moved to approve the application subject to a one (1) year probation and a letter from her employer after six (6) months detailing her competency as a funeral director. Rabbi Lyons seconded the motion.

Chair Peeples – Rabbi Lyon?

Rabbi Lyons – If I may, are we open to discussion on the motion?

Chair Peeples – Yes, sir.

Rabbi Lyons – To address my colleague, Ms. Clay, s. 497.002, the purpose and intent of Chapter 497, just quoting here, "Therefore it is necessary in the interest of public welfare to regulate preneed sales and cemeteries in the state. However, restrictions shall be imposed only to the extent necessary to protect the public from significant and/or discernable harm or damage and not in any manner that will unreasonably affect competitive market." So, I think there is a lot of merit to the idea that we are not necessarily trying to put an exact round peg into a square hole or whatever the metaphor was, but what we are doing is that we are using our discretion to say that the applicant in front of us, I don't think that we are protecting the public from great harm. And I do think that we are getting in the way of reasonable competitive market to not approve her based on her taking the National Exam and also her experience thus far. That's a comment.

Chair Peeples – Thank you. Mr. Williams? You're on mute, sir.

Mr. Williams – Yes, Madam Chair. Thank you for the opportunity. So, in full disclosure, there is a chat. I'm not sure if anyone has received the chat, I'm assuming a LFD or someone that is talking about –

Chair Peeples – Mr. Williams? Mr. William? Mr. Williams, that cannot be a part of our discussion.

Mr. Williams – I just want to disclose that. Yes.

Chair Peeples – We cannot have that part of our –

Mr. Williams – No, no. I just want to, you know, because I know it's public record, so I want to make sure it was on the record that it was not –

Chair Peeples – It is not part of the record, sir.

Mr. Williams – Okay. But my second point is, to Mr. Lyons, in reference to the schooling piece. So, how does that fit, in reference to the motion that Mr. Brandenburg has offered, because that piece has not been met?

Chair Peeples – Rabbi?

Rabbi Lyons – Well, again, so that is where that side-to-side comparison of whether or not the schooling and, again, this is exactly why we are having our discussion here, but I don't want to speak for Ms. Wiener, but I think the argument is that the schooling that the applicant has is substantially similar to that of the Florida data for lack of a better term.

Chair Peeples – Mr. Williams?

Ms. Wiener – Madam Chair?

Chair Peeples – One second, Ms. Wiener. Mr. Williams, does that complete your question, sir?

Mr. Williams – Yes, but it doesn't answer it, but thank you.

Chair Peeples – Thank you. Ms. Wiener?

Ms. Wiener – Thank you. Perhaps I can answer Mr. Williams' question. I think the educational comparison might be immaterial at this point. I think, as Ms. Munson has -- there are two paths described in the statute; licensure to conduct funeral directing for five (5) years or the educational path. In this case, the outcome of the education is the same. She passed the National Boards. But here, as Ms. Munson's questions of Ms. Biffany brought to light, Ms. Biffany was acting as a full-time funeral director as a Mississippi resident trainee licensee, and your statute says five (5) years licensure to act as a funeral director. She has five (5) years and three (3) months of licensure to act as a funeral director and has done so full-time.

Chair Peeples – Thank you, Ms. Wiener. Mr. Williams, and then we're going to call a vote. Sir?

Mr. Williams – As a follow-up, Ms. Wiener, you said, "as a trainee," so that is not technically a full-time licensed director. They are a trainee. It's just like an education, if there is a trainee teacher, they are not a full-time teacher. So, you keep saying they are trainee, so it does not meet the burden of proof if you keep saying she performed trainee duties in a full-time capacity. So, I think that is where the disconnect is at because we're trying to put it all together. And if she is a trainee in Mississippi, she was not a full-time licensed director.

Ms. Wiener – Unfortunately, the law does not say. It does not draw a distinction. In this particular case, in Mississippi, as Ms. Biffany has testified, she was actually engaged in funeral directing, arranging funerals, directing funerals, sitting with families, doing all the things that you do as a licensed trainee, like a provisional licensee. And so, our statute, if you need the statute to

draw a distinction to carve out the licensure time during which people are a trainee, then you'll need to adjust the statute. Right now, the statute says, license to engage in funeral directing, and she did have that license.

Chair Peeples – And Ms. Wiener, in respect, as I've mentioned prior, a licensed trainee is just like a licensed apprentice here in Florida. But you are not an actual licensed funeral director, you are an apprentice. You are serving an apprenticeship. So, it's all in how each of us as Board members, consumer members, as we kind of review and we kind of take in our outlook of voting. We are going to call a vote. We have a motion by Mr. Brandenburg, a second by Rabbi Lyons. Whoever is on call that your phone is not muted, please mute your phone. Thank you. So, we have a motion by Mr. Brandenburg to approve the application with a one-year probation and six (6) months to have a letter from legal counsel as to her –

Rabbi Lyons – The letter is coming from her employer.

Chair Peeples – From her employer? You said attorney. Mr. Brandenburg, in your motion.

Mr. Brandenburg –Employer.

Chair Peeples – Okay. Thank you, sir. Rabbi Lyons, do you agree with that motion?

Rabbi Lyons – Yes, that was the original motion. Yes, ma'am.

Chair Peeples – Excellent. Ms. Simon, if you'll do a roll-call vote, please.

Ms. Simon – Yes. All those in favor of Mr. Brandenburg's motion, vote yay, otherwise, nay. Mr. Clark?

Mr. Clark – Nay.

Ms. Simon – Mr. Brandenburg?

Mr. Brandenburg – Yes.

Ms. Simon – Ms. Clay?

Ms. Clay – No.

Ms. Simon – Mr. Ferreira?

Mr. Ferreira – No.

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 – Yes.

Ms. Simon – Mr. Williams?

Mr. Williams – No.

Ms. Simon – Madam Chair?

Chair Peeples – No.

Ms. Simon – Again, that vote fails.

Mr. Brandenburg – Okay.

Chair Peeples – So, Ms. Simon, regarding your comment earlier, and Ms. Munson, if you want to give us any direction, we've had three (3) votes, we've had three (3) fails.

Ms. Munson – Yes. Well, there is no Board action because there has not been a vote to pass. I know Mr. Brandenburg has his hand up to perhaps present another option to the Board, which I'll turn it over to him. I just -- listen, Board members, your interpretation of what the statute said, that is kind of like it would be something that would be argued as factual. Under Ms. Wiener's description, you can have five (5) years of never being licensed as a funeral director, you could be a funeral director trainee for five (5) years, and then apply for the endorsement licensure. So based on that understanding, that is what the argument is, and that is what your vote is going to have to reflect. So, Mr. Brandenburg, I will say to you, but I just want to make sure everyone understands what is being stated here.

Chair Peeples – Thank you, Ms. Munson. Mr. Brandenburg?

Mr. Brandenburg – I have one final comment on this. Since it was not approved and it was not denied, my attempt was, as a compromise, so we would have some kind of control over her activities. Now she is going to have a funeral director's license and we'll have no control over her activities. That is my final comment on what was obviously a compromise where we could at least follow her. That's it for me.

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

Mr. Williams – Madam Chair?

Chair Peeples – Yes, Mr. Williams?

Mr. Williams – Ms. Simon, based on your comments in reference to "if there is no action, this license is approved," is that quote correct that you stated that?

Ms. Simon – Yes, sir. After ninety (90) days of her completed application. Yes, sir.

Mr. Williams – So, would it be in order to table this to the next Board meeting to gather more research and reference to the two (2) questions that are being questioned?

Ms. Simon – Oh, let's see. The completed application was submitted on or about November 20th, on or about that point, so it would be at least November 20th. So, ninety (90) days after November 20th would be approximately December 20th, January 20th, February 20th. We would need to bring it back. Ms. Munson can weigh in. If we table it, we will need to bring it back in either January or February. Ms. Munson, can you weigh in on that?

Ms. Munson – I mean, the 90-day provision is standard by Chapter 120 for all application processes. So yes, I mean, I just wanted Mr. Williams to maybe perhaps clarify if needed, what additional information would be sought.

Mr. Williams – And I guess where I'm going with this, maybe, and I don't know if this is possible, if Ms. Munson can provide us like some true clarity. Because I know in the past, Ms. Wiener has provided a table, and things like that. Just so that I guess

if we may be missing any facts that we are unaware of that maybe staff or something can provide us details and reference to the statute, maybe we're not reading the full statute in context. I'm just trying to see if it's more information that is out there that we can possibly look over to make a decision.

Ms. Munson – You know, if this Board would like us to do additional research as to exactly what is going to make a difference, what was entailed as a trainee, and it's two (2) paths, the education, or the five (5) years. So, if you want some type of additional analysis on each of those paths, I will be happy to work with the Department and provide that at the next or future meeting, if that will make a difference for your deliberations or considerations. It would be totally up to you. But you do have the authority to table it. I will say that which is probably a moot point here, but after ninety (90) days, the application is not automatically approved. The party or the applicant would have to do actually affirmatively something to seek the approval. It doesn't just automatically [inaudible] to approval. So, I wanted to just not present any confusing or ambiguous information regarding that process as well.

Mr. Williams – Follow up, Madam Chair?

Chair Peeples – Yes, sir, Mr. Williams?

Mr. Williams – Ms. Munson, are we in order, according to Roberts Rules of Order, to table to a time certain?

Ms. Munson – Oh, absolutely.

Mr. Williams – So I'll offer that motion to table this to a time certain.

Ms. Munson – What time?

Mr. Williams – Ms. Simon? I'm not sure what the calendar looks like.

Chair Peeples – Ms. Simon?

Ms. Simon – Thank you. I would suggest, or you can say till the January Board meeting.

Ms. Munson – Which for the record is January 4th. The February Board meeting is February 1st. Both of which fall within the 90-day window, and I don't know what the availability of the parties will be because that may also be a factor.

Mr. Williams – I mean, I'll offer the motion to a time certain of the February 1st Board meeting.

Mr. Brandenburg – Can we table something that we've already voted on?

Ms. Munson – Well, all votes that we've taken have failed. So technically, we're not anywhere with this yet, and that's what I think Ms. Simon was indicating, that if the Board does not take action on it, it has the opportunity to be approved if the applicant moves forward with whatever steps needs to be taken to ensure approval.

Chair Peeples – So, Mr. Williams, that is your motion to table this to the February 2024 Board meeting, so we can do the analysis to get further information for Board consideration?

Mr. Williams – Yes, ma'am, Madam Chair.

Chair Peeples – Thank you. We have a motion.

Ms. Clay – I'll second, so we can move forward.

MOTION: Mr. Williams moved to table the application to the February 1, 2024, meeting. Ms. Clay seconded the motion.

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

Mr. Ferreira – No, I have a comment after the motion.

Chair Peeples – Do you have any discussion regarding the motion in the second, sir?

Mr. Ferreira – I think, for me, I'd like to see letters from her ex-employees stating what her jobs were. That would be important.

Chair Peeples – Mr. Ferreira, I think the information -- Mr. Williams, please correct me if I'm not speaking correctly, that your motion as for an analysis of what this funeral trainee aspect, what it comprised. So, I think, Mr. Ferreira, that's going to kind of give us the information we need to make an informed choice. And instead of asking for a previous employer's account, so to speak, because that will be kind of either rule or statute from the State of Mississippi. So, we have a motion, we have a second there. Any further discussion on the motion? Ms. Simon, will you do a real quick roll-call vote on this, please, ma'am?

Ms. Simon – Yes. Yes, ma'am. The motion is to table this matter until the February Board meeting and get information related to the Mississippi training program. All those in favor, vote yea, opposed vote nay. Mr. Clark?

Mr. Clark – Yea.

Ms. Simon – Mr. Brandenburg?

Mr. Brandenburg – Nay. I didn't hear Mr. Clark's vote.

Mr. Clark – Yes.

Ms. Simon – Ms. Clay?

Ms. Clay – Yes.

Ms. Simon – Mr. Ferreira?

Mr. Ferreira – 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 – Yes.

Ms. Simon – Mr. Williams?

Mr. Williams – Yes.

Ms. Simon – Madam Chair?

Chair Peeples – Yes.

Ms. Simon – Madam Chair, that vote passes.

Chair Peeples – Thank you.

Ms. Munson – If I may, to be clear, the analysis will involve and provide information regarding the licensure entities, not the educational entities, based on that motion.

Ms. Simon – Thank you, ma'am.

Ms. Clay – I just want to be clear. So, admittedly, I am completely confused. So, I'm trying to figure out what the advantage is to what we've just done versus ninety (90) days being accepted.

Chair Peeples – Ms. Clay, we have asked for further information. Those of us, I feel like, and I'm speaking for myself, as a licensee in the State of Florida, I'd like to know what is involved in this funeral trainee position that Ms. Wiener spoke about, which would give Ms. Biffany five (5) years. Because I feel like it's a comparison to our Florida apprentice program, which you are not a licensee, you are under a funeral director, but you are not an actual licensee. So, that was our motion, that was our second, and that was our vote. {Inaudible}

Ms. Clay – Thank you.

Mr. Brandenburg – We don't have a funeral director apprentice program. We have an internship.

Chair Peeples – I'm sorry, Mr. Brandenburg, I used the incorrect term. It is an internship, sir, which is kind of similar to what I feel like this was for Ms. Biffany in Mississippi. We've already addressed this. Can we go on to agenda item I (2) (b) 1?

Ms. Simon – Thank you, Madam Chair.

(b) Funeral Director and Embalmer (Endorsement)
1. Oswald, Robert

Ms. Simon – The application was received by the Division on April 10, 2023. The application was incomplete when submitted. The application was deemed complete on November 3, 2023. The applicant answered "Yes" to the criminal history question. On or around July 7, 2011, Mr. Oswald pled guilty to Aggravated Domestic Battery/Strangle a Class 2 Felony. Mr. Oswald was sentenced to 120 days county jail, ten (10) days periodic imprisonment/county jail, two (2) years' probation, anger counseling, and fines/cost totaling \$3,429.55. The Division is recommending denial. Is Mr. Oswald or a representative on the call today?

Ms. Lauren Pettine – Lauren Pettine here representing Mr. Oswald. Mr. Oswald is also present.

Ms. Simon – Thank you. Madam Chair?

Chair Peeples – Thank you, Ms. Simon. Ms. Pettine, would you like to address the Board, ma'am?

Ms. Pettine – I would. Thank you, Madam Chair. As you can see in your Board packets, and as Ms. Simon stated, Mr. Oswald had relevant criminal history, which he reported, in accordance with Florida Statute s. 497.142, which requires that criminal history for the past twenty (20) years has been provided. Rule 69K-1.0082 requires that when an applicant has a criminal record, they are not to be approved unless the applicant demonstrate the issuance of the funeral director license will not create a danger to the public, which is our relevant standard here. An explanatory letter dated from November 10th has been provided as part of the Board packet detailing the circumstances which led to this criminal charge with Mr. Oswald, which he pled guilty to. The charge arises from 2010 and was finalized in 2011. During that time, Mr. Oswald was going through a contentious divorce involving the custody of young children. Early in the morning, he went into the room in order to request

that she rethink the divorce after having worked on the boat late at night. He woke her, frightened her, and this resulted in the call to law enforcement, in the included information in your Board packets. The wife at the time did later request that the law enforcement and prosecutors not to press charges, but since this is a domestic abuse or domestic assault case, it's out of the hands of the victim at that point, and the prosecutor decided to move forward. Because Mr. Oswald's family at the time had young children, a single income, and two (2) divorce attorneys, in addition to the attorney on the criminal charge, he did take a plea bargain and pled guilty on this. He did conclude all of his required restitution associated with this matter including paying his fine, attending court-mandated anger management classes, completed his probation and completed any incarceration hours. In the last thirty-one (31) years, Mr. Oswald has been a funeral director in Illinois. He remarried to a new woman in 2015, and his licensure that he is seeking today in Florida is to enable him to move closer to his current wife's family. Since 2010 and 2011, there have been no other incidences with Mr. Oswald similar to this or related to this in any way. He has no other criminal history or incidents relating to this charge. As such, Mr. Oswald's licensure as a funeral director presents no danger to the public today. So, this Board should prove Mr. Oswald's application for funeral director licensure. Thank you.

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

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

Chair Peeples – Mr. Clark?

Mr. Clark – The questions is for Mr. Oswald, so we may need to swear him in.

Chair Peeples – Yes, sir. Mr. Oswald, will you be sworn in, please?

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

Mr. Robert Oswald – Yes, I do.

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

Mr. Oswald – Robert John Oswald Jr., O-S-W-A-L-D.

Ms. Simon – Mr. Oswald has been sworn in at this point.

Chair Peeples – Thank you, Ms. Simon. Mr. Clark?

Mr. Clark – Thank you, Madam Chair. Mr. Oswald, Page 22 for the Board, you provided a letter of kind of the incident. It was not clear to me, but did you actually put the rope around your wife's neck or no?

Mr. Oswald – No, I did not.

Mr. Clark – Okay. So, in the incident report on Page 29 from law enforcement, it states that you did say that you put it around her neck. So, is the document from law enforcement not accurate?

Mr. Oswald – No, it's not. I did not put the rope around her neck.

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

Chair Peeples – Thank you, Mr. Clark. Board members? Mr. Jensen?

Mr. Jensen – Yes, quick question here. I see this was 2011. So, how far are we going back here? Maybe a question for Ms. Simon, just to be sure of the timeline here.

Chair Peeples – Ms. Simon?

Ms. Simon – Thank you, Madam Chair. For felonies, we are talking about twenty (20) years. Misdemeanors are five (5). And this was a felony.

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

Mr. Jensen – It does. Thank you.

Chair Peeples – Thank you. Ms. Pettine?

Ms. Pettine – Thank you, Madam Chair. I'd like to address Board member Clark's question regarding the incident report. The incident report contains the stories from every individual, which was involved in the incident, which includes the story of the wife, the story of the individual who received the call on law enforcement's side, as well as Mr. Oswald's report, which may indicate the variance in the confusion on the different reports of what occurred.

Mr. Clark – Madam Chair?

Chair Peeples – Yes, Mr. Clark?

Mr. Clark – I appreciate that. I mean, it clearly states that Robert said that he put the rope around the neck, anyway. So, I appreciate that context, but this is stating things that law enforcement said he said. That's all.

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

Mr. Williams – Going to what Mr. Clark just stated, is the offense report a certified document by the officer? Question for Ms. Pettine.

Ms. Pettine – I believe that it does contain the certified report from the Clerk of the Circuit Court, but I would have to double-check. Hold on.

Ms. Simon – Madam Chair?

Chair Peeples – Yes, Ms. Simon?

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

Chair Peeples – Yes, ma'am.

Ms. Simon – This is what would typically be referred to as a probable cause affidavit, which was submitted by the police officer in relation to this incident.

Mr. Williams – Got it. So, I was just trying to go along with Mr. Clark, I guess. If this is like an official document and he made the various statements on page 29, as Mr. Clark stated and we see in our Board packet, it's stating things that he said to the officer. So, I'm just trying to really clarify that, Ms. Pettine, in reference to him making these statements to the officer, and the officer is just transcribing what he has stated that he has done. So, it's not a "he says, she says." He is actually saying that he has put the rope around her neck.

Chair Peeples – Ms. Pettine?

Ms. Pettine – Ultimately, the offense report and the letter of explanation is provided in order to give a holistic view of this applicant for funeral director so that this Board may evaluate whether or not this individual is a danger to the public. This incident, I'm not trying to talk down the severity of this incident, but I am trying to provide information that since that time, no incidents similar to this or others have occurred. The divorce with this individual has finalized. He has no further contact with her except through the family relationship. He has remarried to a new individual since 2015, eight (8) years of marriage, and is intending to move to Florida in order to be close to them. These factors together, which can be considered presented to

Florida Administrative Code Section 69K-1.0082 shows that he is not a danger to the public and licensure should be provided to him since he is not a danger to the public.

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

Mr. Williams – Yes, ma'am. Thank you.

Chair Peeples – Mr. Jones?

Mr. Jones – Mr. Oswald, can you tell us what you've been doing the last ten (10) years or so, and is there any disciplinary action against your license? How long have you been licensed as a funeral director?

Mr. Oswald – I've been licensed as a funeral director and embalmer here in Illinois for thirty (30) years with one (1) year apprenticeship, obviously. I've been working at the same funeral home for those thirty-one (31) years. And I'm sorry, what was the rest of the question?

Mr. Jones – Disciplinary action? Have you had any in Illinois?

Mr. Oswald – No, I have not.

Mr. Jones – Thank you.

Mr. Oswald – I'm sorry.

Mr. Jones – Go ahead. Did you have something else in mind?

Chair Peeples – Did you want to add any other information?

Mr. Oswald – This is why, because of protecting my family, financial reasons why I did take the plea is because I did contact the Illinois State Department of Regulation and knew there would be no violations or disciplinary action against my license for this so-called incident.

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

Mr. Jones – It does. And just looking at this, I mean, he served 120 days –

Mr. Oswald – No, I did not. I'm sorry.

Mr. Jones – Okay. It said here, "Sentenced to 120 days county jail."

Mr. Oswald – All I had to go to was what they call weekend jail.

Mr. Jones – Okay. And my point was it must not have been too malicious for that. So, I'm fine. Thank you very much.

Mr. Oswald – Okay.

Chair Peeples – Thank you, Mr. Jones. Are there any other questions? What is the Board's pleasure?

MOTION: Mr. Jones moved to approve the application with one-year probation. Mr. Ferreira seconded the motion, which passed with three (3) dissenting votes.

Chair Peeples – Good luck, Mr. Oswald.

Mr. Oswald – Thank you.

Ms. Pettine – Thank you.

Chair Peeples – Ms. Simon?

Ms. Simon – Thank you, ma'am.

J. Application(s) for Internship

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

(a) Embalmer Intern

1. **Butler, Jovan E**

(b) Funeral Director

1. **Doe, Joe**

(c) Funeral Director & Embalmer (Concurrent)

1. **Barlow, Suzanne M**

2. **Bliefenrich, Jennifer**

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.

K. Application(s) for Funeral Establishment

(1) Recommended for Approval with Conditions

(a) Alonia's Cremation and Urns LLC (Port Orange)

Ms. Simon – An application for funeral establishment licensure was received on October 18, 2023. The application was complete when submitted. The funeral director in charge will be Alonia P. Gainous-Williams (F058013). A background check of the principals revealed no criminal history. As a result, the Division recommends approval subject to the condition that the establishment pass an onsite inspection by a member of Division Staff.

Chair Peeples – Is there a representative on the call today from Alonia's Cremation & Urns LLC? Hearing none. What is the Board's pleasure?

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

(b) Russell Allen Wright Sr Mortuary (Panama City)

Ms. Simon – To correct one item on the coversheet, the proposed establishment would be located in Panama City, not Panama City Beach. An application for funeral establishment licensure was received on October 16, 2023. The application was complete when submitted. The funeral director in charge will be Russell A. Wright (F043164). A background check of the principals revealed no criminal history. As a result, the Division recommends approval subject to the condition that the establishment pass an onsite inspection by a member of Division Staff.

Chair Peeples – Board members? Is there a representative of Russell Allen Wright Sr Mortuary LLC, on the call?

Ms. Wiener – Yes. Wendy Wiener representing the applicant.

Chair Peeples – Thank you, Ms. Wiener. Mr. Ferreira?

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

Chair Peeples – Whoever is on the Board call on a telephone, please mute your phone. Thank you. Ms. Simon?

L. Application(s) for Preneed Main

(1) Recommended for Approval without Conditions
(a) Lincoln Memorial Park Inc d/b/a Blessed Gardens Cemetery (F039539) (Princeton)

Ms. Simon – The Department received an application for a preneed license on October 19, 2023, and no deficiencies were noted on the application. The sole owner of the corporation is David Vega. A completed background check of principals was returned to the Division without criminal history. Applicant is submitting this application for a new preneed license, and the qualifying funeral establishment license (License # F039539) is located at the same address. If approved, Applicant will sell trust-funded preneed through Funeral Services Inc (FSI) (Argent Trust Company) and utilize their approved pre-arranged funeral agreement forms. The Division recommends approval without conditions. Is there a representative of this applicant on the call today?

Ms. Wiener – Wendy Wiener representing the applicant.

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

MOTION: Ms. Clay moved to approve the application. Mr. Jensen seconded the motion.

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

Mr. Ferreira – Is this their first time having a preneed license, Ms. Wiener?

Ms. Wiener – To my knowledge, it is, yes. I believe the cemetery has been around a long time, but they have never had a preneed license.

Mr. Ferreira – Okay. I was looking at the first page there, and I was looking at the numbers. Is the net worth reported accurate?

Ms. Wiener – It is, yes.

Mr. Ferreira – Okay.

Chair Peeples – Mr. Ferreira, does that complete your questions?

Mr. Ferreira – Yes, ma'am.

Chair Peeples – Thank you. Any further discussion on the motion? Mr. Jensen?

Mr. Jensen – Yes. Just so kind of what Mr. Ferreira just said, if you notice {inaudible} is \$3.5 million, but a bunch of that is actually cemetery land, which I don't believe you can use, but they still meet the net worth threshold. So, I don't know. I think we are still fine here.

Chair Peeples – Thank you. Ms. Wiener, would you like to reply?

Ms. Wiener – I can just address that. You {inaudible} the value of your land in your net worth for purposes of qualification. But in this particular case, they meet the net worth, aside and apart from that, but this business has been, what's a good word to use, "dormant," if you will. There was for a long time a problem with access with the roadway there in their location, and so the business is kind of getting up and going now, even though it's been in existence for a number of years.

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

Mr. Jensen – Yes, ma'am. Thank you.

Chair Peeples – You're welcome. Any further discussion on the motion? Hearing none. All in favor of the motion, say yes.

Board members –Yes.

Chair Peeples – All oppose, say no. Motion carries.

M. Application(s) for Preneed Branch

- (1) *Recommended for Approval without Conditions – Addendum G*
 - (a) *Family Owned Family Group LLC (F651593) (Green Cove Springs)*
 - (b) *Family Owned Family Group LLC (F651593) (Keystone Heights)*
 - (c) *Family Owned Family Group LLC (F651593) (Starke)*

Ms. Simon – Pursuant to s. 497.453(7), Florida Statutes, Family Owned Family Group LLC has applied for preneed branch licensure. The applications were complete without reportable criminal or disciplinary history and accompanied by the required fee. The record indicates that the applicant is qualified for branch licensure. It is recommended that the entities referenced in Addendum G be approved for the branch licensure applied for.

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

N. Application(s) for Registration as a Training Facility

- (1) *Informational Item (Licenses Issued without Conditions) – Addendum H*
 - (a) *Camel Funeral Home (Belle Glade)*

Ms. Simon – This is an informational item. The Division has reviewed the application listed on Addendum H and found it to be complete in that the applicant met the requirements to be a training agency. Pursuant to Rules 69K-1.005, Florida Administrative Code, the Division has previously approved this application.

O. Application(s) for Removal Service

- (1) *Recommended for Approval with Conditions*
 - (a) *444 Global Enterprises dba Sunset Removal (Tamarac)*

Ms. Simon – An application for removal service licensure was received on October 25, 2023. The application was incomplete when submitted. A completed application was received on November 1, 2023. A background check of the principals revealed no criminal history. The Division recommends approval subject to the condition that the removal service pass an on-site inspection by a member of Division Staff. Is there a representative of this entity on the call today?

Mr. Gregoire Jules – Yes, ma'am.

Ms. Simon – Thank you, sir. Please state your name and spell your last name.

Mr. Jules – My name is Gregoire. Last name is Jules, J-U-L-E-S.

Ms. Simon – Thank you. Madam Chair?

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

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

- (b) *Alliance Removal and Transport Service LLC (Pembroke Pines)*

Ms. Simon – An application for removal service licensure was received on November 2, 2023. The application was complete when submitted. A background check of the principals revealed no criminal history. The Division recommends approval subject to the condition that the removal service pass an on-site inspection by a member of Division Staff. Is there a representative of this entity on the call today?

Mr. Kevin Mitchell – Yes, Madam Chair.

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

Mr. Kevin Mitchell – Kevin Mitchell, M-I-T-C-H-E-L-L.

Ms. Simon – Thank you. Madam Chair?

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

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

(c) Astyrian Removal Transport Service LLC (Jupiter)

Ms. Simon – You may notice that it's not the name on the agenda, but all paperwork indicates that that is the name. An application for removal service licensure was received on November 7, 2023. The application was incomplete when submitted. A completed application was received on November 9, 2023. A background check of the principals revealed no criminal history. The Division recommends approval subject to the condition that the removal service pass an on-site inspection by a member of Division Staff. Is there a representative of this entity on the call today?

Ms. Kathline Radkins – Yes, Madam Chair.

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

Ms. Radkins – Kathline Radkins, R-A-D-K-I-N-S.

Ms. Simon – Thank you. Madam Chair?

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

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

Ms. Radkins – Thank you.

(d) Nelson's Elite Care LLC (Orlando)

Ms. Simon – An application for removal service licensure was received on August 15, 2023. The application was incomplete when submitted. A completed application was received on October 5, 2023. A background check of the principals revealed no criminal history. In August 2022, Division staff conducted an investigation into Nelson's Elite Care LLC. During the investigation, it was determined that three (3) operational employees of Nelson's Elite Care LLC had not completed the required two-hour communicable disease course. A Final Order based on the findings of the investigation was filed on August 4, 2023, which placed the license for Nelson's Elite Care LLC on probation for a period of six (6) months and assessed a \$500 fine to the Department. All conditions of the Final Order have been met. The Division recommends approval subject to the condition that the removal service pass an on-site inspection by a member of Division Staff. Is there a representative of the entity on the call today? Hearing no response. Madam Chair?

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

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

P. Collective Coversheet(s)

(1) Recommended for Consideration

(a) Request(s) for Removal of Real Property from Cemetery Care & Maintenance Trust

- **Family Owned Funeral Group LLC d/b/a Forest Meadows Cemeteries – Central (F697419) (Gainesville)**
- **Family Owned Funeral Group LLC d/b/a Forest Meadows Cemeteries – East (F697420) (Gainesville)**

Ms. Simon – Pursuant to ss. 497.266 (3), “A person may not withdraw or transfer any portion of assets within the care and maintenance trust fund, except as authorized by s. 497.2675, without first obtaining written consent from the licensing authority.” On October 27, 2023, Wendy Wiener sent a request regarding removal of real property from the cemetery care and maintenance trust for the aforementioned cemetery locations owned by Family Owned Funeral Group LLC. In their correspondence to the Division, the entity explains that since the Board having been advised of this issue in March 2020, the cemetery currently owns real property assets of two (2) trusts for the abovenamed cemetery locations. To date, the trust assets have been transferred to Argent Trust Company and the real property will be purchased, if approved, from the two (2) trusts in the amount of \$815,470. Therefore, Argent is requesting approval for the release of the real property assets from trust in exchange for \$815,470. All documentation has been included for the Board’s review and consideration. Is there a representative of this entity on the call today?

Ms. Wiener – Yes, Ms. Simon. Wendy Wiener.

Ms. Simon – Thank you, Ms. Wiener. Madam Chair?

Chair Peeples – Thank you, Ms. Simon. Ms. Wiener, would you like to address the group?

Ms. Wiener – Only if there are questions. I think just as a preliminary matter, the Board, and the regulator, I believe, will agree that real property, unless it’s under the statutory threshold of 25% or less of the trust assets, it’s not an appropriate asset for a Care and Maintenance Trust. This real property has been in a trust for nearly as long as this Board has existed, so the better part of thirty (30) years now. And finally, the owner of these cemeteries intends to replace the real property asset with cash, which is a much more appropriate asset to use for investment in a Care and Maintenance Trust.

Chair Peeples – Thank you, Ms. Wiener. I have a question for you. It states on our coversheet that there was in March of 2020, I think, that is where the \$815,470 fee came from. Has that fee been adjusted since we are now in 2023?

Ms. Wiener – It has not. The asset actually is not valued for these purposes at market value. That is the amount of trust liability principal that the real property is covering. So, as you know, you deposit into your Care and Maintenance Trust the amount that is there for principal, and all of the earnings from the trust can come out and go to the cemetery on a monthly or a quarterly basis for purposes of caring for and maintaining the cemetery. So, the real property, this is the principal that is covered by this particular real property and has been the principal covered by this real property, even prior to 2020. The prior owner was going to, as we informed the Board, purchase the real property from the trust and replace that with cash, but that transaction just never came to fruition. And since that time, the trust assets were transferred from Sabal Trust Company to Argent. And so, I would call this matter perfunctory in some regards because the Board sent the real property to the Care and Maintenance Trust Fund in the first place, way back in the day, in the early 1990s. And so, this will simply be the capacity for them to document the removal of the asset from trust.

Chair Peeples – Thank you, ma'am. Mr. Brandenburg?

Mr. Brandenburg – Madam Chair, I move that we provide written consent from the licensing authority.

Chair Peeples – Is that part of a motion, sir?

Mr. Brandenburg – Yes, I move, I make a motion.

Chair Peeples – Thank you, sir.

Mr. Brandenburg – That's what is being sought here. Looks like to me that the statute says it can't be done without written authority from the licensing authority.

MOTION: Mr. Brandenburg moved to approve the requests. Mr. Jensen seconded the motion.

Chair Peeples – Are there any questions for Ms. Wiener or any questions to the Board from the Board members? Rabbi Lyons?

Rabbi Lyons – Okay. Just to be clear, the motion is to approve the sale, and then the cash at \$815,000, approximately, is going to go into the Care and Maintenance Trust Fund, correct? Is that the motion?

Ms. Wiener – Yes, sir. Yes. The principal will be made whole. Yes.

Chair Peeples – Rabbi, does that complete your question?

Rabbi Lyons – Yes, very good.

Chair Peeples – Any other questions or discussion? Mr. Ferreira?

Mr. Ferreira – The two (2) pieces of property, Ms. Wiener, is that cemetery property or is that property outside of the cemetery? Just curious.

Ms. Wiener – Oddly enough, it's one (1) piece of real property, owned jointly by the two (2) trusts in proportion. It's a very strange situation and it's actually, Mr. Ferreira, interesting that you should ask, it is the funeral home itself. It's the real property with the funeral home on it. Years and years and years ago, the owner, five (5) owners back had that piece of real property owned by the Preneed Funeral Merchandise Trust, and the Board in its very early iteration said, "Oh, no, that's not good. There is no liquidity with that piece of real property." They had them transferred into the Care and Maintenance Trust. So yes, it is the piece of real property. Yes.

Mr. Ferreira – And they did that, at that point, to make it whole, is that right? Was that the purpose for t?

Ms. Wiener – They did. Well, yes.

Mr. Ferreira – Okay.

Ms. Wiener – You know how recordkeeping was way, way back, in the day before FSIs, and those kinds of things. And so, yes, many, many years ago, the principal amount was assigned to this real property, so that would be the principal held on the books for those.

Mr. Ferreira – Okay.

Chair Peeples – Mr. Ferreira, does that complete your questions?

Mr. Ferreira – Yes. I guess my concern would be if this property is removed, that it will be made whole, through cash.

Ms. Wiener – Absolutely.

Chair Peeples – We have a motion. We have a second. Hearing no discussion. All in favor of the motion, say yes.

Board members – Yes.

Chair Peeples – All opposed, say no. Motion carries.

Ms. Wiener – Thank you.

Q. Contract(s) or Other Related Forms

(1) Recommended for Approval with Conditions

(a) Request for Approval of Trust Agreement and Transfer of Trust

1. Curlew Hills Memory Gardens Inc (F019277 and F039581) (Palm Harbor)

Ms. Simon – Curlew Hills seeks approval of a preneed trust agreement, a cemetery care and maintenance trust agreement, and the below proposed trust asset transfers as more specifically set forth in the attached correspondence from Wendy Wiener, Attorney, dated October 24, 2023 (attached hereto, as Exhibit A). Exhibit B) Trust Agreements Curlew Hills seeks approval of the following: Attachment 1 hereto is a cemetery care and maintenance trust agreement, entitled “*Curlew Hills Memory Gardens Care & Maintenance Trust Agreement*” and Attachment 2 hereto is a preneed trust agreement, entitled “*Curlew Hills Master Preneed Trust Agreement*”. Exhibit C) Proposed Trust Transfer Curlew Hills now seeks approval to consolidate the record-keeping and transfer of existing preneed funeral and cemetery merchandise, services and care and maintenance trust accounts currently held under the Bank of Tampa to the trusts previously referred to, as identified in the attached correspondence from Attorney, dated October 24, 2023, under Exhibit A. If approved, Funeral Services Inc (FSI) will serve as the record-keeper for these accounts and the Bank of Tampa will continue as trustee, all as more specifically set out in Mrs. Wiener’s correspondence, dated October 24, 2023. The Division recommends approval subject to the following conditions:

- A) Approval of the trust agreement documents in Exhibit B above; and
- B) Approval of the proposed trust transfers as identified above in Exhibit C subject to the following conditions:
 - 1) That the representations of Curlew Hills, as set forth in Attorney’s correspondence dated October 24, 2023, be deemed material to the Board’s decisions herein.
 - 2) That within ninety (90) days of this Board Meeting Bank of Tampa 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 (1) of its officers, certifying that it meets one (1) or more of the applicable criteria in s. 497.266(1), and s. 497.458(1)(b), to act as trustee of the trust to be transferred pursuant to Attorney’s correspondence, dated October 24, 2023.
 - ⊙ 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 Attorney’s attached correspondence, dated October 24, 2023.
 - ⊙ Acknowledgement of receipt of the amount of trust assets being transferred as specified under the former trust, as identified in Attorney’s attached correspondence, dated October 24, 2023.
 - 3) That the Board’s executive director, for good cause shown, may extend the compliance time frame for the above specified conditions, an additional ninety (90) days.

Is a representative of Curlew Hills on the call today?

Ms. Wiener – Wendy Wiener representing the applicant here.

Ms. Simon – Thank you, Madam Chair.

Mr. Keenan Knopke –And Keenan Knopke, in case there is a question that Ms. Wiener can’t answer, which I doubt there is.

Chair Peeples – Thank you, Ms. Wiener, and Mr. Knopke. Board members?

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

Ms. Wiener – Thank you, Board.

(b) Request(s) for Transfer of Trust
1. Maspons Funeral Home Inc (F019475) (Miami)

Ms. Simon – Maspons seeks approval of the below proposed trust asset transfer as more specifically set forth in correspondence from Justin Wilson, representative, dated November 8, 2023. Maspons now seeks approval of the transfer of the following: FSI Master Trust Agreement (dated 2/6/78) (90/10 trust) (Exhibit A) under Argent Trust Company (Argent) to the First Amended and Restated Agreement and Declaration of Trust of IFDF Master Trust Fund A Agreement (dated 2/1/19) (Exhibit B) under Argent. If approved, Argent will continue to be the trustee, all as more specifically set out in attached correspondence. The Division recommends approval subject to the following conditions:
Approval of the proposed trust transfers as identified above; and

- 1) That the representations of Maspons, as set forth in the representative's correspondence dated November 8, 2023, be deemed material to the Board's decisions herein.
- 2) That within ninety (90) days of this Board Meeting Argent 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 that it meets one or more of the applicable criteria in s. 497.266(1), and s. 497.458(1)(b), to act as trustee of the trust to be transferred pursuant to the representative's correspondence, dated November 8, 2023.
 - ⊙ 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 the representative's attached correspondence, dated November 8, 2023.
 - ⊙ Acknowledgement of receipt of the amount of trust assets being transferred as specified under the former trust, as identified in the representative's attached correspondence, dated November 8, 2023.
- 3) That the Board's executive director, for good cause shown, may extend the compliance time frame for the above specified conditions, an additional ninety (90) days.

Is there a representative of Maspons on the call today? Hearing no response. Madam Chair?

Chair Peebles – Thank you, Ms. Simon. Board members?

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

R. Related Item(s)

(1) Application(s) for Monument Establishment Builder and Monument Sales Agreement

(a) Recommended for Approval with Conditions

1. My Rock LLC (Plant City)

Ms. Simon – An application for monument establishment builder licensure was received on October 13, 2023. The application was incomplete when submitted. A completed application was received on November 1, 2023. A background check of the principals revealed no criminal history. The Division recommends approval subject to the condition that the establishment passes an inspection by a member of Division Staff.

Chair Peebles – Is there a representative on the call today representing monument establishment, My Rock LLC?

Mr. Mike DelMonico – There is, yes. My name is Mike Delmonico, a managing member of the LLC. Last name, D-E-L-M-O-N-I-C-O.

Chair Peebles – Thank you, sir. Mr. Williams?

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

2. My Rock LLC (Plant City)

Ms. Simon – The Division recommends approval of the monument sales agreement subject to the condition that two (2) full sized print-ready copies are received by the Department within sixty (60) days of this Board meeting.

Chair Peebles – Rabbi Lyons?

Rabbi Lyons – Just have one comment. This is a standard contract for the most part, except that if you look where that sort of blank area next to the totals. So right under it, it says layout of monument will be printed on the back of this contract, and a signed proof is required for granite markers and monuments, but then there's no second page. It's not a big deal. It's just a second page where you put the layout, and then you have the customer sign off on it. So, I would move that we approve it with the condition that they add that second page and send it off to the Department.

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

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

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

Ms. Mary Schwantes – May I go forward, Madam Chair?

Chair Peoples – Yes, ma'am.

Ms. Schwantes – Thank you, ma'am. Good afternoon, Board members. First thing I'm going to report today is the legislative session report. SB22 on Animal Cremation is now also a companion bill with HB301, also titled Animal Cremation. In October, we reported the filing of the Senate Bill, also known as Sevilla's Law. Again, the companion bill is HB301. It is the same bill as filed in previous years on these issues. The bill requires a provider of companion animal cremation services to provide certain individuals and entities with a written description of the services the provider offers, including a detailed explanation of each service offered. Both bills are before the first of their three (3) committee reviews.

The next bill I want to talk about is HB751, which is titled Disqualification from Licensing, Permitting, or Certification Based on Criminal Conviction. So, this bill was just filed in the House yesterday and I found out about it this morning, so I've not had full opportunity to review it. Among other things, the bill provides that an application may only be denied based on the applicant's prior conviction under certain circumstances and limit any denial, and that all of the listed circumstances must apply in order to deny the application. It requires state agencies to consider certain factors in determining whether an applicant has been rehabilitated, such as the age of the person when the crime was committed. It sets out new and specific state agency reporting requirements regarding the review of these applications that involve criminal history. Significant changes are proposed to Section 112.011, which is restrictions on the employment of ex-offenders, and Section 120.60 involving licensing processes. Although this bill does not specifically proposed changes to Chapter 497, it may still impact our licensing processes if passed. On its face, it appears very similar to a bill we discussed last year that was filed late in the session, in that it would authorize a person with a prior conviction to petition an agency even while incarcerated for review of a possible license. So obviously, this could have significant impact on our licensing processes if it is passed and if it applies to Chapter 497 licensing. The bill has not yet been assigned to any committees. We'll continue to monitor it closely and report on it as we go forward. If it is indeed the same or similar to the bill filed last year, it has been filed earlier in the session, so it has more opportunity to pass through these committees with various amendments as it goes along.

Four (4) bills have been filed that directly involve Chapter 497 so far. Two (2) of the four (4) involve sovereign immunity and/or suits against the government, and that is HB569, which is Suits Against the Government, and SB472 on Sovereign Immunity. Both of these bills essentially concern the statutory limits for court claims filed against the state, its agencies, and subdivisions. Any changes to our statutes would be to Section 497.167, which concerns administrative matters, in that it references Section 768.28 regarding sovereign immunity and recovery limits. Similar bills have been filed in recent years. Both bills are currently in the first of their three (3) committees.

SB74 on Florida Statutes is titled Florida Statutes. This is a cleanup bill. It basically deletes provisions that have expired, corrects grammatical errors, et cetera. The impact on Chapter 497 is to Section 497.260(1)(i), which is correcting a reference to another statute regarding the definition of a State University. Additional grammatical changes are proposed to Section 626.321 regarding limited licenses, which was just modified last year, and again, that is just to clean up some grammar on it. The bill is currently before the Rules Committee, and as with most cleanup bills, it would be expected to pass.

I want to talk a little bit in more detail about the next one, at this point, which is SB504 on the Sale of a Deceased Human Body's Biometric Data 2024. That's the title of the bill. This is the only really substantive bills filed so far involving Chapter 497, which specifically involving Chapter 497. This bill provides disciplinary grounds for the sale of a deceased human body's biometric data under certain circumstances and provides disciplinary grounds for a funeral establishment that fails to provide a legally authorized person with specific disclosures regarding the sale of the deceased human body's biometric data or fails to

provide a legally authorized person with the option to opt out of such a sale. If passed, the effective date would be July 1st of 2024. Essentially, the bill prohibits the sale of biometric data, which could include fingerprints, for example, without first obtaining the permission of the legally authorized person. It also adds a definition of biometric data to our definition section, which is section 497.005. At this time, there is no similar House Bill. Also, the language of the bill, I've kind of emphasized this as I've gone along, the language of the bill is currently limited to the sale of biometric data. As the bill progresses through the process, I wouldn't be surprised to see that the prohibition is extended to the provision or sale, because I understand that some licensees do not actually sell the data, but they do provide the data to these companies that use these fingerprints or other information received. If passed, we currently anticipate that about five (5) rules will need to be changed to reflect the statutory changes. The bill was filed by Senator Linda Stewart, on November 16th. The bill has been referred to three (3) committees: Banking and Insurance, Appropriations Committee on Agriculture, Environment, and General Government, and the third one is Fiscal Policy with no hearing date set at this time.

The next update I want to give you is just a brief update on the Rules Committee meeting. The Board's Rules Committee met in person on Tallahassee, November 14th. I'm not presenting the official summary report from the Rules Committee meeting at this time, however, I wanted to give you a brief update on the results. First, I want to thank all Committee members and Board members and others who attended the meeting. It was well attended and involved in helpful dynamic discussion from all involved. After consideration of the various proposals regarding increased funding for the operational needs of the Division, the Committee voted to recommend an increase on annual inspection fees for the non-cemetery licenses, non-cemetery establishment licenses. The recommended increase was for an annual increase of \$25 on these inspection fees, bringing the annual inspection fees for these licenses to \$250. Since the inspection fees are paid with the biennial renewal fees every other year, the amount of the increase would be of \$50 every two (2) years, potentially resulting in additional revenue to the Division of approximately \$71,000 every two (2) years. The official summary report from the Rules Committee meeting, along with the minutes from that meeting, will be presented to the Board for its review and possible action at a future Board meeting, probably the February meeting. As I said, I just wanted to give you a brief update on it today. At this time, no action is needed, and any discussion on the Rules Committee meeting results should be saved for the Board meeting in which the results are officially presented.

Finally, I want to give you a report on the progress of updates to the state Laws and Rules Exam. Beginning this past spring, we began a very intensive project to update the Florida Laws and Rules Exam, and I'm very happy to report that that project is now completed. In coordination with Pearson VUE, which is the company that handles the exam for us, all test questions were reviewed. Questions which were no longer relevant were eliminated from the test question databank, and the new exam forms are now available for student's use. So, the Florida Law and Rules Exam has been updated, and we look forward to getting feedback on it as we go forward in future years.

Our next Board meeting will take place by videoconference on Thursday, January 4th at 10:00 a.m. And that ends this portion of the Executive Director's Report. Thank you.

Chair Peeples – Thank you, Ms. Schwantes. Ms. Simon?

Ms. Simon – Thank you.

(2) Report on 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: December 7, 2023
 Date report was prepared: November 29, 2023

Licensee	Board Meeting	Case No.	Total Fine	Date Due	Paid in Full?	Comments
Lisa Michelle Norwood	11/2/2023	277447-21-FC & 278059-21-FC	3,500			

	Samuel's Funeral Home	12-Oct-23	305186-23-FC	\$1,500	12/11/2023		
	Guerry Funeral Home	12-Oct-23	306763-23-FC	\$1,500	12/11/2023		
	Brittnee Milton	12-Oct-23	306765-23-FC	\$1,500	12/11/2023		
	Guerry Funeral Home	12-Oct-23	304779-23-FC & 308191-23-FC	\$5,000	12/11/2023		
	Sandra Brown	12-Oct-23	307399-23-FC	\$1,250	12/17/2023		
	J Brown Funeral & Cremation Services	12-Oct-23	307398-23-FC	\$1,750	12/17/2023		
	William Lee Guerry	12-Oct-23	304782-23-FC & 308192-23-FC	\$5,000	12/11/2023		
	Justin Lee	12-Oct-23	279222-21-FC	\$1,500			
	Geronimo Mena	12-Oct-23	306755-23-FC	\$1,500	12/11/2023		
	Michael Shorter	3-Aug-23	292655-23-FC	\$500	11-Sep-23	Paid in Full	
	Ruben Rojas	13-Jul-23	292034-22-FC	\$6,000	11-Sep-23		
	Holmes Funeral Directors	13-Jul-23	276841-22-FC	\$250	11-Sep-23	Paid in Full	
	Ozzie Christopher McLemore	13-Jul-23	279221-21-FC	\$2,500	11-Sep-23		Sent to OGC for administrative action
	Mary Lou Boyd	13-Jul-23	292035-22-FC	\$500	11-Sep-23		Sent to OGC for administrative action
	Nelson's Elite Care	13-Jul-23	301514-22-FC	\$500	11-Sep-23		Sent to OGC for administrative action
	Brian James Bonar	6/29/2023	293064-22-FC	\$11,000	4-Sep-23		

ES 11-29-2023

T. Chair's Report (Verbal)

Ms. Simon – Madam Chair?

Chair Peeples – Thank you, Ms. Simon. I'll be short and sweet, and I appreciate everybody's participation. We have great meetings and I appreciate that. And to Rabbi Lyons and those, I'd like to say Happy Hanukkah. And to the others, I'd like to say Merry Christmas and hope you have a blessed holiday season. Ms. Simon?

Ms. Simon – Thank you, Madam Chair.

**U. 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.

Chair Peeples – Thank you.

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

Rule Number	Rule Title	Date Rule Language Approved by Board	Date Sent to OFARR	Rule Development Published	Notice Published	Adopted	Effective
69K-18.004	Intern Training Agencies	09/20/2023	09/28/2023	10/09/2023	10/25/2023		
69K- 8.006	Description of Merchandise on Preneed Contracts	10/12/2023	11/16/2023				

V. Public Comments (Verbal)

Ms. Simon – Are there any public comments to be made at this time? Hearing no response. Madam Chair?

Mr. Brandenburg – I have one response. I just like to recognize an important day in the history of America, and today is Pearl Harbor Day from December 7, 1941. God Bless America.

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

Chair Peeples – Yes, ma'am. Mr. Williams?

Mr. Williams – Yes, ma'am. Madam Chair, thank you. I just want to go on record to acknowledge the life of Mr. Charles Chestnut, who transitioned. He was a pillar in the funeral industry. And so just want to go on record to send my condolences to that family, who is going through that transition.

Chair Peeples – Thank you, Mr. Williams. Mr. Ferreira, did you have your hand up?

Mr. Ferreira – No, I was agreeing with Mr. Brandenburg.

Chair Peeples – Thank you, sir.

W. Administrative Report as of November 20, 2023

The information was provided on the agenda.

X. Disciplinary Report

The information was provided on the agenda.

Y. Upcoming Meeting(s)

- (1) January 4th (Videoconference)
- (2) February 1st (In-Person - Tallahassee)
- (3) March 7th (Videoconference)
- (4) April 4th (Videoconference)
- (5) May 2nd (Videoconference)
- (6) June (In-Person - TBD)
- (7) June 27th (Videoconference)

Z. Adjournment

Chair Peeples – Well, hearing no further items, it's 1:12 and we are going to be dismissed. Thank you, Board.

Ms. Simon – Thank you, Board members.

The meeting was adjourned at 1:12.