

MINUTES
BOARD OF FUNERAL, CEMETERY, AND CONSUMER SERVICES
August 1, 2019 - 10:00 A.M.
Betty Easley Conference Center
4075 Esplanade Way, Room 166
Tallahassee FL

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

Mr. Jody Brandenburg, Chair – Good morning, everyone. Welcome to the August 1, 2019 Board of Funeral, Cemetery, and Consumer Services’ meeting at the Betty Easley Center. Ms. Simon, would you make your preliminary remarks and do the roll call, please?

Ms. Ellen Simon – Yes, Mr. Chairman. My name is Ellen Simon. I am Assistant Director for the Division of Funeral, Cemetery, and Consumer Services. Today is August 1, 2019. It is approximately 10:04 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. As the Board Chair stated, this meeting is taking place in Tallahassee FL at the Betty Easley Center in Southwood. An agenda for this meeting has been made available to all interested persons and extra copies are located in this 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’s Chair, Mr. Brandenburg, runs the meeting. Persons desiring to speak should initially ask the Chair for permission. At this time, I will call the roll:

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

Also noted as present:

Mary Schwantes, Executive Director
Tom Barnhart, Board Legal Advisor
Marshawn Griffin, Department Counsel
Danijela Janjic, Department Counsel
LaTonya Bryant, Department Staff
Jasmin Richardson, Department Staff
Nicole Singleton, Department Staff
James “Jim” Deason, Department Staff
Lashonda Morris, Department Staff
Misty Burch, Department Staff

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

Chair – Thank you.

2. Action on the Minutes
A. June 18, 2019

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

B. July 11, 2019

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

Chair – Ms. Schwantes, would you like to address the Board.

Mary Schwantes – Sure. I'd like to address my staff. With us today, we have Misty Burch and Lashonda Morris. They are two (2) of our licensing specialists. Jim Deason, one of our investigators, and Nicole Singleton, our Investigation Manager. We're glad they're able to join us today. Thank you, Mr. Chairman.

Chair – Thank you for being here today. We appreciate everything that you do. Ms. Simon?

3. Disciplinary Proceedings

A. Material Facts Not Disputed (Section 120.57(2) Hearings)

(1) Lebedowych, Gregory Case No. 241873-19-FC; Division No. ATN-32685 (F074793) (Probable Cause Panel A)

Ms. Simon – To present for the Department, Mr. Marshawn Griffin.

Keenan Knopke – Mr. Chair?

Chair – Yes, Mr. Knopke?

Mr. Knopke – I'm on Probable Cause Panel A and will recuse myself. Thank you, sir.

Chair – Thank you. Good morning, Mr. Griffin.

Marshawn Griffin – Good morning. Marshawn Griffin for the Department. The above-referenced matter is presented to the Board for consideration of the Motion for Determination of Waiver and for Final Order by Hearing Not Involving Disputed Issues of Material Fact (Motion) in the matter of Gregory Lebedowych (Respondent). The Division alleges Respondent engaged in the following:

- Violated a lawful Order of the Board
- Entered a plea to a crime, which relates to the ability to practice a profession under Chapter 497, F.S.

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

MOTION: Mr. Jones moved that the Respondent failed to timely file a responsive pleading contesting the allegations in the Administrative Complaint. Mr. Frank Bango seconded the motion, which passed unanimously.

Mr. Griffin – There is supplemental documentation. I believe there's the Motion for Final Order, as well as the waiver of any sort of hearing by his failure to file a responsive pleading. At this time, the Department would move that the Board adopt the facts as alleged in the Administrative Complaint.

MOTION: Mr. Jones 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 – At this time, the Department would move that the Board determine that Respondent has failed to timely file a responsive pleading and therefore has waived any sort of presence or participation in this hearing.

MOTION: Mr. Hall moved that Respondent has waived any sort of presence or participation in this hearing. Mr. Helm seconded the motion, which passed unanimously.

Mr. Griffin – Based upon the finding of fact, as adopted by the Board, in the Administrative and Respondent’s failure to file a responsive pleading, the Department requests that the Board revoke Respondent’s licensure, at this time.

MOTION: Mr. Hall moved for revocation.

Chair – Is there anyone here representing Lebedowych? There was a motion made to revoke the license. Is there a second?

Mr. Jones – Second.

Chair – And all those in favor, aye?

Board members – Aye.

Chair – And any opposed? And the motion carries.

(2) Davis, Daniel J.: Case No. 239924-19-FC; Division No. ATN-32489 (F046034) (Probable Cause Panel B)

Ms. Simon – To present for the Department, Mr. Griffin.

Mr. Griffin – The above-referenced matter is presented to the Board for consideration of the Motion for Determination of Waiver and for Final Order by Hearing Not Involving Disputed Issues of Material Fact (Motion) in the matter of Daniel J. Davis (Respondent). The Division alleges Respondent engaged in the following:

- Entered a plea to a crime, which relates to the ability to practice a profession under Chapter 497, F.S.

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

Jean Anderson – Mr. Chairman?

Chair – Yes ma’am?

Ms. Anderson – I served on Probable Cause Panel B, so I’m recusing myself.

Chair – Thank you for that declaration.

MOTION: Mr. Hall moved that the Respondent failed to timely file a responsive pleading contesting the allegations in the Administrative Complaint. Mr. Clark seconded the motion, which passed unanimously.

Mr. Griffin – At this time, the Department would move that the Board adopt the facts as alleged in the Administrative Complaint and the investigative file.

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

Mr. Griffin – In light of the factual allegations, as adopted in the Administrative and based on the Respondent’s failure to appear or file a responsive pleading, at this time the Department believes that it appropriate to issue a penalty in this proceeding, and the Department would recommend that Mr. Davis’ license be revoked.

MOTION: Mr. Hall moved for revocation.

Chair – Mr. Davis? Daniel Davis? Anyone representing Daniel Davis? Daniel Davis? There’s been a motion for revocation of license. Is there a second?

Mr. Clark – Second.

Chair – And all those in favor, aye?

Board members – Aye.

Chair – And any opposed? And the motion carries.

B. Settlement Stipulations

(1) Probable Cause Panel A

(a) A J Manuel Funeral Home, Inc.: Case No. 243597-19-FC; Division No. ATN-32412; (F060392)

Ms. Simon – To present for the Department, Mr. Griffin.

Mr. Griffin – A. J. Manuel Funeral Home, Inc., (“Respondent”) is a funeral establishment, licensed under Chapter 497, Florida Statutes, license number F060392, in Hollywood, Florida. The Department conducted an investigation and found that Respondent conducted activities licensed under Chapter 497, Florida Statutes, with an expired license, in violation of sections 497.152(5)(b), 497.380(3), Florida Statutes. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides as follows: Respondent shall pay an administrative fine in the amount of \$300.00. The Department requests that the Board accept this Settlement Stipulation.

Chair – Anyone here representing A J Manuel Funeral Home? A J Manuel Funeral Home? I have a question. Did the licensee subsequently renew their license?

Mr. Griffin – Yes. For this and all other matters that are before the Board where the stipulation is based on the failure to timely renew licensure, every one of the licensees has subsequently renewed their license.

Chair – Thank you, Mr. Griffin.

Mr. Hall – May I make a comment, Mr. Chair?

Chair – Mr. Hall?

Mr. Hall – It’s my understanding, and the Board can correct me if I’m wrong on any points, but a lot of these that we’re going to go through, would have been issued citations under the old program. The Division’s been good enough to hit with citations this year instead of hitting them with the charge of unlicensed activity. Is that correct?

Ms. Simon – Not exactly.

Mr. Hall – Next year they will be charged with...

Ms. Simon – What has happened this year is, as compared to last year, last year we could have issued a citation for these offenses, but now because of the new rules, we are no longer able to do that, which is why they need to come before the Board for settlement. The penalty might be different next year. Maybe that is what you were referring to.

Mr. Hall – Right. So, I’d just like the associations to get together to avoid this, because what I understood at our convention, attorney’s fees and everything can be very hefty for the licensees, if this happens next year, because we’re not going to hit with just the citation fee. Is that correct?

Ms. Simon – I’m not sure at this point, Mr. Hall.

Mr. Hall – Okay. The other thing is on the Bodies Handled Reports. We’ve talked about the possibility. Could the EDRS system be pulled up to do that? I’ve been told that we can’t do that because it’s different than what we have at the Division. Is it possible for your Department, Ken, to get with them and fix it to where that could be pulled up and easily accessible?

Chair – Ms. Schwantes?

Mary Schwantes – Thank you. So, the Department has spoken with the Department of Health, Ken Jones, about the possibility of doing that. That is something that we would like to get together and talk about further, but it still will require that the Bodies Handled Report, the forms that are out there now, be completed by licensees until those changes are made, if those changes are made. That's a long way coming. I believe you said 20/21 for the next updates?

Mr. Jones – We are in the process of upgrading our system now, but if you want changes made to, I think there's four (4) reports. I don't remember the names of them, but the last time I looked there were minimal changes to meet what your forms look like. That could be done now, if you choose to do that, if they're able to be accepted. I think form number was one. If you can use a form off of my system with your form number and get it adopted, then we could work on that and try to move forward.

Ms. Schwantes – Right. So, to go back to that is going to take some more discussions with the Department of Health and internally within the Department, and then of course there will have to be rulemaking as well. So, I would just encourage licensees to continue to use the forms, as required, until those changes are made.

Mr. Hall – If we can get to that point would it allow them to access it directly from the Division? Those forms, at that point, or no?

Mr. Jones – That's up to them. My system has it. It depends on if the Division wants to house it or if they want to use it from EDRS and how it's to be completed and stored.

Ms. Schwantes – A lot of discussion still.

Mr. Hall - Okay. Just thinking this might help a lot of these areas that we're getting ready to go through on those two (2) points.

Chair – Thank you.

Ms. Simon – Mr. Chairman, if you're done, may I go back to the agenda?

Chair – I was about to go back to the agenda. Thank you. Mr. Griffin has presented the Board with a proposed Settlement Stipulation, A J Manuel Funeral Home. Is there a motion?

MOTION: Mr. Helm moved to approve the Settlement Stipulation, requiring the Respondent to pay a fine of \$300. Mr. Jones seconded the motion, which passed unanimously.

(b) A J Manuel Funeral Home, Inc.: Case No. 243599-19-FC; Division No. ATN-32413 (F081145)

Ms. Simon – Mr. Griffin?

Mr. Griffin – A. J. Manuel Funeral Home, Inc., (“Respondent”) is a funeral establishment, licensed under Chapter 497, Florida Statutes, license number F081145, in Florida City, Florida. The Department conducted an investigation and found that Respondent conducted activities licensed under Chapter 497, Florida Statutes, with an expired license, in violation of sections 497.152(5)(b), 497.380(3), Florida Statutes. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides as follows: Respondent shall pay an administrative fine in the amount of \$300.00. The Department requests that the Board accept this Settlement Stipulation.

Chair – Again, anyone representing A J Manuel Funeral Home? A J Manuel Funeral Home? Hearing no response. Board?

MOTION: Mr. Helm moved to approve the Settlement Stipulation, requiring the Respondent to pay a fine of \$300. Mr. Clark seconded the motion, which passed unanimously.

(c) Alphonso West Mortuary, Inc.: Case No. 244891-19-FC; Division No. ATN-32437 (F040607)

Ms. Simon – Mr. Griffin?

Mr. Griffin – Alphonso West Mortuary, Inc., (“Respondent”) is a funeral establishment, licensed under Chapter 497, Florida Statutes, license number F040607, in Jacksonville, Florida. The Department conducted an investigation and found that Respondent conducted activities licensed under Chapter 497, Florida Statutes, with an expired license; failed to utilize a Department approved form for its Bodies Handled Reports; and failed to produce its Bodies Handled Reports in violation of sections 497.152(5)(b), and 497.380(3), Florida Statutes. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides as follows: Respondent shall pay an administrative fine in the amount of \$300.00. The Department requests that the Board accept this Settlement Stipulation.

Chair – Thank you. Anyone here representing Alphonso West Mortuary? Alphonso West Mortuary? Hearing no response. Board?

MOTION: Mr. Jones moved to approve the Settlement Stipulation, requiring the Respondent to pay a fine of \$300. Mr. Bango seconded the motion, which passed unanimously.

(d) Cannon Funeral Home, LLC: Case No. 243574-19-FC; Division No. ATN-32426 (F275650)

Ms. Simon – Mr. Griffin?

Mr. Griffin – Cannon Funeral Home, LLC, (“Respondent”) is a funeral establishment, licensed under Chapter 497, Florida Statutes, license number F275650, in Lakeland, Florida. The Department conducted an investigation and found that Respondent conducted activities licensed under Chapter 497, Florida Statutes, with an expired license in violation of sections 497.152(5)(b), 497.380(3), Florida Statutes. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides as follows: Respondent shall pay an administrative fine in the amount of \$300.00. The Department requests that the Board accept this Settlement Stipulation.

Chair – Anyone representing Cannon Funeral Home? Cannon Funeral Home? Hearing no response.

MOTION: Mr. Hall moved to approve the Settlement Stipulation, requiring the Respondent to pay a fine of \$300. Mr. Helm seconded the motion, which passed unanimously.

(e) Dean Lopez Crematory: Case No. 243540-19-FC; Division No. ATN-32502; (F040143)

Ms. Simon – Mr. Griffin?

Mr. Griffin – Dean Lopez Crematory (“Respondent”) is a cinerator facility, licensed under Chapter 497, Florida Statutes, license number F040143, in Big Pine Key, Florida. The Department conducted an investigation and found that Respondent conducted activities licensed under Chapter 497, Florida Statutes, with an expired license in violation of sections 497.152(5)(b), 497.606(1), Florida Statutes. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides as follows: Respondent shall pay an administrative fine in the amount of \$300.00. The Department requests that the Board accept this Settlement Stipulation.

Chair – Is there anyone here representing Dean Lopez Crematory? Yes ma’am? Are you here to address the Board or merely answer questions, if there are any?

Wendy Wiener – Wendy Wiener on behalf of the licensee. Here for questions.

Chair – Thank you. Board?

MOTION: Mr. Helm moved to approve the Settlement Stipulation, requiring the Respondent to pay a fine of \$300. Mr. Jones seconded the motion, which passed unanimously.

(f) Dean Lopez Funeral Home: Case No. 243534-19-FC; Division No. ATN-32503; (F041783)

Ms. Simon – Mr. Griffin?

Mr. Griffin – Dean Lopez Funeral Home (“Respondent”) is a funeral establishment, licensed under Chapter 497, Florida Statutes, license number F041783, in Key West, Florida. The Department conducted an investigation and found that Respondent conducted activities licensed under Chapter 497, Florida Statutes, with an expired license in violation of sections 497.152(5)(b), 497.380(3), Florida Statutes. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides as follows: Respondent shall pay an administrative fine in the amount of \$300.00. The Department requests that the Board accept this Settlement Stipulation.

MOTION: Mr. Jones moved to approve the Settlement Stipulation, requiring the Respondent to pay a fine of \$300. Mr. Clark seconded the motion, which passed unanimously.

(g) Dean Lopez Funeral Home Big Pine: Case No. 243538-19-FC; Division No. ATN-32504 (F040144)

Ms. Simon – Mr. Griffin?

Mr. Griffin – Dean Lopez Funeral Home (“Respondent”) is a funeral establishment, licensed under Chapter 497, Florida Statutes, license number F040144, in Big Pine Key, Florida. The Department conducted an investigation and found that Respondent conducted activities licensed under Chapter 497, Florida Statutes, with an expired license in violation of sections 497.152(5)(b), 497.380(3), Florida Statutes. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides as follows: Respondent shall pay an administrative fine in the amount of \$300.00. The Department requests that the Board accept this Settlement Stipulation.

MOTION: Mr. Clark moved to approve the Settlement Stipulation, requiring the Respondent to pay a fine of \$300. Mr. Bango seconded the motion, which passed unanimously.

(h) Final Waters LLC d/b/a V Todd Ferreira Funeral Services: Case No. 243523-19-FC; Division No. ATN-32442 (F275058)

Ms. Simon – Mr. Griffin?

Mr. Griffin – Final Waters LLC d/b/a V Todd Ferreira Funeral Services (“Respondent”) is a funeral establishment, licensed under Chapter 497, Florida Statutes, license number F275058, in Jacksonville, Florida. The Department conducted an investigation and found that Respondent conducted activities licensed under Chapter 497, Florida Statutes, with an expired license in violation of sections 497.152(5)(b), 497.380(3), Florida Statutes. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides as follows: Respondent shall pay an administrative fine in the amount of \$300.00. The Department requests that the Board accept this Settlement Stipulation.

MOTION: Mr. Hall moved to approve the Settlement Stipulation, requiring the Respondent to pay a fine of \$300. Mr. Clark seconded the motion, which passed unanimously.

(i) Florida Keys Crematory: Case No. 243502-19-FC; Division No. ATN-32505 (F041785)

Danijela Janjic – Good afternoon. Danijela Janjic, Senior Attorney for the Department of Financial Services, Office of the General Counsel. Florida Keys Crematory (“Respondent”) is a cinerator facility, licensed under Chapter 497, Florida Statutes, license number F041785, in Big Coppitt Key, Florida. The Department conducted an investigation and found that Respondent conducted activities licensed under Chapter 497, Florida Statutes, with an expired license in violation of sections 497.152(5)(b), 497.606(1), Florida Statutes. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides as follows: Respondent shall pay an administrative fine in the amount of \$300.00. The Department requests that the Board accept this Settlement Stipulation.

MOTION: Mr. Jones moved to approve the Settlement Stipulation, requiring the Respondent to pay a fine of \$300. Mr. Bango seconded the motion, which passed unanimously.

Chair – Excuse me. Ms. Wiener, do you have any other cases coming before us today.

Ms. Wiener – I do have several, but I feel like we’re good on time right now.

Chair – Okay.

Ms. Wiener – So, I thank you very much for potential accommodation.

Chair – You’re welcome.

(j) L C Poitier Funeral Home: Case No. 243541-19-FC; Division No. ATN-32421 (F349628)

Ms. Simon – Ms. Janjic?

Ms. Janjic – L C Poitier Funeral Home (“Respondent”) is a funeral establishment, licensed under Chapter 497, Florida Statutes, license number F041918, in Pompano Beach, Florida. The Department conducted an investigation and found that Respondent conducted activities licensed under Chapter 497, Florida Statutes, with an expired license in violation of sections 497.152(5)(b), 497.380(3), and 497.382(1), Florida Statutes. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides as follows: Respondent shall pay an administrative fine in the amount of \$300.00. The Department requests that the Board accept this Settlement Stipulation.

Chair – Thank you. Welcome, Mr. Dillon. Are you here to address the Board or merely answer questions?

William Dillon – Merely answer questions.

Chair – Thank you. Board?

MOTION: Mr. Helm moved to approve the Settlement Stipulation, requiring the Respondent to pay a fine of \$300. Mr. Clark seconded the motion, which passed unanimously.

Mr. Dillon – Thank you, sir.

Chair – Thank you.

(k) Miami Funeral Services & Crematories Inc. d/b/a Auxiliadora Funeraria Nacional: Case No. 243636-19-FC; Division No. ATN-32467 (F132270)

Ms. Simon – Ms. Janjic?

Ms. Janjic – Miami Funeral Services & Crematories Inc., d/b/a Auxiliadora Funeraria Nacional (“Respondent”) is a funeral establishment licensed under Chapter 497, Florida Statutes, license number F132270. The Department conducted an inspection of Respondent. The Inspection revealed that Respondent engaged in activities licensed under Chapter 497, Florida Statutes with an expired license. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides as follows: Respondent shall pay an administrative fine in the amount of \$300.00. The Department recommends that the Board approve this Settlement Stipulation.

Chair – Are you Paul Drake, counsel for the Respondent?

Paul Drake – Yes sir.

Chair – Counsel for the Respondent?

Mr. Drake – That is correct.

Chair – Would you like to address the Board or are you merely here to answer any questions?

Mr. Drake – I’m just merely here to answer questions.

Chair – Board members?

MOTION: Mr. Jones moved to approve the Settlement Stipulation, requiring the Respondent to pay a fine of \$300. Mr. Helm seconded the motion, which passed unanimously.

Chair – Thank you.

Mr. Drake – I have one more.

(l) Miami Funeral Services & Crematories Inc. d/b/a National Funeral Homes: Case No.: 243639-19-FC; Division No. ATN-32468 (F132258)

Ms. Simon – Ms. Janjic?

Ms. Janjic – Miami Funeral Services & Crematories Inc., d/b/a National Funeral Homes (“Respondent”) is a funeral establishment, licensed under Chapter 497, Florida Statutes, license number F132258. The Department conducted an inspection of Respondent. The Inspection revealed that Respondent engaged in activities licensed under Chapter 497, Florida Statutes with an expired license. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides as follows: Respondent shall pay an administrative fine in the amount of \$300.00. The Department requests that the Board approve this Settlement Stipulation.

MOTION: Mr. Hall moved to approve the Settlement Stipulation, requiring the Respondent to pay a fine of \$300. Mr. Jones seconded the motion, which passed unanimously.

Mr. Drake – Thank you very much.

Chair – Thank you. I want to declare my affiliation with SCI Funeral Services of Florida. That affiliation in no way will affect my ability to make a fair and impartial decision on any cases coming before the Board today.

(m) SCI Funeral Services of Florida LLC/Florida Memorial d/b/a Florida Memorial Gardens: Case No. 209459-17-FC; Division No. ATN-29066 (F039510)

Ms. Simon – Mr. Griffin?

Mr. Griffin – SCI Funeral Services of Florida LLC/Florida Memorial d/b/a Florida Memorial Gardens (“Respondent”) is a cemetery company, licensed under Chapter 497, Florida Statutes, license number F039510, in Rockledge, Florida. The Department conducted an investigation and found that Respondent failed to notify the Department of a violation of Chapter 497, Florida Statutes. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides as follows: Respondent shall pay an administrative fine in the amount of \$2,500.00. The Department requests that the Board accept this Settlement Stipulation.

Chair – Ms. Wiener?

Ms. Wiener – Wendy Wiener, counsel for the Respondent, and Lisa Coney, representative of the Respondent. Here to answer questions.

Chair – Board?

Mr. Hall – I just have a few questions. Is she being prosecuted and has her preneed license been pulled?

Ms. Wiener – She is being prosecuted. SCI has taken actions so that she's no longer appointed to them.

Mr. Hall – Okay.

Ms. Wiener – She's no longer attached to SCI, so I don't know the status of her preneed license.

Lisa Coney – But charges were filed {inaudible}.

Chair – Was there restitution?

Ms. Coney – There was no discovered harm, so there was no restitution that I'm aware of.

Chair – Thank you. And how was the Division notified of this embezzlement.

Ms. Wiener – So, the Division actually became aware of it because of some press and the disciplinary stipulation is regarding the failure to report. SCI felt very strongly that the requirement to report the violation was not triggered because there was not both a serious and immediate danger, as a result of this person, because of the actions SCI took immediately, which was to turn the matter over to law enforcement, creating a law enforcement criminal record. And, also because it immediately took actions to terminate her employment and her appointment as a preneed sales agent. Unlike other statutory schemes in the state where a requirement to report is based on simply the seriousness of the matter, our statutory scheme actually says that we report serious and immediate dangers, and so the analysis that we undertook was that there was not an immediate danger. She could not further harm the funeral buying public, in her actions, and so we did not report. But, of course, as this Board is well aware, sometimes parties enter into settlements to avoid further litigation regarding the matter. So, we're before you, asking for approval of this Settlement Stipulation.

Chair – Thank you.

Mr. Helm – Mr. Chairman?

Chair – Mr. Helm?

Mr. Helm – I don't know whether this is in regard to what Mr. Hall said, but #4 of the Administrative Complaint states that she was sentenced to five (5) years of probation and ordered to pay restitution in the amount of \$22,000.

Mr. Hall – Okay. I didn't see that.

Mr. Helm – I don't know whether that got carried over or not, but that's what it says here.

Chair – Thank you.

Ms. Coney – I wasn't aware of that. We found one (1) monument that was impacted, a failure to pay as a result of her theft, and we purchased that monument for that customer in whole and refunded even the monies that she paid into it and expedited the delivery of it. So, if there were others, probably credit card implications, they were not something that I'm aware of, and probably would have been a continued Sheriff's investigation.

Mr. Jones – Mr. Chair, if I may?

Chair – Mr. Jones?

Mr. Jones – Lisa, are there checks and balances for future instances? I know you've got checks and balances all over, but I don't know how it happened, so how do we prevent it in the future?

Chair – Ms. Coney?

Ms. Coney – I can only tell you that we drown in paperwork. There are a gazillion checks and balances and the failure to deliver this monument because a portion of the payment had been taken from that monument was how this was discovered. Again, immediately enacted a full investigation and filed criminal charges against the one, sole individual responsible for this. We did not find any other harm to any of our consumers. I guess because it was it criminal report, it was a slow news day in Brevard County and some newspaper reporter saw that in a file and filed an article about it. As a result of that article even, we had zero consumer complaints. We had no other customers even come. Normally, when something is in the news about anybody your phone rings off the hook. We have not a single consumer complaint regarding this.

Mr. Jones – When do you do checks and balances?

Ms. Coney – Every day, all the time, in every aspect of the business. Absolutely sir, yes.

Mr. Jones – Thank you.

MOTION: Mr. Jones moved to approve the Settlement Stipulation, requiring the Respondent to pay a fine of \$2500. Mr. Hall seconded the motion, which passed unanimously.

(n) Stone Brothers Funeral Home Inc.: Case No. 243593-19-FC; Division No. ATN-32476 (F116115)

Ms. Simon – Ms. Janjic?

Ms. Janjic – Stone Brothers Funeral Home Inc. (“Respondent”) is a funeral establishment, licensed under Chapter 497, Florida Statutes, license number F116115, in Fort Pierce, Florida. The Department conducted an investigation and found that Respondent conducted activities licensed under Chapter 497, Florida Statutes, with an expired license in violation of sections 497.152(5)(b), 497.380(3), Florida Statutes. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides as follows: Respondent shall pay an administrative fine in the amount of \$300.00. The Department requests that the Board accept this Settlement Stipulation.

MOTION: Mr. Helm moved to approve the Settlement Stipulation, requiring the Respondent to pay a fine of \$300. Mr. Hall seconded the motion, which passed unanimously.

(o) Vior Funeral Home Inc.: Case No. 243587-19-FC; Division No. ATN-32469 (F041403)

Ms. Simon – Ms. Janjic?

Ms. Janjic – Vior Funeral Home Inc. (“Respondent”) is a funeral establishment, licensed under Chapter 497, Florida Statutes, license number F041918, in Miami, Florida. The Department conducted an investigation and found that Respondent conducted activities licensed under Chapter 497, Florida Statutes, with an expired license in violation of sections 497.152(5)(b) and 497.380(3), Florida Statutes. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides as follows: Respondent shall pay an administrative fine in the amount of \$300.00. The Department requests that the Board accept this Settlement Stipulation.

MOTION: Mr. Jones moved to approve the Settlement Stipulation, requiring the Respondent to pay a fine of \$300. Mr. Helm seconded the motion, which passed unanimously.

(p) Related Cases (Division No. ATN-29293)

i. Claude & Deliria Homes d/b/a Holmes Funeral Directors: Case No. 218173-17-FC; Division No. ATN-29293 (F041651)

Ms. Simon – Mr. Griffin?

Mr. Griffin – Respondent, at all times relevant, was licensed as a funeral establishment licensed under Chapter 497, Florida Statutes, having been issued license number F041651, doing business in Haines City, Florida. On or about August 7, 2017, the Department conducted a routine annual inspection of Respondent at its place of business. The inspection revealed that Respondent failed to practice minimum sanitary practices relating to the management of biomedical waste segregation, handling, labeling, storage, transport, and treatment, in connection with all embalmings performed by Respondent in its preparation room for April, June, and July 2017, in that storage of biomedical waste exceeded thirty (30) days.

Based on the foregoing, Respondent violated Rule 69K-21.003(7), *Florida Administrative Code*, by failing to practice minimum sanitary practices relating to the management of biomedical waste segregation, handling, labeling, storage, transport, and treatment, in connection with embalmings performed by Respondent in its preparation room for April, June, and July, 2017, by storage of biomedical waste exceeding thirty (30) days, and is therefore subject to discipline pursuant to section 497.152(1)(a), Florida Statutes.

Respondent has entered into a proposed stipulation. The proposed stipulation provides as follows: Respondent shall pay an administrative fine of \$3,000.00 and its license shall undergo a period of probation of one (1) year. The Department recommends that the Board approve this Settlement Stipulation.

Chair – Good morning, sir.

Christopher Butler – Good morning, Mr. Chair. Attorney Christopher Butler here on behalf of Deliria and Claude Holmes/Holmes Funeral Directors.

Chair – Are you of counsel?

Mr. Butler – I am counsel, yes.

Chair – Thank you. Would you like to address the Board or are you merely here to answer questions?

Mr. Butler – I’m here to answer questions.

Chair – Thank you so much. Thank you for coming.

Mr. Butler – You’re welcome. Thank you.

Chair – Board? There’s a proposed stipulation before us. Counsel is here to answer any questions. The Chair would entertain questions or a motion.

MOTION: Mr. Jones moved to approve the Settlement Stipulation, requiring the Respondent to pay a fine of \$3000 and its license shall undergo a period of probation of one (1) year. Mr. Helm seconded the motion, which passed unanimously.

Mr. Butler – Thank you.

ii. Leonardo, Alberta: Case No. 218178-17-FC; Division No. ATN-29293 (F044032)

Ms. Simon – Mr. Griffin?

Mr. Griffin – Respondent, at all times relevant, was licensed as a funeral director and embalmer, having been issued license number F044032. Respondent was the funeral director in charge (FDIC) of Holmes Funeral Directors (funeral establishment), a funeral establishment licensed under Chapter 497, Florida Statutes, license number F041651, doing business in Haines City, Florida.

On or about August 7, 2017, the Department conducted a routine annual inspection of the funeral establishment at its place of business. The inspection revealed that the funeral establishment failed to practice minimum sanitary practices relating to the management of biomedical waste segregation, handling, labeling, storage, transport, and treatment, in connection with all

embalmings performed by the funeral establishment in its preparation room for April, June, and July 2017, in that storage of biomedical waste exceeded thirty (30) days.

Based on the foregoing, the funeral establishment violated Rule 69K-21.003(7), Florida Administrative Code, by failing to practice minimum sanitary practices relating to the management of biomedical waste segregation, handling, labeling, storage, transport, and treatment, in connection with embalmings performed by Respondent in its preparation room for April, June, and July 2017, by storage of biomedical waste exceeding thirty (30) days, and is therefore subject to discipline pursuant to section 497.152(1)(a), Florida Statutes. The Respondent, as FDIC, and pursuant to section 497.380(7), Florida Statutes, is responsible for these violations.

Respondent has entered into a proposed stipulation. The proposed stipulation provides as follows: Respondent shall pay an administrative fine of \$2,000.00 and her license shall undergo a period of probation of one (1) year. The Department recommends that the Board approve this Settlement Stipulation.

Chair – Mr. Butler?

Mr. Butler – Sir Chairman, I’m here to answer questions.

Chair – Thank you.

MOTION: Mr. Helm moved to approve the Settlement Stipulation, requiring the Respondent to pay a fine of \$2000 and her license shall undergo a period of probation of one (1) year. Mr. Bango seconded the motion, which passed unanimously.

Chair – Thank you, Mr. Butler.

(q) Related Cases (Division No. ATN-29172) (Matter will be handled by a Settlement Stipulation or a Hearing Not Involving Material Facts (Section 120.57(2), F.S. Hearing)
i. Richardson Sr., Derryck Theodis Case No. 221194-18-FC; Division No. ATN-29712 (F045502)

Ms. Simon – Mr. Griffin?

Mr. Griffin – On July 25, 2018, an Administrative Complaint was filed against Derryck Theodis Richardson, Sr. (“Respondent”) alleging Respondent, as the owner and FDIC of Richardson’s Family Funeral Care Inc. (Tallahassee), sold a total of twenty-nine (29) preneed funeral contracts to Florida consumers without having a valid preneed license. Eleven (11) of these preneed funeral contracts have already been fulfilled. Also, Respondent as the owner and FDIC of Richardson’s Family Funeral Care, Inc. (Panama City) sold an additional four (4) preneed funeral contracts to Florida consumers without having a valid preneed license.

In addition, the Department previously entered a Consent Order against Respondent on December 9, 2016, in case number 197853-16-FC, for selling preneed contracts without having a valid license. Per the terms of the Consent Order, Respondent’s license was placed on probation for a period of one (1) year, and Respondent agreed not to engage in any violation of Chapter 497, Florida Statutes, and Rule Chapter 69K, Florida Administrative Code. Two (2) of the above-mentioned contracts were sold after December 9, 2016; therefore, Respondent violated an Order of the Board.

Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides as follows: Respondent’s will pay an administrative fine of two thousand five hundred dollars (\$2500) within thirty (30) days of the entry of a Consent Order in the above style cost; and Respondent’s license will be placed on probation for a period of three (3) years. During that probationary period, Respondent shall not serve as the FDIC of any funeral establishment licensed under Chapter 497, Florida Statutes, and he will not have any ownership interest in any funeral establishment licensed under Chapter 497, Florida Statutes. If the stipulation is not accepted by the Board then this matter will be resolved via a hearing not involving disputed issues of material fact pursuant to section 120.57(2), Florida Statutes. The Department requests that the Board accept this stipulation.

Chair – Ms. Wiener?

Ms. Wiener – Wendy Wiener for Respondent. Here to answer any questions and to make one (1) minor clarification. In the Administrative Complaint issued in this matter and also in the Department’s Memorandum of Law, which is a part of your Board packet, it indicates that two (2) of the preneed sales occurred after the period of probation had initiated. That is correct, but it was very shortly after that probationary period. The Administrative Complaint and the Memo of Law say that the second contract sale was in February of 2018, but on page 130 of your Board packet, you will find the Department’s investigative report and that indicates that it was 2017. So, it was very shortly after the probationary period began. Otherwise, I’m here to answer questions.

Chair – Thank you for that mitigating statement.

MOTION: Mr. Hall moved to approve the Settlement Stipulation, requiring Respondent to pay an administrative fine of two thousand five hundred dollars (\$2500) within thirty (30) days of the entry of a Consent Order in the above style case; and Respondent’s license will be placed on probation for a period of three (3) years. During that probationary period, Respondent shall not serve as the FDIC of any funeral establishment licensed under Chapter 497, Florida Statutes, and he will not have any ownership interest in any funeral establishment licensed under Chapter 497, Florida Statutes. Mr. Bango seconded the motion, which passed unanimously.

Ms. Simon – Mr. Chairman, I’m not sure if this was mentioned about the signed Settlement Stipulations. They were handed out to the Board members this morning. They were not available in your package, but they were made available this morning.

Chair – That was not mentioned.

Mr. Griffin – In the Settlement Stipulations for Richardson’s Family Funeral Care, Inc. Tallahassee and Panama City, at the start of this meeting, I passed around three (3) packets of documents, the Settlement Stipulation as well as the Board Memorandum contained within those packets.

Chair – Are there any substantial changes in what we have in our packets?

Mr. Griffin – Well, I think what you had in the packet that was delivered was the packet entered that presumed in case we went forward with the informal hearing.

Ms. Simon – They also had the stipulation in all three (3) of the cases that we’re hearing. There was a stipulation available. The only difference between the stipulation in your Board package and the one that was handed out this morning is that it was a signed copy this morning.

Chair – So, that is the only difference?

Ms. Simon – Yes sir.

Chair – Okay. Thank you for that clarification.

ii. Richardson’s Family Funeral Care, Inc. (Panama City) Case No. 221199-18-FC; Division No. ATN-29712 (F052127)

Ms. Simon – Mr. Griffin?

Mr. Griffin – Richardson’s Family Funeral Care, Inc. (Panama City) (Respondent), at all times relevant, is a Florida corporation doing business licensed under Chapter 497, Florida Statutes, and under the same name as a funeral establishment, license number F052127, in Panama City, Florida. Mr. Derryck Theodis Richardson, Sr., is the owner and FDIC of the Respondent.

On April 13, 2018, an administrative complaint was filed alleging Respondent, by and through, Mr. Richardson, Sr., or other employees, sold four (4) preneed contracts to Florida consumers without having a valid preneed license. Based on the foregoing, Respondent violated section 497.452(1)(a), and (5)(a) Florida Statutes, by making funeral arrangements for four preneed contracts without having a valid preneed license. Respondent also violated section 497.152(11)(d), Florida Statutes, by

guaranteeing the price of services at a future date without possessing a valid preneed license and is therefore subject to discipline.

Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides as follows: Respondent's license will be permanently revoked effective at 5:00 pm on September 5, 2019. If the stipulation is not accepted by the Board then this matter will be resolved via a hearing not involving disputed issues of material fact pursuant to section 120.57(2), Florida Statutes. The Department requests that the Board accept this stipulation.

MOTION: Mr. Jones moved to permanently revoke Respondent's license effective at 5:00 pm on September 5, 2019. The Department requests that the Board accept this stipulation. Mr. Bango seconded the motion, which passed unanimously.

iii. Richardson's Family Funeral Care, Inc. (Tallahassee) Case No. 221178-18-FC; Division No. ATN-29712 (F055378)

Ms. Simon – Mr. Griffin?

Mr. Griffin – Richardson's Family Funeral Care, Inc. (Tallahassee) is a funeral establishment, licensed under Chapter 497, Florida Statutes, license number F055378. On July 25, 2018, the Department filed an Administrative Complaint against Richardson's Family Funeral Care, Inc. ("Respondent") alleging Respondent, by and through, Derryck Theodis Richardson, Sr., and/or other employees, sold twenty-nine (29) preneed contracts to Florida consumers without having a valid preneed license. In addition, the Department previously entered a Consent Order against Respondent on December 12, 2016, in case number 197852-16-FC, for selling preneed contracts without having a valid license. Per the terms of the Consent Order, Respondent's license was placed on probation for a period of one (1) year, and Respondent agreed not to engage in any violation of Chapter 497, Florida Statutes, and Rule Chapter 69K, Florida Administrative Code. Two (2) of the abovementioned contracts were sold after December 12, 2016; therefore, Respondent has violated an Order of the Board.

Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides as follows: Respondent's license will be permanently revoked effective at 5:00 pm on September 5, 2019. If the stipulation is not accepted by the Board then this matter will be resolved via a hearing not involving disputed issues of material fact pursuant to section 120.57(2), Florida Statutes. The Department requests that the Board accept this stipulation.

MOTION: Mr. Helm moved to permanently revoke Respondent's license effective at 5:00 pm on September 5, 2019. The Department requests that the Board accept this stipulation. Mr. Clark seconded the motion, which passed unanimously.

Ms. Anderson – Mr. Chairman?

Chair – Yes?

Ms. Anderson – I served on Probable Cause Panel B and will recuse myself.

Chair – Thank you so much for that declaration.

*(2) Probable Cause Panel B
(a) Heath Funeral Chapel, Inc.: Case No. 243577-19-FC; Division No. ATN-32424 (F070575)*

Ms. Simon – Mr. Griffin?

Mr. Griffin – Heath Funeral Chapel, Inc. ("Respondent") is currently licensed under Chapter 497, Florida Statutes, as a funeral establishment, license number F070575, and is doing business in Lakeland, Florida. The Division conducted an investigation of Respondent and alleges the following: On November 30, 2018, Respondent's license as a removal facility expired and was not renewed until January 9, 2019. Based on the foregoing, Respondent violated sections 497.152(5)(b) and 497.380(3), Florida Statutes by operating a funeral establishment, without holding a valid license, and is therefore subject to discipline. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides as follows: Respondent shall pay an administrative fine of \$300.00. The Department recommends that the Board approve this Settlement Stipulation.

Chair – Mr. Grabowski?

Luke Grabowski – Yes, Mr. Chair?

Chair – Would you like to address the Board. I’m sorry I didn’t recognize you earlier.

Mr. Grabowski – No problem. I’m just here to answer questions.

Chair – Thank you so much.

Mr. Grabowski – Thank you.

Chair – Thank you for being here.

MOTION: Mr. Knopke moved to approve the Settlement Stipulation, requiring the Respondent to pay a fine of \$300. Mr. Jones seconded the motion, which passed unanimously.

(b) Heath Funeral Chapel Inc. d/b/a Polk County Crematory: Case No. 243580-19-FC; Division No. ATN-32425 (F070576)

Ms. Simon – Ms. Janjic?

Ms. Janjic – Heath Funeral Chapel, Inc. d/b/a Polk County Crematory (“Respondent”) is currently licensed under Chapter 497, Florida Statutes, as a cinerator facility, license number F070576, and is doing business in Lakeland, Florida. The Division conducted an investigation of Respondent and alleges the following: On November 30, 2018, Respondent’s license as a cinerator facility expired and was not renewed until January 9, 2019. The Division’s inspection also revealed that Respondent was not using a Department approved form for its Bodies Handled Reports. Based on the foregoing, Respondent violated sections 497.152(5)(b) and 497.380(3), Florida Statutes by operating a cinerator facility, without holding a valid license, and is therefore, subject to discipline. In addition, Respondent violated sections 497.152(1)(a), and 497.382(1), Florida Statutes, by failing to utilize a Department authorized form for its Bodies Handled Reports and is therefore subject to discipline.

Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides as follows: Respondent shall pay an administrative fine of \$300.00. Respondent also acknowledges licensees are to use Department approved Bodies Handled Reports. The Department recommends that the Board approve this Settlement Stipulation.

Mr. Grabowski – Mr. Chair, I’m just here to answer questions.

Chair – Thank you so much.

MOTION: Mr. Knopke moved to approve the Settlement Stipulation, requiring the Respondent to pay a fine of \$300. Mr. Clark seconded the motion, which passed unanimously.

Mr. Grabowski – Thank you.

(c) Related Items – Work & Son, Inc. (One Motion for All Work & Son Items)
i. Work & Son – Osiris, Inc. d/b/a Royal Palm North Cemetery: Case No. 211905-17-FC; Division No. ATN-28655 (F039668)

Mr. Griffin – Work & Son–Osiris, Inc. d/b/a Royal Palm North Cemetery (“Respondent”) is a cemetery, licensed under Chapter 497, Florida Statutes, license number F039668, in St. Petersburg, Florida. Respondent is owned by Cliff Work. Cliff Work also owns Work & Son–Royal Palm Acquisitions d/b/a Royal Palm South (“Royal Palm South”), a cemetery, licensed under Chapter 497, Florida Statutes, license number F039669; and Work & Son–Sarasota Memorial, Inc. d/b/a Sarasota Memorial Park (“Sarasota Memorial”), a cemetery licensed under Chapter 497, Florida Statutes, license number F039746.

The Department conducted a financial examination of Respondent for the period of March 1, 2002, through March 31, 2017. The financial examination revealed that respondent was deficient in its contributions to its Care and Maintenance Trust Fund. The Department also conducted parallel financial examinations of Sarasota Memorial, Inc. and Royal Palm South. The parallel financial examinations revealed that they also were deficient in their contributions to their respective Care and Maintenance Trust Funds. On October 25, 2018, the Probable Cause Panel found that probable cause existed for the filing of an Administrative Complaint in the above referenced cause. There is one additional open case against Respondent that alleges that Respondent has been deficient in complying with the care and maintenance of its premises.

On November 18, 2018, Respondent and Work & Son, Inc.; Work & Son–Kraeer Holdings, Inc.; Work & Son–Memorial Services, Inc.; Royal Park South; and Sarasota Memorial (“Work & Son Entities”) filed voluntary petitions for Chapter 11 Bankruptcy in the United States Bankruptcy Court for the Middle District of Florida, Tampa Division. Pursuant to 11 U.S.C. § 362(a)(1) the Work & Son Entities petition for Chapter 11 Bankruptcy institutes an automatic stay of administrative proceedings. However, pursuant to 11 U.S.C. § 362(b)(4), there is an exception for actions conducted under a government agency’s police or regulatory power provided that the action is not for the enforcement of a monetary judgment. On March 6, 2019, the Bankruptcy Court appointed Stan Murphy, as Trustee for the Work & Son Entities.

On February 7, 2019, the Department filed a one count Administrative Complaint against Respondent making the same allegations that were presented to the October 25, 2018, Probable Cause Panel. Sometime between the date of the financial examinations and the date of the filing of this memorandum, Cliff Work deposited approximately \$275,00.00 into the Care and Maintenance Trust Fund for Sarasota Memorial. This amount is more than sufficient to cover the observed deficiencies in Respondent’s, Royal Palm South’s, and Sarasota Memorial’s Care and Maintenance Trust Funds. Because the exception to the automatic stay only allows the Department to proceed in this matter to enforce compliance with Florida Statutes and Florida Administrative Code and not for the enforcement of a monetary judgment, the Department is not seeking the imposition of a fine as a term of the Stipulation. Additionally, the Department is of the opinion that imposition of a fine in this case would run counter to the Department’s ultimate goal to see that Respondent is in compliance not just with its contributions to its Care and Maintenance Trust Fund, but also to its obligations to the care and maintenance of its premises. The Stipulation contemplates that Respondent will place an amount of money in its Care and Maintenance Trust Fund, from the Sarasota Memorial overage, that should make Respondent compliant with its Care and Maintenance Trust Fund obligations as of January 1, 2019.

Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides as follows:

- Sarasota Memorial Park will transfer \$23,438.58 from the principal of its Care and Maintenance Trust Fund into Respondent’s Care and Maintenance Trust Fund
- Respondent will be placed on two (2) years of probation
- Cliff Work is prohibited from exercising control over Respondent’s Care and Maintenance Trust Fund
- Respondent will make timely remittances to its Care and Maintenance Trust Fund
- Respondent acknowledges the requirements of section 497.268, Florida Statutes, and Rule 69K-7.001, Florida Administrative Code.

Respondent has entered into this stipulation on the precondition that the stipulations in case number, 222128-18-FC, involving Royal Palm South, and case number 222123-18-FC, involving, Sarasota Memorial, are approved and accepted by the Board. Because of the nature of the bankruptcy proceedings this stipulation must be approved by both the Board and the Bankruptcy Court. If the Board accepts the terms of this stipulation, Respondent will present the terms of the stipulation before the Bankruptcy Court. If the Bankruptcy Court accepts the terms of the stipulation, then a Consent Order adopting the terms of the Stipulation will be entered within ten (10) days of a Final, Non-Appealable Order by the Bankruptcy Court approving the terms of the stipulation. The Department respectfully requests that you approve the stipulation in this case as well as the stipulations in case number 222128-18-FC, involving Royal Palm South, and case number 222123-18-FC, involving, Sarasota Memorial.

ii. Work & Son – Royal Palm Acquisition d/b/a Royal Palm South: Case No. 222128-18-FC; Division No. ATN-29005 (F039669)

Mr. Griffin – Work & Son – Royal Palm Acquisition d/b/a Royal Palm South (“Respondent”) is a cemetery, licensed under Chapter 497, Florida Statutes, license number F039669, in St. Petersburg, Florida. Respondent is owned by Cliff Work. Cliff

Work also owns Work & Son – Osiris, Inc. d/b/a Royal Palm North Cemetery (“Royal Palm North”), a cemetery, licensed under Chapter 497, Florida Statutes, license number F039668; and Work & Son – Sarasota Memorial, Inc. d/b/a Sarasota Memorial Park (“Sarasota Memorial”), a cemetery, licensed under Chapter 497, Florida Statutes, license number F039746.

The Department conducted a financial examination of Respondent for the period of March 1, 2002, through May 31, 2017. The financial examination revealed that respondent was deficient in its contributions to its Care and Maintenance Trust Fund. The Department also conducted parallel financial examinations of Sarasota Memorial, Inc. and Royal Palm North. The parallel financial examinations revealed that they also were deficient in their contributions to their respective Care and Maintenance Trust Funds. On October 25, 2018, the Probable Cause Panel found that probable cause existed for the filing of an Administrative Complaint in the above referenced cause. There are two additional open cases against Respondent that allege that Respondent has been deficient in complying with the care and maintenance of its premises.

On November 18, 2018, Respondent and Work & Son, Inc.; Work & Son – Kraeer Holdings, Inc.; Work & Son – Memorial Services, Inc.; Royal Park North; and Sarasota Memorial (“Work & Son Entities”) filed voluntary petitions for Chapter 11 bankruptcy in the United States Bankruptcy Court for the Middle District of Florida, Tampa Division. Pursuant to 11 U.S.C. § 362(a)(1) the Work & Son Entities petition for Chapter 11 bankruptcy institutes an automatic stay of administrative proceedings. However, pursuant to 11 U.S.C. § 362(b)(4), there is an exception for actions conducted under a government agency’s police or regulatory power provided that the action is not for the enforcement of a monetary judgment. On March 6, 2019, the Bankruptcy Court appointed Stan Murphy, as Trustee for the Work & Son Entities. On February 7, 2019, the Department filed a one count Administrative Complaint against Respondent making the same allegations that were presented to the October 25, 2018, Probable Cause Panel.

Sometime between the date of the financial examinations and the date of the filing of this memorandum Cliff Work deposited approximately \$275,000.00 into the Care and Maintenance Trust Fund for Sarasota Memorial. This amount is more than sufficient to cover the observed deficiencies in Respondent’s, Royal Palm North’s, and Sarasota Memorial’s Care and Maintenance Trust Funds. Because the exception to the automatic stay only allows the Department to proceed in this matter to enforce compliance with Florida Statutes and Florida Administrative Code and not for the enforcement of a monetary judgment, the Department is not seeking the imposition of a fine as a term of the Stipulation. Additionally, the Department is of the opinion that imposition of a fine in this case would run counter to the Department’s ultimate goal is to see that Respondent is in compliance not just with its contributions to its Care and Maintenance Trust Fund, but also to its obligations to the care and maintenance of its facility. The Stipulation contemplates that Respondent will place an amount of money in its Care and Maintenance Trust Fund, from the Sarasota Memorial overage, that should make Respondent compliant with its Care and Maintenance Trust Fund obligations as of January 1, 2019.

Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides as follows:

- Sarasota Memorial Park will transfer \$100,928.18 from the principal of its Care and Maintenance Trust Fund into Respondent’s Care and Maintenance Trust Fund
- Respondent will be placed on two (2) years of probation
- Cliff Work is prohibited from exercising control over Respondent’s Care and Maintenance Trust Fund
- Respondent will make timely remittances to its Care and Maintenance Trust Fund,
- Respondent acknowledges the requirements of section 497.268, Florida Statutes, and Rule 69K-7.001, *Florida Administrative Code*.

Respondent has entered into this Stipulation on the precondition that the Stipulations in case number 211905-17-FC, involving Royal Palm North, and case number 222123-18-FC, involving, Sarasota Memorial, are approved and accepted by the Board. Because of the nature of the bankruptcy proceedings this Stipulation must be approved by both the Board and the Bankruptcy Court. If the Board accepts the terms of this Stipulation, Respondent will present the terms of the Stipulation before the Bankruptcy Court. If the Bankruptcy Court accepts the terms of the Stipulation, then a Consent Order adopting the terms of the Stipulation will be entered within ten (10) days of a final, non-appealable order by the Bankruptcy Court approving the terms of the Stipulation. The Department respectfully requests that you approve the Stipulation in this case as well as the Stipulation in case number 211905-17-FC, involving Royal Palm North, and case number 222123-18-FC, involving, Sarasota Memorial.

iii. Work & Son – Sarasota Memorial, Inc. d/b/a Sarasota Memorial Park: Case No.: 222123-18-FC; Division No. ATN-29848 (F039746)

Mr. Griffin – Work & Son – Sarasota Memorial, Inc. d/b/a Sarasota Memorial Park (“Respondent”) is a cemetery, licensed under Chapter 497, Florida Statutes, license number F039746, in Sarasota, Florida. Respondent is owned by Cliff Work. Cliff Work also owns Work & Son – Osiris, Inc. d/b/a Royal Palm North (“Royal Palm North”), a cemetery, licensed under Chapter 497, Florida Statutes, license number F039668; and Work & Son – Royal Palm Acquisition d/b/a Royal Palm South Cemetery (“Royal Palm South”), a cemetery, licensed under Chapter 497, Florida Statutes, license number F039669.

The Department a financial examination of Respondent for the period of February 1, 2002, through August 31, 2017. The financial examination revealed that respondent was deficient in its contributions to its Care and Maintenance Trust Fund. The Department also conducted parallel financial examinations of Royal Palm South and Royal Palm North. The parallel financial examinations revealed that they also were deficient in their contributions to their respective Care and Maintenance Trust Funds. On October 25, 2018, the Probable Cause Panel found that probable cause existed for the filing of an Administrative Complaint in the above referenced cause. There are four other open cases against Respondent that allege that Respondent has been deficient in complying with the care and maintenance of its premises.

On November 18, 2018, Respondent and Work & Son, Inc.; Work & Son – Kraeer Holdings, Inc.; Work & Son – Memorial Services, Inc.; Royal Park North; and Royal Palm South (“Work & Son Entities”) filed voluntary petitions for Chapter 11 bankruptcy in the United States Bankruptcy Court for the Middle District of Florida, Tampa Division. Pursuant to 11 U.S.C. § 362(a)(1) the Work & Son Entities petition for Chapter 11 bankruptcy institutes an automatic stay of administrative proceedings. However, pursuant to 11 U.S.C. § 362(b)(4), there is an exception for actions conducted under a government agency’s police or regulatory power provided that the action is not for the enforcement of a monetary judgment. On March 6, 2019, the Bankruptcy Court appointed Stan Murphy, as Trustee for the Work & Son Entities.

On February 7, 2019, the Department filed a one count Administrative Complaint against Respondent making the same allegations that were presented to the October 25, 2018, Probable Cause Panel. Sometime between the date of the financial examinations and the date of the filing of this memorandum Cliff Work deposited approximately \$275,000.00 into Respondent’s Care and Maintenance Trust Fund. This amount is more than sufficient to cover the observed deficiencies in Respondent’s, Royal Palm North’s, and Royal Palm South’s Maintenance Trust Funds. Because the exception to the automatic stay only allows the Department to proceed in this matter to enforce compliance with Florida Statutes and Florida Administrative Code and not for the enforcement of a monetary judgment, the Department is not seeking the imposition of a fine as a term of the Stipulation. Additionally, the Department is of the opinion that imposition of a fine in this case would run counter to the Department’s ultimate goal of Respondent’s compliance not just with its contributions to its Care and Maintenance Trust Fund, but also to its obligations to the care and maintenance of its facility. The Stipulation contemplates that Respondent will take money from the overage in its Care and Maintenance Trust Fund and transfer it into the Care and Maintenance Trust Funds for Royal Palm North and Royal Palm South. This will cure the deficiencies in Royal Palm North and South’s Care and Maintenance Trust Funds and place all three Care and Maintenance Trust Funds into compliance as of January 1, 2019.

Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides as follows:

- Respondent will transfer \$100,928.18 from the principal of its Care and Maintenance Trust Fund into Royal Palm South’s Care and Maintenance Trust Fund
- Respondent will transfer \$23,438.58 from the principle of its Care and Maintenance Trust Fund into the Royal Palm North’s Care and Maintenance Trust Fund
- Respondent will be placed on two (2) years of probation, Cliff Work is prohibited from exercising control over Respondent’s Care and Maintenance Trust Fund
- Respondent will make timely remittances to its Care and Maintenance Trust Fund,
- Respondent acknowledges the requirements of section 497.268, Florida Statutes, and Rule 69K-7.001, *Florida Administrative Code*.

Respondent has entered this Stipulation on the precondition that the Stipulations in case number 211905-17-FC, involving Royal Palm North, and case number 222128-18-FC, involving, Royal Palm South, are approved and accepted by the Board.

Because of the nature of the bankruptcy proceedings this Stipulation must be approved by both the Board and the Bankruptcy Court. If the Board accepts the terms of this Stipulation, Respondent will present the terms of the Stipulation before the Bankruptcy Court. If the Bankruptcy Court accepts the terms of the Stipulation, then a Consent Order adopting the terms of the Stipulation will be entered within ten (10) days of a final, non-appealable order by the Bankruptcy Court approving the terms of the Stipulation. The Department respectfully requests that you approve the Stipulation in this case as well as the Stipulation in case number 211905-17-FC, involving Royal Palm North, and case number 222128-18-FC, involving Royal Palm South.

iv. Petition of Chapter 11 Trustee for Work & Son, Inc. for Disbursement of Trust Investment Option Funds

Withdrawn from the agenda.

v. Petition of Chapter 11 Trustee for Work & Son, Inc. for Refund of Excess Care & Maintenance Trust Contributions

Ms. Simon – Mr. Griffin?

Mr. Griffin – Just as a housekeeping matter, I don't know if it's been reflected, but there are five (5) things contained in this subsection. I believe that in matter number iv, they would request to move it to the October Board meeting, not this Board meeting.

Chair – Which one?

Mr. Griffin – Number iv: Petition of Chapter 11 Trustee for Work & Son, Inc. for Disbursement of Trust Investment Option Funds.

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

Robert Wahl – My name is Robert Wahl. I'm the attorney for the Chapter 11 Trustee, Stanley Murphy. This is Nicholas Krohn with the Trustee's Office.

Ms. Simon – Is it your intent to withdraw that motion?

Mr. Wahl – Not withdraw it but to continue it over.

Ms. Simon – Withdraw it from today's agenda?

Mr. Wahl – Correct.

Ms. Simon – Thank you.

Chair – Thank you. Gentleman? You are?

Mr. Wahl - My name is Robert Wahl and I'm the Chapter 11 Trustee's attorney.

Chair – Right, and?

Nicholas Krohn – My name's Nick Krohn and I represent the Trustee, Stan Murphy.

Mr. Wahl – He's with the Trustee's Office.

Mr. Krohn – Yes.

Chair – Thank you. Are you of counsel?

Mr. Krohn – I am not. He’s my counsel.

Mr. Wahl – I’m the attorney. He’s actually with the Trustee’s Office.

Chair – Okay. Thank you. Would you like to address the Board?

Mr. Wahl – Your Honor, with regard to the stipulations, we’re here to answer any questions that you have. I think that Mr. Griffin accurately reflected the stipulation.

Chair – Thank you. Board?

Mr. Helm – May I ask a question?

Chair – Please, Mr. Helm.

Mr. Helm – Does Mr. Work have any say in any decisions being made now?

Mr. Wahl – With regards to the trust funds?

Mr. Helm – With regards to anything.

Mr. Wahl – Your Honor, he has been approved by the Bankruptcy Court to be employed. He does not have management authority, but he is employed by the Trustee with Bankruptcy Court approval concerning historical and operational functions, but he has no control over accounts, funds, and ultimately the Chapter 11 Trustee is the responsible party.

Chair – Thank you.

Mr. Knopke – Mr. Chair?

Chair – Mr. Knopke?

Mr. Knopke – First, let me disclose that I sit on the City of Temple Terrace’s Code Enforcement Board, not that it has anything to do with this thing. There’s a gentleman on that board by the name David {inaudible}. He has mentioned this matter, in general sense, to others sitting around him from time to time. I just want to make it clear that whatever decision is made today, I can make a fair and impartial one, because I’ve not heard anything that interested me and so forth just in case that’s an issue. A couple of other questions that I do have. One involves Mr. Work. Does he have any sales responsibility? Does he meet with the public at this time?

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

Mr. Krohn – Sure.

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

Mr. Krohn – Yes.

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

Mr. Krohn – My name is Nicholas Krohn.

Ms. Simon – Mr. Knopke?

Mr. Knopke – Thank you. Does he have any contact with the public on a day to day basis?

Mr. Krohn – I believe I'd say he would, yes. As far as sales information, I believe he has staff that handles that at each of the locations, so I don't know if he necessarily meets with the sales. If more that come in at once, he might, if there's an overflow.

Mr. Knopke – Does he direct the grounds maintenance still?

Mr. Krohn – He does.

Mr. Knopke – In reading the package, it was the first time I heard Work & Son Kraeer Holdings. What is that (inaudible)

Mr. Krohn – That is a funeral home in Clearwater. Strictly a funeral home. It doesn't have a park associated with it, as far as Royal Palm North, South and Sarasota.

Mr. Knopke – So, all of this takes in the entire Work empire, per se?

Mr. Krohn – Correct. The stipulation, yes, as far as...

Mr. Wahl – They were filed as separate bankruptcy cases for each of the entities. The Bankruptcy Court substantively consolidated them into the Work & Son, which was the management company, into the case for all purposes, so right now, the case is operating as a single bankruptcy case.

Mr. Knopke – Okay. In looking through the three (3) proposed Settlement Stipulations, if my addition is correct, what you've stated, there's \$23, 438 that you want to move from Sarasota to Royal Palm North and make it whole?

Mr. Krohn – Correct.

Mr. Knopke – We can be approximate here. You're proposing to move in the next document or another document, \$100,928 and change to Royal Palm South?

Mr. Krohn – Correct.

Mr. Knopke – So, is it safe to assume that the deficit at Sarasota Memorial is \$124k and change?

Mr. Krohn – The original deficit, from the result of the audit examination, but since the inclusion of the deposit of the \$275k, plus additional funds that were deposited into Sarasota and the other three (3). Now Sarasota has, which we'll discuss later, a considerable excess, so it's able to redistribute those funds to the other two (2) care and maintenance accounts to make those whole and still have enough to satisfy its obligations, as far as the trust fund is considered.

Mr. Knopke – What was its obligation before the infusions of the \$275k?

Mr. Krohn – For Sarasota?

Mr. Knopke – Right.

Mr. Krohn – I think it was \$136k deficit.

Mr. Knopke – Okay.

Mr. Krohn – So, I had \$275k and a little bit of change, as a whole, for all three (3) cemeteries for all the care and maintenance funds.

Mr. Knopke – One of the alarming parts, when I first started reading it, and it may have been Mr. Griffin's or everybody's write-up together, was the inability to tell us when he made that deposit.

Mr. Krohn – There were two (2) deposits. There was an infusion of cash in January 2018, of \$275k that came from some life insurance policies. I don't think they were redeemed by him. I think they were forcefully redeemed by the insurer, that are linked to just Sarasota, so it was backfilled to just Sarasota. Then, in April 2018, Cliff himself did take money out of the earnings account, the care and maintenance earnings that accumulated over a few years, and he backfilled into each of the care and maintenance funds for South, North, and Sarasota, but he divided them up for what he thought was the shortfall or what he thought was the deficit, but it was enough, so that's why there is additional to be distributed from Sarasota.

Mr. Knopke – For the life insurance policies, are those mentioned in #4 that's been tabled?

Mr. Krohn – Yes sir.

Mr. Knopke – Okay. That money that he took, was it because those were being delivered or had been previously delivered? Had the death occurred or we got a different issue here?

Mr. Krohn – He does not know anything about that, I assume, because it was the insurer that forcefully redeemed. From my discussions with the insurer, they from time to time go through like a death master match and see if the insurer has deceased. So, when they pushed that info, he had nothing to do with that.

Mr. Knopke – He just got a check in the mail.

Mr. Krohn – He didn't get a check in the mail. It just went right from them right to our depository and just went right into the account.

Mr. Wahl – To FSI.

Mr. Krohn – To FSI, correct. I'm sorry.

Mr. Knopke – It went to FSI, then FSI would then have asked, I'm sure.

Mr. Krohn – Yes. This was January 2018. Yes.

Mr. Knopke – If we approve all of this today and this money gets moved to the various trust funds to make them whole, that doesn't go to anything to resolve consumer complaints, at this point. Does it?

Mr. Krohn – You're talking about maintenance issues, correct?

Mr. Knopke – Yes. Consumer complaints in general. Whether it be markers being found, or grass being mowed.

Mr. Wahl – That would be true, that the three (3) stipulations would cure the complaints concerning the care and maintenance deficiencies and the moving about. The one Petition that still is up before the Board relates to these stipulations as well, because even after the stipulations, if they are approved, will still leave about \$160k excess, overfunding in care and maintenance trust at Sarasota. The Petition asks for the return of the excess, the \$160k excess. The Trustee has a lot of maintenance issues to deal with, in this case. For example, one of the mausoleums, which is the subject of several complaints, at Royal Palm North, has water intrusion problems, problems with the roof. We have retained, with Bankruptcy Court approval, an architect engineering firm and the initial report was that it was going to cost three-quarters of a million dollars to fix the roofing issues on the mausoleums at Royal Palm South. An engineer is out there today, a structural engineer, looking at that. Obviously, the bankruptcy estate does not have sufficient funds, three-quarters of a million dollars, to do all this work. That is why the \$160k funds are desperately needed to help fund that. Now, we believe or are hoping that through value engineering and bidding process that that three-quarters of a million dollars is a high number by the architect. We're really crossing our fingers on that one. But there still are other mausoleums, and there's other maintenance issues that all require the funding to do that, at the various locations. That's why in the Petition we're seeking to have the \$160k. I think it still would leave an excess funding at Sarasota of like \$3000 to be able to use to help cure the maintenance issues that are the subject of these other complaints at the other three (3) cemeteries.

Mr. Knopke – Okay. I'll pass for the moment, Mr. Chair.

Chair – Thank you.

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

Chair – Yes sir?

Mr. Clark – I know the stipulation says that Mr. Work won't have any control over care and maintenance. Who has control over that \$160k? Because maintenance falls under operations and you just said Mr. Work's over operations.

Mr. Wahl – Well, the funds, all bank accounts, only the Trustee has signing authority. So, Mr. Work cannot access those funds. Only the Trustee can do that.

Mr. Clark – So the \$160k is still under...

Mr. Wahl – Well, let's assume that you all approve the Petition for the \$160k. That would then be turned over to the Trustee. It would be placed into an account and only the Trustee can sign for that. Is that correct?

Mr. Krohn – Yes.

Mr. Wahl – Mr. Work would not access that \$160k.

Mr. Clark – Okay.

Mr. Krohn – If he wants \$5 to buy something, he always has to ask for our approval, because he has no authority spend any money.

Mr. Wahl – So that the Board understands the bankruptcy process, the bankruptcy estate is going to incur any costs that would not be considered ordinary course of business. We have to go to the Bankruptcy Court and get approval for that. So, if we ultimately do the mausoleum, send it out to contract, we would have to get Bankruptcy Court approval to enter into that contract to spend the care and maintenance funds to do that work. Now, paying an ordinary course of business would be payroll for the people that are out there currently doing the mowing and the things like that, but any extraordinary thing, we have to go back to the Bankruptcy Court to get approval. So, to answer your question, Mr. Work has no control over the funds.

Mr. Clark – Thank you.

Chair – Mr. Knopke?

Mr. Knopke – How have you determined that there's an excess of \$160k in the Care and Maintenance Trust Fund?

Mr. Griffin – Within the Board packet, in addition to the Settlement Stipulation, there should be a chart. If you'll direct your attention to that. What we did is to calculate these values and figure out that there is that excess, is starting at the left column, we observed the amount that was in each trust, on the date of the financial examination.

Chair – I believe that electronic page 21.

Mr. Griffin – And this chart is contained in all three (3) of the stipulation packets.

Chair – It has the three (3) entities listed on the left.

Mr. Griffin – So, the column that has the superscript "a", that was the amount of money that was observed in each of the trust accounts at the time of the financial examinations. The column that's superscript "b" is the amount of the deficiency that was observed based on the financial examination. The third column (superscript "c") is what should have been in the account at the time of the examination which was derived from adding the first two (2) columns together. Superscripts "d" and "e", the

Department looked at the workpapers for the remainder of 2017, as well as the workpapers for 2018 to determine how much should have been deposited in the trust funds for those two (2) years. Adding superscripts "c", "d", and "e" yields the amount of money that should have been in the account basically as of January 1, 2019 (superscript "f"). The column that's labeled superscript "g" is the account balance that was in each of the trust accounts as of January 14, 2019. And then, the final column takes the amount that's actually in the account minus the correct amount, and that's how we arrived at these numbers. So, as you can see, Sarasota Memorial Park, as of the date of this calculation, which we did about a month ago, Sarasota Memorial has an excess of \$284k; Royal Palm South has a deficiency of \$100k; and Royal Palm North has a deficiency of \$23k. So, if you add the deficiencies and subtract them from the overage, that's how they're deriving that number.

Chair – Thank you for that explanation.

Mr. Knopke – Back to the question then. Back to the beginning of time, who has checked to see if the deposits were ever made?

Mr. Krohn – Clarify which time period.

Mr. Knopke – The start of the cemetery. Not Mr. Work, but when Mr. Montgomery or whoever else owned it before that.

Mr. Wahl – Your honor, my understanding is that Mr. Work acquired the cemeteries out of a bankruptcy that was pending in Delaware. He acquired those in 2002. So, prior to 2002, we don't have any records. After 2002, Cliff would have been the one that would have been dealing with the trust accounts or providing the money to FSI.

Mr. Knopke – Okay. Let me think about that for a minute. He accepted those and bought them in bankruptcy?

Mr. Wahl – Correct.

Mr. Knopke – Okay. And what you're saying is at that time, if there were any deficits they were there and he's not responsible for those?

Mr. Krohn – I wouldn't say that if he's responsible. I would assume that back in the early 2000s or late '90s, the same type of audit examinations or financial examinations were going on by the Department. So, if there was a deficiency or some type of shortfall then, hopefully it would have been cured by the predecessor debtor.

Mr. Knopke – I'm not drilling, I'm just asking. It's been the practice of this Board and the previous one that did the same thing, just a little bit different, not to give excess of care funds at all. Simply from the standpoint if we ask for an exam or somebody to reconcile back to day one to make sure all the money and earnings were really there. In this case, I'm fairly confident in saying, and maybe the Department can find those records, and maybe they don't exist any longer, that Cliff agreed to what he acquired. To make the deposits going forward, but take responsibility for past actions. That brings me circle back to the question. Have we gone backwards at all other than back to Cliff Work in 2002?

Mr. Griffin – I think that that would kind of be outside the scope. This investigation, this file what we're here for is only for the 2002 to 2017. So, in at least, with relation to the stipulations, that's outside of what the Department investigated.

Mr. Knopke – But, Mr. Griffin, when we sit here on a different note, in an acquisition, one of the things we ask for preneed trusts is does the new purchaser agree to honor all those old trusts. Whether there's dollars there or not. Now, we don't ask them to go back and put the money in, but they accept that responsibility. Here, and I'm not opposed to giving the money, make sure you understand that. I just want to make sure that there's going to be adequate money for whoever buys to care for this down the way. Trust funds struggle every day other than through a special trust with earnings. Earnings right now are low. I run a cemetery. I've seen the impact of those. The expenses go up. In this case, it's a very unique situation in that it's not had much care for years and there's a lot to do and you all need money. I just don't want us today to band-aid something in order to kick the ball down the street to leave it to somebody else, because it'll eventually end up back here. Whether you all will be back or whether any of us will sit here, but somebody will be working with the same decision.

Mr. Wahl – Let me address that. Obviously, a Chapter 11 Trustee in a bankruptcy is not going to be the ultimate person who forever runs or acquires the bankruptcy. What our purpose is in a Chapter 11 is to ultimately find a buyer for the cemeteries and propose a plan of liquidation using the proceeds from the sale of the facilities to make distributions in accordance with the bankruptcy code. I would assume that the condition of the property and the trust issues will play material fact in any purchaser's decision on how they're going to pay for these parks. So, whether we can get all these maintenance issues fixed before a sale? I don't know. We don't know if we have the funds that will be available, but ultimately, the purchaser will have to do its due diligence to find out of what extent what there is. They'll go to the parks, I'm sure, and look at matters. My understanding is its going to require Board approval for the transfer of the facilities, I would assume, so the buyer's going to have to meet your approval of whatever your criteria is. If I had a crystal ball, that's how I would see all of this process working out. So, right now, we're trying to see what funds we have, to see what we can cure these maintenance issues, because obviously the more maintenance issues that we can cure, the better the price we're going to get for the sale of the property.

Mr. Knopke – That's all for the moment.

Chair – Mr. Hall?

Mr. Hall – I have a couple questions. Is it my understanding that the Sarasota Park now is completely sold out? There's no availability, no lots there?

Mr. Krohn – No, there are lots.

Mr. Hall – There are lots?

Mr. Krohn – There's not as much as say the other parks, but there are some lots available. Yes sir.

Mr. Hall – I was thinking that in the past that they explained to us that they even removed some roads and stuff to make available lots but I was of the understanding basically that there was no potential income from it, so, it was going to take this trust to take care of it, maintenance wise.

Mr. Krohn – I understand. In the few months that we've been in charge, and from my visit to Sarasota Memorial Park, and talking with Cliff and going through, there is availability. I wouldn't say that there's thousands and thousands of lots, but there are some, because it is a smaller park. From what I've seen and from what he's told me, not to my knowledge that they've had to remove any roads or anything inside to make availability.

Mr. Hall – Am I able to ask Mr. Williams a question? I think he may remember from the past. In reference to those insurance policies, Mr. Williams, I think it was explained maybe even by Wendy when she was representing them, that there was some trust money taken out, it was a strange set up, to purchase some insurance policies. Is that what they're referring to?

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

Bill Williams – Yes.

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

Mr. B. Williams – Bill Williams, FSI.

Ms. Wiener – Ellie, I'm not counsel. I'm a fact witness. Do you need to swear me in?

Ms. Simon – No.

Ms. Wiener – So, yes, there were funds used by the Trustee to purchase life insurance policies over the course of some years prior to Mr. Work's ownership. Those are the TIO policies that everyone is referring to. The method utilized to purchase

those policies was, at the time lawful, because there was very little instruction given in our statutory scheme about how to purchase an insurance policy with trust funds. And in fact, our law allowed a trustee to aggregate trust funds and to purchase a single life insurance policy on a single-life for an aggregate face value of up to \$250k, which is crazy, because it uncouples the preneed contract from the life insurance policy, which is the way a TIO should work. But, yes that did happen at those locations.

Mr. Hall – Do we have any knowledge or record of how many of those still may be available and what that number might be?

Mr. Krohn – The amount or the number of policies?

Mr. Hall – Yes. Both.

Mr. Krohn – Under our trust, there are roughly 360 policies left, which have a face value or death benefit value of about \$1.4-\$1.5 million. And that's the issue in number 4 that we've tabled until next time, because working with Cliff and the estate for only the past few months, we're still getting our hands around it and understanding just what these policies are.

Mr. Hall – It's encouraging that that money's available. Potentially in the future it will help with this situation.

Mr. Krohn – Correct.

Mr. Hall – My other thought of concern is, and Bill can probably answer it or Wendy, if we approve this \$160k, are we exceeding the maximum amount that we're supposed to be releasing from this care and maintenance? Are we violating anything there? It looks like the balance now is \$1.162 million?

Ms. Wiener – Are you asking whether by taking out this money whether they're going to fall below the statutory minimum of the 10%?

Mr. Hall – Even under your trust fund stuff, we use 10%, so that would be \$110k and we're looking at \$160k. I know the place needs work. I'm like Keenan. We've seen pictures of this thing for years, and I'm all for getting it cleaned up and straightened out, but are we violating anything with the Division or anything because we're looking at \$160k instead of \$100k?

Ms. Wiener – I would say no, because the Board has discretion and I think I want to say it's in s. 497.266, F.S., the Board has discretion to release any amount from the care and maintenance trust fund upon its own consideration and approval. So, that minimum is the required minimum deposit, but the Board does have discretion to do what it thinks is best, with regard to the properties.

Mr. Hall – Okay. Thanks.

Chair – Thank you.

Mr. Knopke – Mr. Williams? Mr. Chair?

Chair – Mr. Knopke?

Mr. Knopke – May I ask Mr. Williams a question?

Chair – Please do.

Mr. Knopke – Back when you all took it on, when did you all take on Work & Son?

Ms. Wiener – 2009.

Mr. Knopke – Did you all go back prior to that in your due diligence at all to determine if all the funds, prior to that, were in the right places?

Mr. B. Williams – This account is what we call internally a direct account. We don't have the records. There are no records that we have to determine that, so we have to rely on the investigations and things the State does. So, when they send us money, they say just put it in the account and this is how much money we need to take out, that's all we do. There are no records.

Mr. Knopke – You're the pass through?

Ms. Wiener – Mr. Knopke, I can address that, to some degree. So, I was counsel for Work & Son when they purchased the properties. Unfortunately, what happened when they purchased them, some of you, I know Mr. Knopke was on the Board, some of you have heard this crazy tale before, but this really is what happened. They bought the properties from the Loewen Bankruptcy and when they did so, they did some due diligence beforehand, because Mr. Work's father was a very experienced owner/operator, whereas Mr. Work was not. He did have experience, but he was not his father by any stretch of the imagination. So, they did due diligence, and they had been onsite and there were computers. The computers were full of data, and this is back in the day before networks and clouds and things, and on the day that they closed, Loewen or at that time I guess it was coming out as Alderwoods, but through the course of the bankruptcy, whoever was in charge wiped all of the computers slap clean, absolutely clean, nothing on them. So, there was no records. So, we set out to communicate to the bankruptcy trustee about the situation and they backed a van up and lifted up a gate and unloaded basically a van full of banker's boxes with contracts in them. When we got FSI involved to try and sort out their recordkeeping. For those of you in the room that use FSI, and I know many of you on the Board do, you know there is nobody better at sorting out recordkeeping than FSI. We couldn't do it. We reconciled part of one of the funeral home accounts, and that was all we could do. We tried and tried. You could not make things match up under any set of circumstances. So, his father died very abruptly shortly thereafter. Cliff went into basically a breakdown mode. Things went along but those numbers were never reconciled. The Division tried years ago to do trust examinations. Those never got finalized. It's literally like anybody's best guess. Cliff spent a lot of time trying to put things into spreadsheets in the computer, but who knows what they have and what they don't have. So, these folks take the properties in the state in which they find them, unfortunately.

Chair – Thank you. Board? We have before us a proposal.

Mr. Knopke – Mr. Chair, are we going to take these three (3) individually, or as one (1), because they all tie together?

Chair – What is the Division's pleasure and what is counsel's pleasure?

Ms. Simon – From a legal perspective, we may take all three (3) together, to accept those stips in mass.

Mr. Knopke – Okay.

MOTION: Mr. Knopke moved to approve the three (3) Settlement Stipulations, and the Petition of Chapter 11 Trustee for Work & Son, Inc. for Refund of Excess Care & Maintenance Trust Contributions. Mr. Hall seconded the motion, which passed unanimously.

Chair – Thank you. Mr. Griffin, I want to recognize you and the Division and the work that you've put into this, as well as everyone involved in what went into those considerations.

(3) Waiver of Probable Cause

(a) SCI Funeral Services of Florida LLC-Naples d/b/a Hodges Funeral Service at Naples Memorial Gardens: Case No. 233405-18-FC; Division No. ATN-30528 (F039719)

Ms. Simon – Mr. Griffin?

Mr. Griffin – SCI Funeral Services of Florida LLC-Naples d/b/a Hodges Funeral Service at Naples Memorial Gardens (Respondent) was at all time relevant a cemetery licensed under Chapter 497, F.S., (F039719), doing business in Naples FL. An

investigation conducted on March 27, and April 18, 2018, revealed that the cemetery failed to honor a burial service preneed contract without reasonable justification. Respondent violated ss. 497.152(1)(a) and (13)(a), F.S., based on its failure to honor a contract without reasonable justification. Respondent is therefore subject to discipline pursuant to the enumerated statutes.

Respondent has waived a finding of Probable Cause and has entered into a proposed stipulation. The proposed stipulation provides as follows: Respondent shall pay an administrative fine of \$1500. The Department recommends that the Board approve this Settlement Stipulation.

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

Ms. Wiener – I'm here to answer questions that the Board has, as is Lisa Coney, representative of SCI.

Chair – Mr. Helm?

Mr. Helm – I just have one question. Was this burial incorrectly done while SCI owned it or was it before.

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

Ms. Coney – Yes, I do. Lisa Coney, SCI-Dignity Memorial. We had the good fortune of acquiring a cemetery that thought it was a good idea to develop burials in the round and it definitely creates maintenance concerns. This was not an inability to service this family. The burial was done on time, in a space directly adjacent, but one of their family members in one of these round spaces encroached too far into the space that they wanted for the next burial, to be able to use it. We did have a full decorative type easement in the center of that area and were able to place this gentleman directly adjacent to his father. So, there was no delay. There was no inability to perform.

Mr. Helm – That's not what I asked.

Ms. Coney – Ask me again. I'm sorry sir.

Ms. Wiener – Yes, SCI did own the cemetery.

Mr. Helm – The one that was encroached, it was in the wrong spot. Was that done by SCI or was that done by the previous owner?

Ms. Wiener – The garden was developed by the previous owner. This particular occasion arose during SCI's ownership.

Ms. Coney – The original encroaching burial was prior to our ownership, but it doesn't matter. It's our cemetery and it's our responsibility.

Mr. Helm – I'm just asking was it done.

Ms. Coney – No, it was not done by us. The original burial was not performed by us.

Chair – Mr. Helm?

Mr. Helm – That's all I wanted to know.

Mr. Knopke – One quick question?

Ms. Coney – Yes sir?

Mr. Knopke – The one that encroached, the family member that encroached, was there any effort or was any probing done to see if there was a gap that that one could be moved back?

Ms. Coney – That was not an opportunity nor was it a willingness on the part of the family to disturb that original space.

Mr. Knopke – Okay, but did you all check anything going back?

Ms. Coney – You know, I think we probably could have moved should there have been a desire to move, but I think that, and this was almost two (2) years ago, but my understanding is that that would have encroached in an unrelated burial to the other side, in order to make space, but regardless, the family member that was making the authorization did not want to disturb the original burial. She did come out to the space, verify, accept and acknowledge the space that her brother was laid in on time. So much more to say, but I’m going to stop there.

Mr. Knopke – There are challenges with going around corners, but most cemeteries deal with them every day, because that’s what they do.

Ms. Coney – Sure.

Mr. Knopke – When there’s monuments involved, clearly everybody wants to see their monument from the road.

Ms. Coney – This family was given a monument as a means of settlement and stated to us at that time that that was acceptable settlement for their original 1980’s space.

Mr. Knopke – But my question, I was just curious to see if there was enough room on their property, on their internment rights that they owned. Somewhere along the way, the inches created feet to create this problem. It could have been simply right next to them and then if you all had done it or not, you’re not able to answer the question of whether you did or not. It’s not an issue.

Ms. Coney – Well, we did probe and my recollection is that the family to the left, father’s here and the son was going to go here, the family to the left, in order for us to straighten out the father’s space to allow room, would have encroached into an existing family’s space on the other side that was not related to them. So, that’s not something we’d be willing to do and it was immaterial because the family member making authorization did not want her father to be moved. She instead accepted this adjacent placement at the foot of her father’s grave that was completely free and clear. Well, apparently accepted it until she didn’t.

Mr. Knopke – Okay. Thank you.

MOTION: Mr. Jones moved to approve the Settlement Stipulation, requiring the Respondent to pay a fine of \$1500. Mr. Clark seconded the motion, which passed unanimously.

*****BREAK*****

4. 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.

5. Application(s) for Continuing Education Course Approval
A. Recommended for Approval without Conditions – Addendum B
(1) International Cemetery, Cremation and Funeral Association (22808)
(2) SCI Management-Dignity University (99)

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. Clark seconded the motion, which passed unanimously.

6. Consumer Protection Trust Fund Claims

A. Recommended for Approval without Conditions – Addendum C

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

Mr. Helm – Question?

Ms. Simon – Yes sir?

Chair – Yes, Mr. Helm?

Mr. Helm – I remember Prestwood Funeral Home...I thought they sold out. I'm just asking.

Chair – Prestwood?

Mr. Helm – Yes. It that the one that was in Baldwin?

Chair – That's the only Prestwood I know of, but the Division will have to answer that.

Ms. Simon – I believe that there have been some CPTF claims due to recent activity at Prestwood.

Chair – Would you be sworn in?

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

Jim Deason – I do.

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

Mr. Deason – James Deason, Jr., Investigator for the Department.

Ms. Simon – And, what do you know about Prestwood?

Mr. Deason – I know that there's a current investigation. There have been allegations that some preneeds were sold and have not been properly funded. Those are things relating to news articles that have been in the press, at this point. The licensees have submitted claims due to funds not being placed in the trust fund.

Ms. Simon – Mr. Helm, does that answer your question?

Mr. Helm – Well, yes and no. Is Warren Family Funeral Services, is that who purchased them? Do you know that?

Mr. Deason – They did purchase them.

Mr. Helm – They didn't assume?

Mr. Deason – They didn't know. No one knew.

Ms. Simon – Mr. Helm, I don't know about in this particular case, but there's often times that contracts written up that they assume liability for this series of contracts or for the contracts that are known at the time. And you'll see that in other settlement agreements.

Chair – Do we anticipate other claims?

Mr. Deason – Yes sir.

Chair – Related to defaulting seller, Prestwood Funeral Home?

Mr. Deason – Yes sir.

Chair – I've not heard anything disciplinary come before this Board.

Mr. Deason – It's still being worked at this point.

Mr. Helm – My point is if they assumed the responsibility, how are they asking for money?

Mr. Deason – They assumed the liability from when Prestwood had a preneed license. They assumed all of the responsibility that was listed and properly funded preneed trust funds. There appears to be trust funds that have not been properly funded that no one knew about.

Mr. Helm – I don't see where when we do it we don't say properly funded, not when they assume it.

Ms. Simon – Due to the allegations that are in the most current investigation, that is what led to the CPTF claims. Unfortunately, we can't go into more detail as to what those allegations are, but that is what gave rise to these claims being made. And, I do not believe claims of this nature were assumed by the contract. If you would like, we can address these at another Board meeting and take them off. However, we can't go into more detail right now.

Chair – It's almost standard procedure that the Board approve every one of these. What if we make this an exception and do not approve it?

Mr. Hall – You're saying all of them but that?

Mr. Barnhart – You can do that. You can approve a certain number and not approve another one.

Ms. Simon – Yes, we can. We may be able to provide more information at an upcoming Board meeting, but as of now were pretty circumspect with that information.

Mr. Barnhart – If they could be pending prosecution, we can't get into any reasons.

Chair – I understand that. Is there a motion?

Mr. Hall – At that next meeting, could you all go back to see when they came before to approve the purchase...

Ms. Simon – Mr. Hall, I'd be happy to research it before the next meeting.

Mr. Hall – That would be helpful if we had that, because I've never seen it done. I'm kind of with Powell. I've always thought if you bought it you assumed it.

MOTION: Mr. Knopke moved to approve all the claim(s), with the exception of any relating to Prestwood Funeral Home, for the monetary amounts indicated. Mr. Hall seconded the motion, which passed unanimously.

Chair – Let it be known that this was not a consumer that's making the claim. So, I'm sure that weighed on your decision to exclude that one. Thank you.

Ms. Simon – Mr. Hall, if I may, I'd like to be able to respond to that at the next in person meeting, if that's acceptable.

Mr. Hall – That’s fine.

Ms. Simon – Okay.

Chair – Thank you, Ms. Simon.

- 7. Application(s) for Florida Law and Rules Examination**
- A. Informational Item (Licenses Issued without Conditions) – Addendum D**
- (1) Direct Disposer**
 - (a) Monroe, Rebekah A**
 - (2) Funeral Director (Internship and Exam)**
 - (a) Brown, Stephen B**
 - (b) Clayton, George E**
 - (c) Yount, Susan J**
 - (3) Funeral Director and Embalmer (Endorsement)**
 - (a) Choffin, John P**
 - (4) Funeral Director and Embalmer (Internship and Exam)**
 - (a) Boatwright, Marsha**
 - (b) Smith, Joseph A**
 - (c) Wentz, Billy B**

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 (Criminal History)**
- (1) Funeral Director and Embalmer (Internship and Exam)**
 - (a) Gunter-Butler, Stanley**

Ms. Simon – Mr. Gunter-Butler, if you could please step forward. Mr. Gunter-Butler submitted an application for a Funeral Director and Embalmer license on May 13, 2019, at which time the application was incomplete. The application was complete as of July 15, 2019. The applicant’s fingerprints returned with a relevant criminal history as follows:

- May 7, 2007 - Possession of Cocaine (3F) – probation for 18 months
- May 7, 2007 – Failure to Appear (3F) - probation for 18 months
- April 9, 2009 – Violation of Probation to Possession of Cocaine - 90 days incarceration
- April 9, 2009 – Violation of Probation to Failure to Appear – 90 days incarceration.
- May 18, 2009 – Driving while License Suspended or Revoked (3F) and Leaving the scene of a crash involving property damage (Misdemeanor) – Count One 90 days incarceration; Count Two time served.
- December 11, 2011 – Possession of Cocaine (3F) – Time served.
- April 17, 2014 – Driving while License Revoked (Felony-Habitual) (3F) – Time Served.
- November 02, 2016 – Driving while License Suspended/Revoked Habitual Traffic Offender – Community Service.

Mr. Gunter-Butler was initially issued his Funeral Director and Embalmer license on July 11, 1997 and the license went Null & Void on August 31, 2015. Mr. Gunter-Butler has previous discipline on his license. The Consent Orders issued by this Board on or about April 2, 2010 and July 19, 2012, are included within this Board package. The Consent Order issued on or about July 19, 2012, placed Mr. Gunter-Butler’s license on probation for two (2) years with the specific condition that he take and pass the Florida Law and Rules Exam within ninety (90) days of the execution of the Consent Order. Mr. Gunter-Butler has taken the exam three (3) times since the issuance of the Consent Order but has not received a passing score. Upon his fourth request to take his exam, he was advised to reapply for licensure. The Division is recommending denial based upon a violation of Rule 69K-1.008, Florida Administrative Code.

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

Stanley Gunter-Butler – I will.

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

Mr. Gunter-Butler – Stanley Keith Gunter-Butler.

Chair – Mr. Gunter-Butler, would you like to address the Board or are you here primarily to answer questions?

Mr. Gunter-Butler – Here to answer questions.

Chair – I have a question of the Division. If we deny this, may he reapply for licensure?

Ms. Simon – Yes.

Chair – Thank you.

Mr. Knopke – Mr. Chair?

Chair – Yes, Mr. Knopke?

Mr. Knopke – May I ask the Division a question? I think I know the answer, but I'll try. When his license was placed on probation the last time in 2012, it was only for two (2) years?

Ms. Simon – Two (2) years of probation and he was to take and successfully pass the Law and Rules Examination, within the first ninety (90) days of that probation.

Mr. Knopke – Okay. The license was revoked in April 2014. Would that have been a violation of that two-year probation, as well?

Ms. Simon – What page of the package are you looking at, Mr. Knopke?

Mr. Knopke – Page 1. I'm looking at the Division remakes where it has all these cases listed out.

Chair – Do you see a revocation?

Ms. Simon – In 2014, we don't have a revocation. That's why I was questioning you.

Mr. Knopke – I thought his license was suspended then.

Ms. Simon – This is driving while license suspended. Is that what you're referring to?

Mr. Knopke – Yes.

Ms. Simon – I'm sorry. What was your question regarding that?

Mr. Knopke – Was that during his probationary period?

Ms. Simon – No, that was after his probationary period.

Mr. Knopke – Thank you.

Chair – Board?

Mr. Knopke – Mr. Chair, may I ask?

Chair – Please, Mr. Knopke.

Mr. Knopke – Mr. Gunter-Butler, why do you think we ought to approve you? Looking at your record and you didn't follow what was asked of you before, why should we?

Mr. Gunter-Butler – Well, it's at your discretion. Personally, I had some issues to come up between '14 and '16. I became homeless. I became institutionalized. I lost my mother in '16. I'm just trying to make my way clear as a professional. If you see fit not to grant me my license again, then I have grandchildren I'm supporting now. I'm partially disabled. I attend the VA for my healthcare. I really have no means of support, so therefore, if you do not grant me my license, I'm not able to support the people that I have on my list in my circle as well my {inaudible}. So, the discretion is yours, sir.

Mr. Knopke – Okay. Thank you.

Chair – I think it's our discretion, but you have to pass the exam.

Mr. Gunter-Butler – That's what I'm not able to do.

Chair – I don't see how we could without you passing the exam.

Mr. Gunter-Butler – Well if you allow me to go back and try to take the exam again, that would be my first step.

Chair – And when you pass it you could reapply for your license.

Mr. Gunter-Butler – Yes sir.

MOTION: The Chair moved to deny the application. Mr. Hall seconded the motion.

Ms. Simon – For discussion purposes, Mr. Chair, if this is denied at this point, which we did recommend, Mr. Gunter -Butler may not go and take the exam again.

Mr. Helm – He'd have to reapply.

Chair – He'd reapply.

Ms. Simon – Ms. Richardson, I'm sorry, if I may?

Jasmin Richardson – This application is for him to take the examination, so he can't just take it. This is what the application is for. Part of the funeral director and embalmer is to apply to take the examination. If you're saying that he needs to pass it, this is the step that he needs in order to pass it. He has not passed it but he has applied several times. He's paid for the examination, he's taken it, but he just hasn't passed it. So, it's not that he has not attempted to, he just did not pass the examination within the time period.

Chair – Why does the Division recommend denial?

Ms. Simon – The Division recommends denial based upon the criminal history that has existed since that time and based upon him violating the conditions of probation, essentially. I can look up...

Chair – 69K-1.008?

Ms. Simon – That's the criminal history, sir.

Chair – Thank you.

Mr. Barnhart – Before you vote on that motion, I would like to add not only the rule, but three (3) statutory sections that you might cite as well, for the lack of good character.

Ms. Simon – And what are those statutes?

Mr. Barnhart – If you'd like to hear those, I'll go ahead and cite them.

Chair – Yes.

Mr. Barnhart – SS. 497.141(5)(a), 497.369(1)(d) (embalmer), and 497.373(1)(c) (funeral director), F.S.

Ms. Simon – When I look at Mr. Gunter-Butler's record, I'm not sure that those three (3) attempts to take the exam were done during those ninety (90) days. So, I think that the Division has done what it could before making this recommendation today. Well, like we had an exam that was taken in 2015, one in 2014 and, so that was even after the probation period. It wasn't done within the ninety (90) days, which goes to our recommendation as well.

Chair – I want to withdraw my motion to deny. Board, let me hear what your recommendation is.

Mr. Helm – Mr. Chairman, didn't you have a second?

Mr. Barnhart – There was a second, I believe.

Chair – I don't think it was seconded. I'm withdrawing my motion to deny. So, Board, what is your pleasure, please?

Mr. Knopke – Mr. Chair, a question for the Department?

Chair – Please, go ahead.

Mr. Knopke – If we decided to approve his application, could we limit the time that he has to take it or does this just go on forever and ever?

Ms. Simon – You can put down a time to successfully take and pass the examination. I'm not sure what that time period would be for you, but yes. If he does not take and successfully pass the exam within, let's say, forty-five (45) to sixty (60) days, then he would fail to meet the condition needed in order to get licensure. So, you can tailor it like that.

Mr. Jones – You can take it within that timeframe?

Ms. Simon – Yes, you can. That's why I said forty-five (45) days, to give it more time than just my usual fifteen (15) days and that being done.

Mr. Knopke – Sir, are you working in a funeral home now?

Mr. Gunter-Butler – Part-time, sir.

Mr. Knopke – Have you done any studying already for the exam?

Mr. Gunter-Butler – No sir.

Mr. Knopke – Okay.

Chair – Mr. Hall?

Mr. Hall – What are you doing for the funeral home now?

Mr. Gunter-Butler – I just basically do custodial maintenance. I come in maybe three (3) times a week. I don't attend services.

Mr. Hall – Do you have your driver's license back?

Mr. Gunter-Butler – Yes sir. I do.

Mr. Hall – Okay. Well, if this is not approved, you'll continue to do that at the funeral home, correct?

Mr. Gunter-Butler – For the most part.

Chair – Mr. Gunter-Butler, what funeral home?

Mr. Gunter-Butler – I'm associated with Creal Funeral & Cremations, St. Petersburg.

Chair – Thank you. I saw the St. Petersburg, but I didn't see which firm.

Mr. Knopke – What makes you think you're going to pass it this time if you've not studied for it?

Mr. Gunter-Butler – Actually, I have test anxiety, sir. I don't test well, honestly. I'm not making that as an excuse. I don't see how I passed it in 1996, actually.

Mr. Knopke – But you're asking for permission to take it again.

Mr. Gunter-Butler – I'm just trying to be in good standing with the Board, sir. I got children to feed.

Mr. Knopke – I understand that. I don't see where getting approved to take it and then failing it again is going to make a difference. It may make a difference to you, but it doesn't get you in good standing or bad standing. I don't sense that you're in bad standing right now, other than you didn't follow through on your probation.

Chair – Mr. Knopke, are you considering criminal history as well in your assessment in his standing with the Board?

Mr. Knopke – Yes.

Chair – Thank you.

Mr. Knopke – Mr. Brandenburg, I'm all for wanting to give somebody a second or third chance, but at the same time I'm always interested in why they think they, in some cases, deserve it, but also if they're optimistic or even ready to do it. In this case I don't get that feeling at all. I understand and I am sympathetic with him about his family issues and the loss of his parents or whoever, but still again, I just don't get it.

MOTION: Mr. Knopke moved to deny the application based upon prior discipline, failure to comply with all of the conditions of his probation, Rule 69K-1.008, F.A.C., Sections 497.141(5)(a), 497.369(1)(d), and 497.373(1)(c), F.S.. Mr. Hall seconded the motion, which passed unanimously.

Chair – Good luck. Ms. Wiener, do you have other cases that are coming before the Board?

Ms. Wiener – I do not, but I do have an update for the Board and I would like to give it right now.

Chair – Yes. I'd like to make special exception to go to that part of the agenda as an accommodation to Ms. Wiener:

18. Old Business
B. *Queen of Angels Catholic Cemetery, Inc. (Verbal Status Update)*

Ms. Wiener – Thank you very much Mr. Chair and Board members. This is an update regarding the zoning matter regarding Miserere Cemetery. So, I think I mentioned last time that they have retained new land use counsel and that land use counsel is much more well-versed at the process that they need to undertake to make sure that this gets finished. I received an update from counsel yesterday. He says that the cemetery is scheduled for the August 26th Hearing. So, this process moved so slowly because just like this Board, they're going before regulatory agencies and boards. So, there aren't decisions made on the fly.

They have to get into a process and go to a meeting and get agenda, etc. They are scheduled for an 826 Hearing in front of the Phosphate Hearing Master. They are, however, meeting with senior County staff and the County attorney next Wednesday to try and determine if they have a resolution and they'll be able to wrap everything up at that 826 Hearing. He did state that the staff that they're working with there in the County has been extremely cooperative and he believes that they're going to be able to get this resolved in short order and the zoning will be issued.

Mr. Helm – {inaudible} Phosphate?

Ms. Wiener – I know probably less than you do, Mr. Helm, about land use. So, apparently the Phosphate Hearing Master is who they have to go through, because part of the cemetery property is in a surface water restriction area and that's the thing that ended up causing the problem that Mr. Knopke and maybe Mr. Hall noticed on the original application. When we asked the County to confirm zoning, they sent us a confirmation of zoning that wasn't exactly definitive. It said, "Yes, this is zoned for a cemetery and {inaudible} cemetery is a permitted use so long as you do blah blah," so they're in the midst of doing the blah blah part of that.

Chair – Thank you. We appreciate that report.

Mr. Knopke – Are you familiar with the {inaudible} I-75 and I-4? The NE corner of that. The pond she's talking about that is the big lake is what impacted this {inaudible}.

Ms. Wiener – Yes. I will continue to keep the Board apprised at all of the in-person meetings, as requested.

Chair – Thank you for the report.

Ms. Wiener – Thank you and thank you for the accommodation.

Chair – You're welcome. Back to the agenda.

7. Application(s) for Florida Law and Rules Examination
C. Recommended for Denial
(1) Funeral Director and Embalmer (Endorsement)
(a) Vancina, Gina M

Ms. Simon – Is Gina Vancina here today? Please step forward. Ms. Vancina submitted an application for a Funeral Director and Embalmer license on June 18, 2019, at which time the application was complete. The applicant's fingerprints returned with no criminal history. Ms. Vancina graduated with a Diploma in Mortuary Science on September 6, 1995. She passed both Arts and Science sections of the National Board Examination. She received her Funeral Director and Embalmer license in Illinois on December 24, 1996 which is in Current, Active status.

The Division is recommending denial. Ms. Vancina does not meet the educational requirements in that she has no college degree. Contrary to what is in the application there is no AA degree available. Her history as a Funeral Director and Embalmer is not a substitute for the requirements of statute.

Chair – Welcome, Ms. Vancina. Did you want to address the Board or are you merely here to answer questions?

Gina Vancina – I guess just here to answer questions.

Chair – Let's be sworn in then, please.

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

Ms. Vancina – I do.

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

Ms. Vancina – Gina Vancina.

Chair – Thank you. Ms. Vancina has indicated that she's here to answer question that the Board may have.

Mr. Jones – Mr. Chair, if I may? You've been licensed since '96? Can you tell us what you've been doing?

Ms. Vancina – Yes. I have been in Illinois. I worked for twenty (20) years at a privately-owned firm. Started just doing preneed, because I had just had my children, so I couldn't work all the time and be on call. So, I started as preneed, then went on full-time and went from a director to being a manager there at the funeral. When I realized really in the private firm there was nowhere to go, I went and worked with SCI for a short period of time. And those of you that know Chicago, it's a very big union town. Unions are really difficult. So, I went to the cemetery world for a little while in Illinois with StoneMor Corp., and then they had a GM position open. I applied for the GM position and that's what brought me here to Florida. So, I've been here in Florida since August of last year.

Mr. Jones – Thank you.

Mr. Helm – And you're a GM now?

Ms. Vancina – That is correct.

Mr. Helm – At?

Ms. Vancina – I have five (5) different locations in Florida. And they didn't require like your licensing in the state. They just wanted your experience as being a GM, but to me, my heart, I feel that I still need to have that license. I still feel the need. I can't sit with families. I can handle complaints. I can't run services, but I can handle complaints and I can assist. So, I've at least had the opportunity to bring a lot of my things to our crematory that we didn't have at the crematory here. There were a lot of safety issues going on, so I brought in a lot of different things. We all know that there are issues that have happened with people being cremated that shouldn't have. So, I brought a lot of new things where I've implemented red tags, green tags and pink tags on people. Once you've been a funeral director, especially as I feel like it's been almost half my life, this is huge. This is a big adventure being here. So, that's all I have to say.

Mr. Knopke – Mr. Chair, may I ask a question?

Chair – Mr. Knopke?

Mr. Knopke – You attended Worsham or you graduated from Worsham?

Ms. Vancina – I graduated from Worsham.

Mr. Knopke – What type of a degree did you get from Worsham?

Ms. Vancina – Well, from what I'm understanding, when I graduated it was really just a certificate that we were able to get at that time, but now they're issuing Associate Degrees.

Ms. Wiener – Hello.

Ms. Vancina – Hi.

Ms. Wiener – I'm Wendy Wiener. I'm counsel for StoneMor.

Chair – Yes ma'am?

Ms. Wiener – I might be able to ask some questions of the application that might help you to assess her educational requirements and determine that she's qualified for licensure. Would you indulge me, Mr. Chair?

Chair – Yes, I would.

Ms. Wiener – Very good.

Mr. Helm – Mr. Chair, before she asks her questions, I'd like to ask a question.

Chair – Go ahead, Mr. Helm?

Mr. Helm – You're general manager now? Does this in any way impede on your employment if we don't give you this license?

Ms. Vancina – I don't believe so, no. It wasn't a requirement for me to be licensed in the actual State of Florida. That was not one of the requirements.

Mr. Helm – Thank you.

Ms. Wiener – So, very briefly, I'm going to ask you about your education and we're going to go through a little exercise of comparing your education to the education required to get an AA degree from the school here in Florida that would qualify you for this license. Okay?

Ms. Vancina – Okay.

Ms. Wiener – Okay. So, have you taken classes or passed classes in basic Computer and Information Literacy.

Ms. Vancina – That long ago? No, we didn't have computers then.

Ms. Wiener – Let's try this again. Are you fluent in utilizing a computer?

Ms. Vancina – Yes.

Ms. Wiener – Do you do that regularly?

Ms. Vancina – Probably fourteen (14) hours out of my day.

Ms. Wiener – In your education, did you study Communications?

Ms. Vancina – Absolutely.

Ms. Wiener – Did you study Written Communication?

Ms. Vancina – Absolutely.

Ms. Wiener – Did you explore the basics of Mathematics and Quantitative Reasoning, Accounting type or Business Management classes?

Ms. Vancina – Absolutely.

Ms. Wiener – Did you take a class in General Psychology?

Ms. Vancina – Absolutely.

Ms. Wiener – Human Anatomy?

Ms. Vancina – Absolutely.

Ms. Wiener – World Religions? A lot of the programs call that something like a Funeral Service, Sociology, or the Psychology, the Culture of Funeral Service. Something along those?

Ms. Vancina – Yes.

Ms. Wiener – Any actual Accounting training?

Ms. Vancina – Yes. We had it at Worsham.

Ms. Wiener – Okay. Have you studied the Infectious Diseases components in your Funeral Service education?

Ms. Vancina – Absolutely.

Ms. Wiener – Did you take a class in either Funeral Law or Business Law?

Ms. Vancina – Yes.

Ms. Wiener – How about any classes in Communicating, Speech Communications, or Communicating with Potential Families?

Ms. Vancina – We had Speech class.

Ms. Wiener – Did you take an Introduction to Funeral Services?

Ms. Vancina – Yes.

Ms. Wiener – And you said you took some Psychology classes. Did you take any Psychology classes specific to grief or stress management or things relevant to the funeral service industry?

Ms. Vancina – That was all at Worsham.

Ms. Wiener – How about classes in funeral directing?

Ms. Vancina – Yes.

Ms. Wiener – I bet you took classes in Funeral Home Management, given your job. Chemistry?

Ms. Vancina – Yes.

Ms. Wiener – Funeral Law?

Ms. Vancina – Yes.

Ms. Wiener – Embalming?

Ms. Vancina – Yes.

Ms. Wiener – How many Embalming classes did you take?

Ms. Vancina – We had Embalming all year, and we also embalmed at the Cook County Medical Examiner's Office.

Ms. Wiener – Okay. So that was both classwork and a practicum?

Ms. Vancina – Correct.

Ms. Wiener – Okay. Funeral Pathology?

Ms. Vancina – Yes.

Ms. Wiener – Restorative Arts?

Ms. Vancina – Yes. I did my father's head. He's a police officer, so I had him do mugshots, and that was the way to do it.

Ms. Wiener – Okay.

Ms. Simon – Ms. Wiener we do have all the history on Page 15.

Chair – Page 15 of our electronic copy.

Ms. Simon – So if you're going to continue to ask about that all of those things are on here.

Ms. Wiener – I understand. Well, I've only got two (2) more. The reason I'm asking these questions is because typically the Board has to assess whether her education is substantially equivalent to or superior to the education required of a licensee in Florida. So, I've only got two (2) more that are required at St. Pete. You did a professional practicum, I assume?

Ms. Vancina – Yes, for a full year.

Ms. Wiener – And did you take Funeral Ethics?

Ms. Vancina – Yes.

Ms. Wiener – Her education would be, I would argue, substantially equivalent to, or even in some ways superior to that required for an Associate of Arts degree in Mortuary Science here in Florida.

Ms. Vancina – In the State of Illinois, we're required to do twenty-four (24) hours of education every two (2) years to get our licensure. Twelve (12) of them can be an online course or something that you get through the mail. You know, we've all done those through the mail. And then twelve (12) have to be actually in a classroom. And out of those, twelve (12) have to be embalming. You can't do twenty-four (24) of just funeral directing.

Mr. Knopke – Did you ever have any disciplinary issues in Illinois?

Ms. Vancina – Never.

Mr. Knopke – I think if I read correctly, you're still licensed in Illinois?

Ms. Vancina – I got divorced when my children were young, and I worked hard to get that. It was important for me to keep my name clean and the way it was. That's how we were raised as kids.

Mr. Clark – Mr. Chairman?

Chair – Yes?

Mr. Clark – At Joliet Junior College, you did get a degree when you completed that college, or no?

Ms. Vancina – You know what, it wasn't, when I went and looked at it I was shy one (1) course, so it wasn't considered an Associates in Science.

Mr. Clark – Okay.

Ms. Vancina – But I had all the prerequisites in order to get into Worsham.

Ms. Simon – If I could ask?

Chair – Please do.

Ms. Simon – I'm just curious. On your application, you put down that you had an Associate of Science degree, and I'm not sure where that came from.

Ms. Vancina – You know what, I started filling that out back in November and then I just didn't even think when I sent everything in. I'm in the process also of purchasing a home so there's a lot going on. And then when I actually called and got everything from Worsham and started doing the research, and then Joliet Junior College said I was shy one (1) full course.

Ms. Simon – Mr. Barnhart, I apologize for interrupting.

Mr. Barnhart – Mr. Brandenburg, can I be heard?

Chair – Please.

Mr. Barnhart – It seems like we're confusing the provisions of the statute. What I think you're attempting to do is show substantial equivalency. In my reading of the statute, you either have the degree or you don't. I think where substantial equivalency would come in, if it applied, would be under the endorsement when you have experience in another state, which I also did not see any comparison of equivalency from 1996 comparing Illinois and Florida requirements. Are you mixing substantial equivalency in terms of education? I don't read that in the statute. Can somebody help me?

Ms. Wiener – I'm confused about your confusion.

Mr. Barnhart – Okay. Are you preceding under s. 497.373(1)(d)(1), F.S.? *“Received an associate in arts degree, associate in science degree, or an associate in applied science degree in mortuary science approved by the licensing authority; or”* what's under (2) there.

Ms. Wiener – Did you apply for licensure by endorsement?

Ms. Vancina – I did, because when I was talking to everyone at work, I was just assuming that was the way to do it.

Ms. Wiener – No, that's fine. So, if you are validly licensed in another state, then I believe the analysis is was your education and training and qualification at the time you were initially licensed there substantially equivalent to whether you could have licensed here.

Mr. Barnhart – As of 1996.

Ms. Wiener – That's correct. The grid that I have that I use when I prepare these analysis for these cases doesn't differ substantially. I just pulled the one that I used for Mr. Bean, which was the last person that I did this analysis for. So, that's the grid that I was going from, but I don't believe that the coursework has changed substantially.

Ms. Simon – However, at the time, wasn't it an AA degree that was required? Forget about the coursework. At the time, in 1996, was an AA degree required In Florida? And I believe that when you did the application for Mr. Bean, and you wrote that grid that an AA degree was required. I don't have it in front of me.

Ms. Wiener – But isn't that the same analysis we're going through here? Whether her education would be...

Ms. Simon – No.

Ms. Wiener – It's not?

Ms. Simon – No.

Mr. Knopke – In 1996, an AA degree may have been required to get out of a school like Miami-Dade, but it wasn't a requirement to be licensed as a funeral director in Florida, because there are many directors out there with one-year degrees from Atlanta, Pittsburg, Dallas, that are licensed and working in this state to this day.

Ms. Simon – Ms. Wiener, can you tell me when was Mr. Bean on the agenda?

Ms. Wiener – At the last in-person Board meeting in June.

Ms. Simon – So, it would have been under the June requirements and I thought that you had in that that in June an AA was required, on that second column that you had there. Am I incorrect in that?

Ms. Wiener – But even...

Ms. Simon – Does it say an AA degree?

Ms. Wiener – I don't recall specifically. The analysis that we've been going through is when these applicants don't have the Associate's degree, we've been comparing their education to what it takes to get an Associate's degree so that we can determine substantial equivalency.

Chair – You say you need one (1) course for your Associate's degree? How quickly can you get that?

Ms. Vancina – I'm not sure.

Chair – It's not a rocket to the moon question.

Ms. Vancina – I guess I'd have to look and see what is available here. I haven't taken courses since Mortuary School, other than online stuff for continuing education.

Chair – I was going to attempt to reach a compromise and break the log jam, but if you don't know what it takes for you to get an Associate's degree...

Ms. Vancina – I would have to look at all of the schools that are available to me, now, here. It's not something I've looked at.

Mr. Knopke – Is there a possibility you could do a class online back with Joliet and finish it up there?

Ms. Vancina – I can try.

Mr. Knopke – Is it a three-hour course or one-hour course?

Ms. Vancina – They just said three (3) hours. I haven't done it in a long time.

Ms. Wiener – Hold on a second. Mr. Knopke, and to the point, Mr. Bean was in exactly the same the same situation. He did not have an AS degree, and neither did the three (3) or four (4) applicants, that have come before this applicant, have an Associate's degree. We have been undertaking this analysis, which is was her training substantially equivalent to what you would have to go through to get an Associate's degree in the State of Florida, and I believe that every applicant that has come before you in this circumstance without an Associate's degree has been approved, an on a couple of occasions, based on significant experience, which obviously this applicant has.

MOTION: Mr. Knopke moved to approve the application with a one-year probation, based on the experience as well as the education. Mr. Jones seconded the motion.

Mr. Barnhart – So, we don't even know if a school down here is going to give this applicant full credit for what she started in Illinois twenty-three (23) years ago?

Mr. Knopke – We're not asking her to do that.

Chair – He's not asking for it. There's been a motion...

Mr. Barnhart – But, I don't think the statute gives you that kind of leeway. When you're talking about endorsement, you're talking about someone who knows how to compare course curriculums, side by side and what was in these courses to be able to say if you have substantial equivalency or not. You don't just look at a chart and say, well, that kind of matches up. I think we need some more competent testimony about what is substantially equivalent.

Chair – If the Board approves it, what is the challenge and where is the challenge to come from?

Mr. Barnhart – Well, the challenge is making sure you abide by your statutes and your rules. You don't want to go outside what is required.

Chair – Who would challenge that?

Mr. Barnhart – I don't know, but you don't make decisions based on who might challenge something.

Mr. Knopke – The motion is made based upon the experience that the applicant has demonstrated.

Mr. Barnhart – Which is by endorsement, correct?

Ms. Wiener – Correct.

Mr. Barnhart – So, in my opinion, you have to have competent testimony comparing the two (2) curriculums back in 1996, and someone trained in this area to be able to say Illinois was as strong or stronger than Florida in 1996 for becoming a funeral director, let's say. I don't think you have that in this case. The one's I'm familiar with...

Mr. Knopke – We didn't have it in the previous one.

Ms. Wiener – In the last five (5).

Mr. Barnhart – But why repeat something that may be a mistake?

Mr. Knopke – Well, I'll argue the opposite just for the sake. Why not put somebody into a field that we're desperately needing people that have experience, that have a good record, who's already gainfully employed, and have had no disciplinary problems?

Mr. Barnhart – Then my response would be you should seek to change the statute. The statute doesn't give you that kind of leeway.

Mr. Knopke – Mr. Barnhart, I would encourage Michele and Lisa that you too get together, as part of your next legislative package. Don, if you'll help them get this along and get this mess cleaned up. Both of your organizations, not Don, but Michele and Lisa, we need people in this industry. You all need to get this issue resolved, because we're scaring away good people and this is a perfect example of that.

Chair – We have a motion and a second before us for approval with one-year probation. All those in favor, aye?

Board members – Aye.

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

Mr. Barnhart – Are there any conditions of probation? Does she have to pass any courses or take courses?

Chair – I didn't hear any.

Mr. Barnhart – No requirements?

Chair – I didn't hear any.

Mr. Hall – I just have a question.

Chair – Yes, Mr. Hall?

Mr. Hall – With what Mr. Barnhart eluded to, would it be wise to have this curriculum and stuff sent to like Kevin Davis and let him professionally match these things up? He's at St. Pete College. Is that something we should do? Take the chart she has and say does this happen and can we find out maybe in the interim too is there some way for us to find out, Ms. Simon, when did the Associate's degree kick in in Florida.

Ms. Simon – Well, according to the chart that Ms. Wiener prepared, at that time, an Associate's degree was required to be a funeral director and embalmer. And yes, Mr. Hall, I think that any licensee or applicant can use somebody like that in St. Pete, but we're talking about two (2) different states. I mean it's not like one goes to the other and they follow along and we're talking about different years. So, if you're requiring that applicants in the future get that type of analysis before coming forward, that's one thing.

Mr. Hall – Well, I think what she's saying it's going to be difficult to go back to '96, but if we could take that curriculum she had then and someone like Kevin at the college could compare it to today's curriculum for the AS degree, that might help or shed some light, and if we knew at what date was the AS degree required here.

Ms. Simon – As I said, in the chart that Ms. Wiener gave us for Mr. Bean, there was an analysis that was done and under that analysis, under s. 470.09, F.S., there was an AA degree required, and I believe that was in the '90s. So, if that existed even back in the '90s, the requirement in Florida to have an AA degree, so, Mr. Hall I'm not sure what we can get for you. If you're requiring things when the next people come up to apply in the same situation, I'm not sure. And we can talk about that after the Board meeting, if you prefer.

Chair – Thank you, very much.

Ms. Wiener – I'd be happy to interact with Mr. Davis about that. I'm not sure that he would actually opine, because I think he may feel that exposes the college, but I'll happily follow-up.

Mr. Hall – Okay.

Ms. Wiener – Thank you. Thank you, Board.

8. **Application(s) for Internship**

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

(1) **Embalmer**

(a) **Mazzoni, Dillon J F089655**

(2) **Funeral Director**

(a) **Childers, Elizabeth A F344195**

(b) **Voss, Beth A F372903**

(3) **Funeral Director and Embalmer**

- (a) *Heath, William T F373145*
- (b) *Madison-Eaves, Ruth F370523*
- (c) *Whitley, Cardelia A F372508*
- (d) *Woodie, Travaris B F083438*

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

- 9. **Application(s) for Embalmer Apprenticeship**
 - A. **Informational Item (Licenses Issued without Conditions) – Addendum F**
 - (1) *Bell, Mikara E F077510*
 - (2) *Devivo, Colleen D F370599*

Ms. Simon – This is an informational item. Pursuant to Rule 69K-1.005, F. A. C., the Division has previously approved these applications. Ms. Colleen Devivo was mistakenly not added to that addendum, but she should have been included as is mentioned on the agenda. I did pass around a paper this morning that had an amended Addendum F, which included Ms. Devivo.

- 10. **Notification(s) of Change in Location**
 - A. **Informational Item – Addendum G**
 - (1) *Family Funeral Home & Cremation Services LLC (F083557) (Crawfordville)*
 - (2) *Harvey-Young Funeral Home LLC d/b/a Bevis Funeral Home & Crematory Harvey-Young Chapel (F049606) (Crawfordville)*
 - (3) *Anthony M White d/b/a A M White Mortuary (F080279) (MacClenny)*

Ms. Simon – This is an informational item. The establishments listed have applied for a change of location of their businesses. The only criteria for approval is that the new locations pass inspection by the Division.

- 11. **Application(s) for Registration as a Training Facility**
 - A. **Informational Item (Licenses Issued without Conditions) – Addendum H**
 - (1) *Neptune Management Corp d/b/a Neptune Society Management Corp (F064807) (Altamonte Springs)*

Ms. Simon – This is an informational item. The Division has reviewed the application listed and found it to be complete and that the applicant met the requirements to be a training agency. Pursuant to Rule 69K-1.005(12)(b), F.A.C., the Division has previously approved this application.

- 12. **Application(s) for Monument Establishment Sales Agent License**
 - A. **Informational Item (Licenses Issued without Conditions) – Addendum I**
 - (1) *Mottin, Antoinette R. F367886*

Ms. Simon – This item is informational only. Pursuant to s. 497.554(3)(a), F.S., the Division has previously approved this application.

- 13. **Application(s) for Centralized Embalming Facility**
 - A. **Recommended for Approval with Conditions**
 - (1) *Timothy E Kitchens Funeral Home d/b/a BJ's Refrigeration & Prep (W Palm Beach)*

Ms. Simon – An application for a Centralized Embalming Facility was received on May 28, 2019. The application was incomplete when submitted and deemed complete on June 24, 2019. The Funeral Director in Charge will be Timothy E. Kitchens (F043499).

A background check of the principals revealed a relevant criminal history. Mr. Kitchens' criminal history was previously reviewed at the December 2, 2009 Board Meeting where he was originally denied licensure. The applicant appeared at the informal hearing held on March 4, 2010 where he was then approved for a funeral establishment license for Timothy E

Kitchens Funeral Home Inc. The application is recommended for approval subject to the condition that the facility passes an onsite inspection by a member of Division Staff.

Chair – Doing business as?

Ms. Simon – BJ’s Refrigeration & Prep. Are you talking about the prior funeral home?

Chair – No.

Ms. Simon – Okay.

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. Helm seconded the motion, which passed unanimously.

14. Application(s) for Funeral Establishment
A. Recommended for Approval with Conditions
(1) Jay Funeral Chapel Inc (Jay)

Ms. Simon – An application for a Funeral Establishment was received on or about May 20, 2019. The application was incomplete when submitted and deemed complete on July 11, 2019. The Funeral Director in Charge will be Kent Baker (F028638). A background check of the principals revealed no relevant criminal history. The application is recommended for approval subject to the condition that the establishment passes an onsite inspection by a member of Division Staff.

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

15. Application(s) for Preneed Main License
A. Recommended for Approval without Conditions
(1) Tulip Cremation Services, LLC (Bartow)

Ms. Simon – The Department received the application on March 29, 2019 and all deficiencies were resolved as of July 17, 2019. This is an application for a new preneed license. The sole principal and owner of the corporation will be: Thomas H. Harries. A completed background check of the officer revealed no criminal history. Applicant’s qualifying direct disposal establishment license (F34673) was issued as of March 13, 2019. If approved, Applicant will sell insurance-funded preneed through Homesteaders Life Company and use their approved pre-arranged funeral agreement. The Division recommends approval.

Chair – Do we know if this entity has ever been licensed to sell preneed?

Ms. Simon – I’m not sure about outside of state of Florida.

Chair – In Florida.

Ms. Simon – I don’t believe that they’ve been previously licensed.

Chair – Thank you.

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

16. Application(s) for Removal Facility
A. Recommended for Approval with Conditions
(1) Nelson’s Elite Care LLC (Orlando)

Ms. Simon – An application for a Removal Service was received on June 24, 2019. The application was complete when submitted. A background check of the principals revealed no relevant criminal history. The application is recommended for approval subject to the condition that the facility passes 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. Ms. Anderson seconded the motion.

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

A. Recommended for Approval with Conditions

(1) Preneed Sales Agreement

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

Ms. Simon – SCI submits the following preneed sales agreement forms: (1) All Faiths Cremation Society Preneed Funeral Agreement, (2) National Cremation Society Preneed Funeral Agreement, (3) National Cremation & Burial Society, and (4) Neptune Society Preneed Funeral Agreement. If the forms are approved, they are to be used for the sale of trust-funded preneed contracts by this preneed licensee and its related preneed branches. The Division recommends approval subject to the condition that two (2) full sized print-ready copies of each contract are received by the Department within 60 days of this Board meeting.

MOTION: Mr. Helm moved to approve the request subject to the condition that two (2) full sized print-ready copies of each contract are received, by the Department, within 60 days of this Board meeting. Mr. Clark seconded the motion, which passed unanimously.

(2) Preconstruction Performance Bond

(a) SCI Funeral Services of Florida, LLC (SCI) d/b/a Lake Worth Memory Gardens

Ms. Simon – Pursuant to s. 497.272, F.S., typically, a pre-construction trust must be put in place if sales are going to occur prior to completion. However, s. 497.272(8), F.S., provides that in lieu of the pre-construction trust fund, the cemetery company may provide a performance bond in an amount and by a surety company acceptable to the regulator.

The licensee has submitted for approval a performance bond, in lieu of a pre-construction trust. The amount of the performance bond is the same amount expected or even higher than expected for the building of the 280 front niches at the location referenced in your Board package. The Division recommends approval of the pre-construction performance bond without conditions.

MOTION: Mr. Knopke moved to approve the pre-construction performance bond. Mr. Bango seconded the motion, which passed unanimously.

18. Old Business

A. Informational Item – Requested by the Board

(1) Turner, Rodney (F090855) (Funeral Director and Embalmer)

Ms. Simon – This is an informational only item. The Board requested monthly reports on Rodney Turner and that report is included within your Board package.

Lisa Coney – Lisa Coney with SCI. As it relates to Rodney Turner, the request was that we report back on his progress six (6) months after licensure. So, if it's a change to monthly, I just want to make sure, because I considered this the end of our requirement. If we need another report, I'm happy to provide it.

Ms. Simon – Ms. Coney, I apologize. I think that was confused with Mr. Mitchell, who we were getting monthly reports from.

Ms. Coney – Okay.

Ms. Simon – You are correct.

Ms. Coney – I'd be happy to give you as many reports as you want, but I kind of considered this one a one and done.

Mr. Clark – I'm glad he's doing well, though.

Ms. Coney – Thank you, he is. I appreciate it.

Mr. Helm – Mr. Chair?

Chair – Yes?

Mr. Helm – Ms. Simon, did you say something about the one we're supposed to receive monthly reports for?

Ms. Simon – No, I just said that with the wording, we must have mistaken it for that one.

Mr. Helm – Well, on that subject, how come we didn't get one on him?

Ms. Simon – I can't tell you that.

Mr. Helm – We're supposed to get one, aren't we?

Ms. Simon – The Board did request it, but that was not a condition of licensure and I do not recall getting one this month.

LaTonya Bryant – It's due today.

Mr. Helm – Okay.

19. Executive Director's Report

A. Operational Report

Ms. Simon – The Operational Report will be given by Mary Schwantes, the Division Director.

Ms. Schwantes – Thank you. A reminder to everybody that the deadline for renewal for funeral directors and embalmers is August 31st. Please remind yourselves, put it on your calendars, etc.

I want to give you a quick update on the Board appointment process. The Board has four (4) Board members whose terms expire at the end of September. The Board currently also has a vacant position for a consumer representative who is also licensed as a certified public accountant. The deadline for the receipt of applications was July 31st. As of mid-day yesterday, we had received about thirteen (13) applications for the three (3) industry related positions, but no applications for the two (2) consumer positions. So, we have decided to extend the deadline for receipt of applications to close of business on Friday, August 16, 2019, to allow a little more time for those who are interested. If you know of anyone interested in applying for any of these positions, industry or consumer, please let them know to check our website or call me for more details. Question on the process? Okay.

As you all know, of the 2019 statutory changes, there are five (5) major areas that affect Chapter 497. Mr. Barnhart's going to talk a little bit about some of the rule changes that are needed. We are also going to have to change multiple forms, including all of our inspection forms and a number of other things. So, we will be undertaking that. One of the changes was an FDIC may oversee up to two (2) establishments, within certain conditions. We've already had a lot of contact about that. In the interim, before the rules and forms are changed, I would ask if you all get inquiries or if anyone in the audience has any questions about it to please contact Misty Burch in our office. She was here earlier, and she can walk you through the procedure that we are implementing until the rules and forms can actually get changed. Another thing to let everybody know is that our field staff will be looking at the FDIC issues during their onsite inspections, examinations, and investigations.

The next Board meeting will be a telephonic meeting, hopefully without echo problems, on Thursday, September 5th, at 10 am. October's in-person Board meeting will be held at the St. Petersburg College on October 3rd. This ends the Operation Report. Thank you, Mr. Chair.

Chair – Thank you, Ms. Schwantes.

B. Report Payment of Disciplinary Fines and Costs

Ms. Simon – This is 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
 August 1, 2019 Board Meeting
 Date of Report: July 22, 2019

Licensee	Board Meeting	Case No.	Total Fine & Cost Due	Date Due	Paid in Full?	Comments
BK's Removals	Jun-19	230157-18-FC	\$1,500			23-Aug-19
Reed's Rnural Home	Jun-19	230173-18-FC	\$2,000			23-Aug-19
Hubert C. Reynolds Junior	Jun-19	230178-18-FC and 236982-18-FC	\$5,250			23-Aug-19
William Manker	18-Apr-19	200600-16-FC	\$10,000	5/27/2019	A	Request for Administrative Action sent to the Office of the General Counsel
Willie J. Owens	7-Feb-19	195918-16-FC; 198403-16-FC; 204672-17-FC	\$3,500	1-Jun-19	A	Request for Administrative Action sent to the Office of the General Counsel
Reynaldo Lampkins	12/6/2018	200645-16-FC	\$4,000	2/21/2018	A	Request for Administrative Action sent to the Office of the General Counsel
A. When payment in full becomes past due, the FCCS Division works with the DFS Office of the General Counsel to enforce payment. B. Once fines and costs are paid in full, licensee kept on this report 3 months, showing Paid in Full, and then dropped off report; also licensee dropped off report after disciplinary action filed due to nonpayment of the fine and costs. C. The Order re this case is still in process, so no Due date is not yet established. D. Due date has not passed, as of the date of this report. E. As of the date of this report, monthly payments were current.						

20. Chairman's Report (Verbal)

Chair – As Ms. Schwantes said, our next meeting is a teleconference meeting and then I think we're all looking forward to the next in-person meeting in St. Petersburg. Board members, the opportunity for good of the cause?

Ms. Coney – I'm not a Board member, but I have a good of the cause.

Chair – That's under Public Comments.

Ms. Simon – That's our next subject.

Mr. Jones – If I may?

Chair – Yes, Ken Jones?

Mr. Jones – Mr. Hall called me the other day, and this is related to my duties with the Department of Health. Mr. Hall was asking about a family that came in asking about service related disabilities. On the death certificate we have "Are you a veteran?" and then we have on there "Service related disability issue." We put some brochures out a while back and will look at sending those back out. We just want to push, from a funeral director's perspective, we tell VA doctors, we tell citizens if you're using someone other than a VA physician please let them know you have a service rating letter. As they do the manner

and cause of death, they can determine whether that death was attributed to anything associated with a disability. I just want to remind you're dealing with clients, as they come in to you and they are mentioning disabilities that you have them go back and make sure, before the physician completes a manner and cause of death, that they let them know they were disabled from the military and that may save you an amendment, save the family some extra heartache. So, I just wanted to bring it up here and again we'll look at sending the brochures out.

Chair – Thank you.

Mr. Jones – Thank you.

Chair – Anything else? Anybody?

21. Public Comments (Verbal)

Chair – Ms. Coney?

Ms. Coney – As we're contemplating rulemaking, we've heard from Mr. Hall today that the understanding of the bodies handled and the not being able to push a button on EDRS and using a form that might say something from years ago but looks the same as one today, is obviously a source of confusion and probably a source, in the coming years, of enforcement activity. So, I would respectfully request that we add that to the list of things that we want to do rulemaking on, because whether it's accepting EDRS or obviously the Department of Health has the ability to maybe easily craft their report in a way that it would mean all of the same things so that a licensee could literally go like that and have the information available that the Division desires. In years past, there's been conversation about whether or not it's necessary at all and every single time legislation comes up there's conversation about eliminating the need for it at all. So, at the very least, accommodating what is already an automated process would seem to be kind of a no brainer, so I would hope that we could add that to our rulemaking list.

Ms. Schwantes – Mr. Chairman?

Chair – Yes ma'am?

Ms. Schwantes – If I might respond to that?

Chair – Please do.

Ms. Schwantes – That rule, particularly since it involves forms, probably would fall under the Department responsibilities. As I indicated earlier, that is something that we are exploring. It is also something that we acknowledge came up at the public workshops. We know that that is an industry interest and are hoping that we can come up with a way that will help resolve this. It may not be an immediate effort, it might take some time, but Mr. Jones and I actually spoke about this. We'll be taking a look at that, but that is not a Board purview item. That is a Department item.

Chair – Thank you.

Ms. Coney – Well, to the Department, please add it to your list and if we get tasked with legislative preparations, we'll be bringing it up in that realm as well. Thank you.

Chair – Thank you. Let me remind those of you that get continuing education hours for attending this meeting, be sure and sign out on the document over there. Yes sir?

Chephus Granberry – I would like to request the procedure for requesting the backup documentation to the items that's on the agenda. Is that public record?

Chair – Do you mean the minutes to it?

Mr. Granberry – No, not the minutes, but the backup documentation. What is the procedure for requesting that public records.

Ms. Bryant – You can email me your request. The cost is \$25 per meeting.

Mr. Granberry – What email would that be?

Ms. Bryant – LaTonya.Bryant@myfloridacfo.com.

Mr. Granberry – Thank you.

Chair – Good. I understand your question now. Yes sir?

Timothy Kitchens – I want to say Good Afternoon to the Board. My name is Timothy E. Kitchens, of Timothy E. Kitchens Funeral Home in Riviera Beach, Florida. I do have a concern or a question. I think I brought this up to the Director in Miami about solicitation. I know that's a very complex situation. It is really hurting us, as people trying to do right in the industry. We have a major problem in our area and I'm pretty sure it's in other areas as well, when people go out and solicit families. Not only solicit families, but they sell funerals but are not licensed. So, I was told that the State was short on employees to go out to investigate these claims. Once we make the claim, it's kind of tough to catch them in the act of doing that. It's really hurting us, as an industry. Is there an initiative that the Board has or that you could develop that could at least slow it down a little bit? It's unfair to us that we studied so hard in our embalming courses and spending so many hours in college to get a degree to become a licensed funeral director here in Florida and here you have a person that has no education and they're going out doing these things. So, I just wanted to ask will there be something in place that could try to curtail this problem that we're having in our area?

Ms. Schwantes – Mr. Chair?

Chair – Please.

Ms. Schwantes – Thank you, Mr. Kitchens.

Mr. Kitchens – Yes ma'am.

Ms. Schwantes – I do remember talking with you about this before. We have talked about this issue with a number of people, both during the public workshops and at the conferences that we attend. Unlicensed activity is a blemish, not only on the industry, but it's also a concern to the Department, a huge concern. It is not so much staffing as it is, as we've pointed out, finding people who are willing to be witnesses and also catching the unlicensed activity in the act. That is sometimes difficult. I do want to stress again that every complaint that we receive is investigated and looked into, but again, a lot of these times we have a hard time getting witnesses to come forward who are willing to continue to come forward after the initial complaint, sign affidavits, and go through the legal process. So, that is a concern. As far as the unlicensed activity itself, last year the Division proposed to the Department, but the Department was not able to put it in the bill, but we are proposing again this year that unlicensed activity penalty be increased from a misdemeanor to a felony. The Division is very hopeful that that is something that will get picked up this year, that they'll be enough interest in that. That may help add as a deterrent, but the big thing is, as always, finding people that who are willing to go forward with the testimony and all that. Please do continue to call us, let us know of activity that is going on, and see what we can do about it.

Mr. Kitchens – Thank you so much.

Chair – Thank you, Mr. Kitchens.

Ms. Schwantes – Thank you.

22. Office of Attorney General's Report
A. Attorney General's Rules Report

Mr. Barnhart – The current rule situation is caught up to date. We’re looking good there. Somewhat bad news, we have some more rules to do because of the legislation that just passed. What I passed out, I didn’t try to give a synopsis of what the new laws provide but on the left side, I just stated what the main reasons would be for possible rulemaking. On the right side, are rules that myself, Ellen, and Mary met about, and at this point, those are the rules that we think might have to be opened up for development to coincide with the new legislation. The part down there at number 4, I think, there’s still a little bit of question as to whether the Department is going to take that on whether it’s the Board, but if the Board would authorize me to open up those rules that are mentioned on the right side of the page that are for development, then I can get started doing that.

Just to summarize the rules, 69K-7.015, F.A.C., might have to be amended because of the legislation. I say might, but most of these are definitely going to be opened up for some kind of change, or need to be. The next is 69K-18.001, 69K-18.002, and 69K-18.003, F.A.C. Section 3 is 69K-21.007(3), F.A.C. Then, in Section 4, 69K-5.015, 69K-5.016, and 69K-5.002, F.A.C. Those rules, we believe at this point, should be opened up for development. These rules will also be included, as well as the statute numbers, on your Annual Regulatory Plan, which will probably be proposed at the next meeting, but we have to get that in place by October 1st.

MOTION: The moved to authorize Mr. Barnhart to open up Rules 69K-7.015, 69K-18.001, 69K-18.002, 69K-18.003, 69K-21.007(3), 69K-5.015, 69K-5.016, and 69K-5.002, F.A.C. for development. Mr. Clark seconded the motion, which passed unanimously.

Ms. Wiener – Mr. Chairman, I have a question regarding a proposed rule.

Chair – Just one moment. Mr. Barnhart, does that conclude your report?

Mr. Barnhart – Yes.

Chair – Thank you. Ms. Wiener?

Ms. Wiener – Thank you. Recently, I submitted on behalf of Funeral Services Incorporated and also Clear Point Federal Bank and Trust, comments in response to proposed rule 7.0095. The due date on those was last Friday. I think we made some really valid points about clarification, but I just see in the July 29th version of the FAR that it came out without any of those changes. Should I assume that you didn’t like them or like I feel like that was such a close time in proximity that maybe they got lost in translation and I believe, Ms. Simon, they were sent to you.

Ms. Simon – Yes, they were sent to me, I believe around the same time that I was at the FCCFA Convention and I have not spoken yet with our Legal Department about it.

Ms. Wiener – Okay. So, the new proposed rule that’s out, just in terms of process, would we need to challenge that?

Mr. Barnhart – Which rule are you talking about? Are you talking 7.0095?

Ms. Wiener – Yes.

Mr. Barnhart – That may be one of the rules that the Department had taken over, because there were a few rules in Chapter 7, I believe, that JAPC said that the Board didn’t have authority to proceed on, but the Department picked them up. I don’t know if that’s one of the rules or not, but if you’ll call me, I’ll try to track that down.

Ms. Wiener – I will, because they’re not controversial changes at all. They actually conform the rule language to what the form is trying to do. So, that would be good. I’ll call you.

Mr. Barnhart – Okay. Thank you.

23. **Administrative Report**

The information was provided on the Agenda.

24. Disciplinary Report

The information was provided on the Agenda.

25. Upcoming Meeting(s)

- A. September 5th (Teleconference)
- B. October 3rd (St. Petersburg/Pinellas Park – St. Petersburg College, Health Education Center, 7200 66th St. N)
- C. November 7th (Teleconference)
- D. December 5th (Jacksonville – Embassy Suites by Hilton Jacksonville Baymeadows, 9300 Baymeadows Road)

26. Adjournment

Chair – Again, thank everyone here in attendance.

Russell Wright – Chephus said tell everyone who I am. I was taught that in first grade to present myself, but he's my friend so I won't argue. I'm Russell A. Wright, Sr., and I am the newly elected President of the Florida Morticians Association. Mr. Rodney Rocker is our Chairman of our Board. He's just been elevated from President to Chairman. We just want to say to the Board that we want to work together. Information is powerful and we need to be present and we're going to be present at these meetings so that you will know us. We are the African American wing of this industry and we have to all work together to make our industry greater than it is. A lot of the problems that Mr. Kitchens just mentioned all of us have faced all over the State of Florida, from the Panhandle to The Keys, but we can't solve it without working together to do that. We're here, so thank you very much for this opportunity.

Chair – Mr. Wright, you may remember that we had our Board meeting in conjunction with your annual convention no too long ago.

Mr. Wright – Absolutely. I was elected at that convention.

Chair – We were honored to be invited, so please continue to invite us to have Board meetings at your conventions.

Mr. Wright – We'll make sure that happens.

Chair – Thank you, Mr. Wright. Any others? Again, thank you Board. You're always appreciated.

The meeting was adjourned at 1:22 p.m.