

MINUTES
BOARD OF FUNERAL, CEMETERY AND CONSUMER SERVICES
VIDEOCONFERENCE MEETING
JULY 12, 2022 - 10:00 A.M.

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

Mr. Jody Brandenburg, Chair – Good morning, everyone. Welcome to the Board of Funeral, Cemetery, and Consumer Services' Videoconference meeting. It's July 12, 2022. Ms. Simon would you be kind enough to make your preliminary remarks and do the roll call?

Ms. Ellen Simon – Yes, sir. Good morning. My name is Ellen Simon. I am the Assistant Director for the Division of Funeral, Cemetery, and Consumer Services. Today is July 12, 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. The 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, Mr. Brandenburg, 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 in 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 T 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 made 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:

Joseph "Jody" Brandenburg, Chair
Andrew Clark
Sanjena Clay
Vincent "Todd" Ferreira
Christian "Chris" Jensen

Kenneth "Ken" Jones
Janis Liotta
Jay Lyons (**EXCUSED**)
Jill Peeples
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
Crystal Grant, Department Staff
LaShonda Morris, Department Staff

Ms. Simon – As Rabbi Lyons was previously excused from today's meeting, there is a quorum present to conduct the business of the Board, Mr. Chairman.

Chair Brandenburg – Thank you.

B. Action on Minutes

(1) June 21, 2022

Chair Brandenburg – Action on the minutes of the June 21, 2022 meeting?

MOTION: Ms. Sanjena Clay moved to adopt the minutes of the meeting. Ms. Jill Peeples seconded the motion, which passed unanimously.

Chair Brandenburg – Ms. Simon?

Ms. Simon – Thank you, sir.

C. Old Business

(1) Contract(s) or Other Related Form(s)

(a) Informational Item

1. Physicians Life Insurance Company (Omaha, NE)

- **Preneed Sales Agreement**

Ms. Simon – This is an informational item for Physicians Life Insurance Company. The item was on the June Board meeting and the matter was tabled until July. However, no new submissions have been made incorporating the Board's concern, and this item will be placed back on the agenda once finalized.

(b) Recommendation for Approval with Conditions

1. Physicians Mutual Innovations, LLC (Omaha, NE)

- **Preneed Sales and Trust Agreement**

Ms. Simon – This matter has been withdrawn and is expected to be back at the August meeting.

(2) Preneed License Renewal(s)

(a) Recommended for Approval without Conditions

1. Samuel's Funeral Home Inc (F074729) (Miami)

Ms. Simon – Mr. Chairman, if I could have one moment?

Chair Brandenburg – Please take your time.

Ms. Simon – This application for renewal of a preneed license was presented at the June 21, 2022, Board meeting for approval without conditions but was removed as they did not meet the net worth requirement for renewal. As of June 30, 2022, the licensee provided to the Division with revised financial statements that indicates that the licensee meets the net worth requirement for renewal. As result, the Division finds that this licensee has met all requirements for renewal and recommends approval without conditions.

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

(3) Request(s) for Hearing
(a) Millennium Funeral Home and Crematory, LLC

Ms. Simon – Petitioner’s collective applications for licensure were deliberated by the Board on November 21, 2021. The Board denied the applications and a Notice of Intent to Deny Collective Application was filed on or about April 1, 2022. On or about April 21, 2022, the Division received Applicant's Request for Hearing. Enclosed within the Board package are the Applicant's original applications, the Request for Hearing filed April 21, 2022, the April 1, 2022 Board Order, the November 2021 Board minutes regarding the original application submission, the applicant's applications deliberated during the November 2021 meeting, and the June 2020 Board meeting minutes regarding the applications submitted by Strunk Funeral Homes and Crematory, Inc. I'd like to reflect another change as to your Board package. On page 29 of the Board package, again, that should be November 2021, and not November 2022. The Division recommends that the Board affirms the April 1, 2022 Order and to permit the Motion to Intervene filed by Strunk Funeral Homes & Crematory Inc. and Vero Beach Crematory, located on Item C (3) (b) of your Board package.

Chair Brandenburg – Thank you. Discussion?

Ms. Wendy Wiener – Mr. Chairman, this is Wendy Wiener. I represent the petitioner in this matter. This matter is before the Board for a hearing, so I believe it would be appropriate for me to address the Board at this point if you would allow.

Chair Brandenburg – Ms. Wiener, go right ahead.

Ms. Wiener – Thank you, sir. Good morning Board. As I said, I represent the Petitioner in this matter. Let me first begin by simply placing an objection on the record to a recommendation from the Division regarding this matter. This is a hearing before the Board and a recommendation from the Division. I believe is inappropriate a misplaced. Notwithstanding let me turn to the substance of this matter. This case turns on one single simple fact. Unlicensed businesses operate at the locations identified on the applications that are before you for hearing this morning. This is a matter that has been taken up, as Ms. Simon said, in July of 2020, and then again, in November of 2022. And the fact is, there were never applications approved for operations at these locations by these operators. The Board is well aware that when a change of ownership occurs, whether that is a change of ownership of stock of the corporate entity, or a change of ownership of assets relating to a licensee, that that change of ownership has to be approved by the Board. You have an application per se, there is an application process. You have, in fact, approved such applications at nearly every meeting, since the very first meeting of this Board in November of 1993, at which I was present. Without the signature of the seller, an application for change of ownership is incomplete. Mr. Glen Strunk, who owned 100% of the corporate stock for these operations, died in February of 2020. After his death, a dispute arose regarding who would become owner of everything that he had to leave. Because of the dispute, there has yet to be any person appointed to sign on behalf of the estate. The estate would be the seller of the stock, or of the asset. That is what this entire case is about.

The hundreds of pages submitted by the Strunk group are nothing but subterfuge. This case is about one issue and one issue only. And that is that in July of 2020, the Board indeed had change of ownership applications on the agenda for the people that run these businesses to become approved to operate the businesses under the corporate entity. Those applications, however, were withdrawn. They were not tabled, as set forth in the submissions by the Strunk group. Absolutely not. They were withdrawn. Former Vice Chairman, Keenan Knopke, actually moved to deny the applications for failure of a signature from the seller, on the applications, and Mr. Hall, intending to second that, kindly offered the applicants the opportunity to

withdraw the applications. The matter then was tabled momentarily, literally about ten (10) minutes, and then toward the end of the meeting, Ms. Bond Edwards, attorney for the Strunk group, came back, and in fact, withdrew all of the pending applications, including the application for training agency. No applications have ever been submitted for the people that operate those businesses to operate those businesses. Those people are literally strangers to this Board. But for the fact that this is Mr. Glen Strunk's children, these people could literally be anyone. And they came to this Board with an application for change of control. The application was insufficient, it was not complete, and it was, therefore, withdrawn. And I'm saying it as though it is a singular application with multiple applications. Wholesale misrepresentation in the Strunk filings that this matter was tabled. It was not tabled. These applications were withdrawn.

The Strunk filing represents on Page 8 of 261 that following the July 2020 meeting, it was agreed to table the resolution of the applications until a resolution of the probate court. In the interim, Strunk Funeral Homes, a licensed funeral home establishment, was allowed to continue to operate at the business. Well, that second part is true, but it is completely illegal for those businesses to be operating at those locations because there has never been an application approved by this Board for those operations. Never, not once. And that's what this entire case is about. The hundreds and hundreds of pages about who owns the real property is really immaterial to the business operations. This could be anybody's real property. It really doesn't matter. The point of the matter is that changes of ownership require Board approval. This change of ownership was not approved. There may be an argument, and in fact, in your Board materials, you'll see an assertion by Ms. Simon that because the corporate entity didn't change that a change of ownership was not required. Well, that is absolutely patently false. Has never been the position of this Board. You review and approve or deny dozens of applications each year, maybe even hundreds, where the stock ownership of at least 50% of a corporate entity has changed. Glen Strunk owns 100% of the stock. The assertion now is that 100% of the stock is owned by Mary Kopchak and others in the Strunk group. I submit to you that that is in fact, a change of ownership of more than 50% of the stock in the entity. And, therefore, there is no capacity for this Board to simply ignore its obligation to terminate these unlawful operations, which gives way to the approval of the applications submitted by Petitioner/applicant, Millennium, to operate in these businesses. And I will pause there and take any questions that I would assume will go on for some period. Thank you.

Chair Brandenburg – Thank you, Ms. Wiener. Board members, any questions?

Mr. Williams – Mr. Chair?

Chair Brandenburg – Mr. Williams, go right ahead.

Mr. Williams – I have a question. Thank you. Ms. Simon, could you clarify Ms. Wiener's earlier statement indicating that the Division doesn't have a position to make recommendation? I thought that was the process that the Division does make recommendations to the Board for us to decide, not saying we're going to agree or disagree. So, I just want to get some clarity on that, as well as a follow-up question also, Mr. Chair, if I'm allowed. I see Ms. Munson has her hand up.

Chair Brandenburg – Yes?

Ms. Rachelle Munson – If I may? Regarding any type of request for hearing or informal hearing, there's usually not a recommendation made. When you see the Department making a recommendation, it's usually when an application comes before you regarding review. This is the step beyond that, so this is an opportunity for the particular parties to present their information, and the Board will make an independent decision, despite what the previous Notice of Intent may have indicated. So, it's a little bit different. It's a nuance, but Ms. Wiener's statements, actually, for the record, were correct with regard to the recommendation portion of that statement.

Mr. Williams – Got it. Also, Mr. Chair, can I do I follow-up?

Chair Brandenburg – Please do.

Mr. Williams – So, Ms. Wiener, Ms. Simon, or Ms. Munson, is this case currently in litigation, in court? Are you asking us to make a decision or render a decision before the courts have made their decision? Because, wouldn't that be backwards? Can you help me out with that?

Ms. Wiener – Mr. Williams...

Ms. Simon – Mr. Chairman, If I may respond?

Chair Brandenburg – Ms. Wiener, go right ahead.

Ms. Wiener – Thank you, Mr. Chairman. Actually, Mr. Williams, this matter, is in so much litigation, and that is exactly why this Board must take its responsibility and terminate these operations. Because the matter is in litigation, there is no capacity for the seller to sign the applications. Until we know who actually owns the seller, you can't get a completed application. You cannot receive one. However, without having received a completed application, and then those incomplete applications were withdrawn, the Division has allowed those operations to not only continue, but to renew licenses time and time again, since 2020. And my entire argument at this juncture is that those operations have never been approved and they cannot be allowed to continue. Once the litigation is finished, if in fact, it turns out that Ms. Kopchak and her crew are the lawful owners of the stock of the company then she'll be able to have someone sign the application, on behalf of the estate, and she'll be able to come to this Board and make an application and that application, I assume, will certainly be approved finally. In this case, at this time, since July of 2020, this Division has taken no action. It's been asked to take some action by Board members at the conclusion of the July 2020 Board meeting. The Board asked, please look into this Division. What do we do now? There is no application. Again, when we brought this particular matter to the Board in November of 2021, Board members, again, asked the Division to please look into this, take some action, but it has been the Division's position that because the corporation's ownership is not settled that somehow Mr. Glen Strunk's ownership continues on and on and on. Yet, Mr. Glenn Strunk, who was in 100% control of the business, has been dead since February 20, 2020. He's not in control. The people in control have never been vetted by or approved by you to operate those businesses. That's the entire point. The whole thing about real estate, where it is, and who owns what, and all the litigation, that is just what we call in the law, a Red Herring. That's so that you will look away front of the issue at hand which is that you cannot get an application. You don't have one. You've never approved one.

Chair Brandenburg – Ms. Wiener, what do you recommend the Board do?

Ms. Wiener – I recommend that the Board vote to terminate the unlawful operations and they're only unlawful. I'm not alleging that they're doing things bad for the funeral buying public. I'm not making that assertion that all. My assertion is that the activities at the locations are unlawful because they've never been properly applied for an approved by the Board. That this Board vote to terminate those operations and then approve the Millennium applications, because the reason for the denial of the Millennium applications is because there are other licensees operating in that space, and there cannot be co-location. Well, my point is there are no other licensees operating in those locations. There are businesses operating there, but they are operating there without the approval of this Board.

Ms. Simon – Mr. Chairman?

Chair Brandenburg – Ms. Simon?

Ms. Simon – If I may, I just wanted to make a point that there is a Motion to Intervene that's been filed by Ms. Bond Edwards, and I believe that Ms. Wiener stated that. And before the Board makes any determinations regarding the hearing, we would request that the Board make a determination regarding the Motion to Intervene. You may want to hear from Ms. Bond Edwards on that.

Ms. Wiener – I would simply object to that because that is an item separate and apart from this item and this hearing.

Chair Brandenburg – Thank you.

Ms. Munson – If I may, Chair? The Motion to Intervene is on the agenda as a separate item but is actually materially connected to the discussion and I believe that was the purpose. It would be proper for at least the representative of that particular Motion to identify the purpose, and the Board can make a determination, if it feels that it is inadequate, but a ruling for the Motion to Intervene after a decision on the merits of this case without identifying or hearing the Motion to Intervene, would be a greater issue.

Chair Brandenburg – The issue before the Board is C. (3) (a), at this time.

Ms. Munson – That's the way the agenda was printed, C. (3) (a). Technically, it could just as easily have been printed together and C. (3) (a) could have read Millennium Funeral Home and Crematory, under the Request for Hearing and Motion to Intervene. There are two (2) separate actions, but they're the same issue regarding this case. Materially it is substantively connected.

MOTION: Chair Brandenburg moved to not affirm the April 1, 2022 Order. Mr. Chris Jensen seconded the motion, which passed with two (2) dissenting votes.

Ms. Wiener – Thank you, Board.

Chair Brandenburg – Ms. Simon?

(b) Motion to Intervene filed by Strunk Funeral Homes & Crematory, Inc. and Vero Beach Crematory

Ms. Simon – Mr. Chairman, at this point, it would be appropriate for the Board to take up the Motion to Intervene filed by Strunk Funeral Homes & Crematory Inc. and Vero Beach Crematory, listed as Item Number C. (3) (b) on your agendas.

Chair Brandenburg – Go right ahead.

Ms. Simon – At this point, I think it would be appropriate for the Petitioner to speak to the Board.

Chair Brandenburg – Is there a Representative of the Petitioner?

Ms. Linda Bond Edwards – Yes, sir. My name is Linda Bond Edwards, and I am here on behalf of Strunk Funeral Home & Crematory.

Chair Brandenburg – Do you wish to address the Board?

Ms. Bond Edwards – Yes, sir, I do. And I raised my hand to speak during the discussion with the prior action but was not recognized. And so, I will also advise you, Mr. Chair, that Strunk Funeral Home does have a court reporter present to record these proceedings as well. And with regard to the Motion to Intervene, Strunk Funeral Homes is intricately connected to this matter as was discussed by Ms. Wiener. And as you will see, in the Motion to Intervene, Strunk Funeral Homes did oppose and agreed that the licenses should be denied. Actions by this Board, as has already been taken, directly impact business and interest of Strunk Funeral Homes. The prior action indicated that Strunk Funeral Homes was illegally operating, such is not the case. Strunk Funeral Homes is currently operating under licenses granted by this Board. There has not been a tapper process provided to Strunk Funeral Homes to take any action against that license. While I appreciate Ms. Wiener's argument that her application did that, such is not the case. When she expressed her concern with the statement that Strunk Funeral Homes mention of the prior or the pending litigation was a red herring, Mr. Chair, the filing of a license application by Mr. Yong and Millennium is nothing more than a red herring to try to undermine all of the pending litigation occurring between the former Dorothy Strunk, and God rest her soul, and Mr. Glen Strunk. The reason why this Board has continued to allow, I believe, has continued to allow Strunk Funeral Home to continue to operate as it passes, because there's been no reason for it to change. They have provided service to the public, and the actions of this Board to allow another funeral home, or to consider another funeral home to operate at this at this location, is in direct violation of current law. The statues currently prohibit two (2) licensed funeral homes to operate at the same location. As we sit here today, Strunk Funeral Homes is a licensed funeral establishment that is currently operating at the address where Mr. Young and Millennium Funeral Home is seeking a license to operate. Until such time as this Board properly withdraws the application, Strunk Funeral Home has the right to remain operating there under licenses granted by this Board. And so, Mr. Chair, this Motion to Intervene has been filed so that Strunk Funeral Home becomes a stated party in this action to protect its rights. This Board has recognized Strunk's interest already in the pleadings that have been filed and in all of the discussion.

Case law provides a two-step test regarding intervening. First, you must decide whether we're seeking to intervene has asserted a proper interest to support intervention. Every time this issue of Millennium comes before this Board, Strunk's

interests are implicated. So, we believe that we follow the first step. Secondly, you must determine if there will be any action or any harm that would be caused by the intervention, and whether or not the interests are inextricably intertwined with the Petitioner, in this case Millennium's interest, and they are. Mr. Chair. again, our interest or the interests of Strunk Funeral Homes are intricately intertwined in these discussions by the Board. In our Motion to Intervene, we outlined the litigation that is ongoing between these two (2) parties. Unfortunately, as was mentioned in our filings, Ms. Dorothy Strunk has passed away. It's also mentioned in our Motion to Intervene that Ms. Mary Kopchak has gone through the process and has completed the licensing requirements to become a licensed funeral director. And so, Ms. Wiener's accusation that these people are foreign is absolutely not true. Ms. Kopchak is a licensed funeral director. Despite the pandemic, she has gone through the education and the training, and all the requirements to become a licensed funeral director. And so, Mr. Chairman, for the reasons stated, and for the information provided in our Motion, Strunk Funeral Homes asked this Board to grant the Motion to Intervene in this process. Thank you, sir.

Chair Brandenburg – Thank you.

Ms. Wiener – Mr. Chairman?

Chair Brandenburg – Just a moment, Ms. Wiener. Ms. Edwards, if I may, how do you reconcile your Motion with the withdrawal of the change of ownership application?

Ms. Bond Edwards – Chair Brandenburg, it was the Board's decision to grant Strunk Funeral Homes a license that is valid through November 2022. However, the Board made those decisions. It was not left up to Strunk Funeral Homes. Aside from whatever actions Strunk took to withdraw that application, the Board still decided to grant that license renewal. That's out of the hands of Strunk Funeral Homes. Mr. Strunk's children submitted the application for change of ownership, based on their firm belief that they had a valid will that transferred the ownership to them. Based on the challenge that was raised, and that has been raised in the court, they could no longer, and the Board struggled with that issue, as they should, because the decision with regard to whether or not that will is valid, that transferred the ownership to them, is not a decision that this Board can or should make. That is a decision that resides in the courts of Indian River County, and that matter is in litigation. Whatever decision, or how the decision the Board made to continue that license, it still remains valid. And this process that M. Wiener is trying to get to, to have Mr. Young operate a funeral establishment at that same address is outside of any due process, regulations, or requirements that stand.

Chair Brandenburg – Thank you, Ms. Edwards. Ms. Wiener?

Ms. Wiener – Thank you, Mr. Chairman. I would just remind this Board of what happened in the past. When Strunk died, ownership changed, as it had to, because he died. No application is before this Board. An application to become a funeral director {inaudible} entitle a funeral director to be an owner. They have to go through a separate application. So, as far as a change of ownership re-licensure process, Ms. Kopchak is a stranger to this Board. The assertions made by Ms. Bond Edwards, about the litigation and the probate and how it's all unsettled are 100% true. I agree with her wholeheartedly. This matter is unsettled. Who owns that stock is unsettled. That's why you cannot allow the people operating under that corporation to continue operating under that corporation. Ms. Bond Edwards' argument seems to be that that Board has continued to renew. I would posit to you that this issue has not come before the Board. If the Board has continued to renew, it is administratively through the renewal process that occurs at the Division, and that comes to this Board by informational item. The only way that this has come back to this Board, since July of 2020, when the Board members asked the Division to look into how these people could continue to operate a licensee when they had not been through our re licensure process, was through the application for Millennium to operate there validly. Then the decision was that it could not do so, because there would be co-location of licensees, and that made the issue of the validity of the Strunk licenses directly relevant to you, directly relevant to this Board, because the operations at those businesses are not valid licensees. And so, allowing the Strunk business applications to be approved would not result in co-location. You simply must take action to terminate those unlawful operations until such time as the probate and the other courts of Indian River County have sorted this matter out to the satisfaction of the Courts of Competent Jurisdiction, and then someone will bring you an application for the change of ownership of Glen Strunk's corporation. And until then, you don't have one, and you can't have one. Thank you.

Mr. Williams – Mr. Chair?

Chair Brandenburg – Mr. Williams?

Mr. Williams – Thank you. I have a question for you, Mr. Chair. According to {inaudible} Order, the members on the prevailing side of the vote that just took place can recall the motion, and I would like to know if I can recall that motion, so that we can reaffirm the Board's decision from the April meeting, until this is worked out in the courts?

Chair Brandenburg – Ms. Munson?

Ms. Munson – I don't know if the language was used. Mr. Williams, are you asking the Board to rescind that vote that took place regarding Ms. Wiener's requests for a hearing, and the outcome of the merits of that? Are you asking that that vote be rescinded?

Mr. Williams – Yes, ma'am. And the reason for my request, Mr. Chair, is because the attorney wasn't able to share information on the previous, which both them are tied together. So, I think if we would have had that information in the earlier case, we probably would have been able to get a full scope. So, we're voting on the same thing in two (2) different ways. I'm not sure if I'm making a system, Mr. Chair, with that request.

Ms. Munson – If I can just respond? The Board definitely has the ability to rescind the vote, and based on the quite unique nature of these circumstances, and I was trying to explain that at the outset of this, because the information is so intricately tied in the Motion to Intervene {inaudible}. It would not be inappropriate to do so.

Chair Brandenburg – Ms. Simon?

Ms. Simon – I would just like to state that Mr. Griffin has been trying to get your attention to speak on behalf of the Department.

Chair Brandenburg – I'm sorry I didn't recognize Mr. Griffin. Would you go right ahead?

Mr. Marshawn Griffin – Yes, sir. I just wanted to explain the Department's decision, rationale, and {inaudible} as it relates to Strunk. It has been the Department's position that, pursuant to Rule 69K-1.005(13)(b), F.A.C., that is a very plain language of the rule that a change of ownership has not occurred as it relates to Strunk. If you review the rule, what it states is, is that a change of ownership occurs when an entity acquires a greater than 50% interest that did not prior have a 50% or greater than 50% interest in the entity. If you review the application that was presented by Strunk, the ownership interests were split up three (3) ways. It was 30%, 40%, and 30%. And this is addressed, because Millennium has filed a Motion for a Petition of Writ of Mandamus in circuit court to litigate this issue, and we addressed it in that Motion. So, just to understand why the Department never took any action it's the Department's position that because a greater than 50% ownership interests was not conveyed amongst those three (3) people that no change of ownership was ever required.

Chair Brandenburg – Thank you.

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

Chair Brandenburg – Ms. Wiener, go right ahead.

Ms. Wiener – Thank you. That argument is ludicrous because Mr. Strunk owned 100%. It didn't matter if the ownership changed before he died, or after he died, or in what little bits of increments. You can't get around the requirement to make known to the Division, and to the Board, and for approval, who's operating a licensee. You can't sell the business off 5% here, 5% here, 5% here, or 5% here, ultimately to not own any of it, and not ever have those persons come to this Board for approval. That is absolutely, never been the case. It's not the case here. Mr. Strunk owned 100%. Mr. Strunk, theoretically, owns none because he's dead. His estate may own it, but his estate can't get rid of it because no one can sign for the estate. That's the entire point, whether it's a change of corporate ownership or a change of assets. Getting rid of it bit by bit by bit simply doesn't bring the people running the operations to this Board for approval. And that is the point of this Board's capacity to approve change of ownership. Else, walk away from the entire requirement whatsoever.

Chair Brandenburg – Thank you. Mr. Griffin?

Mr. Griffin – Yes, just a brief response. I'd like to point out that the rule is very clear despite what Ms. Wiener is attesting. I just want to read it out loud for everyone, and I'm reading from 69K-1.005(13)(b). *“For the purposes of the above identified license categories, a change of ownership occurs whenever a person or entity acquires an ownership interest of greater than 50% in the licensee or in a legal entity that directly or through subsidiaries owns the licensee, which person or entity did not previously have such an ownership interest of greater than 50%.”* So, contrary to what Ms. Wiener says, it is completely possible to sell off your business piecemeal. I own 100% of [inaudible], and I sell it off to eight (8) people at 10% a piece, I don't have to tell you about that. And that's under the current rules, as written. We are creatures of statute, and we're creatures of rules. So, I would just like to point out that that is what Florida Administrative Code says on this issue.

Chair Brandenburg – Thank you, Mr. Griffin.

Ms. Peebles – Mr. Chair?

Chair Brandenburg – Go right ahead.

Ms. Peebles – Mr. Williams had made a comment of possibly recalling the previous motion. And in reviewing the Board material prior to this meeting, these are two (2) collective items brought together, because they affect each other. So, through Ms. Munson, would we need to consider the possible recall motion before we consider anything on this current case?

Chair Brandenburg – Ms. Munson, you're muted.

Ms. Munson – I apologize. We definitely would need to consider the motion to rescind the previous vote as well as the Petitioner's Motion to Intervene. It needs to be a ruling on both of them.

Ms. Peebles – Mr. Chair, if I may? I would like to, on this current case of C. (3) (b), I would like to make a motion to approve the request for intervention. On page 107 of this particular Board packet, it states that there is a trial date of October 18, 2022. And as Ms. Wiener has stated, we really don't know who is in charge of what, and I think we need to let the civil probate situation come through. Because Strunk Funeral Homes is currently a licensed funeral home through November of 2022. So, if there is anything regarding unlicensed activity or after that date that maybe we can bring that before the Board, or someone can get some information together.

MOTION: Ms. Peebles moved to approve the Motion to Intervene. Mr. Williams seconded the motion.

Chair Brandenburg – And all those in favor, aye?

Board members – Aye.

Chair Brandenburg – And any opposed?

Board members – Aye.

Chair Brandenburg – I didn't get the voice vote. Ms. Simon?

Ms. Simon – May I poll the Board members, Mr. Chairman?

Chair Brandenburg – Please.

Ms. Simon – Ok, on the motion to approve the Motion to Intervene, please respond yay or nay. Ms. Peebles?

Ms. Peebles – Yes.

Ms. Simon – Mr. Ferreira?

Mr. Todd Ferreira – Nay.

Ms. Simon – Mr. Clark?

Mr. Andrew Clark – Nay

Ms. Simon – Ms. Clay?

Ms. Clay – Yay.

Ms. Simon – Ms. Liotta?

Ms. Janis Liotta – Yay.

Ms. Simon – Mr. Jensen?

Mr. Jensen – Nay.

Ms. Simon – Mr. Jones?

Mr. Jones – Nay.

Ms. Simon – Mr. Williams?

Mr. Williams – Yes.

Ms. Simon – Mr. Brandenburg?

Chair Brandenburg – Nay.

Ms. Simon – If I may have just one moment? And the nays have that.

Chair Brandenburg – Thank you.

Mr. Williams – Mr. Chair?

Chair Brandenburg – Mr. Williams?

Mr. Williams – At this time, would it be appropriate for me to make a motion to recall the previous case back to the Board for reconsideration?

Chair Brandenburg – Is that proper Ms. Munson?

Ms. Munson – It would be proper. And I actually would like to clarify for the record, the reason for the denial of the motion. I indicated before that, when you deny any type of motion a reason is always helpful in case that information, that vote is also litigated.

(3) Request(s) for Hearing
(a) Millennium Funeral Home and Crematory, LLC

Chair Brandenburg – Mr. Williams has a motion to recall the vote. Mr. Williams?

Mr. Williams – Yes, sir.

MOTION: Mr. Williams moved to recall item C. (3) (a). Ms. Peeples seconded the motion.

Mr. Jones – Mr. Chair, may I ask question?

Chair Brandenburg – Go right ahead.

Mr. Jones – Could I get clarification on what this motion intent is and what it will do, please?

Chair Brandenburg – Yes. Mr. Williams?

Mr. Williams – Yes, sir. Mr. Jones, my intent was to basically allow the courts to work this out. I believe this vote would allow that action to take place and let the courts do what they need to do. And then it can come back whenever it needs to come back, because I think both cases are tied together. I don't think we can vote one up and the other down, in these cases.

Mr. Jones – Thank you.

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

Chair Brandenburg – Just a moment, please. Go right ahead, Ms. Wiener.

Ms. Wiener – Thank you, Mr. Chair. Because the Board has voted to deny the Motion to Intervene, I don't believe that anything that you have heard during the discussion of the Motion to Intervene can have a bearing procedurally on the vote that was taken on the initial item C. (3) (a). And as much, I believe that while the Board can certainly vote to take the item back up again and continue discussion, regarding any of the argument made by Ms. Bond Edwards should be disregarded.

Ms. Munson – Chair Brandenburg?

Chair Brandenburg – Ms. Munson?

Ms. Munson – I would also like to remind the Board that the Department is represented by Mr. Griffin for a presentation of this information. Also, it is under consideration. So, the motion to rescind the previous vote will allow the Board to include information presented by the Department as well that was not presented at the time the vote was taken.

Chair Brandenburg – We have a motion to recall the vote and it's been seconded. And all those in favor, aye?

Board members – Aye.

Chair Brandenburg – Any opposed?

Board members – Aye.

Chair Brandenburg – Can we have a roll call vote?

Ms. Simon – Yes, sir. As to the motion to recall the Request for Hearing filed by Millennium Funeral Home & Crematory LLC, please respond by yay or nay. Mr. Ferrara?

Mr. Ferreira – Nay.

Ms. Simon – Mr. Clark?

Mr. Clark – Nay.

Ms. Simon – Ms. Clay?

Ms. Clay – Yay.

Ms. Simon – Ms. Liotta?

Ms. Liotta – Yay.

Ms. Simon – Mr. Jensen?

Mr. Jensen – Nay.

Ms. Simon – Mr. Jones?

Mr. Jones – Yay.

Ms. Simon – Mr. Williams?

Mr. Williams – Yes.

Ms. Simon – Mr. Brandenburg?

Chair Brandenburg – Nay.

Ms. Peebles – I didn't get to vote.

Ms. Simon – I apologize for that. Ms. Peebles?

Ms. Peebles – That's ok. Yay.

Ms. Simon – And the yeas have that.

Chair Brandenburg – All right.

Ms. Simon – So, that motion passes.

Chair Brandenburg – All right. Go back to the item again, (3) (a).

Ms. Wiener – Mr. Chairman, may I address the Board again, since this is, again, back on my Motion for Hearing?

Ms. Simon – Mr. Chairman, if I may, before Ms. Wiener speaks? I'm not sure if every person is on the screen, so I just wanted to bring to your attention that Ms. Bond Edwards has been raising her hand, too, to be recognized.

Chair Brandenburg – Who has?

Ms. Simon – Ms. Bond Edwards, sir.

Chair Brandenburg – Ok. Ms. Edwards?

Ms. Edwards – Thank you, Mr. Brandenburg. I believe Ms. Munson raised a point of order with you with regard to the reason or providing a reason for why the Motion to Intervene was denied, and I don't want that to be passed by before we move forward with the meeting. I certainly understand and appreciate the authority to bring things and to control the agenda, but I wanted to bring it to your attention so that we did not move away from that, but we did not address the issue before the end of this discussion in the meeting.

Chair Brandenburg – Thank you. Ms. Wiener?

Ms. Wiener – Thank you. I would simply make an objection on the record to any substantive argument made by Ms. Bond Edwards as to this matter, given that their Motion to Intervene was denied. But I appreciate her comments on the procedural perspective there. Comes back around to this issue, and I would invite an answer from the Division. Has the Board approved any person in the Strunk group to own and operate a funeral establishment? Because the answer will be no. In as much, the operation by those persons, at those premises, are without the authority of Board approval. Notwithstanding the procedural mishaps that have resulted in their licenses getting approved and reapproved for renewal, the fact of the matter is a change of ownership application is required, if as Mr. {inaudible} said earlier, it can be death by a thousand cuts to change ownership of your licensees. If that is the position of this Board, it is a brand new one on me and my thirty (30) years of practice before this Board. Ownership changes get approved so that the Board can be aware who is owning and operating a licensee. Therefore, because this Board has not approved the three (3) Kopchak owners, the three (3) Strunk owners, Ms. Kopchak and her other siblings, to operate those funeral establishments, this Board should take action to terminate that unlawful activity until this matter comes through the court system. And then somebody, and maybe it's Ms. Strunk's estate, maybe it is Ms. Kopchak and her siblings, but someone then will know who owns the licensee. Until then, you can't just allow a licensee to go on and on and on in perpetuity owned by its deceased owner.

Ms. Simon – Mr. Chairman?

Chair Brandenburg – Ms. Simon?

Ms. Simon – Yes, sir. It is the position of the Division that this entity, at the address that Millennium is applying for, the current licensee is Strunk Funeral Homes and Crematory, and they are the licensee. As a result, the Division's position is that Millennium Funeral Home and Crematory's application for licensure must be denied, because there is already an existing funeral home at that location.

Ms. Wiener – But how?

Ms. Peeples – Mr. Chair?

Chair Brandenburg – Ms. Peeples?

Ms. Peeples – Thank you, sir. To Ms. Simon, at the office, at the Division. As I stated earlier, Strunk Funeral Home is currently licensed as a funeral establishment through November 2022. Is that not correct?

Ms. Simon – It is, Ms. Peeples.

Ms. Peeples – Thank you. So, the comments that are being made is: there is a current funeral home establishment, that is licensed. That license comes up for renewal in November. This may come before us, prior to the license possibly being renewed or not being valid after November 2022. So, I would suggest to the Board members that we have a large, civil, probate litigation going on that we need to consider. But, as Ms. Simon stated, we already have an existing firm operating and we can't approve another firm to operate when one is already operating. Thank you.

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

Chair Brandenburg – Ms. Wiener?

Ms. Wiener – Ms. Peeples, there is not a licensee operating there. Pursuant to the rule of the Division, a change of ownership has to be addressed within ten (10) days of the change of ownership. In fact, the Strunk crew submitted a change of ownership applications right after Mr. Strunk died, as they were required to do. But those applications were incomplete because there's no one to sign for the estate. So, when that happens, after the time period elapses for the change of ownership application to be submitted and either approved or denied, at that point, when there's no application from that moment forward, that activity is unlicensed, despite the administrative scenario that has caused their license to continue to show up in a database. They've been unlicensed since they withdrew their applications in the July 2020 Board meeting. They withdrew them. They weren't tabled. They were withdrawn. In as much, there has not been a licensee operating at that location with the approval. There have been people operating there, no doubt, but there has not been a licensee operating there since the conclusion of

that July 2020 Board meeting. The point is that that activity is unlicensed, until such time as the Probate Court. The default for this Board cannot be you just allow strangers to go on operating a business while there's ten (10) years of litigation. The default position for this Board should be, you terminate that activity, and when the Board can see an application that's complete, and see who actually owns the business, then the Board can consider it. Because, in litigation, we all know anything can happen. What happens when it turns out that Dorothy Strunk got 100% of the stock of that business? Then this Board has been a party to literal unlawful and egregious unlawful unlicensed activity since Mr. Strunk died until the Court rules. That's why you can't just let it go, let it go, let it go. You have to stop the activity, and then when the court rules, then you know who owns it. And then somebody brings an application, gets approved, and off they go. But until then, you can't just let it go on and go on and go on because ownership is uncertain.

Chair Brandenburg – Thank you. Mr. Griffin?

Mr. Griffin – Just once again, I want to reiterate. The rules, as written in 69K-1.005, definitely contemplate a situation in which a change of ownership occurs, and the Board is never notified about it. Now, I understand that Ms. Wiener has a way that she wants things to be done, but by rule, and it's the Department's position that Strunk never needed to file an application. They withdrew an application that they did not need to file because none of the three (3) individuals got more than a 50% ownership interest. And I'd also like to address this point, which is, you know, the counsel for Millennium has pointed out if you allow the license to continue and if it comes back in favor of Dorothy Strunk, you know, you guys would be party to [inaudible]. I would point out, the likewise is the opposite is true, which is, if you do what Ms. Wiener says to do and it comes out that the people that are currently in possession are the rightful owners, once again, you're opening yourself up to some issues. So, I would just point out that the rules as written, the rules that were in place when the change of ownership occurred, did not require the Board to be notified. Now, in my time in working in front of this Board, we've done rule work. We've done work to change the rules of Rule 69K. And if you want the rule to reflect something that requires every change of ownership to go through the Board, the correct vehicle is to change the rules, not to do this ad hoc, well, I'd like things to be this way.

Chair Brandenburg – Thank you. Ms. Munson?

Ms. Munson – Again, my role here is just to advise the Boards regarding their obligations pursuant to the rules and statute. If the information presented, and I'm only dealing with the facts, if the information presented is that, and this is in follow up to one of the comments, if the information reflects that a licensed property already exists at that location, for my Order, that will be the factual information included in the Order. If the argument, made by whomever is that the license should not exist, I cannot use that argument in my Order. I need to know whether a license exists, and the Department can speak to that, or whether a license does not exist. If it exists, then the rules would require that only one property operate there. If it does not exist, then it's open. If the Department is going to suggest that or any individual will suggest that even though administratively a license exists, it should not exist, that's an argument that can be taken up in a different, separate litigation matter, but I can only work with the facts. And I just want to keep the Board members clear on our lanes, because in rendering a decision, it has to be based on factual information and whether or not those facts comport with rule and statute. That's my comment.

Chair Brandenburg – Ms. Wiener?

Ms. Wiener – It seems as though the Division is determined to allow this unlicensed activity since July of 2020, for reasons that are beyond me. The pausing of licensure by any of the Glen Strunk potential owners is the only appropriate avenue. No one should be operating under the licensure that Glen Strunk owned because the ownership of that stock is uncertain, The Division's argument is that the ownership changed 30%, 40%, 30 whatever percent to make it such that 50% never changed hands, and that's why a change of ownership didn't occur. But you don't even know that much. You don't have an application signed by the seller, because you cannot know that much. All you know is that the ownership is up in the air. And when the ownership is up in the air, no one can bring an application, no one can get approved by the Board to operate. Yet, the Division continues to allow an operation under this Glen Strunk license, on, and on, and on [inaudible]. How many mechanisms can be triggered to get this matter to the Board to actually consider this unlawful activity, when the Division itself refuses to acknowledge that it doesn't know who owns the Strunk business? It does not know. That's a matter in litigation. Nobody knows.

Ms. Munson – I just want to interject, if I may, and I apologize, Chair. The Division will have to identify that they have a licensed this in error. I have to keep the parameters straight. It is the Division, the factual information. "Is it licensed" is a separate fact. If the answer is yes, then rules and statutes apply. If the answer is no, rules and statutes apply, if the argument is it is licensed in error, I would need that information presented by the Department or the Division, so we know how to move. The Board is not in the role of identifying whether or not that license does in fact exist, it's the Department's. Whether it exists, it is the Department's authority to identify whether it exists. The discussion is whether or not it's valid is what we're into. But I just want to keep that clear. And before we close it, it is going to have to be a ruling one way or another that there's a valid license there, or there's not a valid license there and we're moving forward. I think we keep crisscrossing, Chair Brandenburg, and I need us to really stay focused on the facts that are necessary to make a ruling on this.

Ms. Mary Schwantes – Mr. Chair, may I?

Chair Brandenburg – Let me call attention to the statute, s. 497.380(12)(a): *A change in ownership of a funeral establishment, shall be promptly reported, pursuant to procedures established by the rule and shall require the re-licensure of the funeral establishment, including re-inspection and payment of applicable fees.* I think that is certainly germane to the issue.

Ms. Schwantes – Mr. Chair, may I?

Chair Brandenburg – Who's that, please?

Ms. Schwantes – Mary Schwantes. May I speak?

Chair Brandenburg – Please go right ahead.

Ms. Schwantes – Thank you, sir. It is the Division's position, as has clearly been expressed by Ms. Simon and by Mr. Griffin, that the license exists with Strunk Funeral Home. I want to assure the Board that this matter has been thoroughly researched by our Office of the General Counsel and reviewed not only by us, but by others within the Department, before any decisions were made on this matter. So, as it currently stands, the Division takes the position that there is a valid license held by Strunk at that location. Despite the fact that Ms. Wiener continues to say that it's unlicensed, I will point out and remind all Board members that all counsel has also said that this is a unique situation. It is very complicated, as you can tell, and the Division has, based on legal research and the legal opinion of the Office of General Counsel, has made good faith efforts to proceed forward, to allow the continued operation by a licensed entity at that location. And that's where we are on this at this point in time. Thank you, sir.

Chair Brandenburg – Mr. Jensen?

Mr. Jensen – Thank you, Chair. I mean, I would wholeheartedly agree with Ms. Wiener that, I mean, the gentleman passed away, so there had to be new ownership. I would like to ask, Ms. Munson, how would you word a motion at this point? You're wanting us to vote, yes there is a license, or no, there is not a legitimate license at that facility right now? Is that what I'm understanding?

Ms. Munson – Now, sir, that's not the question. The question is, the Department is identifying there is a legitimate, valid license at that location. And based on that, Ms. Wiener has presented a petition indicating that the license is invalid, I believe, and I don't want to put words, because I may be paraphrasing this, that the license is invalid and that is a question of fact, that may require separate litigation. But it is the Department's evidence is that there is a license, there is a valid license at that location. I believe that the petition was brought because the collective applications that were presented back in November were denied, and this is an opportunity for the petitioner to approach this Board again to have them approve. There would need to be a basis for approval, and that's where we stand. We're standing in the face of a valid license existing in that location, and it's only going to run for a matter of months as indicated, because November of this year, which is a couple months away, then this is going to come up again. But to pull that license, there is going to have to be some type of basis of revocation or termination, and I don't know if that is what this Board is discussing, because the factual information appears to indicate that per the Department and Division, a valid license exists.

Mr. Jensen – Now, Mr. Chair, just a quick follow-up?

Chair Brandenburg – Go ahead, please.

Mr. Jensen – Ms. Munson, I understand what you're saying, and back to what Mr. Griffin was talking about the 50%, but if Mr. Strunk owned 100%, and now three (3) new people own a certain portion that didn't quite reach 50%, is that not considered new owners? Can anybody answer that? Ms. Simon?

Chair Brandenburg – I'll call upon Ms. Jill Peebles, who's had her hand up.

Ms. Peebles – Thank you, Mr. Chair. Mr. Jensen, I'm not one that knows verbatim, and this may be sent for Mr. Griffin or Ms. Munson, but as Mr. Griffin kind of read earlier in the rule that because it's less than 50%, being a new Board member, I've read and re read the information, and I see Ms. Wiener's position as well as Ms. Bond Edwards' position. But I think is a Board, we need to stay factually, as Ms. Munson stated. And Mr. Chair, to Ms. Munson, since we're back on C. (3) (a), do we reconsider the motion to accept what the Board is suggesting, the Division Office, that we accept the April 1, 2022 comments? Is that where we are now that we need to come back, since it was rescinded? The previous motion?

Ms. Munson – No, you would need to determine whether or not you are going to grant this petitioner's request to approve those collective applications. We kind of just started that whole discussion all over again. That's all we need to do.

Ms. Peebles – Ok. Mr. Chair, from Ms. Munson's comments, I'd like to make a motion that we deny these requests until we can get some more information. We have a current licensee that's operating, so that is my motions on C. (3) (a).

Ms. Clay – Mr. Chair, I second.

Ms. Wiener – Mr. Chairman, may I address that motion, please?

Chair Brandenburg – C. (3) (a), Ms. Peebles?

Ms. Peebles – Yes, sir.

Chair Brandenburg – So, you're affirming the April 1st Order? Is that correct?

Ms. Peebles – Yes.

Chair Brandenburg – Your motion?

Ms. Peebles – Yes, sir.

Chair Brandenburg – Thank you.

Ms. Wiener – Mr. Chairman?

Chair Brandenburg – Ms. Wiener?

Ms. Wiener – Thank you, sir. I would ask this Board, the Division and Ms. Munson, who owns the stock, of Mr. Glen Strunk's business? Not a person on this call can answer that question. No one can answer that question because that is a matter being litigated in the probate court. So, you have, in violation of the Division's rule requiring a consideration of a change of ownership after ten (10) days of the change of ownership. So that would be ten (10) days from February 26, 2020. You are continuing to allow the licensee owned and operated by a decedent to continue in perpetuity until the court sorts this matter out. You do not know who owns the business. You cannot say that it was acquired 30% by one Strunk and 30% by Ms. Kopchak and 30%, because you don't know, because no one knows. No application can come before this Board, and that does not mean when you change ownership, you can't just go along and go along and go along and go along until you feel like telling the Board who is running the business. This Board has purview over who is running a business, who is operating a licensee. And this Board cannot consider a change of ownership to anyone of Mr. Strunk's operations, because you don't know who it is.

Chair Brandenburg – Thank you. Mr. Griffin?

Mr. Griffin – One brief comment to address Board Member Jensen's question. Under the hypothetical you posed, no change of ownership would need to be reported to the Department, to the Board. If it's less than 50% interest, then it does not have to be reported. And that's how you have to read the statute that Chair Brandenburg read, because it says, *procedures prescribed by rule*, and so that rule dictates the procedures that govern the change of ownership. So, think of change of ownership as a term of art, which is a phrase that we use in the law that means it's something that has like a very specific meaning when you put those words together. And so, a change of ownership does not occur if somebody does not come in and take more than a 50% interest. The additional thing is, and I guess I'd just like to ask if it's inappropriate for the Board to take action, until this ownership interest is cleared up, then I would like to ask counsel for Millennium. There's a pending Petition to Enforce Writ of Mandamus, that's directing the court to grant a license for Millennium. So, if that's, you know, if your take is, we don't know who owns this, then will that Petition for a Writ of Mandamus be recalled? Because I think it's kind of in disingenuous to argue, Board, nobody knows who owns this, don't grant Strunk's application, but by the way, I'm going to be in Circuit Court trying to say you should grant Millennium's application.

Ms. Wiener – Oh, no, no, no, Mr. Griffin. I'm sorry. You're confused about my Petition for Writ of Mandamus. The Millennium applications are not for change of ownership. They're not trying to operate a Glen Strunk business. They're trying to open brand new businesses in that premises.

Mr. Griffin – That already has a licensee in it. There's a pending ejection action that hasn't been cleared out, correct?

Ms. Wiener – Correct, but that is immaterial to the question. The question is, is the licensee operating in those premises approved by this Board? And the answer undoubtedly is no, has never been, cannot be. Until the petitions and the orders and the motions until all the dust has settled in the probate action, nobody knows who owns Glen Strunk's business. There's nothing for you to approve, but instead of doing the appropriate thing, which is to terminate that activity, the Board, through the Division, has continued to allow it and allow it and allow it.

Mr. Griffin – So, you want the Board to grant a license for a licensee that doesn't have ownership of the property at interest and can't take it until ejection action goes clear? Because the only reason to be doing this it seems like, would be to counteract the circuit court, the action that's currently pending in circuit court by having the Board make a decision then go say in the circuit court action, see, we should win here because this Board, which isn't a court of competent jurisdiction, has made a decision.

Ms. Wiener – If this Board does what's appropriate and terminates the licensure, the operations in those premises, then the circuit courts will have to continue to go through their process to get the squatters out of the buildings, and then Millennium would be able to operate. As I said during the November hearing on this matter, on these applications, the inspection won't be able to occur until Millennium is set up and ready for inspection. And I would note that the properties are owned by the individual who owns Millennium. So, once that matter goes through the court system, and the operations are out, then Millennium can come in. The primary point to this matter is that operations are occurring in a premise by people the Board has not approved, and that has been going on for more than three (3) years.

Ms. Simon – Mr. Chairman?

Chair Brandenburg – Thank you. Ms. Peeples?

Ms. Peeples – Yes, Mr. Chair? I'd like to refer to Ms. Simon if I may. As Ms. Schwantes mentioned earlier, we have a licensed entity that's currently operating with no discipline action. Is that correct?

Ms. Simon – That is correct. That is a licensed facility that is operating. And if I may, Ms. Peeples, the question that Ms. Wiener has brought up is not the question that's germane to this proceeding, as Board counsel has discussed. The decision that is germane to this proceeding is whether Strunk Funeral Homes is licensed at that location. And the answer that you have gotten from the Departments is that they are. And it's either listening to Board counsel who says that is the issue, or it's listening to Ms. Wiener who says a contrary point of view. That's what comes down to it, and I believe that there is a motion and a second on the table.

Ms. Peeples – Mr. Chair?

Chair Brandenburg – Please do.

Ms. Peeples – Mr. Chair, coming back to you as Board Chair. We have a motion, and we have a second, and we can discuss this all day long. I feel that we need to take a vote on this motion, please.

Chair Brandenburg – I have someone else who had their hand up to speak, Ms. Peeples. Mr. Young, do want to address the Board?

Mr. James Young – Yes, Mr. Brandenburg.

Chair Brandenburg – Let's have you sworn in, please.

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

Mr. Young – I do.

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

Mr. Young – James W Young, Jr., Y O U N G.

Ms. Simon – Thank you, sir.

Mr. Young – I just want to pass on to the Board that, you know, I've been a funeral director for thirty-five (35) years and has owned multiple funeral homes throughout the State of Florida. And every time that I would purchase or apply for an application, I would have to fill out the proper paperwork that would have to go in front of the Board for approval.

Ms. Munson – If I may? I'm sorry, this is Ms. Munson. I just want the record to reflect. Are you testifying as a witness for the Petitioner? We just need those roles clarified. I'm sorry.

Mr. Young – No. I'm the owner of Millennium Funeral Home and Crematory. I just wanted to let the Board know that I had purchased the property from my aunt Dorothy Strunk over a year ago, and we've been trying to eject the Strunks from the property. By removing their license, we would be able to take possession of the property because they wouldn't be able to operate.

Chair Brandenburg – Thank you.

Mr. Young – This is how they continue to stay on the property is because you all have issued them a license.

Chair Brandenburg – Thank you, Mr. Young. Ms. Edwards?

Ms. Edwards – Thank you, Mr. Brandenburg. The issue of who owns the real property, where Strunk is located, is also a matter of litigation. You heard Mr. Young talk about his ownership in the attempt to eject or evict the present occupants. That matter is also a matter of litigation. Strunk has also claimed that there was a fraudulent transfer, with regard to the sale of that property. And that also is a matter of litigation. Mr. Brandenburg, I certainly appreciate the decisions and the work that this Board does, but the fact of the matter is, as has been stated numerous times today, Strunk Funeral Homes is a licensed funeral establishment that is currently operating. It is my understanding that one of the principles that this Board adheres to is the protection of the public. There have never been any complaints of Strunk Funeral Home at any time. And so, you know, Ms. Wendy Wiener has referred to Ms. Kopchak as Ms. Kopchak and her crew. And Ms. Kopchak, as I've mentioned, is a licensed funeral director. They have conducted themselves professionally. I've tried to conduct myself professionally on their behalf, and to represent the interests, which this Board has previously recognized. So, I would again just ask this Board to remember,

as Ms. Peebles mentioned, that this matter comes to trial in October of this year and that some decision will be made at that point if not before. And again, Strunk continues to be a licensed funeral establishment. Thank you.

Chair Brandenburg – Thank you, Ms. Edwards. One last comment. Mr. Young?

Mr. Young – Yes, sir. Mr. Brandenburg, there's multiple litigation suits filed out there. This could go on for years. And how can we continue to let them have unlicensed activity in that facility? This is going to probably go on for multiple years. It's already been going on for three (3) years now. So, how can the Board continue to let them operate in the facility?

Chair Brandenburg – Thank you. So, we have a motion before the Board, and we have a second, for the Board to affirm the April 1, 2022 Order. Is that correct, Ms. Peebles?

Ms. Peebles – Yes, sir.

Chair Brandenburg – And all those in favor, aye?

Board members – Aye.

Chair Brandenburg – Any opposed?

Board members – Aye.

Chair Brandenburg – Again, Ms. Simon, would you please do a roll call vote?

Ms. Simon – Thank you, sir. As to the motion to affirm the Board's Order reflected on the Order issued on April 1, 2022, please answer yay or nay. Ms. Peebles?

Ms. Peebles – Yay.

Ms. Simon – Mr. Ferreira?

Mr. Ferreira – Nay.

Ms. Simon – Mr. Clark?

Mr. Clark – Nay.

Ms. Simon – Ms. Clay?

Ms. Clay – Yay.

Ms. Simon – Ms. Liotta?

Ms. Liotta – Yay.

Ms. Simon – Mr. Jensen?

Mr. Jensen – Nay.

Ms. Simon – Mr. Jones?

Mr. Jones – Nay.

Ms. Simon – Mr. Williams?

Mr. Williams – Yes.

Ms. Simon – Mr. Brandenburg?

Chair Brandenburg – Nay.

Ms. Simon – And that motion fails.

Chair Brandenburg – I'm sorry?

Ms. Simon – That motion fails.

Chair Brandenburg – Thank you.

Ms. Munson – Now we have to vote on the alternative, and if the final vote will be to approve the collective. Again, I have the fact of a licensed property there. I'm going to need the Board to identify for this proceeding, what to do with those two (2) licenses, with a second license on that property. Because I cannot ignore the licensed property there, so I'm going to need the Board to address that as well. But now we would need to vote in the opposite, which is how this proceeding started?

Chair Brandenburg – Is there a motion to affirm the April 1, 2022 Order?

Mr. Jensen – Motion.

Ms. Wiener – Mr. Chairman, that's the contrary, that's the opposite. That's the motion you just voted on.

Ms. Munson – The motion would be whether or not the Board votes to approve the petition for the collective applications to be approved. I believe, Ms. Wiener, that's what you were asking.

Chair Brandenburg – Again, is there a motion?

MOTION: Mr. Jensen moved to accept the petition to approve the collective applications. Mr. Clark seconded the motion.

Chair Brandenburg – And all those in favor, aye?

Board members – Aye.

Chair Brandenburg – And, any opposed?

Board members – Aye.

Chair Brandenburg – Again, Ms. Simon?

Ms. Simon – Yes, sir. If I could just have one moment. As to the motion to approve the collective applications filed by Millennium, please answer yay or nay. Ms. Peebles?

Ms. Peebles – Nay.

Ms. Simon – Mr. Ferreira?

Mr. Ferreira – Yay.

Ms. Simon – Mr. Clark?

Mr. Clark – Yay.

Ms. Simon – Ms. Clay?

Ms. Clay – Nay.

Ms. Simon – Ms. Liotta?

Ms. Liotta – Nay.

Ms. Simon – Mr. Jensen?

Mr. Jensen – Yay.

Ms. Simon – Mr. Jones?

Mr. Jones – Nay.

Ms. Simon – Mr. Williams?

Mr. Williams – Nay.

Ms. Simon – Mr. Brandenburg?

Chair Brandenburg – Yes.

Ms. Simon – And that motion fails.

Ms. Munson – There you have it. The Board is unable to approve and also does not deny. I don't know if there was additional information, I will tell you...

Mr. Williams – Mr. Chair?

Ms. Munson – I don't know if anyone has changed their mind.

Chair Brandenburg – Who's speaking?

Mr. Williams – This is Darrin Williams. Is there some way possible that we can table this entire proceeding until after the court renders their decision, because I think we're at a standstill? I just don't know where we go from here, Mr. Chair.

Chair Brandenburg – Well, it could be tabled but we're facing a deemer issue. And the applicant may or may not want to waive the deemer issue. Ms. Wiener?

Ms. Wiener – I don't believe that this matter can be tabled. This is a hearing, an actual hearing, before the Board that the Division has to make a ruling regarding. So, no, we would not agree to any tabling at this manner.

Chair Brandenburg – Thank you. Mr. Griffin?

Mr. Griffin – This is a hearing, so, the trier of fact can table to hearing as they see fit. And, number two, you don't have a deemer issue, because you've already issued an Intent to Deny. So, this could go on until perpetuity, or it could go on until both sides decide to find a third party to administrate this while the cases are pending, so that we can have a continuous operation and not take up more Board time with these arguments until a Court of Competent jurisdiction has made a decision.

Chair Brandenburg – Thank you. Anybody else? Ms. Kopchak?

Ms. Mary Kopchak – Yes, sir. Thank you, Mr. Brandenburg.

Chair Brandenburg – Would you please be sworn in?

Ms. Kopchak – Yes, 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?

Ms. Kopchak – Yes, ma'am, I do.

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

Ms. Kopchak – Mary Kopchak, K O P C H A K.

Ms. Simon – Thank you, ma'am.

Ms. Kopchak – I would like to just very simply point out that the trial date that is coming in October is the will contest. It will determine ownership of the funeral home. So, the stuff that's going to come after that is all of the cases where Mr. Young is involved. So, his matters may take a while, but ownership of this funeral home will not. It is coming in October. That's all I have.

Chair Brandenburg – And you're quite certain that there'll be no delays from this October court date?

Ms. Kopchak – Yes, sir. My stepmother passed away, unfortunately. However, her son is being entered right now in the system to take her place. So, all of the dates are set. There is no requirement for a case management hearing. We have mediation set for August 9th and 10th, which is a requirement for trial. So, once we get past that, we are fast tracking to trial in October. So, that decision will be made.

Chair Brandenburg – Thank you. Ms. Peeples?

Ms. Peeples – Yes, sir, Mr. Chair. I'd like to make a motion that we table C. (3) (a) and C. (3) (b), until this situation with this trial in October comes about. That is my motion, sir, if Ms. Munson approves with that motion.

Mr. Williams – Second.

Ms. Wiener – Mr. Chairman, might I address the motion and the comments just made by Ms. Kopchak?

Chair Brandenburg – Just a moment, please. Ms. Munson, Ms. Peeples asked your opinion of that.

Ms. Munson – Give me a moment to take this matter under. Let me just look something up right click, I have a question that I need to answer for myself.

Chair Brandenburg – In the meantime then just let me know. Ms. Wiener?

Ms. Wiener – Thank you. As Ms. Kopchak just highlighted for you, the matter of the literal ownership of Mr. Strunk's business goes to trial in October. If there's one thing you know about these parties, it's whatever the trial court decides will likely be appealed. We're nowhere near getting through this matter, but she has admitted to you that there is no certainty whatsoever, about who owns this business. But, yet Ms. Kopchak, and I mean no disrespect in referring to them as her crew or her group, simply Ms. Kopchak and her siblings are making this Board a party to this matter by allowing some stranger we don't even know who owns this. The Board would not allow people to open a funeral establishment and operate it for three (3) years, without knowing who owned it, but that's what you're being asked to do. By failing to approve the Millennium applications and, thereby, triggering the termination of the operations in those spaces, you are literally being asked to allow a funeral establishment to operate without knowing who owns it. That matter will come to a court for the very first time in October and then it will go on from there for years in perpetuity.

Chair Brandenburg – Thank you. Mr. Edwards, did you have your hand up?

Ms. Edwards – Thank you, Mr. Brandenburg. Only to say that what Ms. Kopchak offered was just a clarification of what was going to happen on October 18th, I believe is the date, and not to try to mislead the Board in any way but simply to provide clarification so that the Board would know that not all of the litigation would be coming to trial but only the ownership. The Board has already taken action on Ms. Wiener’s action. And so, again, to attack her, it just seems unnecessary at this point. She only spoke to clarify...

Ms. Wiener – I am not. Please don’t say I am attacking Ms. Kopchak.

Chair Brandenburg – Ms. Wiener, you have not been recognized.

Ms. Wiener – I apologize.

Ms. Edwards – Thank you, Mr. Brandenburg.

Chair Brandenburg – Ms. Munson?

Ms. Munson – Ok, I believe the question was: if the Board has the opportunity to table this, if they have the authority to do so? They do have the authority to do. So, I just wanted to clarify. However, I wanted to just bring a couple procedural points to bear. If we have these collective applications and the Board cannot vote to deny or approve them, I cannot issue an order. I need a vote of the Board. Something is going to have to lean one way or the other. So, no matter what happens if it's going to be a stalemate, I cannot issue an order, because the bottom line is that the application’s request for approval was not approved. So, technically, they can’t go forward, but I still cannot issue an order. So, I wanted to clarify that. I also wanted to note that I was not sure when the statement was made that there was not a ninety (90) day deemer issue present, I don't know if it was previously waived. I apologize for not having that type of clarity regarding that procedural matter, but if the Petitioner has not waived their rights for this approval process, then there is an opportunity for the applications to be deemed approved. If, again, if they specifically request so. So, it's just my role is Board Counselor to explain what the procedures are, what could possibly happen, what the ramifications are. I cannot issue in order unless this Board can decide one way or another. And Mr. Griffin might be able to share some information regarding the deemer matter now. I'll go with that.

Chair Brandenburg – Mr. Griffin?

Mr. Griffin – This matter is before the Board based off of the request for hearing, for an informal hearing before the Board issued by Millennium, following the Notice of Intent to Deny, correct?

Ms. Wiener – Correct.

Mr. Griffin – There is no deemer issue. They've already been told, no, we’re at the hearing stage.

Ms. Wiener – Correct.

Ms. Munson – Correct. I had to walk through that in my brain. Thank you, Mr. Griffin.

Ms. Wiener – We agree.

Chair Brandenburg – Thank you. And finally, Ms. Peeples?

Ms. Peeples – Thank you. Mr. Chair, back to Ms. Munson. I made a motion to table C. (3) (a) and C. (3) (b). Mr. Williams seconded that motion. Can we continue with that motion?

Ms. Munson – You can continue with it. I just don't know how long you want to continue it or the basis that the continuance is. I don't know if the Petitioner may have some comment regarding concerns, but all of that information is taking into consideration. But, yes, the Board has the authority to table it.

Ms. Peeples – Mr. Chair, back to Ms. Munson, if I may? I would like to amend my motion, if Mr. Williams will accept that we table it until our November meeting, which will be after the court date in October. We'll be able to see if there is a decision made as to ownership. And it will be prior to November 30, 2022, the end of this current establishment license. Mr. Williams?

Mr. Williams – I concur.

Ms. Peeples – Thank you.

Chair Brandenburg – We have a motion before the Board, and it's been seconded. And all those in favor, aye?

Board members – Aye.

Chair Brandenburg – And any opposed?

Board members – Yes.

Chair Brandenburg – I'm not able to determine by voice vote. Ms. Simon?

Ms. Simon – Yes, sir. As to the motion to table items C. (3) (a) and C. (3) (b), until the November Board meeting, please respond with yay or nay. Ms. Peeples?

Ms. Peeples – Yay.

Ms. Simon – Mr. Ferreira?

Mr. Ferreira – Nay.

Ms. Simon – Mr. Clark?

Mr. Clark – Nay

Ms. Simon – Ms. Clay?

Ms. Clay – Yay.

Ms. Simon – Ms. Liotta?

Ms. Liotta – Yay.

Ms. Simon – Mr. Jensen?

Mr. Jensen – Nay.

Ms. Simon – Mr. Jones?

Mr. Jones – Yay.

Ms. Simon – Mr. Williams?

Mr. Williams – Yes.

Ms. Simon – Mr. Brandenburg?

Chair Brandenburg – Nay.

Ms. Simon – One moment, please. And that motion passes.

Chair Brandenburg – Thank you. Does anybody need a break, or shall we continue? Let's continue.

(4) Request for Hearing pursuant to S. 120.57(1), F.S.

(a) Recommended for Denial

1. Washington Memorial & More Funeral Service Industry LLC (Butler)

Ms. Simon – In March 2022, the Board was presented with an application for licensure as a funeral establishment submitted by 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. On or about April 14, 2022, within the appropriate time frame, the Division received an Election form requesting a hearing held pursuant to section 120.57(1), Florida Statutes, to be heard at the Division of Administrative Hearings. However, the request for hearing failed to reference any disputed issues of material fact. The Division is recommending that the request for formal hearing be denied based upon the failure to cite any material facts in dispute as required by Rule 28-106.201, Florida Administrative Code. It is further recommended that the Board either give the applicant an additional twenty-one (21) days to provide a petition citing material facts in dispute or convert the request for a hearing to one not involving issues of material fact pursuant to section 120.57(2), Florida Statutes. Included within this Board package is the Notice of Intent to Deny, the request for hearing and all accompanying documents, and the Board package from the March 2022 meeting.

Chair Brandenburg – Thank you. Do we have a representative of Washington Memorial?

Mr. Raymond Washington – Yes sir.

Chair Brandenburg – Do you want to address the Board?

Mr. Washington – Yes, sir.

Chair Brandenburg – Would you let me finish?

Mr. Washington – Chair Brandenburg?

Ms. Simon – Mr. Washington, before you go on, if you can please raise your right hand and be sworn in?

Mr. Washington – I'll be glad to, but you raise yours, too.

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

Mr. Washington – You raise yours too, ma'am, because the facts of what you raised in the minutes was just totally outlandish. We should have been approved already. I'm going to follow your procedures, but the next time this Board meet me, we're going to do more than twenty-one (21) days. We're going to meet in court. Ma'am, you lost my building because of this foolishness. You knew that everything you alleged, per the minutes, you knew that that stuff was untrue. Ms. Simon, I read what you wrote to the Board and then you had the State Attorney General sign off on it. Now, I'm going to raise my right hand, but it's going to be more than me and you and the Board pleading in court.

Chair Brandenburg – Please be sworn in Mr. Washington.

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

Mr. Washington – So help me, God. Mr. Chair?

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

Mr. Washington – My name is Raymond Washington. Mr. Chair, I have in my presence right now an email, from Ms. Simon. Ms. Simon, this is what I presented to Ms. Simon. It says, on April 1, 2022, it says, but based on what you display for counsel seems like more your opinion, not by law or right, not at your email. And moreover, it was not a demand for me to be present at the meeting, allegedly talking about the March 3rd meeting. The guideline for the agenda was already set forth letting the public know that Washington & More Service Industry LLC was recommended approval with conditions. Nothing Sharon Lesesne did, did not change anything regarding the embalming facilitate. She was only giving credence by letting the Board know that she is the Funeral Director in Charge and was totally on board with letting the Board know that she was in full compliance with the procedure going for the applicant application. Lastly, the potential wants the Board to know that Washington Memorial & More Funeral Service Industry, LLC would like to inform the Board that the denial should be immediately overturned by merit, with providing factual evidence, Raymond Washington.

This is Ms. Ellen Simon's response, on April 1, 2022. It says, and this is what is in contrary to her minutes. It says, Mr. Washington, to address the concerns you raised in your second voicemail today, there is no requirement that a licensee appear at a Board meeting, unless the Board directs it by Order, and she put in parenthesis Mr. Chair, which you were not, however, in attendance at a Board meeting may be in the best interest of the applicant for licensure. Because, if the Board were to have any questions or make any comment, the applicant would want to respond to, and they would need to be present to make any comment. Ellen Simon, Assistant Director, Division of Funeral, Cemetery, and Consumer Services.

In addition, Mr. Chair, if you look at the application on Page 5 of 8, we have never conveyed to this Board that we would have any questionnaire recommendation to remove our application from Westin Mortuary. As a matter of fact, if you look at Page 5 of 8, 3 b, it says specifically, and I handwritten it, not typed, and I said, the applicant wants the Board to know that Westin Mortuary and the staff of Washington Memorial and More Funeral Service Industry, that is licensed with the Board of Funeral Directors, which you are, would be the only ones handling the remains of any bodies in the prep room. In addition, Mr. Chair, it is typed. It is typed, sir. On 5. (c), you see before you, if you have the application before you. It says, 8593 S County Road, 231, Lake Butler FL, would be the only place with a visitation chapel.

Mr. Chair let me tell you something. When you look at what Ms. Ellen Simon conveyed, per the minutes, that is absolutely misleading, that lead to Mr. Knopke making the recommendation of the denial, and also, I believe it was seconded by Mr. Jones. Let me tell you something. I think that's totally unfair. How can you allege that you want somebody to swear in, you want somebody to swear in, but then you tell a false narrative that's misleading, to the Board, that lead to my application being denied? I paid my money, Mr. Chair. I paid my money. I had to pay for rent and was continuing to pay for rent. This is what I want the Board to know. I have a friend of mine, a ministerial acquaintance, right now that's on trial in the State of Ohio, because he neglected to do the same thing that I am doing right now. Going before the Board, trying to do what is right as an African American. Trying to do what is right as a civil rights activist, and this is my thanks. Taking the proper steps. You have before you nothing that should be in deficiency, but yet this is where we are. This is where we are. This application should have been approved by merit, sir. This is nothing questionable about the visitation chapel. I'm sorry of my response. I am a minister of the Gospel, but you should see my frustration. I had to pay \$1,500 for rent, trying to get that building prepared for the state examiner, Madelyn Fradkin, that you, per the application. And not only that, we have also by Ms. Simon, of everything, trying to keep the Board abreast, and she even alleged in one of the emails, thank you for keeping the Board apprised. You have to forgive me. I'm sorry. I'm not laughing at this matter at this moment, because at this moment, I have to pay an attorney to help me go to court to fight for what's mine. What was mine. This was my dream that was snatched away from me. This is totally unfair, Mr. Chair, and I think what we need to do at this moment is we need, as a Board, to make a discussion, as to how much we want to pay Mr. Washington, on a settlement, because that was snatched away from me and that was totally unfair. And I give my time back to you, Mr. Chair.

Chair Brandenburg – Thank you. Mr. Washington, question? Have you re-applied to be heard by the Division of Administrative Hearings (DOAH)?

Mr. Washington – I beg your pardon?

Chair Brandenburg – Have you made an application to be heard by the Division of Administrative Hearings?

Mr. Washington – Sir, that's what I thought I was doing today. Because when I got that application back, I wanted to take every step I can. I'm sorry, Board members. I don't act in this manner, but old folks say if you kick a dog long enough, he's

going to say more than a bark. He might bite you. So, I'm sorry. For my response, Mr. Chair. But, yes, I would like to do whatever it is. And that's why I sent in this Election form. I tried to do it tidy so that the Board would not see any flaws in my application.

Chair Brandenburg – Do you want the Board to grant you an additional twenty-one (21) days to provide a petition citing material facts, before the Division of Administrative Hearings?

Mr. Washington – Mr. Chair, that is fine, but we have before you enough information that would preclude anything that was alleged on March 3rd, prior to the minutes, enough information to grant this petition. But, be that as it may, if twenty-one (21) days would be granted, yes, of course. Because, at this point, it seems to me, Mr. Chair, and forgive me for noting in the way that I'm conducting myself, but, Mr. Chair, wouldn't you feel that this was a blatant disregard for your monetary gain?

Chair Brandenburg – No.

Mr. Washington – You said no?

Chair Brandenburg – I said no.

Mr. Washington – OK, well maybe you might want me to rephrase that question again?

Chair Brandenburg – No.

Mr. Washington – OK. You don't want me to rephrase that question again?

Chair Brandenburg – If you wish.

Mr. Washington – OK, the question is, if you were going through what I'm going through with this Board, and with this application that has everything in it, enough for the Board to approve the application, wouldn't you, sir, feel that you have a blatant disregard for money being disrespected by this Board?

Chair Brandenburg – Do you want to continue to be heard by the Division of Administrative Hearings, which was requested before, and it was denied based upon the failure to cite any material facts in dispute, as required by rules such and such?

Mr. Washington – Yes, sir.

Chair Brandenburg – This Board has the right to give you an additional twenty-one (21) days to provide a petition. Would you like for the Board, or are you requesting the Board to provide you the additional twenty-one (21) days?

Mr. Washington – Yes, sir, I would.

Chair Brandenburg – Board, what's your pleasure? Ms. Peebles?

MOTION: Ms. Peebles moved to provide the applicant an additional twenty-one (21) days to provide a petition citing material facts in dispute. Mr. Jones seconded the motion, which passed unanimously.

Chair Brandenburg – Thank you, Mr. Washington.

Ms. Munson – That's not the full motion. I apologize. I just wanted to make sure that the petitioner understands what is being requested. I don't know if Ms. Simon was going to make a clarification. I don't want to cross the lane. Mr. Washington, can you hear me, sir? Can you hear me OK?

Mr. Washington – Can you speak a little louder in the microphone?

Ms. Munson – Ok. I understand. This is Ms. Munson. I wanted you to understand that in your Elections of Rights you requested hearing before a different body and to go before that body, DOAH, you have to show disputed issues of material fact. Your information does not appear to show any disputed issue of material fact. So, this Board is giving you an opportunity to resubmit information that identifies material issues of disputed fact that would warrant you going to a different body, DOAH, for review. But if you fail to do that within twenty-one (21) days, this will be reset for a hearing before this Board, on the information presented. I just needed to understand what was happening.

Mr. Washington – Thank you. I'm sorry, Mr. Chair, is it ok if I speak?

Chair Brandenburg – Go right ahead.

Mr. Washington – Is that a judicial body? When you say a different body, can you give explanation as to what that means?

Ms. Munson – If you identify disputed issues of material fact, your case is eligible to be heard by the Division of Administrative Hearing Officers. They are a body of administrative law judges that will determine whether your facts that you indicate are in dispute are warranted and they will make a recommended order based on their findings. If you do not show any disputed issues of material fact within the next twenty-one (21) days presented to this Division, we will reset this for a hearing, since you have requested a hearing, before this group of Board members to review your case again.

Mr. Washington – Ok

Ms. Munson – Does that make sense?

Mr. Washington – Yes, ma'am. I understand. Mr. Chair, is it ok if I respond?

Chair Brandenburg – Please go right ahead.

Mr. Washington – So, the twenty-one (21) days would be? Today is the 12th, so we're talking about August...

Ms. Munson – I will tell you, sir, technically the twenty-one (21) days will be calculated from the day the Order is issued. I'm going to write an Order and it's going to be dated within two (2) weeks from now, and you're going to have twenty-one (21) days from whatever that filing date is. It's not today.

Mr. Washington – Ok. Can I give you my e-mail?

Ms. Munson – No, sir. If you want to provide something for the record that you have not provided to the Department, it would need to be that official information where all correspondence {inaudible}. You can contact the Department independently.

Mr. Washington – Did you say I could go ahead and give it to you verbally?

Ms. Munson – You can give it to us now, sir, or you can give it to them by calling them outside of this meeting.

Mr. Washington – I will go ahead and give it to you now.

Chair Brandenburg – I would prefer that it be formally given to the Division, and not now during a Board meeting.

Mr. Washington – Is see. Yes, sir.

Chair Brandenburg – All right. Thank you.

Mr. Washington – I'm sorry. Mr. Chair, if I could respond, if you don't mind? So, I can send it to Ms. Ellen Simon?

Chair Brandenburg – Ms. Simon?

Ms. Simon – Yes, sir. {Inaudible} If there's an email address, other than the one he has on record. Yes, he is more than welcome to send it to me. My next point is, Ms. Munson, does the Boards need to either approve or deny {inaudible} at this time?

Ms. Munson – Yes, the Board needs to vote on the motion before them to grant, I thought Ms. Peebles was saying that. I may have misunderstood so. I'm sorry.

Chair Brandenburg – Yes. That was to grant the additional twenty-one (21) days, and it was seconded and voted upon by the Board.

Ms. Munson – With the understanding that in those twenty-one (21) days, he may come back before this Board, not just the disputed issues of material facts section of it. So, would that amend to it? If the Board voted, and after all of that discussion, I just needed to clarify that the Board voted. So, you're saying they did. That's fine.

Chair Brandenburg – Yes.

Ms. Munson – Ok, thank you.

Ms. Simon – Mr. Chairman? I would request that we take a break before the next matter is called.

Chair Brandenburg – I was just about to suggest that. Thank you so much. Let's take a break until 12:20. It gives us almost ten (10) minutes. So, 12:20, we'll reconvene.

*****BREAK*****

Chair Brandenburg – Good afternoon, again, I want to call the meeting back to order. Ms. Simon?

Ms. Simon – Yes, sir.

D. Disciplinary Proceeding(s)

(1) Settlement Stipulation (Probable Cause Panel A)

(a) Trinity Memorial Cemetery, Inc.: DFS Case Nos. 274788-21-FC & 274791-21-FC; Division Nos. ATN-32826 & ATN-32827 (F021823)

Ms. Simon – Presenting for the Department is Mr. Bossart.

Mr. James Bossart – Good afternoon. May I proceed, Mr. Brandenburg?

Chair Brandenburg – Good afternoon, Mr. Bossart. Go right ahead.

Mr. Bossart – Ok. Good afternoon, members of the Board. Trinity Memorial Cemetery, Inc. (“Respondent”) is a cemetery, licensed under Chapter 497, Florida Statutes, license number F021823. On or about June 4, 2019, the Department conducted an inspection of Respondent and found that Respondent failed to account for all sequentially numbered contracts issued and failed to provide accurate work papers to the investigator. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides that Respondent’s license shall be placed on probation for a period of two (2) years and six (6) months (2.5 years) subject to the normal terms and conditions, a copy of which are attached to the Stipulation as “Attachment A”. Additionally, Respondent shall take special care to ensure that all contracts in the future are sequentially numbered and all work papers prepared in the future are accurate. The Department requests that the Board accept this Settlement Stipulation. Thank you.

Chair Brandenburg – Thank you, Mr. Bossart. Board?

MOTION: Mr. Jones moved to Board accept this Settlement Stipulation, which provides that the Respondent’s license shall be placed on probation for a period of two (2) years and six (6) months (2.5 years); additionally, Respondent shall take special

care to ensure that all contracts in the future are sequentially numbered and all work papers prepared in the future are accurate. Mr. Jensen seconded the motion, which passed unanimously.

*(2) Settlement Stipulations (Probable Cause Panel B) (Related Cases ATN-36779)
(a) Abundant Favor Mortuary; DFS Case No. 283321-21-FC; Division No. ATN-36779 (F062035)*

Ms. Simon – Presenting again for the Department is Mr. Bossart.

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

Chair Brandenburg – Please do.

Mr. Bossart – Abundant Favor Mortuary, Inc., (Respondent), is a funeral establishment licensed under Chapter 497, Florida Statutes, license number F062035. Respondent advertised and continues to advertise the sale of preneed contracts in this state, without being authorized pursuant to Chapter 497 to provide such services or merchandise. The investigation also found Respondent had failed to practice minimum sanitary practices relating to the management of biomedical waste. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides that Respondent shall pay an administrative fine of \$1,500 and undergo one (1) year of probation. The Department requests that the Board accept this Settlement Stipulation. Respondent is represented by Mr. David Charlip, who would like to address the Board regarding the penalty. I'll turn the mic over to Mr. Charlip. Mr. Charlip?

Chair Brandenburg – Thank you. I'd like to recognize, Mr. Williams. Mr. Darrin Williams, Probable Cause Panel?

Mr. Williams – Yes, sir, Mr. Chairman. I served on Probable Cause Panel B. I do apologize.

Chair Brandenburg – Thank you. Mr. Charlip, did you want to address the Board?

Mr. David Charlip – Yes, with your permission, Mr. Chairman. Thank you. We would like to address the penalty portion of the stipulation. It's our contention that there's been no harm to the public here. There's no prior discipline to this licensee and there's prior precedent for situations like this where this is a technical violation that was committed by vendors for the penalty to be reduced to no probation, as well as a minimal fine. And I can take the Board through all of that. This is a situation where the licensee was charged with not having records showing two (2) inspections on their waste records, and the waste records, otherwise were properly kept in order. And additionally, it was a situation where the website that was constructed and implemented by a web designer, had built into it a portion that dealt with preneed services, and this licensee never sold preneed services, didn't utilize the website to sell preneed services. And as soon as the fact that it was on the website was brought to their attention, they took it off the website. No consumer or prospective customer ever called based on seeing the preneed advertising on the website. And so, based on the fact that there was really technical violations here that were vendor based, the licensee's position, coupled with the fact that there is no prior disciplinary action, they feel that these mitigating factors would fit within the prior precedent of the Board. Specifically, there is a matter that the Board took up on December 2, 2021. It's Charles Hancock and Hancock's Funeral Home, where the Board voted to withdraw the Settlement Stipulation in order to present a counter settlement, where the Respondent pays a \$1,000 administrative fine, not undergo license probation because the Respondent didn't have any prior disciplinary actions taken. And that was done both to the funeral home and to the licensed funeral director in charge. I have that case number should the Board wish to specifically have that for the record, the two case numbers. This case also has a companion case that involves the licensed funeral director, Frank Todd Winninger, and when that comes up, we would ask that Mr. Winninger is treated similarly. And for the record, we'd sight s. 497.154(2), F.S., that says that minor violations be distinguished from those which endanger the public, health, safety or welfare. And (3) indicates that mitigating or aggravating circumstances shall allow the Board to impose a penalty other than provided for in such guidelines. So, we believe that all of those factors should be taken into account by the Board in revising the Settlement Stipulation, and we're recommending no probation and a \$1,000 fine as the penalty. Thank you.

Chair Brandenburg – Thank you, Mr. Charlip. Were you involved in the negotiations of the Settlement Stipulation?

Mr. Charlip – Yes, sir, I was.

Chair Brandenburg – Thank you. Board?

Mr. Jensen – Mr. Chair?

Chair Brandenburg – Go right ahead, Mr. Jensen.

Mr. Jensen – I see it's already been established as a settlement.

MOTION: Mr. Jensen moved to Board accept this Settlement Stipulation, which provides that the Respondent shall pay a \$1,500 administrative fine and undergo one (1) year of probation. Ms. Clay seconded the motion, which passed unanimously.

Chair Brandenburg – Thank you, Mr. Charlip.

(b) Wwinner, Frank T.: DFS Case No.: 283323-21-FC; Division No. ATN-36779 (F044350)

Ms. Simon – Presenting again for the Department is Mr. Bossart.

Mr. Williams – Mr. Chair?

Chair Brandenburg – Yes, Mr. Williams?

Mr. Williams – I just want to declare that I served on the Probable Cause Panel for this case as well, along with case D. (3) (a) and (3) (b) (1) and (2).

Chair Brandenburg – Thank you for that declaration. Appreciate it. Mr. Bossart?

Mr. Bossart – Thank you, sir. This is the companion case of the case that you just heard. Frank Todd Wwinner (Respondent), is a funeral director and embalmer licensed under chapter 497, Florida Statutes, license number F044350. Respondent is the FDIC of Abundant Favor Mortuary, Inc. (funeral establishment), a funeral establishment licensed under Chapter 497, Florida Statutes, license number F062035. The funeral establishment advertised and continues to advertise the sale of preneed contracts in this state, without being authorized pursuant to Chapter 497 to provide such services or merchandise. The investigation also found the funeral establishment had failed to practice minimum sanitary practices relating to the management of biomedical waste. As FDIC, Respondent is responsible for these violations. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides that Respondent shall pay an administrative fine of \$1,500 and undergo one (1) year of probation. The Department requests that the Board accept this Settlement Stipulation. Thank you.

Chair Brandenburg – Thank you, Mr. Bossart. Mr. Charlip?

Mr. Charlip – Yes. On behalf of the licensee, our position is the same. We wanted to present mitigating factors to the Board, as these are technical violations committed by vendors. Mr. Wwinner is no longer the FDIC of the funeral home, and we would ask that the penalty be limited to \$1,000 and no probation.

Chair Brandenburg – Is Mr. Wwinner still an employee there?

Mr. Charlip – No, I don't believe he is.

Chair Brandenburg – Thank you. Board?

MOTION: Mr. Jensen moved to Board accept this Settlement Stipulation, which provides that the Respondent shall pay a \$1,500 administrative fine and undergo one (1) year of probation. Ms. Clay seconded the motion, which passed unanimously.

Chair Brandenburg – Thank you counselor. Thank you, Mr. Charlip.

Mr. Charlip – Thank you.

(3) Motion for Final Order by Hearing Not Involving Disputed Issues of Material Fact (Probable Cause Panel B)
(a) Holloway Funeral Home, LLC: DFS Case No. 287724-21-FC; Division No. ATN-37378 (F080152)

Ms. Simon – Presenting for the Department is Mr. Griffin.

Mr. Griffin – Marshawn Griffin for the Department. The above-referenced matter is presented to the Board for consideration of the Motion for Determination of Waiver and for Final Order by Hearing Not Involving Disputed Issues of Material Fact (Motion) in the matter of Holloway Funeral Home, LLC, (Respondent). The Division alleges Respondent engaged in the following: Respondent failed to ensure that two (2) un-embalmed human bodies were kept at a temperature of forty (40) degrees Fahrenheit or below. The Motion demonstrates Respondent has alleged that there are no material facts in dispute and for this matter to proceed as an informal hearing before the Board, and requests the Board adopt the factual allegations in the Administrative Complaint and issue an appropriate penalty.

Chair – Is there a motion?

MOTION: Mr. Jones moved that Respondent has requested an informal hearing in this matter. Mr. Jensen seconded the motion, which passed unanimously.

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

Mr. Luke Grabowski – Excuse me. Mr. Chair, this is Luke Grabowski with the Butler Law Firm. I was asked to appear today on behalf of the Holloway Funeral Home.

Mr. Griffin – If I may, then? Mr. Grabowski, would your client be interested in accepting a settlement in this matter?

Mr. Grabowski – That’s something I’d probably have to discuss. I was really here simply to propose some mitigating circumstances. Obviously, we’re not disputing the facts that have been alleged. That is something that I can present to my client.

Mr. Griffin – Ok. The offer would be for the standard. I can talk to you later about the details of the offer, but the Department would be amenable to resolving this matter via Settlement Stipulation, if your client is.

Mr. Grabowski – Yes. I think if we could have a discussion on that and potentially table the matter. I think that might be of some interest.

Chair Brandenburg – Mr. Griffin, do you think you'd be able, and Mr. Grabowski, to reach an agreement and we'll come back to this case later on?

Mr. Griffin – Luke, are you reachable at the number ending in 4006 right now?

Mr. Grabowski – Yes, I am. I can take your call and then I'll get on the phone with my client immediately after.

Mr. Griffin – Ok. All right. Thank you. If I may table this matter?

Chair Brandenburg – Let's table and then come back to it later.

Ms. Simon – Mr. Chairman?

Chair Brandenburg – Yes?

Ms. Simon – If I may go on with the agenda.

Chair Brandenburg – Please do.

(b) Related Cases: ATN-32578 and ATN-36370

1. Poulard, Sendy: DFS Case Nos. 242583-19-FC and 282698-21-FC; Division Nos. ATN-32578 and ATN-36370 (F074747)

Ms. Simon – Presenting for the Department is Mr. Bossart.

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

Chair Brandenburg – Please do, Mr. Bossart.

Mr. Bossart – The case before you is a Determination of Waiver and for Final Order by Hearing Not Involving Disputed Issues of Material Fact (Motion) in the matter of Sendy Poulard, (Respondent). Respondent is the FDIC of Tri-County Funeral Services, Inc. (“Tri-County”), a funeral establishment, license number F040011. On February 14, 2019, the Department conducted an inspection of the funeral establishment. The inspection revealed that the funeral establishment:

- Failed to maintain un-embalmed human remains at a temperature of forty (40) degrees Fahrenheit or below
- Failed to maintain its preparation room in a clean and sanitary manner
- Failed to maintain a separate hand sink with hot running water in its preparation room
- Failed to retain copies of all signed at need and preneed contracts used for making final disposition of human bodies for at least a period of two (2) years

Pursuant to section 497.380(7), Florida Statutes, Respondent as FDIC of Tri-County is subject to discipline based on Tri-County’s violation of chapter 497, Florida Statutes. On September 25, 2019, the Department filed an Administrative Complaint against Respondent in Case No. 242583-19-FC. A true and correct copy of the complaint is attached to your packet as Exhibit One.

On December 20, 2019, the Respondent submitted a timely petition for hearing alleging that were disputed issues of material facts and requested the matter in Case C 242583-19-FC, proceed as a hearing pursuant to Section 120.57(1), Florida Statutes. A true and correct copy of the petition for hearing is attached to as Exhibit Two.

On March 21, 2021, the Department conducted another inspection of the funeral establishment. The inspection revealed the funeral establishment again failed to maintain un-embalmed human remains at a temperature of forty (40) degrees Fahrenheit or below. Respondent, as the FDIC, is liable for these violations also. On October 22, 2021, the Department filed an Administrative Complaint against the Respondent, Case No. 282698-21-FC. A true and correct copy of the complaint is attached as Exhibit Three.

On November 16, 2021, Respondent timely submitted a petition for hearing alleging that was a dispute issue of material fact and requested the matter in Case No. 282698-21-FC proceed as a hearing pursuant to Section 120.57(1), Florida Statutes. A true and correct copy of the petition for hearing is attached to as Exhibit Four.

On May 11, 2022, Respondent, through her counsel, advised that it was withdrawing its request for hearing pursuant to Section 120, 57(1), Florida Statutes, in both cases and wishes to proceed in these matters with an informal hearing pursuant to Chapter Section 120.57(2), Florida Statutes. A copy of the correspondence from Respondent’s counsel requesting an informal 120.57(2) hearing is attached as Exhibit Five.

The Respondent’s petition for hearing in the first case, 242583-19-FC, was untimely. The Department, in an abundance of caution, requested this matter be resolved along with Case No. 282698-21-FC, resolving both matters in this 120.57(2), proceeding. Respondent, through her counsel, has contacted the Department and has indicated she intends to attend this meeting. At this time, it would be appropriate for the Chair to entertain a motion to determine whether Respondent has waived her right to Section 120.57(1), hearings in both these matters based upon the Respondent’s requests for informal proceedings, pursuant to Section 120.57(2), Florida Statutes.

Chair Brandenburg – Is there a motion?

MOTION: Mr. Jones moved that Respondent waived her right to Section 120.57(1), hearings in both these matters based upon the Respondent's requests for informal proceedings, pursuant to Section 120.57(2), Florida Statutes. Mr. Clark seconded the motion, which passed unanimously.

Mr. Bossart – Now that the Board has determined the Respondent has waived her right to request a formal 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, in both matters.

Chair Brandenburg – Is there a motion?

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

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 each 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 each Administrative Complaint.

Chair Brandenburg – Board?

Mr. Jensen – Mr. Chair, I'd like to hear what Ms. Wiener has to comment, if possible, before the motion.

Ms. Wiener – Mr. Chairman, may I address the Board?

Chair Brandenburg – Thank you. Just a moment. Mr. Bossart, were you looking for another motion?

Mr. Bossart – Well, yes, sir. I'm moving that the Respondent is in violation of the statutes as charged in each Administrative Complaint.

Chair Brandenburg – Thank you. Is there a motion?

Ms. Wiener – Mr. Chairman? This is Wendy Wiener {inaudible}.

Chair Brandenburg – Just a moment, please.

MOTION: Mr. Jones moved to find the Respondent in violation of the statutes as charged in each Administrative Complaint. Ms. Peebles seconded the motion.

Ms. Wiener – Mr. Chairman? Mr. Chairman, this matter is before you for a hearing on these matters. I believe that the licensee gets an opportunity to make an argument about why the facts do not support the findings' conclusions of law.

Chair Brandenburg – Go right ahead, Ms. Wiener.

Ms. Wiener – Thank you so much. I appreciate that. I recognize that we do so few of these, because so many of these matters settle, and before you come settlement agreements, but this matter is a bit different. While the facts are not in dispute whether those facts rise to the level of violations of the statute, and regarding any discipline that should be imposed, those things are in dispute. This case ultimately turns on most significantly the refrigeration issue. One of the things that Mr. Bossart failed to mention in his presentation is that during the initial inspection in February of 2019, the power in the building was off, as a result of the inspection. That resulted in the refrigeration unit, therefore being off and the hot water in the sink being off. With regard to the other issues that were raised in that inspection, there were two (2). That the prep room was unsanitary and primarily that was because there were descendants on hand based upon the inspector's report, which is in your file materials, that had been in the possession of the funeral establishment for a significant time. It was two (2) of those decedents for which there were not file materials at the location. And the reason that those decedents had been on hand for so long is because those decedents were unknown to the licensee, other than they had been provided to them and that there were no next of kin. The establishment, for a long period of time, sought to identify next of kin and ultimately have someone take responsibility for

those human remains. It was a very unfortunate situation. In the Haitian community in South Florida, the owner of the establishment worked very long and hard to locate next of kin for those decedents and was not able to do so.

So, the first inspection, as I said, occurred without power in the building. A storm had happened the night before. We provided proof of that storm to the Division, and I believe it's in your Board packet. The power was out. When Ms. Anderson, who is on and will provide testimony momentarily, if necessary. When she arrived at the building in the morning for the inspection, that was her first notice that the power was out in the building, as well. So, in fact, yes, the refrigeration was high. And, in fact, yes, there was no hot water, but the inspection proceeded during the power outage. That is noted in the inspector's report. The subsequent high refrigeration was also an incident that occurred beyond the licensee's control. The licensee, aware of the fact that its refrigeration was not working, had requested that a company come to check the refrigeration. This was prior to the inspection. When the inspector arrived, the repair company was on the roof and learned that, as has been the case many times in Central Florida, the copper from the refrigeration unit had been stolen out of the unit and the unit had to be replaced. It was in the process of being repaired, and therefore off when the inspection occurred.

So, we feel quite strongly that though the facts are accurate, as set forth in the Administrative Complaints, they do not warrant any conclusions of law finding violations against these licensees. And even if they did, those conclusions of law would demand no discipline whatsoever. As for now, the refrigeration unit has been up and running and working at every of the three (3) inspections that have happened since the date of the second inspection when they had the whole compressor unit on the roof replaced. There have been no further violations during any of their subsequent inspections of sanitary conditions, decedents on hand for too long or any other issues that are relevant to this proceeding. And so, we would ask that though the facts are not in dispute, that the Board vote to dismiss these matters against the licensees. And I'll take any questions that the Board members have, of course.

Mr. Jones – Mr. Chair, can I ask a question?

Chair Brandenburg – Please, go ahead.

Mr. Jones – Ms. Wiener, the power was out, of course. I see where the Department said the unit was turned off. Then you mentioned copper was stolen. What's the timeline? What are you telling me? Because they had bodies in this facility. What's the timeline that bodies were or were not removed, when all of this transpired?

Ms. Wiener – The power, sir, thank you very much. Mr. Chairman, may I respond to Mr. Jones?

Chair Brandenburg – Please go right ahead.

Ms. Wiener – Thank you, Mr. Jones, on February 14th, that was the day that the power was out following the storm that occurred during the night of the 13th and early morning hours of the 14th. The next morning the inspector was back to check the refrigeration unit, and in fact, it was on and functioning. It was over two (2) years later that the copper was stolen. It was during 2021. A lot of licensees had a problem, especially during the pandemic, for some reason, with problems with their units. And so, the licensee was already on top of it. It was literally in the process of being repaired when the inspection occurred.

Mr. Jones – Thank you.

Ms. Wiener – But that was two (2) years later, March 21, 2021.

Mr. Jones – Thank you.

Chair Brandenburg – Any other questions? Any comments? Board?

Mr. Jensen – Mr. Chair, I would like to hear from Mr. Bossert, as to what motion he is looking for, again?

Mr. Bossart – I would point out that first of all Ms. Wiener, by asking for in formal hearing, they've already admitted the allegations in the complaint to be true. Ms. Wiener's arguments insofar as being irrelevant go to actually mitigation {inaudible}

penalties. So, the motion is simply to find that Respondent is in violation of Florida Statutes as charged in the Administrative Complaints. I don't think there's any doubt that they are.

Ms. Wiener – Well, that's...

Mr. Bossart – That's not to discount her arguments, if she wishes to put in mitigation, but that doesn't mean it hasn't been a violation.

Chair Brandenburg – Is there a motion to the effect of the findings of violation?

MOTION: Mr. Jensen 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 Brandenburg – Ms. Wiener, mitigating circumstances? Did you want to elaborate any more on that?

Ms. Wiener – No, sir. Simply to say that the refrigeration issues simply should not provide a basis for any imposition of discipline. Both of those things were not only outside of the control of the licensee but were addressed immediately resolving the concerns. With regard to the hot water, that is the same argument. The issues regarding the prep room also resolved and the missing files for the decedent's were related to the licensee's inability to know anything other than vital statistics on these individuals. So, we would argue that the mitigating factors in fact mitigate against the imposition of any discipline for these licensees.

Chair Brandenburg – Thank you. Board?

Mr. Bossart – Mr. Brandenburg, may I finish?

Chair Brandenburg – Yes, 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 Complaints and would ask the Board to accept.

Chair Brandenburg – Board, is there a motion?

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

As to penalty, the Department is recommending that Respondent pay an administrative fine of \$5000 and undergo a one-year period of probation. Thank you.

Mr. Jones – Mr. Chair, if I can ask one more question, please?

Chair Brandenburg – Mr. Jones, go right ahead.

Mr. Jones – Ms. Wiener, you had mentioned there were some bodies they weren't aware of. In the findings there was significant decomp. Can you address that? We're talking about a unit being off one (1) night, then two (2) years later one (1) night. Can you address that for me, please?

Ms. Wiener – I can. This was quite an unfortunate situation. So, this particular licensee had it in its possession decedents that were brought into its care but for which there was no next of kin, no one to take responsibility, no one to arrange for those funerals. Unfortunately, Florida Law, unlike the law in many states, does not address what to do in those circumstances. Literally, licensees have no choice but to continue to care for those remains. These remains were un-embalmed. They had been, in some situations, in refrigeration for a period of years. One (1) of the owners of licensee himself, a Haitian, had been in contact with everyone he could come up with to talk to. Had been on the Haitian radio station every week trying to find next

of kin, or anyone that would take responsibility for these decedents and was ultimately unable to do so. The matter was finally resolved when the licensee contacted me and I contacted the Division and sought from the Division permission to inter the remains at the expense of the funeral establishment without the authority of the next of kin, or of a legally authorized person. Because, of course, that's required. So, we sought that permission from the Division. The Division gave us as assurances that those remains could be in fact interred without repercussion or discipline from that activity, interring without permission, and in fact, the licensee then purchased interment rights and interred those remains, at its own cost. So, they were able to get those remains out of their possession. It was a very unfortunate circumstance, and the owner of the licensee really went to a lot of trouble to try and find someone to take responsibility for these remains, and just simply was unable to. So, we were able to resolve that.

Mr. Jones – Thank you.

Chair Brandenburg – Thank you. Mr. Jones, anything else?

Mr. Jones – No. I'll wait for Mr. Jensen, and then I have a motion to make.

Chair Brandenburg – Mr. Jensen?

Mr. Jensen – Thank you, Chair. My question is along the same lines as Mr. Jones. I don't really have a problem with the first two (2) issues. The one (1) I do is the bodies. Was there not a county program? I know in my county here, we have a program to where unclaimed bodies can be dealt with in that manner, in a reasonable amount of time. Do you know anything about that, Ms. Wiener?

Ms. Wiener – I do. In fact, the location had tried to get the assistance from the county. Different counties do different things. And, in South Florida, they were unable to have anyone at the county or local level take responsibility for those decedents. Once I was involved with the process, we tried a number of additional avenues beyond what the owner of the licensee had tried to find some family to at least acknowledge the death of these decedents and were unable to do so. So, they were ultimately interred.

Mr. Jensen – Thank you.

Chair Brandenburg – Board?

MOTION: Mr. Jones moved that the Respondent shall pay a \$1500 fine and its license shall be placed on probation for one (1) year. Mr. Jensen seconded the motion, which passed unanimously.

Chair Brandenburg – Thank you counselor.

Ms. Wiener – Thank you.

2. Tri- County Funeral Services, Inc.: DFS Case Nos. 242577-19-FC and 282697-21-FC Division Nos. ATN-32578 and ATN-36370 (F040011)

Ms. Simon – This is a companion case. Presenting for the Department is Mr. Bossart.

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

Chair Brandenburg – Go right ahead, please.

Mr. Bossart – This is the companion case of the previous case just heard. The above-referenced matter is presented to the Board for consideration of the Motion for Determination of Waiver and for Final Order by Hearing Not Involving Disputed Issues of Material Fact (Motion) in the matter of Tri-County Funeral Services, Inc., (Respondent). On February 14, 2019, the Department conduct an inspection the funeral establishment. The inspection revealed the following:

- Failed to maintain un-embalmed human remains at a temperature of forty (40) degrees Fahrenheit or below

- Failed to maintain its preparation room in a clean and sanitary manner
- Failed to maintain a separate hand sink with hot running water in its preparation room
- Failed to retain copies of all signed at need and preneed contracts used for making final disposition of human bodies for at least a period of two (2) years

September 25, 2019, and again on October 1, 2019, the Department filed an Administrative Complaint against the Respondent, Case No. 240577-19-FC. True and correct copies of the complaint and the subsequent amended complaint are attached here to as Exhibit One.

On December 20, 2019, the Respondent's submitted a timely petition for hearing legend that there was a disputed issue material fact. Requesting the matter in Case No, 242577-19-FC, proceed as a hearing pursuant to Section 120.57(1), Florida Statutes. True and correct copy the petition for hearing is attached hereto.

On March 21, 2021, the Department conducted another inspection of the funeral establishment. The inspection revealed the funeral establishment failed to maintain un-embalmed human remains at a temperature of forty (40) degrees Fahrenheit or below. On October 22, 2021, the Department filed an Administrative Complaint against the Respondent, Case No. 282698-21-FC. A true and correct copy of the complaint is attached as Exhibit Three.

On November 16, 2021, Respondent timely submitted a petition for hearing alleging that was a dispute issue of material fact and requested the matter in Case No. 282698-21-FC proceed as a hearing pursuant to Section 120.57(1), Florida Statutes. A true and correct copy of the petition for hearing is attached to as Exhibit Four.

On May 11, 2022, Respondent, through her counsel, advised that it was withdrawing its request for hearing pursuant to Section 120, 57(1), Florida Statutes, and wishes to proceed in these matters with an informal hearing pursuant to Chapter Section 120.57(2), Florida Statutes. A copy of the correspondence from Respondent's counsel requesting the 120.57(2) hearing is attached as Exhibit Five.

Respondent, through her counsel, has contacted the Department and has indicated she intends to attend this meeting. At this time, it would be appropriate for the Chair to entertain a motion to determine whether Respondent has waived her right to Section 120.57(1), hearings in both these matters based upon the Respondent's requests for informal proceedings, pursuant to Section 120.57(2), Florida Statutes.

Chair Brandenburg – Is there a motion?

MOTION: Mr. Jensen moved that Respondent has waived her right to Section 120.57(1), hearings in both these matters based upon the Respondent's requests for informal proceedings, pursuant to Section 120.57(2), Florida Statutes. Mr. Clark seconded the motion, which passed unanimously.

Mr. Bossart – Now that the Board has determined the Respondent has waived its right to request a formal proceeding in these matters, 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 Complaints.

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

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 Complaints. 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 Complaints.

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

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

Chair Brandenburg – Board, is there a motion?

Ms. Wiener – No objection.

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

Mr. Bossart – The Department would recommend, in light of the assessed penalty in the previous case, the Respondent shall pay an administrative fine of \$1500 and one-year probation. Thank you.

Chair Brandenburg – Thank you. Ms. Wiener?

Ms. Wiener – Simply reiterating our objection to any penalty regarding these matters for the record.

Chair Brandenburg – Thank you. Board? Mr. Jensen?

Mr. Jensen – Yes, sir, I have one question about the probation. Does the probationer cover all three (3) offenses, or can we stipulate what offense that may cover? Mr. Bossart?

Mr. Bossart – I think it was intended to cover all three (3), but it's the Board's prerogative to change anyway sees fit.

Mr. Jensen – Mr. Chair, I would make a motion that along with Mr. Jones' previous motion on the previous case, a \$1500 penalty, but I would like to say that the probation only covers the bodies held portion of the infraction.

Chair Brandenburg – Is there a second?

Mr. Jones – If I may, Mr. Chairman? Mr. Jensen, how would that work?

Mr. Jensen – Well, I guess what I'm saying is, I do think there's mitigating circumstances on the first two (2) issues. On the third issue, I do believe there is avenues of resolve on that. So, I know that's happened in my case before, and we found the avenues either from the medical examiner or the county case or something to get something done. So, I do think there's more avenues there. I understand they couldn't find {inaudible}, but I don't know that that's a proper excuse. So, I do think that there probably should be some sort of penalty here, but I don't think there should be a penalty assessed for the temperature in the second issue. Only the bodies part, as far as probation goes. Does that make sense?

Mr. Jones – If I may, Mr. Chair?

Chair Brandenburg – Go right ahead, Mr. Jones.

Mr. Jones – Ms. Munson, can we delineate probation? I mean, once it's probation, are they on probation for the for the time or can we delineate probation for one thing? I'm just not clear?

Ms. Munson – I guess you probably can. I'm wondering how the Department is going to actually implement that, and I'm wondering if the Board is suggesting that although there are mitigating circumstances on the other, if something were to come up with any of the others, do you not want that to be included in consideration during a probationary period?

Mr. Bossart – May I say something, Mr. Brandenburg?

Chair Brandenburg – Mr. Bossart?

Mr. Bossart – I may be confused. The allegations of the Administrative Complaint were only that they failed to maintain the bodies at forty (40) degrees Fahrenheit. There's no allegation that they wrongfully disposed of the indigent bodies.

Ms. Wiener – Correct.

Mr. Bossart – If you're having probation for retaining the bodies for a length of time, that that wasn't charged. The issue is whether or not the cooler was working.

Chair Brandenburg – We have a motion that dies for the lack of a second. Mr. Jensen?

Mr. Jensen – Yes, sir?

Chair Brandenburg – Did you want to make a motion?

Mr. Jensen – Yes. If we're only talking about the cooler, then my motion is to alleviate it. Take it out.

Ms. Clay – Mr. Chair, just for clarification. I thought that we had voted on this already. Are we now proposing rescinding that motion and that vote?

Chair Brandenburg – No, this was for us for the companion case, Ms. Clay. This is an entirely separate case.

Ms. Clay – Ok, thank you.

Mr. Jensen – Mr. Chair, I'll make a motion that, you know, along the same lines that if we're only talking about the cooler issue, I understand that it was up. But I believe there were mitigating circumstances.

MOTION: Mr. Jensen moved to not evoke any penalties at this time.

Ms. Munson – Does that remove the fine?

Mr. Jensen – The fine? Yes.

Chair Brandenburg – That motion dies for lack of a second. So, Board, what's your pleasure here?

Mr. Jensen – Mr. Chair, I'll amend my motion then. I'll amend the motion to a \$500 fine for the cooler a thing. The fine that's outlined by the Department is a little to steep in these circumstances. So, I'll make a motion to amend my first motion to a \$500 fine and no probation, for the cooler violation only.

Mr. Ferreira – I'll second.

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

Board members –Aye.

Chair Brandenburg – And any opposed?

Mr. Jones – Opposed.

Chair Brandenburg – And the motion carries. Thank you.

(4) Consideration of the Recommended Order

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

Ms. Simon – Presenting again for the Department is Mr. Bossart.

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

Chair Brandenburg – Please do.

Mr. Bossart – The above-referenced matter is presented to the Board for consideration of the Petitioner’s Exceptions to Recommended Order in the matter of Adrienne Dishonne Leger (Respondent). Respondent was the FDIC of RWS Funeral Services, LLC, d/b/a Shawn Johnson Funeral & Cremation Services (Shawn Johnson), a funeral establishment formerly licensed under chapter 497, Florida Statutes, license number F045309.

On or about November 29, 2021, the Department filed a two-count Administrative Complaint against Respondent alleging violations of Chapter 497, Florida Statutes. Specifically, the Administrative Complaint alleged that Shawn Johnson transported a body without obtaining a burial transit permit and failed to treat a human body with dignity and respect. Respondent alleged that there was a disputed issue of material fact and a formal hearing before the Division of Administrative Hearings was held on March 9, 2022. The Department dismissed the count of the Administrative Complaint alleging a failure to obtain a burial transit permit at the hearing. The Administrative Law Judge (ALJ) entered a Proposed Recommended Order finding that Respondent did not fail to treat a body with dignity and respect and dismissing the Administrative Complaint. The Department files the Exceptions to the ALJ’s Proposed Recommended Order. The Department asks that the Board enter a Final Order consistent with the ALJ’s Recommended Order notwithstanding the Department’s Exceptions.

Let me say, this case did not certainly did not go the way the Department hoped. There were a variety of problems. The findings of facts are what they are. They cannot be changed. However, the hearing officer did make a conclusion of law, basically as I outlined in my exceptions. He said that based on {inaudible} treating a body with dignity and respect entails, differs from, it’s not the same with embalming with the standard of care. Record evidence, or legal precedence support this assertion. It is Department’s position that treating a body with dignity and respect following an embalming, the standard of care is what is one in the same. The Department’s expert, Mr. Finocchiaro, testified as such. Also, the wording of the statute provides that the licensing {inaudible} minimal standards for acceptable and preventative practices to the handling and storage of dead human bodies. That would by definition entail following standard embalming practices, acceptable in standard embalming practices. In addition, the previous DOAH Case, which was held in Kevin Watts versus Emerald Coast Funeral Home, held that the only standards which govern licensed funeral homes, are generally accepted practices establishing embalming in the mortuary industry for the handling of dead human bodies. These generally accepted practices are mandated in Section 497.386(4). The Department would ask that the Board so rule that the standard of care and that treating a body with dignity and respect are one in the same. Thank you.

Chair Brandenburg – Thank you, Mr. Bossart.

Mr. Williams – Mr. Chairman, may I make a motion?

Chair Brandenburg – Go right ahead, Mr. Williams.

Mr. Williams – I’ll make a motion. Is Mr. Bossart asking for a motion?

Chair Brandenburg – Mr. Bossart?

Mr. Bossart – I think you would have to accept the report with exceptions. So, I guess I would ask that you move that {inaudible} the Department’s Exceptions.

Mr. Jensen – I’m not clear on that, Mr. Chairman? What are we accepting, Mr. Bossart?

Chair Brandenburg – The Department asked the Board enters a Final Order consistent with the ALJ’s Recommended Order notwithstanding the Department’s Exceptions.

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

Chair Brandenburg – Yes.

Mr. Jensen – Going back to this case, Mr. Bossart mentioned that the case of Watts vs Emerald Coast, but I know it was found in that case that it was found in embalming textbooks that actually what the funeral director did was appropriate. So, he was ok. So, are you saying, Mr. Bossart, that the handling of this deceased individual was proper in this case, or improper?

Mr. Bossart – The hearing officer found no violation of the statutes, However, it did hold that the standard acceptable embalming practice in the industry were not coterminous, or the same as handling the body with dignity and respect, and it's the Department's position that they are one and the same. If you do not follow the standard embalming procedures, you are not handling the body with dignity and respect. That's what the Department's contending. It's a conclusion of law.

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

Chair Brandenburg – Go right ahead.

Mr. Clark – Mr. Bossart, I thought the bigger concern was not knowing where the decedent was, because they don't have a refrigeration facility and they were never able to determine where the decedent was from January 27th to February 6th. Is that part of it? That's how I read it.

Mr. Bossart – That's correct. That was part of the reason for the ALJ's Recommended Order.

Mr. Clark – Thank you.

Ms. Munson – Chair Brandenburg?

Chair Brandenburg – Go right ahead.

Ms. Munson – I don't know if it's helpful, but I was just going to backtrack a little bit, because this is kind of new for this Board. It's a Recommended Order, and if it's ok with Attorney Bossart, I was just going to give a little bit of a procedural foundation, so the Board can understand what it can and cannot do. If that's helpful?

Mr. Bossart – Please do.

Ms. Munson – Ok. So, what normally would happen here, and I'll just refer to my notes. Understand, of course, that Mr. Williams is recused and can't participate in any of the discussion. And I don't know if any of the parties, if the party is actually present today. We kind of need to identify that upfront.

Mr. Bossart – I believe their attorney is present.

Ms. Munson – Ok, so we're going to need to clarify on the record whether or not the Respondent is present or represented by counsel. The hearing is actually pursuant to the statutes as indicated by Mr. Bossart. I don't want us to start talking about different things that we can bring into this discussion. No new evidence is allowed to be admitted. And this is all for the benefit, perhaps more for the new Board members. So, what can happen is that the Board can either adopt the Recommended Order as its Final Order or the Board can reject the Administrative Law Judge's findings of fact or conclusions of law, an interpretation of the administrative rules over which it has been provided substantive jurisdiction and must state with particularity the reasons for rejecting or modifying the conclusion of law or interpretation of the administrative rule. Must make a finding that any substituted conclusion of law, but the facts pretty much are not currently modified in final form. But, if you make any findings regarding or substituting the conclusion of law, you have to identify specifically what that is. The Board, of course, also can reject, but they cannot reject or modify the factual findings unless it's determined from a separate review from the complete record, which, again, I think Mr. Bossart has pretty much identified. The Board may not alter the recommended penalty without a review of the complete record. We need the Board members to acknowledge that they reviewed the complete record, and they have to be able to cite something in the record if they choose to modify anything to justify that action. Arguments should be made by both parties upon request. Once the exceptions have been considered, the Board will make the appropriate motion to deal with the conclusions of law in the Recommended Order. And, finally, the

Board will consider and resolve the issue of what penalty, if any, is appropriate. So, we open it up to ask if there are any questions from either party. But I just thought it might be helpful to provide some type of framework, because again, I don't think a recommended order has come before the Board pretty often.

Chair Brandenburg – Thank you. Mr. Jensen?

Mr. Jensen – Yes, Mr. Chair. I would like to ask Ms. Munson this. In reading this, the Administrative Law Judge basically didn't side with either side but stated that the statutes are not well defined enough as to what constitutes negligent care. Is that correct? Are we making a determination now of what does constitute negligent care, or are we just agreeing that the statute does not clearly define what constitutes negligent care?

Ms. Munson – You're modifying the conclusions to reflect that. You can do that with your explanation for why you're doing it. Again, what you're not changing are the findings.

MOTION: Mr. Jensen moved that the Board accept the Administrative Law Judge's findings in this case. Ms. Peebles seconded the motion, which passed unanimously.

Ms. Munson – Can I just clarify, was anyone recused? I believe I may have misstated that Mr. Williams was.

Chair Brandenburg – You're breaking up. We can't understand you.

Ms. Munson – Is any member recused, because we would need to clarify that for the record.

Mr. Williams – No, ma'am. I was recused for the other cases, but not this case.

Ms. Munson – Ok, then. Having no member recused, I have that clarify for the minutes. Thank you. Sorry about that. Thank you for that, Chair Brandenburg.

Chair Brandenburg – Thank you. Ms. Simon?

Ms. Simon – Yes, sir. May I move on with the agenda at this point?

Chair Brandenburg – Please do.

Ms. Simon – I'm sorry, I think Ms. Munson is trying to get your attention.

Ms. Munson – I just stated that we accepted the ALJ's Recommended Order, as is. There are no comments regarding or discussing regarding exemptions or anything that we just voted on? I wasn't sure, Mr. Bossart. I didn't want to step into your lane. I just wanted to make sure the record was clear as to what just happened.

Mr. Bossart – {Inaudible} change.

Ms. Munson – I don't know what the minutes reflect. I may have missed that.

Ms. Simon – Mr. Chairman, if I may? I believe the minutes will reflect that there was no discussion on the exceptions and the ALJ's ruling was affirmed and accepted. I would assume that the case is dismissed. I do not know if additional motions need to be taken to have that {inaudible}.

Ms. Munson – Just to clarify, it's not a dismissal, and I don't know if a party is here to present any information, because they would need an opportunity to speak if they needed to.

Ms. Simon – It appears they are here, Mr. Chairman.

Mr. Alterraon Phillips – Hi. I just wanted to introduce myself. I'm attorney Al Phillips, who is counsel for the Respondent, Adrienne Leger. We did hear, and we thank the Board and everyone for your time. From what we just understood, there was a motion and second and agreement that the Judge's Administrative Order was going to be accepted, which may note that this complaint was being dismissed against Ms. Leger, which was Count Two. That was the only thing that was remaining, as Count One, which was brought was already dismissed by the Petitioner in this case. So, that's what we were understanding just occurred.

Chair Brandenburg – That's the way I understood it with the motion, and the action taken. Anything else?

Ms. Munson – An Order will be issued accordingly.

Ms. Simon – Thank you,

Chair Brandenburg – Thank you.

Ms. Simon – Mr. Chairman, may I now continue with the agenda?

Chair Brandenburg – Yes.

Mr. Griffin – Assistant Director, could we go back to the to the hearing that we had set off involving Holloway?

Chair Brandenburg – Yes.

Ms. Simon – Mr. Chairman, may I recall that case?

Chair Brandenburg – Yes. That was D. (3) (a).

(3) Motion for Final Order by Hearing Not Involving Disputed Issues of Material Fact (Probable Cause Panel B)
(a) Holloway Funeral Home, LLC: DFS Case No. 287724-21-FC; Division No. ATN-37378 (F080152)

Ms. Simon – Mr. Griffin?

Mr. Griffin – Yes, so I believe that the Board had already moved, that the Respondent had elected an informal hearing in this matter via written submissions. The motion was already passed on that. So, I think we've gotten to the point of the Department asserts that now that the Board has determined that Respondent has requested an informal hearing of this matter. The Department believes it is appropriate at this time to the Chair to entertain a motion to adopt and the allegations of facts as set forth in the Administrative Complaint.

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

Mr. Griffin – 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.

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

Mr. Griffin – 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. As to penalty, the Department is recommending that Respondent shall pay a fine of \$3000 and place Respondent's license on one (1) year of probation. This is a two-count AC that alleges two violations, and each count alleges a violation of 497.152(1)(b). The penalty guidelines for that for a first-time violation are a \$1,000 to \$2,500 fine, six (6) months to one (1) year probation and up to a two (2) year suspension or permanent revocation. And then, each count of AC also alleges an allegation of s. 497.386(2),

for which the penalty guidelines call for a fine of \$500 to \$2,500, probation for six (6) months up to one (1) year, suspension up to one (1) year, permanent revocation of licensure. So, the licensee, based on the allegations in the complaint, is looking at the lowest potential liability of \$1,000 and the highest potential liability, as far as fines, of up to \$5,000. The Department is just asking that probation, as to each count, would be to only impose one-year concurrency. And I believe Mr. Grabowski has comments to make on mitigation.

Chair Brandenburg – Mr. Grabowski?

Mr. Grabowski – Yes. Thank you, Mr. Chair. I'll be very brief, and I apologize. I'm having camera issues this afternoon. So, I'm not on the screen. But as I mentioned earlier, we're not here to dispute the factual allegations. The information before the Board demonstrates that there was a routine inspection on August 10th of last year, and there was a further documentation of a small three-person refrigeration unit at 52 degrees. The FDIC at this location, Mr. Scott Hickey, was present during that inspection. He had explained that they had been loading remains into that unit and removing remains in preparation for transport that day and that he believed that's why the temperature had risen. There was no evidence of decomposition on the two (2) sets of remains there. No evidence that Mr. Hickey or anyone else had any reason to believe this unit was not working. Nonetheless, that same day, in an effort to avoid any issues Mr. Hickey noted that both sets of remains were transported to a different facility. The inspector confirmed that that same day. Even though he did not believe there was anything wrong with the unit, he did have a technician come out as well. A technician came out the next day. He made several repairs to the unit that are documented in the Board packet, but I think if you look at what was actually done, replacing a motor or fans, because they were noisy, I do think these were more efficiency issues and nothing to suggest this unit was not working properly. And again, all this occurred in a matter of one (1) day, and it was confirmed by the investigator. And that unit, after those repairs, continues to work well. I also think it's important to know that during that inspection, when that 52 degree temperature was documented, Mr. Hickey stated that during the half hour inspection, the temperature actually started to go down again, which again demonstrates, in our perspective, that there's really no evidence to believe that there was anything wrong with this unit. So, we certainly don't dispute that temperature was high, but we'd simply ask the Board to consider these mitigating factors in the fact that Mr. Hickey or The Holloway Funeral Home have no past disciplinary action. And we would just hope that the Board would consider that. And if a penalty does need to be assessed, we understand the financial penalty, but we don't believe that there's anything in these facts that demonstrate that anyone should be placed on probation, or that the higher end of the penalties be imposed. And we would just ask the Board to consider that.

Chair Brandenburg – Thank you. Mr. Griffin?

Mr. Griffin – I would just point out that on Page 16 of the Board packet, which has that, basically, the receipt for the labor that was done on August the 11th. Labor to diagnose evaporating fan motor excessively noisy, and motor in blade running wrong direction, condenser dirty and low on charge, missing cap. The next thing that's mentioned is installed correct motor and blade, blew out condenser and added a pound of R22 to system. So, notwithstanding the claims made by counsel for Respondent, there was very clearly something wrong with it hence why they noted that the blade was running in the wrong direction. So, I would like to think that this is a little more than that there was nothing wrong that, you know, this was a fluke. There was obviously something clearly wrong as evidenced by the repair bill on the next page.

Chair Brandenburg – Board?

Mr. Jensen – Mr. Chair?

Chair Brandenburg – Go right ahead.

Mr. Jensen – A question for Mr. Griffin. I don't believe they're disputing the material facts here. So, my question is how do you arrive at the \$3,000? Is that because there were two (2) bodies? And how are you arriving at the probation?

Mr. Griffin – So, each count is punishable by anywhere from \$500 to \$2500. That's the penalty range per count. So, we went with \$1500, which is kind of in the middle, and to be honest, it's consistent with how we settle these cases. If we do a settlement stip for this violation, settlement stip is \$1,500 fine and one-year probation. Now, as far as running the probation concurrent, because it's the same inspection, we don't have like a large temporal break in time. The Department thought that one-year probation was appropriate, in this matter.

MOTION: Chair Brandenburg moved that the Respondent shall pay a fine of \$1,500 and place Respondent's license on a one (1) year of probation. Mr. Jones seconded the motion, which passed unanimously.

Chair Brandenburg – Thank you, counselor.

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.

(2) Recommended for Denial (Criminal History)

(a) Bures, Eric (Appointing Entity: FPG Florida LLC)

Ms. Simon – On April 5, 2022, the Division received an application for licensure as a preneed sales agent, and a temporary preneed sales agent license was issued. However, during the review of Mr. Bures' background check it was revealed that he did in fact have reportable criminal history that required disclosure, to wit, in 2016 and 2017, charges of felony DWI were filed against Mr. Bures by the Livingston County Court and the Ontario County Court, respectively. Mr. Bures pled guilty to all charges and was sentenced to one (1) year of probation, 1-4 years of confinement, revocation of his driver's license and the restricted use of an ignition interlocking device for twelve (12) months, and payment of fines plus other costs and court fees. As a result, the Division is recommending denial of this application.

Mr. Clark – Mr. Chairman?

Chair Brandenburg – Yes?

Mr. Clark – I just want to state for the record, my affiliation with Foundation Partners Group of Florida and I will recuse myself from this matter.

Chair Brandenburg – Thank you. Is Mr. Bures on the call or anyone representing Mr. Bures?

Ms. Wiener – Wendy Wiener for Mr. Bures.

Chair Brandenburg – Did you want to address the Board or you're merely here to answer questions?

Ms. Wiener – I would appreciate addressing the Board, despite your probable hope that I was only here to answer questions. But, just very briefly, Mr. Bures intended to be on the call today, but his daughter is in the hospital and just had surgery yesterday, So, he was unable to attend and sends his apologies to the Board for not being able to attend. So, I think the reason that this matter probably got onto the agenda has less to do with the severity of his criminal record, because this Board has, and I hasten to use the word regularly, but has often licensed persons that have had substance abuse related criminal histories. But I suspect that one of the reasons that it made the Board's agenda recommended for denial is because it was not disclosed on his application. Unfortunately, the way that his application was submitted, it was submitted directly by his employer, Baldwin Brothers, which is now owned by Foundation Partners Group. Their administrative staff submitted the application without knowledge of his criminal history. As soon as he was made aware of that, he provided the information that was required and was requested. I also think that there is a generalized misconception among employers, and among many licensees, that the infractions of this nature do not fall into the category of felonies but fall into the category of misdemeanors. And both of these matters, if they were misdemeanors, would not require disclosure because they occur more than five (5) years ago. The time period on the five (5) year or twenty (20) or penalty starts when the infraction was committed, not when the conviction occurred. So, I would ask that you license Mr. Bures consistent with many years of precedent on this matter.

MOTION: Chair Brandenburg moved to approve the application subject to a one-year probation. Mr. Jensen seconded the motion, which passed unanimously.

Ms. Wiener – Thank you, Board.

F. Application(s) for Continuing Education

- (1) *Course Approval - Recommended for Approval without Conditions – Addendum B*
 - (a) *National Funeral Directors Association (136)*
 - (b) *Selected Educational Trust (43808)*
 - (c) *WebCE (43)*
 - (d) *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.

MOTION: Ms. Peebles moved to approve the applications. Ms. Clay seconded the motion, which passed unanimously.

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.

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

H. Application(s) for Embalmer Apprentice

- (1) *Informational Item (Licenses Issued without Conditions) – Addendum D*
 - (a) *Johnston, Charlton H F060464*
 - (b) *McLemore, Ashley E F596965*
 - (c) *Nobles, Timothy F596956*
 - (d) *Smith, Scotty A F596955*

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 and Embalmer (Endorsement)*
 - 1. *Hagestuen, Kelli R*
 - (b) *Funeral Director and Embalmer (Internship and Exam)*
 - 1. *Galyon, Zoe*
 - 2. *Luma, Notrusley*
 - 3. *Whitley, Cardelia A*

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.

Chair Brandenburg – I'd like to declare my affiliation with SCI Funeral Services of Florida LLC. This affiliation will not affect my ability to render a fair and unbiased decision on any issue coming before the Board today. Thank you.

- (2) *Recommended for Denial (Criminal History)*
 - (a) *Funeral Director and Embalmer (Endorsement)*
 - 1. *Bordeau, Daisy J*

Ms. Simon – An application for a funeral director and embalmer license was received by the Division on May 4, 2022. The applicant's fingerprints were received with no relevant criminal history; however, the applicant self-reported relevant criminal history, to wit on or around July 2011, the applicant pled no contest to Possession of Codeine. The applicant was sentenced to

approximately one (1) year of confinement. As a result, the Division is recommending denial. Is Ms. Bordeau or a representative of Ms. Bordeau on the call today?

Ms. Wiener – Both.

Ms. Simon – Pardon?

Ms. Wiener – Both. Wendy Wiener representing Ms. Bordeau. Ms. Bordeau is here as well.

Chair Brandenburg – Ms. Wiener, did you want to address the Board?

Ms. Wiener – I would like to address the Board. Thank you, Mr. Chairman. Good afternoon, Board. I have the pleasure of representing Daisy Bordeau, with regard to this matter. As you know, she's self-reported criminal history that did not even come up or require reporting. However, now that she has, and it is before you with a recommendation of denial. As Ms. Bordeau disclosed to the Board, she was twenty-one (21) years old when she attended a party, in which a bottle of cough syrup which contained codeine was poured into a two (2) liter bottle of soda. And following that unfortunate youthful transgression, Ms. Bordeau went on to attend college, to graduate from mortuary school, and to become a licensed funeral director in Texas, in 2016. She appeared in person, before the Texas Board, as was required then because of criminal history, and was licensed without conditions, which was voted upon unanimously. While in Texas, she became a court appointed casa advocate, which in Florida speak would be the equivalent of a guardian ad litem. In becoming a casa advocate, she underwent a thorough background check to assure the court system in Texas that she was qualified to represent the interests of children who were part of Child Protective Services there. I would gently remind the Board that this type of criminal record has not restrained the Board from licensing without condition, many times in the past, and far worse criminal records have been considered, and those applicants approved, many, many, without any imposition. I would encourage you to vote to approve Ms. Bordeau's application without any conditions. She has certainly demonstrated, in the fourteen (14) years since her youthful transgression, that she's an asset to the death care profession. And she and I are available to take any questions, if you have them.

Chair Brandenburg – Board, is there a motion?

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

Chair Brandenburg – Thank you both for being with us today.

J. Application(s) for Internship

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

(a) Funeral Director

1. **Blum, Emily A F595255**

(b) Funeral Director and Embalmer

1. **McCall, Ashli E F470520**

2. **Megna, Gianna M F594408**

3. **Tyler, Crystal C F596458**

4. **Vera, Karen I F595579**

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.

(2) Application to Renew Internship

(a) Recommended for Denial

1. **Battle, Chase A F511411**

Ms. Simon – An application to renew the funeral director and embalmer internship license was received on June 8, 2022. The applicant has previously been licensed as a funeral director and embalmer intern. The current license expired on June 1, 2022, which is seven (7) days after the internship expired. The Division is recommending denial.

Chair Brandenburg – Is Mr. Battle on the call or anyone representing Mr. Battle? Hearing no response.

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

K. Application(s) for Monument Establishment Sales Agent

- (1) *Informational Item (Licenses Issued without Conditions) – Addendum G*
 - (a) *Beck, Carl D F049302*
 - (b) *Hazelwood, Richard A F091670*
 - (c) *Jackson, Shawn B F390735*
 - (d) *Lindell, Jennifer J F045167*

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

L. Application(s) for Funeral Establishment

- (1) *Recommended for Approval with Conditions*
 - (a) *A Jerome Brown Funeral Home LLC (High Springs)*

Ms. Simon – An application for a funeral establishment licensure based on a change of ownership was received May 31, 2022. A background check of the principals revealed no relevant criminal history for the principals. The current establishment does not have a qualifying preneed license. The change in ownership is due to the passing of the current owner, Mildred Brown. The Division is recommending approval subject to the condition that the establishment passes an onsite inspection by a member of Division Staff.

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

- (b) *Palm Royale Cemetery and Mausoleum LLC (Naples)*

Ms. Simon – An application for a funeral establishment was received on May 23, 2022. A background check of the principals revealed no criminal history for its principals; however, the licensee does have adverse licensing history. The Division is recommending approval subject to the condition that the establishment passes an onsite inspection by a member of Division Staff.

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

M. Application(s) for Preneed Main License

- (1) *Recommended for Approval without Conditions*
 - (a) *New Dawn Enterprise of Lake County Inc d/b/a Eastside Funeral Home (F041874) (Leesburg)*

Ms. Simon – The Department received an application for a preneed license on March 1, 2022, and the application was deemed complete on May 31, 2022. Applicant’s qualifying funeral establishment license is located at the same address. If approved, the applicant will trust through IFDF. The Division is recommending approval without conditions.

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

- (b) *Wade Funeral Home LLC (F065243) (Hallandale Beach)*

Ms. Simon – The Department received an application for a preneed license on May 13, 2022. The application was deemed complete on June 15, 2022. Applicant’s qualifying funeral establishment license is located at the address provided on the cover sheet of your Board package. If approved, the applicant will utilize insurance-funded contracts through Great Western Insurance Company. The Division is recommending approval without conditions.

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

N. Application(s) for Removal Service

- (1) *Recommended for Approval with Conditions*
(a) *Klassic Kare Enterprise Inc (Jacksonville)*

Ms. Simon – An application for removal service licensure was received on May 27, 2022. The Division is recommending approval subject to the condition that the removal service passes an onsite inspection by a member of Division Staff.

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

- (b) *Miami VIP Removal Service LLC (Hialeah)*

Ms. Simon – An application for removal service licensure based on a change of ownership was received April 15, 2022. A completed application was received on May 31, 2022. The change in ownership is due to the passing of the current owner, Nancy Morrissey. The Division is recommending approval subject to the condition that the removal service passes an onsite inspection by a member of Division Staff.

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

O. Collective Application(s)

- (1) *Recommended for Approval with Conditions*
(a) *Gentle Water Cremation FL LLC (West Palm Beach)*
1. *New Establishment*
 - *Cinerator Facility*
 - *Funeral Establishment*
 - *Preneed License*

Ms. Simon – Gentle Water Cremation FL LLC, seeks approval of the following applications for new license: one (1) funeral establishment, one (1) cinerator facility and one (1) preneed license. More specifically, the entities that are being acquired is as follows:

- 1) Gentle Water Cremation FL LLC, a funeral establishment, physical address: 1112 48th Street Unit 2, West Palm Beach, FL 33407. FDIC: Dean Fisher, license #F594093
- 2) Gentle Water Cremation FL LLC, a cinerator facility, physical address: 1112 48th Street Unit 1, West Palm Beach, FL 33407. FDIC: Dean Fisher, license #F594093
- 3) Gentle Water Cremation FL LLC, a preneed license, physical address: 1112 48th Street Unit 1, West Palm Beach, FL 33407.

Your Board package includes the separate applications regarding each application referenced in the coversheet. The applications were presented at the May 5, 2022 Board meeting. However, the applicant withdrew the applications to be placed on a later Board agenda. The Division is recommending approval subject to the condition that the establishments pass an onsite inspection by a member of Division Staff.

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. Mr. Williams seconded the motion, which passed unanimously.

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

- (1) *Recommendation for Approval without Conditions*
(a) *Preconstruction Performance Bond*
1. *SCI Funeral Services of Florida, LLC d/b/a Hillsboro Memorial Gardens (Brandon)*

Ms. Simon – SCI Funeral Services of Florida, LLC d/b/a Hillsboro Memorial Gardens has been removed from the agenda.

2. *SCI Funeral Services of Florida, LLC d/b/a Serenity Gardens Memorial Park (Largo)*

Ms. Simon – SCI Funeral Services of Florida, LLC DBA Serenity Gardens Memorial Park intends to construct 104 new niches. Pursuant to s. 497.272, Fla. Statutes, typically, a pre-construction trust must be put in place if sales are going to occur prior to completion. However, s. 497.272(8) provides that in lieu of the pre-construction trust fund, the cemetery company may provide a performance bond in an amount and by a surety company acceptable to the regulator. The licensee has submitted for approval a performance bond, in lieu of a pre-construction trust. The mausoleum project, and the bond, is summarized on the cover sheet in your Board package. The cemetery agrees to complete said construction in accordance with the terms of the attached construction agreement with Carrier Mausoleums Construction USA, Inc, which is included in your Board package. The Division recommends approval of the aforementioned pre-construction performance bond without conditions.

MOTION: Mr. Jones moved to approve the pre-construction performance bond. Ms. Clay seconded the motion, which passed unanimously.

- (2) *Recommendation for Approval with Conditions*
 - (a) *Preneed Sales Agreement*
 - 1. *Neptune Management Corporation (Plantation)*

Ms. Simon – Neptune submits revised preneed sales agreement forms for approval: Preneed Funeral Agreement and Retail Installment Contract (Form NEP-FL-999-PNFA) used by the locations in Florida operating as Neptune Society; Preneed Funeral Agreement and Retail Installment Contract (Form NCS-FL-999-PNFA) used by the locations in Florida operating as National Cremation Society; and Preneed Funeral Agreement and Retail Installment Contract (Form NCBS-FL-999-PNFA) used by the locations in Florida operating as National Cremation & Burial Society. If approved, these agreements will be used for the sale of preneed contracts. The Division recommends approval with the condition that two (2) full sized print-ready copies of the revised preneed sales agreements are received by the Department within sixty (60) days of this Board meeting.

MOTION: Mr. Jones 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. Mr. Williams seconded the motion, which passed unanimously.

- (b) *Preneed Sales and Trust Agreement*
 - 1. *Clearpoint Federal Bank & Trust Inc (Batesville, IN)*

Ms. Simon – ClearPoint, through its representative, Ashley Pyne, seeks approval of a master preneed trust agreement and preneed cemetery and funeral agreement forms; all as more specifically set out more specifically in your Board package. Specifically, the applicant seeks approval of a master preneed trust agreement, entitled “*SCI Master Preneed Funeral Trust Agreement*”, *Cemetery Sales Agreement* forms, as well as a *Funeral Planning Agreement* and *Statement of Merchandise & Services* forms. The Division recommends approval of all of the attachments within your Board package subject to the following conditions:

- 1) That the representations of ClearPoint through its representative as set forth in letter dated June 14, 2022, copy included in Board package, be deemed material to the Board's decisions herein.
- 2) That fully executed copies of the trust documents as identified above be provided to the Division within sixty (60) days of this Board meeting.
- 3) That two full sized print-ready copies the preneed cemetery and funeral sales agreement forms be provided to the Division within sixty (60) days of this Board meeting.

Mr. Jensen – Mr. Chair?

Chair Brandenburg – Mr. Jensen?

Mr. Jensen – Yes, sir. I just have one observation. If I may? I'm looking at Page 3 of the cemetery agreement. On the bottom, it has services, but it does not have the disclaimer that services are 100% refundable in Florida. Are we still approving that? It would be Page 24 of 38. I know most of the three (3) pages apply to cemetery stuff, but I do see a section of the services, but I don't see the other part.

Ms. Simon – If I may respond?

Chair Brandenburg – Please.

Ms. Simon – The disclaimers that are required by statute are provided on Page 22.

Mr. Jensen – I just saw it, actually. I just saw it, Ms. Simon. Thank you, Mr. Chair. I apologize.

MOTION: Ms. Clay 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. Mr. Williams seconded the motion, which passed unanimously.

Q. Executive Director’s Report
(1) 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: July 12, 2022
 Date report was prepared: June 29, 2022

Licensee	Board Meeting	Case No.	Total Fine & Cost Due	Date Due	Paid in Full?	Comments
McRae Funeral Services LLC	April 7, 2022	285315-21-FC	\$1,750	May 16, 2022	Paid in Full	
Leonaldo Stubbs	March 3, 2022	287747-21-FC	\$1,250	June 23, 2022	Paid in Full	
Timothy Kitchens	March 3, 2022	278063-21-FC	\$2,000	April 25, 2022	Paid in Full	
Timothy E. Kitchens Funeral Home, Inc	March 3, 2022	278061-21-FC	\$2,000	April 25, 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	April 25, 2022		Sent to OGC for administrative action
Orn-8 Luxury Designs, LLC d/b/a A Mortuary Service	March 3, 2022	287746-21-FC	\$1,750	June 23, 2022		Sent to OGC for administrative action
Marion Graham Mortuary	Jan/Feb 2022	280739-21-FC	\$4,000	March 25, 2022	Paid in Full	
Joy McCartney	2/3/2022	282878-21-FC	\$1,250	March 25, 2022	Paid in full	
Paradise Funeral Chapel LLC	2/3/2022	App for Licensure	\$1,500	March 25, 2022		Sent to OGC for administrative action
Stonemor Florida LLC DBA Forrest Hills Memorial Park	2/3/2022	282705-21-FC	\$800	April 25, 2022	Paid in full	
All Points Removal Service	1/6/2022	286302-21-FC	\$2,500	March 5, 2022	Paid in full	
Peter Mackerowski	1/6/2022	286926-21-FC	\$2,000	March 25, 2022	Paid in full	
Rose Hill Cemetery Company	1/6/2022	282700-21-FC	\$2,000	March 29, 2022	Paid in Full	
Naples Funeral Home, Inc.	1/6/2022	282694-21-FC	\$750	March 29, 2022	Paid in Full	
D & L Removal & Transport, Inc.	1/6/2022	283168-21-FC	\$1,500	28-Feb-22	Paid in Full	
Marie Decker	May-21	243582-19-FC	\$2,250	11/22/2021	No	Sent to OGC for administrative action
Debra Lynn Parrish	11/4/2021	282523-21-FC	\$1,000	12/17/2021	Paid in Full	

ES 6-29-2022

(2) Operational Report (Verbal)

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

Ms. Schwantes – Thank you. Mr. Chair, may I go forward?

Chair Brandenburg – Please go right ahead.

Ms. Schwantes – Thank you, sir. Just a couple of quick announcements. Within the next few weeks, you're going to see a new layout and new content on our website. The Division and Department staff have been working on these changes for quite a while now. We hope that the new website will provide even more useful information to our licensees and the public. As always, we invite and appreciate any feedback from Board members or the public on that. So be on the lookout.

Our next Board meeting will be an in-person meeting taking place in St. Augustine on Thursday, August 4th at 10 AM. Additional details regarding the meeting are posted on our website. We look forward to seeing everybody there.

At this time, I want to talk about the Board. I'm pleased to announce that CFO Jimmy Patronis has appointed Board officers for this year. Under Section 497.101, Florida Statutes, as you all know, the CFO annually appoints the Chair and Vice Chair of the Board from among the Board members. So, effective August 1st, the Board Chair will be Jill Peeples. Ms. Peeples has been a licensed funeral director and embalmer since 1989, and previously served on the Board's predecessor Board from 1999 to 2003. We look forward to working with Ms. Peeples in her new position as Board Chair. Also, effective on August 1st, CFO Patronis has appointed Andrew Clark as the Board's Vice Chair. Mr. Clark has been a licensed funeral director and embalmer since 2007 and has served on this Board continuously since 2011. Please join me in congratulating Ms. Peeples and Mr. Clark on their new appointments. We wish you very well in these positions.

Finally, I want to thank our current Chair, Jody Brandenburg, for his many years of service to the Board, and to the public, as the Board's Chair. Mr. Brandenburg joined the Board in 2004, serving as the Board's Vice Chair for five (5) years, from 2004 until his appointment as the Chair in 2009. In his positions as both Vice Chair and Chair, Mr. Brandenburg has led this Board for approximately eighteen (18) years with honor and distinction. Chair Brandenburg sometimes mentions wishing for the Wisdom of Solomon, and I know we've all heard him say that. In reaching decision. However, I think it's clear from his professional, tactful and diplomatic handling of over 156 Board meetings that he must indeed possess quite a bit of this desired wisdom. So, Mr. Brandenburg, it has been both a professional and personal pleasure and honor working with you as Board Chair. On behalf of the Department, and certainly all of the Division staff, thank you, sir, for your service. And of course, we look forward to continuing to work with you as Board member during the remainder of your term and tenure here.

This ends the Executive Director's report. While normally I would return the meeting to Ms. Simon, I believe the next item on our agenda is the Chairman's Report. So, Mr. Brandenburg, I turn the meeting back over to you sir, and again thank you.

Chair Brandenburg – Thank you.

R. Chairman's Report (Verbal)

Chair Brandenburg – I just want to mention, the many, many years of serving with such outstanding Board members through the years. The list is so long that I couldn't individually acknowledge each one of them. In addition, the Division, the field staff has been phenomenal over all these years. And of course, I work closely with Crystal Grant, Jasmin Richardson and LaTonya Bryant, who all operate with integrity, a high level of responsibility, and it's certainly been a pleasure. Ellen Simon, as you all know, is the backbone of the Board in helping us get through agendas and all the Board material and has been the standard for excellence. Ms. Munson, I appreciate you so much. Mary Schwantes, since you've come on board as a Director, everything about the Division and this Board has improved. So, thank you for that. So, it's been a great number of years. I think Mary said seventeen (17) years as the Chairman and Vice Chairman. I've loved every minute of it, and I think back to our company's core value. That certainly can be applied to this Board position, too. It's respect, integrity, service excellence, and enduring relationships. I know I'll enjoy enduring relationships with all of you. Thank you so much.

Mr. Jones – Thank you.

Ms. Simon – Thank you, Mr. Chairman. Thank you for your kind words.

S. Office of Attorney General’s Report
(1) Attorney General’s Rules Report (Informational)

Ms. Simon – Ms. Munson?

Ms. Munson – The information regarding the Rules Report, as indicated in your material, is for informational purposes only.

BOARD OF FUNERAL, CEMETERY, AND CONSUMER SERVICES RULES REPORT
JULY 2022

Rule Number	Rule Title	Date Rule Language Approved by Board	Date Sent to OFARR	Rule Development Published	Notice Published	Adopted	Effective
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

(2) Annual Regulatory Plan – Delegation of Authority (Action)

Ms. Munson – I’d just like to note that there is a second item indicated under my report, and it is the Annual Regulatory Plan. As you might recall, I mentioned it at the last meeting. And it’s something that we do every year. We will need to, again, review the rules that may be necessary for the Board to undertake, or even if not necessary, but preferred. I’m just asking the Board by vote to please give permission to delegate authority to the Chair at the time of this decision making, to review the rules, and I can input that information on the Annual Regulatory Plan. And of course, I will bring the information back to the Board for ratification. I mentioned it last meeting, but it wasn’t specifically on the agenda. So, because it does require action, I wanted to make sure that it was noticed properly, and the Board members would be able to prepare to take a vote on the matter. And I’m pausing for a little bit because I will tell you, Chair Brandenburg, I am very moved by your comments. It’s such a pleasure, it’s been such a pleasure working closely with you on the matters regarding this Board. I kind of caught myself choking a little bit, and I’d like to publicly state that I’ve appreciate you.

Chair Brandenburg – Thank you so much. Thank you very much.

MOTION: Mr. Williams moved to delegate authority to the Chair. Mr. Clark seconded the motion, which passed unanimously.

Ms. Simon – Ms. Munson, is that the end of your report?

Ms. Munson – It is, Ms. Simon. Thank you so much.

T. Public Comments (Verbal)

Ms. Simon – Is there any public comment to be made at this time? Hearing no response. Mr. Chairman?

- U. Upcoming Meeting(s)**
(1) August 4th (St. Augustine)
(2) September 1st (Videoconference)
(3) October 6th (Videoconference)

(4) November 3rd (Orlando)

(5) December 1st (Videoconference)

V. Adjournment

Chair Brandenburg – Again, thank you, Board? Anything further for the good of the cause? Board members?

Mr. Jensen – Thank you for your service, Mr. Brandenburg. Appreciate that.

Chair Brandenburg – Thank you.

Mr. Williams – Thank you Mr. Chairman, for your service.

Chair Brandenburg – Thank you.

Ms. Peebles – Mr. Brandenburg, it is going to be big shoes to fill.

Chair Brandenburg – Thank you. Thank you very much. Well, I know that we've gone at length today, so without further ado, I'll adjourn this meeting. Thank you.

The meeting was adjourned at 2:12.