

MINUTES
BOARD OF FUNERAL, CEMETERY AND CONSUMER SERVICES
VIDEOCONFERENCE MEETING
SEPTEMBER 1, 2022 - 10:00 A.M.

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

Ms. Jill Peeples – Good morning, this is Chair Jill Peeples. Welcome to the Board of Funeral, Cemetery, and Consumer Services videoconference meeting. It's 10 o'clock, September 1, 2022, Thursday. I would like to ask Ms. Simon if she would a roll call, preliminary remarks and go forward, please, with the agenda?

Ms. Ellen Simon – Yes, ma'am. Good morning. My name is Ellen Simon. I am the Assistant Director for the Division of Funeral, Cemetery, and Consumer Services. Today is September 1, 2022, and it's approximately 10:00 A.M. This is a public meeting of the Board of Funeral, Cemetery, and Consumer Services. This meeting is being held by videoconference. Notice of this meeting has been duly published in the Florida Administrative Register. An agenda for this meeting has been made available to interested persons. Both the link and call-in number is on the agenda, which has been made available to the public. The call-in number and other information relating to this Board meeting has also been published on the Division's website. Division staff present for this meeting are monitoring from their individual offices. Ms. LaTonya Bryant is recording the meeting and minutes will be prepared.

As this is a videoconference of the Board, there are some items I need to draw your attention to. For one, as a general rule, please do not utilize your video camera for the meeting unless you are a Board member, Board counsel, or an authorized Division employee. If you have a matter listed on the agenda and intend to appear before the Board to represent yourself, or if you are an attorney that is representing a client, only turn your video camera option on when we have reached the agenda item that you want to be heard on or when you hear your name called. Then turn your video camera option off again as soon as your matter has been addressed by the Board.

As always, we need everyone that is on the call to place their phone or audio feed on mute, if you are not speaking. The ambient noise coming from someone's phone or audio, which is not muted, causes severe disruption to the meeting. If you are not muted, you may be muted by Division staff. As a result, you may need to call back into the meeting because that may be the only way to unmute your phone. Also, if you are using your computer or smartphone for your audio feed, please remember to speak directly into the microphone on your device. To do so otherwise negatively impacts the recording of this meeting. Just as in a live meeting, persons speaking are requested to identify themselves for the record each time they speak. Participants are respectfully reminded that the Board Chair, Ms. Peeples, runs the meeting. Persons desiring to speak should initially ask the Chair for permission.

As a reminder to Board members, you are to refrain from commenting on facts not included within your Board packages, and instead base your decision solely on the information in your Board packages, as well as testimony provided at this meeting. Additionally, ongoing investigations are private and confidential and are not to be discussed, even for the purposes of confirming there is an investigation. Just a few words about Item W on your agenda, which is Public Comment. Public Comment is reserved for general comments by the public and not for re litigation of any matter before the Board. Please be aware that if Public Comment is used as an attempt to re litigate a matter that is being heard on this agenda, the Board will be instructed that the comment is not appropriate for Public Comment, and it should not be considered for further discussion.

As a final reminder, Board meetings are public meetings under Florida Law, and anything said via chat is subject to a public records request. This feature should only be used for technological issues you may be experiencing, and all inquiries in chat should be directed to Mary Schwantes, Executive Director. She is monitoring the chat feature and, as necessary, will forward your inquiry to someone who can assist in resolution of the problem. At this point I will take the roll:

Jill Peeples, Chair
Andrew Clark, Vice Chair
Joseph "Jody" Brandenburg
Sanjena Clay
Vincent "Todd" Ferreira

Christian "Chris" Jensen
Kenneth "Ken" Jones
Janis Liotta
Jay Lyons
Darrin Williams

Also noted as present:

Mary Schwantes, Executive Director
Rachelle Munson, Board Legal Advisor
Marshawn Griffin, Department Legal Counsel
James Bossart, Department Legal Counsel
LaTonya Bryant, Department Staff
Jasmin Richardson, Department Staff

Ms. Simon – Madam Chairperson, there is a quorum for the business of the Board.

Chair Peebles – Thank you, Ms. Simon.

B. Action on Minutes
(1) July 12, 2022

Chair Peebles – Do we have a motion to approve?

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

Chair Peebles – Ms. Simon?

C. Old Business
(1) Request for Hearing on Notice of Intent to Deny
(a) Washington Memorial & More Funeral Service Industry LLC (Butler)

Ms. Simon – Before I begin, I would like the opportunity to swear in Mr. Washington. Mr. Washington, are you on the call?

Mr. Raymond Washington – Yes, I am.

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

Mr. Washington – I do.

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

Mr. Washington – My name is Raymond Leonard Washington, WASHINGTON.

Ms. Simon – Thank you, sir. Now, if I may begin? This matter started in March 2022, when the Board was presented with an application for licensure as a funeral establishment. It was submitted by the Washington Memorial & More Funeral Service Industry LLC. After review and discussion, the Board denied the application, and a Notice of Intent to Deny the application was filed on March 24, 2022. The Notice gave the applicant twenty-one (21) days to request a review of the Board's findings. In July 2022, the Board reviewed a request for a section 120.57(1), F.S. hearing and found that the Respondent failed to cite material facts in dispute. The Board gave Respondent an additional twenty-one (21) days to provide those facts. Subsequent to that meeting, Respondent submitted another set of documents to the Division. This matter is before the Board again for a determination of whether Respondent provided material facts in dispute. If the Board determines that material facts in dispute were provided to the Division, the matter will be forwarded to the Division of Administrative Hearings (DOAH). As I

mentioned in your Board package, Board counsel may be able to provide additional guidance. The Division recommends that the Board find Respondent has submitted material facts in dispute and that this matter should be forwarded to the Division of Administrative Hearings for a Section 120.57(1), F.S. hearing.

Chair Peeples – Thank you, Ms. Simon. Ms. Munson, if you will, do you have any wisdom or knowledge you would like to give the Board before we take a motion and a second?

Ms. Rachelle Munson – Yes. It is the Respondent's responsibility to argue this point, to identify what, if any, material facts exist. It is only upon his citing of that or what he deems to be more than one material facts in dispute that the Board can vote whether or not to agree or disagree with his contention. We simply can't just say there is a material fact. The statute requires that it is clearly identified. The Division of Administrative Hearings will not consider this matter without a clear identification, and that burden falls on the Respondent.

Chair Peeples – Thank you, Ms. Munson. Let's do this, if we may. Board members, if we would, let's take a motion and a second, then we'll have our discussion. The Division office has recommended that Mr. Washington has not provided the information for us to go forward in granting him a hearing.

Mr. Washington – Madam Chair? Madam Chair? Madam Chair? All due respect.

Chair Peeples – Mr. Washington, just a minute, sir.

Mr. Washington – Madam Chair, before the Board votes, please allow me to respond.

Chair Peeples – Mr. Washington, we're not voting yet sir. If you will give us an opportunity to do our procedure, then we'll give you an opportunity to speak, sir. Thank you. So, the Board members have received the information. Do we have a motion to approve, or do we have a motion to deny, regarding going to the Division of Administrative Hearings, by the Board?

Ms. Munson – If I may, Madam Chair? Before the Board takes a vote, this matter is not led by the Division's recommendation, and the Division technically cannot recommend that, having the supportive proof that disputed issues of material fact exist. So, it would be incumbent for the Respondent to identify if there is...

Mr. Washington – No ma'am, I'm not going to allow you all to railroad me.

Chair Peeples – We'll give you an opportunity, sir, if you will please let me handle the procedure. Thank you, Ms. Munson, for your direction. And Mr. Washington, we will now unmute you, and we'll let you speak to the Board, please, sir, to let us know what your material facts are in dispute. Thank you, sir. Mr. Washington?

Mr. Washington – I am present?

Chair Peeples – Mr. Washington? Yes, sir?

Mr. Washington – Madam Chair, first of all, ok, it just so happened that I happened to look on the Board and found out that my business name was going to be available on the agenda. I had no knowledge that we were up on the agenda. You all gave me twenty-one (21) days. I responded within the twenty-one (21) days. We were hiring an attorney. He's looking over the documents. However, we did state the material facts. Everything that Ms. Simon came before the Board and fabricated, as I so stated to you, we put that in writing, and it is in writing. There was nothing changed on this application. I don't understand how in God's name, can a potential business come before you, you give them twenty-one (21) days to respond. They respond within the twenty-one (21) days and then you turn right back around, come before the Board and then allege that the person hasn't stated material facts when they are saying that the visitation chapel is not the same place that it was. Everything that's on this application is listed. I don't understand why we're dancing around the real issue. The real issue is, and let's just be honest, this Board has decided to do something that I just don't understand. I'm getting confused. And the reason why I'm getting confused, and counsel is getting confused, because he told me that everything I stated, per the minutes, is the same thing on the application. And then, let's just be honest. I was told, per my telephone conference on yesterday with Ms. Simon, that you all were requesting a hearing for me to set up in here.

Ms. Munson – If I may, Madam Chair? And this is for point of clarification, because I know this Board has seen this matter a few times. For the benefit of Mr. Washington, sir, with complete respect, due respect, I wanted to just explain the procedures. Everything that the Board is doing, I can assure you that it is neither personal nor outside of procedure. This is a disciplinary matter, so if this goes to DOAH, which is the Division of Administrative Hearings, it will be the Department that will have to present their information to DOAH on behalf of this. And we're not trying for it not to go to DOAH, but DOAH, pursuant to statute, requires that you list. You can't just say that everything in the application as a material fact. That is an improper statement of dispute. You have to identify, delineate, and I know that you are working with counsel, and I'm sure that your legal counsel representative fully understands the procedure. I think the Board gave you an extra twenty-one (21) days to bring this back in a format that would be consistent with what the rules and statutes require. So, this is not an effort of the Board to just hold hearing after hearing to stop you from proceeding. We're just trying, and with my guidance, I'm just wanting to advise the Board, and you sir, if I can, that what you are presenting is not clear. You can't say here's my application. These are the disputed facts. That can't be presented to DOAH. So, I know that your counselor, which you may have employed, will be able to identify. I don't know if you still need more time, because now the time issue is not really before us. The Board has discretion to say, bring it back again, but I'm just letting you know what you need to do. And perhaps that statement was not clear with our previous discussion. If you're indicating you did not receive notice of this meeting today, that's a completely separate issue, and we really can't proceed if you did not receive notice today unless you have your waiver to proceed. So that's a separate discussion.

Mr. Washington – That's the issue right now, and I mean. Is it ok for me to respond, Madam Chair?

Chair Peeples – Yes, sir.

Mr. Washington – Yes, I was {inaudible} on this, as a matter of fact. I've been waiting. I've been getting your USPS mail. I had no earthly idea that I would have to do my own homework to find out that we were next on the agenda, (1) (a), when it just so happens that if I had not looked it up, I would not be present on this now. So, what I'm saying to you is I did not have enough time at which time. The last few pieces of mail that I got from you all was stating that I had twenty-one (21) days to respond, and I did respond. And all I'm saying to you, Madam Attorney, is if we're going to state with the material facts that Ms. Simon came before the Board when she presented about the fact that Monica was no longer our attorney, she stated all the other facts, and then, all I'm saying to you is that, you know, let's just be honest. No, I did not. There's no preparation of this meeting.

Ms. Munson – Ok, so, having heard that for the record, actually, Madam Chair, if you will, Ms. Simon, Ms. Schwantes, what we have is the Respondent who is saying that he did not receive proper notice of this meeting today. And if there is no way to prove that he did, I can only suggest that we reset this matter, much to the chagrin of the Board, perhaps, but we can't proceed if there's lack of notice. We reset this matter, perhaps send him his notice via certified mail return receipt, where there's evidence of receipt, that he was notified about the next meeting, and proceed with his presentation, documentation, of the disputed issues of material fact, so that the Board will have something to vote on. Because it is incumbent upon the Board to vote whether what you present, sir, is indeed disputed issues of material fact, not just facts, but facts that will turn on the outcome of your application. So, Madam Chair, that appears as to where we are. The Division may want to intercede with comment, but as I see it, it appears from Mr. Washington's information that he did not even receive notice of the meeting today.

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

Mr. Washington – Madam Chair?

Chair Peeples – One moment, Mr. Washington. Ms. Simon?

Ms. Simon – Yes, Madam Chair. Two items. One, the information regarding the hearing was sent to Mr. Washington at the email address we have used for every time before. I was only alerted yesterday, when I spoke with him, that he had changed his email address and the Division had not been alerted to that. Second, I would like the Board to know that we are recommending that the matter go to formal hearing, based on what Mr. Washington provided in his paperwork, which he did provide material facts in dispute, which is on Page 9 of the packet. Page 9 and 10 are the material facts in dispute, and that's the information I have to present.

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

Mr. Brandenburg – Ms. Simon did address the question that I had, and I wanted a further explanation of the Division's recommendation. The Division is recommending that this matter should be forwarded to the Division of Administrative Hearings. So, Ms. Simon, does the Division continue to recommend that?

Ms. Simon – If I may, Madam Chair? Yes, it does.

Chair Peeples – Thank you, Mr. Brandenburg. Ms. Munson, regarding your comments prior to Ms. Simon's comments, and Mr. Brandenburg, what is your wisdom to the Board regarding Mr. Washington's statement that he wasn't updated until yesterday? Do we need to still give him time to prepare? Do we need to go ahead and make a motion to go to DOAH? What is your suggestion?

Ms. Munson – So, there would be just a few things that would need to be clear for the record. And again, I can appreciate the Division's stance that they are not disputing that there are disputed issues of material fact. So, it is still the Board's requirement to vote, whether they agree with that. However, this is the same information that was presented previously. I don't think this is new information. If the Division feels that given this existing information, they don't have a dispute, that this be moved forward to DOAH, because it will be the burden then the Department to defend this denial. I mean, if they feel that these are disputed facts that will be the basis of the defense, then that's fine, but the lack of notice issue is critical. We would need for the record that Mr. Washington is waiving is notice requirement, is willing to move forward with what he has requested, which maybe he is willing to do so, because if the Board so votes that there are disputed issues of material fact, it is pretty much what the Respondent requested in the first place. So, if he does not want to delay this level of the process any further, he can waive notice, because he has already stated lack of notice, for the record. We can't ignore that statement. He can waive notice, and then say based on the information presented, where I do not know how the Board will vote, but it will be that the Division is recommending moving this to DOAH. If the Board so agrees with that recommendation, then it will move to DOAH and this will be the documentation that the Department will have to build their defense and the Respondent will have to work from to identify clarity on the disputed issues that are outlined in that paragraph that was identified on pages 9 and 10. So, first, Mr. Washington, are you waiving notice for the Board to vote whether they should agree or vote on this matter at which time they will determine whether they agree with the Division's recommendation to move this to DOAH? Are you waiving notice, sir?

Mr. Washington – Madam Law Attorney, I appreciate you asking me that question. At this particular time, due to the lack of notice, not just by email, Ms. Simon, I'm talking about by certified mail, I think it would be good for us to wait rather than moving forward and state whatever it is, in terms of the material facts, rather than just trying to move something forward, without having enough information to move forward. Because, like I said, without {inaudible} at this particular time, I was not prepared for this meeting. And I think it would be good to state the material facts, in addition to whatever I've already provided.

Chair Peeples – Ms. Munson, if I may? I have Mr. Williams, who has a hand raised, and then back to Ms. Simon. Mr. Williams?

Ms. Munson – And I believe Ms. Clay also had her hand up.

Mr. Williams – Ms. Clay had her hand up first.

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

Ms. Clay – I just have two (2) questions. Number one, if this is waived, which I think we need to do that in as much as we don't have proof of the information, the notice being received, does that call for a motion? That's question number one. And, question number two, is Mr. Washington, had you had been noticed, would you have had your counsel present, and can we expect for that counsel to be present if this is ended?

Mr. Washington – Yes, Madam Board member. I have someone that is reviewing the information and has decided that he would take the case. However, at this particular time, again, he's just reviewing it. And so, that's why I'm saying that I'm not disputing that Ms. Simon may have sent me an email, but I thought we were responding to each other by USPS mail and that's

why I got the documentation for the last Board meeting. And then, by the way, forgive me Board members, I do want to ask for an open records requests on our last meeting that we had together as well, but I know that's a side note. Madam Board member, yes. Whoever I hire and whoever's going to be representing me, of course I would have them available.

Ms. Munson – If I may, Madam Chair, in response to Board member Clay’s initial question? It does not require a motion if a party is indicating they did not receive notice. That pretty much is a statutory requirement that we do not proceed.

Ms. Clay – Thank you.

Chair Peeples – Mr. Williams?

Mr. Williams – Yes. Good morning. I guess my question is, is Mr. Griffin or Mr. Bossart on to provide us some details in reference to if this goes to DOAH, because I know in the past, they have shared their feedback in reference to cost and things like that in reference to if this goes to DOAH and whether it is worth pursuing, and things like that? Am I in order for asking that Ms. Munson, in reference to just getting their feedback of this case? Also, I would like to see if we can move forward with this, because we've been working on this for quite some time and the Division has given this individual ample time in reference to just gathering everything they need. I mean, we're on the second additional twenty-one (21) days that the Board has granted this person. I just wonder if we can move forward with this, because I think we just keep lagging and kicking the ball down the road.

Mr. Washington – Madam Chair, would you allow me to respond to that? Madam Chair?

Ms. Munson – No, sir. I'm going to just point a personal privilege and not even ask Madam Chair to respond to that. I just want to keep this matter within the guidelines of procedure, and everything outside of that is actually unnecessary, if I may say so, for the record. But in response to Board member Williams’ question regarding whether we can just move forward, if we have a party saying that it does not matter what I may have previously requested, I want representation at this proceeding, I was not noticed, and I do not feel I can present the information. the Board would not want to identify any action that tells that particular party in violation of due process that it does not matter that you did not receive notice. We're just going to go ahead and move on any way. He may change his mind, after he consults with counsel, he may choose to do something different, but to force him to do so without the advice of notice of this proceeding would be inappropriate. And it would be not inappropriate for the Office of General Counsel to speak to the matter, but at this particular point, I don't know what the benefit will be if we are not acting on it today, anyway.

Chair Peeples – Thank you, Ms. Munson. Mr. Williams does that complete your comment?

Mr. Washington – {Inaudible}

Chair Peeples – Ms. Simon?

Ms. Simon – Yes, ma'am. Thank you for giving me another opportunity to be heard. Just for clarification on the part of the Division, the Division, at least myself, has been corresponding with Mr. Washington by email for months. I have not sent anything to him personally by USPS mail and there is the need for notice to be placed on the applicant is it can be placed by email. It does not have to be by certified mail, much less USPS. I understand the need that Mr. Washington asked for an attorney, and I understand going forward, I am not guaranteeing that our office would send this notice by certified mail for our October meeting, as that's not a requirement. And lastly, in order to respond to Mr. Williams’ statement, Mr. Bossart would not be representing the Board at this proceeding. It would be Ms. Munson, as it was a Board decision.

Ms. Munson – To clarify, it would be the Office of General Counsel. It would be Mr. Griffin. Is that a disciplinary matter? It would be me. It would be me.

Ms. Simon – It would be Board Counsel representing the Board, because the Board made the decision to deny this license, and so that is how we are proceeding forward. And that is just simply in response to your question about the Office of the General Counsel, Thank you, Madam Chairperson.

Ms. Munson – Thank you.

Chair Peeples – Thank you, Ms. Simon.

Mr. Washington – Madam Chair, would you allow this petitioner to speak just for a moment, please?

Chair Peeples – Yes, sir, and then, I need to take the chair back, please sir. Please go speak.

Mr. Washington – Madam Chair, just for verification here. First of all, again, I thought this meeting was a request for a hearing. I even asked Ms. Simon, what was the nature of the meeting when I saw and caught it that we were on the agenda, when I spoke to her via the telephone. Secondly, when the Board said to me, when Chair Brandenburg was the Chair, they said that they would send me, or rather I'd receive a Notice by USPS mail. I didn't say certified by USPS mail, not an email. Now, I do understand what Ms. Simon is talking about, but in terms of business, the business of this Board has been sending me documents by USPS mail and certified and signed off by the Attorney General. The denial was sent by USPS. So, my point is that here we are in dispute, going backwards and forwards, telling Board members to ask all of these questions. Let's talk to the real issue. The real issue is this: a) There was nothing application that was in dispute. There was nothing that was in dispute. And I made sure that it was in writing and that it was then typed in writing, so that the Board wouldn't have any level to be confused about any statement. Now, to get back to the issue, Madam Attorney is correct. It would be a violation of my due process for this Board to move forward on something when the perspective party was not knowledgeable enough. Then you're going to be held accountable, because if you go to court and then you rule against me, the first thing the judge is going to ask is whether you gave the person due process. So, there was no due process here. There was no notification by USPS mail. Let's cross one bridge at a time, instead of just trying to say we've been giving him time, and then we're talking about issues about older applications, rather than the poignant one. Everything was qualified.

Chair Peeples – Thank you, Mr. Washington. Mr. Jensen?

Mr. Chris Jensen – So, I have a question and a bit of a comment. First off, I would ask Mr. Washington. You know, the strongest statement last meeting that you made, and also this meeting, that Ms. Simon fabricated information, I would like for you to refrain from that. I don't think Ms. Simon fabricates any information. Second, if I'm hearing Ms. Munson correctly...

Mr. Washington – I'm sorry. Can you repeat that statement, sir? Can you repeat what you said?

Mr. Jensen – Yes, sir, I don't think you should be saying Ms. Simon fabricated information on you. That's just not how this works.

Mr. Washington – Mr. Board member? Mr. Board Member? When you say...I think you need to go back and look at the minutes, sir. I think you need to go back and look at them minutes.

Mr. Jensen – All right.

Mr. Washington – Because those minutes tell a different story. Now, I'll allow you to finish your question, or whatever you were trying to convey to the Board, but when you allege to me and allege to the Board something that was totally different, I'm very familiar with what the minutes mean, sir. Minutes mean facts. So, I'm going to let you finish your statement.

Mr. Jensen – Thank you, I appreciate that. Also, if I'm hearing Ms. Munson correctly, she's pretty much saying if it goes to DOAH they may send it back, because Mr. Washington is saying that he has nonsufficient notice. Is that what I'm understanding, Ms. Munson? So, pretty much, if I'm hearing Ms. Munson correctly, she's pretty much advising us as our attorney on the Board that this is a big deal if he states he wasn't properly notified, And it's probably going to come back around, anyway, so we probably ought to just do another twenty-one (21) days. Is that what I'm to understand?

Ms. Munson – It's a threshold issue. If you don't meet that burden, then I don't know how DOAH will appreciate that type of activity, quite honestly. So, yes, it is my recommendation, Mr. Jensen that we provide notice that is documented for this particular individual, so there's no dispute as to how the Board is proceeding as a body.

Mr. Jensen – Ok. Thank you.

Chair Peeples – Thank you, Mr. Jensen. Ms. Munson, if I may ask you a question? If we place this on the October agenda, could we give formal notice to Mr. Washington today on the recorded videoconference meeting?

Ms. Munson – I would still recommend that we send notice. And it would be my recommendation, but the Department may proceed as they find necessary. I would still recommend that that notice that we give on record is a courtesy notice only. That there is documentation that we have used the highest level of protocol to make sure that this proceeding. because honestly, I will tell you Chair Peeples, that when we have to delineate the disputed issue, I'm not even going to cover that at this particular time. No, in answer to your question, I think it would only be a courtesy notice to identify on the record that we're placing it on the October agenda. I would recommend notice in writing.

Chair Peeples – Thank you.

Mr. Williams – Madam Chair?

Chair Peeples – Ms. Clay?

Ms. Clay – Thank you, Chair Peeples. Just one more question regarding the provision of notices. Ms. Simon, you indicated that this was presented to Mr. Washington via email and that's the way you have been communicating all long. Is the Department tracking whether emails are read or received?

Ms. Simon – May I, Madam Chair?

Chair Peeples – Yes, Ms. Simon.

Ms. Simon – Ms. Clay, that is not a requirement under the statute. Under the statute, it is not whether the email or the letter has been received. Instead, it is that it has been sent, both the email and/or the letter has been sent. That's according to our statutes.

Ms. Clay – In response, I understand what you're saying, but you didn't answer my question.

Ms. Simon – No, we are not.

Ms. Clay – Thank you.

Mr. Williams – Madam Chair?

Chair Peeples – Mr. Williams?

Mr. Williams – So, I guess my thing is, if the Division is stating that they've provided notice to Mr. Washington, where are we at? Because if the Division provided notice, everything we're talking about is kind of a moot point, because Washington can always say he hasn't received notice. And, based on the comments from Ms. Simon, Mr. Washington changed his email address. So, I don't think that's the responsibility of the Division to try to and track down that new email address. I don't want us to feel like the Division has not done their part. I think they have done their part, and I just think it was not read or noticed by the person who it was sent to. I really think that the Division did send the notification. I mean, we have never had this kind of issue before. So, that's all I'm saying.

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

Ms. Simon – Yes. One point that Ms. Munson raised is that if Mr. Washington is now claiming that he has an attorney and that he wants his attorney to be present, that is something that I could understand the Board would take into account when setting this matter to another meeting.

Ms. Munson – I'm sorry. If I may, Madam Chair?

Chair Peeples – Ms. Munson?

Ms. Munson – Just to clarify, even though the Department and the Division has an obligation to send the statute for any type of hearing rights, which ties into the notice, it requires receipts. I mean, even if you look at your Notice of Intent to Deny on Page 12, it tells them that they have twenty-one (21) days from the date of receipt. It's kind of a concept. So, we do send them, but that time clock is going to begin, and it's a dispute whether or not individuals receive it. Although this Board may not have had a lot of occasions where individuals dispute receipt, which is why when receipt becomes an issue, I usually would recommend the certified mail return receipt, so there is evidence of receipt.

Chair Peeples – Thank you, Ms. Munson. Ms. Clay, did you have another question?

Ms. Clay – No. I was just going to comment on Mr. Williams' comment, but Ms. Munson said what I was going to say. Thank you.

Chair Peeples – Thank you. Are there any more Board members that have any questions? Rabbi Lyons?

Mr. Jay Lyons – Thank you. Good morning, everyone. Ok, so two (2) things. One is, I think this is a question Ms. Simon, but just to clarify. In theory, if Mr. Washington was to submit a brand-new application, that is also an option, and whatever he submitted in the past would not be relevant to the new application. Is that correct?

Mr. Washington – No. No. No.

Ms. Simon – If I may, Madam Chair?

Chair Peeples – Mr. Washington, if you'll give us just a moment, please. Yes, Ms. Simon?

Ms. Simon – Rabbi Lyons, a new application would not be an issue, would not do anything to this matter, because the Board has already denied the application. So, we're talking about the application that went in front of the Board. If Mr. Washington wants to apply again, the whole process would start over.

Rabbi Lyons – Ok. So...

Chair Peeples – Yes, sir?

Rabbi Lyons – Ok, so I don't know if this needs a motion, but if he's claiming he didn't get noticed, then I would make a motion to remove this from the agenda and to put it on the next month's meeting.

Chair Peeples – Ms. Munson, do we need a motion and a second?

Ms. Munson – Again, you don't need a motion if they are identifying they didn't receive notice. We just need to make sure that we can give the courtesy information as to what meeting you intend to put it on, like an advance notice, but I would recommend something in writing. A motion is not necessary.

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

Mr. Washington – Yes, ma'am?

Chair Peeples – Would you be able to participate in the October 6th Board meeting, which will be the first Thursday in October, if we were to remove this from today's meeting, and place it on the October agenda?

Mr. Washington – Madam Chair, I will make sure that myself and the attorney that I was referring to is available.

Chair Peebles – Thank you, sir. And we're also going to request the Division staff to send you formal notice by certified mail, to make sure that you are noticed, regarding this request for the October meeting.

Mr. Washington – Thank you, Madam Chair.

Chair Peebles – Mr. Brandenburg?

Mr. Brandenburg – Madam Chair, would you please ask Mr. Washington to confirm his mailing address? The way things are changing, the email address has changed, the mailing address has changed. Would Mr. Washington please provide us the correct mailing address, if we're going to notify by mail?

Mr. Washington – Madam Chair, I'm going to. I will gladly. Do you want me to give it verbally, or do you want me to email Ms. Simon, Mr. Brandenburg?

Mr. Brandenburg – For today, Madam Chair, I'd like for it to be on the record. That's what I would prefer. Thank you.

Chair Peebles – Thank you, sir. Mr. Washington, if you will provide your current mailing address, please, sir, for the record.

Mr. Washington – It's a PO Box 684, Alachua Florida 32616.

Chair Peebles – Thank you, sir. Will you please provide your current email address, please?

Mr. Washington – It's WashingtonMemorial211@yahoo.com.

Chair Peebles – Thank you, sir.

Mr. Ken Jones – Ms. Chair?

Chair Peebles – Ms. Simon, did you receive that information?

Ms. Simon – I did. Thank you, Madam Chairperson.

Chair Peebles – Thank you. Ms. Schwantes, did you have your hand?

Ms. Mary Schwantes – I did. I was going to ask the same question Mr. Brandenburg did. Thank you, Madam Chair. I do want to confirm, because I don't remember at the moment, whether we need a physical street address for certified return receipt mail.

Mr. Washington – No.

Mr. Jones – Madam Chair, that was going to be my question. I know I cannot send certified mail to a post office box.

Chair Peebles – Thank you, Ms. Schwantes. Thank you, Mr. Jones. Mr. Washington, will you provide a physical mailing address please for the record?

Mr. Washington – Let me say this. I've had problems with mail coming to my home, so that's why I have it sent to a PO Box, rather than certified mail. We've had somebody that stole some items from my physical address, so that's why I don't give it out. There's no need for me to give out the physical address, because of that issue. In addition, if I can just state this, Madam Chair? It was not an issue that I had to change the email. What happened was is I'm a trucker driver. Some kind of a way, and I don't know who, but someone took that cell phone that I had that was attached to the email that Ms. Simon has possibly, I don't know, been sending email to. So that's why there was a change in the email. It wasn't just that I did it deliberately or maliciously. It was just because I had no other choice but to get another email that was attached to the cell phone that I'm using at the present.

Chair Peeples – Thank you, Mr. Washington. Ms. Munson, do you have any guidance to Division staff or Board regarding a certified mail information to Mr. Washington, if it doesn't go through at the PO Box?

Ms. Munson – Tell you what, all we can do is provide the information that the party makes available. If certified mail is not eligible to be received at a PO Box, then we will send it by regular mail and note for the record that this was the best address based on the applicant's information. We work with the best that we're provided and that's the information, if we ever take this to hearing, that we will present.

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

Mr. Jones – I just looked it up and it says certified mail can be sent to a post office box.

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

Mr. Andrew Clark – I was just going to say if he has an attorney, can we send it to his attorney, but I think Mr. Jones just solved our problem.

Chair Peeples – Thank you, Mr. Clark. Are there any other Board members that have any items for discussion or questions for Mr. Washington? Hearing none. Mr. Washington, do you have any last-minute comments for the Board? We're going to place your application request on the agenda for the October 6, 2022 videoconference meeting.

Mr. Washington – No, ma'am, Madam Chair.

Chair Peeples – Ok. You did receive information today that we will also send certified information to you that we would like you and or your counsel to be a part of the October 6, 2022 videoconference meeting. Correct?

Mr. Washington – Yes, ma'am.

Chair Peeples – Thank you, sir. We appreciate your attendance today.

Mr. Washington – Thank you.

Chair Peeples – Ms. Simon?

Ms. Simon – Thank you, Madam Chairperson.

(2) Review of Filed Exceptions

(a) Leger, Adrienne Dishonne: DFS Case No. 285311-21-FC; DOAH Case No. 22-66PL; Division No. ATN-34626 (F045309)

Ms. Simon – Is Ms. Leger or a representative of Ms. Leger on the call today? Hearing no response. On July 12, 2022, the Board reviewed the matter of Adrienne Dishonne Leger, which was before the Board for disciplinary action following an administrative hearing. The Board package for that meeting is included within your packet materials. The Department of Financial Services filed exceptions to the Administrative Law Judge's findings. The Board accepted the Administrative Law Judge's findings in the case but did not rule upon the exceptions. It would be appropriate at this time for the Board to vote on each separate exception. The Department filed two (2) exceptions: to paragraphs 41 through 52, and to paragraph 47. Whether the Board accepts or rejects the exceptions in this matter, the reason for either position must be stated on the record.

Chair Peeples – Thank you, Ms. Simon. Ms. Munson do you have any wisdom to relay to the Board regarding this case in the exceptions that have been presented?

Ms. Munson – This actually would be a matter for the Office of General Counsel.

Chair Peeples – Thank You, Ms. Munson. Mr. Bossart?

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

Chair Peeples – Yes, sir. Please.

Mr. Bossart – Paragraph 47 of the Recommended Order states that “*Based upon the plain language of Section 497.386(4), Florida Statutes, it is concluded that whatever treating a body with dignity and respect entails, such treatment differs from, and is not coterminous with, embalming a body according to the standard of care.*” That is a quote from the Recommended Order, the hearing officer’s words. The Recommended Order {inaudible} record evidence or legal precedent to support this assertion. The Statute in question Section 497.386(4), provides the licensing authority should establish by rule the minimal standards of acceptable and prevailing practices for the handling and storing of dead human bodies provided that all human bodies transport and stored must be covered, and at all times treated with dignity and respect. Dignity and respect are the key words here. Since there is no rule that establishes what the meaning of what treating a body with dignity and respect means, however there was a prior DOAH case cited in the exceptions, Department of Financial Services versus Jeffrey Kevin Watts, Emerald Coast Funeral Home, back in 2009 that said, that treating a body with dignity and respect is without such rules. The only standards which govern licensed funeral homes, as to treating a body with dignity and respect, are following the accepted practices established in the embalming mortuary industry for the handling of dead bodies. This is what our expert witness testified to. We simply ask that you adopt this as one (1) of the conclusions of law in the Recommended Order. Thank you.

Chair Peeples – Thank you. Mr. Bossart. You have just mentioned one (1) of the exceptions. Is there any discussion by the Board, or is there a motion to accept the first exception that Mr. Bossart mention? Mr. Jensen?

Mr. Jensen – Yes, ma’am. Madam Chair, I do have a question, Mr. Bossart, are we saying that it’s going to pretty much stay the same?

Mr. Bossart – Yes, we’re not asking for the change {inaudible} acceptance of the recommended {inaudible}.

Mr. Jensen – I’m still not understanding, Mr. Bossart. Say that one more time, Mr. Bossart.

Mr. Bossart – Maybe I didn’t allow you to finish your question. Are you asking will this change the final outcome with the case?

Mr. Jensen – Well, no. What I’m asking is just like in the Watts’ case there, it was found that he did not do anything wrong, that that was an accepted undergoing, the teaching at most embalming schools, of what had happened {inaudible}, so I’m just asking are we actually changing a rule her or are we keeping it same as the dignity and respect?

Mr. Bossart – We’re keeping it at the same as in the Watts case. The dignity and respect is coterminous with generally accepted practices in the embalming industry.

Mr. Jensen – I got you. Thank you, sir.

Chair Peeples – Ms. Munson?

Ms. Munson – Yes, I’m sorry. My microphone was lagging. I was just clarifying that I just wanted the Board to understand what their options are. They could accept the exception, reject the exception. I think last meeting it was like we just dismissed them. So, we either have to accept or reject them and then the reasoning for the decision is what will be a part of the Order.

Chair Peeples – Thank you. Ms. Munson. As the Board has heard from Board Counsel, is there a motion to accept the exception or reject the exception. If there is a rejection, what is the basis for the rejection? Board members? Is there any further discussion?

MOTION: Mr. Jensen moved to accept the first exception. Ms. Clay seconded the motion, which passed unanimously.

Chair Peeples – Mr. Bossart was the first exception? Do you need to go into the second?

Rabbi Lyons – You're muted, sir.

Chair Peeples – Mr. Bossart?

Mr. Bossart – That satisfies the Office of the General Counsel, and that was the only exception.

Ms. Simon – Actually, Madam Chair, we need to have a vote on both exceptions. And for the two (2) exceptions, we need to have it on the record, why they're either approved or rejected. Additionally, I need to know from Board counsel whether that does change the outcome of the case?

Ms. Munson – To clarify, nothing is going to change the outcome of the case. The Order just needs to be clearly written so that each exception is addressed and the reason for the result.

Chair Peeples – Thank you, Ms. Simon. Thank you, Ms. Munson. Mr. Jensen and Ms. Clay, you had made a motion to accept one exception. Would you like to amend your motion to accept exception one, and exception two? If so, what is the reasoning for the acceptance of these exceptions?

Mr. Jensen – Ok, Madam Chair. I just want to ask one question of Mr. Bossart. I just want to make sure if we accept both of these, we're not changing anything. This would be a case-by-case basis on dignity and respect of a deceased.

Mr. Bossart – That's our only concern, sir. As you notice in the Emerald case, the Division of Administrative Hearings held what the meaning of treating a body with dignity and respect was, which we followed, but the hearing officer, in this case, decided not to follow. So, we just want to clarify that that's still our position.

Mr. Jensen – So, if I were to make a motion, am I voting to accept or not accept? I'm a little confused there. I want to keep everything the same.

Mr. Bossart – That's Ms. Munson's call, I guess. But I would assume to me that if you file a motion to accept that you are accepting these and it's staying the same. You're adopting the {inaudible} the Emerald case, not rejecting it.

Ms. Simon – Madam Chair?

Mr. Jensen – I am still confused. I think the Emerald case was correct, in the way the final outcome {inaudible}.

Mr. Bossart – Yes. The Department agrees with you. It was correct. That's what we'd like to see in this case.

Mr. Jensen – So, Ms. Munson, if I made a motion, am I saying I accept or I'm rejecting?

Ms. Munson – To be clear and to clarify Mr. Bossart's comment, the rules require that when the administrative law judge makes a Recommended Order and those findings are adopted and all of that, which you've already done, the exceptions just have to be addressed. So, it's like a dissent to some extent, if you would understand what that would mean. And I think these exceptions are presented in like that dissenting type of perspective. We understand what the Recommended Order is, but we kind of disagree on your reasoning on these two (2) points, and these two (2) points are highlighted. So, I'm going to have to take those two (2) points out and separate them. Since the Department has highlighted those two (2) issues, the Order has to address those two (2) issues. And whatever you say, regarding whether you support the Department's exceptions or reject the Department's exceptions, and you provide your reasoning, the bottom line is not changing. You're not changing law. Another ALJ can have a similar case before and come up with a completely different outcome, because every case is facts specific. So, I just needed the Board to understand that what will be documented in writing in a Final Order will be the Board's determination whether or not each of these exceptions, which have to individually be addressed, as Ms. Simon has highlighted a couple of times, and the basis for your decision regarding that determination. Nothing else is going to change. You are not changing law.

Mr. Jensen – So, is that saying you're accepting or rejecting? I think, it's the wording that's confusing here.

Ms. Munson – You're just saying you're agreeing with what the Department is saying, or you're disagreeing. And if you disagree with it or agree with it, you need to just identify why.

Mr. Jensen – Ok.

Ms. Munson – I don't know if that makes it any clearer, but that, in layman's terms, is what you're doing.

Mr. Jensen – So, Madam Chair, I would amend my motion to say that I would agree with the Department of not really changing anything that the exceptions stay the same.

Chair Peeples – Mr. Jensen, we have your motion. Ms. Clay, do you accept that amended motion?

Ms. Clay – Yes, second.

Chair Peeples – Thank you. Ms. Simon, did you want to make a comment?

Ms. Simon – My only comments, I have two (2) comments. One, Mr. Jensen, I do not believe that you included the reasons, and I'm not sure what Ms. Munson is saying.

Ms. Munson – I'm agreeing, I'm sorry.

Ms. Simon – I don't believe that you included the reasons in your motion, and while the exceptions may not establish any precedent, as they are dissent, your approval of the Recommended Order may have established precedent.

Mr. Jensen – May I, Ms. Chair?

Chair Peeples – Yes, sir.

Mr. Jensen – Ms. Simon, basically I'm agreeing with what the Court on the Watts' case found, is that the standards, which govern licensed funeral homes, funeral directors and embalmers are those generally accepted practices established in the embalming and mortuary industry for handling of dead human bodies. So, the generally accepted practice is the reason {inaudible} is basically what I'm looking at. That's s. 497.386.

Chair Peeples – Mr. Jensen has stated the amended motion and the reason for that. Ms. Clay, do you accept that as a second?

Ms. Clay – Yes.

Chair Peeples – Ms. Munson, does that give you the information that you need?

Ms. Munson – I'm using that language for each exception. I'm using that reasoning for each exception. Is that what I'm understanding the Board's vote is?

Chair Peeples – Mr. Jensen, is that your motion, to use that language for Exceptions 1 and 2?

Mr. Jensen – Yes, ma'am.

Chair Peeples – I'm sorry, but we're having some ambient background noise. If you are on the call or the videoconference, please mute your mic, so that it's just the Board Members, counsel, and Mr. Bossart, that have the ability to speak. We have callers 6, 5, 8, and also an NA, a nonapplicable person. Could you please mute your mic? Thank you. So, Ms. Munson, we have a motion, an amended motion and a second. Is there any other Board discussion before we take a vote? Ms. Clay?

Ms. Clay – No, I'm ok.

Chair Peeples – Thank you. Any Board member have any other discussion?

Rabbi Lyons – Chair Peeples?

Chair Peeples – Yes, sir, Rabbi Lyons?

Rabbi Lyons – Thank you. Just to be clear here. What Mr. Jensen is saying is that we're asserting that dignity and respect of a dead human body should be defined as following the accepted practices, whether it's embalming or any other mortuary industry standards. And based on that assertion, we are going to accept the exceptions of the Department. Correct?

Chair Peeples – Yes, sir.

Rabbi Lyons – Great.

Chair Peeples – From the packet, from our cover sheet, it says that we would accept the Administrative Law Judge's findings, and Mr. Jensen has so stated in his motion, the statute, Ms. Clay has seconded. So, if there's no further discussion, we'd like to take a vote. Ms. Simon, will you do a roll call vote on this one, please? Ms. Simon?

Ms. Simon – I apologize. I was muted. And yes, I will take a roll call. If I could be clear, this is a poll as to whether the motion is approved or denied?

Chair Peeples – It's a motion to accept the exceptions with the notes that Mr. Jensen had mentioned about the particular statute.

Ms. Simon – Ok, thank you. Madam Chair?

Chair Peeples – Yes.

Ms. Simon – Approval or deny?

Chair Peeples – Approve.

Ms. Simon – Mr. Clark?

Mr. Clark – Approved.

Ms. Simon – Mr. Brandenburg?

Mr. Brandenburg – Approve.

Ms. Simon – Mr. Ferreira?

Mr. Todd Ferreira – Approved.

Ms. Simon – Ms. Clay?

Ms. Clay – Approved.

Ms. Simon – Rabbi Lyons?

Rabbi Lyons – Approve?

Ms. Simon – Ms. Liotta?

Ms. Janis Liotta – Approve.

Ms. Simon – Mr. Jensen?

Mr. Jensen – Approve.

Ms. Simon – Mr. Jones?

Mr. Jones – Approve.

Ms. Simon – Mr. Williams?

Mr. Williams – Approve.

Ms. Simon – Madam Chair, that motion has been approved by the Board.

Chair Peeples – Thank you, Ms. Simon. If we could take a ten (10) minute break until 11:15, and then we'll come back and go to item D (1), and then we'll continue on through the meeting. So, if we'll all come back on at 11:15, please. Thank you.

*****BREAK*****

Chair Peeples – It is 11:15. Have Board members had an opportunity to return? I don't see Mr. Ferreira or Mr. Williams. Thank you, Mr. Ferreira. Mr. Williams? Ms. Simon, we have everyone except Mr. Williams. Would you suggest that we proceed and bring the meeting back to order?

Ms. Simon – I would.

Chair Peeples – Thank you, Ms. Simon. The meeting would be called back to order. It is 11:16, on September 1, 2022 videoconference. Thank you, Mr. Williams. He has appeared. Ms. Simon, I will turn it to you to continue with Item D on our agenda, please.

Ms. Simon – Thank you.

D. Disciplinary Proceeding(s)

(1) Settlement Stipulation (Probable Cause Panel A – No Recusal Needed)

(a) Related Cases: ATN-35165

1. Hickson Funeral Home, Inc.: DFS Case No. 275820-21-FC; Division No. ATN-35165 (F040794)

Ms. Simon – Is there a representative of the funeral home on the call today? Hearing no response. Mr. Bossart will be presenting all cases for the Department.

Mr. Bossart – Thank you. May I proceed, Madam Chairperson?

Chair Peeples – Yes, sir, Mr. Bossart.

Mr. Bossart – Hickson Family Funeral Home Inc. (“Respondent”) is a licensed funeral establishment, licensed under Chapter 497, Florida Statutes, license number F040794. The Department filed an Administrative Complaint against Respondent alleging violations of Chapter 497, Florida Statutes. The Department and Respondent have entered into a Settlement Stipulation to resolve the matter. The proposed stipulation provides that the Administrative Complaint is dismissed with prejudice. The Department requests that the Board accept this Settlement Stipulation. If I might anticipate questions of the Board. The reason why this case is being dismissed is the fact that we do not have an evidentiary basis anymore. The basis for the Administrative Complaint was that the funeral home failed to turnover cremated remains to the legally authorized person once they demanded and begged for them. The problem was the person who made the demand for the remains was not the same person, only belatedly realized it was not the same person that signed the contract to pay for the funeral. In fact, it was

the complainant's sister. They were sisters, which means they were both equal status of legally authorized persons, under Chapter 497, and unfortunately, the sister, the person who paid for the funeral and signed the contract, passed away. So, the Department has no way to prove its case, and that's why we're asking it be dismissed. Thank you.

Chair Peeples – Thank you, Mr. Bossart. He has completed and suggested a recommendation for a motion to accept the Settlement Stipulation. Is there a motion?

MOTION: Mr. Jones moved to accept this Settlement Stipulation, which provides that the Administrative Complaint is dismissed with prejudice. Mr. Clark seconded the motion, which passed unanimously.

Chair Peeples – Mr. Bossart?

Ms. Simon – If I may, Madam Chair?

Chair Peeples – Yes, Ms. Simon.

2. *Hickson, Edward T.: DFS Case No. 275823-21-FC; Division No. ATN-35165 (F043595)*

Ms. Simon – Is Mr. Hickson or a representative of Mr. Hickson on the call today? Hearing a response. Mr. Bossart?

Mr. Bossart – Thank you. Madam Chairperson, may I proceed?

Chair Peeples – Yes, sir, Mr. Bossart.

Mr. Bossart – Thank you. This is the companion case to the previous case that you just heard. At all times material to this complaint, Edward T. Hickson (“Respondent”) was licensed as a funeral director and embalmer under Chapter 497, Florida Statutes, license number F043595. Respondent is the owner and funeral director in charge (FDIC) of Hickson Funeral Home, Inc, a funeral establishment (funeral establishment) under Chapter 497, Florida Statutes, license number F040794, doing business in Ft. Myers, Florida. The Department filed an Administrative Complaint against Respondent alleging violations of Chapter 497, Florida Statutes. The Department and Respondent have entered into a Settlement Stipulation to resolve the matter. The proposed stipulation provides that the Administrative Complaint is dismissed with prejudice. The Department requests that the Board accept this Settlement Stipulation for the same reasons we just went into the product case. Thank you.

Chair Peeples – Thank you, Mr. Bossart. Do we have a motion to accept as Mr. Bossart has presented?

MOTION: Rabbi Lyons moved to accept this Settlement Stipulation, which provides that that the Administrative Complaint is dismissed with prejudice. Ms. Clay seconded the motion, which passed unanimously.

Chair Peeples – Ms. Simon?

Mr. Williams – Madam Chair?

Chair Peeples – Who is this, please?

Mr. Williams – This is Darrin Williams.

Chair Peeples – Yes, Mr. Williams?

Mr. Williams – I need to recuse myself on Items D (2) (a), (b) and (c) as I served on Probable Cause Panel B.

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

Ms. Simon – Thank you.

(2) Motion for Final Order by Hearing Not Involving Disputed Issues of Material Fact (Probable Cause Panel B)
(a) Barrett, Horace N. Jr.: DFS Case No.: 256152-19-FC; Division No. ATN-33513 (F046284)

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

Mr. Bossart – Madam Chairperson, may I proceed?

Chair Peeples – Yes, sir, Mr. Bossart.

Mr. Bossart – Thank you. The above-referenced matter is presented to the Board for consideration of the Motion for Determination of Waiver and for Final Order by Hearing Not Involving Disputed Issues of Material Fact (Motion) in the matter of Horace N. Barrett, Jr. (Respondent). Respondent was the former FDIC of Barrett-McKenzie Funeral Home, Inc. (Barrett-McKenzie), a funeral establishment formerly licensed under Chapter 497, Florida Statutes, license number F102763. The Division alleges Barrett-McKenzie engaged in the following:

- Demonstrated negligence or incompetency in the practice of activities regulated under Chapter 497, Florida Statutes
- Failed to provide the Division with copies of its Bodies Handled Reports
- Failed to produce its general price list during an inspection
- Failed to provide prices for its caskets
- Failed to meet the requirements of 69K-21.003(3), *Florida Administrative Code*, with regards to its embalming preparation room.

Respondent as FDIC of Barrett-McKenzie is subject to discipline based on Barrett McKenzie's violations of Chapter 497, Florida Statutes. On February 19, 2021, the Department filed an Administrative Complaint against the Respondent. A true and correct copy the complaint is attached to as Exhibit One. On about March 8, 2021, the Respondent timely submitted an Election of Proceedings, a Petition for Hearing, alleging there were no material facts in dispute, requesting a hearing pursuant to Section 120.57(2), Florida Statutes. A copy the Respondent's Petition for Hearing is attached, which was Exhibit Two. A copy of this memo along with a copy of the Motion for Determination of Waiver and for Final Order by Hearing Not Involving Disputed Issues of Material Fact was sent by US Mail to the Respondent's last known address of record. At this time, the Department believes that it is appropriate for the Board to make a motion to determine whether the Respondent has waived the right to a s. 120.57(1) hearing based on Respondent's petition.

Chair Peeples – Thank you, Mr. Bossart. As he has mentioned, Board members, we will need a motion to the determination of waiver. Is there a motion to accept Mr. Bossart has presented?

MOTION: Mr. Brandenburg moved that Respondent has waived the right to a s. 120.57(1) hearing. Mr. Clark seconded the motion, which passed unanimously.

Chair Peeples – Mr. Bossart?

Mr. Bossart – Thank you. Now that the Board has determined the Respondent has waived the 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. Thank you.

Chair Peeples – Is there a motion?

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

Chair Peeples – Mr. Bossart?

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

Chair Peeples – Thank you, Mr. Bossart. Is there a motion?

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

Chair Peeples – Mr. Bossart, does that complete the agenda item for D (2) (a)?

Mr. Bossart – I would ask for two more. Not quite, Madam Chair.

Chair Peeples – Thank you. Mr. Bossart?

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

Chair Peeples – Thank you, Mr. Bossart. Is there a motion?

MOTION: Mr. Jensen moved to accept into evidence, the investigative report with exhibits. Ms. Clay seconded the motion, which passed unanimously.

Chair Peeples – Thank you. Mr. Bossart?

Mr. Bossart – As to the penalty, the Department would recommend that the Respondent should be fined \$3,000 and placed on probation for a period of one (1) year. Thank you. This concludes my case.

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

Mr. Brandenburg – Madam Chair?

Chair Peeples – Yes, sir, Mr. Brandenburg?

Mr. Brandenburg – I didn't hear a call for Mr. Barrett. Is Mr. Barrett on the call? I'm sorry, was that mentioned before?

Mr. Bossart – I believe it was asked.

Chair Peeples – Ms. Simon had asked.

Mr. Brandenburg – Ok. Thank you.

Chair Peeples – Thank you, Mr. Brandenburg for checking with us. Thank you. Mr. Clark?

Mr. Clark – Thank you. I have a question for the Division. It looks like they still have a website, the establishment, and I'm just curious, did they renew their funeral establishment license this year?

Ms. Simon – I would just need a moment, although Mr. Bossart may know.

Mr. Bossart – No, I don't have any information in that regard.

Ms. Simon – Barrett-McKenzie's funeral establishment license expired on November 30, 2020. That is license number F102763.

Mr. Clark – Thank you. Thank you, Madam Chair.

Chair Peeples – Thank you, Mr. Clark. Is there any other discussion? Rabbi Lyons?

Rabbi Lyons – Thank you. Mr. Bossart, just really quick. Could you go through the math of how you came to a \$3000 fine?

Mr. Bossart – I was afraid you'd ask that, sir. It's a four-count complaint. The penalties are generally between \$1,500 and \$2,500 per count, so we sort of decided on a figure. Maybe Ms. Simon could elaborate more on that.

Ms. Simon – Madam Chair?

Chair Peeples – Yes, Ms. Simon?

Ms. Simon – I think that based on the type of violations that these are, and as Mr. Bossart said that there were four (4) counts, that's how we came to the number we did. We do not have calculation for you, as we do not have for many cases. There is no arithmetic involved necessarily in this.

Mr. Bossart – This is not the maximum penalty, if that's what you're concerned about.

Ms. Clay – Madam Chair?

Chair Peeples – Yes, Ms. Clay?

Ms. Clay – Can you give us like a ballpark, Mr. Bossart, of what the range has been, since there is no precise calculation?

Mr. Bossart – Well, let me look it up.

Ms. Clay – I'm more interested in how you actually came to that amount versus the highest point, or the lowest point.

Mr. Bossart – The Division would have to explain that. They are the ones that determine the penalty. They're within the penalty guidelines. Perhaps they can explain their logic.

Ms. Schwantes – Madam Chair?

Chair Peeples – Yes, ma'am?

Ms. Schwantes – Thank you. To answer your question, Ms. Clay, when these matters are presented and discussed with council, we take a look at the egregiousness of the counts, how many counts there are, and what the penalty guidelines are for each count. It is something that is generally discussed and decided on a case-by-case basis. And, it is not something that is outlined rarely, anyway, by count. This is what we're saying for this count. This is what we're saying for this count. We also look at prior disciplinary nature, orders, history, et cetera. Again, primarily the egregiousness of the facts and how many counts there are. Does that help you with your question?

Ms. Clay – It helps me. It doesn't help my suspicion that it's subjective, however.

Ms. Schwantes – Ok. Madam Chair, may I?

Chair Peeples – Yes, Ms. Schwantes.

Ms. Schwantes – Ms. Clay, again, this is something that is recommended on a case-by-case basis. It is up to the Board what the penalty is. The Board has certainly the ability to discuss each of these matters and either agree with our recommendation or change it. We do take a look at prior, most recent history on other cases, as well. That is also considered. So, for example, we are aware that the Board has expressed concern, at times, over recommendations on the count regarding preneed information that's contained on the website, and we are cautious about that aspect of any recommendation. But, again, it's not something that's outlined this much for this count, this much for this count, and this much for this count. Because the case, if we were settling the case as an example, we're settling as a whole. And, of course, that is what the Board is doing when it determines what the penalty is.

Ms. Clay – Thank you, Ms. Schwantes.

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

Mr. Jensen – Yes, I just wanted to make sure, as Ms. Simon stated, they don't even have a license, an active license, so basically, they wouldn't be able to operate until they pay the fine and then they're on probation. Is that correct?

Ms. Simon – May I, Madam Chair?

Chair Peeples – Ms. Simon?

Ms. Simon – Mr. Jensen, that is correct. However, this is a matter against Horace Barrett. It is not against the establishment.

Mr. Jensen – I gotcha.

Mr. Brandenburg – Madam Chair?

Chair Peeples – Who is speaking, please?

Mr. Brandenburg – Jody Brandenburg.

Chair Peeples – Thank you, sir. Mr. Brandenburg, would you like to speak?

Mr. Brandenburg – I was reiterating what Ms. Simon said. This is not against the establishment. This is the funeral director and the FDIC.

Chair Peeples – Thank you, sir. Is there a motion to accept the recommended penalty of a \$3,000 fine and one-year probation?

MOTION: Mr. Jensen moved to accept the recommended penalty of a \$3,000 fine and one-year probation. Ms. Clay seconded the motion, which passed unanimously.

Chair Peeples – Does that complete the items for the Barrett case, Mr. Bossart?

Mr. Bossart – Yes, ma'am.

Chair Peeples – Thank you. Ms. Simon?

Ms. Simon – Thank you.

(b) Flagler, Daiquan Andre: DFS Case No. 291142-22-FC; Division No. ATN- 36980 (F350435)

Ms. Simon – Is Mr. Flagler or a representative of Mr. Flagler on the conference today? Hearing no response. Mr. Bossart?

Mr. Bossart – Thank you. The above-referenced matter is presented to the Board for consideration of the Motion for Determination of Waiver and for Final Order by Hearing Not Involving Disputed Issues of Material Fact (Motion) in the matter of Daiquan Flagler (Respondent). Respondent was licensed as an apprentice embalmer (F350435). Respondent's license expired as of April 6, 2022. The Division alleges Respondent entered a plea to a crime related to the practice of, or the ability to practice, a profession under Chapter 497, Florida Statutes. On April 29, 2022, the Department filed an Administrative Complaint against the Respondent. A true and correct copy is attached to as Exhibit A. The Department successfully obtained service of the complaint on Respondent certified mail on May 3, 2022. The Postal Delivery Receipt is attached here to as Exhibit B. Respondent's answer was due within twenty-one (21) days, on or before May 24, 2022. The Respondent did not file any response to the Administrative Complaint. The Respondent's failure to timely file a response constitutes a waiver of the right to request a proceeding on matters alleged in the Administrative Complaint. Therefore, the Department requests that the Chair entertain a motion finding that the Respondent was served with the Administrative Complaint containing a Notice of

Rights and Election of Proceeding form, that he failed to respond within the allotted twenty-one (21) day time period, and has therefore waived his right to request a proceedings involving disputed issues of material fact in this matter. A copy of this memo along with a copy of the Motion for Determination of Waiver and for Final Order was sent by US Mail to Respondent's last known mailing address of record. At this time would be appropriate for the Chair to entertain a motion to determine whether the Respondent has waived his right to a s. 120.57(1) hearing, based on his failure to file a timely response.

Chair Peeples – Thank you, Mr. Bossart. Is there a motion to accept Mr. Bossart's comments regarding Mr. Flagler?

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

Chair Peeples – Mr. Bossart?

Mr. Bossart – Now that the Board has determined the Respondent has waived the 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. Thank you.

Chair Peeples – Thank you, Mr. Bossart. Is there a motion to accept the findings of fact?

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

Chair Peeples – Mr. Bossart?

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

Chair Peeples – Thank you, Mr. Bossart. Do we have a motion?

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

Chair Peeples – Mr. Bossart?

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

Chair Peeples – Thank you, Mr. Bossart. Is there a motion to accept Mr. Bossart's comment?

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

Chair Peeples – Mr. Bossart?

Mr. Bossart – The Department recommends this time that the Respondent's license should be revoked. If you look at the fil, he pled guilty to two (2) charges of grand theft, both of which involve funeral payments, paid for funeral services by consumers. So, it clearly involves the funeral home, his fitness to practice in the funeral industry {inaudible}. Thank you.

Chair Peeples – Thank you, Mr. Bossart. Is there a motion for revocation of licensure?

MOTION: Mr. Jones moved to accept the Department's recommended penalty of revocation. Mr. Ferreira seconded the motion, which passed unanimously.

Chair Peeples – Mr. Bossart, are we complete with Mr. Flagler?

Mr. Bossart – Yes, ma'am.

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

(c) Hickey, Scott Thomas: DFS Case No.: 287726-21-FC; Division No. ATN-37378 (F044604)

Ms. Simon – Is Mr. Hickey, or a representative of Mr. Hickey on the call today? Hearing no response. Mr. Bossart?

Mr. Bossart – Thank you. The above-referenced matter is presented to the Board for consideration of the Motion for Determination of Waiver and for Final Order by Hearing Not Involving Disputed Issues of Material Fact (Motion) in the matter of Scott Thomas Hickey (Respondent). Respondent is the FDIC of Holloway Funeral Home, LLC (Holloway), a funeral establishment licensed under Chapter 497, Florida Statutes, license number F080152. The Division alleges Holloway failed to ensure that two (2) un-embalmed bodies were kept at a temperature of 40 degrees Fahrenheit or below. Respondent as FDIC of Holloway is subject to discipline based on Holloway's violation of Chapter 497, Florida Statutes. On May 5, 2022, the Department filed an Administrative Complaint against the Respondent. A true and correct copy of the complaint is attached to this Exhibit One. Respondent timely submitted an Election of Proceedings form alleging there were no material facts in dispute and requested to submit a written statement of documentary evidence in lieu of a hearing. A true and correct copy of the response, Election of Proceedings, witness statements, and all other documentary evidence is attached here to as Exhibit Two. A copy this memo along with a copy of the Motion for Determination Waiver for Final Order by Hearing not Involving Disputed Issues of Material Fact was sent by US Mail to the Respondent's last known mailing address of record. At this time it would be appropriate for the Chair to entertain a motion to determine whether the Respondent has waived his right to a s. 120.57(1) hearing, based on his filing of a timely Election of Proceedings waiving that right. The Department would so ask.

Chair Peeples – Thank you, Mr. Bossart. Is there a motion to accept waiver, as Mr. Bossart has suggested?

MOTION: Rabbi Lyons moved that Respondent has waived his right to a s. 120.57(1) hearing in this matter. Ms. Liotta seconded the motion, which passed unanimously.

Chair Peeples – Mr. Bossart?

Mr. Bossart – Now that the Board has determined the Respondent has waived the 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. Thank you.

Chair Peeples – Thank you, Mr. Bossart. Is there a motion to accept the findings of fact?

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

Chair Peeples – Mr. Bossart?

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

Chair Peeples – Thank you, Mr. Bossart. Is there a motion?

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

Chair Peeples – Mr. Bossart?

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

Chair Peeples – Thank you, Mr. Bossart. Is there a motion to accept as presented?

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

Chair Peeples – Mr. Bossart?

Mr. Bossart – Thank you. The Department recommends at this time that the Respondent should be fined \$1000.00 and be placed on probation for one (1) year. The basis for this discipline is that the funeral home, Holloway, has already been previously disciplined, and this was the penalty assessed against Holloway, \$1000 and a one-year probation. Therefore, it should be matched to the Respondent also. Thank you.

Chair Peeples – Thank you, Mr. Bossart. Is there a motion to accept the penalty suggestion of a \$1000 fine and a one-year probation for Mr. Hickey?

MOTION: Mr. Jones moved to accept the Department's recommended penalty of revocation. Ms. Liotta seconded the motion, which passed unanimously.

Chair Peeples – Does that complete Mr. Hickey, Mr. Bossart?

Mr. Bossart – Yes, ma'am.

Chair Peeples – Thank you. Ms. Simon?

Ms. Simon – Thank you. I believe that concludes the discipline portion of the agenda. At this point, Madam Chair, if it's acceptable to you, I would like to say a few words about Jim Bossart.

Chair Peeples – Yes, please, Ms. Simon.

Ms. Simon – Mr. Bossart, who has been handling Funeral and Cemetery cases exclusive, for the last five (5) years, but on and off since 2008, is retiring September 30th, after completing thirty-four (34) years of State Government. Not only thirty-four (34) years of State Government, but with one iteration or the other of the Department of Insurance, now known as the Department of Financial Services. I had the pleasure of working with Mr. Bossart when I was in the Office of the General Counsel for a number of years, and I continue to have the pleasure when he began to prosecute cases exclusively for the Division. And, I can say it has been my pleasure working with him and kudos on thirty-four (34) years of great public service, and kudos on your retirement.

Mr. Bossart – Thank you. It's been my pleasure to work with the Board, and all of you. Thank you.

Chair Peeples – Thank you, Mr. Bossart. We are very much appreciative of your dedication and your years of service, and how much you have helped the Division and staff, and we just want to congratulate, and hope you have some great time of rest and relaxation.

Mr. Bossart – Thank you.

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

E. Application(s) for Preneed Sales Agent
(1) 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.

F. Application(s) for Continuing Education

- (1) *Course Approval - Recommended for Approval without Conditions – Addendum B*
 - (a) *Jeffrey Holcomb (45208)*
 - (b) *WebCE (43)*
 - (c) *Wilbert Funeral Services (39408)*

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

Chair Peeples – Do we need a motion to accept, Ms. Simon?

Ms. Simon – Yes, we do.

Chair Peeples – Thank you.

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

Chair Peeples – Ms. Simon?

G. Consumer Protection Trust Fund Claims

- (1) *Recommended for Approval without Conditions – Addendum C*

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

Chair Peeples – Thank you, Ms. Simon. Is there a motion to approve?

Mr. Ferreira – Madam Chair?

Chair Peeples – Yes, sir, Mr. Ferreira?

Mr. Ferreira – I may have to recuse myself, as one of my companies is on this list.

Chair Peeples – Thank you, Mr. Ferreira. Is there a motion to accept the Consumer Protection Trust Fund claims, as Ms. Simon has so stated?

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

Chair Peeples – Ms. Simon?

H. Application(s) for Embalmer Apprentice

- (1) *Informational Item (Licenses Issued without Conditions) – Addendum D*
 - (a) *Cox, Donovan D F604450*
 - (b) *Crenshaw, Jerrod L F604114*
 - (c) *Fudge, Jermaine J F605678*
 - (d) *Fuhrmann, Amber M F604141*
 - (e) *Filer, Debbie J F608377*
 - (f) *Long, TaCara F F607068*

- (g) Meyer, Alexis A F606359
- (h) Slage, Chloe L F608104
- (i) Strunk, Matthew A F608116

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

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

- (1) *Informational Item (Licenses Issued without Conditions) – Addendum E*
 - (a) *Funeral Director (Internship and Exam)*
 - 1. *Chubenko, Taras*
 - (b) *Funeral Director and Embalmer (Endorsement)*
 - 1. *Englert, Joshua J*
 - (c) *Funeral Director and Embalmer (Internship and Exam)*
 - 1. *Gividen, Chelsea A*
 - 2. *Parrott II, Benjamin H*

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

- (2) *Recommended for Denial (Examination Requirements)*
 - (a) *Funeral Director (Endorsement)*
 - 1. *Miranda, Michele G.*

Ms. Simon – Ms. Wiener is representing Ms. Miranda, who submitted an application for a funeral director license on July 11, 2022, at which time the application was complete. The applicant’s fingerprints returned with no criminal history. Ms. Miranda did not receive an A.S. degree in Mortuary Science and instead holds a Bachelor of Arts – Liberal Studies from California State University. Ms. Miranda holds a California funeral director’s license, which is currently active and is in good standing; however, in order to be licensed in California, an individual is only required to take the California State Examination, not the National Board Examination. As such, the applicant has not taken any part of the National Board Examination, and she passed the California State Examination with a score of 65%. On your cover sheet in your Board package, I have included some of the applicable law on this matter, and the Division is recommending denial based upon that law.

Chair Peebles –Thank you, Ms. Simon. Ms. Wiener, would you like to address the Board?

Ms. Wiener – Thank you, Madam Chair. Please excuse my voice. I am still getting over a long, long, lasting sinus infection, so my voice is a little crazy. Thank you, Board members, for hearing us on this matter. We disagree entirely with the interpretation of the Division, regarding the amendment to Section 497.374, which is the relevant law here. The relevant law, as is indicated in your Board packet, provides an either/or scenario. Either the applicant for endorsement licensure has a license in good standing in another state and the licensee has been engaged in funeral directing for the last five (5) years. Or the applicant has to be considered under subsection two, which is the subsection that refers to the National Board Examination. So, under s. 497.374, an applicant for endorsement licensure has to have either a license in good standing for five (5) years in continuous practice, or they have to meet the educational requirements of s. 497.373 and take the National Boards. There is no other reference, in s. 497.374 to the National Boards, none whatsoever. There is, however, the requirement that the applicant sit for and pass Florida Laws and Rules. The subsection that is referred to in your Board packet, subsection 4 of 497.374 says explicitly each applicant, and this is in your Board packet by the way, on the cover sheet. Each applicant for licensure by endorsement must pass the examination on local state and federal laws rules relating to the disposition of dead human bodies, which is required under s. 497, 373, and which shall be given by the licensing authority. That's the Division, that's the Department, that's Florida. Florida does not administer or give the National Boards. That is given by another agency entitled The Conference, as all of those of the industry on this call know.

In as much, in order for Ms. Miranda's license application to be approved, she needed to have a license in good standing for five (5) years and employment in the industry as a funeral director for five (5) years. She needs to submit proof of completion of her communicable disease certificate. She needs to disclose her criminal record, if any. And she needs to take and pass Laws

and Rules. There is no other test required for an endorsement applicant that is coming in from another state. The reference in your Board packet to s. 497.373(2)(a) and (2)(b) is immaterial, because s. 497.374, which controls endorsement applications, states specifically that the test that she has to take and pass is the one given by the licensing authority, the Division, not the one given by The Conference. So, any other reference to s. 497.373, or the testing requirements for a licensee coming in under that statutory rubric are completely applicable to Ms. Miranda's license. The reference to 69K-16.004 is only applicable in as much as it refers to the testing requirement set forth in s. 497.374. It does not make reference to any test set forth in 373, except for an embalmer. So, in this particular case, where Ms. Miranda has applied for a funeral director's license by endorsement, she meets the qualifications without question. She has a license in good standing, she has been continuously employed in the industry for a period of at least five (5) years, and in her case more. She will, of course, upon approval, like all other applicants, sit for and take and pass Florida Laws and Rules, and she has complied with all other provisions of s. 497.374, and I'm happy to entertain any questions the Board members may have.

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

Mr. Williams – Mr. Brandenburg was first.

Chair Peeples – Mr. Brandenburg?

Mr. Brandenburg – I move for approval.

Chair Peeples – There's a motion for approval. Is there a second?

Mr. Jones – Second, with one question, if I may.

Chair Peeples – Mr. Jones?

Mr. Jones – For the Division, I understand they have to take the Laws and Rules, and of course, that is they must take and pass, if this is approved, before a license is issued. Correct?

Ms. Simon – Yes, sir. In part. It is also the Division's position that the National Exam will be taken and passed.

Mr. Jones – But if they take and pass the Florida Laws and Rules, if it's approved by this Board, then that's sufficient. If they fail that, I assume they have a second opportunity to take that? That's my question. Just so I understand.

Ms. Simon – If it's only the Florida Laws and Rules, they would need to pass the Florida Laws and Rules exam with a score of 75%, That's the answer.

Mr. Jones – Yes, it's 75%. Thank you.

Ms. Simon – Yes, sir.

Mr. Jones – So, I'll second the motion.

Chair Peeples – Ok, thank you, Mr. Jones and Ms. Simon. Mr. Williams?

Mr. Williams – Yes. Question for Ms. Wiener, if you could help me? So, if your client was able to take the National Board, would we still be in this situation?

Ms. Wiener – No, you wouldn't, but that's not the current state of the law. We revised the law to allow Florida to bring in additional funeral directors into the state, and so the law was revised very specifically to create literally an either/or scenario. So, if you look at your Board packet in the very beginning subsection, under Division Remarks, the relevant law, s. 497.374(1)(b)(1) says that the licensing authority shall issue a license by endorsement to an applicant who s. 497.373, that would be the educational requirements, and has successfully completed a state regional or national exam in mortuary science or funeral services arts, which are determined by rule of the licensing authority to be substantially equivalent or more stringent

than what's given in Florida. In Florida, for that test, the National Boards is what is required. So, in Ms. Miranda's case, she can either have a license in another state and have practiced full-time for five (5) years, or she can meet the educational requirements and take the National Boards. There is no other reference to the National Boards in s. 497.374, at all. There is, however, a reference to the test administered or, it says given by the licensing authority, which is the Florida Laws and Rules Exam.

Mr. Williams – Ms. Peeples, may I have a follow-up?

Chair Peeples – Mr. Williams, you had a further question?

Mr. Williams – So, I guess I want to make sure, and if the Division can help me, I'm reading s. 497.374(4). What is the premise around the federal laws and rules examination piece if this doesn't apply, based off of what Ms. Wiener is saying? Can Ms. Simon or Ms. Schwantes or someone help me with that?

Chair Peeples – Ms. Schwantes?

Ms. Schwantes – Thank you, Madam Chair. Respectfully, we disagree with Ms. Wiener and her interpretation. We believe the statute is clear and I can tell you a little bit about the history last year, as it was presented to the Department by the industry. Understandably, with the industry having difficulty bringing in applicants from other states, we wanted to make it somewhat easier. By somewhat easier it was meant to be our understanding within the Division and the Department, would be that there would not need to be an education comparison, if you will. To older members, those who were on the Board from prior years, anytime anybody came from out of state, there would be a comparison of what is required in Florida with mortuary schools versus what they took. We agreed with the industry that that would be eased by having an alternative, based upon experience. That's where the five (5) years came in. However, subparagraph (4) clearly points back to s. 497.373, which requires both the National Exam and the Florida Laws and Rules Exam. That subparagraph, if it was ever intended, since this entire s. 497.374 has to do with endorsement, bringing in the funeral director by endorsement, if it was not intended that s. 497.373 still apply, and that the requirements for out of State, in terms of exams, be the same as those for our Florida residents, subparagraph (4) would have been viewed and removed or altered for that legislative purpose. So, again, we disagree with Ms. Wiener's interpretation. It is the Department's position that the out of state applicants should not have lesser requirements for entry into Florida than the Florida residents themselves have. So, thank you, Madam Chair.

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

Ms. Munson – This is just briefly. I think the Board can understand that this is definitely an interpretive matter. What the Director has just indicated is that I believe she's provided sound legislative analysis information so that it could provide clear understanding or clarity for the Board regarding the legislative intent. Given Ms. Wiener's argument, that's just a point, if that is a point of interpretation. Given the Department's information, also a point of interpretation, but what she has provided is the legislative intent that may better explain what that change in statute resulted in or resulted from. I just wanted the Board to understand a little bit better for those who may not what Director Schwantes has just informed you. Thanks.

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

Mr. Jensen – Thank you, Madam Chair. While I can also appreciate Ms. Wiener's understanding of this, and I see where she's getting that, but it seems fairly clear to me that if you look s. 497.374, it references s. 497.373. And s. 497.373(b) says, pass an examination approved by the Department on the local state, which would be Florida, and federal laws, which to me means the National Board. Being a licensed funeral director and embalmer myself, I do not think that it is the fair to have other people doing this [inaudible] have people come from other states [inaudible] have less requirements than Florida citizens. That makes no sense whatsoever, to me. Thank you, Madam Chair.

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

Ms. Wiener – Yes, thank you, Chair. In response to a couple of the comments that have been made, I would call your attention to the middle of your, or sort of the bottom portion of the cover page of this Board packet, where it details the two (2) examinations given under s. 497.373. There are two (2). One (1) of them is commonly known as the National Boards. That is

the National Examination for Funeral Arts and Science, as given by The Conference of Funeral Service Examining. Then, there is, in addition, subsection (b), an examination approved by the Department on the local state and federal laws and rules relating to the disposition of human bodies. That is what we call in Florida, Florida Laws and Rules. I recognize that there is the use of the word federal in that statute, but it will be disingenuous for the Division to tell you that (b) is not Florida Laws and Rules. And it is (b) that it's referred to in s. 497.374(4), where it makes reference to the local state and federal rules given by the licensing authority. The problem here, and by the way, legislative history is wholly immaterial when a statute is playing on its face, a basic and primary tenet of statutory construction. And in this case, though the Division wishes to argue the interpretation of this law, this law says, valid license and five (5) years, or get an education and take the National Boards. There is no reference in any other provision of s. 497.374 to taking the National Boards, other than in subsection (2), underneath the "or". The reference to taking a test, while it refers to federal law, it is the test that must be given by the licensing authority. Since this licensing authority does not give the National Boards, there is simply no way for this law to be interpreted in a way that requires the National Boards. There are very specific requirements set forth in this statute, under 374. You've got to hold a valid license for five (5) years, or you have to get an education and pass the National Boards. No matter which one of those you do, you have to take the test that is contemplated in 373 as having been given by the State. The State does not give the National Boards. There is simply no way to interpret this plain statute, and if this matter goes forward and goes to the Division of Administrative Hearings, the Division of Administrative Hearings will read this statute, and will read this "or", and will not be considering any legislative history, or otherwise. The Legislature wrote the law. The law says "or". Ms. Miranda qualifies under this subsection, because she has the license, because that it's been valid and in good standing, and she has worked as a funeral director for five (5) years, and because she will comply with the other requirements therein, which is to take and pass an examination. It doesn't say that "may" be given by the licensing authority, but the one that "shall" be given by the licensing authority.

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

Ms. Munson – I just wanted to briefly note that with deference to Ms. Wiener, I don't think the Board is in a position to identify what an administrative law judge will rule. You just had it a case earlier today that ended in a result that may be different from what you thought it could have been, based on an ALJ's ruling. So, I don't want to be presumptuous enough for this Board to think that because the way the statute is written, the ALJ will rule in a certain manner. It is open to interpretation, clearly by the differences of opinion presented in this proceeding. And I just, in all fairness, wanted to present that as a perspective for the Board to consider.

Chair Peeples – Thank you, Ms. Munson. I'd like to make a comment, if I may. I concur with Mr. Jensen, in his interpretation of s. 497.373(2)(b). As a fellow licensee of Mr. Jensen in the State of Florida, I had to take a National Board, I had to take a State Board, and I had to have 75% or better on both. What concerns me with Ms. Miranda is she has a Bachelor of Arts-Liberal Arts degree, which I know that things have changed with the type of degrees that you have to have now. But also, she only scored 65% when she took the California Laws and Rules Test, when she became licensed there. So, I feel as a resident of the State of Florida, for those that we're trying to encourage to get their license to come as residents, I think that this is something we have to keep in mind as we do our vote. Is there any other further discussion before we take a vote, because we have a motion and a second?

Mr. Clark – Madam Chair?

Chair Peeples – Mr. Clark?

Mr. Clark – I just have an observation, because obviously the law has recently changed, but one thing I thought about this particular matter is in s. 497.374(1)(b)(1), it says, "holds a valid license in good standing to practice funeral directing in another state of the United States." And I really focused on funeral directing in another state. And I know when we were comparing our educational requirements to what applicants may have completed many years ago, there was kind of a side-by-side comparison. And just for the record, I would note, I think, as these matters, go forward, what is funeral directing and how it's defined in Florida versus how it's defined in another state may be pertinent for this Board to consider. I just wanted that for the record.

Chair Peeples – Thank you, Mr. Clark. Is there any further discussion? We have a motion.

Mr. Ferreira – Madam Chair?

Chair Peeples – Mr. Ferreira?

Mr. Ferreira – One of my concerns, too, is there are some states that have no education and no license. So, what happens there? So, I think we need to be careful here.

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

Ms. Wiener – Thank you, Madam Chair. To Mr. Clark's and to Mr. Ferreira's comments, I will say that that is the exact reason that this law was changed. We were requiring that licensees bring a side-by-side comparison of their education, whether their education was purely by internship and experience as it is an Ohio, or whether the experience was as a diploma versus an associate degree. And the very reason for this change in law, was to get rid of that side-by-side analysis. And should make it clear that if a licensee coming from another state had enough experience, and enough years of experience that that licensee would not be subject to the requirements of Section 497.373, which is where you'll find the requirement for the National Boards. Up until this law was put into place in July of this year, you would have had a very good argument, because prior to that time, the law only allowed you to come in by endorsement, if you had equal or superior education, you had taken the National Boards and you were sitting for Laws and Rules. But the law was changed, very plainly changed to eliminate the requirements for any kind of an educational criteria and any kind of a National Board Exam. The law was changed to make it clear that if you are good enough for another state of the United States, and you've been in the business full-time as a funeral director for a period of no less than five (5) years, then as long as you take Florida laws and rules, you are good enough for Florida. That's what got changed, and that's how the law reads today.

Chair Peeples – Thank you, Ms. Wiener. Ms. Liotta, did you have a question?

Ms. Liotta – My initial question was going to be she mentioned that she has more than five (5) years of experience. Exactly how much experience do you have?

Chair Peeples – Excuse me, Ms. Miranda. Ms. Simon, would you swear her in please?

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

Ms. Michele Miranda – I do.

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

Ms. Miranda – Michele Miranda, M I R A N D A.

Ms. Simon – Thank you.

Chair Peeples – Thank you, Ms. Miranda. If you would, please answer Ms. Liotta's question.

Ms. Miranda – I began in 1993, November of '93.

Chair Peeples – Thank you, ma'am. Ms. Liotta, any further questions for Ms. Miranda?

Ms. Liotta – No.

Chair Peeples – Mr. Clark?

Mr. Clark – Thank you. And thank you, Ms. Wiener, for the response. And {inaudible}, I do understand why there were changes, and we wanted to get rid of the side-by-side. My reference to possibly a new side-by-side, and I'm not commenting on the State of California. I'm just aware that in other states, individuals can have licenses, but they're limited on what that

license can do, meaning they can only make arrangements, but they cannot conduct a funeral ceremony. There are other states where you can be licensed, but in that state, you're required to do removals. So, when I said a side-by-side, I said defining what the practice of funeral directing by the state outside of Florida. I was just making a comment that that should be taken into consideration and that was not a comment directed towards California. It was just again a note for the record. Thank you.

Chair Peebles – Thank you, Mr. Clark. Mr. Jensen?

Mr. Jensen – I do agree with Mr. Clark on that. And if you look at Florida's definition of funeral director, it would certainly require you to have some of these things. But I absolutely appreciate Ms. Wiener's interpretation of that, but I was involved in the discussion back when that came up before the Board and I never heard that as the intent whatsoever. It was never the intent of the Board to allow someone to have a license in another state, and can come to Florida, and take our state rules and laws test. I just don't believe it happened that way. So, I don't think it's the right intent. Understand what you're saying. Maybe we need to get another interpretation. Maybe we need to look at it again. I don't know. But at this point, I do believe that s. 497.373(b), refers to the federal laws. If someone asked me who regulates your business, I tell them that we're regulated on a federal level and also a state level. And every state is very different. I mean, states close to us. Alabama, twenty (20) years ago, if you worked in a funeral home for forty (40) hours, you were a funeral director. Not anymore, but that was the thing. I know like Colorado, you could put a shingle out and call yourself a funeral home, and you don't have any license. I don't want Florida to get to that, and I don't think we need to. I think we need to be more careful here. I think {inaudible}, it's not that hard to take a few classes and just get the mortuary science. I mean, it's not even a year's worth and it would just be done and Ms. Wiener, your client can sit for the National Boards and all is good. I'm not denying that she's an excellent funeral director, and probably knows what she's doing. I'm just saying it's 100% unfair and not right to the citizens of the State of Florida, and also the funeral directors who have worked hard to get their license in the State of Florida. Thank you, Chair.

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

Rabbi Lyons – Thank you. Madam Chair. Just a question for Ms. Wiener. So, s. 497.374(4) refers to the examination required under s. 497.373. There are two (2) different examinations required under s. 497.373, so, the next word is "and", so how do you exclude the National Boards from that?

Ms. Wiener – Because, the next word is and. The only examination required under s. 497.373, that is given by the licensing authority is Laws and Rules. This is the subsection that is utilized in order for Laws and Rules to be given to an applicant, and this is an important point to hear. This was already in the law. In the previous version of the law that required an applicant to have the National Boards, there would never be a world where the applicant would have to take the National Boards, because they already would have had to have taken and passed the National Boards in order to qualify under the prior language in s. 497.374, meets the qualifications for licensure and has successfully completed an Arts and Science exam. So, the only test ever given in the history of this statute, under subsection (4) is Florida Laws and Rules. The Division will not tell you that that is not true, because that is true. Now, in Laws and Rules, there is reference to federal rule. It's called the FTC Funeral Rule, and there are questions about it, in Laws and Rules. It applies in Florida, by reference, to things like the general price list and the statement of funeral goods and services. I was not around when that part of the law was written, but I suspect that that's what is referred to. So, in the entirety of this Division's administration of s. 497,374, in the last fifteen (15) years, the only test ever given under subsection (4), only test ever required under subsection (4) is Florida Laws and Rules. We call Florida Laws and Rules, but Florida's law brings into its scope the requirement to comply with various federal laws, including the FTC Federal Rule and some others, like OSHA.

Rabbi Lyons – So, follow up question for you. Let's say subsection (4) didn't exist. Would you understand that somebody who's applying for licensure by endorsement is exempt from taking the state test?

Ms. Wiener – I won't, and we call it reciprocity and it exists, and I was going to say hundreds of other states, but that's probably not right. In dozens of other states, there is reciprocity among the licensees from other states. Lisa Coney, I see on the screen, FCCFA's Legislative Director, since we have made this an issue, she wrote this language along with me on behalf of FCCFA, for whom I am regulatory counsel. And it says what it says. Whatever the intent was, of the various parties and the thinking, the fact of the matter is the law now simply says a license for five (5) years with practice and Laws and Rules, but if you took away subsection (4), it would just be a pure reciprocity law like there are so many states. But in Florida, I think speaking to concerns like those expressed by Board Member Jensen, and Board Member Ferreira, and Board Member Clark,

we kept laws and rules in place. It's still there. She's got to study for, she has to take it, she's got to pass it, and she'll get a question or two, depending on how the questions pile up from their bank, on the federal rules that apply to the death-care industry.

Chair Peeples – Rabbi Lyons, does that complete your questions to Ms. Wiener?

Rabbi Lyons – Yes, that completes my questions to Ms. Wiener. Just a comment, if I may?

Chair Peeples – Yes, Rabbi Lyons?

Rabbi Lyons – I think I heard one of the cases where the Supreme Court Judge said that is not the business of the Supreme Court to save the citizens from bad laws. {Inaudible} job to save the citizens from unconstitutional laws. I agree with the Department that it's crazy that you have a law where somebody coming from a different state has a lower standard than somebody who's coming through the Florida system. On the other hand, I agree with Ms. Wiener that that is what the law says.

Ms. Schwantes – Madam Chair, may I?

Chair Peeples – Is that Ms. Schwantes?

Ms. Schwantes – Yes, ma'am. May I?

Chair Peeples – Yes, ma'am.

Ms. Schwantes – Thank you, Madam Chair. So, I appreciate all the comments from Board members. Of course, as has already been stated, this is an interpretation. I can tell you I do not know who wrote some of the initial language as it was proposed the Department. However, the language as it finally was presented in the Department's Bill with the Department's review, I do know that there was more than one (1) association involved in this. So, I cannot confirm that it was Ms. Wiener's language, Ms. Coney's language, and that that was exactly what was intended by it. As it was presented in the Department's Bill, I can tell you that the Department never intended that the out-of-state applicants have lesser requirements than Florida residents, when it came to the exams. Again, it goes back to it's a matter of interpretation. This is the first time that this kind of an issue has come up before the Board, since the passage of this law. We have not even had the opportunity to complete rulemaking on either this provision or the other provision regarding endorsement, which has to do with endorsement for embalmers. So, I just wanted the Board members to understand that as well. Thank you, Madam Chair.

Chair Peeples – Thank you, Ms. Schwantes. Is there any further discussion? Ms. Wiener?

Ms. Wiener – I will simply say this. Ms. Miranda has been a practicing funeral director in California since 1993. I think it's fairly well known in Florida and across the United States. California, pretty fond of their regulations, pretty heavily regulated state. They don't take licensure or consumer protections lightly. That said Ms. Miranda does not want to have a denial of this application on her record. We would agree to table her application while we pursue a declaratory statement through the court system, so that we can get some clarity on exactly what s. 497.374, says and means, so that we can bring it back to this Board for a consistent ruling, alongside the interpretation of the statute.

Ms. Munson – Madam Chair, may I? Would you be willing to withdraw the application? I don't know how long you're requesting the Board to table this, to what period.

Ms. Wiener – Well, she's several application fees in, at this point, because she applied previously. Right before this came up, and interestingly during that Board meeting, I believe if you look back at the minutes, there were indications made to her by the Board members themselves, that when the new law went into effect, this wouldn't be an issue and she could just bring it in, and sail right through. And then here we are finding ourselves here. So, we would request that it be tabled and waive any deemer, so I don't think there would be an issue if it languishes for a bit of time. I appreciate Ms. Munson's very on point comment that the court system is not the fastest moving thing in the history of movement, but we would ask that she be

permitted to table the matter, or if she has to withdraw it, at least that the Division would consider allowing her to refile without having to pay yet another fee.

Chair Peeples – Ms. Munson, we have a motion and a second. With the comments that Ms. Wiener made on behalf of her client, Ms. Miranda, how would you suggest we proceed, since we have a motion and a second?

Ms. Munson – I would ask, given these additional comments, if the individual who made the motion would like to rescind it, so we don't have to have a vote on it?

Chair Peeples – Thank you. Mr. Brandenburg. I think you made the motion. Would you like to rescind your motion?

Mr. Brandenburg – Let me think about that for a moment.

Chair Peeples – Yes, sir.

Rabbi Lyons – Madam Chair?

Chair Peeples – Rabbi Lyons?

Rabbi Lyons – I believe the motion is to approve the application.

Chair Peeples – Correct. And Ms. Wiener, I don't speak for you, but if you would please correct me if I'm not correct, that her client would be willing to hold back the application request as they get a declaratory statement, so that we have declaration on this statute. But Mr. Brandenburg, and I think Mr. Jones had made a motion and a second to approve the application. So, it's now going back to Mr. Brandenburg to see if he would like to rescind his motion. Is that correct, Ms. Wiener?

Ms. Wiener – Yes, only because as I take a straw poll, it's too close for me to call. Ms. Miranda has an unblemished record, as you well know history. She's a former nun and has an unblemished record dating back thirty (30) years now in death-care, and she simply cannot have a denial on her record, no matter how procedural in nature. I understand that this Board is not saying Ms. Miranda is not fit for funeral service in Florida. And we're arguing over a procedural point, but it's her history, I mean, it's her application, and it's her well-being. So, we would request that the matter be tabled so that we can pursue another avenue where we can bring some clarity back to this Board, so there won't be any question.

Mr. Brandenburg – Madam Chair?

Chair Peeples – Yes, Mr. Brandenburg?

Mr. Brandenburg – Regarding my motion, it's so clear cut to me that this should be approved, that's why I immediately made the motion for approval, based upon the new law that went into effect on July 1st. So, I suppose I'm asked to withdraw something that I feel should clearly have been passed by the Board, considering the new law that went into effect. That was even in the cover sheet. It has "or", and the applicant chose the first part, "for at least five (5) years". They didn't choose the second part. So, I suppose I'm fighting against windmills, but I will withdraw my motion.

Chair Peeples – Thank you, Mr. Brandenburg. Mr. Jones, would you withdraw your second? Mr. Jones?

Ms. Wiener – You're on mute.

Mr. Jones – Sorry. I will.

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

Ms. Munson – I was not. {inaudible}. If there's no longer a motion, then I believe we have Attorney Wiener's question on the table.

Rabbi Lyons – Madam Chair?

Chair Peeples – Rabbi Lyons?

Rabbi Lyons – Just to be clear. If the motion is to approve the application and that motion would fail, the Board has not denied the application. Am I correct?

Ms. Munson – You are correct. I was going to make those comments, but I didn't know if we wanted to go that entire route of that vote on the record, and all of that. That's totally up to you.

Ms. Wiener – We're certainly happy to have the Board, and what I can't have is, well, Ms. Miranda really is the one who can't have it, is a denial on her record on this procedural point. And so, if Mr. Brandenburg wishes to remake his motion and it's seconded, and that's voted upon, and it fails, then so long as, and I just want to tee it up so long as the Division or the Board rather will allow, at that point, for the matter to be tabled for some clarity, for the Board members that would be inclined to vote against the licensure, based on this requirement to take National Boards. I don't want to do anything that jeopardizes Ms. Miranda's good standing, and, as I said, unblemished record in the industry.

Chair Peeples – So, Ms. Munson, since Mr. Brandenburg has rescinded his motion, Mr. Jones his second, and Ms. Wiener has suggested to table this for declaratory statement, is it tabled now? Or do we need to go any further?

Ms. Munson – The Board would need to vote on the acceptance of that request to table it. And to be clear, I'm not saying Mr. Brandenburg does not have an opportunity to restate his motion and have it seconded. I was just stating for the nature of time. Again, if you want to vote on it, feel free to do so. And before you vote on whether or not it's denied, feel free to entertain this tabling aspect of it. I don't want to presume where all roads are leading, so I'll just leave it at that.

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

Mr. Williams – Yes. Question for Ms. Munson. If Ms. Wiener goes back for the declaratory statement, where does that leave the Board if it comes in favor of her client and would that then set a precedent in terms of future cases that may come similar to this?

Ms. Munson – Declaratory statements are taken on fact by fact, case by case basis. It would hold relevance for her client's case. Primarily only her client's case, because it could be a shift in information that would result in another. The only information that you can probably rely on is if a body determined that the statute means a certain thing. If that's a part of that language, then you may have to deal with that regarding other applicants of which this may be argued again, just to be clear as to where we are. And the declaratory statement, I don't know what route Ms. Wiener is going to take. The petitions for declaratory statement have the opportunity also to come before this Board for review.

Ms. Wiener – I think we would go to court, rather than to {inaudible}. It would be a bit of a {inaudible} to do a declaratory statement, and then bring it back to the Board. The fact is that we're trying to get some clarity for the Board, not put the Board back in this position.

Chair Peeples – Mr. Jensen?

MOTION: Mr. Jensen moved to approve Ms. Wiener's request to withdraw this and also that we not levy any more application fees towards Ms. Miranda. Ms. Clay seconded the motion.

Chair Peeples – Thank you, Ms. Clay and Mr. Jensen. Is there any further discussion? If no further discussion, then we will take a vote. All in favor of the motion to table for the declaratory statement, and no additional fee expense to Ms. Miranda, aye?

Board members – Aye.

Chair Peeples – All opposed?

Rabbi Lyons – Opposed.

Chair Peeples – Ok. Ms. Simon, can you take a roll call vote, so we have this for the record, please?

Ms. Munson – And before we vote to clarify, I believe the motion was to withdraw and then I heard the summation to be to table. They are very different, and I just wanted to make sure that we understand what was being voted on.

Chair Peeples – Thank you, Ms. Munson. Mr. Jensen, did I not state your motion?

Mr. Jensen – Ms. Wiener had asked that we would withdraw. Correct, Ms. Wiener?

Ms. Wiener – The goal would be to put a pause on this matter so that we can pursue some clarity and not have Ms. Miranda pay fees. I think your motion was seconded, it included that she not be required to pay additional fees. So, if it is more convenient for the Division, if the matter is withdrawn and then resubmitted in that same application fee applied, withdrawal is fine. Tabling would have, I think, in essence, the exact same impact. But, if the Division finds it less palatable for it to be tabled rather than withdrawn, and then reapplied later with a reminder that the fee has already been paid for this, we can work with either one of those.

Mr. Jensen – Ms. Munson, what's the preference?

Ms. Munson – If the Board is asking that it be withdrawn and then the Division not request any additional fees, I'm not certain about the purview in doing so. I know they can't refund fees, but as far as not accepting fees with future application, I'm not sure what their role is with that. So maybe Ms. Simon or Ms. Schwantes can speak to that.

Chair Peeples – Ms. Schwantes?

Ms. Schwantes – Thank you, Madam Chair. It probably would be better to table the matter, I believe, because there are requirements that are set by statute, and we would not recommend waiving the statute.

Ms. Wiener – We waive any deemer that would apply.

Chair Peeples – Thank you, Ms. Schwantes and Ms. Wiener. Mr. Jensen, would you amend your motion instead of the word withdrawal to say tabled?

Mr. Jensen – Yes, ma'am.

Chair Peeples – Ms. Clay, would you second that?

Ms. Clay – Yes.

Chair Peeples – Thank you. We have a motion and a second. Any further discussion? All in favor of the motion, aye?

Board members – Aye.

Chair Peeples – All opposed?

Rabbi Lyons – Opposed.

Mr. Jones – Opposed.

Chair Peeples – Ok, please state your name for the opposition, please.

Rabbi Lyons – Jay Lyons.

Mr. Jones – Ken Jones.

Mr. Brandenburg – Jody Brandenburg.

Chair Peeples – Thank you, gentlemen. We have a motion that has carried, and we have three (3) oppositions. Any further items, Ms. Munson or Ms. Simon, on this particular agenda item. Seeing none. If we will, it's 12:40. Let's take another ten (10) minute break and come back at 12:50, please. Thank you.

*****BREAK*****

Chair Peeples – It is 12:50. Do we have our Board members back on? I see Mr. Jensen, Ms. Clay, Mr. Clark, Ms. Liotta, Rabbi Lyons, Mr. Brandenburg, Mr. Ferreira, Mr. Jones. Do we have everyone here for the Board? We have a quorum. Let's go ahead and bring the meeting back to order. It is 12:50 on September 1st. Ms. Simon?

Ms. Simon – Thank you, Madam Chair.

J. Application(s) for Internship

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

- (a) *Funeral Director*
 - 1. *Hylton, Marissa A F600373*
- (b) *Funeral Director and Embalmer*
 - 1. *Hendrick, Adam C F565628*
 - 2. *Lewis, Lowenia M F607455*
 - 3. *Wade, Thaddeus J F460928*
 - 4. *Willis, Essie M F608153*
- (c) *Embalmer*
 - 1. *Hall, Nora E F571283*

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

K. Application(s) for Monument Establishment Sales Agent

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

- (a) *Burnett, Charles W (F605462) (Pensacola)*
- (b) *Murphy, John J (F606803) (Pensacola)*

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

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

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

- (a) *Foundation Partners of Florida LLC d/b/a Baldwin Brothers (F559370) (New Smyrna Beach)*
- (b) *Foundation Partners of Florida LLC d/b/a Farley Funeral Homes & Crematory (F519315) (North Port)*
- (c) *SCI Funeral Services of Florida LLC d/b/a Dignity Memorial Celebration Center (F530182) (Wildwood)*

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

(2) Request for Waiver

- (a) *Foundation Partners of Florida LLC d/b/a Griffith-Cline Funeral and Cremation Services (F600271) (Bradenton)*

Ms. Simon – Is there a representative of this entity on the call today? Hearing no response. Foundation Partners of Florida LLC d/b/a Griffith-Cline Funeral & Cremation Services, a newly approved establishment (F600271), is now seeking approval of a waiver of Rule for 69K-18.004, Florida Administrative Code, regarding certain requirements for licensure as a training agency. Additionally, this establishment is seeking to continue their training agency status. The Division is recommending approval subject to the following conditions:

- 1) That Rule 69K-18.004, Florida Administrative Code, be waived as requested by the licensees, provided there has been no dispute by the public within thirty (30) days of the date the request was published; with the caveat, contrary to what is said in your cover sheet, the Division recommends that the application for registration as a training agency be granted only as to funeral directing and not embalming; and
- 2) That the application for Registration of a Training Agency be granted so that the aforementioned funeral establishment may continue to be registered as Training Agency under the new ownership in such a way as to continue the training agency status for any current interns.

Chair Peeples – Thank you, Ms. Simon. Ms. Wiener was not on the call when you asked if there was anyone representing. Ms. Wiener, are you representing this entity?

Ms. Wiener – I am counsel for Foundation Partners Group.

Chair Peeples – Thank you. Ms. Simon, are you complete with your preliminary remarks?

Ms. Simon – I am, thank you.

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

Mr. Clark – Madam Chair?

Chair Peeples – Yes, sir, Mr. Clark?

Mr. Clark – Thank you, Madam Chair. I just want to state, for the record, my affiliation with Foundation Partners Group, and I will recuse myself from this matter, as well as matter S (1) (a). Thank you, Madam Chair.

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

Ms. Wiener – No, ma'am. I'm simply here to answer questions, if I can.

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

Mr. Jensen – I do have a question, Ms. Chair. I see the application. Ms. Simon mentioned that it's just for funeral directing. The application, says funeral director and embalmer, but I assume Ms. Simon is referring to the number of bodies in the last twelve (12) months is only eighteen (18). Is that {inaudible} to funeral directing?

Ms. Simon – Madam Chair, if I may?

Chair Peeples – Yes, ma'am.

Ms. Simon – I do not mean to imply that the motion was not for training agency registration for both funeral directing and embalming. That's what it was. However, subsequent to the Board packet being issued, further review led to the conclusion that it should only be registered as a training agency for purpose of funeral directing due, as you mentioned, Mr. Jensen, to the number of the embalmings previously having taken place.

Mr. Jensen – Thank you.

Chair Peeples – Ms. Liotta, did you have a question? Are there any other Board members that have questions of Ms. Wiener or the Division? Rabbi Lyons?

Rabbi Lyons – Ok, so the suggestion is to allow them to be a training facility for funeral directors but not embalmers?

Ms. Simon – Correct.

Rabbi Lyons – Ok. Can I make a comment, please?

Chair Peeples – Yes, sir.

Rabbi Lyons – Ok. I think this is a great thing. I know a lot of the public comments from the last meeting had to do with the inability for facilities to maintain their status as embalming facilities, because they don't embalm enough bodies. And the truth is that if embalming is becoming a thing of the past, then this really is something for entities, you know, firms to consider, and also for funeral directors, or students and interns looking to become funeral directors to really consider how important it is to hold an embalmers license. That's my comment. I think it's great, and I can make a motion.

MOTION: Rabbi Lyons moved to approve the request subject to the conditions recommended by the Division. Ms. Liotta seconded the motion.

Chair Peeples – Thank you. We have a motion by Rabbi Lyons and a second by Ms. Liotta. Is there any further discussion? All in favor of the motion, say aye.

Board members – Aye.

Chair Peeples – All opposed?

Mr. Jensen – Opposed.

Chair Peeples – Mr. Jensen, is that you?

Mr. Jensen – Yes, it is. I understand, Mr. Lyons, as saying he's also granting embalming.

Rabbi Lyons – No.

Chair Peeples – Just funeral directing.

Mr. Jensen – Oh, my apologies. I misunderstood. So, I am for.

Chair Peeples – So you approve?

Ms. Simon – I'm sorry, Madam Chair. It appears that all Board members have voted to approve the motion.

Chair Peeples – Thank you.

Ms. Simon – Thank you.

Chair Peeples – Thank you. So, the motion carries.

- M. Application(s) for Direct Disposal Establishment**
(1) Recommended for Approval *with* Conditions
(a) Integrity Funeral Home and Cremations Inc. d/b/a Integrity Cremations of Miami (Miami)

Ms. Simon – An application for direct disposal establishment licensure was received on July 8, 2022. The application was complete as of August 8, 2022. The Funeral Director/Embalmer in Charge will be Roberta Herrera (F084820). The Division is recommending approval subject to the condition that the establishment passes an onsite inspection by a member of Division

Staff. And, before any motions are taken, is there a representative of Integrity Funeral Home and Cremations on the call today? Hearing, no response, Madam Chair.

Chair Peeples – Thank you, Ms. Simon. And for the record, I know Mr. Greg Williams, who is the owner. He has a facility, a funeral home facility here in Jacksonville and I'd like to state for the record that I feel I can be fair and impartial with my vote. Also, Ms. Simon has made comments that the Division is suggesting a motion for approval, and that they pass an onsite inspection. Do we have a motion to approve?

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

Chair Peeples – Ms. Simon?

N. Application(s) for Funeral Establishment
(1) Recommended for Approval with Conditions
(a) Concierge Mortuary Inc. (Bartow)

Ms. Simon – Is there a representative of this entity on the call today? Hearing no response. An application for a funeral establishment licensure was received on July 15, 2022. The application was completed as of August 9, 2022. The Funeral Director/Embalmer in Charge will be Kieron Speights (F043150). A background check of the principals revealed no criminal history for its principals. Board members, subsequent to the time this package was sent to the Board, the applicant provided a document from Lake Forest Crematory indicating that they would be providing refrigeration services as well. As such, the Division recommends approval subject to the condition that the establishment passed an onsite inspection by a member of Division staff.

Chair Peeples – Thank you, Ms. Simon. Do we have a motion to approve with conditions?

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

Chair Peeples – Ms. Simon?

(2) Recommended for Denial
(a) Richard Funeral Services Inc. (Haines City)

Ms. Simon – Is there a representative of that entity on the call today?

Ms. Wiener – Yes. Wendy Wiener, representing the applicant.

Ms. Simon – Thank you. An application for a funeral establishment licensure, based on a change of ownership, was received July 8, 2022. The application was complete when submitted. The Funeral Director in Charge will be Samuel Richard (F059663). A background check of the principals revealed relevant criminal history for the principals. The principal, Samuel Richard's, criminal history has been reviewed at three (3) previous Board meeting. The current establishment does not have a qualifying preneed license. The Division is recommending denial.

Mr. Clark – Madam. Chair?

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

Mr. Clark – Thank you. I need to state for the record, my affiliation with Monarch Crematory, which is listed in the application, but that affiliation will not prevent me from rendering a fair and impartial decision. Thank you.

Chair Peeples – Thank you, Mr. Clark. Ms. Wiener, would you like to address the Board or answer questions?

Ms. Wiener – I am here to address the Board. Thank you, Madam Chair. As you know, I'm Wendy Wiener. I represent Mr. Richard and Richard Funeral Home. Mr. Richard is no stranger to this Board. For the last thirteen (13) years, he has come before this Board and has presented himself and has been approved for licensure all but on one (1) occasion, and it was with regard to his funeral establishment licensure. More than seventeen (17) years ago, he was caught up in a matter. He was charged with a crime, served time in prison, as you can see from your records, and came out of prison a changed, man. When he did so, he wanted to pursue his dream, to follow his passion into funeral directing. but he was given some good advice by some Division staff, which was before you go to mortuary school, come to the Board and see if you can get your license potential approved. So, he first came to the Board for approval as an apprentice in 2009. This Board made up of different people, but this Board considered in great detail his criminal history and granted his embalmer apprenticeship. He was placed on probation at that time. He then came back to the Board and presented himself again after finishing mortuary school and prior to beginning his internship. And then, he came back to this Board presenting himself again prior to his initial full licensure as a funeral director. When he did that, this Board considered and imposed a stipulation on his licensure. That stipulation was covering the first twenty-four (24) months of his licensed status, and it required that during that time, he could neither serve as a funeral director in charge, nor could he have ownership in a funeral establishment. That was a two-year period. We refer to that generally in the industry, back when those licensure stipulations were common under your former Director, Division Director, Douglas Shropshire, as a lockout period. Locked out of being FDIC, locked out of being an owner. That {inaudible} of ownership for only those two (2) years, and the Board, when imposing that two-year time period implied that after that two (2) years, that he would not be locked out. Otherwise, the stipulation or the imposition of the Board would have been, instead, that he'd be forever prohibited from being an owner of a funeral establishment. But that was not the case. Those particular year periods were deliberately set.

So that two-year lockout period has long since ended. Now since that time, you will see in your record, as was noted the last time that Mr. Richard's potential ownership came before this Board, that Mr. Richard, again, had a run in with the law. But his criminal history was misreported during that 2020 Board meeting suggesting that there were charges against him that continue to be in place or that were to which he pled that were not actually the case. He was charged with three (3) different charges. Two (2) of those charges were dismissed, they're gone, they don't exist. There was only one (1) charge that he ended up pleading to. He was placed on a probationary period, which was terminated early for good behavior. And that was an incident that occurred four (4) years ago. Mr. Richard, in all of the time of his licensure, has been on probation for a cumulative period of six (6) years. He has never been the subject of discipline. He has not stepped out of bounds during the entirety of his licensure, since his initial licensure in 2009, and remains in good standing with this Board and with the regulator. When his application then was denied in 2020, he worked with his mother to bring his mother forward to be the owner of the establishment that hay runs, and for which he is FDIC. He's the manager, he is the FDIC. He runs all of the day-to-day operations. You will not find a record of a complaint or of disciplinary history against Richard Funeral Home. He has not been a problem licensee. The business that he runs is not a problem licensee. And we would submit to you that Mr. Richard has long since outlived his lockout period and would be, in fact, qualified to own and operate his own funeral establishment at this time. And I am here to answer any questions that the Board may have.

Chair Peeples – I'm sorry, I was muted. Thank you, Ms. Wiener. Mr. Jensen?

Mr. Jensen – A quick question for Ms. Wiener. I see on here you had mentioned that he hadn't had any issues since he was licensed six (6) years ago, but I notice that here in 2017 that he plead guilty and in 2018 to possession, and that's certainly within the six (6) years. Did you misstate that, or not realize that, or what?

Ms. Wiener – I made reference to his criminal charge during that time period. I was referring to that he's never had a disciplinary matter whatsoever, come before this Board during this timeframe. Yes, he has a prior criminal history from the early 2000s, and then since the time of his licensure, he did have an arrest, as I stated, which was identified in the Board packet. However, relating to that arrest, two (2) of the three (3) charges were ultimately dismissed by the State. It was a single charge that he pledged to. Those records are tricky to read. You have to really dig into them. Mr. Richard is here. He can certainly correct me or clarify if I have misstated his criminal record.

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

Mr. Jensen – Yes, ma'am, I do. Maybe for Mr. Richard. So, you are currently licensed as a funeral director and embalmer?

Chair Peeples – Ms. Simon, can you swear Mr. Richard in, please?

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

Mr. Sam Richard – I do.

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

Mr. Richard – My name is Samuel B. Richard, Jr., R I C H A R D.

Ms. Simon – Thank you.

Chair Peeples – Thank you, Ms. Simon. Thank you, Mr. Richard. Mr. Jensen?

Mr. Jensen – Mr. Richard, so you're currently licensed as a funeral director and embalmer in the State of Florida, and have been for five (5), six (6) years. Is that correct?

Mr. Richard – Yes, sir. Since 2014.

Mr. Jensen – And I would also agree with Ms. Wiener that your probationary period, which she would call a lockout, was only for two (2) years. So, since then, you've not had any infractions, correct?

Mr. Richard – That's correct.

Mr. Jensen – Ok. Thank you, Mr. Richard. I'm good, Chair. Thank you.

Chair Peeples – Thank you, Mr. Jensen. Ms. Simon, did you have a question?

Ms. Simon – Not a question, more of a comment. I'm not sure what the Board's pleasure will be in either approval or rejection of the application. If it is for approval, I would request that the Board approve subject to the conditions outlined within your Board package:

- 1) That the closing on the transaction to acquire ownership shall occur within sixty (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 seventy-five (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, Asset 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 ninety (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 establishment(s) under the application(s) herein pass an onsite inspection by a member of Division Staff.

Chair Peeples – Have Board members had an opportunity to review the Division's recommendations, 1) through 6) in the Board packet? Are there any other questions for Ms. Wiener or Mr. Richard?

Ms. Clay – Madam Chair, I do just have one item of clarification. Mr. Richard, when you were arrested the second time, were you still on probation or was this after year probationary period?

Mr. Richard – After my probationary period.

Ms. Clay – Were you placed on probation again?

Mr. Richard – With the Division?

Ms. Clay – Yes.

Mr. Richard – No, ma’am.

Ms. Clay – Thank you.

Chair Peeples – Thank you, Ms. Clay. Are there any further questions for Ms. Wiener or Mr. Richard? Seeing none, is there a motion to approve with conditions, or is there a motion to deny? What is the Board's pleasure?

Rabbi Lyons – Madam Chair?

Chair Peeples – Rabbi Lyons?

MOTION: Rabbi Lyons moved to approve the application subject to the conditions recommended by the Division. Ms. Liotta seconded the motion, which passed unanimously.

Ms. Wiener – Thank you.

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

O. Application(s) for Monument Establishment Retailer

(1) Recommended for Approval with Conditions

(a) Evans Monument and Vault Company Inc. (Pensacola)

Ms. Simon – Is there a representative of this entity on the call today? Hearing no response. An application for monument establishment retail licensure was submitted on July 20, 2022. The application was incomplete when submitted. The application was completed on August 11, 2022. If approved, applicant will operate as a monument establishment retailer at the address referenced on your coversheet. The Division is recommending approval subject to the condition that the establishment passes an onsite inspection by a member of Division Staff.

Chair Peeples – Thank you, Ms. Simon. Is there a motion to approve with the condition of an onsite inspection?

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. Rabbi Lyons seconded the motion, which passed unanimously.

Chair Peeples – Ms. Simon?

Ms. Simon – Thank you.

P. Application(s) for Preneed Main License

(1) Recommended for Approval without Conditions

(a) Emmanuel Funeral Homes Inc. (F040175) (Lake Worth)

Ms. Simon – Is there a representative of this entity on the call today? Hearing no response. The Department received an application for preneed main licensure on May 19, 2022, which was incomplete at the time of submission. A completed application was received on August 10, 2022. A completed background check of all principals was returned without criminal history; however, the applicant does have adverse licensing history, which is included in your Board package. Applicant’s

qualifying funeral establishment license is located at the address listed on your cover sheet. If approved, the applicant will trust through Cooperative Funeral Fund Inc. The Division is recommending approval without conditions.

Chair Peeples – Thank you, Ms. Simon. Is there a motion to approve without conditions?

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

Chair Peeples – Ms. Simon?

Ms. Clay – Madam Chair, before we move forward...

Chair Peeples – Yes, Ms. Clay?

Ms. Clay – I just want to declare that I do know JP Moore, as well as Timothy Kitchens, who are both on the agenda for this process, and I just want to declare that there is no reason why I cannot vote. It will not sway me one way or the other.

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

(b) J P Moore Undertaking Co. LLC (F517533) (Madison)

Ms. Simon – Is there a representative of this entity on the call today? Hearing no response. The Department received an application for preneed main licensure on August 5, 2022 which was complete at the time of submission. A completed background check of all principals was returned without criminal history. If approved, will trust through IFDF. The Division is recommending approval without conditions.

Chair Peeples – Does anyone have a question or discussion?

Mr. Williams – Madam Chair, I just wanted to also declare that I know JP Moore, as well as item (c) Summers Funeral Home, but my vote will not be impacted by my relation to either applicant.

Chair Peeples – Ok, is this Mr. Williams?

Mr. Williams – Yes, ma'am.

Chair Peeples – Ok, thank you, Mr. Williams. We appreciate that. Do we have a motion to approve without conditions?

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

Chair Peeples – Ms. Simon?

(c) Summers Funeral Home Incorporated (F040982) (Ocala)

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

Mr. Alvis Summers – Yes. Al Summers with Summers Funeral Home.

Chair Peeples – Mr. Summers, please allow Ms. Simon to swear you in, in case there's any questions, please sir.

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

Mr. Summers – I do.

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

Mr. Summers – First name is Alvis, last name is Summers, S U M M E R S.

Ms. Simon – Thank you, sir. May I continue, Madam Chair?

Chair Peeples – Yes, Ms. Simon.

Ms. Simon – The Division received an application for preneed main licensure on August 1, 2022, which was complete at the time of submission. A completed background check of all principals was returned without criminal history; however, the applicant does have adverse licensing history, which is attached to your Board package. If approved, will trust through First Florida Trust. The Division is recommending approval without conditions.

Chair Peeples – Mr. Summers, is there any information that you would like the Board to know, or are you here just to answer your questions, if there are any?

Mr. Summers – Just here to answer questions, if there are any.

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

Ms. Wiener – Ms. Peeples?

Chair Peeples – Ms. Wiener?

Ms. Wiener – Let the record reflect that Wendy Wiener is here for the applicant. I couldn't get my camera to come back on.

Chair Peeples – Thank you. For Mr. Summers?

Ms. Wiener – Yes.

Chair Peeples – Ok, thank you, ma'am. We appreciate that. Do we have a motion?

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

Chair Peeples – Thank you, Mr. Summers and Ms. Wiener. Ms. Simon?

(d) Timothy E Kitchens Funeral Home Inc. (F059562) (Riviera Beach)

Ms. Simon – Is there a representative of that entity on the call today?

Ms. Wiener – Yes, Wendy Wiener. Not turning my camera off.

Ms. Simon – Thank you. The Department received an application for preneed main licensure on June 30, 2022 which was incomplete at the time of submission. A completed application was received on July 21, 2022. A completed background check of all principals was returned without criminal history; however, the applicant does have adverse licensing history, which is attached to your Board package. Applicant's qualifying funeral establishment license is located at the address listed on your Board package. If approved the Applicant will trust through First Florida Trust. Based upon that information, as well as meeting the required net worth, the Division recommends approval without conditions.

Chair Peeples – Thank you, Ms. Simon. Ms. Wiener, is there any information you'd like to relay to the Board or to be available to answer questions?

Ms. Wiener – The latter, ma'am. Thank you.

Chair Peeples – Thank you, Ms. Wiener. Do we have a motion to approve without conditions?

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

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

- Q. Application(s) to Renew Internship**
(1) Recommended for Approval without Conditions
(a) Funeral Director and Embalmer
1. Cooper, April M F451431

Ms. Simon – Is Ms. Cooper or a representative of Ms. Cooper on the line today? Hearing no response. An application to renew the funeral director and embalmer internship license was received on July 22, 2022. The current license expired on July 23, 2022, so the application was timely. As a result of that, as well as the information in the application, the Division is recommending approval without conditions.

Chair Peeples – Thank you, Ms. Simon. Ms. Munson, if I may ask a question, because we'll probably have some more items coming regarding these two (2) particular individuals under this agenda category item. The rule states that one (1) internship in a lifetime. Would this be something that we could address in a rulemaking workshop, because of how our country, our situation has changed, especially with COVID and things of that nature? I'm not sure of the date of when this particular rule was written, but would that be something that we could address later on?

Ms. Munson – We can definitely discuss it later. I know there's some statutory authority that may be binding, but we can definitely address it.

Chair Peeples – Thank you, ma'am, I appreciate that. Is there a motion to approve the request for renewal of the internship for Ms. Cooper?

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

Chair Peeples – Ms. Simon?

- 2. Neree, Kirstyn G F510531**

Ms. Simon – Is Ms. Neree or a representative of Ms. Neree on the call today? Hearing no response. An application to renew the funeral director and embalmer internship license was received on July 20, 2022. The current license expires on August 30, 2022. The application was submitted timely. The Division is recommending approval without conditions.

Chair Peeples – Thank you, Ms. Simon. Is there a motion to approve the renewal request?

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

Chair Peeples – Ms. Simon?

- R. Collective Application(s)**
(1) Recommended for Approval with Conditions
(a) Paradise Central Funeral Home LLC (Apopka)
1. New Establishment
 - Funeral Establishment
 - Preneed Main License

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

Ms. Wiener – Yes, Wendy Wiener.

Ms. Simon – Thank you. Paradise Central Funeral Home LLC seeks approval of applications for new licensure for one (1) funeral establishment and one (1) preneed main for that establishment. More specifically, the entity being acquired is Paradise Central Funeral Home LLC, a funeral establishment, physical address: 20 S Park Ave, Apopka, FL 33073. The FDIC will be Karla Funkhouser, license #F033776. Included within your Board package are the separate applications regarding the referenced properties. The principals of the corporation have submitted fingerprints and were returned without criminal history. The Division is recommending approval subject to the condition that the establishments pass an onsite inspection by a member of Division Staff.

Chair Peebles – Thank you, Ms. Simon. Do we have a motion to approve with the condition?

Mr. Jensen – Madam Chair?

Chair Peebles – Is this Mr. Jensen?

Mr. Jensen – Yes, ma'am.

Chair Peebles – Yes, sir?

Mr. Jensen – I do have one question, and maybe Ms. Wiener can address this. I see on the application that they said they are having embalming onsite and cremation onsite, but also see a letter in here for refrigeration and crematory from a West Side Crematory, LLC. Are they {inaudible}?

Ms. Wiener – That's a fantastic question. They are not on site. That was a typo and that is why the letter was provided.

Mr. Jensen – Is the Department aware of that Ms. Simon? Is that going to affect anything on the licensing?

Ms. Simon – I cannot state for certainty whether the Division was aware of that. However, I do not believe that that will affect the recommendation for licensing.

Mr. Jensen – Thank you, Chair.

Chair Peebles – Thank you, Mr. Jensen. Mr. Brandenburg?

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

(b) SCI Funeral Services of Florida LLC

- 1. Change of Ownership***
 - Cinerator Facility***
 - Funeral Establishment (2)***
- 2. New Establishment***
 - Preneed Branch License (2)***

Ms. Simon – Is there a representative of this entity on the call today? Hearing no response. SCI Funeral Services of Florida LLC, seeks approval of applications for licensure, based upon a change of ownership of two (2) funeral establishments and one (1) cinerator facility. The Applicant also seeks licensure of two (2) new preneed branch locations. More specifically, the entities that are being acquired are as follows:

- 1) Merritt Funeral Home Inc, a licensed funeral establishment, license #F040612, physical address: 2 South Lemon Ave, Brooksville, FL 34601. FDIC: David Merritt, license #F043452
- 2) Merritt Funeral Home Inc – Spring Hill Chapel, a licensed funeral establishment, license #F041400, physical address: 4095 Mariner Boulevard, Spring Hill, FL 34609. FDIC: Steven Dunn, license #F046798
- 3) Merritt Funeral Home Inc, a licensed cinerator facility, license #F058808, 2 South Lemon Ave, Brooksville, FL 34601, FDIC: David Merritt, license #F043452

New Preneed Branch

- 4) Merritt Funeral Home Inc, a licensed funeral establishment, physical address: 2 South Lemon Ave, Brooksville, FL 34601.
- 5) Merritt Funeral Home Inc – Spring Hill Chapel, a licensed funeral establishment, physical address: 4095 Mariner Boulevard, Spring Hill, FL 34609.

Enclosed within your Board package are the separate applications regarding the aforementioned properties. The change of ownership is the result of an asset purchase. The principals of the corporation have submitted fingerprints for the principals were returned without criminal history. Applicant confirms that if there are currently any unfulfilled preneed contracts sold at these locations, the obligation to fulfill those preneed contracts will be assumed by the new owners. 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, Asset 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, (if any), of the location(s) being acquired.
- 7) That the establishments pass an inspection by a member of Division Staff.

Chair Peeples – Mr. Brandenburg?

Mr. Brandenburg – I'd like to declare my affiliation with SCI Funeral Service of Florida, LLC, and this affiliation will not affect my ability to render a fair and unbiased decision on any issue coming before the Board today.

Chair Peeples – Thank you, Mr. Brandenburg. Do we have a motion to approve with conditions?

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

Chair Peeples – Ms. Simon?

Ms. Simon – Madam Chair, if I may clarify? Was the motion for two (2) funeral establishments, one (1) cinerator facility and two (2) preneed branch locations?

Chair Peeples – Yes, ma'am.

Ms. Simon – Ok, thank you so much.

Chair Peeples – Thank you.

- (c) *The Richardson Venture Organization Inc. (Tallahassee)*
 1. *New Establishment*
 - *Funeral Establishment (2)*

Ms. Simon – Is there a representative of this entity on the call today? Hearing no response. The Richardson Venture Organization Inc d/b/a The Richardson Group Funerals & Cremations, seeks approval of applications for new licensure of two (2) funeral establishments. More specifically, the entities being acquired are as follows:

- 1) The Richardson Venture Organization Inc, a funeral establishment, physical address: 2619 S Meridian St, Tallahassee, FL 32301. FDIC: Derryck Richardson, license #F045502
- 2) The Richardson Venture Organization Inc, a funeral establishment, physical address: 1123 Harrison Avenue, Panama City, FL 32401. FDIC: Ursula Staten, license #F044269

Included within your Board package are the separate applications regarding the above listed properties. There are currently licensed funeral establishments at both locations (F526170 & F540142 respectively); however, this is not an application for a change of ownership. The current licensee will relinquish the licenses if these applications are approved. As a result, the Division is recommending approval subject to the following conditions:

- 1) That the establishments under the applications herein pass an onsite inspection by a member of Division Staff.
- 2) License numbers F526170 and F540142 are relinquished prior to licensure.

Chair Peeples – Thank you, Ms. Simon. Is there a motion to approve, as Ms. Simon has so eloquently stated?

MOTION: Mr. Jones moved to approve the application subject to the condition that the establishments pass an onsite inspection by a member of Division Staff and license numbers F526170 and F540142 are relinquished prior to licensure. Ms. Clay seconded the motion, which passed unanimously.

Chair Peeples – Ms. Simon?

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

(1) Recommendation for Approval *with* Conditions

(a) Monument Retail Sales Agreement

1. Foundation Partners of Florida LLC d/b/a Caloosa Memorials (Labelle)

Ms. Simon – Is there a representative of that entity on the call today?

Ms. Wiener – Me again. Wendy Wiener, representing Foundation Partners Group.

Ms. Simon – Thank you, Ms. Wiener. As you can see in your Board package, the monument retail sales agreement contains all of the necessary provisions and as such, the Division recommends approval with the condition that two (2) full sized print-ready copies of the agreement are received by the Department within sixty (60) days of this Board meeting.

Chair Peeples – Thank you, Ms. Simon. Is there a motion to approve with conditions?

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

Chair Peeples – Thank you, Ms. Simon. Does that complete your area?

Ms. Simon – It does.

Chair Peeples – Thank you.

T. Executive Director's Report

(1) Operational Report (Verbal)

Chair Peeples – Ms. Schwantes?

Ms. Schwantes – Thank you, Madam Chair. This is the Operational Report for the Executive Director. So, good afternoon, Board members. My report this this afternoon is going to be very brief. Renewal notices were emailed today for the following establishments: centralized embalming facilities, cinerator facilities, funeral establishments, refrigeration facilities, and removal services. As a reminder, these entities must renew their licenses by November 30th. Last month, particularly during public comment, the Board heard from some of our licensees on issues they would like to see appear on a Board agenda for further discussion. We're gathering more information on those matters and plan to place them on the November Board agenda, with the Board Chair's approval. We will be coordinating that with her later.

The November Board meeting, which will take place on Thursday, November 3rd, is scheduled to be an in-person meeting in Orlando, and we are on track regarding the contract for conference room and hotel arrangements. Further details concerning this meeting will be posted on our website as soon as possible.

Our next Board meeting will be held by video conference on Thursday, October 6th, at 10AM. As always, details regarding all Board meetings are always posted on our website. This ends the Executive Director's Report and thank you, Madam Chair.

Chair Peebles – Thank you, Ms. Schwantes. The next agenda item we have is the Chair’s Report. Ms. Simon?

Ms. Simon – Actually, before we get to that, Madam Chair, if I may call another item.

Chair Peebles – Yes, ma’am.

(2) Report: Payment of Disciplinary Fines and Costs (Informational)

Ms. Simon – This is informational only.

Monthly Report of Fines and Costs Assessed and Paid
 Division of Funeral, Cemetery and Consumer Services
 Date of Board meeting: September 1, 2022
 Date report was prepared: August 24, 2022

Licensee	Board Meeting	Case No.	Total Fine	Date Due	Paid in Full?	Comments
Tri-County Funeral Services, Inc.	Jul-22	242577-19-FC & 282687-21-FC	\$500	9/19/2022		
Sendy Poulard	Jul-22	242583-19-FC & 282688-21-FC	\$1,500	9/19/2022		
Holloway Funeral Home, LLC	Jul-22	287724-21-FC	\$3,000	9/19/2022		
Frank T. Winninger	Jul-22	283323-21-FC	\$1,500	8/28/2022	Paid in Full	
Abundant Favor Mortuary	Jul-22	283321-21	\$1,500	9/28/2022		
Gallaher American Family Funeral Home	Jun-22	278188-21-FC	\$250	8/15/2022		
McRae Funeral Services LLC	April 7, 2022	285315-21-FC	\$1,750	May 16, 2022	Paid in Full	
Vinson Funeral Home	March 3, 2022	283110-21-FC	\$250	May 9, 2022		Sent to OGC for administrative action
Jeffrey Lee Tillman	March 3, 2022	275817-21-FC	\$4,000	August 2, 2022	Paid In Full	Sent to OGC for administrative action
Paradise Funeral Chapel LLC	2/3/2022	App for Licensure	\$1,500	March 25, 2022		Sent to OGC for administrative action
Marie Decker	May-21	243582-19-FC	\$2,250	11/22/2021		Sent to OGC for administrative action

ES 8-24-2022

Ms. Simon – Madam Chair?

Chair Peeples – Thank you, Ms. Simon. I appreciate that.

U. Chair's Report (Verbal)

Chair Peeples – Coming into the Chair's Report, I have been in the seat and still learning from Mr. Brandenburg, who is my director, to make sure that I follow his great leadership. I've been in this position for a month. I'm very humble, very appreciative, and I just want to say thank you for everybody that's a part of this group: The Division, the staff, the Board Members, Ms. Munson, Mr. Bossart, Mr. Griffin. It's a great working relationship and I'm thankful to be a part and thankful for each of you. So, that's a very short and sweet Chairperson's Report. So, we'll go on now to the next agenda item, Office of Attorney General's Report.

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

Ms. Munson – Thank you, Madam Chair. The information regarding the Rules Report is for informational purposes only. The Annual Regulatory Plan was finalized on August 4, 2022. Thank you, ma'am.

**BOARD OF FUNERAL, CEMETERY, AND CONSUMER SERVICES RULES REPORT
 SEPTEMBER 2022**

Rule Number	Rule Title	Date Rule Language Approved by Board	Date Sent to OFARR	Rule Development Published	Notice Published	Adopted	Effective
69K-5.007	Conversion Procedures	08/04/2022	08/19/2022				
69K-12.011	Annual Inspection Fees for Monument Builders	09/02/2021	10/19/2021 03/04/2022	10/29//2021	11/17/2021 12/21/21 – JAPC Letter 01/10/22 – JAPC Response 01/11/22 – JAPC Letter 01/11/22 – TOLLED 02/16/22 – Notice of Correction 03/15/2022 – Notice of Change 04/04/2022 - JAPC Response	04/15/2022	05/05/2022

Chair Peeples – Thank you, Ms. Munson

W. Public Comments (Verbal)

Chair Peeples – Is there anyone on the call that has any public comments that they would like to make? Hearing none.

- X. Upcoming Meeting(s)**
 (1) *October 6th (Videoconference)*
 (2) *November 3rd (Orlando)*
 (3) *December 1st (Videoconference)*

Y. Adjournment

Chair Peeples – If there are no other items for the Board today, we will be adjourned at 1:39 on Thursday. Thank you very much and have a great holiday weekend.

The meeting was adjourned at 1:39.