

MINUTES
BOARD OF FUNERAL, CEMETERY AND CONSUMER SERVICES
VIDEOCONFERENCE MEETING
MAY 4, 2023 - 10:00 A.M.

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

Ms. Jill Peeples – Good morning, this is Chair Jill Peeples. It is 10:00 A.M. It's Thursday, May 4, 2023. This is a videoconference meeting, and I would like to turn it over to Ms. Simon for preliminary remarks and roll call.

Ms. Ellen Simon – Thank you, Madam Chair. Good morning. My name is Ellen Simon. I am the Assistant Director for the Division of Funeral, Cemetery, and Consumer Services. 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 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 AA 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:

Rachelle Munson, Board Legal Advisor
Marshawn Griffin, Department Legal Counsel
Kimberly Marshall, Department Legal Counsel
Jared Woliver, Department Legal Counsel
LaTonya Bryant, Department Staff
Jasmin Richardson, Department Staff

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

Chair Peeples – Thank you, Ms. Simon. Mr. Williams, I notice on this screen that we do not have your picture. Are you able to join us by camera?

Mr. Darrin Williams – I am, but it's saying there's some difficulties loading the cameras. So, I can log off and log back on.

Chair Peeples – If you'll try that real quick, sir. If not, then we'll have to have you just kind of request if you need to speak. If you'll try it really quick, please, sir. Mr. Graham, if you will take your camera off, please, sir. Only the Board members should have their cameras on. Thank you. Perfect. Thank you, Mr. Williams. We've got your photo and your camera. Board members, we will proceed to Item B on the agenda.

B. Action on Minutes

(1) April 4, 2023

Chair Peeples – Board members?

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

Chair Peeples – Ms. Simon?

Ms. Simon – Thank you.

C. Old Business

(1) Application(s) for Direct Disposal Establishment

(a) Recommended for Approval with Conditions

1. Panhandle Direct Cremation LLC (Pace)

Ms. Simon – An application for direct disposal licensure was received on March 13, 2023. The application was incomplete when submitted. A completed application was received on March 17, 2023. The Funeral Director in Charge will be Tracie Bickelhaupt (F050769). A background check of the principals revealed no criminal history. The application was on the April 4, 2023, Board meeting agenda and was tabled for clarification of the owner and principals. The Division recommends approval subject to the condition that the establishment pass an onsite inspection by a member of Division Staff. I believe that there is a representative of Panhandle Direct Cremation LLC on the call today.

Chair Peeples – Is there a representative from Panhandle here?

Mr. Michael Lewis – This is Mike Lewis, with Lewis Funeral Home. I'm on the phone.

Chair Peeples – Thank you, Mr. Lewis.

Mr. William Linne – This is William Linne. I'm Lewis Funeral Home's and the applicant's attorney. I'm in Pensacola, Florida.

Chair Peeples – Thank you, sir. Board members?

Mr. Chris Jensen – Madam Chair?

Chair Peeples – Yes, Sir, Mr. Jensen?

Mr. Jensen – I do you have a question. This application appears to still be incorrect, so I just want to bring it to the Board's attention and see if there's something we need to worry about or not. But if you look at the business entity list of principals, an LLC cannot have a corporate officer, nor can it issue stock or have a stockholder. And, that is in fact, what they've checked. So, I don't know how deep we want to go in that. I did find that, just for the record, in four (4) other places in this application, in different applications on today's agenda. So, my question is, I probably realize the intent, but in fact, the application is not correct. So, what now?

Mr. Linne – This is William Linne. I think I can answer that question. The member of the LLC is Lewis Funeral Home, Inc. Its officers are Michael S Lewis and Samuel E Lewis. They are obviously principals, and I think it was important to have their names there. And technically, they are shareholders and also officers of the member of the LLC.

Mr. Jensen – If I may, Madam Chair?

Chair Peeples – Yes, sir, Mr. Jensen.

Mr. Jensen – So, if that's the case, was the application made in the name Panhandle Direct Cremations, LLC? It should have been in the name of Lewis, whatever you said, incorporated

Mr. Linne – No, Panhandle Direct Cremation, LLC is going to be the operator of the facility, but that operator is owned by a corporation.

Mr. Jensen – I understand that, but I don't see a DBA in here anywhere. I mean, it's up to the Board.

Mr. Linne – It's just the same as if I was owner, which I'm not obviously, but the owner is the entity, Lewis Funeral Home, Inc. In Full disclosure, we wanted to make sure that you were familiar with the fact that Michael S Lewis and Samuel E Lewis, where the principals of the corporation that is the member of the LLC.

Mr. Jensen – Ok, and also, I guess, on the new thing, we have a Samuel E, Michael, S, and a Samuel Chase.

Mr. Linne – The manager is Samuel Chase Lewis. He's the manager of the LLC. He's Samuel E Lewis' son.

Mr. Jensen – I see Samuel E is called a stockholder, and Michael S...

Mr. Linne – He is the stockholder of Lewis Funeral Homes, Inc, one of them. And the other one is Michael S Lewis.

Mr. Jensen – Ok. Madam Chair. I would probably have to defer to the Department as I'm a little confused by this, because I'm looking at the Board packet, and it says Panhandle Cremations, LLC, so I'm a little confused. Is this correct or incorrect, Ms. Simon?

Ms. Simon – Madam Chair, if I may?

Chair Peeples – Yes, ma'am.

Ms. Simon – Ok. I think that it is appropriate. I'm not sure about the applicants, but I think the applicant is a corporation. So, there is no need to say Lewis Funeral Home dba Panhandle, if the LLC identity is Panhandle Direct, and that's who applied. But as to the other issue you raised, Mr. Jensen, perhaps if the Board was so inclined to approve the application, but for the information on the list of business principals, perhaps we can have the applicant submit another list of business principals that

includes Lewis Funeral Home, Incorporated as one of the principals. That way it would resolve the issues, because they are indeed one of the principals and should be on the list of business principals. If we have that done, we can make that a condition of licensure.

Chair Peeples – Mr. Jensen?

Mr. Jensen – Yes. I'm fine with that. I'm just crossing the Ts and dotting the Is, if the application is not correct. And I'm ok with that if they're willing to fix it, if the rest of the Board is.

Chair Peeples – Mr. Jensen would you like to make a motion?

MOTION: Mr. Jensen moved to approve with the condition that the establishment pass an onsite inspection by a member of Division Staff and submit another list of business principals, that includes Lewis Funeral Home, Incorporated as one of the principals. Mr. Ferreira seconded the motion, which passed unanimously.

Chair Peeples – Thank you, Mr. Lewis, and Mr. Linne.

Ms. Simon – Madam Chair?

Mr. Linne – I want to thank Ms. Simon. She was just a joy to deal with. She really was.

Ms. Simon – Thank you, sir.

Chair Peeples – Ms. Simon?

Ms. Simon – Yes, I just want to make sure that Mr. Jensen meant that that be a condition of licensure regarding that submission of a list of business principals, that included Lewis Funeral Home.

Mr. Jensen – Yes, ma'am, but I believe I did state that.

Ms. Simon – Ok. I just wanted to make sure. Thank you for that. Madam Chair, may I move on?

Chair Peeples – Yes, ma'am.

(2) Request for Section 120.57(2), F.S. Hearing
(a) Recommended for Approval and Affirmation of Denial
1. Hart, J T Jr.

Ms. Simon – An application for concurrent internship licensure was presented to the Board in February 2023. The Board denied the application for licensure based upon criminal history and a Notice of Intent to Deny was filed on March 1, 2023. The Petitioner was given twenty-one (21) days to appeal, and a Request for Hearing before the Board was filed on March 22, 2023. The Division recommends that the Board grant the request for hearing and affirm its Intent to Deny. I believe Ms. Wiener represents the applicant.

Ms. Wendy Wiener – I do. Good morning.

Chair Peeples – Good morning.

Ms. Wiener – Madam Chair may I proceed with the presentation?

Chair Peeples – Yes, ma'am.

Ms. Wiener – Alright. Thank you, and good morning, Board members. We do appreciate you granting Mr. Hart's hearing request, and reconsidering or considering, again, his application for licensure. I know that last time you considered this during

your February Board meeting, you had his written materials in front of you. And I believe you may have heard from Mr. Hart very briefly. But what you didn't have the benefit of was Mr. Hart's background and the story of his transformation that I believe strongly supports an application for licensure. So, Mr. Hart was a teenager when he, as sometimes happens, fell into a bad crowd. He got involved with substances and he also got involved with petty crime. The incident that led to his entire criminal history before you occurred in 2015, so some number of years ago, when he and two (2) of his friends went into Ulta Cosmetics store and they were there to shop and decided to shoplift some colognes. A store clerk interceded, Mr. Hart pushed past her and pushed her down. He was apprehended. He had a controlled substance on his person. And in fact, at that time he had used that substance, cocaine. He was not in his right mind when he committed this crime. He was sentenced in 2016 to one (1) year in jail. While he was there, he did a number of things that I think are relevant to your consideration of his application. He went through the AA program and completed that successfully. He moved voluntarily into what is called the Drug Reform Dorm, where he and others who've been mixed up with substances or self-identifying as drug users live together in a supportive and therapeutic environment. And he also got himself right to work. He went right to work when he got there, his first opportunity. He got a job in the kitchen. Successfully completed his term of incarceration. And when he was released, he knew for sure that his life would be different, and it really has been.

So, he's had the support of his parents, both of whom are former law enforcement. He has taken no drugs, he reports having taken no drugs, since his release. He's had zero problems with law enforcement. He has continuously held two (2) steady jobs since his release from incarceration. One (1) of them is in a gas station. That gas station owner and operator worked with him as he entered and then went through mortuary school. And he's also been working as a funeral attendant and doing administrative tasks at the funeral home at which he works now, and at which he seeks to become an intern. I asked Mr. Hart why the funeral profession, and he told me, and I'm sure he'll telling you if you wish to inquire that, he wants to serve. He wants to give back. His parents, both, as I said, former law enforcement, instilled in him, they modeled for him a certain type of behavior, and he really went away from that type of behavior, and now, it's his time. He's changed his life. It's been a number of years since he's changed his life, and he believes that his experiences, and his background, give him the capacity for empathy and for sympathy. And, in short, he's ready to join the death care profession. And so, this Board has established some precedent on many occasions, giving applicants with a former criminal record, a chance to prove themselves. And I would encourage you to think back on the times that I've been before you or other attorneys have been before you, presenting applicants who've had criminal history. And I want you to think back as to how many times after you gave them that chance, you've seen them back as a problem before this Board, and I would say to you that I can't remember a single occasion of that happening. Not to say it hasn't, but I just cannot recall any of the applicants who've been given a chance given a second chance, given their capacity for a career, coming back to this Board as having been a shame to our profession. And so, I would urge you in that same spirit to give Mr. Hart an opportunity to prove himself, to make himself proud, to make his parents proud, to make his employer proud, and ultimately to make this Board proud. And I'd be happy to answer any questions if you have them.

Ms. Clay – Madam Chair, before you start?

Chair Peeples – Ms. Clay, let me go to Ms. Simon really quick and then we'll go to you and then Mr. Williams. Ms. Simon?

Ms. Simon – Two (2) items. One, I would request that unless Ms. Beaks is on the call for this particular matter, that she turns her video camera option off right now and comes back when her matter is called. Thank you. The second thing that I would like to bring up is the posture of the Board. I believe that the Board needs to do two (2) different things, whether to approve or deny the request for a hearing and then approve or then either affirm or not affirm the previous action by the Board. So those two (2) items need to take place. I just wanted to confirm that.

Chair Peeples – Thank you, Ms. Simon. Ms. Clay and Mr. Williams, if we can go through that process first, and then we'll recognize each of you. Board members, as mentioned, we need a motion to approve that hearing. Board members, what's your pleasure?

MOTION: Mr. Jay Lyons moved to grant the request for hearing. Mr. Andrew Clark seconded the motion, which passed unanimously.

Chair Peeples – The second item we have for a motion is to affirm the previous denial.

Ms. Rachelle Munson – My hand was raised early, and thank you, Ms. Simon, for noting the two (2) motions. Before we actually rule on that second one, it would behoove the Board to give the opportunity to the applicant to present information. I know that his attorney spoke. She can't testify for him. She can just present an argument as an opening argument or whatever it may have been, but this would be an opportunity before any decision is made for the Board to actually ask questions of the applicant.

Chair Peeples – Thank you, Ms. Munson. Ms. Wiener, is Mr. Hart on the call?

Ms. Wiener – He was struggling with getting his video on. I believe, he's on the call. Mr. Hart, I can't see any cameras, except those that are active. If you are available on camera, please come on camera. Let's give him a second. There we go. Yep. There he is. Thank you.

Chair Peeples – Thank you, Mr. Hart. And before we go to Mr. Hart, Ms. Ingram, if you will turn your camera off, please. Thank you, ma'am. Ms. Simon, will you swear Mr. Hart in, please, ma'am?

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

Mr. Hart – Yes.

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

Mr. Hart – My name is J T Hart, Jr, H-A-R-T.

Ms. Simon – Mr. Hart, I believe that we're having a little bit of difficulty hearing you. So, I'm not sure if you need to speak into the mic a little bit more or what is going on. I apologize, Madam Chair.

Chair Peeples – That's ok, Ms. Simon.

Mr. Hart – Can you hear me clearly now? My name is J T Hart Jr. Last name spelled H A R T.

Chair Peeples – Thank you, Mr. Hart. Would you like to address the Board, or would you like to make any comment, sir?

Mr. Hart – My only comment is that yes, I know the criminal history that stands before you, but I would like for you all to know that I have worked so hard to go through the programs and go through the channels of change, and I feel like I have impacted the community and giving back, and I want to continue to do that with the platform that I have now, and the experience that I've gone through. Hopefully I can continue doing that as the person that I am now to show them that you can be a better person.

Chair Peeples – Thank you, Mr. Hart. Board members, do you have any questions for Ms. Wiener or Mr. Hart? Mr. Jensen?

Mr. Jensen – Yes, maybe for Mr. Hart. I know it's in here somewhere, but how long has it been since everything was completed? All of your, you know, any probation or anything you had to do. Are completely done with everything?

Mr. Hart – Everything was done in 2016.

Mr. Jensen – Thank you, sir.

Chair Peeples – Mr. Williams?

Mr. Darrin Williams – Madam Chair, I know Ms. Clay was ahead of me, so Ms. Clay, you can go first, but I'll follow after you.

Ms. Clay – Thank you, Mr. Williams.

Chair Peeples – Ms. Clay?

Ms. Clay – Madam Chair, for the record I'd like to state that when Mr. Hart was presented before this Board before, I did not recognize him. I'd like to state now for the record that I do know Mr. Hart and have known him since he was a child. And I worked with his parent at the Sheriff's Office of Palm Beach County. That in no way will influence my voting, one way or another, but I did want to put that on the record. Thank you.

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

Mr. Williams – Yes, thank you, Madam Chair. I would just like to share also Ms. Wiener's statement. Since my time on this Board, we have given consideration to those who have had a past in reference to some criminal activity, and they have changed their lives around. And if my colleagues will go with me to the February Board minutes, on Page 21. At that time, I did state that I was against the denial at that time, because I think we as a Board should look at persons wholeheartedly and try to see if we see a detriment to the public in reference to the past history. And as many of the funeral directors are on the call know that we have a shortage of funeral directors. And if we keep denying individuals a second chance, we're really going to be in a strange situation when it's time to have LFDs be licensed by this Board. So, I would urge my colleagues to reverse the denial and approve this applicant for licensure. That's my statement.

Chair Peeples – Thank you Mr. Williams. Rabbi Lyons?

Rabbi Lyons – Thank you. Morning everyone. Good morning Mr. Hart. Thanks for coming. Couple of questions for you. Can I please ask, what is your sobriety date?

Mr. Hart – 16. Can you hear me?

Rabbi Lyons – A little bit choppy from my end.

Ms. Wiener – He said 2016, Rabbi.

Rabbi Lyons – And the date in 2016?

Mr. Hart – October 16th or 15th.

Rabbi Lyons – Ok. Just to clarify one thing. If I understood Ms. Wiener correctly, there was no trouble during incarceration. If I'm understanding the Board packet correctly, there was an issue of a controlled substance while at the detention facility.

Ms. Wiener – Let me...I'm sorry. Rabbi Lyons, when you're ready, I'll be happy to address that.

Rabbi Lyons – Please.

Ms. Wiener – So, that was actually on the exact same arrest. What happened was, when they apprehended Mr. Hart, outside of the store, he had a controlled substance on his person. When they searched him, they did not do an adequate job, and when he arrived at the detention facility to be booked in, he still had that controlled substance on his person. And so, that's how that charge was incurred, but it was all the same situation, not an additional matter.

Ms. Munson – I would ask Mr. Hart, do you concur with that explanation as it being your testimony, sir?

Mr. Hart – Yes. That's what happened.

Chair Peeples – Rabbi Lyons?

Rabbi Lyons – One more question, if I may? Is there a representative from the funeral home on the call?

Ms. Wiener – I believe so. Mr. Johnson? He was. There he is.

Mr. Darryl Johnson – Good morning, Board. My name is Mr. Johnson.

Chair Peeples – Mr. Johnson, we need to swear you in, please, sir.

Mr. Johnson – Ok.

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

Mr. Johnson – Yes, ma'am.

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

Mr. Johnson – Darryl Johnson, J O H N S O N.

Ms. Simon – Thank you, sir.

Chair Peeples – Rabbi Lyons, do you have a question for Mr. Johnson?

Rabbi Lyons – Yes, thank you. Good morning, Mr. Johnson. Thanks for coming. No specific question, just want to hear your endorsement.

Mr. Johnson – Ok, since Mr. Hart was released from incarceration, I took him in. I saw that he was in trouble. With me having a background as well, I can basically lead him and show him positive ways as far as ushering him into this industry. So, I've been his mentor/employee since 2017, the end of 16/17.

Chair Peeples – Rabbi Lyons, do you have any further questions for Mr. Johnson?

Rabbi Lyons – Yes, just one. I assume you haven't, well I'll ask you the question. I won't assume anything. Have you had any issues? Have you seen any remnants of the past in terms of anything with petty crime or a substance? Has any of that appeared since your time with him?

Mr. Johnson – No, sir, I have not. I trust Mr. Hart wholeheartedly and no, I have not.

Rabbi Lyons – Excellent, thank you.

Chair Peeples – Board members, while we have Mr. Johnson under oath, does anyone have a question for Mr. Johnson as an employer for Mr. Hart?

Ms. Clay – Madam Chair?

Chair Peeples – Yes, ma'am.

Ms. Clay – Mr. Johnson, if you would just explain to us what type of work Mr. Hart has been doing and what his work performance has been.

Mr. Johnson – Mr. Hart is a funeral attendant here for me. He assists on funeral services. Helping me, assisting me with arrangements. If I need anything, he would, you know, assist me with the arrangement and that's all he's been doing. Funeral arrangements, assisting me with funerals and everything of that nature.

Ms. Clay – And if you would just elaborate on how his work performance has been.

Mr. Johnson – His work performance has been excellent. I can actually trust him {inaudible} me there. He'll take out a team, he'll handle everything while I'm actually present at the funeral with them. So that's what he actually does.

Ms. Clay – Thank you, Madam Chair. Thank you.

Chair Peeples – Thank you, Ms. Clay. Any other Board members have questions? Mr. Jensen?

Mr. Jensen – Just to just clarify, maybe for Ms. Wiener. Are we being asked to grant an internship? Is that what this is? And then, he would have to come back for licensing again, before the Board after the internship? Correct?

Ms. Wiener – Yes, sir? Yes, Mr. Jensen, That's exactly it. We are asking that this Board reverse its denial or disaffirm its denial from February and approve his internship licensure. He is well aware that he will have to come back before the Board for licensure. We've discussed that in detail.

Mr. Jensen – Madam Chair? Oh, excuse me. Mr. Brandenburg was ahead of me. I'm sorry. My apologies.

Chair Peeples – Mr. Brandenburg?

MOTION: Mr. Brandenburg moved to reverse the denial and approve the internship with one (1) year of probation. Mr. Williams seconded the motion.

Chair Peeples – Ms. Munson, I have a question. Do we need to deal with the denial that we originally had first?

Ms. Munson – That motion actually deals with it. I was a little bit confused with the one-year probation portion of the motion while in this internship, because it's not a licensure, it's an internship. While in the internship, is the motion requesting that he be on probation for the internship?

Mr. Brandenburg – Yes.

Ms. Munson – I would always turn to Mr. Simon to actually just make sure that staff understands what that means.

Ms. Simon – I'm sure our staff does. And it would be probation for a year during his licensed internship.

Ms. Munson – Standard probation information terms. Thank you.

Ms. Clay – Madam Chair, I'd like to second that.

Chair Peeples – Thank you, Ms. Clay. We have a motion by Mr. Brandenburg. We have a second by Ms. Clay. The motion is to grant internship for Mr. Hart, as well as a one-year probation. Is that correct, Mr. Brandenburg?

Mr. Brandenburg – That's correct.

Chair Peeples – Ms. Clay, do you agree?

Ms. Clay – Yes, ma'am.

Chair Peeples – Thank you. Is there any other discussion before we have a vote on this motion? Let's take a roll call vote, Ms. Simon, if you will please. The roll call vote will be if you agree with the motion, you'll say yes, if you disagree you will say no.

Ms. Simon – Mr. Clark?

Mr. Clark – Yes.

Ms. Simon – Mr. Brandenburg?

Mr. Brandenburg – 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 – That motion is approved.

Chair Peeples – Motion passes. Mr. Hart, good luck. Thank you for attending today, and we wish you well on your internship success. Thank you, Ms. Wiener.

Ms. Wiener – Thank you.

Chair Peeples – Ms. Simon?

Ms. Simon – Thank you, ma'am.

D. Disciplinary Proceedings

(1) Settlement Stipulation (No Probable Cause Panel Member Recusal Needed)

(a) Related Cases – Division Nos. ATN-33037 and ATN-36126

1. Combs Funeral Home: DFS Case Nos. 274981-21-FC and 280024-21-FC; Division Nos. ATN-33037 and ATN-36126 (F041703)

Ms. Simon – Is there a representative of Combs Funeral Home on the call today?

Ms. Wiener – Yes, Ms. Simon. Wendy Wiener representing Combs Funeral Home.

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

Ms. Kimberly Marshall – Thank You, Ms. Simon. Good morning, Board members. Combs Funeral Home (“Respondent”) is a funeral establishment, licensed pursuant to Chapter 497, Florida Statutes, license number F041703. The Department conducted an inspection of Respondent and found as follows: Respondent sold preneed services to seventeen (17) consumers without being licensed to do so. Further, Respondent handled sixteen (16) cases during a period of time when its license was expired between November 30, 2020, and December 29, 2020. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides that Respondent shall pay a fine of \$5,250, and Respondent’s license shall be placed on probation for a period of two (2) years. The Department requests that the Board accept this Settlement Stipulation as resolution of this case, and I’m available to answer any questions. Thank you.

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

Ms. Wiener – I’m simply here to answer questions. This Settlement Stipulation is in keeping with the monetary amounts that have been approved for discipline of this nature in the past.

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

Rabbi Lyons – One question, if I may?

Chair Peeples – Yes, Rabbi Lyons.

Rabbi Lyons – Ok, so with all these preneed contracts, was that money somehow trusted? Were those all fulfilled? Or, what happened with that?

Ms. Wiener – That’s a great question. I believe that the monies were, if I’m recalling correctly, these contracts were from some number of years ago. This case is based on an investigation from 2018 into 2019. I believe that a number of those contracts were fulfilled, and others were refunded. I don’t know if Ms. Marshall has a better recollection about this. This case has been ongoing for a long time, and so I apologize for not having that off the top of my head. Rabbi Lyons, if you’ll turn to Page 22 of 333, you can see lots of refunds, at-need, many of the contracts turned to at-need, So, yes. By this point, I suspect they’ve all resolved one way or another.

Rabbi Lyons – Ok.

Mr. Jensen – Madam Chair, just to point out on our packet that’s Page 20.

Ms. Wiener – Oh, I’m sorry.

Chair Peeples – Thank you, Mr. Jensen. Rabbi Lyons, did that complete your question?

Rabbi Lyons – Yes. Thank you.

Chair Peeples – Thank you. Is there any further discussion?

MOTION: Mr. Jones moved to accept this Settlement Stipulation, which provides that the Respondent shall pay a fine of \$5,250 and have his license placed on probation for a period of two (2) years. Ms. Liotta seconded the motion, which passed unanimously.

2. Turner, Marquis R.: DFS Case No. 274982-21-FC; Division Nos. ATN-33037 (F043160)

Ms. Simon – Assuming Ms. Wiener’s representing Mr. Turner, as well. Ms. Marshall is representing the Department.

Ms. Marshall – Thank you, Ms. Simon. Marquis R. Turner (“Respondent”) is a funeral director and embalmer, licensed under Chapter 497, Florida Statutes, license number F043160. The Department conducted an inspection of Combs Funeral Home, a licensed funeral establishment holding license number F041703, doing business in Lake City, Florida. This establishment sold preneed services to seventeen (17) consumers without being licensed to do so. As the FDIC for Combs Funeral Home, Respondent is subject to discipline for these violations. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides that Respondent shall pay a fine of \$5,000, and Respondent’s license shall be placed on probation for a period of three (3) years. The Department requests that the Board accept this Settlement Stipulation as resolution of this case, and I’m available to answer any questions. Thank you.

Chair Peebles – Thank you, Ms. Marshall. Ms. Wiener, are you here to answer questions, if needed?

Ms. Wiener – Yes, ma’am.

Chair Peebles – Thank you. Board members?

MOTION: Mr. Jensen moved to accept this Settlement Stipulation, which provides that the Respondent shall pay a fine of \$5,000 and have his license placed on probation for a period of three (3) years. Mr. Brandenburg seconded the motion, which passed unanimously.

Chair Peebles – Thank you, Ms. Wiener.

Ms. Wiener – Thank you, Board.

- (2) Settlement Stipulation (Probable Cause Panel A)*
- (a) Related Cases – Division No. ATN-39304*
 - 1. Swilley Funeral Home & Cremation Service, Inc: DFS Case No. 300747-22-FC; Division No. ATN-39304 (F040044)*

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

Mr. Luke Grabowski – Madam Chair, this is Luke Grabowski on behalf of the Swilley Funeral Home, as well as David and Kathryn Rickner.

Ms. Simon – Thank you, sir. Ms. Marshall is representing the Department in this matter.

Mr. Jones – Madam Chair?

Chair Peebles – Yes, sir?

Mr. Jones – I want to recuse myself as I served on Probable Cause Panel A, please.

Chair Peebles – Thank you, Mr. Jones. Ms. Marshall?

Ms. Marshall – Thank you, Madam Chair. Swilley Funeral Home & Cremation Service, Inc. (“Respondent”) is a funeral establishment licensed under Chapter 497, Florida Statutes, license number F040044. The Department conducted an inspection of Respondent and found as follows: Respondent released cremains to an individual who was not the legally authorized person. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides that Respondent shall pay a fine of \$1,250 and Respondent’s license shall be placed on probation for a period of one (1) year. The Department requests that the Board accept this Settlement Stipulation as resolution in this case, and I am available to answer any questions. Thank you.

Chair Peebles – Thank you, Ms. Marshall. Mr. Grabowski, do you have any items that you would like to address to the Board?

Mr. Grabowski – Madam Chair, I'm just here to answer questions the Board may have.

Chair Peebles – Thank you, sir, Rabbi Lyons?

Rabbi Lyons – I'd like to make a motion to dismiss this case. I believe that in the Administrative Complaint, item number four identifies Mr. MZ, the brother, as the legally authorized person. And I believe that Mr. TZ, the decedent, is in fact, the legally authorized person. He left expressed wishes in writing, which doesn't seem like anybody denied that. It looks like the funeral director was following the wishes of the decedents. And I believe that they did nothing wrong. So, I would motion to dismiss this case and the next two (2) items also.

Chair Peebles – Board members, before we can have discussion, is there a second to this motion? I do not see a second to this motion. Ms. Munson, would this motion fail?

Ms. Munson – Without a second, of course, any motion fails. I don't know, as a matter of law, if Ms. Marshall wants to speak to that, though, since she did present it. So, as a matter of law, I don't know if she'd like to respond.

Chair Peebles – Thank you. Ms. Marshall?

Ms. Marshall – Rabbi Lyons, just to clarify, you're saying that the cousin who we have identified, as IGF, you believe he is the legally authorized person?

Rabbi Lyons – No. To clarify Florida Statutes s. 497.005(43)(a) *The decedent, when written inter vivos authorizations and directions are provided by the decedent;* which they were. Now, there was some debate apparently of whether it satisfied the guidelines of being a will and if nursing home staff or hospital staff are able to act as witnesses, but 497 doesn't require witnesses on that. Very simply decedent himself, the person himself is the supreme authorized person, and they left very clear instructions that they wanted their cousin to be in charge of everything. The funeral director followed those instructions, canceled the contract with the brother, refunded the brother, and dealt with the cousin the way that the decedent told them to. So, the decedent is the supreme authorized primary or whatever the right term is, legally authorized person. And the funeral director was simply following the written expressed wishes of the decedent. And I did not see anywhere that there was any argument about that. In fact, even the brother was the one who provided those written instructions. So, the brother is not the legally authorized person. The decedent is the legally authorized person.

Ms. Marshall – So, is the basis for this is in Page 35 of the materials at the bottom, in the will where he states that IGF is the one that he would like to receive his estate?

Rabbi Lyons – Right.

Ms. Marshall – So, there's a distinction to be drawn there. The beneficiary of the estate is different from the legally authorized person to be able to make funeral arrangements. At the time of the death, the will has not been probated. Nobody can determine, at this point who the personal representatives or beneficiaries are. So, in terms of making funeral arrangements, , from 497.005(43), F.S., that takes precedence in terms of who actually is the one to make the funeral arrangements and a brother would rank ahead of a cousin.

Rabbi Lyons – I'm sorry. So, then I misspoke. It had nothing to do with the will. The fact that decedent himself instructed that the cousin be in charge and pay for the arrangements. The legally authorized person is the gentlemen who passed away.

Ms. Marshall – And where is that?

Rabbi Lyons – In 497.005(43), "*Legally authorized person*" means, in the priority listed: (a) *The decedent, when written*, it doesn't say witnessed, it doesn't say there has to be a will, it doesn't say it needs to go through probate, but when written *inter vivos authorizations and directions are provided by the decedent*, which they were.

Ms. Marshall – I'm sorry. I don't mean to interrupt you. Where are you seeing that the decedent left written authorization?

Rabbi Lyons – Give me a minute on that. It was in the response from the funeral director going through the chain of events that the brother gave her...

Ms. Simon – Madam Chair?

Chair Peeples – Whoever is on the conference, the video call, that has their microphone on, please mute it. Thank you. Ms. Simon?

Ms. Simon – I believe that the motion already failed, and I just didn't know if it would be appropriate for a Board member to make another motion at this time.

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

MOTION: Mr. Brandenburg moved to accept this Settlement Stipulation, which provides that the Respondent shall pay a fine of \$1,250 and have his license placed on probation for one (1) year. Mr. Williams seconded the motion.

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

Mr. Jensen – Yes, just to maybe help Rabbi out here. Obviously, when a passing occurs, everything changes, you know. Power of Attorney ends, all of that stuff. By law, we have to go by the legal next of kin. And the only circumstance I can think of that might supersede this is maybe an irrevocable trust. So, I don't know. I understand what you're seeing, but if, and that is in the effect that a living person may do a preneed and then do an irrevocable trust, then that could possibly, and that's still even a little bit of a gray area. But I. I don't see where it is. I'm just trying to help you out, Rabbi.

Rabbi Lyons – I appreciate that. So, on our Board packet is on Page 31, at least where it appears in mine. In the chain of events represented by funeral director, September 13, 2021, I met with Mr. ... On September 14, 2021, he paid \$935. A few days later, MZ brought me the Last Will and Testament, showing that all funeral expenses were to be paid by IFG. I asked MZ if the Will would be recorded. Ok, then there's whatever, the Will's recorded, and who can be a sentence and all that it goes on from there. But the point is that the brother himself is bringing the written instructions from the decedent to the funeral home that the funeral home then followed. And also, just to be clear, with Mr. Jensen, but respectfully though, the primary legally authorized person is the decedent themselves. If they made their wishes clear, the funeral home, everyone, should follow that. And the funeral home was following the legally authorized. The legally authorized person could not speak for himself, because he had passed away already. but in written instructions, he made it clear that he wanted IFG to be in charge.

Mr. Jensen – Madam Chair?

Chair Peeples – Yes, sir, Mr. Jensen?

Mr. Jensen – Just to try to help again. A Will really doesn't have any bearing on us. We are required to deal with the legal next of kin. You know, a Will can have a power of attorney, it can have a lot of things in there until it goes to probate, and, you know, a judge decides. We have a pecking order, you know, that we have to deal with. And, I mean, in this case, if there's no living spouse and there's no living parents and there's no adult children, then it's going to be the brother.

Rabbi Lyons – Respectfully, the pecking order has decedent themselves at the top of the pecking order. If the decedent would've taken a sticky note and written on it, I want IFG to be in charge with no witnessing, but also no debate that he himself was the one who did it, in the pecking order that we need to follow, that is the primary legally authorized person.

Chair Peeples – Thank you, Rabbi Ms. Marshall?

Ms. Marshall – So, in the Will, he nominates his cousin as a personal representative. And he states that he wishes for the personal representative to pay for his final arrangements. There's nothing in there authorizing the personal representative to make the arrangements, to be the legally authorized person for that purpose. Also, at this point, the cousin would not have been the personal representative. There would not have been any personal representative. The Will has to be filed. But the probate case has to be opened and the probate court has to name a personal representative. So, until all of that happens that's

immaterial to this discussion. At the time of the death, we have that ranked list, and a brother does come ahead of a cousin.

Chair Peeples – Thank you, Ms. Marshall. Rabbi Lyons, I'm going to give you one more go-around and then we're going to call vote, sir.

Rabbi Lyons – Ok, I guess what I would respectfully request of my colleagues on the Board, and especially those who are in the business, that my contention is having nothing to do with it being a Will. If this Will were found to have been a completely illegitimate Will, under the Florida Laws and Rules of Wills, the legally authorized person is the decedent. The decedent left inter vivos instructions, while he was alive, who he wanted to pay for his funeral. That alone gives the decedent of blessed memory supreme authority. The funeral director should follow wishes of the decedent. In this case, I believe the funeral director did. The brother might be in the pecking order above the cousin, but he is not in the pecking order above the decedent himself, who left the written instructions. And so, we all in the industry should respect the pecking order to put the decedent at the top if they themselves left instructions.

Chair Peeples – Thank you, Rabbi. We have a motion, and we have a second. We've had discussion. We're now going to vote. All in favor of the motion, say yes.

Board members – Yes.

Chair Peeples – All opposed?

Rabbi Lyons – Opposed.

Chair Peeples – Please note that Rabbi Lyons opposes. The motion carries.

Ms. Simon – Thank you.

2. Rickner, David L.: DFS Case No.: 300763-22-FC; Division No. ATN-39304 (F043722)

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

Chair Peeples – Ms. Marshall?

Ms. Marshall – Thank you. David L. Rickner (“Respondent”) is a funeral director and embalmer, licensed under Chapter 497, Florida Statutes, license number F043722. The Department conducted an investigation of Respondent and found as follows: Respondent is the FDIC for Swilley Funeral Home & Cremation Service, Inc., a licensed funeral establishment holding license number F040044 and doing business in Tampa, Florida. This establishment released cremains to an unauthorized person. As FDIC for this establishment, Respondent is therefore subject to discipline for this violation. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides that Respondent shall pay a fine of \$1,250, and Respondent’s license shall be placed on probation for a period of one (1) year. The Department requests that the Board accept this Settlement Stipulation as resolution at this case, and I'm available to answer any questions. Thank you.

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

MOTION: Mr. Jensen moved to accept this Settlement Stipulation, which provides that the Respondent shall pay a fine of \$1,250 and have his license placed on probation for one (1) year. Mr. Clark seconded the motion.

Chair Peeples – Is there any discussion? We've heard Rabbi Lyons’ comments regarding the previous case.

Mr. Jensen – Madam Chair?

Chair Peeples – Yes, sir, Mr. Jensen?

Mr. Jensen – I'm still trying to help Rabbi out there, and I understand where he's coming from there. But it doesn't matter what the decedent writes or whether it be a will or anything until this a legal document filed and gone through probate, we can't honor that. I mean, you know, I've had many instances where a decedent does a prearrangement, writes their wishes down and their family comes in and says just give them a direct cremation and, you know, take some money home with them. I mean, there's nothing we can do. Legally, we're bound to that pecking order. So, the only caveat to any of that may be an irrevocable trust. And, as I mentioned, that, you know, is if the decedent set it up, and you check the box on the preneed irrevocable trust, and that's still a little bit of a topic for debate. But I understand your frustration, Rabbi, but, I mean, it's pretty plain that we have to follow the pecking order. That's all I have, Madam Chair.

Chair Peebles – Thank you, Mr. Jensen. We have a motion and a second. We're going to take a vote. All in favor of the motion, say yes.

Board members – Yes.

Chair Peebles – All opposed?

Rabbi Lyons – Opposed.

Chair Peebles – Please note Rabbi Lyons opposes. The motion carries. Ms. Marshall?

3. *Rickner, Kathryn Mae: DFS Case No.: 300760-22-FC; Division No. ATN-39304 (F060386)*

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

Ms. Marshall – Thank you, Ms. Simon. Kathryn Mae Rickner (“Respondent”) is a funeral director and embalmer, licensed under Chapter 497, Florida Statutes, license number F060386. The Department conducted an investigation of Respondent and found as follows: Respondent released cremains to someone other than the legally authorized person. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides as follows: Respondent shall pay a fine of \$1,500 and Respondent’s license shall be placed on probation for a period of two (2) years. The Department requests that the Board accept this Settlement Stipulation as resolution of this case. I'm available to answer any questions, Thank you.

Chair Peebles – Mr. Brandenburg?

MOTION: Mr. Brandenburg moved to accept this Settlement Stipulation, which provides that the Respondent shall pay a fine of \$1,500 and have his license placed on probation for two (2) years. Mr. Williams seconded the motion, which passed with one (1) dissenting vote.

Mr. Williams – Madam Chair?

Chair Peebles – Yes, sir, Mr. Williams?

Mr. Williams – I need to recuse myself for items (3) (a), (b), (c), (d), (e) and (f), as I served on Probable Cause panel B.

Chair Peebles – Thank you, Mr. Williams.

Chair Peebles – Ms. Simon?

Ms. Simon – Thank you, ma'am.

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

(a) *Everglades Crematorium LLC: DFS Case No. 295154-22-FC; Division No. ATN-38717 (F059115)*

Ms. Simon – Is the representative of this entity on the call today? Hearing the response. Ms. Marshall?

Ms. Marshall – Thank you, Ms. Simon. The above-referenced matter is presented to the Board for consideration of the Motion for Determination of Waiver and for Final Order by Hearing Not Involving Disputed Issues of Material Fact (Motion) Everglades Crematorium LLC (“Respondent”) is a cinerator facility licensed under Chapter 497, Florida Statutes, license number F059115. The Department conducted an inspection of Respondent and found that Respondent failed to process or pulverize cremated remains until they were granulated particles pursuant to the uniform standard procedures under Board rule. At this time, it would be appropriate for the Chair to entertain a motion finding that the Respondent was properly served with the Administrative Complaint and has failed to timely respond, thus waiving the right to elect a resolution in this matter.

Chair Peeples – Thank you Ms. Marshall. Board Members?

MOTION: Mr. Jones moved that Respondent failed to timely file a responsive pleading. Mr. Clark seconded the motion, which passed unanimously.

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

Chair Peeples – Board Members?

MOTION: Mr. Jensen moved that there were no material facts in dispute. Mr. Brandenburg seconded the motion, which passed unanimously.

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

Chair Peeples – Board Members?

Rabbi Lyons – Madam Chair?

Chair Peeples – Yes, Rabbi Lyons?

Rabbi Lyons – Have we established that there's no one representing the licensee present, correct?

Chair Peeples – Yes, sir. Ms. Simon asked if anyone was present and no one came forward, sir.

Rabbi Lyons – Ok.

Chair Peeples – Board members, your pleasure?

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

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

MOTION: Mr. Clark moved to find the Respondent in violation of the statutes as charged in the Administrative Complaint. Rabbi Lyons seconded the motion.

Chair Peeples – Any discussion?

Mr. Jensen – Madam Chair?

Chair Peeples – Yes, sir, Mr. Jensen?

Mr. Jensen – Madam Chair, I have a little bit of a headache here with the just what the statute means, I think it's arbitrary. You know, if we're adopting that it says they need to be ground up to a certain thing, a granule, it doesn't specify exactly what that is. I mean, I can see from the pictures what happened here. The blade was probably a little dull, is what actually happened, and I get it. But I'm like, we're adopting something where there's not a clear define of what that is. So, that's my, I guess, question to the Department. It says a granule of some sort, but a granule can be defined as just what we're seeing or something smaller. So, is it open for interpretation, or is there a definitive thing here?

Ms. Marshall – Yes. So, this is a question of law, based upon the Board's rules. It essentially is up to the Board to determine whether what was done is in compliance with that rule or not. Some of these violations aren't necessarily going to be. This is the sort of thing you would have to review on a case-by-case basis and determine whether it's in compliance.

Mr. Jensen – Ok. Madam Chair?

Chair Peeples – Yes, sir, Mr. Jensen?

Mr. Jensen – So, it was mentioned that it's a case-by-case basis, and the fact that this entity is not on the call to represent themselves, then I will go ahead and make a motion to accept.

Chair Peeples – We already have a motion, so this was the discussion phase.

Mr. Jensen – Oh, that's correct. Yes, you are right. My apologies.

Chair Peeples – Yes, sir. You made the motion and Mr. Jones had seconded it.

Mr. Jensen – That was the last one. This one, I didn't make that motion, I believe, Mr. Brandenburg may have.

Chair Peeples – I'm sorry. Mr. Clark and Mr. Lyons.

Mr. Jensen – Ok.

Chair Peeples – So we are in the discussion phase. So, any further questions, sir?

Mr. Jensen – No, ma'am.

Chair Peeples – Thank you. Hearing no further discussion. Mr. Brandenburg?

Mr. Brandenburg – I have a question for Ms. Marshall. What is the recommended disciplinary fine for this?

Ms. Marshall – I will get to that. I've got one more motion to make after this, and then I'll get to the discipline recommendation.

Mr. Brandenburg – Thank you. I lost track.

Chair Peeples – Thank you, Mr. Brandenburg. All in favor of the motion, say yes.

Board members – Yes.

Chair Peeples – All opposed? Motion carries.

Ms. Marshall – The Department asked that the Board adopt into evidence, the investigative report with exhibits, a copy of which has been previously furnished to the Board to establish a prima facie case for the violations alleged in the

Administrative Complaint.

Chair Peebles – Board members?

MOTION: Mr. Jones moved to adopt into evidence, the investigative report with exhibits. Mr. Brandenburg seconded the motion, which passed unanimously.

Ms. Marshall – The recommended penalty in this case is a \$500 fine and six (6) months of probation.

Chair Peebles – Board members?

MOTION: Mr. Jensen moved that the Respondent shall pay a fine of \$500 and have its license placed on probation for six (6) months. Mr. Brandenburg seconded the motion, which passed unanimously.

Mr. Brandenburg – Madam Chair?

Chair Peebles – Yes, sir, Mr. Brandenburg?

Mr. Brandenburg – Caller number 11 is interrupting the entire meeting. We can hear them talking in the background, and it's very distracting.

Chair Peebles – Thank you, Mr. Brandenburg. Department staff, will you be able to meet Caller 11?

Ms. LaTonya Bryant – I just did.

Chair Peebles – Thank you, ma'am. Thank you, Mr. Brandenburg.

Mr. Brandenburg – Thank you.

Chair Peebles – Ms. Simon, are you ready for the next item?

Ms. Simon – I'm sorry. Did we already have the penalty on that one? I apologize. I lost track.

Chair Peebles – Yes, ma'am. We just took care of that. Is that not correct, Ms. Marshall?

Ms. Marshall – That's correct.

Ms. Simon – Thank you. I apologize.

(b) Jackson, Melinda Mezeline: DFS Case No. 289708-21-FC; Division No. ATN-37738 (F042470)

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

Ms. Marshall – Thank you, Ms. Simon. The above-referenced matter is presented to the Board for consideration of the Motion for Determination of Waiver and for Final Order by Hearing Not Involving Disputed Issues of Material Fact (Motion) Melinda Mezeline Jackson (“Respondent”) is a funeral director and embalmer licensed under Chapter 497, Florida Statutes, license number F042470. The Department conducted an inspection of Respondent and found as follows: Respondent acted as the FDIC for an establishment which failed to provide a general price list to a consumer; provided a casket catalog wherein casket prices were not labeled; failed to provide a detailed, written agreement to a purchaser of funeral services; employed an unlicensed person to engage in the practice of funeral directing; and failed to maintain a completed bodies handled report for the month of August 2021. As FDIC, Respondent is responsible for these violations. At this time, it would be appropriate for the Chair to entertain a motion determining that the Respondent was properly served with the Administrative Complaint and has failed to timely respond, thus waiving the right to elect a method of resolution of this matter.

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

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

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

MOTION: Mr. Ferreira moved that there were no material facts in dispute. 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 requests the Chair entertain a motion adopting the allegations of facts set forth in the Administrative Complaint.

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

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

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

Ms. Marshall – The Department asks that the Board adopt into evidence, the investigative report with exhibits, a copy of which has been previously furnished to the Board to establish a prima facie case for the violations alleged in the Administrative Complaint.

MOTION: Mr. Ferreira moved to adopt into evidence, the investigative report with exhibits. Ms. Liotta seconded the motion, which passed unanimously.

Ms. Marshall – As to the penalty, the Department is recommending a fine of \$3000 and two (2) years of probation.

MOTION: Mr. Ferreira moved that the Respondent shall pay a fine of \$3000 and have its license placed on probation for two (2) years. Ms. Liotta seconded the motion, which passed unanimously.

Ms. Munson – If I may, Madam Chair? Can I just confirm that no one was representing or the Respondent, Ms. Jackson, is not present, just for my Order?

Chair Peeples – Thank you, Ms. Munson. Is Ms. Jackson on the call? Hearing none.

Ms. Munson – Thank you so much.

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

Ms. Simon – Thank you.

(c) Oldham, Harry III: DFS Case No. 282704-21-FC; Division No. ATN-36350 (F043186)

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

Mr. Grabowski – Madam Chair, this is Luke Grabowski on behalf of Harry Oldham.

Chair Peeples – Thank you, Mr. Grabowski.

Ms. Simon – And representing the Department is Mr. Griffin.

Mr. Marshawn Griffin – Marshawn Griffin for the Department. The above-referenced matter is presented to the Board for consideration of the Motion for Determination of Waiver and for Final Order by Hearing Not Involving Disputed Issues of Material Fact (Motion) in the matter of Harry Oldham, III, (Respondent). At all times relevant to the instant case Respondent was the FDIC of H. W. Oldham Funeral Home (Oldham Funeral), a funeral establishment, license number F039551. The Division alleges Respondent engaged in the following: advertised preneed sales without the benefit of licensure; and failed to maintain a separate hand sink with hot running water. The Motion demonstrates Respondent has failed to timely file a responsive pleading contesting the allegations in the Administrative Complaint and requests the Board adopt the factual allegations in the Administrative Complaint and issue an appropriate penalty.

Chair Peeples – Board members?

Mr. Brandenburg – I have a question.

Chair Peeples – Yes, sir, Mr. Brandenburg?

Mr. Brandenburg – I'd like to ask the legal counsel if the issues listed have been resolved.

Mr. Grabowski – Thank you, Mr. Brandenburg. Yes, the issues were resolved. The preneed issue was a matter of a tab on the website for the funeral establishment. They were not even aware that tab was on their website. That was removed the same day. The sink issue, there was an issue with the hot water line. I understand, that was fixed, I want to say within a matter of days, after the inspection occurred. It was resolved.

Mr. Brandenburg – Thank you, counselor.

Chair Peeples – Board members?

Mr. Jensen – Basically, the motion before us is that they didn't timely respond, and we're going to adopt the facts. Is that correct?

Mr. Griffin – Well, the first motion is to determine that they failed to timely respond.

Mr. Jensen – Thank you, Mr. Griffin.

Chair Peeples – Motion?

MOTION: Mr. Jensen moved that Respondent has failed to timely file a responsive pleading in this matter. Ms. Liotta seconded the motion, which passed unanimously.

Chair Peeples – Mr. Griffin?

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

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

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

Rabbi Lyons – Madam Chair?

Chair Peeples – Yes, Rabbi Lyons?

Rabbi Lyons – Mr. Grabowski, do you have any presentation at this point?

Mr. Grabowski – May I address the Board, Madam Chair?

Chair Peeples – Yes, sir.

Mr. Grabowski – Thank you. I'm really just here to offer some explanation and some mitigating circumstances. As I mentioned, these were some minor violations. We don't dispute the facts as alleged. They were corrected very quickly. I also want to point out that the funeral establishment, actually, was subject to an Administrative Complaint for the same violations at the Board's October meeting. The funeral establishment has paid a significant fine, I believe, \$3000. The funeral establishment is also on probation for these violations. We would simply request leniency in any penalty the Board would impute today. That is a significant fine for the funeral home. Any additional funds would be a significant financial burden for the establishment. Because these were minor, I think, relatively innocent violations, we would just, as I said, request leniency in any penalty the Board chooses to move forward with.

Chair Peeples – Thank you, sir. Board members?

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

Mr. Griffin – The Department also offers into evidence the investigative report with exhibits, a copy of which has previously been furnished to the Board to establish a prima facie case for the violations alleged in the Administrative Complaint. As to penalty, the Department is recommending that the Board impose a \$3000 fine and place Respondent's license on two (2) years of probation.

Rabbi Lyons – Madam Chair?

Chair Peeples – Yes, Rabbi Lyons?

Rabbi Lyons – So can I ask Mr. Griffin how we got to that amount?

Mr. Griffin – Each count is punishable by a reprimand, a fine of \$1000 to \$2500 per count, six (6) months to one (1) year of probation, one-year suspension, or permanent revocation. So, it's \$1500 per count based on the fact that this matter. Normally, we'd offer as a settlement for FDICs for these failure to preneed cases. We offered as a settlement a \$1250 fine. However, this matter was not settled and had to proceed to hearing. So, that's the rationale for that. And then the \$1500 for Count 2, the Department feels is pretty reasonable considering it's on the lower end of the spectrum. However, the Department's recommendation is just that. The Board is empowered to make a wise decision or make a decision that it feels is right, based on the circumstances.

Mr. Grabowski – Madam Chairman, may I address the Board again, briefly?

Chair Peeples – Yes, Sir, Mr. Grabowski.

Mr. Grabowski – Thank you. This matter, unfortunately, was not settled. The reason for that being when the original complaint was filed against the establishment, this complaint, the companion complaint, was not filed at the same time, for whatever reason. My client was frankly confused, after the fact that they had paid the fine. They thought the matter was done. They received the additional complaint, and, frankly, thought it was sent to them in error since they already had resolved the issue. That's why there was no response to the Election of Proceedings form and why they, frankly, just did not try to settle it. So, I just wanted to offer that explanation for the Board's benefit.

Chair Peeples – Mr. Brandenburg?

Mr. Brandenburg – I'd like to ask the Division, are they still under probation?

Mr. Griffin – Yes. There's a probation that HW Oldham was placed on. It was a two-year probation. The Order placing them on probation was issued, the Final Order was issued in November of last year.

Mr. Brandenburg – What was your recommendation?

Mr. Griffin – And I will also point out both of these Administrative Complaints, well, I'll leave it.

Mr. Brandenburg – What was your recommended penalty?

Mr. Griffin – A \$3000 fine plus two (2) years of probation.

MOTION: Mr. Brandenburg moved that the Respondent shall pay a fine of \$3000 and have its license placed on probation for two (2) years. Mr. Clark seconded the motion, which passed unanimously.

Mr. Grabowski – Thank you, Madam Chair.

Chair Peeples – You're welcome. Thank you.

(d) Simmons, James Edward: DFS Case No. 285319-21-FC; Division No. ATN-36904 (F043871)

Ms. Simon – Is Mr. Simmons, or a representative of Mr. Simmons on the call? Hearing no response. Ms. Marshall?

Mr. Griffin – Marshawn Griffin for the Department.

Ms. Simon – Mr. Griffin, I apologize.

Mr. Griffin – The above-referenced matter is presented to the Board for consideration of the Motion for Determination of Waiver and for Final Order by Hearing Not Involving Disputed Issues of Material Fact (Motion) in the matter of James Edward Simmons (Respondent). At all times relevant in the instant case, Respondent was the funeral director in charge of McRae Funeral Services ("McRae Funeral"), a funeral establishment, license number F043871. The Division alleges Respondent engaged in the following: advertised preneed sales without the benefit of licensure; and failed to use a department-approved form for its bodies handled reports.

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

Chair Peeples – Board members?

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

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

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

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

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

Mr. Griffin – The Department also offers into evidence the investigative report with exhibits, a copy of which has previously been furnished to the Board to establish a prima facie case for the violations alleged in the Administrative Complaint. As to penalty, the Department is recommending that the Board impose a \$1500 fine and place Respondent's license on probation for one (1) year. The penalty calculation for that is as follows. The violations as alleged are punishable by a \$1000 to \$2500 fine plus six (6) months up to one (1) year probation, one-year suspension or permanent revocation for the one (1) count. We’d normally, as a settlement, offer a \$1250 fine. However, an offer of settlement was made. It was not responded to, and, furthermore, this individual waived their right to a hearing in this matter, and we had to proceed to an actual informal hearing. So, it's the Department’s position that a fine of \$1500 and one (1) year of probation is a reasonable penalty to impose, in this matter.

Mr. Clark – Madam Chair?

Chair Peeples – Mr. Clark?

Mr. Clark – Yes, I was just curious if the fact that they were previously told about the unapproved form, whether we can consider that as an aggravating factor?

Mr. Griffin – No. Well, that's its own separate violation, and for the first-time violation of a failure to use the correct form for the Bodies Handled Report is a notice of noncompliance. So, it's not actionable at this time.

Mr. Clark – Ok, Thank you.

Rabbi Lyons – May I ask a question?

Chair Peeples – Rabbi Lyons?

Rabbi Lyons – Thank you, Madam Chair. So, when we speak in terms of the violations, we’re only considering the violation of the advertising preneed?

Mr. Griffin – Yes, sir.

Chair Peeples – Board members?

MOTION: Mr. Jensen moved that the Respondent shall pay a \$1500 fine and place Respondent's license on probation for one (1) year. Ms. Liotta seconded the motion, which passed unanimously.

(e) Terry, Frank Donald Jr: DFS Case No. 305163-23-FC; Division No. ATN-38782 (F023120)

Ms. Simon – Is Mr. Terry or a representative of Mr. Terry on the call? Hearing no response.

Mr. Frank Terry, Jr. – Yes, I am. I’m here. Hello.

Chair Peeples – Who is this, please?

Mr. Terry – This is Frank Terry responding, I'm on the call.

Chair Peeples – Mr. Terry, if you will be sworn in, please, sir.

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

Mr. Terry – I do.

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

Mr. Terry – Frank Donald Terry, Jr., T E R R Y.

Ms. Simon – Thank you, sir.

Chair Peeples – Thank you, Mr. Terry. Ms. Marshall?

Ms. Marshall – Thank you, Ms. Simon. The above-referenced matter is presented to the Board for consideration of the Motion for Final Order by Hearing Not Involving Disputed Issues of Material Fact (Motion) in the matter of Frank Donald Terry, Jr. (Respondent). The Division alleges Respondent, as FDIC of All Veterans – All Families Funerals and Cremations, LLC, issued written contracts for funeral goods and services to three (3) consumers which did not bear the consumer’s signature. As FDIC, Respondent is subject to discipline for these violations. The Motion demonstrates Respondent has alleged that there are no material facts in dispute and for this matter to proceed as an informal hearing before the Board, and requests the Board adopt the factual allegations in the Administrative Complaint and issue an appropriate penalty. So, at this time, it would be appropriate for the Chair to entertain a motion determining that the Respondent was properly served with the Administrative Complaint and has requested an informal hearing.

Chair Peeples – Board members?

MOTION: Mr. Ferreira moved that Respondent was properly served with the Administrative Complaint and grants request for an informal hearing. Mr. Brandenburg seconded the motion, which passed unanimously.

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

MOTION: Mr. Jones moved that that there are no material facts in dispute in this case. Mr. Ferreira 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 believes that it is appropriate at this time for the Chair to entertain a motion adopting the allegations of the facts as set forth in the Administrative Complaint.

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

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

Ms. Munson – Before we actually vote, I’d just like to clarify just the order of things, and it could be helpful. If the Board chooses to ever change their mind, we’ll have to go back and rescind it. But after we normally adopted there are no disputed issues of fact, it’s probably a good time to give the party if they’re present an opportunity to give information, because they may dispute the fact, but they said they haven’t, and they may have something else to say. When we do it all at the end, it just may mean the Board may need to revisit it, which there’s no problem in doing so. But I’d just like to just clarify that for the record.

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

Mr. Brandenburg – I thought there was no ability to dispute the facts.

Ms. Munson – Well, that's what this hearing is about, right? So, normally there isn't, but these are the facts that the Department is presenting that were actual. I never know what the individual is going to say. So, it's not like they have no opportunity to say that that's not true. They didn't do the Election of Rights timely, so I don't know what they're going to say. I'd just like to note that for the record, and Ms. Marshall may have a different...

Ms. Marshall – Sorry. The Election of Rights was timely in this case, and he has preserved his right to change that election at this juncture if he so chooses.

Ms. Munson – Correct. This one was. Thank you.

Chair Peeples – Thank you. Mr. Jensen?

Mr. Jensen – Yes, on Page 15 of our packet here, the first thing is check, I do not dispute the Department's facts. So, I sort of agree with Mr. Brandenburg here.

Ms. Marshall – That is correct.

Ms. Munson – I'll let Ms. Marshall comment. Go ahead.

Ms. Marshall – That is correct, that at that time, he said there were no facts in dispute. However, because he has returned the form, he has timely responded, he has preserved his right to later change that election, if he so chooses. So, he could today, if he wanted to come on the record and dispute facts. He would be within his right to do so and request a formal hearing [inaudible].

Chair Peeples – Mr. Terry, do you have any comment regarding this conversation, sir?

Mr. Terry – I have a brief statement. The very first item in my statement is, "all information in the complaint is correct and accurate." There is no dispute. I have no dispute about the complaint.

Chair Peeples – Thank you, sir.

Mr. Terry – Please advise me if I have an opportunity to read my brief statement.

Chair Peeples – Yes, sir. Please go forward.

Mr. Terry – Ok. As I've said, no, the complaint is correct. Second, I will comply with whatever ruling the Board issues. Third, I'm requesting that the Board dismiss the complaint due to the following reason. The complaint is over two (2) years old. My company was sold on the 23rd of January 2023. I received notification of the complaint on or about the first week of February 2023. Technically, the company involved no longer exists. The situation developed as a direct result of the COVID-19 pandemic that struck the world in 2020. At that time, everyone was trying to avoid contact with anyone. As a whole man operation, I was working totally alone. I never had staff or assistance of any kind. I was working seven (7) days a week, ten (10) to twelve (12) hours a day. This was an extraordinary time period for us all. All of us in the funeral business had to make or improvise how we were going to deal with the circumstances at hand. All of my client families did receive copies of the contract of expenses, physically or electronically. Also, it is my understanding there were no consumer family complaints involved here. At my 2020 inspection, the inspector saw an unsigned contract and advised me at that time. It was not an issue for Florida, but the Federal Trade Commission might be a different issue, where they could come in and inspect my firm. At the 2021 inspection, the inspector stated that unsigned contracts were a problem, and I should attempt to get them signed. I have worked in the funeral business solely in the State of Florida for over 37 years. I have been licensed in 1991. I have never had a funeral Board complaint previously. And I am currently no longer active in the funeral business. That's the end of my

statement. Thank you.

Chair Peeples – Thank you, Mr. Terry. Ms. Marshall, I have a question for you regarding Mr. Terry’s comments about the business being sold. Was that taken into consideration?

Ms. Marshall – Yes, Madam Chair. There was a companion case added to this one that was against the establishment. That one was closed while we learned that the establishment had been sold. However, this is against his personal license, which remains active. So, we believe that this case should go forward in light of that.

Chair Peeples – Thank you. Mr. Ferreira?

Mr. Ferreira – Can we make a motion?

Chair Peeples – Yes, sir.

MOTION: Mr. Ferreira moved to dismiss the case. Rabbi Lyons seconded the motion.

Chair Peeples – We have a motion and a second. Ms. Simon, will you take a roll call vote on this motion, please, ma'am?

Ms. Simon – Yes, ma'am. All of those, in favor of the motion signify by saying yes. Mr. Clark?

Mr. Clark – No.

Ms. Simon – Mr. Brandenburg?

Mr. Brandenburg – No.

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 – No.

Ms. Simon – Ms. Liotta?

Ms. Liotta – Yes.

Ms. Simon – Rabbi Lyons?

Rabbi Lyons – Yes.

Ms. Simon – Mr. Williams?

Chair Peeples – Mr. Williams is recused.

Ms. Simon – Excuse me. Madam Chair?

Chair Peeples – No.

Ms. Simon – And that motion fails.

Mr. Jones – Madam Chair?

Chair Peeples – Yes, Mr. Jones?

Mr. Jones – If I could follow up with Mr. Ferreira’s motion? I’d like to make a motion that we add six (6) months of probation.

Ms. Marshall – I’m sorry, if I may? I do have one more question to make before we get into the penalty phase.

Chair Peeples – Ms. Marshall?

Ms. Marshall – The Department asks the Chair to entertain a motion that the findings of fact, in this case, constitute a violation of Florida Statutes as set forth in the Administrative Complaint.

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

Ms. Marshall – As to penalty, the Department is recommending that the Board impose a \$500 fine and six (6) months of probation. This is the minimum, under the guidelines, and taking into account the mitigating reference presented by the Respondent.

MOTION: Mr. Jones moved that the Respondent’s license shall be placed on six (6) months of probation. Mr. Brandenburg seconded the motion, which passed unanimously.

Ms. Munson – So, does that mean there is no fine as presented by the Department?

Chair Peeples – Mr. Jones, was that your motion?

Mr. Jones – Correct. No fine. Just six (6) months of probation.

Chair Peeples – Mr. Brandenburg?

Mr. Brandenburg – Yes.

Chair Peeples – Do you approve?

Mr. Brandenburg – Yes.

Chair Peeples – Thank you. Thank you, Ms. Munson. Thank you, Mr. Terry.

Mr. Terry – Thank you.

Chair Peeples – Ms. Simon?

Ms. Simon – Thank you, ma'am.

(f) Related Cases – Division No. ATN-39304

1. *Hancock, Charles A.: DFS Case Nos. 301849-22-FC and 304154-22-FC; Division Nos. ATN-39605 and ATN-39767 (F029660)*

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

Mr. Grabowski – Madam Chair, Luke Grabowski, on behalf of Charles Hancock and the Hancock Funeral Home.

Ms. Simon – Thank you, Mr. Grabowski. Representing the Department is Ms. Marshall.

Ms. Marshall – Thank you, Ms. Simon. The above-referenced matter is presented to the Board for consideration of the Motion for Determination of Waiver and for Final Order by Hearing Not Involving Disputed Issues of Material Fact (Motion). Charles A. Hancock (“Respondent”) is a funeral director and embalmer, licensed under Chapter 497, Florida Statutes, license number F029660. The Department conducted an inspection of Respondent and found as follows: Respondent filed a death certificate approximately 349 days after the death and after the final disposition of the body. Further, Respondent failed to timely acknowledge and promptly act upon communications from a family concerning corrections to a second death certificate. 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. At this time, it would be appropriate for the Chair to entertain a motion determining that the Respondent was properly served with the Administrative Complaint and has failed to timely respond and waived the right to elect a resolution in this matter.

MOTION: Rabbi Lyons moved that Respondent has waived its right to a request to proceeding in this matter. Ms. Liotta seconded the motion, which passed unanimously.

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

MOTION: Rabbi Lyons 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 there are no material facts in dispute in this matter, the Department asks 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 the facts as set forth in both Administrative Complaint. Ms. Liotta seconded the motion, which passed unanimously.

Ms. Marshall – And I believe now would be an appropriate time to hear from Mr. Grabowski.

Chair Peoples – Mr. Grabowski?

Mr. Grabowski – Thank you, Madam Chair. Obviously, we do not dispute the facts in this case. There were some delays with these two (2) cases and death certificates being filed. There was communication with the family, in both cases, some incorrect information going back and forth. The only mitigating circumstance I can offer is when this occurred, Mr. Hancock's mother suddenly passed away. That was not only a significant personal loss for him, but his mother handled all the administrative tasks for the establishment. And so essentially, they were scrambling, trying to figure out where things stood. Certain things were delayed, and that's why this complaint was filed. So, we just wanted to bring that to the Board's attention. And once again, just request leniency based on the circumstances.

Chair Peoples – Thank you, sir. Ms. Marshall?

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

MOTION: Ms. Liotta 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 – As to penalty, the Department is recommending that the Board impose a \$10,000 fine and three (3) years of probation. I recognize that this is above what the disciplinary guidelines call for in this case. However, as aggravation, the Department cites the extreme length of time that the death certificate went unfiled, nearly a year, after the death.

Chair Peeples – Board members?

Rabbi Lyons – Yes, I'm sorry. Madam Chair?

Chair Peeples – Rabbi Lyons?

Rabbi Lyons – I'm sorry. Ms. Marshall, can you clarify, please? I'm sorry. That sounds like a very hefty fine.

Ms. Marshall – Yes, sir. And it's just simply taking into account the egregiousness of the violation.

Rabbi Lyons – What's the guideline? Just wanted to know. I'm sorry.

Ms. Marshall – For the first count, the guidelines call for a reprimand, a fine of \$250 to \$2000, probation six (6) months to one (1) year, suspension up to one (1) year or revocation. For the second count, the guidelines call for a reprimand, a fine of \$2000 to \$3500, probation up to two (2) years, suspension up to two (2) years and revocation. So, under the guidelines as written, the maximum fine is \$5500, but I would also like to note that for both counts, revocation is within the guidelines. So, the fact that we are recommending a fine rather than simply revoking the license, I think, it's also, you know, it's not as harsh as we potentially could go.

Mr. Grabowski – Madam Chair, may I address the Board again?

Chair Peeples – Yes, sir, Mr. Grabowski, Mr. Jensen had his hand up first, and then you. Mr. Jensen?

Mr. Jensen – Yes. Thank you, Madam Chair. I was going to ask the attorney, I mean, is there any reasoning for this? This is quite an unusual, 349 days. So, that was my question.

Mr. Grabowski – May I speak, Madam Chair?

Chair Peeples – Yes, sir.

Mr. Grabowski – Thank you. Mr. Jensen, there is no dispute that this was an extended period of time. As I mentioned, there was a significant loss for the Hancock family that put them in a very bad position, in terms of trying to figure out what was happening. There was communication with the families, in these cases. Information was not accurate that was provided at the time. Amendments were made, and there was incorrect information provided again, in one of the cases. So, certainly, we don't dispute delays. Certainly, the licensee made mistakes, but the penalty that's been proposed, from our position, is simply extreme and it does not take into account the mitigating circumstances, and the fact that the licensee was trying to make the corrections and was trying to do what they were supposed to do. Again, we recognize mistakes were made, but the penalty, from our perspective, seems quite extreme for the allegations.

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

Mr. Jensen – Yes, ma'am. I do have one quick follow-up question for Mr. Jones. Would this not have shown up in your system, Mr. Jones?

Mr. Jones – I have staff that monitor this. We were aware of it.

Mr. Jensen – Ok. Thank you, Madam Chair.

Chair Peeples – Mr. Brandenburg?

Mr. Brandenburg – Thank you, Madam Chair.

MOTION: Mr. Brandenburg moved that the Respondent shall a \$5000 fine and its license placed on probation for one (1) year. Rabbi Lyons seconded the motion.

Mr. Jones – Madam Chair?

Chair Peeples – Yes, Mr., Jones?

Mr. Jones – Before second, my interest in this is, you know, whatever fine we come up with and whatever probation, that Hancock does not file any delayed records during that probation period, and thereafter. So that's what the Department is after just to correct the problem and ensure it doesn't occur. That's my only comment, as far as Mr. Brandenburg's probation statement.

Chair Peeples – Mr. Brandenburg, would you like to amend your motion to include Mr. Jones' statement?

Mr. Brandenburg – Yes, I would.

Chair Peeples – Rabbi Lyons, would you agree with that as a second?

Rabbi Lyons – I'm not sure I understand. Can I ask Mr. Jones to clarify that?

Mr. Jones – Part of the one-year probation is, of course, the probation should cover that, but we just want the emphasis that Hancock does not file any future delayed records based on what's statutorily required.

Rabbi Lyons – What's considered a timely filing?

Mr. Jones – If I remember under s. 497.382, it's five (5) days for funeral establishments. They can get an extension, which goes out to ten (10) days, I believe, and a physician has twenty-four (24) hours, except under circumstances. Just the fact that we don't experience this again. If it's part of the probation, then I'm fine. I'm just asking that you and Mr. Brandenburg look at that.

Rabbi Lyons – Yes, OK, I'll second that.

Chair Peeples – We have a motion, and we have a second. All in favor of the motion, say yes.

Board members – Yes.

Chair Peeples – All opposed? Motion carries.

Ms. Munson – Madam Chair, if I may? I'm just going to note that the motion was to include for the Respondent not to file any future delayed records during that one-year probation.

Mr. Brandenburg – That is my motion.

Ms. Munson – Thank you.

Chair Peeples – Thank you. Ms. Simon? Is think Ms. Simon may have left. Ms. Marshall, would you like to go on to the next case, please?

2. *Hancock Funeral Home, Inc.: DFS Case Nos. 301848-22-FC and 304151-22-FC; Division Nos. ATN-39605 and ATN-39767 (F039972)*

Ms. Marshall – Yes, thank you, Madam Chair. The above-referenced matter is presented to the Board for consideration of the Motion for Determination of Waiver and for Final Order by Hearing Not Involving Disputed Issues of Material Fact (Motion) Hancock Funeral Home, Inc. (“Respondent”) is a funeral establishment, licensed under Chapter 497, Florida Statutes, license number F039972. The Department conducted an inspection of Respondent and found as follows: Respondent’s FDIC filed a death certificate approximately 349 days after the death and after the final disposition of the body. Further, Respondent’s FDIC failed to timely acknowledge and promptly act upon communications from a family concerning corrections to a second death certificate. 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. At this time, it would be appropriate for the Chair to entertain a motion determining that the Respondent was properly served with the Administrative Complaint and has failed to timely respond and waived the right to elect a resolution in this matter.

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

Ms. Marshall – The Department asks that the Chair entertain a motion determining 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. Clark seconded the motion, which passed unanimously.

Ms. Marshall – Now that the Board has determined there are no material facts in dispute in this matter, the Department asks 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 the facts as set forth in both Administrative Complaint. Ms. Clay seconded the motion, which passed unanimously.

Ms. Marshall – Now would be an appropriate time to hear from Mr. Grabowski, if he has anything additional to add.

Chair Peeples – Mr. Grabowski?

Mr. Grabowski – Thank you, Madam Chair. I just echo my same comments from the previous case regarding what I’m anticipating is going to be the suggested penalty and probation, that we just request that that be the same for Mr. Hancock if that is going to be the same penalty.

Chair Peeples – Thank you, sir. Ms. Marshall?

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

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

Ms. Marshall – As to penalty, the Department offers up the same recommendation as in the prior case, \$10,000 fine and three (3) years of probation.

Chair Peeples – Rabbi Lyons, did you have your hand up, sir?

Rabbi Lyons – I’m going to let Mr. Brandenburg make the motion. I assume it’s going to be the same.

Chair Peeples – Mr. Brandenburg?

Mr. Brandenburg – Thank you. Your assumption is correct.

MOTION: Mr. Brandenburg moved that the Respondent shall a \$5000 fine and its license placed on probation for one (1) year during which time no death certificates shall be filed untimely. Rabbi Lyons seconded the motion, which passed unanimously.

Mr. Grabowski – Thank you, Madam Chair.

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

Ms. Simon – Yes, ma'am.

(4) Motion for an Order Dismissing Petition Without Prejudice
(a) Schiro, Carly; DFS Case No. 306005-23-FC; Division No. ATN-40386 (F057653)

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

Chair Peeples – If we've may, can we take a quick ten (10) minute restroom break? It's 11:59. Let's come back at 12:10, and we'll try to push through to complete. Thank you.

Ms. Simon – Thank you, Madam Chair.

*****BREAK*****

Chair Peeples – It looks like we have all of our Board members back, Ms. Simon. I will turn it over to you.

E. Application(s) for Preneed Sales Agent
(1) Informational Item (Licenses Issued without Conditions) – Addendum A

Ms. Simon – Thank you, ma’am. 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.

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

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

Ms. Simon – Yes, ma'am.

(2) Recommended for Denial (Criminal History)
(a) Ferrugio, Daniel (Appointing Entity: SCI Funeral Services of FL LLC)

Ms. Simon – On February 27, 2023, an application was received by the Division for the above named for licensure as a preneed sales agent, and no deficiencies were noted on the application. No criminal history was noted on the application. Thus, a temporary preneed sales agent license was issued for Mr. Ferrugio. However, during the review of Mr. Ferrugio’s background check it was revealed that he did in fact have reportable criminal history that required disclosure. SCI Funeral Services of Florida, LLC, employer, was notified of Mr. Ferrugio’s temporary preneed sales agent license suspension, and upon request, Mr. Ferrugio, through his employer, provided the Division with a written explanation of the relevant criminal history, a completed Criminal History Form, and a copy of court documentation regarding the charges and final disposition of his case.

In 2012, a felony charge for the sale of marijuana was filed against Mr. Ferrugio by the 15th Judicial Circuit Court in Palm Beach County. This criminal offense occurred in Palm Beach County, Florida. Mr. Ferrugio pled guilty to all charges and was sentenced to eighteen (18) months' probation, completion of a substance abuse program, random drug testing, no consumption of alcohol or non-prescription drug use, completion of 100 hours of community service, and payment of fines plus other costs and court fees. Mr. Ferrugio has satisfied all conditions and paid all required fees. As of to date, there have been no further disciplinary actions against Mr. Ferrugio. The Division recommends denial.

Chair Peeples – Thank you, ma'am. Is there a representative of Mr. Ferrugio on the call?

Ms. Wiener – Good afternoon, Madam Chair. This is Wendy Wiener. I'm counsel for Mr. Ferrugio.

Chair Peeples – Thank you, ma'am. I appreciate you giving me the correct pronunciation. Would you like to address the Board?

Ms. Wiener – Yes, thank you. I would. So again, Board, thank you for hearing from me on behalf of my client, Mr. Ferrugio. Let me first address the issue of his failure to disclose the criminal history on his application for licensure. Without question, he made his prospective employer, SCI, Funeral Services of Florida, aware of his criminal history at the time of his application. They are absolutely well aware. At the corporate level, and at the local management level, he made them aware. He made no attempt to hide his criminal history or even to obscure his past as he's actually used his past experiences as an example of the importance of doing the right thing. He absolutely, as you can see from the records before you, lives a life built on honesty and, nevertheless, as applicants will do, misread the application questions, and answered no to the question, of course, having been later provided all of the information on his criminal history. In fact, as you can see, he does have a criminal history that he left behind more than ten (10) years ago. He sold marijuana. He regrets that. He was sentenced to probation, sentenced to drug treatment, sentenced to random drug and alcohol testing. He completed all of the terms of his probation and all of the terms of his sentence successfully. He has put his time as a criminal behind him. You can see from the letter that he provided, as well as from the letters of recommendation that were provided, that he's engaged with his community. He's ready to move forward with his life. He's ready to move on, He is fit for licensure. And I would urge you to favorably consider his application for licensure. And of course, I'm available to answer any questions at this time.

Chair Peeples – Thank you, Ms. Wiener. Ms. Munson?

Ms. Munson – This is just for clarity. I understand Ms. Wiener's statement is that he misread the application. That is a statement of fact. I'm curious if he is there to provide testimony regarding his actions?

Ms. Wiener – I believe he's on the call. I only have my camera turned on to active cameras. We can ask him to come on if he is on the call.

Chair Peeples – Mr. Ferrugio, are you on the call today?

Mr. Daniel Ferrugio – – Yes, I'm here.

Chair Peeples – Will you be sworn in please, sir?

Mr. Ferrugio – Absolutely.

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

Mr. Ferrugio – I do.

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

Mr. Ferrugio – Daniel Ferrugio, F E R R U G I O.

Ms. Simon – Thank you, sir.

Chair Peebles – Mr. Ferrugio, would you like to address the Board members, sir?

Mr. Ferrugio – I would. I will answer the question that was asked. So, when I was reading the preneed license application and the sub paragraph that preceded question one, when I read it, it was all about any arrests, crimes, whatever it may be, in relation to funeral services, cemetery services, everything in that realm. When I then got to question two of my own error, when reading, I didn't read the final part of the sentence where it said, or any other crimes unrelated. And I answered, based off not seeing that part of the question. That was the error that was made on my behalf. I take full responsibility for it. It was not out of a motive to deceive anybody. Like Ms. Wiener said, I was transparent with everyone at the company prior to. I've also applied for other licenses in the past, where I answered those questions honestly, because I understood what I was reading.

Chair Peebles – Thank you, sir. Board members, do you have any questions? Mr. Brandenburg?

Mr. Brandenburg – Mr. Ferrugio, are you insurance-licensed by the State of Florida?

Mr. Ferrugio – I am.

Mr. Brandenburg – They gave you an insurance license?

Mr. Ferrugio – Yes, sir.

Mr. Brandenburg – With a background?

Mr. Ferrugio – Yes, sir.

Mr. Brandenburg – Thank you.

Chair Peebles – Board members? Do we have any questions? Mr. Jensen?

Mr. Jensen – A quick question for maybe Ms. Wiener. I don't have the application in my packet, but what is the time limit for declaring criminal history? This was 2012, so we're eleven (11) years removed.

Ms. Wiener – Correct. But the charge that Mr. Ferrugio pled guilty to was a felony charge, based on the amount of marijuana. And so that has a longer timeframe.

Mr. Jensen – Thank you very much.

Chair Peebles – Any other Board members questions? Ms. Munson?

Ms. Munson – Not a Board member, just curious. And I could just have misread something. Was the application with the correct information submitted? Maybe I misread something.

Ms. Wiener – It was.

Ms. Munson – Ok. Maybe I misread that.

Ms. Wiener – I believe that was in Ms. Simon's cover note as well.

Ms. Munson – I saw that, and I was just curious about the application itself.

Mr. Jones – Madam Chair, Mr. Griffin had his hand up earlier.

Mr. Griffin – Yes, I was just curious. Was there a question about whether or not he has his insurance license?

Chair Peeples – Yes, sir.

Ms. Munson – Yes.

Mr. Griffin – Were you guys clarifying his Florida Insurance license?

Chair Peeples – Mr. Griffin, I think Mr. Brandenburg's question to Mr. Ferrugio was did he currently hold a Florida insurance license and he stated in the affirmative.

Mr. Griffin – Ok. One second.

Chair Peeples – Yes, sir. We're awaiting Mr. Griffin's return. Mr. Griffin?

Mr. Griffin – Yes. Can I have a brief moment to have a conversation with Ms. Wiener?

Chair Peeples – Yes, sir.

Mr. Brandenburg – Madam Chair?

Chair Peeples – Yes, Mr. Brandenburg?

Mr. Brandenburg – While we're on hold with that, may I ask Mr. Ferrugio when was the last time he was drug tested?

Mr. Ferrugio – I had a drug test to obtain this job, but also, I've been sober for the last almost six (6) years.

Mr. Brandenburg – Thank you.

Chair Peeples – Ok.

Ms. Munson – Madam Chair, while we're waiting, I just, again, want to confirm where this corrected application is.

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

Ms. Simon – I'm looking right now.

Chair Peeples – Thank you.

Ms. Simon – I believe that subsequent to the application, the applicant later submitted a criminal history form, adding to his application.

Chair Peeples – Which is Page 3 of our packet.

Ms. Munson – Page 3 is the submitted amendment? Is that what you're saying? I just want to make sure.

Ms. Simon – What I'm saying is Page 3, he submitted that after submitting his original application.

Ms. Munson – Ok.

Ms. Simon – Upon being noticed of the previous offense.

Chair Peeples – Ms. Wiener and Mr. Griffin, while you all were speaking, Ms. Munson had asked if we had an amended application, and Ms. Simon confirmed that Page 3 of our packet that has the title, Criminal History Form, date signed 3-29-

2023 was what was presented after he received his preneed agent license. Just to keep you updated.

Ms. Wiener – Very good. Thank you. So, Mr. Griffin and I, I think, have sorted this out. So, if I'm understanding correctly, let me ask you a couple of questions while you're under oath. So, I'm going to ask you for some testimony, Mr. Ferrugio. So, did you apply through American Memorial Life (AML), through their process to become a licensed insurance agent in order to sell insurance-funded preneed?

Mr. Ferrugio – Yes.

Ms. Wiener – Alright. And as part of that process, did you take and pass, well, first of all, did you pass their background screening?

Mr. Ferrugio – Yes.

Ms. Wiener – As part of their process, did you take and pass the insurance examination related to the sale of insurance-funded preneed?

Mr. Ferrugio – Yes.

Ms. Wiener – Ok. So, Mr. Griffin and I have clarified that a license has not been issued by the Division of Agent and Agency Services at this time. Mr. Ferrugio's criminal history background is still within the period of time that he will have to wait longer in order to become licensed by the Division of Agent and Agency, but you did take and pass the examination. Is that correct?

Mr. Ferrugio – That is correct.

Ms. Wiener – Ok. So, I think that addresses, I think that was the last of the questions.

Ms. Munson – If I may, just to clarify, because I'm still a little bit confused with that one. So, when we asked you, sir, if you were licensed, do you physically hold the license that you consider a license?

Mr. Ferrugio – No, I misunderstood. I thought when I take the exam and pass, that that's just, that's being license. I haven't heard anything, since I passed the test, from the State. I haven't done anything with it, though.

Ms. Munson – And when was this that you took and passed the test?

Mr. Ferrugio – My exam? If you give me a minute, I can pull it up. It was February 21st.

Ms. Munson – Of this year?

Mr. Ferrugio – Of this year, correct.

Ms. Munson – And were you under the assumption that you would receive further notification from them, or you were waiting to hear from them? What was it that you consider to be your status with them?

Mr. Ferrugio – I assumed that since I passed, that I was that there was no further action required on my part, and I had not received any further contact. So, I just assumed I satisfied whatever requirements there were.

Ms. Munson – Did you not anticipate being notified that you were issued a license? You did not expect any further communication, other than notification of the exam passage?

Mr. Ferrugio – Right. So, I didn't know what to expect, because I've never done this before.

Ms. Munson – And why do you think you passed the background investigation portion?

Mr. Ferrugio – Because I wasn't notified that I was flagged for anything. Like before in the past, when I applied for a state license in a different field that I work in, when my background was flagged, they contacted me, and let me know what the appeals process was as a result. That did not happen with anything insurance related, after I took that exam.

Ms. Munson – It being the beginning of May, I'm thinking you were thinking that enough time has passed for them to notify you about anything. Since February, I'm thinking.

Mr. Ferrugio – I would feel like that's a fair assumption. Yes.

Ms. Munson – Ok. Thank you.

Chair Peeples – Thank you, Ms. Munson. Board members, do you have any further questions for Ms. Wiener or Mr. Ferrugio? Mr. Jensen?

Mr. Jensen – Just to clarify here from what I think I'm hearing, is that the Mr. Ferrugio mentioned that he did pass the insurance, but, in fact, he's not 100% sure of that, the background for the insurance. Is that what you're getting at Ms. Munson?

Ms. Munson – No, I was just clarifying that an exam passage does not necessarily equate to licensure, because there are so many other factors involved in issuing a license. And, I was just asking, when we asked if he was licensed, and he said, "Yes," he said, "because I know or was notified, I passed the exam, then I just assumed I was licensed," and I just needed that clarified for the record.

Mr. Jensen – Ok, so the same would hold also hold true, the part where he was asked if he passed the background for the insurance license, he stated, yes, and in fact, is there a confirmation of that or no?

Chair Peeples – Mr. Jensen, Mr. Griffin needs to reply to you, please, sir.

Mr. Jensen – Ok.

Mr. Griffin – He hasn't applied yet. He's not submitted an application. He's done the fingerprints, and he's taken the examination, but he has not submitted an application with the Department for licensure.

Chair Peeples – Ms. Wiener?

Ms. Wiener – My statement about having passed background related to insurance was regarding to American Memorial Life. So, when you sign on with an insurer to become an insurance agent, they put you through a background screening. That typically will flag any potential for you to not become a licensed life insurance agent or other type of insurance agent. And that was the question that I asked him. Did he pass their background screening? There is another step in the process he will have to undergo in order to sell insurance-funded preneed, if you license him as a preneed sales agent, he is able to sell trust-funded preneed, upon his licensure. If he is to sell insurance policies to fund preneed contracts, he'll have to go through the process that Mr. Griffin just described with the Office of Insurance Regulation. And he'll have to present mitigating evidence to that office as to why he should be licensed, given his prior criminal history.

Chair Peeples – Ms. Munson, did you have a comment?

Ms. Munson – I was just going to submit, and this is probably for the benefit of this applicant, that it would probably, I mean, I'm just clarifying. You can't assume you're licensed if you have not applied for licensure, is what I'm just clarifying for the record. I'm not sure why you keep saying you assumed you were licensed when you had not applied for licensure. But that was just my only point, perhaps, for your benefit.

Chair Peeples – What is the pleasure of the Board members?

Mr. Jensen – Madam Chair?

Chair Peebles – Yes, sir, Mr. Jensen?

Mr. Jensen – I'll make a motion that we, that we let this gentleman practice his occupation, and let's give him a license and maybe put a year's probation on that. If anything should come up within a year, then he would have to revisit the Board, but this is eleven (11) years removed. So, and it's, a substance that is relatively legal, now. So, I think, let to let the gentlemen go about his business.

MOTION: Mr. Jensen moved to approve the application with a one-year probation. Ms. Liotta seconded the motion, which passed with one (1) dissenting vote.

Chair Peebles – Yes, good luck, sir.

Mr. Ferrugio – Thank you.

Chair Peebles – Thank you for coming today. Thank you, Ms. Wiener. Ms. Simon?

(b) Scola, Jeremie (Appointing Entity: SCI Funeral Services of FL LLC)

Ms. Simon – On December 22, 2023, an application was submitted for the above named for licensure as a preneed sales agent, and Applicant answered “Yes” to the background question regarding criminal history on the application due to reportable criminal history that required disclosure. In 2019, Mr. Scola was charged with a felony for possession of tetrahydrocannabinols and cannabis (less than 20 grams) to which he pled no contest and was later reduced to a misdemeanor charge. This criminal offense(s) occurred in Broward County, Florida. As a result, Mr. Scola was placed on probation for one (1) year, (of which he served six (6) months due to early termination by the court) and he was fined approximately \$713 in court costs and fees. Mr. Scola has satisfied all required conditions of his sentence and has paid all fees due as of to date. There are no other disciplinary issues in relation to this applicant. The Division recommends denial. Is Mr. Scola or a representative of Mr. Scola on the line today?

Ms. Wiener – I am. This is Wendy Wiener. I am representing Mr. Scola as well.

Ms. Simon – Thank you.

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

Ms. Wiener – I would. So, I have the pleasure now presenting to you, the application of Mr. Scola. His story, not entirely unlike the two (2) that I presented to you today, but it does differ in some significant material ways. So, Mr. Scola, like Mr. Hart earlier today, caught up with the wrong crowd. He was pulled over and marijuana was found in his car. The theft charge that he has is the result of stealing beer from a gas station, and he has since left his criminal history in the past. Professionally, he's done a number of things that I think are relevant to your consideration. Professionally, he completed school, and I am told, has been licensed by your sister agency, the Division of Agent and Agency Services, which thank you Marshawn Griffin just confirmed so that we don't get caught up in that again. He is licensed to sell two (2) different types, two (2) different lines of insurance, if you will. Personally, he's the father of a toddler son for whom he has sole custody. And he's in the process of securing legally what's known as primary physical responsibility for his son. He's using his tax refund to go through the court process for that because the life that he provides for his son is a stable, consistent life, and he feels that that is what he is best served to do. Right now, he lives with his very supportive mother, and he also has a longtime partner who is helping him raise his son, just evidence of his stability. Since committing the crimes that we're discussing today, he's had no problems with law enforcement, no problems with addiction, or any other issues. And so, in this situation, Mr. Scola did not fail to disclose his criminal history. He disclosed it, initially. And his criminal history was also not significant enough for your parent agency through its sister agency to consider him unfit for licensure, as he is license to sell insurance. So, I would ask for your favorable consideration of this applicant as well, And I'm here to answer any questions.

Chair Peeples – Thank you, Ms. Wiener. Has Mr. Brandenburg left the meeting? I notice that he's not on camera, for the record.

Mr. Brandenburg – I'm on camera.

Chair Peeples – Ok, thank you, sir.

Mr. Williams – Madam Chair?

Chair Peeples – Thank you. Mr. Williams?

Mr. Williams – This question is for Ms. Simon. Maybe it's just a typo, or Mr. Griffin. It says December 22, 2023, or is it supposed to be 2022?

Ms. Simon – Thank you so much for catching that.

Ms. Wiener – I'm sure.

Mr. Williams – A follow up, Chair Peeples?

Chair Peeples – Yes, sir.

Mr. Williams – Ms. Wiener, is he on the call?

Ms. Wiener – I think so, sir. There he is.

Mr. Williams – I guess my question is, and maybe this is a question for you, as well as Mr. Griffin, just like were there any conflicts with the sister agency in reference to approving the license for that agency?

Chair Peeples – Mr. Williams, let us swear, in Mr. Scola, in case we need his testimony. Ms. Simon, please?

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

Mr. Jeremie Scola – Yes, I do.

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

Mr. Scola – My name is Jeremie Scola, S C O L A.

Chair Peeples – Thank you, sir. Ms. Wiener, would you like to address Mr. Williams' question?

Ms. Wiener – I think, actually, Mr. Griffin might be able to address this question. He did confirm licensure status. I don't know if there was any sort of extra measures that had to be undertaken.

Mr. Griffin – So, the Division of Insurance Agent and Agency Services, their licensure process when you have a felony record it's very cut and dry. It's if you have a crime and it falls within one (1) of two (2) illegal categories, there's a prescribed period of disqualification from licensure. They're only concerned with felonies. It appears that this gentleman only pled to misdemeanors, which doesn't trigger any sort of issues, He was never denied a license. There wasn't a grant after denial hearing, or anything like that. He was a straight grant, once they saw as criminal record.

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

Chair Peeples – Yes, sir.

Mr. Williams – So, as a follow up, Ms. Simon or Mr. Griffin, can you share some background information in reference to the recommendation of the denial? I know we read it, but I just want to make sure I didn't miss anything and what I read. I just want to get some better context.

Ms. Simon – If I may?

Chair Peeples – Yes, Ms. Simon.

Ms. Simon – Typically, we have taken a stance that...the reason for the recommendation was based upon the applicant's criminal history, Mr. Williams.

Mr. Williams – Ok.

Chair Peeples – Board members, any further questions for Ms. Wiener or Mr. Scola? What is the Board's pleasure?

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

Rabbi Lyons – Madam Chair?

Chair Peeples – Yes, Sir, Rabbi Lyons?

Rabbi Lyons – Are we approving period or is there a probation period?

Mr. Jones – I wasn't looking at one unless the group wishes to impose one.

Rabbi Lyons – Would you consider a one-year probation?

Mr. Jones – How about six (6) months? Only reason I'm saying that Rabbi Lyons, is he's been licensed. Mr. Clark, you made the second. Your thoughts?

Mr. Clark – Yes, I'll second that.

Mr. Jones – Well, how about six (6) months, Rabbi Lyons? Anything happens within six (6) months, then we can readdress it.

Chair Peeples – Is that affirmative, Rabbi?

Rabbi Lyons – Yes, sure.

Chair Peeples – Mr. Jones has made a motion to approve with a six-month probation. Mr. Clark, you seconded it?

Mr. Clark – That's correct.

Chair Peeples – All in favor of the motion, say yes.

Board members – Yes.

Chair Peeples – Any opposed? The motion carries. Good luck, sir. Thank you, Ms. Wiener.

Ms. Wiener – Thank you, Board.

Mr. Brandenburg – Pardon me, Ms. Chair?

Mr. Brandenburg – Yes, sir?

Mr. Brandenburg – Is your camera off?

Chair Peeples – No, sir.

Mr. Brandenburg – You're just not coming up. Thank you.

Chair Peeples – Thank you, sir. I see myself on the screen with everyone else. Do we have a thumbs up? Did you see me?

Board members – Yes.

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

Mr. Brandenburg – When you go to who's talking, it does not come up.

Ms. Simon – Mr. Brandenburg, there is a way, depending on who's talking, the list of people that show up on your screen.

Mr. Brandenburg – That's correct.

F. Application(s) for Continuing Education

(1) Course Approval - Recommended for Approval without Conditions – Addendum B

- (a) Colibri Healthcare (113)
- (b) Education Workers Group (11208)
- (c) Florida Cemetery, Cremation & Funeral Association (75)
- (d) Florida Morticians Association (23208)
- (e) Selected Educational Trust (43808)
- (f) The Dodge Institute for Advanced Mortuary Stu (81)
- (g) Wilbert Funeral Services (39408)

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

Chair Peeples – Board members?

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

(2) Provider Approval - Recommended for Approval without Conditions – Addendum C

- (a) Funeral Directors Life Insurance Company (48808)

Ms. Simon – The applicant listed on Addendum C has been reviewed by the CE Committee and the Committee, as well as the Division, recommends this applicant be approved as a CE provider.

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

G. Consumer Protection Trust Fund Claims

(1) Recommended for Approval without Conditions – Addendum D

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

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

H. Application(s) for Embalmer Apprentice

- (1) Informational Item (Licenses Issued without Conditions) – Addendum E**
Chauvin, Anthony J F665322
Waknine, Michael F664697
Wunner, Brandon L F062890
Zebart, Christopher J F157265

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

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

- (1) Informational Item (Licenses Issued without Conditions) – Addendum F**
- (a) Funeral Director (Endorsement)**
 - 1. *Gutierrez, Veronica*
 - (b) Funeral Director and Embalmer (Endorsement)**
 - 1. *Petrino, Michelle Y*
 - (c) Funeral Director and Embalmer (Internship and Exam)**
 - 1. *Preyear, Brianna B*
 - 2. *Sanchez, Nathanael O*

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

- (2) Recommended for Approval without Conditions (Criminal History)**
- (a) Funeral Director and Embalmer (Internship and Exam)**
 - 1. *Evans, Joseph D*

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

Mr. Joseph Evans – I am.

Ms. Simon – Thank you, Mr. Evans. An application for funeral director and embalmer licensure was received by the Division on February 27, 2023. The application was incomplete when submitted. A completed application was received on April 4, 2023. While the applicant originally answered 'no' to the criminal history question, he, in fact, did have relevant criminal history. The application for concurrent internship licensure was approved at the November 2021 Board meeting, where the prior criminal history was discussed. The minutes of that matter are included. In March 2018, the applicant pled no contest to misdemeanor possession of marijuana and possession of narcotic paraphernalia. Mr. Evans was ordered to pay \$419.25 in fines. The Division recommends approval.

Chair Peeples – Board members? Rabbi Lyons?

Rabbi Lyons – The recommendation for approval is based on the fact that it's a misdemeanor not a felony. Is that the idea?

Ms. Simon – Actually, sir, I'm sorry. Madam Chair, is it ok?

Chair Peeples – Yes, ma'am.

Ms. Simon – Actually, primarily the reason for the recommendation by the Division is that the Board, earlier approved licensure for an internship, even having knowledge of the criminal history.

Rabbi Lyons – Ok.

Chair Peeples – Mr. Jones, did I hear a motion by you, sir?

Mr. Jones – Yes, ma'am. You did.

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

J. Application(s) for Internship

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

- (a) *Embalmer*
 - 1. *Brown, Patricia R F656973*
- (b) *Funeral Director*
 - 1. *Batts, Wanda H F664067*
 - 2. *Esther, Trina M F664698*
 - 3. *Swauger, Heather F661906*
- (c) *Funeral Director and Embalmer*
 - 1. *Carter, LaShana F663637*
 - 2. *Craig, Marigot E F662904*
 - 3. *East, Tejaun J F559942*
 - 4. *Julien, Paulette V F664090*
 - 5. *Lubin, Natacha F661673*
 - 6. *Millar, Amanda M F665649*
 - 7. *Palladino, Nicole M F577401*
 - 8. *Ware, Samantha J F666166*
 - 9. *Zeranski, William P F614298*

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

K. Application(s) for Monument Establishment Sales Agents

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

- (a) *Hunt, Amanda F663018*

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

L. Application(s) for Registration as a Training Agency

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

- (a) *LKDJBD Investments Inc d/b/a Daniels Funeral Homes & Crematory (F414089) (Live Oak)*
- (b) *Maloney Funeral Home LLC (F268639) (Sarasota)*

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

M. Notification(s) for Change of Location

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

- (a) *Neptune Management Corp d/b/a Neptune Society (F471761) (Palm Harbor)*
- (b) *Reginald R McKinney d/b/a McKinney Family Funeral Home (F057662) (Jacksonville)*

Ms. Simon – This is an informational item. The Division has reviewed the applications listed on Addendum J

Chair Peeples – Ms. Simon, there's a lot of ambient noise in the background that is kind of overtaking you when you speak. If you are on the call, and you are not a Board member, or one of the representatives of the Division staff or attorneys, please mute your phone, because we have a lot of noise in the background that is interfering with the Board business today. Thank you. Ms. Simon, please proceed with the agenda items. Thank you.

Ms. Simon – Thank you so much, Madam Chair,

N. **Application(s) for Centralized Embalming Facility**
(1) Recommended for Approval with Conditions
(a) Osceola Memory Gardens II Inc (Kissimmee)

Ms. Simon – An application for centralized embalming facility licensure was received on April 4, 2023. The application was complete when submitted. The Funeral Director in Charge will be German Marrero (F461689). A background check of the principals revealed no criminal history. Is there a representative of this entity on the call today? Hearing a response.

Terry Roberts – Yes, this is Terry Roberts.

Ms. Simon – Thank you, sir.

Mr. Brandenburg – Madam Chair?

Chair Peeples – Mr. Brandenburg?

Mr. Brandenburg – I believe there is a problem with number four, the physical address. That's probably a typo. On the application, for the license, line four has an address of Big Pine.

Ms. Simon – That is correct. Thank you for that, Mr. Brandenburg. Madam Chair, the actual address, the actual business location for this applicant, is 1650 Old Boggy Creek Road.

Chair Peeples – Thank you, Mr. Brandenburg. Thank you, Ms. Simon, for clarification. Board members, what's your pleasure? Mr. Jensen?

Mr. Jensen – Just to clarify, with Ms. Simon off of what Mr. Brandenburg said, this has nothing to do with Big Pine Key or Key West? Is that correct?

Ms. Simon – I believe that was in error, and it does not.

Mr. Jensen – Ok, thank you.

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

(b) Undertaking Grady LLC (Tampa)

Ms. Simon – An application for centralized embalming facility licensure was received on March 30, 2023. The application was complete when submitted. The Funeral Director in Charge will be Sarah Yzenbaard-Budgen (F461689). A background check of the principals revealed no criminal history. The Division recommends approval subject to the condition that the centralized embalming facility pass an onsite inspection by a member of Division Staff.

Chair Peeples – Board members?

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

Chair Peeples – Ms. Simon, is there any way that Mr. Bryant or Ms. Richardson or someone there in the Division office could maybe mute whoever is on the phone?

Ms. LaTonya Bryant – The noise is coming from the Board members. When they're not speaking, they need to mute their phones as well.

Chair Peeples – Ok, thank you, Ms. Bryant. I appreciate that. Thank you, Ms. Bryant. Ms. Simon, if you'll proceed with the agenda.

Ms. Simon – Yes, ma'am.

O. Application(s) for Cinerator Facility

(1) Recommended for Approval with Conditions

(a) Florida Keys Funeral Services LLC d/b/a Dean-Lopez Crematory (Big Pine Key)

Ms. Simon – An application for cinerator facility licensure was received on March 24, 2023. The application was complete when submitted. The Funeral Director in Charge will be Jeffrey Dean (F043480). A background check of the principals revealed no criminal history. The Division recommends approval subject to the condition that the cinerator facility pass an onsite inspection by a member of Division Staff.

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

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

P. Application(s) for Funeral Establishment

(1) Recommended for Approval with Conditions

(a) People's Choice Mortuary & Cremation Service LLC (Sanford)

Ms. Simon – An application for funeral establishment licensure was received on January 25, 2023. The application was incomplete when submitted. A completed application was received on March 23, 2023. The Funeral Director in Charge will be Alonia Gainous-Williams (F058013). A background check of the principals revealed no criminal history. 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?

MOTION: Mr. Ferreira moved to approve the application subject to condition that the establishment passes an inspection by a member of Division Staff. Ms. Clay seconded the motion.

Chair Peeples – Mr. Jensen, do you have a question, sir?

Mr. Jensen – Yes, ma'am, I do. Just to point out again, on the list of principals, Page 2 of your packet. Graham is listed as a corporate officer which does not apply to LLCs. This is true for P (1) (a) and (b). Again, I think we should have them as a condition to correct it if the Board is so inclined and the Department is so inclined.

Chair Peeples – We have a motion by Mr. Ferreira and a second by Ms. Clay. Mr. Ferreira, would you like to amend your motion?

Mr. Ferreira – Yes, ma'am, please.

Chair Peeples – Would it be to include a new business entity list of principals' page?

Mr. Ferreira – Yes, ma'am.

Chair Peeples – Ms. Clay, do you agree?

Ms. Clay – Yes.

Chair Peeples – Thank you. We have a motion and a second. All in favor of the motion, say yes.

Board members – Yes.

Chair Peeples – Any opposed? Ms. Simon, do you have a question, ma'am?

Ms. Simon – Yes, I just wanted to confirm. If I understand the condition correctly, it is to submit and another list of business principals, that's a condition of licensure, and that is to correct the identification of one of the principals as a corporate officer.

Chair Peeples – Yes, ma'am.

Ms. Jasmin Richardson – I'm sorry. I do have a question.

Chair Peeples – Yes ma'am?

Ms. Richardson – For this particular one, this is how it's listed on the Division of Corporations. So, I'm not sure what correction we would want them to make because it is listed this way on the Division of Corporations. I just need clarification.

Chair Peeples – Ok. Ms. Richardson, are you speaking about the form, which is Page 10 of our packet, where it states the list of principals that Mr. Graham is listed on the Sunbiz.org page, as a corporate officer for an LLC?

Ms. Richardson – Yes. The Title President/CEO is Alfred Graham. I'm just reading off of Sunbiz right now. Title Director, Clayton Boyd, Title Director Alonia Gainous-Williams. So, I just want clarification on what to tell them when I submit it to them.

Chair Peeples – Ms. Munson, or Ms. Simon, would you have any thoughts of how this can be resolved? As Ms. Richardson has brought up that it's going back to the list of how the LLC is in Sunbiz.org. Ms. Simon?

Ms. Simon – While I am not an expert when it comes to corporate law, my understanding is that when there is an LLC, there are not corporate directors, as much as there are LLC managers or there are LLC members, but there are not corporate officers and that would be reserved for corporations.

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

Ms. Munson – Just to clarify for my records, are you representing the applicant?

Ms. Wiener – No, I'm not. Just the interest of the corporate law in the State of Florida. I believe. LLC is half self-identified corporate officers, and if they so identify themselves in that way on Sunbiz, then that's how they're identified. Technically, LLCs have managers and members. But many, most, lots of LLCs I'm aware of have persons in their organizational structure that identify as officers, president, vice-president, chief morale officer, or whatever the case may be.

Chair Peeples – So Ms. Munson, what would be your suggestion to the Board members and to Division staff?

Ms. Munson – I don't know if I have a specific answer because I too am not like well-versed in corporate law as far as the distinctions of how the corporations LLCs are identified of record. I think, Mr. Jensen is who was bringing this point up. More to Ms. Richardson's point, though, I mean, it would probably need to be consistent with what the Department of Records or Corporations reflect so that our documentation matches theirs. If we understand the purpose, if there's a special addendum that could be included in the application, perhaps that will clarify matters, but to have inconsistent readings could be more problematic. And I don't know if that would serve the needs of what Mr. Jensen is concerned about.

Chair Peeples – Thank you. Mr. Jensen?

Mr. Jensen – On the application, it says that you can be a corporate officer, corporate director or stockholder. I mean, when you Google LLC, the first Page says that you can't be a corporate director or stockholder in an LLC.

Ms. Munson – {Inaudible}

Mr. Jensen – That's not the case. So perhaps the wording is incorrect, and that's what I was asking. You know, just below that, it says your LLC choices are a member, a manager, or a partner. It's pretty straightforward. I've just often wondered why this is always incorrect and is anybody else noticing this. It's not a big deal. I realize their intent was probably not to make that mistake, but should we change the wording or is it that important for it to be that correct?

Ms. Munson – So, the problem is with the application wording. That's what we are hearing today, unless Ms. Simon would suggest, otherwise.

Ms. Simon – Actually, I believe the issue that Mr. Jensen presented is not with the wording on the actual provided on the application to be completed. Instead, it was the wording on Page 10, where Mr. Graham is listed as a corporate officer, as opposed to an LLC member, LLC manager. And, I believe, I'm speaking for Mr. Jensen, and I don't want to speak inaccurately, but I believe what he is suggesting is that there cannot be a corporate officer when it comes to an LLC. And that is what his concern is.

Ms. Munson – And I consider that a part of the application, but I get it.

Chair Peeples – Mr. Graham is on the call, which we have already voted on a motion and a second and we've approved with that, if we would like Mr. Graham to speak to the Board members, we can swear him in and let him talk. Mr. Graham, would you like to address the Board members? Is so, Ms. Simon will need to swear you in, sir.

Ms. Simon – Do you wish to speak, sir?

Ms. Munson – We cannot hear you. He's asking if we can hear him.

Chair Peeples – Mr. Graham, we cannot hear you, sir. You did unmute your mic. We noticed that, but we cannot hear you. No, sir. We still can't hear you, sir.

Ms. Simon – Madam Chair?

Chair Peeples – Yes, ma'am?

Ms. Simon – The motion, which was approved, was for the application to be approved with the condition that the establishment pass an on-site inspection, and that they submit a corrected list of business principals. And perhaps that could be amended to say, a corrective list of business principals, if necessary. That might help.

Chair Peeples – Ms. Munson is that wording agreeable?

Ms. Munson – I think that wording is sufficient. Because we understand the material nature of this application is being approved on its merits, but for that technical, I think that would be appropriate. I still think, though, that because of the list of principals, is technically a part of this application process, the wording on that may need to be revisited.

Chair Peeples – We had a motion by Mr. Ferreira. We had a second by Ms. Clay. Is that you, Mr. Graham? Have you gotten with us yet, sir? Yes, Ms. Simon?

Ms. Simon – Yes. For one reason or another, I believe it's Ms. Liotta's phone. I'm not sure why, but I think that the ambient noise appears to be coming from her phone. Right now, it's on mute, so it is not.

Chair Peeples – Thank you. For the record, Mr. Ferreira, you had made the motion. Ms. Clay, you had second. Do you agree that the motion with conditions, as well as a new list of business principals form, if necessary, will be requested for the licensure of this particular entity?

Mr. Ferreira – Yes, ma'am.

Chair Peeples – Ms. Clay?

Ms. Clay – Yes.

Chair Peeples – Thank you. All Board members, do you agree with that. Say yes.

Board members – Yes.

Chair Peeples – Any opposed?

Mr. Williams – Oppose.

Chair Peeples – Thank you, Ms. Simon. And I think that clarifies for this.

Ms. Simon – Thank you, ma'am.

(b) Peoples Funeral Home LLC (Kissimmee)

Ms. Simon – An application for funeral establishment licensure was received on February 14, 2023. The application was incomplete when submitted. A completed application was received on March 19, 2023. The Funeral Director in Charge will be Karen Peoples (F059371). A background check of the principals revealed no criminal history. The Division recommends approval subject to the condition that the establishment pass an onsite inspection by a member of Division Staff and that an amended list of business principals is tendered if necessary.

Chair Peeples – Board members, your input?

MOTION: Ms. Clay moved to approve the application subject to condition that the establishment passes an inspection by a member of Division Staff and that an amended list of business principals is tendered if necessary. Mr. Jensen seconded the motion, which passed unanimously.

Q. Application for Monument Establishment Builder and Monument Sales Agreement (Related Items)

(1) Recommended for Approval with Conditions

(a) Key West Memorials LLC (Key West)

Ms. Simon – An application for monument establishment builder licensure was submitted on January 24, 2023. The application was incomplete when submitted. A complete application was received on February 14, 2023. A completed background check revealed no criminal history for its listed principals. If approved, Applicant will operate as a monument establishment builder at the address on your coversheet. The Division recommends approval subject to the condition that the establishment pass an onsite inspection by a member of Division Staff.

MOTION: Rabbi Lyons 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.

(b) Key West Memorials LLC (Key West)

Ms. Simon – This agreement was initially submitted to the April 4, 2023, Board meeting, but the applicant requested to withdraw the sales agreement and have it considered at the May Board meeting along with the application for monument establishment. The Division is recommending approval 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.

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

Ms. Munson – Is that Ms. Berube present for it? Thank you.

Mr. Jensen – Madam Chair, can you hear me?

Chair Peeples – Yes, Mr. Jensen.

Mr. Jensen – I'd just like to note on both those, also, the LLC issue was there as well. I don't think that was the right intent again, but it does in effect make the application incorrect. So, if the Department's willing to, I guess, we're going to change the wording on that. I don't know what the deal is. Anyways, I just wanted to point out for the record that they were listed as corporate officers, and in fact, it's an LLC.

Chair Peeples – Ms. Schwantes, did you have a question or comment?

Ms. Mary Schwantes – I do want to make a comment. First of all, I want to thank you all for commenting on these applications. The forms themselves are approved through rulemaking process. To make any changes we will have to go through the rulemaking process, and perhaps it would be appropriate for this to be one of the agenda items on the Board's Rules Committee meeting, which is coming up in June. So, I just wanted to make that comment. And thank you, particularly to Mr. Jensen for pointing out any misreading that could occur from these applications.

Chair Peeples – Thank you, Ms. Schwantes. Thank you, Mr. Jensen. I was going to make a comment, and I've written it down on my Rules Committee list when we meet on June 8th. So, we need to revisit this during that time. Thank you, sir. Ms. Simon, if you'll proceed, please.

Ms. Munson – I'm sorry, Madam Chair. Did the applicant need to say something or want to say something? I just wasn't sure. I saw her throw her hand up. I don't know where she is.

Chair Peeples – Ma'am, we can't hear you.

Ms. Munson – Ok.

Chair Peeples – Ok, she's declined. Thank you, Ms. Munson. Ms. Simon?

Ms. Simon – Yes, ma'am.

R. Application(s) for Preneed Main

(1) Recommended for Approval *without* Conditions

(a) People's Choice Mortuary & Cremation Service LLC (F544883) (Deltona)

Ms. Simon – The Department received an application for a preneed license on March 24, 2023, which was incomplete at the time of submission. The application was deemed complete on April 13, 2023. A completed background check of all principals was returned without criminal history. Applicant's qualifying funeral establishment license is located at the above address. If approved, will trust with Security National Life Insurance Company. The Division recommends approval.

Chair Peeples – Board members?

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

Mr. Jensen – Madam Chair?

Chair Peeples – Yes, sir?

Mr. Jensen – So, was there no reason to put a caveat that they should fix it, or just leave it as is? On that LLC thing. Because this particular one has just a corporate officer. It doesn't have anything under LLC checked at all. So, I just was wondering, do

we fix it? Or do we have to have a thing that says fix it? Or do we just overlook it for now, knowing what their intent was?

Chair Peeples – Ms. Munson? Since we've had two (2) previous applications with this same entity, P (1) (a) and (b), and now we have this one, and we've already requested, if necessary, a list of principals, we've kind of addressed it, and we know we need to kind of speak about this form at our Rules Committee, do we need to amend the motion?

Ms. Munson – I'm only going to say yes, because I'd like the record to be consistent that we handle them all the same.

Chair Peeples – Thank you, ma'am. So, Ms. Simon, if we can go back. We got a motion by Mr. Jones. We got a second by Ms. Clay. Mr. Jones and Ms. Clay, will you accept that the list of principals' form, if necessary, needs to be adjusted or amended? Is that the correct wording, Ms. Simon?

Ms. Simon – Actually, what I was going to suggest is, I wasn't going to comment on the wording, but, if necessary, that the form be adjusted or amended, as he stated. I'd also like to state that Mr. Graham is on the call, at the moment. Thank you.

Chair Peeples – Mr. Jones, and Ms. Clay, do you accept that motion and that second as an amended motion?

Ms. Clay – Yes.

Mr. Jones – Yes.

Chair Peeples – Thank you.

Ms. Richardson – Madam Chair?

Chair Peeples – Yes, ma'am?

Ms. Richardson – I just wanted to clarify because you said that we had three (3) of the same application by the same entity. I just wanted to clarify that P (1) (a) and (b), those are two (2) separate entities and they're two (2) different entities.

Chair Peeples – What I was referring to was Mr. Jensen had made a comment earlier that that was the same form on both those applications. That is the reason I had gone back there but thank you for the clarification. So, P (1) (a) and R (1) (a) are the same entity, correct?

Ms. Richardson – Correct.

Chair Peeples – Thank you, ma'am. Mr. Graham, did you ever get connected? Did you need to address the Board for anything, sir? Ok, I'm sorry, sir. We can't get you connected here, so the Division staff will be in touch with you regarding these items for application. Thank you, sir. Ms. Simon?

Ms. Simon – Yes, ma'am.

S. Application(s) for Removal Service
(1) Recommended for Approval *with* Conditions
(a) Journey Mortuary Services LLC (Pensacola)

Ms. Simon – An application for removal service licensure was received on March 17, 2023. The application was incomplete when submitted. A completed application was received on April 10, 2023. Fingerprints for all principals have been returned with no reportable criminal history. The Division recommends approval subject to the condition that the removal service passes an inspection by a member of Division Staff. Is there a representative of this entity on the call today? Hearing none.

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

(b) Reliable Solutions Treasure Coast LLC (Fort Pierce)

Ms. Simon – An application for removal service licensure was received on April 3, 2023. The application was complete when submitted. Fingerprints for all principals have been returned with no reportable criminal history. The Division recommends approval subject to the condition that the removal service passes an inspection by a member of Division Staff.

MOTION: Mr. Ferreira 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.

- T. Application(s) to Renew Internship**
 - (1) Recommended for Approval without Conditions**
 - (a) Funeral Director and Embalmer**
 - 1. Gaddy-Robinson, Marie F580859**

Ms. Simon – Is Ms. Gaddy-Robinson on the call today? Hearing no response. An application to renew the instant funeral director and embalmer internship licensure was received on April 7, 2023. The application was deemed completed on April 21, 2023. The applicant had previously been licensed as a funeral director and embalmer intern and 69K-18.002, Florida Administrative Code, only permits one internship in a lifetime. The current license expired on April 6, 2023. While the Division received the application one day after the expiration date, sufficient documentary evidence has been provided to call into question whether the application was timely submitted. As a result of this conflict, the Division is recommending approval of the renewal.

Mr. Clark – Madam Chair.

Chair Peebles – Yes, sir.

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

Chair Peebles – Thank you, Mr. Clark.

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

- U. Collective Application(s)**
 - (1) Recommended for Approval with Conditions**
 - (a) Foundation Partners of Florida LLC**
 - (1) New Applications**
 - **Funeral Establishment**
 - **Preneed Branch**

Ms. Simon – Foundation Partners of Florida LLC, seeks approval of the enclosed application for licensure of one (1) funeral establishment and one (1) preneed branch. More specifically, the entity that is being acquired for which funeral establishment and preneed branch licensure is sought is as follows: Foundation Partners of Florida LLC d/b/a David C Gross Funeral Home, a funeral establishment, physical address: 3622 Central Ave, St Petersburg, FL 33711. Included in your Board packet are the separate applications regarding the above listed property. The principals of the corporation have submitted fingerprints for the principals were returned without criminal history. The Division recommends approval subject to the condition that the establishment under the applications herein pass an onsite inspection by a member of Division Staff.

Mr. Clark – Madam Chair?

Chair Peebles – Yes, Mr. Clark.

Mr. Clark – I just want to state for the record my affiliation with FPG of Florida. That affiliation will not prevent me from rendering a fair vote on this matter.

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

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

Chair Peeples – Mr. Jensen?

Mr. Jensen – Madam Chair, if I may? We have this same issue here. Do we need to put it in that they have to fix their list of principals? Now, Foundation Partners Group may be a corporation. If they are, they need to be listed on the list of principals, but it's got FPG LLC here is an LLC member, but it's got these other gentlemen listed as corporate officers, which they aren't. So, again, do we need to add this caveat?

Chair Peeples – Mr. Jensen, since we have with previous entities and applications, I think it would be good to keep everything clean. Mr. Brandenburg, with your motion with conditions, would you agree to the list of principals' form to be amended, if needed?

Mr. Brandenburg – No, ma'am.

Mr. Jensen – What did he say?

Mr. Brandenburg – No.

Chair Peeples – Ms. Munson, do you think we need to be clean on this, or do you think we can continue on with our agenda items?

Ms. Munson – I always support consistency. If it's determined that it needs to be amended, and the Board decided not to amend it, then that will be another issue down the road, but that's what that vote would mean, because the motion was, if needed. I'll just leave it at that.

Chair Peeples – Thank you. Ms. Simon?

Ms. Simon – Yes, thank you, Madam Chair. I would assume that this application, that the list of business principals was the same as we had on another. FPG Intermediate Holdco LLC is the LLC member. Please excuse those statements. I'm sorry. {Inaudible}

Chair Peeples – Ms. Wiener?

Ms. Wiener – Yes, I am counsel for FPG. Let me explain. FPG is the applicant. It's a corporation owned by another entity. Its business principal list is 100% correct. FPG is wholly owned by FPG Intermediate Holdco LLC, as it says on the business principals' form. It does have corporate officers. All LLCs can have corporate officers. I confirmed in the interim of these discussions that the Department of State permits identification of all kinds of people as corporate officers, even though it's not a corporation. So indeed, Kent Robertson is the titles that he indicates and Thomas Kominsky. They are both officers of the corporation, and they are of the LLC, and they are the only officers of the LLC. So, that business entity list is correct. Mr. Brandenburg did not offer in his motion to have this corrected, if necessary, and frankly, it's simply not necessary. So, I would ask that you proceed.

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

Mr. Jensen – If it's not necessary, I'm fine with it. That was my question all along? Is this correct or not correct?

Chair Peeples – Ok. Thank you, sir. Ms. Simon?

Mr. Brandenburg – Madam Chair?

Chair Peeples – Mr. Brandenburg, what was your comment, sir?

Mr. Brandenburg – We'll have to go back through 200 or 300 applications then.

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

Ms. Simon – Yes, ma'am.

- V. **Contract(s) or Other Related Form(s)**
(1) Recommended for Approval with Conditions
(a) Preneed Sales Agreement
1. Great Western Insurance Company (Iowa)

Ms. Simon – GWIC submits the attached revised preneed sales agreement for approval titled Standard Contract of Funeral Goods and Services Selected. If approved, this agreement will be used for the sale of preneed by various preneed main establishments and their related preneed branches. The Division recommends approval 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.

Is there a representative from Great Western insurance company on the call today?

Mr. Brian Lindquist – Yes, this is Brian Lindqvist.

Ms. Simon – Thank you, sir.

Chair Peeples – Board members?

Mr. Jensen – Question for the Department.

Chair Peeples – Yes, Mr. Jensen?

Mr. Jensen – Looking on Page 5 here under the cancelation part, does it not need to say that services are 100% refundable in the State of Florida, at any time? It does not say that. It says something about thirty (30) days. I understand that's the case on merchandise in Florida, but nowhere on here do I see anything that talks about the services being 100% refundable at any time.

Ms. Simon – If I may?

Chair Peeples – Yes, Ms. Simon?

Ms. Simon – It would be difficult for me to go through the contract right now in order to answer that question. If the Board members are concerned, it can be made part of the motion, or Mr. Lindquist can speak to that if he is able to.

Chair Peeples – Mr. Lundquist, can we swear you in, please?

Mr. Lindquist – Sure.

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

Mr. Lindquist – I do.

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

Mr. Lindquist – Brian Lindquist, L I N D Q U I S T.

Chair Peeples – Thank you, sir. Mr. Jensen has made a comment regarding the form that has been presented. And I think, Mr. Jensen, I don't want to speak for you, but I hope I have interpreted it correctly that the wording for the cancelation is not congruent with what the State of Florida requires. Can you address that for us, please?

Mr. Lindquist – Yes, I'm pulling up my copy. Just a minute.

Chair Peeples – Thank you.

Mr. Lindquist – If I understand the Board member's questions, it is that the cancelation section says that when they cancel the contract, it does not automatically cancel the life insurance certificate or annuity. The insured or beneficiary of the contract may cancel the life insurance certificate or annuity within thirty (30) days of purchasing it and receive a full refund of premiums paid. This is a life insurance-funded contract and so the funds are not being paid into a trust. So, to cancel a life insurance policy there's a thirty (30) day look-back period, and that's what it's referring to. Does that help?

Chair Peeples – Mr. Jensen?

Mr. Jensen – It does not help. The State of Florida says that no matter how you fund a preneed contract you still can cancel services even on life insurance 100% at any point in time during the duration of that contract. Is that correct, Ms. Simon?

Rabbi Lyons – Madam Chair?

Chair Peeples – Ms. Simon, did you want to reply to Mr. Jensen's comment? Or would you like me to go to Rabbi Lyons?

Ms. Simon – Please go to Rabbi Lyons. Thank you.

Chair Peeples – Rabbi Lyons?

Rabbi Lyons – I'm going to return the favor here and try to help out Mr. Jensen. So, there's a distinction between merchandise, services, and cash advances. So, with merchandise, after thirty (30) days, the only thing which is refundable is undeliverable merchandise. With services, it's undelivered services, meaning services that have not been rendered. And with a cash advance it's the same thing. So, the question is that the contract in front of us appears to only call out the merchandized issue, but it does not inform the consumer of their rights regarding services being fully refundable and cash advance being fully refundable. And the distinction within merchandise, which is undeliverable is also fully refundable.

Mr. Jensen – My point exactly. Rabbi. That's what I'm saying. Services are 100% refundable. I opened up by saying merchandise. I realize thirty (30) days. But services are 100% refundable no matter how they are acknowledged, either through trust or insurance.

Chair Peeples – Mr. Jensen, if I may? We are a Great Western funeral home, also. If I may read to you in 2016, I just pulled up an agreement that was initiated 2016, under cancelations. "As you may terminate or cancel this contract of funeral goods and services selected, at any time. If you cancel this contract, it does not automatically cancel the funding insurance policy or annuity contract. You may terminate or cancel the funding insurance policy or annuity contract within thirty (30) days of purchase and receive a full refund of premiums paid. If the policy or annuity is terminated or canceled thirty-one (31) days or more after the issue date, you will receive the cash value of the insurance policy or annuity contract. The cash value might be considerably less than the premiums actually paid." So, back in 2016, there was nothing stated specifically about services, merchandise, cash advances. And I'm not speaking for Mr. Lindquist, but I'm not sure if they just took previous wording and they're using it now. So, we do need to address it, if we need to address it at this particular stage. Thank you, Mr. Jensen.

Mr. Jensen – And Madam Chair, I certainly appreciate that. Maybe we defer this one to the Department. I know that the trust contracts that FSI issues and so forth all have that on there. So, I'm just again, I've just not seen this before. I personally don't do the insurance-funded contracts, so perhaps I'm missing something.

Chair Peebles – Ms. Simon, then, Ms. Wiener.

Ms. Simon – If I may? I think that when it comes to funding a contract by insurance, I don't want to hold a precedent, but from what I understand that the language that's in the cancellation contract works. It's a different animal when a contract is funded by life insurance versus being funded in another manner and perhaps Ms. Wiener can shed more light on that.

Chair Peebles – Ms. Wiener?

Ms. Wiener – I can. Thank you. Rule Chapter 69K-8.005 is what governs here. It relates to preneed contracts funded by life insurance, and it does set forth the cancellation provisions, and they are as identical to what's included in this contract. And a few for your references, Subsection (4)(f).

Chair Peebles – Thank you, Ms. Wiener. Mr. Jensen, you had a question regarding this cancellation process. Does that satisfy your question, sir?

Mr. Jensen – Again, if it's correct is correct. I don't have the particular statute in front of me, but I know that in the State of Florida services are 100% cancellable at any time, no matter how they fund it. So, I don't know why that doesn't need to be on here, but if it doesn't, it doesn't.

Chair Peebles – What is the Board's pleasure? Rabbi Lyons?

Rabbi Lyons – Yes, I'm sorry. Can we get the citation one more time, please? I'm sorry.

Chair Peebles – Ms. Wiener?

Ms. Wiener – It's 69K-8.005(4)(f). And so, just to clarify, just like with a trust-funded preneed contract, an insurance-funded preneed contract can be canceled at any time. The difference is because the funeral home doesn't have any of the consumer's money, they don't have any responsibility to refund the consumer's money. When the consumer cancels the preneed contract, then that uncouples it from the life insurance policy, and then the consumer can take that life insurance policy and buy another preneed contract or do something totally different with it, if they want to. It. So it is cancellable, and they don't lose any of their money because they still have the insurance policy that they purchased.

Mr. Jensen – Well that's not what this says. This says that you may be entitled to the cash surrender value, which could be considerably less than the premiums actually paid. And that's not the case. If you pay \$1000, then you know, toward services, then you should be able to get \$1000 back. But that's not what it's saying, so that's where I'm confused.

Ms. Wiener – So, if you choose. So, your policy doesn't automatically cancel. And it says that if you cancel your preneed contract, that does not automatically cancel your insurance policy, but if you do choose to cancel your insurance policy, then you can lose some value, because that's how insurance works.

Mr. Jensen – So, may I ask another question?

Chair Peebles – Yes, sir.

Mr. Jensen – Ms. Wiener, I know you're the lawyer for FSI. So, just out of curiosity, why do all their contracts have this on there?

Ms. Wiener – Well, trust-funded preneed works differently than insurance-funded preneed. To be clear, I do not represent Great Western. I just have some insurance company clients, and I'm aware of this rule. So, that's the distinction between it. Trust-funded works differently than insurance-funded. Many people would say trust-funded is superior because of the

capacity to cancel, and for the consumer to receive their money back. But on the other side, insurance-funded, if you cancel, you still have the insurance policy, and you can take it and do what you want with it, including cancel it.

Mr. Jensen – But wouldn't that be superseded by the statute that says that services are 100% refundable in Florida? I mean, if they want their money back for their \$1000, they paid toward services, you're saying that they don't necessarily get that, they are going to get their insurance policy. So, what if they say they just want their money? What happens then? {Inaudible}

Ms. Wiener – {Inaudible} contract. FSI would certainly say they should have bought a trust-funded preneed contract, if that was their concern, because these things are set forth clearly on the contract. My whole point was they are in conformance with the rule that was adopted by the Board many, many years ago. And so, the language on this contract is in keeping with the rule that applies to it.

Chair Peebles – Ms. Munson?

Ms. Munson – This is just a very brief comment. I'm sure I can't speak on behalf of the Department, but I'm sure the Department also thanks Ms. Wiener for the information that she's sharing. I just want to remind the Board that the rules as written should never be inconsistent with what a statute says. Mr. Jensen is pointing out that there is a difference in what the statute says that how this rule maybe applied. That's just an indication that no matter how long the rule was written, maybe it needs to be reclarified, rewritten, so that type of clarity can exist. Because if in reading it in plain language it looks like it is not consistent with the statute, which indicates that everything that it should all be refundable, then that's just an area, again, for correction for rulemaking: I don't want the Board to have the impression that, because it's written that way, and we need to do it that way, and it's been written that way forever. I just know that we're entering a new rulemaking phase, and these areas probably will all be on the table.

Chair Peebles – Mr. Jensen, would you be more comfortable in tabling this matter until we get a little bit more clarification?

Mr. Jensen – Well, to answer your question, yes, Madam Chair. And all I'm looking for is a clarification. I've been doing this for thirty (30) years, and I'm just like, ok. And everything I've ever heard is it doesn't matter how you fund the preneed, you still have to follow the rules. And the rules are services are 100% refundable. So, I thought that had to be on the contract, but maybe it doesn't. So, I'm just looking for a clarification so to speak. So, I'm not saying it's wrong here, but...

Chair Peebles – Thank you, Mr. Jensen. Rabbi Lyons?

Rabbi Lyons – Ok, so it sounds like there's new revelation was that if it's an insurance-funded contract, everything is cancellable, and everything in theory is refundable. The problem is that it's locked in a life insurance policy. So, now you have two (2) choices. You can either transfer that policy to a different establishment or you can cash out with the warning, which is on the contract, and it is called out on the contract. The warning to the consumer is that if you cash out, you're probably going to lose money, So, but as far as a cancelation, it doesn't make any distinction. Any part of it is cancellable. It sounds like even a deliverable merchandise item would be cancellable because it's an insurance-funded contract.

Chair Peebles – Mr. Brandenburg?

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

Chair Peebles – All in favor of the motion, say yes.

Board members – Yes.

Chair Peebles – All opposed, say no. Mr. Jensen, did you vote yes or no?

Mr. Jensen – Actually I didn't vote. I understand merchandise after thirty (30) days being refunded, but I maintain that services are 100% refundable in the State of Florida, at any time. Services. Services. I'm not talking about caskets. I'm not talking about markers or any of that. So, you know, no matter how it's funded, and I'm pretty sure that that needs to be on a

contract. If I'm wrong, so be it if it doesn't need to be on there. I think it's a little misleading to the consumers, but it doesn't matter. It's either right or wrong. So, I think I might have to abstain from this.

Ms. Munson – Not allowed to, sir. Unless recused, you have to vote one way or another and if you oppose it that's a registered vote as well.

Mr. Jensen – I vote no.

Chair Peeples – Please let the record reflect that the majority was she asked to approve the application, and Mr. Jensen was no. Ms. Simon?

Ms. Simon – Thank you, ma'am.

(b) Requests for Transfer of Trust

1. Charles E Davis Funeral Home Inc (F019291) (Inverness)

Ms. Simon – The applicant seeks approval of the transfer of the following: FSI Master Trust Agreement (dated 2/6/78) (90/10 trust) 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) under Argent. If approved, Argent will continue to be the trustee, as specified in the correspondence within your Board packet. The Division recommends approval subject to the following conditions:

- 1) That the representations of Davis, as set forth in the representative's correspondence dated April 13, 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 April 13, 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 April 13, 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 April 13, 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.

Chair Peeples – Is there anyone representing Charles E Davis Funeral Home, Inc?

Mr. Grabowski – Madam Chair, I've submitted all these trust requests under item V(b).

Chair Peeples – Thank you, sir. Board members, Mr. Brandenburg?

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

2. Family Owned Funeral Group LLC d/b/a George H Hewell and Son Funeral Homes (Brooksville)

Ms. Simon – The applicant seeks approval of the transfer of the following: FSI Master Trust Agreement (dated 2/6/78) (90/10 trust), 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) under Argent. If approved, Argent will continue to be the trustee, as specified in the correspondence within your Board packet. The Division recommends approval subject to the following conditions:

- 1) That the representations of Milam, as set forth in the representative's correspondence dated February 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 February 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 February 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 February 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.

Ms. Simon – Mr. Grabowski is representing this entity as well.

Chair Peeples – Board members?

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

3. *Marion Nelson Funeral Home Inc d/b/a Johnson-Nelson-Gill Funeral Home LLC (F019235) (Lake Wales)*

Ms. Simon – The applicant seeks approval of the transfer of the following: FSI Master Trust Agreement (dated 2/6/78) (90/10 trust) 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) under Argent. If approved, Argent will continue to be the trustee, as specified in the correspondence within your Board packet. The Division recommends approval subject to the following conditions:

- 1) That the representations of Orange City, as set forth in the representative's correspondence dated April 10, 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 April 10, 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 April 10, 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 April 10, 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.

Ms. Simon – Again, Mr. Grabowski is representing this entity as well.

Chair Peeples – Ms. Wiener?

Ms. Wiener – Thank you. Just a point of clarification regarding the previous two (2), this one (1) and the next one (1). There's no request to transfer the trust agreement to Argent. They're transferring trust funds that are governed by one trust agreement, moving the trust funds. They'll be governed by another trust agreement. I just want to make sure that the record is complete. There's no confusion that any part of an FSI trust agreement is being transferred into the care, custody, or control of the Independent Funeral Directors in Florida. And I'm sure Mr. Grabowski would agree with me.

Mr. Grabowski – Madam Chair, may I address the Board?

Chair Peeples – Please, sir.

Mr. Grabowski – We agree with that. This is a request to transfer trust fund assets from one trust to another.

Ms. Wiener – Thank you.

Mr. Grabowski – So, that's an accurate statement.

Chair Peeples – Thank you, Mr. Grabowski, and Ms. Wiener. Board members, your pleasure?

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

4. *Orange City Leasing Inc d/b/a Lankford Funeral Home (F038704) (Orange City)*

Ms. Simon – The applicant seeks approval of the proposed trust asset transfer as more specifically set forth in correspondence from Luke Grabowski, attorney, dated April 3, 2023. Orange City now seeks approval of the transfer of the following: FSI Master Trust Agreement (dated 2/6/78) (90/10 trust) 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) under Argent. If approved, Argent will continue to be the trustee, as specified in the correspondence within your Board packet. The Division recommends approval subject to the following conditions:

- 1) That the representations of Orange City, as set forth in the representative's correspondence dated April 3, 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 April 3, 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 April 3, 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 April 3, 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.

Ms. Simon – And Mr. Grabowski represents this entity as well.

Chair Peeples – Board members?

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

Ms. Simon – If I may, Madam Chair?

Chair Peeples – Yes, Ms. Simon.

Ms. Simon – Ms. Munson, does anything else need to be done to clarify the voting that took place on Charles E Davis, Family Owned and Marion Nelsen to refer to the funds being transferred?

Ms. Munson – I think the record is sufficient. We'll note that the language will apply to all of them. I've made the adjustment on my notes.

Ms. Simon – Thank you. I apologize again, Madam Chair. If I may call the next case?

Chair Peeples – Yes, please.

5. *Zahn-Stow Funeral Home Inc d/b/a Tillman Funeral Home (F019330) (West Palm Bch)*

Ms. Simon – The applicant seeks approval of the transfer of the following: FSI Master Trust Agreement (dated 2/6/78) (90/10 trust) 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) under Argent. If approved, Argent will continue to be the trustee, as specified in the correspondence within your Board packet. The Division recommends approval subject to the following conditions:

- 1) That the representations of Tillman, as set forth in the representative's correspondence dated April 13, 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 April 13, 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 April 13, 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 April 13, 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.

MOTION: Mr. Ferreira moved to approve the request subject to conditions recommended by the Division. Ms. Clay seconded the motion.

Chair Peeples – All in favor of the motion, say yes.

Board members – Yes.

Ms. Wiener – Madam Chair?

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

Ms. Wiener – I'm sorry, before you vote, just one more matter of clarification. Well, we now recognize this is an approval to transfer assets. With regard to 90/10 trust funds, those trust funds are not in the dominion and control of the firm. In order for those trust funds to transfer, you have to obtain the approval of the actual consumer who approves that their trust funds can transfer. So, that matter has been before this Board in the past. And, in fact, in the one (1) instance I'm aware of where 90/10 trust funds were transferred in mass, those approvals were obtained. So, we have no objection to the Board approving the transfer but knowing that it is subject to receipt by the trustee of proof that the consumer, who has dominion and control over the assets, approves the transfer from one trust to another.

Mr. Grabowski – Madam Chair, can I?

Chair Peeples – Yes, sir.

Mr. Grabowski – I'm not aware of any requirement that the consumer has to be notified. I believe Florida Statute specifies that the funds paid to the licensee are the sole ownership, and under full dominion control of the licensee. I'm not aware of any of these transactions in the past at least two (2) years, where there has been a notification requirement to any individual consumer before the trust transfer could be made.

Chair Peeples – Ok, Mr. Grabowski. I'll go back to Ms. Wiener and then I'll go ahead to Mr. Williams after Ms. Wiener.

Ms. Wiener – So, I will pull up the statutory reference for the Board's convenience. But those trust funds are written under what is currently s. 497.464. I don't know that you all have access to that right this moment but let me read to you from it.

Ms. Munson – Is that (11), Ms. Wiener, or another sub?

Ms. Wiener – I believe it would be subsection 11. Well, a couple of places. In the event that the parties execute a contract the purchaser is deemed untreated for all purposes as the settlor of the trust established here under. I believe there's also a reference in the competing statute to the fact that the dominion and control over the trust funds, in the 70/30 trust, as opposed to the 90/10 trust, are within the dominion and control of the licensee. That's why the licensee pays the taxes on the income earned in that trust. And in the 90/10 trust, the qualified funeral trust election can be made. That's the distinction there. It's the purpose of having the Alternative Trust law.

Mr. Bill Williams – That would be s. 497.457(1).

Chair Peeples – Who was that please?

Mr. B. Williams – Bill Williams.

Chair Peeples – Mr. Williams, thank you. Ms. Simon, for the record, do we need to swear Mr. Williams in for any comment he'd like to make?

Ms. Simon – Yes, if Mr. Williams will be making any additional comments.

Chair Peeples – Mr. Williams? Ok, thank you, sir. He will not. Ms. Wiener?

Ms. Wiener – Yes, I found this statutory reference. It is 497.464(4). The contract or trust agreement shall expressly state that the preneed licensee does not have any dominion or control over the trust or its assets except to the extent that (6) applies. And (6) is with regard to fulfillment. Until such time as the preneed contract is entirely completed or performed. And (6) refers to the capacity of the preneed licensee to receive a distribution of not more than 10% of the funds paid or collected by the trustee and so that hence the nomenclature for this Trust (90/10). But it's very clear that the law does not give the preneed licensee any capacity to transfer the trust itself or its assets without permission of the purchaser, which is deemed to be the settlor of this trust. These are the purchaser's monies. It's why you don't have to pay taxes on the earnings, if you are a preneed licensee. So, again, we have no objection to your approval of the trust transfer, but it should be subject to compliance with requirements of Florida law, which, in this case, don't give the firm, the preneed licensee, alone the capacity to transfer. They have to go through one more step.

Ms. Munson – So, I have a suggestion. I will let Mr. Grabowski speak, but I have a suggestion if the Board chooses to vote on this transfer of fund assets the way it is written, that is fine. And if there's any type of transfer, that perhaps any parties of this, feels was made outside of the law, then that's a matter outside of this Board's purview, and they can feel free to do whatever other litigation or whatever other issues they may deem necessary for that. But our vote would be, we're not going to tie. We know that everything we do is within the operation of the law. So, if there's something that's done subsequent to our vote that a party feels is outside of the operation of the law, our vote does not have to be subject to that. And I just wanted to clarify that for the record. I will turn it over to Mr. Grabowski.

Chair Peeples – Thank you. Ms. Munson.

Mr. Grabowski – Thank you, Madam Chair. I just want to point out, again, understanding what the statute says. The Board's rule in place mandates actually that trust agreements allow for the transfer of trust assets, and there is no requirement, any rule or law that says if assets are being transferred between trust, notification must be obtained from every purchaser. I see that nowhere in the law. I don't see it in the trust agreements themselves. So, we think this transfer should be approved as it has been in the past by the Board with the conditions at the Division has requested.

Chair Peeples – Thank you, Mr. Grabowski. Mr. Williams, if you're going to speak, we need to swear you in, sir. Ms. Simon, will you swear Mr. Williams in, please?

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

Mr. B. Williams – I do.

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

Mr. B. Williams – Bill Williams, W I L L I A M S. Only that trustor or the settlor may approve the transfer of assets out of a trust that they are partied to. And the 90/10 trust in Florida, the purchaser is deemed to be the settlor. The settlor is the only one that can approve moving their money out of that trust into any other trust. On the 70/30 trust, as Ms. Wiener said earlier, the firm has complete dominion and control of those assets. It is very well stated in the statutes. It's also very well stated in statutes that the purchaser is the settlor of the 90/10 trust. They are two (2) completely different statutes. We have two (2) ways to trust in this state, 70/30 and 90/10, but they're completely different. That's exactly like Ms. Wiener said earlier, that's why the funeral home has to pay taxes on the 70/30 trust, because they have dominion, control, and ownership. They do not pay taxes on a 90/10 because they aren't the settlor. They don't own those trusts. The consumer does. Therefore, the consumer must approve the transfer from one trust agreement to another trust agreement. That's come up in front of this Board on numerous occasions in the past and the Board has upheld that many, many times. Thank you.

Chair Peeples – Thank you, Mr. Williams. Mr. Brandenburg, I think you had your hand up, sir. Mr. Brandenburg?

Mr. Brandenburg – Yes?

Chair Peeples – Did you have your hand up, sir?

Mr. Brandenburg – Yes, I did. Just a moment. I'll make a motion for approval, subject to the conditions outlined.

Mr. Ferreira – I'll second.

Chair Peeples – We have a motion, and we have a second and some discussion. Ms. Munson, did you have your hand up, ma'am?

Ms. Munson – No. Thanks.

Chair Peeples – Yes, ma'am. Thank you. We have a motion, and then we have a second. Ms. Wiener?

Ms. Wiener – I don't know if Mr. Brandenburg has changed his motion to add additional conditions or if he is simply approving subject to the conditions that were set forth in the Board packet. I will make this Board aware. Argent Trust Company, and it's interesting, because it's an Argent Trust to an Argent Trust transfer, but Argent Trust Company, under the FSI Agreement, I don't believe, will transfer those assets without the approval of the consumer. So, we may be back to you.

Chair Peeples – Thank you, Ms. Wiener. We have a motion. We have a second. We need to make a vote. All in favor of the motion say yes.

Board members – Yes.

Chair Peeples – All opposed? Motion carries. Thank you, Mr. Williams. Thank you, Ms. Wiener, and Mr. Grabowski. Ms. Simon?

Mr. Grabowski – Thank you, Madam Chair.

- (2) *Recommended for Approval without Conditions***
- (a) *Preconstruction Performance Bond***
- 1. *S.E. Combined Services of Florida, LLC d/b/a Royal Palm Memorial Gardens (West Palm Beach)***

Ms. Simon – S.E. Combined Services of Florida, LLC dba Royal Palm Memorial Gardens intends to construct a new mausoleum consisting of 200 niches and 312 crypts. The licensee has submitted for approval a performance bond, in lieu of a pre-construction trust, which is permitted according to statute. The mausoleum project, and the bond, is summarized in your

coversheet. Cemetery agrees to complete said construction in accordance with the terms set by Mausoleums USA, Inc. The Division recommends approval of the aforementioned pre-construction performance bond without conditions.

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

W. Request(s) for Undedication

(1) Recommended for Approval without Conditions

(a) Memorial Gardens Cemetery of the Florida Keys LLC (F397438) (Big Pine Key)

Ms. Simon – This entity is being represented by Ms. Wiener. The requestor seeks to un-dedicate .53 acres of cemetery land. If the request is granted, the cemetery grounds will consist of 16.33 acres. At the time that this cemetery was initially licensed, the requirement under statute was a minimum of fifteen (15) acres, as opposed to the current requirement of thirty (30) acres. The cemetery was initially licensed as Pinewood Memorial Gardens Inc d/b/a Memorial Gardens of the Keys (F039561) in or around 1998. The Division recommends approval without conditions.

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

Ms. Wiener – You'll be happy to know I am only here for questions.

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

MOTION: Mr. Brandenburg moved to approve the request. Mr. Ferreira seconded the motion, which passed unanimously.

Chair Peeples – Thank you, Ms. Wiener.

Ms. Wiener – Thank you.

X. 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. Schwantes – Good afternoon. May I speak to this issue, Madam Chair?

Chair Peeples – Yes, ma'am.

Ms. Schwantes – Thank you. Legislative Session ends tomorrow, May 5th, and things have been hopping over the last couple of weeks even up to and including this morning. So, hot off the press is your legislative update for 2023. We've talked about a lot of bills over the last couple of months. I'm only going to discuss the ones which either have passed or are likely to pass this time. So, if you don't hear this today, it could be because it's likely not going to pass. It won't go further this year.

The first item, and we've talked about this one before, has already been approved by the Governor. It is **HB7011/SB0032**. Basically, it's a bill that corrects incorrect cross-references and citations or grammatical errors. It was approved by the Governor on March 24th. I gave you further details about this last month. But the impact on Chapter 497 is that it corrects the statutory reference in section 497.260(1)(l), Florida Statutes, that has to do with the definition of a state university.

I am very pleased to report that the **Department's Agency Bill (HB487/SB1158) for 2023** passed yesterday. The Agency Bill covers a wide variety of duties that are handled by the Department, including the licensing of insurance agents. When we spoke last month in April, we really did not expect direct impact from this bill on our chapter. Almost immediately after the Board meeting that changed, and I'm going to go through some of that right now. So, initially, there were no provisions that directly impacted Chapter 497. For whatever reason, it seems that most issues involving Chapter 497 have involved changes to definitions in section 497.005. The Department's Agency Bill is no different on that. The agency bill was modified by amendments to reflect changes requested by industry members. The direct impact of particular relevance to us:

- “Burial service” or “service”: definition clarified to make sure it is understood that the referenced services are those which are “required to be offered or provided by an individual or entity licensed under” Chapter 497.
- Existing definition for “preneed contract” will now be the definition for “preneed”
- A new definition for “preneed contract” was added to mean any arrangement or method for which the provider of funeral merchandise or services received any payment in advance for funeral or burial merchandise and services after the death of the contract beneficiary. Defines “transportation protection agreement” as an agreement that exclusively provides or arranges for services related to the preparation for the purpose of transportation and subsequent transportation of human remains or created remains. Further clarifies that a transportation protection agreement and funds received on it are not part of the preneed contract and are not considered insurance under Florida’s insurance code.

Indirect impact from that bill, and we've talked about this before: The bill proposes changes to section 626.321, Florida Statutes (limited licenses and registration) which would provide a limited insurance license to sell preneed funeral agreement insurance. This license is only for insurance covering prearranged funeral, cremation, or cemetery arrangements, or any combination thereof, funded by insurance and offered in connection with a preneed establishment licensed under section 497.452, Florida Statutes. The limited license could be issued without examination only to an individual who has holds a valid preneed sales agent license under section 497.466, Florida Statutes, and files the correct applications/fees to the Department for the limited license. The status of both bills is that they both passed both houses as of yesterday. HB487 is the final version, and the next step is on to the Governor for signature. So, we're glad to see that Bill passed.

A couple of new bills to talk about that were not discussed on prior meetings because they had no impact on our chapter, and again, this has all happened within the last couple of weeks. So, the first one is **HB233/SB0490 – Deceased Individuals**. The bill, which primarily concerns investigations into the deaths of minors, initially had absolutely no impact on Chapter 497. In mid-April, however, an amendment passed which proposes direct changes to 497.005, F.S., as to the definition of “legally authorized person.” I’m reading from the senate appropriations staff analysis on this: “The bill also amends s. 497.005, F.S., relating to the Florida Funeral, Cemetery, and Consumer Services Act, to prevent any person that has been arrested for committing an act of domestic violence against the deceased or any act that resulted in or contributed to the death of the deceased from being awarded any legal benefit under the Florida Funeral, Cemetery, and Consumer Services Act.”

So, if passed, the bill has changed, or will change upon approval, the definition of “legally authorized person,” renumbering the subparagraphs, removing a phrase concerning arrest history from the subparagraph on the “surviving spouse” and adding the following to the end of the priorities listed in that definition: *No person who has been arrested for committing against the deceased an act of domestic violence as defined in s. 741.28, or any act that resulted in or contributed to the death of the deceased shall be accorded any legally recognizable interest under this section consistent with s. 732.802.*

It is unclear what, if any, practical impact this will have on our licensees. I do not know whether that will put an additional burden on the licensees to double-check criminal history. I’m assuming from the way this reads that it would only come up in the event of a murder. That is still to be determined, I believe. So, that passed both houses as of yesterday. HB233 is the final version. The next step is on to the Governor for signature.

I believe we've talked about this bill before. It is **HB1515/SB0170 – Local Ordinances for 2023**. This has to do with assessing and awarding reasonable attorney fees. The only impact on Chapter 497 is that 497.270(3)(a), Florida Statutes, which is our section on minimum acreage and sale or disposition of cemetery lands is to be amended to conform cross references, and also, they are making some technical grammatical changes, like changing the word shall to must. That's pretty common and a lot of legislative changes nowadays. That passed both houses, as of yesterday. SB0170 is the final version. Next step is to the Governor for signing.

And then we have **HB0049/SB0430 - Abandoned and Historic Cemeteries**. You're all familiar with this bill. It creates the Historic Cemeteries Program within the Division of Historical Resources of the Department of State. If passed, the bill will change the definition of “legally authorized person” in section 497.005, Florida Statutes, to include a member of a representative community organization. This would theoretically make it easier for the moving of graves, etc., as needed for the repair and maintenance of the affected cemeteries. It passed both houses as of today. So, HB0049 is the final version, and it moves on to the next step, which is signature by the Governor.

Next is a new bill we've not talked about before. It's likely to pass. I hesitate only, because there's only a day and a few hours left in the session, but where this bill is in the House and Senate, it's a possibility, put it that way. This is **HB1333/SB1364 – Interstate Mobility and Universal-Recognition Occupational Licensing Act**. So, this bill requires Florida licensing boards that issue occupational licenses or government certifications to individuals under Ch. 455, F.S., relating to the regulations of professions by the Department of Business and Professional Regulation (DBPR), or Ch. 456, F.S., relating to the regulation of professions by the Department of Health (DOH), to issue an occupational license or government certification (universal license) to eligible applicants, under certain circumstances (universal licensing requirement). The bill provides that an applicant with a valid occupational license or certification in good standing, or who otherwise meets the requirements for an occupational license for a lawful occupation, is presumed to be qualified for the license and must be issued an occupational license or government certification by the appropriate Florida licensing board.

As an example of one of the changes that this would make, and again, it's only referring to the DBPR and some Department of Health occupations, is that it allows people from out of state who only have a year of experience to come into the state and get licensed. The impact on Chapter 497 is undetermined. Although the bills did not specifically refer to deathcare industry licenses, there was concern that that could change as the bills progressed or, upon becoming law, be expanded to the deathcare industry. Such changes would impact our provisions regarding licensure by endorsement, including changes that were just implemented last year. As a result of that concern, IFDF's lobbyists successfully got an amendment to the House Bill exempting funeral directors licensed under Chapter 497 from the bill. There is not a similar exemption in the Senate Bill. I say that just because I'm not sure where this is going to go. The status is the House Bill is in its second reading, with no date set for that reading. The Senate Bill, though, passed the third of its three (3) committees, and is placed on calendar for second reading. The most recent movement on either bill is today, and I just don't know whether that's going to pass or not. So, keep a lookout for that. Again, there is an exemption that has been added to the House Bill language, if that ends up being the final version, and that exemption is for funeral directors that are licensed under our chapter. It does not speak to embalmers, or the combo license, at this point. So, any questions on the legislation? That's all I have to report regarding these matters this year.

Ok, I want to talk to you about financial statements that were presented before the Board last month. At our meeting, Mr. Ferreira asked for a clarification of what goes in to the "other fees" category, which is found on the regulatory trust fund balance sheet we provided. So that I did not incorrectly paraphrase the items that go into that category at the meeting, I asked our budget specialists for a specific explanation. "Other fees" primarily consist of the following:

- Unlicensed activity fees
- Exam fees
- Application fees
- License replacement fees
- Convenience fees

For example, when licensees use paper payments and pay through the mail, instead of paying online, in some cases, there is a convenience fee charged, when appropriate. As you will recall, the primary source of revenue as shown on that statement is from licensing fees. So, if any of you have further questions on any of the statements that were provided, please give me a call.

Somebody asked me to speak about the Board appointment process, so I want to go into that just briefly. The Board has four (4) members whose positions terminate at the end of September. We're going to begin the Board appointment process soon, I hope. Please don't hold me to this, but I hope within this month. Notice about the process will be provided to Board members and posted on our website. As a reminder, the CFO provides up to three (3) nominations for each open position to the Governor, with the Governor appointing the Board member. Of course, current Board members are welcome to apply for re-appointment to the Board. Also, Board members continue to serve until new appointments are made, and we do appreciate that. The Board members whose positions expire, again at the end of September, are:

Andrew Clark ---- Mr. Clark holds one (1) of the two (2) positions requiring a person whose primary occupation is associated with a cemetery.

Sanjena Clay --- Ms. Clay holds one (1) of our three (3) consumer positions.

Chris Jensen --- Mr. Jensen holds one (1) of the two (2) positions for a funeral director who is associated with a funeral establishment
 Rabbi Lyons --- Rabbi Lyons fills the position requiring a principal of a monument establishment.

So, there will be more information about this upcoming. If anyone has any questions about the Board Appointment requirements, I ask them to please take a look at section 497.101, F.S. and stay tuned for details on the process itself. Again, we will be providing notice to Board members and also posting it on the website just as soon as the process is approved.

The Rules Committee will meet in-person in Tallahassee on June 8, 2023, at 1:00 p.m. It is a public meeting. Further details on this meeting have been posted on our website. An agenda for the meeting will be available and posted at least a week prior to the meeting. All Board members are encouraged to attend, and as a reminder are also reimbursed the same as if attending a Board meeting.

Our next Board meeting will be held by videoconference on Thursday, June 29, 2023, at 10 a.m. As a reminder, the July Board meeting will occur a few weeks after that on Thursday, July 13th at 1:00 p.m. This will be an in-person meeting held in conjunction with the FCCFA Annual Conference in Tampa. Again, details are posted on our website. And if you have any questions regarding travel arrangements, please contact LaTonya Bryant in our office. That ends the Executive Director's Report, and we very much appreciate comments made by the Board members during this meeting, and always. Thank you so much.

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

(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: May 4, 2023
 Date report was prepared: April 24, 2023

Licensee	Board Meeting	Case No.	Total Fine	Date Due	Paid in Full?	Comments
Lawrence J. Epps, Jr. D/B/A Epps Memorial Funerals	Mar-23	282706-21-FC	\$1,500	4/17/2023		Sent to OGC for failure to make payment
Lawrence J. Epps, Jr.	Mar-23	282708-21-FC	\$1,000	4/17/2023		Sent to OGC for failure to make payment
David Engh	Mar-23	300621-22-FC	\$1,000	4/17/2023		Sent to OGC for failure to make payment
Gallaher American Family Funeral Home, LLC	Mar-23	300620-22-FC & 301222-22-FC	\$2,000	4/17/2023		Sent to OGC for failure to make payment
D&L Removal and Transport, Inc.	Feb-23	300633-22-FC	\$500	4/3/2023	Paid in Full	
Rosalind Ann Pinder	Jan-23	294356-22-FC & 295162-22-FC	\$2,000	3-Mar-23	Paid in Full	
American Removal Service LLC	Jan-23	297735-22-FC	\$1,000	3/3/2023		Relinquished license
Carl J. Carnegie d/b/a Carnegie's Monument Sales and Service	Jan-23	297725-22-FC	\$300	3/3/2023	Paid in Full	
Ray Williams Funeral Home, Inc.	Jan-23	283180-21-FC	\$2,000	3/3/2023	Paid in Full	
Jeffrey Lynn Rhodes	Jan-23	283184-21-FC	\$1,250	3/3/2023	Paid in Full	

ES 4-25-23

Y. Chair's Report (Verbal)

Chair Peeples – I'm going to be really short and sweet. I appreciate you all. I appreciate the hard work that everybody puts into each of these meetings. I appreciate the thoroughness that everyone is doing. I appreciate all the folks at the Division Office, staff from the Executive Director, Assistant Director, Ms. Munson, Mr. Griffin, Ms. Marshall, and their team. I appreciate everybody. Looking forward to us getting together for the Rules Committee Meeting on June 8th. I've got four (4) post-it notes from what we've talked about today that I'll be submitting to Ms. Schwantes to include on the agenda. So, if y'all have any items that you think of, please submit them to the Division staff. They'll be glad to collectively put them together so that we'll have a great agenda. And I appreciate everybody. And thank you. Ms. Simon?

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

Ms. Munson – This is provided for informational purposes only. Thank you so much.

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

Rule Number	Rule Title	Date Rule Language Approved by Board	Date Sent to OFARR	Rule Development Published	Notice Published	Adopted	Effective

There are currently no rules in the rulemaking process.

AA. Public Comments (Verbal)

Ms. Simon – Are there any public comments to be made at this point in the meeting?

Chair Peeples – Mr. Jensen?

Mr. Jensen – Hi, just for rest of the Board's perusal, what I was talking about when it came to the contracts comes under s. 497.459(2)(a). It speaks to funeral services and cash advances are 100% refundable any time. And s. 497.459(3) speaks to the required disclosure of all preneed contracts. So, just in case you wanted to look that up. Thank you, Chair.

Chair Peeples – Thank you. Ms. Simon?

Ms. Simon – Are there any other comments? I'm sorry, there are a couple of others, Madam Chair.

Chair Peeples – Did anybody else have any other comments? Ms. Clay?

Ms. Clay – Thank you, Madam Chair. It's really evident that we're in need of longer time to discuss rules and policies, and I know the one meeting coming up. But I was wondering if we could consider, perhaps adding onto one of the days of our regular meetings where we are debating rules or discussing rules, because Mr. Jensen has made it real evidence that we {inaudible} consistent, in terms of addressing rules. This is just a plant in the ear of somebody to, perhaps, {inaudible} a time of rule discussions.

Chair Peeples – Thank you, Ms. Clay. We will take that suggestion and see how it can be fit in as we go forward. From this perspective where we didn't have any discipline last month, when we met in person in Tallahassee, this month we had a lot, which made for a long day today, from this perspective. So, thank you for your comment. Mr. Jensen, thank you for yours. We will be looking into that, and I'll turn it back to Ms. Simon.

Ms. Simon – If there are no other public comments, or if there are any others? I have heard no response, Madam Chair?

Chair Peeples – Thank you.

BB. Upcoming Meeting(s)

- (1) June 8th Rules Committee Meeting (Tallahassee - Department of Revenue Capital Circle Office Center)
- (2) June 29th (Videoconference)
- (3) July 13th (Tampa FL - FCCFA Annual Conference, Tampa Marriott Water Street, 505 Water Street)
- (4) August 3rd (Videoconference)
- (5) September 7th (Videoconference)
- (6) October 12th (In-Person - Location: TBD)
- (7) November 2nd (Videoconference)
- (8) December 7th (Videoconference)

CC. Adjournment

Chair Peeples – We are adjourned and thank you for all your time today. Appreciate y'all.

Ms. Simon – Thank you, everyone, and have a good day.

The meeting was adjourned at 2:26.