

MINUTES
BOARD OF FUNERAL, CEMETERY AND CONSUMER SERVICES
October 4, 2018 - 10:00 A.M.
Miami-Dade College – North Campus Building 3000, Room 3249
11380 NW 27th Avenue
Miami FL 33167

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

Mr. Jody Brandenburg, Chair – Good morning, everyone. Welcome to the meeting of the Board of Funeral, Cemetery, and Consumer Services'. Today is October 4th, 2018, and we have the pleasure of being at the Miami-Dade College North Campus. Ms. Simon, would you make your opening remarks and call the roll, please?

Ms. Ellen Simon – Yes, sir. My name is Ellen Simon. I am the assistant director for the Division of Funerals, Cemetery, and Consumer Services. Today is October 4th, 2018, and it is approximately 10:00 a.m. This is a public meeting of the Board of Funeral, Cemetery, and Consumer Services. Notice of this meeting has been duly published in the Florida Administrative Register. This meeting is taking place in Miami-Dade, at the Miami-Dade College. An agenda for this meeting has been made available to interested persons, and extra copies are located in the back of the meeting room. Ms. LaTonya Bryant is recording the meeting, and minutes will be prepared. Persons speaking are requested to identify themselves for the record each time they speak. Participants are respectfully reminded that the Board Chair, Mr. Brandenburg, runs the meeting. Persons desiring to speak should initially ask the Chair for permission. At this time, Mr. Chairman, I will call the roll:

Joseph "Jody" Brandenburg, Chair
Keenan Knopke, Vice Chair
Jean Anderson {**ABSENT**}
Francisco "Frank" Bango {**ABSENT**}
Andrew Clark
James "Jim" Davis {**ABSENT**}
Lewis "Lew" Hall
Powell Helm
Ken Jones
Darrin Williams

Also noted as present:

Mary Schwantes, Executive Director
Timothy Frizzell, Board Legal Advisor
Marshawn Griffin, Department Counsel
LaTonya Bryant, Department Staff
Jasmin Richardson, Department Staff
Ana Rodriguez, Department Field Staff
Jessica Cordero, Department Field Staff

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

Chair – Thank you, Ms. Simon. Ms. Schwantes, did you want to welcome Dean Joseph? Dean Joseph?

Joseph Finocchiaro – Yes, sir?

Chair – Please come forward. Thank you so much for your gracious hospitality and having the Board able to meet here at the funeral service school. It's been an initiative of the staff and of the Board members that we have Board meetings at the funeral services schools throughout the state, and we're honored to be here. Could you tell us a little bit about your program and your students? So, do you have students here at this meeting?

Mr. Finocchiaro – Yes. Thank you, Mr. Chairperson, members of the Board, members of the Division. It's certainly our pleasure to have you this morning, and on behalf of Dr. Eduardo Padron, who is the president of Miami-Dade College, Dr. Malou Harrison, who's the president of North Campus, welcome and thank you so much for reaching out to us, and coming and showing our students the process. Will the students of Miami-Dade College please stand?

[Applause]

Mr. Finocchiaro – Thank you. That's about half of our attendance -- students, students who are either in their -- I think most of you are midway, or coming towards your terminal semester, so you're looking at your Boards, graduating, and starting your internships very, very soon, within the next calendar year. Miami-Dade College is the oldest mortuary school in the state of Florida, founded in the late 1960s, and it has been in continuous operation ever since. We are one of 52 schools in the nation that offer this specialized form of training. Not just for the state of Florida, but we also have students come to us from the Caribbean Islands, and from many other states, as far north sometimes as New Jersey, and as far west -- we had someone who just graduated, went back home to Indiana. So, we serve not just the Miami area, but virtually all of the United States.

Chair – Thank you.

Mr. Finocchiaro – Thank you, sir.

Chair – I want to say to the students -- the profession that you've chosen is very, very special, and it takes a special person. So, thank you for being the future of funeral service. Each and every one of you has special assignments ahead of you. So never lose sight of the fact that the most important thing you do has to do with that client family. Don't let anybody get you off-track from that charge, and your charge is to give your full attention to the client family. And thank you for being here, and thank you for being the future of funeral service.

2. Action on the Minutes
A. September 6, 2018

Chair – The next thing on the agenda is the action on the meetings of September 6, 2018.

MOTION: Mr. Ken Jones moved to adopt the minutes of the meeting. Mr. Lew Hall seconded the motion, which passed unanimously.

3. Old Business
A. Application to Organize a Cemetery Company
(1) Recommended for Approval with Conditions
(a) Miserere Guild of Hillsborough County Inc. (Seffner)

Ms. Simon – This is an application submitted by Miserere Guild of Hillsborough County, Inc., d/b/a Resurrection Cemetery. This application for a cemetery license, Phase 1, was presented at the April 5, 2018 Board meeting, and was approved subject to the conditions set forth in your Board minutes, which are attached to the Board packets from the April 5th meeting. In response to the stated conditions by the Board for approval, the applicant has provided all requested documentation, and complied to a s. 497.263(3), F.S. The Division recommends approval of Phase 2 of the application to organize a new cemetery company subject to the conditions provided in your Board packet.

Chair – Thank you. Ms. Wiener?

Wendy Wiener – Good morning. I'm just here to answer any questions that Board members have. I'm Wendy Wiener. I represent Miserere.

Chair – Thank you. Mr. Knopke?

Keenan Knopke – I have some questions for Ms. Wiener. In your letter of September 14th of this year, you outline -- the law requires satisfaction of the following conditions addressed in italics after each subsection, and I think that may be on the electronic version -- maybe page 20.

Chair – Twenty?

Mr. Knopke – Maybe.

Ms. Wiener – I show it as page eight.

Mr. Knopke – Okay, it was eight? Then we'll go to page eight. That's why I said maybe.

Chair – Members, call your attention to electronic page eight on your packet.

Mr. Knopke – All right, can you hear me in the back yet? Is that better? Okay. And you've outlined there A, B, C, D, E, and F, and I've got a couple of questions. Let me ask the questions, and then we'll figure out where we're going to go from there. I believe we're going to go now to page -- several pages in, Exhibit C. And that may be page 20 or Attachment 3 or whatever you want to call it. In one place, it's Attachment 3. In the other place, it's Exhibit C. And in number C on page eight, it reads "The applicant obtains approval of the local zoning authority regarding cemetery, and files with license evidence satisfactory to license authority's step approval." When I read the letter on page -- Exhibit C, starting with the third paragraph, "A cemetery is a permitted conditional use. Based upon your site development pre-submittal meeting from July 2014, the cemetery appears to be approvable subject to the submittal of a final site development plans." Has the final site plan been approved by Hillsborough County?

Ms. Wiener – I am not the lawyer that handled this matter, but I am told that it was. I believe that --

Mr. Knopke – Because I looked, and I didn't see it anywhere else. The letters underneath don't [inaudible].

Ms. Wiener – My understanding is that that was approved, and if the Board is inclined to approve Phase 2, then we would ask that you do so conditioned upon receipt of that, which we'll provide. I believe that might've been just a mishap on the part of my office. I think we just attached the wrong thing to this.

Mr. Knopke – Okay. Because the way I read your letter, that's one of the conditions.

Ms. Wiener – That is correct.

Mr. Knopke – The next question I've got goes over to E, or Exhibit E, and I think that will be Attachment --

Ms. Wiener – Five?

Mr. Knopke – Yeah. What, in the site plan that's there, has been developed? Is the two (2) acres developed and ready to go?

Ms. Wiener – Yes, it is developed, and there are some photographs that are also included in that attachment. And so, that section, if you go through the pages 26, 27, 28, 29, 30, all the way down to 32, you will see the platted lots that are developed on the two (2) acres, and then also the photography is meant to show the ingress and egress that is required by the law.

Mr. Knopke – Okay, because I see -- there's three photographs in the package. I see trees on the first one. The next one, I assume, is the same site without the trees.

Ms. Wiener – Maybe. The third picture, that's at 32 of your package --

Mr. Knopke – Yes.

Ms. Wiener -- is the roadway that goes to that --

Mr. Knopke – Yes.

Ms. Wiener -- yeah, so that is the paved roadway that goes to that site, and 31 is the area that is developed for burial.

Mr. Knopke – I'm sorry, I don't -- is that before the pictures?

Ms. Wiener – No, page 31. It's the one right before the paved roadway picture.

Mr. Knopke – In the package that I printed, I've got three pictures that go together -- okay, and --

Ms. Wiener – So it's the not-trees picture.

Chair – Middle picture.

Mr. Knopke – Where on the master site development plan are we looking at?

Ms. Wiener – Let me ask Terry Young to join me at the podium, and he can tell you exactly where that is on the master site plan.

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

Terry Young – Yes.

Ms. Simon – Please state your name for the record.

Mr. Young – Terry Young.

Chair – Welcome, Mr. Young.

Mr. Young – Thank you very much.

Ms. Simon – Mr. Knopke?

Mr. Knopke – Where on that site plan?

Mr. Young – Here and here.

Mr. Knopke – Okay, not the stuff on what – one acre?

Mr. Young – Two (2) acres.

Mr. Knopke – Okay. This is the north side of the road, correct?

Mr. Young – Correct.

Mr. Knopke – Okay. That leads me then to another question. In the original submittal, back several months ago, was the south side of the road included in the package that was presented to the Board? I don't recall it being. I'm not saying that's bad, because I think we talked about the north side, and the bypass canal, and envisioned building a bridge over that and so forth in the future. But I don't remember even seeing anything showing the south side.

Ms. Wiener – Correct, and so a question was posed to me about the two (2) acres that had to be developed, and did that have to stay true to the original site plan as it was originally discussed. As I read the law, that was not a requirement, and the determination of the applicant was to develop these two (2) acres initially. That other acreage that was discussed will be

developed in the near-term, but for now, these are the two (2) acres that were developed. Do you want to elaborate on that further?

Mr. Young – The south part, the two (2) acres that we're talking about, we did not show those as platted on the original site plan, but that land is part of the cemetery land.

Ms. Wiener – As described in the legal description.

Mr. Knopke – Okay. Is it also part of the letter that I referenced earlier from the County of the site plan?

Ms. Wiener – On the zoning plan? I believe those legal descriptions do dovetail, so yes.

Mr. Knopke – Okay. But are the -- I want to go back to, I think it was Exhibit C -- the letter from --

Ms. Wiener – Three.

Mr. Knopke – Okay. The letter that I read from earlier, April 16th of 2015 -- is that land on the south side part of the submittal that's in question, whether it's been approved or not?

Ms. Wiener – Yes, and in fact, we'll make sure to include that when I submit the documents showing that approval. I'll make sure that that is there, in the record, so that it is complete for the Board's ultimate records.

Mr. Knopke – Okay. The last -- maybe the last maybe not -- on the developed part here, grave spaces, lawn crypts --

Mr. Young – We platted them all single-depth grave spaces.

Mr. Knopke – Okay, and I'm going to ask the stupid question. I assume they meet the minimum requirements for size?

Mr. Young – Yes, they do.

Mr. Knopke – Going to be a challenge, laying out grave number 17 or 16 in any row. And you've got graves in a lot -- and I'm not being critical. Y'all do what you want. It's just a comment. Like, Lot 71 shows two (2) rows of graves, and actually it goes all the way across -- 71, 72, 73. It's too small for my good eyes, but it appears at least the middle is going to be hard to find at times is a concern. That's your problem, not mine. I mean, you get 17 out, 15 out, and an inch here, or an inch there, no matter how good you are, you could potentially run into problems. But I mean, that's you all's problem down the way, not mine.

Mr. Young – We're pretty good.

Mr. Knopke – I'm sure you are. I'm not doubting that, but that's all my questions.

Mr. Young – Thank you.

Chair – Thank you, Mr. Knopke. Board members, any other questions? Your pleasure, please?

MOTION: Mr. Knopke moved to approve the request subject to the additional documentation. Mr. Hall seconded the motion, which passed unanimously.

Chair – Thank you,

B. Request(s) for Hearing Not Involving Disputed Issues of Material Fact (Preneed License Renewals)
(1) McIntee Holdings, LLC (F019193) (Jacksonville)

Ms. Simon – This is a request for Hearing Not Involving Disputed Issues of Material Fact. The item is McIntee Holdings, and while your script says it is in Jacksonville, it is actually in Wilton Manors. The applicant submitted an application for renewal

of its preneed license on or about April 27, 2018. As an alternative to the net worth requirement, the applicant provided a personal guarantee of Bernard McIntee. However, as the Board deliberated, it was determined that the personal guarantee was insufficient to offset the liabilities generated by this preneed license. As a result, the Board denied the application, and an Order to that effect was issued on April 1, 2018. The applicant timely requested a Hearing Not Involving Disputed Issues of Material Fact, and the Division has no recommendation at this time.

Chair – Ms. Weiner?

Ms. Wiener – Thank you, Wendy Weiner, representing the applicant, McIntee Holdings, LLC. Mr. McIntee informed me that he has hired a new CPA to review and revise his financial statements, as he believes that they will either meet the minimum requirements for net worth, or be changed in a substantial way such that they will be much more closely aligned with those requirements than the alternatives will be submitted. I just touched base with Board counsel, and he would not object to a continuance of this matter to the next hearing. We gather it would be in December, because of the nature of the matter.

Chair – Will the documents be prepared by the December meeting?

Ms. Wiener – We're told that they will be prepared within the next 30 days, so yes, I would not anticipate a problem with that.

Chair – So you're requesting a continuance?

Ms. Wiener – I am, yes, sir.

Chair – Do we fall into any deemer on that?

Ms. Wiener – I don't believe so, because it is currently pending the hearing process.

Chair – Okay. We don't need a waiver of deemer or anything? Okay.

MOTION: Mr. Hall moved to defer the item to the Board no later than the December Board meeting. Mr. Jones seconded the motion.

Chair – Mr. Knopke?

Mr. Knopke – Are we continuing to the next in-person meeting, or conference call? Do we prefer it'd be an in-person meeting?

Ms. Mary Schwantes – In person.

Chair – I'd rather just have it as a continuation. Then, if we can get it done on a conference call, we'll be that much further ahead, or wait until December. So, I would rather not specify one or the other, but if the Board chooses to specify one or the other, we can do that.

Mr. Knopke – I was just asking the question.

Chair – At this point, it's just a continuation.

Ms. Wiener – Timing might dictate that December would be the better option, so that we can get the financials to the Division for their review, and if it's 30 days from now, we won't probably make the November 1st meeting.

Chair – I was giving you the opportunity to make the conference call.

Ms. Wiener – But, if they get done in the next week, then we will get them to you, so that'll be fine.

Chair – Good.

Powell Helm – Mr. Chair?

Chair – Mr. Powell?

Mr. Helm – Should we put a time limit on it, though? I mean, you know, I'm not saying 30 days, but, I mean, should put a time limit on it, shouldn't we? Not give them a month.

Chair – I don't know why we have to have a time limit. Why would we?

Mr. Helm – Well, I mean, you want to have somebody out there without license still doing it, and that could go to next year if you didn't put a time limit on it. Never mind. You understand what I'm saying?

Ms. Wiener – We would agree to be ready to present to the Board no later than the December Board meeting.

Chair – Is that acceptable for the motion, and for the second?

Mr. Jones – It is.

Chair – Thank you. And all of those in favor, aye?

Board members – Aye.

Chair – And any opposed? And that motion carries.

Ms. Wiener – Thank you.

Chair – Thank you.

(2) Southern Funeral Care and Cremation Services, Inc. (F038694) (Riverview)

Ms. Simon – This is an informal hearing for Southern Funeral Care and Cremation Services, Incorporated. The applicant submitted an application for renewal of the preneed main license on or about March 29, 2018. The applicant provided no alternative to the net worth requirement. The Board denied the application, and a Notice of Intent to Deny was issued on July 19, 2018. The applicant timely requested a Hearing Not Involving Disputed Issues of Material Fact, and that is why we are here today.

Chair – The Division?

Ms. Simon – Based on the Board's last decision, when we first took this up in July, the Division has no recommendation.

Chair – Thank you. Yes, sir?

Mark Vargo – I'm Mark Vargo, one of the owners of Southern Funeral Care.

Chair – Let's swear you in, please.

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

Mr. Vargo – Yes, ma'am.

Ms. Simon – Please state your name for the record.

Mr. Vargo – Mark C. Vargo, Sr.

Chair – Thank you. Do you wish to address the Board?

Mr. Vargo – Just, I mean, to address why it was a simple accounting error. Our CPA did not realize that we had to have a certain amount on our net worth, and she depreciated out a couple automobiles that we had purchased, and it brought us down. We didn't realize that. We didn't know that at the time that we sent this in, until we were notified. And other than that, I mean, we've been trusting 100% on the I-Trust from the day we started. So, I mean, that's all I can tell you. It was just a simple accounting error. Our CPA knows about it now, so we haven't been under it since we ever started.

Chair – Do you have any documentation from your CPA that might be revised documentation that the Board could depend upon?

Mr. Vargo – Not with me, no. I didn't know that's something you may want. I mean, that's something I could maybe get. I mean, I don't know what you want revise. I mean, because that was what we, you know, with the depreciation and everything she did when we did our taxes.

Chair – I think the Board's peace of mind, Mr. Vargo, would be something from your CPA that would give us something constructive to go on. Ms. Hood?

Michele Hood – Michele Hood with the Independent Funeral Directors of Florida.

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

Ms. Hood – I do.

Ms. Simon – Please state your name for the record.

Ms. Hood – Michele Hood.

Chair – Ms. Hood?

Ms. Hood – If you review his financial net worth requirements of \$62,000, he has a 9.75 current ratio. So, he is in no danger of going under, or any harm to the public. None would occur in this case. It's strictly a net worth issue because of the depreciation. He's also trusting 100% of his contracts, and is willing to stipulate to continue to do so, if that would give the Board more peace of mind. And when he files his next year's application, he's assured that the net worth would then meet the requirements.

Chair – Somebody help me out. What was the net worth requirement on this?

Mr. Helm – One hundred thousand.

Ms. Hood – One hundred thousand net worth requirement.

Chair – And the reported?

Ms. Hood – And I believe that --

Mr. Helm – Sixty-two.

Chair – \$62k?

Ms. Hood – \$62k? \$62,172.06.

Chair – Thank you. Mr. Hall?

Mr. Hall – I have some concerns, too. As Mr. Brandenburg expressed, I would like to have seen a letter from the CPA. I don't know if she did some accelerated depreciation on those vehicles that created that, or whatever, but a letter from her would be helpful. Then we're dealing with a lack of about 40-some thousand on the net worth that we need. And then we go to the back page, and we've got a negative net income. All those things concern me, as far as protection for the public. So --

Mr. Vargo – So what are you looking for, exactly, so I know what to tell my CPA?

Mr. Hall – Well, and I think your comment that she's going to adjust them to make it fit, I don't know that she should be doing your taxes and such, according to what --

Mr. Vargo – Well, no, I'm not saying she's going to make it --

Mr. Hall – What the requirement --

Mr. Vargo – She wasn't aware that there was \$100,000 that we had to have on there. I'm just saying, she was not aware of that.

Mr. Hall – And even with those vehicles, with tax the laws, they're probably not going to fit under s. 179, to write it all off.

Mr. Vargo – It wasn't just vehicles. I'm just saying that she depreciated several things.

Mr. Hall – Yeah. I think you need a letter from her in some kind of updated report as Mr. Brandenburg has alluded to, to give us some comfort, because you're asking us to do something that we ask everyone else to meet this requirement. And then you're asking us to make an exception on yours. When we look at the negative income, that's scary for us-- it is for me. I don't know how the other Board members feel, but those are the concerns I'd want to see before I'd move forward.

Mr. Vargo – Okay.

Chair – Mr. Knopke?

Mr. Knopke – I was just going to comment. I agree with Lew. Not knowing whether you're C Corp, Sub S or what. I know the tax law depreciation changed in the last calendar year. It impacted the company that I work for. It was a benefit to my shareholders in a big way, but the depreciation schedule sped up a bunch, and the concern is, in line with Lew, I don't know that your accountant can do anything, based upon the depreciation schedules that we all live under now. The negative revenue again, that's a big flag, but, you know, we got to have {inaudible} I know you --

Mr. Vargo – It's just, you got to tell me. I'm not a CPA. I'm a funeral director. That's all I've ever known for 45 years. So, I just need to know what to tell her that you want paperwork on, and I'll be glad to get it from her.

Mr. Knopke – Michele, maybe you could help in that.

Mr. Vargo – Yeah, that's fine. As long as somebody tells me what to do.

Mr. Jones – Mr. Chair?

Mr. Knopke – Okay.

Mr. Jones – If I may?

Chair – Mr. Jones?

Ms. Hood – If we were to update the financials and give you a statement that shows --

Mr. Hall – A statement from her telling what that depreciation was, and what was set up. Those things would help. There's still going to be some concern from the income source, and so she needs to know what those requirements are from him. Michele can share that with her. You know, your requirement is \$100,000.

Mr. Vargo – As long as I know what you're asking.

Mr. Hall – Okay. Michele can help you. She'll know what we need.

Chair – Mr. Jones?

Mr. Jones – To accommodate this case as well as we did the other,

MOTION: Mr. Jones moved to defer the item for 30 days to allow for the documentation to the Division, and then determine after additional documents how to move forward with this case, if that's acceptable.

Chair – Yes.

Ms. Simon – We can do what we did on the previous case. We can continue this matter until the next in-person Board meeting in December, or you can make a determination right now, either to corroborate the denial before and have no preneed be sold. Those are your options, really.

Mr. Jones – I'm asking that we curtail for the next meeting, whether it's 30 days or 60 days, to the next meeting, to give them time to pull the documentation, that it meets what Mr. Hall and Mr. Knopke --

Chair – The December meeting, then?

Mr. Jones – Yes, sir. And see if they can meet both conditions of concerns.

Chair – Thank you. And is there a second on that?

Mr. Hall – Second.

Chair – And all of those in favor, aye?

Board members – Aye.

Chair – And any opposed? Thank you.

Mr. Vargo – Thank you.

Chair – You're welcome.

4. Disciplinary Proceedings:

A. Settlement Stipulations

(1) Related Items (Division No. ATN-29878) (Waiver of Probable Cause)

(a) Right Choice Cremations-Florida LLC d/b/a Right Choice Cremations: Case No. 219708-18-FC; Division No. ATN-29878 (F108916)

Ms. Simon – This is a Settlement Stipulation, and will be presented by Mr. Marshawn Griffin.

Marshawn Griffin – Marshawn Griffin, appearing for the Department. Right Choice Cremations-Florida LLC, d/b/a Right Choice Cremations is a Florida limited liability corporation, licensed under Chapter 497, F.S., license number F108916, and doing business as a direct disposal establishment in Brandon, Florida. Danielle Daugherty is the direct disposal in charge of

Respondent. On October 27th, the Department conducted an investigation of Respondent and found that Respondent sold, conducted, or arranged for visitations and viewings.

Chair – Mr. Griffin, may I interrupt? Are you all able to hear? Okay.

Mr. Griffin – I can speak up.

Chair – Thank you, sir.

Mr. Griffin – Would you like me to start from the beginning?

Chair – No, go right ahead, where you left off.

Mr. Griffin – In violation of section 497.372(1)(a), F.S., the Respondent has entered into a proposed stipulation. The proposed stipulation provides as follows. Respondent shall pay an administrative fine of \$1750. Department recommends that the Board approve this settlement stipulation.

Chair – Thank you. Board?

Andrew Clark – I just want to state for the record my affiliation with Right Choice Cremation of Florida, and I'll recuse myself from this vote, but available for any questions that the Board may have.

Chair – Thank you, Mr. Clark.

Darrin Williams – Mr. Chair?

Chair – Mr. Williams?

Mr. Williams – This is a question to staff. Are the two (2) cases related, items 4(1)(a) and 4(1)(b)?

Ms. Simon – Yes, sir.

Mr. Williams – Okay, so I guess I'll wait until 4(1)(b) to ask my question then.

Chair – I'm sorry?

Mr. Williams – I'll wait until the next case, 4(1)(b).

Chair – Mr. Hall?

Mr. Hall – Do you want questions for counsel at this time, on this case, or are we just voting?

Chair – We don't have a motion, so it's open for any questions or comments that the Board may have. They're represented by counsel, I assume. Correct?

Ms. Wiener – Indeed.

Chair – And are you here to address the Board, or are you here to answers questions of the Board?

Ms. Wiener – Here to answer any questions that the Board may have.

Chair – Thank you. And there's a settlement stipulation out there.

Mr. Hall – My question, before we vote on the stipulation is -- I know in the correspondence, we're saying that in some of these instances where they did viewings -- we're saying, we that was just ID purposes, and there was five (5) people allowed, etc. Is there a clear understanding now that they can't do that, that doesn't fit within the direct disposer license, they need to apply for a funeral director's license?

Ms. Wiener – There is, yes. There is. The matter arose because, over the course of many years, the Division field staff confirmed to licensees throughout the state that direct disposers could do brief identification views for purposes of identification. And so, this was exactly that. This general price list, which is the subject of this disciplinary matter, was reviewed over the course of years. At this location and at other locations around the state during routine funeral establishment inspections, there was never any attempt for these direct disposal licensees to be selling what we think of in the funeral industry as traditional viewings. These were short, not-staged viewings, meant for the purposes of identification or final goodbye, if you will, just a minute, pop in, pop out. So, we believe that while I truthfully believe that the discipline in this case is very significant, given the repeated confirmation that this was not illegal activity, the company, the licensee has agreed to this discipline, as has the funeral director in charge. I will say that, since that time, any direct disposer that I represent has been instructed very clearly that they may not allow family members to identify remains prior to cremation, which I think is just a huge problem, and hopefully one that we're going to address this afternoon when we continue to talk about legislation.

Mr. Hall – It's just my concern that -- you know, to just come in and say, "Well, it's not staged." We're setting features in this situation which stems over into the embalming side and so forth. So, if it was just an ID purpose, I would think one family member would go in in lieu of five (5). So that gives you a feeling that it's a viewing itself.

Ms. Wiener – I absolutely don't disagree with you. The only thing that I say in that regard is that this has been an ongoing practice of many licensees throughout the state. It had been, while not sanctioned formally in writing, it had been discussed with Division examiners over the course of many years. And I would argue, to some degree, sanctioned in writing by licensees not having been written up on it over the course of years on their funeral home inspections.

Mr. Hall – So they understand they can apply for a funeral home establishment license and still do those things, if it's used?

Ms. Wiener – Correct, or hopefully better than that, we will revise the law so that direct disposal establishments can have very minimal identification views. We want to make sure that the right people are cremated, and so, identification is an important component of that. But yes, absolutely understood.

Chair – And I have a question of Mr. Clark. Mr. Clark, have your general price lists been revised to not have the viewing on it?

Mr. Clark – Correct.

Chair – Thank you very much. And there's a settlement stipulation before us.

MOTION: Mr. Hall moved to approve the Settlement Stipulation, requiring the Respondent to pay an administrative fine of \$1750. Mr. Jones seconded the motion, which passed unanimously.

(b) Danielle Daugherty: Case No. 219670-18-FC; Division No. ATN-29878 (F091926)

Ms. Simon – Again presented by Mr. Griffin.

Mr. Griffin – Danielle Daugherty is licensed as a funeral director and embalmer under Chapter 497, Florida Statutes, license number F091926, and is the direct disposer in charge of Right Choice Cremations Florida LLC, d/b/a Right Choice Cremations. It is a Florida limited liability corporation license under Chapter 497 Florida Statutes, license number F108916, and doing business as a direct disposal establishment in Brandon, Florida. On October 27th, 2017, the Department conducted an investigation of Respondent. The investigation found that, while Respondent was direct disposer in charge of Right Choice Cremations, they sold, conducted, or arranged for visitations and viewings in violation of s. 497.372(1)(a), F.S. Respondent has entered into a proposed stipulation. The proposed stipulation provides as follows. Respondent shall pay an administrative fine in the amount of \$1750. The Department recommends that the Board approve this settlement stipulation.

Mr. Clark – Mr. Chairman?

Chair – Yes, Mr. Clark.

Mr. Clark – I have an affiliation with this licensee as well, and will not vote in this matter, but available for questions of the Board.

Chair – Thank you. Is there a motion?

MOTION: Mr. Hall moved to approve the Settlement Stipulation, requiring the Respondent to pay an administrative fine of \$1750. Mr. Helm seconded the motion.

Mr. Williams – Question, Mr. Chair?

Chair – I'm sorry, go ahead.

Mr. Williams – So I guess my question would be in terms of the Respondent denying the allegations that staff has made against their firm in paragraph four. Why are we agreeing to these terms if the Respondent is denying the allegations?

Ms. Wiener – Wendy Wiener for the Respondent. That language, you'll see again and again, pretty much in every settlement stipulation. It is standard for the parties, when they are compromising, to include language that one party alleges and the other party denies, but that they have decided to compromise, rather than to admit to fact or to have facts found by trier of fact that they compromised their position.

Mr. Williams – So, Ms. Wiener does the Respondent have any fault in this whole thing? Have they said, "yes, I did make a mistake," or, are they just saying that they never did it? I guess I'm just trying to determine how did staff come up with the report to determine that they did it.

Mr. Griffin – This is similar to plea of Nolo Contendere. The Respondent is basically saying they don't want to fight the charges. They're agreeing that the facts as alleged would constitute a violation, but they're not making any sort of affirmative admission or denial. Just they'd rather accept, you know, this sort of proposed stipulation, not that they're denying or affirmatively saying, "We disagree with these facts."

Mr. Williams – Got you. Thank you.

Chair – This, too, would be part of their license history.

Mr. Williams – And that was the follow-up I had, too. So, have we received any other type of violations for this licensee in the past, related to this?

Mr. Griffin – I did not see anything in the investigative file, but in full disclosure, I did not handle this case. But there's nothing in the file that would indicate there was prior disciplinary history.

Chair – Good questions. Thank you. There is a motion made to accept the Settlement Stipulation and it's been seconded. All those in favor, aye?

Board members – Aye.

Chair – And any opposed? And that motion carries. Thank you, Mr. Griffin. The students here, I want to call your attention to this. I know sometimes it's difficult to follow, but what happened here, without prejudice, saying anything further, was there was alleged violation by a licensed direct disposer establishment. Now, it could've been a funeral establishment, and as you may know now, or you will learn, that any licensed establishment has to have a funeral director in charge. So, in this instance, and in most instances, when the funeral establishment or the direct disposer has a violation, since the funeral director in charge is responsible for the activities of those licensed facilities, they, too, are often brought into this, and charged. So being

a funeral director in charge bears additional responsibility, rather than just a licensed funeral director or embalmer. I wanted to call the students' attention to this. And at some point in time, you may be a funeral director in charge of establishment, and it's your responsibility to make sure there are no violations. It's not the owner who may or may not be part of the licensing, but it's you who has the final charge with the lawful operation of these facilities. I wanted to make that clear to you in case it wasn't real clear as we went through it. Board, anything else you want to add to that? No? Just wanted to call your attention to that.

(2) Renaldo Lampkins: Case No. 200645-16-FC; Division No. ATN-27324 (F043345) (Probable Cause Panel B)

Ms. Simon – Mr. Griffin?

Mr. Griffin – Mr. Renaldo Lampkins is a funeral director and embalmer licensed under Chapter 497, license number F043345. Respondent is the owner and funeral director in charge of Lampkins-Patterson Cremation Services, Inc., a former licensed funeral establishment, license number F082115, doing business in Jacksonville, Florida. I will refer to Lampkins-Patterson as the funeral establishment. Funeral establishment has, at this date, closed down and relinquished its license to the Department. On or about April 27, 2016, Respondent, Mr. Lampkins, as funeral director in charge of the funeral establishment, entered into a contract for funeral services with Rebecca Harp of Jacksonville, Florida, whose son, Jonah Golden, had been murdered. The contract price for the funeral was \$10,790. Ms. Harp stated that she paid approximately \$2500 to the Respondent in cash as a down payment. There is no file documentary evidence that this payment had been made. There was also an assignment of benefits on the life insurance policy that the deceased owned. Pursuant to the assignment, Respondent received \$10,000 from the insurer on May 17, 2016. After receiving the \$10,000, Respondent urged Ms. Harp to apply to the Florida State Bureau of Victim Compensation for a reward under Chapter 960, F.S., to defray to funeral cost. Chapter 960, F.S., concerns compensation to crime victims. Ms. Harp applied for compensation. On May 27, 2016, Respondent represented to the Bureau of Victim Compensation that he had not received any payment on the Harp contract, and that there was an unpaid balance of \$10,000 on the contract. This was despite the previously mentioned payments that Respondent received. Under Chapter 960, F.S., payment is to be granted on an “actual need basis” and is to be considered payment of last resort only, and is subject to be reduced by the amount of any other payments the recipient receives. The Bureau of Victim Compensation paid Respondent \$7500, the maximum amount allowable by statute. Respondent paid over to Ms. Harp the sum of \$6710 received from the Bureau of Victim Compensation, retaining \$790 as payment due on the contract.

Based on the foregoing, the Respondent, by receiving a total of \$16,710 (\$10,000 from the insurance company, and \$7500 from the Bureau) for payment on a funeral contract, of which the contract price was \$10,790, has refused and received funds that he was not entitled to, and refused without reasonable justification to honor the funeral contract. As such, he violated ss. 497.152(1)(a), 497.152(1)(b), 497.152(9)(f), and 497.152(13)(a) F.S. Respondent has entered into a proposed stipulation. The stipulation provides as follows: Respondent shall pay an administrative fine in the amount of \$4000, payable in two equal monthly installments of \$2000 each. Failure to pay the \$4000 administrative fine will constitute a violation of the consent order, and shall result in immediate suspension of Respondent's license pursuant to Chapter 497.153(5)(c), F.S., until such time as Respondent comes into compliance, including payment of the fine. Respondent's license shall also be placed on probation for a period of one year subject to usual terms and conditions per Rule 69K-30.001(3), Florida Administrative Code, as well as the terms and conditions attached to the stipulation as Exhibit A. The Department recommends that the Board approve this Settlement Stipulation.

Mr. Jones – And I have a question, Mr. Chair.

Chair – Is there anyone here representing Renaldo Lampkins, or is Mr. Lampkins here? Mr. Jones?

Mr. Jones – Two questions. One, is he currently working as a licensed funeral director for any establishment? And two, do we know if he reimbursed the Victim's Compensation Fund?

Ms. Simon – We do not know if he is currently working in an establishment, as we don't track that data. We know that he is not working at this facility any longer, as it closed down. With regards to the Victim's Crime Compensation Fund, from what we understand, no payment has been given back to the fund. They have not been reimbursed. However, we believe that the money has been paid to the consumer, to the victim. I do not believe Mr. Lampkins has the money himself, but I'm not sure about that. That is not what the investigation flushed out.

Chair – Anything else, Mr. Jones?

Mr. Jones – No, sir.

Chair – Mr. Hall?

Mr. Hall – Do we know if there has been any criminal charges placed from the state?

Ms. Simon – The Victim's Crime Compensation Fund, the Office of the Attorney General actually administers that fund, and they are aware, they're firmly aware of what's happened in this instance. I am not certain if they pursued criminal action, but they would take the next logical steps.

Mr. Hall – If they filed criminal action, would you be notified?

Timothy Frizzell – In full disclosure, my previous job was representing the Bureau of Victim Compensation with the Attorney General's Office. I'm intimately familiar with this particular case. The Bureau of Victim Compensation itself would not be the ones that make the determination of whether or not to go forward, to challenge it. With this understanding, I probably will be going back and having a conversation with the Division Director on this matter to see what he would want to do regarding this particular instance, but we were aware. I can confirm that, as of the last time I checked, there were no monies that had been returned to the Victim Compensation Trust Fund.

Mr. Hall – But as Ms. Simon says, it appears from the notations that the family did receive that so the refund should be coming from the family back to the state.

Mr. Frizzell – As far as the Trust Fund would be concerned, whether or not he sent the money to the victim would not concern us. The fact would be is that we sent him the money, and he would owe us the money back.

Mr. Hall – But my concern is, if he had criminal charges, if we're made aware of it, there may be additional things moved against his license.

Ms. Simon – If he does have relevant criminal history, which I believe this would be relevant crimes, we would be made aware of it.

Mr. Hall – Thank you.

Chair – Thank you. Mr. Knopke?

Mr. Knopke – Did I miss something in this? Because there was a \$2500 down payment, \$10,000 insurance policy --

Ms. Simon – There is --

Mr. Griffin – Plus \$7500.

Mr. Knopke – Yeah, so it adds up -- I mean, it's \$9210 over what the bill of \$10,000 allegedly was. So, what happened to the \$2500? We're missing something.

Mr. Griffin – I think that part of the narrative stated that there was no record evidence of that \$2500 having been paid. -

Mr. Knopke – Okay.

Mr. Griffin – It's disputed.

Mr. Knopke – Okay. The second question, and the concern I've got is, we're going to ask him to pay a fine, and he's evidently agreed to pay it in installments, but he's misrepresented to the Victim Compensation Fund and he's misrepresented or drug a consumer out for a while, so why isn't there some probation or other discipline against his license?

Mr. Clark – It's one year.

Mr. Knopke – Is it a one-year probation?

Mr. Williams – One year.

Mr. Knopke – Okay, one year. All right. I stand corrected.

Chair – Thank you. Board?

MOTION: Mr. Williams moved to deny the Settlement Stipulation.

Chair – There's a motion to deny the settlement stipulation.

Mr. Knopke – Mr. Chair, I had another question.

Ms. Simon – We have an outstanding motion. We either need to have a second, or that motion needs to die before further discussions happen.

Chair – Thank you.

Mr. Jones – I second the motion.

Chair – To deny?

Mr. Jones – To deny.

Chair – There's been a motion made to deny, and it's been seconded. Questions?

Mr. Helm – Question?

Chair – I think Mr. Knopke was first.

Mr. Knopke – To the Department, what comfort level do we have that he's got the ability to pay, even with two (2) installments?

Ms. Simon – I do not have a reason to believe he will not make payment.

Mr. Griffin – And I would argue that that would have been contemplated at the time that he entered into these terms that we would extensively not enter into a settlement stipulation that would lead someone in failure. I would imagine that the attorney handling this case conferred Mr. Lampkins to ensure and had assurance that this money would be paid. However, if he doesn't, that alternatively suspends his license. So, if he doesn't comply, he's unlicensed.

Chair – And just as an aside, he was represented by counsel. I don't know if you saw that. Mr. Helm?

Mr. Helm – I realize we got a motion to deny and I'm contemplating the case myself, but I know we're going to need a reason why we're denying it, so I was kind of wanting to know why you made a motion to deny.

Mr. Williams – So my reasons were, I had the same questions that Mr. Jones and Mr. Knopke had, in terms of not really honoring the families, and the money lingering out there. Where is that money? Because most times, in my opinion, I'm

thinking if a family pays \$2500, they're not just going to say they paid \$2500 without having some kind of assurance. Secondly, basically defrauding the Victim Compensation Trust Fund. So those are my terms.

Mr. Griffin – If I may address the comments?

Chair – Mr. Griffin?

Mr. Griffin – To begin with, I believe that part of the issue in this case is that we have several actors in this situation acting with unclean hands. Now, I understand that Mr. Lampkins is the licensed individual licensed under this Board so he's held to a higher standard, but as we know, Ms. Harp did not return this money, either. So, it's kind of hard for us to throw the book at one party, when we know that there's an equally-culpable party that's involved in this; the party that made the decision to apply for this money, knowing that there was an assignment, or that she had an insurance policy, assigned with the benefits. So, I believe that that is contemplated when coming up with this particular resolution. Secondly, as for the \$2500, I believe that that aspect -- we have no record evidence of that, so that would be like me saying, "I paid \$5 million for a bridge in New York," without some sort of check, or something to prove that. And the Department doesn't have that, so I believe that we consider that a disputed issue, and couldn't really put too much weight on it.

Mr. Jones – And if I may, Mr. Chair --

Chair – Please, Mr. Jones.

Mr. Jones – In your comment, I see what you're saying. My concern is with Mr. Lampkins. He knew there was insurance. He encouraged her to apply for the fund. He gave her the money. I'm making the assumption this is the first time it's ever happened. I can't say, because this is the only case before me. Y'all investigated it, but from a consumer side, I just have reservations, if he's currently practicing with the settlement agreement until this is better resolved. So that's where my concern is.

Chair – We've been urged to speak up, that there's difficulty hearing us in other areas. Mr. Hall?

Mr. Hall – Mr. Williams, if this is denied, do you foresee a counteroffer coming in this case?

Mr. Williams – I mean, I'd be willing to, you know, see exactly what counsel would propose.

Mr. Hall – I think it will be up to you to decide if you want to make a counteroffer, if you're unhappy with the proposal.

Mr. Griffin – The posture of this case is that it was referred for a hearing after Division of Administrative Hearings. If we cannot reach a settlement, the parties will be ready to litigate this issue if need be.

Mr. Williams – I don't have a counteroffer at the moment to even consider recommending.

Chair – Oftentimes, when settlement stipulations do come before the Board that are not acceptable for the Board, we make a recommendation to what would be acceptable to the Board, and then that goes back to the Respondent to either accept the Board's request on an amended settlement stipulation, or not accept it.

Mr. Jones – And if I may, as seconding this order, if it's okay, I would be very interested in more than a one-year probation. The \$4000, I'm okay with that. I'm okay with the dual payments of that, but I would like some information on compensation, as you had indicated, as he is responsible for that. Is that going to be something that is repaid, or is that something we can even, from this Board, hold him accountable for? And I guess I'm asking the Division and legal. And that's what I'm basing my second on. Am I valid in doing that, and if I come back with a recommendation that this matter be resolved with the Compensation Fund, is that acceptable or doable? That's my question.

Mr. Griffin – The Department's willing to try. I just think that there is going to be a difficulty in that Mr. Lampkins doesn't have that money. Ms. Harp does.

Mr. Jones – I understand, but he's the one that encouraged her to get it. He's the one that gave her the money, and I have a real reservation with that, and that type of practice.

Mr. Griffin – Yes, sir.

Ms. Simon – May I?

Chair – Please.

Ms. Simon – Mr. Jones, as a counter, the Board may ask for restitution to be made to the Victim's Crime Compensation Fund at any time a future settlement is tendered to the Board.

Mr. Jones – Okay. Is that --

Mr. Williams – Yeah, that's fine.

Mr. Clark – I have a question of counsel, and I think I'm just confused. On page 87 of our documents, at the very top, it states a violation, and then the last sentence of the comment states "The licensee later sent the complainant a check for \$6710, which leaves a balance due to the Victim's Compensation Fund of \$790." So, does he owe them \$790, or the \$7500?

Mr. Griffin – I think theoretically, it's got to be the \$7500. The contract price was \$10,790. I think it would all depend on what proof, if any, do you have of the initial \$2500 payment. If he had some real concrete proof of that \$2500 payment, then with the assignment of benefits, then all the \$7500 would have to be -- to make Victim's Compensation whole, because they've already -- it's a payment of last resort --

Mr. Clark – Right.

Mr. Griffin – There's already enough in payment between the \$2500 and \$10,000.

Mr. Jones – And that was my interpretation.

Ms. Simon – If I may?

Chair – Please.

Ms. Simon – Regardless of that, what happened in this case is that Mr. Lampkins requested those funds while making a misleading statement. So, it could be said that the entire amount is due back to the fund.

Mr. Clark – Correct. I just wanted to clarify.

Mr. Frizzell – I mean, I could interject, if you would like.

Chair – Please.

Mr. Frizzell – In this particular instance, disregarding the \$2500, because I believe that there was vehement denial of the receipt of that money -- without that, we would've gone based upon the records. Just assuming the \$10,000 payment, the Victim's Compensation Trust Fund would have paid for the additional \$790. So, whether or not the Victim's Compensation Trust Fund would want the full \$10,000 back would be strongly based upon whether or not that \$2500 was actually received by Mr. Lampkins and this funeral home.

Mr. Griffin – Just for clarify, so I can relay this to the other attorney, the counteroffers are contemplating more than one-year probation, some sort of repayment, or some sort of personalization or repayment of moneys to the Victim's Compensation Trust Fund, some sort of indication as to whether or not Mr. Lampkins is currently practicing. Does that sum it up?

Mr. Jones – And if I might ask one more question?

Chair – Please.

Mr. Jones – From your perspective, is the money usually paid to the funeral director, or to the family, or whoever requests it?

Mr. Frizzell – I mean, without getting too deep into the procedures, it depends on if the money has been paid. If the victim's family has paid money out of pocket, we would pay the money directly to the victim's family. If it has not been paid yet, and there is an outstanding bill owed to the funeral home, then we would pay them. I do think we are no longer associated with them--

Mr. Jones – I understand.

Mr. Frizzell – but they would cut the check directly with the funeral home.

Mr. Jones – Which would be interesting, as a further note on this, is to Mr. Lampkins, the fund, and prior reimbursements for the Division. So, I'll leave it there.

Chair – All right. We have before us, a follow-up of questions.

Mr. Hall – Just clarification for me and my weak, Kentucky mind. So, are we working the motion, Mr. Williams, that says, again, that the probation is going to two (2) years? Is that correct?

Mr. Williams – To more than a year.

Mr. Hall – We're going to move it to two years? The offer would be two (2) years instead? So instead of going to trial, we're going to agree to this stipulation?

Mr. Jones – Are we looking at stipulation now, as far as the vote, or we still looking at the original vote?

Chair – There's a motion to deny, and it's been seconded.

Ms. Simon – And if I may, Mr. Hall, if there is a counter stip, we're not going to accept that here. There is going to be no decision made today. That is going to be brought back to the Respondent, to the licensee --

Mr. Hall – I understand.

Ms. Simon – for his determination.

Mr. Hall – But my concern is, instead of counsel saying it's probably going to trial if we don't accept the stip. Is that true?

Mr. Griffin – No, no, what I'm saying is, is that if we cannot come to some sort of agreement, you know, in light of the the Board's counteroffer, then I believe the Department would be prepared to litigate that if we cannot resolve it amicably.

Chair – And I think Mr. Griffin has noted what the Board's desire is, to be included in a Settlement Stipulation that would be acceptable to the Board.

Mr. Jones – That's what I was clarifying.

Mr. Hall – Does that include reimbursement, too?

Chair – It's appropriate to move forward at this time with a vote on the motion to deny, and the second to deny. So, all those in favor of denying this Settlement Stipulation before us today, say aye.

Board members – Aye.

Chair – And any opposed? And that motion carries. Thank you, Mr. Griffin.

Mr. Griffin – No problem.

Ms. Mary Schwantes – Mr. Chair?

Chair – Yes?

Ms. Schwantes – Yes, could we just make sure that we have it exactly right? Could Mr. Griffin go over again what we believe the counter to be that we need to submit?

Mr. Griffin – It would be two (2) years of probation, proof of repayment in full to the Bureau of Victim's Compensation Fund, and then, I believe there was a question as to whether or not he was still practicing, but I don't know if that's something we can actually put in there.

Mr. Jones – I was just asking. That's not part of the condition.

Mr. Griffin – Okay. So then, I believe it would be two (2) years of probation, and proof of repayment to the Victim's Compensation Fund in full, whether that be the full \$7500, if we can find proof of the payment of the \$2500, or the \$7500 less \$790, if we cannot find proof or obtain proof of the \$2500 payment.

Chair – I would like to include in that a term where he'd be prohibited from being a funeral director in charge, and whether it be the two-year probation, or for five (5) years, or whatever the Board's pleasure is.

Mr. Hall – And to the Division, if he does not reimburse that fund, would that allow us to suspend those licenses, just like the fine?

Ms. Simon – If that is a condition of the Settlement Stipulation, and he does not fulfill that condition, yes. I'm not sure if the Board is still interested in a fine as part of that counter stip.

Mr. Knopke – Yes, I would be.

Mr. Williams – Mm-hmm, yeah.

Mr. Hall – Yeah.

Chair – So what about the FDIC?

Mr. Knopke – Make the FDIC part of the two years' probation.

Chair – Okay. Mr. Clark, I sense you have a question.

Mr. Clark – It sounds like, from Board counsel, there's going to be some follow-up from an entity that's not us. Are we saying with this suspension that if the licensee in this case decides to fight this battle with the Victim's Fund, that his license will be suspended? Because I feel like the licensee should have that right.

Mr. Frizzell – May I clarify?

Mr. Clark – Yes.

Mr. Frizzell – The Attorney General's Office has no authority to bring criminal charges against this licensee. We are not a law enforcement authority. By saying take initial action, I mean probably have a conversation with FDLE, regarding whether or

not there is a violation, or if there's any other action that the Division Director would see fit to move forward with. As far as independent action, the most that the Crime Compensation Trust Fund does, in these instances, unless we do something unusual, is to send a reimbursement letter, saying, "You owe us this money back."

Mr. Clark – Okay, thank you.

Chair – Mr. Knopke?

Mr. Knopke – Hearing that, I would suggest to us that we deal with what we deal with, and not deal with the Victim's Crime Compensation Fund, and money going back to them. Let them be their own collection agency. Let them figure themselves out. I'll make the motion if we're looking for a motion for a \$4000 fine to be paid in two (2) installments, as originally stated, a two-year probation where the person cannot be an FDIC of any firm, and be done with it.

Mr. Clark – I would second that motion.

Chair – Okay. And all those in favor, aye?

Board members – Aye.

Chair – And any opposed? And that motion carries. Thank you, Mr. Griffin. Thank you for working --

Mr. Griffin – Yes, sir. Okay.

Chair – thank you for working through this with us.

B. Material Facts Not Disputed (Section 120.57(2) Hearings) (Probable Cause Panel B)

(1) Related Items (Smooore Enterprises, Inc.)

- (a) Smooore Enterprises, Inc. d/b/a Granite Knight Monuments: Case No.: 196352-16-FC; Division No.: ATN-27060 (F037835)***
- (b) Smooore Enterprises, Inc. d/b/a Granite Knight Monuments: Case No. 196339-16-FC; Division No.: ATN-27156 (F037835)***

Ms. Simon – In this matter, for Smooore Enterprises, Case No. 196352-16-FC, and Case No. 196339-16-FC, were part of the same Administrative Complaint. And I believe, in that manner, Mr. Griffin will describe the facts and portray the facts to the Board, and then ask for distinct votes on each.

Mr. Griffin – Okay. The above-referenced matter has been scheduled for an informal hearing to consider the attached Motion for Determination of Waiver for Final Order, by Hearing Not Involved a Disputed Issue of Material Fact. Smooore Enterprises, Inc. at all times relevant, a Florida corporation doing business licensed under Chapter 497, Florida Statutes, doing business under the name Granite Knight Monuments, as a monument establishment retailer, license number F037835 in Orlando, Florida. At all time relevant, Respondent's employer James Shane Moore is the monument establishment sales agent for Respondent, license number F048319. Respondent's license is currently suspended for failing to comply with terms of a Consent Order issued in Case No. 189870-15-FC. An Administrative Complaint was filed on June 6, 2018, against Respondent, alleging that Respondent, by and through James Shane Moore, failed to timely honor contracts. Failed to provide a written sales agreement that clearly specified the agreed date of delivery and installation of a monument, the name and address of a cemetery or memorial for delivery and installation, and the lot, block or section number of the grave or memorial location. And failed to timely provide a refund to a consumer within 30 days of a written request, and failed to produce records to the Department of activity regulated by Chapter 497, Florida Statutes.

The relevant conduct in this case occurred prior to the effective date of the prior suspension. Service of the Administrative Complaint was accomplished by certified mail on June 14, 2018. Within the Administrative Complaint was a Notice of Rights informing Respondent that the failure to respond in writing within 21 days of receipt of the notice would constitute a waiver of the right to request a decision on the matters alleged in the Administrative Complaint, and an Order of Suspension or Revocation by the Board would be entered against him. I believe we have a return certificate in the attached motion. The

Department did not receive an Election of Proceeding form or any other written response from Respondent in the 21-day period following the date of service, which would be July 5, 2018. This fact is attested to by the Agency's Clerk affidavit and the Executive Director's affidavit. 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 Respondent, Smoore Enterprises Inc., d/b/a Granite Knight Monuments, was served the Administrative Complaint by certified mail, and containing Notice of Rights and Election of Proceeding form, and failed to respond within the allotted 21-day period.

Chair – Is there a motion?

MOTION (196352-16- FC): Mr. Knopke moved to that Respondent, Smoore Enterprises Inc., d/b/a Granite Knight Monuments, was served the Administrative Complaint by certified mail, and containing Notice of Rights and Election of Proceeding form, and failed to respond within the allotted 21-day period. Mr. Knopke seconded the motion, which passed unanimously.

Mr. Griffin – And then I think we need to do it again, for the other case.

MOTION (196339-16-FC): Mr. Hall moved to that Respondent, Smoore Enterprises Inc., d/b/a Granite Knight Monuments, was served the Administrative Complaint by certified mail, and containing Notice of Rights and Election of Proceeding form, and failed to respond within the allotted 21-day period. Mr. Clark seconded the motion, which passed unanimously.

Mr. Griffin – Okay, 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 have been sent by U.S. mail to Respondent at his last known address of record. I believe we've already moved on whether or not he's failed to request a hearing, pursuant to s. 120.57(1), Florida Statutes. Now that the Board has determined that Respondent has waived his right to request a proceeding in this matter, the Department believes it's appropriate at this time for the Chair to entertain a motion adopting the allegation of the facts as set forth in the Administrative Complaint.

MOTION (196352-16- FC): Mr. Helm moved to adopt the allegation of the facts as set forth in the Administrative Complaint. Mr. Knopke seconded the motion, which passed unanimously.

Mr. Griffin – And then I think we need to do it again.

MOTION (196339-16-FC): Mr. Knopke moved to adopt the allegation of the facts as set forth in the Administrative Complaint. Mr. Helm seconded the motion, which passed unanimously.

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

Chair –Motion?

MOTION (196352-16- FC): Mr. Knopke moved to find Respondent in violation of Florida Statutes as charged in the Administrative Complaint. Mr. Williams seconded the motion, which passed unanimously.

Chair –And again.

MOTION (196339-16-FC): Mr. Knopke moved to find Respondent in violation of Florida Statutes as charged in the Administrative Complaint. Mr. Hall seconded the motion, which passed unanimously.

Mr. Griffin – Department also offers into evidence the investigative report, a copy of which has been previously furnished to the Board to establish a prima facie case for the violations alleged in the Administrative Complaint. The Department recommends that Respondent's licensure and eligibility for licensure for running an establishment be revoked.

MOTION (196352-16- FC): Mr. Knopke moved to revoke Respondent's licensure and eligibility for licensure for running an establishment. Mr. Jones seconded the motion.

Mr. Helm – Mr. Chair?

Chair – Mr. Helm?

Mr. Helm – Have we made a comment questioning is there anyone in the audience representing this guy?

Chair – Is there anyone in the audience representing Smoore Enterprises, or Mr. James Shane Moore? Hearing none. Hold on just a moment, just a minute. This is on Smoore Enterprises, and the motion's been made to revoke the license --

Mr. Knopke – Of the establishment.

Chair – of the establishment, and it's been seconded. And all those in favor, aye?

Board members – Aye.

Chair – And any opposed? And that motion carries.

Mr. Griffin – I don't think we need to do it again because I don't think we can revoke it again.

And -- and for James Shane Moore, is there a motion?

Mr. Knopke – I make the motion to revoke his license as well.

Chair – And it's been --

Mr. Griffin – I have to go through that one.

Chair – Okay, go right ahead.

Mr. Frizzell – I know you said that you don't believe that we can revoke it twice, but just in case one of these gets overturned, it would be a good idea to have a second revocation, just to have that second hurdle.

Mr. Griffin – I'll defer to Board counsel on that issue.

Mr. Frizzell – So if we could have a second motion, with the case number.

Mr. Griffin – Yes, I believe the first vote was as to Case No. 196339-16-FC. The second vote will be as to 196352-16-FC.

Mr. Knopke – I want the motion to revoke the individual license for case number --

Ms. Simon – It's the entity.

Chair – Please speak up, Ms. Simon.

Ms. Simon – It's the entity license. We're still on the second vote for the entity, for the second case number.

MOTION (196339-16-FC): Mr. Knopke moved to revoke Respondent's licensure and eligibility for licensure for running an establishment. Mr. Clark seconded the motion, which passed unanimously.

(2) Related Items (James Shane Moore)

(a) James Shane Moore: Case No. 196359-16- FC; Division No. ATN-27060 (F048319)

(b) James Shane Moore: Case No.: 196347-16- FC; Division No. ATN-27156 (F048319)

Ms. Simon – These are the cases against James Shane Moore. The case numbers are Case No. 196359-16-FC, and the second Case No. 196347-16-FC. Again, both of these cases were handled in one Administrative Complaint, and I believe Mr. Griffin is going to present the facts once for both cases.

Chair – Thank you.

Mr. Griffin – The above-referenced matter has been scheduled for an informal hearing to consider the attached Motion for Determination of Waiver and for Final Order by Hearing Not Involving Disputed Issues of Material Fact. James Shane Moore at all times relevant was an individual engaged in business, licensed under Chapter 497, Florida Statutes, as a monument establishment sales agent, license number F048319 in Orlando, Florida. At all times relevant, Respondent was employed as a monument establishment sales agent for Smoore Enterprises Inc., d/b/a Granite Knight Monuments, a monument establishment retailer, license number F037835. Respondent's license is currently suspended for failing to comply with the terms of a Consent Order issued in Case No. 189876-15-FC. The Administrative Complaint was filed on June 6, 2018 against Respondent, alleging that Respondent, by and through Smoore, failed to timely honor contracts. Failed to provide a written sales agreement that clearly specifies the agreed date of delivery and installation of a monument, the name and address of the cemetery or memorial for delivery and installation, and the lot, block or section number of the grave or memorial location. And failed to timely provide a refund to a consumer within 30 days of a written request, and also failed to produce records to the Department about activity regulated by Chapter 497 Florida Statutes.

Service of the Administrative Complaint was accomplished by certified mail on June 14, 2018. Included within the Administrative Complaint was the Notice of Rights informing Respondent that a failure to respond in writing within 21 days of receipt of the notice would cause him 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 him. The return receipt for the certified mail was included in the packet. The Department did not receive an Election to Proceeding form or any other written response from Respondent within the 21-day period following the date of service, July 5, 2018, or any time thereafter. These facts were attested to by the Agency's Clerk affidavit and the Executive Director's affidavit. 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 Respondent, James Shane Moore, was served with the Administrative Complaint by certified mail, was given notice of rights and election of proceeding form, and that he failed to respond within the allotted 21-day period.

MOTION (196347-16-FC): Mr. Knopke moved to that Respondent, James Shane Moore, was served the Administrative Complaint by certified mail, containing Notice of Rights and Election of Proceeding form, and failed to respond within the allotted 21-day period. Mr. Hall seconded the motion, which passed unanimously.

MOTION (196359-16-FC): Mr. Knopke moved to that Respondent, James Shane Moore, was served the Administrative Complaint by certified mail, containing Notice of Rights and Election of Proceeding form, and failed to respond within the allotted 21-day period. Mr. Hall seconded the motion, which passed unanimously.

Mr. Griffin – A copy of this memo, along with a copy of the Motion for Determination of Waiver and Final Order by Hearing Not Involving Disputed Issues of Material Fact has been sent by U.S. mail to Respondent at his last known address of record. Now that the Board has determined that Respondent has waived his right to request a proceeding in this matter, the Department believes it's appropriate at this time for the Chair to entertain a motion adopting the allegations of the facts as set forward in the Administrative Complaint.

MOTION (196347-16-FC): Mr. Knopke moved to adopt the allegation of the facts as set forth in the Administrative Complaint. Mr. Jones seconded the motion, which passed unanimously.

Chair – Now for the next case. Is there a motion?

MOTION (196359-16-FC): Mr. Knopke moved to adopt the allegation of the facts as set forth in the Administrative Complaint. Mr. Jones seconded the motion, which passed unanimously.

Mr. Griffin – The Department contends that the Board's finding of facts supports a finding of violations of Chapter 497 Florida Statutes discharge d in the Administrative Complaint. It's 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 (196359-16-FC): Mr. Knopke moved to find Respondent in violation of Florida Statutes as charged in the Administrative Complaint. Mr. Helm seconded the motion, which passed unanimously.

Chair –Next motion is?

MOTION (196347-16-FC): Mr. Knopke moved to find Respondent in violation of Florida Statutes as charged in the Administrative Complaint. Mr. Hall seconded the motion, which passed unanimously.

Mr. Griffin – And I feel like it should go in the record that just as with Smoore Enterprises, the factual allegations underlying this complaint occurred prior to the effective date of his suspension. The Department also offers into evidence the investigative report, exhibits, a copy of which had been previously furnished to the Board to establish prima facie case of the allegations alleged in the Administrative Complaint. The Department recommends that the Respondent's licensure and eligibility for licensure a monument establishment sales agent be revoked in both cases.

Mr. Knopke – Motion to revoke licenses in both cases.

Mr. Hall – Second.

Mr. Helm – Do we need to put case number on it?

Ms. Simon – Why don't we start with the first case number?

MOTION (196359-16-FC): Mr. Knopke moved to revoke Respondent's licensure and eligibility for licensure a monument establishment sales agent. Mr. Hall seconded the motion, which passed unanimously.

MOTION (196347-16-FC): Mr. Knopke moved to revoke Respondent's licensure and eligibility for licensure a monument establishment sales agent. Mr. Hall seconded the motion, which passed unanimously.

Chair – Thank you.

Ms. Simon – I realize there was confusion at a prior Board meeting, but this revocation for both the entity and the individual takes care of all four (4) cases that were listed under 4B.

Mr. Helm – I have just a brief question for the Division.

Chair – Speak up, please.

Mr. Helm – I have a brief question for the Division. Will there be any effort to make a follow-up, to make sure this guy's not still in business?

Mr. Griffin – There's another case that'll be coming down the pipeline that will likely be filed in Circuit Court to address that issue.

Chair – 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 without Conditions (Criminal History)**
 - (1) Spartz, Ryan Thomas (Appointing Entity: NorthStar Cemetery Services of Florida, LLC)**

Ms. Simon – On August 24, 2018, the applicant submitted an application for licensure as a preneed sales agent. Due to the criminal history identified on the application, no temporary preneed sales agent license was issued. It was determined that the applicant was charged with DUI (1st Degree), a misdemeanor. In December 2017, he entered a plea of Nolo Contendere to the charge of Willful and Wanton Reckless Driving, also a misdemeanor. The applicant was ordered to serve one day in jail. He was placed on probation and ordered to complete community service. On or about July 13, 2018, Mr. Spartz was released from his probation period. As of this date, Mr. Spartz has completed all the conditions of his probation and any required treatment or programs, and has paid all court fines and costs. There are no other criminal or disciplinary matters to note regarding this applicant. The Division approval without conditions.

Chair – Mr. Spartz? Is there a Ryan Spartz here? Mr. Spartz? Hearing no response, we will entertain a motion.

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

- 6. Application(s) for Continuing Education Course Approval**
 - A. Recommended for Approval without Conditions – Addendum B**
 - (1) FuneralCE (43)**
 - (2) National Funeral Directors Association (136)**
 - (3) 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. Jones seconded the motion, which passed unanimously.

- 7. Application(s) for Approval as a Continuing Education Provider**
 - A. Recommended for Approval without Conditions – Addendum C**
 - (1) Life Celebration, Inc. (32808)**

Ms. Simon – Pursuant to s. 497.147, F.S., and Board Rule 69K-17.0041, F.A.C., the entity listed on addendum C has been reviewed by the CE committee, and the committee, as well as the Division, recommend approval of the application to become a CE provider.

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

- 8. Application(s) for Florida Law and Rules Examination**
 - A. Informational Item (Licenses Issued without Conditions) – Addendum D**
 - (1) Funeral Director (Internship and Exam)**
 - (a) Johnson, Mark L**
 - (2) Funeral Director and Embalmer (Internship and Exam)**
 - (a) Harclerode, Caitlin J**
 - (b) Johnson II, Efren L**
 - (c) Mingorance, Roxanne C**

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

- B. Recommended for Denial**
 - (1) Funeral Director (Endorsement)**
 - (a) Billings, Daniel K**

Ms. Simon – This item has been withdrawn.

9. Application(s) for Internship

A. Informational Item (Licenses Issued without Conditions) – Addendum E

- (1) *Funeral Director*
 - (a) *Wolf, Katherine L F308286*
 - (b) *Yount, Susan J F306022*
- (2) *Funeral Director and Embalmer*
 - (a) *Gray, Jeffery L F304834*

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

10. Application(s) for Embalmer Apprentice

A. Recommended for Approval without Conditions – Addendum F

- (1) *Collins, Amber L F307228*

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

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

A. Informational Item (Licenses Issued without Conditions) – Addendum G

- (1) *Faith Chapel Funeral Services LLC (F091583) (Cantonment)*
- (2) *Pensacola Memorial Gardens & Funeral Home Inc. (F041077) (Pensacola)*
- (3) *Sinai Memorial Chapels Inc. (F039893) (Delray Beach)*

Ms. Simon – This item is informational only. Pursuant to Rule 69K-1.005, F. A. C., the Division has previously approved this application.

12. Consumer Protection Trust Fund Claims

A. Recommended for Approval without Conditions – Addendum H

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

Mr. Helm – Mr. Chair, question, please?

Chair – Yes, sir?

Mr. Helm – Is there any way possible that y'all can total this at the end?

Ms. Schwantes – Mm-hmm. Make that happen for the next meeting.

Chair – Just for these claims that are before us?

Mr. Helm – Right.

Chair – Thank you.

Ms. Schwantes – I was under the impression that that information was already provided on your agenda, but I may be inaccurate on that, and I will look into it.

Chair – Thank you.

13. Notification(s) of Change in Location

A. Informational Item – Addendum I

- (1) *D. Alan Moore Licensed Funeral Director (F049909) (Palmetto)*
- (2) *SE Funeral Homes of Florida LLC d/b/a Baldwin – Fairchild Funeral Home (F078967) (Winter Park)*

Ms. Simon – This item is informational only. Pursuant to ss. 497.380(12)(b), 497.604(7), 497.606(7), F. S., the establishment has applied for approval of a change of location of their business. The Board has requested to be notified of these changes in location. The required inspections have been conducted and the Division has approved the changes of location.

14. Application(s) for Cinerator Facility

A. Recommended for Approval with Conditions

- (1) *Young & Fulford LLC d/b/a Grace Crematory (Tallahassee)*

Ms. Simon – The application was received on August 20, 2018. The application was complete when submitted, and the funeral director in charge will be James Sircy. A background check of the principals revealed no relevant criminal history. The Division recommends approval with the condition that the establishment has an onsite inspection by a member of Division staff.

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

15. Application(s) for Funeral Establishment

A. Recommended for Approval with Conditions

- (1) *Young & Fulford LLC d/b/a Young & Fulford Cremation and Funeral Services (Tallahassee)*

Ms. Simon – The application was received on August 20, 2018. The funeral director in charge will be James Sircy. A background check of the principals revealed no relevant criminal history. The Division recommends approval subject to the condition that the establishment pass 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. Clark seconded the motion, which passed unanimously.

16. Application(s) for Preneed Main License

A. Recommended for Approval without Conditions

- (1) *DeMarco Family Funeral Home LLC (Spring Hill)*

Ms. Simon – The Division sent the Board members additional materials for this matter two days ago, and I believe that you all received them. The Department received the application from DeMarco Family Funeral Home LLC on August 3, 2018, and all deficiencies were resolved as of September 11, 2018. The sole principal, a member of the LLC, will be James Klausch. A completed background check revealed no criminal history. Applicant's qualifying funeral establishment license was issued as of November 29, 2017. If approved, the applicant will sell insurance-funded preneed through Homesteader's Life Insurance Company, and use their approved pre-arranged funeral agreement. The Division recommends approval without conditions.

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

- (2) *M. Alan Moore Crematory Services LLC d/b/a Alan Moore Cremation Care Center (Palmetto)*

Ms. Simon – The Division received the application September 7, 2018. The principals and members of the limited liability company are Mandy and Matthew Alan Moore. A completed background check of the principals was returned to the Division with no relevant criminal history. The applicant's qualifying direct disposal establishment license, located at the same address, was obtained as of November 2017. If this application for preneed main licensure is granted, the applicant will sell trust-

funded preneed through Funeral Services Incorporated, and utilize their approved pre-arranged funeral agreement forms. The Division is recommending approval without conditions.

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

17. Application(s) for Preneed Branch License

A. Recommended for Approval without Conditions – Addendum J

Ms. Simon – Pursuant to s. 497.453, F. S., the applicants listed have applied for a preneed branch license. All Division records indicate that the applicants qualify for branch licensure. The Division is recommending approval.

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

Mr. Knopke – Mr. Chairman?

Chair – Yes.

Mr. Knopke – Is Robert Toale and Sons Funeral Home at Manasota Memorial in Altamonte Springs, or is it somewhere else?

Ms. Simon – I can check that. One moment.

Mr. Knopke – Because Robert Toale and Sons at palms Memorial is in Sarasota. Or is it just a mailing issue.

Chair – I would imagine it's a --

Lisa Coney – Lisa Coney with Dignity Memorial. My Altamonte Springs office is the business [inaudible] for all licensees [inaudible] associated with SCI.

Mr. Knopke – Should then be branch city, on the Palms Memorial be Sarasota, or should it be Altamonte?

Ms. Coney – They probably should all be Altamonte, because we are the business address, but I guess it's the Division's choice if they want to show it accurately to the geographic location, or give me [inaudible].

Ms. Simon – We would like to show it as to the geographical location.

Ms. Coney – Sarasota?

Ms. Simon – Yes.

Mr. Knopke – Okay.

Mr. Helm – Well, then, the one in Manasota should read Oneco?

Ms. Simon – Excuse me?

Mr. Helm – The one in Manasota is Oneco.

Mr. Knopke – Oneco, Florida, not Sarasota.

Mr. Helm – No. Manasota is in Oneco. The other one is in Sarasota.

Chair – So let the record reflect that the first branch is in --

Mr. Helm – Sarasota.

Chair – Sarasota. The second one is in --

Mr. Helm – Oneco.

Chair – Oneco.

Mr. Helm – It's between Brandon and Sarasota.

Chair – Do we have a motion?

Mr. Helm – Mr. Chairman, I think I better announce my affiliation with both of these places. It's probably the best. I was sitting here trying to decide. Robert Toale is a friend of mine, personal friend. I've also done business with him for years. So, I'd better announce my affiliation with him.

Chair – Will this affiliation in any way affect your ability to make a fair and impartial decision?

Mr. Helm – It will not.

Chair – Thank you.

MOTION: Mr. Jones moved to approve the application(s). Mr. Clark seconded the motion, which passed unanimously.

18. Application(s) for Removal Facility
A. Recommended for Approval with Conditions
(1) Bert B Boldt III (Tallahassee)

Ms. Simon – Please make note of the additional materials sent by the Division on Tuesday evening. which noted that it was from a sole proprietorship to a corporate. This application was submitted to the Division, and the corporate name is Funeral Director Associates Removal Services, Inc., And the Division recommends approval subject to the condition that the facility pass an onsite inspection.

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

Mr. Clark – Mr. Chairman? I just have a comment. I mean, that name could be perceived as misleading. I approve it, but I just want to note that for the record. It's a removal company, but the name of their business is Funeral Director Associates. I just state that for the record.

Ms. Simon – Thank you, Mr. Clark.

(2) Howe and Rainford Removal Services LLC (Orlando)

Ms. Simon – The application was received by the Division on June 18, 2018. The application was incomplete when submitted, but deemed complete on August 23, 2018. A background check of the principals revealed no relevant criminal history. The Division is recommending approval subject to the condition that the removal service pass an onsite inspection by a member of Division staff.

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

REVISITING: (1) Bert B Boldt III (Tallahassee)

Mr. Jones – If I may?

Chair – Mr. Jones?

Mr. Jones – Going back to the first one, based on the name that Mr. Clark brought up, is that a concern? If I can go back to that -- because when Ms. Simon said it, it didn't click until Mr. Clark made the comment. Is that an industry concern?

Mr. Hall – Yes [laughter]

Chair – So what we're discussing is the name -- excuse me just a moment -- Funeral Director Associates Removal Services.

Mr. Knopke – Do we need a motion to bring it back up for discussion?

Chair – I don't know that we'd need a motion to bring it up just for discussion. If we want any changes, then we will bring it up.

Mr. Clark – I just brought it up for the record, because --

Mr. Jones – No, it was a valid point. I didn't catch it when Ms. Simon was saying -- I didn't catch the disposal at the end of it, so I wanted to bring it back up and see if that was a concern. So, thank you for entertaining that.

Chair – Funeral Director Associates Removal Service, Inc. Yes?

Ms. Simon – I'm sorry, Mr. Chairman, but there is a contention that it simply says Funeral Director Associates. It's only associating itself with the funeral director establishment. Right afterwards, it says Removal Services Incorporated. Whatever the Board wishes to do, I just wanted to add that.

Mr. Knopke – What name is it going to operate under?

Mr. Jones – That was going to be my question.

Ms. Simon – I assume it's --

Mr. Knopke – Funeral Director Associates Removal Service, Inc.? Is there a DBA?

Ms. Simon – We do not have a DBA at this -- excuse me. Ms. Richardson?

Ms. Jasmin Richardson – That was his DBA as his sole proprietorship he incorporated. So, he's been operating under Funeral Director Associates Removal Services as a fictitious name, but he incorporated it into a business instead of the sole proprietorship. So, he's been operating that way for years.

Chair – Thank you.

Mr. Knopke – Maybe that answers your question.

Chair – Ms. Coney, please identify yourself.

Ms. Coney – Lisa Coney, Dignity Memorial [inaudible].

Chair – You must speak up, please.

Ms. Coney – S. 497.372, F.S., Funeral Directing, the restricted practices, Section G specifically says you cannot use any connection to your name or employment the words funeral director. It's illegal unless you are a licensed funeral director according to the statute.

Mr. Jones – I thought that was there, so I wanted to bring it back up.

Ms. Coney – And it's very specific, in quotes, "funeral director," which is what this application title.

Mr. Clark – That's why he added associates to it, as a workaround.

Mr. Jones – Lisa, what was that number?

Ms. Coney – It's s. 497.372(g), F.S.

Mr. Hall – Can we just make the request?

Chair – Shall the Board task the Division with researching that name, to determine the compliance of that name staying the same or changing?

Ms. Simon – I'm afraid that would be part and parcel of the application. So --

Mr. Hall – Bring it back, open it up now.

Mr. Jones – I second. So, I'll make a motion to reopen that, please.

Mr. Knopke – I think I made the motion, so I'll make the motion to reopen it.

Chair – There's been a motion made, and seconded, to reopen this case. And all those in favor, aye.

Board members – Aye.

Chair – And any opposed? Okay. Now?

Ms. Simon – The entity is currently operating, which is one of the reasons why they submitted the application. They were operating in error. What I may suggest is that this come back before the Board. However, in that time period, somehow, to permit the entity to operate. I'm just trying to figure out how not to close down his business over the next month.

Mr. Knopke – I'll make a motion to – yes, sir?

Mr. Frizzell – I feel appropriate to read this particular provision that was cited, just for the Board's edification. This is s. 497.372 (1)(g), F.S.: *Using in connection with one's name or employment the words or terms "funeral director," "funeral establishment," "undertaker," "mortician," or any other word, term, title, or picture, or combination of any of the above, that when considered in the context in which used would imply that such person is engaged in the practice of funeral directing or that such person is holding herself or himself out to the public as being engaged in the practice of funeral directing; provided, however, that nothing in this paragraph shall prevent using the name of any owner, officer, or corporate director of a funeral establishment, who is not a licensee, in connection with the name of the funeral establishment with which such individual is affiliated, so long as such individual's affiliation is properly specified.*

Chair – Thank you.

Mr. Knopke – In this case, this deals with a removal company, not a funeral establishment. I think your last sentence talked about funeral establishment.

Mr. Frizzell – Yes.

Mr. Knopke – So does this fall under the concern? Forget our personal concerns. Does this fall under the potential for that violation that was cited?

Mr. Frizzell – To my reading of this, I think the pertinent question is whether or not, in context, it would be, in which it was used to imply that such person is engaged in the practice of funeral directing. It's not a ban on using the phrase. It's a ban on using the phrase in context such that would imply that funeral directing services are being provided.

Chair – Funeral Director Associates Removal Services, Inc. is the name in question.

Mr. Knopke – And in this case, he's operated for a while using that fictitious name, and there's been no complaints, I would assume, that we're aware of. Yet he's operated. Take ourselves and try to be consumers. Consumers may look at that and say, "Well, gosh, funeral director -- that's a funeral home, or they can direct a funeral. I got to call somebody to remove somebody." I'm just kind of painting the picture either way.

Chair – Likewise, if you had a company providing supplies, you couldn't call it Funeral Director Supplies?

Mr. Knopke – Good point.

Chair – Is there any indication that this could be misconstrued as holding oneself out to be a funeral director, if it's Funeral Director Associates Removal Service?

Mr. Knopke – In this case, I don't think so, because they've been operating. Where my concern is and maybe some of the other members of the Board is, here you've got somebody that's willing to operate under the statute, and not even get close to the [inaudible]. They've just got a name of a business. But we also have other operators that we'd see from time to time, that come along, that get closer to the edge. Let's put it that way. And are we setting the precedent by now by knowingly knowing that we know this, that we will get closer to the edge with those people, because we did here, but we got history here? That's where the concern is. That's my concern at this point, is do we need to kind of reel it in before it gets too far. You know, once the door's cracked, it's cracked.

Chair – And I think we have the ability to rule on each case individually. So, we don't have to say because this one got it, this one must get it. That's our discretion.

Mr. Knopke – And I would agree, but in each case, clearly as we've seen before, counsel will cite the previous if it's in their favor. If it's not, they won't. But yeah, I can go either way with it.

Chair – Thank you. Mr. Clark?

Mr. Clark – I feel responsible for this, the fact that we're on it. I think it's great discussion for the students in the back, but what hit me when I heard it read out loud by Ms. Simon was not a consumer, but actually a funeral home outside of the state looking in red book, thinking that this entity offers more than just removals. That was the only thing that hit me. I think the fact that they have been in business, and the fact that I voted to approve it, I'm comfortable with this entity keeping their name. It was just an observation that I stated, because it hit me funny. And obviously, it's resonating, but I just wanted to explain my thought process, and why I brought it up to begin with.

Chair – Mr. Hall?

Mr. Hall – So is it possible, from the Division's standpoint, that we can go ahead and approve, with the intent that the Division would contact him to see if it's possible for him to change the d/b/a to something else, as the Board has some concerns?

Ms. Simon – I'm sorry, Mr. Hall. I know we may have had these discussions before, and I'm a little uncomfortable with that. If we actually approve him with that name, we approve him with that name. If we don't, we don't. I'm a little concerned about negotiating that with a licensee.

Mr. Hall – But I mean, if we went to him and said contingent upon you being able to change your d/b/a, because it doesn't comply with the guidelines?

Ms. Simon – I think that, considering that it's their business name -- it's the business that they've been operating under. I don't know that it is such a simple fix. We can fashion something else, if you're not inclined to continue with that name, or you do not want to approve it. Like I said, we can look at extending this for 30 days, or something of that nature, and there is no deemer issue, because the application was just recently submitted. However, I'm not comfortable negotiating that. I'm not

comfortable with telling the company, "You're approved only subject to the fact that you change your business name." It's an odd predicament for us to be in.

Chair – I agree. Mr. Knopke?

Mr. Knopke – Back again. Sorry for beating this dog to death, but they've been in business for some time. Do we know how long, under the old name?

Mr. Jones – And they're using the entire new name, -- I mean, the full name is currently being used, correct?

Ms. Simon – Yes, that's my understanding.

Mr. Jones – As the DBA, which I just wanted to clarify.

Chair – They have been using this name for quite some time.

Mr. Knopke – What my concern is -- I understand Ms. Simon's position. As I think about how long, but also, if they decide to put an ad in the Yellow Pages or online, or printed Yellow Pages, if there is such a thing as a printed one, they will probably fall under funeral directors, not under classification of removal directors, removal company. They don't have those classifications more than likely. Obviously, if they're dealing in the wholesale world, wholesale through funeral homes only, that's one thing. But if you've got, again, somebody else who comes along, pushes to the edge, saying they evidently could possibly be advertising under a funeral director, consumers then could easily become more confused, or could become confused. Or that out of state guy could be confused. If it's been something that's that long, if we licensed them after the change in statute where that language was added, that's one thing. Then I assumed they would be grandfathered in, and maybe the best thing to do is to continue this for the next meeting, leave them in business and operating so they can continue to help people, and leave all the different legal entities up here now figure it out. Mr. Clark would agree.

Ms. Simon – I'm sorry. If we can add one comment -- they've been operating under that name since June of 2008.

Mr. Knopke – 2018?

Ms. Simon – Eight.

Ms. Richardson – For ten (10) years.

Mr. Knopke – And again, I'm kind of rambling here. My concern is the next application that comes along, not if this one -- these obviously are decent people, because they've not crossed the edge.

Mr. Jones – I'll make the motion to approve again, as we've reopened it.

Chair – Motion's been made to approve. Is there a second?

Mr. Clark – Second.

Chair – Second [laughter] Mr. Clark seconded that. All those in favor, aye?

Board members – Aye.

Chair – Aye. And any opposed? No opposed, and the motion carries. Thank you.

(3) Superior Statewide Removal Services LLC (Miami)

Ms. Simon – The application was received by the Division on June 25, 2018 in an incomplete status. However, it was a completed application by August 20, 2018. A background check of the principals revealed no relevant criminal history. The

Division recommends approval subject to the condition that the removal service has an onsite inspection by a member of Division staff.

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

B. Recommended for Approval without Conditions
(1) Curseen Jones LLC (Temple Terrace)

Ms. Simon – This application was received by the Division on August 20, 2018. A background check of the principals reveals no relevant criminal history. The establishment passed its onsite inspection on September 10, 2018. As a result, the Division is recommending approval without conditions.

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

(2) Removals of South Florida Inc. (West Palm Beach)

Ms. Simon – The application was received by the Division on April 21, 2018. However, it was incomplete when submitted. The application was deemed complete on September 18, 2018. A background check of the principals revealed no relevant criminal history. The establishment passed its onsite inspection on August 28, 2018. As a result, the Division is recommending approval without conditions.

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

19. Contract(s) or Other Related Form(s)

A. Recommended for Approval with Conditions

(1) Monument Retail Sales Agreement(s)
(a) Wilson's Monument LLC (F291823) (Quincy)

Ms. Simon – This entity submitted the monument retail sales agreement for approval. If the form is approved, it is to be used for the sale of monuments through its licensed monument retailer establishment. The Division recommends approval subject to the condition that two full-sized print-ready copies are received by the Division within 60 days of this Board meeting.

MOTION: Mr. Helm moved to approve the agreement subject to the condition that two full sized print-ready copies of each contract are received, by the Department, within 60 days of this Board meeting. Mr. Knopke seconded the motion, which passed unanimously.

(2) Preneed Sales Agreement(s)
(a) NorthStar Cemetery Services of Florida, LLC/NorthStar Memorial Group (F019194) (Ormond Beach)

Ms. Simon – Northstar submits the attached preneed sales agreement form for approval. It is labeled trust-funded pre-arranged funeral service contract. If this preneed sales agreement form is approved, it will be used for the sale of trust-funded preneed by Northstar and its related branches. The Division recommends approval subject to the condition that two full-sized print-ready copies of each contract are received by the Division within 60 days of this Board meeting.

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

(b) Physicians Life Insurance Company (Omaha, NE)

Ms. Simon – The following agreement forms are submitted for approval: Guaranteed Preneed Funeral Agreement and Assignment, and Non-Guaranteed Preneed Funeral Agreement and Assignment. Physician's Life Insurance Company received approval to offer insurance products from the Florida Office of Insurance Regulation in 1971. If these preneed sales

agreement forms are approved, they will be used for the sale of insurance-funded 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 each contract are received by the Division within 60 days of the Board meeting.

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

(c) SCI Funeral Services of Florida, LLC (F019227) (Altamonte Springs)

Ms. Simon – The following preneed sales agreements forms are submitted for approval: Guaranteed Pre-Arranged Funeral Agreements and a Guaranteed Insurance-Funded Pre-Arranged Funeral Agreement. If these Preneed sales agreement forms are approved, they are to be used for the sale of trust and insurance-funded preneed contracts by SCI and its related branches.

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

(3) Trust Agreement(s)

(a) Funeral Services Inc. (FSI) (Tallahassee)

Ms. Simon – In accordance with s. 497.266, Florida Statutes, FSI submits the Care and Maintenance Trust Agreement for approval for the trusting of cemetery funds to be utilized by various licensed and non-licensed cemeteries. The Division recommends approval subject to the condition that FSI provides to the Division the aforementioned trust agreement full-executed by all parties Division within 60 days of this Board meeting.

Chair – FSI’s counsel is here if you want to ask any questions. Otherwise --

MOTION: Mr. Hall moved to approve the agreement subject to the condition that FSI provides to the Division the aforementioned trust agreement full-executed by all parties Division within 60 days of this Board meeting. Mr. Jones seconded the motion, which passed unanimously.

(b) SCI Funeral Services of Florida, LLC (F019227) (Altamonte Springs)

Ms. Simon – This is an application for a trust agreement submitted by SCI Funeral Services of Florida LLC Service Corporation International. In accordance with ss. 497.266, 497.458, and 497.464, Florida Statutes, SCI submits the trust agreements for approval for the trusting of cemetery and preneed funds to be utilized by SCI establishments. The Division recommends approval subject to the condition that the Division receive the aforementioned trust agreements fully-executed by all parties within 60 days of this Board meeting.

MOTION: Mr. Knopke moved to approve the agreement subject to the condition that the Division receive the aforementioned trust agreements fully-executed by all parties within 60 days of this Board meeting. Mr. Helm seconded the motion, which passed unanimously.

(4) Trust Transfer Request(s)

(a) SCI Funeral Services of Florida, LLC (F019227) (Altamonte Springs)

Ms. Simon – On June 7, 2018, the Board approved the acquisitions of Remembrance Services of Florida, LLC, by SCI, of six (6) funeral establishment locations, a cinerator facility, a licensed cemetery company, and transfer of a preneed license, including licensure of these locations as preneed branches. SCI acquired all assets and liabilities for both the cemetery and preneed for these locations. For the proposed trust transfer, some of the language is different from the language that was submitted in your Board package regarding the actual dates of the trust.

SCI seeks approval of the transfer of the following: Remembrance Services of Florida, LLC Preneed Funeral and Cemetery Merchandise, and Services Trust Agreements (dated 9/5/14) to the approved SCI Master Cemetery Preneed Merchandise Trust Agreement and SCI Master Florida Preneed Funeral Trust (dated 12/3/99) and the Remembrance Services of Florida, LLC Cemetery Care and Maintenance Trust Agreement (dated 9/5/14) to the SCI Cemetery Care and Maintenance Trust Agreement (dated 12/3/99) under Sun Trust Bank, N.A. If approved, Sun Trust will be the trustee for these accounts. The Division recommends approval subject to the conditions outlined within your Board package.

Mr. Knopke – Mr. Chair?

Chair – Yes, Mr. Knopke?

Mr. Knopke – A clarification for counsel. What y'all are doing are moving same year, to same trust agreement under the statute approval, correct? Does that make sense? You're not moving pre-'93 and the post-'93, as an example?

Ms. Wiener – No, the former is correct. This is simply just to move the Remembrance Services, to get all of these into the same master trust. I was just here because we noticed in the Board packet that the dates weren't correct, so I'm overseeing the correction of those dates.

Chair – Thank you.

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

Ms. Simon – I'd like to state for the record that Mr. Williams, Board member, had to leave early. However, there is still a quorum present for the operation of the Board.

(5) *Trust Agreement and Trust Transfer Request(s)*
(a) *Jacobs Funeral Services LLC (F019197) (Boca Raton)*

Ms. Simon – The next item on your agenda was an added item. That was an item that was sent to the Board members on Tuesday evening. Jacobs Funeral Services LLC, through its representative, Summer Bokhary of Regions, seeks approval of a trust agreement, and requests to transfer its preneed trust agreement as more specifically set out in correspondence within your Board package. Jacobs seeks approval of the following: the preneed trust agreement entitled "Jacobs Funeral Services LLC Preneed Funeral Trust Agreement." Jacobs Funeral Services LLC also requests that the Board approve a trust transfer for transference of its preneed trust funds currently held under Live Oak Bank (FSI 1993 trust agreement) to Regions Bank. If approved, the preneed accounts will operate under the trust agreement provided in Attachment I. The Division recommends approval of the trust agreement within your Board package, as well as approval of the licensee's request for trust transfer with the conditions outlined within your Board package.

Chair – Is there a motion to approve with conditions,

Mr. Clark – Motion.

Chair – And seconded? Is that a second?

Mr. Knopke – I'll second it, but I have a question.

Chair – Yes, sir.

Mr. Knopke – Just so it's clear, we're not changing the trusting years here, pre-'93, post-'93 requirements for refund, or amount to be trusted. Income stays in, income comes out. We're not changing the rules here in this transfer. I know that's kind of a rambling thing.

Ms. Simon – Mr. Knopke, I can't confirm that at this point, but Ms. Wiener is here, and perhaps she can.

Ms. Wiener – I can confirm in as much as every time a licensee asks to transfer funds into a post-'93 trust, they agree to be bound by the terms of the post-'93 trust. So even when licensees move pre-'93, so what we used to call 639 money, into a 497 trust, it automatically becomes bound by the 497 trust and the terms of our current law, so that income is restricted, et cetera.

Mr. Knopke – Okay.

Chair – Thank you.

Mr. Knopke – Thank you.

Chair – And it's been seconded, and all those in favor, aye?

Board members – Aye.

Chair – And any opposed? That motion carries.

20. **Petition for Waiver of Rule**
A. **Recommended for Approval with Conditions**
(1) **Funeral Director Intern**
(a) **Gilchrist, Joel L F087516**

Ms. Simon – This application was submitted by Joel Gilchrist. Mr. Gilchrist was issued his funeral director intern license on July 7, 2016, and it expired on July 6, 2017. During the internship, the Division received only two (2) supervisory quarterly reports. Per Florida Administrative Code 69K-18.002 and 69K-18.005, a funeral director intern is able to renew its license if they apply while the internship is still valid. However, Mr. Gilchrist never submitted a request to renew his internship license. Mr. Gilchrist submits this petition, along with his application for funeral director internship. Mr. Gilchrist is requesting, based upon extenuating circumstances, that another internship be granted wherein he will need to complete another four (4) quarters, and begin his internship anew as if the first time. A 2017 background check of Mr. Gilchrist revealed no relevant criminal history. The Division recommends that the supplement to petition of waiver of Rule 69K-18.002, Florida Administrative Code be granted, and that his application for internship be approved with the condition that applicant provides proof to the Division that he has completed a two-hour communicable disease course within fifteen (15) days of the Board meeting.

Chair – Is there a motion?

MOTION: Mr. Jones moved to approve the request subject to the condition that applicant provides proof to the Division that he has completed a two-hour communicable disease course within fifteen (15) days of the Board meeting. Mr. Clark seconded the motion.

Chair – Mr. Gilchrist? Joel Gilchrist?

Ms. Simon – Please step forward.

Chair – Welcome, Mr. Gilchrist. Did you want to address the Board, or you're just here to answer any questions?

Joel Gilchrist – I can answer any questions you have, sir.

Chair – Thank you. There's been a motion made to approve with a condition, and it's been seconded. And all those in favor, aye.

Board members – Aye.

Chair – And any opposed? And that motion carries. Good luck.

Mr. Gilchrist – Thank you, sir.

Chair – Get quarterly reports in this time.

Mr. Gilchrist – Thank you very much. Yes, and I'll keep copies.

21. Executive Director's Report

B. Operational Report

Ms. Simon – At this point, I will turn the meeting over to the Division Director, Mary Schwantes, to propose the new Board meeting schedule for 2019 through 2021, as well as the Operational Report.

Ms. Schwantes – Thank you. Before I begin the operational updates, and we take a look at the calendar. I'd like to introduce our Division staff who are here with us today to the Board, students, and others attending. With us, of course, are LaTonya Bryant, an Administrative Assistant, and Jasmin Richardson, a Financial Specialist. Also with us are Jessica Cordero, who's one of our investigators and also Anna Rodriguez, an inspector for the Division. So, both LaTonya and Jasmin help us keep on track in preparation, reporting, and follow-up that the Board meetings require, but possibly of special interest to the students present, Jasmin Richardson is our most experienced employee on issues involving individual licensing. She has prepared a handout for any students who are interested. For any students interested on the steps required for licensing as a funeral director, versus those required for a funeral director/embalmer combination license, that is available for you guys. And I would also, of course, recommend that you try to catch up with Jasmin after the meeting, if possible, if you have any individual questions. Thank you for that note.

Following this meeting, from 1:00 to 5:00 p.m., will be the third of the Department's public workshops, the purpose of which is to seek input from industry representatives on potential legislative issues relating to the death care industry. We hope many of you will be able to stay and attend that meeting. The agenda and copies of all written comments received in preparation for the meeting, if you don't already have them, are available on the Division's website. A small number of copies will be available at the meeting. The fourth public workshop will take place in Tampa on Wednesday, November 28th, from 10:00 a.m. to 3:00 p.m., a slightly different timeframe than we've been doing. Again, additional information regarding the workshop is available on the Division's website, and further information will be posted as we get closer to that date.

Brief updates on a couple of ongoing projects -- and I am going to get to that Board meeting calendar. Regarding the replacement of the Division's Microsoft Access database systems, again, we have no significant news on that issue. Since the Board's September meeting, the Department addressed yet more additional questions from the Legislative Committee which oversees the funding. The \$1.2 million in funds were allocated for the Division's use for this purpose; however, we do not yet have spending authority required to actually receive the funds and start making changes to the systems. At this time, we do not have any estimate on when those funds may be received, but we'll continue to keep you updated. That is a critically-important project and need for the Division.

Chair – Is there any way that we can help affect that spending authority on that?

Ms. Schwantes – I'm actually not sure at this point, Mr. Chair. I know the CFO's Office, in particular, has been very, very active in trying to get us the funds that are needed, and to help pursue that. There are many different Divisions within the Department that are involved in this: Information Technology Department, General Counsel's Office, as well as the Front Office. And it's just coming back that the Committee is particularly concerned with questions relating to whether or not we are going to be able to, in our replacement systems, use the cloud, and cloud-based computing. And that is one of their main concerns. And so, a lot of it right now is addressing the technical questions that keep coming back.

Mr. Jones – Is your team concerned about using the cloud, or just the fact of establishing cloud exposure?

Ms. Schwantes – It's not the cloud exposure, per se. It's more the timing of it. Our entire Department is interested, at some point, in a full enterprise approach. We have a lot of Divisions that have different systems, and so we want to try to tie a lot more of those together. And so, it's not quite the appropriate time to look at the cloud for some of those solutions. Additionally, that changes the funding level, and that is out of range at the \$1.2 million, at least in our allocation.

Mr. Jones – And these are funds appropriated by the Legislature?

Ms. Schwantes – That's correct.

Mr. Jones – What is your dates on being able to use it? Can you carry it over?

Ms. Schwantes – We cannot.

Mr. Jones – So you're looking at this calendar year?

Ms. Schwantes – Fiscal year.

Mr. Jones – Fiscal year? And you cannot carry it over?

Ms. Schwantes – That's correct. So, the more we go into this fiscal year, which ends June 30th, the more concerned we are about how we're going to be able to use those funds. So, the Committee is looking at both what our needs are, what it believes our needs are, you know, in terms of the technology, so they do have technology questions, but they're also looking at the actual funding, because depending on what decision is made as to what technology is needed in the opinion of those that have authority over the spending authority, that may impact whether we get \$1.2 million, whether we get \$350,000. We just don't know yet.

Mr. Jones – I was going to say, can you rescope this project, also, if needed?

Ms. Schwantes – As for another fiscal year? That's a possibility.

Mr. Jones – No, just rescope your goal of what you're going to accomplish this fiscal year, so you can appropriate a certain amount of that money, and use it, and not lose it?

Ms. Schwantes – That's being worked on.

Mr. Jones – Thank you.

Ms. Schwantes – That's the whole status at this point, is because the questions and answers are going back and forth on those matters now.

Mr. Jones – Okay.

Chair – Thank you for your expertise on this. I know that you deal with this quite often.

Mr. Jones – We do.

Mr. Knopke – Mr. Chair, quick question to Ms. Schwantes. When you refer to the Committee, is this a Legislative Committee, or is this a staff committee within the Department?

Ms. Schwantes – I'm sorry, it is a Legislative Committee.

Mr. Knopke – So there are actually senators and representatives on it?

Ms. Schwantes – That's correct.

Mr. Knopke – Could you, not now, but later on, [inaudible] whichever Board members may want to know the name of the committee and the members?

Ms. Schwantes – I can.

Chair – We have some pretty politically-active people here.

Ms. Schwantes – It is. We'd be happy to get that information to you. We'll send something out later this week.

Mr. Knopke – Thank you.

Ms. Schwantes – Okay, so that's the update on the Division's Access database systems.

A. Proposed Board Meeting Schedule 2019 – 2021

**Board of Funeral, Cemetery, and Consumer Services
Board Meeting Schedule 2019 - 2021**

DRAFT
Proposed 10/4/2018

2019 Board Meeting Schedule

January	February	March	April
Thursday, January 3, 2019 Conference Call	Thursday, February 7, 2019 Orlando, FL Suggested change: Tallahassee, FL	Thursday, March 7, 2019 Conference Call	Thursday, April 4, 2019 Tampa, FL
May	June	July	August
Thursday, May 2, 2019 Conference Call	Tuesday, June 18, 2019 FMA Annual Conference Orlando, FL	Thursday, July 11, 2019 Conference Call	Thursday, August 1, 2019 Tallahassee, FL
September	October	November	December
Thursday, September 5, 2019 Conference Call	Thursday, October 3, 2019 St. Petersburg, FL St. Petersburg College	Thursday, November 7, 2019 Conference Call	Thursday, December 5, 2019 Jacksonville, FL

2020 Board Meeting Schedule (Tentative)

January	February	March	April
Thursday, January 2, 2020 Conference Call	Thursday, February 6, 2020 Orlando, FL	Thursday, March 5, 2020 Conference Call	Thursday, April 2, 2020 Tampa, FL
May	June	July	August
Thursday, May 7, 2020 Conference Call	TBA FCCFA Annual Conference	Thursday, July 9, 2020 Conference Call	Thursday, August 6, 2020 Tallahassee, FL
September	October	November	December
Thursday, September 3, 2020 Conference Call	Thursday, October 1, 2020 Jacksonville, FL Florida State College at Jacksonville <i>TENTATIVE</i>	Thursday, November 5, 2020 Conference Call	Thursday, December 3, 2020 Ft. Lauderdale, FL

2021 Board Meeting Schedule (Tentative)

January	February	March	April
Thursday, January 7, 2021 Conference Call	Thursday, February 4, 2021 Orlando, FL	Thursday, March 4, 2021 Conference Call	Thursday, April 1, 2021 Panama City Beach, FL Suggested change: Daytona Beach, FL
May	June	July	August
Thursday, May 6, 2021 Conference Call	TBA IFDF Annual Conference	Thursday, July 1, 2021 Conference Call	Thursday, August 5, 2021 Tallahassee, FL
September	October	November	December
Thursday, September 2, 2021 Conference Call	Thursday, October 7, 2021 Miami, FL Miami-Dade College TENTATIVE	Thursday, November 4, 2021 Conference Call	Thursday, December 2, 2021 Jacksonville, FL

I'd like for you to turn now to the proposed Board meeting schedule for 2019 to 2021. Last year, for the first time, this Board approved a three-year meeting plan, and the way we did this was, we approved the immediate year, which at that point in time was 2018. We're looking at calendar year here, not fiscal year. And then tentatively approved the years for 2019 and 2020. So, we had proposed a new three-year calendar meeting plan, and I would like to do something similar today to what we did last year. If you will take a look, the proposed three-year calendar for the Board meetings is provided in the materials, as we already referenced. For 2019, we are suggesting changing the February meeting from Orlando, as was tentatively approved last year, to Tallahassee, and that is for two reasons. One, that will be Legislative Session in Tallahassee, which makes sense that the Board might want to meet there at that time. Well, close to Legislative Session, Committees and Workshops. And secondly, the FMA Annual Conference, which we will attend in June, is also being scheduled for Orlando. So, we changed the location for that. The other suggested change is further out, in 2021. If you recall, we had approved a plan where, every three (3) years, the Board would meet in the panhandle. There was mixed success with that meeting last year, and so we are suggesting a change. Instead of meeting in the panhandle in 2021, to meet in Daytona Beach, Florida in April of 2021. And so, does anybody have any questions or comments on the proposed calendar?

Chair – I searched and researched the Board meeting schedules, tentative, and as per the Board's request, I don't see anything on here for Key West [laughter].

Ms. Schwantes – It's noted as a wish.

Mr. Knopke – Mr. Chair, I won't be as aggressive as you in going to Key West. Is there any chance, since it's listed here as tentative at Miami-Dade College in October of '21, that that could be two (2) weeks later than the 7th? Because that will be after the opening of snow crab season then, and for those of us who enjoy those succulent little guys and girls, or whatever they're called, one of the good reasons to come to Miami is there's some good snow crab restaurants. [laughter].

Chair – I think that probably has as much chance of being changed as my request for Key West.

Mr. Knopke – Probably so, but we both got our jabs in.

Chair – Right. Nothing personal.

Mr. Knopke – Nothing personal at all.

Ms. Schwantes – Any other comments or questions? Okay.

Chair – Reasonable comments or questions? [laughter].

Ms. Schwantes – I should have said that. If not, then it would be appropriate at this time for a Board member to make the following motion -- I move to approve the 2019 calendar with adoption of the suggestion changes and authorization for the Division to make changes as may be necessary in the future due to emergency issues, or issues involving unavailability of accommodations. And so, that is a motion to approve the 2019 calendar with those conditions.

MOTION: Mr. Jones moved to approve the proposed Board meeting schedule for 2019 with adoption of the suggestion changes and authorization for the Division to make changes as may be necessary in the future due to emergency issues, or issues involving unavailability of accommodations. Mr. Hall seconded the motion, which passed unanimously.

Ms. Schwantes – Thank you. Additionally, it would be appropriate for a Board member to make a motion to tentatively approve the proposed calendars for 2020 and 2021. We appreciate this, because that gives us the authority to go forward in negotiating with the colleges and the associations.

MOTION: Mr. Knopke moved to tentatively approve the proposed Board meeting schedule for 2020 to 2021. Mr. Hall seconded the motion, which passed unanimously.

Ms. Schwantes – Thank you. This is the first of the Board meetings to be held at a mortuary school, and we just want to really send out appreciation to staff, and to the students for making this possible. The next Board meeting is a telephonic meeting, which will take place on November 1st, and the next in-person Board meeting is in Jacksonville on December 6th. The Division expects to present financial reports at that time for the December meeting, just a heads-up.

Chair – Good.

Ms. Schwantes – This is the operation report. Thank you, Mr. Chair.

B. Certification by Board for Non-Minor Violations

(1) Rule 69K-1.001

(2) Rules 69K-5.002, 69K-5.0021, 69K-5.0022, 69K-5.0026, 69K-5.009, 69K-5.011, and 69K-5.013

Ms. Simon – In your Board packets, you'll find a memo that includes reference to Rules 69K-1.001, 69K-5.002, 69K-5.0021, 69K-5.0022, 69K-5.0026, 69K-5.009, 69K-5.011, and 69K-5.013. There are also forms that are listed that are pursuant to those rules. While the Board has seen most everything in this package previously, it's been seen piecemeal. It hasn't been seen all together. One matter that has not previously been seen by the Board are changes to Rule 69K-5.011. The only change being that a form is now incorporated, DFSM12179. The Division recommends that the Board approve the rules and corresponding forms for adoption, and it would be appropriate for the Board to entertain the motion to do so at this time.

MOTION: Mr. Jones moved to approve the rules and corresponding forms for adoption. Mr. Clark seconded the motion, which passed unanimously.

Ms. Simon – The Division has determined that the eight (8) rules listed in your Board packets do not meet the definition of a minor violation under s. 120.569, Florida Statutes. If the Board agrees, it would be appropriate at this time for the Board to entertain the motion that these eight (8) rules do not meet the definition of a minor violation under s. 120.695, Florida statute.

MOTION: Mr. Knopke moved that these eight (8) rules do not meet the definition of a minor violation under s. 120.695, Florida Statute. Mr. Clark seconded the motion, which passed unanimously.

C. Report Payment of Disciplinary Fines and Costs

Ms. Simon – This is the report of the -- report of the payment of disciplinary fines and costs. That is informational-only.

Monthly Report of Fines and Costs Assessed and Paid
 Division of Funeral, Cemetery and Consumer Services
 October 4, 2018 Board Meeting
 Date of Report: September 21, 2018

Licenses	Board Meeting	Case No.	Total Fine & Cost Due	Date Due	Paid in Full?	Comments
Signature Memorial Funeral & Cremation Services, LLC.	1-Aug-18	195915-16-FC; 198401-16-FC; 204671-17-FC	\$3,500	24-Sep-18	D	
A. When payment in full becomes past due, the FCCS Division works with the DFS Legal Division 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.						

22. Chairman's Report (Verbal)

Chair – No report.

23. Public Comments (Verbal)

Chair – Does anyone have any comments? Anything from the public? Hearing no response.

24. Office of Attorney General's Report

A. Attorney General's Rules Report

Ms. Simon – At this time, I will ask Mr. Frizzell to introduce the menu items under that.

Mr. Frizzell – Thank you. Members of the Board, I would first direct your attention to the Rules Report that is part of your Board materials. It is five (5) pages, so I'm not going to go over them individually. I'm assuming you've all had an opportunity to review this. If there are any particular questions that any Board member has, regarding anything on this rule report? I would note that a couple of these will change today by the time I complete my report, and a number of these rules were withdrawn, I believe at the request of the Joint Administrative Procedures Committee, as they believed that those were better handled by the actual agency, rather than the Board. That was the understanding that I have. Now, I've got several rules that I need to go through. The first two (2) are new additions, and I believe that these directly relate to the legislative bill HD29, which was entered this year by the Legislature regarding members of the United States Armed Forces.

B. Proposed Rule 69K-17.003

Mr. Frizzell – First, I would direct your attention to Rule 69K-17.003, entitled "Fees." Does the Board have any questions regarding any of the language that is part of this particular proposal?

Chair – Do we need a motion to approve on that?

Mr. Frizzell – We will, but I was first asking if there were any questions and now we can move forward.

Chair – I want to make sure that we're on the same page.

Mr. Frizzell – There are two (2) on here for new language, and then five (5) that we are asking to withdraw the rules, because they're handled under a previous rule that will be taking effect on January 1st.

Chair – So on 69K-17.003, "Fees" --

MOTION: Mr. Jones moved to approve Rule 69K-17.003. Mr. Helm seconded the motion, which passed unanimously.

Mr. Frizzell – At this time, I would ask also for a motion to approve our Office to move forward on filing a Notice of Proposed Rule in this matter.

MOTION: Mr. Jones moved to approve the Office of the Attorney General's request to file a Notice of Proposed Rule in this matter. Mr. Clark seconded the motion, which passed unanimously.

Mr. Frizzell – Now, unfortunately, for every single one of these on the agenda, I have the three magic questions, and then once I ask these questions, I will ask for the Board to approve the SERC, and I will attempt to slow down. I apologize. I'm a very fast speaker. So, question number one, will the proposed rule amendment have an adverse impact on small business? I believe that the answers to these are no. However, if anyone has any different proposal on these -- will the proposed rule amendment be likely to directly or indirectly increase regulatory cost to any entity, including government, in excess of \$200,000 in the aggregated in Florida within one year after implementation?

Chair – No.

Mr. Frizzell – We appear to be fighting for attention [laughter]. Finally, should violations of this rule or any part of this rule be designated as a minor violation? We're currently dealing with 69K-17.003, entitled "Fees," and the changes that are proposed thereto.

Chair – I think we can answer that no.

Mr. Frizzell – Okay. Then at this time, I'm going to request that the Board take a vote to approve the SERC on this in response to those three questions.

MOTION: Mr. Jones moved to approve the SERC on this in response to those three questions. Mr. Helm seconded the motion, which passed unanimously.

Mr. Frizzell – Thank you. Unfortunately, this conversation will be repeated several more times.

Chair – I have an idea what the answers will be similar.

C. Proposed Rule 69K-25.0025

Mr. Frizzell – I do as well, but unfortunately, we need them on the record. Moving on to Rule 69K-25.0025, entitled "Licensure, Like Military Experience, Funeral Directors, Embalmers, and Director Disposers Licensure Renewals of Spouses of Armed Force Members." This is a new rule that is being proposed and is directly related to HB 29, which was passed earlier this year. Subsection 1, 2, and 3 are directly related to that particular provision. However, subsection 4, it's my understanding, was already located in a prior part of the rule, but it fit better in this new proposed rule, which is why we moved. Do any of the Board members have any questions regarding the language that is proposed in this proposal?

Board members – No.

Mr. Frizzell – Okay, then at this time, I would ask that the Board issue a vote to approve the language.

MOTION: Mr. Knopke moved to approve the language in Rule 69K-17.003. Mr. Hall seconded the motion, which passed unanimously.

Mr. Frizzell – Thank you. And then I will also ask the questions on the SERC. Number one, will the proposed rule amendments have any adverse impact on small business?

Board members – No.

Mr. Frizzell – Will the proposed rule amendments be likely to directly or indirectly increase regulatory cost to any entity, including the government, in excess of \$200,000 in the aggregate in Florida within one year after implementation?

Chair – I don't see where it would, no.

Mr. Frizzell – And should a violation of this rule or any part of this rule be designated a minor violation?

Board members – No.

Mr. Frizzell – Then at this time, I would request that the Board entertain a vote that allows us to move forward and enter this SERC.

MOTION: Mr. Knopke moved to approve the SERC on this in response to those three questions. Mr. Helm seconded the motion, which passed unanimously.

D. SERC Checklist Rule 69K-11.001

Mr. Frizzell – Thank you. These next five (5) rules that I'll be addressing, I'm going to address them one at a time. Unfortunately, we still have to answer the same SERC questions. I believe there was a big rule change that just happened or a new rule that is going into effect, and I will request that each of these rules that I bring up be allowed to be repealed effective January 1, 2019, which is the date that the new rule will also be going into effect. The first one that we'll be addressing is rule 69K-11.001, "Disciplinary Guidelines and Penalties for Predatory Preneed Sales and Monument Establishments." I request that the Board, at this time, unless there's any questions, entertain a vote allowing us to withdraw this rule effective January 1, 2019.

MOTION: Mr. Knopke moved to withdraw this rule effective January 1, 2019. Mr. Jones seconded the motion, which passed unanimously.

Mr. Frizzell – And I'm going to ask the three questions. Will the reduction or redaction of this rule or its amendments have an adverse impact on small business?

Board members – No.

Mr. Frizzell – Will this proposed change be likely to directly or indirectly increase regulatory costs to any entity, including the government, in excess of \$200,000 in the aggregate in Florida within one year after implementation?

Board members – No.

Mr. Frizzell – And should a violation of this rule or any part of this rule be designated a minor violation?

Board members – No.

Mr. Frizzell – Then at this time, I would request that the Board entertain a vote allowing us to enter the SERC and proceed with withdrawing the rule.

MOTION: Mr. Knopke moved to approve the SERC on this in response to those three questions and move forward with the withdrawal of this rule. Mr. Clark seconded the motion, which passed unanimously.

E. SERC Checklist Rule 69K-11.002

Mr. Frizzell – Moving on to Rule 69K-11.002, entitled "Minor Violations and Notice of Noncompliance for Crematories, Preneed Sales and Monument Establishments." As previously noted, we are requesting that we be allowed to move forward with withdrawing this rule, and request a vote on that issue.

MOTION: Mr. Knopke moved to withdraw this rule effective January 1, 2019. Mr. Helm seconded the motion, which passed unanimously.

Mr. Frizzell – Thank you. Will the withdrawal of this rule or amendments have an adverse impact on small business?

Board members – No.

Mr. Frizzell – Will the proposed rule amendments be likely to directly or indirectly increase regulatory costs to any entity, including the government, in excess of \$200,000 in the aggregate in Florida within one year after implementation?

Board members – No.

Mr. Frizzell – And should violation of this rule or any part of this rule be designated a minor violation?

Board members – No.

Mr. Frizzell – Then at this time, I would request that the Board entertain a vote allowing us to enter the SERC, and move forward with the withdrawal of this rule.

MOTION: Mr. Jones moved to approve the SERC on this in response to those three questions and move forward with the withdrawal of this rule. Mr. Helm seconded the motion, which passed unanimously.

Chair – Could we suggest doing the next three (3) at once?

Mr. Frizzell – I can put them on the record. Let's do that.

- F. SERC Checklist Rule 69K-11.003*
- G. SERC Checklist Rule 69K-30.003*
- H. SERC Checklist Rule 69K-30.0021*

Mr. Frizzell – So the next three are Rules 69K-11.003 entitled "Citations for Cemeteries, Preneed Sales and Monument Establishments," Rule 69K-30.003 entitled "Citations for Funeral Directors and Establishment, Embalmers, Removal Services, Refrigeration Services, Direct Disposers and Establishments, and Cinerator Facilities" and then, finally, Rule 69K-30.0021, "Minor Violations and Notice of Noncompliance for Funeral Directors and Establishments, Embalmers, Removal Services, Refrigeration Services, Direct Disposers and Establishment, and Cinerator Facilities." At this time, we are requesting that we be able to withdraw each of these rules effective January 1, 2019 when the new rule goes into effect.

Chair –Is there a motion?

MOTION: Mr. Jones moved to withdraw these rules effective January 1, 2019. Mr. Helm seconded the motion, which passed unanimously.

Mr. Frizzell – And then, for one last time, on each of these three (3), if there's any one of them that any Board member would like to address individually, let me know. Will any of these proposed changes have an adverse effect or impact on small business?

Board members – No.

Mr. Frizzell – Will the proposed rule changes or withdrawals be likely to directly or indirectly increase regulatory costs of any entity, including government, in excess of \$200,000 in the aggregate, in Florida within one year after implementation?

Board members – No.

Mr. Frizzell – And should a violation of this rule or any part of this rule be designated a minor violation?

Board members – No.

Mr. Frizzell – At this time I would request that the Board entertain a vote to allow us to enter a SERC on these, and to proceed with withdrawal.

Chair – On all three (3) of those, is there a motion?

MOTION: Mr. Clark moved to approve the SERCs in response to those three questions and proceed with withdrawal of these rules. Mr. Helm seconded the motion, which passed unanimously.

Mr. Frizzell – I believe that is my report.

Ms. Simon – I just wanted to make sure, Mr. Frizzell, that covered 69K-11.001, 69K-11.002, 69K-11.003, and 69K-25.0025? We had -- that was that before, right?

Mr. Frizzell – Yes, 69K-25.0025, and --

Ms. Simon – 69K-30.003, and 69K-30.0021?

Chair – Yes.

Ms. Simon – One last item is -- we already handled the SERC?

Mr. Frizzell – We did the SERC on them, yes.

Ms. Simon – Okay, thank you.

Chair – Anything else, Mr. Frizzell?

Mr. Frizzell – That’s all I have.

Chair – Thank you very much. Thank you for being with us. We appreciate your counsel.

Mr. Frizzell – I thoroughly enjoyed myself.

25. Administrative Report

The information was provided on the Agenda.

26. Disciplinary Report

The information was provided on the Agenda.

27. Upcoming Meeting(s)

- A.** November 1st (Teleconference)
- B.** December 6th (Embassy Suites by Hilton Jacksonville Baymeadows – Jacksonville)
- C.** January 3rd (Teleconference)
- D.** February 7th (Orlando)
- E.** March 7th (Teleconference)
- F.** April 4th (Tampa)

28. Adjournment

Chair – Board members? Division? Anything for the good of the cause?

Mr. Helm – I have a request to make to help us speed along our teleconferences, not that we need to be in a big hurry, but there's a long pause at a lot of times we do. So, what I'm kind of suggesting is, when Ms. Simon reads the item, whether it's on a preneed branch license, or what it is, we have a pause sometimes. So, I'm just letting everyone know that.

Chair – The pause is waiting for a motion?

Mr. Helm – Yes, just waiting for a motion.

Chair – Okay, maybe in a more timely manner, if you have no objections, just go ahead with it.

Mr. Helm – If you've got any objection, speak up right away, because I'm going to start speeding it up.

Chair – Thank you for that suggestion. Anything else? Anything else to announce? No? Thank you, everybody. Appreciate you being here. Thank you for your patience, and again, thank you for allowing us to be here at Miami-Dade College. And it's a pleasure, wonderful hospitality. Staff, thank you so much. LaTonya, Jasmin, you always put it together for us, and it always comes through, so we appreciate you doing that. This meeting is adjourned.

Ms. Schwantes – Thank you.

The meeting was adjourned at 12:44 p.m.