

SOUTH CAROLINA DEPARTMENT OF LABOR, LICENSING
AND REGULATION BEFORE THE FUNERAL SERVICE BOARD
MEETING MINUTES

10:00 A.M., NOVEMBER 17, 2011
SYNERGY BUSINESS PARK, KINGSTREE BUILDING
COLUMBIA, SOUTH CAROLINA

BOARD MEMBERS PRESENT:

Michelle Cooper, President

Glen Crawford, Vice President

Billy Horton

John Petty, III

C. Brad Evans

Eddie Nelson

Jeff Temples

Margery McWhorter

LLR BOARD STAFF:

Doris Cubitt, Administrator

Wendi Elrod, Program Assistant

Amy Holleman, Administrative Specialist

Jeanie Rose, Administrative Specialist

Lil Ann Gray, Division of Legal Services

Sharon Wolfe, Office of Investigations

Jamie Saxon, Advice Counsel

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1 10:10 a.m.

2 MADAM CHAIRPERSON: I'm calling
3 this meeting to order at this time. Public notice
4 of this meeting was properly posted at the South
5 Carolina Board of Funeral Service, Synergy
6 Business Park, Kingstree Building, and provided to
7 all requesting persons, organizations and news
8 media in compliance with Section 30-4-80 of the
9 South Carolina Freedom of Information Act. And it
10 appears that a quorum is present.

11 If we could please stand and
12 Mr. Temples will lead us in the pledge of
13 allegiance.

14 (Pledge of Allegiance)

15 MADAM CHAIRPERSON: Mr. Evans, if
16 you would lead us in prayer, please.

17 (Prayer)

18 MADAM CHAIRPERSON: At this time,
19 we're going to have the introduction of Board
20 members and staff and all those attending the
21 meeting. If we could start to my right,
22 Mr. Petty?

23 MR. PETTY: John Petty, Landrum.

24 MS. MCWHORTER: Margie McWhorter,
25 Columbia.

1 MR. NELSON: Eddie Nelson,
2 Blythewood.

3 MR. SAXON: I'm Jamie Saxon. I'm
4 advice counsel.

5 MADAM CHAIRPERSON: Shelly Cooper,
6 Moncks Corner.

7 MR. CRAWFORD: Glen Crawford,
8 Lancaster.

9 MR. HORTON: Billy Horton,
10 Kingstree.

11 MR. TEMPLES: Chuck Temples,
12 Columbia.

13 MR. EVANS: Brad Evans, Abbeville.

14 MS. ELROD: Wendi Elrod, LLR.

15 MS. HOLLEMAN: Amy Holleman, LLR.

16 MS. ROSE: Jeannie Rose, LLR.

17 MS. GRAY: Lil Ann Gray, Office of
18 General Counsel.

19 MS. WOLFE: Sharon Wolfe, Office of
20 Investigations.

21 MR. SALEEBY: Ed Saleeby, Saleeby &
22 Cox Law Firm, Hartsville.

23 MR. DAVIS: Samuel Davis, Young &
24 Young Funeral Home, Hartsville.

25 MR. DAVIS: Wendell Davis, Young &

1 Young Funeral Home, Hartsville.

2 MR. HARDEE: Todd Hardee,
3 Darlington County Coroner, Darlington, South
4 Carolina.

5 MR. SCOTT: Christopher Scott,
6 Saleeby & Cox Law Firm, Hartsville.

7 MR. FOWLER: Scott Fowler,
8 Spartanburg.

9 MR. O'DELL: Eric O'Dell,
10 Columbia.

11 MR. CANNON: James Cannon, Fountain
12 Inn.

13 MR. CANNON: Al Cannon,
14 Greenville.

15 MS. CANNON: Carol Cannon Hopkins,
16 Fountain Inn.

17 MR. BYRD: Andy Byrd, Greenville.

18 MR. VISOTSKI: Ray Visotski,
19 Aiken.

20 MR. BROWN: Wayne Brown, Woodruff.

21 MR. BENNETT: Chris Bennett from
22 Woodruff.

23 MR. SIMMONS: Elizabeth Simmons,
24 Orangeburg.

25 MS. CLARK: Alicia Clark, Consumer

1 Affairs.

2 MS. PYATT: Lou Ann Pyatt, SCMA,

3 Columbia.

4 MR. CRAWFORD: Eric Crawford,

5 Lancaster.

6 MR. RIVERS: Mitch Rivers, Aiken.

7 MR. HUNTER: Wallace Hunter, Goose

8 Creek.

9 MR. SCOTT: Ray Scott, Andrews,

10 South Carolina.

11 MR. RAY: Matt Ray, North

12 Charleston.

13 MS. CUBITT: Doris Cubitt, Staff.

14 MADAM CHAIRPERSON: Is that
 15 everybody? Okay. I have an approval of excused
 16 absences. Mr. Beasley could not be here today.
 17 He has a service and will not be able to attend.
 18 Mr. Baker will not be able to be here today. He
 19 has kidney stones that developed this morning.

20 Do I have a motion to excuse the

21 --

22 MR. HORTON: So moved.

23 MADAM CHAIRPERSON: Second?

24 MR. TEMPLE: Second.

25 MADAM CHAIRPERSON: All those in

1 favor?

2 (Response)

3 MADAM CHAIRPERSON: Okay. We have
4 the approval of minutes from the September 15th
5 meeting. Does anybody have any questions about
6 those or any changes that need to be made?

7 MR. EVANS: Madam Chairman, I make
8 a motion we accept those minutes.

9 MR. TEMPLE: I second the motion.

10 MADAM CHAIRPERSON: All those in
11 favor?

12 (Response)

13 MADAM CHAIRPERSON: Opposed?

14 (No response)

15 MADAM CHAIRPERSON: All right. It
16 looks like it's been accepted. President's
17 remarks, I don't have any at this time. Do we
18 have any old business that needs to be attended
19 to? Ms. Cubitt?

20 MS. CUBITT: Yes, ma'am?

21 MADAM CHAIRPERSON: Any old
22 business that we need to attend to at this time?

23 MS. CUBITT: No, ma'am.

24 MADAM CHAIRPERSON: Okay. How
25 about new business?

1 MS. CUBITT: Well, the new business
2 is all the things below that.

3 MADAM CHAIRPERSON: Okay. All
4 right. Do you have an information update for us
5 concerning financial statements in your
6 administrative remarks?

7 MS. CUBITT: In my administrator's
8 remarks. We haven't gotten the updated one yet.
9 I had thought that it would be in so I had it in
10 the agenda for that. But we will have it at the
11 next meeting.

12 I do want to mention to y'all that
13 the conference which is the group that does the
14 sound for y'all is having a conference, and it's
15 going to be February the 29th to March the 1st and
16 I wanted y'all to be aware of it in case anybody
17 wanted to go. And it's in Little Rock, Arkansas.

18 MADAM CHAIRPERSON: Okay.

19 MS. CUBITT: And that's all I had.

20 MADAM CHAIRPERSON: That's all
21 you've got.

22 MR. EVANS: Madam Chairman, may I
23 ask a question? The financials seem to be an
24 ongoing issue. Have we seemed to be getting that
25 resolved?

1 MS. CUBITT: We are. They're
2 coming out. And I have given y'all some
3 financials, but just I don't have them today.

4 MR. EVANS: Okay.

5 MS. CUBITT: But you will get them.
6 I can email them out if you want me to as soon as
7 I get them.

8 MR. EVANS: That would be great.
9 If you would do that.

10 MS. CUBITT: I'll be glad to.

11 MR. NELSON: And, Ms. Cubitt?

12 MS. CUBITT: Yes, sir?

13 MR. NELSON: On the ones that we
14 have in our packet, this just gives us a broad
15 detailed scope of the financials?

16 MS. CUBITT: Yes, sir.

17 MR. NELSON: Will you be able to
18 give us the line items?

19 MS. CUBITT: I can. That's
20 something that I have to take something big and,
21 you know, bring it down to line items for y'all,
22 but I'll be glad to do that.

23 MR. NELSON: Well, you don't have
24 to do it for everyone here. But for me, I would
25 like it. Because I do have things I've been

1 asking for and they've been asked for when I was
2 president and we never received it.

3 MS. CUBITT: Okay. Yeah. We do
4 have June, July, August and September for the
5 summaries in there.

6 MR. NELSON: Right. It's usually
7 summaries.

8 MS. CUBITT: Yeah. And I don't
9 have October's yet, and I can do the year-to-date
10 summary by line item, I sure can.

11 MR. NELSON: I appreciate it.

12 MADAM CHAIRPERSON: Anybody else?
13 Do we have a report from the Investigative Review
14 Committee at this time?

15 MS. WOLFE: We do. On this report,
16 the first item is the cases that we've received in
17 this calendar year. And we have a total of 44
18 actions, we've closed 34 from January till now,
19 and our active cases does involve some from the
20 previous year so the number is a little different,
21 and we have 31 active cases.

22 MADAM CHAIRPERSON: Is the 31
23 included in the 44?

24 MS. WOLFE: No -- well, part of it
25 is because of the ones that were prior to January

1 2011. Because there are a few.

2 MADAM CHAIRPERSON: So some are and
3 some aren't?

4 MS. WOLFE: Yeah. Exactly. Yeah.
5 We don't close out everything December 31st
6 because we get cases in late in the year a lot of
7 times. So that's why I included that one because
8 it'll give you a little bit different number.

9 MADAM CHAIRPERSON: Does anybody
10 have any questions?

11 MR. NELSON: Yes, I have a
12 question. How many persons do we have in your
13 area that's doing investigations?

14 MS. WOLFE: I have one full time
15 and one part time.

16 MR. NELSON: You have a part-time
17 person?

18 MS. WOLFE: He does some funeral
19 and cemetery and I have one that does funeral.

20 MR. NELSON: And how many have we
21 done this year?

22 MS. WOLFE: Well, we've received
23 44. We've closed 34.

24 MR. NELSON: And that would put one
25 person or would it be one-and-a-half persons?

1 MS. WOLFE: One-and-a-half.

2 MR. NELSON: Thank you, ma'am.

3 MR. EVANS: Madam Chairman, I'd
4 like to ask her a question. On the cases, do you
5 find that different cases take different amounts
6 of time or --

7 MS. WOLFE: Right. Some of them
8 have a lot more investigation and digging that you
9 have to get involved in. Some look like simple,
10 what we call simple contractual issues where
11 something wasn't executed properly. Some of those
12 don't take as long. Sometimes we just have
13 trouble reaching the parties involved in the case.
14 So they will vary.

15 MR. EVANS: My understanding prior
16 to your office changing a little bit, that some
17 cases were put to the side where other cases were
18 put forward. Are we attacking each case in a
19 timely manner now?

20 MS. WOLFE: We're working on the
21 oldest cases first to get those cleared out so
22 that we have a more current case log. So that's
23 what we are focusing on.

24 MR. EVANS: I got you. Thank you.

25 MADAM CHAIRPERSON: Any more

1 questions? Yes, sir?

2 MR. HORTON: How often does the IRC
3 Committee meet?

4 MS. WOLFE: We meet as needed. For
5 sure biquarterly, but it depends on how many cases
6 we have turned in. We don't have a set schedule
7 like some of my other Boards do.

8 MR. HORTON: Thank you.

9 MADAM CHAIRPERSON: So y'all only
10 meet every quarter?

11 MS. WOLFE: Or as needed. If we
12 have six, seven, eight cases turned in, then we'll
13 set up an IRC.

14 MADAM CHAIRPERSON: So if you have
15 cases that are ready to be presented to the Board
16 or decided upon whether it should come before the
17 Board, y'all go ahead and call a meeting. You
18 don't wait for three months?

19 MS. WOLFE: No. We try to make
20 sure we do it prior to the Board meeting so that
21 you guys see them and approve or disprove.

22 MADAM CHAIRPERSON: Yeah. I'm just
23 asking, we're not just weeding every three months
24 when we could be moving more through.

25 MS. WOLFE: No.

1 MADAM CHAIRPERSON: Okay. Anybody
2 else?

3 MS. CUBITT: Madam Chairperson, I'd
4 like to say that I have met the full-time person
5 that's doing the investigations now and I was very
6 impressed and she appears to be really on top of
7 things and doing a good job.

8 MADAM CHAIRPERSON: I've spoken
9 with her also and she seems to really be on the
10 top of things.

11 Ms. Wolfe, do we have an OIE report
12 at this time or --

13 MS. WOLFE: Well, I just gave you
14 what our cases were.

15 MADAM CHAIRPERSON: Right.

16 MR. EVANS: Ms. Wolfe, may I ask,
17 who is the new investigator?

18 MS. WOLFE: Sharon Cook. I saw
19 her. She stuck her head in a second ago, but
20 she's not there at the moment. She has worked for
21 a number of years in investigations and now she's
22 focusing on the funeral.

23 MR. EVANS: I got you.

24 MS. SAXON: I can say I've worked
25 her since I came to the agency and she is top

1 drawer.

2 MADAM CHAIRPERSON: Good.

3 MS. WOLFE: Yeah. She is very
4 thorough, professional. I think you'll be very
5 pleased.

6 MR. HORTON: Who is your part-time
7 person?

8 MS. WOLFE: The part-time person
9 that also does the cemetery is Bobby Taylor.

10 MADAM CHAIRPERSON: Okay. So
11 Ms. Cook is only doing the Funeral Board?

12 MS. WOLFE: No. She will do some
13 real estate cases also, but she's primarily
14 focused on this.

15 MADAM CHAIRPERSON: Does she have
16 help with the Real Estate Board?

17 MS. WOLFE: Yes. We have three
18 other investigators on Real Estate, but we get
19 six, 700 real estate cases a year.

20 MR. EVANS: And this is Ms. Cook
21 here?

22 MS. COOK: Hi. I'm Sharon Cook.

23 MADAM CHAIRPERSON: Good morning.

24 MS. WOLFE: Our newest Funeral
25 investigator.

1 MS. COOK: And whatever else she
2 decides to throw at me.

3 MADAM CHAIRPERSON: Okay. Do we
4 have an inspection report?

5 MS. WOLFE: I don't see any
6 inspectors.

7 MR. EVANS: Mr. Adams or
8 Mr. Puhl?

9 MS. CUBITT: I'm sorry. We don't
10 have that.

11 MADAM CHAIRPERSON: Okay.

12 MS. CUBITT: We'll get it.

13 MADAM CHAIRPERSON: Are they not
14 going to be present at our meetings any longer?

15 MS. CUBITT: No, ma'am.

16 MR. EVANS: Will that be a line
17 item that will need to be deleted or will we get
18 a --

19 MS. CUBITT: Yeah. We will get a
20 report. We just --

21 MR. EVANS: Will it be a printed
22 report?

23 MS. CUBITT: A printed report.

24 MR. EVANS: And that's just absent
25 from our packet today?

1 MR. CUBITT: It's just absent
2 today.

3 MR. EVANS: Will that be emailed to
4 us?

5 MS. CUBITT: We can.

6 MR. CRAWFORD: So the investigators
7 will not be meeting with us anymore on our regular
8 meetings?

9 MADAM CHAIRPERSON: Inspections.

10 MS. CUBITT: Yes, sir. If you
11 request that they be here for a particular reason,
12 we can have them here.

13 MADAM CHAIRPERSON: Well, a lot of
14 times, we have questions for them and we've kind
15 of found it helpful to have somebody representing
16 them --

17 MS. CUBITT: So you would prefer
18 that an inspector be here for the meeting?

19 MADAM CHAIRPERSON: Yes, ma'am.
20 One or the other.

21 MS. CUBITT: All right.

22 MR. TEMPLES: They are the eyes and
23 the ears for our community.

24 MADAM CHAIRPERSON: Exactly. Any
25 other questions?

1 (No response)

2 MADAM CHAIRPERSON: We have a
3 report from the Division of Legal Services.

4 MS. GRAY: Good morning. Lil Ann
5 Gray with the Office of General Counsel. The case
6 load statistics as of today, November 17th, the
7 Office of General Counsel has two open cases, one
8 of which has an MOA that will be presented today,
9 the second of which is pending a hearing which
10 will be presented today.

11 At the last meeting, we had one
12 case on appeal to the ALC, and I'm happy to report
13 that the ALC has dismissed that appeal. So we
14 have no further cases. That case was closed.

15 MADAM CHAIRPERSON: Thank you. I
16 know we're supposed to start with the hearings at
17 this time, but we have a situation which we have
18 someone who has to get back for a large funeral,
19 Mr. Evans who is a member of the Board. And as
20 we've done for other people who have got problems
21 with scheduling, we are going to go ahead and hear
22 his case at this time for his application for a
23 new facility. If somebody would swear Mr. Evans
24 in, please.

25 Whereupon:

1 C. Brad Evans, having been duly
2 sworn and cautioned to speak the truth, the
3 whole truth and nothing but the truth,
4 testified as follows:

5 MR. EVANS: Madam Chairman, I'm
6 just here to plead to the Board respectfully that
7 I receive a pending approval for my application
8 for a crematory.

9 MR. NELSON: Madam Chair, do we all
10 need to recuse ourselves from this --

11 MADAM CHAIRPERSON: Yes. I was
12 going to ask, is there anybody here you'd like
13 to --

14 MR. EVANS: Is there any questions
15 of application?

16 MADAM CHAIRPERSON: Yeah, I've got
17 a question.

18 MR. EVANS: Sure.

19 MADAM CHAIRPERSON: What is the
20 name of your business? Because in one place it's
21 Harris Funeral Home and Cremation Service, then
22 it's Harris Funeral Home --

23 MR. EVANS: Well, it's Harris
24 Funeral Home --

25 MADAM CHAIRPERSON: -- Evans

1 Crematory -- what do you currently go by?

2 MR. EVANS: We're Harris Funeral
3 Home and Cremation Services. I apologize for
4 that.

5 MADAM CHAIRPERSON: I'm sorry.

6 MR. TEMPLES: Mr. Evans, will Evans
7 Crematory be under a LLC or --

8 MR. EVANS: It'll be under the
9 umbrella of the Harris Funeral Home and Cremation
10 Services.

11 MR. CRAWFORD: They'll all be
12 located on the same --

13 MR. EVANS: The same property.

14 MR. CRAWFORD: -- properties?

15 MR. EVANS: Yes, sir.

16 MADAM CHAIRPERSON: But operating
17 as separate businesses?

18 MR. EVANS: Yes.

19 MADAM CHAIRPERSON: And you've got
20 your zoning certification and you have your
21 environmental quality control --

22 MR. NELSON: Have you gone through
23 the training, Mr. Evans?

24 MR. EVANS: I'll be going through
25 training the week after Thanksgiving.

1 MR. HORTON: Mr. Evans, I need to
2 ask you this. We have your SLED catch right here
3 and it says it's only valid as of August 12th,
4 2011.

5 MR. EVANS: All right.

6 MR. HORTON: Have you had any
7 misdemeanors, felonies or anything applied to your
8 record since then?

9 MR. EVANS: Not to my knowledge.

10 MR. HORTON: Okay.

11 MR. TEMPLES: Do we need to call
12 your wife?

13 MR. EVANS: You probably do.

14 MR. TEMPLES: Madam President, I
15 make a motion that we accept this application.

16 MS. ROSE: Just as a formality, I
17 really need to read that he --

18 MADAM CHAIRPERSON: Oh, okay.

19 MS. ROSE: Just so that we have it
20 on record.

21 MADAM CHAIRPERSON: Okay. He
22 started talking first.

23 MR. EVANS: I'm sorry. Go ahead.

24 MS. ROSE: Okay. This is Mr. Evans
25 from Evans Crematory. It's going to be a new

1 crematory. The proposed manager is Charlie Brad
2 Evans. He was first licensed 10/16/1998. He's a
3 funeral director and embalmer and his license is
4 current.

5 He does not have a criminal
6 background. He lives 3.7 miles from the facility.
7 And he is the owner of the facility and he's here
8 to request approval pending inspection and his
9 training documents.

10 MADAM CHAIRPERSON: Have you
11 already put in inventory --

12 MR. EVANS: I have.

13 MADAM CHAIRPERSON: So you're just
14 waiting on approval pending final inspection?

15 MR. EVANS: Yes, ma'am.

16 MADAM CHAIRPERSON: Do I have a
17 motion?

18 MR. TEMPLES: Madam President, I
19 make a motion that we approve this application
20 pending final inspection from our inspectors.

21 MR. CRAWFORD: I would second it.

22 MADAM CHAIRPERSON: All those in
23 favor?

24 (Response)

25 MADAM CHAIRPERSON: Opposed?

1 (No response)

2 MADAM CHAIRPERSON:

3 Congratulations, Mr. Evans.

4 MR. EVANS: Thank you, Madam
5 President.

6 MR. SAXON: We're going to take
7 things again a little bit out of order. The Board
8 has a meeting with the Executive Director at
9 eleven o'clock. I'm not sure we could complete a
10 disciplinary hearing within the time allotted us,
11 so we're going to go ahead with application
12 hearings which tend not to take quite as long.
13 And that's the Board's decision, not mine. I'm
14 just explaining it.

15 MADAM CHAIRPERSON: So let's
16 continue with Carolina Memorial Park Crematory,
17 Mr. Frank M. Way, III.

18 MR. WAY: Good morning, Madam
19 President and members of the Board.

20 MADAM CHAIRPERSON: Let me ask you
21 this first. Do you wish for any of us to recuse
22 ourselves?

23 MR. WAY: No, ma'am.

24 MR. TEMPLE: Madam President, I
25 will make you aware that Mr. Way and I worked for

1 the same corporation. If I need to recuse myself,
2 I will do so.

3 MR. SAXON: I think that might be
4 the better part of valor to just do that.

5 MADAM CHAIRPERSON: Anybody else?
6 Okay. If you could swear Mr. Way in, please.

7 Whereupon:

8 Frank M. Way, III, having been duly
9 sworn and cautioned to speak the truth, the
10 whole truth and nothing but the truth,
11 testified as follows:

12 MADAM CHAIRPERSON: Ms. Rose?

13 MS. ROSE: Okay. The new proposed
14 crematory is Carolina Memorial Park Crematory.
15 Mr. Frank M. Way, III is the manager. He was
16 first licensed 9/26/1989. He's a funeral director
17 and embalmer and his license is current.

18 He does not have a criminal
19 background. He lives 22.5 miles from the
20 facility. And the owner of the facility is
21 Mr. Frank M. Way, and he's here to ask today for
22 approval pending inspection.

23 MADAM CHAIRPERSON: Mr. Way?

24 MR. WAY: I stand here before you
25 now to ask for approval for this new facility.

1 The facility has not been built yet. The machine
 2 is actually being built as we speak. Renovations
 3 to the funeral home will start probably the first
 4 of January. We have a delivery date of February
 5 the 10th for the unit.

6 MADAM CHAIRPERSON: So you plan on
 7 having the building at that time point in time?

8 MR. WAY: Yes, ma'am.

9 MADAM CHAIRPERSON: Pending final
 10 inspection?

11 MR. WAY: Pending final inspection
 12 and approval.

13 MADAM CHAIRPERSON: Does the Board
 14 have any questions?

15 MR. HORTON: Mr. Way -- good
 16 morning, by the way.

17 MR. WAY: Good morning.

18 MR. HORTON: Is this going to be a
 19 part of Carolina Memorial Funeral Home?

20 MR. WAY: When we filled out the
 21 application process, we had to fill it out as a
 22 new facility. But it will be inside the funeral
 23 home, the main building.

24 MADAM CHAIRPERSON: It's like a
 25 branch?

1 MR. WAY: Correct.

2 MR. HORTON: Now, you're going to
3 be the owner of the facility, correct?

4 MR. WAY: Yes, sir. As far as the
5 Articles of Incorporation, that would make me the
6 owner, even though I am owned by Stewart
7 Enterprises.

8 MR. HORTON: Okay. But it's going
9 to be part of Carolina Memorial Funeral Home?

10 MR. WAY: Yes, sir.

11 MR. HORTON: But then who owns
12 Carolina Memorial Funeral Home?

13 MR. WAY: Stewart Enterprises.

14 MR. HORTON: Then why wouldn't
15 Stewart Enterprises own --

16 MR. WAY: They own the crematory.

17 MR. HORTON: -- the crematory,
18 also?

19 MR. WAY: I misunderstood. Then
20 they'll own the cremation service as well.

21 MADAM CHAIRPERSON: Okay. So they
22 own both, you're just going to be the manager of
23 both?

24 MR. WAY: Yes, ma'am.

25 MR. EVANS: And when you signed as

1 owner of the facility, you're the manager of
2 Carolina --

3 MR. WAY: Correct. If I need to
4 amend it, I will.

5 MR. NELSON: We need to have that
6 corrected, Madam Chair, for the record because it
7 does reflect owner.

8 MR. PETTY: Are you the manager?

9 MR. WAY: Yes, sir.

10 MR. PETTY: Okay.

11 MADAM CHAIRPERSON: And all of the
12 zoning and everything appears to be okay?

13 MR. WAY: Yes, ma'am.

14 MR. HORTON: All right. Mr. Way, I
15 need to ask you this also. I see your SLED check.
16 It was done on August 19th of 2011. Have you had
17 any arrests or anything since that time?

18 MR. WAY: No, sir.

19 MR. HORTON: Okay.

20 MADAM CHAIRPERSON: Now, in
21 clarifying this owner of the facility, Jamie and I
22 were just talking about whether this needed to be,
23 the application needed to be revised or are you an
24 officer of Stewart Enterprises?

25 MR. WAY: I'm General Manager,

1 Director of Operations, not an officer.

2 MADAM CHAIRPERSON: Okay. We were
3 just wondering if you need to clarify that so
4 that, you know, who should actually sign for
5 Stewart Enterprises as the owner, or any
6 corporation like that.

7 MR. EVANS: Madam Chairman, if I
8 may, I'd like to make a motion that we accept his
9 application, pending that a document from Stewart
10 Enterprises is sent in stating the fact that Matt
11 Way has the ability to sign this application, and
12 pending final inspection.

13 MADAM CHAIRPERSON: All those in
14 favor?

15 (Response)

16 MADAM CHAIRPERSON: Opposed?

17 (No response)

18 MADAM CHAIRPERSON:
19 Congratulations.

20 MR. SAXON: If I may ask the Board,
21 did you make the motion?

22 MR. EVANS: I did.

23 MR. SAXON: Okay. Are you allowing
24 that documentation just to go to your staff? He
25 doesn't have to come back before us --

1 MR. EVANS: No, he doesn't. I
2 think that's more of a clerical thing.

3 MADAM CHAIRPERSON: Yeah. He just
4 needs to --

5 MR. SAXON: I just wanted to make
6 sure of as a matter of record.

7 MR. EVANS: In previous cases,
8 we've had a document from the corporation stating
9 that the manager could sign as the --

10 MADAM CHAIRPERSON: Exactly. And
11 conduct business. Matt, it's just a simple thing.
12 If you'll just send it in to Ms. Cubitt, it's just
13 a matter of Stewart Enterprises stating that you
14 have the ability to make the decision.

15 MR. WAY: Okay. Thank you all very
16 much.

17 MADAM CHAIRPERSON:
18 Congratulations.

19 MS. ROSE: One other thing. Once
20 you get it all open and everything, usually once
21 you get trained, we like for you to send us a
22 training document on whoever is trained to operate
23 it.

24 MR. WAY: Sure.

25 MS. ROSE: Usually within 30 days.

1 MR. WAY: Thank you, ma'am.

2 MADAM CHAIRPERSON: Thank you,
3 Matt. The next matter is Heritage Funeral
4 Services, James E. Cannon, Sr.

5 MR. HORTON: Madam President, for
6 the record, I just want the record to reflect that
7 I am a good friend of Mr. James Cannon and I will
8 recuse myself if he doesn't want me to be on this
9 Board.

10 MR. CANNON: I think you can stay
11 on it. That's fine.

12 MADAM CHAIRPERSON: Mr. Temples?

13 MR. TEMPLES: They used to be
14 affiliated with Stewart Corporation and then I do
15 consider myself a good friend to Mrs. Cannon as
16 well.

17 MR. CANNON: And we have no
18 objection to Jeff staying as well.

19 MR. PETTY: And, I, likewise know
20 Mr. Cannon.

21 MADAM CHAIRPERSON: And if we could
22 have Mr. Cannon and anybody that's here to testify
23 before the Board be sworn in please.

24 Whereupon:

25 Carol Cannon Hopkins, Al Cannon and

1 James Cannon, Sr., all having been duly sworn
2 and cautioned to speak the truth, the whole
3 truth and nothing but the truth, testified as
4 follows:

5 MS. CUBITT: And the court reporter
6 needs your name.

7 MS. HOPKINS: Carol Cannon
8 Hopkins.

9 MR. CANNON: Al Cannon.

10 MR. CANNON: James Cannon, Sr.

11 MADAM CHAIRPERSON: Ms. Rose?

12 MS. ROSE: The name of the facility
13 is Heritage Funeral Services. The manager is
14 James A. Cannon, Sr. He was first licensed on
15 January 1st, 1990. He's a funeral director and
16 embalmer and his license is current.

17 He does not have a criminal
18 background. He lives 10.4 miles from the
19 facility. And the owner of the facility is James
20 **A. Cannon, Jr., and Mr. Cannon is here to ask for**
21 **approval to be the manager. And the only thing**
22 **that I needed from them was a tax ID and proof of**
23 **residency, but you've sent --**

24 MR. CANNON: I've got the proof of
25 residence. And, actually, the owner will not be

1 James A. Cannon, Jr. It's Senior and also Andy
2 Byrd.

3 MADAM CHAIRPERSON: Are you
4 speaking of, he would be the owner?

5 MR. CANNON: Yes. It'll be Dad,
6 and it's actually through Dad's trust, his trust,
7 and Mr. Andy Byrd who is right here.

8 MR. SAXON: So instead of being
9 owned by you, it's owned by Mr. Cannon, Sr. --

10 MR. CANNON: Right. The confusion
11 there was, I'm the trustee of the trust, his
12 trust.

13 MR. SAXON: Okay. What was the
14 name of the other person?

15 MR. CANNON: Andy Byrd.

16 MR. SAXON: Is it Andy or Andrew?

17 MR. CANNON: Well, it's actually
18 Andrew.

19 MR. BYRD: Normally, it's Andrew.

20 MR. SAXON: B-y-r-d?

21 MR. BYRD: B-y-r-d, yes, sir.

22 MADAM CHAIRPERSON: Mr. Byrd, you
23 need to come forward and be sworn in also,
24 please.

25 Whereupon:

1 Andrew Byrd, having been duly sworn
2 and cautioned to speak the truth, the whole
3 truth and nothing but the truth, testified as
4 follows:

5 MADAM CHAIRPERSON: Ms. Rose, have
6 you got anything else?

7 MS. ROSE: No, ma'am.

8 MR. SAXON: Have you received the
9 tax identification and proof of residency?

10 MS. ROSE: This is the Secretary of
11 State information and the Articles of
12 Incorporation. Did we get that proof of
13 residency?

14 MR. BYRD: You should have.

15 MR. EVANS: We have that in here.

16 MR. BYRD: Yeah. I sent in the
17 license and printed it off the --

18 MR. CANNON: He's been in Fountain
19 Inn for quite a while, so --

20 MS. ROSE: The last three pages in
21 your packet, that's what he sent in.

22 MR. CANNON: The trust formally
23 pays the taxes, so I don't know if that --

24 MR. EVANS: Madam Chairman, I'd
25 like to ask a question.

1 MADAM CHAIRPERSON: Just one
2 minute, Brad.

3 MR. EVANS: Okay.

4 MADAM CHAIRPERSON: Did you say
5 that you submitted the tax ID number also?

6 MR. CANNON: No. We did the
7 Article -- we did a LLC and that's what I've just
8 given Jeanie here. There's no tax ID.

9 MR. BYRD: I don't think there's a
10 tax ID number yet for the LLC. That would need to
11 be acquired.

12 MS. CUBITT: Madam Chairman, they
13 do apply for that and he could furnish that as
14 soon as he gets it.

15 MADAM CHAIRPERSON: Okay. So y'all
16 haven't filed that with the Secretary of State
17 yet?

18 MR. CANNON: Yeah.

19 MR. BYRD: Not a tax ID number.

20 MR. SAXON: But you can get that.

21 MR. BYRD: Yes, sir.

22 MR. NELSON: Just for clarification
23 purposes for me, and maybe I'm a little slow this
24 morning, I want to make sure that Senior is the
25 manager, the day-to-day operations?

1 MR. CANNON: And my sister as well.

2 MR. NELSON: As well as the
3 embalmer. You're going to be doing all the work.

4 MR. CANNON: That's for sure.

5 MR. NELSON: And you're going to be
6 doing what, sir?

7 MR. CANNON: I'm just facilitating,
8 most of all, because I'm the trustee of the
9 trust.

10 MADAM CHAIRPERSON: Mr. Evans, did
11 you have a question?

12 MR. EVANS: I just wanted a
13 clarification of who was manager. I'd heard a
14 couple of names, so --

15 MR. SAXON: Well, we've heard the
16 owners are Mr. Cannon, Sr. and Mr. Byrd. The
17 managers is Mr. Cannon, Sr. asking to be the
18 manager; is that correct?

19 MR. CANNON: Yes.

20 MR. PETTY: Now, Al, are you
21 licensed?

22 MR. CANNON: I was, but not
23 anymore. I haven't updated my --

24 MR. PETTY: How about Mr. Byrd?
25 Are you licensed?

1 MR. BYRD: No, sir. I will apply
2 for an apprenticeship whenever the appropriate
3 time is to do that.

4 MR. HORTON: I've got one question
5 to ask you, Mr. Cannon, Sr. I see your SLED
6 check. Since October 17th, you haven't been
7 arrested for anything, have you?

8 MR. CANNON: Not that I remember.
9 I can answer questions when I hear them, but I'll
10 tell you right off the bat that my granddaughter,
11 two granddaughters and my son moved in with me two
12 years ago and then moved out last week, and her
13 dog got ahold of my \$6,000 hearing aid and I
14 haven't replaced it yet.

15 MADAM CHAIRPERSON: Is there a
16 Cannon Funeral Home in existence right now?

17 MR. CANNON: Yes.

18 MADAM CHAIRPERSON: And who is the
19 manager of that?

20 MR. CANNON: Stewart Enterprises or
21 the -- I'm not sure who the manager is now.

22 MADAM CHAIRPERSON: So, Mr. Cannon,
23 you've been working for Stewart Enterprises prior
24 to this and you're no longer going to be working
25 for them?

1 MR. CANNON: He was terminated two
2 months ago, three months ago, when we told
3 Stewart. We talked to Stewart and told them we
4 were going to open up a facility. So, obviously
5 --

6 MADAM CHAIRPERSON: So Cannon
7 Funeral Home was previously owned by y'all and
8 then it was sold, and now you're opening
9 Heritage?

10 MR. CANNON: Correct.

11 MR. EVANS: Madam Chairman, I make
12 a motion that we accept this application pending
13 final inspection.

14 MADAM CHAIRPERSON: Do I have a
15 second?

16 MR. TEMPLES: Second.

17 MADAM CHAIRPERSON: All those in
18 favor?

19 (Response)

20 MADAM CHAIRPERSON: Opposed?

21 (No response)

22 MADAM CHAIRPERSON:
23 Congratulations.

24 MR. CANNON: Thank you, very much.

25 MADAM CHAIRPERSON: What the Board

1 is going to do at this point, if everybody agrees,
2 we don't feel like we have enough time to address
3 anything else prior to our meeting with
4 Ms. Templeton, so we are going to take a break and
5 go to this meeting and, hopefully, we'll be ready
6 to resume the meeting by 11:30.

7 Do I have a motion to recess?

8 MR. TEMPLES: So moved.

9 MR. EVANS: Second.

10 MADAM CHAIRPERSON: All those in
11 favor?

12 (Response)

13 (Momentarily off the record)

14 MR. EVANS: Madam Chairman, I make
15 a motion we come back into session.

16 MADAM CHAIRPERSON: Do I have a
17 second?

18 MR. TEMPLES: Second.

19 MADAM CHAIRPERSON: All those in
20 favor?

21 (Response)

22 MADAM CHAIRPERSON: Mr. Eric
23 O'Dell. My understanding is, he needs to also get
24 back to work, so he has asked that we would hear
25 his request at this time.

1 MR. TEMPLES: Madam Chairman, I'm
2 going to recuse myself on this matter. I've known
3 Mr. O'Dell my entire life, working career and --
4 sorry, I have to --

5 MR. O'DELL: Yes, sir.

6 MADAM CHAIRPERSON: Would you swear
7 him in, please.

8 Whereupon:

9 Eric R. O'Dell, having been duly
10 sworn and cautioned to speak the truth, the
11 whole truth and nothing but the truth,
12 testified as follows:

13 MADAM CHAIRPERSON: Ms. Rose?

14 MS. ROSE: Okay. Mr. O'Dell, Eric
15 Raymond O'Dell, he is here to -- he's going to be
16 applying for an apprentice funeral director and an
17 embalmer license. And he's had a criminal
18 background and he's had a pardon, and he's here to
19 ask your approval of the pardon so he can get a
20 permit to be licensed as a funeral director and
21 embalmer.

22 MADAM CHAIRPERSON: Mr. O'Dell,
23 would you like to address the Board?

24 MR. O'DELL: Yes. I've been
25 working in and around funeral homes for the

1 majority of my life. And I made a mistake some
2 years ago and I've corrected myself and become a
3 better person after that and hope that you will
4 give me the opportunity to continue to grow.

5 I've been -- I have applied and
6 been accepted to Piedmont Tech and will be
7 starting in January with the approval of the Board
8 today.

9 MADAM CHAIRPERSON: You said
10 Piedmont Tech, but this says American Academy.

11 MR. HORTON: He applied to American
12 Academy.

13 MR. O'DELL: I applied to American
14 Academy but have since decided to go to Piedmont
15 Tech. In fact, I just sent my paperwork in this
16 morning for financial aid and such.

17 MADAM CHAIRPERSON: You'll just
18 have to give us a second. We just got this in
19 front of us.

20 MR. O'DELL: Yes, ma'am.

21 MR. NELSON: Mr. O'Dell, in your
22 information it does state that you have completed
23 restitution and everything.

24 MR. O'DELL: Absolutely. And I did
25 that in half the time that I was given to do it.

1 MR. HORTON: Mr. O'Dell, since your
2 last, or since your pardon or any time since these
3 charges were filed against you, have you had any
4 arrests or anything on your record?

5 MR. O'DELL: Not even a speeding
6 ticket.

7 MR. NELSON: And you're presently
8 employed where?

9 MR. O'DELL: At Shives. I want to
10 get out of the office.

11 MR. EVANS: Mr. O'Dell, on 13 of
12 your application, it states that you have read and
13 understood the South Carolina Funeral Service laws
14 and rules and regulations of the Board.

15 MR. O'DELL: Yes, sir.

16 MR. EVANS: And you have done
17 that?

18 MR. O'DELL: Yes, sir.

19 MR. CRAWFORD: I make a motion that
20 we accept his application and grant him the
21 apprenticeship.

22 MADAM CHAIRPERSON: All those in
23 favor?

24 (Response)

25 MADAM CHAIRPERSON: Opposed?

1 (No response)

2 MADAM CHAIRPERSON:

3 Congratulations.

4 MR. O'DELL: Thank you for your
5 time and thanks for reconvening, folks.

6 MADAM CHAIRPERSON: Okay. Do I
7 have a motion that we recess at this time?

8 MR. NELSON: So moved.

9 MADAM CHAIRPERSON: All those in
10 favor?

11 (Response)

12 (Recess from 11:00 a.m. to 12:00 p.m.)

13 MADAM CHAIRPERSON: I'd like to
14 have a motion to bring the meeting back to order.

15 MR. PETTY: So moved.

16 MR. HORTON: Second.

17 MADAM CHAIRPERSON: All those in
18 favor?

19 (Response)

20 MADAM CHAIRPERSON: Mr. Evans is no
21 longer with us. He had to leave, as we stated
22 earlier, for a service that he has to conduct
23 today. We are now going to go back to the agenda
24 and address it in order. The next item is case
25 number 2010-24.

1 At this time, I will be recusing
2 myself from this meeting. I operate a funeral
3 home in the same county as one of Mr. Smith's and
4 have a business relationship with him. And,
5 therefore, I will be recusing myself at this time,
6 but Mr. Crawford will be taking over.

7 MR. SAXON: And as we get started,
8 may I ask the rest of the Board members several
9 questions. Do any of you know the parties in more
10 than a cursory manner? Do any of you have any
11 independent knowledge of this case that you have
12 not learned from the materials provided to you
13 today? Or have you discussed, and/or have you
14 discussed this case with anybody, including other
15 Board members? If you have, please let me know.

16 (No response)

17 MR. SAXON: Since nobody is letting
18 me know, I assume there are no more issues of
19 recusal. Would that be correct? Okay. Thank
20 y'all.

21 MR. CRAWFORD: This is a hearing in
22 the matter of Palmetto Cremation Center, being
23 held in Columbia, South Carolina on November 17th,
24 2011. My name is Glen Crawford and I am the
25 Chairperson. The other members of the Board

1 hearing this case are:

2 MR. TEMPLES: Jeff Temples from
3 Columbia.

4 MR. HORTON: Billy Horton.

5 MR. NELSON: Eddie Nelson,
6 Blythewood.

7 MS. MCWHORTER: Margie McWhorter,
8 Columbia.

9 MR. PETTY: John Petty.

10 MR. CRAWFORD: The attorney
11 advising the Board is James Saxon, advice counsel.

12 The respondent is represented by --

13 MR. SAXON: Are you representing
14 yourself, Mr. Smith?

15 MR. SMITH: I am.

16 MR. SAXON: Okay.

17 MS. GRAY: And I spoke with
18 Mr. Corley a few moments ago and he has
19 acknowledged that he will not be attending today
20 and Mr. Smith will be appearing by himself.

21 MR. SAXON: Okay. Mr. Smith, you
22 are aware that you could be represented by counsel
23 if you wanted to be; is that correct?

24 MR. SMITH: Thank you, Mr. Saxon,
25 yes.

1 MR. CRAWFORD: The State is
2 represented by Lil Ann Gray, Assistant Agency
3 Counsel.

4 This hearing is being conducted as
5 informal and is compatible with an equitable
6 presentation of both sides for the case and in
7 compliance with the provisions of the
8 Administrative Procedures Act, the Practice Act
9 and the regulations of the Board.

10 It is my understanding the parties
11 wish to present a Memorandum of Agreement; is that
12 correct?

13 MS. GRAY: Yes, sir, it is.

14 MR. SAXON: Ms. Gray, you can go
15 ahead and present that if you would.

16 MS. GRAY: Thank you. And for the
17 record, during the negotiation of the Memorandum
18 of Agreement and Stipulations, Mr. Smith and
19 Palmetto Cremation Society was represented by
20 counsel and their attorney's signature does appear
21 on the signature page of the Memorandum of
22 Agreement.

23 The matter today is being presented
24 to the Board pursuant to that Memorandum of
25 Agreement and Stipulations that has been signed by

1 Mr. Smith and his attorney, dated November 10th,
2 2011.

3 A formal complaint has been filed
4 and served, alleging that the respondents have
5 violated certain State laws relating to the
6 Board's Practice Act, the Safe Cremation Act and
7 the regulations of the Board as more specifically
8 set forth in the Memorandum of Agreement.

9 The respondents have admitted to
10 the allegations more specifically set forth in the
11 formal complaint, which is attached to the
12 Memorandum of Agreement as Exhibit 1, and they
13 have advised that they wish to waive the formal
14 hearing procedures and dispose of this matter in
15 accordance with the Administrative Procedure Act,
16 specifically Section 1-22-320(F).

17 The respondents have stipulated and
18 admitted to the following facts to be considered
19 by this Board in determining an appropriate
20 sanction in connection with the disciplinary
21 action that is now pending.

22 At all times relevant to this
23 matter, Palmetto Cremation Society was licensed by
24 this Board as a funeral establishment located at
25 11 Cunnington Avenue, Charleston, South Carolina,

1 and Marvin Matthew Smith was licensed by the Board
2 as both a funeral director and embalmer and was
3 the manager for this funeral establishment. The
4 Board has jurisdiction over the respondents and
5 the subject matter contained herein pursuant to
6 Sections 40-19-115.

7 On August 4th, 2010 and August 5th,
8 2010, South Carolina Department of Labor,
9 Licensing and Regulation Inspector Lee conducted a
10 physical inspection of the respondent's crematory.
11 On August 4th, 2010, Inspector Lee observed two
12 retorts, each containing the remains of an
13 individual. The cremation sheet for each unit
14 indicated a start date of August 4th, 2010 and
15 listed the crematory operator for both of the
16 individuals as initialed EOD.

17 The machines were very warm to the
18 touch and appeared to be in a cooling-down mode.
19 The initials EOD are the initials of E.O. Duffy,
20 the certified crematory operator for this physical
21 location. At the time of the August 4th, 2010
22 inspection, Mr. Duffy was not present at the
23 physical location. The respondent's employees
24 variously described Mr. Duffy's whereabouts to
25 Inspector Lee as unavailable and in between

1 offices.

2 Respondent's crematory records
3 indicate there were five cremations conducted
4 during the dates of August 2nd through the 5th,
5 2010, all bearing the initials EOD as the
6 certified crematory operator. Mr. Smith and
7 Mr. Duffy were attending the Cremation Association
8 of America convention in Hawaii from July 30th,
9 2010 until Mr. Duffy's return to work on August
10 10th, 2010.

11 In Mr. Duffy's absence, Greg Rice,
12 a certified crematory operator, was left in charge
13 of the crematory operations, but was not the
14 operator designated to perform the cremations.
15 Mr. Duffy's initials were used for the cremations
16 by the operators in training under Mr. Duffy's
17 supervision prior to July 30th, 2010.

18 The respondents submit that they
19 have engaged in conduct that violates the
20 provisions of the South Carolina State Board of
21 Funeral Service Practice Act, the provisions of
22 the Safe Cremation Act, and the regulations of
23 this Board and the following particulars:

24 The respondents failed to have the
25 crematory operated by a certified crematory

1 operator on August 4th, 2010 in violation of
2 regulation 57-14.2(H). Respondents failed to
3 maintain accurate permanent records in violation
4 of Section 32-8-330 and regulation 57-14.1.

5 Respondents have violated a
6 provision of Title 40, Chapter 1, Article 1, or a
7 regulation promulgated thereunder in violation of
8 Section 40-1-110(K). And respondents, by and
9 through their employees, made misrepresentations
10 while engaging in the practice of a funeral
11 service in violation of 40-19-110.1.

12 At this point, I'll sit down and
13 let Mr. Smith have the floor. Thank you.

14 MR. SAXON: If you'll turn your
15 attention to the court reporter, please.

16 Whereupon:

17 Marvin Smith, having been duly
18 sworn and cautioned to speak the truth, the
19 whole truth and nothing but the truth,
20 testified as follows.

21 MR. SAXON: Go ahead.

22 MR. SMITH: Thank you.

23 MR. SAXON: Is there anything you'd
24 like to bring to the Board's attention?

25 MR. SMITH: Please. Several

1 things. Thank you for the opportunity to speak.

2 Mr. Chairman and Board members and
3 all in attendance, I would like to say that the
4 incident surrounding this hearing on November 17th
5 happened in August of 2010 as was mentioned
6 earlier. And by September, Mark Smith, Greg Rice
7 and E.O. Duffy had all sent in letters explaining
8 the situation involving the cremations. In
9 essence, we were trying to be fully cooperating
10 with the Board.

11 The allegations that they did not
12 have a certified crematory operator on site while
13 the crematory was in operation, the question is,
14 what is operation? It's my understanding from the
15 stipulations and the Memorandum of Understanding
16 that they were in the cooling-down state.

17 Mr. Smith was not in town during
18 the incident. He and Mr. Duffy had made
19 arrangements for another certified crematory
20 operator to cover while they were in training and
21 attending a conference for CANA in Hawaii. Greg
22 Rice was that certified cremation -- crematory
23 operator. There were three additional certified
24 crematory operators on staff and around during the
25 stated timeline through our various locations.

1 Based upon research and previous
2 sanctions levied by this and previous Boards, I
3 respectfully and humbly ask the Board to consider
4 a private reprimand be ordered and a letter of
5 caution. I would like to also ask that based
6 on -- that there be quarterly rather than annual
7 inspections conducted by the LLR and those
8 quarterly inspections of compliance of the law
9 moving forward be at the expense of Palmetto
10 Cremation Society.

11 I would like to bring to the
12 attention of the Board that I have been a licensed
13 funeral director in the state of South Carolina
14 for eleven years, and seven years prior to that in
15 the state of Massachusetts, 19 years total, with
16 no previous incidents or violations on record.

17 I'm also, for the record, the Past
18 President of the Cremation Association of North
19 America, the co-owner and operator of
20 McAlister-Smith Funeral Homes, which we feel has
21 been a well-respected business, founding back in
22 1886.

23 For the record, I further add that
24 I am fully aware that as manager on file for the
25 said location that I co-own and am operator of, I

1 am fully responsible and aware of any and all
2 actions directly or indirectly that happened at
3 that location as long as I'm listed as the manager
4 of that location. And I guess I would add to that
5 that I, along with each of you that own and
6 operate your own small family-owned business, am
7 well aware of the fact that we are only as strong
8 as owners and operators as our weakest link within
9 our organizations.

10 I fully complied with every step of
11 the process that the Board has asked through this
12 process. This is our first violation of such and
13 it's clear that no one disputes that the incident
14 occurred and was not a direct result of Marvin
15 Smith, but an indirect result and, therefore,
16 humbly ask the Board to keep that in consideration
17 as you decide if and what sanctions should be
18 levied upon this situation.

19 Lastly, I'd want the records to
20 show that the apprentice crematory operator
21 directly at fault was immediately certified at the
22 first available certification program available
23 after his 90-day probationary period tenure ended
24 with McAlister-Smith Funeral Home and Palmetto
25 Cremation Society. And, secondly, that same now

1 certified crematory operator is still employed by
2 our company and is a role model crematory operator
3 and I'm honored to have him on my team.

4 The facts of matter are, we had a
5 crematory operator apprentice who was newly
6 employed with us, just completing the 90-day
7 period, probationary period of employment. He was
8 trained to always document all of our internal
9 files with these certified crematory operator's
10 initials, that of E.O. Duffy, while he was in the
11 crematory operator apprentice program until he
12 could get licensed.

13 So that practice he continued,
14 unfortunately, and was a mistake that he made when
15 E.O. Duffy was not on premise and Greg Rice was
16 the assigned certified crematory operator to cover
17 compliance and while the machines were running.
18 And, further, I would remind and point out to the
19 Board that in the statements that were read
20 earlier, the crematories were warm to the touch.
21 They were not -- we are not talking about
22 crematories that were actively running. We are
23 talking about crematories that were off, that were
24 not running, they were in the cooling-down stage.

25 So I just would ask the Board to

1 pay specific attention to the facts, understand
2 that this is not a result of direct negligence by
3 myself. And as the manager, I am fully aware that
4 I am responsible for all of my staff's actions and
5 responsibilities that they take place whether I'm
6 on premise or not.

7 I've tried everything within in
8 power to make sure that we were fully compliant
9 with the law in my absence and, unfortunately, a
10 member of my team fell short of that. We've taken
11 internal measures of that and I invite you to ask
12 me any questions if you'd like. And I did not
13 feel the need to be represented by an attorney at
14 this meeting.

15 MR. CRAWFORD: Okay. Thank you,
16 very much. Jeff?

17 MR. TEMPLES: Is there anything as
18 such as a crematory apprentice program by the
19 state or any agency, Mr. Smith?

20 MR. SMITH: Jeff, due to our
21 practice, that you're well aware of, in the
22 funeral service, we have a licensed funeral
23 director apprentice program. We use that same
24 terminology when referring to new hires in their
25 90-day probationary period while they're waiting

1 to be certified crematory operators. So it's the
2 internal use of the same terminology that we've
3 used in our industry for many years.

4 MR. TEMPLES: So you use the same
5 practice --

6 MR. SMITH: Correct.

7 MR. CRAWFORD: Billy?

8 MR. HORTON: Mr. Smith, I'm not
9 going to, you know, pick hairs with you, okay?
10 But I need to know, Mr. Greg Rice was the
11 crematory operator that was in charge while you
12 were gone. Was he on premises at the time this
13 inspection took place?

14 MR. SMITH: Mr. Horton, as stated
15 in his exhibit that was in writing there, he was
16 not on premises when Mr. Robert Lee came to
17 inspect the sites, and the machines were not in on
18 position either.

19 MR. HORTON: And, again, I'm not
20 going to pick hairs with you, but would it be fair
21 to say that the act of cremation includes, but is
22 not limited to the actual cremation itself, the
23 cool-down and the processing? Would you say that
24 was a fair statement, that it would be, the
25 cremation itself would be completed when the

1 remains have been processed and finalized?

2 MR. SMITH: Mr. Horton, with all
3 due respect, I do not agree as the Past President
4 of the Cremation Association of North America that
5 that would be a fair and accurate statement. One
6 could define that accurate information is when the
7 machines are running and there are flames and the
8 human remains are being broken down. Not during
9 that process of the raking out and the process --
10 that would be a matter of interpretation, I do
11 believe, sir, with all due respect.

12 MR. CRAWFORD: John?

13 MR. PETTY: Mr. Smith, what
14 capacity is Mr. Rice? I mean, was he a certified
15 crematory operator or was he an apprentice
16 operator? Had anybody given him the training and
17 given him a certificate that he was a certified
18 crematory operator at the time this happened?

19 MR. SMITH: Mr. Petty, thank you
20 for your question. Mr. Greg Rice is a licensed
21 funeral director and embalmer, and was and is
22 still a licensed crematory operator. So in
23 addition to having him as a licensed crematory
24 operator, there were three additional employees
25 who also were licensed crematory

1 operator/certifiers when this accidents occurred.

2 And I think you're well aware of
3 our firm. We have multiple locations and they're
4 assigned and stationed at Palmetto Cremation
5 Society, that specific location. We own and
6 operate six crematories within three different
7 locations.

8 MR. PETTY: And Mr. Rice, is he the
9 one that put the initials EOD on the certificate?

10 MR. SMITH: No, sir. He was not
11 the one. The non-licensed -- our word that we use
12 -- the crematory operator apprentice is the one
13 who wrote the initials, as he did when Mr. Duffy
14 was present. And as Mr. Rice stated in his letter
15 to the Board as Exhibit 4, he was in and out of
16 the facilities during that time frame, as were
17 other certified crematory operators.

18 MR. PETTY: Thank you.

19 MR. CRAWFORD: Margaret?

20 MS. MCWHORTER: I don't have
21 anything.

22 MR. CRAWFORD: Eddie?

23 MR. NELSON: Mr. Smith, are you a
24 licensed embalmer?

25 MR. SMITH: Yes, sir.

1 MR. NELSON: When did you define
2 the process, or how would you define the beginning
3 and the ending of an embalming process?

4 MR. SMITH: The arterial injection
5 of the deceased's human remains and the suturing
6 of the -- the closing of the suture of that access
7 point to the deceased's remains.

8 It's my understanding from Boards
9 previously that that's been disputed as well, that
10 one could interpret the act of embalming as any
11 time you're touching the deceased person,
12 including removing them from the place of death,
13 and so placing them in a casket of which I do not
14 agree.

15 MR. NELSON: And you being the Past
16 President of the Cremation --

17 MR. SMITH: Association of North
18 America, CANA.

19 MR. NELSON: Okay. And you deemed
20 your process as the cooling down as not part of
21 the process?

22 MR. SMITH: The machines were not
23 running, so the human remains inside of the
24 retorts were cooling down and waiting to be raked
25 out of the machine. So I would include the raking

1 out of cremated remains as part of the cremation
2 process, that's correct.

3 MR. NELSON: You also mentioned in
4 your -- the private reprimanding, not being
5 exposed to -- have a private reprimand or
6 something and it flew by me. But if you could
7 repeat that again?

8 MR. SMITH: Yes, sir, Mr. Nelson.
9 It's my understanding that under 40-1-1.D, the
10 Board has the power to issue a non-disciplinary
11 letter of caution.

12 MR. NELSON: Thank you, sir.

13 MR. CRAWFORD: Any other Board
14 questions?

15 MR. SAXON: Anybody else?

16 (No response)

17 MR. SAXON: Do the parties wish to
18 make closing statements?

19 MR. SMITH: I have nothing further
20 to say.

21 MS. GRAY: In the present case, the
22 respondent have admitted to misconduct.
23 Specifically as stated, there is a requirement
24 that the crematory be operated -- operated -- by a
25 certified crematory operator. The documents

1 attached to the Memorandum of Agreement clearly
2 show that EOD started the cremation. Clearly, as
3 stated and stipulated, EOD, being Mr. Duffy, was
4 in Hawaii at that time. So, certainly, the
5 records presented by Mr. Smith and stipulated to,
6 the violation has been admitted and the misconduct
7 constitutes grounds for disciplinary action.

8 In accordance with and pursuant to
9 Sections 32-8-360, 40-19-110, 40-19-120 and
10 40-1-120, upon a determination by the Board that
11 one or more of the grounds for discipline exists,
12 this Board may refuse to issue or renew, suspend
13 or revoke, issue a public reprimand or restrict
14 the license of a funeral director or embalmer or
15 may place the licensee on probation or other
16 reasonable actions, such as requiring additional
17 education or training and or a limitation on
18 practice of the authorization to practice.

19 Additionally, a person found to
20 have violated the provisions of the Safe Cremation
21 Act found at South Carolina Code Annotated Title
22 32, Chapter 8, is subject to a civil fine not to
23 exceed \$5,000.

24 Based upon the evidence and
25 admissions contained in the Memorandum of

1 Agreement and Stipulations, the State requests
2 that this Board impose an appropriate sanction
3 upon the respondents that will serve to protect
4 the public safety, health and welfare that is
5 consistent with the admitted misconduct of the
6 respondents in this matter. Thank you.

7 MR. CRAWFORD: Would you like to
8 make a motion?

9 MR. NELSON: I make a motion that
10 we go into Executive Session at this time.

11 MR. TEMPLES: Second.

12 MR. CRAWFORD: Okay. It has been
13 moved with a proper second that we go to Executive
14 Session for legal advice. All in favor?

15 (Response)

16 MR. CRAWFORD: Opposed?

17 (No response)

18 (Executive Session from 12:20 p.m. to
19 12:52 p.m.)

20 MR. NELSON: I make a motion that
21 we come out of Executive Session and back into
22 regular session.

23 MR. TEMPLES: Second.

24 MR. CRAWFORD: It has been moved
25 and properly seconded that we come out of

1 Executive Session back into regular session.

2 MR. SAXON: Take a vote.

3 MR. CRAWFORD: Okay. All in
4 favor?

5 (Response)

6 MR. CRAWFORD: Opposed?

7 (No response)

8 MR. CRAWFORD: It's been moved and
9 properly seconded that we come out of Executive
10 Session back into regular session. During the
11 Executive Session, there was no actions or votes
12 taken during that time.

13 Now, I'll entertain a motion now.

14 MS. MCWHORTER: Mr. Chairman, I'd
15 like to make a motion and I'd like to have it read
16 by our advice counsel, please.

17 MR. SAXON: Ms. McWhorter, as I
18 understand it, the motion is to issue the
19 respondent a public reprimand, a fine of \$1500
20 payable within ten days of the date of the final
21 order, and a probationary period of two years. Is
22 that correct?

23 MS. MCWHORTER: Yes.

24 MR. HORTON: I'll second that
25 motion.

1 MR. CRAWFORD: Okay. It has been
2 moved and properly seconded. Mr. Smith, do you
3 understand?

4 MR. SAXON: Take a vote.

5 MR. CRAWFORD: All in favor?

6 (Response)

7 MR. CRAWFORD: Opposed?

8 (No response)

9 MR. CRAWFORD: Mr. Smith?

10 MR. SMITH: I understand.

11 MR. SAXON: And you'll get an order
12 in the mail.

13 MR. CRAWFORD: Thank you, very
14 much.

15 (Recess from 12:55 p.m. to 1:00 p.m.)

16 MR. SAXON: Are there any issues of
17 recusal in this case?

18 (No response)

19 MADAM CHAIRPERSON: Okay. This is
20 a hearing in the matter of Young and Young, being
21 held in Columbia, South Carolina on November 17th,
22 2011.

23 My name is Michelle A. Cooper and I
24 am Chairperson. The other members of the Board
25 hearing this case are Mr. John Petty, Ms. Margery

1 McWhorter, Eddie Nelson, Mr. Glen Crawford,
2 Mr. Billy Horton and Mr. Jeff Temples. The
3 attorney advising the Commission is James Saxon,
4 Advice Counsel and the State is represented by Lil
5 Ann Gray, Assistant General Counsel.

6 This hearing will be conducted as
7 informally as is compatible with an equitable
8 presentation of both sides of the case and in
9 compliance with the provisions of the
10 Administrative Procedures Act, the Practice Act
11 and the regulations of the Commission.

12 The State and the respondent may,
13 if they desire, make opening statements.
14 Thereafter, the State shall present its case. The
15 respondent will then present his or her case.
16 Both parties may make closing statements if they
17 wish. The State has the option of a closing
18 statement and reply.

19 Ms. Gray, you may proceed with your
20 case.

21 MS. GRAY: This matter is before
22 you today as the result of an initial complaint
23 received against the respondent, Young and Young
24 Funeral Home and Samuel L. Davis, on September
25 20th, 2010. The complainant, Barbara Scott, has

1 advised that she is unable to attend today's
2 hearing.

3 The initial complaint and
4 subsequent investigation resulted in a formal
5 complaint being issued against Young and Young
6 Funeral Home and Samuel L. Davis. As set forth in
7 the formal complaint, the respondents are believed
8 to have engaged in unprofessional conduct that
9 violates the provisions of the South Carolina
10 Embalmers and Funeral Directors Act and the
11 provisions of Section 40-1-5.

12 The notice of hearing and formal
13 complaint were mailed to the respondents by
14 regular mail and certified mail, return receipt
15 requested, on June 22nd, 2011. A signed U.S.
16 Postal green card evidencing receipt of the notice
17 of hearing and formal complaint, evidencing
18 receipt on June 24th, 2011 was received by LLR on
19 June 27th, 2011.

20 At this time, the State would move
21 into evidence State's Exhibit 1, previously marked
22 for identification, which includes the notice of
23 hearing, the formal complaint and certificate of
24 service, together with a copy of the signed green
25 card. Any objection?

1 MR. SCOTT: Without objection.

2 MADAM CHAIRPERSON: So moved.

3 MS. GRAY: Thank you. Testimony
4 will be presented, establishing that at all times
5 relevant to the matters alleged in the initial
6 complaint, Young and Young Funeral Home was
7 licensed by this Board as a funeral establishment
8 and Samuel L. Davis was licensed by the Board as a
9 funeral director and was the manager for Young and
10 Young Funeral Home.

11 Section 40-19-115 provides that
12 this Board has both personal and subject matter
13 jurisdiction over the respondents and this case.
14 Testimony will be presented that in late July
15 2010, Ms. Scott contacted the respondents to make
16 funeral arrangements for her mother, Ms. Coe, who
17 had passed away.

18 Testimony will also be presented
19 that the respondents, after meeting with Ms. Scott
20 but before attaining a signed funeral contract,
21 picked up Ms. Coe's remains. It will also be
22 established that Ms. Scott paid the respondents
23 \$5,000 to provide funeral services and cremation
24 for Ms. Coe's remains.

25 The evidence will establish the

1 respondents did not provide Ms. Scott, as the
2 person making the arrangements for Ms. Coe at the
3 time the arrangements were completed and before
4 the time of rendering the service, a written
5 statement signed by a representative of Young and
6 Young Funeral Home and Ms. Scott as required by
7 Section 40-19-290(D).

8 The State alleges that the
9 respondents failed to provide to Ms. Scott, at the
10 time the arrangements were completed and before
11 the time of rendering the service, a signed
12 written statement showing to the extent then known
13 the price of the service selected and what was
14 included in the service, the price of each of the
15 supplemental items of service and merchandise
16 requested, the amount involved for each of the
17 items for which the funeral service firm would
18 advance monies and the method of payment, all in
19 violation of Section 40-19-290(D).

20 Respondents, it is also alleged,
21 have violated a provision of the South Carolina
22 Embalmers and Funeral Directors Act or of a
23 regulation promulgated thereunder or under the
24 provisions of the Board's regulations of
25 Professions and Occupations Act in violation of

1 Section 40-1-110-1K.

2 The State requests that after
3 hearing the testimony and evidence presented, you
4 find that the State has met its burden in this
5 case by proving that the respondents have violated
6 the Board's Practice Act. And upon establishing
7 that the Practice Act has been violated, the State
8 will ask that you impose an appropriate sanction
9 that is consistent with the purpose of these
10 proceedings. That being to weigh the public
11 interest and the need for the continuing services
12 of qualified and competent embalmers and funeral
13 directors against the counter veiling concern that
14 society be protected for professional ineptitude
15 and misconduct and for the preservation of the
16 health, safety and welfare of the public. Thank
17 you.

18 MR. SCOTT: Members of the Board,
19 my name is Christopher Scott. I'm from
20 Hartsville, South Carolina. And counsel here with
21 me is my boss, Edward Saleeby, Jr. Our firm has
22 represented Young and Young Funeral Home since its
23 inception in one form or fashion. Mr. Saleeby
24 here was involved with this case until he had to
25 have reconstructive knee surgery, and so that's

1 where I've been involved on it. His father,
2 Senator Edward Saleeby, has represented Young and
3 Young before that.

4 We appreciate the opportunity to
5 address these allegations. And Mr. Sam Davis is
6 here on behalf of Young and Young to address this
7 matter.

8 Now, what this really comes down to
9 is the old saying, that you can lead a horse to
10 water but you can't make it drink. What you're
11 going to hear today is not testimony from the
12 complainant. You're not going to hear, and I
13 don't believe you have any evidence of the report
14 that was compiled by the investigator.

15 So what you're going to hear today
16 is Mr. Davis explain that he did everything he
17 could. He tried his hardest. In fact, at one
18 point, he was sweating in 100 degree heat,
19 knocking on a door to try to do the best he could
20 to get this agreement signed.

21 As I understand it, it is general
22 common practice to allow families to call you at
23 two in the morning and you pick up a body. It is
24 common practice for that specific contract not be
25 signed until maybe a couple of days later, it

1 varies. Sometimes you do take somebody's word for
2 it and I think the evidence you're going to hear
3 from Mr. Davis is, he took somebody's word that
4 was not met. He put a reasonable effort, at the
5 very minimum, I would argue a reasonable effort,
6 and probably a lot more than that, to comply with
7 the statute. And ask that with your experience as
8 practitioners in this field, to use your fairness
9 and equity and judgment and we just ask that, you
10 know, you treat this appropriately and we'll be
11 presenting Mr. Davis as well as Mr. Todd Hardy,
12 our county coroner, who was involved at the minute
13 Mr. Davis realized there might be an issue. In
14 fact, Mr. Davis called the Probate judge in
15 Chesterfield County, asking for advice.

16 So as soon as he realized that this
17 might become a problem, he reached out to trusted
18 advisors, to members, respected members of the
19 community and people in positions to give good
20 advice. Add so with that, I'll rest. I would
21 like to note our objections to any of the hearsay
22 presented. I'll rest at that point. Thank you.

23 MR. SAXON: I don't think you mean
24 you rest. You just complete your opening
25 statement?

1 MR. SCOTT: Absolutely.

2 MS. GRAY: And for purposes of, we
3 don't have a separate witness stand. My witnesses
4 will be here, their witnesses will be there.

5 MR. SAXON: As long as the court
6 reporter can hear, we're fine.

7 MS. GRAY: And it would be okay
8 with the Board if we go with this tad deviation
9 from formality.

10 At this time, the State would call
11 Sharon Wolfe.

12 Whereupon:

13 Sharon K. Wolfe, having been duly
14 sworn and cautioned to speak the truth, the
15 whole truth and nothing but the truth,
16 testified as follows:

17 DIRECT EXAMINATION

18 BY MS. GRAY:

19 Q. Ms. Wolfe, would you please state your
20 full name for the record?

21 A. Sharon K. Wolfe.

22 Q. And where are you employed?

23 A. With LLR.

24 Q. And in what capacity are you employed
25 with the South Carolina Department of Labor,

1 **Licensing and Regulation?**

2 **A. I'm the chief investigator.**

3 **Q. And as chief investigator, generally**
4 **what are your responsibilities with LLR?**

5 **A. I supervise the employees that are**
6 **investigators for the different Boards that I am**
7 **over. I read the incoming complaints, write them**
8 **up for being opened and assign them to the**
9 **appropriate investigator.**

10 **Q. And based upon your review of the**
11 **records maintained by LLR, did the Department**
12 **receive an initial complaint against Young and**
13 **Young Funeral Home and Samuel L. Davis on**
14 **September 20th, 2010?**

15 **A. Yes, we did.**

16 **(STATE'S EXH. #2, Complaint, was**
17 **marked for identification.)**

18 BY MS. GRAY:

19 **Q. At this point, I'm going to show you --**

20 **MR. SAXON: Ms. Gray, is this in**
21 **our packet?**

22 **MS. GRAY: Yes, it is.**

23 BY MS. GRAY:

24 **Q. State's Exhibit, marked for**
25 **identification as number 2.**

1 MR. SAXON: And as for Mr. Scott?

2 MR. SCOTT: And this is where I had
3 an objection earlier because part of this was part
4 of the opening of the facts. We would object
5 under Rule 803 to any of the hearsay presented to
6 the extent that you would determine it hearsay of
7 the complaint being taken as truth and matter
8 asserted or to -- I guess there's no testimony
9 from the complainant, but we would just ask that
10 the Board not consider any of these this as fact.
11 Just for the specific limited purpose of the
12 admission that there was a complaint made.

13 MS. GRAY: And that is the State's
14 purpose for presenting this document was to show
15 that an initial complaint was in fact filed and
16 received in this matter and it --

17 MR. SAXON: Not necessarily the
18 truth of the matter.

19 MS. GRAY: And the matters
20 contained therein do constitute hearsay and should
21 not be considered by this Board.

22 MR. SAXON: Please note that for
23 the record.

24 MS. GRAY: And with that
25 limitation, the State would move Exhibit number 2

1 into evidence.

2 MR. SAXON: So moved.

3 BY MS. GRAY:

4 Q. Now, Ms. Wolfe, based upon your review
5 of the records maintained by LLR, was this initial
6 complaint assigned to Investigator Tony Kennedy?

7 A. Yes, it was.

8 Q. As chief investigator, were you
9 responsibility for supervising Investigator
10 Kennedy?

11 A. Yes, I was.

12 Q. And based upon your review of the
13 records maintained by LLR, was the initial
14 complaint filed by Barbara Scott?

15 A. Yes, it was.

16 Q. Based upon your review of the records
17 maintained by LLR, did Ms. Scott allege that a
18 funeral service contract was not signed with the
19 respondents and that a general price list was not
20 provided until she demanded to see the price
21 list?

22 A. That was her allegation, yes.

23 MS. GRAY: And, again, it's just
24 asserting the allegation raised in the initial
25 complaint.

1 MR. SALEEBY: And just to be clear
2 on that matter -- and my name is Ed Saleeby, Jr.
3 -- it is got going to the truth as to whether or
4 not --

5 MS. GRAY: Absolutely. It's just
6 going to what was asserted and what was alleged.

7 BY MS. GRAY:

8 **Q. Ms. Wolfe, based upon your review of the**
9 **records maintained by LLR, also did Ms. Scott**
10 **allege that she had paid the respondents \$5,000**
11 **for funeral services for her mother?**

12 **A. Yes. That was her claim.**

13 **Q. Based upon your review of the records**
14 **maintained by LLR, is Young and Young Funeral Home**
15 **currently licensed by the South Carolina State**
16 **Board of Funeral Service as a funeral**
17 **establishment located in Hartsville, South**
18 **Carolina?**

19 **A. Yes, they are.**

20 **Q. Based upon your review of the records**
21 **maintained by LLR, is Samuel L. Davis licensed by**
22 **this Board as a funeral director and manager for**
23 **Young and Young Funeral Home?**

24 **A. Yes, he is.**

25 **Q. Based upon your review of the records**

1 maintained by LLR, were Young and Young Funeral
2 Home and Samuel L. Davis licensed by this Board
3 during the period addressed in the initial
4 complaint?

5 A. Yes, they were.

6 Q. Now, as a general practice, during the
7 course of an investigation, are your investigators
8 required to make regular information entries into
9 the relay information system that is maintained by
10 LLR during the course of an investigation?

11 A. Yes. That is a requirement.

12 Q. Are these entries made by the
13 investigator at or near the time of the actual
14 event?

15 A. Yes, they are.

16 Q. Is it true that the information
17 maintained in the relay system is kept in the
18 regular course of the licensing and regulating
19 function of the LLR?

20 A. Yes, it is.

21 Q. Now, is Investigator Kennedy currently
22 employed by LLR?

23 A. No, he is not.

24 Q. And that is the reason you are
25 testifying today?

1 A. Yes, I am.

2 Q. Based upon your review of the records
3 maintained by LLR, did Investigator Kennedy make
4 an entry into the relay system that on April 29th,
5 2011, he interviewed the complainant, respondent,
6 Wendell Davis and Franklin Hines?

7 A. Yes. He did make that entry.

8 Q. Additionally, in this same relay's
9 entry, did Investigator Kennedy also enter,
10 "Respondent admits there is no signed contract"?

11 A. Yes, he made that entry.

12 Q. Based upon your review of the records
13 maintained by LLR and the investigative file in
14 this matter, did the respondents provide a copy of
15 a signed contract to Investigator Kennedy?

16 A. No.

17 Q. At this time, please answer any
18 questions that the respondents' attorneys may have
19 or the Board may have.

20 CROSS-EXAMINATION

21 BY MR. SCOTT:

22 Q. Ms. Wolfe, how are you doing today?

23 A. I'm fine.

24 Q. Me, too. I think Attorney Gray has made
25 it clear, but your function here is to provide the

1 Board with a reason to understand that his report
2 was done properly, that Investigator Kennedy
3 followed procedures.

4 A. Correct.

5 Q. But we can agree that you don't have
6 specific knowledge of what he was doing, who he
7 talked to, you don't have any specific knowledge
8 of how he put this in the system?

9 A. I don't have firsthand knowledge of him
10 physically talking to them. He is the one that
11 made the entries because it reflects his name.

12 Q. And so do you have any idea why he is
13 not employed here anymore? Do you have knowledge
14 of that?

15 A. I can't discuss that.

16 Q. Is that --

17 A. I believe it's a personnel matter.

18 Q. So you assert the privilege as to why
19 he's not here, employed here anymore?

20 A. He no longer works with LLR.

21 Q. Okay. And, I guess, could you tell the
22 Board or --

23 MR. SCOTT: And I'd ask the Board
24 to maybe inquire into this.

25 BY MR. SCOTT:

1 **Q. -- but does Investigator Kennedy not**
2 **being here have anything to do, to your knowledge,**
3 **of how he conducted investigations in the past?**

4 **A. (Pauses).**

5 **Q. And if you don't know, you don't know.**

6 **A. To my knowledge, no. It has nothing to**
7 **do with this.**

8 MR. SCOTT: Nothing further.

9 MADAM CHAIRPERSON: Does the Board
10 have questions at this time?

11 (No response)

12 MS. GRAY: At this time, the State
13 would call Samuel Davis.

14 Whereupon:

15 Samuel L. Davis, having been duly
16 sworn and cautioned to speak the truth, the
17 whole truth and nothing but the truth,
18 testified as follows:

19 DIRECT EXAMINATION

20 BY MS. GRAY:

21 **Q. Good afternoon, Mr. Davis. Thank you**
22 **for being here. Would you please state your full**
23 **name for the record.**

24 **A. Samuel L. Davis, Hartsville, South**
25 **Carolina.**

1 Q. Mr. Davis, are you the manager and
2 licenses funeral director for Young and Young
3 Funeral Home?

4 A. I am.

5 Q. And in July 2010, did you meet with
6 Barbara Scott to arrange funeral services for her
7 mother, Ms. Rule Coe?

8 A. Yes, ma'am. She came in.

9 (STATE'S EXH. #3, Davis Affidavit, was
10 marked for identification.)

11 BY MS. GRAY:

12 Q. Now, I'm going to show you State's
13 Exhibit number 3 marked for identification and ask
14 you if you're familiar with that and can you
15 identify it?

16 A. Yes, I can.

17 Q. And I believe this is also Respondent's
18 Exhibit number 1, as well.

19 MS. GRAY: At this time, the State
20 would move Exhibit number 3 into evidence.

21 MADAM CHAIRPERSON: So moved.

22 BY MS. GRAY:

23 Q. Now, Mr. Davis, as manager of Young and
24 Young Funeral Home, did you make the arrangements
25 with Barbara Scott for funeral services for her

1 mother?

2 A. I did.

3 Q. And did Ms. Scott sign the necessary
4 papers she needed to sign for Ms. Coe's funeral
5 services?

6 A. No, ma'am, she didn't. May I explain
7 something here?

8 Q. Well --

9 A. Okay. Again, I think I owe this. On
10 her, I'm very sad what had happened. I've been
11 operating for the past 28 years. I'd never had
12 this to come up before. When Investigator Kennedy
13 called me in October, he only said say yes or no.
14 I could not do no explaining, so can I explain
15 myself?

16 Q. Well, you'll certainly have an
17 opportunity to --

18 A. When she came in, the first thing we do
19 in our conference room, we got a blue package with
20 the GPL price list right there that we present to
21 every clientele. Regardless of who was that
22 person, they have the option to take it or leave
23 it.

24 Every item was fully discussed with
25 Ms. Scott. Now, Ms. Scott have a problem that she

1 just can't understand. She refused to sign. She
2 even told me that with my fee, she knows someone
3 that told her it would cost \$2500.

4 Q. And I believe you stated that in your
5 affidavit.

6 A. So I told her she needs to go to her or
7 him, whoever that funeral director is, because I
8 could not do it.

9 Q. And you did say that in your affidavit.

10 A. Now, I discussed everything fully. I
11 did everything within my power to try to get her
12 to sign, which she even refused.

13 Q. Well, let me ask you another question.
14 Were you able to get Ms. Scott to sign a written
15 statement or other necessary papers at the time
16 the arrangements for Ms. Coe were completed and
17 before the time of her rendering the service?

18 A. No, ma'am.

19 Q. Now, did Ms. Scott pay you or the
20 funeral home \$5,000 for Ms. Coe's funeral
21 services?

22 A. She did.

23 Q. Have you ever obtained a signed written
24 statement, the necessary papers or a signed
25 funeral contract from Ms. Scott?

1 A. She refused to sign as well as for the
2 insurance policy.

3 Q. Were you and your funeral home able to
4 complete the cremation of Ms. Coe's remains?

5 A. No, ma'am. She changed over to another
6 firm.

7 Q. So you subsequently transferred
8 Ms. Coe's remains to another funeral home?

9 A. 18 days later.

10 Q. Okay. And, Mr. Davis, I'm going to show
11 you State's Exhibit number 2 and direct your
12 attention to the back of that and ask you, do you
13 recall receiving the letter dated August 5th, 2010
14 from Ms. Scott?

15 A. Yes, ma'am.

16 Q. And I believe this is also --

17 A. And she also faxed that.

18 Q. Okay.

19 A. But if you'll notice, she have no
20 address to send anything. She left and went to
21 Maryland. I don't recall seeing her address down
22 here, but I know where her house is.

23 Q. Okay.

24 A. But she was in Maryland.

25 Q. I'm just asking you --

1 **A. Somewhere in Maryland or New Jersey.**

2 **Q. I'm just asking you very simply if you**
3 **recall receiving the letter.**

4 **A. Yes, I did.**

5 **Q. Okay. And then --**

6 MR. SAXON: I'm sorry to interrupt.

7 Ms. Gray, are you talking about the August 15th,
8 2010 --

9 MS. GRAY: No, sir. August 5th,
10 2010. It would be the first very first one behind
11 the -- it says at the top page one and two.

12 MR. SAXON: There's a letter
13 attached.

14 MS. GRAY: Well, it's a letter,
15 page one of two.

16 MR. SAXON: Okay. We've got it.

17 BY MS. GRAY:

18 **Q. And then, Mr. Davis, do you recall**
19 **receiving the letter that is dated August 11th,**
20 **2010 from Ms. Scott? That would be the next one**
21 **after the August 5th.**

22 **A. Yes.**

23 **Q. And, lastly, do you recall receiving the**
24 **letter dated August 15th, 2010 from Ms. Scott?**

25 **A. I only received one letter. The rest of**

1 **them was, that I can recall, were faxing to me.**

2 **Q. Well, the document, do you recall**
3 **receiving that either by fax or by mail?**

4 **A. Yes.**

5 **Q. Okay.**

6 **(STATE'S EXH. #4, Letter - 8/5/10,**
7 **was marked for identification.)**

8 BY MS. GRAY:

9 **Q. Now, I'm going to show you State's**
10 **Exhibit number 4 which has been marked for**
11 **identification, and ask you if you're familiar**
12 **with that document and can you identify it?**

13 **A. Yes, ma'am.**

14 **Q. And I believe that is an August 5th,**
15 **2010 letter from you --**

16 **A. Yes, ma'am.**

17 **Q. -- to Ms. Scott on Young and Young**
18 **Funeral Home stationery?**

19 **A. Yes.**

20 MS. GRAY: At this time, the State
21 would move Exhibit number 4 into evidence.

22 MR. SCOTT: No objection.

23 MADAM CHAIRPERSON: So moved.

24 BY MS. GRAY:

25 **Q. Now, Mr. Davis, is it correct to say**

1 that this August 5th letter you wrote, you were
2 responding to Ms. Scott's August 5th, 2010
3 letter?

4 A. Yes. The fax that came in.

5 MR. SAXON: I'm sorry, Mr. Davis.
6 I'm having a hard time hearing you.

7 BY MS. GRAY:

8 A. The fax that have come in, I was
9 responding to it.

10 Q. Ms. Scott's facsimile letter? Would
11 that be a better --

12 A. Yes.

13 Q. Okay. August 5th, 2010. Now, in your
14 letter, you've acknowledged receiving a partial
15 payment of \$5,000 from Ms. Scott; is that
16 correct?

17 A. Yes.

18 Q. And also in your letter, did you make a
19 request for an additional payment of \$2,714?

20 A. No, ma'am, I did not.

21 Q. I believe the second paragraph. You
22 might want to look at that again.

23 A. Yes, I did.

24 Q. Okay. Now, also in that letter, you
25 state you included an itemized statement of the

1 fees that Ms. Scott had incurred as of August 5th,
2 2010; is that correct?

3 A. Yes, ma'am.

4 Q. And would you also read for the record
5 the second to the last paragraph that starts with,
6 having provided you with the information requested
7 and having provided the services set forth in our
8 agreement, would you read that entire --

9 A. Having provided you with the information
10 requested and having provided the service set
11 forth as our agreement, notice of the following is
12 hereby given unto you.

13 Q. And if you'll go ahead and read the next
14 two items.

15 A. You are hereby given until closing of
16 the business on August 12th, 2010 to present your
17 signature on all of the documents to include both,
18 but not be limit to the authorize or cremation and
19 assignment of insurance proceedings. If for any
20 reason you should choose not to comply with my
21 request, you are hereby commanded to compensate
22 our firm for the services we have rendered thus
23 far and having the remains of your mother removed
24 from our funeral home immediately.

25 Q. Now, at this time, had you already

1 provided a service for Ms. Coe?

2 A. Yes, ma'am. With a funeral service.

3 Q. Now, I understand that you sent this
4 letter certified mail, return receipt requested;
5 is that correct?

6 A. Yes, ma'am.

7 Q. Did you receive the requested return
8 receipt signed by Ms. Scott?

9 A. No, ma'am.

10 Q. And isn't it true that this letter was
11 returned by the Post Office unclaimed?

12 A. Yes, ma'am.

13 Q. Okay. Now, Mr. Davis, can you provide
14 us with a copy of a written statement that was
15 signed by a representative of Young and Young
16 Funeral Home and Ms. Scott that shows the price of
17 the service selected for Ms. Coe and what was
18 included in the service, the price of each of the
19 supplemental items of service and merchandise
20 requested, the amount involved for each of the
21 items for which the funeral home would advance
22 monies and the method of payment?

23 A. I have in the general itemized bill
24 here, our professional service and embalming and
25 other preparation of the body, the transfer of the

1 remains, hers a limousine. The sedan, other use
2 of the facilities, the casket, the alternate
3 container, cremation, the death certificate,
4 programs, minister and sales tax.

5 Q. And this is signed by a representative
6 of Young and Young?

7 A. Sam Davis.

8 Q. Now was this signed by Ms. Scott?

9 A. No, ma'am. She refused to sign it.

10 Q. Now, is it correct to say that the
11 funeral services you and Young and Young Funeral
12 Home provided for Ms. Coe were provided without a
13 signed written contract --

14 A. Yes, ma'am.

15 Q. -- statement?

16 A. I've been knowing Ms. Scott ever since I
17 was a baby big enough to know someone. She helped
18 raise me. I ate in that lady's house numbers of
19 times. We are members of the same church.

20 Q. Is that Ms. Scott or Ms. Coe?

21 A. Ms. Coe. I'm sorry. Ruth Coe.
22 Ms. Scott I never seen before until the day she
23 walked in my office. Even when my mens removed
24 the body in 100 degree weather during that time,
25 she wanted the body to stay to the house until her

1 son come home from New York and wanted to know who
2 called him. Because she didn't want to let her
3 mother go.

4 Q. And that's all I have. Thank you.
5 Please answer any questions.

6 CROSS-EXAMINATION

7 BY MR. SCOTT:

8 Q. Mr. Davis, you're aware that Attorney
9 Gray has focused specifically on whether or not
10 this contract was signed by Ms. Scott?

11 A. Yes, sir.

12 Q. Now, you've testified to it already, but
13 when you first met Ms. Scott at Young and Young
14 Funeral Home, did you explain that contract and
15 the services that might be provided?

16 A. We went over the GPS, general price
17 list. The Fellow Trade Commission say that you
18 must provide that to anyone and anybody. Again, I
19 say I have them packaged on my conference table
20 and some families choose to take them and if
21 anybody want to take one, they're more than
22 welcome. Each item were fully discussed 100
23 percent.

24 Q. Going back to that day that Ms. Scott
25 was in Young and Young Funeral Home, do you recall

1 her behavior or reason why she wouldn't sign that?

2 A. She got very emotional, saying that with
3 the balance of the bill after discussing the \$2500
4 that she say could be done, she say that she did
5 not have to sign because she have did this before
6 and never had to sign. She refused to sign the
7 insurance paperwork as well so as my contract.
8 She say that she would do it another day.

9 Q. What was your understanding when
10 Ms. Scott provided you a check for \$5,000?

11 A. Go ahead and render service.

12 Q. She understood what you were going to
13 provide?

14 A. That's right, she did. Every item was
15 discussed and she refused to remove her from my
16 firm. She was very well pleased.

17 Q. What did you believe was going to happen
18 after that day as far as this contract?

19 A. That she was just going to sign the
20 paperwork and that will be it.

21 Q. And sometimes you take people at their
22 word, don't you?

23 A. Yes, sir.

24 Q. Sometimes when somebody gives you
25 \$5,000, you think there's an agreement there?

1 A. That's right.

2 Q. And you understand that, technically,
3 this piece of paper is supposed to be signed.

4 A. Yes, sir.

5 Q. What else did you do to try to get it
6 signed?

7 A. I went to her home on a number of
8 occasions. I called her. She never would answer
9 the telephone. So I know nothing else to do but
10 talk to my coroner and the Probate judge.

11 Q. When you talked to your coroner, who is
12 here today with us, how did that go?

13 A. He in turn did a little checking and say
14 he'll see what could be done. I can't make her
15 sign it if she won't sign. I did everything I
16 know to do. I was standing out there in 100
17 degrees. It looked like somebody poured a bucket
18 of water on me that day, and she refused to let me
19 in the house.

20 Q. Where were you at?

21 A. At her home.

22 Q. Did you speak to Ms. Scott at that
23 time?

24 A. No. She refused to come to the door.
25 She wanted her -- no, sir. She refused to come to

1 the door. She wanted her son to go ahead and sign
2 the necessary paper, which I could not do that
3 because it's not legal by law.

4 Q. So you never cremated the body?

5 A. No, sir.

6 Q. When you received the August 5th letter,
7 I think you testified by fax, and you reached out
8 to your coroner and reached out to a Probate
9 judge, at that point, were you aware that
10 Ms. Scott wanted you to transfer the body to any
11 other funeral home?

12 A. No, sir. 18 days later.

13 Q. So the first you were aware was, say,
14 easily a week later when you finally received some
15 notice --

16 A. Yes, sir.

17 Q. -- to move that body, did you do so?

18 A. Yes, sir. Immediately. The funeral
19 home called me and told me that Barbara Scott were
20 at his facility requesting his service, and I told
21 him to feel free to come right on up and remove
22 the body.

23 Q. And going back to what you testified to
24 earlier, when Ms. Scott was in Young and Young
25 Funeral Home and mentioned that she could have a

1 funeral done cheaper, were you willing then to
2 transfer the body and not perform the service even
3 though this was a lady that you had known your
4 whole life?

5 A. She could have changed right then and
6 there.

7 Q. As far as this pricing sheet goes, you
8 testified that you made her aware of the contents
9 of it.

10 A. Yes, sir.

11 Q. That it was available there.

12 A. Yes, sir.

13 Q. And you went out multiple times to her
14 house?

15 A. Yes, sir.

16 Q. At no time would she accept certified
17 mail or talk to you at the door?

18 A. No, sir.

19 Q. Is there anything else that you could
20 have done to get her to sign this contract to
21 commensurate what she told you orally?

22 A. I tried everything that I know.

23 MR. SCOTT: Nothing further.

24 MADAM CHAIRPERSON: Any follow-up?

25 REDIRECT EXAMINATION

1 BY MS. GRAY:

2 Q. Mr. Davis, you stated that when Ms.
3 Scott was talking about another funeral home doing
4 services for less, you at that time were willing
5 to transfer Ms. Coe?

6 A. Yes, ma'am. She say she know of, or
7 were told that it would cost \$2,500. And I told
8 her then that she need to go to her or his funeral
9 home, whoever would charge the \$2500 because I
10 could not run a service for that.

11 Q. And you understand the statute does
12 require a signed contract before the conclusion of
13 services?

14 A. Yes, ma'am. But I could not make her
15 sign it.

16 Q. And at that time, you had the
17 opportunity to tell Ms. Scott that you would not
18 provide services until she signed the paperwork
19 and she knew that?

20 A. She had given me a \$5,000 check and I
21 felt like, you know, she's saying she will sign it
22 later, she got very emotional, hollering and
23 crying. And different people accept death a
24 different way. I wanted to be more compassionate
25 with her and knowing that that was my neighbor, I

1 went to church with her, her mother, to go as easy
2 and make it as easy on her as possible.

3 Q. I understand that. But you could very
4 well have told her you would not have proceeded
5 forward until such time as she signed that
6 contract, correct?

7 A. Ma'am, she refused to sign.

8 Q. But you could have told her that, could
9 you not have?

10 A. I could have, but it wouldn't have did
11 her no good.

12 Q. Thank you. That's all I have.

13 MR. SCOTT: One clarification.

14 Recross-Examination

15 BY MR. SCOTT:

16 Q. Mr. Davis, when she handed over that
17 \$5,000 check, that was after she had discussed
18 sending it somewhere else and you told her --

19 A. Yes, sir. That's what happened.

20 Q. And after that, before she left the
21 funeral home, as I understand it, you said that
22 she refused to sign at that point, got emotional,
23 and you felt like you would allow her to come back
24 and sign it?

25 A. Yes, sir.

1 Q. And when did she tell you she would come
2 back and sign it?

3 A. She told me she'll be back the next day
4 when we put the body out on display as for her to
5 view her mother. And when she came in, she were
6 hollering and going on, hysterics. And she did
7 not do any signing then. She say make a
8 appointment to come to her house.

9 Q. And when you went out to her house, she
10 refused to come to the door and refused to see
11 you?

12 A. She refused.

13 Q. That's it.

14 A. I never seen her, nor talked to her.

15 Q. Nothing further.

16 MADAM CHAIRPERSON: Questions from
17 the Board?

18 MR. NELSON: Mr. Davis, was anyone
19 else present with you and Ms. Scott?

20 MR. DAVIS: Her son.

21 MR. NELSON: What was his reaction
22 during this time when you were asking for
23 signatures or trying to get her to sign?

24 MR. DAVIS: He was trying to get
25 her to do the right thing, but she would not do

1 it. He said, Mama, you're wrong, you're taking up
2 this man's time. Mama, it's hot out here. I
3 cannot sign it. He's not going to let me sign it.
4 Please sign the paper.

5 He tried his best to get his mother
6 to cooperate. Out of the 28 years that I have
7 made funeral arrangements for Young and Young
8 Funeral Home as well as worked to other funeral
9 homes, I have never in my life run up on nobody
10 like sister Barbara Scott.

11 MR. PETTY: Mr. Davis, what day did
12 she give you that \$5,000 check?

13 MR. DAVIS: The day just prior to
14 the funeral when she came in to make arrangements,
15 that were on a Thursday.

16 MR. PETTY: Now, they contacted you
17 on the 28th; is that correct?

18 MR. DAVIS: That's when she died,
19 yes, sir.

20 MR. PETTY: All right. And did
21 they come in on the 28th or a day later?

22 MR. DAVIS: No. They came in on a
23 day later. It were that Thursday.

24 MR. PETTY: So she gave you that
25 check on the 29th; is that correct?

1 MR. DAVIS: Whatever that Thursday
2 were, yes, sir.

3 MR. PETTY: Okay. Was that a
4 personal check?

5 MR. DAVIS: Yes, sir.

6 MR. NELSON: I have one other
7 question. Mr. Davis, back to the removal at the
8 residence, you mentioned something about Ms. Scott
9 not wanting the remains to be removed out of the
10 residence?

11 MR. DAVIS: Right. I was not
12 there, Mr. Nelson, but my mens informed me that
13 when hospice gave me a call for them to remove the
14 body and request our service, they arrived at the
15 house. Ms. Scott wouldn't come to the door right
16 then and when she finally came, she wanted to know
17 what was -- who called them. And he informed
18 Ms. Scott that hospice called because she told you
19 to call. You told her to call us.

20 Then she said, no, I do not want my
21 mother to go. My son is coming here from New York
22 and she can stay here in the house another day or
23 so until he arrives from New York. And that was
24 100 degree weather-plus last August, July and
25 August.

1 MADAM CHAIRPERSON: So when did you
2 actually take possession of Ms. Coe's remains?

3 MR. DAVIS: On the day she died,
4 the morning she died on June the 28th.

5 MADAM CHAIRPERSON: So she changed
6 her mind about releasing --

7 MR. DAVIS: She didn't do that
8 until 18 days or somewhere.

9 MADAM CHAIRPERSON: No. I'm
10 saying, when she died on the 28th and you said
11 that y'all went there to make a removal and she
12 said the she could still there until her son
13 arrived from New York, she changed her mind and
14 went ahead and let y'all do the removal?

15 MR. DAVIS: Yes, ma'am. She let
16 them remove the body.

17 MADAM CHAIRPERSON: Okay. And am I
18 correct in assuming that this is a full service
19 cremation?

20 MR. DAVIS: Well, she would say
21 full service. First, she say she wasn't going to
22 have no service. Then she went back and say she
23 want her cremated.

24 MADAM CHAIRPERSON: But this
25 contract is for a full service cremation.

1 MR. DAVIS: Yes.

2 MADAM CHAIRPERSON: Okay. And when
3 did the actual funeral service occur?

4 MR. DAVIS: It taken place on that
5 Sunday.

6 MADAM CHAIRPERSON: Which would
7 have been August 31st? I mean, August 3rd? You
8 said it occurred on that Monday?

9 MR. DAVIS: No. It were on a
10 Sunday.

11 MADAM CHAIRPERSON: So that was on
12 -- she died on a Thursday so the service was on
13 July 31st.

14 MR. SCOTT: Madam Chairman,
15 Attorney Gray and I believe that the date of death
16 was a Wednesday. That would be the 28th. The
17 funeral was --

18 MS. GRAY: Wednesday, the 28th.
19 Was Wednesday the 28th or the 29th?

20 MR. SCOTT: Wednesday was the 28th.
21 You can look at the complaint.

22 MADAM CHAIRPERSON: I was just
23 going by what Mr. Davis said, that it was a
24 Thursday.

25 MR. SCOTT: We believe the 28th,

1 July 28th was a Wednesday and that the funeral
2 that took place on Sunday would have been the
3 3rd.

4 MS. GRAY: It was either July 31st
5 or August the 1st to be that Sunday.

6 MADAM CHAIRPERSON: I'm confused
7 also in the complaint that it said that the coffin
8 rental went from \$900 to \$1100. Those figures
9 don't match with the contract. It said Carolina
10 Casket, the company, a white Sierra, \$1,075. And
11 even if you added an alternative container to
12 that, that still comes up to \$1200.

13 MS. GRAY: Are you looking at the
14 initial complaint or the formal complaint?

15 MADAM CHAIRPERSON: Initial.

16 MR. PETTY: Mr. Davis, did you do
17 the death certificate or did another funeral home
18 do the death certificate?

19 MR. DAVIS: My nephew did the death
20 certificate.

21 MR. PETTY: So your firm did the
22 death certificate?

23 MR. DAVIS: Yes, sir.

24 MR. TEMPLES: Mr. Davis, when did
25 you prepare the body for embalming?

1 MR. DAVIS: My nephew did it after
2 we got the consent that she wanted a funeral.

3 MR. TEMPLES: And when did that
4 take place, what day?

5 MR. DAVIS: That was on the morning
6 of the 28th around about twelve, around about
7 noon.

8 MR. TEMPLES: The same day of the
9 death?

10 MR. DAVIS: Yes, sir.

11 MR. TEMPLES: And whom did you get
12 consent from?

13 MR. DAVIS: From the daughter,
14 Ms. Barbara Scott.

15 MR. TEMPLES: And is Ms. Scott the
16 only next of kin, legal next of kin or are there
17 any other --

18 MR. DAVIS: That's the onliest --
19 well, she has a husband living, but Brother Coe
20 have developed old timers and he don't understand.
21 So she would be the next person in line and the
22 onliest person that I know of.

23 MR. HORTON: And Ms. Barbara was
24 the only child?

25 MR. DAVIS: Yes, sir. That I know

1 of, yes, sir.

2 MR. HORTON: Mr. Davis, we've got
3 two itemized --

4 MR. DAVIS: Yes, sir.

5 MR. HORTON: Okay. One of them is
6 typed and one of them is handwritten.

7 MR. DAVIS: That's when Mr. Hines
8 brought Ms. Scott in and I taking off my
9 cremation, et cetera, to re-do the bill.

10 MR. HORTON: Okay. Can you tell me
11 whose signature -- if this is on Exhibit number 3,
12 can you tell me whose signature that is for the
13 funeral home?

14 MR. DAVIS: That's Samuel Davis
15 which is myself.

16 MR. HORTON: That's you?

17 MR. DAVIS: Yes, sir.

18 MR. HORTON: All right, sir. So
19 you presented this to Ms. Barbara Scott?

20 MR. DAVIS: No, sir, Mr. Horton.
21 When Mr. Hines brought her there, she walk in the
22 door and all, I don't want to sign it, get out,
23 get out. That's the way she were going on,
24 screaming to -- that's just it.

25 MR. HORTON: Okay. On the day,

1 now, you made these arrangements?

2 MR. DAVIS: Yes, sir, I did.

3 MR. HORTON: All right. You had
4 her in your arrangements room.

5 MR. DAVIS: Yes, sir. In my
6 conference room.

7 MR. HORTON: And you itemized all
8 of this out and you wrote it in your handwriting?

9 MR. DAVIS: No. I did that prior
10 to them coming up there with there with the
11 handwritten one. The other one were typed, the
12 first one that I did. That's the one that we were
13 going to run a complete service.

14 MR. HORTON: Okay. This was just
15 one that you did before. You're just trying to
16 get your charges in line --

17 MR. DAVIS: Right. That's when she
18 called me and told me she was going to remove the
19 body. So, therefore, I wanted to do another
20 contract so that I would take off the cremation
21 because I wouldn't be the one cremating the body.
22 She have talked with Hines Funeral Home, Franklin
23 Hines, about cremating her.

24 MR. HORTON: Okay. Well, I'm
25 afraid you're getting me a little confused. All

1 right. The first one is a typewritten one. The
2 typewritten one says the cremation on it.

3 MR. DAVIS: Right.

4 MR. HORTON: And that's what she
5 wanted to do first?

6 MR. DAVIS: That's the one she
7 wanted to have first.

8 MR. HORTON: Okay.

9 MR. DAVIS: And then the second
10 one, Mr. Horton, is 18 days later when she wanted
11 to change the body to Hines Funeral Home, or
12 change the body to Hines Funeral Home.

13 MR. HORTON: All right. So this is
14 the one that you wrote on the day and showed her
15 the day she came in initially?

16 MR. DAVIS: The day that we
17 initially made the full arrangement, that's the
18 day I tried to get her to sign the necessary
19 paperwork when we were going to run the full
20 service. It's typewritten.

21 MR. HORTON: Okay. I got you. I'm
22 following you now. Now, at that time she looked
23 at this --

24 MR. DAVIS: Yes, sir. We went over
25 item by item.

1 MR. HORTON: Okay. And she gave
2 you at that time a check for \$5,000?

3 MR. DAVIS: Yes, sir.

4 MR. HORTON: Made it out to Young
5 and Young Funeral Home?

6 MR. DAVIS: Yes, sir.

7 MR. HORTON: Okay. But she would
8 not sign --

9 MR. DAVIS: She would not sign.
10 Prior to her giving me the check for \$5,000, she
11 say she were told it will cost \$2500. And that's
12 the time I told her, you need to talk to her or
13 him, or whatever funeral home, and transfer your
14 mother body to them because I cold not do it for
15 no \$2500.

16 MR. HORTON: Okay.

17 MR. DAVIS: And then that's when
18 she --

19 MR. HORTON: But after she said
20 that, she agreed for y'all to do services and gave
21 you the check for \$5,000?

22 MR. DAVIS: Yes, sir.

23 MR. HORTON: While she was sitting
24 in your arrangements office, the same day?

25 MR. DAVIS: Yes, sir.

1 MR. HORTON: Now, this one is
2 the -- you can sit down. You don't have to stand
3 up. This handwritten one is one you did 18 days
4 later?

5 MR. DAVIS: Yes, sir.

6 MR. HORTON: That's when she
7 decided not to do the cremation and you were just
8 getting the rest of your charges from this \$984
9 after the \$5,000 check?

10 MR. DAVIS: Right.

11 MR. HORTON: Okay. All right.
12 Thank you, sir.

13 MR. DAVIS: All right.

14 MR. HORTON: I have nothing else,
15 Madam President.

16 MR. CRAWFORD: I would like to make
17 a motion that we take this into --

18 MADAM CHAIRPERSON: Wait a second.
19 With regards to the letter that Ms. Scott sent to
20 the funeral home on the 11th, it appears that she
21 assumed that the cremation had already occurred.

22 MS. GRAY: The letter, you know,
23 we're not asserting the previous matter asserted
24 in, or any way the facts that are in that letter.
25 We are showing, as Mr. Davis has testified to, he

1 did receive that letter by facsimile from
2 Ms. Scott and that letter was in fact attached to
3 the initial complaint that LLR received.

4 MR. HORTON: I've got one more
5 question for Mr. Davis. Mr. Davis, the day the
6 services were held for Ms. Coe, was Ms. Scott at
7 the funeral?

8 MR. DAVIS: Yes, sir.

9 MR. HORTON: And shortly after
10 that, she left town?

11 MR. DAVIS: Yes, sir.

12 MR. HORTON: Did she give you any
13 -- Jamie, help me with this, please. Did she give
14 you any indication at that time that she was
15 displeased with your services?

16 MR. DAVIS: No, sir. She said
17 everything were well, everything were fine and she
18 appreciated what we did. And we set up a time to
19 go to her home to make sure that the paperwork
20 were signed. And then when I go to her home and
21 she wasn't there, when I did -- when she did
22 call -- now, the onliest time that I talked to
23 her, she say that she had an emergency out of town
24 and she will sign the necessary paperwork when she
25 gets back. She had to go to New Jersey for a day

1 but she'll be back in a couple of days.

2 MR. HORTON: And tell me again what
3 day the funeral was held?

4 MR. DAVIS: It were held on that
5 Sunday.

6 MR. HORTON: August the 1st?

7 MR. DAVIS: August the 1st.

8 MR. HORTON: Okay. And we have a
9 letter here from her on August the 11th saying, I
10 was unable to return to South Carolina on August
11 the 10th. Was that the time that you were
12 supposed to meet with her --

13 MR. DAVIS: No, sir. I was
14 supposed to meet with her on that Monday.

15 MR. HORTON: Okay. That would have
16 been August the 2nd?

17 MR. DAVIS: Yes, sir.

18 MR. HORTON: Okay. And she was not
19 available or she refused to see you?

20 MR. DAVIS: She refused.

21 MR. HORTON: All right. What
22 happened? She said she was not able to return to
23 South Carolina on August the 10th. Was that
24 another date that y'all had set up?

25 MR. DAVIS: No, sir.

1 MR. HORTON: All right. Well, why
2 was she saying that she was unable to --

3 MR. DAVIS: She would not talk to
4 me anymore.

5 MR. HORTON: Okay. Well, there's
6 got to be something special about August the
7 10th.

8 MS. GRAY: But, then, if you'll
9 direct your attention to the letter of August 5th,
10 2010, that's part of Exhibit number 2.

11 MR. HORTON: Okay. That clears it
12 up for me. Thank you.

13 MADAM CHAIRPERSON: Mr. Davis, what
14 ultimately happened to have Ms. Coe's remains
15 transferred on August 17th to another funeral
16 home?

17 MR. DAVIS: Mr. Hines from Hines
18 Funeral Home called me and told me that she were
19 requesting his service to cremate her mother's
20 body, and that's why she moved it down there to
21 him. Now, why? I don't know.

22 MADAM CHAIRPERSON: Did Ms. Scott
23 have Power of Attorney over her father who was
24 apparently still living at this time?

25 MR. DAVIS: Is she does, I did not

1 see it and I did not talk to her about it. But I
2 were told, but that's hearsay. But I know that
3 her daddy have been ill for some time and someone
4 else have been signing all his paperwork and doing
5 everything for him, so I'm quite sure she had
6 Power of Attorney.

7 Now, if the Board would like for me
8 to, I can attain a copy and send it back from the
9 Probate judge's office.

10 MADAM CHAIRPERSON: I was just
11 really wondering if she had the authority to sign
12 the cremation authorization or not. Sometimes we
13 have this to happen and we have to result to going
14 in to the Probate Court to get, you know, the
15 cremation actually blessed.

16 MR. DAVIS: Yes, ma'am. But,
17 again, Board members, please remember that, you
18 know, Ms. Scott, I wish a million times that she
19 was standing or sitting right in here in this room
20 and y'all will see what I had to go up against
21 with her.

22 MADAM CHAIRPERSON: Is there a
23 reason why Ms. Scott isn't here today?

24 MS. GRAY: She advised me -- she
25 had been issued a subpoena but advised me she was

1 unable to attend. She had no transportation, no
2 one able to bring her in and she was not going to
3 be able to get here.

4 MR. DAVIS: May I say something?
5 She has transportation. Even if she would have
6 called me, I'd have been glad to send a limousine
7 out there to pick her up.

8 MR. SAXON: If the gallery cannot
9 comport itself properly, the gallery will be
10 cleared.

11 MADAM CHAIRPERSON: Y'all issued a
12 subpoena and she did not comply with the subpoena,
13 and y'all just accepted --

14 MS. GRAY: She's the complainant.
15 We asked her to be here. The investigation was
16 done. Her testimony really to, as far as what the
17 State is pursuing, the fact that there was not a
18 signed statement prior to the completion of the
19 services, her testimony was not going to be
20 necessary for that purpose. Many times, we have
21 individuals who are unable to travel and --

22 MADAM CHAIRPERSON: Did she sign a
23 contract with the other funeral home?

24 MS. GRAY: We did not investigate
25 that as part of the complaint, you know. We are

1 only able to investigate the complaint itself.
2 That was not a separate complaint or a component
3 of this complaint.

4 MADAM CHAIRPERSON: I understand.
5 I was just wondering if the same thing occurred
6 when she went to Hines Funeral Home and if she
7 actually signed an authorization there to cremate.

8 MS. GRAY: We have not received any
9 complaint from Ms. Scott as to that that I'm aware
10 of.

11 MR. TEMPLES: Mr. Davis, this
12 started out as a full traditional service ending
13 in cremation; is that correct?

14 MR. DAVIS: Yes, sir.

15 MR. TEMPLES: You never could get
16 her to sign the cremation authorization?

17 MR. DAVIS: She would not sign
18 nothing. No more than her check and said that
19 will hold until she meet with me.

20 MR. TEMPLES: So in your mind,
21 services had not been completed?

22 MR. DAVIS: No, sir. I did not
23 cremate her body.

24 MR. TEMPLES: Okay. Thank you.

25 MR. HORTON: Mr. Davis, in my

1 feeble mind, I keep thinking of things to ask you.
2 But who actually set the time and place? Who did
3 you make the final -- how did you set the time and
4 place for the funeral service?

5 MR. DAVIS: She called me and
6 informed me when she wanted the funeral and what
7 time and what time she will be in. She will be
8 there at 9:00 a.m. She arrived there probably
9 about three minutes till 3:00 p.m. in the
10 afternoon.

11 MR. HORTON: For the funeral?

12 MR. DAVIS: No, no.

13 MR. HORTON: Oh.

14 MR. DAVIS: No, sir. For the
15 arrangement.

16 MR. HORTON: Okay.

17 MR. DAVIS: And then that's when,
18 you know, she were telling me what time she wanted
19 the funeral. Of course, we have to check with the
20 pastor and make sure that everything will be
21 available to them.

22 MR. HORTON: But at the time of the
23 arrangements that you met with her on the initial
24 arrangement conference, she set the time and place
25 for the funeral at that time?

1 MR. DAVIS: Yes, sir.

2 MR. HORTON: Okay. So you knew it
3 was going to be that Sunday?

4 MR. DAVIS: Yes, sir.

5 MR. HORTON: Okay. She is the one
6 that said, I want the funeral at three o'clock, or
7 whatever time?

8 MR. DAVIS: Yes, sir.

9 MR. HORTON: Okay. And told you
10 where the funeral would be?

11 MR. DAVIS: Yes, sir.

12 MR. HORTON: All right. And at
13 that time, was the body supposed to be cremated
14 after that?

15 MR. DAVIS: Afterwards, yes, sir.

16 MR. HORTON: All right.

17 MR. DAVIS: But the body could have
18 been buried in our church cemetery because Ms. Coe
19 was a dedicated member.

20 MR. HORTON: Well, that's just
21 personal preference of what she wants done. But
22 she actually set the time and place at your
23 original arrangements conference?

24 MR. DAVIS: Yes, sir. And then
25 also informed me not to tell nobody where she

1 lived, don't give out her phone number, she
2 doesn't want no one at her house. Even when we
3 went there for the day of the funeral, the few
4 folks what were there, they all stand out in that
5 hot weather right there.

6 MR. HORTON: But you sent a car to
7 her house to pick her up?

8 MR. DAVIS: We taken two limousines
9 to her house that she request to pick them up.

10 MR. HORTON: And she got in your
11 limousines and went to the funeral?

12 MR. DAVIS: Yes, sir.

13 MR. HORTON: Okay. And you took
14 her back home after the funeral?

15 MR. DAVIS: Yeah. My divers, yes,
16 sir.

17 MR. HORTON: Okay. Thank you.

18 MR. NELSON: Mr. Davis, so at that
19 time of the arrangement for the funeral service,
20 she rendered you the \$5,000 check then?

21 MR. DAVIS: Yes, sir.

22 MR. NELSON: When did she render
23 you the check?

24 MR. DAVIS: She rendered \$5,000
25 then at the end at the initial first arrangement.

1 MR. NELSON: The first one?

2 MR. DAVIS: Yes, sir.

3 MADAM CHAIRPERSON: Maybe I missed
4 this, but was she given a copy of this where she
5 paid you the \$5,000?

6 MR. DAVIS: No. She didn't sign
7 it, ma'am. And I needed it signed and she were
8 going to agree to do it that Monday, but she never
9 would sign anything.

10 MADAM CHAIRPERSON: Where does Ms.
11 Scott reside?

12 MS. GRAY: All the information we
13 have carries a Hartsville address.

14 MR. DAVIS: Ma'am, she resides in
15 Hartsville.

16 MADAM CHAIRPERSON: We don't have
17 any more questions of this witness at this time.

18 MS. GRAY: The state has no other
19 witnesses. The State rests.

20 MR. SCOTT: Members of the Board, I
21 know it's getting quite late in the afternoon.
22 Just for the record, we're going to make sure we
23 have the exhibits that everybody has already
24 looked at submitted in the record here.

25 (RESPONDENT'S EXH. #5, Charge for

1 Services Selected, was marked for
2 identification.)

3 (RESPONDENT'S EXH. #6, Charge for
4 Services Selected, was marked for
5 identification.)

6 (RESPONDENT'S EXH. #7, Letter - 9/6/11,
7 was marked for identification.)

8 (RESPONDENT'S EXH. #8, USPS Letter, was
9 marked for identification.)

10 MR. SCOTT: Exhibit 5 and Exhibit
11 6, as well as a letter, a character reference
12 letter from Brown, Pennington, Atkins Funeral Home
13 from Carl Pennington, III, is Respondent's Exhibit
14 7. And a certified letter from the Hartsville
15 Postmaster detailing what we've already talked
16 about, Mr. Davis' August 5th letter to Ms. Scott
17 as Exhibit 8. And what I would just ask a few
18 short questions of our Darlington County coroner,
19 Todd Hardy, about.

20 Whereupon:

21 Todd Hardy, having been duly sworn
22 and cautioned to speak the truth, the whole
23 truth and nothing but the truth, testified as
24 follows:

25 DIRECT EXAMINATION

1 BY MR. SCOTT:

2 Q. Mr. Hardy, I think everybody would just
3 like to hear your involvement with the facts of
4 this case and the August 5th letter that Sam Davis
5 consulted with you about.

6 A. Okay. If I may, I would like to
7 preference my remarks momentarily to say that I'm
8 the coroner of the county but I'm also a funeral
9 director. I've known Sam Davis -- I was thinking
10 about it a while ago -- for 30 years. And,
11 occasionally, as funeral directors, just like I'm
12 sure some of you folks do, we bounce things off of
13 each other, we ask each other opinions.

14 And then sometimes as the coroner,
15 funeral homes will come to me and ask questions
16 that may pertain to that. Like the hospice that
17 Madam Chairperson was speaking of a while ago. In
18 Darlington County, families pre-plan the funeral
19 director they're going to use so that the
20 coroner's office knows that in case somebody is
21 out of town.

22 So I don't know how they do it in
23 other counties, but in our county, that's how they
24 do. So the hospice people would know where to
25 direct the call if they couldn't notify the person

1 who directed it.

2 Sometime around -- I don't remember
3 when it is; y'all see the dates in front of you --
4 Same called me and we were talking about different
5 things and he was talking this funeral and this is
6 what he was telling me. He said a few days ago or
7 weeks ago, a very close friend of mine died, a
8 lady who I've known all my life. She grew up in
9 the church with me, she's a friend of my family,
10 she's a friend of me and I've known her my entire
11 life. She died and her family called upon us to
12 render our services.

13 Once these services were rendered,
14 this is the chain of events that happened. The
15 lady came in. As you've all heard, she made the
16 funeral arrangements. She told Sam that this is
17 what she wanted to do. She wanted to have a
18 funeral. As Madam Chairperson said a while ago, a
19 full service cremation is the lingo that we use in
20 the funeral business.

21 MR. SAXON: Sir, please address
22 yourself to the Board.

23 MR. HARDY: I beg your pardon?

24 MR. SAXON: Address yourself,
25 please, to the Board rather than the gallery.

1 MR. HARDY: Have I said something
2 that offended you thus far?

3 MR. SAXON: No. I'm not talking
4 about being offended. I'm asking you to address
5 yourself to the Board rather than to the gallery
6 behind you.

7 BY MR. SCOTT:

8 **A. She asked Sam Davis of Young and Young**
9 **Funeral Home for certain services. Specifically,**
10 **and the way I understood it and what's stated here**
11 **today, that she wanted her mother to have a full**
12 **service, a funeral, and then her method of**
13 **disposition to be that of cremation. I guess we**
14 **all agree on that based on what we see here. And**
15 **having done so, he said, this is my quagmire that**
16 **I've entered into.**

17 I've performed these services, but,
18 yet, she refuses to sign this goods of services
19 contract and she still wants me to cremate her
20 mother, but she don't want to sign the cremation
21 authorization. And she wants me to do, I think,
22 some insurance or something, but, yet, she won't
23 sign the insurance.

24 So having said that, and I think
25 counsel for the State reiterated this just a few

1 minutes ago and I thought I was right when I
2 rendered, I guess it's advice or whatever as
3 friends would do back and forth, that we've got to
4 have a signed contract, that's the law. We've got
5 to do those things. And we've got to have a
6 signed contract before our services are complete.
7 That's what we're supposed to do as funeral
8 directors.

9 So if she's not going to sign this
10 contract, Sam, then right now, you need to stop.
11 You need to discontinue services right now and you
12 need to write her a letter and you need to say,
13 this is what the deal is. We've rendered these
14 services, this is what we've said thus far, but we
15 can't cremate your mother without a cremation
16 authorization. We just simply can't do it. We
17 can't continue anything else for you until such
18 time as you allow us to comply with the law.

19 She never did that. She refused to
20 sign it. So what do you do? Well, if you're in
21 the funeral business and you understand it like I
22 do, you can't render the services. You can't
23 finish what you're doing. So Sam didn't finish.
24 And 18 days later, he got -- this person hired
25 another professional to come finish whatever it is

1 that she wanted. So Mr. Davis never did complete
2 the service.

3 So when he called me and he said,
4 I'm being reprimanded, I guess would be an
5 appropriate word, before the Board because of a
6 negligent to sign some sort of a contract, I
7 didn't quite understand that, in that the contract
8 was tried -- he tried to get the contract signed.
9 And once he was unable to get the contract signed
10 as it said in the letter, then he discontinued his
11 services.

12 So, quite frankly, it appears that
13 Mr. Davis never did finish his services. She
14 hired him to do it, yet she wouldn't allow him to,
15 so she chose someone else to. So having said
16 that, that fall, the advice I gave Sam, he wrote
17 this letter. I actually talked to him about it
18 and that's what we came up with. And in my
19 opinion, I think Mr. Davis is correct. I think
20 he's a credit to the community. I think Young and
21 Young Funeral has served the Hartsville community
22 very well for many, many years, Sam as a second
23 generation. And I will state that publicly and I
24 still hold to that as his coroner, as his
25 colleague, as whatever. But that's why I'm here.

1 **Thank you for your time.**

2 **Q. Answer any questions --**

3 MS. GRAY: I have no questions.

4 MR. SCOTT: Thank you.

5 MS. GRAY: Any questions the Board
6 may have?

7 MADAM CHAIRPERSON: We don't have
8 any questions at this time.

9 MR. SCOTT: At this time, I'd just
10 like to make sure that the exhibits I've provided
11 are moved into evidence and make a motion for
12 that.

13 MR. SAXON: Let me just ask you a
14 little bit about that because mine are not
15 numbered sequentially. So I've got 1, which is
16 Mr. Davis' affidavit, 2 which is his letter of
17 August the 5th, 3 --

18 MR. SCOTT: For clarity, we are
19 referring to, in the blue numbers, 3 and 4?

20 MR. SAXON: Your 3 and 4.

21 MR. SCOTT: Number 11?

22 MR. SAXON: Just a second.

23 MR. SCOTT: Okay.

24 MR. SAXON: Okay. 3, 4, 11 --

25 MR. SCOTT: 3, 4, 11 and 15.

1 MR. SAXON: And 15. I got it. And
2 there was no objection from the State; is that
3 correct?

4 MS. GRAY: That is correct. Madam
5 Court Reporter, are you going to leave these
6 numbered as they are or you going to renumber
7 them?

8 COURT REPORTER: Leave them as they
9 are.

10 MR. SAXON: Okay.

11 MR. SCOTT: Members of the Board
12 and Madam Chairman, I would just make a motion,
13 considering that none of the statements and
14 letters provided by Ms. Scott are taken for the
15 truth of what they state, that we would dismiss
16 this action before the Board, respectfully request
17 that.

18 MR. SAXON: Would the State like to
19 be heard?

20 MS. GRAY: Our position, the State
21 has presented in evidence statements and testimony
22 that provide factual determinations that should be
23 made by this Board. There's sufficient evidence
24 that has been presented at this point in time on
25 he basis of whether a violation of this Board's

1 Practice Act has occurred, in that Mr. Davis and
2 Young and Young Funeral Home failed to comply with
3 Section 40-19-290(D) by failing to provide a
4 written statement signed by a representative of
5 the funeral home and Ms. Scott at the time the
6 arrangements were completed and before the time of
7 rendering the service.

8 That is the basis of the State's
9 complaint and that is the basis of the case that
10 would be submitted to this Board. And the
11 evidence and testimony presented to-date provides
12 a sufficient foundation for this matter to go
13 forward.

14 We believe the case should move
15 forward and for this Board to decide on the facts
16 as they have been presented. We would object to
17 this case being dismissed at this point in time.

18 MR. SCOTT: And we would just
19 finally like to add that our position is, the
20 services were never completed pursuant to 290(D).

21 MADAM CHAIRPERSON: We will note
22 your request for the record, but we will be
23 continuing forward with the case.

24 MR. SCOTT: Thank you.

25 MS. GRAY: At this point, for

1 closing arguments, the State would defer and allow
2 Mr. Scott to proceed and we will follow.

3 MR. SCOTT: Thank you. Members of
4 the Board, we appreciate your patience. I know
5 it's been a long afternoon. You've heard
6 Mr. Davis tell you that he did his best, that it
7 wasn't signed, that, technically, there was a
8 violation in some folks' minds.

9 In our motion just now, we stated
10 that, and I think a Board member stated, that to
11 some, in some ways in interpreting the statute,
12 that services were not completed, pursuant to the
13 290(D) section of the statute.

14 You've heard the details from
15 Mr. Davis and Coroner Hardy. We wish Ms. Scott
16 was here. I think everybody would agree with
17 that. Unfortunately, she's not and we can only go
18 with the truth as it's been said here today.

19 I appreciate appearing before you.
20 I think that Mr. Davis is here because he
21 understands you have a lot of latitude and he
22 understands that you all have experience in this
23 industry and with everyday implications of being a
24 practitioner. And we appreciate your
25 consideration of the sections that I've mentioned,

1 the 290(D) and 40-1-10 and 110(K) and in looking
2 at those statutes and using your fairness and
3 discretion, we would just ask that you make the
4 appropriate findings and we appreciate appearing
5 before you.

6 MS. GRAY: Thank you. The State
7 has presented its case against the respondent,
8 Young and Young Funeral Home and Samuel L. Davis.

9 The purpose of these proceedings is
10 to weigh the public interest and the need for the
11 continuing services of qualified and competent
12 embalmers and funeral directors against the
13 countervailing concern that society be protected
14 from professional ineptitude and misconduct and
15 for the preservation of the health, safety and
16 welfare of the public.

17 The evidence and testimony
18 presented to establishes that the State has met
19 its burden in this case by proving the facts
20 relevant to the matters alleged in the initial
21 complaint, Young and Young Funeral Home was
22 licensed by this Board as a funeral establishment
23 and Samuel L. Davis was licensed by the Board as
24 the funeral director and was the manager for Young
25 and Young Funeral Home.

1 The Section 40-19-115 provides that
2 this Board has both personal and subject matter
3 jurisdiction over the respondents and this case,
4 that in late July 2010, Barbara Scott contacted
5 the respondents to make funeral arrangements for
6 her mother, Ruth Coe, who had passed away.

7 The respondents did not provide,
8 Ms. Scott as the person making the arrangements
9 for Ms. Coe at the time the arrangements were
10 completed and before the time of rendering the
11 service, a written statement signed by a
12 representative of Young and Young Funeral Home and
13 Ms. Scott as required by Section 40-19-290(D).

14 Certainly, the testimony presented
15 today indicates that Mr. Davis had the opportunity
16 to refuse or turn Ms. Scott away, particularly at
17 the time when Ms. Scott was trying to negotiate a
18 lower price for the funeral. Mr. Davis, by his
19 statements, stated he was glad to transfer Ms. Coe
20 to another funeral home for the \$2500 that he
21 stated Ms. Scott had indicated a service could be
22 provided for.

23 Certainly, Mr. Davis had the same
24 opportunity to turn Ms. Scott away when she
25 refused to sign the document during that initial

1 consultation, although he did accept the check and
2 then moved forward to provide the services that
3 had been discussed.

4 As the testimony and evidence
5 shows, Ms. Scott did pay the respondents \$5,000 to
6 provide funeral services and cremation for
7 Ms. Coe's remains, and Ms. Coe's remains were
8 subsequently transferred to another funeral home
9 to complete the cremation. And the respondents
10 have violated the requirements of Section
11 40-19-290(D) and they have violated a provision of
12 this Board's Practice Act, and as a result are in
13 violation of Section 40-1-110-1K.

14 Based upon the evidence presented,
15 the State requests that impose an appropriate
16 sanction upon the respondents that will serve to
17 protect the public and is consistent with the
18 misconduct of the respondents in this matter.
19 Thank you.

20 MR. NELSON: Madam Chairman, I make
21 a motion we go into Executive Session.

22 MS. MCWHORTER: Second.

23 MADAM CHAIRPERSON: All those in
24 favor?

25 (Response)

1 (Executive Session from 2:20 p.m. to
2 2:50 p.m.)

3 MR. HORTON: Madam President, I
4 make a motion we come out of Executive Session
5 into regular session.

6 MR. TEMPLES: Second.

7 MADAM CHAIRPERSON: All those in
8 favor?

9 (Response)

10 MADAM CHAIRPERSON: Let the record
11 reflect no votes or actions were taken during
12 Executive Session.

13 MR. SAXON: Is there a motion?

14 MR. NELSON: Yes. Madam Chair, I'd
15 like to make a motion that the Board finds a
16 technical violation to the Practice Act and that
17 we issue a public reprimand.

18 MR. HORTON: I make a motion we
19 accept the motion.

20 MR. CRAWFORD: Second.

21 MADAM CHAIRPERSON: All those in
22 favor?

23 (Response)

24 MR. SCOTT: Anything further?

25 MR. SAXON: That's it. You'll get

1 something in the mail.

2 MR. DAVIS: I would like to take
3 this opportunity to thank you all for a very fine
4 job that you all have made your decision on. But
5 if y'all are in and up around my area in
6 Hartsville, let me invite y'all to a steak dinner
7 and then have Ms. Barbara Scott there an you will
8 not eat your steak. God bless you.

9 MR. SAXON: Is Mr. Visotski here?
10 Was that pronounced correctly?

11 MR. VISOTSKI: Yes, sir.

12 MR. SAXON: Just have a seat by
13 that gentleman right there. Could you swear him
14 in please.

15 Whereupon:

16 Raymond Visotski, having been duly
17 sworn and cautioned to speak the truth, the
18 whole truth and nothing but the truth,
19 testified as follows:

20 MR. SAXON: Ms. Rose?

21 MS. ROSE: Okay. Are we going to
22 do all three of these at the same time? Okay.
23 It's going to be George Funeral Home and
24 Crematory, South Carolina Cremation and Burial
25 Society, Aiken-Augusta Crematory. And the

1 proposed manager is Raymond Visotski. He was
2 first licensed 12/4/1996. He's the funeral
3 director and embalmer and his license is current.
4 He does not have a criminal background. He lives
5 5.6 miles from the funeral home. And the owner of
6 the facility is the FPG of South Carolina, LLC and
7 Mr. Steven M. Shaver, and Mr. Visotski is here to
8 be the proposed manager.

9 MADAM CHAIRPERSON: Mr. Visotski?

10 MR. VISOTSKI: Yes, ma'am.

11 MADAM CHAIRPERSON: Is there
12 anything you'd like to bring to our attention?

13 MR. VISOTSKI: I believe you have
14 it in front of you. I'm all for expedition here
15 today.

16 MR. HORTON: Madam President?

17 MADAM CHAIRPERSON: Yes, sir?

18 MR. HORTON: The only thing that I
19 see in his application is that on the State
20 license and residency, but I don't have a -- it's
21 not signed.

22 MADAM CHAIRPERSON: I've noticed
23 that on every one of these applications, it's not
24 been signed but it has been notarized.

25 MR. HORTON: Well, mine is not

1 notarized.

2 MADAM CHAIRPERSON: Well, some of
3 them -- well, now, you've got to look at the
4 application. The application is not signed but is
5 notarized. And then the statement of licensure
6 and residency is not signed nor notarized.

7 MS. ROSE: I can get him to sign
8 all those while he's here.

9 MR. SAXON: Would you mind doing
10 that, Ms. Rose?

11 MR. VISOTSKI: Madam President, I
12 believe what you might be looking at are documents
13 that were transmitted to the Board waiving my
14 signatures which were then retransmitted to the
15 Board. You might just not have the correct --

16 MS. ROSE: I think that's what it
17 was. I assume these were like faxed in or -- and
18 then they mailed the originals in.

19 MR. SAXON: Do you have those yet?

20 MS. ROSE: I've got them. They're
21 on my desk.

22 MR. SAXON: But they're signed?

23 MS. ROSE: I don't know. I can go
24 and look.

25 MR. SAXON: Would you mind?

1 MS. ROSE: Okay. I will.

2 MR. HORTON: There's one more
3 question. Mr. Visotski, you had a SLED catch here
4 and as of November 7th at 1504, you hadn't had any
5 violations. Have you had any since November the
6 7th at 1504?

7 MR. VISOTSKI: No, so help me God.

8 MADAM CHAIRPERSON: I had a
9 question. You're going to be the manager of all
10 three locations?

11 MR. VISOTSKI: Yes, ma'am.

12 MADAM CHAIRPERSON: And you're
13 going to be able to spend 35 hours a week minimum
14 at each of these locations?

15 MR. VISOTSKI: Ma'am, I've been the
16 manager of all three for the last twelve years,
17 yes, ma'am. I've been the owner and manager for
18 the last twelve years. There's actually two. The
19 crematory is located at one of the locations and
20 they're just a few miles apart and it hasn't been
21 a problem yet.

22 MADAM CHAIRPERSON: This says this
23 a change in ownership.

24 MR. VISOTSKI: That's correct.

25 MADAM CHAIRPERSON: So do you

1 correct -- well, you just said you owned and
2 managed them.

3 MR. VISOTSKI: As of today, I'm the
4 owner. I've been the owner for the last twelve
5 years.

6 MR. TEMPLES: I saw something,
7 Mr. Visotski. I saw something in the documents
8 about the Columbia operations. Can you elaborate
9 on that?

10 MR. VISOTSKI: It looks like it's
11 where that corporation has locations in Columbia.
12 I'm not sure what that would have to do with us.

13 MR. TEMPLES: Okay.

14 MR. HORTON: The name is George
15 Funeral Home, right?

16 MR. VISOTSKI: It's George Funeral
17 Home and Cremation Center is the correct way,
18 yes.

19 MR. SAXON: So it's a change in
20 ownership? All right. So do we have something
21 from Consumer Affairs in this?

22 MS. ROSE: That was in their folder
23 so they emailed it over.

24 MR. VISOTSKI: And she said
25 yesterday.

1 MS. ROSE: Yes. We would have sent
2 them to you yesterday. It came in by email
3 yesterday.

4 MADAM CHAIRPERSON: The Consumer
5 Affairs report?

6 MS. ROSE: Yes. Alicia is here.

7 MS. CLARK: I emailed it Tuesday
8 and I brought the originals this morning.

9 MS. ROSE: Okay.

10 MR. SAXON: All right. If you
11 would just identify yourself, please, for the
12 record.

13 MS. CLARK: I'm Alicia Clark with
14 Consumer Affairs and I emailed over two letters
15 pertaining to the pre-compliance review prior to
16 new ownership on Tuesday and I brought the
17 originals this morning.

18 MR. SAXON: Thank you.

19 MS. CLARK: You're welcome.

20 MADAM CHAIRPERSON: There are two.
21 What about the third one?

22 MS. CLARK: George Funeral Home and
23 Cremation Center and the South Carolina Cremation
24 and Burial Society are the only two licenses.

25 MS. ROSE: The other is a

1 crematory.

2 MR. TEMPLES: Madam President, I'd
3 like to make a motion that we accept all three
4 applications pending final inspection.

5 MADAM CHAIRPERSON: Do I have a
6 second?

7 MR. HORTON: So moved.

8 MADAM CHAIRPERSON: All those in
9 favor?

10 (Response)

11 MADAM CHAIRPERSON: Opposed?

12 (No response)

13 MADAM CHAIRPERSON:
14 Congratulations.

15 MR. VISOTSKI: Thank you.

16 MR. SAXON: Is Mr. Brown here?

17 MR. BROWN: Yes, sir.

18 MR. SAXON: Just make yourself
19 comfortable there. Turn your attention to the
20 court reporter and she'll swear you in.

21 Whereupon:

22 John W. Brown, having been duly
23 sworn and cautioned to speak the truth, the
24 whole truth and nothing but the truth,
25 testified as follows:

1 MADAM CHAIRPERSON: Mr. Rose?

2 MS. ROSE: Okay. This is a new
3 facility and I thought at first it was a crematory
4 and had it under crematories, but it is an actual
5 funeral home.

6 The proposed manager is John Wayne
7 Brown. He was first licensed 12/28/2005. He's a
8 funeral director and his license is current. He
9 does not have a criminal background. He lives 6.6
10 miles from the facility. And the owner of this
11 facility is Mr. Brown and he is here to ask
12 approval pending inspection.

13 MADAM CHAIRPERSON: Do you have
14 anything you'd like to address to the Board, Mr.
15 Brown?

16 MR. BROWN: No, ma'am. Ms. Rose
17 has addressed it completely, I believe.

18 MADAM CHAIRPERSON: The Cremation
19 Authority, what is that actually? Is that a
20 crematory that you current operate or --

21 MR. BROWN: It is not a crematory.
22 It will not have a retort.

23 MADAM CHAIRPERSON: No. I'm
24 talking about -- oh, that's the name of the
25 facility?

1 MR. BROWN: Yes, ma'am. Additional
2 facility.

3 MR. HORTON: I'm confused. An
4 additional facility for what business?

5 MR. BROWN: Forest Hills Funeral
6 Home. This will be chapel branch location.

7 (Board talking)

8 MR. HORTON: Is it going to be on
9 the same property?

10 MR. BROWN: It'll be on the same
11 campus, yes, sir.

12 MR. SAXON: So the chapel is on the
13 crematory's property?

14 MR. BROWN: It's a different
15 building.

16 MR. SAXON: Right. Okay.

17 MR. BROWN: And there's no
18 crematory.

19 MR. SAXON: There's no crematory?
20 May I ask where they get the name Crematory
21 Authority?

22 MR. BROWN: Cremation Authority?
23 We're going to market specifically cremation only
24 through that facility.

25 MR. HORTON: And it's going to be a

1 part of Forest Hills Funeral Home?

2 MR. BROWN: Yes, sir.

3 MR. HORTON: Okay. And so you're
4 the owner of Forest Hills Funeral Home?

5 MR. BROWN: Yes, sir.

6 MR. HORTON: Okay. I have to ask
7 you this because I've asked everybody else. I see
8 your SLED check and as of September 20th of this
9 year, you have no record at SLED. Have you been
10 arrested for anything since then or have any
11 charges pending against you since then?

12 MR. BROWN: No, sir.

13 MR. HORTON: Okay.

14 MR. NELSON: Madam Chair, I move
15 that we accept this application pending final
16 inspection and proof of training.

17 (Board speaking)

18 MADAM CHAIRPERSON: He's not going
19 to have a retort. He's not going to be operating
20 a crematory. He's just calling it Cremation
21 Authority. Can you call it Cremation Authority?

22 MR. HORTON: Yeah, you can.

23 Because funeral homes that don't have crematories
24 can say funeral home and cremation.

25 MADAM CHAIRPERSON: Yeah, that's

1 true. Is there a motion and a second?

2 MR. CRAWFORD: Yeah, there's a
3 second.

4 MADAM CHAIRPERSON: All those in
5 favor?

6 (Response)

7 MADAM CHAIRPERSON: Opposed?

8 (No response)

9 MADAM CHAIRPERSON: Sorry you had
10 to wait so long.

11 MR. BROWN: Thank you.

12 MR. SAXON: Mr. Henryhand?

13 MR. HENRYHAND: Present.

14 MR. HORTON: Madam President,
15 Mr. Henryhand and go back a long way. He's from
16 the same town that I'm from and we're right around
17 the corner from each other. But since this is not
18 a disciplinary hearing, I will recuse myself if
19 Henryhand would like me to.

20 MR. HENRYHAND: Madam Chairman and
21 Mr. Horton, please, sir, stay. Because we go way
22 back and I really do appreciate that if anything
23 come up about our characters --

24 MR. HORTON: Thank you.

25 MR. SAXON: Swear him in, please.

1 Whereupon:

2 William C. Henryhand, having been
3 duly sworn and cautioned to speak the truth,
4 the whole truth and nothing but the truth,
5 testified as follows:

6 MS. ROSE: Okay. We've got a new
7 facility, but it is a new but it's an additional
8 facility. He already has an existing facility.
9 The name of it is Henryhand Funeral Home. The
10 present manager is William C. Henryhand. He was
11 first licensed 4/21/1992. He's a funeral director
12 and embalmer and his license is current.

13 He had a criminal background in
14 1983, but he's been before the Board, you know,
15 during that time and we've approved an application
16 and he hasn't had anything since. He lives 24
17 miles from the funeral home. The owner of this
18 facility is Mr. Henryhand and he is here today
19 asking for approval to be the manager of this
20 facility.

21 And I was in need of a zoning
22 document, and I think we did put those in there
23 finally for y'all. That was the one thing I do
24 not have from you is the zoning. I was missing
25 that and his property tax notice, and I've got

1 that but did not get the zoning, so I've got that
2 on y'all's paper that I needed the zoning
3 documents.

4 MR. SAXON: Mr. Henryhand, do you
5 have the zoning documentation with you?

6 MR. HENRYHAND: No, sir. I don't
7 have it with me, but it was granted by Georgetown
8 County. And it's a general business zoning, so
9 it's --

10 MR. SAXON: When was that granted,
11 do you remember?

12 MR. HENRYHAND: Probably about a
13 week, two weeks ago I registered with them and
14 everything. I could fax that document.

15 MADAM CHAIRPERSON: We'll need a
16 copy of that. Mr. Henryhand, how many locations
17 do you currently manage?

18 MR. HENRYHAND: The main one in
19 Kingstree, South Carolina.

20 (Board speaks)

21 MR. HORTON: Which building is this
22 in?

23 MR. HENRYHAND: It's the old
24 Georgetown Kraft Credit Union.

25 MR. HORTON: That's the one right

1 there on Main Street?

2 MR. HENRYHAND: Well, it's coming
3 on Highway 41, Conifer Street. It's, the
4 Georgetown Kraft Credit Union built a new facility
5 and I purchased the old, which it was already
6 zoned in the proper zoning area because of the
7 kind of business it was.

8 MR. NELSON: Isn't he full
9 service.

10 MR. HENRYHAND: A branch service,
11 just only a branch.

12 MADAM CHAIRPERSON: By branch, do
13 you mean that it would have embalming facilities
14 and --

15 MR. HENRYHAND: No, ma'am. No
16 embalming facility, but a showroom and
17 everything.

18 MS. ROSE: It's on page six in your
19 log, the branch. It says it means an
20 establishment separate and apart from the licensed
21 parent funeral home that has embalming facilities,
22 a chapel, a layout room or a sales room or any
23 combination of these.

24 MR. CRAWFORD: That's a branch?

25 MS. ROSE: Page six.

1 MR. TEMPLES: And that gives you
2 the opportunity to name a separate manager if you
3 would like to, is what it does.

4 MADAM CHAIRPERSON: Well, then it
5 is a branch because if it has a showroom, then
6 it's a branch because it says or any combination
7 of these.

8 MR. HORTON: Mr. Henryhand, I need
9 to ask you this. Since October 24th, 2011 at
10 1058, have you got anything on your record?

11 MR. HENRYHAND: No, sir.

12 MR. HORTON: You haven't been
13 stopped by the cops and charged with nothing?

14 MR. HENRYHAND: No, sir,
15 Mr. Horton. Not even a citizen's arrest.

16 MR. TEMPLES: Have you been hanging
17 around Mr. Horton?

18 MR. HENRYHAND: He's a good man, a
19 good friend.

20 MR. TEMPLES: Madam President, I
21 make a motion that we approve this application,
22 pending approval of county zoning and pending
23 final inspection.

24 MADAM CHAIRPERSON: Do I have a
25 second?

1 MR. NELSON: Second.

2 MADAM CHAIRPERSON: All those in
3 favor?

4 (Response)

5 MADAM CHAIRPERSON: Opposed?

6 (No response)

7 MADAM CHAIRPERSON:

8 Congratulations.

9 MR. HENRYHAND: Madam Chairman,
10 thank you, very much. And Board members, thank
11 you all so much and y'all have a blessed evening.

12 MADAM CHAIRPERSON: Mr. Michael A.
13 Glenn? Would you swear Mr. Glenn in, please.

14 Whereupon:

15 Michael A. Glenn, having been duly
16 sworn and cautioned to speak the truth, the
17 whole truth and nothing but the truth,
18 testified as follows:

19 MADAM CHAIRPERSON: Ms. Rose?

20 MS. ROSE: Okay. This is a new
21 facility. Well, it's new, but it's an additional
22 facility. It's going to be a branch. And I
23 didn't get zoning papers, so Mr. Glenn and --

24 MR. GLENN: It's not --

25 MS. ROSE: Right. He informed me

1 that --

2 MR. SAXON: Hang on, please. One
3 person at a time so she can get it down, okay?
4 Thank you.

5 MS. ROSE: All right. He just
6 noted that he'd let me know that it was located in
7 the city and that no zoning was required --

8 MR. GLENN: Outside of the city.

9 MS. ROSE: Outside of the city.
10 Sorry. Okay. Anyway, Michael A. Glenn is the
11 proposed manager. He was first licensed
12 11/30/1993. He's the funeral director and his
13 license is current. He does not have a criminal
14 background. He lives 10.43 miles from the funeral
15 home.

16 (Board speaks)

17 MS. ROSE: The owner of the
18 facility is Michael Glenn and he's the proposed
19 manager and he's asking for approval pending
20 inspection.

21 MADAM CHAIRPERSON: Do you have
22 anything you'd like to --

23 MR. GLENN: Just only what Ms. Rose
24 has said.

25 MADAM CHAIRPERSON: Mr. Glenn,

1 you're currently manager of the Michael A. Glenn
2 Funeral Home in Union that's already in
3 existence?

4 MR. GLENN: That is correct.

5 MADAM CHAIRPERSON: All right.

6 Since you signed this lease agreement in May of
7 2011, are you still within the appropriate
8 distance for the parent company?

9 MR. GLENN: Yes.

10 MADAM CHAIRPERSON: How far are you
11 from the parent?

12 MR. GLENN: 24.7 miles.

13 MR. NELSON: You appeared before us
14 maybe two Board meetings ago, or three Board
15 meetings ago?

16 MR. GLENN: The May 2011 Board
17 meeting, yes, sir.

18 MR. NELSON: Okay. You were in
19 residency -- as I recall, you were living in the
20 parsonage?

21 MR. GLENN: In Spartanburg.

22 MR. NELSON: In Spartanburg?

23 MR. GLENN: That's correct.

24 MR. NELSON: So your primary
25 residence now is still Spartanburg?

1 MR. GLENN: No, no. 316 North
2 Duncan Bypass, Union.

3 MADAM CHAIRPERSON: He's moved to
4 Union.

5 MR. NELSON: Okay. So you live
6 where?

7 MR. GLENN: 316 North Duncan
8 Bypass, Union.

9 MR. NELSON: In Union?

10 MR. GLENN: Yes, sir.

11 MR. HORTON: MR. Glenn, since March
12 8, 2011 at 1454 in the afternoon, have you had any
13 arrests or anything that would have been on your
14 record?

15 MR. GLENN: None, whatsoever.

16 MR. HORTON: Okay.

17 MR. NELSON: Are you still
18 ministering?

19 MR. GLENN: Yes.

20 MR. NELSON: In Spartanburg?

21 MR. GLENN: In Spartanburg, that's
22 correct.

23 MR. HORTON: Madam President, I
24 make a motion that we approve this request pending
25 a final inspection.

1 MR. NELSON: Second.

2 MADAM CHAIRPERSON: All those in
3 favor?

4 (Response)

5 MADAM CHAIRPERSON: Opposed?

6 (No response)

7 MADAM CHAIRPERSON:

8 Congratulations.

9 MR. GLENN: Thank you so much.

10 MADAM CHAIRPERSON: Mr. Ray Scott?

11 MR. SCOTT: Yes, ma'am.

12 MADAM CHAIRPERSON: Swear him in,
13 please.

14 Whereupon:

15 Ray A. Scott, having been duly
16 sworn and cautioned to speak the truth, the
17 whole truth and nothing but the truth,
18 testified as follows:

19 MADAM CHAIRPERSON: Ms. Rose?

20 MS. ROSE: This is a new facility
21 as a retail sales outlet. The name of the
22 business is going to be Sunshine Caskets. The
23 proposed manager is Ray A. Scott and he is going
24 to be the manager of this facility. And he had
25 criminal charges in 1997, but it was dismissed and

1 nothing on his record since. And he's the owner
2 of this facility and he's the proposed manager,
3 and he's asking approval pending inspection.

4 MADAM CHAIRPERSON: How about the
5 charge in 1991?

6 MR. SCOTT: In 1991, I was in a
7 small town called Hemingway, South Carolina, and
8 it was at a convenience store, some store out in a
9 rural area. And my brother and I and a friend of
10 ours, we went into this store and we purchased
11 some items. And so when we purchased the items,
12 my brother spoke to the young lady that was behind
13 the counter who happened to be Caucasian and he
14 told her how beautiful she was.

15 Well, there was three gentlemen
16 inside the store dressed in plain clothing. We
17 had no idea who they were, and they were
18 Caucasian, also. As we walked out the door, come
19 to find out later, they didn't appreciate us
20 speaking to the young lady in that context, so,
21 therefore, we walked out the door, the guys
22 confronted us and we were like, what's going on?

23 Now, they were in civilian
24 clothing. Then, all of a sudden, one of the
25 gentlemen made a call. In Hemingway, there was a

1 police car drove up and, all of a sudden, we are
2 face down at gun point. Like what's going on
3 here? We were arrested, incarcerated in Hemingway
4 overnight. Our vehicle was impounded. And that's
5 when we find out that these guys were supposedly
6 undercover cops. Now, why they did what they did,
7 I don't know. But there was never any --

8 MADAM CHAIRPERSON: So where did
9 the shoplifting charge --

10 MR. SCOTT: Well, see, here's what
11 happened. There was no shoplifting. There was
12 never anything found on us. It was just a
13 situation where I think three guys were just
14 jealous of the fact that we -- that my brother
15 spoke to this young lady.

16 We were locked and incarcerated in
17 Hemingway overnight. We were released the next
18 day. They gave us a hearing date, which I don't
19 know if you know the area. It's a place that was
20 at a -- it was at a fire station in a place we
21 called Hell's Half Acre outside of the town area.

22 So when my brother and I and my
23 friend showed up at the little fire station, the
24 officers never showed up. The Magistrate handling
25 the case at that time was Ms. Cynthia Burrows who

1 later got married and was Ms. Cynthia Williams.

2 We went to the hearing, the three
3 of us, to confront these officers as to why they
4 arrested us. 20 years later, I still haven't seen
5 the officers. There's no disposition. The case
6 was dismissed, but this was -- when I pulled the
7 SLED report the other day, this is when I saw this
8 on my record.

9 I immediately got in my car, drove
10 to Williamsburg County Magistrate, spoke to the
11 Chief Magistrate which is Magistrate Aiken, spoke
12 with his assistant which is Magistrate Delores
13 Williams, and asked them what's going on here?
14 Nobody could provide me with any answers. The
15 only thing they said was, it was in our system
16 back in '91, but we don't have any disposition or
17 any other information to give you.

18 They told me where Ms. Cynthia
19 Burrows was at. She was in Greeleyville 25 miles
20 away, I think roughly 20, 25 miles away. I got in
21 my car and drove to Greeleyville to, you know,
22 confront her about the issue because she was the
23 Magistrate at the time.

24 I spoke with her on the phone, but
25 she said, Ray, because I do recall the incident

1 but I thought it was dismissed. I don't know why
2 it's on your record. But she said, but because
3 I'm not a sitting Magistrate, I'm a Circuit
4 Magistrate now, she called in to the state and
5 spoke with someone here in Columbia, but she could
6 not give me any documentation because she was not
7 a sitting Magistrate in that county. She's
8 actually riding the Circuit now.

9 I said, well, okay, fine. I
10 couldn't get any information from no one out of
11 Williamsburg County that particular day. So when
12 I filed my report, I have nothing to hide. You
13 have it right there. I got up out of my bed at
14 six o'clock this morning because who better to
15 face you than Ray Scott? That's me. 20 years
16 later, there's nothing sitting there about that.

17 The other charge, well, I was
18 married. If you've been married, you go through a
19 divorce. My wife called Williamsburg County
20 Police Department and told them that I physically
21 hit her and that was to get the officers there
22 quickly. Well, they came looking for a man out of
23 control, the house destroyed, et cetera. None of
24 that happened.

25 The officer that answered the phone

1 came to my residence, we were sitting in the
2 house, and he's looking around observing to see if
3 anything is damaged, any bruises, et cetera, and
4 he goes, who made the call? And my ex-wife said,
5 I did. And he asked her, well, where's the
6 bruises? She said, oh, he didn't hit me. I just
7 said that so you all could get here faster. And
8 he said to her, let me tell you one thing -- he
9 wasn't that nice.

10 But, anyway, you don't ever call
11 any police department and accuse someone of
12 physically abusing you because we come looking for
13 a violent person. Well, that's why you see the
14 charges have been dismissed.

15 Twenty years later, I've worked at
16 finance companies, finance industries. My owners
17 have entrusted me with anywhere from one million
18 to two million dollars. Currently, I'm working in
19 a financial institution. I directly manage
20 Beaufort Marina's two rehabilitation program for
21 underprivileged youths, at-risk children. They've
22 entrusted me with millions of dollars.

23 I have nothing to hide. I got up
24 out of my bed at six o'clock this morning to come
25 confront you all, praying that you will grant me a

1 license to operate under Sunshine Casket Retails
2 Sales Company out of Andrews, South Carolina.
3 Because, currently, with the way the economy is,
4 my company has sold out. By the first of the
5 year, I'm not sure if I'm going to be employed or
6 not. I have a family to feed. And that's why I'm
7 here today at your mercy, hoping and praying that
8 this illustrious Board -- and you all have done a
9 great job today -- will grant me the license to
10 operate.

11 MR. HORTON: Mr. Scott?

12 MR. SCOTT: Yes, sir, Mr. Horton?

13 MR. HORTON: Since October 31st at
14 10:03 at night, have you had any arrest charges
15 brought against you?

16 MR. SCOTT: No, sir. And I stay
17 out of their way.

18 MR. PETTY: A wise man.

19 MR. HORTON: I have nothing else.

20 MR. TEMPLES: Mr. Scott?

21 MR. SCOTT: Yes, sir?

22 MR. TEMPLES: What's your
23 intention?

24 MR. SCOTT: Basically all I want to
25 do to this point is to sell caskets, that's it.

1 Nothing else. If you don't mind, I'd like to add
2 a little more to that.

3 I watched my uncle and I assisted
4 him, Reverend Campbell, who was before this Board
5 several years ago operating his business out of
6 Charleston, South Carolina, and to see how he
7 assisted families in need during the time of
8 bereavement by helping them, providing them with
9 the products such as a casket. And I really
10 appreciate what he was doing for people in general
11 and so, therefore, today, that's what I would like
12 to do.

13 MR. NELSON: You are selling to the
14 consumer?

15 MR. SCOTT: Yes, sir.

16 MR. NELSON: And funeral homes or
17 to whom?

18 MR. SCOTT: No, sir. Basically, my
19 business is geared towards the consumer.

20 MR. NELSON: So you're going to
21 have a retail and not a wholesale?

22 MR. SCOTT: Basically, yes, sir.

23 MR. NELSON: That's what you're
24 going to have, now, right?

25 MR. SCOTT: Could I ask you a

1 question?

2 MR. NELSON: Yes, sir.

3 MR. SCOTT: I understand retail and
4 I understand wholesale. Can it be a combination
5 or it can be one or the other?

6 MR. NELSON: One or the other.

7 MR. SCOTT: Wholesale. Well, let
8 me correct. Retail.

9 MR. CRAWFORD: I make a motion that
10 we approve the application.

11 MADAM CHAIRPERSON: Do I have a
12 second?

13 MR. TEMPLES: Second.

14 MADAM CHAIRPERSON: All those in
15 favor?

16 (Response)

17 MADAM CHAIRPERSON: Opposed?

18 (No response)

19 MADAM CHAIRPERSON:
20 Congratulations.

21 MR. SCOTT: Thank you all very much
22 and I appreciate your time. You all have a great
23 day.

24 MR. SAXON: Ms. Brown is not here,
25 but we have a letter on her behalf. Is that

1 correct, Ms. Rose?

2 MS. CUBITT: She got sick and was
3 at the doctor's office or the emergency room
4 yesterday and she was in supposed to be having
5 tests today, and so she couldn't come. She has
6 everything she needs except three more months to
7 complete her apprenticeship. This would be her
8 last time she could do it.

9 MR. TEMPLES: And she is a
10 full-time employee?

11 MR. HORTON: I know her. I know
12 her, you know, and I'm not going to say yeah or
13 nay, but, you know, they live in Georgetown. It's
14 Mayo Funeral Home.

15 MADAM CHAIRPERSON: Well, it says
16 the residence is Teca Cay.

17 MR. HORTON: They live at Murrells
18 Inlet.

19 MADAM CHAIRPERSON: It says she
20 does. Or she's going to staying here the majority
21 of the time. I was wondering how many hours a
22 week she would be working --

23 MR. HORTON: She has been working
24 there full time. I don't know when they --

25 MS. CUBITT: That was our

1 understanding, that she worked full time, but she
2 got sick yesterday. And we think the three months
3 that she's missing, she thought it had been turned
4 in, but it was when they were going upstairs when
5 we had the LLC department and, you know, it may
6 have been lost up there or something may have
7 happened, we don't know. But we didn't get that
8 three months apprenticeship, so she wants to sign
9 up for the fourth time.

10 MR. HORTON: Well, one thing on her
11 part, she's not in here saying, I sent it in and
12 y'all didn't get. She said she was asking for
13 four months to complete it, so, I mean, she --

14 MR. TEMPLES: I'll make a motion
15 that we accept this application.

16 MR. NELSON: I second it.

17 MADAM CHAIRPERSON: All those in
18 favor?

19 (Response)

20 MADAM CHAIRPERSON: Opposed?

21 (No response)

22 MR. HORTON: All right. Now, let
23 me ask you this, now. I mean, this is after the
24 fact, but she's requesting four more months. Now,
25 does she get another two-year apprenticeship?

1 MS. CUBITT: No. She gets one
2 year.

3 MR. HORTON: All right.

4 MS. ROSE: Mr. Horton, it's not
5 written on here. I mean, she's actually asking
6 for three. Wendi and I were looking at her
7 reports and trying to be sure she had all her, you
8 know, was close to finishing and we actually
9 noticed that they put in one form that said what,
10 November/December? And we looked at the actual
11 report and it really did say October, November,
12 December. So we gave her that other month. So
13 she's actually asking for three.

14 MR. HORTON: Okay. Thank you.

15 MADAM CHAIRPERSON: Mr. Erik
16 Crawford?

17 MR. CRAWFORD: I'll have to recuse
18 myself.

19 MR. PETTY: Why?

20 MR. CRAWFORD: He works for me.

21 MR. HORTON: Are you going to stand
22 beside him?

23 MR. CRAWFORD: I might as well.

24 Whereupon:

25 Erik V. Crawford, having been duly

1 sworn and cautioned to speak the truth, the
2 whole truth and nothing but the truth,
3 testified as follows:

4 MADAM CHAIRPERSON: Ms. Rose?

5 MS. ROSE: Okay. This is Erik
6 Vaughn Crawford and he's wanting to extend his
7 funeral director and embalmer apprenticeship. And
8 before you, you'll see the times that he's done
9 it. He has his 50 funeral cases and right now he
10 has 17 months, so he's -- he does not have any of
11 the required 25 that we just started maybe last
12 year, so he's asking to extend his apprenticeship
13 for one more year.

14 MADAM CHAIRPERSON: Well, those
15 items, the 25 cases is not even logged at this
16 point in time, is it?

17 MS. ROSE: No. That's right.

18 MADAM CHAIRPERSON: It's proposed
19 legislation.

20 MS. CUBITT: But he still needs the
21 months.

22 MR. SAXON: Doris, how many months
23 does he need?

24 MS. CUBITT: Seven.

25 MR. NELSON: We could grant a year.

1 MADAM CHAIRPERSON: Mr. Crawford,
2 why didn't you complete your first two-year
3 apprenticeship?

4 MR. CRAWFORD: I was trying to
5 complete my undergraduate education at the time
6 and I was in school and did not submit all of my
7 quarterly reports.

8 MR. TEMPLES: Are you employed now
9 at the funeral home?

10 MR. CRAWFORD: Yes, sir.

11 MR. NELSON: Do you get a
12 paycheck?

13 MR. CRAWFORD: Sometimes.

14 MADAM CHAIRPERSON: So why are
15 there so many interruptions in your
16 apprenticeship? You served a second one from '08
17 to '09 and then skipped and went from '09 to '10.

18 MR. CRAWFORD: Yes, ma'am. I was
19 in school then. I went to mortuary school after
20 undergraduate school. I was negligent about
21 sending in those quarterly reports.

22 MADAM CHAIRPERSON: But you were
23 full time at a mortuary school.

24 MR. HORTON: Mr. Crawford?

25 MR. CRAWFORD: Yes, sir?

1 MR. HORTON: Since August the 1st,
2 2011 at 12:28, have you had any run-ins with the
3 law, any arrests or anything on your record?

4 MR. CRAWFORD: No, sir.

5 MR. HORTON: Okay.

6 MR. NELSON: Madam Chairman, I make
7 a motion that we extend him the once a year for
8 the apprentice.

9 MADAM CHAIRPERSON: Do I have a
10 second?

11 MR. TEMPLES: Second.

12 MADAM CHAIRPERSON: All those in
13 favor?

14 (Response)

15 MADAM CHAIRPERSON: Opposed?

16 (No response)

17 MADAM CHAIRPERSON:
18 Congratulations.

19 MR. CRAWFORD: Madam President,
20 members of the Board, thank you.

21 MADAM CHAIRPERSON: Mr. Wallace
22 Hunter. Would
23 you swear him in, please.

24 Whereupon:

25 Wallace Hunter, III, having been

1 duly sworn and cautioned to speak the truth,
2 the whole truth and nothing but the truth,
3 testified as follows:

4 MADAM CHAIRPERSON: Mr. Rose?

5 MS. ROSE: Okay. This Wallace
6 Hunter, III, and he did an apprenticeship and he
7 completed it in 2001 and he had over 50 funeral
8 cases. Mr. Hunter submitted a funeral director
9 application. After completing it in 2005, he paid
10 for the State law exam and the funeral director
11 exam. He took the funeral director exam on
12 2/11/2005 and made a 69 so he didn't pass that
13 exam. But he hasn't taken any exams since, until
14 his dad came in one day to bring me some papers,
15 he wasn't aware that we were going with the five
16 years where if you hadn't gotten licensed after
17 completing the apprenticeship within five years,
18 that you would have to do it over.

19 So his dad went home and told him
20 and he wrote a letter just stating to the Board,
21 you know, just what his circumstances were. And
22 so he wanted to appear and explain everything to
23 y'all.

24 MADAM CHAIRPERSON: Mr. Hunter, did
25 you want to address the Board at this time?

1 MR. HUNTER: Madam Chair, in
2 addition to what Ms. Rose has said, in the
3 meantime, in between subsequent to that, I live in
4 Charleston, I live in Goose Creek. When I did my
5 apprenticeship, I've been living there since the
6 '80s, but my employment with the Department of
7 Disabilities and Special Needs, they've afforded
8 me the flexibility. I've not missed a single case
9 with the exception of one.

10 I assisted my family, you know, at
11 our firm, Hunter Funeral Home in Whitmire, you
12 know. My career has had me, you know, quite busy.
13 I've work multiple employment with disabilities,
14 special needs, juvenile sex offenders in high
15 schools and things of that sort and kind of took
16 my eyes off of the calendar and got busy with the
17 career and stuff. That's pretty much --

18 MADAM CHAIRPERSON: Why didn't you
19 ever take the written exam?

20 MR. HUNTER: With all of the job
21 responsibilities and the travel back and forth, I
22 didn't take the, you know, I didn't feel
23 adequately prepared, and then just got overly
24 involved with what I was doing with the career
25 stuff.

1 MADAM CHAIRPERSON: How much time
2 do you spend at the funeral home? I mean, you're
3 about 165 miles away up in --

4 MR. HUNTER: Every case, the minute
5 they call me, you know, I -- with my boss, even
6 when I've had two jobs, I've gotten with both
7 bosses and they've been favorable in allowing me
8 to come and assist, you know, and everything that
9 I've been allowed to do in terms of, you know,
10 when I --

11 MADAM CHAIRPERSON: So if we were
12 to grant this, when would you be planning on
13 taking these exams since you clearly still have a
14 very busy schedule?

15 MR. HUNTER: Well, unfortunately at
16 this time, I'm down to one job and so I would make
17 that --

18 MADAM CHAIRPERSON: So you're no
19 longer working in Charleston or are you --

20 MR. HUNTER: Oh, yes. I'm still in
21 Charleston. I have about --

22 MADAM CHAIRPERSON: Well, then,
23 you're not working at the funeral home?

24 MR. HUNTER: Yes, ma'am.

25 MADAM CHAIRPERSON: Well, you have

1 two jobs,

2 then.

3 MR. HUNTER: Well, I have two jobs,
4 yes, ma'am. I'm sorry.

5 MADAM CHAIRPERSON: So when would
6 you plan on taking the exam?

7 MR. HUNTER: As soon as possible.
8 I would probably try to make arrangements to take
9 that, you know, after the conclusion of the
10 holidays of having to cover my department. The
11 next two months should be kind of busy.

12 MR. TEMPLES: Madam President, may
13 I address Ms. Cubitt? What's the ruling on this,
14 Ms. Cubitt? I mean, he's already served his
15 apprenticeship; is that correct?

16 MS. CUBITT: Yes, sir.

17 MR. TEMPLES: Does he need to take
18 the test or could he apply for another
19 apprenticeship? But he's already met his
20 requirements, has he not?

21 MS. CUBITT: He did meet his
22 requirements, but he hasn't tested since then, so
23 he would need to test. And the Board's position
24 in the past has been, if it's been more than five
25 years, they had to do their apprentice over. But

1 y'all argue it now on a case by case basis.

2 MADAM CHAIRPERSON: How many years
3 has it been?

4 MS. CUBITT: Since --

5 MADAM CHAIRPERSON: Ten?

6 MS. ROSE: But he had been taking
7 the exams in 2005, so we were kind of going from
8 there. Because he was actively taking them then.
9 But he did complete it 2005. But some people have
10 never taken the exams and he did at least fill out
11 an application and he took the law. He actually
12 paid for both of them, the funeral director and
13 the law, but he only took the law at that time.

14 MR. CRAWFORD: Did he pass the
15 law?

16 MS. ROSE: No.

17 MR. TEMPLES: Since he has not
18 taken the state exam, if he were to take the state
19 exams, would he be able to be licensed since he
20 had already served his apprenticeship or no?

21 MS. CUBITT: He'd have to take the
22 law.

23 MR. TEMPLES: Well, plus the law.

24 MS. CUBITT: That would be up to
25 the Board to decide whether the apprenticeship was

1 still good or not.

2 MADAM CHAIRPERSON: Well, if we
3 allowed the apprenticeship, would there be a set
4 amount of time within which he has to take and
5 pass these exams and, if not, he would have to
6 serve his apprenticeship again?

7 MS. CUBITT: Well, they could wait
8 and just let him keep sitting for the exam and
9 then once he passed the exam, then come back and
10 ask.

11 MR. TEMPLES: I mean, if he goes
12 and takes the exam, but somebody else is sitting
13 on this Board and he comes back and they say, no,
14 you've got to serve your apprenticeship again, you
15 know, that ain't right.

16 MR. NELSON: He's already served
17 his apprenticeship.

18 MR. TEMPLES: I know it's been a
19 long time.

20 MADAM CHAIRPERSON: Right. But,
21 therefore, that's why I said you should be given a
22 certain amount of time that they wish to take the
23 exams and pass them and if he does, then he
24 doesn't have to worry about the fact that the
25 Board has changed.

1 I would recommend like a six-month
2 period with which he has to successfully take and
3 pass the exams or he would need to serve his
4 apprenticeship again.

5 MR. NELSON: I'll make a motion for
6 what you just said. I'll make that a motion.

7 MR. TEMPERS: I second.

8 MADAM CHAIRPERSON: All those in
9 favor?

10 (Response)

11 MADAM CHAIRPERSON: Opposed?

12 (No response)

13 MADAM CHAIRPERSON: Mr. Hunter, you
14 understand, you've got six months to take these
15 exams and successfully pass them or you will have
16 to serve your apprenticeship again.

17 MR. HUNTER: I understand.

18 MS. CUBITT: And we're going from
19 this date, right?

20 MADAM CHAIRPERSON: From right
21 now.

22 MR. HUNTER: Okay. I'm on it.
23 Thank you, so much. I appreciate it. Y'all have
24 a blessed day.

25 MADAM CHAIRPERSON: Mr. Kevin

1 Brock. I'm familiar with Mr. Brock and,
2 therefore, I'm going to be recusing myself from
3 this matter. Mr. Crawford will be taking
4 over.

5 MR. SAXON: Are there any other
6 issues of recusal from other Board members?

7 MR. CRAWFORD: Kevin Sean Brock?

8 MR. BROCK: Yes, sir.

9 MR. CRAWFORD: Okay. Be sworn in.

10 Whereupon:

11 Kevin S. Brock, having been duly
12 sworn and cautioned to speak the truth, the
13 whole truth and nothing but the truth,
14 testified as follows:

15 MR. CRAWFORD: Ms. Rose?

16 MS. ROSE: Okay. Kevin Sean Brock,
17 he was a licensed funeral director and an embalmer
18 on 10/16/1997. His license expired 6/30/2001, but
19 since it had been past the five years, he had sent
20 an application in on 2010 which was denied by the
21 staff administrator due to his criminal
22 background, and they told him that -- he had a
23 felony on his record and they told him to have it
24 expunged and then he could reappear before the
25 Board.

1 So he has a proof of a pardon now
2 and we've provided you with the whole application
3 that he had before where he was requesting the
4 pardon. And then now, we've got just the -- we
5 didn't provide the old criminal background. We
6 just provided the new one now where on each side
7 of where it says -- it has the pardon written on
8 each side showing you that he has had the pardon.
9 Plus the letters.

10 So what he's actually asking for
11 is, he's asking for approval of the criminal
12 background, he has a pardon now, and also
13 eligibility to either take the exams or, you know,
14 meet the requirements of the Board or whatever
15 they say.

16 MR. CRAWFORD: Mr. Brock?

17 MR. BROCK: Yes, sir?

18 MR. CRAWFORD: Would you like to
19 address the Board?

20 MR. BROCK: Yes, sir. I come
21 before you today to hopefully reinstate my funeral
22 director and embalmer's license. Obviously, when
23 I was younger, I made some mistakes and associated
24 with people that put me in harm's way.

25 I have completely changed my ways.

1 I do not associate with these type of people. I
2 am still seeking and working towards spiritual
3 guidance. I attend AA meetings regularly and I do
4 everything I can to be a different person, a
5 cleaner person and a healthy person.

6 MR. CRAWFORD: Any questions by the
7 Board?

8 MR. HORTON: Mr. Brock, since
9 September 20th of this year, have you had any
10 other charges made against you?

11 MR. BROCK: Yes, sir, Mr. Horton, I
12 do. I have a DUI charge pending. I was in a car
13 accident one night and I took Ambien. Alcohol was
14 not a factor. And this all hopefully will be
15 dismissed, but it is a pending charge.

16 MR. HORTON: Do you have any idea
17 when it will be dismissed? Do you have any idea?

18 MR. BROCK: My attorney has said
19 he's going to hold it up and they're working on
20 reducing the charges with the Town of Mt.
21 Pleasant. Since alcohol was not a factor and this
22 was based off of the sleep aid, Ambien.

23 MR. HORTON: Were you charged --
24 was it charged as a misdemeanor or a felony DUI?

25 MR. BROCK: A misdemeanor, not a

1 felony.

2 MR. HORTON: Okay. You didn't hit
3 anybody else?

4 MR. BROCK: No. I hit a curb and
5 -- but, no, there was no --

6 MR. HORTON: Right. That's all I
7 have.

8 MR. CRAWFORD: Anybody else?

9 MR. TEMPLES: Mr. Brock, where are
10 you currently employed?

11 MR. BROCK: I am employed with
12 McAlister-Smith Funeral Home as a general laborer.
13 I do everything that you do when you first start
14 out, I guess, besides any clinical or business
15 financial aspects. So in a lot of ways, I've
16 started over in this industry.

17 It's been a humbling process. And
18 when I lost my father last year, it brought me
19 back to why I wanted to be a funeral director and
20 embalmer. And I regret leaving the business, to
21 begin with, but I was young and made some foolish
22 decisions.

23 MR. TEMPLE: I make a motion that
24 we go into Executive Session to seek legal
25 advice.

1 MR. HORTON: Second.

2 MR. CRAWFORD: Okay. It's been
3 moved and a proper second that we go to Executive
4 Session to seek legal advice in this matter. All
5 in favor?

6 (Response)

7 MR. CRAWFORD: Opposed?

8 (No response)

9 MR. CRAWFORD: Thank you.

10 (Executive Session from 3:55 p.m. to
11 4:03
12 p.m.)

13 MR. HORTON: I make a motion we
14 come out of Executive Session.

15 MR. TEMPLES: I second.

16 MR. CRAWFORD: All in favor?

17 (Response)

18 MR. CRAWFORD: Opposed?

19 (No response)

20 MR. CRAWFORD: It has been moved
21 and a proper second that we come out of Executive
22 Session and back into regular session.

23 MR. SAXON: And while we were in
24 Executive Session, no actions or votes were
25 taken.

1 MR. CRAWFORD: Yeah.

2 MR. HORTON: Mr. Vice President,
3 I'd like to make a motion and I would like our
4 advice counsel to read it, please.

5 MR. SAXON: Mr. Horton, as I
6 understand it, the motion is to grant Mr. Brock's
7 request with the understanding that he retake and
8 successfully pass the exams within six months of
9 today's date. Is that right?

10 MR. HORTON: That's right.

11 MR. SAXON: And, as I understand
12 it, those exams would be either the state
13 embalmer, state funeral director and state law, or
14 the national exam along with the state law exam.

15 MR. HORTON: Correct.

16 MR. BROCK: Are we saying all of
17 them or just the state's or a combination?

18 MR. HORTON: If you take the
19 national, if you want to take the national --

20 MR. SAXON: We've got a motion on
21 the table.

22 MR. TEMPLES: I second.

23 MR. CRAWFORD: Enter to move and a
24 proper second. All in favor?

25 (Response)

1 MR. CRAWFORD: Opposed?

2 (No response)

3 MR. SAXON: You have a choice. You
4 can either take the national exam and the state
5 law exam which have to be passed, both which have
6 to be passed in six months from today's date. Or
7 you can the three exams, the state embalmer exam,
8 the state funeral director exam and the state law
9 exam.

10 MR. BROCK: Okay. And when's the
11 earliest I can take it?

12 MR. HORTON: You'll have to talk to
13 them.

14 MR. BROCK: All right.

15 MS. CUBITT: Just as soon as you
16 can schedule it.

17 MS. ROSE: We've got everything now
18 and all we have to do is send your name over the
19 international conference and then send you a
20 letter to go on their website. You fill out their
21 application that will schedule and pay them. And,
22 usually, you have to give them a four-day notice.

23 MR. BROCK: Okay.

24 MS. ROSE: If by chance you failed,
25 you have to wait 30 days.

1 MR. BROCK: Okay.

2 MR. CRAWFORD: Okay, Mr. Brock,
3 thank you, very much.

4 MR. BROCK: No. Thank you.

5 MR. SAXON: Do we have a committee
6 report?

7 MADAM CHAIRPERSON: All right.
8 This response letter.

9 MS. CUBITT: Madam Chair, that's a
10 draft that Jamie is graciously is working on. And
11 we want the Board's approval on it and then you
12 can sign it.

13 MR. SAXON: I see a mistake right
14 now. Scrivener's errors in the first page, fifth
15 paragraph. It should the SC Code A-n-n period.
16 But that can be fixed.

17 MS. ROSE: Oh, right there. Okay.

18 MR. SAXON: And that goes for the
19 second paragraph, too.

20 (Board speaking)

21 MADAM CHAIRPERSON: Is the purpose
22 of this because he keeps coming before us and
23 there's nothing really that we can do about -- I
24 mean --

25 MS. CUBITT: He had some

1 communication and wanted a response from y'all.
2 And the last meeting, y'all did take his reports
3 and stuff, his information.

4 MR. SAXON: And I believe
5 Ms. Templeton wanted us to respond, is my
6 understanding.

7 MS. CUBITT: She wanted us to
8 respond, that's correct.

9 MR. SAXON: And so I took the
10 liberty of drafting something for y'all's
11 consideration and feel free to rip it shreds if
12 you'd like to and I can change it any way you'd
13 like.

14 MADAM CHAIRPERSON: No. I read it
15 last night. What we're basically telling him is
16 -- now, just correct me if I'm wrong -- but if he
17 has a complaint, he needs to file it and we can
18 address it. Otherwise, we're spinning our wheels
19 here with them.

20 MR. SAXON: Well, we explain what
21 the Board can enforce and what it can't enforce
22 and --

23 MR. TEMPLES: And he can file with
24 the Federal Trade Commission if he would like as
25 well.

1 MR. SAXON: Right. Or if he's got
2 a complaint that we can enforce, he can file it
3 with us.

4 MR. NELSON: And he will.

5 MR. SAXON: It's basically, Doris,
6 wouldn't you agree, an information letter?

7 MS. CUBITT: Yes.

8 MADAM CHAIRPERSON: Well, I mean,
9 that's what I took it to be.

10 MR. CRAWFORD: But he really is
11 after something that we can't do and that's price.
12 He wants everybody to have the same price and we
13 can't do that, and he's going to keep coming after
14 us with that.

15 MR. TEMPLES: Do we need a motion
16 on this? I make a motion to accept his draft to
17 Mr. Fulton pending changes.

18 MR. CRAWFORD: Second.

19 MADAM CHAIRPERSON: All in favor?

20 (Response)

21 MADAM CHAIRPERSON: Opposed

22 (No response)

23 MADAM CHAIRPERSON: So ordered.

24 MR. TEMPLES: Is the next document
25 conversion to electronic format?

1 MS. CUBITT: To electronic format?

2 Uh-huh.

3 MADAM CHAIRPERSON: Ms. Cubitt?

4 MS. CUBITT: They sent that to us
5 and so we brought it to y'all. I didn't think
6 that it -- as long as they could produce the
7 records that they needed, it wouldn't matter
8 whether it was in electronic format or a paper
9 format.

10 MADAM CHAIRPERSON: As long as they
11 have it, I would think. As long as they have all
12 the information that's required.

13 MR. HORTON: What documents are
14 you --

15 MADAM CHAIRPERSON: Well, they're
16 talking about the crematories and doing their
17 documentation electronically rather than --

18 MR. TEMPLES: Well, hold on. If
19 you look in a little further, it says funeral home
20 as well, if you read in there a little further.
21 The only problem I have with this, I don't mind
22 electronics now. But when you start having
23 individuals sign documents, I think they should
24 keep the original copy.

25 MADAM CHAIRPERSON: You're talking

1 about like funeral contracts?

2 MR. TEMPLES: Yes.

3 MADAM CHAIRPERSON: I missed the
4 part about the funeral --

5 MR. TEMPLES: And funeral homes.
6 It's right there in the first --

7 MS. CUBITT: It's the next to the
8 last paragraph on that -- well, if you go to a
9 totally electronic contract, and I can see that
10 and I can see them signing it -- but don't you
11 have to give them a copy of it? So you've still
12 got to print out --

13 MR. TEMPLES: Yes. I believe we
14 need to take this under advisement. We can't make
15 a decision on this yet.

16 MS. CUBITT: Okay.

17 MR. TEMPLES: And then we've got to
18 write to the Board of Community Service under J.
19 Henry Stirr. The purpose of this letter is to
20 communicate to the Board of Funeral Service
21 electronic file and maintenance pertaining to
22 crematory records.

23 MADAM CHAIRPERSON: Yeah, I saw
24 that. I mean, I read that and I guess that's why
25 I assumed it was just crematory.

1 MR. TEMPLES: No. It's two
2 separate documents.

3 MADAM CHAIRPERSON: But Stirr is
4 just asking about the crematory --

5 MR. TEMPLES: Right. What they're
6 asking for is permission to keep their, retain
7 their records. They want to transfer their
8 records electronically filed. Instead of going
9 from paperwork, they want to go to computer. And
10 I don't have a problem with that as long as the
11 inspectors --

12 MADAM CHAIRPERSON: I don't either.
13 A lot of the new retorts, they generate a computer
14 -- they generate their own printouts.

15 MR. TEMPLES: Right. Just as long
16 as the inspectors have access to their documents
17 because they need access.

18 MADAM CHAIRPERSON: As long as
19 they're not in a computer or something where they
20 can't get to them. I mean, they need to have
21 access.

22 MR. TEMPLES: They have to have
23 access, the inspectors. I don't have a problem
24 with that.

25 MADAM CHAIRPERSON: I don't have a

1 problem with that either, but -- well, the
2 crematory part.

3 MR. TEMPLES: Did you hear or are
4 we going to make a motion on this or are we going
5 to table this or --

6 MADAM CHAIRPERSON: What are you
7 speaking of?

8 MR. TEMPLES: About the crematory.

9 MADAM CHAIRPERSON: Well, it's part
10 of the other, then you know it's going to have to
11 -- we're going to have to, are we not? If we're
12 going to do advisement for the other -- I mean, I
13 have no problem with the crematory part, but can
14 we separate the two.

15 MR. SAXON: It's just easier.

16 MADAM CHAIRPERSON: Leave them
17 together?

18 MR. SAXON: Right.

19 MADAM CHAIRPERSON: Okay. We'll
20 take it under advisement.

21 (Board speaks)

22 MADAM CHAIRPERSON: Okay. Let's go
23 to proposed --

24 MR. HORTON: The ones that are
25 highlighted are the proposed additions to the

1 law?

2 MR. SAXON: Right. And I want to
3 re-introduce you, and you probably remember from
4 our Halloween meeting, Ms. Jennifer Cooper, who
5 was our assistant then, is sort of the guru for
6 legislation. And she has filed a notice of
7 drafting for the advice counsels to clean up,
8 which we need to vote on today, just the regs. We
9 don't vote on the engine.

10 Then we need -- Jennifer, correct
11 me if I'm wrong -- to vote on the proposed
12 Practice Act changes that the Board made on
13 October 31st and the regs generated by the Board
14 on October 31st. Is that right, Jennifer?

15 MS. COOPER: Yes.

16 MR. SAXON: And the fees.

17 MR. HORTON: The chief advice
18 counsel statue is regulating -- oh, I don't have
19 that, do I?

20 MR. TEMPLES: Up in your folder, I
21 think.

22 MR. SAXON: Ms. Rose, is that in
23 there?

24 MS. ROSE: That's in the new
25 folder, the new folder that they got this

1 morning.

2 MR. SAXON: And I know there was
3 some concern, if you'll let me go back to the
4 engine for just a moment, about the amount of the
5 fine. That does not preclude you from raising the
6 fine, provided that passes.

7 MR. TEMPLES: Say it one more time,
8 Mr. Saxon. I'm sorry.

9 MR. SAXON: Well, the engine states
10 a fine of \$500. But it also gives leeway for that
11 to be raised and that remains the same. So
12 provided the Practice Act changes that we talked
13 about on the 31st go through, then you'd still
14 have the authority to raise that from that \$500.

15 MR. NELSON: How much?

16 MR. SAXON: Well, I think we --

17 MADAM CHAIRPERSON: I mean, we said
18 5,000, but, I mean --

19 MR. SAXON: That's the goal.

20 MADAM CHAIRPERSON: But is that
21 covered by that --

22 MR. SAXON: It's not. It's covered
23 in what we are proposing.

24 MADAM CHAIRPERSON: Okay.

25 MR. HORTON: All right. Where is

1 your thing that you wanted us to look at about the
2 chief advice counsel statutes?

3 MR. SAXON: I think Ms. Rose put
4 that in today's folder. Is that right?

5 MS. ROSE: Okay. That was in this
6 morning's folder.

7 MR. SAXON: In this morning's?
8 Okay. And for everybody's benefit, all this does
9 is, this has involved a lot of work. On the first
10 page, it's got a notice of drafting. The second
11 page has a preamble, then it goes section by
12 section discussion and starts with 57-04.

13 This is something the advice
14 counsel has been working on, chief advice counsel,
15 for quite some time, along with assistance from me
16 and Mr. Grigg and Mr. Spoon for each of the
17 different Boards we serve, and it's simply a way
18 to ensure that each Board's Practice Act and the
19 engine don't conflict with each other.

20 MADAM CHAIRPERSON: This is what we
21 were talking about at the last meeting to be that
22 --

23 MR. SAXON: Right.

24 MADAM CHAIRPERSON: -- everything
25 was in the same --

1 MR. SAXON: That should be a big
2 help and we just need to vote to accept, I
3 guess, her cleanup, her proposal.

4 MR. HORTON: Tell me something.

5 MR. SAXON: Yes?

6 MR. HORTON: On page two and the
7 one that's chapter 57, which is the second one,
8 proposed to amend Regulation 57-12. Fees, it's on
9 the third page. Where did we come up with the fee
10 schedule? I wasn't here at the other meeting.
11 Was that decided at --

12 MR. SAXON: Well that's not on
13 this.

14 MS. CUBITT: That's a different
15 one.

16 MR. HORTON: I thought we were
17 going all on the same thing.

18 MR. SAXON: Not just yet.

19 MS. CUBITT: We did cover that, but
20 that's not --

21 MR. SAXON: We are going to cover
22 that. But right now, all we need to consider is
23 the chief advice counsel's statute proposal.

24 MR. HORTON: Okay. I'm sorry.

25 MADAM CHAIRPERSON: On this first

1 page about the embalmers and all, it says, new
2 section adds the applicant must not have prior
3 convictions. I mean, does that just mean felonies
4 or -- I mean, misdemeanors have always -- we've
5 always had to set them aside. So, I mean --

6 MR. SAXON: I think that goes --
7 if you'll look on page two, number F, I think
8 those two go together. Jennifer, is that
9 correct?

10 MS. COOPER: Yes. Has not been
11 convicted of a violent crime or found guilty of a
12 felony or a crime of moral turpitude.

13 MADAM CHAIRPERSON: Okay.

14 MS. COOPER: The same thing.

15 MR. HORTON: Now, Mr. Saxon, in
16 your legal advice, moral turpitude covers a lot of
17 stuff.

18 MR. SAXON: Well, it does, it does.
19 But, legally, it is defined and I can't give you
20 that definition off the top of my head. The South
21 Carolina Code of Laws does cover what is moral
22 turpitude and what isn't.

23 MR. HORTON: Okay.

24 MR. SAXON: So it would be defined
25 in the code. It can't just mean whatever we think

1 is immoral.

2 MR. HORTON: I mean, if you broke
3 the law at all, that could be construed as a crime
4 of moral turpitude.

5 MR. SAXON: Well, the South
6 Carolina Code calls it.

7 MR. HORTON: I make a motion we
8 accept this.

9 MR. NELSON: Second.

10 MADAM CHAIRPERSON: We've got a
11 first and a second. All in favor?

12 (Response)

13 MADAM CHAIRPERSON: Opposed?

14 (No response)

15 MR. SAXON: Now, the next one is
16 what we all discussed together in our special
17 meeting on the 31st. Let's save the fees for
18 later and go first to the proposed Practice Act
19 changes. It starts with Section 40-19-5,
20 application of chapter; conflicts with law. And
21 you'll see shaded sections and marked-out sections
22 where Jennifer has reflected what the Board
23 wanted. And as best I can assure you, it codifies
24 what y'all decided on the 31st.

25 You'll notice some renumbering,

1 some things struck out and some things added. And
2 I'm sorry it's not in color, but you can generally
3 see the shading there.

4 MS. COOPER: It's also listed in
5 the section by section discussion.

6 MR. SAXON: Say again, please?

7 MS. COOPER: It's also listed in
8 the section by section discussion, the changes
9 made.

10 MR. SAXON: Yes.

11 MR. TEMPLES: We're going to go
12 back to 17, on page two.

13 MR. SAXON: On page two?

14 MR. TEMPLES: On page two.

15 Manager. It means the licensed funeral director
16 has been licensed in the state.

17 MR. HORTON: In this state.

18 MR. TEMPLES: In this state for at
19 least five years or has been, and a residency for
20 five years. That ain't going to float.

21 MS. CUBITT: That's what y'all
22 voted on at the last --

23 MR. TEMPLES: I know. We voted on
24 it, but we just know it wouldn't get --

25 MADAM CHAIRPERSON: Been licensed

1 for five years, that's what the law used to be.

2 MR. TEMPLES: Yeah. Licensed for
3 five years, but not in this state.

4 MADAM CHAIRPERSON: Well, you can
5 take that out. But, I mean --

6 MR. HORTON: I still like the one
7 year residency for a manager.

8 MADAM CHAIRPERSON: Yeah. One year
9 residency and five years --

10 MR. SAXON: Billy, what are you
11 saying you want different?

12 MADAM CHAIRPERSON: We're saying
13 that you don't have to have lived in the state for
14 five years.

15 MR. SAXON: So you want to take
16 out, and who has five years of residency in this
17 state?

18 MR. HORTON: Yes.

19 MR. SAXON: Jennifer, is it too
20 late for that?

21 MS. COOPER: Oh, no. No problem.

22 MS. CUBITT: But you do want them
23 to have one year, right?

24 MADAM CHAIRPERSON: We want them to
25 have one year of residency but five years

1 licensure.

2 MR. SAXON: Right. So --

3 MR. TEMPLES: But we still were
4 saying we want them to be licensed at least five
5 years.

6 MADAM CHAIRPERSON: For five years
7 to be a manager.

8 MR. TEMPLES: Not necessarily in
9 this state but in a state that is reciprocating
10 with South Carolina.

11 MR. SAXON: All right. How about
12 if we put it this way? Manager means a licensed
13 funeral director who has been licensed in this
14 state or a state with which South Carolina has a
15 reciprocal agreement?

16 MS. COOPER: We don't have an
17 agreement.

18 MR. SAXON: Oh. We don't have
19 reciprocal. Okay. So that isn't going to work,
20 guys.

21 MS. CUBITT: You should take out
22 just the in this state and just say who has been
23 licensed for at least five years.

24 MR. HORTON: And how many years of
25 residency in South Carolina?

1 MR. TEMPLES: One year, at least.

2 MR. SAXON: And who has at least
3 one year of residency in this state. So let me
4 read it back.

5 Manager means a licensed funeral
6 director who has been licensed for at least five
7 years and who has at least one year of residency
8 in this state, and the rest of it stays the same.

9 MR. NELSON: Is there any
10 consideration, do we give any consideration for
11 persons under -- say, for instance, my wife is
12 coming in, doing an apprentice now, and God
13 forbids something happens to me and she's licensed
14 only for -- she's only been licensed and she needs
15 to appear before this Board to continue the
16 operations of our family business, she's going to
17 have to -- she couldn't operate that?

18 MADAM CHAIRPERSON: I don't know.
19 She'd have to hire a manager.

20 MR. NELSON: I wouldn't want to
21 have to hire a man to come in and take care of our
22 business. You know, there should be some type of
23 leeway that we put in here that --

24 MADAM CHAIRPERSON: We've got to be
25 sure that there's someone with experience running

1 these businesses.

2 MS. CUBITT: Amy, what was your
3 comment?

4 MS. HOLLEMAN: My thing was just
5 real quick. When we say, has to have been a
6 resident for one year, in the past, it seems to me
7 that we have had one or two cases where they argue
8 that it doesn't say immediately preceding the
9 application, the one-year residency, so they think
10 that if they lived in South Carolina once upon a
11 time, the one year should count. I didn't know if
12 that was something you --

13 MR. HORTON: That's a good point.
14 I like that.

15 MR. SAXON: Immediately preceding
16 the application?

17 MS. HOLLEMAN: Just because it's
18 come up before.

19 MS. CUBITT: It has.

20 MR. SAXON: Jennifer, will you put
21 that in, please?

22 MS. COOPER: It's already in. And
23 it reads, who has at least one year of residency
24 in this state immediately preceding the
25 application.

1 MR. TEMPLES: Okay. Now, I think
2 we've got that one taken care of, right?

3 MR. HORTON: I'm sorry. I wasn't
4 here.

5 MADAM CHAIRPERSON: Not to worry.

6 MR. HORTON: And I know it's late
7 and everybody wants to go. Okay. On the next
8 page, on three, the preceptor needs to be a
9 specialist who gives practical experience and
10 training to a student or apprentice and must be a
11 licensed -- must be licensed a minimum of five
12 years in South Carolina or be active or connected
13 with a funeral home for a minimum of five years.

14 Okay. Now, do we go any place else
15 and define what kind of -- that's it? I mean,
16 you're just calling him a preceptor? I mean,
17 there's no other training? At one time, Piedmont
18 College was wanting to do a preceptor training
19 program.

20 MS. CUBITT: I don't think the
21 Board was in favor of that.

22 MR. HORTON: I know. But my point
23 now is, why are we changing -- I mean, why are we
24 putting the term preceptor into the law?

25 MS. CUBITT: We've always called it

1 a preceptor who was supervising the apprentice,
2 but we didn't have it defined in the law.

3 MR. HORTON: Okay.

4 MR. TEMPLES: It was never defined
5 as a preceptor in the law, in the statute.

6 MR. SAXON: That's correct. This
7 was our attempt to define.

8 MR. HORTON: Okay.

9 MADAM CHAIRPERSON: We're trying to
10 make the statutes and the regulations go
11 together.

12 MS. CUBITT: And by doing the five
13 years, the Board had said that they were
14 experienced enough to be training somebody. You
15 just didn't want somebody with only having been
16 licensed a year.

17 MR. HORTON: Perfectly fine. I
18 just didn't -- I didn't know -- I just saw
19 preceptor and I didn't know whether someplace else
20 in here there would be a preceptor training course
21 that these preceptors were taking.

22 MS. CUBITT: We didn't go there.

23 MR. TEMPLES: So everyone is on the
24 same page, Eddie? If you look on page six, where
25 it says \$500, and we're basing it on 40 --

1 MR. SAXON: I see it.

2 MR. TEMPLES: That's where we have
3 gone to \$5,000.

4 MR. SAXON: No. That's the
5 proposal.

6 MR. TEMPLES: That's the proposal.

7 MR. SAXON: We thought that going
8 for more than that would probably be
9 counterproductive.

10 MR. TEMPLES: Well, we would
11 actually get to that point.

12 MR. NELSON: I know that when
13 people see 5,000 --

14 MR. TEMPLES: Right.

15 MR. SAXON: We thought 5,000 might
16 be --

17 MR. TEMPLES: If we meet somewhere
18 in the middle.

19 MR. HORTON: Okay. This says per
20 violation.

21 MR. SAXON: That's --

22 MR. HORTON: Is that different than
23 per count?

24 MR. TEMPLES: Per occurrence.

25 MR. SAXON: Per violation means,

1 for instance, if you have --

2 MR. HORTON: It's like today, there
3 were nine --

4 MR. SAXON: -- a disciplinary
5 hearing and they've alleged each violated five
6 sections of the statute, those are five
7 violations.

8 MR. HORTON: Okay.

9 MS. CUBITT: Jamie, this is the
10 point that you and I talked about the other day.
11 Do we need to word that any different about guilty
12 of a misdemeanor and upon conviction?

13 MR. SAXON: Yes. I think we do.

14 MS. CUBITT: I think it would be
15 cleaner if we did.

16 MR. SAXON: Yes. I agree with you.
17 I think I would take out the phrase, and you all
18 see what you think about this, do you see the word
19 licensed at the end of the second line? All
20 right. Starting with the word is --

21 MR. TEMPLES: Wait a minute.

22 MR. SAXON: We're on page six at
23 the top paragraph, the second line, after license,
24 starting with the word is, strike until you come
25 to the word must. And I would change -- you all

1 tell me what you think -- I would change the word
2 must to may.

3 Doris, may I have your opinion on
4 that?

5 MS. CUBITT: Yeah. I'm good with
6 that.

7 MR. SAXON: Because if we say must,
8 you don't have a choice in the matter. May gives
9 you a choice.

10 MR. TEMPLES: May gives you the
11 opportunity --

12 MR. SAXON: 500 or more than 5,000
13 per violation. And I would take out the, or
14 imprisoned part.

15 MS. CUBITT: Yeah.

16 MR. SAXON: And just put a period
17 because we can't really imprison somebody.

18 MADAM CHAIRPERSON: I was about to
19 say --

20 MR. SAXON: No. That's something
21 the civil courts can take care of.

22 MS. CUBITT: We don't have the
23 authority to put someone in jail.

24 MR. SAXON: We don't have the
25 authority to put anybody in jail.

1 MR. HORTON: What? After all this
2 time?

3 MR. SAXON: If you don't mind, let
4 me read it back to you. A person who practices or
5 offers to practice funeral service in this state,
6 in violation of this chapter, or who knowingly
7 submits false information for the purpose of
8 obtaining a license, may be fined not less than
9 \$500 or more than \$5,000 per violation. And
10 that's the whole paragraph. Do we have your
11 approval for that?

12 MR. HORTON: Yeah.

13 MR. SAXON: Okay. Now, number 220
14 is a completely new section. Isn't that right,
15 Ms. Cooper?

16 MS. COOPER: Uh-huh.

17 MR. TEMPLES: All it does is really
18 gives -- going from South Carolina Law Enforcement
19 Division to the Federal Bureau of Investigation.

20 MR. SAXON: That's right.

21 MR. TEMPLES: SLED only does South
22 Carolina.

23 MADAM CHAIRPERSON: Right. We
24 don't know what they did in Florida or Georgia at
25 this point.

1 MR. SAXON: If we have somebody
2 coming from out of state, they may have a
3 perfectly clear SLED check, but a mile long FBI
4 check and we wouldn't necessarily know that
5 without --

6 MS. CUBITT: And we did have that
7 come up one time where somebody was a resident of
8 South Carolina and had been but gone to Florida
9 and got arrested in Florida and it wasn't showing
10 up here.

11 MR. SAXON: Number 235 just
12 codifies what we talked about earlier in the last
13 one. Number 250 just reflects that we've gone
14 from annual biannual. And 265, the 4 you wanted
15 to change from 20 to 35 miles.

16 MR. NELSON: No. Who said that?

17 MADAM CHAIRPERSON: The Board.
18 Why?

19 MR. TEMPLES: It solved a lot of
20 problems.

21 MR. NELSON: Why would it solve a
22 lot of problems? That's going to open up
23 Pandora's box.

24 MR. HORTON: Why would it solve a
25 lot of problems?

1 MR. TEMPLES: You get somebody up
2 here with the 25 miles --

3 (Board speaking)

4 MR. NELSON: We have people right
5 now that I know of in violation that, we'll say be
6 living in Winnsboro that lives in Lancaster and
7 managing funeral homes in Winnsboro and that's
8 more than any 35 miles. So, no, I think --

9 MR. HORTON: Madam Chairman, tell
10 me what. I mean, why would you --

11 MADAM CHAIRPERSON: The 25 miles, I
12 mean, I think what we discussed was the fact that
13 we're trying to keep the manager close enough to
14 the funeral home in case something happens. But,
15 you know, I could stay over there at the Homewood
16 Suites which is less than five miles here and it
17 take me 20 minutes to get here. So, I mean, we're
18 just really trying to keep them in proximity and
19 that 25 is just so --

20 MR. SAXON: And it's a radius. It
21 doesn't mean --

22 MADAM CHAIRPERSON: That's a
23 radius, so that's why we were moving it to 35.
24 Because, I mean --

25 MR. NELSON: (Inaudible). I don't

1 buy that radius.

2 MADAM CHAIRPERSON: Well, we
3 discussed it, about the radius --

4 MR. NELSON: I don't buy it.

5 MADAM CHAIRPERSON: -- and we said
6 -- it was decided that folks couldn't do anything
7 about that. We talked about the radius.

8 MR. HORTON: And I hate to be
9 bringing up stuff now, but --

10 MADAM CHAIRPERSON: No, uh-uh.

11 MR. TEMPLES: That's why we can
12 change this.

13 MR. SAXON: Do you all want it to
14 remain --

15 MR. NELSON: I think we need to --

16 MR. SAXON: Is there a consensus
17 for it to remain 25 and just not change that?

18 MR. NELSON: I'm for 25.

19 MR. SAXON: That has to be up to
20 y'all.

21 MR. HORTON: I'd rather it stay at
22 25.

23 MADAM CHAIRPERSON: I am not going
24 to argue over 10 miles.

25 MR. PETTY: Here's my thing,

1 seriously. You know, if you're going to raise it,
2 why have it at all?

3 MR. HORTON: Just like you said,
4 well, we'll stay at the Homewood Suites and it
5 would be two miles away but it'll take you 20
6 minutes to get here because of traffic.

7 MADAM CHAIRPERSON: Right. So,
8 really, what is the point in having it?

9 MR. HORTON: But if you would raise
10 it to 35 and you were still in this traffic, it
11 would take you that much longer to get to the
12 funeral home.

13 MADAM CHAIRPERSON: Well, I
14 understand that. But you can have people that
15 live 15 miles or 5 miles from the funeral home and
16 get out there in this Columbia traffic between
17 four and six when you don't move. They could be
18 an hour getting there. So why don't you take it
19 out? I mean, because what you're trying to do is
20 not really being accomplished.

21 MR. HORTON: Well, it's keeping
22 kind of in check. I mean, we've got some that
23 arguably -- arguably, we've got some in this
24 state, if you really went back and took the
25 compass from the funeral home to their residence,

1 it would be atrocious, outside the 25 mile
2 radius.

3 MADAM CHAIRPERSON: Jamie, just
4 leave the zoning at 25. That's good.

5 MR. SAXON: All right. Jennifer,
6 will you return that to 25? That's at page nine
7 under A-4.

8 MS. CUBITT: And it's on D-4,
9 also.

10 MADAM CHAIRPERSON: It shows up on
11 page nine.

12 MR. SAXON: Yes. It's in more than
13 one place. But, Jennifer, you'll get it every
14 place. It's also number D-4, B-4 --

15 MR. TEMPLES: All right. Are we
16 going to go back to, like under 4? In this D-4,
17 you're going back to 25 miles on that, too.

18 MR. SAXON: Yeah. We'll change it
19 in all of them.

20 MR. TEMPLES: Okay. And everything
21 is good on positive identification. Did you see
22 that, Mr. Petty?

23 MR. SAXON: And that's it. If we
24 could have a vote on the proposed changes as
25 amended.

1 MR. HORTON: I so move.

2 MR. NELSON: Second.

3 MADAM CHAIRPERSON: All those in
4 favor?

5 (Response)

6 MADAM CHAIRPERSON: Opposed?

7 (No response)

8 MR. SAXONS: All right. Now we'll
9 go to the regulations generated by the Board,
10 proposals on October 31st. At the top, it'll say
11 South Carolina State Board of Funeral Service,
12 Chapter 57. I think the first change you'll find
13 on page three.

14 MR. HORTON: That one's all right.

15 MR. SAXON: And then there's some
16 on four.

17 MR. HORTON: Okay. Well, there's
18 two on A at the top of page three.

19 MR. SAXON: That's right.

20 MR. HORTON: And then there's
21 another one down here under --

22 MR. SAXON: That's right.

23 MR. HORTON: Okay. Wait a minute.
24 That's okay.

25 MR. SAXON: And that really just

1 pictures what was already there.

2 MR. NELSON: Is this the statute

3 --

4 MR. SAXON: No the regulations.

5 It's making them come together, is what it's
6 doing.

7 MR. NELSON: Yeah. But I'm just
8 now trying to find where the law --

9 MR. SAXON: At the top, it'll say
10 South Carolina State Board of Funeral Service,
11 beneath which it says Chapter 57, and then there
12 will be a preamble and --

13 MR. NELSON: Yeah. And then it
14 starts at 57-04.

15 MR. SAXON: It's 57-01, 57-06.1.
16 And then the first change are the ones we've just
17 discussed on page three. And there's some more on
18 four under 57-11 and 14.3. And, Jennifer, I
19 believe, if I'm not wrong, this simply makes the
20 regs comply with the Practice Act; is that right?

21 MS. COOPER: It changes any changes
22 made.

23 MR. SAXON: That's right.

24 MS. COOPER: I'm differentiating
25 between the two --

1 MR. SAXON: Right. These are the
2 Board changes.

3 MS. COOPER: Yes.

4 MR. SAXON: But which also serve to
5 help reconcile the Practice Act.

6 MS. COOPER: I would say yes.

7 MR. SAXON: Do we entertain a
8 vote?

9 MR. TEMPLES: I make a motion to
10 accept.

11 MADAM CHAIRPERSON: Do I have a
12 second?

13 MR. HORTON: Second.

14 MADAM CHAIRPERSON: All those in
15 favor?

16 (Response)

17 MR. SAXON: And, finally, we have
18 fees.

19 MS. CUBITT: And I'd like to say
20 something about that. The fees have been
21 contained in regulation 57-12. And I did some
22 research on it and in about 2000, 2001, the fees
23 were changed from what the amount listed in 12 is
24 to the amount that we put out beside it. And
25 then, now that we've gone to a two-year renewal,

1 we're actually going to need to double those
2 numbers to say in the says, because it says we're
3 renewing biannually. And for these to be in line
4 with what we're currently charging people, there
5 are no increases, it's just what they've been
6 doing since '01 and then double because we went to
7 biannual.

8 MADAM CHAIRPERSON: All right. So
9 right now it says a hundred dollars.

10 MR. TEMPLES: So this will be 250?

11 MS. CUBITT: Yes. And this is like
12 you're paying for an initial 400 or 300 for a
13 branch --

14 (Board speaks)

15 MR. SAXON: Are we entertaining a
16 vote on the fees?

17 MR. HORTON: Oh. So moved.

18 MADAM CHAIRPERSON: A second?

19 MR. TEMPLES: Second.

20 MADAM CHAIRPERSON: All in favor?

21 (Response)

22 MR. PETTY: Motion to adjourn.

23 MR. SAXON: Well, now, Jennifer,
24 tell them about a date that needs to be set.

25 MS. COOPER: I have just one thing.

1 These regulations, they're all three going to go
2 in the December State Register and the comment
3 period is for a month after that. So if you get
4 any comments or any requests for a hearing by
5 January 23rd, 2012, then there will have to be a
6 regulatory hearing.

7 So be thinking about dates. The
8 earliest it can be is February 6th, because it has
9 to be two weeks after the comment period has
10 ended.

11 MADAM CHAIRPERSON: Well, we're
12 meeting on the 7th, anyhow.

13 MS. COOPER: That's perfect. Okay.
14 February 7th?

15 MADAM CHAIRPERSON: Yes. February
16 7th.

17 MS. CUBITT: So we can just include
18 that on the agenda.

19 MS. COOPER: In all probability,
20 it'll be cancelled. And, hopefully, it will
21 because I'm really supposed to get the final
22 regulations to the Legislative Counsel by the
23 first of February. So if there was a hearing,
24 that would kind of hold up the process for the
25 final forms that we use.

1 MS. CUBITT: The 19th, the meeting
2 date for 2012?

3 MADAM CHAIRPERSON: Make a motion
4 that we approve the meeting date.

5 MR. HORTON: So moved.

6 MR. NELSON: Second.

7 MADAM CHAIRPERSON: All in favor?

8 (Response)

9 MR. PETTY: Motion to adjourn.

10 (Adjourned at 4:50 p.m.)

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1 CERTIFICATE OF REPORTER

2

3 I, Laura S. DeCillis, Certified Court
4 Reporter and Notary Public for the State of South
5 Carolina at Large, do hereby certify:

6 That the foregoing Meeting was taken
7 before me on the date and at the time and location
8 stated on Page 1 of this transcript, and that said
9 Meeting was recorded stenographically by me and
10 were thereafter transcribed; that the foregoing
11 Meeting as typed is a true, accurate and complete
12 record to the best of my ability.

13 I further certify that I am neither
14 related to nor counsel for any party to the cause
15 pending or interested in the events thereof.

16 I further certify that the original of
17 said transcript shall be hereafter sealed and
18 delivered to the South Carolina Perpetual Care
19 Cemetery Board, Synergy Business Park, Kingstree
20 Building, Columbia, South Carolina, 29210.

21 Witness my hand, I have hereunto affixed
22 my official seal this 10th day of January 2012, at
23 Columbia, Richland County, South Carolina.

24

25

Laura S. DeCillis,
Certified Court Reporter
State of South Carolina at Large
My Commission expires
August 10, 2015