

MINUTES
BOARD OF FUNERAL, CEMETERY, AND CONSUMER SERVICES
VIDEOCONFERENCE MEETING
JANUARY 4, 2024 - 10:00 A.M.

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

Ms. Jill Peeples – Good morning, this is Chair Jill Peeples. It is 10:00 A.M. It's Thursday, January 4, 2024, and I would like to turn it over to Ms. Simon for preliminary remarks and roll call.

Ms. Ellen Simon – Thank you, Madam Chair. Good morning. My name is Ellen Simon. I am the Assistant Director for the Division of Funeral, Cemetery, and Consumer Services. Today is November 2, 2023, and it is approximately 10 AM. This is a public meeting of the Board of Funeral, Cemetery, and Consumer Services. This meeting is being held by videoconference. Notice of this meeting has been duly published in the Florida Administrative Register. An agenda for this meeting has been made available to interested persons. Both the link and call-in number are on the agenda, which has been made available to the public. The link and call-in number and other information relating to this Board meeting has also been published on the Division's website. Ms. LaTonya Bryant is recording the meeting and minutes will be prepared.

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

As always, we need everyone that is on the call to place their phone or audio feed on mute, if you are not speaking. The ambient noise coming from someone's phone or audio, which is not muted, causes severe disruption to the meeting. If you are not muted, you may be muted by Division staff. As a result, you may need to call back into the meeting because that may be the only way to unmute your phone. Also, if you are using your computer or smartphone for your audio feed, please remember to speak directly into the microphone on your device. To do so otherwise negatively impacts the recording of this meeting. Just as in a live meeting, persons speaking are requested to identify themselves for the record each time they speak. Participants are respectfully reminded that the Board'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 within your Board packages, and instead base your decision solely on the information in your Board packages, as well as testimony provided at this meeting. Additionally, ongoing investigations are private and confidential and are not to be discussed, even for the purposes of confirming there is an investigation. Just a few words about Item T on your agenda, which is Public Comment. Public Comment is reserved for general comments by the public and not for re litigation of any matter before the Board. Please be aware that if Public Comment is used as an attempt to re litigate a matter that has been heard on this agenda, the Board will be instructed that the comment is not appropriate for Public Comment, and it should not be considered for further discussion.

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

Jill Peeples, Chair
Andrew Clark, Vice Chair
Joseph "Jody" Brandenburg (EXCUSED)
Sanjena Clay
Vincent "Todd" Ferreira
Christian "Chris" Jensen
Kenneth "Ken" Jones

Janis Liotta
Jay Lyons
Darrin Williams

Also noted as present:

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

Ms. Simon – Madam Chair, we have a quorum for the business of the Board.

Chair Peeples – Thank you, Ms. Simon.

B. Action on Minutes
(1) November 2, 2023

Chair Peeples – Board members?

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

Chair Peeples – Ms. Simon?

C. Disciplinary Proceedings
(1) Settlement Stipulation (Probable Cause Panel B)
(a) Foundation Partners of Florida LLC d/b/a Anderson-McQueen Funeral Home: DFS Case No. 307455-23-FC; Division No. ATN-39926 (F201715)

Ms. Simon – Presenting for the Department, is Marshawn Griffin.

Mr. Marshawn Griffin – Marshawn Griffin for the Department. The above-referenced matter is presented to the Board for consideration of the Settlement Stipulation in the matter of Foundation Partners of Florida LLC, d/b/a Anderson-McQueen Funeral Home (“Respondent”). The Department conducted an inspection of Respondent and found as follows: At all times material to the allegations herein, Respondent was licensed as a funeral establishment, license number F201715. Respondent failed to ensure that a body in storage was regularly checked and treated for mold and mildew. The disciplinary guidelines for these violations provide as follows:

- Count I: *Failure of a funeral establishment to follow requirements for handling and storing human remains:* Reprimand, fine of \$500 to \$2,500 plus costs, probation for up to two (2) years with conditions, suspension up to two (2) years, or permanent revocation.

Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides that Respondent shall pay a fine of \$2,500, and Respondent’s license shall be placed on probation for one (1) year. The Department requests that the Board accept this settlement stipulation in resolution of this matter.

Mr. Darrin Williams – Madam Chair?

Chair Peeples – Yes, sir, Mr. Williams?

Mr. Williams – I’m going to recuse myself from cases included in C (1), (3) and (4), as I served on Probable Cause Panel B.

Chair Peeples – Thank you, Mr. Williams.

Mr. Andrew Clark – Madam Chair?

Chair Peeples – Yes, sir?

Mr. Clark – I just wanted to state for the record my affiliation with Foundation Partners Group of Florida. That affiliation will not prevent me from rendering a fair and impartial decision in this matter.

Chair Peeples – Thank you, Mr. Clark. Ms. Wiener, I see that you are on the camera. Would you like to address the Board, ma'am?

Ms. Wendy Wiener – No, ma'am. I'm just here to answer any questions. Thank you.

Chair Peeples – Yes, ma'am. Board, members? Mr. Ferreira?

Mr. Todd Ferreira – Yes, ma'am. As I was reading through this process here, there's a lot of parts here that, as a funeral homeowner, I understand. This particular individual was placed in the care of that funeral home for roughly twenty-two (22) months. I certainly don't believe that a reprimand is necessary. Again, I'm speaking because I am a funeral homeowner, but I feel like the funeral home did everything possible, in this scenario, to store this body for a family. This body was embalmed. This body was placed in a sealed, gasketed casket. This body was placed in a cooler. I would argue that any monthly process would only expose things to those elements. There is nothing that you can do. It's a normal process of a body. So, I would also argue that anything you put on this body to retard mildew or mold would certainly be undignified, shall I say. The dignified way of handling this is let the body process the way a body does. We're going to see more and more of this. We have calls that we pick up, and they're with me a year, Families just completely wash their hands. So, I believe that this needs to go away.

Chair Peeples – Thank you, Mr. Ferreira. Mr. Jensen, did you have your hand up?

Mr. Jensen – Yes, ma'am. I did. While I understand Mr. Ferreira, I do see that, I would like a question for Ms. Wiener. Was there not access to a temporary mausoleum or a community mausoleum at the cemetery, where this gentleman could have been stored versus the funeral home?

Ms. Wiener – Thank you. Madam Chair, may I address that question?

Chair Peeples – Yes, ma'am.

Ms. Wiener – Thank you. Mr. Jensen, I don't know how familiar you are with Sunnyside Cemetery, but it is a very specific historic cemetery, actually fraught with litigation about the preservation of the historic nature of the cemetery versus the needs for access to the cemetery and to develop new spaces. And so, this set of remains was caught up during that timeframe. I don't know, it was not part of the discussion as to whether he could have been entombed temporarily. A good idea, perhaps, but I don't think that would have changed, obviously, the outcome. His condition would have continued to proceed as nature does. As Mr. Ferrara said, he was embalmed, and he was in a sealed container. The violation that the licensee admits to, however, is that it did fail to go through that process of checking on those remains on a monthly basis, and so that was the discipline that was agreed to. We would certainly be happy for this matter to be dismissed, as Mr. Ferreira says. I think, even checking on the decedent monthly might have been a bad business decision. But nevertheless, we have agreed to the penalty that we've agreed to.

Mr. Jensen – Madam Chair?

Chair Peeples – Yes, sir?

Mr. Jensen – A quick follow-up for the Department. I don't know who would be. I'm just curious. I do agree with Mr. Ferreira that this can be a problem and has been a problem, and we may see more of it. What would the Department have liked for the funeral home to do?

Mr. Griffin – My guess would be to petition the court of competent jurisdiction to get authorization to dispose of the body. That's what you do. You go to a Court and ask for permission to dispose of this body, as opposed to just sitting around with it

for twenty (20) months.

Mr. Jensen – Ok. Follow up, Madam Chair?

Chair Peeples – Yes, sir, Mr. Jensen, then Ms. Weiner.

Mr. Jensen – Ok, Mr. Griffin, well, I understand what you're saying, but I assume they already had permission from the family, so wouldn't the court say that the legal next of kin has already given the permission, so why is this here?

Mr. Griffin – I think the issue would be to either bury the body or check on the body as the rule requires to prevent that mold from getting on the body. That's what you do there is you do what the rule says, which is prevent mold or mildew from being on the body. This is a promulgated rule. It's very clear. It's clear as day that mold or mildew is not supposed to be on the remains and should be addressed immediately. So, we can talk about hypotheticals as to what they could have done to avoid this, but that's not the world we're in. We're in the world of the violation has occurred violation, a violation was observed, and we have a settlement to resolve the matter.

Mr. Jensen – Thank you. I'm good.

Chair Peeples – Ms. Wiener?

Ms. Wiener – Thank you. Just very briefly. I don't want anyone on this Board or listening to come away with the idea that Florida law imposes an obligation on a funeral establishment to seek a court order to inter remains. There was a payment arrangement. Payments were being made. They were in an arrangement with this family. This was not a situation where these remains were abandoned. If the remains were abandoned, there are certain circumstances where you might seek a court order. But quite frankly, if remains are abandoned for a sufficient period of time, the funeral home itself can inter them at its own expense, because any person can be a legally authorized person. So, they can take it upon themselves to do so. In this case, there were legally authorized persons involved, and payments were being made, and ultimately interment was paid for, and the decedent was laid to rest. Thank you.

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

Mr. Ferreira – Yes. The rule speaks of containment or, okay. This body was contained in a gasketed casket. This body was under the direction of a family member, the next of kin. You don't go outside of them. The fact of the matter is there was a vault and spot that were not paid for, and cemeteries will not allow us to go into their area if things are not done right. So., I mean, I will go so far as to say, I think we're stretching this.

Chair Peeples – Thank you, Mr. Ferreira. Ms. Wiener, I have a question for our perspective. You mentioned Sunnyside. Is it a city cemetery?

Ms. Wiener – No, ma'am. It's a private cemetery, but it was a historic family cemetery that was acquired by John McQueen's father back in 1985 and is now owned by Foundation Partners.

Chair Peeples – So, if the cemetery is owned by the same entity that the funeral home is owned by, why couldn't they go ahead and bury the remains prior to payment, as time started occurring?

Ms. Wiener – Maybe they could have, but that's not a typical scenario. What happens is, as you all know, you're running businesses, and so you provide services when people pay for services. In this particular situation, the interment services and the interment right were not paid for, and so there was no obligation. There was no property owned by this family. Could Foundation Partners have just said, "You know what, we'll take care of that. We don't need authorizing agents, and we don't need payment." Sure. That's not how the deathcare industry or any industry works. And so, in this situation, the only thing that the licensee failed to do was to do a monthly check on the decedent remains to ensure that they were not incurring the conditions that are contemplated in the rule. There was no other wrongdoing. There's nothing untoward. The Division has not suggested that there was anything untoward, or that Foundation Partners, the funeral home, or the cemetery did anything even remotely inappropriate here, other than the failure to check on these remains over this period of time, while an interment

right was not yet paid for.

Chair Peeples – Thank you, ma'am. And I guess that kind of goes along with my next comment. As a second-generation owner, soon to be owner of a funeral home, and a licensed funeral director and embalmer, we have a duty to check on remains. And just as Mr. Ferreira mention, even since COVID that's getting longer and longer timeframes that we have to keep remains. But I will make a comment to your comment, Ms. Wiener, that I feel that the licensee did not properly complete their inspections of checking all the remains, and I hope that I have put a new process in place, if this situation comes up again, from that perspective. Because it's something, as Mr. Ferreira stated, we're probably going to have more and more as we continue on in this industry, and time elapses between death needs for burial or service.

Ms. Wiener – That is addressed in your packet. You will see that storage of any decedent remains that would have to be in any way long term, have been transferred to a different facility where they will get checked on no less frequently than monthly, so we did address that. And that is the allegation that was admitted to that is the basis for the settlement. Whether the settlement is accepted by the Board is for the Board to decide, but that was what we accepted as the violation.

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

MOTION: Mr. Jones moved that Respondent shall pay a fine of \$2,500. Ms. Janis Liotta seconded the motion.

Chair Peeples – We have a motion by Mr. Jones, to accept the Settlement Stipulation of \$2500 fine, no probation, and a second by Ms. Liotta. Is there any further discussion on the motion?

Ms. Rachelle Munson – Madam Chair?

Chair Peeples – Yes, Ms. Munson?

Ms. Munson – Just wanted to clarify. So, is the motion to reject the settlement agreement and do a counter where the probation is removed?

Mr. Jones – Yes, ma'am.

Ms. Munson – Ok. That would just need to be clarified for the record.

Chair Peeples – Thank you, Ms. Munson. Ms. Liotta, do you agree to that?

Ms. Liotta – Yes, I do.

Chair Peeples – Thank you. Ms. Simon, if you'll do a roll call vote for this.

Ms. Munson – And I'm so sorry, Mr. Griffin, I was going to say before we do so, the parties also have to agree to it because it's not the settlement agreement that they entered into.

Mr. Griffin – The Department will accept the Board's counter proposal. And, as I understand it, because it's a counter proposal the Department won't be responsible for {inaudible}, correct?

Chair Peeples – Ms. Munson, is that a question for you?

Ms. Munson – I didn't hear the question.

Mr. Griffin – The Department will accept the Board's counter proposal And I think that if it resolves this matter then the Department's not responsible for the Consent Order, correct, because it would just be an Order of the Board?

Ms. Munson – It will be an Order of the Board showing the rejection and counter accepted.

Mr. Griffin – Ok.

Chair Peeples – Mr. Ferreira, did you have your hand up?

Mr. Ferreira – The only question I have is, and maybe this is a question that I should ask the Department, but what happens in a case where, you know, this funeral home has got costs involved in this stuff. I mean, do we pay them? Do we pay the funeral home for their costs, the attorney's fees, and the costs of dealing with this stuff?

Mr. Griffin – Mr. Ferreira, I will go ahead and tell you, that's not really the Department's concern. If you choose to take the body, if you choose to take it on, in every business transaction. there's an inherent you might be at the risk of getting burned. So, it's not the Department's responsibility for the industry to figure out how to protect itself from that. We're just here when a violation happens to take action. So, you guys are much better into the industry, and I think you guys could come up with something, maybe via a rule or statute, but if it's not in rule or statute, it's not the Department's concerned about how it gets paid.

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

Mr. Jensen – Just a quick comment here before the vote happens. I understand what Mr. Jones is saying, but I feel like \$2,500 is a little steep in this case, because really the only problem or the only issue from the Department is that there was some mold on the gentleman. I understand that. So, we have a maximum fine of \$2500, it calls for \$500 to \$2500. And I'm just wondering how we justify the max here?

Chair Peeples – Mr. Griffin?

Mr. Griffin – In addition to the maximum fine, there's also two (2) years of probation, which was obviously contemplated when we offered a one (1) year of probation. Additionally, the mold is not the violation. The violation is failing to check on the body regularly. So, I think were confusing the end result with what the actual issue is, which is not regularly checking up on the body. {Inaudible} and discuss with the industry contemplate up to two (2) years' probation. And so, one-year probation is less than two (2) years of probation. So, a bigger fine may have been contemplated for less time on the probation. I would like to point out that this is not an entity that is not represented. This is an entity that has counsel, very competent counsel. This was an agreed upon agreement. So, if opposing counsel, you know, wanted to argue terms, we would have argued terms and come to a different agreement. But this is something that was contemplated by both sides, accepted by both sides. So, that's up to the Board's discretion.

Chair Peeples – Mr. Ferreira, did you want to follow up?

Mr. Ferreira – Yes. I would argue the open-ended casket monthly on a decedent that has been with you twenty-two (22) months, you're exposing your team and your staff to problems. And you're going to have more of this, Mr. Griffin, as time goes on.

Chair Peeples – Mr. Griffin?

Mr. Griffin – I think the solution is then you need to come up with rules or statute to insulate yourself, because, otherwise, as long as the rules and statute read the way they are, we're going to continue to enforce them per the letter of the law. So, if it's a problem, then that means that the industry might want to contemplate doing something in terms of rulemaking or statutory changes to kind of solve that problem.

Chair Peeples – Board members, any further discussion before we take a vote? Mr. Jensen?

Mr. Jensen – Just one other comment. I do realize there was a little violation here, you know, admittedly not checking on the body, getting some mold, and I understand that. My question originally was, how did the negotiations go to arrive at the max here? I mean, this is, in my opinion, a \$500 fine, at the most, so I'm just trying to figure out how that happened.

Mr. Griffin – I can't speak to it. I didn't handle this case. But what I can say is that if the Respondent didn't want to accept the terms, they didn't have to sign the Settlement Stipulation. This could have proceeded as an informal hearing, and they could have taken their chances in front of the Board. But this was contemplated, there was discussion had, and once again, this is not someone who is not represented by counsel. It would be a completely different calculus or maybe a little bit different calculus with an unrepresented person, but this person has counsel.

Chair Peebles – Ms. Wiener?

Ms. Wiener – Since we brought this issue up, frankly the situation is that when settlement proposals are brought forth, we often argue for different fine amounts, lower fine amounts, I'm sure that we argued, and the Division chooses to accept or not accept that settlement amount. When we feel that we've come to the end of our capacity to negotiate effectively, then the question becomes, do we take our chances with the Board, or do we enter into a stipulation? And in this case, the parties did enter into a stipulation because of the failure to check on the remains state That was the violation. It's the only violation, nothing more, nothing less, and we agreed to that penalty amount. So, as I have said before, if we do admit to that violation, and that was agreed to, I don't think that robs the Board of its capacity to do something else if it wants to, but it was agreed to.

Chair Peebles – Thank you, Ms. Wiener. I'm going to call the vote. Ms. Simon, we have a motion and a second. If you'll do a rollcall. If you are for the motion, say yes. If you're against the motion, say no.

Ms. Clay – Would you repeat the motion?

Chair Peebles – Yes, ma'am. I have on my notes that Mr. Jones made a motion of a \$2500 fine, no probation, which is a counter proposal to what the Office of General Counsel had proposed.

Ms. Munson – And just for the record, Mr. Griffin accepted the counter, and it seems like it would be a no-brainer, but does the attorney accept the counter?

Ms. Wiener – Yes, we want to accept that counteroffer.

Ms. Munson – Thank you.

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

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

Mr. Clark – Yes.

Ms. Simon – Ms. Clay?

Ms. Clay – Yes.

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 – Yes.

Ms. Simon – Mr. Williams?

Chair Peeples – He’s recused.

Ms. Simon – Ok. Madam Chair?

Chair Peeples – Yes.

Ms. Simon – And that motion passes.

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

Ms. Wiener – Thank you.

Chair Peeples – Ms. Simon?

Ms. Simon – Thank you, Madam Chair.

(2) Motion for Determination of Waiver and for Final Order by Hearing Not Involving Disputed Issues of Material Fact (Probable Cause Panel A)
(a) Cannon Funeral Home, LLC: DFS Case Nos. 277444-21-FC and 278057-21-FC; Division Nos. ATN-35686 and ATN-36112 (F275650)

Ms. Simon – Is there a representative of the entity on the call today? Hearing no response. Mr. Griffin, for the Department.

Mr. Griffin – Marshawn Griffin for the Department. The above-referenced matter is presented to the Board for consideration of the Motion for Final Order by Hearing Not Involving Disputed Issues of Material Fact (Motion) in the matter of Cannon Funeral Home, LLC. The Division conducted an investigation of Respondent and alleges as follows: Respondent is a licensed funeral establishment, holding license number F275650. Respondent failed to provide three (3) consumers with detailed and fully executed contracts for funeral goods and services. Respondent permitted an unlicensed person to embalm a body. Respondent failed to affix identification to two (2) bodies. Respondent failed to notify the Department when making modifications to the physical structure of the premises. Lastly, Respondent permitted an unlicensed individual to meet with a family and negotiate funeral arrangements. Respondent failed to maintain an accurate and complete copy of all Bodies Handled Reports. The disciplinary guidelines for these violations are as follows:

- Counts I-III: *Failing to furnish, for retention, to each purchaser of burial rights, burial, or funeral merchandise, or burial or funeral services a written agreement, the form of which has been approved by the board:* Reprimand, fine of \$500 to \$1,000 plus costs, probation six (6) months to one (1) year with conditions
- Counts IV and VII: *Delegating professional activities to a person when the licensee knows or has reason to know the person is not qualified to perform:* reprimand, fine of \$1,000 to \$2,500 plus costs, probation for six (6) months to one (1) year with conditions, suspension up to one (1) year, or permanent revocation of the license
- Count V: *Failing to properly affix an identification tag to a casket or other container in the manner required by this statute or rule:* Reprimand, fine of \$250 to \$1,000 plus costs, probation up to two (2) years with conditions, suspension up to two (2) years, or permanent revocation of the license
Count VI: *Failing to notify the Department, at least ten (10) days prior to the event, that major alterations or modifications are made to the physical structure of a funeral establishment:* Notice of non-compliance

- Count VIII: *Failure to properly complete, retain, and make available for review the monthly reports of cases embalmed or bodies handled*: Notice of noncompliance

The Motion demonstrates Respondent has asserted that there are no material facts in dispute and has requested for this matter to proceed as an informal hearing before the Board, and requests the Board adopt the factual allegations in the Administrative Complaint and issue an appropriate penalty.

Mr. Jones – Madam Chair?

Chair Peebles – Yes, sir, Mr. Jones?

Mr. Jones – I just want to recuse myself from items C. (2) (a) - (c), as I was on Probable Cause Panel A.

Chair Peebles – Thank you, sir.

Mr. Williams – Madam Chair?

Chair Peebles – Yes, sir, Mr. Williams.

Mr. Williams – I have a question, Mr. Griffin, would we need to take a vote for each count, or would it be all together?

Mr. Griffin – The first thing you're going to do is take a vote as to whether or not the Respondent has waived their right to a hearing. If you refer to the motion, they check the box saying that they do not want a hearing, and that they do not dispute the allegations. So that's the first vote, to determine whether or not you find that they can have an informal. Then the next vote is to determine whether or not you adopt the facts in the Administrative Complaint. Then the next vote is to determine whether or not you just adopt the conclusions of law and find the legal violation. So, you've basically got three (3) different votes. First vote is informal or formal.

Chair Peebles – Mr. Ferreira?

Mr. Ferreira – Was that a motion?

MOTION: Mr. Williams moved that Respondent waived their right to a hearing. Mr. Ferreira seconded the motion, which passed unanimously.

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

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

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

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

Mr. Griffin – The Department asked that the Board adopt 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. Just before we get to penalty, is there a representative from Canon Funeral Home, Reginald Cannon, here? Hearing no response. As to penalty, the Department recommends that the Respondent be assessed a \$4,750 fine and place its

license on probation for a period of two (2) years.

MOTION: Mr. Ferreira moved that the Respondent shall pay a fine of \$4,750 and have its license placed on probation for two (2) years.

Mr. Jensen – Was that with conditions?

Mr. Griffin – I would just be the standard terms of probation.

Mr. Jensen – Ok.

Mr. Griffin – And part of what's contemplated in that is that as far as the unlicensed practice, this was an entity that was owned by an unlicensed individual. Mr. Reginald Canon has since gotten an apprentice license. So, there was some sort of resolution or fixing some of the problems. And that was taken into account in terms of the penalty recommended by the Department.

Ms. Munson – Please repeat the dollar amount, Mr. Griffin.

Mr. Griffin – \$4750 in fines and two (2) years of probation.

Chair Peeples – We have a motion by Mr. Ferreira.

Mr. Jensen – Second.

Chair Peeples – We have a motion by Mr. Ferrara, second by Mr. Jensen. Any discussion on the motion? Rabbi Lyons?

Rabbi Lyons – Good morning, everyone. Thank you, Madam Chair. Mr. Griffin, let me understand something. You have three (3) counts, under the category of reprimand or a fine between \$500 or \$1,000. That's \$500 or \$1,000 each.

Mr. Griffin – I'll just do a numerical break down by count. So, for Counts I – III, that was \$750 per count. So \$750 times 3 is \$2250. As to Counts IV and VII, those are \$1000 a piece, so that's an additional \$2000, and then \$500 for the ID tag. That puts us at \$4750. Two (2) of the counts were handled by notices of non-compliance.

Chair Peeples – Rabbi Lyons, does that complete your question, Sir?

Rabbi Lyons – Yes, thank you.

Chair Peeples – Thank you. Mr. Williams?

Mr. Williams – Yes, ma'am, Madam Chair. Mr. Griffin, perhaps in reference to Counts IV and VII, *Delegating professional activities*, could you give me some more thought behind the recommendation for that matter to be more serious?

Mr. Griffin – Because Mr. Cannon subsequently got a license. He was the individual that was performing the unlicensed activity. Subsequently, he got an apprentice funeral directing license. So, I mean, part of the issue is that if you have unlicensed practice, part of the goal should be trying to get people in compliance less so than about punishing them. So, if you have an unlicensed person, they take the steps to get license, I would imagine for an industry that is, you know, having the issues with personnel that you would want to encourage people to, you know, get licensed and join the industry.

Mr. Williams – Ok, thank you so much.

Chair Peeples – We have a motion by Mr. Ferreira and a second by Mr. Jensen. Is there any other discussion on the motion? Hearing none. All in favor of the motion, say yes.

Board members – Yes.

Chair Peeples – All opposed, say no? Motion carries. Thank you, Mr. Griffin.

Ms. Munson – Quick question, if I may, Madam Chair?

Chair Peeples – Yes, ma'am.

Ms. Munson – That was \$4,750 in fines, no costs? I just want to be clear for the record.

Mr. Griffin – Yes, ma'am. No costs, straight fines.

Chair Peeples – And two (2) years of probation, Ms. Munson.

Ms. Munson – Right. I got that. Thank you.

Chair Peeples – Yes, ma'am. Ms. Simon?

(b) Funkhouser, Karla: DFS Case Nos. 292044-22-FC and 297727-22-FC; Division Nos. ATN-38536 and ATN-37692 (F033776)

Ms. Simon – Is there a representative of Ms. Funkhouser on the call today? Hearing no response. Mr. Griffin?

Mr. Griffin – Marshawn Griffin for the Department. The above-referenced matter is presented to the Board for consideration of the Motion for Determination of Waiver and Request for Informal Hearing and for Final Order by Hearing Not Involving Disputed Issues of Material Fact (Motion) in the matter of Karla Funkhouser ("Respondent"). The Department conducted an inspection of Respondent and found as follows: At all times material to the allegations herein, Respondent was a funeral director and embalmer, holding license number F033776. At all times material to the allegations herein, Respondent was designated as the funeral director in charge of Reflexions Funeral Home ("Reflexions"), a licensed funeral establishment holding license number F062912. Reflexions accepted prepayments for goods and services from nine (9) consumers despite not holding a preneed license. Respondent was also the funeral director in charge of Paradise Funeral Chapel LLC ("Paradise"), a licensed funeral establishment holding license number F451486. A Department inspection found that Paradise stored ten (10) bodies in refrigeration on the premises of an unlicensed facility. As the funeral director in charge of Reflexions and Paradise, Respondent is responsible for these violations. The disciplinary guidelines for these violations are as follows:

- Counts I-IX: *Except for preneed contracts, guaranteeing the price of goods and services at a later date*: Reprimand, fine of \$1,000 to \$2,500 plus costs, probation six (6) months to one (1) year with conditions, suspension up to one (1) year or permanent revocation of the license
- Counts X-IXX: *Licensee stored human remains at an improper location*: Reprimand, fine of \$1,000 to \$2,500 plus costs, probation six (6) months to one (1) year with conditions, suspension up to one (1) year, or permanent revocation of the license

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.

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

Mr. Ferreira – So, Chair Peeples, are we to set those dollar figures now?

Chair Peeples – The first motion that we have will be the Respondent waived their right to a hearing. Isn't that correct?

Mr. Griffin – Yes, ma'am.

Chair Peeples – Thank you. Board members?

MOTION: Mr. Williams moved that Respondent failed to timely file a responsive pleading. Ms. Sanjena Clay seconded the motion, which passed unanimously.

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

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

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

MOTION: Mr. 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.

Chair Peebles – Is Ms. Funkhouser present today? Hearing no response. Mr. Griffin, what is the Office of General Counsel’s suggestion on penalty?

Mr. Griffin – The Department's recommending a fine of \$19,000 and two (2) years of probation. Unfortunately, it's \$1,000 per count, which is basically how we came to that analysis.

Chair Peebles – Mr. Ferreira?

Mr. Ferreira – Did he say \$119,000?

Mr. Griffin – No. Just \$19,000, sir.

Chair Peebles – Thank you, Mr. Griffin. Board Members? Rabbi Lyons?

Rabbi Lyons – Thank you. Mr. Griffin, I'm sorry, I should have asked this earlier, but you'll pardon me, I hope. In our Board packet on Page 19, but it's basically the Election of Proceeding, she appears to check that she does dispute the factual allegations.

Mr. Griffin – So what happened is that she checked the box. So, on the Election of Proceeding that people get, there are three (3) boxes to check. The box to check to say that they are disputing facts, it's not sufficient to just check that box. You actually have to identify facts that you're disputing. So, for example, just to give you a hypothetical. The Administrative Complaint said Marshawn Griffin was wearing a salmon-colored jacket and that's the complaint. If in the Election of Proceeding I just check that I dispute facts and I don't identify what fact I'm disputing, that's not a sufficient petition. So, what we did is we brought this matter before the Board to do an Order Dismissing Petition Without Prejudice, and that gave Ms. Funkhouser another twenty-one (21) days from the date the Order was issued to put forth a sufficient Petition. She failed to respond in that time and as such, she waived her right to a hearing.

Rabbi Lyons – Ok, I got it.

Mr. Griffin – Just so that you guys all know, the Department treats any response to an Order Dismissing Petition Without Prejudice the same. Even if you recheck the box and just say that you want a formal hearing and don't allege you still get a hearing. As long as you respond timely to that Order, no matter how you respond, you will get a hearing of some sort.

Chair Peebles – Thank you, Mr. Griffin. Board members? Mr. Jensen?

Mr. Jensen – I'm disappointed that someone wasn't here to discuss it on their behalf.

MOTION: Mr. Jensen moved that the Respondent shall pay a fine of \$19,000 and have her license placed on probation for two (2) years. Mr. Ferreira seconded the motion, which passed unanimously.

(c) Lee, Justin Tyler Thomas: DFS Case No.: 279222-21-FC; Division No. ATN-35709 (F237232)

Ms. Simon – Is Mr. Lee or a representative of Mr. Lee on the call?

Mr. Justin Lee – Yes.

Ms. Simon – Thank you, sir. Presenting for the Department is Mr. Griffin.

Mr. Griffin – One moment.

Chair Peeples – Yes, sir. Mr. Lee until we may have questions or need to swear you in, will you please mute your microphone? Thank you.

Mr. Griffin – Marshawn Griffin for the Department. The above-referenced matter is presented to the Board for reconsideration of the Motion for Final Order by Hearing Not Involving Disputed Issues of Material Fact (Motion) in the matter of Justin Tyler Thomas Lee (Respondent). This Motion was previously considered at the meeting of the Board on October 12, 2023; however, Respondent did not receive proper notice of the meeting and was unable to attend. The Division conducted an investigation of Respondent and alleges as follows: Respondent is a licensed funeral director and embalmer, holding license number F237232. Respondent was previously employed by Covenant Mortuary, Inc., a formerly licensed funeral establishment which held license number F073044 and whose license was voluntarily cancelled as of April 16, 2019. In October 2020, Respondent assisted Covenant with funeral arrangements for one (1) decedent. In doing so, Respondent aided, assisted, procured, employed, or advised any person or entity to operate or in operating an establishment regulated by Chapter 497 without the required licensure. The disciplinary guidelines for these violations are as follows:

- Count I: *Aiding, assisting, procuring, or advising the operation of an unlicensed establishment:* reprimand, fine of \$1,000 to \$2,500 plus costs, probation six (6) months to one (1) year with conditions, suspension up to one (1) year, or permanent revocation

The Motion demonstrates Respondent has alleged that there are no material facts in dispute and for this matter to proceed as an informal hearing before the Board, and requests the Board adopt the factual allegations in the Administrative Complaint and issue an appropriate penalty.

Chair Peeples – Thank you, Mr. Griffin. Mr. Lee, would you like to address the Board? If so, we would need to swear you in, sir.

Mr. Lee – Yes, I would.

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

Mr. Lee – Yes, I do.

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

Mr. Lee – My name is Justin T. T. Lee, L E E.

Ms. Simon – Thank you, sir.

Chair Peeples – Thank you. Mr. Lee, would you like to address the Board?

Mr. Lee – Yes., I'm not sure if the other parties involved, if their statements are part of my package, but I at no time was made to know that, you know, the license was forfeited. Or that, you know, the person that I was working for, did not have a

license. I have always carried my own as an embalmer and funeral director, just working for him. And even in his, he's submitted letters, which he's, you know, given to me if I need to give to you are saying that, you know, he never told me and there was no way for me to have known that I was aiding or embedding him in unlicensed practice.

Chair Peeples – Thank you, Mr. Lee. Mr. Griffin?

Mr. Griffin – I'll hold off on commenting. Well, you do know that you can look up licensees on the internet, right?

Chair Peeples – Is that a question for Mr. Lee?

Mr. Griffin – Yes, that's a question for Mr. Lee.

Mr. Lee – Yes, I'm aware.

Mr. Griffin – Ok.

Chair Peeples – Thank you, Mr. Griffin.

Mr. Clark – Madam Chair?

Chair Peeples – Yes, sir?

Mr. Clark – I have one question for Mr. Lee. In our Board packet, it states this is in relation to helping with one (1) decedent. Are there more to decedents? Or did you really just help out with one (1) case?

Mr. Lee – Just one (1) case.

Mr. Clark – Thank you.

Chair Peeples – Mr. Jensen?

Mr. Jensen – Question for Mr. Lee, also. Are you a freelance funeral director? Or were you employed by a funeral home at that time?

Mr. Lee – I was employed by a funeral home at that time, But I also, you know, utilize my license on contract work, and on a case-to-case basis as I'm needed. I try to help provide for my family.

Mr. Jensen – I understand. I guess my question is if I were doing something like that, I would take it upon myself to make sure it was a licensed establishment because you're all of a sudden putting your license at risk. So, you didn't think of that, Mr. Lee?

Mr. Lee – Just based upon the working relationship that I had with this person, I did not think, you know, to do that, but, of course, but I think, at that time, I was in my second or third year as a licensed person, and I think I'm now on my sixth or seventh. So, at that time what my experience at that time, it didn't come to me that way, just based upon the working relationship that I had with that person in the past. But again, of course, it's something I know now.

Mr. Jensen – Thank you, ma'am.

Chair Peeples – Mr. Ferreira?

Mr. Ferreira – So, Mr. Lee, this gentleman, the owner canceled their license voluntarily roughly a year and a half before the October 2020 incident, right? Did you see other activity going on around the funeral home? I mean, obviously, you know, within that year and a half, did you see this funeral home operating?

Mr. Lee – Yes, from time to time.

Mr. Ferreira – So, you assumed that all was good?

Mr. Lee – Yes.

Mr. Ferreira – Thank you.

Chair Peeples – Thank you, Mr. Ferreira. Mr. Williams?

Mr. Williams – Yes. Mr. Griffin, is there going to be a companion case with the entity that relinquished their license?

Mr. Griffin – We can open the companion case, but there'd be no point, because if the person has relinquished their license, the juice isn't worth the squeeze, because they're not licensed. So basically, any sort of penalty we try to impose on them they could tell us to kick rocks because they don't need the license.

Mr. Williams – Follow up, Madam Chair?

Chair Peeples – Yes, sir.

Mr. Williams – I guess I'm asking, in case they may try to apply under a different entity or something, so we can go on the record of having something in place?

Mr. Griffin – If they went under a different entity, that would be a different entity. So, I mean, that's a different beast altogether.

Mr. Williams – Ok.

Chair Peeples – Ms. Clay, did you have a question?

Ms. Clay – I did. Mr. Lee, did I understand you to say that you had a letter from this owner who was not licensed?

Mr. Lee – What he did was provided me what he submitted to you all stating that I had no knowledge of, you know, his licensing status, or so, have you. But as others said, I should have made it my business to know, so I'm not sure how it would help me now. But, yes, I do have what I believe he submitted to the Board.

Ms. Clay – And just to summarize, what is he saying? "I had no license, and I hired you without a license?"

Mr. Lee – I'd have to pull it up. But the gist of it was essentially that. Yes. He was saying he didn't inform me that his funeral establishment was not licensed.

Ms. Clay – And so he's actually admitting to hiring you knowing his establishment was not licensed?

Mr. Lee – Yes.

Ms. Clay – That's all I have right now.

Chair Peeples – Thank you Mr. Clay. Mr. Griffin?

Mr. Griffin – I just want to point out that licensees can look this stuff up at any point in time. So, and obviously, the Department will take into account the facts of this, but in terms of penalty recommendation, what he was or wasn't told by a supervisor is kind of immaterial because the onus is on the licensee to kind of take that extra step to look that up.

Chair Peeples – Mr. Ferreira?

Mr. Ferreira – Mr. Lee, how did this happen? Did this individual owner call you and ask you to help with this new family? Or are you brokering through Covenant? Explain to me. How this happened. How did you get involved?

Chair Peeples – Mr. Lee?

Mr. Lee – A family, personal family that knew me, they called me. They were a way away from where my primary work is, I told them that I knew a good funeral home in their area, and that's how it preceded.

Mr. Ferreira – Madam Chair?

Chair Peeples – Yes, sir?

Mr. Ferreira – So what Mr. Jensen said earlier is kind of what was happening, we're brokering. He needed a place to serve a family and he put that before the other. Thank you.

Chair Peeples – Rabbi Lyons?

Rabbi Lyons – I'd just like to make a comment. I mean, the funeral home relinquished their license, but then they kept on operating like normal. I think a lot of us in the business, we deal with funeral homes, and cemeteries, whoever we do it on good faith, You don't check their license every time. I mean, I run a cemetery. I don't I don't check the status of a license every time a funeral home comes with a body, and it sounds to me like that was what Mr. Lee was doing. So, I would move for the minimal penalty, which is a reprimand.

MOTION: Rabbi Lyons moved for a reprimand.

Chair Peeples – Mr. Griffin?

Mr. Griffin – We have jumped the gun on so many things at this hearing. So, we're not even at the penalty phase.

Rabbi Lyons – I rescind that motion, but not my comment.

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

Mr. Jensen – I'd also like to point out, not only can you check the license online, it's required to be posted by the front door, or somewhere thereabout. So, I mean, for the freelancers out there, I do believe there is some responsibility for Mr. Lee, and probably a lot on that funeral home. So, I just needed to point that out. Thank you, Chair.

Chair Peeples – Thank you, Mr. Jensen. Board members, we need to start off with the motion for an informal hearing. Correct, Mr. Griffin?

Mr. Griffin – Yes, ma'am.

Chair Peeples – Thank you, Board members?

MOTION: Mr. Williams moved to proceed with the informal hearing. Ms. Liotta seconded the motion, which passed unanimously.

Chair Peeples – Our next item, Mr. Griffin, would be that there are no material facts in dispute?

Mr. Griffin – Yes, ma'am.

Chair Peeples – Thank you. Board Members?

MOTION: Ms. Liotta moved that there are no material facts in dispute. Mr. Clark seconded the motion, which passed unanimously.

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

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

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

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

Chair Peeples – Now, Rabbi Lyons, we’re here at the penalty phase.

Mr. Griffin – So the Department were request that the Board impose a fine of \$1,250 and place Respondent’s license on six (6) months of probation.

Rabbi Lyons – Madam Chair?

Chair Peeples – Yes, sir?

MOTION: Rabbi Lyons moved for a reprimand without probation.

Rabbi Lyons – This is based on the fact that, as I said before, we all deal on good faith. We deal with these establishments. This establishment had the entire facade of continuing to operate as normal. And I definitely think a reprimand is appropriate. I don't think, you know, that there should be nothing. But I do think that this type of error certainly very innocent on Mr. Lee’s behalf.

Chair Peeples – Rabbi Lyons, is your motion to issue a reprimand and no probation or fine?

Rabbi Lyons – Yes, ma'am.

Chair Peeples – Mr. Williams?

Mr. Williams – Madam Chair, do we have to reject the proposed?

Mr. Griffin – There's no rejection or anything, because this isn't a Settlement Stipulation.

Chair Peeples – Mr. Williams, we're in the discussion phase on the penalty. Rabbi Lyons has made a motion, so we need to see what the Board members pleasure is regarding this notion. Mr. Jensen?

Mr. Jensen – May I ask a question of Mr. Lee, again?

Chair Peeples – Yes, sir.

Mr. Jensen – Mr. Lee, what do you feel is fair in this case? I mean, you do have some culpability here, but, you know, obviously, the funeral home shares the majority of it, but there is some responsibility. You work for that license. It's some responsibility for you. What is your feeling on this, Mr. Lee?

Mr. Lee – I don't know what the minimum fine is, but I think that would be fair, but I would rather not be on a probation. If there is a fine, I will accept that, but I would hope it would be the very minimum that it could be.

Mr. Jensen – Thank you, Mr. Lee. Thank you, Madam Chair.

Chair Peeples – You're welcome, Mr. Jensen. We have a motion. If we do not get a second, it will fail. What is the Board member's pleasure?

Mr. Ferreira – I'll second.

Chair Peeples – So, we have a motion by Rabbi Lyons to issue a reprimand, no penalty cost, and no probation. We have a second by Mr. Ferreira, correct?

Mr. Ferreira – Yes, ma'am.

Chair Peeples – So, we have a motion, and we have a second. Is there any discussion on the motion, Ms. Simon, if you'll take a roll call vote on this, please. The motion and a second is to issue a reprimand, no probation, and no cost.

Ms. Simon – Yes, ma'am. Who is it that's recused from this?

Chair Peeples – That would be Mr. Jones.

Ms. Simon – Thank you. Mr. Clark?

Mr. Clark – Yes.

Ms. Simon – Ms. Clay?

Ms. Clay – No.

Ms. Simon – Mr. Ferreira?

Mr. Ferreira – Yes.

Ms. Simon – Mr. Jensen?

Mr. Jensen – No.

Ms. Simon – Ms. Liotta?

Ms. Liotta – Yes.

Ms. Simon – Rabbi Lyons?

Rabbi Lyons – Yes.

Ms. Simon – Mr. Williams?

Mr. Williams – No.

Ms. Simon – Madam Chair?

Chair Peeples – No.

Ms. Simon – And the motion fails.

Chair Peeples – Because it's four (4) yeses and four (4) nos. So, what is the Board members' pleasure on the penalty phase?

Mr. Williams – Madam Chair?

Chair Peeples – Yes, sir, Mr. Williams?

MOTION: Mr. Williams moved that the Respondent shall pay a fine of \$500 and have his license placed on probation for six (6) months. Mr. Ferreira seconded the motion, which passed unanimously.

Chair Peeples – Thank you, Mr. Lee. Let's take a ten (10) minute restroom break, and then we'll come back and finish the disciplinary cases, and we will continue on through the meeting agenda.

*****BREAK*****

Chair Peeples – Is Ms. Bryant recording yet?

Ms. LaTonya Bryant – Yes.

Chair Peeples – Thank you, Ms. Bryant. Ms. Simon, if you will continue with agenda Item C (3) (a) 1, please.

Ms. Simon – Yes, ma'am.

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

(a) Related Items – Division No. ATN-39936

1. Holmes, Deliria A: DFS Case No. 307467-23-FC; Division No. ATN-39936 (F044909)

Ms. Simon – Is representative of Ms. Holmes on the call?

Mr. Christopher V. Butler, Esq.– This is Attorney Butler.

Ms. Simon – Thank you, Mr. Butler. Mr. Griffin?

Mr. Griffin – Marshawn Griffin for the Department. The above-referenced matter is presented to the Board for consideration of the Motion for Determination of Waiver and Request for Informal Hearing and for Final Order by Hearing Not Involving Disputed Issues of Material Fact (Motion) in the matter of Deliria A. Holmes ("Respondent"). The Department conducted an inspection of Respondent and found as follows: At all times material to the allegations herein, Respondent was licensed as a funeral director and embalmer, license number F044909. At all times material to the allegations herein, Respondent acted as the funeral director in charge of Holmes Funeral Directors ("HFD"), a licensed funeral establishment holding license number F041651 and doing business in Haines City, Florida. HFD permitted an unlicensed individual to engage in the practice of funeral directing, sold preneed services to a consumer despite not possessing a valid preneed license, failed to provide a consumer with a written agreement, and failed to provide a timely refund on a preneed contract upon the written request of the purchaser. As funeral director in charge of HFD, Respondent is responsible for these violations. The disciplinary guidelines for these violations are as follows:

- Count I: *aiding, assisting, procuring, employing, or advising a person to practice a regulated profession without the required licensure:* Reprimand, fine of \$1,000 to \$2,500 plus costs, probation six (6) months to one (1) year with conditions, suspension up to one (1) year or permanent revocation of the license
- Count II: *selling or offering to sell a preneed contract without a preneed license:* reprimand, fine of \$1,000 to \$2,500 plus costs, probation six (6) months to one (1) year with conditions, suspension up to one (1) year, permanent revocation of the license, and/or restitution

- Count III: *failing to furnish, for retention, to each purchaser of burial rights, burial, or funeral merchandise, or burial or funeral services a written agreement, the form of which has been approved by the board, second violation: reprimand, fine of \$2,000 to \$5,000 plus costs, probation for one (1) to two (2) years with conditions*
- Count IV: *failure to honor preneed contract cancellation requests and make refunds as required, reprimand, fine of \$250 to \$1,000 plus costs, probation for up to one (1) year with conditions, suspension up to one (1) year, and/or restitution*

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.

Chair Peeples – Thank you, Mr. Griffin. Mr. Butler, would you like to address the Board, sir?

Mr. Butler – Yes, Madam Chair. Thank you very much for the opportunity to do so. I received this Board packet on December 29th in the mail. But before I start talking about the lack of procedural due process that's occurred here, I want to mention that none of these allegations are factual at all. For Count I, the Department simply attaches a photograph of Mr. Claude Holmes, Sr. memorabilia from the 80s on top of the desk to try and associate that with Mr. Claude Holmes. That's not a fact that Holmes Funeral Directors is aiding and assisting or employing anyone. That was memorabilia, a nameplate from the 80s, that's been placed on top of a desk. And in that photograph that the Department attaches is an employee not Mr. Holmes.

As far as Count II, selling or offering to sell a contract. That is not true either, because there was no offer to sell a preneed contract. As a matter of fact, we never received notice of this complaint at all. Holmes Funeral Director, and Ms. Deliria Holmes have hired me to formulate a response to the consumer complaint, which I did back in February. We heard nothing about this until December 29th, you know, resulting from this complaint.

So, Count III, failing to furnish for retention to the purchaser burial rights, burial or funeral merchandise. That's simply not true. You know, this was not a preneed contract situation. We've explained what happened in our response. As far as the website, I do have some evidence from a previous case, from a different client that I had, that these websites are sold by packages. The package includes so much language in there, and then they have to go in and remove that language. Here, Holmes Funeral Directors and Ms. Deliria Holmes purchased the package that included language about preneed. They never advertised any preneed sales to the point where they needed to furnish any burial rights or burial funeral merchandise at all.

And then, for Count IV, failure to honor a preneed contract cancelation. That would, you know, kind of connect to Count III, which is 100% not true. As a matter of fact, when the individual who brought funds to Ms. Deliria Holmes, she was advised at that time that they do not hold funds for any reason at all. So, she did not come to the for preneed. She only changed her story after the fact, and those funds were returned. And I made sure that they were because I mailed the funds back to her personally. So, with regards to those allegations, none of them are factual, Madam Chair.

Now, I would like to go back to the procedural due process part. What I received was a myriad of documents, printed front and back. They were very hard to connect. The pages were not in sequence at all, and had it not been but for my experience with the Department and the Board, I realized that there was a hearing set for today. I had another court function today, that was set during this time that I had to get another attorney to appear at, so that I could appear here. The postmark on the package, states 12/18, but I received it on 12/29. At no time did the Department attempt to put me on notice of this Administrative Complaint. I was the attorney who responded to the consumer complaint, I am the attorney who's on record, and we were holding for some discussion with the Department for some pending Administrative Complaints here. At no time did I receive an e-mail or receive a copy on this complaint. So, you know, I would respectfully request that the Board not find that Holmes Funeral Directors or Deliria Holmes have waived their right to an administrative hearing. You can't waive a right that you don't know what's forthcoming. It was not properly served.

Chair Peeples – Thank you, Mr. Butler. Mr. Griffin?

Mr. Griffin – Board, on Page 18 of 135 in the Board packet, you'll see the UPS tracking number that shows the Administrative Complaint was delivered and picked up by the Respondent on September 28, 2023. What you won't find in this Board packet is a Notice of Appearance from counsel saying that he's representing them on this particular case. You won't find an Election of Proceeding because none was filed. So unfortunately, the licensee failed to file a responsive pleading, and that is why we're

here. Everything that he said up until the point about contesting the allegations is immaterial, because your first threshold issue is, did they receive the complaint, did they have a chance to respond, did they fail to respond? Here, as the Motion very clearly states from the {inaudible}, the very plain evidence attached the Motion. It was delivered on September the 28th, which means they had some time until October, like October 18th, to send the Election of Proceeding. And mind you, the Election of Proceeding doesn't have to be overly detailed. You can literally just check the box for an informal hearing and then later dispute fact. They failed to do that simple thing of either have their attorney file a Notice of Appearance or file any responsive pleading. That's why we're here today.

Mr. Butler – Madam Chairman, as a follow-up, please?

Chair Peeples – Yes, sir.

Mr. Butler – That is not entirely or factually accurate. Under the Administrative Act 28-106.110, Service of Papers, has to be served upon the licensee or the parties representative. Now, Mr. Griffin points to the fact that a package was delivered. There was no evidence that the licensee or representative of the party was even noticed with this Administrative Complaint. With respect to the filing of a Notice of Appearance in the cases, a Notice of Appearance was filed several cases ago. I've had communications with Ms. Marshall, in the interim. What we received from the Board was a consent package, a Consent Order, and then an amended Consent Order. And no time was this Administrative Complaint received by the LFD, the licensee or representative.

Chair Peeples – Mr. Griffin?

Mr. Griffin – Mr. Butler's made his arguments. This Board can consider whether or not the UPS tracking label that shows that it was picked up on September 28th, that is what {inaudible} fact for you to determine. So, that's literally the whole point of the motion, is...

Mr. Butler – My apologies, but you interrupted me, and I was respectful when you were making your argument.

Mr. Griffin – Mr. Butler, I was given permission by the Chairman to talk, so you've interrupted me.

Mr. Butler – Well...

Mr. Griffin – Mr. Butler...

Chair Peeples – Gentlemen? Mr. Butler, Mr. Butler, please, sir? I gave permission to Mr. Griffin. So, let's let Mr. Griffin finish his comment, please, sir. And then we will come back and address Ms. Clay, if I may, because she's had her hand up, and then I'll come back to you, sir. Mr. Griffin, are you complete?

Mr. Griffin – I am complete now.

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

Ms. Clay – Mr. Butler, in as much as you're indicating that the office did not provide you with the documents, are you requesting that this be tabled to another meeting, or that we just simply say that there is no due diligence here?

Mr. Butler – Thank you, Ms. Clay. I'm requesting that you find that the licensee or the establishment have not waived their rights, for lack of procedural due process here. We would like an opportunity to respond. My office has filed responses, as of yesterday, when I returned back to the office. Like I said, I received this package December 29th. It was very hard to follow. None of the items lined up, it's printed front and back, there are no page numbers, and it just was not received by my clients. So, we would like an opportunity to properly address the factual allegations. I think I provided a synopsis of how each one is factually inaccurate here today, but I would like to provide a more formal response, and an opportunity to do so. Simply we have been deprived of that opportunity. So yes, I'm requesting B of the question that the Board finds that we have not waived our right to an administrative hearing. With respect to Mr. Griffin's comment on this case that all you have to do is simply check a box when two (2) cases ago, at this very same meeting, he advised someone that they needed to check a box and to

provide their specific arguments, with regards to the factual allegations. So, there's some inconsistency there. Also, on the Board packet, Ms. Kimberly Marshall's information, I was expecting to have some conversation with Ms. Marshall. I reached out to her several times since the 29th, and I have not received a response, and she's not here today. So, I'm asking for the opportunity to, you know, to be heard here. That's part of procedural due process. And I might point to a case, Thorne versus Florida Real Estate Commission. And again, I had to pull this all together this morning. I had cases on my docket, and then this just kind of was a shocking surprised that this could even happen. It borderlines on professionalism and unethical conduct, if this was intentional, and I don't believe that it was. But administrative bodies are not exempt from constitutional requirement that procedural due process law, must be accorded those persons appearing before them.

Chair Peeples – Mr. Butler, did you reach out to the Board office when you had no successful attempts to try to speak or meet with Ms. Marshall?

Mr. Butler – Yes, Madam Chair. I did. And I spoke with Ms. Simon on yesterday because I had not reached Ms. Marshall, and I was directed back to speak with Ms. Marshall. I called her, and I left a message, but there was no responsive phone call.

Chair Peeples – Thank you, sir. Ms. Munson, and then Mr. Griffin.

Ms. Munson – I just want to clarify for the record, sir, and this is to Attorney Butler. When you say you received the packet of information on December 29th, from whom did you receive that packet?

Mr. Butler – I received this packet from Deliria Holmes.

Ms. Munson – So, you received it from the Respondent?

Mr. Butler – Yes, not from the Department at all. We have pending cases that I was hoping to speak with Ms. Marshall about, and she was well aware that I'm representing Holmes Funeral Directors.

Ms. Munson – I just want to clarify for the record. Are you suggesting that the Respondent had the information, you don't know how long she had the information, but she had the information and gave it to you on the 29th?

Mr. Butler – No. I'm sorry. That's not what I'm saying. I'm saying that this information was received by my office on the 29th. And so, the Respondent, Ms. Holmes, did not know what it was when she opened it. So, the date stamp on this document says December 18th, but she didn't receive it at that time. You know, we had the holidays in there, you know, Christmas. I believe she received that the week of Christmas, and she sent it directly to me in another envelope that's dated 12/27. So, she had this package a couple of days, and when I phoned her, they couldn't make out. I asked, "What is this? Did you remove anything or mess with the order of it?" She said, "No, this was how it was sent." It was sent in such disarray you can't even follow it. You don't know what's alpha or omega, what comes first, or what this was about? So, I ended up having {inaudible}.

Ms. Munson – Did you tell us now that you've put the package together? What is it that you received?

Mr. Butler – First of all, it's not 100% together. I just pulled the most recent documents to the front, and it is a memorandum dated January 4th, which is today, and that's, you know, it was, you know, postdated. So, I went to the agenda, and I saw that there was a hearing today, so I canceled my mediation, just so that I can be here to explain, we had no notice of this. Like, it was not even sent to the client not even thirty (30) days ago. I received this memorandum and then it portrays to attach some things, but in the middle of one page, there's an affidavit by the clerk stating that she hasn't received an election.

Ms. Munson – It sounds like you received the meeting packet for this particular case. I was just wanting the record to be clear as to what you're talking about.

Mr. Butler – I still don't have the full packet, I don't believe. This packet came from my client. {Inaudible} received nothing from the Department, in this regard about these allegations and this Administrative Complaint.

Ms. Munson – I just wanted the record to be clear about what we were talking about, and it's really Mr. Griffin's lane. Madam Chair, I'll let you turn it over to him.

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

Mr. Griffin – Couple of things. Number one: Mr. Butler has been before this Board numerous times for informal hearings and has seen Board packet. So, the idea that suddenly today, he doesn't know how they're constructed, kind of either. I'm not going to make any comments, but I find that very hard to believe. The next thing is the reason why Mr. Butler wasn't involved is because his client failed to retain him prior to this. We sent a complaint. We got service of the complaint via certified mail on September 28th. So, you'd have to actually talk to the Respondents to find out why they chose not to involve their attorney in this case. And so, it's not the Department's failure that his clients feel to notify him and get him involved. If Mr. Butler had filed a Notice of Appearance or filed a timely response to this, we wouldn't be having this talk. We would be in a completely different posture. And to go back to the "check a box", Mr. Butler firmly knows that if you elect an informal hearing, then during the informal hearing, allege a disputed issue of material fact, that immediately divests the Board the responsibility to hear the case. So, all you need to do to just preserve a hearing is within twenty-one (21) days file a response with the Department saying that you're requesting a hearing, then you can amend it later. So, the fact that he's trying to say that I'm misrepresenting things are missing things, is completely disingenuous. The fact of the matter here is the licensee received their complaint. We have provided you prove that they received a complaint. For whatever reason they failed to notify their attorney or get their attorney involved, and now after the fact, what they're trying to do a scramble and say, "Well, hey. All of a sudden, Oh, yes, oh, woe is me, I didn't get this packet." Well, unfortunately, they got the Administrative Complaint, and they didn't answer it. And so, what the Board is being asked here to do today is look at the evidence before it and determine whether or not you find as a matter of law that the Administrative Complaint was served via certified mail on September 28th, and whether or not we received a response from the licensee. That's it.

Mr. Butler – Madam Chair, may I have a follow-up, please?

Chair Peeples – Sure, sir. I don't need a whole lot more discussion. So, I'm going to let you make your comment, and then I'm going to address the Board, sir.

Mr. Butler – Thank you, Madam Chair. Quite frankly, what Mr. Griffin said is wholly factually inaccurate. The only person being disingenuous here and now I have reason to believe that it's intentional deprivation of due process, with what he just stated. These packets never used to come in this such disarray, printed front and back, where you couldn't even tell what it is. Now, this could have been the Consent Order that we were waiting for. And so, and I believe that Consent Order is attached, and it was on the front of this packet. So, Your Honor, as I stand here before you today, the things that Mr. Griffin is telling you about me being before the Board several times and (inaudible) all that's factually inaccurate and it's irrelevant. The truth is that we have not received procedural due process with regards to this complaint, and there were others. And I might add, I've received calls from other funeral homes who have been deprived also. So, but that's a different entity that can govern, you know, those types of behaviors from attorneys. But for these purposes, for the case that I am in for, the case that I did accept, this was a travesty of justice here.

Chair Peeples – Thank you, Mr. Butler. We appreciate your comment. Board members, what is your pleasure? Do you wish to go forward, and we would take a motion to have an informal hearing? What is the Board's pleasure? Mr. Ferreira?

MOTION: Mr. Ferreira moved that Respondent failed to timely file a responsive pleading. Mr. Jensen seconded the motion.

Chair Peeples – First, any other discussion? Rabbi Lyons?

Rabbi Lyons – Just to understand, what does moving forward mean?

Chair Peeples – Rabbi Lyons, we're going forward with the cases that are presented to us today. We're going forward and not going to table this item. So, we have a motion. We have a second. Hearing no further discussion. All in favor of the motion, say yes.

Board members – Yes.

Chair Peeples – All opposed, say no.

Rabbi Lyons – No.

Chair Peeples – Thank you, sir. So, Board members, where we are, we need to go forward with an informal hearing with a motion, please.

Ms. Clay – Madam Chair, is the motion to accept the information presented by counsel?

Ms. Munson – Yes, that they waived their rights for a hearing.

Chair Peeples – Correct.

MOTION: Ms. Clay moved to go forward with an informal hearing. Mr. Ferreira seconded the motion, which passed with one (1) dissenting vote.

Chair Peeples – Our next item would be to that there are no material facts in dispute. What is the Board's pleasure?

MOTION: Mr. Jensen moved that there are no material facts in dispute. Mr. Ferreira seconded the motion.

Chair Peeples – We have a motion by Mr. Jensen, a second by Mr. Ferreira. Is there any discussion on the motion? Hearing none. All in favor of the motion, say yes.

Board members – Yes.

Chair Peeples – All opposed, say no.

Rabbi Lyons – No.

Mr. Butler – And for the record, I'd like to place an objection. These allegations are not factually accurate, and we will be moving forward.

Chair Peeples – Thank you, sir, for that notice. Our next item would be to accept the factual allegations, is that correct, Mr. Griffin?

Mr. Griffin – Yes, ma'am.

Chair Peeples – Thank you. Board members?

MOTION: Mr. Ferreira moved to adopt the allegations of the facts as set forth in both Administrative Complaint. Mr. Jensen seconded the motion, which passed with one (1) dissenting vote.

Chair Peeples – We have Mr. Butler representing Ms. Holmes, so he is representing her. Our next item would be to accept the conclusions of law. Correct, Mr. Griffin?

Mr. Griffin – Yes, ma'am.

Chair Peeples – Thank you.

MOTION: Mr. Ferreira moved to find the Respondent in violation of the statutes as charged in the Administrative Complaint. Mr. Clark seconded the motion, which passed with one (1) dissenting vote.

Chair Peeples – Our next item will be the penalty aspect. Mr. Griffin?

Mr. Griffin – So the Department is requesting a \$2000 fine and one (1) year of probation. as to Count I. A \$2000 fine and one (1) year of probation. as to Count II. A \$3500 fine as to Count III. A \$750 fine as to Count IV. A grand total of \$8260 in fines plus two (2) years of probation.

Chair Peeples – One second folks. Mr. Griffin, what was the total amount, sir?

Mr. Griffin – \$8250 in fines and two (2) years of probation.

Chair Peeples – Thank you, sir. Board members?

MOTION: Mr. Ferreira moved that the Respondent shall pay a fine of \$8250 and have her license placed on probation for two (2) years. Mr. Jensen seconded the motion.

Chair Peeples – Rabbi Lyons we're in the discussion, so would you like to address?

Rabbi Lyons – I mean, I think Mr. Butler has the opportunity now to lay out his case.

Mr. Griffin – No. At this point in time, he only gets to argue in terms of mitigation. He doesn't get to dispute the facts.

Chair Peeples – Correct.

Chair Peeples – Ms. Clay?

Ms. Clay – I don't know that I am allowed to ask this, but earlier we heard that it was a second offense.

Mr. Griffin – Yes, ma'am.

Ms. Clay – Am I allowed to ask if the first offense was similar?

Mr. Griffin – That's the whole reason why it's a second offense. It's a second violation of that statute.

Ms. Clay – Thank you.

Chair Peeples – Is there any further discussion? We have a motion and a second. Mr. Jensen?

Mr. Jensen – I'd just like to point out a fact here. If the funeral home accepted \$3000, that's proven. It's right there on the lady's bank info where she paid \$3000 on that date. If they didn't know what the check was for, you're not supposed to accept money for somebody who's not deceased unless you have a preneed license, and it has to be on a preneed contract. So, I don't even see a way around this. I mean, you don't deposit a check. I understand they say it was inadvertent, and I guess sometimes that can happen, but something is just not right here.

Mr. Butler – Do you understand that it was inadvertently?

Mr. Griffin – Once again, we're not talking facts here.

Chair Peeples – Excuse me, Mr. Griffin, Mr. Battler. Mr. Jensen, if you'll finish your comment., sir.

Mr. Jensen – I'm good. I just kind of wanted to point that out that. This is a second offense. Money was clearly given, you know. We need to keep that in mind. Thank you.

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

Mr. Butler – Well, my comment was to Mr. Jensen, and whether or not he really believed that this was inadvertent, with his rebuttal. On the check there was nothing written that even resembles the word preneed. As a matter of fact, the establishment has a policy that you can't leave someone's money lying around. So, as a fiduciary, all monies are deposited at the end of the day. But unfortunately, there was a misunderstanding about that. It was returned. I believe that argument goes to {inaudible}. Quite frankly, I had to quickly prepare for this argument today, due to the lack of due process and total deprivation. But the factual allegations here are not factual.

Chair Peeples – Yes, sir. Mr. Butler, we appreciate your comments, but we've already passed those motions, and the Board has already handled that, but thank you for that comment. That will be a part of the record here. So, Board members, we have a motion, and we have a second for the fan of \$8250 in two (2) years' probation. Ms. Simon, if you will take our roll call vote on this, please.

Ms. Simon – Yes, ma'am. All those in favor of the motion respond by saying, yay, please. Mr. Clark?

Mr. Clark – Yes.

Ms. Simon – Ms. Clay?

Ms. Clay – Yes.

Ms. Simon – Mr. Ferreira?

Mr. Ferreira – Yes.

Ms. Simon – Mr. Jensen?

Mr. Jensen – Yes.

Ms. Simon – Mr. Jones?

Mr. Jones – Yes.

Ms. Simon – Ms. Liotta.

Ms. Liotta – Yes.

Ms. Simon – Rabbi Lyons?

Rabbi Lyons – Yes.

Ms. Simon – Mr. Williams, I believe, is recused. And last, Madam Chair?

Chair Peeples – Yes.

Ms. Simon – That motion passes.

Chair Peeples – Thank you, Mr. Butler for being a part of this case. Ms. Munson?

Ms. Munson – Just a quick question. I'm acknowledging that, because the Department has indicated there was not a Notice of Appearance prior to this proceeding, the documentation that has your information, Attorney Butler, I couldn't find an e-mail. Could you just confirm your e-mail, or is it just not to be included?

Mr. Butler – I don't think I understand your question, Ms. Munson.

Ms. Munson – An Order will be issued, and I was wondering what's your best email.

Mr. Butler – Ok, well, it's CVButlerLaw@gmail.com, but we are transitioning to ButlerLegalPA.com So, but what you have on record is CVButlerLaw@gmail.com.

Ms. Munson – Thank you, sir.

Mr. Butler – You're welcome. And Madam Chair, if I may have one last word. I have another court function I need to attend to. There is an issue within the Department with regards to due process that needs to be addressed by someone, and I just wanted to put that on the record. I don't want to have to be the person to make a big deal out of it, but there's a huge issue there. The licensees are not being afforded the due process under the law.

Chair Peebles – Thank you, Mr. Butler. Mr. Griffin, before we go to the next case, please?

Mr. Griffin – I'm just wondering is Mr. Butler going to stay on for the Holmes case as well, because he mentioned he had another court hearing?

Mr. Butler – Is there another case on the agenda? I was not aware.

Chair Peebles – Yes, sir. There are two (2) cases. One against Ms. Deliria Holmes and one against Holmes Funeral Directors.

Mr. Butler – Ok. I guess I'll stay on.

Chair Peebles – Ms. Simon?

Ms. Simon – May I call the next case, Madam Chair?

Chair Peebles – Yes, ma'am.

2. Holmes Funeral Directors: DFS Case No. 307465-23-FC; Division No. ATN-39936 (F041651)

Ms. Simon – With Mr. Butler, on the call, the representative for the Department is Mr. Griffin. Mr. Griffin?

Mr. Griffin – Marshawn Griffin for the Department. The above-referenced matter is presented to the Board for consideration of the Motion for Determination of Waiver and Request for Informal Hearing and for Final Order by Hearing Not Involving Disputed Issues of Material Fact (Motion) in the matter of Holmes Funeral Directors (“Respondent”). The Department conducted an inspection of Respondent and found as follows: At all times material to the allegations herein, Respondent was licensed as a funeral establishment, license number F041651. Respondent permitted an unlicensed individual to engage in the practice of funeral directing, sold a preneed contract to a consumer without being properly licensed to do so, failed to give a written agreement to the purchaser of funeral arrangements, and failed to provide a timely refund to the purchaser of a preneed contract. The disciplinary guidelines for these violations are as follows:

- Count I: *aiding, assisting, procuring, employing, or advising a person to practice a regulated profession without the required licensure*: Reprimand, fine of \$1,000 to \$2,500 plus costs, probation six (6) months to one (1) year with conditions, suspension up to one (1) year or permanent revocation of the license
- Count II: *selling or offering to sell a preneed contract without a preneed license*: reprimand, fine of \$1,000 to \$2,500 plus costs, probation six (6) months to one (1) year with conditions, suspension up to one (1) year, permanent revocation of the license, and/or restitution
- Count III: *failing to furnish, for retention, to each purchaser of burial rights, burial or funeral merchandise, or burial or funeral services a written agreement, the form of which has been approved by the board, second violation*: reprimand, fine of \$2,000 to \$5,000 plus costs, probation for one (1) to two (2) years with conditions
- Count IV: *failure to honor preneed contract cancellation requests and make refunds as required*, reprimand, fine of \$250 to \$1,000 plus costs, probation for up to one (1) year with conditions, suspension up to one (1) year, and/or restitution

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.

Chair Peeples – Thank you, Mr. Griffin. Mr. Butler, would you like to address the Board or is this a duplication of comments from the previous case?

Mr. Butler – Chair, this one I would like to state that I did not receive this at all, and I don't have it at all, and I would be readopting and realleging the same argument from before.

Chair Peeples – Thank you, sir. Mr. Butler, a question that Ms. Munson had asked if you received the packet from the Respondent. Was that because that correct?

Mr. Butler – Yes, from Deliria Holmes. I received that packet.

Chair Peeples – Thank you. Board members? We have five (5) motions. What is the Board's pleasure regarding an informal hearing, waiving the right and an informal hearing?

MOTION: Mr. Jones moved that Respondent failed to timely file a responsive pleading. Ms. Clay seconded the motion, which passed with one (1) dissenting vote.

Chair Peeples – Our next item would be that there are no material facts in dispute. What is the Board's pleasure?

MOTION: Mr. Ferreira moved that there are no material facts in dispute. Mr. Clark seconded the motion, which passed with one (1) dissenting vote.

Chair Peeples – Our next item would be to accept the factual allegations. What is the Board's pleasure?

MOTION: Mr. Ferreira moved to adopt the allegations of the facts as set forth in both Administrative Complaint. Ms. Clay seconded the motion, which passed with one (1) dissenting vote.

Chair Peeples – We have our next time would be to accept the factual allegations. What is the Board's pleasure?

MOTION: Ms. Clay moved to adopt the allegations of the facts as set forth in both Administrative Complaint. Mr. Jensen seconded the motion, which passed with one (1) dissenting vote.

Chair Peeples – We have Mr. Butler representing the Respondent. Our next would be to accept the conclusions of law. Is that correct, Mr. Griffin?

Mr. Griffin – Yes, ma'am.

Chair Peeples – Thank you, sir. Board, what's your pleasure?

MOTION: Mr. Jensen moved to find the Respondent in violation of the statutes as charged in the Administrative Complaint. Mr. Ferreira seconded the motion, which passed with one (1) dissenting vote.

Chair Peeples – We are now at the penalty phase. Mr. Griffin?

Mr. Griffin – The Department requests that the Board issue of a fine in the amount of \$8250 and place the Respondent's license on probation for two (2) years. If you'd like a breakdown as to the methodology similar to Deliria Holmes for Count I, a \$2000 fine plus one (1) year of probation. Count II, a \$2,000 fine plus one (1) year of probation. Count III a \$3500, and Count IV, a \$750 fine for a grand total of \$8250 in fines plus two (2) years of probation.

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

MOTION: Mr. Ferreira hat the Respondent shall pay a fine of \$8250 and have its license placed on probation for two (2) years. Mr. Jensen seconded the motion, which passed unanimously.

Chair Peeples – Thank you, Mr. Butler for being here today.

Mr. Butler – Ms. Peeples, you're welcome. I just have one (1) comment to place on the record, please?

Chair Peeples – Yes, sir.

Mr. Butler – The Respondents were not afforded due process hearing. There was a lack of notice. There was no opportunity to be heard. Thank you very much.

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

Ms. Simon – Thank you, Madam Chair.

(4) Motion for an Order Dismissing Petition Without Prejudice (Probable Cause Panel B)
(a) Leon A. White Mortuary Transport Services LLC: DFS Case No. 315262-23-FC; Division No. ATN-41440 (F490975)

Ms. Simon – Is there a representative of that entity on the call today? Hearing no response. I believe that this will be presented by Mr. Woliver.

Chair Peeples – Mr. Woliver, are you on the call today?

Mr. Griffin – Mr. Woliver is here. He's going to come into my office and present. Sorry about that.

Chair Peeples – Thank you, Mr. Griffin.

Mr. Jared Woliver – Good morning, Board members, I apologize about that. Of course, my computer froze right as I needed to begin presenting.

Chair Peeples – When you're ready, Mr. Woliver.

Mr. Woliver – Thank you. Jared Woliver for the Department. The above-referenced matter is presented to the Board for consideration of the Department's Motion for an Order Dismissing Petition Without Prejudice ("Motion") On or about November 17, 2023, the Department filed an Administrative Complaint against Leon A. White Transport Services LLC ("Respondent") alleging violations of Chapter 497, Florida Statutes. On or about December 7, 2023, Respondent timely submitted a petition requesting a formal hearing pursuant to section 120.57(1), Florida Statutes; however, the petition failed to identify any disputed issues of material fact. As such, Respondent's petition failed to meet the requirements for a formal hearing as outlined in Rule 28-106.2015, *Florida Administrative Code*. Accordingly, this Motion requests that the Board dismiss Respondent's petition without prejudice and enter an Order providing Respondent with an additional twenty-one (21) days in which to file a facially sufficient petition for formal hearing or to request an informal hearing. Furthermore, the Department requests that the Order provide that if Respondent fails to provide a timely response that Respondent will have waived its right to a hearing in this matter.

Chair Peeples – Thank you, Mr. Woliver. Would it be appropriate for the Board to maybe make a motion to grant an additional twenty-one (21) days for the Respondent to file a sufficient petition? And that would be the only item on this case, what would take today?

Mr. Woliver – Yes, ma'am.

MOTION: Mr. Jones moved to dismiss Respondent’s petition without prejudice and enter an Order providing Respondent with an additional twenty-one (21) days in which to file a facially sufficient petition for formal hearing or to request an informal hearing. Furthermore, the Department requests that the Order provide that if Respondent fails to provide a timely response that Respondent will have waived its right to a hearing in this matter. Ms. Liotta seconded the motion.

Chair Peeples – Is there any discussion on the motion? Mr. Jensen?

Mr. Jensen – Yes, just have a question for the Department. I notice here that they’re advertising services beyond their license on their Facebook pages and so forth. Is there something to at least stop that until we can get to a case?

Mr. Woliver – So the matter of whether or not they were advertising is irrelevant to the motion today. Though I have spoken with Respondent, and I subjectively think he's aware of what constituted advertising. I think he's going to be careful not to be doing that. That's just the impression I got from the conversation.

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

Chair Peeples – Thank you. We have a motion, and we have a second. Is there any further discussion? Hearing none. All in favor of the motion, say yes.

Board Members – Yes,

Chair Peeples – All opposed, say no. Motion carries. Thank you, Mr. Woliver.

Mr. Woliver – Thank you.

Chair Peeples – 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) Graystone Associates, Inc. (41808)
(b) Independent Education Institute (135)
(c) M K Jones & Associates, Inc. (9605)
(d) National Funeral Directors Association (49609)
(e) Selected Independent Funeral Homes (137)
(f) Wilbert Funeral Services (39408)

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.

Chair Peeples – Board members?

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

F. Consumer Protection Trust Fund Claims
(1) Recommended for Approval without Conditions – Addendum C

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

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

G. Application(s) for Embalmer Apprentice

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

- (a) Andrews, Jonquay V F729323*
- (b) Brown III, Eric A F725939*
Fitzwater, Chandler M F730333
McConnell, Ericksen L F730032
Thomas, Lauren A F729714
Young, Stacy M F709211

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

(2) Recommended for Denial (Criminal History)

- (a) Gutierrez, Jenna M*

Ms. Simon – An application for an embalmer apprenticeship licensure was received by the Division on October 2, 2023. The application was incomplete when submitted. A completed application was received on December 19, 2023. The applicant answered “No” to the criminal history question, but the criminal background results was returned to the division with reportable criminal history. On January 11, 2019, Ms. Gutierrez entered a plea of nolo contendere to the following felonies: possession of cannabis more than twenty (20) grams, and the sale, manufacture, deliver, or possession with intent to sell cannabis. A judgment ordered adjudication withheld of the above crimes and Ms. Gutierrez was sentenced to fines and costs, two (2) years of probation during which time she was subject to random urinalysis and required not to consume or possess drugs or alcohol, The Division recommends denial. Is Ms. Gutierrez or a representative on the call today?

Ms. Jenna Gutierrez – Yes, ma'am. I also have my FDIC on the call.

Ms. Simon – Thank you, Ms. Gutierrez. Madam Chair?

Chair Peeples – Thank you, Ms. Simon. Ms. Gutierrez, would you like to address the Board? If so, we would need to swear you in, please ma'am.

Ms. Gutierrez – Yes, absolutely.

Chair Peeples – Thank you. Ms. Simon?

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

Ms. Gutierrez – I do.

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

Ms. Gutierrez – Jenna Gutierrez, G U T I E R R E Z.

Ms. Simon – Thank you, ma'am.

Chair Peeples – Thank you, ma'am. Would you like to address the Board, please?

Ms. Gutierrez – I have never done this before, so I'm sorry if I don't really know what to say. {Inaudible} seven (7) years ago, I've been wanting to pursue this career for a very long time. It's a career that I absolutely love. I've been doing it for a couple of months now, and it's something that I find great joy in, and I'd like to pursue it further. I want to become a funeral director one day, and getting this license would really cement a furthering down the road. And this license would really help me continuing to pursue a career and provide for myself. I just, I really love this career.

Chair Peeples – Thank you, ma'am. Ms. Gutierrez, you mentioned you had your employer on the phone with you. Is that correct? And what is that person's name?

Mr. Antonio Jackson – That would be me.

Chair Peeples – I'm asking Mr. Gutierrez, please, sir. Thank you.

Mr. Jackson – Ok.

Chair Peeples – Yes, ma'am?

Ms. Gutierrez – Tony Jackson is going to be on the call.

Chair Peeples – And Mr. Jackson, if you would like to address the Board, we need to swear you in please.

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

Mr. Jackson – I do.

Chair Peeples – Thank you.

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

Mr. Jackson – My legal name is Antonio. My last name is Jackson, J A C K S O N.

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

Chair Peeples – Yes, ma'am. If you would like to address the Board, sir.

Mr. Jackson – Yes, I would. I just want to make a comment that Jenna was hired by us as an attendant just to see if she was liking the career. We hired her on September 25th to work as an attendant. She's observed our operations here. She has been nothing but the perfect employ. She has the right attitude. I have no discipline issues with her or anything like that. She is willing to learn. She has a heart for the business, for the families. She would be a benefit to not only us, but the State of Florida, through her work ethic. So, I just speak in high regard for her. I just appeal to the Board to take that into consideration when you make your judgement on her apprenticeship license. But thank you for hearing me. I appreciate it.

Chair Peeples – Thank you, Mr. Jackson. Ms. Gutierrez, I have a question for you. It stated that you had previous criminal items. Did you complete your probation and payment of your fines?

Ms. Gutierrez – Yes. I actually completed a year early. So, I was sentenced to two (2) years of probation, but I actually graduated a year early, and all of my fines were paid way ahead of time.

Chair Peeples – Thank you. Another follow-up question, please, ma'am. Are you in currently in any programs to kind of assist you from what you've gone through with this previous case?

Ms. Gutierrez – No, I am pursuing a lawyer to get this sealed in a way, but, no, I haven't done anything efficiently.

Chair Peebles – What I was asking more so like a program to assist you with treatment, or to kind of help you go through to make better decisions in the future. That's where I was asking the question.

Ms. Gutierrez – Yes, So, during the process, it was about a two (2) year process before we came to a final case, I did get a two (2) year sobriety chip, which I did bring into the court. And I did attend meetings and met with counselors and therapists, and I still do pursue therapy for that. I don't go into meetings anymore, but I am still sober.

Chair Peebles – Thank you. Ms. Simon?

Ms. Simon – Thank you, Madam Chair. I just wanted to confirm with the Board members that the reason for the recommendation for denial is not only the convictions, but also the lack of candor to the Division. And I just want to represent that to make sure the Board members knew.

Chair Peebles – Thank you, Ms. Simon. And a question to you on your comment is, if for some reason, the Board decides to approve this embalmer apprentice license application, if she decides to go to Mortuary College and she wants to become an intern and or a licensee, this case will come up and be a part of the package. Is that correct?

Ms. Simon – Yes, it would. But in all candor, once the Board takes this step, and I understand why the Board would, it would be difficult for the Board to take that different step after completion of an education.

Chair Peebles – Yes, ma'am. Thank you. Mr. Gutierrez, did you want to make a follow up comment?

Ms. Gutierrez – Yes. I just wanted to kind of I guess put somebody on the record that when I was filling out my application, I did get kind of confused on the question. When I read it, I read it as do they have a conviction, which I do not. So, when I answered it, it was just an uneducated kind of answer. I did not mean to be misleading in any way. I've always answered truthfully when it comes to other jobs that I've applied for, and that was completely my fault, that I did get confused on the actual report.

Chair Peebles – Thank you, ma'am. Mr. Jensen, did you have your hand up, sir?

Mr. Jensen – Yes, ma'am. That was my exact question, concerning her checking No, so she answered it.

Chair Peebles – Thank you. Mr. Jones?

Mr. Jones – Mr. Jackson, when you hired her, you were aware of that? That was made clear to you?

Mr. Jackson – Actually, we're a private owned funeral home, so HR questioned her on those items. I'm the FDIC. When I spoke with her, we interviewed her, I don't think the question was ever asked by myself, you know, of any felonies or anything like that. We had to go through a background check on our end, but I did not initiate that. Our HR Department did.

Mr. Jones – Thank you.

Chair Peebles – Board members, what is your pleasure? Mr. Ferreira?

Mr. Ferreira – I wanted to go back to what Ms. Simon mentioned. I want to make sure I understood her. So, was she disrespectful towards the Board in this whole process?

Ms. Simon – May I, Madam Chair?

Chair Peebles – Yes, ma'am.

Ms. Simon – Ms. Gutierrez misrepresented herself on her application by saying that she had not been convicted of a crime, when she had. The information is pretty clear on the application, regardless of whether your adjudication is withheld or not, please list the crimes. Those were not listed. So, it's not only the criminal history, but that's another reason. I hope that answers

your question, Mr. Ferreira.

Chair Peeples – Mr. Ferreira, does that complete your question, sir?

Mr. Ferreira – Yes, ma'am.

Chair Peeples – Mr. Williams?

Mr. Williams – Madam Chair. I guess this question is for the FDIC. In relation to the applicant, who is Mr. Gregory Hall? I guess I'm just trying to understand if you would be supervising or Mr. Hall, as he is on the application as her supervisor?

Mr. Jackson – Gregory Hall is one of our funeral directors and embalmers here. So, Jenna had an interest in learning to be an apprentice for embalming. So, he's actually our embalmer here at our location here in Palm City. So, he is her immediate person who she would be observing. He is the person who works with her. I'm the FDIC here, but he's my colleague, and we kind of work together and teach her things and have her observe us do things.

Chair Peeples – Mr. Williams, to kind of caveat on your question, and the answer is that an embalmer apprentice would have to be trained under a licensed embalmer. So, that's why his name is mentioned on the application, just as Mr. Jackson had stated. Does that complete your question? Are there any other questions? Rabbi Lyons?

Rabbi Lyons – Question from Ms. Simon. I'm just trying to understand. Was there something about education that was mentioned as an opposition to this, also? Or did I just misunderstand that?

Ms. Simon – The only instances I raised were the criminal offense and the information not being provided as part of the application. There was another item on that was mentioned in the deficiency notice but I believe that was cleared up.

Chair Peeples – Ms. Simon, I have a question, and this is to give Ms. Gutierrez some information. If she happens to withdraw her application, because a denial is going to show and follow her if the Board so deemed to deny and not approve her application today, because she has made a comment that she would like to possibly further her career and possibly go to mortuary college, and then go through internship and possible licensure, would that be not a better option for her to do today?

Ms. Simon – Could she withdraw her application?

Chair Peeples – Yes, ma'am.

Ms. Simon – Yes, ma'am.

Chair Peeples – Ok. Ms. Gutierrez, what I had just asked Ms. Simon, at the Board Office, is if the Board, and the Board has an opportunity to approve or deny your application, you've made a comment that you're thinking about furthering your career. And so, if you further your career, my thought is maybe you would like to consider or we can go forward as a Board entity and vote on this, you may want to withdrawal your application today, because if for some reason the Board denies your application today, it's going to follow you. So, when you come back before the Board, because criminal cases come back to us for a number of years, as consideration, so I just want that to be something that you have in consideration. So that's an item, and you'll just need to direct us, please.

Ms. Gutierrez – I don't know. I guess if I don't get approval, then there's really not a reason for me to be in this career at all.

Chair Peeples – Mr. Jensen, then Mr. Jones, then Rabbi Lyons.

Mr. Jensen – Thank you, Madam Chair. Just to expand on what you said, Ms. Gutierrez, you can reapply. I think the biggest issue here is that the misrepresentation. It is for me anyways. I don't want to speak for anybody else. If you would have just put yes and explained yourself, you probably would have fared a little better, I think that's the biggest problem here. But, and maybe Ms. Simon could answer this, how long before she could re-apply in and do it differently?

Chair Peeples – Ms. Simon?

Ms. Simon – Thank you, ma'am. Ms. Gutierrez could reapply tomorrow. It's another application. I can't say what the Board would do when presented with another application, but she has the opportunity to apply again tomorrow.

Mr. Jensen – Madam Chair, may I follow up?

Chair Peeples – Yes, sir.

Mr. Jensen – I think, if I'm understanding, Madam Chair, and certainly myself, I certainly don't want to prevent Ms. Gutierrez from this being a career. But we do need to hold ourselves accountable and other people accountable for respecting the application process and putting the correct information. But I don't want to preclude her. So that may be an option for you. Mr. Gutierrez is to withdraw and then reapply, possibly.

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

Mr. Jones – Before we do all this, it was five (5) years ago. I understand what she said. The application can be confusing. This isn't the first time it has come before the Board where someone's inadvertently checked Yes or No. I'm going to make a motion that we approve. She will come back before us again. And if there's been any issues in that time, we'll address it at that time. So next time, make sure you check that on your application.

MOTION: Mr. Jones moved to approve the application. Rabbi Lyons seconded the motion.

Chair Peeples – Ms. Munson, did you have your hand up?

Ms. Munson – I was just going to note that in all fairness to her that if she did decide to withdraw and reapply it would be with a new application fee.

Chair Peeples – Thank you, ma'am. We have a motion to approve. We have a second by Rabbi Lyons. Is there any discussion on the motion before we take a vote?

Mr. Clark – Madam Chair?

Chair Peeples – Yes, Mr. Clark?

Mr. Clark – Sorry. I kind of waited my turn. I know there's a lot of discussion and just a quick question for Mr. Gutierrez. In our packet, we received a hand-written letter that you had shared with the Division. You talked about the incident, and you state that you were entrapped by the police, and that's why the judge, I guess, you said the judge saw right through it. Can you just speak to that, like, about the situation itself, because you've listed that law enforcement tricked you or something.

Ms. Gutierrez – Yes. I'm sorry. It wasn't a setup by the police. I was set up by somebody, and my lawyer basically fought for that, and kind of pushed that through, and the prosecutor {inaudible} for some jail time, and the judge kind of spoke on behalf based off of everything. I got a degree during that time period. You know, I got to sobriety checks. I pursued counseling and like rehabilitation and the judge basically just kind of spoke on my behalf that he said in the court hearing that he doesn't think I'll ever see me again. And basically, fought for my {inaudible}. Thank you.

Chair Peeples – Thank you, ma'am.

Mr. Clark – Thank you.

Chair Peeples – Mr. Clark, does that complete your question, sir?

Mr. Clark – It does. Yes.

Chair Peeples – Thank you. Is there any other discussion before we take a vote? Hearing none. All in favor of the motion to approve Mr. Gutierrez’s application request for an embalmer apprentice say yes.

Board members – Yes.

Chair Peeples – All opposed say no.

Mr. Clark – No.

Chair Peeples – Motion carries. Good luck, Ms. Gutierrez. Thank you for being here and thank you, Mr. Jackson, for being here today. You’re approved.

Ms. Gutierrez – Thank you so much. I really appreciate your time.

Chair Peeples – Thank you, ma’am. Ms. Simon?

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

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

(a) Funeral Director and Embalmer (Endorsement)

1. Bourne, Robert E

2. Petty, William O

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

1. Cappola, Dana Christin

2. Diaz, Gwyneth L

3. Hicks Jr, Tony R

4. Vera, Karen I

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 (Criminal History)

(a) Funeral Director (Endorsement)

1. Pulliam, Jeffrey A

Ms. Simon – Is Mr. Pulliam or a representative on the call today?

Mr. Jeffrey Pulliam – I am.

Chair Peeples –Please state who is on the call.

Mr. Pulliam – Jeffrey Pulliam.

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

Ms. Simon – An application for a funeral director license by endorsement was received by the Division on August 15, 2023. The application was incomplete when submitted. The applicant was notified that their application would go before the Board for final consideration on 12/1/2023. The applicant answered “No” to the criminal history question, but the criminal background results was returned to the division with reportable criminal history. On November 19, 2020, Mr. Pulliam pled guilty to driving while intoxicated a misdemeanor offense. Mr. Pulliam was sentenced to twenty (20) days community service and two (2) years’ probation. Furthermore, Ms. Pulliam has not taken and passed the National Board Examination, Arts Section in accordance with Rule 69K-16.002, F.A.C. As a result, the Division is recommending denial.

Chair Peeples – Thank you, Ms. Simon. Mr. Pulliam, if you will let Ms. Simon swear you in, as I have a couple of questions for you and there may be other Board members that have questions.

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

Mr. Pulliam – Yes.

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

Mr. Pulliam – Jeffrey Pulliam, P U L L I A M.

Ms. Simon – Thank you, sir.

Chair Peeples – Thank you, Mr. Pulliam. One of the questions I have is in our packet, we have a statement that is signed Mr. Ash Curtis those states “This letter is to inform the Funeral and Cemetery Board for the State of Florida that Mr. Jeffrey Pulliam has continually served as a funeral director and embalmer for over five (5) years with no prior or pending disciplinary actions.” Your application to us is to sit for the Laws and Rules Exam, so you’re asking us to grant this, but this statement says: you’ve been licensed for five (5) years. Can you explain that sir?

Mr. Pulliam – I believe there was a question on there that asked about, I’ve been a licensed funeral director since 1996, and I’ve worked for Service Corporation International Park Lawn, and I’ve worked in various areas within that company, but I had the license since 1996. I took the state test in Missouri in 1996. I did my apprenticeship internship and apprenticeship as a funeral director. I also took my test in Texas and did serve under a probationary period for two (2) years on that license, also.

Chair Peeples – Ok, sir. What state were you licensed in in 1996?

Mr. Pulliam – Missouri.

Chair Peeples – Ok. So, the statement that is in our packet is not a correct statement?

Mr. Pulliam – I apologize. I misinterpreted that. They wanted the location numbers. I thought that was what they wanted. That would be a lot of location numbers. I apologize.

Chair Peeples – So, the statement is incorrect? You have not been licensed and serving in the State of Florida for more than five (5) years?

Mr. Pulliam – Oh, not Florida. No. I thought I was asking. Not in Florida. I just moved to Florida.

Chair Peeples – Ok, Sir. Board members are there any questions for Mr. Pulliam? Rabbi Lyons?

Rabbi Lyons – Madam Chair, now that I’m reading it slowly, I don’t think that letter says that he was in Florida, I read it that way also first. But it’s “the Funeral and Cemetery Board of the State of Florida, informing that Mr. Pulliam has been a licensed funeral director.” It doesn’t say which state, but I don’t think it’s a misrepresentation. Maybe it could have been written a little more clearly. That’s just a statement.

Chair Peeples – Thank you, sir. Board members, are there any questions for Mr. Pulliam? Mr. Jensen?

Mr. Jensen – I do have a couple of questions here. So, on your application, I’m looking here at Section 8, which is page 4 of the packet. You specifically say “No” to any education. So, I mean, you are aware of the education. And then, the part here where it talks about if you hold or have held a license or registration in Florida, you put “Yes.

Mr. Pulliam – That was a mistake.

Mr. Jensen – So, that's a mistake?

Mr. Pulliam – Yes.

Mr. Jensen – Ok. Also, here, you know, it talks about, if you've not taken the National Board, you will not be eligible for the licenses, and you put that you did understand that. So, I mean, I'm just wondering what {inaudible} the Board?

Mr. Pulliam – Maybe, well I had to take the state, I've taken each state test. I've sat for Missouri. I've sat for Texas, where I passed the funeral directors test, because the typical process is as long as you've worked five (5) specific years, then you didn't have to take the national test, is what I thought.

Chair Peeples – Mr. Jensen?

Mr. Jensen – Just to expand on that, on s. 497.374(1)(b), F.S., is what you're referring to here. It says you must hold a valid license in good standing for at least five (5) years, or you have to meet the qualifications of licensure under s. 497.373, except that the applicant does not hold an associate degree, which you don't have, or higher if the applicant holds a diploma or certificate from an accredited program and successfully complete a state, regional, national, examine in mortuary or funeral science. I mean, you're not qualifying under the rules here, so I'm just trying to figure out how you're thinking that you should be licensed.

Mr. Pulliam – Well, I've been in the funeral industry since 1996. I passed the state exam for both Missouri, and Texas, as a funeral director.

Mr. Jensen – Have you presented any information as to its equivalence to what ours is?

Mr. Pulliam – I believe that the certificate came from Missouri, and also from Texas.

Mr. Jensen – Madam Chair, may I?

Mr. Pulliam – We were required to do a year's apprenticeship, and serviced under a funeral director, where even then we had work specific cases, send all that documentation into the State of Missouri, sit for the law exam, and then sit for a practical exam on funeral directing.

Mr. Jensen – So, Missouri does not require a National Exam? Is that correct?

Mr. Pulliam – That, I couldn't tell you that. I would assume that if you are a funeral director and embalmer, that you would take, there is a national exam, but that I don't know.

Chair Peeples – Ms. Clay, you had your hand up and then Ms. Simon.

Ms. Clay – I just wanted to ask Mr. Pulliam, and again, I'm not sure whether or not you answered Mr. Jensen's question regarding showing equivalency of what the State of Florida requires versus that that you've already completed.

Mr. Pulliam – So, maybe {inaudible}.

Ms. Clay – If I can just interrupt you. I don't believe he is asking about a certificate, but rather the coursework.

Mr. Pulliam – Ok. Well, I didn't do the coursework, but I did do the practical experience of a funeral director, and then I was tested on that as part of the practical testing to be licensed in the State of Missouri. So, you had to actually do, I think it was twenty (20) cases, if I can recall that, fifteen (15) or twenty (20) cases that you had to submit to the State of Missouri. And then, after that, I had to take the practical test, also. So, there's a law test, then you have to take the practicum and then do that.

Ms. Clay – Madam Chair, if I can just follow up, please?

Chair Peeples – Yes, ma’am.

Ms. Clay – Ok, again, I don't think you're answering the question. The question is, did you provide any level of proof to show that what's required by the State of Florida? So, I guess I should stop there. Are you aware of what's required by the State of Florida?

Mr. Pulliam – Maybe I'm misread that.

Chair Peeples – And Ms. Clay, if I may? Mr. Pulliam, did you receive a deficiency letter? It was dated September 18, 2023, from the Board office. In the deficiency letter, it noticed five (5) items that you needed to attach or submit. Of those five (5) items, it stated in number 1) that you said “No” to the criminal history. You need to complete the criminal history form, Number 2), submit an official transcript that you were awarded an associate degree or higher in funeral service mortuary science from a college or university accredited by the American Board of Funeral Service Education. Number 3), you must submit certification of licensure from the state you're currently licensed in. So, we got number 1), we got number 3). Number 4), states two (2) hour communicable disease course is required. We have that one. So, we have number 1), number 3), and number 4). Number 5), states you must provide sufficient proof of the National Board Exam showing 75% or better in the Art Section. So, your deficiency still has number 2), and number 5) that have not been completed, which I think, Ms. Clay, that kind of goes to your question, and Mr. Jefferson, your question.

Mr. Pulliam – When you say Arts, in reference to...

Chair Peeples – The National Board Exam, Florida requires the National Board Exam, Arts and Science, if you're requesting to be a funeral director and an embalmer, with a passing grade of 75% or higher. You're requesting a funeral director only, so that would require a National Board exam passage of 75% on the Art Section.

Mr. Pulliam – For Florida?

Chair Peeples – Yes, sir.

Mr. Pulliam – Well, I was, and maybe I'm misconstrued here, because I thought I had to get approved before I could take that test.

Chair Peeples – Well, sir, you're asking for an application to be approved to take the Florida State Laws and Rules test, which is different than the National Board. The National Board is a national test. Appropriate for the States that require it, like Florida does.

Mr. Pulliam – Yes.

Chair Peeples – For instance, when I went to Mortuary College in Atlanta at Gupton Jones, I took the National Board before I graduated. Then I had to serve my internship. Then, I took my state Laws and Rules. So, it's two (2) different tests that you have to have for Florida.

Mr. Pulliam – Ok.

Chair Peeples – So, you have not taken the National Board Arts, correct?

Mr. Pulliam – I have not.

Chair Peeples – And you have not received a degree from an accredited mortuary college or program specific to this industry?

Mr. Pulliam – No.

Chair Peeples – Ok, thank you. Mr. Williams?

Mr. Williams – Yes, Madam Chair.

MOTION: Mr. Williams moved to deny the application based on not meeting the requirements of the State of Florida, as well as the applicant not disclosing his criminal record.

Mr. Pulliam – So, let me ask a question.

Chair Peeples – One second, Mr. Pulliam, give me one second. We have a motion. What is the Board's pleasure regarding the motion?

Mr. Ferreira – Second.

Chair Peeples – We have a motion, and we have a second. So now, Mr. Pulliam this is our discussion phase. Sir, please address the Board.

Mr. Pulliam – There was a gentleman with his hand up, so I didn't know if it was me.

Chair Peeples – I'm giving you the opportunity to speak, sir.

Mr. Pulliam – So my concern would be, is you're saying that I had that they require the national test for me to become a licensed director. Well, I've been a licensed director for almost thirty (30) years, and with all the practical experience, all the abilities that I've done and served as a funeral director for over the last almost thirty (30) years, Florida is saying that now I'm not qualified?

Chair Peeples – No, sir. We're not saying you're not qualified, you're deficient in the items that needed to be presented with your application. As I mentioned, you do not have a degree, an associate degree or higher in funeral service or mortuary science from an accredited college. So, you do not have that. That's a requirement for licensure in the state of Florida, to become a funeral director. And, you have not taken the National Board and scored 75% or higher on the Art Section. So, there's two (2) items still on the deficiency that you have not completed. Those are requirements for the State of Florida. Mr. Pulliam, I see you're thinking. Rabbi Lyons, did you have your hand up, sir?

Rabbi Lyons – Yes, thank you. Ok, so two (2) things: Number one (1) is that I think we should advise Mr. Pulliam that he has the option of withdrawing the application so that it doesn't have a denial that follows him, which would be the choice, obviously. And number two (2) is that, and I'm reading s. 497, 374, which is funeral director by endorsement.

Chair Peeples – Rabbi Lyons, we are not by endorsement, sir. I'm sorry, we are. I'm sorry, I apologize. It is funeral director by endorsement to take the state Laws and Rules. I'm sorry, please proceed.

Rabbi Lyons – So. s. 497, 374(1)(b)1., Holds a valid license in good standing to practice funeral directing in another state of the United States and has engaged in full-time license practicing of funeral directing in the state for at least five (5) years, which is what we believe to be the case. And then it's "or", it's not "and/or". So, it seems like he would be qualified. And if I understand Mr. Williams' motion, the motion is just based on the criminal history, but not speaking to the lack of qualification because he appears to be qualified.

Chair Peeples – Ms. Simon, did you have your hand up?

Ms. Simon – Yes, ma'am. Thank you. I just would like to point out, and I believe it says it on the cover sheet, that there is a requirement for funeral director applicants on 69K-16.002, and that is a requirement, also in law. That is all I had. Thank you.

Chair Peeples – Thank you. Rabbi Lyons, what Ms. Simon is referring to is that you have to take the National Board Exam Art Section, which is you're reading from the statute, and that's from the rule. Ok. So, statutes and rule pertain to what we're going over, so, technically, as we have heard in past cases where scenario comes from another state, we've had arguments made to the Board that these folks had college degrees that were not funeral service degrees, but they were comparable, Mr. Pulliam does not even have a two (2) or four (4) year degree from another college, so that is not even an item we can take into account

today, Mr. Jensen, you had your hand up. And then I'll go back to Mr. Pulliam.

Mr. Jensen – Just to explain a little bit what Rabbi Lyons was talking about under s. 497, 374, F. S. If you go down to number (4) there, it says each applicant for licensure by endorsement must pass an examination of the local, state, and federal laws. It doesn't say “or” it says “and” federal laws relating to the disposition of dead human bodies, which is required under s. 497, 373, F.S., which it references up in s. 497, 373(2), F.S. I just don't see a way around it.

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

Mr. Pulliam – In my intern and apprenticeship, on the practical tests on the state level. I still had to pass with the 75%.

Chair Peeples – Sir, I don't want you to get confused. There are two (2) separate tests needed for the State of Florida. One is a National Board test, and one is a State Laws or Rules test. So, I think you're referring to the state Laws and Rules that you took for the State of Missouri and possibly the State of Texas. Those are pertinent to those two (2) states. So, Florida requires you to have a National Board passage of 75% or higher on the Art Section to be a funeral director, on the Science Section to be an embalmer. Rabbi Lyons?

Rabbi Lyons – And again, just to be clear, Mr. Pulliam, if you were to withdraw this application right now, and you go back and you take the National Exam and you pass it, and you do a new application and you fully declare the criminal history, this conversation would be completely different. I can't speak for anyone other than myself, but just from the conversation to your hearing, do you know this whole conversation would be completely different? If you don't withdraw it and this motion passes, you're going to have a denial on your record, which means you're not going to have the clean pristine record that I'm sure you're very proud of, rightfully so, that you have right now. I'm not your lawyer, but just so you understand.

Mr. Pulliam – Yes.

Rabbi Lyons – But you do have the option to withdraw the application.

Chair Peeples – Mr. Pulliam, and we have a motion. We have a second. I'm fixing to call a vote. What is your pleasure?

Mr. Pulliam – I'm going to withdraw it, and then try to schedule the National Exam.

Chair Peeples – That is your request. We will grant that request, and the motion and the second will not be appropriate since you've withdrawing your application, sir.

Mr. Pulliam – Yes, ma'am.

Chair Peeples – Thank you, sir. Thank you for attending today. We appreciate that.

Mr. Pulliam – Thank you.

Chair Peeples – Ms. Simon?

I. Application(s) for Internship

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

(a) Funeral Director

1. Tapia, Michael A

(b) Funeral Director & Embalmer (Concurrent)

1. Beemer, Jessica S F074440

2. Donahue, Faith E F726796

3. Kotek Nicholas J F726246

4. McDonald, Tori R F041926

5. Tucker, Tommie L F728603

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

- (2) *Request(s) to Renew Internship*
 - (a) *Recommended for Approval without Conditions*
 - 1. *Funeral Director and Embalmer (Concurrent)*
 - a. *Noel, Marie*

Ms. Simon – Is Ms. Noel on the call today, or a representative? Hearing no response. An application for concurrent internship licensure and a petition for waiver of Rule 69K-18.003, F.A.C., were received on October 4, 2023. The applicant previously held a funeral director and embalmer (concurrent) internship license which expired September 6, 2023. The applicant subsequently submitted this instant request to renew her internship license. While the applicant did not complete the one-year internship in its entirety before it expired in September, and did not request to renew the internship timely, she did submit an application for a concurrent intern licensure and a petition for waiver of rule, but the Division was unable to file the administrative notifications in time for the November or December Board meeting. Because of this clerical oversight, as well as the reasons provided in the applicant's petition for waiver, the Division is recommending approval of this request to renew internship. The applicant has met all education requirements for a concurrent intern license and has taken and passed the National Board Exam, Arts section. The Division recommends approval, Madam Chair.

Chair Peeples – Thank you, Ms. Simon. Board members, what is your pleasure?

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

- J. *Application(s) for Monument Establishment Sales Agent*
 - (1) *Informational Item (Licenses Issued without Conditions) – Addendum G*
 - (a) *Jedidiah Smith (Madison)*

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

- K. *Application(s) for Broker of Burial Rights*
 - (1) *Recommended for Approval with Conditions*
 - (a) *222 of Florida, LLC dba Eternal Resting Services (Pembroke Pines)*

Ms. Simon – Is there a representative of this entity present today?

Ms. Katena Broussard – I'm here.

Ms. Simon – Thank you, ma'am. An application for broker of burial rights licensure was received on November 15, 2023. The application was complete when submitted. A background check of the principals revealed no relevant criminal history. The coversheet mistakenly indicates that an inspection would be necessary. However, in this instance, the Division recommends approval without conditions.

Chair Peeples – Thank you, Ms. Simon. Who is this that's representing the applicant today?

Ms. Broussard – I am the applicant. My name is Katena Broussard.

Chair Peeples – Ok, Ms. Broussard, would you like to address the Board, or are you here for questions, in case there is a question? If you would like to address the Board, we need to get you sworn in.

Ms. Broussard – I'm just grateful to be able to provide service.

Chair Peeples – You can't say anything until we swear you in.

Ms. Broussard – No, I would not like to address the Board.

Chair Peeples – Ok. Thank you, ma'am. Board members, the information has been presented to you. What is the Board's pleasure?

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

Chair Peeples – Thank you, ma'am.

Ms. Broussard – Thank you, ma'am.

Chair Peeples – Ms. Simon?

L. Application(s) for Preneed Main
(1) Recommended for Approval without Conditions
(a) Emmanuel Funeral Homes Inc (Miami)

Ms. Simon – Is there a representative of this entity present today? Hearing no response. The Department received the application on November 16, 2023, and deficiencies were noted on the application. All deficiencies were resolved by the applicant as of December 11, 2023. The Applicant obtained its original preneed license as of September 2022, and this application for a new preneed license is being filed due to Applicant's failure to renew its preneed license prior to the June 30, 2023, expiration date. The sole member and owner of the corporation is Fritz Gerald Duvigneaud. A completed background check of the principal was returned to the Division without criminal history. It should be noted that Applicant answered "Yes" to question number (6)(a) under Adverse License History on the application. To wit, in 2018, adverse administrative action was taken against the Applicant due to unlicensed activity in that the Applicant was selling preneed contracts without holding a preneed license. As a result, the Applicant was placed on three (3) years' probation and was required to pay a fine in the amount of \$5,500 (please see Adverse License History Information attachment). All conditions of this action have been satisfied and completed. It should also be noted that the qualifying funeral establishment (License # F040175) located at the address submitted on the application was obtained as of February 2004. If this application for preneed license is approved, Applicant will sell trust-funded preneed through Cooperative Funeral Fund Inc and utilize their approved prearranged funeral agreement forms. Since the time of submitting this application and the coversheet to the Board, a review was taken of the Division of the Corporation's website and Emmanuel Funeral Homes is currently an inactive corporation. Should licensure be granted, the Division recommends that proof of an active corporation must be received by the Division before the application is approved, or before the preneed license is issued.

Chair Peeples – Thank you, Ms. Simon. Board members?

Mr. Jensen – May I?

Chair Peeples – Mr. Jensen?

Mr. Jensen – Ms. Simon, I'm looking at the financial qualification here. And I'm sitting in a total accounts receivable of \$369,000 for a funeral home that is not in operation. Is that correct?

Ms. Simon – Sir, I did not say that it's not in operation, but what I did say is it's not active with the Division of Corporations. And I believe that's a requirement, which is why I suggested that.

Mr. Jensen – So, what is the Department's recommendation now?

Ms. Simon – Madam Chair, may I continue?

Chair Peeples – Yes, ma'am.

Ms. Simon – The Division's recommendation is approval subject to the condition that the entity must present an active corporation assessment by the Division of Corporations before the license is issued.

Chair Peeples – Mr. Jensen, I also had that question, but if you take that number out of the other numbers, they still have the minimum net worth of \$10,000.

Mr. Jensen – Yes, ma'am. I see that now. Thank you.

Chair Peeples – Yes, sir. Are there any other questions? Rabbi Lyons?

Rabbi Lyons – I suppose the nature of this recommendation to approve is sort of what Mr. Griffin had mentioned before that there's a balance between, we're not necessarily trying to punish people, we're trying to get them in compliance. And so, the adverse history with this exact issue of preneed contracts. So, we're giving them the opportunity for a redemption over here. And now they're going to have a preneed license and do it the right way. I assume that's the idea.

Chair Peeples – I think, Rabbi Lyons, they did not renew it in the renewal timeframe that they were supposed to do so. That's why they're submitting a new application. Is that correct, Ms. Simon?

Ms. Simon – Yes, ma'am. They already received a preneed license in 2022, even taking into account the adverse licensing history. The Division's recommendation is to further that decision by the Board.

Chair Peeples – Rabbi does that complete your question?

Rabbi Lyons – Yes.

Chair Peeples – Mr. Williams?

Mr. Williams – Thank you, Madam Chair. So, this question is for Ms. Simon. So, is it with conditions or without conditions?

Ms. Simon – We are recommending that it'd be approved with the condition that the applicants submit documentation from the Division of Corporations that they now have an active corporation, and that be submitted to Division before any preneed license is issued.

Mr. Williams – Ok, I just want to be clear because the front coversheet says without.

Chair Peeples – Mr. Ferreira, I saw your hand up. Do you have a question, sir?

Mr. Ferreira – It was answered. Thank you.

Chair Peeples – Thank you.

MOTION: Mr. Jones moved to approve the application subject to the condition that the entity must present an active corporation assessment by the Division of Corporations before the license is issued. Ms. Liotta seconded the motion, which passed unanimously.

- M. Application(s) for Removal Service**
 - (1) Recommended for Approval with Conditions**
 - (a) ALC Protection Choices, LLC (Pompano Beach)**

Ms. Simon – An application for removal service licensure was received on October 24, 2023. The application was incomplete when submitted. A completed application was received on December 7, 2023. A background check of the principals revealed no relevant criminal history. The Division recommends approval subject to the condition that the removal service passes an inspection conducted by a member of Division staff.

Chair Peeples – Is there a representative of this entity on the call today?

Mr. Nathan LeSane – Yes.

Chair Peeples – Did you want to address the Board, sir? If you did, we would need to swear you in.

Mr. LeSane – No, ma'am.

Chair Peeples – Thank you, sir. Board Members?

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

Chair Peeples – Thank you, sir.

- N. Collective Coversheet(s)**
- (1) Recommended for Approval with Conditions**
 - (a) Family Owned Funeral Group LLC**
 - 1. Change of Ownership**
 - **Funeral Establishment (3)**
 - **Cinerator Facility (1)**

Ms. Simon –Family Owned Funeral Group LLC seeks approval of the attached applications for licensure based upon a change of ownership of three (3) funeral establishments and one (1) cinerator facility. Specifically, the entities being acquired are as follows:

- a) Helm-Gallagher Funeral Home & Cremation Services LLC, a licensed funeral establishment, license #F058021, 1811 Idlewild Avenue, Green Cove Springs, Florida 32043. FDIC: Kelli P. Moreland #F043858
- b) Jones-Gallagher Funeral Home LLC, a licensed funeral establishment, license #F047890, 340 E. Walker Drive, Keystone Heights, Florida 32656. FDIC: Joseph A. Gallagher, #F042902
- c) Jones-Gallagher Funeral Home LLC, a licensed funeral establishment, license #F047902, 620 E. Nona Avenue, Starke, Florida 32091. FDIC: Joseph A. Gallagher, #F042902
- d) Jones-Gallagher Funeral Home LLC, a licensed cinerator facility, license #F323913, 620 E. Nona Avenue, Starke, Florida 32091. FDIC: Joseph A. Gallagher, #F042902

The separate applications are included within your Board package. The change of ownership is the result of an asset purchase. A background screening of the principals of the corporation returned no relevant criminal history. Applicant confirms that if there are currently any unfulfilled preneed contracts sold at these locations, the obligation to fulfill those preneed contracts will be assumed by the new owners. Due to a clerical error by Division staff, the preneed branch licenses related to the aforementioned funeral establishments were approved at the December 2023 Board meeting. If the applications for the funeral establishments are approved, it will resolve any potential issues caused by this error. If the applications for the funeral establishments are denied, the Division will take the appropriate steps to correct the error. The Division recommends approval of the applications referenced above, subject to the following conditions:

- a) The closing on the transaction to acquire ownership shall occur within 60 days of the date of this Board meeting.
- b) The closing on the transaction shall be substantially on terms and conditions as represented to the Board at this Board meeting.
- c) 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 full 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.
- d) That the Director of the Division of Funeral, Cemetery, and Consumer Services may extend any deadline set out in these conditions, by up to ninety (90) days, for good cause shown. The Director shall report any such extensions to the Board as an informational item.

- e) 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.
- f) That the establishment(s) under the application(s) herein pass an onsite inspection by a member of Division staff.
- g) That the applicant (new owner or controlling party) shall assume all existing preneed liabilities, (if any), of the location(s) being acquired; and
- h) That Rule 69K-18.004, Florida Administrative Code, be waived as requested by the licensees, provided there has been no dispute by the public within thirty (30) days of the date the request was published.

Is a representative of Family Owned Funeral Group on the phone?

Mr. Ash Curtis – Yes, I am Ash Curtis. Thank you.

Ms. Simon – May I continue, Madam Chair?

Chair Peebles – Yes, ma'am.

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

Mr. Curtis – Yes.

Ms. Simon – Madam Chair, I have one question for Mr. Curtis.

Chair Peebles – Yes, ma'am.

Ms. Simon – Mr. Curtis, one item that was submitted as part of this package indicates that there is a Main Street location, funeral establishment, Main Street location, and that is on your letterhead. Has that Main Street location ever been licensed as a funeral establishment?

Mr. Curtis – No, ma'am. I'm not sure why it's on there. I didn't realize it was.

Ms. Simon – I would request that that letterhead be changed as an additional condition of licensure, Madam Chair.

Mr. Curtis – Yes, ma'am.

Chair Peebles – Thank you, Mr. Curtis. Thank you, Ms. Simon. Board members, are there any questions to Mr. Curtis or what is your pleasure, please?

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

Chair Peebles – Thank you, Mr. Curtis.

Mr. Curtis – Thank you.

O. Request(s) to Relocate Cemetery Records

(1) Recommended for Approval *without* Conditions

(a) StoneMor Florida Subsidiary LLC d/b/a Fountains Memorial Park (F078097) (Homosassa)

Ms. Simon – Is there a representative of this entity on the call today? Hearing no response. StoneMor requests Board approval to permanently relocate its cemetery records from its former administrative office location at 5635 W Green Acres St, Homosassa, FL to an alternate office location at 5376 South Suncoast Blvd, Homosassa, FL. The records were moved due to flooding of the original building location in June 2022. Furthermore, the cemetery is not planning to complete repair of the damaged location, therefore, StoneMor is seeking approval for the permanent re-location of its records to its alternate

Suncoast office location. The licensee affirms the records will continue to be housed securely in fire-proof containers. Because these records were moved in 2022, and the Division found out able that only this year, this activity constitutes a violation, and it would not be unexpected for this to come before the Board again. The Division recommends approval of this request.

Chair Peeples – Board members?

MOTION: Ms. Liotta moved to approve the request. Mr. Jones seconded the motion.

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

Mr. Jensen – Just for clarification purposes. StoneMor's now Everstory? Is StoneMor applied or are they keeping StoneMor or what's the deal there? I see a letter here for both, Everstory Partners and StoneMor, so I'm just wondering, who are we approving. Does StoneMor exist anymore, or no?

Chair Peeples – Ms. Simon?

Ms. Simon – Mr. Jensen, that is an outstanding issue that is currently being entertained by the Division. But as of now, our information is that it is StoneMor Florida Subsidiary LLC that is applying for this. It is not Everstory.

Mr. Jensen – Ok.

Ms. Simon – And I do not have any other information, except that the Division is currently researching that matter.

Chair Peeples – Board members?

Mr. Jensen – Madam Chair, may I follow up quickly?

Chair Peeples – Yes.

Mr. Jensen – I'm not trying to split hairs here, I just see the letter here from Everstory Partners and, I mean, in some of the trade magazines I see where they have changed their name. So, I was just wondering, are we approving Everstory to move, or we're improving StoneMor to move? Is that correct? You see the letter here, number H 2?

Chair Peeples – Ms. Simon?

Ms. Simon – I do see that as part of the Board package. However, as I indicated earlier, we are recommending approval of StoneMors' request. It is not a request, from our estimation, that is submitted by Everstory. This entity is represented, and as a result, the request is for StoneMor's approval as part of this representation.

Chair Peeples – And Mr. Jensen, we're trying to keep things positive right now so that the records are where they need to be, and we know where the records are. As Ms. Simon mentioned, we don't know what maybe down the road. And we have a motion. We have a second. Any other discussion on the motion? Hearing none, all in favor of the motion, say yes.

Board members – Yes.

Chair Peeples – All opposed, say no. Motion carries. Ms. Simon?

P. 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.

Ms. Schwantes – May I, Madam Chair?

Chair Peebles – Yes, ma’am.

Ms. Schwantes – Good afternoon, Board members, and welcome to the New Year. Legislative Session officially begins next week, on January 9th. I’ll give you a quick report on some of the bills we’ve already talked about before. The Animal Cremation bills, which are HB301 and SB22 are identical bills filed in prior years. They are both still before the first of their three (3) committee reviews. No dates have been set for the first committee review.

HB751, Disqualification from Licensing, Permitting or Certification Based on Criminal Conviction, and its companion bill, SB1012, which is the Employment of Ex-offenders. Last month, I reported on these two (2) bills, specifically on the House bill. A similar bill has now been filed in the Senate, SB1012. While neither bill specifically refers to Chapter 497, we will in the Department, and we recommend all industry members to closely monitor these bills as they could at some point impact our licensing processes, if they’re passed, and/or applied to our licensees. The status of HB751 is that it is before the first of its committees with no date set for review. The Senate bill has not yet been assigned to any committees, but I’m sure that’s forthcoming.

We have a few bills that directly involve Chapter 497. Some of these are fairly minor. I’ve already reported on them. There are two (2) bills involving Suits Against the Government or Sovereign Immunity. This is HB569 and SB472. These involve statutory limits for court claims that are filed against the state, its agencies, and subdivisions. Any changes to our statutes would only be to correct references that are found in our statutes to those statutory limitation provisions. Both bills are still before the first of their three (3) committees with no date set for review.

SB74, titled Florida Statutes, is the cleanup bill, which deletes provisions that have expired, corrects references, corrects grammar, etcetera. There’s only one (1) statute that’s impacted, and it’s 497.260(1)(i), by this potential proposal. The bill has passed its review before the Rules Committee and is now on the Senate floor for its second reading. It is expected to pass. And all it will do if passed is correct the reference that has to do with the definition of a state university.

SB504, involving the Sale of the Deceased Human Bodies Biometric Data. We talked about this last month as well. The bill essentially prohibits the sale of biometric data without first obtaining the permission of the legally authorized person. It also adds a definition of biometric data to our definition statute. At this time, there’s still no similar House bill. If passed, we currently anticipate that about five (5) rules will need to be changed to reflect the statutory changes. And as we mentioned last month, we would expect some changes to the statutory proposal before that time. The bill is still before the first of its committees with no date set for review. Again, with session starting next week, I expect that there will be a lot more activity on these bills before our next report.

I want to tell you about the Department Agency Bill. HB989 and SB298 are the Department of Financial Services’ Agency Bill for 2024. There are a few provisions that would impact Chapter 497. The first two (2) proposed changes were recommended by our counsel and would impact the manner in which service of process is made. Section 497.153 involves disciplinary procedures and penalties. The change to that provision is in sub paragraph (4)(a), to provide that if service by certified mail cannot be made at the last address provided by the licensee to the Department., service may be made by email, delivery receipt required, and sent to the most recent email address on file with the Department. A similar change is proposed to Section 497.155(1)(e). These changes will make it both easier and more cost effective in serving legal papers to the licensees. The Department is also proposing changes to Section 497.101, regarding the Board. The major change will be to make the CFO responsible for appointing Board members instead of the Governor. This change will also eliminate the need for Senate Confirmation of Board members. The proposal also changes the requirements for one (1) of the Board members to eliminate the requirement that the Board member own or operate a licensed cinerator facility. It provides that a member may not serve for more than eight (8) consecutive years. And it sets out and clarifies the specific ethical requirements that Board members must follow. The status on these bills is: the House Bill was just filed on December 21st. The Senate Bill was filed on December 27, and they have not yet been assigned for committee review, but as per normal, they will go through three (3) committees for review before the end of the session.

Our next Board meeting will take place in person, in Tallahassee on Thursday, February 1st. Details regarding the location, et cetera, of the meeting, are found on our website. We look forward to seeing everybody again. This ends this portion of the Executive Director’s Report, and I wish you all a happy beginning of 2024. Thank you.

Mr. Jones – Ms. Schwantes, what was the section on the selection of the Board by the CFO?

Ms. Schwantes – Section 497.101, is the statute pertaining to the Board members.

Mr. Jones – Thank you.

Ms. Schwantes – Thank you, sir. Any other questions? 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: January 4, 2024
 Date report was prepared: December 20, 2023

Licensee	Board Meeting	Case No.	Total Fine	Date Due	Paid in Full?	Comments
Lisa Michelle Norwood	11/2/2023	277447-21-FC & 278059-21-FC	3,500	12/28/2023		
Samuel's Funeral Home	12-Oct-23	305186-23-FC	\$1,500	12/11/2023	Paid in Full	
Guerry Funeral Home	12-Oct-23	306763-23-FC	\$1,500	12/11/2023	Paid in Full	
Brittnee Milton	12-Oct-23	306765-23-fc	\$1,500	12/11/2023	Paid in Full	
Guerry Funeral Home	Reese	304779-23-FC & 308191-23-FC	\$5,000	12/11/2023	Paid in Full	
Saundra Brown	12-Oct-23	307399-23-FC	\$1,250	12/17/2023	Paid in Full	
J Brown Funeral & Cremation Services	12-Oct-23	307398-23-FC	\$1,750	12/17/2023	Paid in Full	
William Lee Guerry	12-Oct-23	304782-23-FC & 308192-23-FC	\$5,000	12/11/2023	Paid in Full	
Justin Lee	12-Oct-23	279222-21-FC	\$1,500			
Geronimo Mena	12-Oct-23	306755-23-FC	\$1,500	12/11/2023	Paid in Full	
Michael Shorter	3-Aug-23	292655-23-FC	\$500	11-Sep-23	Paid in Full	
Ruben Rojas	13-Jul-23	292034-22-FC	\$6,000	11-Sep-23		Referred to the OGC for administrative action
Holmes Funeral Directors	13-Jul-23	276841-22-FC	\$250	11-Sep-23	Paid in Full	
Mary Lou Boyd	13-Jul-23	292035-22-FC	\$500	11-Sep-23		Referred to the OGC for administrative action
Nelson's Elite Care	13-Jul-23	301514-22-FC	\$500	11-Sep-23		Referred to the OGC for administrative action
Brian James Bonar	6/29/2023	293064-22-FC	\$11,000	4-Sep-23		

ES 12-20-2023

Q. Chair's Report (Verbal)

Ms. Simon – Madam Chair?

Chair Peebles – Thank you, Ms. Simon. When we started the meeting, I welcomed everybody to 2024. We're on day 4 of 2024. I hope it's starting off well for everybody. One of the things I'd like to do this year is I'd like to take someone at the Board Office or connected from the Office of the General Counsel, and I'd like to take somebody on the Board and highlight or spotlight them. Today from the Board Office is going to be Ms. Schwantes. I appreciate all she does. I know each of you do, also. She does a lot, and we very much appreciate her for being at the helm as the captain. And then I'd like to spotlight our Board

member, Andrew Clark. Thank you for being Vice Chair of the Board and Chair of the Rules Committee. It's a lot of responsibility, and I know that you're there, in case I am not able to participate, as you did last year when I had no voice. So, thank you. I appreciate that. But all the Board members, thank you for your service. Thank you for your due diligence. Thank you for doing the reading and the reviewing, because it shows in our meetings. And the team at the Board office, thank you for everything you do. It makes our position a lot lighter, as well as the Office of General Counsel. We appreciate them. And then we're going to bring up the rear, with Ms. Munson. Thank you for all you do. We appreciate you very much. Thank you. Ms. Simon?

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

Ms. Simon – Ms. Munson?

Ms. Munson – This is provided for informational purposes. You can see the status of the rules as they are presented. Thank you.

Ms. Simon – Thank you, ma'am.

**BOARD OF FUNERAL, CEMETERY, AND CONSUMER SERVICES RULES REPORT
 JANUARY 2024**

Rule Number	Rule Title	Date Rule Language Approved by Board	Date Sent to OFARR	Rule Development Published	Notice Published	Adopted	Effective
69K-18.004	Intern Training Agencies	09/20/2023	09/28/2023	10/09/2023	10/25/2023	12/01/2023	12/21/2023
69K- 8.006	Description of Merchandise on Preneed Contracts	10/12/2023	11/16/2023	11/28/2023	12/13/2023		

S. Public Comments (Verbal)

Ms. Simon – Are there any public comments to be made during today's meeting? Hearing no response. Madam Chair?

Chair Peeples – Thank you.

T. Administrative Report as November 30, 2023

The information was provided on the agenda.

U. Disciplinary Report

The information was provided on the agenda.

V. Upcoming Meeting(s)

- (1) February 1st (In-Person - Department of Revenue CCOC, Tallahassee)
- (2) March 7th (Videoconference)
- (3) April 4th (Videoconference)
- (4) May 2nd (Videoconference)
- (5) June (In-Person - TBD)
- (6) June 27th (Videoconference)

W. Adjournment

Chair Peeples – I appreciate everybody's participation. We hope Mr. Brandenburg is getting to feel better soon, and we missed him today. Thank you all for attending. Have a good day.

Ms. Simon – Thank you, Board Members.

The meeting was adjourned at 1:14.