

MINUTES
BOARD OF FUNERAL, CEMETERY AND CONSUMER SERVICES
IN-PERSON MEETING
JULY 13, 2023 - 1:00 P.M.

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

Ms. Jill Peeples – Good afternoon. This is the Board of Funeral, Cemetery, and Consumer Services Board meeting. It is July 13, 2023. It is 1:00 P.M., and we are at the Tampa Marriott Water Street. Thank you for coming today. Board members and staff, thank you for coming and Ms. Munson. I'd like to turn it over to Ms. Simon for preliminary remarks.

Ms. Ellen Simon – Thank you, ma'am. Good afternoon. My name is Ellen Simon. I am the Assistant Director for the Division of Funeral, Cemetery, and Consumer Services. As Madam Chair said, today is July 13, 2023, and it is approximately 1:00 P.M. This is a public meeting of the Board of Funeral, Cemetery, and Consumer Services. Notice of this meeting has been duly published in the Florida Administrative Register. An agenda for this meeting has been made available to interested persons and information concerning this Board meeting has been made available on the Division's website. Ms. LaTonya Bryant is recording the meeting and minutes will be prepared. Persons speaking are requested to identify themselves for the record each time they speak. Participants are respectfully reminded that the Board's Chair, Ms. Peeples, runs the meeting. Persons desiring to speak should initially ask the Chair for permission. As a reminder to Board members, you are to refrain from commenting on facts not included in your Board packages and instead base your decision solely on information provided in your package 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 Q 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 relitigate a matter that is heard on this agenda, the Board will be instructed that the comment is not appropriate for a Public Comment item and should not be considered for further discussion. Madam Chair, at this point I will take the roll:

Jill Peeples, Chair
Andrew Clark, Vice Chair
Joseph "Jody" Brandenburg
Sanjena Clay
Vincent "Todd" Ferreira
Christian "Chris" Jensen
Kenneth "Ken" Jones
Janis Liotta
Jay Lyons
Darrin Williams

Also noted as present:

Mary Schwantes, Executive Director
Rachelle Munson, Board Legal Advisor
LaTonya Bryant, Department Staff
Crystal Grant, Department Staff
Kimberly Marshall, Department Legal Counsel
Jared Woliver, Department Legal Counsel

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

Chair Peeples – Thank you, ma'am.

B. Old Business

- (1) *Application(s) for Preneed Main License Renewal*
 - (a) *Recommended for Approval without Conditions*
 1. *Neshama JFS LLC (F357480) (Miami)*

Ms. Simon – This is an entity that is requesting renewal of their preneed main license. Unfortunately, it was not on the last Board meeting when all of the other renewals were taken care of. However, the Division finds that this licensee has met all requirements for renewal, and as a result, the Division recommends approval without conditions.

Mr. Jay Lyons – Ms. Peeples?

Chair Peeples – Yes sir?

Rabbi Lyons – I just want to declare that I'm friends with these guys, but that's not going to affect any ability to be impartial on this.

Chair Peeples – Thank you, Rabbi Lyons. Board members?

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

C. Disciplinary Proceedings

(1) Motion for Determination of Waiver and for Final Order by Hearing Not Involving Disputed Issues of Material Fact (Probable Cause Panel A)

(a) J Brown Funeral & Cremation Services, LLC: DFS Case No. 307398-23-FC; Division No. ATN-40535 (F591779)

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

Chair Peeples – Mr. Jones, you need to be recused, sir, on Probable Cause. Are we good?

Mr. Jones – I'm good.

Chair Peeples – Thank you. Mr. Woliver.

Mr. Jared Woliver – Mr. Jared Woliver, for the Department. I do apologize panel members. Ms. Brown recently ended her position as FDIC very recently with J. Brown Funeral & Cremation Services. As a result, her response as former FDIC was included in the Board packet that reached you all without the knowledge that she had separated from the establishment. As a result, the establishment is not formally noticed for this hearing. I would be asking that this be tabled simply so that the establishment can be properly noticed for a waiver, informal hearing.

MOTION: Mr. Jody Brandenburg moved to table this matter. Ms. Andrew Clark seconded the motion, which passed unanimously.

Mr. Woliver – Thank you Board members.

(b) McLemore, Ozzie Christopher: DFS Case No. 279221-21-FC; Division No. ATN-35709 (F045609)

Ms. Simon – Presenting for the Department is Ms. Marshall.

Ms. Kimberly Marshall – Thank you, Ms. Simon and good afternoon, Board members. Ozzie Christopher McLemore, who is the Respondent in this case, is a funeral director and embalmer, licensed under Chapter 497 Florida Statutes and holding license number F045609. The Department conducted an inspection of Respondent and found as follows: The Respondent was the president, CEO, and FDIC of Covenant Mortuary Inc, which is a formally licensed funeral establishment, which held license number F073044. Covenant Mortuary's license was voluntarily cancelled as of April 16, 2019. In October of 2020, Respondent aided, assisted, procured, employed, or advised Covenant Mortuary, a non-licensed entity to provide funeral goods and services to a consumer. This Motion demonstrates the Respondent failed to timely file a responsive pleading contesting the factual allegations in the Administrative Complaint, and requests that the Board adopt the factual allegations in the Administrative Complaint and requested the Board issue an appropriate penalty in this matter. At this time, it would be

appropriate for the Chair to entertain a motion determining that the Respondent was properly served with the Administrative Complaint and failed to timely respond thus waiving the right to elect a method of resolution in this matter?

MOTION: Ms. Sanjena Clay moved that Respondent was properly served with the Administrative Complaint and failed to timely respond thus waiving the right to elect a method of resolution in this matter. Mr. Williams seconded the motion, which passed unanimously.

Ms. Marshall – The Department asks that the Chair entertain a motion determining that there are no material facts in dispute in this case.

MOTION: Mr. Williams moved that there are no material facts in dispute in this case. Ms. Clay seconded the motion, which passed unanimously.

Ms. Marshall – Now that the Board has determined that there are no material facts in dispute in this matter, the Department ask the Chair to entertain a motion to adopt the allegations of fact as set forth in the Administrative Complaint.

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

Ms. Marshall – Is Mr. Mclemore here today? Hearing nothing. The Department is offering 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 established in the Administrative Complaint. Now that the Board has adopted the findings of fact in this case, the Department asks the Chairs to entertain a motion find that these facts constitute a violation of Florida Statutes as set forth in the Administrative Complaint.

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

Ms. Marshall – Now we move on to the penalty phase of this hearing. The Department's recommendation in this case is a fine of \$2,000 and one (1) year of probation.

Mr. Brandenburg – I have some comments.

Chair Peeples – Mr. Brandenburg?

Mr. Brandenburg – This seems very, very egregious to me that he had no license, had no funeral directors, no funeral establishment license. Two thousand? Anyway, over a year and was still doing funerals under Covenant Mortuary. And I think it's an egregious infraction and I think that more disciplinary action that is suggested needs to be imposed.

Ms. Clay – Madam Chair?

Chair Peeples – Ms. Clay.

Ms. Clay – I agree with Mr. Brandenburg. It seems illegal what's being done -- what has been done. And in any other profession, they probably would be in jail for doing that. It's like practicing medicine without a license.

Chair Peeples – Mr. Williams?

Mr. Williams – Ms. Marshall, what are the penalty guidelines for this?

Ms. Marshall – Yes. So, the guidelines for this violation call for a reprimand, a fine of \$1,000 to \$2,500, probation for six (6) months to one (1) year, suspension up to one (1) year, or permanent revocation of a license.

Chair Peeples – Ms. Simon?

Ms. Simon – Thank you, Madam Chair. I just want to remind the Board that those sentencing guidelines are simply that, disciplinary guidelines. So as Mr. Brandenburg and Ms. Clay already referenced, these are egregious circumstances. So, you are welcome to go beyond the disciplinary guidelines. Just wanted to let the Board know that.

Chair Peebles – Mr. Williams?

Mr. Williams – Ms. Marshall, what were the conversations? Were there any conversations in reference to negotiating these penalty guidelines?

Ms. Marshall – There is no negotiation in this case because his response was late.

Mr. Williams – OK.

Ms. Marshall – He has lost the right to elect a method of resolution in this case. So, it's entirely up to the Board what discipline you all feel is appropriate.

Chair Peebles – Mr. Williams?

Mr. Williams – Mr. Brandenburg, I see you had your hand up first.

Chair Peebles – Mr. Brandenburg?

Mr. Brandenburg – I'm not making a motion, but I think that the license should be suspended for nine (9) months, a \$2,000 fine, and two (2) years of probation. I'm just throwing that out for discussion. And if need be, I will make a motion to that effect.

Chair Peebles – Mr. Jensen?

Mr. Chris Jensen – Yes. Thanks, Mr. Brandenburg. I wanted to hear what Mr. Brandenburg had to say. I'm going to agree with Ms. Clay. I think any other profession, they'd be in jail. And I think nine (9) months is still a little light. I like the \$2,000, but I think nine (9) months is a little light. I think we should give them a one (1) year total suspension and have some probation thereafter if they decide to -- I mean, literally did a contract on the funeral home that had no license. I mean, I don't know how much more blatant you can be.

Chair Peebles – Ms. Munson?

Ms. Rachelle Munson – I just wanted to clarify with the motion that the two-year suspension would immediately take effect once the suspension has been lifted, if that was in fact the desire.

Chair Peebles – Thank you. Mr. Williams?

Mr. Williams – Does the Department have any knowledge of previous violations or –

Ms. Marshall – None that we're aware of.

Mr. Williams – OK.

Chair Peebles – Ms. Clay?

Ms. Clay – My concern is this. One (1) year suspension of license, is that what you had suggested, Mr. Jensen?

Mr. Jensen – Well, I will defer to Mr. Brandenburg on that. That's just kind of what I was sort of thinking on that. I agree with you, it's very egregious. And we do need to make a statement by this because, I mean, what's to stop anybody from printing something off the internet and going out there writing contracts in people's houses on places that are not licensed?

Ms. Clay – So my question is, if the license is suspended for one (1) year and we impose other sanctions, is there a way to monitor what's going on at the establishment or of this person's license while that suspension is going on and while that license is taken away? I have a real serious problem with this that the person can even come back and do anything.

Mr. Brandenburg – Right.

Ms. Clay – I just think this is very egregious.

Chair Peeples – Mr. Williams?

Mr. Williams – So, what I was going with in my earlier statements of have the conversation taking place about revocation of license. Is that a possibility?

Ms. Marshall – It is within the guidelines.

Mr. Williams – OK. Well, I mean, I'll make that a motion. I'll put that in motion Madam Chair, if I could.

Chair Peeples – Mr. Williams, to clarify, you are suggesting a motion for suspension, \$2,000 fine?

Mr. Williams – No. Just revocation of license.

Chair Peeples – Just revocation, period?

Mr. Williams – Yes.

Chair Peeples – OK.

Mr. Jensen – Any time limit on that or forever?

Mr. Williams – So, I guess I'll defer to Department in terms of what has been the practice in terms the revocation.

Chair Peeples – Ms. Simon?

Ms. Simon – Mr. Williams, actually, you can either do a revocation of license, if that's what the Board is interested in, or you can do a permanent revocation. Those are your two (2) options. If it's a revocation, this individual can apply again for licensure with this discipline on his license or it can be permanent.

Mr. Williams – That's the motion I would lean towards, revocation.

Chair Peeples – Permanent?

Mr. Williams – No, to allow them to come back at an untimed date.

Chair Peeples – Ms. Munson, do we need to have a set timeframe of how long the revocation is for? We're good? Thank you. Mr. Jensen?

Mr. Jensen – Yes. Just to ask a question. So, in reading all this, it appeared to me that the gentleman is a licensed funeral director, but he was kind of farming his services out to a couple of different funeral homes, one of which he held out to be his own that did not have a license. So, is this in effect affecting his funeral director's license or are we just talking about an establishment license?

Mr. Brandenburg – No, revoking his funeral director's license.

Mr. Jensen – That's what we're talking about?

Chair Peeples – Ms. Marshall?

Ms. Marshall – If I can clarify. The case before you today is concerning his funeral director license. The establishment license, we didn't bring a case against the establishment because it hasn't had a license for four (4) years.

Mr. Jensen – Yes. OK, I just wanted to make sure.

Ms. Marshall – He does, I believe, have a new establishment that he has opened since closing Covenant Mortuary.

Mr. Jensen – What would happen with that?

Ms. Marshall – It would remain active.

Mr. Jensen – But if he -- so -- I'm sorry, Mr. Brandenburg.

Mr. Brandenburg – No.

Mr. Jensen – So, if he has another establishment and he is a licensed funeral director and he gets his license revoked, he's got to find somebody else.

Ms. Marshall – Yes.

Mr. Jensen – Essentially. OK.

Chair Peeples – Mr. Brandenburg?

Mr. Brandenburg – I second Mr. Williams' motion for revocation.

Ms. Clay – Question, Madam Chair?

Chair Peeples – Ms. Clay?

Ms. Clay – So, we have on the floor, just for clarification, revocation of a license without a time frame of reapplying?

Mr. Williams – Madam Chair, if I may?

Chair Peeples – Yes, Mr. Williams?

Mr. Williams – Correct. They have option, based on what Ms. Simon stated, to come back before the Board to apply and if the Board decides at that time, correct Ms. Simon?

Ms. Simon – Actually Ms. Clay, Mr. Williams is correct. There is no time limit. They can come back this month, August, and apply for licensure, but it can only go before the Board. And the Board will know that the previous discipline was revocation because that will be included in your Board package.

Ms. Clay – Madam Chair?

Chair Peeples – Yes, ma'am, Ms. Clay?

Ms. Clay – So, is it inappropriate to establish a timeframe in which that person cannot come back? So, my friendly amendment would be, and I don't know how friendly it is, that we establish that the person cannot return before the Board to apply for a licensure again for five (5) years.

Chair Peeples – Mr. Williams, do you agree with that amendment to your motion?

Mr. Williams – I'll accept that.

Chair Peeples – Mr. Brandenburg, do you second that amendment?

Mr. Brandenburg – I do.

Chair Peeples – Thank you.

Mr. Ferreira – Ms. Chair?

Chair Peeples – Mr. Ferreira?

Mr. Ferreira – I would like to make a little amendment too, if I can, to include a \$5,000 fine.

Mr. Williams – I'll accept that.

Rabbi Lyons – Madam Chair?

Chair Peeples – Rabbi Lyons?

Rabbi Lyons – How do we impose a \$5,000 fine on a license that we're revoking?

Chair Peeples – Ms. Simon?

Ms. Simon – Well, the way you can impose it is, and that's a very good question. If you have a \$5,000 fine and revocation, if the person was to come back and apply, they will need to pay the \$5,000 fine as a condition before they apply again.

Chair Peeples – Rabbi?

Rabbi Lyons – So, if they were to move on and not be part of the industry there would be no fine.

Ms. Simon – Yes, sir.

Rabbi Lyons – Yes.

Ms. Simon – Essentially.

Chair Peeples – OK. Circling back, we have a motion by Mr. Williams, a second by Mr. Brandenburg for revocation of the funeral director license for five (5) years and do both of you all agree to a \$5,000 fine? Mr. Williams, Mr. Brandenburg?

Mr. Williams – I'm open to it, yes.

Mr. Brandenburg – Yes.

Chair Peeples – So, we have revocation of the license for five (5) years and a \$5,000 fine. Is there any other discussion?

Mr. Jensen – May I?

Chair Peeples – Mr. Jensen?

Mr. Jensen – I thought I heard her saying that the maximum amount was \$2,500.

Ms. Marshall – That is correct under the guidelines. However, the Board is identifying an aggravating factor here.

Mr. Jensen – I got you.

Ms. Marshall – You can go above that.

Mr. Jensen – Thank you.

Ms. Munson – May I?

Chair Peeples – Mr. Williams, are we still get with motion?

Mr. Williams – We’re still good.

Chair Peeples – Ms. Munson?

Ms. Munson – I was just noting that because you are going beyond the guidelines you need to establish what the aggravating circumstances are. You can't just do it just to do it. It has to indicate that the Board did this because and have an aggravating identifier there.

Chair Peeples – Mr. Williams?

Mr. Williams – So, what I'll do is, I'll go to the limit that Ms. Marshall stated in her earlier statement of \$2,500.

Mr. Brandenburg – I second that.

MOTION: Mr. Williams moved that the Respondent shall pay a \$2500 fine and have its license revoked; Respondent cannot reapply for licensure for five (5) years. Mr. Brandenburg seconded the motion, which passed with one (1) dissenting vote.

Chair Peeples – Mr. Jones, you're recused from all of these cases, sir, for Probable Cause?

Mr. Jones – Yes ma'am.

Chair Peeples – Thank you. Ms. Simon?

(c) Nelson's Elite Care LLC: DFS Case No. 301514-22-FC; Division No. ATN-39560 (F379296)

Ms. Simon – Ms. Simon – Presenting again for the Department is Ms. Marshall.

Ms. Marshall – Thank you, Ms. Simon. Nelson’s Elite Care LLC (“Respondent”) is a removal facility licensed under chapter 497, Florida Statutes, license number F379296. The Department conducted an inspection of Respondent and found as follows: Respondent failed to ensure that three (3) of its employees had completed a course in communicable diseases within thirty (30) days of becoming employed. The Motion demonstrates that Respondent failed to timely file a responsive pleading contesting the factual allegations in the Administrative Complaint, requests that the Board adopt the factual allegations in the Administrative Complaint, and requests that the Board issue an appropriate penalty in this matter. At that time, it would be appropriate for the Chair to entertain a motion determining if the Respondent was properly served with the Administrative Complaint and failed to timely respond, thus waiving the right to elect a method of resolution of this matter.

MOTION: Mr. Jensen moved that Respondent was properly served with the Administrative Complaint and failed to timely respond, thus waiving the right to elect a method of resolution of this matter. Ms. Janis Liotta seconded the motion, which passed unanimously.

Ms. Marshall – The Department asks that the Chair entertain a motion determining that there are no material facts in dispute in this case.

MOTION: Mr. Williams moved that there are no material facts in dispute in this case. Rabbi Lyons seconded the motion, which passed unanimously.

Ms. Marshall – Now that the Board has determined that there are no material facts in dispute in this matter, the Department ask the Chair to entertain a motion to adopt the allegations of fact as set forth in the Administrative Complaint.

Mr. Clark – Madam Chair?

Chair Peebles – Yes, sir. Mr. Clark?

Mr. Clark – I just have one question. On the complaint, part of the complaint was regarding improper social media postings. And I know that's in our exhibit. I'm just curious why that wasn't included in the Division's findings?

Ms. Marshall – One moment. Could you please direct me to which page you're looking at?

Mr. Clark – Sure. It's exhibit one -- well the complaint's right before exhibit one which is -- -- page 17.

Ms. Marshall – Oh, I'm sorry. What -- I don't recall any actual photos being included –

Mr. Clark – OK.

Ms. Marshall – -- with this. There's insufficient evidence to sustain that allegation.

Mr. Clark – OK. Thank you.

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

Ms. Marshall – Just to double check, is there a representative from this establishment? OK. The Department offers into evidence the investigative report with exhibits. A copy of which was previously just furnished to the Board to establish a prima facie case for the violations alleged in the Administrative Complaint. Now that the Board has adopted the facts in this case, the Department asks the Chair to entertain a motion finding that these facts constitute a violation of Florida Statutes as set forth in the Administrative Complaint.

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

Ms. Marshall – Now we move on to the penalty phase. The Department's recommendation in this case is a \$500 fine and six (6) months of probation. I can provide you with the guidelines if that would be helpful.

Chair Peebles – If you would, please.

Ms. Marshall – Certainly. A reprimand, a fine of \$250 to \$2,500 plus costs, probation six (6) months to one (1) year, suspension up to two (2) years, permanent revocation and/or restitution.

Chair Peebles – Board members?

MOTION: Rabbi Lyons moved that the Respondent shall pay a \$500 fine and place Respondent's license on probation for six (6) months. Ms. Clay seconded the motion, which passed with one (1) dissenting vote.

(d) Related Cases – Division No. ATN-38028

1. Boyd-Elliott, Mary Lou: DFS Case No. 292035-22-FC; Division No. ATN-38028 (F062697)

Ms. Simon – Is Ms. Boyd-Elliott or a representative here today? Hearing no response. Presenting for the Department is Ms. Marshall.

Ms. Marshall – Thank you. Mary Lou Boyd-Elliott (“Respondent”) is a funeral director and embalmer, licensed under Chapter 497, Florida Statutes, license number F062697. The Department conducted an inspection of Respondent and found that from approximately October 15, 2021, through November 25, 2021, Respondent was the funeral director in charge of Thomas’ Memorial Mortuary & Cremation Services Corp., a previously licensed funeral establishment which held license number F501523. Thomas’ monthly report of bodies handled for the month of October 2021 was incomplete because it failed to list the facility used for embalming. As FDIC, Respondent is responsible for this violation. Further, Respondent failed to timely notify the Department of her appointment as FDIC at Thomas’. The Motion demonstrates that Respondent failed to timely file a responsive pleading contesting the factual allegations in the Administrative Complaint, requests that the Board adopt the factual allegations in the Administrative Complaint, and requests that the Board issue an appropriate penalty in this matter. At this time, it would be appropriate for the Chair to entertain a motion determining if the Respondent was properly served with the Administrative Complaint and failed to timely respond, thus waiving the right to elect a method of resolution of this matter.

Rabbi Lyons –Madam Chair?

Chair Peeples –Rabbi Lyons?

Rabbi Lyons –Can I ask a procedural question?

Ms. Marshall – Certainly.

Rabbi Lyons – This one and the next item is the same Thomas' Funeral Home? Is that correct?

Ms. Marshall – Yes, that's correct.

Rabbi Lyons – Is there any disciplinary action against the entity?

Ms. Marshall – No, because the entity doesn't have a license anymore.

Chair Peeples – Does that complete your question?

Rabbi Lyons – That's all I need to know.

Chair Peeples – Thank you. Board members, your pleasure?

MOTION: Rabbi Lyons moved that Respondent was properly served with the Administrative Complaint and has failed to timely submit a request for a hearing. Ms. Liotta seconded the motion, which passed unanimously.

Ms. Marshall – The Department asks that the Chair entertain a motion determining that there are no material facts in dispute in the case.

MOTION: Mr. Jensen moved that there are no material facts in dispute in this case. Mr. Brandenburg seconded the motion, which passed unanimously.

Ms. Marshall – Now the Board has determined there are no material facts in dispute in this matter, the Department asks the Chair to entertain a motion to adopt the allegations of fact as set forth in the Administrative Complaint.

MOTION: Mr. Jensen moved to adopt the allegations of fact as set forth in the Administrative Complaint. Ms. Clay seconded the motion, which passed unanimously.

Ms. Marshall – The Department offers into evidence the investigative report with exhibits, a copy of which has been previously furnished to the Board to establish a prima facie case for the violations alleged in the Administrative Complaint. Now that the Board adopted the findings of the fact of this case, the Department asks that the Chair entertain a motion finding these acts constitute a violation of Florida Statutes as [inaudible] in the Administrative Complaint.

Chair Peebles – Board members?

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

Ms. Marshall – And to penalty in this case, the Department is recommending a \$500 fine and six (6) months of probation. If you would like the guideline, I could provide those as well.

Chair Peebles – Please, ma'am.

Ms. Marshall – So, for the first count concerning the incomplete Bodies Handled Report, it's a broad guideline because it's covering the catch-all violation 497.152(a), but the guidelines are a reprimand, a fine of \$250 to \$2500, cost, probation six (6) months to one (1) year, suspension up to two (2) years, permanent revocation of the license and/or restitution. For the second count, concerning the failure to notify the Department of change in FDIC, that simply is a notice of non-compliance [inaudible].

Chair Peebles – Thank you, Ms. Marshall. Board members?

Rabbi Lyons – Again, it's a \$500 fine and six (6) months of probation?

Ms. Marshall – Yes,

MOTION: Rabbi Lyons moved that the Respondent shall pay a \$500 fine and have its license placed on probation for six (6) months. Ms. Liotta seconded the motion, which passed unanimously.

Mr. Brandenburg – I have a procedural question. Every time we go through these disciplinary cases, there are four (4) or five (5) motions that we have to go through to get to the disciplinary part of it. Is there any way that those motions can be read, and we agree on them one (1) time rather than four (4) different motions?

Ms. Marshall – Do you want to handle this one?

Ms. Munson – You can go ahead and answer it.

Ms. Marshall – There are distinct legal reasons for handling each of those aspects of the case separately. Elements that have to be established.

Mr. Brandenburg – If you read them out and we agreed with all the elements with one motion?

Ms. Marshall – There also in the middle of that, we haven't seen it yet, but there also is an opportunity for a Respondent to be heard if they are present in the midst of all of that. So, there's a reason for breaking it down in the order that we do.

Mr. Brandenburg – So, the answer is, no?

Ms. Marshall – Yes. That's a long way of saying no.

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

2. *Rojas, Ruben: DFS Case No. 292034-22-FC; Division No. ATN-38028 (F044220)*

Ms. Simon – Is Mr. Rojas or a representative of Mr. Rojas here today? Hearing no response. Again, Ms. Marshall for the Department.

Ms. Marshall – Thank you, Ms. Simon. Ruben Rojas (“Respondent”) is a funeral director and embalmer, licensed under Chapter 497, Florida Statutes, license number F044220. The Department conducted an inspection of Respondent and found that at all times material to this complaint, Respondent was the funeral director in charge of Thomas’s Memorial Mortuary & Cremation Services Corp. (Thomas’s). Thomas’s enabled its unlicensed owner, Leon Thomas, and other unlicensed staff, to engage in the practice of funeral directing. Thomas’s failed to provide the purchaser of funeral goods and/or services with a detailed written agreement reflecting all items purchased. Further, Thomas’s monthly report of bodies handled for the months of April 2021 through September 2021 were incomplete. As FDIC of Thomas’s, Respondent is responsible for these violations. The Motion demonstrates that Respondent failed to timely file a responsive pleading contesting the factual allegations in the Administrative Complaint, requests that the Board adopt the factual allegations in the Administrative Complaint, and requests that the Board issue an appropriate penalty in this matter. At this time, it will be appropriate that the Chair to entertain a motion determining that the Respondent was properly served with the Administrative Complaint and failed to timely respond, thus waiving rights to elect a method of resolution in this matter.

MOTION: Ms. Liotta moved that Respondent was properly served with the Administrative Complaint and failed to timely respond, thus waiving rights to elect a method of resolution in this matter. Rabbi Lyons seconded the motion, which passed unanimously.

Ms. Marshall – The Department ask the Chair to entertain a motion determining that there are no material facts in dispute in the case.

MOTION: Mr. Ferreira moved that there are no material facts in dispute in this case. Mr. Jensen seconded the motion, which passed unanimously.

Ms. Marshall – Now that the Board has determined that there are no material facts in dispute in this matter, the Department ask the Chair to entertain a motion to adopt the allegations of fact as set forth in the Administrative Complaint.

Chair Peeples – Board members?

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

Ms. Marshall – 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. Now that the Board has adopted the findings of fact in this case, the Department asked the Chair to entertain a motion finding that these facts constitute a violation of Florida Statutes as set forth in the Administrative Complaint.

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

Ms. Marshall – For the penalty phase, the Department’s recommendation is a fine of \$4,000 and one (1) year of probation. I can provide the guidelines for those three (3) counts. For the first count, concerning the unlicensed activity by employees of the establishment, the guideline calls for a reprimand, a fine of \$1,000 to \$2,500 plus cost, probation of six (6) months to one (1) year, a suspension up to one (1) year, permanent revocation of license. For the second count, for failing to provide a detailed written agreement to a consumer, the guidelines call for a reprimand, a fine of \$500 to a \$1,000 plus cost, probation six (6) months to one (1) year. And then for the third count, the bodies handled reports, the guidelines call for a reprimand, a fine of

\$250 to \$2,500 plus cost, probation six (6) months to one (1) year, a suspension up to two (2) years, permanent revocation and/or restitution.

Chair Peeples – Ms. Marshall, what was the suggested penalty?

Ms. Marshall – A \$4,000 fine and one (1) year of probation.

Chair Peeples – Thank you.

Mr. Williams – Madam Chair?

Chair Peeples – Yes, sir, Mr. Williams?

Mr. Williams – Is the recommendation for all three (3) counts?

Ms. Marshall – Yes.

Mr. Williams – OK.

Mr. Brandenburg – Madam Chair?

Chair Peeples – Yes, sir, Mr. Brandenburg?

Mr. Brandenburg – Is Mr. Rojas here or a representative? Thank you.

Chair Peeples – Board members, your pleasure?

Mr. Jensen – Madam Chair?

Chair Peeples – Mr. Jensen?

Mr. Jensen – Yes, just to comment here. I mean, if you read this, this was just a merry-go-round of what was going on. This really feels like a license for hire, so to speak. I think we really need to take a look at that. I think Counts One (1) and Two (2) are serious. Count Three (3), bodies handled, I am understanding is important. But, I mean, Counts One (1) and Two (2) get to the very essence of what we do, providing a detailed written contract. So, you know, I think probably this is not steep enough. So, if anybody would like to recommend something, I'd probably be on Board with that. Thank you.

Chair Peeples – Thank you, Mr. Jensen. Board members?

Mr. Williams – Question, Madam Chair?

Chair Peeples – Mr. Williams?

Mr. Williams – Mr. Jensen, did you have something in mind in terms of what where you may be looking?

Mr. Jensen – I think one and two we ought to go up to \$2,500 fine, so that would be \$5,000 and stick with \$1,000 for count three. So that would be a total of \$6,000. That's kind of what I had in mind.

Mr. Williams – Madam Chair?

Chair Peeples – Yes, sir, Mr. Williams?

Mr. Williams – Any kind of suspension, probation, or revocation?

Mr. Jensen – Yes, sir, they have a one-year probation here. So, I would think that would probably be sufficient enough. You know, if they're going to do something again, it's going to happen within a year because the gentleman has a funeral home but doesn't have a license. So, you know, if he's hiring out funeral directors, that maybe it, but I would certainly agree to longer, if that's what you would like to suggest.

Mr. Brandenburg – We're at your suggestion of \$5000 and one (1) year, right?

Mr. Jensen – I'm at \$6000 and one (1) year. \$2,500 on Counts One and Two and \$1,000 for Count Three.

Mr. Brandenburg – Thank you.

Mr. Williams – And one (1) year probation or one (1) year suspension?

Mr. Jensen – And one (1) year probation.

Chair Peebles – Is that the motion?

Mr. Jensen – That is the motion. I'll make that motion Madam Chair.

Chair Peebles – Thank you, Mr. Jensen.

MOTION: Mr. Jensen moved that the Respondent shall pay a \$6000 fine and have its license placed on probation for one (1) year. Mr. Ferreira seconded the motion, which passed unanimously.

Mr. Williams – Madam Chair?

Chair Peebles – Mr. Williams?

Mr. Williams – I need to recuse myself. I served on Probable Cause Panel B for items C (2) (a) and C (2) (b).

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

(2) Motion for Determination of Waiver and for Final Order by Hearing Not Involving Disputed Issues of Material Fact (Probable Cause Panel B)
(a) Holmes Funeral Directors: DFS Case No. 276841-21-FC; Division No. ATN-35509 (F041651)

Ms. Simon – Is there a representative of the entity here today? Hearing no response. Ms. Marshall?

Ms. Marshall – Thank you, Ms. Simon. Holmes Funeral Directors (“Respondent”) is a funeral establishment licensed under chapter 497, Florida Statutes, license number F041651. The Department conducted an inspection of Respondent and found that Respondent’s license became delinquent on December 1, 2020, and was not renewed until December 17, 2020. In the intervening time, Respondent provided funeral services to one (1) or more individuals. The Motion demonstrates that Respondent failed to timely file a responsive pleading contesting the factual allegations in the Administrative Complaint, requests that the Board adopt the factual allegations in the Administrative Complaint, and requests that the Board issue an appropriate penalty in this matter. At this time, it will be appropriate that the Chair to entertain a motion determining that the Respondent was properly served with the Administrative Complaint and failed to timely respond, thus waiving rights to elect a method of resolution in this matter.

MOTION: Mr. Clark moved that Respondent was properly served with the Administrative Complaint and has timely submitted a request for an informal hearing. Ms. Liotta seconded the motion, which passed unanimously.

Ms. Marshall – The Department asks that the Chair entertain a motion determining that there are no material facts in dispute in this case.

MOTION: Mr. Jones moved that there are no material facts in dispute in this case. Mr. Ferreira seconded the motion, which passed unanimously.

Ms. Marshall – Now that the Board has determined that there are no material facts in dispute in this matter, the Department ask the Chair to entertain a motion to adopt the allegations of fact as set forth in the Administrative Complaint.

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

Ms. Marshall – And just to confirm, there is no representative from Holmes Funeral Home present today. All right. The Department offers into evidence the investigative report with exhibits, a copy of which has previously been furnished to the Board to establish a primary facie case for the violations alleged Administrative Complaint. Now that the Board has adopted the findings of the fact in this case, the Department asks the Chair to entertain a motion finding that the facts constitute a violation of Florida Statutes as set forth in the Administrative Complaint.

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

Ms. Marshall – Now I'm going to get on to the penalty case. So, the guidelines in the case call for a fine of \$250 per month that they were delinquent. In addition, probation up to two (2) years, suspension up to two (2) years or revocation. Based on this, they were delinquent for seventeen (17) days. So, the fine recommendation in this case is like \$250 and also six (6) months of probation.

MOTION: Rabbi Lyons moved that the Respondent shall pay a \$250 fine and have its license placed on six (6) months of probation. Mr. Clark seconded the motion.

Mr. Ferreira – I have a question.

Chair Peeples –Mr. Ferreira?

Mr. Ferreira – Probation, six (6) months of probation?

Ms. Marshall – Yes sir.

Mr. Ferreira – I mean does that have to happen?

Ms. Marshall – No. It was a fair recommendation. It's entirely up to the Board.

Mr. Ferreira – For seventeen (17) days, I don't see six (6) months of probation.

Chair Peeples – Rabbi Lyons, you had a motion. Would you and Mr. Ferreira like to –

Rabbi Lyons – Yes, I will amend it. It will just be the \$250 fine.

Chair Peeples – Mr. Clark, will you accept?

Mr. Clark – I do not. Let me explain why. Madam Chair, if I may?

Chair Peeples – Yes, please, sir.

Mr. Clark – If you look at page 22, I mean the inspector had to help this licensee with a number of items outside just the license renewal. They weren't using the correct Bodies Handled Report, FTC disclosures. That's the only reason I'm supportive of six (6) months.

Chair Peeples – Rabbi Lyons? Rabbi Lyons, you were good with your original motion of a \$250 fine, six (6) months of probation. Mr. Clark approved that as a second. Then Mr. Ferreira made a comment, and you amended your motion to reduce the six (6) months of probation, but Mr. Clark has not agreed to that. So, we're coming back to you for the motion.

Rabbi Lyons – Is that how it works or am I waiting for a second?

Chair Peeples – Well, we're coming back to you. Would you like to add the six (6) months of probation back in because Mr. Clark would not like to delete that?

Rabbi Lyons – How about I rescind my motion completely and defer to my funeral director colleagues to go ahead and make a motion?

Chair Peeples – Thank you, Rabbi Lyons. Board members, your pleasure?

Mr. Ferreira – So, let me go ahead and make this motion.

MOTION: Mr. Ferreira moved that the Respondent shall pay a \$250 fine. Rabbi Lyons seconded the motion, which passed with two (2) dissenting votes.

(b) Signature Memorial Funeral & Cremation Services LLC: DFS Case Nos. 296072-22-FC, 296079-22-FC, and 296082-22-FC; Division Nos. ATN-37723, ATN-38380, and ATN-38473 (F090323)

Ms. Simon – Ms. Marshall?

Ms. Marshall – Yes. Board members, the Department requests to table for the time being. This Respondent notified me less than twenty-four (24) hours ago that they have counsel who they'd like to represent [inaudible].

Ms. Clay – Madam Chair?

Chair Peeples – Yes, Ms. Clay?

Ms. Clay – I'm just wondering why they continue to get so many extensions when the establishment is still operational. Am I correct? Is it still operating?

Ms. Marshall – It is still in operation. These particular cases have only just been filed. This is the first time they've been brought up here. [Inaudible] prior matters that these particular ones, Administrative Complaint has only just been filed within the last couple of months.

Ms. Clay – So, Madam Chair?

Chair Peeples – Yes, Ms. Clay?

Ms. Clay – In the meantime, how is the consumer being dealt with since they do have these things pending? Do they just still operate until they decide they want to come back before the Board?

Ms. Marshall – Well, we certainly are mindful of the fact that these cases are outstanding, and they do also have some other ones which are going to have to go through, probably will end up going to trial. So, it's not quite the [inaudible] to get these cases through, then they are entitled to due process.

Ms. Clay – You said they may go to trial?

Ms. Marshall – Yes, ma'am.

Ms. Clay – As a consumer, that is extremely troubling.

Ms. Marshall – Well, it is their right. Well, leaving these matters aside, generally speaking, any Respondent in any case does have an opportunity to dispute facts and have a hearing on that. And that is just part affording them due process. It is their legal right. It's all about the right under our legal system.

Chair Peeples – Ms. Munson, did you want to comment?

Ms. Munson – Yes. I can appreciate Ms. Marshall's comments. I just want to piggyback on those comments because if matters such as these which have appeal rights attached to them, if they were to be appealed, it is almost a guarantee of law that you will find yourself on probably a very disadvantaged level of the playing field with regard to any presiding officer who will look at part of the case to be some type of violation of due process. I mean, asking for assistance of counsel is almost boilerplate approval types of information. So, although it may seem like we are extending, or the Board may be extending all types of generosity on the front end, on the rear end, it will provide a much better case should it ever be appealed to show that we did everything we needed to do as the Board is concerned, to make sure all the T's and I's are crossed, which also addresses going through each of the motions. We don't do it for settlement agreements because they don't have appeal rights. But if you have appeal rights, you have to identify each finding, the orders can identify them separately, and that's why the Board votes on them separately, because any one of them could be subject to appeal and review.

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

Ms. Simon – Thank you, Madam Chair.

D. Application(s) for Preneed Sales Agent
(1) Informational Item (Licenses Issued without Conditions) – Addendum A

Ms. Simon – This is an informational item pursuant to Section 497.466, Florida Statutes. The applicants on Addendum A have been issued their licenses and appointments as preneed sales agents.

E. Application(s) for Continuing Education
(1) Course Approval - Recommended for Approval without Conditions – Addendum B
(a) Florida Cemetery, Cremation & Funeral Association (75)

Ms. Simon – The course presented on Addendum B has been reviewed by the CE Committee, and the Committee as well as the Division recommends approval for the number of hours so indicated.

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

(2) Provider Approval - Recommended for Approval without Conditions – Addendum C
(a) National Funeral Directors Association (49609)

Ms. Simon – The applicant presented on addendum C has been reviewed by the CE Committee, and the Committee as well as the Division, recommends this applicant be approved as a CE provider.

Chair Peeples – Board Members?

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

F. Application(s) for Embalmer Apprentice
(1) Informational Item (Licenses Issued without Conditions) – Addendum D
Peterson, Marcus F684305
Retzloff, Tyler R F685308

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.

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

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

(a) Direct Disposer

1. Freese, Joan
2. Pemberton, Timothy W

(b) Funeral Director (Endorsement)

1. Thornburg, Andrea

(c) Funeral Director (Internship and Examination)

1. Edgley, Michael R
2. Sanders, Qwanza R

(d) Funeral Director and Embalmer (Endorsement)

1. Long, Jamie L

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

(2) Recommended for Denial (Examination)

(a) Funeral Director by Endorsement

1. Biffany, Tara J

Ms. Simon – I see that Ms. Biffany is here and represented by counsel. Ms. Biffany submitted an application for a funeral director license on April 20, 2023, at which time the application was incomplete. A completed application was received on June 3, 2023. The applicant's fingerprints returned with no criminal history. Ms. Biffany holds two (2) funeral director licenses which are currently active and in good standing; However, she has not taken or passed the Arts section of the National Examination and has not engaged in full-time practice as a funeral director for five (5) years. Her license has been valid in Mississippi since August 11, 2020, and in Louisiana since February 3, 2023. The Division's recommendation is denial.

Chair Peeples – Ms. Wiener?

Ms. Wendy Wiener – Thank you. Thank you, Board. I do have the pleasure of representing Ms. Tara Biffany before you this afternoon. As you can see and as you've heard, Ms. Biffany holds not one (1), but two (2) funeral director licenses: one (1) in Louisiana, and one (1) in Mississippi. She underwent significant training to obtain her first license and then additional training to obtain her second license. You are familiar with the comparison tables that I present to you. I presented one (1) to you only two (2) weeks ago at our last Board meeting. This set of tables is a little bit different because there are not two (2) tables but four (4). You'll see a comparison to the requirements in the State of Mississippi and then her educational requirements compared to those required in Florida. You'll also see one for the State of Louisiana with the requirements for the State of Louisiana and the educational requirements as compared to the educational requirements for obtaining an associate degree here in Florida in Mortuary Science. We believe that Ms. Biffany is well-qualified to hold licensure here, but for the fact that she has not practiced yet for five (5) years in either of those states. We would not even be before you, if she had, making this argument because, of course, then she would be simply qualified as a licensee with five (5) years of continuous experience. Here, however, because she doesn't quite have five (5) years, we present her education to you to compare to what would be required if she were going to go through the associate degree here in the State of Florida. As your law permits you to do, you can compare the requirements that she had to undertake to obtain her licenses to those of Florida, and if you find them to be substantially equivalent to or superior to those required for Florida, then as you have done in every other circumstance in which the comparison of this nature has been presented, you may approve her application. We would ask that you do so.

Chair Peeples – Thank you, Ms. Wiener. This is Chair Peeples. I made a comment at the last Board meeting. I have a question. I'm not comfortable with how these endorsement applications are coming through. I go back to when I had to go to mortuary school. I had to serve my internship, take the National Board, Arts and Science, and take the State Board. When I took my National Board, I'm going to tell my age, it was given in January and July every year. So, I had to wait a year and a half after my internship to sit for my State Board. So, I just want it on the record that I have a question on these, as well as the less than five (5) years' experience. So, I'll let other Board members discuss. Mr. Williams?

Mr. Williams – Madam Chair, thank you so much. So, I concur with your statements. The issue I have always had with this is individuals can go to other states, utilize that as a justification, come to the State of Florida and use your comparison analysis to be allowed to get a license. I think this is the State of Florida. I think what we have outlined, I think those guidelines should be adhered to because we keep making exceptions and exceptions, so there's no sense of having our guidelines if we want to continue to allow these exceptions. So, we almost have to make a stance in terms of, these are our rules, these are our guidelines, these are the qualifications and move forward that way. That's what I would like to just state on the record as well.

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

Ms. Clay – Thank you. I concur with the two (2) statements made earlier. Those of you who know me know that I too believe that we should follow Florida standards. I don't believe that we should be comparing ourselves to any other state. I believe there's a reason why Florida stands above and beyond most states. It's not just in funeral services that that happens. It happens with attorneys where Florida does not have the same kind of things that other states do. So, my issue also is it depends on who it is, depends on what's going on, whether or not we approve it. And so, I am not in favor of this. Thank you.

Chair Peeples – Thank you, Ms. Clay. Board members, any other Board members with comment? What's the Board's pleasure on the application?

Ms. Wiener – Chair Peeples, may I be heard to address the comments?

Chair Peeples – Sure.

Ms. Wiener – Thank you. So, you are utilizing Florida's standards in exercising your right to compare. Florida law gives you that capacity to compare. That's the very concept of the provision of the law that says that you must determine whether the requirements were substantially similar to or superior to those from another state. You're not deviating in any way from Florida law by looking at these comparison tables to see if she meets the requirements. That's the reason we provide these comparison tables to you so that you can see, is she well trained so that she can be a funeral director, not an embalmer, a funeral director in the State of Florida. You will see if you look at one (1) or both of those comparison tables, she definitely meets those criteria. She went through a lot of training. She is well-trained, no discipline, no criminal history. I would urge you to consider yourself acting within the bounds of Florida law by engaging in this very comparison. I'm not asking you to step away from the requirements of Florida law. I am, in fact, asking you to impose the requirements of Florida law, which are to determine if her training is substantially similar to or superior to that required in Florida. Just because she does not have an associate degree does not mean that she is as qualified as any other Florida funeral director. There are a couple of funeral directors, I believe one (1) that I'm aware of that sits on this Board, that also does not have the associate degree in mortuary science but had a diploma. And that's why we started to develop these comparison tables because when we do so, we ensure that the applicant that comes before you does meet the qualifications of Florida law. So, I'm not asking that you step away from Florida law. I'm asking that you compare what was required of her in those states and compare it to what's required in Florida law.

Chair Peeples – We're going to Ms. Munson, then Ms. Simon, and then I see Mr. Williams.

Ms. Munson – So I'm just going to remind the Board that, and I mentioned it at the last meeting as well, that when we have an actual applicant or Respondent present, of course, it's totally up to the attorney whether or not she wishes that individual to speak, but we seem to be speaking about information that's germane to these comparisons that perhaps only the applicant can speak to if the Board even considers making a decision outside of what I think is the black letter of the reading of the statute. I just wanted to remind the Board that. I know she would have to be placed under oath, but she is present if you'd like to question her as well.

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

Ms. Simon – Thank you, Madam Chair. When I saw this application, I wanted to look at the law a little bit further because I was concerned that Board members may raise questions like have been raised already this morning. So, I looked at the law in Section 497.374, which is funeral directing by endorsement. And while the Board has accepted these comparison charts before, when I read this statute at (1)(b)(2), we have an option of five (5) years, as Ms. Wiener stated. The other is meets the

qualifications for licensure in s. 497.373, except that the applicant may not hold the educational degrees and has completed a state, regional, or national examination in mortuary science or funeral service arts, which, as determined by the rules of the licensing authority, is substantially equivalent or more equivalent than the examination given by this licensing authority. Now, I see the comparison in the statute to the examinations. I do not see the comparison in the statute to the education. Of course, we would need to look at Section 497.373 as well. But from what I see, the comparison, like I said, is to the examination in one (1) state to the examination in Florida, not to the education in another state and the education in Florida. I just wanted to include that in this discussion. Thank you.

Chair Peebles – Thank you. Mr. Williams?

Mr. Williams – So, I just want to go back on record and state, if we are in the State of Florida, an applicant comes before the Board requesting what this applicant has, I think we should, as a Board, go by the State of Florida guidelines. There's a reason why the statute has not had a comparison in the statute itself. We have guidelines, we have statutes and I ask Division staff for assistance on this. We're just going to open up something in reference to anyone can start utilizing this comparison chart that we keep talking about to qualify for a license. I mean, it's going to open some floodgates. And I think we should go by the State of Florida guidelines. The statute is clearly written, as Ms. Simon has stated, in reference to the examination piece. Outside of that, I think we're going into some uncharted waters and I'm going to go on record and state that I'm not in favor of approving this. That's what I would say.

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

Rabbi Lyons – Yes. Can we put Ms. Biffany under oath, please?

Chair Peebles – Yes. Ms. Simon?

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. Tara Biffany – So help me, God. I am.

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

Ms. Biffany – My name is Tara Biffany. My last name is spelled B-I-F-F-A-N-Y.

Ms. Simon – Thank you, ma'am.

Rabbi Lyons – Thanks for coming.

Ms. Biffany – Yes.

Rabbi Lyons – So just clarify one thing. You said you relocated to Crestview and looking forward to being funeral director and general manager at Whitehurst Powell Funeral Home.

Ms. Biffany – Yes, sir.

Rabbi Lyons – Are you currently the general manager?

Ms. Biffany – So, I'm acting there as a daily operator and as an FSA, funeral services assistant only.

Rabbi Lyons – Is becoming a licensed funeral director, did they indicate that that would be a condition of becoming general manager or is it possible that you might be general manager without being licensed?

Ms. Biffany – I have to have a Florida license in order to be the general manager here.

Rabbi Lyons – OK. Thank you.

Mr. Jones – Ms. Chair?

Chair Peeples – Mr. Jones?

Mr. Jones – If I may? While you're under oath, can you give me a little clarification? We're talking about five (5) years of experience. You haven't worked full-time. I'm not being nosy but what's your history there?

Ms. Biffany – So, a letter has been attached also, I believe.

Mr. Jones – Yes. I saw your letter and it was impressive, but can you elaborate on your experience?

Ms. Biffany – So, in 2017 in Mississippi, I started selling preneed and my heart was in it. And it was one of those things that if you call any of the families that I have served and you told them that I have not been a funeral director five (5) years, they will call you a liar. They think I've been doing this over thirty (30) years, easy. Everyone thinks that I was more or less born to do this. And I hope that answers your question.

Mr. Jones – I'm just looking for some gaps in there. So that's fine. Thank you.

Chair Peeples – Ms. Biffany. I have a question for you. Have you taken the National Board exam?

Ms. Biffany – No, Mississippi did not require it. I took the Mississippi exam and then I had to take the law exam in Louisiana.

Chair Peeples – So you have not taken the National Board Arts or Sciences?

Ms. Biffany – I didn't.

Chair Peeples – OK. Any other Board members have any questions for Ms. Biffany?

Mr. Clark – I have one.

Chair Peeples – Mr. Clark?

Mr. Clark – Can you just describe the resident training program in Mississippi? What did it entail?

Ms. Biffany – It entailed -- I had to have fifty (50) obituaries. I had to sit with fifty (50) families. I had to do fifty (50) removals. I'll have to go back and look. Everything was fifty (50). There were thirteen (13) different items that I had to work on.

Mr. Clark – OK. Thank you.

Ms. Wiener – Mr. Clark, I believe you can find a lot of that in the comparison tables. I called that Mississippi resident training program, something like MSRT or something along those lines.

Ms. Biffany – I apologize for not remembering all thirteen (13) of them.

Ms. Wiener – Yes, there were thirteen (13) different categories. And I refer to that as MTP, Mississippi Training Program.

Chair Peeples – Mr. Williams?

Mr. Williams – OK. So, if my Board members can go to Ms. Wiener's comparison chart on page 17 of 23 in the Board packet. So, on passed the state license exam in Mississippi, you've done that. But then on the State of Florida's side, it says passed the examination of the subject areas, local, state, and federal laws. So going back to the question at hand, there are some other things that have not been done by the applicant that we're going to approve or is considering approving and they have not

met. So, the only thing they have met was the State of Mississippi license exam. So going to the Board Chair's statement of asking the applicant, have they passed or taken the National, they have not checked off that box, according to what we offer or what we ask applicants to have done in order to be considered. So just want to point my colleagues to Ms. Wiener's comparison chart just so you can look at it to see exactly Florida versus Mississippi law requirements.

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

Ms. Wiener – Thank you. Thank you, Mr. Williams. Of course, every applicant that comes before you for endorsement licensure must take Florida Laws and Rules. That examination, the one that you refer to, the local, state, federal, that is actually Florida's Laws and Rules test. You can see the last few sentences or the last few words of that say as something like as administered by the licensing authority. That's the Florida laws and rules test. We are not asking that Ms. Biffany be excused from taking Florida Laws and Rules. No applicant for endorsement is ever excused from taking Florida Laws and Rules, even those that come in the five-year route. So, no we're not suggesting that.

Chair Peebles – Mr. Williams?

Mr. Williams – OK. I have a follow-up. And please educate me, my colleagues who are funeral directors. Is it a requirement in the State of Florida to have passed the Nationals?

Chair Peebles – Yes.

Mr. Williams – So we're going to consider giving this applicant a license, and in the State of Florida it's required that they pass the National? And based on the applicant's statement, they have not taken exam nor passed. Is that what we're doing? I just want to make sure I'm following.

Chair Peebles – Mr. Williams, you are correct. As in Section 6 on the application, it asks if the applicant has taken the Art Section of the National Board? There's nothing marked, yes or no there from that perspective. But to be a new licensee a funeral director and embalmer in the State of Florida, you have to pass the National Board Arts and Sciences and also take the state Laws and Rules test.

Ms. Wiener – Only Arts for a funeral director.

Chair Peebles – Funeral director only is what she's requesting?

Ms. Wiener – Yes.

Chair Peebles – Ms. Munson?

Ms. Munson – So I just have two (2) comments, and this is for the benefit of the Board just so you can have a good understanding. The substantial equivalent comparison charts that's been provided with other materials, provided with this particular application, is presented, I believe, Ms. Wiener can correct me, just as an argument as to where the comparison, how the comparison falls out. I don't want the Board to be under the impression that this is the standard for which you determine whether or not to apply licensure or approve licensure. It is an argument made by the applicant. And second, there is also a factual consideration to be made and that is -- I think it was just noted in the previous discussion, if it is --

Mr. Williams – Can I? I'm sorry. Madam Chair?

Chair Peebles – Yes. Mr. Williams?

Mr. Williams – I'm really trying to hear this.

Mr. Williams – We have some speaking going on the audience. If we could please hold that down. Thank you. Ms. Munson.

Ms. Munson – Yes. Enough said about that. I didn't want it to be considered like none-rule policy or this is a Division standard of measuring or this is what we do, because if this ever goes for review on a higher level, documentation such as this, Ms. Wiener will know, will be presented to say this is how we make the comparison and I don't want it to be a statement on the record for the Board that we accept this as the standard for review. I just wanted to have that clear for the record. And second, I'm not certain if Mr. Williams' comments were indicating whether or not based on the way the information is presented, it is more difficult to -- it could be more difficult to become licensed in Florida as a Florida resident than it would to become licensed for someone who is coming in by endorsement.

Mr. Williams – Yes.

Ms. Munson – I was going to have you clarify. I don't know if that was being said but if that was, in fact, being said, that I think also is under consideration.

Chair Peeples – Thank you, Ms. Munson. Any other discussion or any questions for Ms. Biffany or Ms. Wiener? Rabbi?

Rabbi Lyons – Just to clarify. If she would have had a license for five (5) years, then she would be exempt from the National Board. No?

Ms. Wiener – Yes.

Rabbi Lyons – Where does the exemption from the National Board come in?

Ms. Mary Schwantes – Madam Chair, may I?

Chair Peeples – Ms. Schwantes?

Ms. Schwantes – Thanks ma'am. Rabbi Lyons and others who are interested in this position, it has been an ongoing debate and difference in interpretation between the way the Department and I know some others review the recently changed statute. It was just changed effective last July. It is the Department's position that a national exam is required for whether or not they come in with five (5) years or come in on the less than five (5) years as Ms. Biffany is coming today. I know Ms. Wiener has taken an opposite position in the past and there are others who have also claimed {inaudible}. But that is why the Department will continue to recommend denial on these applications if there's no national exam.

Ms. Clay – Madam Chair?

Chair Peeples – Ms. Clay?

MOTION: Ms. Clay moved to deny the application. Mr. Williams seconded the motion.

Chair Peeples – I'd like us to do a roll call to vote. Ms. Simon?

Ms. Simon – Please answer by saying yes if you agree to the motion and no, if you do not. Mr. Clark?

Mr. Clark – Yes.

Ms. Simon – Mr. Brandenburg?

Mr. Brandenburg – No.

Ms. Simon – Ms. Clay?

Ms. Clay – Yes.

Ms. Simon – Mr. Ferreira?

Mr. Ferreira – No.

Ms. Simon – Mr. Jensen?

Mr. Jensen – Yes.

Ms. Simon – Mr. Jones?

Mr. Jones – No.

Ms. Simon – Ms. Liotta?

Ms. Liotta – No.

Ms. Simon – Rabbi Lyons?

Rabbi Lyons – No.

Ms. Simon – Mr. Williams?

Mr. Williams – Yes.

Ms. Simon – Madam Chair?

Chair Peeples – Yes.

Ms. Simon – That motion fails as the votes are equal.

Mr. Brandenburg – Madam Chair?

Chair Peeples – Yes, Mr. Brandenburg?

MOTION: Mr. Brandenburg moved to approve the application.

Mr. Williams – Point of information. Ms. Simon, you stated it was a tie?

Ms. Simon – Yes, sir.

Mr. Brandenburg – So that motion failed.

Ms. Simon – Right.

Mr. Brandenburg – So I make a motion to accept it.

Ms. Munson – Let's see what happens.

Rabbi Lyons – Can I [inaudible]?

Chair Peeples – Yes, sir, Rabbi Lyons?

Rabbi Lyons – Pardon my ignorance here. Let's say, in theory, I have a license in a different state for three (3) years and I decided I wanted to take the National Exam. Is that like you go online and you do it or is that one of these it's several months or years in the making? How does that step work? I'm asking very practical, just some questions that the funeral directors here probably know.

Ms. Simon – I believe that the National Examination, there is an application to us to take the national examination and we approve it. We authorize it to the National Examination Conference and then the National Examination Conference arranges the examination. The examination is given by Pearson VUE, I believe.

Rabbi Lyons – Given by?

Ms. Simon – Pearson VUE.

Rabbi Lyons – OK.

Ms. Simon – And so, it is not something that is done only twice a year at this point. I think it can be done routinely throughout the year. May I just –

Chair Peeples – Yes, Ms. Simon?

Ms. Simon – I just need to let the Board know once again, that the comparison is to the education that Ms. Wiener has presented but that is not what it says in the statute. What it says in the statute is the comparison is for the examinations, not the education. So, bearing that in mind, some people on the Board could find it irrelevant that the comparison for education is included in the Board package because it's the comparison to the testing. I realize that Mr. Brandenburg had a motion, and we probably shouldn't be discussing it without a second. But I needed to make those statements clear.

Chair Peeples – We do have a motion by Mr. Brandenburg. What is the Board's pleasure?

Mr. Jones – Second, Jones.

Mr. Williams – Madam Chair, discussion?

Chair Peeples – Yes, sir. Mr. Williams?

Mr. Williams – For the Division, what is the protocol or Board rules in terms of a tie, because we have ten (10) members? So, we can go back to this whole same scenario. So, do we have protocol in reference to?

Ms. Munson – Sure. I mean, it's true for any procedural vote such as this. If the Board votes again and if someone changes their mind, which sometimes happens, then, of course, that breaks it. But if there's another tie, then that vote also fails. The application cannot pass if votes fail.

Chair Peeples – Any other discussion? Rabbi.

Rabbi Lyons – Just in the time to negotiate over here, Mr. Brandenburg, would you consider approving it on the condition that she'd take the National Exam?

Mr. Brandenburg – No. I'm approving the material that we received.

Mr. Jones – Ms. Chair, can I ask one question?

Chair Peeples – Yes, sir. Mr. Jones?

Mr. Jones – In your years of service through the two (2) states, how many services have you approximately been a funeral director over?

Ms. Biffany – When I started at Trinity Funeral Services they were doing thirty-five (35) cases a year. And then when I left, they were doing 503. I was the only licensed funeral director there.

Mr. Jones – So how many would you say you have done yourself in your career? I'm just asking.

Ms. Biffany – In my career, I would put it well over 2,000.

Mr. Jones – Thank you.

Ms. Biffany – Because whenever I was at Bradford-O'Keefe, we did at least six (6) a day. And so, some days I was on military duty to do all six (6).

Mr. Jones – And you worked during the 2021-22 epidemic?

Ms. Biffany – Yes, sir. I worked at a funeral home, Bradford-O'Keefe, that did 1,800 a year, and at Greater Jackson Mortuary that did over 7,000 a year.

Mr. Jones – Thank you.

Chair Peeples – Any other discussion? Mr. Jensen?

Mr. Jensen – I wanted to ask you a question based on what Mr. Lyons had mentioned earlier. Ms. Biffany wants to be the general manager, which I assume that would entail being an FDIC.

Ms. Biffany – Yes, sir.

Mr. Jensen – Are you aware that a funeral director only the license can't be FDIC?

Ms. Wiener – Depending on what is sold in that particular funeral home. You cannot be FDIC with the funeral director only if you have an embalming room and offer preparation of human remains. But we believe there would be other licensees that would be available. We're not asking for you to approve her as FDIC at this time. We are asking that you approve the funeral director.

Mr. Jensen – Yes. I found it interesting that Mr. Lyons asked that. I would like to also, as Mr. Williams has addressed the Board. May I, Madam Chair?

Chair Peeples – Yes, sir.

Mr. Jensen – The educational requirements here, which is what Ms. Wiener is basically going under because there wasn't five (5) years. Is that what I'm to understand?

Ms. Wiener – I'm trying to demonstrate to the Board that this applicant is as educated and qualified and experienced as any applicant in the State of Florida. Yes.

Mr. Jensen – But if I'm to understand her application, she doesn't have a degree in anything. Is that right?

Ms. Wiener – That's correct.

Mr. Jensen – I mean, I can't even remotely understand how this is equal. I mean, I just can't. I'm looking at funeral directing, the equivalent you have here is assisting with viewing and visitation. I mean, you know, come on. That's an insult to the funeral profession. I'm a licensed funeral director. I had a master's degree and had to go back and get an associate degree to be a funeral director and take the test and everything. And I find it horribly offensive that some of the members on this Board sit here, it's just like a lawyer coming in here and saying, I haven't taken the Florida Bar. Would that be offensive? Would that be offensive to a lawyer that practices law and says, hey, I'm OK in another state but I'm coming to Florida and I'm going to practice law, but I didn't have to do near of the things you had to do. And I know any lawyer I've ever talked to sweats themselves to death worrying about the bar exam. So, I just -- you know, I don't get it. I don't even know where your heads are at. I mean, this isn't even close. So, somebody's got to help me here. Somebody's got to help me.

Rabbi Lyons – May I help?

Chair Peeples – Rabbi?

Rabbi Lyons – OK. So, I think if I understand the debate correctly, just to help you here, Mr. Jensen. I think the idea is that this was based on the interpretation of the statutes that have recently changed. So, then the Board should follow the statutes. And if the statutes are wrong, then kick it back to the legislature and let them clean it up.

Mr. Jensen – Mr. Lyons, I 100% agree. I got both statutes right here. I mean, I'll pass it over if you want to read it. And none of this qualifies under either one of these statutes. I'm sorry. It just doesn't. It's just plain black and white. You know, I'm sure the Board can approve it, and that's good. But my issue is that maybe people on the Board who may be funeral directors, or not funeral directors, please understand there's a lot more that goes into it than just being an assistant. I have a lot of assistants. But, you know, I don't know. You understand where I'm going with this. But Rabbi Lyons, I mean, it says right here just what Ms. Simon read, 497.374(2), meets the qualification for license in 373. Basically, 374 refers back to 373. S. 373 is pretty clear. You've got to have the education. If she had a degree of some sort and included some of these classes, I might be able to understand. But these classes, you know, intro to funeral service, some of these things that are given at St. Pete College or something. Proofreading obituaries does not constitute an equivalent. I'm sorry, and that's what's on there. I mean, I'm just wondering if you all are reading the same packet I'm reading.

Ms. Wiener – Mr. Jensen?

Mr. Jensen – Yes, please.

Ms. Wiener – Ms. Biffany would like to address that.

Ms. Biffany – I agree with you. You know, if I hadn't sat around the table with families and walked with them in their grief, I would understand exactly what you're saying, but there is more to it. There are things that you cannot get sitting in a classroom. There's the experience of being able to walk with that family up to the casket of their child and bring them some sort of comfort to get them through to the next day. I agree with you about the education part, but at the same time, there's more needed than that. Thank you.

Mr. Jensen – Thank you.

Chair Peeples – Ms. Munson?

Ms. Munson – I just have one question. Is there anything prohibiting the applicant from meeting the educational requirements?

Ms. Biffany – Thirty (30) hours.

Ms. Wiener – Well, the educational requirements are to get a diploma or a certificate. In the states in which she was licensed, there is no requirement for a diploma or a certificate. Instead, it is a training program. This is not the first time that this Board, it's not even the 15th time that this Board has heard this type of –

Ms. Munson – And the conversations have always been the same. So, I guess it's maybe at a point now. I was just curious. The criteria that Florida requires, is there any restriction from the applicant meeting that criterion?

Ms. Wiener – It'll probably take her two (2) or three (3) years, depending on how you can get those classes. As you heard at Rules Committee, it's very difficult to get the classes that you needed to go back to school and those kinds of things.

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

Ms. Clay – I was just going to ask if we could call for the vote.

Chair Peeples – Yes, ma'am. That's where I was going is we need to do a vote. We have a motion to approve the application by Mr. Brandenburg, a second by Mr. Jones. Ms. Simon, if you'll do a roll call vote, please?

Ms. Simon – Yes. Those who agree with the motion, please say yes. Those that don't, say no. Mr. Clark?

Mr. Clark – No.

Ms. Simon – Mr. Brandenburg?

Mr. Brandenburg – Yes.

Ms. Simon – Ms. Clay?

Ms. Clay – No.

Ms. Simon – Mr. Ferreira?

Mr. Ferreira – No.

Ms. Simon – Mr. Jensen?

Mr. Jensen – No.

Ms. Simon – Mr. Jones?

Mr. Jones – Yes.

Ms. Simon – Ms. Liotta?

Ms. Liotta – Yes.

Ms. Simon – Rabbi Lyons?

Rabbi Lyons – No.

Ms. Simon – Mr. Williams?

Mr. Williams – No.

Ms. Simon – Madam Chair?

Chair Peeples – No

Ms. Simon – And that motion fails. May I?

Chair Peeples – Yes, ma'am.

Ms. Simon – Ms. Munson, we're in an interesting posture and I'm not sure of the answer because if there is no motion taken that passes and if there's no motion that denies that and not -- I don't know where we're at.

Ms. Munson – I see a completely different stratus of votes. I don't know if the other motion that was presented initially wants to be represented to the Board.

Chair Peeples – Mr. Brandenburg?

Mr. Brandenburg – Would the Board consider affirmative action on this with a period of observation, i.e., probation for six (6) months or a year to monitor her activities, make sure that her activities are completely legal and meet all the requirements?

Chair Peeples – Mr. Brandenburg, respectfully, I do not agree that this person has the correct requirements to become licensed here in the State of Florida. I made that comment earlier. I concur with several of the Board members that have so stated the same. We've had a motion to deny. It failed. We've had a motion to approve. It failed. So, Mr. Williams?

MOTION: Mr. Williams moved to deny the application. Ms. Clay seconded the motion.

Ms. Wiener – Madam Chair?

Chair Peeples – Yes, ma'am.

Ms. Wiener – If Ms. Biffany were to agree to take the Arts section of the National Board, though we don't believe that that is necessarily a requirement, and of course she has to take the Florida Laws and Rules exam, would that be something that would allay your concerns with 2,000 plus funerals under her belt, years of experience? National Exam and the State Exam?

Chair Peeples – If I may? Ms. Wiener, in reply to your comment, I don't think she has years of experience. She doesn't even have the five (5) years the statute calls for. I do not agree that she has the basis to become licensed in the State of Florida by endorsement because she hasn't taken the National Board. She will have to take the state Law and Rules. So, my comment, as a Board member and a licensee, I do not agree with that.

Ms. Wiener – I was offering that she takes the National Board exam. So, in that circumstance, you would be looking at whether her education was sufficient. And then can she pass the National Boards, and can she pass the state Boards? And I believe [inaudible].

Chair Peeples – Ms. Clay?

Ms. Clay – I was just going to comment that I don't think this is let's make a deal. It's just not. It is insulting to those of you who have licenses. And I'm not a licensed funeral director. I've got some licenses but it's not that. But it's absolutely insulting to those of you in the profession, and it's absolutely, positively unbelievable for me as a consumer to sit here and watch this conversation and listen to it go on as you try to negotiate something that does not meet the criteria. It's white or black. And we're here trying to continuously every month make it gray.

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

Ms. Munson – I know you have a motion and a second for the motion to deny.

Chair Peeples – Yes, ma'am.

Ms. Munson – Before an actual vote is taken, I don't know if the applicant may choose to withdraw. I just -- before an actual vote is taken, if it were to pass, then the denial would be on the record. So, I just was laying that out there just for procedure consideration.

Chair Peeples – Thank you.

Ms. Biffany – If I take the National Board, then can I come back before you all?

Chair Peeples – Well, the motion that's here for us is a motion by Mr. Williams to deny your application is what Ms. Munson is stating. So, she has made the comment that if you would like to withdraw your application, then whatever you decide to do personally may be in your best interest to take the National Board Arts section, then come back and do an application. But if we vote and it is denied, that will follow you. And that will be on record, so to speak. Is that not correct, Ms. Wiener?

Ms. Wiener – Well, unless it's reconsidered at a subsequent meeting, depending on what happens in that case.

Ms. Munson – I was just saying the vote today will be the vote today.

Chair Peeples – Correct.

Ms. Wiener – I understand.

Ms. Munson – Yes. Of course.

Ms. Wiener – That could certainly be reconsidered by this Board at another time unless the lawyers disagree.

Ms. Munson – Absolutely.

Chair Peeples – We have a motion, and we have a second.

Ms. Wiener – Can we have a moment to confer?

Ms. Clay – I was just going to ask if you all wanted to.

Chair Peeples – Yes, ma'am. Can we do this? Can we take a 10-minute restroom break. which would give you all a little bit of time to talk? It's 2:32. Let's come back at 2:42, please. Thank you.

*****BREAK*****

Chair Peeples – Ms. Wiener? Ms. Biffany?

Ms. Wiener – We will withdraw her application at this time.

Chair Peeples – Thank you, ma'am. If Board members did not hear, the application has been withdrawn by Ms. Biffany. Ms. Simon, we will proceed to letter H on the agenda, please.

Ms. Simon – OK.

H. Application(s) for Internship

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

(a) Embalmer

- 1. Barker, Erin M F578220
- 2. Dorsett, Kristina L F444787

(b) Funeral Director

- 1. Cains, Beatriz R F683901

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.

I. Notification(s) for Change of Location

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

(a) ABO Funeral Services LLC d/b/a Eden Funeral Services Miami (F060082) (Miami)

Ms. Simon – This is an informational item. The establishment listed on addendum G has applied for a change of location of their business. The only criterion for approval is that the new location pass inspection by the Division of Funeral Cemetery and Consumer Services.

J. Application(s) for Funeral Establishment

(1) Recommended for Approval with Conditions

(a) D J Hawk Enterprise LLC (Havana)

Ms. Simon – Is there a representative of this entity present today? Hearing no response. An application for funeral establishment licensure was received on May 19, 2023. The application was incomplete when submitted. A completed application was received on June 8, 2023. The Funeral Director in Charge will be Demarien Hawk (F081293). A background check of the principals revealed no criminal history. In your packet, there is the wrong SunBiz documentation. However, I have seen the correct SunBiz documentation, and if you will rely on me, when reviewing that, that document shows an active corporation in Havana with Demarien Hawk as the registered agent. The DBA is active as well. As a result, the Division recommends approval subject to the condition that the establishment pass an onsite inspection by a member of Division Staff.

Chair Peeples – Board members, your pleasure?

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

(b) Foundation Partners of Florida LLC d/b/a Beacon Direct Cremation (Largo)

Ms. Simon – An application for funeral establishment licensure was received on June 22, 2023. The application was incomplete when submitted. A completed application was received on June 27, 2023. The Funeral Director in Charge will be Leanna Faustino (F323940). A background check of the principals revealed no criminal history. There is currently a direct disposal establishment (F543416) at this location owned by the applicant and the applicant will relinquish this license upon approval and licensure of the funeral establishment. The Division recommends approval subject to the condition that the establishment pass an onsite inspection by a member of Division Staff and the direct disposal establishment license be relinquished.

Mr. Clark – Madam Chair?

Chair Peeples – Yes, sir, Mr. Clark?

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

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

Mr. Brandenburg – Is Leanna Faustino an FDIC at any other locations?

Ms. Simon – If I may have one (1) moment.

Chair Peeples – Yes, Ms. Simon.

Mr. Brandenburg – I thought Mr. Clark may know.

Ms. Simon – I can look it up in a moment.

Ms. Simon – Actually, it says on our ALIS report that she is currently the FDIC for Foundation Partners of Florida and the DBA E. James Reese Funeral Home and Cemetery and that is a funeral establishment licensure. The second place where she is an FDIC of is Foundation Partners of Florida DBA Beacon Direct Cremation. That is a direct disposal establishment. That license will be relinquished pursuant to this application and so she is only Funeral Director in Charge at one establishment, so this will be the second and will be permissible according to statute.

Chair Peeples – Mr. Brandenburg?

MOTION: Mr. Brandenburg moved to approve the application subject to condition that the facility passes an inspection by a member of Division Staff. Mr. Ferreira seconded the motion.

Chair Peeples – Mr. Jensen?

Mr. Jensen – Yes, I just have maybe one question. Why are you giving up the direct disposal establishment license? I'm just wondering why that's part of it because all they really need to be is a cinerator facility.

Chair Peebles – Ms. Wiener?

Ms. Wiener – Hi. Good afternoon. Wendy Wiener representing Foundation Partners of Florida, and this applicant. Direct disposal establishments are quite limited in what they can and cannot do. So, it is always my recommendation that if a licensee has 1,250 contiguous square feet that they are licensed as a funeral establishment so that they avoid any of the problems that often plague direct disposal establishments, like names in obituaries, things you may or may not have control over. So, it is the desire of the company that they license this facility as a funeral establishment.

Mr. Jensen – And if I may?

Chair Peebles – Mr. Jensen?

Mr. Jensen – Yes. Ms. Wiener, I definitely agree with you. I think I misunderstood. I did not realize that they're giving up the direct cremation and just becoming a funeral home, which is the wise thing to do.

Ms. Wiener – Correct.

Mr. Jensen – OK. Very good.

Ms. Wiener – Thank you.

Mr. Jensen – I'm good.

Chair Peebles – Any other questions, any other discussion on the motion? Hearing none. All in favor of the motion, say yes.

Board members – Yes.

Chair Peebles – All opposed, say no. Motion carries.

(c) Roberson Funeral Service LLC d/b/a Shepard-Roberson Funeral Home Callahan Chapel (Callahan)

Ms. Simon – Contrary to the information in your Board packet, the applicant's physical address is on N Brandies Avenue, in Callahan, and the preferred mailing address is in Folkston GA. An application for funeral establishment licensure, based on a change of ownership, was received June 2, 2023. The application was incomplete when submitted. A completed application was received on June 16, 2023. The Funeral Director in Charge will be Jeb Turner (F429001). A background check of the listed principal revealed no relevant criminal history. The current establishment does not have a qualifying preneed license. The Division recommends approval subject to the following conditions:

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

6) That the establishment passes an onsite inspection by a member of Division Staff.

Is there a representative of this entity here today? Hearing no response. Madam Chair?

Mr. Brandenburg – Madam Chair, a question?

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

Mr. Brandenburg – Have they agreed to service the preneed contracts that were sold previously?

Ms. Simon –No, sir. I do not see that.

Chair Peeples – Ms. Simon stated she does not see any information regarding that item. And if you will go back to page 8 of your application, it states on number 16 (c), if there are currently any unfilled preneed contracts that were sold at this establishment or that for any other reason or obligations of this establishment, will the obligation to fulfill all those preneed contracts be assumed by the proposed new owner identified here? And they said yes.

Mr. Brandenburg – Good. I didn't see it in the write-up.

Chair Peeples – Thank you, sir. Does that complete your question?

Mr. Brandenburg – Yes.

Chair Peeples – Thank you.

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

- K. Application(s) to Renew Internship**
 - (1) Recommended for Approval without Conditions**
 - (a) Funeral Director**
 - 1. Hylton, Marissa A F600373**

Ms. Simon – Is Ms. Hylton or a representative of her in the audience today? Hearing no response. An application to renew the funeral director internship license was received on June 26, 2023. The application was complete when received. The current license expired on July 7, 2023. The Division recommends approval.

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

- (b) Funeral Director and Embalmer**
 - 1. Vera, Karen F595579**

Ms. Simon – Is Karen Vera or a representative in the audience today? Hearing no response. An application to renew the funeral director and embalmer (concurrent) internship license was received on June 7, 2023. The application was complete when received. The current license expired on June 26, 2023. The Division recommends approval.

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

- L. Collective Application(s)**
 - (1) Recommended for Approval with Conditions**
 - (a) Gratitude and Compassion LLC (Ocala)**
 - (1) Funeral Establishment (2)**

Ms. Simon – I see Ms. Wiener here and she must be representing the applicant. Gratitude and Compassion LLC, seeks approval of the applications for licensure for two (2) funeral establishments. The applications are based upon a change in ownership. More specifically, the entities that are being acquired are as follows:

- 1) Stonemor Florida Subsidiary LLC d/b/a Roberts Funeral Homes – Bruce Chapel East, a licensed funeral establishment, license #F079849, physical address: 2739 South Maricamp Road, Ocala, FL 34471. Proposed FDIC: Bethany Swank, license #F390683
- 2) Stonemor Florida Subsidiary LLC d/b/a Roberts Funeral Homes – Bruce Chapel West, a licensed funeral establishment, license #F079852, physical address: 6241 Southwest State Road 200, Ocala, FL 34476. Proposed FDIC: Bethany Swank, license #F390683

Enclosed in your Board packets are the separate applications regarding the above listed properties. The change of ownership is the result of an asset purchase. The principals of the corporation have submitted fingerprints which were returned without criminal history. The Division recommends approval subject to the conditions as follows:

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

Ms. Simon – The conditions do include that the applicant will assume all existing preneed liabilities if there are any.

Ms. Wiener – Madam Chair?

Chair Peeples – Yes, Ms. Wiener?

Ms. Wiener – Actually, that's incorrect. In my cover letter, it indicates that the preneed contracts that are the obligation of the funeral establishment will remain with the seller, StoneMor Partners of Florida. So, you'll note in your Board packet it said attach a signed statement related to this matter. And if you go to page 30, you'll see my cover letter. Those contracts are going to remain at the obligation, and they will be fulfilled by the existing seller of those contracts through business-to-business or trade arrangements, either with the applicant or other licensees as necessary.

Chair Peeples – Thank you, ma'am.

Ms. Wiener – Thank you.

Mr. Williams – Madam Chair?

Chair Peeples – Mr. Williams?

Mr. Williams – Just a question. Ms. Wiener, I think you may have explained it. So, when a consumer goes to the firm, would communication be shared of what that procedure would look like in terms of being able to contact this person at this number, things like that?

Ms. Wiener – Yes, sir. And actually, I think the plan is that the consumer would be served at that funeral home. But the obligation -- basically the trust funds and the obligation to fulfill the contract will remain with StoneMor. And StoneMor will then pay the new owner to fulfill it. But I think that consumers that bought their services and expect their services to occur there, their services will occur there, and it will be seamless and behind the scenes to the consumer. But, of course, as in lots of situations, if the consumer, say, moves to another part of the state where a StoneMor subsidiary has another location, it might be served there as well.

Mr. Williams – Thank you.

Ms. Wiener – Thank you.

Chair Peeples – Board members, your pleasure?

MOTION: Mr. Williams moved to approve the application subject to conditions recommended by the Division as amended. Mr. Jones seconded the motion, which passed unanimously.

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

(1) Recommended for Approval with Conditions

(a) Preneed Sales Agreement

**1. Jacobs Funeral Services LLC d/b/a The Gardens of Boca Raton Cemetery & Funeral Home (F019197)
(Boca Raton)**

Ms. Simon – The Gardens submits the enclosed revised preneed sales agreement for approval: *The Gardens of Boca Raton Cemetery & Funeral Home Purchase Agreement*. If approved, this agreement will be used for the sale of preneed by this preneed main establishment and its related preneed branches. The Division recommends approval subject to the condition that two full-sized print-ready copies of the revised preneed sales agreement are received by the Department within sixty (60) days of this Board meeting.

Rabbi Lyons – Madam Chair?

Chair Peeples – Yes, sir, Rabbi Lyons?

Rabbi Lyons – Just one question for Division staff. When it comes to preneed merchandise, is there an option of whatever the term is, stockpiling and warehousing it? In other words, the establishment can store those items and not have to trust that money.

Ms. Simon – No, sir. That obligation to –

Ms. Wiener – For cemeteries, yes. There is for cemeteries.

Rabbi Lyons – For some merchandise, not all? What was that?

Ms. Munson – She said cemeteries.

Ms. Wiener – That is, cemeteries may store, may acquire and store or store via arrangement with the manufacturer as opposed to trusting. Yes, for a cemetery. Not for a funeral establishment though.

Rabbi Lyons – OK.

Chair Peeples – Does that complete your question, Rabbi?

Rabbi Lyons – Does Division staff agree with that?

Ms. Simon – Yes, I would. Yes.

Rabbi Lyons – OK.

Chair Peeples – Which that Ms. Wiener is correct. Cemeteries, when it comes to merchandise, can do a pre-purchase arrangement or a vendor agreement when a prearranged agreement is established. And they can either hold the merchandise, store the merchandise, or the merchandise be delivered at the time of request. But that's for cemeteries. Funeral homes cannot do that. So, I hope that clarifies your question.

Rabbi Lyons – Yes.

Chair Peeples – Perfect. Any other discussion? What's the Board's pleasure?

MOTION: Mr. Jones moved to approve the request subject to the condition that two-full-sized print-ready copies of the revised preneed sales agreement are received by the Department within sixty (60) days of this Board meeting. Ms. Clay seconded the motion, which passed unanimously.

Ms. Wiener – Thank you.

Chair Peeples – Thank you, ma'am.

N. Executive Director's Report
(1) Operational Report (Verbal)

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

Chair Peeples – Yes ma'am.

Ms. Schwantes – Madam Chair, may I?

Chair Peeples – Yes ma'am.

Ms. Schwantes – Thank you, ma'am. Good afternoon, everybody and particularly Board members. As most of you know, the Board voted years ago to have one (1) Board meeting per year at one (1) of Florida's deathcare association meetings. The FCCFA was actually scheduled to host the Board meeting in 2020 when COVID interrupted the world. This is the first year that we've been able to return to our pre-COVID summer meeting schedule, having a meeting in conjunction with the associations. And we want to particularly thank the FCCFA for holding a spot for us in their conference planning over the past few years and for hosting the Board meeting this year. Much thanks to the FCCFA leadership team, Executive Director John Ricco, Elizabeth Lane, and their coworkers for all their assistance in setting this up. It's very much appreciated, and we look forward to the remainder of the FCCFA conference over the next several days. As a reminder, the summer Association Conference hosting the Board meeting next year will be that of the Florida Morticians Association, and the meeting will be held in June 2024 at a date to be determined in Tallahassee. More information on that will, of course, be made available as we get closer to the conference.

I want to briefly give a shout-out for our Division teams. I know that you all know that we've been struggling with staffing shortages. During most of this past fiscal year, which just ended on June 30th, our Division had between five (5) and seven (7) vacancies out of our twenty-five (25) to twenty-seven (27) total staff. The bulk of our inspection, examination, investigation, and licensing responsibilities were handled by only fifteen (15) Division employees, and some of those were new employees, by the way, and still in training. Despite these significant staffing shortages and other challenges, our teams were able to successfully complete about 1,700 inspections, 45 complicated examinations, 350 investigations and licensing application and renewals on over 3,100 licenses. So that is with all of the statutory and other deadlines being met, and I am just hugely proud of our team and our staff in particular and of their dedicated continued service to the licensees and the public and particularly the consumers. And of course, I also want to thank our licensees and their representatives for their cooperation with our team members as they fulfill those responsibilities. With that, our next Board meeting will be held by video conference on Thursday, August 3rd, beginning at 10:00 a.m., and that ends the Executive Director's Report for this meeting. Thank you. Thank you, Madam Chair.

(2) Report on 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 13, 2023
 Date report was prepared: July 5, 2023

Licensee	Board Meeting	Case No.	Total Fine	Date Due	Paid in Full?	Comments
SCI Funeral Services of Florida, LLC d/b/a Southeastern Crematory	6/29/2023	305420-23-FC	\$10,000			
Foundation Partners of Florida LLC d/b/a A Life Tribute Funeral Care	6/29/2023	291156-22-FC	\$500			
Michael Shorter	6/29/2023	292655-22-FC	\$500			
Brian James Bonar	6/29/2023	293064-22-FC	\$11,000			
Jeffrey Lynch	6/29/2023	296083-22-FC	\$1,000			
Christopher Coleman	6/29/2023	302547-22-FC	\$1,000			
City Monument Company	6/29/2023	288385-21-FC	\$2,000			
Willdorfs & Associates, Inc. d/b/a Cycadia Mausoleum and Monument Company	6/29/2023	290748-22-FC and 300629-22-FC	\$1,500			
Kevin Cantrell	6/29/2023	290752-22-FC	\$1,500			
SCI Funeral Services of Florida, LLC Dade North d/b/a Caballero Rivero Dade North	4-May-23	297779-22	\$2,250	16-Jun-23	Paid in Full	
Combs Funeral Home	4-May-23	274981-21-FC and 280024-21-FC	\$5,250	16-Jun-23	Paid in Full	
2.Turner, Marquis R	4-May-23	274982-21-FC	\$5,000	16-Jun-23	Paid in Full	
Swilley Funeral Home & Cremation Service, Inc.	4-May-23	300747-22-FC	\$1,250	16-Jun-23	Paid in Full	
David Rickner	4-May-23	300763-22-FC	\$1,250	16-Jun-23	Paid in Full	
Melinda Mezeline Jackson	4-May-23	298708-21-FC	\$3,000	17-Jul-23		
Harry Oldham III	4-May-23	282704-21-FC	\$3,000	17-Jul-23		
James Edward Simmons	4-May-23	285319-21-FC	\$1,500	17-Jul-23		
Kathryn Rickner	4-May-23	300760-22-FC	\$1,500		Paid in Full	
Charles Hancock	4-May-23	301849-22-FC & 304154-22-FC	\$5,000	17-Jul-23		
Hancock Funeral Home, Inc.	4-May-23	301848-22-FC & 304151-22-FC	\$5,000	17-Jul-23		
Lawrence J. Epps, Jr. D/B/A Epps Memorial Funera	Mar-23	282706-21-FC	\$1,500	4/17/2023	Paid in Full	
Lawrence J. Epps, Jr.	Mar-23	282708-21-FC	\$1,000	4/17/2023	Paid in Full	
David Engh	Mar-23	300621-22-FC	\$1,000	4/17/2023	Paid in Full	
Gallaher American Family Funeral Home, LLC	Mar-23	300620-22-FC & 301222-22-FC	\$2,000	4/17/2023	Paid in full	
D&L Removal and Transport, Inc.	Feb-23	300633-22-FC	\$500	4/3/2023	Paid in Full	

ES 7-5-2023

Ms. Simon – I would like to thank the Board, myself. I get an education to learn every time I am in front of you, and I really appreciate that opportunity.

O. Chair's Report (Verbal)

Chair Peeples – Thank you, Ms. Simon. Thank you to all the participants that are here today. It's always good to see friendly faces and for you all to be participating and hope you signed in for your continuing education because funeral director licensees renew in August. So, you can get CEs if you signed in at the beginning and you're here for the duration of the meeting. Ms. Schwantes, Ms. Simon, thank you all for what you do. It is a wealth of knowledge of everything that you do for our industry. You know, we appreciate that. Ms. LaTonya, Ms. Crystal, thank you all for what you do. We've got good microphones. Thank you. We're very happy. Ms. Munson, thank you for what you do. Ms. Marshall and Mr. Woliver, on behalf of your Division. Mr. Marshawn's not here but thank him also. Thank you for what you do from that perspective. And Board members, last but not least, thank you for the work because it shows that everybody reads their packets. They do the reviews. It means a lot because the consumers of the State of Florida thank you. So, I just want to say thank you. Appreciate it. Ms. Simon?

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

Ms. Simon – Ms. Munson?

Ms. Munson – Provided for informational purposes. A more substantive discussion to be expected at the next meeting, which I believe is in August. Thank you.

**BOARD OF FUNERAL, CEMETERY, AND CONSUMER SERVICES RULES REPORT
JULY 2023**

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

There are currently no rules in the rulemaking process.

Ms. Simon – Thank you.

Q. Public Comments (Verbal)

Ms. Simon – Are there any public comments to be made at this part of the agenda? Hearing no response. Madam Chair?

- R. Upcoming Meeting(s)**
- (1) August 3rd (Videoconference)
 - (2) September 7th (Videoconference)
 - (3) October 12th (In-Person - Location: TBD)
 - (4) November 2nd (Videoconference)
 - (5) December 7th (Videoconference)

S. Adjournment

Chair Peeples – Thank you, Ms. Simon. I have that it is 3:05 on July 13th and this meeting is adjourned. Thank you all.

The meeting was adjourned at 3:05.