MINUTES
BOARD OF FUNERAL, CEMETERY AND CONSUMER SERVICES
February 6, 2020 - 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 February 6, 2020 Board of Funeral, Cemetery, and Consumer Services' meeting in Tallahassee FL. I call this meeting to order. 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 of the Division of Funeral, Cemetery, and Consumer Services. Today is February 6, 2020. It is approximately 10:00 A.M. This is a public meeting of the Board of Funeral, Cemetery, and Consumer Services. Notice of this meeting has been duly published in the Florida Administrative Register. An agenda for this meeting has been made available to all interested persons and extra copies are located in this meeting room. This meeting is occurring in the Betty Easley Center in Tallahassee FL. Ms. Jasmin Richardson is recording the meeting and minutes will be prepared. Persons speaking are requested to identify themselves for the record each time they speak. Please come to the microphone before you speak to the Board. We need to hear your voice, and the only way we can do it for our transcript is to speak in front of the microphone. 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
Andrew Clark
Lewis "Lew" Hall
Powell Helm
Ken Jones
Darrin Williams

Also noted as present:
Mary Schwantes, Executive Director
Tom Barnhart, Board Legal Advisor
Marshawn Griffin, Department Counsel
James "Jim" Bossart, Department Counsel
Jasmin Richardson, Department Staff
Crystal Grant, Department Staff
Larry Holsey, Department Staff
Nicole Singleton, 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. December 5, 2019

Chair – Is there a motion?

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

B. January 2, 2020

Chair – Is there a motion?

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

3. Old Business

A. Application(s) to Organize a New Cemetery Company (Phase II)

(1) Recommended for Approval <u>without</u> Conditions

(a) Queen of Angels Catholic Cemetery, Inc. (Winter Park)

Ms. Simon – This application for a cemetery license (Phase 1) below was presented at the December 6, 2018 Board meeting and was approved subject to the conditions as set forth in the Board minutes from the December 6th meeting, which are included in your Board package. In response to the stated conditions by the Board for approval, the Applicant has provided all the requested documentation in compliance with ss. 497.263(3).

As a result, Queen of Angels Catholic Cemetery, Inc (Queen of Angels) herein submits the documentation within your Board package to satisfy conditions for Phase 2 of an Application to Organize a New Cemetery Company for the above-named cemetery property located at: 2400 Dike Rd, Winter Park, FL 32794. Applicant has provided information that it has complied with the following statutory criteria and conditions of approval, as set forth in section 497.263(3), which provides as follows:

1) That applicant establishes a care and maintenance trust fund containing not less than $50,000, certified by a trust company operating pursuant to Chapter 660, F.S., a state or national bank holding trust powers, or a savings and loan association holding trust powers, pursuant to a Board approved trust agreement.
2) Receipt by the Division an opinion or certification from a Florida title company or a letter signed by applicant's attorney, certifying that the Applicant holds unencumbered fee simple title to all land as described to the Board in the materials provided to the Board herewith.
3) Receipt by the Division from Applicant or Applicant's attorney of evidence of approval of local zoning authorities, if approval is required. If no approval is required, Applicant may provide evidence of approval from residents adjacent to the proposed cemetery location.
4) That Applicant provides notification to the Division of the designated general manager of the cemetery who has 3 years of cemetery management experience, and the ability to operate a cemetery.
5) That Applicant provides to the Division satisfactory evidence that it has fully developed at least 2 acres for use as burial space, and such development includes a roadway(s) to the developed section(s) within the first 12 months of operation.
6) Receipt by the Division from Applicant's attorney, a written and signed attestation that the cemetery land identified in the application has been recorded in the public records of real estate in the county in which the cemetery land is located. Such notice must be clearly printed in at least 10-point type on the face of the deed or in a separate document containing a description of the property, the following language: *"The property described herein shall not be sold, conveyed, leased, mortgaged, or encumbered without the prior written approval of the Department of Financial Services, as provided in Chapter 497, Florida Statutes."*

If Phase 2 of the applicant's application is approved, the applicant will Operate under the name of Queen of Angels Catholic Cemetery, Inc. The Applicant's financial statement reflects the necessary financials. The Division recommends approval of Phase 2 of the Application to Organize a New Cemetery Company.

Mr. Clark – Mr. Chairman?

Chair – Yes sir?

Mr. Clark – I'd like to state, for the record, my affiliation with Larry Maziarz, but that affiliation will not prevent me from rendering a fair and impartial decision.

Chair – Thank you. Yes, are you here to address the Board or to answer questions, or both?

Wendy Wiener – Good morning. Wendy Wiener, here to answer questions and to perhaps ask for an accommodation. Much later on your agenda, if you approve the Phase 2 application, is the approval of the Care and Maintenance Trust Agreement and a Trust Transfer request. Because of the incoming inclement weather, I'd like to be able to get my clients back out of here and on the road back to Central Florida. So, if possible, I would ask if that could be moved up in the agenda. If not, that will work too, but if that is possible, we would ask for that.

Chair – We will accommodate.

Ms. Wiener – Thank you.

Chair – Board, any questions?

Keenan Knopke – We're just dealing with the application for Phase 2, at this point, Mr. Chairman?

Chair – That's correct.

MOTION: Mr. Jones moved to approve Phase 2 of the application. Mr. Powell Helm seconded the motion, which passed unanimously.

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

A. Recommended for Approval with Conditions

(2) Request(s) for Approval of Trust Agreement and Trust Transfer

(a) Queen of Angels Catholic Cemetery, Inc. (Winter Park)

Ms. Simon – Queen of Angels Catholic Cemetery, Inc. (Queen of Angels), through its Attorney, seeks approval of a trust agreement and a request to transfer trust accounts, all as more specifically set forth in your Board materials.

Queen of Angels seeks approval of a cemetery care and maintenance trust agreement, entitled *"Catholic Cemeteries of Central Florida Holdings, Inc. Care & Maintenance Master Trust"*. Your Board package contains information for the request by Queen of Angels to transfer its initial care and maintenance trust deposit from "The FSI Care & Maintenance Master Trust" to the "Catholic Cemeteries of Central Florida Holdings, Inc. Care & Maintenance Master Trust" under Argent Trust Company. If approved, the Queen of Angels cemetery care and maintenance account will operate under the proposed trust agreement, also presented for approval at this Board meeting. The Division recommends approval of the trust agreement, as well as the applicant's request for the trust transfer subject to the conditions as follows:

1) That the representations of Queen of Angels, through its Attorney, as set forth in Attorney's correspondence dated 1-10-2020, copy attached hereto, be deemed material to the Board's decisions herein.
2) That within 90 days of this Board Meeting Argent Trust Company provide the FCCS Division (ATTN: LaShonda Morris), the effective date of the transfer and certifications including the following:
   - A letter signed and dated by one of its officers, certifying that it meets one or more of the applicable criteria in s. 497.266(1), and s. 497.458(1(b), to act as trustee of the trust to be transferred pursuant to Attorney's letter dated 1-10-2020.
   - A letter signed and dated by one of its officers, certifying the dollar amount of trust assets being transferred to the trust as identified under Exhibit C, Attachment 2**.**
   - Acknowledgement of receipt of the amount of trust assets being transferred as specified under the former trust, as identified under Exhibit C, Attachment 2.
3) That the Board's executive director, for good cause shown, may extend the compliance time frame for the above specified conditions, an additional 90 days.
4) That a fully executed copy of the trust document as identified under Exhibit B, **Attachment 1**, above be provided to the Division within 60 days of this Board meeting.

Chair – Any discussion? Any questions?

Mr. Knopke – Mr. Chair?

Chair – Mr. Knopke?

Mr. Knopke – A couple of questions for the applicant and Ms. Wiener. Master Trust, is this a care and maintenance trust for one cemetery or multiple cemeteries?

Ms. Wiener – Multiple cemeteries. Catholic Cemeteries of Central Florida currently has several cemeteries in the area. Just like the FSI Care and Maintenance Master Trust is set up to accommodate both licensed and non-licensed cemeteries that wish to participate in a Master Trust, so too will this trust be. So, for all of the cemetery trusts associated with this Dioceses, this trust will accommodate those.

Mr. Knopke – A follow up, if I may, sir?

Chair – Please.

Mr. Knopke – The unlicensed cemeteries, while they'll be using the trust, will not be subject to discipline or trusting refunds of the statute, correct?

Ms. Wiener – That is correct.

Mr. Knopke – Will there be anything else this Master Trust will be used for?

Ms. Wiener – No.

Mr. Knopke – Like merchandise or anything like that?

Ms. Wiener – No. At your next meeting, or perhaps at your April meeting, you will be receiving a preneed main license application for Queen of Angels. You will also, at that time, receive a trust agreement for approval and a contract for approval. It will also be a preneed master trust, but it would not be used for any of the non-licensed cemeteries. It would strictly be a traditional preneed master trust, in the event that there were other licensed cemeteries to come behind Queen of Angels, for the Dioceses.

Mr. Knopke – One final question. The trust itself is a full arm's length from the Dioceses, just like any other master trust or trust.

Ms. Wiener – It is. It is actually, I believe, verbatim the FSI Care and Maintenance Master Trust, simply retitled.

Mr. Knopke – Okay. Thank you.

Chair – Thank you. Any other questions?

MOTION: Mr. Knopke moved to approve the trust agreement and trust transfer subject to the conditions recommended by the Division. Mr. Lew Hall seconded the motion, which passed unanimously.

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

B. Board Update (Verbal)0

(1) Miserere Guild of Hillsborough County, Inc. d/b/a Resurrection Cemetery (Seffner)

Ms. Simon – In the past, Mr. Knopke has requested that this item be placed on all in-person Board agendas. What has been provided to the Board is the zoning information that I believe Mr. Knopke has requested in the past. We are here today to see if there is any other information that's needed. If not, the Division is a posture to award the cemetery license.

Mr. Knopke – Ms. Simon, Mr. Chair, Ms. Wiener, my point in this whole ride along is to make sure that they got what they said they got. If they've gotten it, then go for it. I'm all for them having it. I just want to make sure, as I've said before, that they got it the same way everybody else did.

Ms. Wiener – Absolutely. That's much appreciated.

Chair – Thank you.

Ms. Wiener – Thank you.

4. Disciplinary Proceedings: Material Facts Not Disputed (Section 120.57(2) Hearings)

A. Probable Cause Panel A

(1) Lampkins, Renaldo O.: Case No.: 242402-19-FC; Division No.: ATN-32643 (F043345)

Ms. Simon – This case will be presented by Mr. Marshawn Griffin.

Mr. Knopke – Mr. Chair?

Chair – Yes, Mr. Knopke?

Mr. Knopke – I served on Probable Cause Panel A. I will recuse myself.

Chair – Thank you for that declaration.

Mr. Griffin – Good morning. The above referenced matter is presented to the Board for consideration of the Motion of Determination of Waiver and for Final Order by Hearing Not Involving Disputed Issues of Material Fact (Motion), in the matter of Renaldo O. Lampkins (Respondent).

The Division alleges Respondent engaged in the following:

- Violated a lawful order of the Board
- Failed to perform a statutory or legal obligation

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. At this time, it would be appropriate for the Chair to entertain a motion determining whether the Respondent has waived his right to a s. 120.57(1) Hearing based on the Respondent's failure to timely file a response.

Ms. Simon – Before we get to that, is Mr. Lampkins here, today? Hearing no response. Motion?

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

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

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

Mr. Griffin – So, at this time, the appropriate matter is for the Board to impose discipline. I'd like to inform the Board that subsequent to the filing of this Administrative Complaint, what the basis of this was is that the Board imposed a Final Order against Mr. Lampkins, in a prior case, requiring him to pay a fine to the Board. I believe the approximate amount of the fine was $4000. Mr. Lampkins was to pay that money in three (3) installments. He failed to timely pay that money in the installments. Subsequently, the Division issued an Emergency Order of Suspension against his license for failure to timely comply with a Consent Order. On about December 4th of last year, Mr. Lampkins provided a payment of the outstanding money that was owed on the Consent Order. On January 23rd, Mr. Lampkins submitted a written request to have his license reinstated, as per the terms of the Emergency Order of Suspension. Mr. Lampkins license has been reinstated. So, at this time, the Department feels that the appropriate penalty would be imposing a lengthy form of probation in light of the fact that although it was late, he did comply with the terms of the Consent Order.

Chair – Is he currently on probation through the stipulation agreement?

Mr. Helm -Two (2) years.

Chair – Two (2) years?

Ms. Simon – So, whatever time you are requesting, would that be consecutive?

Mr. Griffin – Yes. I would ask that it be made consecutive to the current probation that he's on.

Mr. Tom Barnhart – Mr. Griffin, I didn't hear about the conclusions of law. Did you ask the Board?

Mr. Griffin – Oh, I'm sorry. It is appropriate at this time for the Chair to entertain a motion adopting the Conclusions of Law as alleged in the Administrative Complaint.

MOTION: Mr. Jones moved to adopt the Conclusions of Law as alleged in the Administrative Complaint. Mr. Knopke seconded the motion, which passed unanimously.

Chair – Thank you, Mr. Barnhart. With the history that we've had and the probation that he's on, considering that he's ignored the Board's Order, I think we could consider serious discipline up to and including revocation of license. So, I'd like to hear any other Board member's comments.

Mr. Helm – Mr. Griffin?

Mr. Griffin – Yes?

Mr. Helm – Excuse me, Mr. Chair. May I speak?

Chair – Yes, Mr. Helm.

Mr. Helm – He's paid all of his fines?

Mr. Griffin – Yes. He's paid his fines completely as of December 4, 2019.

Mr. Helm – So, he's paid $4000.

Chair – Is that a part of our packet, that he's paid in full?

Ms. Simon – I'm not sure if it was a part of the package. What is a part of the package on page 33 is the schedule that he was to follow to make that $4000 payment. The Order was executed on December 13, 2018.

Chair – Thank you.

Mr. Jones – How late was he?

Mr. Griffin – About a year.

Mr. Hall – Does the Division have any other discipline issues against this licensee, other than the late payment?

Mr. Griffin – I believe the discipline constituted the grounds for the initial Consent Order.

Mr. Hall – Are there other discipline issues that we've had in the past, other than this one? Is there any past history of problems with the licensee?

Ms. Simon – I'm unable to find that information out now.

Mr. Hall – Okay.

Chair – Do we know if there's any action being taken by the Attorney General's Office on the abuse of the Victim's Reimbursement Fund that was misused.

Ms. Simon – I don't believe so, sir. I don't believe that that has occurred, but I'm not certain of it. We just have not gotten any notice of that.

Chair – Thank you.

Mr. Helm – Mr. Chair, I hear what you're saying, but I have a problem with anything very radical because we accepted this $4000. If we hadn't taken that then maybe. So, I don't know how we'd be just in revoking his license.

Chair – Thank you. Do you have a motion?

Mr. Jones – I would make a motion to add another year of probation to what he already has, to run concurrent. Has he done one year?

Mr. Griffin – The Consent Order was issued on November 30, 2018, so he would have, I'm sorry, the Final Order was issued on December 13, 2018, so the probation under that case would be expiring this year.

Mr. Barnhart – At the very end of the year.

Mr. Griffin – Yes, the end of the year.

Mr. Jones – Which, while he was on probation, he didn't pay until a year later.

Mr. Griffin – Right.

Mr. Jones – I'd propose two (2) years of additional probation.

Ms. Simon – To run consecutive with what he currently has?

Mr. Jones – Yes ma'am.

Mr. Barnhart – Until what date?

Mr. Jones – Two years from…

Mr. Barnhart – Two years from now?

Mr. Jones – Yes.

Mr. Helm – Two years at the end.

Ms. Simon – He would be off this probation in December 2020.

Mr. Jones – Add two (2) to that.

Ms. Simon – December 2022.

Mr. Jones – Whenever this is up, because he didn't pay while he was on probation.

Chair – Two (2) additional years?

Mr. Jones – Yes sir.

MOTION: Mr. Jones moved to add two (2) additional years of probation. Mr. Williams seconded the motion, which passed unanimously.

B. Probable Cause Panel B
(1) Camel Funeral Home: Case No. 247860-19-FC; Division No.: ATN-32372 (F040017)

Ms. Simon – I have passed out a document to each of the Board members this morning, which is a response from Camel Funeral Home. It is very short, so you should have been able to read it before the Board meeting. It's only a paragraph. Mr. Griffin, are you representing the Department in this matter?

Mr. Griffin – Yes ma'am.

Ms. Jean Anderson – Mr. Chairman?

Chair – Is there anyone here representing Camel Funeral Home? Anyone representing Camel Funeral Home? Hearing no response.

Ms. Jean Anderson – Mr. Chairman?

Chair – Yes, Ms. Anderson?

Ms. Jean Anderson – I served on Probable Cause Panel B, so I'm recusing myself on the following cases: 4. B. (1)-(6) and C. (1)-(2).

Chair – Thank you for that declaration.

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 Camel Funeral Home (Respondent). The Division alleges Respondent engaged in the following:

- Engaged in activities licensed under Chapter 497, Florida Statutes with an expired license.

The Motion demonstrates Respondent's failure to timely file a responsive pleading contesting the allegations in the Administrative Complaint and requests that the Board adopt the factual allegations in the Administrative Complaint and issue an appropriate penalty. At this time, it would be appropriate for the Chair to entertain a motion determining whether the Respondent has waived its right to a s. 120.57(1) Hearing based on the Respondent's response to the Administrative Complaint.

Chair – Is there a motion?

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

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

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

Mr. Griffin –It is appropriate at this time for the Chair to entertain a motion adopting the Conclusions of Law as alleged in the Administrative Complaint.

MOTION: Mr. Jones moved to adopt the Conclusions of Law as alleged in the Administrative Complaint. Mr. Hall seconded the motion, which passed unanimously.

Mr. Griffin – At this point, the only thing left is to impose discipline. Before we get to that, the Department would like to the Board to know in additional to the letter, the representative from Camel Funeral Home contacted me in addition to this letter via telephone last week to discuss an additional Administrative Complaint that had been. It was his intent, as of last week, to attend this Board meeting. He then spoke with me via telephone this week to let me know that he was not going to be able to attend the meeting because of a funeral and I advised him we had a discussion and he asked whether or not he should attend and I told him that based on the way that we've handled similar cases of this nature and the fact that he was intending to appear at this meeting that I would represent to the Board that it was his intent to be here at this meeting. So, with all of that having been taken into account, the Department would request that the Board impose a fine of $300.

Chair – Is there a motion?

MOTION: Mr. Jones moved for a fine of $300. Mr. Hall seconded the motion.

Chair – Is there discussion?

Mr. Helm – Mr. Chair?

Chair – Yes?

Mr. Helm – There are numerous amounts of complaints. I think a $300 fine is kind of light.

Chair – Any other comments on it.

Mr. Helm – No.

Chair – Do you care to present something to the Board for consideration?

Mr. Helm – I'm not sure of the guidelines.

Mr. Griffin – This case arose in 2018 prior to the Board adopting the 2019 disciplinary guidelines. The way that we've handled similar cases of this nature involving a failure to timely renew licensure is imposing a $300, which is consistent with the citation provisions within the disciplinary guidelines. Additionally, the Department has filed an additional Administrative Complaint alleging more substantive violations. Understanding that all violations of Chapter 497 are serious, this is what the Department would consider a technical violation, but there is one with a more substantive violation pending. Mr. Camel is still within the timeframe to respond to that complaint, so, I'll leave it at that.

Mr. Knopke – Mr. Chair?

Chair – Yes?

Mr. Knopke – This isn't settling both cases?

Mr. Griffin – No. This is just for the failure to timely renew licensure. That's the only allegation in this complaint.

Mr. Barnhart – Board members, I would just ask that you focus on what's before you, not anything else.

Mr. Helm – Can we ask if there is something coming?

Mr. Barnhart – No. If it's confidential and they haven't waived confidentiality and it's not a public case, then I don't think it should be discussed. Mr. Griffin, the effective date of the new guidelines is January 1, 2019, right?

Mr. Griffin – Yes sir.

Mr. Barnhart – So, it looks like just about the entire time they were operating under an expired license, they were probably committing these violations under the new guidelines, right?

Mr. Griffin – However, there's a rule that states that basically if you have penal conduct that spans two (2) different disciplinary guidelines then the licensee or defendant is entitled to basically the less stringent version of the disciplinary guidelines.

Mr. Barnhart – It started just prior to that?

Mr. Griffin – Yes, because all 497 funeral establishment licenses expire on November 30, 2018. So, effectively the date of the violation is December 1, 2018. That's when it begins and then it expands until the licensee renews their license.

Mr. Barnhart – Thank you.

Chair – So, we have a motion before us, and we have a second for a $300 fine. All those in favor, aye?

Board members – Aye.

Chair – And any opposed?

Board members – No. No.

Chair – Two (2) Nos, and the motion carries.

Ms. Simon – Ms. Anderson, that has recused herself and then we have two (2) people that have voted no.

Mr. Barnhart – I thought I heard three (3) Nos. Just two (2)?

Chair – Let's do a roll call.

Ms. Simon – Mr. Williams?

Mr. Williams – Yay.

Ms. Simon – Mr. Jones?

Mr. Jones – Yes.

Ms. Simon – Mr. Helm?

Mr. Helm – No.

Ms. Simon – Mr. Hall?

Mr. Hall – Yes.

Ms. Simon – Mr. Clark?

Mr. Clark – Yes.

Ms. Simon – Mr. Knopke?

Mr. Knopke – No.

Ms. Simon – Mr. Brandenburg?

Chair – Yes. And the motion carries.

(2) Heritage Memorial Company d/b/a Lewis W. Mohn Funeral Home & Cremation Services: Case No.: 254946-19-FC; Division No.: ATN-33415 (F087536)

Ms. Simon – Also presented by Mr. Griffin.

Mr. Griffin – Yes. 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 Heritage Memorial Company d/b/a Lewis W. Mohn Funeral Home & Cremation Services (Respondent). The Division alleges Respondent engaged in the following:

- Engaged in activities licensed under Chapter 497, Florida Statutes with an expired license.

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. At this time, it would be appropriate for the Chair to entertain a motion determining whether the Respondent has waived its right to a s. 120.57(1) Hearing based on the Respondent's response to the Administrative Complaint.

Chair – Is there a motion?

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

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

Chair – Is there anyone here representing Heritage Memorial Company d/b/a Lewis Mohn Funeral Home and Cremation Services? Hearing no response.

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

Mr. Griffin –It is appropriate at this time for the Chair to entertain a motion adopting the Conclusions of Law as alleged in the Administrative Complaint.

Chair – Is there a motion?

MOTION: Mr. Jones moved to adopt the Conclusions of Law as alleged in the Administrative Complaint. Mr. Helm seconded the motion, which passed unanimously.

Mr. Griffin – At this point, as to the matter of discipline, the Department would request that the Board impose a fine of $300.

Chair – Is there a motion?

MOTION: Mr. Jones moved for a fine of $300. Mr. Helm seconded the motion, which passed unanimously.

(3) Gordon, Samarah: Case No.: 250586-19-FC; Division No.: ATN-32859 (F073825)

Ms. Simon – Is there anyone here representing Ms. Gordon? Hearing no response. Mr. Griffin, are you representing the Department in this matter?

Mr. Griffin – Yes ma'am. 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 Samarah Gordon (Respondent). The Division alleges Respondent engaged in the following:

- Demonstrated fraud, deceit, negligence, incompetency, or misconduct in the practice of activities regulated under Chapter 497, Florida Statutes
- Violated a lawful Order of the Board or Department
- Failed without reasonable justification to timely honor contracts entered into by the licensee or under the licensee's license for funeral or burial merchandise or services

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. At this time, it would be appropriate for the Chair to entertain a motion determining whether the Respondent has waived its right to a s. 120.57(1) Hearing based on the Respondent's response to the Administrative Complaint.

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

Ms. Simon – Mr. Griffin, you said it was appropriate at this time to make a motion for what?

Mr. Griffin – A motion for determination of waiver and for Final Order.

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

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

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

Mr. Griffin –The Department feels it is appropriate at this time for the Chair to entertain a motion adopting the Conclusions of Law as alleged in the Administrative Complaint.

MOTION: Mr. Knopke moved to adopt the Conclusions of Law as alleged in the Administrative Complaint. Mr. Williams seconded the motion, which passed unanimously.

Mr. Griffin – The Department requests that the Board revoke Ms. Gordon's license. Based on the disciplinary guidelines, as alleged in the Administrative Complaint, I believe that the harshest discipline that the Board could impose would be a $7500 fine plus three (3) years of probation. However, the Department would argue that the following aggravating factors exists: (a) danger to the public; (b) the length of time that this licensee has been practicing. She's been licensed for seven (7) years, so this is not a simple mistake; (c) efforts at rehabilitation, which there were none; (d) the actual knowledge of the violation; (e) actual negligence, which I will argue in the alternate just to explain the Division's rationale.

Ms. Gordon received money on payment for a contract. There's two (2) possible ways that this played out. One is she stole the money and then canceled the contract, and then issued a new contract for substantially cheaper services. Or, let's just say that we accept her version of events as alleged in her response, which is the money was stolen and she panicked and in that panic she put in a new contract. Both of which are extremely reprehensible conduct that show that this individual is not fit for licensure under Chapter 497, F.S. So, based on the grounds for aggravation, the Department feels that it is an appropriate penalty to revoke her licensure under Chapter 497, F.S.

Chair – Any other recommendation other than revocation? Any other penalties? Board?

Mr. Knopke – Mr. Chair? Question?

Chair – Yes?

Mr. Knopke – Is she currently employed as a preneed sales person anywhere?

Mr. Griffin – That I do not know. I do know that Bailey Funeral Home terminated her upon finding out what happened.

Chair – But there was in our packet that she's working somewhere else.

Mr. Knopke – Okay.

Chair – Is there a motion?

MOTION: Mr. Helm moved for revocation. Mr. Williams seconded the motion, which passed unanimously.

(4) Mosley Monuments and Vaults, LLC: Case No. 243762-19-FC; Division No.: ATN-31269 (F229022)

Ms. Simon – Is there anybody in the audience representing Mosley Monuments and Vaults? Hearing no response. 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 Mosley Monuments and Vaults, LLC (Respondent). The Division alleges Respondent engaged in the following:

- Violated a lawful Order of the Board
- Committed fraud, deceit, negligence, incompetency, or misconduct in the practice of any activities regulated under Chapter 497, Florida Statutes
- Assisted an individual to practice an occupation regulated by Chapter 497, Florida Statutes, without licensure
- Failed to timely honor a contract

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. The Department did receive, and just to be clear, the Department did receive a responsive pleading from Mr. Mosley. However, he did not dispute the factual allegations of the Administrative Complaint, merely tried to provide, basically, an explanation for why these activities occurred. So, that was the reason why this matter was submitted for a Hearing Not Involving Disputed Issues of Material Fact.

Chair – Is that also a part of our packet?

Mr. Griffin – Yes sir, it is. It's Exhibit C and the Motion is four (4) pages, written on legal paper. At this time, it would be appropriate for the Chair to entertain a motion determining whether the Respondent has waived its right to a s. 120.57(1) Hearing based on the Respondent's response to the Administrative Complaint.

Mr. Helm – Mr. Griffin, did I hear you say he defied an Order of the Board?

Mr. Griffin – Yes, I believe I did.

Mr. Helm – I don't remember him coming before the Board before.

Mr. Griffin – Well, if that's an issue, the Department can strike those statutory references. We still feel confident that the discipline that we'd be asking for is justified based on the balance of the other references.

Mr. Helm – But if he defied an Order that could be another matter.

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

Mr. Griffin – The Department believes that it is appropriate at this time for the Chair to entertain a motion adopting the allegations of the facts, as set forth in the Administrative Complaint.

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

Mr. Griffin –The Department feels it is appropriate at this time for the Chair to entertain a motion adopting the Conclusions of Law as alleged in the Administrative Complaint, with the exception to allegations relating to violating a lawful Order of the Board, which would be limited to paragraph…

Mr. Barnhart – Count 2, maybe?

Mr. Griffin – Actually, I misspoke earlier about violating a lawful Order of the Board. What was alleged was s. 497.152((1)(a), F.S., which says, "violating any provision of this chapter or a lawful Order of the Board." So, I misspoke in my initial motion. The Department does feel that based on the other statutory violations, they support a violation of (1)(a).

MOTION: Mr. Knopke moved to adopt the Conclusions of Law as alleged in the Administrative Complaint. Mr. Williams seconded the motion, which passed unanimously.

Mr. Griffin – At this time, the Department feels that the appropriate penalty would be a suspension of licensure for Mosley. The disciplinary guidelines for the allegations as alleged in the Administrative Complaint, keeping in mind that these come under the old disciplinary guidelines, would be up to a $10,000 fine and four (4) years of probation.

However, the Department would allege that the following aggravating factors are present: Danger to the public, and specifically by allowing unlicensed individuals to practice. Florida Statute clearly enumerates that unlicensed practice is an immediate threat to the health, safety and welfare of the citizens of the State of Florida; We would also argue for actual damage. Here in this case we had an individual where the contract provided for delivery of a monument within three (3) months of the execution of the contract. The Department received a complaint from the consumer, and then we conducted an investigation, went back out in January 2019 and as of the date of that, Mosley had failed to provide a refund as of that date. Now I do believe that Mr. Mosley is contending that he has subsequently provided a refund, but that doesn't exclude the nearly nine (9) months that he went without providing a refund for something.; Then finally the actual knowledge in both the failure to comply with the contract and the actual knowledge that James Mosley, the individual that the establishment is named after, was operating without a license.

Mr. Helm -Excuse me, without a sales agent license.

Mr. Griffin – Without a sales agent license. The establishment was licensed. A Notice of Intent to Cease and Desist has already been signed off on by the Chief of Staff.

Chair – Thank you.

Mr. Jones – Have we had prior action against this establishment? You say he's been in business for fifty (50) years. He claims he tried to contact the lady at a wrong number. I don't know all the details to that. I'm just looking at both sides.

Ms. Simon – I'm not able to access that.

Ms. Jasmin Richardson – I may be able to.

Mr. Knopke – Did I read in the packet that he's closing the business? Maybe that was the customer that said she thought he was closing.

Mr. Griffin – I believe that's what he relayed during the investigation process to the Department.

Mr. Knopke – Does he have an active license?

Mr. Griffin – James Mosley individually?

Mr. Knopke – Either.

Mr. Griffin – I would rely on the ALIS profile that's contained in the packet submitted to the Board. I did not check on it.

Mr. Knopke – Does the establishment have an active license currently?

Ms. Simon – It is my understanding that Mr. Mosley does not have a license, and it is my understanding that Mosely Monuments is licensed at this time.

Ms. Richardson – There is no disciplinary action.

Mr. Jones – No prior discipline. Thank you.

Mr. Helm – Mr. Knopke, the way I read it, he's got a monument license, but he does not have a sales agent license.

Mr. Knopke – In order to stay in business, he's got to have both.

Mr. Helm – Yes. May I ask a question? Is there any reference to his sales agent license?

Mr. Barnhart – I think he said he's never been licensed individually in his response.

Mr. Griffin – Yes, if you look at paragraphs 5 and 6 of the Administrative Complaint:

5. Respondent has registered James D. Mosley ("Mosley") as its only principal.
6. Mosley has never been licensed under Chapter 497, Florida Statutes, as a monument sales agent.

Chair – But those aren't coming before us today.

Mr. Griffin – No, but that's an allegation. That's one of the factual allegations upon which one of the counts is premised. I believe Count 1 is premised on that.

Chair – Thank you.

Mr. Helm – Mr. Chair? I think that's pretty rash. If you suspend his license, you're going to put him out of business. What about the people he's already promised stuff for? If I was him, I wouldn't do it if I was put out of business. So, I don't think that's an area in which we should go, especially since he's never had anything against him before. We're only really talking about $125 for a death date.

Mr. Jones – What would be required is a sales agent license?

Mr. Helm – Yes. He needs a sales agent license.

Ms. Simon – And since the time of this event he has not received a sales agent license.

Chair – In order to remain in business, he doesn't have to have a sales agent license. Somebody else could have the sales agent license.

Mr. Helm – Exactly.

Chair – So we're strictly talking about the business license.

Mr. Helm – What is he talking about suspending then?

Mr. Griffin – The establishment license. The Board is called here to render a wise ruling, and that often times does not mean exactly what the Department is asking for. So, you have the ability to impose a fine of up to $10,000 and probation, so if that is a concern the Department is asking for a suspension of licensure. However, the Board does have basically some teeth by which to impose discipline to ensure compliance with Chapter 497, F.S.

Mr. Knopke – Mr. Chair? Another question?

Chair – Yes?

Mr. Knopke – Does the Department have the ability to see whether anyone else, who is working for him, has a license?

Ms. Simon – We have no information that Mosley Monuments has a licensed sales agent working at that facility.

Mr. Knopke – Okay. I would move for a fine of $500 and sixty (60) days to obtain a sales agent license. And if at the end of sixty (60) days he doesn't have a sales agent license, then the establishment license shall be suspended until he gets a sales agent license.

Ms. Simon – Mr. Knopke, along with that motion, would we need proof being sent to the Division within that sixty (60) day period?

Mr. Knopke – That he has a sales agent license?

Ms. Simon – Yes.

Mr. Knopke – Wouldn't y'all be the one issuing that license?

Ms. Simon – Just in force.

Mr. Knopke – That's fine. He can send it to you. That would be a part of my request.

Mr. Griffin – Just so that we can clarify since I don't handle the licensing side, let's say that he's submitted an application in that time period, would that be enough to at least, provided that the Board goes in that direction, would that…so he has to have a full license? He can't…

Mr. Knopke – {inaudible} if the Department runs a background check and he turns out to be a serial somebody then that goes right with it.

Mr. Griffin – Okay. Would he also be able to comply with a provision such as if he can show proof that he's employed someone else that is licensed?

Mr. Knopke – I would say if he's employed somebody on a full-time basis then he meets the requirement.

Ms. Simon – And provided proof?

Mr. Knopke – And provided proof to the Department.

Chair – So, we have a motion before us.

Mr. Helm – May I ask Mr. Knopke? A $500 fine and sixty (60) days to get his sales agent license or someone else?

Mr. Knopke – Yes. Or someone else. Either way, if he gets the license he's got to send the Department a copy of it or if he hires someone he has to send a copy of their license. If the doesn't do that in that time period his establishment license is then suspended and he is out of business.

Mr. Barnhart – How about suspending until he complies with that prior condition?

Mr. Knopke – He's got to pay the fine in sixty (60) days too. I'm reluctant to suspending for those sixty (60) days because of: (1) the customer he's dealing with; (2) the family's {inaudible}; and (3) reading his letter about his truck and everything else breaking down, the reality is I'm feeling compassionate. I'm happy to consider amending that or changing it.

Mr. Barnhart – You want to say that his license would be suspended for x number of years or…

Mr. Knopke – It would be suspended until he gets the proper license.

Mr. Barnhart – That's what I just recommended.

Ms. Simon – During that two (2) month period, can he still sell on behalf of the establishment without being licensed?

Mr. Knopke – Yes.

Ms. Simon – Without being licensed as a monument sales agent, he's still permitted to sell on behalf of the entity?

Mr. Knopke – Yes. He's done it for years. How long have we had a license requirement for a sales agent? Mr. Ray, how long? Twenty years?

Mr. Don Ray – Mr. Chairman, I'm Don Ray representing the Florida Monument Builders Association. We passed that first law in 2004 and it actually took effect in 2006. If I may, Mr. Chairman? I happen to know Mr. Mosley from my hometown. He called me about three (3) weeks ago, says, "I'm in trouble". He's not a member of our association. He's an old school monument operator. He's 100% unaware, I believe, that he needed a sales agent, because he thought he was properly…

Mr. Griffin – If I may? I think just so we're in the appropriate form, I think he may need to be placed under oath if he is essentially testifying on behalf of the licensee, in mitigation purposes.

Chair – I was about to suggest that. Thank you. Ms. Simon.

Mr. Griffin – Sorry to interrupt.

Ms. Simon – Mr. Knopke, this establishment has only been licensed since 2017. 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. Ray – I do.

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

Mr. Ray – I'm Donald Ray.

Chair – Please continue.

Mr. Ray – The only other thing I really have to add is that Mr. Mosley asked me, in a telephone conversation about three (3) weeks ago, to please send him the sales agent information so he could get his license. I decided not to get in the middle of it, so I have not sent that to him. I honestly believe that, and I'm happy to do that, but I honestly believe once he has the paperwork and he's told what to do, he will submit the application for a sales agent license.

Chair – So, someone has to tell him what to do?

Mr. Knopke – Mr. Chair?

Mr. Ray – He's just waiting on the paperwork and he's happy to file the application.

Chair – Are you assisting him with that?

Mr. Ray – Sir?

Chair – Would you give us the confidence of knowing that you're assisting him with that?

Mr. Ray – I can assure you that within the next couple of days I will have that information in the mail to him.

Chair – Thank you.

Ms. Simon – It's online. The information that is required is available online.

Mr. Ray – If I simply may add this. He has no computer, he's not computer savvy, and that's why he's an old school operator that's been in the monument for fifty (50) years and never had a complaint that I know of, other than the death date.

Chair – Thank you. Next, Mr. Griffin? Did you have something earlier that you wanted to say?

Mr. Griffin – I'm thinking of reading the tealeaves here as to where the Board seems to be headed. Perhaps, maybe in some sort of Final Order that he opposes discipline maybe a copy of Florida Statutes talking about the licensure process and an application, maybe language to that effect could be added to the Final Order.

Chair – Thank you. Mr. Knopke?

Mr. Knopke – I have a question for Mr. Ray. Mr. Ray, you said Mr. Mosley has been in the business about fifty (50) years, give or take a day or two. How long has he owned this business, been in this location, to your knowledge? Has he worked for other people?

Mr. Ray – He started out coming out of Vietnam. This is the only job he's had since serving in Vietnam. He worked for a number of years for a prominent, local monument company that years later went out of business, so he just kind of stepped in and started doing what he'd been doing for a number of years for local families back home.

Ms. Simon – Do you know how long he has been in this business, at this location?

Mr. Ray – I don't. It's been many years. Many, many years.

Mr. Knopke – Probably when somebody said he needed a license he got. My guess is he's been operating out there in Defuniak Springs for years, kind of under the radar, Don, because there were no complaints and nobody was being harmed. He was doing what he did when the other people owned it.

Mr. Hall – My question is for Mr. Knopke. Would you consider allowing him another two (2) month period to set the monuments so the public is not harmed, but not sell during those two (2) months? Maybe that would be a motivating factor for him to get his paperwork back in to reestablish that sell's ability?

Mr. Knopke – I'm fine with that, if Mr. Helm would second it where he can make new sales, he can deliver all sales, he can…

Mr. Helm – If he gets his license before that, he can go ahead, right?

Mr. Hall – Yes.

Mr. Helm – I can live with that.

Mr. Knopke – In the things that we deal with out here, a $125 deal, a guy with a broken truck and everything else, {inaudible}, I just don't see him to be a big harm to anybody.

Mr. Helm – Me either.

Mr. Knopke – But he's got to get licensed. We're trying to give him the time period, trying not to put him out of business, but at the same time put some pressure on him to get the paperwork and get it in. I understand he doesn't have a computer.

Chair – So, we have a convoluted motion before us, and I'll ask Mr. Barnhart to interpret that motion so we'll know where we are and then we'll get a second, perhaps.

Mr. Helm- Well, you already got a second. I gave you a second.

Mr. Barnhart – Okay. You have a $500, sixty (60) days to pay, sixty (60) days to get a sales agent license or get someone who has a license to make sales for him, and if not, his LLC license is suspended until he gets the proper licensing. There will be no new sales during the period that he is not licensed or does not have someone else to make sales that is licensed, and he can deliver old sales.

Mr. Knopke – There's more to that motion. Ms. Simon requested that a copy of that license or a copy of the person hired that is licensed to make sales be sent to the Department within the sixty (60) days.

Chair – Thank you.

MOTION: Mr. Knopke moved for a fine of $500 and sixty (60) days to obtain a licensed sales agent and provide proof to the Department, along with the other conditions specified by Board counsel. Mr. Helm seconded the motion, which passed unanimously.

(5) Stone Removal Services, LLC: Case No.: 243150-19-FC; Division No.: ATN-32405 (F297352)

Ms. Simon – Is there anyone here in the audience representing Stone Removal Services? Hearing no response. Mr. Griffin?

Mr. Griffin – The above-referenced matter is presented to the Board for consideration of the Motion for Final Order by Hearing Not Involving Disputed Issues of Material Fact (Motion) in the matter of Stone Removal Services (Respondent). The Division alleges that the Respondent engaged in the following:

- Engaging in activities licensed under Chapter 497, Florida Statutes, with an expired license.

The Motion demonstrates Respondents failure to timely file a Responsive Pleading contesting the allegations in the Administrative Complaint and request the Board adopt the factual allegations in the Administrative Complaint and issue an appropriate penalty. I believe in this case he did file a response an Election of Proceeding, but he chose option #1, which was throwing himself at the mercy of the Board. At this time, it would be appropriate for the Chair to entertain a motion determining whether the Respondent has waived its right to a s. 120.57(1) Hearing based on the Respondent's response to the Administrative Complaint.

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

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

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

Mr. Griffin –The Department feels it is appropriate at this time for the Chair to entertain a motion adopting the Conclusions of Law as alleged in the Administrative Complaint.

MOTION: Mr. Helm moved to adopt the Conclusions of Law as alleged in the Administrative Complaint. Mr. Williams seconded the motion, which passed unanimously.

Mr. Griffin – The Department recommends that the Board impose a fine of $300.

Chair – Is there a motion?

MOTION: Mr. Jones moved for a fine of $300. Mr. Helm seconded the motion, which passed unanimously.

(6) Tri County Mortuary Transfer Services: Case No.: 250581-19-FC; Division No.: ATN-32718 (F089063)

Ms. Simon – Is there anybody in the audience representing Tri County Mortuary Transfer Services? Hearing no response. 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 Tri County Mortuary Transfer Services (Respondent). The Division alleges Respondent engaged in the following:

- Changed locations without notifying the Department
- Violated a provision of Chapter 497, Florida Statutes

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. At this time, it would be appropriate for the Chair to entertain a motion determining whether the Respondent has waived its right to a s. 120.57(1) Hearing based on the Respondent's response to the Administrative Complaint.

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

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

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

Mr. Griffin –The Department feels it is appropriate at this time for the Chair to entertain a motion adopting the Conclusions of Law as alleged in the Administrative Complaint.

MOTION: Mr. Jones moved to adopt the Conclusions of Law as alleged in the Administrative Complaint. Mr. Helm seconded the motion, which passed unanimously.

Mr. Griffin –

Mr. Griffin – The Department recommends that the Board impose a fine of $2000 and a one-year probation.

Chair – Did you say $2000 fine and a year of probation?

Mr. Griffin – Yes.

Chair – They changed their location without notifying the Department. Anything else?

Mr. Griffin – No.

Chair – Thank you.

Mr. Knopke – Mr. Chair? A question for Mr. Griffin. I'm sure it's in the package. How long of a time period?

Mr. Griffin – All we know is that we conducted the inspection on November 14, 2018, and they weren't present there. I do not know the date from the investigative file. I apologize. I cannot answer this question.

Mr. Jones – I had a note that their license expired November 30, 2019. Is that correct or incorrect?

Chair – That their license expired?

Mr. Griffin – Yes.

Mr. Jones – I had written it down going through the material.

Mr. Griffin – Yes.

Mr. Helm – And they have not renewed?

Mr. Griffin – Jasmin?

Ms. Richardson – Hold, please.

Mr. Helm – Well, are they still in business?

Chair – The failing to report the change of location is the only count that's in the information.

Mr. Jones – I just picked up that it was expired.

Mr. Knopke – We don't know how long they moved from one to the other.

Mr. Jones – Does it impact if they do not currently have a valid license?

Mr. Knopke – That might be a different thing.

Mr. Jones – Yes.

Chair – The inspection report, that's page 32 of our electronic package, the first question is LICENSING REQUIREMENTS, and it's not checked Yes or No.

Mr. Griffin – I've been advised that their license is not valid at this time.

Mr. Helm – Does that mean they're not in business?

Mr. Griffin – I believe the Department would need to conduct an investigation, a separate investigation.

Chair – Yes ma'am?

Ms. Simon – At this time, we're not sure that they are still in business. We do not believe they are.

Mr. Knopke – Is this a company that had issues with trying to build a new location or something and we gave them extra time last year or the year before? They were moving, they had all kinds of construction issues.

Ms. Simon – I'm not certain that that's the same one. I was wondering the same thing myself when I saw it.

Mr. Knopke – Do we have a deemer issue here?

Ms. Simon – A deemer issue?

Mr. Knopke – I was just wondering if there's any reason for us to do anything if they're out of business.

Ms. Simon – Well, there is no way to know for sure unless we were out there today, and we're not. There's no way to know for sure that they're not operating, but depending on what the Board says today, there's no chance that they will be operating in the future.

Chair – Mr. Barnhart?

Mr. Barnhart – There's no deemer issue because there's no application pending.

Mr. Knopke – Okay.

Chair – Mr. Hall?

Mr. Hall – As Mr. Knopke said, if you through the material, there were questions to them the last time we did get an inspection and they stated they weren't holding human bodies there. So, why do they have a cooler there? I don't think it would reach forty (40) degrees if {inaudible}. Is it best for us just to do revocation on this now, instead of suspension?

Ms. Simon – May I?

Chair – Please.

Ms. Simon – It is our impression that there was somebody else that was looking at purchasing this business and that they are not operating. It would be my suggestion, under that auspice that we actually do revoke their license.

Mr. Hall – Then they could apply for a new application if they chose to?

Ms. Simon – Correct. But I'm not sure if it is within the disciplinary guidelines. That's my only concern.

Mr. Barnhart – You could probably get the same effect if you suspend it for a year or two (2).

Mr. Griffin – So it would appear, if we look at 18. B. of the agenda, there's an application for this location of this license covered under this one.

Chair – Is a suspension within the disciplinary guidelines? Do we know?

Mr. Griffin – We conducted the inspection November 2018, so it would be under the old disciplinary guidelines, which we cannot get to revocation. However, perhaps it may be appropriate to withdraw this case for now and then pending how 18. B. is resolved, then readdressing the issues contained in here.

Mr. Jones – I have one question, if I may?

Chair – Yes sir?

Mr. Jones – Considering what she said, if we went ahead and voted on your recommendation from the beginning, how does that impact 18. B., if we just levied a fine on this? Who would pay it or how would it be applied?

Mr. Griffin – Well, that may also be another way to get to the outcome that Ms. Simon has talked about, because if nobody pays the fine, then that particular license would be suspended or an Emergency Order of Suspension or Subsequent Hearing for an Administrative Complaint would be filed in that matter.

Mr. Jones – The new owners wouldn't be bound by that fine, under the old license, but that old license would.

Mr. Griffin – Yes.

Mr. Hall – Do we know if it's the same principals applying for this on 18.?

Mr. Jones – Not yet.

MOTION: Mr. Helm moved for a fine of $2000 and a one-year probation. Mr. Knopke seconded the motion, which passed unanimously.

C. Related Items
(1) Campbell, Jarrod Theodore: Case No.: 229414-18-FC; Division No.: ATN-30753 (F043133) (PC Panel A)

Ms. Simon – Is Mr. Campbell here present in the audience?

Jarrod Campbell – Yes, he is.

Ms. Simon – Please step forward.

Mr. Knopke – Mr. Chair? I'm on Probable Cause Panel A, so I will recuse myself.

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

Mr. Campbell – I do.

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

Mr. Campbell – Jarrod T. Campbell, C-A-M-P-B-E-L-L.

Ms. Simon – Mr. Bossart?

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

Chair – Please.

Mr. Bossart – My name is James Bossart, representing the Office of the General Counsel. The above-referenced matter has been scheduled for an Informal Hearing to consider the attached Motion for Final Order and for Final Order by Hearing Not Involving Disputed Issues of Material Fact. James Theodore Campbell (Respondent) is a funeral director and embalmer licensed under Chapter 497, license number F043133. Respondent was the FDIC of Cason Funeral & Cremation Service (the funeral establishment), formerly doing business licensed under Chapter 497, Florida Statutes and under the same name as a funeral establishment, license number F088903, in Brooksville, Florida. The funeral establishment has since been sold and is operating under new management and licensure and Respondent has no further relationship with the funeral establishment. The funeral establishment through the actions of Respondent and/or through other employees, sold a total of six (6) preneed contracts to Florida consumers without either the funeral establishment or the Respondent having a valid preneed license.

On October 24, 2019, the Department filed an Administrative Complaint against Respondent. The Administrative Complaint alleged the Respondent, by selling preneed funeral contracts without benefit of licensure, has violated sections 497.152(1)(a), (5)(a), (l l)(d), and 497.452(l)(a), Florida Statutes. Respondent filed his Request for Administrative Hearing on December 2, 2019. Respondent did not dispute any allegations of the Administrative Complaint and has requested an informal proceeding to be conducted in accordance with sections 120.57(2), Florida Statutes.

At this time, the Department believes that it is appropriate at this time for the Chair to entertain a motion adopting the allegations of the facts, as set forth in the Administrative Complaint.

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

Mr. Bossart –The Department now contends that the Board's findings of fact support a finding of the violations of Chapter 497, F.S., as alleged in the Administrative Complaint. It would be appropriate at this time for the Chair to entertain a motion finding Respondent in violation of the Florida Statutes as charged in the Administrative Complaint.

MOTION: Mr. Williams moved to find Respondent in violation of the Florida Statutes as charged in the Administrative Complaint. Mr. Helm seconded the motion, which passed unanimously.

Mr. Bossart – The Department also offers into evidence the investigative report with exhibits, a copy of which has been previously furnished to this Board, to establish its prima facia case for the violations as alleged in the complaint.

MOTION: Mr. Williams moved to accept the investigative report with exhibits, a copy of which has been previously furnished to this Board, to establish its prima facia case for the violations as alleged in the Administrative Complaint. Mr. Helm seconded the motion, which passed unanimously.

Mr. Bossart – As to the penalty, the Department recommends that the Respondent's license should be revoked. As it was stated in earlier cases, the 2018 penalty guidelines apply to this case, which does not allow for revocation; however, without aggravating factors. The Department would cite that the aggravating factors in this case are that unlicensed activity under Chapter 497, F.S., such as this case is presumed to be an immediate danger and present a reparable harm to the public health, safety and welfare. There are six (6) violations. The licensee has been licensed since 2006 and he knowingly sold six (6) preneed funeral contracts knowing that he was not licensed to do so. There's no evidence that this was an accident or he was laboring under some sort of misapprehension. He was trying to avoid the legal requirements of the law. This would justify a revocation. That concludes my remarks.

Chair – Thank you. Any questions for Mr. Bossart, at this time? Mr. Campbell, did you wish to address the Board or are you merely here to answer questions?

Mr. Campbell – Yes sir, I would like to address the Board.

Chair – Please do so now.

Mr. Campbell – Chairman Brandenburg, Board of Funeral, Cemetery, and Consumer Services, I just want to start off by apologizing to the Board. In 2010, Mr. Luther Cason, who was the mayor of Cason Funeral Services, called me to his office for a meeting. Mr. Cason's health was failing. He had served the community for over forty (40) years and he said, Jarrod, I trust you. I would like for you to be my funeral director here. So, as I came onboard, they were dealing with Homesteaders Insurance Company. They were people that had great trust in Mr. Cason and Ms. Cason. I do believe, if you look at the record, some of this occurred before I ever came onboard, and Ms. Cason could not find the records or the policies, so she took some of her own money to try to make it good. From my understanding, there were two (2) families that approached her, after Mr. Cason passed on, and she tried to take some of her money and send it into Homesteaders.

There were probably two (2) or three (3) other situations whereas people came into the office and, you know, I have passion for the business and I have compassion. Sometimes you can have too much compassion for people, because sometimes you can help people too much. Now, I really didn't feel that we were doing anything wrong by allowing them to send their money to an insurance company. What I wrote up, on a funeral contract, I apologize to you all. It should not have been written up on a funeral contract. I should have just taken a piece of paper and written it down, because they were elderly people from the community that had longstanding trust for Mr. Cason that wanted to have something in place. So, once Ms. Cason sent that money, and I had no dealings, I was not an owner, I was an employee. Once she sent that money to Homesteaders or whatever insurance company, the funeral home had no more jurisdiction over it. We could not pull anything from it. If the person passed away they could even go to another funeral home if they so desired.

Mr. Cason wanted me to buy the business. I was not able to buy the business because I could not get the financing to buy the business. So, new owners came in and I was dismissed, by the new owners, and I went on about my business. My wife opened up a funeral home and we've been serving the community with the same dignity. I ask that you all please forgive me for the mistakes that I have made. There was no intent or harm, there was nothing malicious that I did, but I am very sorry. I want to apologize to the Board for putting that on funeral contracts. Now, please understand, Board, I do understand as funeral director in charge you are supposed to be in charge of all activities. I fully understand, including finances, but

sometimes when you come into a situation with a funeral home that's been long established for over forty (40) years, and you have owners involved that are not licensed, it can put you into some precarious situations. So, that is what I have to say concerning that and I ask that you all have mercy upon me today. Please.

Chair – Thank you. Mr. Hall?

Mr. Hall – Were you a license insurance agent?

Mr. Campbell – No sir. No sir.

Mr. Hall – How did Homesteaders take that application that's not coming from…

Mr. Campbell – Please understand that Homesteaders, actually in essence the funeral home really had nothing to do with Homesteaders. That's just where the people went or Ms. Cason sent the money.

Mr. Hall – But if you send an application to an insurance company, it has to come from a licensed agent with a code number, an agent's license number.

Mr. Campbell – Right. At some point, the agent, Ms. Cason did that part and I understand, I'm not making any excuses. I should have been in on the ins and outs of that, but at some point the agent took control of that, so basically it was between the person who came in and the agent.

Mr. Hall – Who was the agent? Do you know that?

Mr. Campbell – I have no idea, at this point. You know, it's been almost two (2) years since I have worked over there and some of this happened probably right when I came aboard, but I do know the company was Homesteaders and nobody's monies were taken. I didn't get paid anything for it. The funeral home did not get paid anything for it, unless someone died, and during that time, I don't think we had anyone that passed away.

Chair – When you wrote up the charges on the funeral home contract, were those charges the same as they took out insurance for with Homesteaders?

Mr. Campbell – I do believe so, because basically what they were buying was a paid-up policy. I think the amounts that they purchased, they wanted it to be able to cover the cost of a funeral at their time of death. Now, I have no way of knowing what the funeral would cost at their time of death. The only thing I could give them was our current prices.

Chair – Was Mr. Cason a licensed funeral director?

Mr. Campbell – Mr. Cason was a licensed funeral director.

Mr. Bossart – The policies were sold by Robert Finch, whose name has arisen before in other cases.

Chair – Thank you for the clarification.

Mr. Campbell – Yes sir.

Chair – When you came onboard at Mr. Cason's request, did you come onboard as the funeral director in charge?

Mr. Campbell – No sir. I did not become the funeral director in charge until after Mr. Cason passed on.

Chair – When he passed on and you became the funeral director in charge, was that a full-time duty or was that in addition to your teaching responsibilities?

Mr. Campbell – That was in addition to my teaching responsibilities, because I was still a full-time teacher. That was kind of one of the reasons why he called me because I like in Tampa. I commute through Brooksville daily, going to Inverness and he

knew I was coming through Brooksville. So, he knew me from the community. He knew I'd never been in any trouble, so he called and asked me to come and be a part of his firm to help him. Now, during his sickness, it was like he was never gone because I reported everything to him. There was nothing I did without his say so on it, because I knew he was the owner and I knew I didn't want anybody to mistreat me if I was in that same situation.

Chair – Well, him being the owner and giving you instructions does not indemnify you against illegal activity.

Mr. Campbell – No sir, no sir.

Mr. Williams – Mr. Chair?

Chair – Mr. Williams?

Mr. Williams – A couple of questions, sir. So, you stated you were hired in 2010 by Cason Funeral Home?

Mr. Campbell – Yes sir. Mr. Luther Cason.

Mr. Williams – According to the documents that we received, the six (6) cases happened between 2016 and 2017. You stated earlier that there were things going on before you got there.

Mr. Campbell – Right.

Mr. Williams – You said that things were happening before you got there, but these six (6) cases took place during the time that you were actually the FDIC, so how can you explain these preneed situations that you handled during the time that you were FDIC?

Mr. Campbell – What I was making a reference to earlier, when I received the initial complaint from the new owner, Mr. Wayne Sellers, there were a couple cases. One from 1995, well maybe that's not a part of this, but it was on the initial complaint and that's when Ms. Cason stepped in and paid that money to the insurance company, because she had families approaching her. So, that's what I was making mention of. On the things that happened, like the cremation where the lady died eight (8) days later after I came to see her, I'm giving my apology to the Board because it was wrong. As I said to the Board, I'm passionate and I have compassion. Sometimes you can have too much compassionate, so I apologize for writing it up on the funeral contract or allowing the funeral home to have any type of engagement, because my understanding now is that I probably should have told Ms. Cason not to have anything whatsoever to do with it. I don't think it's anything wrong with giving someone an estimate if it's done in the proper format, but as far as at the point when they hand money it's over. Please understand there were some comments made about deceitful actions with Ms. Cason, and I don't believe that lady has a deceitful bone in her body. She's a very honest woman, a god-fearing woman and she would not take anything from anyone, but she was trying to make her husband's name good on those things that happened prior to the date that you referenced, but as far as the cases that came through, I'm apologizing to the Board because it should not have been put on that paperwork.

Mr. Williams – Mr. Chair, a follow-up?

Chair – Please, Mr. Williams.

Mr. Williams – I appreciate that. I guess where I'm trying to go with this line of questioning is this is almost a two-year time period, so if it's one case that's one thing, but there are six (6) cases within almost a two-year timeframe that you were doing this type of behavior or taking this course of action. So, I'm wondering what was your reasoning for doing that time and time again. I understand you've apologized and I understand that, but I'm just trying to figure out what was your reasoning for continuing to do this type of action.

Mr. Campbell – Well, we were simply trying to help the people. Please understand, all of those did not involve taking in insurance. Some of those, I think, were just people who were right on the verge of death, because we had two (2) situations. We even had one (1) family to call and they were expecting the gentleman to die like the next day and they wanted to know if we could go ahead and put the vault down so that it could be done quickly. In other words, if he died today they wanted him

buried like this evening. So, there were a couple situations like that. I'm wrong and I ask that you all have some kind of leniency.

Chair – Mr. Williams?

Mr. Williams – So, two (2) more questions, Mr. Chair. So, currently you are at your wife's funeral home?

Mr. Campbell – Right. I'm not the funeral director in charge.

Mr. Williams – Okay. What was the reason that you were dismissed from the funeral home?

Mr. Campbell – Mr. Sellers stated that him and his board dismissed me due to these preneed cases.

Mr. Bossart – Mr. Sellers is the complainant, I believe, sir.

Mr. Campbell – Right.

Mr. Williams – Is the complainant here?

Chair – Is Mr. Sellers here?

Wayne Sellers – Yes, I am.

Mr. Williams – Can he speak about the case? Is that allowable, Mr. Bossart?

Ms. Simon – Mr. Sellers, 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. Sellers – I do.

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

Mr. Sellers – Wayne Sellers, S-E-L-L-E-R-S.

Mr. Williams – My question, Mr. Sellers, is can you elaborate on the reason why Mr. Campbell was dismissed when the new ownership took place?

Mr. Sellers – Because of the preneed situations. To me, preneed is very, very important, and when you violate that, it's a problem. I have preneed at my funeral home in Ocala and we didn't have it there in Brooksville, but we got it there as a second branch. Preneed is very important, and if you're going to violate preneed, I don't need you, because it's a problem. Preneed does not just show up all at once. It pops its head up later, five or six years down the road. Then, the owner of that particular establishment has to deal with that and it's just wrong. I just feel it's wrong. We have no room in our funeral home for that.

Mr. Williams – Mr. Chair, may I?

Chair – Please.

Mr. Williams – Do you feel like all the case have been resolved, in terms of the ones that took place under Mr. Campbell, since you have now taken over ownership?

Mr. Sellers – I don't know. Like I said, before I bought the place, I met with Mr. Cason in 2015, and we had a talk. My main concern was about preneed, of course, because I didn't want to buy anything dealing with that. He assured me that there was no preneed. He said that he had insurance-funded contracts, which I was fine with. That was good, but he did not have a license to sell preneed and I was okay with that. He passed in November of 2015, but we approached Ms. Cason to buy the

place again in 2016, but at that particular time, I got paperwork from her that basically was stating that it was insurance-funded also, the policies that they had, which is was still okay with. I asked if they had taken on anything else. "No." So, there again I'm still good with that. Now, I'm thinking I did my due diligence, but I find out at closing it was a case, one he was speaking of, about they wanted them to put the vault in the ground and the person was going to die in a few days. The person didn't die, after I purchased the place, until some months later, but at the closing, I figured out that it was a preneed that was done on his behalf. I got in contact with him, since he was the licensed funeral director in charge, and I told him that he needs to write a letter to send to that family and give them that $500 back in a check, which it was done. I asked him were there any more of these incidents. He said no. I was good. We purchased the place. I did not find out about these other instances until a week after the place was purchased. Now, the two (2) cases that he is speaking of that Ms. Cason gave these families their money back were the two (2) cases that Mr. Cason had done some years ago. And how I found out about that was a week after closing, she presented me with some monies that were taken in to the funeral home.

Mr. Helm – Who is she?

Mr. Sellers – Ms. Cason. Ms. Mary Cason. So, I'm all up in arms about that. She's sliding it over to me, and I'm sliding it back over to her. I don't want to touch that money. So, Homesteaders does not do final expense anymore. They've gotten away from final expense. They only things on a preneed basis. Great Western, who I dealt with for some of my preneed cases, I asked them if they did final expenses because I have to do something with that money. If something were to happen to her, I don't know where that money would have gone. So, I was able to tell her to get in contact with Great Western. They in turn put it into a final expense. So, it's covered. The money is somewhere, but it's out of Ms. Cason's hands. With that being said, the cases that Mr. Campbell had written up clearly were on regular funeral contracts. They did not lock in costs and services. They weren't on preneed contracts, of course. The money that was taken in, I had the signed receipts. I guess you all should have that in your packet, I'm assuming., but the money was taken in and he signed the receipts. If indeed these people were bringing in this money and he did not have a preneed license, it's no way in hell he should have taken that money, because that violates what we do. It really does. We can kind of look at it, we can throw ourselves on the mercy of the Board, but we violate what we've been taught and it's wrong. I don't know how many funeral homes or how many incidents that you all have dealt with of this magnitude where people sell these preneeds and they can't do it. Before I got my preneed and I couldn't do it, I would tell them that I couldn't help them. I might lose their business but I can't do it and I'm not going to get in trouble over some dollars.

Mr. Williams – Thank you, sir.

Chair – Thank you, Mr. Sellers.

Mr. Clark – Obviously I work in Ocala, so I'll state for the record my affiliation with Mr. Sellers, but that will not prevent me from rendering a decision in this matter. I do have one question. I know we've talked about Mr. Campbell not having a preneed license. Mr. Bossart said that the funeral home didn't have a preneed license.

Mr. Bossart – No, it did not have a preneed license.

Mr. Clark – I just wanted to make sure that that is clear.

Chair – Thank you. Mr. Bossart, any additional comments?

Mr. Bossart – Nothing further, sir.

Chair – Board?

Mr. Helm – Well, I have one question.

Chair – Mr. Helm?

Mr. Helm – I'm pretty sure I read it, but I want to make sure. Out of these six (6) cases, no one was short of any money, were they? No one was hurt?

Mr. Bossart – I'm not aware of any financial harm, sir.

Mr. Williams – Mr. Bossart, what is the recommendation?

Mr. Bossart – It was a revocation.

MOTION: Mr. Williams moved for revocation. Mr. Clark seconded the motion, which passed with one (1) dissenting vote.

(2) Campbell, Jarrod Theodore: Case No.: 244265-19-FC; Division No.: ATN-32641 (F043133) (PC Panel B)

Ms. Simon – Mr. Griffin?

Mr. Griffin – In light of the Board's action in the previous case, the Department will be withdrawing this complaint for consideration.

Chair – Thank you.

5. Application(s) for Preneed Sales Agent

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

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

B. Recommended for Approval with Conditions (Criminal History)

(1) Nicodeme, Gerard (Appointing Entity: StoneMor Florida Subsidiary LLC)

Ms. Simon – Is Mr. Nicodeme present in the audience? Hearing no response. On October 10, 2019, the Appointing Entity applied electronically, on behalf of the Applicant, for licensure as a preneed sales agent. A temporary preneed sales agent license was issued for Mr. Nicodeme, however, during the review of Mr. Nicodeme's background check it was revealed that he did in fact have reportable criminal history that required disclosing.

StoneMor Florida Subsidiary, LLC, employer, was notified of Mr. Nicodeme's temporary preneed sales agent license suspension, and upon request, Mr. Nicodeme provided the Division with a written explanation of the relevant criminal history, a completed Criminal History Form, and a copy of the court documentation regarding the final disposition of his case.

In 2018, Mr. Nicodeme pled no contest to a misdemeanor charge of violation of an injunction for protection against domestic violence. This criminal offense occurred in Duval County, Florida. There have been no further disciplinary actions against Mr. Nicodeme. The Division is recommending approval subject to the condition that the licensee be placed on six (6) full months of probation, which include restrictions that are a part of the Stipulation for Licensure agreement, which is a part of your Board package, so we ask for approval of that Settlement Stipulation as well.

MOTION: Mr. Jones moved to approve the Stipulation for Licensure agreement. Mr. Williams seconded the motion, which passed unanimously.

Ms. Simon – So, the next item would be a recommendation that he be licensed. I think it's broken down in two (2) parts. Maybe I'm wrong.

Chair – There's no mention of it, but we'll go by your direction. What's the other part?

Ms. Simon – Licensure, as opposed to simply accepting the Settlement Stipulation.

MOTION: Mr. Knopke moved to approve the application for licensure subject to the condition that the licensee be placed on six (6) full months of probation, which include restrictions that are a part of the Stipulation for Licensure agreement. Mr. Jones seconded the motion, which passed unanimously.

6. Application(s) for Continuing Education Course Approval

A. Recommended for Approval without Conditions – Addendum B

(1) International Cemetery, Cremation and Funeral Association (22808)

(2) Kates-Boylston Publications (29810)

(3) National Funeral Directors and Morticians Association (15608)

(4) New Jersey Funeral Service Education Corp (7002)

Ms. Simon – Pursuant to s. 497.147, F.S., and Board Rule 69K-17.0041, F.A.C., the applications presented has 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 application. Ms. Anderson seconded the motion, which passed unanimously.

7. Consumer Protection Trust Fund Claims

A. Recommended for Approval without Conditions – Addendum C

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

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

8. Application(s) for Florida Law and Rules Examination

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

(1) Funeral Director (Internship and Exam)

(a) Fischer, Ashley N

(2) Funeral Director and Embalmer (Endorsement)

(a) Miller, Apollinair D

(b) Raymond, Steven B

(c) Runnels Jr., Sidney M

(d) Trombino, Terri L

(e) Turner, Jeb S

(3) Funeral Director and Embalmer (Internship and Exam)

(a) Kopelman, Benjamin L

(b) Yearby, Kirk Z

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

B. Recommended for Denial

(1) Funeral Director and Embalmer (Endorsement)

(a) Kelley, Stanley D

Ms. Simon – Is there a representative for Mr. Kelley here in the audience?

Unidentified Person – Yes.

Ms. Simon – Mr. Kelley submitted an application for a Combination Funeral Director & Embalmer license by endorsement on December 20, 2019, at which time the application was complete. The applicant does not meet the educational standards set forth by section 497.373(1)(d), Florida Statutes.

Mr. Kelley did not receive an A.S. degree and instead graduated with a Diploma in Mortuary Science on August 25, 1995 from Mid-America College of Funeral Service. He passed both Arts and Science sections of the National Board Examination on August 24, 1995. Mr. Kelley received his Funeral Director and Embalmer license in Indiana on March 13, 1997 which expires on December 31, 2020. That license is currently active and in good standing. The Division is recommending denial.

Chair – Yes?

Ms. Wiener – Good morning, Board members. I represent Mr. Kelley in this matter.

Chair – Identify yourself, please.

Ms. Wiener – I'm sorry. I'm Wendy Wiener.

Chair – Thank you.

Ms. Wiener – As you know, the standard that the applicant has to meet is whether his educational background is substantially equivalent to or better than that required in the State of Florida. As you can see from the materials that I have presented and prepared to you, Mr. Kelley's educational background is indeed superior to what would be required to obtain the Associates Degree in the State of Florida at our own accredited program. He has more than the college credit hours required for the Associate of Science degree from St. Pete College. I have prepared a document which compares the requirements for the Associates Degree at St. Pete College with those of Mr. Kelley and I believe that even a cursory review of that reveals that he is more than qualified to be licensed in the State of Florida, as requested. In addition, he has years of experience as a licensee and I believe will be a credit to the profession here in Florida and we would ask that you rule favorably on this application.

Chair – Thank you. Mr. Barnhart?

Mr. Barnhart – Board members, this has come up at least once before, if not twice before. In my opinion, the requirement for an Associates of Arts degree or an Associate of Science degree has been in the statutes since 1979, which was the first year that funeral directing and embalming was regulated in the State of Florida. The statute on the endorsement side says provided that the requirements for licensure were substantially equivalent or more stringent than, and it's my opinion that this standard would require any applicant coming from another state to have that degree. It doesn't say that the training that the person has is substantially equivalent or the coursework the person has had is substantially equivalent or higher. It says the requirements for licensure. When you go back to 1979 and every year after that, from my research, it shows that that degree requirement has been in there from the very beginning and continues to this day. So, I believe that if you are following the statute you would have to deny this application.

Mr. Knopke – Mr. Chair? A comment for Mr. Barnhart.

Chair – Yes, please.

Mr. Knopke – Mr. Barnhart, you stated that the regulation of funeral directing started in '79?

Mr. Barnhart – Right.

Mr. Knopke – Is that correct?

Mr. Barnhart – Yes sir.

Mr. Knopke – I would challenge that. I know I was licensed in '72. I took a State Board exam, served an apprenticeship and so forth. I would also say that Mr. Brandenburg did the same thing at some point prior to 1979, under the old Department of Business and Professional Regulation.

Mr. Barnhart – I have a copy of that statute if you'd like to see it. I can pass it down to you.

Mr. Knopke – I'm just questioning your statement about it not being regulated prior to 1979 and I disagree with that.

Mr. Barnhart – Well, what I say was since 1979, if it was regulated before, I was not able to come up with the statutory reference, but these two (2) cases coming up were well after 1979. But, I can pass the statute down to you so that you can review it if you like.

Chair – I think that perhaps he's referring to the requirement for the Associates degree and I understand and heard the same thing you heard. I appreciate the clarification on it.

Mr. Knopke – Thank you.

Ms. Wiener – Mr. Chairman, might I respond to Mr. Barnhart's statements?

Chair – Please do.

Ms. Wiener – I'm concerned with a narrow-minded focus on the Associate's Degree requirement. That is simply a requirement. If the obligation was to have every one of the requirements as listed then there wouldn't be the capacity for this Board, under the statute, to consider the substantial equivalence or superiority of the license applicant's education and it would result in meaningless statutory interpretation, which is never the outcome, under our statutes. I would also remind the Board that it has reviewed and approved a number of other applications of this nature only when the requirements can be shown or the education of the application in all of those cases where there was not an Associate's Degree, just like in this case, where those requirements of the education were shown to have been substantially equivalent to or superior to just as in this case. So, we would again ask for your favorable consideration.

Mr. Barnhart – Board members, I don't think that this is a very narrow-minded interpretation of the statute. I think the statute says very clearly what's required. You just can't force the statute to say what it doesn't say. There's no wiggle room to compare coursework done in a different state to the coursework that's required to get your degree here. That's not what the statute says. If this Board has made votes before that allowed people such as this a license, I would submit that those were probably mistakes and if you believe they were mistakes, you don't want to keep committing the same mistakes. You want to do the right thing by following your statute. That would be my thought.

Ms. Wiener – Mr. Chairman, might I continue to respond?

Chair – Please.

Ms. Wiener – Mr. Barnhart, if in fact the requirement or the law did not give the Board discretion to consider the equivalency then why does it offer that language? What would be the substantial equivalent of an Associate's degree if not an Associate's degree? That has to mean that you can compare what it took to get an Associate degree with the education obtained by the applicant. Those words would be rendered meaningless.

Mr. Barnhart – If you look at the statute, if you refer back to s. 497.373, F.S. What is required for licensure under. 497.373, F.S.? An Associate of Arts Degree or an Associate of Science Degree. That is one of the essential requirements for licensing. It is my opinion you cannot say that someone is substantially equivalent to that statute if they don't have that degree. Now if the Board provided otherwise I think anybody that was a funeral director in any state or territory of the United States could come in here and be a funeral director and embalmer. I don't think that's what the statute says.

Ms. Wiener – Well, they could if in fact they meet the substantial equivalency test.

Mr. Barnhart – Under your interpretation I believe you're right, but I don't think that's the correct interpretation and we could argue all day if you want but the Board has better things to do, I think than sit here all day.

Chair – Ms. Simon?

Ms. Simon – I would just like to point out to the Board that I think it's s. 497.374, F.S., that we were looking at. That is the one that talks about substantially the same or greater on the qualifications. It does not speak to simply education. It speaks to all requirements. In fact, it doesn't say one specific item or another. I would submit to the Board that I agree with Mr. Barnhart. There is no equivalent for an AA degree. I understand Ms. Wiener's position. We've discussed it before, both in front of the Board and outside of the Board. I just do not see that there is an equivalent for an AA degree and as Mr. Barnhart said, I know that the Board has voted on this matter before. However, simply because the Board has voted on it before and voted in a way that might be contrary to statute, that I find is contrary to statute, I don't think that that vote should go on and on {inaudible}. There's a time to make a stand and change that course.

Ms. Wiener – Ms. Simon, I agree that you have to look at all of the aspects of the criteria that is set forth in the statute and I have provided a comparison of not just Mr. Kelley's education, but also of other criteria that is required by our statute, and in fact he meets all of the criteria other than the fact that he does not have a piece of paper showing that he has an Associate degree. But, if in fact he took all of the classes required under our law for an Associate degree and if in fact he took more classes than that then I cannot imagine how this Board would not find that to be substantially equivalent or greater than. Just not walking through your graduation or walking through that process cannot possibly destroy the substantially equivalent nature of his education.

Ms. Simon – Ms. Wiener, I do understand that. When I was in college, however, I remember that people could have had ninety (90) credits and stopped their college education; they were on their way to a Bachelor's but they stopped it. They never received an AA degree. They simply took the ninety (90) credits and stopped. We can't say that they would still qualify for a job that demands an Associate of Arts degree. I don't think that there's a way of saying that. There's not a way of comparing it and we could go back and forth, I understand. I think that the Board's aware of all aspects of this argument because they've heard it again and again.

Ms. Wiener – Well, I would say that our law does not demand an Associate's degree. It demands substantial equivalence to all requirements. It doesn't demand the requirements set forth in the law. Now if this was a different type of license application, I would not have an argument. I have an argument here because the substantial equivalence test gives this Board the discretion to bring in to our profession, in Florida where we greatly need them, good professionals with a career worth of serving the funeral buying public who have the education that we require if they simply don't have the piece of paper to show it. Mr. Chairman, Mr. Williams has a question for you.

Chair – Mr. Williams?

Mr. Williams – So, I want to make sure that I'm clear, Mr. Barnhart, if you could. So, if this applicant would have had a Bachelor of Science or a Bachelor of Arts in Mortuary Science, would we still have this type of conversation?

Mr. Barnhart – No. It's substantially equivalent or higher.

Ms. Wiener – It's the piece of paper that is missing.

Mr. Barnhart – Board members, I think the position I presented as well as Ms. Simon's is consistent with the Florida Supreme Court decision in 1979 of State Board of Architecture vs. Wasserman 377 So. 2d 653. It's not exactly on point, of course, because it's not the funeral Board, but I think if you read through that opinion, you just don't discount or throw away a requirement of a college degree from the requirements. There's a reason that the Legislature put it in there in 1979 and it's still there today. If it was so wrong, why hasn't the Legislature changed that?

Ms. Wiener – What would be the possible motivation, Mr. Barnhart, for trying to keep these really, really well- qualified applicants out of Florida?

Mr. Barnhart – That's something you should probably ask the Legislature because that's what they passed some forty years ago.

Ms. Wiener – Well, the Legislature is the one that included the language regarding substantial equivalency. And while I don't appreciate being blindsided by your case law citation, because I don't have an opportunity to look at it, was that case law directly on point?

Mr. Barnhart – It's about the Board of Architecture.

Ms. Wiener – Does it talk about substantial equivalency, too?

Mr. Barnhart – It talks about substantially equivalent training. This says substantially equivalent to all the requirements. It's not just training or background. I just picked that case up. I don't think I needed to call you and inform you.

Chair – Mr. Hall?

Mr. Hall – My concern is, and always has been on this, if we went by this half the Board members probably wouldn't be sitting here because it wasn't available back when we were going through school. The question Mr. Williams raised is can it be an Associate's degree or Bachelor's degree in something else. It could be in Anthropology.

Mr. Barnhart – He said Mortuary Science.

Mr. Hall – I understand, but that Associate's degree, you can come and start your mortuary program at St. Pete or anywhere you wanted to and have a degree in Anthropology. What does it have to do with this? It can be a Bachelor's degree in that or whatever, so the State of Florida doesn't require that and it can be in any of those, and that is by the Legislature.

Mr. Barnhart – You're saying that the State of Florida does not require it now?

Ms. Wiener – That's correct.

Mr. Hall – If you come to our state now, and you have an Associate's degree or Bachelor's degree in Anthropology they'll allow you to go to St. Pete College and start your mortuary program.

Ms. Wiener – And not receive an AA.

Mr. Hall – And your internship.

Ms. Wiener – You wouldn't have to have the Associate's degree in Mortuary Science. Rather, you would just have to have the program.

Mr. Barnhart – The statute says Mortuary Science, so I don't know what to tell you.

Mr. Hall – I spoke with Kevin Davis at length and we went over and over this information and talked to politicians, etc. Kevin agrees too that the hours that you see on the coursework is equivalent to what he does there at the school. The problem we've had is getting these students in the school because he's backed up. He does online courses and you can't get them in. So, we've reverted to going to other schools and stuff to try to get this taken care of and help these people who want to participate and want to get in the program.

Mr. Barnhart – I certainly can't address what their requirements are. That's not my position to go and question what their requirements are. I'm just trying to give the Board some guidance as to what the statute requires.

Mr. Hall – We went over it for the purpose of there's a lot of ministers who have come to our firm as they've retired to become a funeral director. The only issue we had there was some of the ministers in years back went to bible college. So, some of their credits they may take and some they may not. Some of them have Bachelor's degrees, but it could be a minister, it could be Anthropology or whatever the discipline. It doesn't have to be in Mortuary Science.

Mr. Barnhart – Well I'm just trying to repeat what the statute requires.

Chair – Mr. Knopke?

Mr. Knopke – Ms. Wiener, in regard to Mr. Kelley, has he had any discipline problems, to your knowledge?

Ms. Wiener – He did not report any on his application. None of which I'm aware. No.

Mr. Knopke – The comparison you did in the back of the Board package, the last three (3) pages are through current, correct?

Ms. Wiener – That is correct.

Mr. Knopke – What he took back then for what is current today?

Ms. Wiener – That is correct. I would posit to the Board that those requirements back then might have been less stringent than they are today, but in an effort to display, for the applicant on whose behalf I come before this Board making this request, that they are qualified, I do compare it to today's requirements.

Mr. Knopke – Thank you. Mr. Chair, I would move to approve the application as presented based upon the comparisons by counsel, as well as his work history with no discipline.

Mr. Clark – Second.

Ms. Wiener – Mr. Chairman, Mr. Williams is raising his hand.

Chair – I'm sorry. Mr. Williams?

Mr. Williams – So Mr. Barnhart, are we setting any kind of precedent right now. I just want to make sure we don't have any further cases that are similar to this that we would have go through.

Mr. Barnhart – Well, we have one coming up right after this one and there's probably going to be a number of them in the future especially if you grant the license. I think the Board's position would be that this is okay and you're going to have quite a few people applying, but of course my recommendation is that this application be denied. Does that answer your question?

Mr. Williams – Yes sir. Thank you.

Chair – Thank you. Any other discussion?

Mr. Jones – One question.

Chair – Mr. Jones?

Mr. Jones – How can we confirm no disciplinary action?

Ms. Simon – As Ms. Wiener mentioned, I believe that it asks that on the application. There wasn't a response. I don't think that we actually contacted the State in order to find that out.

Mr. Jones – That was my question. I was just curious if you vetted enough to see if there was any.

Ms. Simon – Except to find out that he is in good standing. I think that that was sufficient.

Mr. Knopke – Did we do a criminal background check on him?

Ms. Wiener – Yes. He was fingerprinted.

Mr. Jones – Thank you.

Chair – So, we have a motion to approve and a second. All those in favor, aye?

Board members – Aye.

Chair – And any opposed? And the motion carries. Thank you.

Ms. Wiener – Thank you.

(b) Prindiville Jr., Robert A

Ms. Simon – Mr. Prindiville submitted an application for a Funeral Director license on October 31, 2019. The applicant's fingerprints returned with no criminal history. Mr. Prindiville did not receive an A.S. degree and instead graduated with a

Diploma in Mortuary Science on March 21, 1987 from the Simmons School of Mortuary Science, Inc. He passed both Arts and Science sections of the National Board Examination on March 20, 1987. Mr. Prindiville received his Funeral Director and Embalmer license in New York on August 10, 1988 which expires on June 30, 2020 which is currently Active and in good standing; and received his Funeral Director and Embalmer license in North Carolina on November 10, 2011, which expired on December 31, 2019. The Division is recommending denial.

Sir, 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?

Robert Prindiville – So help me, God.

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

Mr. Prindiville – Robert Prindiville, P-R-I-N-D-I-V-I-L-L-E.

Ms. Simon – Thank you.

Mr. Prindiville – You're welcome.

Ms. Wiener – Mr. Chairman, before we get started, just one correction for the record. Mr. Prindiville's license in North Carolina is in good standing. That was renewed, so that is incorrect in the Board packet. So, he has two (2) licenses in good standing.

Chair – Yes, Mr. Hall?

Mr. Hall – Mr. Chair, this applicant has worked for our firm for the last two (2) months, so I will recuse myself from the vote.

Chair – Thank you. Mr. Knopke?

Mr. Knopke – Mr. Prindiville?

Mr. Prindiville – Yes?

Mr. Knopke – Any discipline issues?

Mr. Prindiville – No sir.

Mr. Chair – Not fingerprint issues, but discipline by either regulator?

Mr. Prindiville – Not at all.

Chair – How long have you been in Florida?

Mr. Prindiville – Two (2) months.

Chair – Did you move to Florida specifically to take a job as a funeral director and embalmer?

Mr. Prindiville – No sir.

Chair – What was your reason for moving to Florida?

Mr. Prindiville – My wife was diagnosed with cancer and she's very close to the Watson Clinic. My brother is a funeral director in Clermont and Apopka. I have an uncle who lives in Winter Haven. My in-laws all live down towards the beach at Clermont. We went to be closer to family.

Chair – A lot of family support. We wish you the best.

Mr. Prindiville – We need it at this point.

Chair – Mr. Barnhart?

Mr. Barnhart – Mr. Chair, I just wanted the record to reflect that I'm recommending denial of this application for the reasons we just discussed on the other application.

Chair – Thank you.

MOTION: Mr. Knopke moved to approve the application based upon the comparisons in the package, the education, work history, lack of discipline based on his testimony as well as his fingerprints. Mr. Clark seconded the motion, which passed unanimously.

Chair – Good luck.

Ms. Wiener – Thank you.

Mr. Prindiville – Thank you.

Mr. Knopke – As desperately as we need quality licensees in this state, I would encourage either the associations, the Department, or both to work at resolving this apparent conflict. Having been around this industry and involved in legislation packages for years, it was never the intent as cited by Mr. Barnhart, but I don't fault him because his job is to read and interpret what he thinks it is. That was never the intent at all.

Chair – We have some association leadership here and I feel certain they hear your comments.

Mr. Knopke – Thank you.

9. Application(s) for Internship

A. Informational Item (Licenses Issued <u>without</u> Conditions) – Addendum E

(1) Funeral Director and Embalmer

(a) Ackbersingh, Alyson S F411708

(b) Almarales, Lazara L F414578

(c) Davis, Nicole M F309208

(d) Hall, Angelia D F413080

(e) Wojtowicz, Clarissa D F416423

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

10. Application(s) for Embalmer Apprentice

A. Informational Item (Licenses Issued <u>without</u> Conditions) – Addendum F

(1) Giagnorio, Renee M F076007

(2) Kuhn, Julianne M F414205

(3) Sanchez, Nathanael O F412317

(4) Vandercook, Stacie J F416922

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

11. Notification(s) of Change in Location

A. Informational Item – Addendum G

(1) Crevasse's Simple Cremations Inc (F080579) (Ocala)

Ms. Simon – This is an informational item. The establishment listed have applied for a change of location of their business. The only criteria for approval is that the new location pass inspection by the Division. Once passing that inspection, the application will be approved.

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

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

(1) SCI Funeral Services of Florida LLC d/b/a Kays-Ponger & Uselton Funeral Home and Cremation Services (F288698) (Port Charlotte)

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

13. Application(s) for Monument Sales Agent

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

(1) Summers, Jessica (F412307)

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

14. Application(s) for Change of Ownership (Collective Coversheet)

A. Recommended for Approval with Conditions

(1) Capstone Funeral Holdings of Florida LLC d/b/a Sea Pines Memorial Gardens (Edgewater)

(a) Application for Cemetery License

(b) Application for Preneed License

Ms. Simon – Capstone Funeral Holdings of Florida LLC (Capstone), a limited liability company, seeks approval for an application to acquire control of an existing cemetery (F039612), and an application for transfer of a preneed license (F019326). These applications are based upon a change of ownership. The change of ownership is due to a change of control via an asset purchase agreement wherein Capstone is acquiring all the cemetery and preneed assets of these locations. The officers of the LLC will be Jody W. Burttram, Richard Lee, Charles R. Wright, and Roger I. Zlotoff. The fingerprints for the principals were returned without criminal history. More specifically, the entities that are being acquired is as follows:

1) Sea Pines Memorial Gardens, Inc. d/b/a Sea Pines Memorial Gardens, a licensed cemetery, license # F039612, physical address: 3001 S Ridgewood US 1, Edgewater
2) Sea Pines Memorial Gardens, Inc. d/b/a Sea Pines Memorial Gardens, a licensed preneed main, license # F019326, physical address: 3001 S Ridgewood US 1, Edgewater

If approved, Applicant is assuming responsibility for any outstanding preneed contracts that have previously been issued by or for fulfillment at the above referenced locations. The Division has no record of disciplinary action regarding Capstone. The Division is recommending approval subject to the following conditions:

1) That the closing on the transaction to acquire ownership shall occur within 60 days of the date of this Board meeting.
2) That the closing on the transaction shall be substantially on terms and conditions as represented to the Board at this Board meeting.
3) That Applicant shall assure receipt by the Division within 75 days of the Board meeting, of a letter signed by applicant or applicant's attorney, addressed to the Division, certifying that closing has occurred and stating the date of closing, and stating that closing occurred on terms and conditions not inconsistent with those as represented to the Board at this Board meeting, and providing a copy of the fully Bill of Sale, Stock Purchase Agreement, or other document by which the acquisition transaction is consummated, executed by all parties, and any and all amendments, schedules, and other attachments thereto, also fully executed.
4) That the Director of the Division of Funeral, Cemetery, and Consumer Services may extend any deadline set out in these conditions, by up to 90 days, for good cause shown. The Director shall report any such extensions to the Board as an informational item.
5) That all representations by the applicant in the application and related materials provided to the Board or FCCS Division by the applicant, in support of the application(s), are deemed material to the Board's action herein.

6) That the Applicant (new owner or controlling party) shall assume all existing preneed liabilities of the location(s) being acquired.

MOTION: Mr. Jones moved to approve the application subject to the conditions recommended by the Division.

Mr. Hall – Question?

Chair – Mr. Hall?

Mr. Hall – Is this cemetery the one that was tied to Beaches? The same group?

Chair – No sir. Mr. Knopke?

Mr. Knopke – To Ms. Simon, I believe the statute for a new cemetery requires years of knowledge or working in a cemetery, is that applied to the purchase? Because I'm looking at the four (4) applicants in the LLC and the manager, and based upon what's in the package they don't indicate any industry experience at all. My concern is if they're going to buy them, who's going to run them?

Ms. Simon – Mr. Knopke, I'm not absolutely sure, but I would assume the same conditions apply when acquiring a cemetery.

Mr. Knopke – I would hope we did it that way. Yes, I think so.

Ms. Simon – I don't have the statute in front of me, but I believe the same conditions apply.

Mr. Knopke – I would ask that we table this transfer until we can determine if they have a qualifying manager on staff.

Chair – We have a motion. Would you feel comfortable, as part of the motion of approval subject to them having a qualifying person.

Mr. Knopke – I'm good with that.

Mr. Jones – I'm fine with amending the motion to include that.

Chair – Thank you.

Mr. Knopke – Whoever the second was.

Mr. Jones – You're the second.

Mr. Knopke – Okay. That's fine.

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

Board members – Aye.

Chair – And any opposed? And the motion carries. Was that for both the preneed main and the transfer of ownership?

Mr. Jones – Yes sir.

Mr. Knopke – Yes.

Chair – Okay. Thank you.

(2) Fairway Memorial Capital LLC d/b/a Fairway Memorial Gardens (Deerfield Beach)
(a) Application for Cemetery License

(b) Application for Preneed License

Ms. Simon – Fairway Memorial Capital, LLC (FMC), a limited liability company, seeks approval for an application to acquire control of a cemetery company and an application for transfer of a preneed main license at the below listed location. The change of ownership is due to a stock purchase of Fairway Memorial Properties LLC by Fairway Memorial Capital LLC. The background check for the principals were returned without criminal history. More specifically, the entity that is being acquired is as follows:

1) Fairway Memorial Properties LLC d/b/a Fairway Memorial Gardens, a licensed cemetery and preneed main, license # F084996, physical address: 1391 NW 45th St, Deerfield Beach

Separate applications are located within your Board package. Applicant confirms that if there are currently any unfulfilled preneed contracts sold, the obligation to fulfill those preneed contracts will be assumed by the new owner. If approved, Applicant will continue to sell trust-funded preneed contracts through Argent Trust Company, administered by Funeral Services, Inc (FSI), and utilize their approved prearranged funeral contract forms.
The Division has no record of disciplinary action regarding FMC. The required net worth has been met. Contrary to what is listed in your coversheet, the Division recommends approval subject to the same conditions outlined within the coversheet of the previous case, Capstone:

1) That the closing on the transaction to acquire ownership shall occur within 60 days of the date of this Board meeting.
2) That the closing on the transaction shall be substantially on terms and conditions as represented to the Board at this Board meeting.
3) That Applicant shall assure receipt by the Division within 75 days of the Board meeting, of a letter signed by applicant or applicant's attorney, addressed to the Division, certifying that closing has occurred and stating the date of closing, and stating that closing occurred on terms and conditions not inconsistent with those as represented to the Board at this Board meeting, and providing a copy of the fully Bill of Sale, Stock Purchase Agreement, or other document by which the acquisition transaction is consummated, executed by all parties, and any and all amendments, schedules, and other attachments thereto, also fully executed.
4) That the Director of the Division of Funeral, Cemetery, and Consumer Services may extend any deadline set out in these conditions, by up to 90 days, for good cause shown. The Director shall report any such extensions to the Board as an informational item.
5) That all representations by the applicant in the application and related materials provided to the Board or FCCS Division by the applicant, in support of the application(s), are deemed material to the Board's action herein.
6) That the Applicant (new owner or controlling party) shall assume all existing preneed liabilities of the location(s) being acquired.

Chair – Is that clear? Any questions on that?

Mr. Knopke – I'll ask the same question that I asked a few minutes ago re Capstone.

Chair – Do you have someone to ask?

Ms. Wiener – You do. Wendy Wiener representing the applicant. On the form, it indicates stock purchase because there's really not a good place to put this, but this was simply a conversion of debt to equity. This is one of their major partners, who was a lender, has converted to equity. All of the same management at Fairway will remain in place. There's not going to be any change whatsoever operationally.

Mr. Knopke – Thank you.

Chair – Thank you.

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

Chair – Thank you.

Ms. Wiener – Thank you.

15. Application(s) for Direct Disposal Establishment

A. Recommended for Approval with Conditions

(1) Millennium Crematory LLC d/b/a Millennium Cremation Service (Port St. Lucie)

Ms. Simon – An application for a direct disposal establishment was received on by the Division on January 13, 2020. The application was complete when submitted. The Funeral Director in Charge will be Rachel Delashmutt (F052116). 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.

Chair – I have a question. Does this applicant for direct disposal establishment also have a crematory on the premises? Because the name they're asking for…I'm sorry. That is the LLC. Forget I said it. Thank you.

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

16. Application(s) for Funeral Establishment

A. Recommended for Approval with Conditions

(1) A Lasting Memory Funeral Services Inc. (St. Petersburg)

Ms. Simon – An application for a funeral establishment was received by the Division on November 1, 2019. The application was incomplete when submitted and completed on December 17, 2019. The Funeral Director in Charge will be George B. Woodie, Sr. (F045347). 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.

Chair – Mr. Hall?

Mr. Hall – Mr. Chair, I'm concerned. The FDIC on this, I believe, was the FDIC at the St. Pete location where we recently pulled the license. Is that correct? When we were at the St. Pete College, if I'm not mistaken.

Mr. Helm – Creal.

Mr. Hall – I'm not sure if the principals are involved because I can't remember their names, but I remember his and I believe there were some accusations that he signed some open contracts, etc. Tell me what are leeway is from the Division. Are we able to request that information from that one to review later to make a decision on this?

Chair – Is it your idea to table this until we get that information before the Board?

Mr. Hall – If the Division tells me they're able to provide us that information from those minutes on that. There were a lot of problems when we pulled the establishment license.

Ms. Simon – The question you're asking is two different questions. Are the same principals involved or is there another question asked?

Mr. Hall – Well, do we have the right to order that, then these principal names here I don't know. If we had the minutes we'd know whether those are the same principals that we just pulled the establishment license on. I don't want to pull that license then turn around and hand them another one under another name.

Mr. Barnhart – I think Mr. Woodie was at that St. Petersburg meeting, but I don't think he's ever had any discipline against his license individually. I may be wrong, but I don't remember that ever being brought up. So, I think Mr. Woodie, for purposes of this application, I think you'd have to consider that he has not had any discipline against him. The other people I don't know about.

Mr. Knopke – Mr. Chair, I would agree with Lew. His name just jumped off the page at me.

Chair – I do believe that he came before us to testify that he was helping that place try to get under control and try to clean it up.

Mr. Barnhart – Correct.

Mr. Knopke – Some of the problems occurred while he was there trying to help clean it up and his name got involved as well. He got involved.

Chair – Is there a deemer issue on this?

Ms. Simon – Actually, we're checking to see right now whether the principals are the same and we can find that information out during this meeting.

Mr. Knopke – Should we table this?

Chair – Yes, we'll come back to it once we have that definitive information.

Mr. Barnhart – I just wanted to add, my recollection was that the funeral director in charge of that home supposedly was supervising things and she/he lived around the Atlanta GA area.

Mr. Hall – He was brought in, if I remember correctly, to try and save it. I think the owners husband passed away and he was going to come in and save it, but I think a lot of that happened under his watch.

Chair – So we'll come back to 16. A.

Ms. Simon – Okay.

Mr. Helm – Mr. Chair? Mr. Chair?

Ms. Richardson – They're not the same principals.

Mr. Hall – They're not the same people?

Ms. Richardson – They're not the same people.

Mr. Knopke – What did Mr. Wooding have to do with the other one?

Ms. Richardson – He was an employee.

Ms. Simon – He was a funeral director there when these matters occurred and he later became a funeral director in charge of the facility. Not at the same time these allegations took place.

Chair – So, with that assurance, what's the comfort level of acting on 16. A. (1)?

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 with two (2) dissenting votes.

17. Application(s) for Removal Facility

A. Recommended for Approval <u>with</u> Conditions

(1) Direct Transport & Removal Services LLC (Dunedin)

Ms. Simon – An application for a removal service was received on December 3, 2019. The application was incomplete when submitted and completed on January 6, 2020. 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. Mr. Helm seconded the motion, which passed unanimously.

18. Related Item(s)

A. Monument Establishment Builder License and Monument Retail Sales Agreement

(1) Recommended for Approval without Conditions

(a) JD Performance Auto LLC d/b/a Pensacola Monuments & Headstones (Pensacola) (Monument Establishment Builder)

Ms. Simon – An application for monument builder establishment licensure was submitted on November 8, 2019. The application was incomplete when received and was deemed complete on January 6, 2020. A completed background check revealed no criminal history for its listed principal. If approved, Applicant will operate as a monument establishment builder at the above specified location and utilize the monument retail sales agreement that has been submitted for approval. The establishment passed its inspection on January 7, 2020. The application is recommended for approval without conditions.

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

(2) Recommended for Approval with Conditions

(a) JD Performance and Auto LLC d/b/a Pensacola Monuments & Headstones (Pensacola) (Monument Retail Sales Agreement)

Ms. Simon – JD Performance Auto LLC submits a monument retail sales agreement for approval. If the form is approved, it is to be used for the sale of monuments through the previously approved monument builder establishment licensee. The Division is recommending approval subject to the condition two full sized print-ready copies are received by the Department within 60 days of this Board meeting.

Chair – Mr. Helm, did you have an opportunity to review that?

Mr. Helm – I did and I have one question. Does anybody know how many pages a contract really is?

Ms. Simon – Actually, I believe there is someone here to represent them.

Chair – Come right this way. Please be sworn.

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?

John Dodson – I do.

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

Mr. Dodson – John Dodson, D-O-D-S-O-N.

Chair – Thank you, Mr. Dodson.

Mr. Dodson – The contract agreement should be two (2) pages, although in that format it might be three (3). I'm not sure how it came across.

Mr. Helm – He's got everything on there. It just took me a while.

Mr. Dodson – We're going to attempt to condense it as long as the script stays the same.

Mr. Helm – It's all there.

Chair – Thank you. Is there a motion?

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

Chair – Good luck, sir.

Mr. Dodson – Thank you very much.

B. Refrigeration Facility and Removal Service
(1) Recommended for Approval <u>with</u> Conditions
(a) Infinity Transportation Services LLC d/b/a Tri-County Mortuary Transfer Service (Port St. Lucie) (Refrigeration Facility)

Ms. Simon – An application for a Refrigeration Facility license was received by the Division on November 12, 2019. The application was incomplete when submitted and all deficiencies were satisfied on December 20, 2019. A background check of the principals revealed no relevant criminal history.

The facility is recommended for approval subject to the terms & conditions of the executed stipulation for licensure including a fine of $1750 and probation for a period of 12 months; and a passing onsite inspection by a member of Division staff.

Mr. Knopke – Mr. Chair?

Chair – Yes?

Mr. Knopke – This is the same, not the same, this is the people who supposedly sold one earlier this morning. Are they different people? Do we know?

Ms. Simon – These are different people, yes sir.

Mr. Knopke – How long did they operate without a license?

Ms. Simon – I have spoken with the owner of the facility and based upon my discussions with her, I found that this to be a just Settlement Stipulation in this matter and you'll see it's an identical one in the next case.

Mr. Knopke – Thank you.

Mr. Helm – Question? Is it $1750 one (1) time or two (2) times?

Ms. Simon – For this case it will be $1750. We're recommending an additional $1750 for the next case.

Mr. Helm – That was my question. Okay.

MOTION: Mr. Knopke moved to approve the application subject to the terms & conditions of the executed stipulation for licensure including a fine of $1750 and probation for a period of 12 months; and a passing onsite inspection by a member of Division staff. Mr. Helm seconded the motion, which passed unanimously.

(b) Infinity Transportation Services LLC d/b/a Tri-County Mortuary Transfer Service (Port St. Lucie) (Removal Service)

Ms. Simon – An application for a Removal Service license was received by the Division on November 12, 2019. The application was incomplete when submitted and all deficiencies were satisfied on December 20, 2019. A background check of the principals revealed no relevant criminal history.

The facility is recommended for approval subject to the terms & conditions of the executed stipulation for licensure including a fine of $1750 and probation for a period of 12 months; and a passing onsite inspection by a member of Division staff.

MOTION: Mr. Helm moved to approve the application subject to the terms & conditions of the executed stipulation for licensure including a fine of $1750 and probation for a period of 12 months; and a passing onsite inspection by a member of Division staff. Mr. Knopke seconded the motion, which passed unanimously.

C. SCI Funeral Services of Florida LLC d/b/a Neptune Memorial Reef Cremations (Ft. Lauderdale)
(1) Recommended for Denial (Collective Coversheet)
(a) Application(s) for Funeral Establishment
(b) Application(s) for Preneed Branch

Ms. Simon – SCI Funeral Services of Florida LLC, a limited liability company, seeks approval of two applications; one (1) funeral establishment license and one (1) preneed branch license. The applications being submitted are for new licensure. A completed background check of the principal(s) for the business revealed no relevant criminal history. Enclosed in your Board package are the separate applications regarding the above license requests, with specifics as follows:

1) SCI Funeral Services of Florida LLC d/b/a Neptune Memorial Reef Cremations, a funeral establishment, physical address: 1801 East Oakland Park Blvd Suite A, Fort Lauderdale FDIC - Michael Tabers (F044736).
2) SCI Funeral Services of Florida LLC d/b/a Neptune Memorial Reef Cremations, a preneed branch, physical address: 1801 East Oakland Park Blvd Suite A, Fort Lauderdale

While the Division initially recommended denial on these applications for licensure, the Division has changed its posture and is recommending approval.

Lisa Coney – Lisa Coney with SCI. I'm just here to answer any questions.

Mr. Knopke – What changed?

Chair – Please, Ms. Simon.

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

Ms. Coney – I do.

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

Ms. Coney – Lisa Coney, C-O-N-E-Y, and I'm with SCI and in this case Neptune Memorial Reef Cremations. Essentially what changed, as I understand it, is it was originally misjudged as colocation because of old inspections from field staff. We hired a contractor and he specifically separated the two (2) businesses, their access, their entrances. It will have its own signage, its own employees. It is absolutely and totally a completely business and that's evidenced by the certificate of occupancy by the work that was done by the post office. This is 1801 Oakland Park Blvd Suite A. The other is 1801 because it was always there and no application was made for that because it wasn't really experiencing a change other than giving up sufficient space to qualify for licensure for Neptune.

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

19. Contract(s) or Other Related Form(s)
A. Recommended for Approval <u>with</u> Conditions
(1) Preneed Sales Agreement
(a) Baldwin Brothers Memorial Care Services, Inc. (F019366) (New Smyrna Beach)

Ms. Simon – Baldwin submits the attached preneed sales agreement and addendum forms for approval: Baldwin Brothers Financial Accommodation Addendum and Baldwin Brothers Travel and Relocation Plan. If approved, these addendum forms will be used in connection with the approved Baldwin Prearranged Trust Funded Funeral Agreement, which is also included, for the sale of preneed contracts by the above preneed main establishment 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 sixty (60) days of this Board meeting.

Mr. Knopke – My brother is president of Baldwin Brothers and my relationship with him will not hinder me in any way from make a fair and impartial decision on this matter.

Chair – Thank you. Is there a motion?

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

Ms. Wiener – Thank you.

20. Executive Director's Report

A. Operational Report

Ms. Simon – At this time, I'll turn the meeting over to the Division Director, Mary Schwantes.

Ms. Schwantes – Thank you. Mr. Chair?

Chair – Please go ahead.

Ms. Schwantes – We are in Legislative Session. I know everybody is aware of that. I want to cover a couple of things that you're probably already aware of and maybe some that you may not have heard of yet. So, the first of course to talk about is the Department's Bill, relating to Chapter 497, F.S. This was filed on January 3, 2020, HB1077, and is sponsored by Representative Chip Lamarca (Lighthouse Point, FL). The related Senate Bill – SB1404 – is sponsored by Senator Keith Perry (Gainesville, FL) and was filed on January 6, 2020. The Bill, summarized, provide as follows relating to Chapter 497, Florida Statutes.

a. **SECTION 2 – HB1077; SECTION 2 – SB1404**

The bill amends section 497.101, Florida Statutes, regarding the Board of Funeral, Cemetery, and Consumer Services, as follows:

1) The section sets out the appointment process for filling Board vacancies. For nine (9) of the ten-member Board positions, the statute currently requires that the members are appointed by the Governor from nominations made by the Chief Financial Officer. The bill simply clarifies the number of nominees which the Chief Financial Officer must submit to the Governor for each of these positions when vacant. Currently, the statute requires three (3) nominations per vacant position. As proposed, the Chief Financial Officer would nominate one (1) to three (3) persons for each of the vacancies. If the governor objects to the nomination(s), the Chief Financial Officer would nominate one to three (3) more persons for the vacancy. This process is to continue until the Governor appoints a person from the nominee(s) to fill the vacancy;
2) Clarifies the requirements regarding the consumer Board position which is filled by a certified public accountant. As you all know, that position has been vacant for two and a half years now. It is a problem finding qualified, interested applicants. One of the reasons why it seems to be a problem is because the current statute provides that the individual filling that position may not be connected with the death care industry. That would essential prevent that applicant from having any clients in the death care industry. The proposed bill changes that to effectively allow for the CPA filling the position to have clients in the industry. Under the bill, the position must be filled by a Florida licensed certified public accountant who has never been licensed as a funeral director or embalmer, is not a principal or employee of any Chapter 497 licensee, and does not otherwise have control (as defined in section 497.005) over any Chapter 497 licensee;
3) Deletes the requirement that the terms of the initial Board members be staggered;
4) We are trying to change the quorum. Currently the statue requires that there be six (6) Board members present and eligible to vote. That's not always possible, particularly when you have people who can't make it or have to recuse themselves for one reason or another. We're trying to change that so that it is the majority of the Board members eligible to vote; and
5) Deletes the requirement that the Department adopt rules or establish forms regarding the Board application process. The reasoning behind that is because ultimately it's the Governor's Appointment Process that controls who gets appointed to the Board. For the sake of the Department, the CFO's nominations have to go through the Department's Nomination Process, but then those that are nominated will have to go through the application

process of the Governor's office. There's not a real reasonable way for the Department to establish rules regarding that, particularly as it changes depending upon the Governor. Any questions so far?

b. SECTION 3 – HB1077; SECTION 3 – SB1404

The bill creates section 497.1411, Florida Statutes, regarding the disqualification of applicants and licensees, penalties against licensees and rulemaking authority concerning these issues. It is very detailed. As proposed, the section establishes:

1) Disqualification of applicants based upon criminal history;
2) Permanent bars and disqualification periods of 5-10 years;
3) Rulemaking authority for the purposes of implementation.;
4) Requirements for applicants to demonstrate, after an applicable disqualifying period, that they are qualified for licensure;
5) That a grant, pardon, or restoration of civil rights for a crime delineated by this section results in the crime not being a bar to licensure; and
6) The authority of the Board of Funeral, Cemetery, and Consumer Services to grant exemptions to the disqualifications to licensure in certain circumstances.

These provisions essentially provide the Board and Division with more comprehensive guidelines for the licensing of persons with criminal history. Although modeled after similar provisions found regarding the licensing of insurance agents, the bill provides for the Board to have authority to grant exemptions to licensure disqualifications in certain circumstances. We are hopeful that there will be some amendments to those provisions. There were some scrivener's errors, if you will, between the initial proposal and when it got put into the legislative forum. For an example, the Board would not be able to grant an exemption in certain circumstances such as where there's been criminal history of a murder, whereas right now the proposed legislation doesn't say that. We just need to make that correction so that we are clear about that.

c. SECTION 4 – HB1077; SECTION 4 – SB1404

The bill amends section 497.157, Florida Statutes, regarding unlicensed practice, to:

1) Provide additional criteria as to what constitutes unlicensed practice under Chapter 497.
2) Provide that any person not licensed under Chapter 497 who engages in activity requiring licensure under the Chapter commits a third-degree felony.

Currently, it is a misdemeanor of the second degree. There's another scrivener's error that needs to be picked up there, because what happened was when it was proposed initially, we were suggesting a change to another statute that has to do with the penalties and we were putting the provisions regarding the change that it would be a third-degree felony in that statute, but it got picked up all in one provision under s. 497.157, F.S., which left that other one, so you've got conflicting statutes. So, we've got to go forward and hopefully get these amendments in place to repeal the provision in the other statute.

So, where we are on these bills is HB1077 has gone through two (2) of the three (3) required committees, and it next go to the House Commerce Committee. No date has been set, as of when I checked yesterday, as to when that will be heard. SB1404 has gone through one (1) of the three (3) required committees. It next goes to the Appropriations Subcommittee on Agriculture, Environment, and General Government. Again, no date set. That's the Department's bill. Any questions so far?

Mr. Jones – Mary, what was that second section you said dealing with criminal?

Ms. Schwantes – It's creating a new section, s. 497.1411, F.S. And if you want the numbers on these again, it is HB1077 and SB1404.

Mr. Jones – I just missed the section there. Thank you.

Additional bills that we are following:

ABANDONED CEMETERIES:

- HB121/SB220 – Abandoned cemeteries [in part result of issues arising from former Zion Cemetery and the Ridgewood Cemetery in Tampa area]. These bills create a 7-member Task Force on Abandoned African American Cemeteries; requires Department of State to partner with University of South Florida in investigations, identification,

location & notification of next of kin; provides requirements for costs of specified services; requires DOS to report to Governor, Cabinet, & Legislature; authorizes Department of State to adopt rules. This Division, this Department is not involved at this time. It does propose that one member of the task force be appointed from the industry itself. That's to be selected, if I remember correctly by the Secretary of State.

Chair – The Division would not be involved in implementing this? You better get the funding if you're involved in this.

Ms. Schwantes – No sir, right now, the Division and this Board is not at all involved. There's nothing related to Chapter 497 in this, other than references to things that cemeteries need to do.

- Status: The House Bill is in the first of its three (3) committees with no date set. The Senate Bill passed the first of its committees and has been referred to the Appropriations Subcommittee on Transportation, Tourism, and Economic Development. Again, no date set.

ANIMAL CREMATIONS:

- SB1282 (NO HOUSE BILL): "Sevilla's Law." It requires a provider of companion animal cremation to provide a written description of their services to the owner of the deceased animal, the person making cremation arrangements for the owner, veterinarians, pet shops, the Department of Agriculture and Consumer Services (Department), and any person, upon request. It prohibits written descriptions of services to contain false or misleading information. The provider must include a certification along with the returned cremation remains. The bill provides civil penalties for unlawful acts by the provider and authorizes the Department of Agriculture to carry out the provisions of the act. Status: The bill passed the 1st of its three (3) required committees. Now before the Senate Committee on Commerce and Tourism. Again, no date set.

MONUMENTS AND MEMORIALS:

- HB31 (NO SENATE BILL) - Designates Act "Soldiers' and Heroes' Monuments and Memorials Protection Act"; defines "remembrance"; prohibits damage to or removal of certain remembrances; prohibits removal or other specified activities concerning remembrances on public property; grants certain persons standing for enforcement. Status: Now in the first (Criminal Justice Committee) of its three (3) required committees. No date set for hearing on that.

DEREGULATION:

- HB1155/SB1614 – Legislative Review of Proposed Regulation of Unregulated Functions – The "Sunrise" Component of the deregulation bills we are following. This bill makes it more difficult to adopt regulation of previously unregulated functions and/or to significantly expand the regulation of currently regulated occupations. So, if we wanted to make changes to something that we're doing that would expand regulation, for example, licensing of funeral directors, if this passes, we would have to follow this. It makes it more difficult. It provides a longer time frame by which you'd have to provide a lot of additional information that is already required to support the justification of additional regulation and it has to be provided to the Legislature, the state agencies involved and some others that were involved in that, too. It significantly expands the amount and types of information which must be provided It also revises the information that a Legislative Committee must consider when determining whether regulation is justified. So that's one way of deregulating something. To keep it from coming in to begin with, which is why they call it "Sunrise". Status: The House Bill is in its 3rd committee, which is the House Commerce Committee, and is on the agenda to be heard this morning. I do not know the status of what happened with it, but it is moving. The Senate Bill has not yet gone to any of the three (3) required committees. Again, the Department is closely monitoring the bill.
- HB0707/SB1124 – Legislative Review of Occupational Regulations 2020 – the "Occupational Regulation Sunset Act." Board members may recall that there were meetings a few years ago involving other occupational Boards which discussed possible deregulation efforts. Occupations involving the funeral, cemetery, and consumer services industry were not part of those discussions at that time. Regardless, individual licenses within the industry are potentially impacted by this bill (not the establishments, etc.). The bill establishes a schedule for the systematic review and possible deregulation of occupational regulatory programs, including our industry's individual licenses – such as funeral director, embalmer, etc. Other occupations licensed by the Department are also included in the bill. The Department is closely monitoring this bill. Status: The House Bill has passed one (1) of the three (3)-required committee stops. It is before its second committee, the Health & Human Services Committee, this afternoon. Again, I

don't know what the status would be right now. The Senate Bill has not yet gone to any of the three (3) required committees. If passed, that will require that as the provisions regarding those licenses, those individual licenses, come up for review, I think in 2022, it will the legislation an opportunity at that point to decide whether or not that particular license needs to continue to be regulated or not. So, I would suggest that as Board member and those in the industry continue to follow that, HB0707/SB1124, the Sunset Provisions. The Sunrise bills are HB1155/SB1614. Any questions on any those?

Mr. Knopke – So if it passes, nothing happens until 2022?

Ms. Schwantes – It passed as it currently as written.

Mr. Knopke – {inaudible} between now and then.

Ms. Schwantes – The question is already being asked for independent information. Any other questions.

(1) Financial Statements

Ms. Schwantes – The financial statements, which are include in your Board packet, were sent out last week in advance of the meeting. I want to kind of go through each of these to make sure that don't have any question on them. Before we get started you will note that the format used for the statements is basically the same as that presented the last two (2) years. The format and the numbers presented are the result of many hours work between Division staff and Department budget staff translating the numbers that are normally seen in budget spreadsheets and legislative budget information that's put together for legislative budget purposes and general ledger codes into a more usable format for this Board's purposes. I'm going to try and answer any questions you have. If you have anything that I can't answer then we'll address it another time or I'll get the answer to you later.

The reports are submitted to meet the statutory requirements. Specifically, the provision that every other year, at least, that we have to provide the Department with estimates as to our projected costs and implementing the chapter and our projected fee collections under this chapter. Again, for the last three (3) years, this is the third presentation of these. We have been meeting that requirement. So, let's look at these.

REGULATORY TRUST FUND (RTF) BALANCE SHEET – This shows actual information for fiscal years 2014-2015 through 2019-2020. This is basically our income. It shows actual information with projected information through fiscal 2019-2020. You will note the ending balance continues to swing up and down each year. As pointed out in prior year repots, this is in part a result of the swing in licensing fee income since some licenses only renew every other year, so the income reflects this swing. The projected end of year balance FY2019-2020 (i.e. as of June 30, 2020) is about $4.7 million.

Chair – It appears the big swing is in other fees. What are "other fees?" On the revenue side, second line.

Ms. Schwantes – I don't have an exact answer on that. I'll have to find out.

Mr. Jones – Are those renewals maybe? License renewals?

Ms. Schwantes – Yes, thank you. That's what it is. Thank you. Preneed fees roughly consistent over the years, generally around $700k. Other fees and licensing fees swing back and forth between years as previously explained. Interest earnings are relatively small but have increased in recent years. We have tried to provide a general description of items in areas where we use a term which may not be a common term, such as "state refunds" (in the non-operating category), those are refunds to licensees on overpayments, etc. Questions? Thank you for asking about the other fees.

PRENEED FUNERAL CONTRACT CONSUMER PROTECTION TRUST FUND (CPTF) – This shows historical information on the CPTF from 7/1/2010 – 6/30/2019. Main points to show here is that the total balance at the end of June 30, 2019 was $8.98 million; slightly higher than the prior year. Preneed fees ($1 per contract) are fairly consistent over the years. If you disregard the high year of $193k received in FY 2013-14, the income from fees has averaged about $111k per year. Preneed fees have not shown great growth over the years with exception of that one year, and none of us have an explanation for why that year was higher. We've never been able to find information on that. The bulk of revenue has come from interest earnings, which have

varied significantly over the years The total revenue through these years consistently exceeded $250k with a larger increase to $331k this last FY, again primarily because of interest.

Claim payments, historically are generally between $55k - $85k per year, at least until the years after 2014. The high claim payments in the five (5) years shown on this report, there are footnotes on bottom of page show the failures/closings/or revocations, which impacted the claims payments in those years. Most recent impact of course is primarily Beaches Memorial Garden in 2016-2017. We are still paying on those and this is still a high reason for the high payout in claims. At the request of one (1) of the Board members, there is additional information regarding CPTF payments resulting from Beaches is included at a later point in your meeting package. It comes after this report. Last year's claim payments exceeded $207k. For budgeting purposes, our spending authority from this trust fund is $200,000 per year. So, as a result of the increased claims over the past few years, we have requested an increase in spending authority from this account. Bottom line, income coming in historically is sufficient to cover claims expenses and there's a buildup in trust funds, probably more as a result of the interest over the years. Questions? Let me point out again too, if you all see anything on any of these statements that you would like changed or would like more information on, let us know at any given time and we'll look into that for future years.

FCCS BUDGET FISCAL YEARS 2017-2018/FY2018-2019/FY2019-2020 – Provides detail on the operating and the non-operating aspects of our Division's budget. Actual information is provided for FY2017-2018 and FY2018-2019. Projected information presented for FY2019-2020, with actual expenditures provided through 10/31/19. As a reminder, the Operating is that which the Division has some control over. We submit our proposed budget to our agency Budget Office during the summer of the year before it would go into effect. So, last summer, we presented the proposed budget for FY2020-2021. That budget will be reviewed and hopefully approved during the current legislative session. The Non-Operating Budget primarily involves the cost allocations to our Division for support provided by the Department. For example, Information Technology, Legal and Administration. The Division has no control at all, over that budget. That is performed on an agency basis, as approved by the CFO.

So, each year, the Legislature approves our operating budget in the General Appropriation Act. During the year, that amount may be adjusted by combined efforts of our Budget Office and legislative staff/committees. For example, you will see that the adjusted appropriation amount for 18-19 was $2,313,601. If you're looking at 2018-2019, the Operating Category, the Adjusted appropriation was about $2.31 million. Actual expenditures $2.15 million. That's partly as a result of vacancies. We were under budget by $165k. That is almost all a result of vacancies in our Division. We are now fully staffed and will not see that kind of under budget. We are right on it, at this point.

The Non-Operating Category for that same year, the appropriation was $1.24 million, actual expenditures were $966k, and then came in under budget by $273k. Bottom line both operating and non-operating came in under budget by $438k. Much tighter overall projected budget for 2019-2020, as we are now fully staffed. Our staff are out doing what they are supposed to be doing in the field and the travel expenses have increased significantly. As a result of that, we have already asked for an increase of $25k in the budget and may be amending that to ask for another additional increase of $50k. We are also asking for State vehicles. Usually that means we get the hand me downs from other Divisions, which come with repair costs that used cars come with, but it will somewhat reduce the travel expenses, in that we would not have to have rental cars. However, travel in general is going up any way with hotel costs and other things. So, this is an area that we do expect to rise. It's just part of continuing to operate as we should be. Like I said, we're fully staffed now. Particularly, with our exam team, they are on the road and doing everything they need to be doing. We're proud of how well our new employees in that area are acquainted with the task and continue forward.

PROJECTED REGULATORY TRUST FUND BALANCES – The main point is to show how the operational and non-operational budgets taken together and the income impact the resulting bottom line balance in our Regulatory Trust Fund, from which we are able to draw to pay for our operating expenses. The top table shows the current structure, status quo. No changes in staffing, no changes in systems, no changes in responsibilities. You can still see status quo that over a ten (10) year period, the impact on the Regulatory Trust Fund is. $200k - $300k a year. That does not meet the needs of continued successful operations. The second table is just throwing some assumptions in there so that you see the impact of what would be minimally required. We have assumed that we are either contracting or have three (3) new full-time employees in the Financial Examiner Analyst position, primarily for the examinations of the preneed licensees to better facilitate the timing on those examines to reduce the amount of time between exams.

We are assuming one (1) OPS position, increased travel expenditures, maintenance on Information Technology only. That does not replace the systems. That's just a guesstimate as what the maintenance costs could be, and average inflation costs. If you just take those minimal improvements in view then you'll see another example of the impact on the overall Regulatory Trust Fund and you see that in ten (10) years, we'll have $87k. So, that does not replace the systems, which are in dire need. We have one (1) system in particular that is continuing to crash. This is something that the industry, just in general, has to look at. We tried to obtain funds from the Consumer Protection Trust Fund a couple of years ago. That was not successful, understandably. We were allocated $1.2 million from the Legislature, from a different Trust Fund, to use. It was not even enough money, by any means, but we were allocated that to use in the upgrade of some of these systems, replacing some of these systems. We never obtained spending authority on those funds, and those funds are still held up. I do not expect that they will be reallocated next year.

Ellie has just asked me to qualify the request I made about the $25k to the $75k in travel budget. That is asking for spending authority, from the Regulatory Trust Fund, in that amount.

Chair – I thought that was for Board members.

Ms. Schwantes – Not quite, but it does count towards your travel. Those are the updates on the financial statements. If anyone has any questions about those, let us know.

BOARD APPOINTMENT PROCESS – There is no update at this time. The last information available is that the applications are still under review by the CFO's Office. The CFO has to submit, by statute, three (3) nominations for each vacancy to the Governor for his review. Nominees will be notified and provided instructions for the next step in the process, which will be to complete any applications and follow the processes required by the Governor's Office for appointment to a Board.

Mr. Helm – Is that something new?

Ms. Schwantes – No sir. That's all been the same. The last time we did the applications, we included them all as one (1) packet so that you were filling out the application for the CFO's Office and the applications that are required by the Governor's process, at the same time. This time around, a decision was made that it would be better if it was a two-step process. So, those who are nominated will receive notice and they will then have to go online and fill out the Governor's application, but they will receive notice and instructions on how to do that. I'm sorry, but I do not have a timeline. We definitely appreciate those who are still continuing to serve.

The next Board meeting will be a telephonic Board meeting on Thursday, March 5, 2020. The next in-person Board meeting will take place in Tampa, FL, on April 2, 2020. Thank you all for your patience. That ends the Operation Report. Thank you, Mr. Chair.

Chair – Thank you. Mr. Knopke?

Mr. Knopke – Thank you sir. Just a quick note to a few people that {inaudible}. Yesterday, the FTC filed their notice of the FTC rule review. It was provided to associations. It's not been in the federal register, the federal level of the {inaudible}. Actually, when it's publish, you have sixty (60) days to make comments.

Mr. B. Williams – Are they still talking about bringing the cemeteries under that rule?

Mr. Knopke – No. Bill, it's going to be a full rule review. What it does is takes in a full review of the original rule. Two (2) of the commissioners {inaudible} for information about {inaudible} and how it's administered. I know in one meeting that I had with staff, they asked why is it exclusive. Another commissioner expressed interest in that as well as technology.

Mr. B. Williams – That rule was written before the internet was invented.

Mr. Knopke – Exactly. I've had some meetings with staff of the FTC. I don't know that there's a preset agenda here. I don't get that sense. It's open and there will be lots of comments. All parties. They're open to regulators, they're open to individuals, they're open to companies and so forth. There's no time-period for them to do anything once the sixty (60) day period closes. During the sixty (60) day period, while they accept comments, you can't meet with them. Really, my

understanding is even afterwards, you can meet with them, but they're not going to talk with you about what you want to go there and talk about.

Chair – Thank you for that report.

B. Consumer Protection Trust Fund/Beaches

Ms. Simon – Mr. Hall requested some information on the claims made on the Consumer Protection Trust Fund, on behalf of Beaches. Those numbers are outlined within the memo within your packet.

Mr. Hall – Thank you.

Chair – Did you get that?

Mr. Hall – Yes. Thank you.

Chair – Could that be over $400k?

Division of Funeral, Cemetery, and Consumer Services

Memo

To: Board of Funeral, Cemetery, and Consumer Services

From: Ellen Simon, Assistant Division Director

cc: Mary Schwantes, Division Director

Date: January 28, 2020

Re: Consumer Protection Trust Fund/Beaches

During the December 2019 Board meeting, a board member asked for a total of monies paid from the Consumer Protection Trust Fund claims based upon issues with Beaches Memorial Inc.

From August 2016 thru January 2020:

The claims made by individuals have resulted in a total disbursement of $301,516.02 from the Consumer Protection Trust Fund.

The claims made by Beaches Memorial Services LLC d/b/a Ferreira Funeral Services have resulted in a total disbursement of $114,774.64 from the Consumer Protection Trust Fund.

C. 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
February 6, 2020 Board Meeting
Date of Report: :January 17, 2020

Licensee	Board Meeting	Case No.	Total Fine & Cost Due	Date Due	Paid in Full?	Comments
Everglades Crematorium	5-Dec-19	231985-18-FC	$2,000	3-Feb-20		
Geronimo Mena	5-Dec-19	231982-18-FC	$2,000	3-Feb-20		
Affordable Cremation Solutions, Inc.	5-Dec-19	241091-19-FC	$15,300	6-Feb-20	Yes	
Darice Concepcion	5-Dec-19	233390-18-FC	$2,500	6-Feb-20		
D & L Real Estate Investments LLC d/b/a Faith Memorial Ga	5-Dec-19	227930-18-FC	$1,500	6-Feb-20	Yes	
Albert McWhite	5-Dec-19	245288-19	$3,000	6-Feb-20		
McWhite's Funeral Home	5-Dec-19	245292-19-FC	$3,000	6-Feb-20		
Davis & Davis Funeral Services LLC	5-Dec-19	230411-18-FC	$3,000	6-Feb-20		
Amlosgi, LLC d/b/a AC Marchbank Family Funeral Home	10/3/2019	243122-19-FC	$300	11/25/2019	Yes	
Hickson Funeral Home	10/3/2019	230160-18-FC	$3,250	11/25/2019	Yes	
Eugene Hickson	10/3/2019	230171-18-FC	$4,750	11/25/2019	Yes	
Eric L. Wilson Funeral & Cremation Services PA	10/3/2019	243598-19-FC	$300	5-Dec-19	Yes	
Jay Johnson's Funeral Home	10/3/2019	243336-19-FC	$300	12/5/2019	Yes	
Manker Funeral Home	10/3/2019	243589-18-FC	$300	12/5/2019	Yes	
Thorne's Mortuary, Inc.	10/3/2019	243591-19-FC	$300	5-Dec-19	Yes	
Bernardo Garcia Funeral Home (Hialeah) Inc.	10/3/2019	243338-19-FC	$300	12/5/2019	Yes	
Bernardo Garcia Funeral Home (Kendall) Inc.	10/3/2019	243340-19-FC	$300	12/5/2019	Yes	
Bernardo Garcia Funeral Home (Westchester) Inc.	10/3/2019	243497-19-FC	$300	12/5/2019	Yes	
DeLawrence Charles Blue	10/3/2019	24708-17-FC	$2,000	12/5/2019	Yes	
Ponte Vedra Valley, Inc.	10/3/2019	243547-19-FC	$300	12/5/2019	Yes	

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.

21. Chairman's Report (Verbal)

Chair – I have no report.

22. Public Comments (Verbal)

Ms. Simon – Is there any public comment on any of the items on today's agenda? Hearing no response.

23. Office of Attorney General's Report

A. Attorney General's Rules Report

Ms. Simon – Mr. Barnhart?

Mr. Barnhart –Yes. As you can see from the report, we received two (2) JAPC letters. One on 69K-21.007, F.A.C., and the other one on 69K-32.002, F.A.C. They were not substantive letters. They were letters basically saying we're paying attention to what's going on and there are minor matters that I think we're going to satisfy them and proceed to an effective date with those two (2) rules as well. The other two (2) rules are smoothly going along. If there are no questions, that concludes my report.

Chair – Thank you.

BOARD OF FUNERAL, CEMETERY, AND CONSUMER SERVICES RULES REPORT
FEBRUARY 2020

Rule Number	Rule Title	Date Rule Language Approved by Board	Date Sent to OFARR	Rule Development Published	Notice Published	Adopted	Effective
69K-7.015	Trust Agreements and Trustees.	12/05/2019	08/12/2019(RD) 12/17/2019(RN)	08/20/2019 Vol.45/No.162	01/06/2020 Vol.46/No.03		
69K-18.001	Embalmer Intern Training Program.		08/12/2019(RD)	08/20/2019 Vol.45/No.162			
69K-18.002	Funeral Director Intern Training Program.		08/12/2019(RD)	08/20/2019 Vol.45/No.162			
69K-18.003	Concurrent Internships.		08/12/2019(RD)	08/20/2019 Vol.45/No.162			
69K-21.001	Licensure Procedure; Consquences of Operating Prior to Licensure.	12/05/2019	09/26/2019(RD) 12/17/2019(RN)	10/03/2019 Vol.45/No.193	01/06/2020 Vol.46/No.03		
69K-21.005	Display of Licenses.		09/26/2019(RD)	10/03/2019 Vol.45/No.193			
69K-21.007	Responsiblitiy of Funeral Director in Charge.	12/05/2019	08/12/2019(RD) 12/17/2019(RN)	08/20/2019 Vol.45/No.162	01/06/2020 Vol.46/No.03 01/10/2020 JAPC Corresp.		
69K-24.034	Operating Procedures for Refrigeration Services.		09/26/2019(RD)	10/03/2019 Vol.45/No.193			
69K-32.002	Approved Courses.	12/05/2019	09/26/2019(RD) 12/17/2019(RN)	10/03/2019 Vol.45/No.193	01/06/2020 Vol.46/No.03 01/10/2020 JAPC Corresp.		

24. Administrative Report

The information was provided on the Agenda.

25. Disciplinary Report

The information was provided on the Agenda.

26. Upcoming Meeting(s)

A. March 5th (Teleconference)
B. April 2nd (Tampa – Embassy Suites by Hilton Tampa Airport Westshore, 555 North Westshore Boulevard)
C. May 7th (Teleconference)
D. June 18th (Daytona Beach – Holiday Inn & Suites on the Ocean, 930 N Atlantic Avenue)
E. July 22nd (Boca Raton – FCCFA Annual Convention, Boca Raton Resort & Club, 501 E Camino Real)
F. August 13th (Orlando – Embassy Suites Orlando Int'l Drive Convention Center, 8978 International Drive)
G. September 3rd (Teleconference)
H. October 1st (Jacksonville – Florida State College at Jacksonville, Advanced Technology Center, 401 W State Street)
I. November 5th (Teleconference)
J. December 3rd (Gainesville – TBA)

27. Adjournment

Chair – Board members, anything good of the cause? Again, I always appreciate the Board members and the diligence that you display when we have meetings. Thank you for that. This meeting is adjourned.

The meeting was adjourned at 1:38 p.m.