

MINUTES
BOARD OF FUNERAL, CEMETERY AND CONSUMER SERVICES
VIDEOCONFERENCE MEETING
October 1, 2020 – 10:00 A.M.

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

Mr. Jody Brandenburg, Chair –Good morning, everyone. Welcome to the Board of Funeral, Cemetery, and Consumer Services. This is a Videoconference meeting, on October 1, 2020. Ms. Simon, would you make your preliminary remarks and accomplish the roll call, please?

Ms. Ellen Simon – Yes, Mr. Chairman. My name is Ellen Simon. I am the Assistant Director of 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 and notice of this meeting has been duly published in the Florida Administrative Register. An agenda for this meeting has been made available to interested persons. Both the link and call-in number is on the agenda, which has been made available to the public. The call –in number and other information relating to the Board meeting has also been published on the Division’s website. The Division staff present for this meeting are either in the Claude Denson Pepper Building in Tallahassee FL or are attending from the locations in which they are telecommuting. 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. Additionally, we will need everyone that is on the call to 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, please make sure to unmute your phone or audio feed when you are preparing to speak. 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 otherwise negatively impacts the recording of this meeting. Just as in a live meeting, persons speaking are requested to identify themselves for the record each time they speak. Participants are respectfully reminded that the Board’s Chair, Mr. Brandenburg, runs the meeting. Persons desiring to speak should initially ask the Chair for permission. As a final reminder, Board meetings are public meetings under Florida Law, and anything said via chat is subject to a public records request. Board members are directed not to use the chat feature. Others should only use this feature for technological issues you may be experiencing, directing any inquiries in chat to Mary Schwantes, Division 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 time, Mr. Chairman, I will call the roll:

Joseph “Jody” Brandenburg, Chair
Keenan Knopke, Vice Chair
Andrew Clark
Lewis “Lew” Hall
Mr. Helm
Ken Jones
Darrin Williams

Also noted as present:

Mary Schwantes, Executive Director
Rachelle Munson, Board Legal Advisor
LaTonya Bryant, Department Staff

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

Chair – Thank you.

2. **Action on the Minutes**

A. *August 13, 2020*

B. *September 3, 2020*

Chair – Action of the Minutes of August 13, 2020 and September 3, 2020? May I have a motion?

MOTION: Mr. Ken Jones moved to adopt the minutes of the meetings. Mr. Powell Helm seconded the motion, which passed unanimously.

Chair – Thank you.

3. **Old Business**

A. *Petition(s) for Informal Proceeding*

(1) *Application(s) for Preneed License Renewal*

(a) *La Paz Funeral Home Inc. (F089725) (Miami)*

Ms. Simon – Is Mr. Charlip on the phone?

David Charlip – Yes, present. David Charlip with Charlip Law Group.

Ms. Simon – Thank you. Mr. Charlip represents the applicant. This licensee has been licensed to sell preneed main since 2016. In 2020, when the licensee applied for renewal of its preneed main licensure, its records reflected a substantial negative net worth. Because of this, the application was present to the Board. When the licensee submitted alternative arrangements in lieu of the statutory net worth requirements, the Board denied the application for renewal based upon the fact that the alternatives were insufficient to protect consumers against the licensee’s substantial negative net worth.

On August 20, 2020, a Notice of Intent to Deny Renewal of a Preneed License was issued reflecting the Board’s decision. The licensee’s attorney filed a Petition for Informal Re-Hearing dated September 10, 2020. The Petition provides that the financials previously tendered were in error due to a misclassification of the shareholder’s paid-in capital as a loan payable. The Petition asserts that the licensee did, in fact, meet the statutory financial net worth requirements and requests the Board to reconsider denial of the licensee’s application for renewal of its preneed licensure. The establishment is recommended for approval without conditions.

Keenan Knopke – Motion to approve.

Lew Hall – Mr. Chair?

Chair – Yes?

Mr. Hall – Looking at the financials that were sent to us, and I see the capital infusion that went in, average since January, they’ve dropped with a negative income of about \$5000. Negative income in July of \$84,000. Substantial increase in net losses. Is there someone on the line or phone that can kind of help us with that?

Mr. Charlip – I believe my client should be on the line.

Chair – Is there another representative of La Paz Funeral Home, other than counsel?

Verda Lopez – Yes, good morning, to all.

Ms. Simon – Before you get started, I’d like to swear you in, if that’s all right? If you could please raise your hand. Do you swear to tell the truth, the whole truth and nothing but the truth, so help you God?

Ms. Lopez – I do.

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

Ms. Lopez – Verda Lopez, L O P E Z. I'm a funeral director in charge.

Ms. Simon – Yes, ma'am. Can you address Mr. Hall's question?

Ms. Lopez – Yes, sir. I acquired the funeral home as the Funeral director in Charge, February last year, 2019. In 2019, I have duplicated the income. The caseload this year, I have tripled my income and my caseload. We had a bad accountant that was doing things wrong, and around April or May, I switched accountants. I got a new accountant. And our investment was classified as a shareholder liability. And when we realized there was a problem, we reclassified the shareholder liability into capital investment. And as you can see, our funeral home is growing. We've never had a problem with preneed. We are willing to do quarterly reports, financial reports. We deposit 100%. We do not deposit partials, and when we withdraw, we withdraw and we see money in the account. We've never had a problem with a customer. We've never had a problem with FSI, with our deposits or withdrawals. And now we are growing. We're a funeral home that's growing. In our income, you can see the difference since February 2019, till now. I beg you to please give us an opportunity to continue, because the preneed has also increased. The amount of preneed we're selling helps us across the board, in everything. I appreciate your consideration. And we're willing to do whatever is required to keep our license.

Chair – Mr. Hall had a question to you, ma'am, that you didn't address in your comments. So, Mr. Hall?

Mr. Hall – My concern is you're speaking of doubling, tripling the caseload, and the monies, etc. However, in February when you're telling me that it tripled you had a net loss of \$5700.

Ms. Lopez – Right.

Mr. Hall – Now, in July 2020, you're up to \$84,000 in net loss.

Ms. Lopez – The problem was that we had, like I said, an accountant that wasn't reporting things right, and we switched accountants in April, May, and she is putting all of our statements, our financial packages in order. That's why you see a difference. We went from an owner investment {inaudible} from a shareholder liability, and we went to reclassify shareholder liability into capital investment.

Mr. Hall – I understand that part, and I see that you went from a negative net worth, of about \$500k to infuse the cash and you got it up, and it was about \$1.3 million turn around. So, I see what you're {inaudible}. This is the July report of 2020, and she took over in April to fix it. And so, if she fixed it, it's showing you've lost \$84,000, which is about 25% of your gross.

Ms. Lopez – Well, I really can't answer that, because I'm not an accountant. I just can see what we have grown, what we've been bringing in. So, I would have to contact to her, so she can explain it in better detail. If you give me a chance and call me back in a few, I'll get ahold of her and she'll be able to come in and explain in more detail. I am a funeral director, not an accountant. I just can see our growth, as far as cases in funds coming in.

Mr. Hall – The other person is on the call, is that counsel, not the CPA, but counsel?

Mr. Charlip – Yes, that's correct. What I would offer is that the net worth requirements, at this point, which were, I believe, the reason for the initial denial, have now been met. In addition, although not required by the statute or the rules, our client has offered to take other steps, to satisfy the Board that if financially responsible as it relates to the preneed, from the statutory standpoint, and from the standpoint of the rules. The funeral home does meet all the requirements. I should say, exceeds the requirements, not just meets.

Ms. Simon – Mr. Chairman?

Chair – Yes, Ms. Simon?

Ms. Simon – Before the Board takes a vote, Ms. Lopez, did you say that you acquired the establishment in 2019?

Ms. Lopez – No, I did not. I acquired it as a funeral director in charge, not as an owner.

Mr. Charlip – Thank you, Ms. Lopez.

Ms. Lopez – We've been trying to build everything up.

Ms. Simon – Thank you.

Ms. Lopez – I can be the accountant right now if you want to give me an opportunity to reach her, if you want to talk to somebody else. But I'm willing to do quarterly reports, trust 100%. Whatever the Board requires, I'm willing to do.

Rachelle Munson – This is Ms. Munson. Mr. Chair?

Chair – Go right ahead, Ms. Munson.

Ms. Munson – And this is just offered just for clarification. The Petition or the Request for Informal Hearing is before you. If the Board is comfortable with calling the question to vote, whether or not to accept it, which I think we may have done, I know we have the discussion now, then we would rule upon it as submitted. If you feel there is additional information, and you care to give this particular Petitioner an opportunity to present an additional witness later on in this agenda, you may do so if you find that it's absolutely necessary. Mr. Hall's poignance having been made very clearly on the record, so it would actually be your call at this particular point, what the pleasure of the Board is.

Darrin Williams – Mr. Chair,

Chair – Go right ahead.

Mr. Williams – Mr. Chair, this question is to Ms. Munson. Ms. Munson, just for clarification, could we table this so that Mr. Hall's questions could be answered? Can we table this case?

Ms. Munson – Of course, we can table it. However, if she is indicating that she has a witness that's available to answer the question at this meeting, we'll just need to move it down in the agenda, if that's a sufficient option for the Board.

Chair – Thank you. Mr. Hall, do you want them to get in touch with the accountant?

Mr. Hall – If she has them available, then that would be good for me, if they can call back in later.

Chair – Ms. Lopez, would you please call back later, and we'll move forward to other cases and then let me know when you come back on, with your accountant, and we'll be glad to visit the case again.

Ms. Lopez – Ok, I appreciate it. Thank you very much, and I'll try to reach her right now. Ok?

Chair – Thank you.

Ms. Lopez – Thank you for the opportunity.

Mr. Helm – Mr. Chair, Mr. Knopke has a motion. Do we need to do anything, or can we just go?

Mr. Knopke – Mr. Chair? I'll withdraw the motion at this point.

Chair – Thank you, Mr. Knopke. Next?

Ms. Simon – If I may, Mr. Chairman, I believe that the September minutes on item number two had not been voted upon.

Mr. Helm – Motion to approve.

Mr. Knopke – Second.

Chair – I believe we did vote on it. There is a motion and a second to approve the minutes of August and September. And again, all those in favor, Aye?

Board members – Aye.

Chair – And any opposed? And that motion carries.

Ms. Simon – Thank you, sir. I apologize. In an abundance of caution, I wanted to make sure.

(2) Motion for a Hearing Pursuant to Section 120.57(1), Florida Statutes (Formal Hearing)

(a) McWhite II, Albert R. (F049445)

(3) Motion Not Involving Disputed Issues of Material Fact Section 120.57(2), Florida Statutes.

(a) McWhite II, Albert R. (F049445)

Ms. Simon – I believe Ms. Wiener is on the conference and she has indicated that she would like to withdraw these items. Ms. Wiener, can you confirm that?

Wendy Wiener – Confirmed.

Ms. Simon – So, those two matters have been withdrawn, the next item on the agenda is under disciplinary.

Ms. Munson – If I may, Ms. Simon? Can I just have a just have a minute. You said 3. A. (2), but I just want the record to be clear that is 3. A. (2) and 3. A. (3). And with that, if I can just have a vote from the Board acknowledging the withdrawal, I'd just like to issue an Order where I can attach the information, including the original Notice of Intent to Deny the request for hearing.

Chair – Thank you. We weren't able to hear Ms. Wiener's response. I believe you are muted, Ms. Wiener. Your microphone is muted.

Ms. Wiener – Can you hear me now?

Mr. Helm – Yes.

Ms. Wiener – I'm on the phone and on my computer, because the mic on my computer is not working conveniently even though I spend my whole day on it. It's a nightmare. It's really a nightmare. I'm dialing in anyway. Yes, confirmed. We are withdrawing both of those requests for hearing, at this time.

Chair – And Ms. Munson, it's your opinion that the Board needs to vote on that?

Ms. Munson – I would just like to issue an Order acknowledging the withdrawals, and I can attach the Motion and the initial Notices of Intent to Deny with it.

Chair – Thank you. Is there a motion for 3. A. (2) and 3. A. (3)?

MOTION: Mr. Williams moved to accept the withdrawal of items 3. A. (2) and 3. A. (3). Mr. Jones seconded the motion, which passed unanimously.

Ms. Munson – Thank you.

4. Disciplinary Proceeding(s)

A. Settlement Stipulations (Probable Cause Panel A)

(1) Related Cases – ATN-32163

(a) Beacon Direct Cremations, Inc.: DFS Case No. 243099 –19–FC; Division No. ATN–32163 (F090834)

Ms. Simon – Mr. Bossart will be representing the Department. Mr. Bossart?

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

Chair – Good morning, Mr. Bossart. Go right ahead.

Mr. Bossart – Can you hear me alright, sir?

Chair – There's a little bit of an echo in your call.

Mr. Knopke – Mr. Chair? While he's adjusting, I am recusing myself from 4. A. (1), (2), and (3), as I'm on Probable Cause Panel A.

Chair – Thank you for that information, Mr. Knopke. Mr. Bossart, will you try again, please?

Mr. Bossart – May I proceed, sir? Am I coming in alright?

Chair – Yes, go right ahead.

Mr. Bossart – Thank you, sir. This is James Bossart for the Department, Office of the General Counsel. Beacon Direct Cremations, Inc. d/b/a Beacon Direct Cremations (Respondent) is a direct disposal establishment licensed under Chapter 497, Florida Statutes, license number F090834. An investigation dated January 2, 2019, reveals Respondent, in its capacity as a direct disposal establishment, sold, conducted, or arranged for visitations and viewings, in violation of sections 497.152(1)(a), and 497.601(2), Florida Statutes. Respondent has entered into a proposed stipulation. The proposed stipulation provides as follows: Respondent shall pay an administrative fine of \$1,500.00 and undergo a one-year period of probation. The Department requests that the Board approve this Settlement Stipulation. Thank you.

Chair – Thank you, Mr. Bossart. Board?

MOTION: Mr. Helm moved to accept the Settlement Stipulation, which provides that the Respondent pay an administrative fine of \$1,500.00 and undergo a one-year period of probation. Mr. Hall seconded the motion, which passed unanimously.

(b) Kuge, John Eric: DFS Case No. 243105 –19–FC; Division No. ATN–32163 (F046942)

Ms. Simon – Mr. Bossart is again representing the Department.

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

Chair – Please, Mr. Bossart.

Mr. Bossart – Thank you. This is James Bossart again for the Office of the General Counsel. John Eric Kuge (Respondent), is a licensed funeral director and direct disposer under Chapter 497, Florida Statutes, license number F046942. Respondent is the owner and direct disposer in charge of Beacon Direct Cremation, Inc. d/b/a Beacon Direct Cremation, a direct disposal establishment licensed under Chapter 497, Florida Statutes, license number F090834. An investigation dated January 2, 2019, reveals Respondent, in his capacity as a DDIC, sold, conducted, or arranged for visitations and viewings, in violation of sections 497.152(1)(a), and 497.601(2), Florida Statutes. Respondent has entered into a proposed stipulation. The proposed stipulation provides as follows: Respondent shall pay an administrative fine of \$1,500.00 and undergo a one-year period of probation. The Department requests that the Board approve this Settlement Stipulation. Thank you.

MOTION: Mr. Andrew Clark moved to accept the Settlement Stipulation, which provides that the Respondent pay an administrative fine of \$1,500.00 and undergo a one-year period of probation. Mr. Williams seconded the motion, which passed unanimously.

Chair – Ms. Simon, I see that this location has a DDIC. Are they eligible for DDIC rather than a funeral director in charge?

Ms. Simon – Mr. Chairman, I can do some research into that and get back to the Board.

Chair – Thank you so much.

(2) Related Cases – ATN-34022

(a) Cremations of Greater Tampa Bay: DFS Case No.: 258286-20-FC; Division No. ATN-34022 (F094876)

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

Marshawn Griffin – Marshawn Griffin for the Department. Cremations of Greater Tampa Bay, Inc., (“Respondent”) is a preneed main licensee, licensed under Chapter 497, Florida Statutes, license number F094876. Respondent is affiliated with Cremations of Greater Tampa Bay, Inc., (Cremations – Funeral) a funeral establishment, license number F331064. The Department conducted an investigation of Respondent and found that Respondent entered into an irrevocable preneed contract with a consumer who was not an applicant for or recipient of Supplemental Security Income or Aid to Families with Dependent Children and used a contract form for use with a consumer that used language that misrepresented the true nature of the contract. A companion case was opened against Cremations – Funeral based on the previously stated facts in Case No. 258283-20-FC. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides as follows: Respondent shall be placed on probation for a period of one (1) year and pay an administrative fine in the amount of \$1,500. If the Board accepts this Settlement Stipulation, the Department will dismiss the case against Cremations – Funeral, Case No. 258283-20-FC, with prejudice. The Department requests that the Board accept this Settlement Stipulation.

Mr. Helm – Mr. Chair, this is Helm. I have a comment, please.

Chair – Please, Mr. Helm.

Mr. Helm – Ms. Simon?

Ms. Simon – Yes, sir?

Mr. Helm – You know more about this. Has this name come up several times in our meetings in the past?

Ms. Simon – I have heard the name before. Yes, sir.

Mr. Helm – That’s what I thought.

Ms. Wiener – Mr. Chair, this is Wendy Wiener. Can I just make a comment?

Chair – Yes. Are you of counsel?

Ms. Wiener – Yes, I am.

Chair – Go right ahead.

Ms. Wiener – Thank you. I’m not sure what Mr. Helm is referring to. I’m not aware of a lengthy criminal, or disciplinary history associated with this licensee. The name, Cremations of blah blah blah is a very common name in our industry. In fact, I think later on, on your agenda, you have another Cremations of, or something along those lines, but I didn’t want there to be an implication that this is a problem licensee. This is not that.

Chair – Thank you. Board? We have a stipulation before us. Part of that stipulation is Respondent to be placed on probation for a period of one year, and an administrative fine of \$1500.

MOTION: Mr. Jones moved to accept the Settlement Stipulation, which provides that the Respondent shall be placed on probation for a period of one (1) year and pay an administrative fine in the amount of \$1,500. If the Board accepts this Settlement Stipulation, the Department will dismiss the case against Cremations – Funeral, Case No. 258283–20–FC, with prejudice. Mr. Williams seconded the motion, which passed unanimously.

(b) Cohen, Thomas J.: DFS Case Nos. 258288–20–FC and 229720–18–FC; Division Nos. ATN–34022 and ATN–30792 (F043919)

Ms. Simon – Again, Mr. Griffin is representing the Department.

Mr. Griffin – Marshawn Griffin for the Department. Thomas J. Cohen (“Respondent”) is funeral director and embalmer, licensed under Chapter 497, Florida Statutes, license number F043919. The Department conducted an investigation of Respondent and found that Respondent entered into a contract that misrepresented the true nature of the contract; entered into an irrevocable preneed contract with someone who was not a recipient of, or qualified applicant for supplemental security income, Medicaid, or temporary cash assistance; committed fraud or incompetency in activities regulated under Chapter 497, Florida Statutes; Respondent was the direct disposer in charge of a disposal establishment that assessed unauthorized “advance charges”. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides as follows: Respondent will pay a fine of \$2,500 and will be placed on probation for two (2) years. The Department requests that the Board accept this Settlement Stipulation. The memo that has been distributed contains an error when it states that its \$2000, but the stipulation reflects \$2500. The Department requests that the Board accept the Settlement Stipulation.

Chair – Mr. Griffin, the cover sheet says placed on probation for two years. Is that incorrect?

Mr. Griffin – No, the two years is correct. I messed up on my memo. I’m sorry.

Chair – No, that’s fine. That’s fine. So, \$2500 and placed on probation for two (2) years. Is there a motion?

MOTION: Mr. Jones moved to accept the Settlement Stipulation, which provides that the Respondent to pay an administrative fine of \$2,500 and will be placed on probation for two (2) years. Mr. Hall seconded the motion, which passed unanimously.

Ms. Simon – Mr. Chairman, if I may go back. On item number 4. A. (1) (b), when you were speaking of John Kuge, Mr. Kuge is a Funeral Director/Embalmer. He is in acting in the capacity of a DDIC, for that matter.

Chair – Thank you.

Ms. Simon – Yes, sir.

(3) Related Cases – ATN–33773

(a) R. Butts, Inc. d/b/a Butts Memorial Chapel: DFS Case No. 256607–19–FC; Division No. ATN–33773 (F068625)

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

Rickey Butts – Yes. This is Rickey Butts

Ms. Simon – Mr. Butts, in anticipation of any comments, 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. Butts – Yes.

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

Mr. Butts – Rickey Butts, B U T T S.

Ms. Simon – Mr. Griffin, if you can proceed?

Mr. Griffin – Marshawn Griffin for the Department. R. Butts, Inc., d/b/a Butts Memorial Chapel (“Respondent”) is licensed as a funeral establishment, license number F068625. Ricky Sharnard Butts (“Butts”) is currently licensed as a funeral director and embalmer, license number F045113. Butts is the owner and FDIC of Respondent. Butts license expired on August 31, 2019 and subsequently renewed on October 15, 2019. The Department conducted an inspection of Respondent and found that Respondent allowed Butts to enter into contracts with an expired license; Respondent’s preparation room failed to meet the requirements of Rule 69K–21.003(3)(a), Florida Administrative Code; Butts failed to timely file death certificates; and Respondent failed to meet minimum standards for the handling of biomedical waste. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides as follows: Respondent shall pay an administrative fine in the amount of \$1,500. The Department requests that the Board accept this Settlement Stipulation.

Chair – Thank you, Mr. Griffin. Mr., Butts, do you want to address the Board or are you merely here to answer questions?

Mr. Butts – I want to address the Board. I want to ask the Board if they can allow me more time to pay the fine.

Chair – Thank you.

Mr. Helm – Mr. Chairman?

Chair – Mr. Helm?

Mr. Helm – Mr. Butts, how much time do you want?

Mr. Butts – It’s \$1500 fine for both cases, which I will have to pay both of those. So, whatever time I am allowed, whatever extra time I’m allowed, I’ll be grateful for.

Ms. Simon – Mr. Chairman?

Chair – Mr. Helm, go ahead.

Mr. Helm – That not a very good answer to my question, Mr. Butts.

Mr. Butts – Sixty (60) days?

Mr. Helm – Sixty (60) days?

Mr. Butts – If possible, yes.

Mr. Helm – Ok. Ms. Simon? Sorry.

Ms. Simon – I’m sorry I interjected. I have nothing to add.

Chair – Thank you.

Mr. Williams – Mr. Chairman?

Chair – Go right ahead.

Mr. Williams – Mr. Chairman, this is a question to you or counsel. So, will we have to amend the proposed Settlement Stipulation, if we want to do to 60 days, if Mr. Helm is making a motion? Or do we need to vote on this, and then ask for additional days?

Ms. Munson – If I may, Chair and Mr. Griffin? I think that you would have to reject the settlement as presented, because it would normally be doing within 30 days. And then put a motion on the table to accept a counter-offer, which would reflect the amount to be paid within 60. But, of course, I defer to Mr. Griffin.

Mr. Griffin – I will defer to Board counsel. I think that her proposed solution works.

Chair – Thank you. So, Board members, if you wish to extend the payment time for sixty (60) days, we have to have a motion to reject this proposed stipulation.

MOTION: Mr. Williams moved to reject the proposed stipulation and offer a motion with the same fine, which provides that the Respondent pay an administrative fine of \$1,500, but within sixty (60) days. Mr. Hall seconded the motion, which passed unanimously.

(b) Butts, Rickey Sharnard: DFS Case No. 256616–19–FC; Division No. ATN–33773 (F045113)

Ms. Simon – Mr. Griffin?

Mr. Griffin – Marshawn Griffin for the Department. Ricky Sharnard Butts (“Respondent”) is currently licensed as a funeral director and embalmer, license number F045113. Respondent is the owner and FDIC of R. Butts, Inc., d/b/a Butts Memorial Chapel (“Butts Memorial”) a funeral establishment, license number F068625. Respondent’s license expired on August 31, 2019 and was subsequently renewed on October 15, 2019. The Department conducted an inspection of Butts Memorial and found that Butts Memorial allowed Respondent to enter into contracts with an expired license; Butts Memorial’s preparation room failed to meet the requirements of Rule 69K–21.003(3)(a), Florida Administrative Code; Respondent failed to timely file death certificates; and Butts Memorial failed to meet minimum standards for the handling of biomedical waste. Pursuant to section 497.380(7), Florida Statutes, Respondent as FDIC of Butts Memorial is responsible for Butts Memorial’s violations of Chapter 497, Florida Statutes. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides as follows: Respondent shall pay an administrative fine in the amount of \$1,500. The Department requests that the Board accept this Settlement Stipulation.

Chair – Mr. Butts, this is Jody Brandenburg. I do have a couple of questions for you.

Mr. Butts – OK.

Chair – Saying that these violations have occurred, let's start with the renewal of your expired license. Has that been renewed?

Mr. Butts – Yes, it has.

Chair – Ok. Can you talk to us about the failure to timely file death certificates? And I'm more interested in what you're doing to remediate the problems that you are having.

Mr. Butts – The problem, and I don't know if there were specific death certificates that were mentioned, but the problem is more than a one prong thing. It is not only on me. A lot of the times, the family does not give me the information, and/or the doctor does not sign them on time. It's not me submitting the death certificate information, it's just getting it signed in a timely fashion. The whole process is not on me, so there's no way for me to actually move forward with doing it faster when I'm already doing my part.

Chair – Are you signed up with the State Vital Statistics Electronic Death Registration System?

Mr. Butts – Yes, I am.

Chair – Ok. And the biomedical waste situation? Have you corrected your failure to meet the minimum standards on that?

Mr. Butts – Yes, I have. I subsequently found them. There were three (3) months of biomedical waste receipts that I could not find, but now I do have them. I'm now doing them electronically, so actually the three (3) that were missing. I do have them. So, everything is being filed electronically.

Chair – Thank you.

Mr. Jones – Mr. Chair?

Chair – Yes?

Mr. Jones – Hey, Ken Jones, with Vital Statistics, Mr. Butts, when you say that you're having issues with physicians, are you coordinated with your county CDRs, so they can assist you if you've got a physician that has not filed within the timelines?

Mr. Butts – Yes, I am. I've very rarely had a physician I've found obstacles to sign within the allotted time.

Mr. Jones – Do you coordinate with your County Health Department?

Mr. Butts – Yes sir, I have.

Mr. Jones – Ok. And I will reach out to the County to make sure they're aware of that, if you contact them. So, I just wanted to make sure you are reaching out to them, so they can be of assistance. Thank you.

Mr. Butts – Thank you.

Mr. Williams – Mr. Chair?

Chair – Go right ahead.

Mr. Williams – Question? Maybe some of my colleagues can help me, since I'm not directly involved in the death care industry. What is considered a timely manner? How many days?

Chair – I think we have an expert on the line. Mr. Jones?

Mr. Jones – Yes. Funeral directors have five (5) days to file a record. If they're having issues, they can ask for an extension, 72-hours normally for a physician. Again, if it's a Medical Examiner's case, based on whether the ME took the case or it is a ME Review, it can be a little bit based on {inaudible} results. So, it comes from different angles based on the funeral director and what they're doing, but normally the five (5) days, unless they ask for an extension.

Mr. Williams – Thank you so much. Mr. Griffin, is this like a continuance type of situation or is it just random that he has had these issues?

Mr. Griffin – Well, we haven't received any subsequent investigations or any subsequent masticatory files on the OGC side of things, so I can only speak as to the allegations contained in this complaint, but the fact of how long, but I think this case has taken us about a year to get to this point. The fact that we haven't received supplemental cases would indicate that the issue has probably been rectified.

Chair – Thank you. And Board, you may remember the previous case where Mr. Butts requested sixty (60) days instead of thirty (30) days. So, Board, how would you like to handle this? Or the motion?

MOTION: Mr. Williams moved to reject the proposed stipulation and offer a motion with the same fine, which provides that the Respondent pay an administrative fine of \$1,500, but within sixty (60) days. Mr. Hall seconded the motion, which passed unanimously.

Chair – Thank you, Mr. Butts.

Mr. Helm – Mr. Chair?

Chair – Yes, Mr. Helm?

Mr. Helm – Do we not have to get Mr. Butts acceptance of the Sediment Stipulation because it changed?

Chair – Ms. Munson?

Ms. Munson – I was going to interject. I was just going to clarify with Mr. Butts that his previous acceptance would apply to both when you gave it on the previous one, sir?

Mr. Butts – Yes, ma'am.

Ms. Munson – All right. That's sufficient. Thank you, Board members.

Chair – Mr. Helm, is that ok?

Mr. Helm – That's fine.

Chair – Thank you.

Mr. Williams – Mr. Chairman?

Chair – Yes?

Mr. Williams – I would like to recuse myself on cases 4. B. (1), (2) (a) and (2) (b), as I was on Probable Cause Panel B.

Chair – Thank you for that declaration. Ms. Simon?

B. Settlement Stipulations (Probable Cause Panel B)

(1) Miller, Gary: DFS Case Nos. 256159–19–FC and 256436–19–FC; Division Nos. ATN–33728 and ATN–33097 (F032629)

Ms. Simon – Mr. Griffin?

Mr. Griffin – Marshawn Griffin for the Department. Gary Miller (“Respondent”) is a direct disposer, licensed under Chapter 497, Florida Statutes, license number F032629. The Department conducted an investigation of Respondent and found that Respondent acted in the capacity of a funeral director and entered into contracts with two (2) consumers without the proper licensure; and that Respondent engaged in fraud, negligence, or incompetency in the practice of activities regulated under Chapter 497, Florida Statutes. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides as follows: Respondent’s license will be suspended for nine (9) months. The Department requests that the Board accept this Settlement Stipulation

Mr. Helm – Mr. Chair, please?

Chair – Mr. Helm, go ahead.

Mr. Helm – Mr. Griffin, I got to ask. Where did nine (9) months come from?

Mr. Griffin – If I recall correctly, I think the most we could have done was a year, and so the nine (9) months was kind of a way to split the baby, to resolve the matter.

Chair – Mr. Helm, any other questions?

Mr. Helm – No.

MOTION: Mr. Knopke moved to accept the Settlement Stipulation, which provides that the Respondent’s license will be suspended for nine (9) months. Mr. Clark seconded the motion, which passed unanimously.

(2) Related Cases – ATN-33710

(a) Bradwell Mortuary: DFS Case No. 259030-20-FC; Division No. ATN-33710 (F041461)

Ms. Simon – Mr. Bossart?

Mr. Bossart – Thank you. This is James Bossart again. Office of the General Counsel. Bradwell Mortuary (Respondent) is a funeral establishment licensed under Chapter 497, Florida Statutes, license number F041461. Respondent failed to ensure dead human remains were identified by tag or other means of identification affixed to the ankle or wrist of the deceased and on the casket, alternative container, or cremation container; failed to maintain bio-medical waste management records; and failed to maintain completed Bodies Handled Reports. Respondent has entered into a proposed stipulation. The proposed stipulation provides as follows: Respondent shall pay an administrative fine of \$2,000.00 and undergo a one-year period of probation. The Department requests that the Board approve this Settlement Stipulation. Thank you.

Chair – Thank you, Mr. Bossart.

MOTION: Mr. Helm moved to accept the Settlement Stipulation, which provides that the Respondent to pay an administrative fine of \$2,000.00 and undergo a one-year period of probation. Mr. Knopke seconded the motion, which passed unanimously.

(b) Bradwell, Monte C.: DFS Case No. 259031-20-FC; Division No. ATN-33710 (F043779)

Ms. Simon – Mr. Bossart?

Mr. Bossart – I’m a little difficulty with the computer here.

Chair – Take your time, Mr. Bossart.

Mr. Bossart – I’ve got it now, sir. Thank you. This is James Bossart for the Department of Financial Services, Office of the General Counsel. Monte C. Bradwell (Respondent), is a funeral director and embalmer licensed under Chapter 497, Florida Statutes, license number F043779. Respondent is the owner and FDIC of Bradwell Mortuary (funeral establishment), a funeral establishment licensed under Chapter 497, Florida Statutes, license number F041461. Respondent failed to ensure dead human remains were identified by tag or other means of identification affixed to the ankle or wrist of the deceased and on the casket, alternative container, or cremation container; failed to maintain bio-medical waste management records; and failed to maintain completed Bodies Handled Reports. Respondent has entered into a proposed stipulation. The proposed stipulation provides as follows: Respondent shall pay an administrative fine of \$2,000.00 and undergo a one-year period of probation. The Department requests that the Board approve this Settlement Stipulation.

MOTION: Mr. Helm moved to accept the Settlement Stipulation, which provides that the Respondent to pay an administrative fine of \$2,000.00 and undergo a one-year period of probation. Mr. Clark seconded the motion, which passed unanimously.

Ms. Simon – Mr. Chairman, I have been told that the accountant is on the line, for item number 3. A. (1) (a), La Paz Funeral Home Inc. If we could go back to that matter now.

Chair – Let's go back to that matter, 3. A. (1) (a).

3. **Old Business**
A. *Petition(s) for Informal Proceeding*
(1) *Application(s) for Preneed License Renewal*
(a) *La Paz Funeral Home Inc. (F089725) (Miami)*

Chair – Ms. Lopez?

Ms. Lopez – Yes, sir?

Chair – Would you please introduce your accountant?

Ms. Lopez – Ms. Mary Otero.

Ms. Simon – Ms. Otero, 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?

Mary Otero – I swear.

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

Ms. Otero – Mary Otero, O T E R O.

Chair – Thank you, Ms. Otero. Mr. Hall?

Mr. Hall – A couple of the questions that I had. The one referred to, she had mentioned the business, it jumped {inaudible} to what it was doing volume wise. However, if you go back to the first a year, it lost like \$5000 a year. And back to, it looks like the last August, or July, there's a loss of \$84,000 a year. It's consistently lost money. They gave us an explanation on the application, as the reason the net loss went on the net income, excuse me, was \$500, I think \$30,000 or \$40,000 in negative net worth, and they infused \$1.4 million into it. What I thought I heard her say earlier was that it was reallocated. It was wrong on your paperwork, and they reallocated it, but now I look at one of my sheets and it shows it under the liability section. So, was that money infused in the account, and then it's listed as a loan?

Ms. Otero – Ok, that money, in 2019, was classified incorrectly, because that was money invested by the owner, and it was classified as a liability. So, in 2020, we reclassified that amount into the capital investment to show the reality, because the owner won't get the money back. So, it's not a liability to the owner.

Mr. Hall – The sheet I'm looking at shows it under Total Liabilities, so if it is a loan back to the owner from the corporation, you wouldn't show any surplus. It's almost a wash. Am I misunderstanding something?

Ms. Otero – It's cutting off. I'm. Sorry.

Mr. Hall – In other words, earlier, it was explained to us that it was no longer a liability, but it's showing that on my sheet dated August 31, 2020, It's under the liability section. But, if it was infused for the purpose infusing cash into the company, and it's a loan back to the owners, then even on the net worth from over \$500k in the red, where's the additional cash? Where did it go?

Ms. Otero – Well, that money has been invested through the years. It was none in 2019. The owner bought the funeral home in 2016, and he has been, you know, investing money into the company that was being classified as a liability, so we reclassified all of that in 2020.

Mr. Hall – I understand, but do you see on August 20th, it's still under the liability section on the Balance Sheet? That's what's confusing me.

Ms. Otero – No. In 2020, we reclassified {inaudible}. We did all the reclassification since January. I'm not sure what you're looking at, but we did the reclassification since January 1st.

Mr. Hall – Yes, ma'am. I'm looking at the sheet you have provided to us from August 31, 2020, and it's still under the liability section. Additional paid in by Capital-A Capra. Is that correct? \$1,454,397.86? Is anybody else struggling with this, or is it just the boy from Kentucky?

Ms. Otero – Excuse me. It's cutting off. That's why I can't hear you. We did the reclassification as of January 1, 2020. So, the financials through August are not showing that liability in the balance sheet. I can provide new financials in case you don't have them.

Chair – Board members what Mr. Hall's referring to, if you want to follow along, Mr. Hall, is that page 41 on our packet?

Mr. Charlip – This is the attorney, David Charlip. If I could interject.

Chair – Go right ahead.

Mr. Charlip – Yes. What I was trying to explain is you're looking at a category entitled Total Liabilities, where we have Equity Capital Stock, Paving Capital, or Surplus, and then Additional Paid-In Capital-A Capra. Are we looking at the same thing?

Mr. Hall – Yes, sir.

Mr. Charlip – Ok. And I think what you're asking is we have a figure of about \$1.5 million listed next to Additional Paid-In Capital-A Capra. Correct?

Mr. Hall – Correct.

Mr. Charlip – So, that is lumping the Paid-In Capital with the category of Capital. So, although it says total liabilities above that, that's for the categories above that. That category there is Total Paid-In Capital or Surplus. It's not listed as a liability. So, the total liabilities are the \$53,561. Then you go to Equity, Paid-In Capital and Capital Stock, and that total is \$1.65 million. So, it's not listed as the liability there. I hope that clarifies that.

Mr. Hall – Maybe I'm missing something. Maybe one of my colleagues can help me, but that's to category I see it under. If she says they've been investing it in the business, in the last year, what have they done to invest \$1.5 million?

Mr. Charlip – Now that would be an {inaudible} over the course of the entire time.

Ms. Otero – Since 2016. They bought the business in 2016.

Mr. Hall – Ok, I have no more questions, Mr. Chair.

Chair – Thank you. I think that Paid-In Capital was probably omitted before, and now it's there now.

Mr. Hall – Maybe he can answer one more thing for me. If it's other capital, and their accountant suggested earlier that it's loaned back to the owner, how is that not a liability?

Mr. Charlip – Now, what occurred was that the previous accountant took whatever the owner infused into the business and said, alright, we're going to look at this as money that you loaned to the business. And we're going to list this as a shareholder loan to which you'll be repaid eventually. And when the firm secured Mr. Otero's services, she said, no, that's not the way to do that. You can't list that as a loan. This is really Paid-In Capital, money you've invested in your business to keep the business running. And so that shareholder loan was converted on the books from a liability to a Paid-In Capital account. That was the accounting change that was made, to reflect the reality of the fact that this was money that the owner had invested in the business over the course of these years. And so that changes the net worth because that money does not get paid back to the

owner. It's money the owner invested, to build up the business. So, what you're seeing with the new financials is the reclassification of that, from a liability to a Paid-In Capital account. And correct me, Ms. Otero, if I'm misstating anything.

Ms. Otero – That's correct. The business doesn't have any other liabilities other than the FSI Trust. They don't owe money to anyone else, and right now, the business is doing well. They are bringing cash, they are positive. Since August, we are reporting income, you know, net income in the business. I think that in the future going to be in good standing.

Mr. Hall – You say that the income that's coming in is good, and you're making money, but in July, you showed you lost \$84,000. Can you help me understand that?

Ms. Otero – Yes. Right now, we are managing all the expenses and we are investing in advertisement to bring more cases in, and everything is working out well. So, we are bringing money into the business. It's going to be better than in the past. We're also working with the landlord because the income {inaudible} is a little bit high, and that {inaudible} expense that we have. We are working with landlord to see if we can get a better rent. We're doing everything to bring the business into the positive numbers. I think that will be the future of the business. And right now, we're not keeping, of the FSI Trust, we're not keeping the full amount, we are leaving that in the trust. And that was what we agreed on when we applied for the license this year, I don't know what other requirements will you ask for, so we can get the license again.

Mr. Hall – Are you the CPA, ma'am?

Ms. Otero – Yes, sir.

Mr. Hall – No further questions for me, Mr. Chair.

Chair – Thank you. Board?

Mr. Knopke – Mr. Chair?

Chair – Yes?

Mr. Knopke – I'm trying to get back to it. I lost the file again. If I remember correctly, the Department had made a recommendation to approve it?

Chair – Yes.

Mr. Knopke – I've not chimed in, but I have the same concerns that Mr. Hall has, but relying upon the Department in that they've investigated, and they're comfortable with it, I'll make the motion to approve it. At least to get it started and see whether everybody agrees, or disagrees, or what.

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

Chair – There's a motion made for and it's been seconded. And all those in favor, aye?

Board members – Aye.

Chair – And any. Opposed?

Mr. Hall – No.

Mr. Williams – No.

Chair – Is that, two opposed? Mr. Helm and Mr. Hall?

Mr. Knopke – Let's do a roll call.

Chair – Let’s do a roll call.

Ms. Simon – May I, Mr. Chairman?

Chair – Please.

Ms. Simon – Mr. Helm?

Mr. Helm – Aye.

Ms. Simon – Mr. Hall?

Mr. Hall – No.

Ms. Simon – Mr. Clark?

Mr. Clark – Yes.

Ms. Simon – Mr. Knopke?

Mr. Knopke – Yes.

Ms. Simon – Mr. Williams.

Mr. Williams – No.

Ms. Simon – Mr. Jones?

Mr. Jones – Yes.

Ms. Simon – Mr. Chairman, that’s 4 to 2.

Chair – Thank you. And the motion carries. Next case.

C. Settlement Stipulations (Waiver of Probable Cause)

(1) DeGiovine, Lisa: DFS Case No. 269799–20–FC; Division No. ATN–35072

Ms. Simon – Is there a representative or is Ms. DeGiovine on the call today? Hearing no response. Mr. Griffin?

Lisa DeGiovine – Yes, I’m here.

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

Ms. DeGiovine – Yes.

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

Ms. DeGiovine – Lisa DeGiovine, D E G I O V I N E.

Ms. Simon – Mr. Griffin, if you can proceed?

Mr. Griffin – Lisa DeGiovine (“Respondent”) is currently not licensed under Chapter 497, Florida Statutes. Respondent has filed an application for licensure as a monument establishment sales agent. The Department conducted an investigation of

Respondent and found that Respondent has engaged in conduct regulated pursuant to Chapter 497, Florida Statutes, without the benefit of licensure. Respondent has entered into a proposed Settlement Stipulation. The proposed Stipulation provides as follows: Respondent will pay an administrative fine in the amount of \$1,500, and that if Respondent is issued a license pursuant to Chapter 497, Florida Statutes, her license will be placed on probation for one (1) year. The Department requests that the Board accept this Settlement Stipulation.

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

Ms. DeGiovine – I'm here just to answer questions.

Chair – Thank you. Mr. Helm?

Mr. Helm – Yes, ma'am. If you don't mind, is your first name Lisa?

Ms. DeGiovine – Yes.

Mr. Helm – I'll just call you Lisa, because it'd be easier for me. Lisa, you stated that you worked for this man for several years?

Ms. DeGiovine – Yes, I worked with Mr. Williford for ten (10) years as a secretary and his personal assistant, until he passed.

Mr. Helm – And in that ten (10) years, you've never seen a license for monument builder or monument license?

Ms. DeGiovine – Never saw a license for cemetery property broker or a monument established license or even for the gentleman that was selling monuments.

Mr. Helm – Ms. Simon, do you have record of the previous owner having a license? That's a difficult question, I think.

Ms. Simon – No. I think I remember researching this, and at one time he did have licensure. Mr. Griffin, are you familiar?

Mr. Griffin – I am not. This matter came out of the normal course.

Ms. Simon – I do not recall right now, Mr. Helm, except to say that in August, the actual establishment was licensed. And I can't tell you right now the status of affairs before August.

Mr. Helm – Ok. Well, Lisa, you stated that you were not aware of anything. So, I was just trying to understand how you could work for somebody that long and not know that he had a license.

Ms. DeGiovine – Well, first of all, when I took over the business, I renamed it, and yes, I did take it over. The only licenses I ever applied for him in the ten (10) years, the only ones I ever renewed were city, county, and the LLC. Those are the only three (3). So, right when I started up, those are the three (3) I got. I got liability insurance. I did everything. There would have been nothing preventing me from applying for this license. I didn't even know this whole Division existed. I could pass a background check. I have the money for it, so there would have been nothing preventing me from going one step further to acquire this license. And the only way I even became aware of it is because my competition, Florida Memorial, reported me for doing business without a license. So, it's not like I was taking advantage of consumers and taking money, and not delivering, or whatever the case was. It was just simple fact that I was selling property and doing business, and Florida Memorial had a new GM, and he reported me. The day that I found that I needed a license, I got right on it. I filled out my application, I went and got fingerprinted, and sent in everything I needed that day.

Mr. Helm – Well, you're referring to...did you say Florida Memorial?

Ms. DeGiovine – Yes.

Mr. Helm – They're just doing their job if they report you, because that's what they're supposed to do.

Ms. DeGiovine – And I completely understand that, but, again, you’re asking me, how did I not know. I never renewed a license for Mr. Williford or for the gentleman that he had selling monuments for him. And that would have been my job and I never did it. Again, I proudly would have done it.

Mr. Helm – Ok. So, now you have all your licenses, you have a contract, you have a sales agent license, and you have the monument license. Is that correct?

Ms. DeGiovine – No. I have the monument establishment license. And then, three (3) days after that, when I got my monument establishment license, I thought I was good to go. And then I was contacted by Ms. Richardson, I believe, Jasmin, and she let me know that I had not listed an agent, and I said, It's just me and my husband and I don't know what you mean. And she said, well, who sells monuments? And I said, well, that would be me. And she said, you have to be licensed for that. And I said, I did not know that. So, again, that day, I sent my application and my check in for it. This has been an extremely confusing process from the very beginning. Even when I got approved for the monument establishment license, back in August, I asked the investigator, am I get to go? And everybody was under the assumption that I was good to go, so I went.

Mr. Helm – I understand that, but have you applied for your sales agent license?

Ms. DeGiovine – Yes. I applied for my sales agent license, but that's being put on hold until this is dealt with. So, I wanted to speed up the process and I just told Mr. Attorney, I'm sorry, I forgot his last name. I said, can you please just do whatever the quickest way to do so I can start doing business the way I need to? Because I have rent, I have utilities, I have everything that doesn't just stop because my business has stopped. So, this is the quickest way for us to resolve it and I think after this is resolved today, hopefully my sales license will go through.

Mr. Helm – You say you didn't know a lot of things, so I am going to ask you, do you have a contract approved by the State?

Ms. DeGiovine – I believe I do. I sent in my contracts.

Mr. Helm – You don't need to believe you do. You need to know whether you do or not.

Ms. DeGiovine – As far as I know, yes, I do.

MOTION: Mr. Helm moved to approve the Settlement Stipulation, which provides that the Respondent to pay an administrative fine of \$1,500, and that if Respondent is issued a license pursuant to Chapter 497, Florida Statutes, her license will be placed on probation for one (1) year.

Mr. Knopke – Mr. Chair, this is Mr. Knopke. I've got a couple of questions, somewhat.

Chair – Mr. Knopke, go right ahead.

Mr. Knopke – Just so the lady. and Lisa, I'm going to call you Lisa, too, if you don't mind. Just to confirm, Ms. Simon, is there an approved contract, or not? Just so she knows.

Ms. Simon – Yes, sir.

Mr. Knopke – Ok, thank you. Lisa, looking in the package that we've got, and I don't know if you have access to it or what, but on Page 28, there's a sign that says East Coast Cemetery Monument Company “We Buy & Sell Cemetery Property in All Major Cemeteries”. Your facility name or the license name is Affordable Cemetery Monuments, Plaques & Property. What's the name of the business?

Ms. DeGiovine – Affordable Cemetery Monuments, Plaques & Property. I believe I put East Coast Cemetery Supply, as having worked in the industry for ten (10) years.

Mr. Knopke – Ok, I'm concerned about the business name and what the customer sees.

Ms. DeGiovine – Affordable Cemetery Monuments, Plaques & Property.

Mr. Knopke – Ok. Is the sign that we're looking at in our package still existing up there or has it been changed?

Ms. DeGiovine – I'm confused. I don't know what sign you're looking at. Any sign that I've ever had made is in my name.

Mr. Knopke – Ok. The sign appears to be outside the business that the examiner took when he came over to investigate the complaint.

Ms. DeGiovine – That might have been in the old building where East Coast Monument's used to exist. There was a building behind me where he existed, and I'm in the building in front. But the building in front, above my office, has my name on it.

Mr. Knopke – Ok. This picture was taken about July of this year.

Ms. DeGiovine – Correct.

Mr. Knopke – And it's got a number 28 under it, so I assume that's a street number, suite number, or something?

Ms. DeGiovine – My address is 414 N Harbor City Boulevard. East Coast Monuments used to be 28 Lori Street.

Mr. Knopke – Ok., So that's not part of your business at all.

Ms. DeGiovine – No part of my business. The landlord just never took down the sign. It's still up there to this day.

Mr. Knopke – Ok. I would say that's probably a benefit to you for customers. I would encourage you to get on your landlord and get it down because it could easily be perceived that that's what you're advertising under that old name. Because when I looked at it this morning, I thought, wait, what is the name of this business? And that's what we've gotten our package. As you said, there is Affordable Cemetery Monuments, Plaques & Property.

Ms. DeGiovine – It's a property management company, and I've asked them to do several things with no luck. It's the same leasing agent in both buildings. It's the same owner and we're responsible for all of our signage. So, I don't know why they haven't taken it down. There's actually new businesses in there, and I don't know why the new businesses haven't put up their own new signs.

Mr. Knopke – Ok. About how many contracts have you sold since you've taken over?

Ms. DeGiovine – I would say, October 2018 is when Mr. Williford passed, and then we got established in our building in February of 2019. So, I would say from February 2019, until when this was brought up in June of 2020, maybe fifty (50) to (75).

Mr. Knopke – Ok.

Ms. DeGiovine – When the investigator came, I showed him all my files.

Mr. Knopke – Ok. You said your husband was in the business. Does he sell? Is he going to get a license?

Ms. DeGiovine – My husband and I own a business together. He has a full-time job. All he does is installs my markers for me.

Mr. Knopke – Ok.

Ms. DeGiovine – He does not sell. I'm the only seller.

Mr. Knopke – Ok. Thank you. Mr. Chair, that was all my questions.

Chair – Thank you, Mr. Knopke.

Mr. Hall – I'll second Mr. Helm's motion, Mr. Chair.

Chair – Thank you. We have a motion to accept the Settlement Stipulation, and it's been seconded. And all those in favor, aye?

Board Members – Aye.

Chair – And any opposed?

Mr. Knopke – Knopke opposes.

Chair – One opposed, and the motion carries.

Ms. Simon – Mr. Chairman?

Chair – Yes?

Ms. Simon – Ms. DeGiovine has applied for licensure as a monument establishment sales agent, as she indicated to Mr. Helm. It is our intent, following this meeting, to license her. We would typically not need to bring a matter like that before the Board. However, in an abundance of caution, I am mentioning this, because with adverse licensing history, we would bring it before the Board, but this wouldn't necessarily constitute adverse licensing history right now. I hope I am making sense in what the intent of the Division is at this point.

Chair – I didn't understand what the intent is.

Ms. Simon – The intent is to approve her licensure as a monument establishment sales agent. That is a licensure that we would normally not bring before the Board for approval. It would be something under, I believe, it's 69K-1.005, Florida Administrative Code, that we would be able to do on her own. However, with adverse licensing history, we would bring it in front of the Board. However, I believe it's contemplated, as a result of the settlement agreement, that that's what the next step of the Division would be.

Chair – If there's an adverse licensing history, we would want it to come before the Board.

Ms. Simon – It's only today. Today is what constitutes that. Yes, sir.

Chair – Has a license...go ahead, Mr. Knopke.

Mr. Knopke – My question was going to be, are you asking the Board to approve it, knowing what we've just done? Or are you just putting us on notice that it will be coming up in a future meeting?

Ms. Simon – Essentially, I'm asking for both, I guess. The application is not on the agenda, but I want the Board to be aware and perhaps speak on what the intent of the Division is next.

Ms. DeGiovine – Mr. Chair, may I speak?

Chair – Ms. Munson?

Ms. Munson – That wasn't Ms. Munson, but I do have a comment. That might have been the applicant.

Ms. DeGiovine – This is Lisa DeGiovine.

Ms. Munson – Ok. I'll defer to her. I don't know what she's going to say.

Ms. DeGiovine – Mr. Chair, I'm confused. I've already been issued a monument establishment license, on August 13th. Now I have a sales license pending, which I understood normally those typically doesn't go in front of a Board. And the reason I

signed the stipulation with Mr. Griffin is so I didn't have to wait another month and I can open my business up and start doing business again.

Chair – Ms. Simon?

Ms. Simon – Yes, sir? I don't know if Ms. Munson wants to weigh in at this point. However, except to mention to the Board, it is our intent after this meeting to approve that licensure, based upon the agreement that we have had with the applicant. And I wanted to mention that plan to the Board, because I did not want the Board to be under the impression I took action outside of your purview. And that's really the only reason.

Chair – Thank you. Ms. Munson?

Ms. Munson – My only comment, Mr. Chair, is that I think it would be inappropriate for the Board to make any decision on a matter that was not properly noticed, so that Ms. DeGiovine would not have been aware and that would have been open for discussion today. If the matter needs to come before the Board at a later meeting, then that would be the decision of the Department. I'm gathering from Ms. Simon's comments that the Department is ready to act but was perhaps leery in doing so given the discussion as a result of the matter that is before the Board today. I think that's what's being stated.

Chair – I would like to see the Division handle this the way you would handle any other monument establishment sales agent application that comes before you with an adverse licensing history.

Ms. Simon – If that is the case, Mr. Chairman, then I believe that Ms. DeGiovine would have something to say about the settlement agreement. The reason why we took this action today, was simply so that the Division could go ahead and grant her licensure, based on the settlement agreement, and that was our intention, because she did not have adverse licensure history before today, which is why we wanted to make sure that this was done today. This has turned into something that was unexpected, and maybe the legal process wasn't thought thoroughly through, but we essentially imposed discipline on her today that she would have gotten once she would have been licensed for this activity. So, our intent, as I said, is to go back within the Division and grant her licensure, that this adverse history that had occurred today is not going to be contemplated in that.

Chair – That's a good explanation and I think we have accepted the Settlement Stipulation. Is that correct? We've voted on it and accepted it.

Ms. Simon – Yes, sir.

Chair – Next case?

Ms. Simon – The next case is...

Mr. Knopke – Mr. Chair?

Chair – Yes, Mr. Knopke?

Mr. Knopke – I hate to take this further, but I'm going to, if you don't mind, I would ask it to Ms. Simon, in the future, if they come across a situation like this again, both for Ms. DeGiovine or whoever it is at that time, as well as the public and the Board, to kind of disclose what their intent is and the reaction all the way through. This type of thing that's kind of come up similar, in the last couple of meetings, where you got one meeting you get a piece of, the next meeting you get another piece of something when it's all going through the process. And it kind of, you know, I voted against it for other reasons, but it's not fair to drag her around any longer. Nor is it fair to anybody else in my mind. If you got a plan, lay it out. If you come across stuff later on, then it's a new case. But this kind of all hooks together in my book, and it kind of smells a little bit, but that's neither here nor there. Thank you. I'm done.

Ms. Simon – Yes, sir.

D. Material Facts Not Disputed (Section 120.57(2) Hearings) (Probable Cause Panel A)
(1) Brooks, Marc W.: DFS Case No.: 255318-19-FC; Division No. ATN-32935 (F020871)

Ms. Simon – Mr. Bossart?

Mr. Bossart – Thank you. The above-referenced matter is presented to the Board for consideration of the Motion for Determination of Waiver and for Final Order by Hearing Not Involving Disputed Issues of Material Fact (Motion) in the matter of Marc W. Brooks (Respondent). Respondent is licensed as a preneed sales agent, license number F020871, Palm Beach County, FL. On June 26, 2020, the Department filed an Administrative Complaint against Respondent that alleges Respondent sold a preneed funeral contract to a Florida consumer for \$780.00 and failed to remit the funds to the FSI trustee as required. Respondent also failed to perform the preneed contract or refund the consumer's payment. Based on the foregoing, the Respondent violated ss. 497.152(1)(a), 497.152(1)(b), 497.152(13)(a), 497.152(13)(b), 497.152(15)(b), Florida Statutes, and are subject to discipline.

The Administrative Complaint was served on Respondent by certified mail on July 17, 2020. Included with the Administrative Complaint was a Notice informing Respondent that the failure to respond in writing within twenty-one (21) days of publication or by August 7, 2020, would constitute a waiver of the right to request a proceeding on the matters alleged in the Administrative Complaint, and an Order of Suspension or Revocation by the Board would be entered against the Respondent. The Department did not receive an Election of Proceedings Form, or any written response from Respondent by August 7, 2020, or any date thereafter. This fact is attested to by the affidavits executed by the Division Director, Mary Schwantes, and the Agency Clerk, Julie Jones. Respondent's failure to file a response constitutes a waiver of the right to request a proceeding on the matters alleged in the Administrative Complaint. Therefore, the Department requests the Chairman of the Board to entertain a motion finding that the Respondent, Marc W. Brooks, was served with the Administrative Complaint, containing a Notice of Rights, an Election of Proceedings Form, failed to respond within the allotted twenty-one (21) day period, and has therefore waived his right to request a proceeding involving disputed issues of material fact in this matter. A copy this memo along with a copy of the Motion for Determination of Waiver and for Final Order by Hearing Not Involving a Disputed Issue of Material Fact has been sent by US. Mail to the Respondent's last known address of record. At this time, the Department believes that it would be appropriate to ask the Chair to entertain a motion to determine whether the Respondent has waived his right to a s. 120.57(1) Hearing, based on his failure to file a timely response.

Chair – Is there a motion?

Mr. Knopke – Mr. Chairman? This is Knopke. I need to recuse myself on 4 D (1), (2), (3).

Chair – Thank you.

MOTION: Mr. Helm moved that Respondent has waived its right to a s. 120.57(1) Hearing based on the Respondent's failure to timely file a response. Mr. Jones seconded the motion, which passed unanimously.

Chair – Mr. Bossart?

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

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

Mr. Bossart – Thank you, sir. The Department now contends that the Board findings of fact supports a finding of violations of Chapter 497, Florida Statutes, as charged in the Administrative Complaint. The Department believes that it is appropriate at this time for the Chair to entertain a motion finding Respondent in violation of Florida Statutes as charged in the Administrative Complaint.

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

Mr. Bossart – The Department also offers into evidence the investigative report with exhibits, a copy of which has previously been furnished to the Board to establish its prima facie case for the violations of the alleged and the Administrative Complaint. The Department would ask that the Board accept the investigative report.

MOTION: Mr. Hall moved to accept the investigative report into evidence. Mr. Jones seconded the motion, which passed unanimously.

Mr. Bossart – As to the recommended penalty, the Department recommends the following penalty be imposed in this case: a \$4000 fine will be imposed upon the Respondent and a two (2) year probation. Thank you.

Ms. Simon – Mr. Chairman, before we go on, may I?

Chair – I was asking if Mr. Brooks is on the call with us? Mr. Marc Brooks? Mr. Brooks? Hearing no response. Ms. Simon?

Ms. Simon – That was what I was about to do. Thank you, sir.

Chair – Thank you. Board? What's your pleasure?

MOTION: Mr. Hall moved that the Respondent be fined an administrative fine of \$4000, and be placed on a two-year probation. Mr. Williams seconded the motion, which passed unanimously.

Chair – Thank you, Mr. Bossart.

(2) Cremation Services of Mid-Florida, Inc.: DFS Case No. 264437-19-FC; Division No. ATN-34668 (F043249)

Ms. Simon – Is there a representative of Cremation Services of Mid-Florida on the call today? Hearing no response, Mr. Bossart?

Mr. Bossart – Thank you. The above-referenced matter is presented to the Board for consideration of the Motion for Determination of Waiver and for Final Order by Hearing Not Involving Disputed Issues of Material Fact (Motion) in the matter of Cremation Services of Mid-Florida, Inc. (Respondent). Respondent is currently licensed under Chapter 497, Florida Statutes, as a direct disposal establishment, license number F041385. On July 24, 2020, the Department filed an Administrative Complaint against Respondent that alleges that as of August 31, 2019, the Respondent's license as a direct disposal establishment expired and was not renewed until February 27, 2020. During this time the Respondent engaged in activities regulated under Chapter 497, Florida Statutes, during the period upon which its license was expired. Based on the foregoing the Respondent has violated s. 497.152(5)(b), and 497.604(1), Florida Statutes, and is therefore subject to discipline.

The Administrative Complaint was served on Respondent by certified mail on July 30, 2020. Respondent timely filed an Election of Proceedings Form alleging Respondent there was no material facts to dispute, waiving its right to an informal hearing before the Board, and is considered to be entered as a Final Order. Respondent has waived the right to request a proceeding on the matters alleged in the Administrative Complaint. Therefore, the Department requests the Chairman of the Board to entertain a motion finding the Respondent, Cremation Services of Mid-Florida, Inc. was served the Administrative Complaint, and has waived the right to request a proceeding involving disputed issue of material fact of this matter, and consented to the entry of a Final Order. A copy of this memo along with a copy of the Motion for Determination of Waiver for Final Order by Hearing Not Involving Disputed Issues of Material Fact, being sent by US Mail to Respondent's last known address of record. The Department would ask at this time for the Chair to entertain a motion determining whether the Respondent has waived its right to a s. 120.57(1) Hearing, based upon their waiver of an informal hearing.

Chair – Is there a motion?

MOTION: Mr. Helm moved that Respondent has waived its right to a s. 120.57(1) Hearing based on the Respondent's failure to timely file a response. Mr. Clark seconded the motion, which passed unanimously.

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

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

Mr. Bossart – The Department now contends that the Board finds the facts that support a finding of violations of Chapter 497, Florida Statutes, as charged in the Administrative Complaint and 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. Helm moved to find the Respondent in violation of the statutes as charged in the Administrative Complaint. Mr. Williams seconded the motion, which passed unanimously.

Mr. Bossart – The Department would also like to offer into evidence the investigative report with exhibits, a copy of which has previously been furnished to the Board to establish its prima facie case for the violations of the alleged and the Administrative Complaint.

MOTION: Mr. Jones moved to accept the investigative report into evidence. Mr. Helm seconded the motion, which passed unanimously.

Mr. Bossart – The Department recommends the following penalties in this case: Respondent's license should be assessed a \$1000 fine and undergo a one-year period of probation. We ask that these penalties be imposed. Thank you.

Chair – Thank you. Is there anyone on the line or on the call representing Cremations Services of Mid-Florida? Anyone on the line for Cremations Services of Mid-Florida? I have a question for Mr. Bossart or Ms. Simon. Is there a prior history of infractions?

Ms. Simon – If I could just have one moment, sir.

Chair – Thank you.

Mr. Helm – While she's doing that, Mr. Chair, can I ask Mr. Bossart a question?

Chair – Please do, Mr. Helm.

Mr. Helm – Mr. Bossart, in our packet it says “requests the Board adopt the factual allegations in the Administrative Complaint and issue an appropriate penalty.” Is there a reason why what you just said was not put in here?

Mr. Bossart – No, sir. No particular reason.

Mr. Helm – I'm sorry?

Mr. Bossart – No particular reason. No, sir. Are you assessing the recommendation of our penalty?

Mr. Helm – It says, “issue in an appropriate penalty.” That's all it says.

Mr. Bossart – Yes, sir. The \$1000 fine and one-year probation was only suggested. The Department decided upon that after the memo was written.

Mr. Helm – Ok.

Ms. Simon – Mr. Chairman?

Chair – Yes?

Ms. Simon – Sorry. I'm sorry, I didn't want to cut Mr. Bossart off.

Chair – No, he's completed.

Ms. Simon – I am looking at our records and there is previous discipline for Cremation Services of Mid Florida, Inc., dating for 2014 and before. In 2014, there was an Order issued. In 2013, there was an Order issued. In 2011, there was an Order issued.

Chair – Do you have what the violations were?

Ms. Simon – Yes, if I could just have a moment, again.

Chair – Take your time. It's important.

Ms. Simon – Ok, In the 2011 case, the discipline was probation for two (2) years and a \$250 Fine. The basis of that was failure to timely renew its preneed license, and continued to advertise and sell preneed contracts with an inactive and expired preneed license for approximately 1.5 months after the preneed license expired and became inactive. That was the 2011 case. The 2013 case, the allegations were that they sold or attempted to sell preneed merchandise and services and did not place the money into trust. Just one moment. It appears that the other case also concerned preneed that direct disposers in charge never obtained the necessary licensure to sell preneed arrangements and did so. Again, with all of this history, I'm not certain if the same owners are currently in charge of Cremation Services of Mid-Florida. If I could just have one more moment.

Chair – Thank you. Well, while Ms. Simon is looking that up, I'd like to call the Board's attention that they were unlicensed from August 31st until February 27th. Respondent handled approximately 296 human bodies after its license expired. So, I would ask Mr. Bossart is the \$1,000 fine and one (1) year probation the maximum penalty for those violations?

Mr. Bossart – No, sir. Actually, it would be {inaudible}. I'd have to defer to Ms. Simon. She has access to the penalty guidelines.

Chair – Thank you, Ms. Simon?

Ms. Simon – Actually, sir, I do not have access to the penalty guidelines right now. I need more time, if I could just have a minute,

Chair – Thank you.

Ms. Simon – Pulling the information up just takes a moment.

Chair – Ms. Munson, do you have access to the penalty guidelines?

Ms. Munson – I'm looking them up in the rules as they're speaking. I don't have them.

Ms. Simon – This is a one (1) count complaint, and the two (2) violations that have been charged are violations of, just one moment.

Mr. Bossart – SS. 497.152(5)(b) and 497.604(1), F.S.

Ms. Simon – The maximum violation for s. 497.152(5)(b), F.S, is \$3000, probation for two (2) years, or up to permanent revocation.

Chair – For the one count. And s. 497.604(1), F.S?

Ms. Simon – I don't imagine that that is more, but I am looking it up right now.

Chair – I am, too.

Ms. Simon – It is a fine of \$1000 to \$2500, probation for six (6) months to a year, suspension up to revocation. But please keep in mind that these penalties are not to be added. There is a maximum amount when it's one (1) count. So, we were looking at a fine of \$3000, probation up to revocation.

Chair – Thank you. So, if we had a motion for a \$3000 fine and a two (2) year probation, would that be within the guidelines?

Ms. Simon – Let me just check about the probation, if I can.

Chair – Thank you.

Ms. Simon – Yes, sir.

Chair – Thank you. So, the question I asked was the \$3000 fine and a two (2) year probation within the guidelines, and it was an affirmative response.

Ms. Simon – Yes, sir. That was an affirmative response and I may have misspoken before. The fines are up to \$3500.

Chair – Thank you.

MOTION: The Chair moved that the Respondent be fined an administrative fine of \$3000 and be placed on a two-year probation. Mr. Clark seconded the motion, which passed unanimously.

Chair – Thank you.

(3) *Jones, Jessica Marie: DFS Case No.: 241661-19-FC; Division No. ATN-30428 (F178494)*

Ms. Simon – Is Ms. Jones on the call today. Hearing no response. Mr. Bossart?

Mr. Bossart – Just one moment, please.

Chair – Take your time, Mr. Bossart.

Mr. Bossart – Thank you, sir. 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 Jessica Marie Jones (Respondent). Respondent is a direct disposer, licensed under Chapter 497, Florida Statutes, license number F178494. Respondent was an employee of Affordable Cremations Solutions, Inc. a direct disposal establishment, license number F068240, doing business in Jacksonville, Florida. On July 24, 2020, the Department filed an Administrative Complaint against Respondent and alleges Respondent bought and sold two (2) preneed contracts to Florida consumers without having a valid preneed license. Based on the foregoing, Respondent violated ss. 497.152(1)(a), 497.152(11)(d), 497.452(1)(a), Florida Statutes, and is subject to discipline.

The Administrative Complaint was served on Respondent by certified mail on July 31, 2020. Included with the Administrative Complaint was a Notice informing Respondent of the failure to respond in writing within twenty-one (21) days, or by August 21, 2020, would constitute a waiver of the right to request a proceeding on the matters alleged in the Administrative Complaint, and an Order of Suspension or Revocation of Discipline, by the Board, would be entered against the Respondent. The Department did not receive an Election of Proceedings form or written response from the Respondent by August 21, 2020, or any date thereafter. This fact is attributed to by the affidavits of Mary Schwantes, Division Director, and of Julie Jones, Agency Clerk. Respondent's failure to file a response constitutes a waiver of the right to request a proceeding on the matters alleged in the Administrative Complaint. Therefore, the Department requests the Chairman of the Board to entertain a motion finding that the Respondent, Jessica Marie Jones, was served the Administrative Complaint, which contained a Notice of

Rights and Election of Proceedings Form, and she failed to respond within the allotted twenty-one (21) day period, and has therefore waived her right to request a proceeding involving the disputed issues of material fact in this matter. A copy of this memo along with a copy of the Motions for Determination of Waiver and for Final Order by Hearing Not Involving Disputed Issues of Material Fact was sent by US Mail to the Respondent's last known address of record. At this time, the Department would ask the Chair to entertain a motion determining Respondent has waived her right to a s. 120.57(1) Hearing based on Respondent's failure to file a timely response.

MOTION: Mr. Helm moved that Respondent has waived its right to a s. 120.57(1) Hearing based on the Respondent's failure to timely file a response. Mr. Hall seconded the motion, which passed unanimously.

Mr. Bossart – Now, that the Board has determined the Respondent has waived its right to request a proceeding in this manner, 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. Thank you.

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

Mr. Bossart – The Department now contends that the Board finds the facts that support a finding of violations of Chapter 497, Florida Statutes, as charged in the Administrative Complaint and 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. Helm moved to find the Respondent in violation of the statutes as charged in the Administrative Complaint. Mr. Hall seconded the motion, which passed unanimously.

Mr. Bossart – The Department would also ask that you accept into evidence the investigative report with exhibits, a copy of which has previously been furnished to the Board to establish its prima facie case for the violations of the alleged and the Administrative Complaint.

MOTION: Mr. Helm moved to accept the investigation file into evidence. Mr. Clark seconded the motion, which passed unanimously.

Mr. Bossart – As to penalty, the Department recommends the following in this case: That the Respondent be assessed a \$3000 fine and undergo a one-year probationary period. Thank you.

Chair – Thank you. Board?

Mr. Helm – Question, Mr. Chairman?

Chair – Go right ahead. Did we ask if Jessica Marie Jones was on the call?

Ms. Simon – Yes, sir.

Chair – We did ask that?

Ms. Simon – Yes, sir.

Chair – Thank you. Go right ahead, Mr. Helm.

Mr. Helm – Mr. Bossart, it said she sold two (2) preneed contracts. Do you know whether that money was returned to the families or not?

Mr. Bossart – I don't think it has been. Ms. Jones was an employee only. The funeral home and the other participants have already been disciplined. I doubt that she returned the money.

Chair – I think part of the Board packet was they did declare that it was returned to the family, that they contacted each family.

Mr. Helm – Ok. I looked for it, but I didn't see it. I could have missed it very easily. OK. Thank you.

Mr. Hall – Mr. Chair?

Chair – Yes?

Mr. Hall – For the Division, Mr. Kuzniar has nothing to do with this corporation anymore, correct, Ms. Simon? We revoked him back in '13 of his license, but he's still not involved in any way with this company, is he?

Ms. Simon – I'm not able to answer that, sir.

Chair – I'm able to answer that. He is still involved. He is still the general manager and he is still running it.

Mr. Hall – Was he incarcerated for a point in time?

Ms. Simon – I believe he was, sir?

Chair – I'm not sure, but his license was revoked. But he's still running it and is the general manager. But his license was revoked by this Board. But that's not the issue before the Board today.

Mr. Hall – Right. I just saw his name under the company names and stuff here.

Mr. Helm – What is the maximum penalty, Mr. Bossart, or anyone? I don't care who.

Mr. Bossart – She was selling preneed contracts. Ms. Simon?

Ms. Munson – {Inaudible}

Mr. Helm – I'm sorry, I did not hear you.

Ms. Munson – I'm confirming with Ms. Simon if it's \$3500. I'm still reading the way these Disciplinary Guidelines are set out.

Chair – My book says \$2500, in addition probation for six (6) months to one (1) year with conditions and suspension up to one (1) year or permanent revocation of license may be imposed. That's a first offense.

Ms. Simon – And she has no prior offenses on record.

Mr. Griffin – {Inaudible} version of the Disciplinary Guidelines is the prior version of the Disciplinary Guidelines. Because this case, the ({inaudible} conduct occurred in 2018, which means it falls under the pre-2019 version of the rules.

Chair – Thank you. Mine is dated, 2019, January 1, 2019.

Ms. Simon – Those are the new guidelines, sir.

Chair – Ok. Board, what's your pleasure?

Mr. Helm – The Department has not heard from this lady at all, is that correct?

Mr. Bossart – No, sir. We have not.

MOTION: Mr. Helm moved to revoke the Respondent's license. Mr. Hall seconded the motion.

Mr. Griffin – I'm not sure that revocation is possible under the old rules.

Ms. Munson – This is Ms. Munson, if I may, Mr. Chair? Just to clarify for the record, for this and even if necessary for the previous, is that the correct disciplinary guidelines are being presented. So, if the Office of General Counsel would like to clarify that, it would be appreciated.

Mr. Griffin – So, judging from this case, it looks like she entered into the contract in 2018, which means the 2018 versions of the rules apply. Looking at the allegations as alleged in the AC... So, basically, with two (2) counts, the maximum penalty for each count is a reprimand, a fine of \$1000 to \$2500 plus cost, six (6) months to one (1) year probation with the standard conditions, with a punishment of up to a suspension until compliant. In order to exceed that, grounds for aggravation and mitigation would have to be considered, as required by 69K-30.001(2), F.A.C.

Mr. Jones – Mr. Chair, if the promotion failed, I will make a motion.

Chair – Was that Mr. Knopke?

Mr. Helm – No, that was Mr. Jones

Chair – I'm sorry. Mr. Jones, go right ahead.

MOTION: Mr. Jones moved that the Respondent be fined an administrative fine of \$2000 and be placed on a one-year probation. Mr. Clark seconded the motion.

Mr. Helm – May we have some discussion, Mr. Chairman?

Chair – Please, go ahead, Mr. Helm.

Mr. Helm – Mr. Griffon? Marshawn?

Mr. Griffin – Yes, sir?

Mr. Helm – Read me those disciplinary things a little bit slower so that I can write them down.

Mr. Griffin – Yes, sir. So, under the pre-2019 version of the rules, a lot of the common violations don't have penalty guidelines. In this case, the Department has alleged a violation of s. 497.152(1)(a), F.S., on both counts. The penalty for that is a reprimand, a fine ranging from \$1000 to \$2500 plus cost, six (6) months of probation to one (1) year probation, with the usual conditions to include a suspension until compliant for a licensee for whom this is their first offense. So, I believe that if it's already been established that, this is Ms. Jones' first offense, or first violation of s. 497.152(1)(a), then the maximum penalty that could be imposed altogether would be what I just said {inaudible} doubled. So, the minimum fine could be would be \$2000, The maximum fine would be up to \$5000. The Board can impose up to from one (1) year to two (2) years of probation with the usual conditions or suspension until compliant. However, in this case, since the idea is that she engaged in preneed, there's no compliance to be had. The other statutes that were alleged s. 497.152(11)(d), Florida Statutes, has no penalty guidelines and 497.452, Florida Statutes, has no disciplinary guidelines.

Mr. Helm – Well, now when you speak of compliance, with the stipulation, would the money be returned to the families? Would that not be in compliance or no?

Mr. Griffin – So, then you'd have to cancel the contract. So, then you run into an issue of basically forcing the...I mean you could require them to do that, but then you're forcing to the consumer to basically cancel the contract.

Mr. Helm – Well, how can they have the contract if they don't have the right to sell it?

Mr. Griffin – Well, the fact that they don't have the license to sell, I think, makes it a voidable contract, not a void contract.

Mr. Helm – Well, sorry. I've got to ask this question. If they went in there and said we want to fulfill our contract, and the company says back to him, we don't have a license to sell preneed. We don't have a contract. Can they do that?

Mr. Griffin – No, they can't. They're essentially binding themselves to it. If you order a restitution to the consumer, then you're effectively canceling the contract.

Mr. Helm – All right.

Mr. Griffin – I believe you're muted, Mr. Hall.

Mr. Hall – Sorry. Did you say that the money had been returned to those two?

Mr. Helm – No, it hasn't.

Mr. Hall – Had not?

Chair – I believe in our packet, Mr. Kuzniar said it was returned.

Mr. Helm – Oh, I'm sorry. I'm sorry.

Chair – I'm looking for it. I'm almost positive.

Ms. Simon – Mr. Chairman?

Chair – Yes?

Ms. Simon – If I may, on page 28 of your Board package, the fourth paragraph from the bottom, the last sentence states all known preneed contracts were refunded to the purchaser on February 20, 2018.

Chair – Thank you for that clarification.

Mr. Helm – Ok.

Chair – Ok, we have a motion of a \$2000 fine and a one-year probation. So that's the motion and a second. Any other discussion? All those in favor, aye?

Board members – Aye.

Chair – Any opposed?

Mr. Hall – No.

Mr. Helm – No.

Chair – Two opposed? The motion carries.

Mr. Jones – Mr. Chair? I hate to ask, but can we have five (5) minutes?

Chair – Sure. I have 12:09, so why don't we say 12:15, we'll readjourn.

Mr. Jones – Thank you, sir.

Chair – Thank you.

*****BREAK*****

Chair – Ok, I have 12:15. Ms. Simon?

Ms. Simon – Yes, sir? We do not have a quorum present.

Mr. Jones – I'm back.

Chair – Thank you, Mr. Jones. Mr. Knopke, thank you for getting back, Mr. Hall? Ms. Munson is back on.

Mr. Knopke – Well, it looks funny, we said we were going to break and everybody's screen went blank.

Chair – Well, there are some things you just don't want to see, Mr. Knopke.

Mr. Knopke – How true, how true. I had to relocate from where I was seated earlier just because of noise in our building.

Chair – Mr. Clark is back, and I believe we do have a quorum now. Ms. Simon?

Ms. Simon – I'm sorry, sir. I don't think that we do.

Chair – Mr. Helm just came back on board. 1, 2, 3, 4, 5, 6.

Ms. Simon – Ok. Is Mr. Hall back?

LaTonya Bryant – Mr. Williams isn't back.

Mr. Helm – How many do we have now? Seven (7) altogether?

Ms. Simon – Yes, sir.

Mr. Knopke – It looks like Mr. Hall has logged off.

Chair – Six (6). We have six (6) on the call right now.

Ms. Simon – We have Mr. Helm, Mr. Knopke, Mr. Clark, Mr. Brandenburg, and Mr. Jones. That's five (5).

Mr. Jones – Mr. Hall's window lit up, but he just hasn't come back yet.

Chair – How many do we need for our quorum?

Ms. Simon – Six (6), sir.

Chair – And Mr. Williams is back.

Ms. Simon – We do now, them.

Chair – Thank you.

- E. Material Facts Not Disputed (Section 120.57(2) Hearings) (Probable Cause Panel B)*
- (1) Related Cases – ATN-33614*
- (a) Combs Funeral Home: DFS Case No.: 258590-20-FC; Division No. ATN-33614 (F041703)*

Ms. Simon – Mr. Bossart?

Mr. Bossart – Thank you. The above–referenced matter is presented to the Board for consideration of the Motion for Determination of Waiver and for Final Order by Hearing Not Involving Disputed Issues of Material Fact (Motion) in the matter of Combs Funeral Home (Respondent). Respondent is a funeral establishment licensed under Chapter 497, Florida Statutes, license number F041703. On June 26, 2020, the Department filed an Administrative Complaint against Respondent alleging that the Respondent failed to ensure dead human remains were identified by tag or other means of identification affixed to the ankle or wrist of the deceased and on the casket, alternative container, or cremation, and engaged in incompetency, negligence, or misconduct in activities regulated under Chapter 497, Florida Statutes. Based on the foregoing the Respondent has violated s. 497.152(1)(b), 497.171(1)(b), and 497.171(1)(d), Florida Statutes.

The Administrative Complaint was served on Respondent by Certified Mail on June 29, 2020. Included with the Administrative Complaint was a Notice informing Respondent that the failure to respond in writing, within twenty-one (21) days or by July 20, 2020, would constitute a waiver of the right to request a proceeding in the matters alleged in the Administrative Complaint, and that a Final Order would be entered against the Respondent. The Department did not receive an Election of Proceedings Form or any written response from the Respondent until July 23, 2020. Respondent’s failure to file a timely response constitutes a waiver of the right to request a proceeding on the matters alleged in the Administrative Complaint. The Department requests that the Chairman of the Board entertain a motion to find that the Respondent, Combs Funeral Home, was served the Administrative Complaint and it failed respond within the allotted twenty-one (21) day period and has therefore waived its right to request a proceeding Involving Disputed Issues of Material Fact in this matter. Copy of this memo along a copy of the Motion for Determination of Waiver for Final Order by Hearing Not Involving Disputed Issues of Material Fact was sent by US Mail to the Respondent’s last known record of address. It would be appropriate, at this time, the Department would ask the Chair to entertain a motion to determine whether the Respondent has waived its right to a s. 120.57(1) hearing, based on its failure to file a timely response.

MOTION: Mr. Helm moved that Respondent has waived its right to a s. 120.57(1) Hearing based on the Respondent’s failure to timely file a response. Mr. Knopke seconded the motion, which passed unanimously.

Chair – Mr. Bossart.

Mr. Bossart – Now that the Board has determined the Respondent has waived its right to request a proceeding in this manner, 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. Knopke moved to adopt the allegations of the facts as set forth in the Administrative Complaint. Mr. Hall Williams seconded the motion, which passed unanimously.

Mr. Bossart – The Department contends that the Board finds the facts that support a finding of violations of Chapter 497, Florida Statutes, as charged in the Administrative Complaint and 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. Knopke seconded the motion, which passed unanimously.

Mr. Bossart – The Department would offer into evidence the investigative report with exhibits, a copy of which has previously been furnished to the Board to establish its prima facie case for the violations of the alleged and the Administrative Complaint.

MOTION: Mr. Knopke moved to accept the investigative report into evidence. Mr. Helm seconded the motion, which passed unanimously.

Mr. Bossart – I believe the Respondent indicated they would be attending by telephone, sir.

Chair – Anyone representing Comb's Funeral Home? Anyone representing Comb's Funeral Home?

Mr. Bossart – Very well.

Chair – Mr. Bossart, I hear no response.

Mr. Bossart – Thank you, sir. The Department recommends the following penalty in this case: Respondent's license should be assessed a \$1500 fine and undergo a one-year period of probation. Thank you.

Chair – Thank you. Board?

MOTION: Mr. Jones moved that the Respondent be assessed an administrative fine of \$1500 and be placed on a one-year probation. Mr. Helm seconded the motion, which passed unanimously.

Ms. Munson – Chair Brandenburg, if I may?

Chair – Ms. Munson?

Ms. Munson – I just wanted the record to reflect that not otherwise stated that member Williams was recused from this and the second one. For those votes.

Mr. Helm – I'm sorry? I didn't hear what she said.

Ms. Munson – I just wanted it noted for the record so the minutes would reflect the member Williams, I think, is recused from this case and the one to follow, as far as the votes were concerned.

Mr. Helm – Ok.

Ms. Munson – Thank you.

Chair – Yes.

(b) Turner, Marquis R.: DFS Case No.: 258594–20–FC; Division No. ATN–33614 (F043160)

Ms. Simon – Is Mr. Turner on the line? Hearing no response. Mr. Bossart?

Mr. Bossart – Thank you. This is the companion case to the prior case, Combs Funeral Home. 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). Respondent is licensed as a funeral director and embalmer (F043160) and is the FDIC of Combs Funeral Home (funeral establishment), a funeral establishment under Chapter 497, Florida Statutes, license number F041703, in Lake City, Florida. On June 26, 2020, the Department filed an Administrative Complaint against Respondent that alleges Respondent, as FDIC of the funeral establishment, failed ensure dead human remains were identified by tag or other means of identification affixed to the ankle or wrist of the deceased and on the casket, alternative container, or cremation, and engaged in incompetency, negligence, or misconduct in activities regulated under Chapter 497, Florida Statutes. Based on the foregoing the Respondent has violated s. 497.152(1)(b), 497.171(1)(b), and 497.171(1)(d), Florida Statutes.

The Administrative Complaint was served on Respondent by Certified Mail on June 29, 2020. Included with the Administrative Complaint was a Notice informing Respondent that the failure to respond in writing, within twenty-one (21) days or by July 20, 2020, would constitute a waiver of the right to request a proceeding in the matters alleged in the Administrative Complaint, and that a Final Order by the Board would be entered against the Respondent. The Department did not receive an Election of Proceedings Form or any other written response from the response by July 19, 2020, or any other time thereafter. This fact is attested to by the affidavits of Mary Schwantes, Division Director, and of Julie Jones, Agency Clerk. Respondent's failure to file a response constitutes the waiver of the right to request a proceeding on the matters alleged in the Administrative Complaint. Therefore, Department requests that the Chairman of the Board entertain a motion to find that the Respondent, Marquis Turner, was served with the Administrative Complaint and that he failed to respond within the allotted twenty-one (21) day period, and has therefore waived his right to request a proceeding Involving Disputed Issues of Material Fact in this matter. A copy of this memo along a copy of the Motion for Determination of Waiver for Final Order by Hearing Not Involving Disputed Issues of Material Fact was sent by US Mail to the Respondent's last known record of

address. At this time, the Department would ask the Chair to entertain a motion to determine whether the Respondent has waived its right to a s. 120.57(1) hearing, based on its failure to file a response to the Administrative Complaint.

MOTION: Mr. Helm moved that Respondent has waived its right to a s. 120.57(1) Hearing based on the Respondent's failure to timely file a response. Mr. Hall seconded the motion, which passed unanimously.

Ms. Simon – Yes, sir. I'm just concerned about the quorum requirements. Especially with Mr. Williams not voting in this matter.

Mr. Clark – Mr. Chairman, this is Andrew.

Chair – Go right ahead.

Mr. Clark – I am here and voting, but I'm having a problem with my camera, but I'm here.

Ms. Simon – Thank you. 1. 2. 3, 4, 5. We would need, Mr. Jones. Mr. Jones is there, too. Yes, sir. I apologize, Mr. Brandenburg

Chair – And the motion carries. Go right ahead, Mr. Bossart.

Mr. Bossart – Thank you. Now that the Board has determined the Respondent has waived its right to request a proceeding in this manner, 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. Helm moved to adopt the allegations of the facts as set forth in the Administrative Complaint. Mr. Knopke Williams seconded the motion, which passed unanimously.

Mr. Bossart – The Department now contends that the Board finds the facts that support a finding of violations of Chapter 497, Florida Statutes, as charged in the Administrative Complaint and 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. Knopke moved to find the Respondent in violation of the statutes as charged in the Administrative Complaint. Mr. Helm seconded the motion, which passed unanimously.

Chair – Mr. Bossart?

Mr. Bossart – The Department also offers into evidence the investigative report with exhibits, a copy of which has previously been furnished to the Board to establish its prima facie case for the violations of the alleged and the Administrative Complaint.

MOTION: Mr. Knopke moved to accept the investigative report into evidence. Mr. Helm seconded the motion, which passed unanimously.

Mr. Bossart – The Department's recommended penalty in this matter would be the Respondent's license should be assessed a \$1500 fine and undergo a one-year period of probation.

Mr. Knopke – Question for Mr. Bossart.

Chair – Mr. Knopke?

Mr. Knopke – Mr. Bossart, on the former, we were, if I remember correctly, we were at a \$1500 fine and one-year probation. And here you are suggesting the same thing?

Mr. Bossart – Yes, sir.

Mr. Knopke – Was that yes?

Chair – Yes.

Mr. Knopke – Ok, I misunderstood then, because...I'm good. Never.

Mr. Bossart – A \$1500 fine and one-year probation.

Mr. Knopke – Thank you.

MOTION: Mr. Jones moved that the Respondent be fined an administrative fine of \$1500 and be placed on a one-year probation. Mr. Helm seconded the motion, which passed unanimously.

F. Settlement Stipulation (Non-Disciplinary in Nature)
(1) Osceola Crematory LLC: DFS Case No. 270309-20-FC (F077954)

Ms. Simon – Is there a representative of Osceola Crematory on the phone?

Tina Williams – Yes, ma'am. Tina Williams.

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

Ms. Williams – Yes, ma'am,

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

Ms. Williams – Tina Williams, W I L L I A M S.

Ms. Simon – Thank you. Mr. Griffin?

Mr. Griffin – Osceola Crematory LLC (“Respondent”) is a cinerator facility, licensed under Chapter 497, Florida Statutes, license number F077954. Respondent and the Department have entered into a proposed Settlement Stipulation. The proposed stipulation provides as follows: Respondent’s license will be placed on inactive status; in order for the license to be placed back on active status Respondent must submit to, and pass, an inspection by the Department. This stipulation does not constitute disciplinary action against Respondent’s license. The Department requests that the Board accept this Settlement Stipulation

MOTION: Mr. Knopke moved to approve the Settlement Stipulation, which provides that the Respondent’s license will be placed on inactive status; in order for license to be placed back on active status Respondent must submit to, and pass, an inspection by the Department. Mr. Clark seconded the motion, which passed unanimously.

Chair – Thank you, Ms. Williams.

Ms. Williams – Thank you.

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

Ms. Simon – This item is informational only. Pursuant to s. 497.466, F.S., the applicants have been issued their licenses and appointments as preneed sales agents.

B. Recommended for Approval with Conditions (Criminal History)
(1) Moore, Kendrick (Appointing Entity: Legacy Funeral Holdings of Florida, LLC F079526) (Houston)

Ms. Simon – Is Mr. Moore on the call? Hearing no response.

Kendrick Moore – Yes, I'm on the call.

Ms. Simon – Thank you, sir. On August 11, 202, the appointing entity applied electronically for the above named for licensure as a preneed sales agent, and no deficiencies were noted on the application. Thus, a temporary preneed sales agent license was issued for Kenneth Moore. However, during the review of his background check it was revealed that he did in fact have reportable criminal history that required disclosing.

Legacy Funeral Holdings of Florida, LLC, employer, was notified of Mr. Moore's temporary preneed sales agent license suspension, and upon request, Mr. Moore provided the Division with a written explanation of the relevant criminal history, a completed Criminal History Form, and a copy of the court documentation regarding the final disposition of his case. In November 2015, Mr. Moore was charged with a misdemeanor of Driving Under the Influence (DUI), which was reduced to a charge of Reckless Driving, to which he pled No Contest. This criminal offense occurred in Hillsborough County, Florida. As a result, Mr. Moore was sanctioned and he has satisfied all required conditions of the judgment and has paid all fees due as of to date. The Division recommends approval subject to the condition that the applicant be placed on twelve (12) months of probation.

MOTION: Mr. Knopke moved to approve the application subject to the condition that Mr. Moore be placed on a twelve (12) month period of probation. Mr. Jones seconded the motion.

Chair – Mr. Moore, did you want to address the Board or, you're merely here to answer questions?

Mr. Moore – I would like to address the Board, as well.

Chair – Go right ahead, sir. Ms. Simon?

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

Mr. Moore – Yes, I do.

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

Mr. Moore – My name is Kendrick Moore, M O O R E.

Ms. Simon – Thank you, sir.

Chair – Thank you. Mr. Moore. You may address the Board.

Mr. Moore – Yes, I definitely do appreciate your approval, as far as with conditions. I have met all the conditions, as far as the offense. That was the first time I had any kind of offense not only in that matter, but in anything from my forty-five (45) years of life. I've never had any assistance or anything like that. As far as thinking that I would be placed on the probation again for the same matter, being that this hasn't come up with all the other licenses or background checks that I've actually had. You'll have nothing that you will see that I was done at any time. So, I just would like approval without conditions. I'm not seeing anything of having a condition of probation on that. I just ask the Board for no conditions.

Chair – Thank you. So, Mr. Moore is requesting that the application be approved without conditions, but we do have a motion for approval of the license with the condition of a twelve (12) month probation, and it's been seconded. Board? All those in favor, aye?

Board members– Aye.

Chair – And any opposed? And the motion carries. Thank you, Mr. Moore. Good luck to you.

6. Application(s) for Continuing Education

- A. *Course Approval – Recommended for Approval without Conditions – Addendum B*
 - (1) *M.K. Jones & Associates, Inc. (9605)*
 - (2) *Matthews International (30408)*
 - (3) *National Funeral Directors Association (136)*
 - (4) *Practicum Strategies (65)*

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

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

Chair – Thank you.

- 7. **Consumer Protection Trust Fund Claims**
 - A. *Recommended for Approval without Conditions – Addendum C*

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

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

Mr. Helm – Question, Mr. Brandenburg?

Chair – Excuse me, Mr. Helm. Go right ahead.

Mr. Helm – I think this is the appropriate time to get an update. Do we have any updates on Prestwood?

Chair – Ms. Simon?

Ms. Simon – Yes, sir. We have been in conversation with the State Attorney’s Office in the Prestwood matter, and we are working on the Consumer Protection Trust Fund claims aspect.

Chair – Thank you. Mr. Helm, any other questions?

Mr. Helm – No sir. That’s it.

Chair – Thank you.

- 8. **Application(s) for Florida Law and Rules Examination**
 - A. *Informational Item (Licenses Issued without Conditions) – Addendum D*
 - (1) *Funeral Director and Embalmer (Endorsement)*
 - (a) *Lane, Jeremy A*
 - (2) *Funeral Director and Embalmer (Internship and Exam)*
 - (a) *Baskin, Draven*
 - (b) *Dowden, William B*
 - (c) *King, Aubrey E*

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

- 9. **Application(s) for Internship**
 - A. *Informational Item (Licenses Issued without Conditions) – Addendum E*

- (1) *Funeral Director*
 - (a) *Hall, Lee A F050859*
 - (b) *Rocker, Darlene M F460303*
- (2) *Funeral Director and Embalmer*
 - (a) *Benjamin, Shana G F460902*
 - (b) *Bork, Sierra F460150*
 - (c) *Bryan, Morgan L F458338*
 - (d) *Hickman, Jacqueline D F460176*
 - (e) *Halloway, LaDaisha R F458686*
 - (f) *Martin, Gregory S F460341*
 - (g) *Robbins, Heather C F460322*
 - (h) *Washington, Tabitha D F341531*

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.

- 10. **Application(s) for Embalmer Apprentice**
 - A. *Informational Item (Licenses Issued without Conditions) – Addendum F*
 - (1) *Tsopelas, Christopher P F458140*
 - (2) *Urban, Lindsay M F458166*
 - (3) *Wade, Thaddeus J F460928*

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.

- 11. **Application(s) for Registration as a Training Agency**
 - A. *Informational Item (Licenses Issued without Conditions) – Addendum G*
 - (1) *Dale Woodward and Son Funeral Home Inc d/b/a Dale Woodward Funeral Home (F346229) (Halley Hill)*

Ms. Simon – This is an informational item. The Division has reviewed the application on Addendum G and found it to be complete, and that the applicant has met the requirements to be a training agency. Pursuant to Rule 69K–1.005, F. A. C., the Division has previously approved this application.

- 12. **Application(s) for Preneed Branch License**
 - A. *Recommended for Approval without Conditions – Addendum H*
 - (1) *Beyers Funeral Home Inc d/b/a Purcell Chapel (Bushnell)*

Ms. Simon – The applicant listed on Addendum H has applied for preneed branch licensure. The application was complete without reportable criminal or disciplinary history. It appears that the applicant qualifies for branch licensure, and the Division recommends approval of the application for preneed branch licensure.

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

- 13. **Application(s) for Broker of Burial Rights**
 - A. *Recommended for Approval without Conditions*
 - (1) *Nathan D Neal Inc (Daytona Beach)*

Ms. Simon – The application was received on August 13, 2020. The application was deficient and was made complete on September 10, 2020. The Department completed a background check of Applicant’s principal and owner, Nathan Neal, which revealed no criminal history. The Division recommends approval without conditions.

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

- 14. **Application(s) for Change of Ownership**

- A. Recommended for Approval with Conditions (Collective Coversheet)*
(1) Kim-Ken Developments Inc. d/b/a Mitchell's Funeral Home (Orlando)
(a) Funeral Establishment
(b) Preneed Transfer

Ms. Simon – Kim-Ken Developments Inc, a corporation, seeks approval of applications for Funeral Establishment Licensure and Transfer of Preneed Main Licensure. The change of ownership is due to the previous owner, Kenneth Mitchell, passing away. A completed background check of the principal(s) for the business revealed no relevant criminal history. The applicant will continue to trust through FSI. Specifically, the entity that is being acquired is Mitchell's Funeral Home Inc, a funeral establishment, located in Orlando, FL. The Division recommends approval subject to the condition that the establishment passes an onsite inspection by a member of Division Staff.

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

Chair – Is Kimberly on the line? Kimberly?

Kimberly Mitchell – Yes, sir. Can you hear me?

Chair – Yes. This is Jody Brandenburg, Chairman. I'm sorry to hear of Mr. Mitchell's passing. and I just wanted to convey my condolences to you.

Ms. Mitchell – Thank you so much. I appreciate it. Thank you.

Chair – You're welcome.

- 15. Application(s) for Funeral Establishment**
A. Recommended for Approval with Conditions
(1) Beyers Funeral Home Inc d/b/a Purcell Chapel (Bushnell)

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

Ms. Wiener – This is Wendy Wiener, counsel for Beyers Funeral Home.

Ms. Simon – Thank you, Ms. Wiener. A change of ownership application for a funeral establishment was received on by the Division on August 14, 2020. The application was complete when submitted. The Funeral Director in Charge will be Keith Sumner (F046714). A background check of the principals revealed no relevant criminal history. The Division recommends approval subject to the condition that the establishment passes an onsite inspection by a member of Division Staff.

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

- (2) Hall-Moore Funeral Directors LLC d/b/a Tillman Funeral Home (Madison)*

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

Jamarien Moore – Yes, this is Jamarien Moore.

Ms. Simon – Good morning, sir.

Mr. Moore – Good morning.

Ms. Simon – An application for a funeral establishment was received on by the Division on September 9, 2020. The application was complete when submitted. The Funeral Director in Charge will be Jamarien Moore (F062019). A background

check of the principals revealed no criminal history. The Division recommends approval subject to the condition that the establishment passes an onsite inspection by a member of Division Staff.

Chair – And Mr. Moore did want to address the Board, or are you just here to answer questions?

Mr. Moore – Just here to answer any questions.

Chair – Thank you.

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

Chair – Thank you, Mr. Moore. Good luck to you.

Mr. Moore – Thank you, Mr. Chair. Thank you, Board.

- 16. **Application(s) for Monument Establishment Builder License**
 - A. **Recommended for Approval with Conditions**
 - (1) ***Darrell D Collier Jr d/b/a Todd's Monumental (New Port Richey)***

Ms. Simon – This matter has been withdrawn. The application has been withdrawn.

- 17. **Contract(s) or Other Related Form(s)**
 - A. **Recommended for Approval with Conditions**
 - (1) ***Preneed Sales Agreement(s)***
 - (a) ***Forethought Life Insurance Company (Batesville, IN)***

Ms. Simon – FLIC submits a preneed sales agreement form for approval: Statement of Goods and Services/Funeral Planning Agreement (Form A4000-05-FL). If approved, these forms are to be used for the sale of insurance-funded preneed funeral goods and services by various licensed preneed main establishments and their related preneed branches. The Division recommends approval subject to the condition that two–full–sized print–ready copies of the revised preneed sales agreement are received by the Department within 60 days of this Board meeting.

MOTION: Mr. Knopke moved to approve the agreement subject to the condition that two (2) two–full–sized print–ready copies of the revised preneed sales agreement are received by the Department within 60 days of this Board meeting. Mr. Helm seconded the motion, which passed unanimously.

- (b) ***Funeral Services Inc (FSI) (Tallahassee)***

Ms. Simon – FSI submits a preneed sales agreement forms for approval: Cemetery Purchase Agreement (Type 14), and Prearranged Trust Funded Funeral Agreements (Type 16, 17, 18, and 19). If approved, these agreements will be used for the sale of preneed contracts by various licensed preneed main establishments and their related preneed branches. The Division recommends approval subject to the condition that two–full–sized print–ready copies of the revised preneed sales agreement are received by the Department within 60 days of this Board meeting.

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

- (c) ***Homesteaders Life Insurance Company (West Des Moines, IA)***

Ms. Simon – HLIC submits a revised preneed sales agreement forms for approval: Preneed Funeral Agreement Statement of Funeral Merchandise and Funeral Services (Form P501-FL0620) and Non-Guaranteed Preneed Funeral Agreement Statement of Funeral Merchandise and Funeral Services (Form P503-FL0620). If approved, these forms are to be used for the sale of

insurance-funded preneed funeral goods and services by various licensed preneed main establishments and their related preneed branches. The Division recommends approval subject to the condition that two–full–sized print–ready copies of the revised preneed sales agreement are received by the Department within 60 days of this Board meeting.

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

B. Recommended for Approval without Conditions

(1) Cemetery Care and Maintenance and Preneed Trust Agreement Addendum(s)

(a) Clearpoint Federal Bank and Trust (Batesville, IN)

Ms. Simon – ClearPoint hereby submits amendments to be used in conjunction with the above–named trust agreements for approval. The above referenced trust agreements were previously approved by the Board and the Trustee is seeking approval of the amendments to the trust agreements only for trusting of preneed funds to be utilized by various licensees and their related preneed branches. The Division recommends approval without conditions.

MOTION: Mr. Knopke moved to approve the amendments to the trust agreements. Mr. Clark seconded the motion, which passed unanimously.

Chair – I want to declare my affiliation with SCI Funeral Services of FL, and that affiliation will in no way affect my ability to make a fair and unbiased decision on the next item coming before the Board.

(2) Preconstruction Performance Bond(s)

(a) SCI Funeral Services of FL d/b/a Hodges Funeral Home at Lee Memorial Park (Fort Myers)

Ms. Simon – Hodges Funeral Home intends to construct a 304–total crypt mausoleum with 100 niches. The licensee has submitted for approval a performance bond, in lieu of a preconstruction trust. The cemetery agrees to complete said construction in accordance with the terms of the construction agreement with Ingram Construction Company, Inc. The Division recommends approval of the above–named preconstruction performance bond without conditions.

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

18. Executive Director’s Report

A. Operational Report (Verbal)

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

Chair – Ms. Schwantes, I believe you are muted.

Ms. Schwantes – Thank you, sir. If I may continue?

Chair – Please.

Ms. Schwantes – This is informational, with regard to the Division Operations. Within the last few weeks, Governor DeSantis has issued several Executive Orders pertaining to COVID–19 restrictions, including, of course, the most recent Order, which directed that Florida enter Phase 3 of the COVID–19 Plan. With these Orders, restrictions were also lifted in the Broward and Miami–Dade Counties. Since the beginning of the COVID–19 Pandemic, the Division has conducted some investigations and inspections in those counties on a very limited basis. However, based upon these new Orders, we consider the counties as fully open for our purposes at this time. Inspections, examinations, and investigations will resume as normal in those counties, and, of course, continue throughout Florida.

I wanted to give you a brief follow-up on our Hurricane Sally efforts. As with prior hurricanes and natural disasters, Division personnel made calls to licensees in impacted counties to determine if there were any damage, refrigeration or other concerns. Licensees in Escambia, Santa Rosa, Okaloosa, and Bay counties were contacted. I'm very pleased to report that with only a few exceptions, all who were called appear to have weathered the storm ok, with minimal damage. The Division will continue to follow up with those which did sustain damage as they undergo repairs, etc. And of course, those calls were made to the establishment licensees.

The next Board meeting will be held the conference on Thursday, November 5th, and that ends the Operational Report. Thank you, Mr. Chair.

Chair – Thank you, Ms. Schwantes.

B. Report: Payment of Disciplinary Fines and Costs (Informational)

Ms. Simon – This is an informational report of the payment of disciplinary fines and costs.

Monthly Report of Fines and Costs Assessed and Paid
 Division of Funeral, Cemetery and Consumer Services
 Date of Board meeting: October 1, 2020
 Date report was prepared: September 22, 2020

Licensee	Board Meeting	Case No.	Total Fine & Cost Due	Date Due	Paid in Full?	Comments
Stonemor Florida Subsidiary LLC d/b/a Roberts Funeral Homes Bruce Chpael East	9/3/2020	254449-19-FC	\$1,000	10/15/2020		
Stonemor Florida Subsidiary LLC d/b/a Roberts Funeral Homes Bruce Chpael West	9/3/2020	254441-19-FC	\$1,000	10/15/2020		
FLORIDA KEYS FUNERAL SERVICES LLC D/B/A KEY WEST MORTUARY	9/3/2020	243116-19-FC	\$2,250	10/15/2020		
SCI d/b/a Forest Lawn South d/b/a Forest Lawn Memorial Gardens South	13-Aug-20	244893-19-FC	\$3,000	9/21/2020	Yes	
John Comerford	13-Aug-20	255522-19-FC	\$1,500	9/21/2020	Yes	
Faith Memorials Inc d/b/a Comerford Vault Memorial	13-Aug-20	255516-19	\$1,500	8/20/2020	Yes	
Dillon Roberts	August 13/2020	233486-18-FC	\$2,000	9/21/2020	Yes	
Buy and Sell Cemetery Plots, LLC	13-Aug-20	233374-18-FC	\$1,500	10/8/2020		
Camel Funeral Home	13-Aug-20	254447-19-FC	\$2,500	10/8/2020		
D.A. Boyd and Sons Funeral Home	13-Aug-20	243552-10-FC	\$500	10/8/2020		
Gainer-Pollard Funeral Home LLC	13-Aug-20	254989-19-FC	\$3,000	10/8/2020		
John Hanks	13-Aug-20	230107-18-FC	\$2,500	10/8/2020		
John A. Hanks d/b/a John Hanks Memorial Services	13-Aug-20	230153-18-FC	\$4,000	10/8/2020		
Wilson Wolfe, Inc., d/b/a Sweet Dreams Memorial	8/13/2020	258163-19-FC	\$4,000	9/24/2020		
Anthony M. White d/b/a A.M. White Mortuary	7/22/2020	258189-19-FC	\$2,000	9/14/2020	Yes	
Anthony M. White	7/22/2020	258551-20-FC	\$2,000	9/14/2020	Yes	
Trahan Mortuary Services, Inc. d/b/a Pensacola Crematory:	7/22/2020	255306-19-FC	\$2,000	9/14/2020	Yes	
Ana Alicia Logan	7/22/2020	254473-19-FC	\$500	9/14/2020	Yes	
Cremation Service of Florida LLC	7/22/2020	243562-19-FC	\$300	9/21/2020		A
Kalis-McIntee Funeral & Cremation Center	7/22/2020	243608-19-FC	\$300	9/21/2020	Yes	
Carriage Funeral Holdings, Inc. d/b/a Emerald Coast Funeral Home and Reception Center	7/22/2020	255311-19-FC	\$850	9/14/2020	Yes	
Carriage Funeral Holdings, Inc. d/b/a Lee County Cremations Services	7/22/2020	254944-19-FC	\$300	9/14/2020	Yes	
Stone Brothers Funeral Chapel:	7/22/2020	243594-19-FC	\$300	9/14/2020		A
A Good Shepherd's Funeral Home and Cremation	2-Apr-20	243596-19-FC	\$300	7/24/2020	Yes	
Tri-County Mortuary Transfer Services	6-Feb-20	250581-19-FC	\$2,000	3/30/2020		A

Stone Removal Services, LLC	6-Feb-20	243150-18-FC	\$300	3/30/2020		A
Darice Concepcion	5-Dec-19	233390-18-FC	\$2,500	6-Feb-20		A
<p>A. When payment in full becomes past due, the FCCS Division works with the DFS Office of the General Counsel to enforce payment. B. Once fines and costs are paid in full, licensee kept on this report 3 months, showing Paid in Full, and then dropped off report; also licensee dropped off report after disciplinary action filed due to nonpayment of the fine and costs. C. The Order re this case is still in process, so no Due date is not yet established. D. Due date has not passed, as of the date of this report. E. As of the date of this report, monthly payments were current.</p>						<p><i>Ellen M. Simon</i> 9-22-2020</p>

19. **Chairman's Report (Verbal)**

Chair – No report.

20. **Office of Attorney General's Report**

A. Attorney General's Rules Report (Informational)

Ms. Simon – Ms. Manson?

Ms. Munson – The report is provided as for informational purposes only. I will note though perhaps at a future meeting, we are in the process of rulemaking for 69K-1.006, F.A.C., which provides extensions. If that actually passes, it, will just give us an opportunity to see if there's a need to continue with that, if the emergency rule is passed. But, if we're no longer going to have any limitations on inspections, then there is an opportunity to revisit the language. That's it.

**BOARD OF FUNERAL, CEMETERY, AND CONSUMER SERVICES RULES REPORT
OCTOBER 2020**

Rule Number	Rule Title	Date Rule Language Approved by Board	Date Sent to OFARR	Rule Development Published	Notice Published	Adopted	Effective
69KER20-1	Licensure Compliance Regarding Inspection Deadlines.	07/22/2020	08/31/20			08/27/20	08/27/20
69K-1.006	Licensure Requirements Regarding Inspections.	07/22/2020	09/16/20 (RD)				
69K-7.015	Trust Agreements and Trustees.	12/05/2019	08/12/2019(RD) 12/17/2019(RN)	08/20/2019 Vol.45/No.162	01/06/2020 Vol.46/No.03	02/10/2020	03/01/2020
69K-18.001	Embalmer Intern Training Program.		08/12/2019(RD)	08/20/2019 Vol.45/No.162			
69K-18.002	Funeral Director Intern Training Program.		08/12/2019(RD)	08/20/2019 Vol.45/No.162			
69K-18.003	Concurrent Internships.		08/12/2019(RD)	08/20/2019 Vol.45/No.162			
69K-21.001	Licensure Procedure; Consequences of Operating Prior to Licensure.	12/05/2019	09/26/2019(RD) 12/17/2019(RN)	10/03/2019 Vol.45/No.193	01/06/2020 Vol.46/No.03	02/10/2020	03/01/2020
69K-21.005	Display of Licenses.		09/26/2019(RD)	10/03/2019 Vol.45/No.193			

Rule Number	Rule Title	Date Rule Language Approved by Board	Date Sent to OFARR	Rule Development Published	Notice Published	Adopted	Effective
69K-21.007	Responsibility of Funeral Director in Charge.	12/05/2019	08/12/2019(RD) 12/17/2019(RN)	08/20/2019 Vol.45/No.162	01/06/2020 Vol.46/No.03 01/10/2020 JAPC Corresp. 01/30/2020 JAPC Response	02/11/2020	03/02/2020
69K-24.034	Operating Procedures for Refrigeration Services.		09/26/2019(RD)	10/03/2019 Vol.45/No.193			
69K-32.002	Approved Courses.	12/05/2019	09/26/2019(RD) 12/17/2019(RN)	10/03/2019 Vol.45/No.193	01/06/2020 Vol.46/No.03 01/10/2020 JAPC Corresp. 01/24/2020 JAPC Response	02/10/2020	03/01/2020

21. Public Comments (Verbal)

Chair – Are there any public comments from the public on any actions of the meeting today?

Mr. Knopke – Mr. Chairman?

Chair – Yes, Mr. Knopke?

Mr. Knopke – I have a question, and I was going to ask Ms. Simon, but we moved too quickly after her report. Ms. Simon, now that the Governor has moved us into Phase Three and encouraging local public meetings, is the Board going to move back into the public arena with either meetings being held in Tallahassee again, or around the State, maybe after the first year?

Ms. Schwantes – As the Board previously voted, we will continue to have video conference calls through January. However, I would like to point out that one of the reasons why we recommended this vote from the Board, regarding the Board meetings, has to do with our budget, and that has not changed. So, we will be back before the Board in December, or before that time, with recommendations for further meetings during the course of the fiscal year, which ends on June 30, 2021. Does that answer your question?

Mr. Knopke – It does. Yes, it answers the question. I hope we will be able at least to have meetings in Tallahassee, if not elsewhere. It seems to attract a few more people.

Ms. Schwantes – I understand, Mr. Knopke.

Chair – Thank you. Make a recommendation.

Ms. Schwantes – We'll make a recommendation at a later time. Thank you, Mr. Chair.

Chair – There was another question? Mr. Helm?

Mr. Helm – I was agreeing very much with Mr. Knopke. If we can't afford to travel, I'd sure like to have the meetings back in Tallahassee, because I don't enjoy this online thing. I'll be honest with you.

Chair – Jacksonville is pretty convenient, too, Mr. Helm.

Mr. Helm – We can have it at your house.

22. Administrative Report

The information was provided on the Agenda.

23. Disciplinary Report

The information was provided on the Agenda.

24. Upcoming Meeting(s)

- A. November 5th (Videoconference)
- B. December 3rd (Videoconference)

25. Adjournment

Chair – Before we adjourn, anything further to go to the cause? Any comments, Board members? Hearing none, the meeting is adjourned.

The meeting was adjourned at 12:58 P.M.