

State Board of Embalmers and Funeral Directors

June 25-26, 2013

Drury Plaza Hotel Chesterfield
355 Chesterfield Center East
Chesterfield, MO 63017

OPEN AGENDA

Tuesday, June 25, 2013

11:00 a.m.

1. Call to Order
2. Roll Call
3. (Tab 1) Approval of the Agenda
4. (Tab 2) Approval of Open Minutes
 - July 2, 2012 Financial Examination Committee*
 - July 31, 2012 Financial Examination Committee*
 - August 9, 2012 Financial Examination Committee*
 - September 7, 2012 Financial Examination Committee*
 - October 2, 2012 Financial Examination Committee*
 - October 31, 2012 Financial Examination Committee*
 - November 8, 2012 Financial Examination Committee*
 - December 11-12, 2012 Board Meeting*
 - January 3, 2013 Financial Examination Committee*
 - January 9, 2013 Financial Examination Committee*
 - February 15, 2013 Financial Examination Committee*
 - March 6, 2013 Financial Examination Committee*
 - March 7, 2013 Board Conference Call*
 - March 19-20, 2013 Board Meeting*
 - March 19, 2013 Financial Examination Committee*
 - April 10, 2013 Financial Examination Committee*
 - April 10, 2013 Board Conference Call*
 - May 1, 2013 Financial Examination Committee*

CLOSED

Wednesday, June 26, 2013

9:30 a.m.

5. (Tab 3) Executive Director Report
 - St. Louis Community College at Forest Part Accreditation Update
 - Applicant Notification of Exam Eligibility
 - Financial Report
 - License statistics (new, closed/ceased, disciplined)
 - Senate Bill 186
 - House Bill 329
 - Discussion regarding a rules meeting

6. Legal Counsel Report
7. (Tab 4) Preneed Seller Renewal/Annual Report form
8. (Tab 5) Legislative Proposal Discussion
9. Discussion/Dialogue
- BREAK
- 10.(Tab 6) Theodore Foster - Probation Violation Hearing (11:00a.m.)
Case EMB-13-004-PV
- LUNCH
- 11.(Tab 7) Officer Mortuary, LLC - Probation Violation Hearing (1:00p.m.)
Case EMB-13-002-PV
12. Adjournment

**State Board of Embalmers and Funeral Directors
Financial Examination Committee
Conference Call**

July 2, 2012

**State Board of Embalmers and Funeral Directors
Missouri Conference Room
3605 Missouri Boulevard
Jefferson City, MO 65109**

OPEN MINUTES

The meeting of the State Board of Embalmers and Funeral Directors Financial Examination Committee was called to order by James Reinhard, Committee Chair at 9:35 a.m.

Roll Call

Board Members Present

James Reinhard, Committee Chair
Archie Camden, Member

Staff Present

Sandy Sebastian, Executive Director
Lisa Wildhaber, Examiner Supervisor
Sharon Euler, Division Legal Counsel

Approval of Open Agenda

A motion was made by Archie Camden and seconded by James Reinhard to approve the open agenda.

Executive Director Report

No report

Legal Counsel Report

No report

Move to Closed

A motion was made by Archie Camden and seconded by James Reinhard to move to closed session pursuant to #1, #2, #7 and #9 of the attached motions to close.

Adjourn

Meeting Adjourned at 9:52 a.m.

Executive Director: _____

Approved by the Board on: _____

MOTIONS TO GO INTO CLOSED SESSION

1. DISCIPLINE

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (1) RSMo and 324.001.9 RSMo for deliberation on discipline

2. LEGAL ACTIONS/LITIGATIONS/PRIVILEGED COMMUNICATIONS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (1) RSMo for discussing general legal actions, causes of action or litigation and any confidential or privileged communications between this agency and its attorney

3. PROMOTING/HIRING/DISCIPLINING/FIRING EMPLOYEES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (3) RSMo discussing hiring, firing, disciplining or promoting an employee of this agency

4. DIAGNOSIS/TREATMENT OF DISCIPLINED LICENSEES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (5) and Section 324.001.8 RSMo. for proceedings required pursuant to a disciplinary order concerning medical, psychiatric, psychological, or alcoholism or drug dependency diagnosis or treatment of specific licensees

5. EXAMINATION MATERIALS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (7) RSMo for reviewing testing and examination materials

6. EMPLOYEE PERFORMANCE RATINGS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (13) RSMo for making performance ratings pertaining to individual employees

7. APPLICATIONS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (14) and Section 324.001.8 RSMo for discussing educational transcripts and/or test scores and/or complaints and/or audits and/or investigative reports and/or other information pertaining to the licensee or applicant for licensure

8. CLOSED MINUTES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (14) and 324.017 RSMo for the purpose of reviewing and approving the closed minutes of previous meetings

9. COMPLAINTS/ INVESTIGATIVE REPORTS/AUDITS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021 subsection (14) and section 620.010.14 subsection (7) RSMo for the purpose of discussing investigative reports and/or complaints and/or audits and/or other information pertaining to a licensee or applicant

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**State Board of Embalmers and Funeral Directors
Financial Examination Committee
Conference Call**

July 31, 2012

**9State Board of Embalmers and Funeral Directors
Missouri Conference Room
3605 Missouri Boulevard
Jefferson City, MO 65109**

OPEN MINUTES

The meeting of the State Board of Embalmers and Funeral Directors Financial Examination Committee was called to order by James Reinhard, Committee Chair at 9:05 a.m.

Roll Call

Board Members Present

James Reinhard, Committee Chair
Archie Camden, Member

Staff Present

Sandy Sebastian, Executive Director
Lisa Wildhaber, Examiner Supervisor
Sharon Euler, Division Legal Counsel

Approval of Open Agenda

A motion was made by Archie Camden and seconded by James Reinhard to approve the open agenda.

Executive Director Report

No report

Legal Counsel Report

Sharon shared with the committee that the Attorney General's office has filed a case against Ron Marts.

Move to Closed

A motion was made by Archie Camden and seconded by James Reinhard to move to closed session pursuant to #1, #2, #7 and #9 of the attached motions to close.

Adjourn

Meeting Adjourned at 9:34 a.m.

Executive Director: _____

Approved by the board on: _____

MOTIONS TO GO INTO CLOSED SESSION

1. DISCIPLINE

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (1) RSMo and 324.001.9 RSMo for deliberation on discipline

2. LEGAL ACTIONS/LITIGATIONS/PRIVILEGED COMMUNICATIONS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (1) RSMo for discussing general legal actions, causes of action or litigation and any confidential or privileged communications between this agency and its attorney

3. PROMOTING/HIRING/DISCIPLINING/FIRING EMPLOYEES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (3) RSMo discussing hiring, firing, disciplining or promoting an employee of this agency

4. DIAGNOSIS/TREATMENT OF DISCIPLINED LICENSEES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (5) and Section 324.001.8 RSMo. for proceedings required pursuant to a disciplinary order concerning medical, psychiatric, psychological, or alcoholism or drug dependency diagnosis or treatment of specific licensees

5. EXAMINATION MATERIALS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (7) RSMo for reviewing testing and examination materials

6. EMPLOYEE PERFORMANCE RATINGS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (13) RSMo for making performance ratings pertaining to individual employees

7. APPLICATIONS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (14) and Section 324.001.8 RSMo for discussing educational transcripts and/or test scores and/or complaints and/or audits and/or investigative reports and/or other information pertaining to the licensee or applicant for licensure

8. CLOSED MINUTES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (14) and 324.017 RSMo for the purpose of reviewing and approving the closed minutes of previous meetings

9. COMPLAINTS/ INVESTIGATIVE REPORTS/AUDITS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021 subsection (14) and section 620.010.14 subsection (7) RSMo for the purpose of discussing investigative reports and/or complaints and/or audits and/or other information pertaining to a licensee or applicant

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**State Board of Embalmers and Funeral Directors
Financial Examination Committee
Conference Call**

August 9, 2012

**State Board of Embalmers and Funeral Directors
Missouri Conference Room
3605 Missouri Boulevard
Jefferson City, MO 65109**

OPEN MINUTES

The meeting of the State Board of Embalmers and Funeral Directors Financial Examination Committee was called to order by James Reinhard, Committee Chair, at 8:39 a.m.

Roll Call

Board Members Present

James Reinhard, Committee Chair
Archie Camden, Member

Staff Present

Sandy Sebastian, Executive Director
Lisa Wildhaber, Examiner Supervisor
Sharon Euler, Division Legal Counsel

Approval of Open Agenda

A motion was made by Archie Camden and seconded by James Reinhard to approve the open agenda.

Executive Director Report

No report

Legal Counsel Report

No report

Move to Closed

A motion was made by Archie Camden and seconded by James Reinhard to move to closed session pursuant to #1, #2, #7, and #9 of the attached motions to close.

Adjourn

Meeting Adjourned at 9:15 a.m.

Executive Director: _____

Approved by the board on: _____

MOTIONS TO GO INTO CLOSED SESSION

1. DISCIPLINE

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (1) RSMo and 324.001.9 RSMo for deliberation on discipline

2. LEGAL ACTIONS/LITIGATIONS/PRIVILEGED COMMUNICATIONS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (1) RSMo for discussing general legal actions, causes of action or litigation and any confidential or privileged communications between this agency and its attorney

3. PROMOTING/HIRING/DISCIPLINING/FIRING EMPLOYEES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (3) RSMo discussing hiring, firing, disciplining or promoting an employee of this agency

4. DIAGNOSIS/TREATMENT OF DISCIPLINED LICENSEES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (5) and Section 324.001.8 RSMo. for proceedings required pursuant to a disciplinary order concerning medical, psychiatric, psychological, or alcoholism or drug dependency diagnosis or treatment of specific licensees

5. EXAMINATION MATERIALS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (7) RSMo for reviewing testing and examination materials

6. EMPLOYEE PERFORMANCE RATINGS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (13) RSMo for making performance ratings pertaining to individual employees

7. APPLICATIONS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (14) and Section 324.001.8 RSMo for discussing educational transcripts and/or test scores and/or complaints and/or audits and/or investigative reports and/or other information pertaining to the licensee or applicant for licensure

8. CLOSED MINUTES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (14) and 324.017 RSMo for the purpose of reviewing and approving the closed minutes of previous meetings

9. COMPLAINTS/ INVESTIGATIVE REPORTS/AUDITS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021 subsection (14) and section 620.010.14 subsection (7) RSMo for the purpose of discussing investigative reports and/or complaints and/or audits and/or other information pertaining to a licensee or applicant

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**State Board of Embalmers and Funeral Directors
Financial Examination Committee
Conference Call**

September 7, 2012

**State Board of Embalmers and Funeral Directors
Missouri Conference Room
3605 Missouri Boulevard
Jefferson City, MO 65109**

OPEN MINUTES

The meeting of the State Board of Embalmers and Funeral Directors Financial Examination Committee was called to order by James Reinhard, Committee Chair, at 8:38 a.m.

Roll Call

Board Members Present

James Reinhard, Committee Chair
Archie Camden, Member

Staff Present

Sandy Sebastian, Executive Director
Lisa Wildhaber, Examiner Supervisor
Sharon Euler, Division Legal Counsel

Approval of Open Agenda

A motion was made by Archie Camden and seconded by James Reinhard to approve the open agenda.

Executive Director Report

Sandy shared that there was an Interim Legislative Committee on the Pre-Need has a meeting scheduled for next Tuesday that at this point little is known but we have people looking into its focus.

Legal Counsel Report

No report

Move to Closed

A motion was made by Archie Camden and seconded by James Reinhard to move to closed session pursuant to #1, #2, #7 and #9 of the attached motions to close.

Adjourn

Meeting Adjourned at 9:22 a.m.

Executive Director: _____

Approved by the board on: _____

MOTIONS TO GO INTO CLOSED SESSION

1. DISCIPLINE

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (1) RSMo and 324.001.9 RSMo for deliberation on discipline

2. LEGAL ACTIONS/LITIGATIONS/PRIVILEGED COMMUNICATIONS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (1) RSMo for discussing general legal actions, causes of action or litigation and any confidential or privileged communications between this agency and its attorney

3. PROMOTING/HIRING/DISCIPLINING/FIRING EMPLOYEES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (3) RSMo discussing hiring, firing, disciplining or promoting an employee of this agency

4. DIAGNOSIS/TREATMENT OF DISCIPLINED LICENSEES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (5) and Section 324.001.8 RSMo. for proceedings required pursuant to a disciplinary order concerning medical, psychiatric, psychological, or alcoholism or drug dependency diagnosis or treatment of specific licensees

5. EXAMINATION MATERIALS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (7) RSMo for reviewing testing and examination materials

6. EMPLOYEE PERFORMANCE RATINGS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (13) RSMo for making performance ratings pertaining to individual employees

7. APPLICATIONS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (14) and Section 324.001.8 RSMo for discussing educational transcripts and/or test scores and/or complaints and/or audits and/or investigative reports and/or other information pertaining to the licensee or applicant for licensure

8. CLOSED MINUTES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (14) and 324.017 RSMo for the purpose of reviewing and approving the closed minutes of previous meetings

9. COMPLAINTS/ INVESTIGATIVE REPORTS/AUDITS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021 subsection (14) and section 620.010.14 subsection (7) RSMo for the purpose of discussing investigative reports and/or complaints and/or audits and/or other information pertaining to a licensee or applicant

Revised 09-11

**State Board of Embalmers and Funeral Directors
Financial Examination Committee
Conference Call**

October 2, 2012

**State Board of Embalmers and Funeral Directors
Missouri Conference Room
3605 Missouri Boulevard
Jefferson City, MO 65109**

OPEN MINUTES

The meeting of the State Board of Embalmers and Funeral Directors Financial Examination Committee was called to order by James Reinhard, Committee Chair, at 8:54 a.m.

Roll Call

Board Members Present

James Reinhard, Committee Chair
Archie Camden, Member

Staff Present

Sandy Sebastian, Executive Director
Lisa Wildhaber, Examiner Supervisor
Sharon Euler, Division Legal Counsel

Approval of Open Agenda

A motion was made by Archie Camden and seconded by James Reinhard to approve the open agenda.

Executive Director Report

Nothing to report

Legal Counsel Report

Nothing to report

Move to Closed

A motion was made by Archie Camden and seconded by James Reinhard to move to closed session pursuant to #1, #2, #7 and #9 of the attached motions to close.

Adjourn

Meeting adjourned at 10:43 a.m.

Executive Director: _____

Approved by the board on: _____

MOTIONS TO GO INTO CLOSED SESSION

1. DISCIPLINE

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (1) RSMo and 324.001.9 RSMo for deliberation on discipline

2. LEGAL ACTIONS/LITIGATIONS/PRIVILEGED COMMUNICATIONS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (1) RSMo for discussing general legal actions, causes of action or litigation and any confidential or privileged communications between this agency and its attorney

3. PROMOTING/HIRING/DISCIPLINING/FIRING EMPLOYEES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (3) RSMo discussing hiring, firing, disciplining or promoting an employee of this agency

4. DIAGNOSIS/TREATMENT OF DISCIPLINED LICENSEES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (5) and Section 324.001.8 RSMo. for proceedings required pursuant to a disciplinary order concerning medical, psychiatric, psychological, or alcoholism or drug dependency diagnosis or treatment of specific licensees

5. EXAMINATION MATERIALS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (7) RSMo for reviewing testing and examination materials

6. EMPLOYEE PERFORMANCE RATINGS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (13) RSMo for making performance ratings pertaining to individual employees

7. APPLICATIONS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (14) and Section 324.001.8 RSMo for discussing educational transcripts and/or test scores and/or complaints and/or audits and/or investigative reports and/or other information pertaining to the licensee or applicant for licensure

8. CLOSED MINUTES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (14) and 324.017 RSMo for the purpose of reviewing and approving the closed minutes of previous meetings

9. COMPLAINTS/ INVESTIGATIVE REPORTS/AUDITS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021 subsection (14) and section 620.010.14 subsection (7) RSMo for the purpose of discussing investigative reports and/or complaints and/or audits and/or other information pertaining to a licensee or applicant

Revised 09-11

**State Board of Embalmers and Funeral Directors
Financial Examination Committee
Conference Call**

October 31, 2012

**State Board of Embalmers and Funeral Directors
Missouri Conference Room
3605 Missouri Boulevard
Jefferson City, MO 65109**

OPEN MINUTES

The meeting of the State Board of Embalmers and Funeral Directors Financial Examination Committee was called to order by James Reinhard, Committee Chair, at 8:40 a.m.

Roll Call

Board Members Present

James Reinhard, Committee Chair
Archie Camden, Member

Staff Present

Sandy Sebastian, Executive Director
Lisa Wildhaber, Examiner Supervisor
Sharon Euler, Division Legal Counsel

Approval of Open Agenda

A motion was made by Archie Camden and seconded by James Reinhard to approve the open agenda.

Executive Director Report

No report

Legal Counsel Report

No report

Move to Closed

A motion was made by Archie Camden and seconded by James Reinhard to move to closed session pursuant to #1, #2, #7 and #9 of the attached motions to close.

Adjourn

Meeting Adjourned at 10:00 a.m.

Executive Director: _____

Approved by the board on: _____

MOTIONS TO GO INTO CLOSED SESSION

1. DISCIPLINE

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (1) RSMo and 324.001.9 RSMo for deliberation on discipline

2. LEGAL ACTIONS/LITIGATIONS/PRIVILEGED COMMUNICATIONS

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I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (3) RSMo discussing hiring, firing, disciplining or promoting an employee of this agency

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I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (7) RSMo for reviewing testing and examination materials

6. EMPLOYEE PERFORMANCE RATINGS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (13) RSMo for making performance ratings pertaining to individual employees

7. APPLICATIONS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (14) and Section 324.001.8 RSMo for discussing educational transcripts and/or test scores and/or complaints and/or audits and/or investigative reports and/or other information pertaining to the licensee or applicant for licensure

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I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (14) and 324.017 RSMo for the purpose of reviewing and approving the closed minutes of previous meetings

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I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021 subsection (14) and section 620.010.14 subsection (7) RSMo for the purpose of discussing investigative reports and/or complaints and/or audits and/or other information pertaining to a licensee or applicant

Revised 09-11

**State Board of Embalmers and Funeral Directors
Financial Examination Committee
Conference Call**

November 8, 2012

**State Board of Embalmers and Funeral Directors
Missouri Conference Room
3605 Missouri Boulevard
Jefferson City, MO 65109**

OPEN MINUTES

The meeting of the State Board of Embalmers and Funeral Directors Financial Examination Committee was called to order by James Reinhard, Committee Chair, at 9:10 a.m.

Roll Call

Board Members Present

James Reinhard, Committee Chair
Archie Camden, Member

Staff Present

Sandy Sebastian, Executive Director
Lisa Wildhaber, Examiner Supervisor
Sharon Euler, Division Legal Counsel

Approval of Open Agenda

A motion was made by Archie Camden and seconded by James Reinhard to approve the open agenda.

Executive Director Report

No report

Legal Counsel Report

No report

Move to Closed

A motion was made by Archie Camden and seconded by James Reinhard to move to closed session pursuant to #1, #2, #7 and #9 of the attached motions to close.

Adjourn

Meeting Adjourned at 9:45 a.m.

Executive Director: _____

Approved by the board on: _____

MOTIONS TO GO INTO CLOSED SESSION

1. DISCIPLINE

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (1) RSMo and 324.001.9 RSMo for deliberation on discipline

2. LEGAL ACTIONS/LITIGATIONS/PRIVILEGED COMMUNICATIONS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (1) RSMo for discussing general legal actions, causes of action or litigation and any confidential or privileged communications between this agency and its attorney

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I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (3) RSMo discussing hiring, firing, disciplining or promoting an employee of this agency

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5. EXAMINATION MATERIALS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (7) RSMo for reviewing testing and examination materials

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I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (13) RSMo for making performance ratings pertaining to individual employees

7. APPLICATIONS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (14) and Section 324.001.8 RSMo for discussing educational transcripts and/or test scores and/or complaints and/or audits and/or investigative reports and/or other information pertaining to the licensee or applicant for licensure

8. CLOSED MINUTES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (14) and 324.017 RSMo for the purpose of reviewing and approving the closed minutes of previous meetings

9. COMPLAINTS/ INVESTIGATIVE REPORTS/AUDITS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021 subsection (14) and section 620.010.14 subsection (7) RSMo for the purpose of discussing investigative reports and/or complaints and/or audits and/or other information pertaining to a licensee or applicant

Revised 09-11

State Board of Embalmers and Funeral Directors

December 11-12, 2012
Hampton Inn & Suites – Country Club Plaza
4600 Summit, Kansas City MO 64112

OPEN MINUTES

The meeting of the State Board of Embalmers and Funeral Directors was called to order by D. Todd Mahn, Chairman on December 11, 2012 at 2:10 p.m.

Roll Call

Board Members Present

James Reinhard, Vice Chairman
John McCulloch, Secretary
Archie Camden
Gary Fraker

Board Members Not Present

Eric Pitman

Approval of Agenda

A motion was made by Gary Fraker and seconded by John McCulloch to approve the open agenda. Motion carried with James Reinhard and Archie Camden voting in favor with no votes in opposition. Eric Pitman not present for the meeting.

Move to Closed

A motion was made by Gary Fraker and seconded by John McCulloch to move to closed for #1, 2, 7, 8, and 9 of the attached motions to close. Motion carried with James Reinhard and Archie Camden voting in favor with no votes in opposition. Eric Pitman was not present for the meeting.

Approval of Open Minutes

A motion was made by Gary Fraker and seconded by Archie Camden to accept the open September 25, 2012 board meeting minutes with the correction to the motion relating to the "Discussion of Propose Rule "Insurance Funded Preneed Contracts" by correcting it to read *Motion was made by James Reinhard and seconded by Archie Camden to table the vote on the rule to allow for written comments to be received in the board office. Motion tied with Eric Pitman voting in favor and John McCulloch, Gary Fraker and D. Todd Mahn voting in opposition.* Motion carried with James Reinhard and John McCulloch voting in favor with no votes in opposition. Eric Pitman not present for the meeting.

Executive Director Report

Sandy gave an update on the following –

- Embalmer/Funeral Director renewals reporting that 2092 renewals were mailed in August and as of November 30, 2012 there were 1955 (93.45%) renewed which is 30 days past the expiration date.
- Discussed fees relating to the \$36 per contract fee and shared with the board that rough estimates for 2012 seller renewals indicates there were 14, 811 contracts reported sold, which in line with recent years since the law changed in 2009 (in 2009 there were 12504, 2010 there were 15391 and in 2011 there were 14708). Given that contract numbers reported appear to be consistent Sandy asked if the board wanted to look at options that involve reducing the per

contract fee, which would likely involve increasing fees in other areas. The board asked that scenarios be run.

- Sandy updated the board on staffing in the office reporting that Bob Beck would be finishing up his assignments by the end of December and that Betty Lilley was hired full time to replace him.
- Sandy shared with the board that license statistics (new, closed/ceased, disciplined) were included in their materials.
- Sandy told the board that the new law book going out on CD versus hard copy saved a significant amount of money because the CDs were only .97 to complete/mail.

Legal Counsel Report

Sharon informed the board that the litigation regarding National Prearranged Services is continuing as the trial appears to be moving forward.

Presentation by Scott Lindley

Scott Lindley met with the board at his request to discuss a proposal that he had discussed with an interim legislative committee on preneed. Representative Guernsey, Mr. Lindley's representative, was to be present with him to give the presentation to the board but due to illness was not present. Mr. Lindley gave a brief overview of what his representative was going to be talking about relating to tax credits, continued thoughts relating to National Prearranged Services.

Board member notification of new, closed/ceased, disciplined licenses

John McCulloch and Todd Mahn asked that in addition to the notifications relating to each category that they receive at each board meeting that they be notified each time an application or cease is received for an establishment, provider and seller before the office processes anything. Following discussion it was suggested that the information be posted to the secure portal and the board be sent an email that information has been added for their reference.

Licensure categories

Todd Mahn indicated he wanted to revisit the matter of dual licensure and following discussion among the board the public was asked for input. The members of the public present had different opinions, similar to the board. No motion was made.

Discussion of renewal deadlines/preneed seller renewal

John McCulloch discussed the renewal deadlines and any possible grace periods. Sandy and Sharon both clarified that the statute does not provide for a grace period but that all licenses must be renewed by the deadline and that was applicable to all license types. This subject resulted in a combined conversation with the next item on the agenda below.

Discussion of preneed seller renewal/seller annual report forms

Todd Mahn and John McCulloch discussed the current preneed seller form and stated it was unclear to anyone that if the license was not renewed by October 31st that they could not work even if their form was submitted to the board prior to that time. D. Todd Mahn agreed and proposed the date on the renewal form have a suggested date of October 31. Sandy shared that an earlier suggested submission date of October 1st could be put on the form and that the language could be modified to be more clearer. The public expressed concerns about the background questions requesting information that the board could do nothing with and asked if the board could review those questions. The board asked that Sandy review them. Todd Mahn asked John McCulloch to work with the office on potential language.

Discussion of \$36 per contract fee relating to insurance funded preneed contracts

John McCulloch asked that this item be revisited from a previous meeting. Following discussion a motion was made by Gary Fraker and seconded by John McCulloch to have staff draft a rule that addresses beneficiary changes on insurance policies and any policies sold at the funeral home or by its

agents with a preneed contract is subject to the \$36 reporting fee. Motion carried with James Reinhard and Archie Camden voting in favor with no votes in opposition. Eric Pitman was not present for the meeting.

The Conference

Sandy asked the board if they would like to determine which member would be able to attend the upcoming annual meeting of The Conference, being held in Henderson, Nevada in February, 2013. Todd Mahn stated he would like to go. Gary Fraker recommended James Reinhard attend. A motion was made by Gary Fraker and seconded by Archie Camden for James Reinhard to attend the meeting. Motion carried with James Reinhard and John McCulloch voting in favor with no votes in opposition. Eric Pitman not present for the meeting.

Motion to Close

A motion was made by Gary Fraker and seconded by James Reinhard to move to closed for #1, 2, 7, and 9 of the attached motions to close. Motion carried with Archie Camden and John McCulloch voting in favor with no votes in opposition. Eric Pitman was not present for the meeting.

Future Meeting Dates/Locations

Future meeting dates and locations were discussed and the board asked that staff look at meeting locations in downtown St. Louis for March 19, 20, 21, 2013.

Adjournment

Meeting adjourned at 12:12pm on December 12, 2012.

Executive Director: _____

Approved by board on: _____

MOTIONS TO GO INTO CLOSED SESSION

1. DISCIPLINE

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (1) RSMo and 324.001.9 RSMo for deliberation on discipline

2. LEGAL ACTIONS/LITIGATIONS/PRIVILEGED COMMUNICATIONS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (1) RSMo for discussing general legal actions, causes of action or litigation and any confidential or privileged communications between this agency and its attorney

3. PROMOTING/HIRING/DISCIPLINING/FIRING EMPLOYEES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (3) RSMo discussing hiring, firing, disciplining or promoting an employee of this agency

4. DIAGNOSIS/TREATMENT OF DISCIPLINED LICENSEES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (5) and Section 324.001.8 RSMo. for proceedings required pursuant to a disciplinary order concerning medical, psychiatric, psychological, or alcoholism or drug dependency diagnosis or treatment of specific licensees

5. EXAMINATION MATERIALS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (7) RSMo for reviewing testing and examination materials

6. EMPLOYEE PERFORMANCE RATINGS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (13) RSMo for making performance ratings pertaining to individual employees

7. APPLICATIONS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (14) and Section 324.001.8 RSMo for discussing educational transcripts and/or test scores and/or complaints and/or audits and/or investigative reports and/or other information pertaining to the licensee or applicant for licensure

8. CLOSED MINUTES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (14) and 324.017 RSMo for the purpose of reviewing and approving the closed minutes of previous meetings

9. COMPLAINTS/ INVESTIGATIVE REPORTS/AUDITS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021 subsection (14) and section 620.010.14 subsection (7) RSMo for the purpose of discussing investigative reports and/or complaints and/or audits and/or other information pertaining to a licensee or applicant

Revised 09-11

**State Board of Embalmers and Funeral Directors
Financial Examination Committee
Conference Call**

January 3, 2013

**State Board of Embalmers and Funeral Directors
Missouri Conference Room
3605 Missouri Boulevard
Jefferson City, MO 65109**

OPEN MINUTES

The meeting of the State Board of Embalmers and Funeral Directors Financial Examination Committee was called to order by James Reinhard, Committee Chair, at 8:42 a.m.

Roll Call

Board Members Present

James Reinhard, Committee Chair
Archie Camden, Member

Staff Present

Sandy Sebastian, Executive Director
Lisa Wildhaber, Examiner Supervisor
Sharon Euler, Division Legal Counsel

Approval of Open Agenda

A motion was made by Archie Camden and seconded by James Reinhard to approve the open agenda.

Executive Director Report

Sandy reported that Betty Lilley started with the board as an examiner on December 26, 2012 and joins the board from the Missouri Real Estate Commission.

Legal Counsel Report

No report

Move to Closed

A motion was made by Archie Camden and seconded by James Reinhard to move to closed session pursuant to #1, #2, #7 and #9 of the attached motions to close.

Future Meeting

It was discussed and decided to set the next committee meeting for January 9, 2013 at 8:30a.m.

Adjourn

Meeting Adjourned at 9:31 a.m.

Executive Director: _____

Approved by the board on: _____

MOTIONS TO GO INTO CLOSED SESSION

1. DISCIPLINE

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (1) RSMo and 324.001.9 RSMo for deliberation on discipline

2. LEGAL ACTIONS/LITIGATIONS/PRIVILEGED COMMUNICATIONS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (1) RSMo for discussing general legal actions, causes of action or litigation and any confidential or privileged communications between this agency and its attorney

3. PROMOTING/HIRING/DISCIPLINING/FIRING EMPLOYEES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (3) RSMo discussing hiring, firing, disciplining or promoting an employee of this agency

4. DIAGNOSIS/TREATMENT OF DISCIPLINED LICENSEES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (5) and Section 324.001.8 RSMo. for proceedings required pursuant to a disciplinary order concerning medical, psychiatric, psychological, or alcoholism or drug dependency diagnosis or treatment of specific licensees

5. EXAMINATION MATERIALS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (7) RSMo for reviewing testing and examination materials

6. EMPLOYEE PERFORMANCE RATINGS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (13) RSMo for making performance ratings pertaining to individual employees

7. APPLICATIONS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (14) and Section 324.001.8 RSMo for discussing educational transcripts and/or test scores and/or complaints and/or audits and/or investigative reports and/or other information pertaining to the licensee or applicant for licensure

8. CLOSED MINUTES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (14) and 324.017 RSMo for the purpose of reviewing and approving the closed minutes of previous meetings

9. COMPLAINTS/ INVESTIGATIVE REPORTS/AUDITS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021 subsection (14) and section 620.010.14 subsection (7) RSMo for the purpose of discussing investigative reports and/or complaints and/or audits and/or other information pertaining to a licensee or applicant

Revised 09-11

**State Board of Embalmers and Funeral Directors
Financial Examination Committee
Conference Call**

January 9, 2013

**State Board of Embalmers and Funeral Directors
Missouri Conference Room
3605 Missouri Boulevard
Jefferson City, MO 65109**

OPEN MINUTES

The meeting of the State Board of Embalmers and Funeral Directors Financial Examination Committee was called to order by James Reinhard, Committee Chair, at 8:43 a.m.

Roll Call

Board Members Present

James Reinhard, Committee Chair
Archie Camden, Member

Staff Present

Sandy Sebastian, Executive Director
Lisa Wildhaber, Examiner Supervisor
Sharon Euler, Division Legal Counsel

Approval of Open Agenda

A motion was made by Archie Camden and seconded by James Reinhard to approve the open agenda.

Executive Director Report

No report

Legal Counsel Report

No report

Move to Closed

A motion was made by Archie Camden and seconded by James Reinhard to move to closed session pursuant to #1, #2, #7 and #9 of the attached motions to close.

Move to Closed

A motion was made by Archie Camden and seconded by James Reinhard to move to closed session pursuant to #1, #2, #7 and #9 of the attached motions to close.

Future Meeting

March 19, 2013 was discussed as the next meeting date.

Adjourn

Meeting adjourned at 10:30 a.m.

Executive Director: _____

Approved by the board on: _____

MOTIONS TO GO INTO CLOSED SESSION

1. DISCIPLINE

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (1) RSMo and 324.001.9 RSMo for deliberation on discipline

2. LEGAL ACTIONS/LITIGATIONS/PRIVILEGED COMMUNICATIONS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (1) RSMo for discussing general legal actions, causes of action or litigation and any confidential or privileged communications between this agency and its attorney

3. PROMOTING/HIRING/DISCIPLINING/FIRING EMPLOYEES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (3) RSMo discussing hiring, firing, disciplining or promoting an employee of this agency

4. DIAGNOSIS/TREATMENT OF DISCIPLINED LICENSEES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (5) and Section 324.001.8 RSMo. for proceedings required pursuant to a disciplinary order concerning medical, psychiatric, psychological, or alcoholism or drug dependency diagnosis or treatment of specific licensees

5. EXAMINATION MATERIALS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (7) RSMo for reviewing testing and examination materials

6. EMPLOYEE PERFORMANCE RATINGS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (13) RSMo for making performance ratings pertaining to individual employees

7. APPLICATIONS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (14) and Section 324.001.8 RSMo for discussing educational transcripts and/or test scores and/or complaints and/or audits and/or investigative reports and/or other information pertaining to the licensee or applicant for licensure

8. CLOSED MINUTES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (14) and 324.017 RSMo for the purpose of reviewing and approving the closed minutes of previous meetings

9. COMPLAINTS/ INVESTIGATIVE REPORTS/AUDITS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021 subsection (14) and section 620.010.14 subsection (7) RSMo for the purpose of discussing investigative reports and/or complaints and/or audits and/or other information pertaining to a licensee or applicant

Revised 09-11

**State Board of Embalmers and Funeral Directors
Financial Examination Committee
Conference Call**

February 15, 2013

**State Board of Embalmers and Funeral Directors
3605 Missouri Boulevard
Jefferson City, MO 65109**

OPEN MINUTES

The meeting of the State Board of Embalmers and Funeral Directors Financial Examination Committee was called to order by James Reinhard, Committee Chair, at 8:03 a.m.

Roll Call

Board Members Present

James Reinhard, Committee Chair
Archie Camden, Member

Staff Present

Sandy Sebastian, Executive Director
Lisa Wildhaber, Examiner Supervisor
Sharon Euler, Division Legal Counsel

Approval of Open Agenda

A motion was made by James Reinhard and seconded by Archie Camden to approve the open agenda.

Executive Director Report

No report

Legal Counsel Report

No report

Move to Closed

A motion was made by Archie Camden and seconded by James Reinhard to move to closed session pursuant to #1, #2, #7 and #9.

Adjourn

Meeting Adjourned at 8:38 a.m.

Executive Director: _____

Approved by the board on: _____

MOTIONS TO GO INTO CLOSED SESSION

1. DISCIPLINE

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (1) RSMo and 324.001.9 RSMo for deliberation on discipline

2. LEGAL ACTIONS/LITIGATIONS/PRIVILEGED COMMUNICATIONS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (1) RSMo for discussing general legal actions, causes of action or litigation and any confidential or privileged communications between this agency and its attorney

3. PROMOTING/HIRING/DISCIPLINING/FIRING EMPLOYEES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (3) RSMo discussing hiring, firing, disciplining or promoting an employee of this agency

4. DIAGNOSIS/TREATMENT OF DISCIPLINED LICENSEES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (5) and Section 324.001.8 RSMo. for proceedings required pursuant to a disciplinary order concerning medical, psychiatric, psychological, or alcoholism or drug dependency diagnosis or treatment of specific licensees

5. EXAMINATION MATERIALS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (7) RSMo for reviewing testing and examination materials

6. EMPLOYEE PERFORMANCE RATINGS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (13) RSMo for making performance ratings pertaining to individual employees

7. APPLICATIONS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (14) and Section 324.001.8 RSMo for discussing educational transcripts and/or test scores and/or complaints and/or audits and/or investigative reports and/or other information pertaining to the licensee or applicant for licensure

8. CLOSED MINUTES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (14) and 324.017 RSMo for the purpose of reviewing and approving the closed minutes of previous meetings

9. COMPLAINTS/ INVESTIGATIVE REPORTS/AUDITS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021 subsection (14) and section 620.010.14 subsection (7) RSMo for the purpose of discussing investigative reports and/or complaints and/or audits and/or other information pertaining to a licensee or applicant

Revised 09-11

**State Board of Embalmers and Funeral Directors
Financial Examination Committee
Conference Call**

March 6, 2013

**State Board of Embalmers and Funeral Directors
3605 Missouri Boulevard
Jefferson City, MO 65109**

OPEN MINUTES

The meeting of the State Board of Embalmers and Funeral Directors Financial Examination Committee was called to order by James Reinhard, Committee Chair, at 8:44 a.m.

Roll Call

Board Members Present

James Reinhard, Committee Chair
Archie Camden, Member

Staff Present

Sandy Sebastian, Executive Director
Lisa Wildhaber, Examiner Supervisor
Sharon Euler, Division Legal Counsel

Approval of Open Agenda

A motion was made by Archie Camden and seconded by James Reinhard to approve the open agenda.

Executive Director Report

No report

Legal Counsel Report

No report

Move to Closed

A motion was made by Archie Camden and seconded by James Reinhard to move to closed session pursuant to #1, #2, #7 and #9 of the attached motions to close.

Adjourn

Meeting adjourned at 9:45 a.m.

Executive Director: _____

Approved by board on: _____

MOTIONS TO GO INTO CLOSED SESSION

1. DISCIPLINE

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (1) RSMo and 324.001.9 RSMo for deliberation on discipline

2. LEGAL ACTIONS/LITIGATIONS/PRIVILEGED COMMUNICATIONS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (1) RSMo for discussing general legal actions, causes of action or litigation and any confidential or privileged communications between this agency and its attorney

3. PROMOTING/HIRING/DISCIPLINING/FIRING EMPLOYEES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (3) RSMo discussing hiring, firing, disciplining or promoting an employee of this agency

4. DIAGNOSIS/TREATMENT OF DISCIPLINED LICENSEES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (5) and Section 324.001.8 RSMo. for proceedings required pursuant to a disciplinary order concerning medical, psychiatric, psychological, or alcoholism or drug dependency diagnosis or treatment of specific licensees

5. EXAMINATION MATERIALS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (7) RSMo for reviewing testing and examination materials

6. EMPLOYEE PERFORMANCE RATINGS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (13) RSMo for making performance ratings pertaining to individual employees

7. APPLICATIONS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (14) and Section 324.001.8 RSMo for discussing educational transcripts and/or test scores and/or complaints and/or audits and/or investigative reports and/or other information pertaining to the licensee or applicant for licensure

8. CLOSED MINUTES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (14) and 324.017 RSMo for the purpose of reviewing and approving the closed minutes of previous meetings

9. COMPLAINTS/ INVESTIGATIVE REPORTS/AUDITS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021 subsection (14) and section 620.010.14 subsection (7) RSMo for the purpose of discussing investigative reports and/or complaints and/or audits and/or other information pertaining to a licensee or applicant

Revised 09-11

State Board of Embalmers and Funeral Directors

March 7, 2013

Division of Professional Registration
3605 Missouri Blvd
Jefferson City, MO 65109

OPEN MINUTES

The meeting of the State Board of Embalmers and Funeral Directors was called to order via conference call by James Reinhard, Chairman, at 1:12p.m.

Roll Call

Board Members Present

James Reinhard, Chairman
John McCulloch, Secretary
Gary Fraker, Member
Eric Pitman, Member
Collin Follis, Member

Board Members Not Present

Archie Camden, Public Member

Staff Present

Sandy Sebastian, Executive Director
Tabatha Lenzini, Administrative Assistant
Sharon Euler, Division Legal Counsel

Approval of Agenda

A motion was made by Gary Fraker and seconded by Eric Pitman to approve the open agenda. Motion carried with John McCulloch and Collin Follis voting in favor with no votes in opposition. Archie Camden was not present.

Executive Director Report

Sandy reported on pending legislation SB405 and HB659

Legal Counsel Report

No report

Move to Close

A motion was made by Gary Fraker and seconded by John McCulloch to close for #1, 2, 7, and 9 of the attached motions to close. Motion carried with John McCulloch, Gary Fraker, Collin Follis and Eric Pitman voting in favor with no votes in opposition. Archie Camden was not present.

Adjourn

A motion was made by Gary Fraker and seconded by Collin Follis to adjourn the meeting at 1:40p.m. Motion carried with John McCulloch and Eric Pitman voting in favor with no votes in opposition. Archie Camden was not present.

Executive Director: _____

Approved by the board: _____

MOTIONS TO GO INTO CLOSED SESSION

1. DISCIPLINE

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (1) RSMo and 324.001.9 RSMo for deliberation on discipline

2. LEGAL ACTIONS/LITIGATIONS/PRIVILEGED COMMUNICATIONS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (1) RSMo for discussing general legal actions, causes of action or litigation and any confidential or privileged communications between this agency and its attorney

3. PROMOTING/HIRING/DISCIPLINING/FIRING EMPLOYEES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (3) RSMo discussing hiring, firing, disciplining or promoting an employee of this agency

4. DIAGNOSIS/TREATMENT OF DISCIPLINED LICENSEES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (5) and Section 324.001.8 RSMo. for proceedings required pursuant to a disciplinary order concerning medical, psychiatric, psychological, or alcoholism or drug dependency diagnosis or treatment of specific licensees

5. EXAMINATION MATERIALS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (7) RSMo for reviewing testing and examination materials

6. EMPLOYEE PERFORMANCE RATINGS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (13) RSMo for making performance ratings pertaining to individual employees

7. APPLICATIONS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (14) and Section 324.001.8 RSMo for discussing educational transcripts and/or test scores and/or complaints and/or audits and/or investigative reports and/or other information pertaining to the licensee or applicant for licensure

8. CLOSED MINUTES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (14) and 324.017 RSMo for the purpose of reviewing and approving the closed minutes of previous meetings

9. COMPLAINTS/ INVESTIGATIVE REPORTS/AUDITS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021 subsection (14) and section 620.010.14 subsection (7) RSMo for the purpose of discussing investigative reports and/or complaints and/or audits and/or other information pertaining to a licensee or applicant

Revised 09-11

**State Board of Embalmers and Funeral Directors
Financial Examination Committee**

March 19, 2013

**Missouri Council of School Administrators
3550 Amazonas Drive
Jefferson City, MO 65109**

OPEN MINUTES

The meeting of the State Board of Embalmers and Funeral Directors Financial Examination Committee was called to order by James Reinhard, Committee Chair, at 10:33 a.m.

Roll Call

Board Members Present

James Reinhard, Committee Chair
Archie Camden, Member

Staff Present

Sandy Sebastian, Executive Director
Lisa Wildhaber, Examiner Supervisor
Sharon Euler, Division Legal Counsel

Approval of Open Agenda

A motion was made by Archie Camden and seconded by James Reinhard to approve the open agenda.

Executive Director Report

No report

Legal Counsel Report

No report

Move to Closed

A motion was made by Archie Camden and seconded by James Reinhard to move to closed session pursuant to #1, #2, #7 and #9 of the attached motions to close.

Adjourn

Meeting adjourned at 11:03 a.m.

Executive Director: _____

Approved by the board on: _____

MOTIONS TO GO INTO CLOSED SESSION

1. DISCIPLINE

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (1) RSMo and 324.001.9 RSMo for deliberation on discipline

2. LEGAL ACTIONS/LITIGATIONS/PRIVILEGED COMMUNICATIONS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (1) RSMo for discussing general legal actions, causes of action or litigation and any confidential or privileged communications between this agency and its attorney

3. PROMOTING/HIRING/DISCIPLINING/FIRING EMPLOYEES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (3) RSMo discussing hiring, firing, disciplining or promoting an employee of this agency

4. DIAGNOSIS/TREATMENT OF DISCIPLINED LICENSEES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (5) and Section 324.001.8 RSMo. for proceedings required pursuant to a disciplinary order concerning medical, psychiatric, psychological, or alcoholism or drug dependency diagnosis or treatment of specific licensees

5. EXAMINATION MATERIALS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (7) RSMo for reviewing testing and examination materials

6. EMPLOYEE PERFORMANCE RATINGS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (13) RSMo for making performance ratings pertaining to individual employees

7. APPLICATIONS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (14) and Section 324.001.8 RSMo for discussing educational transcripts and/or test scores and/or complaints and/or audits and/or investigative reports and/or other information pertaining to the licensee or applicant for licensure

8. CLOSED MINUTES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (14) and 324.017 RSMo for the purpose of reviewing and approving the closed minutes of previous meetings

9. COMPLAINTS/ INVESTIGATIVE REPORTS/AUDITS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021 subsection (14) and section 620.010.14 subsection (7) RSMo for the purpose of discussing investigative reports and/or complaints and/or audits and/or other information pertaining to a licensee or applicant

Revised 09-11

State Board of Embalmers and Funeral Directors

March 19-20, 2013

Missouri Council of School Administrators
3550 Amazonas Drive
Jefferson City, MO 65109

OPEN MINUTES

The meeting of the State Board of Embalmers and Funeral Directors was called to order by James Reinhard, Chairman, at 1:00 p.m.

Roll Call

Board Members Present

James Reinhard, Chairman
John McCulloch, Secretary
Archie Camden, Public Member
Eric Pitman, Board Member
Collin Follis, Board Member

Board Members Not Present

Gary Fraker, Board Member

Staff Present

Sandy Sebastian, Executive Director
Tabatha Lenzini, Administrative Assistant – was absent March 20, 2013
Lori Hayes, Inspector
Sharon Euler, Division Legal Counsel

Introduction of Collin Follis

James Reinhard formally introduced Collin Follis to the members of the board and welcomed him.

Approval of Agenda

A motion was made by Archie Camden and seconded by Eric Pitman Motion carried with John McCulloch, Collin Follis, Archie Camden and Eric Pitman voting in favor with no votes in opposition. Gary Fraker was not present for the meeting.

Election of Officers

Eric Pitman nominated Archie Camden for secretary. Archie declined.
Archie Camden nominated Collin Follis for secretary and Collin accepted. There were no other nominations and Collin won by acclamation.
Collin Follis nominated Archie Camden for vice chairman and Archie accepted. There were no other nominations and Archie won by acclamation.
Archie Camden nominated James Reinhard for chairman. James accepted. There were no other nominations and James won by acclamation.

Move to Close

A motion was made by Archie Camden and seconded by Collin Follis close for #1, 2, 7 8, and 9 of the attached motions to close. Motion carried with John McCulloch and Eric Pitman voting in favor with no votes in opposition. Gary Fraker was not present for the meeting.

Approval of Open Minutes

A motion was made by John McCulloch and seconded by Archie Camden to approve the conference call minutes for January 11, 2013 and table the minutes of December 11-12, 2012 to review the tape to verify the language regarding the motion relating to the \$36 fee for insurance funded preneed contracts. Motion carried with Collin Follis and Eric Pitman voting in favor with no votes in opposition. Gary Fraker was not present for the meeting.

Executive Director Report

Sandy Sebastian provided an update to the board on pending legislation relating to HB 659 (modifies the licensure requirements for embalmers, making licensure optional); SB405 (contains language allowing an irrevocable personal funeral trust up to \$9,999 excluded as a personal asset when attempting to qualify for state assistance); HB482 and SB186 (both address disposition of veterans unclaimed cremains).

Sandy gave an overview of the budget and discussed with the board that if fee adjustments were made to lower the per contract fee from \$36 to \$25 using 14,000 contracts as an average (using a 3 year average reported contracts on annual reports) it would create an estimated negative income of \$154,000 revenue and that the board would need to consider because the revenue collected needed to cover the appropriation and operating costs of the board. Sandy asked the board if when working on scenarios did the board want to look at scenarios that included a fee adjustment to just preneed or all fees. The board asked that several different options be explored.

Some members of the public in attendance at the open session asked what the financial examinations are costing, stating the board is spending too much money and has too many staff. Sandy responded that the full time employees that were appropriated to the board following the revisions to Chapter 436 in Senate Bill 1 (2009) have not all been filled and that a cost per audit was not available at this time because there are numerous variances on what could be included in such, including a portion of her salary, legal counsel, costs associated with the Attorney General's office and Administrative Hearing Commission to name a few. Sandy explained that the full time employees are paid an annual salary and that their salary is not driven off of how much it costs to conduct a financial examination. Sandy also shared with the public that a rough estimate/average was provided several meetings prior that contained disclosures relating to such. Public commented that the board should not be looking at every contract but should rather be doing a sampling of contracts and Sandy responded that when the process began the board voted to do a review of all contracts and that it would not be appropriate to modify that process in mid-stream, as not all sellers have had financial examinations completed yet.

John McCulloch stated that he wished the board would think about treating things like any other business would do and have the attitude that they only have so much money to work with and learn how to minimize overhead instead of thinking it doesn't really matter how things are done and if it's not efficient that fees will just be increased. He stated most businesses are always having to adjust based on revenues coming in and expenses going out and constantly trying to do better. He stated he thought that was what he believed he was hearing people in the audience say and in addition are we really looking at how we are looking at all these contracts. He stated that insurance contracts obviously fall under the department of insurance and that they have a whole lot more scrutiny than trust. Sharon Euler stated that the preneed aspect of an insurance funded preneed contract is what the board looks at. John stated that he did not feel the board was doing that. He asked if the board was looking at things like whether or not the funeral home is doing their part after their contract is made. He stated that maybe the inspectors do that somewhat but he did not think the examiners were doing that. He stated he thought all they were doing was looking at every single contract, to which he stated he totally disagreed with and felt it was a waste of time; however he stated that he knew the board was in that process and shouldn't change that in mid-stream. He stated moving forward that he did not feel that should be done and that next time around the board should be reviewing a true sampling and if no problems were identified then proceed on and know that examiners may end up looking at every

contract. Sharon Euler commented that next time around she thought there would be some evaluation done of what needs to be done, what works and what doesn't work and that the examination process is constantly evolving. John McCulloch stated that if you have the right leadership and the right attitude towards this then, then you would strive for that and he did not believe the board had that. He stated that he did not feel that the board was a very friendly board when people call and that is one of his big complaints. Sandy asked in what respect or did he have any examples. He asked the members of the public for their feedback and one member of the public spoke and first stated they never called the office and then corrected themselves that they did call in and talk to Lori, who was always helpful. Another member of the public stated when they called in that staff was always willing to help and responded to them even though sometimes not with the response they were seeking. Other members of the public expressed their concerns about the board staff not being able to help the public or funeral homes more when they call in. Sandy Sebastian explained that a board cannot interpret the statutes or regulations or give legal advice and that there is a court case that deals with another board in the division in which the board lost and the determination involved an interpretation that the board's actions resulted in un-promulgated rulemaking and that court case reinforces that board's must be careful in their responses to the public. John McCulloch stated that he felt it's more about trying to catch you doing something than trying to help you.

Another member of the public asked again if the board would consider a uniform preneed contract, embalming log and the insurance contract for the whole state. Sharon stated that she did not advise the board to draft such because the contract was between two parties, not involving the board.

Chairman Reinhard thanked the staff for their hard work and asked the public and board members if anyone else had any complaints or concerns about the staff that they would like to address. There were no other comments made.

Sandy noted that the board had in their materials information relating to license statistics, including new licenses, closed/ceased licensed and disciplined license actions that took place since the last board meeting report they were provided.

Sandy shared that the board office had received notification that Steve Koosman with St. Louis Community College at Forest Park is retiring at the end of May.

Sandy discussed with the board that the office was working with the Conference regarding the exam eligibility process for applicants and it would include eliminating the certificates of eligibility.

Sandy reported that the board office has received notification that The Conference will be increasing examination fees effective January 1, 2014. The Missouri Arts will increase from \$150 to \$200; The Missouri Law will increase from \$120 to \$140; the National Arts/Sciences will increase from \$200/each to \$250/each. Sandy also mentioned to the board that the license fees for the board had not been increased since prior to 2002.

Sandy notified that board that she and James Reinhard were scheduled to attend The Conference's conference in Nevada at the end of February but due to weather conditions they were not able to fly out of Missouri and therefore did not attend.

Legal Counsel Report

Sharon Euler reported that the criminal case of National Prearranged Services is set for August, 2013; that the civil case was proceeding; and that Brent Cassity requested his passport back to go to the Dominican Republic for spring break with his daughter and that request was denied.

Move to Close

A motion was made by John McCulloch and seconded by Collin Follis to close for #2 of the attached motions to close. Motion carried with Eric Pitman and Archie Camden voting in favor with no votes in opposition. Gary Fraker was not present for the meeting.

Discussion of Proposed Rules

“Formation of an insurance funded preneed contract”

Statutory Authority: Sections 436.405.1(3), (4), (7), (8), 436.425, 436.450, 436.465, 436.520, RSMo.

1. A preneed contract is required when a funeral home agrees to accept proceeds from a life insurance policy and use those proceeds to pay for funeral goods and services when those goods and services are not immediately required.
2. Whenever an insurance funded preneed contract is formed, that agreement must be documented by a written agreement between a purchaser and a seller in compliance with the provision of Chapters 333 and 436.
3. An insurance funded preneed contract may be guaranteed or non-guaranteed and shall clearly state on the contract whether the prices quoted are guaranteed.
4. Any life insurance policy or annuity may be used as a funding source for a preneed contract regardless of when or from whom it was purchased including insurance policies marketed as a “final expense policy” or “burial policy.”
5. A preneed contract funded by insurance may provide, as a term of the contract, that the contract is deemed cancelled if the insurance policy is cancelled or if the beneficiary or assignment is changed to another seller as such act shall be considered as a cancellation of the preneed contract by the purchaser.

Following review by the board and discussion a motion was made by Archie Camden to approve and seconded by Collin Follis. Motion carried with Eric Pitman yes. John McCulloch voted no. Gary Fraker not present for the meeting.

“When no insurance funded preneed contract formed”

Statutory Authority: Sections 436.405(4), (8) and 436.520, RSMo.

1. If a licensee is named as an owner, beneficiary or assignee of a life insurance policy and the insured is not a spouse or a relative by blood or adoption, within the second level of consanguinity (parents, children, grandchildren, brothers, sisters, nieces, nephews, grandparents, aunts, uncles, and first cousins) and the policy is not a “key man” policy, it shall be presumed that the laws relating to preneed contracts must be followed UNLESS the licensee has on file a written document that is signed and dated by the insured or the purchaser that states that, at a minimum, 1. the insured has been advised of the need to enter into a preneed contract with the licensee; 2. that only by entering into such contract can the licensee be contractually obligated to use the proceeds of the life insurance to pay for the final expenses of the insured, and 3. If the insured or the purchaser opt not to enter into a preneed contract, then the insured or the purchaser understand that the licensee they have named as owner, beneficiary or assignee will receive the insurance proceeds and be under no contractual obligation to provide any funeral goods or services at the death of the insured. This presumption may be overcome upon a showing, to the satisfaction of the board, that the licensee is named as an owner, beneficiary or assignee of a life insurance policy for reasons other than to provide funds for the licensee to provide the professional services for the final disposition of the insured’s body.
2. If a consumer refuses to sign the insurance waiver and refuses to sign a preneed contract, the licensee shall document that the insurance waiver and/or preneed contract has been given to the consumer for

consideration by having the consumer acknowledge by written document that is signed and dated by the consumer that the consumer received both the insurance waiver and preneed contract. If the consumer refuses to sign the acknowledgement, then the licensee shall mail, either by first class mail or by electronic message, a copy of the insurance waiver and preneed contract to the consumer and maintain in licensee's file a copy of the letter or e-mail with the enclosed insurance waiver and preneed contract and shall sign and date a statement stating that the waiver and preneed contract were provided to the consumer and the date it was sent. Unless the letter or electronic message is returned to the licensee, the consumer shall be deemed to have received notice of his or her option to enter into a preneed contract.

3. The seller shall maintain all documents and copies of documents regarding this rule as part of its books and records.

Following review by the board and discussion a motion was made by Collin Follis and seconded by Archie Camden to accept the rule. Motion carried with John McCulloch and Eric Pitman voting in favor with no votes in opposition. Gary Fraker was not present for the meeting.

"Per Contract Fee Exemption"

Statutory Authority: Sections 436.460.5 and 436.520, RSMo.

1. No per contract fee shall be due for any preneed contract that meets each of the following:
 - a. The total amount of the preneed contract, including any subsequent amendments is under \$500; and
 - b. The beneficiary of the preneed contract attests in writing that he or she is the beneficiary of no other preneed contracts.
2. Documentation of each of the factors required for fee exemption shall be maintained as part of the books and records of the seller.
3. If a consumer purchases a preneed contract that initially meets the requirements for this rule, but at a later date adds funds to the contract or enters into an amended or new preneed contract so that the new amount of funding for the preneed contract exceeds the amount to qualify for exemption under this rule, then the per contract fee in effect at the time of the amended or new contract is made shall be due and owing for the reporting year in which the dollar amount exemption is exceeded.

Note to Board: The costs for the Board to administer preneed contracts is the same per contract, regardless of value of the preneed contract.

A motion was made by Eric Pitman and seconded by John McCulloch to not approve the rule. Motion carried with Collin Follis and Archie Camden voting in favor with no votes in opposition. Gary Fraker was not present for the meeting.

Discussion of 20 CSR 2120-2.071 Funeral Establishment Containing a Crematory Area

The board reviewed the existing language in (15) of the rule, which reads, "No body shall be cremated until after a completed death certificate has been filed with the local registrar as required by section 193.175, RSMo." A motion was made by Eric Pitman and seconded by Archie Camden to rescind the language from the existing rule. Motion carried with Collin Follis and John McCulloch voting in favor with no votes in opposition. Gary Fraker was not present for the meeting.

Recognition of Past Board Members

James Reinhard presented plaques to Martin Vernon and Todd Mahn and thanked them for their service to the board.

A member of the public announced that the MFDEA tri-state convention would be held May 5-7, 2013 in Overland, Kansas.

Move to Closed

A motion was made by Collin Follis and seconded by John McCulloch to close for #1, 2, 7, 8, and 9 of the attached motions to close. Motion carried with Eric Pitman and Archie Camden voting in favor with no votes in opposition. Gary Fraker was not present for the meeting.

**Officer Mortuary, LLC - Probation Violation Hearing (10:00a.m.)
Case EMB-13-002-PV**

Sharon discussed with the board a request for continuance that she received from licensee's attorney. A motion was made by Archie Camden and seconded by John McCulloch to grant their request for a continuance. Motion carried with Eric Pitman and Collin Follis voting in favor with no votes in opposition. Gary Fraker was not present for the meeting.

Move to Closed

A motion was made by Archie Camden and seconded by John McCulloch to close for #2 of the attached motions to close. Motion carried with Eric Pitman and Collin Follis voting in favor with no votes in opposition. Gary Fraker was not present for the meeting.

**Ryan Lair - Probation Violation Hearing (11:15a.m.)
Case EMB-13-003-PV**

Motion was made by Eric Pitman and seconded by Archie Camden to continue the hearing.

**Kathleen Allen - Probation Violation Hearing (2:00p.m.)
Case EMB-13-005-PV**

A motion was made by John McCulloch and seconded by Eric Pitman voted to continue to the June meeting due to lack of proof of service to licensee of the scheduled hearing. Motion carried with Archie Camden and Collin Follis voting in favor with no votes in opposition. Gary Fraker was not present for the meeting.

Future Meeting

Sandy requested members send her black-out dates for the month of June so that meeting date options could be reviewed.

Adjournment

A motion was made by John McCulloch and seconded by Collin Follis voted to adjourn at 2:15 p.m.

Executive Director: _____

Approved by the board on: _____

MOTIONS TO GO INTO CLOSED SESSION

1. DISCIPLINE

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (1) RSMo and 324.001.9 RSMo for deliberation on discipline

2. LEGAL ACTIONS/LITIGATIONS/PRIVILEGED COMMUNICATIONS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (1) RSMo for discussing general legal actions, causes of action or litigation and any confidential or privileged communications between this agency and its attorney

3. PROMOTING/HIRING/DISCIPLINING/FIRING EMPLOYEES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (3) RSMo discussing hiring, firing, disciplining or promoting an employee of this agency

4. DIAGNOSIS/TREATMENT OF DISCIPLINED LICENSEES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (5) and Section 324.001.8 RSMo. for proceedings required pursuant to a disciplinary order concerning medical, psychiatric, psychological, or alcoholism or drug dependency diagnosis or treatment of specific licensees

5. EXAMINATION MATERIALS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (7) RSMo for reviewing testing and examination materials

6. EMPLOYEE PERFORMANCE RATINGS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (13) RSMo for making performance ratings pertaining to individual employees

7. APPLICATIONS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (14) and Section 324.001.8 RSMo for discussing educational transcripts and/or test scores and/or complaints and/or audits and/or investigative reports and/or other information pertaining to the licensee or applicant for licensure

8. CLOSED MINUTES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (14) and 324.017 RSMo for the purpose of reviewing and approving the closed minutes of previous meetings

9. COMPLAINTS/ INVESTIGATIVE REPORTS/AUDITS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021 subsection (14) and section 620.010.14 subsection (7) RSMo for the purpose of discussing investigative reports and/or complaints and/or audits and/or other information pertaining to a licensee or applicant

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State Board of Embalmers and Funeral Directors

April 10, 2013

State Board of Embalmers and Funeral Directors
3605 Missouri Blvd.
Jefferson City, MO 65109

OPEN MINUTES

The meeting of the State Board of Embalmers and Funeral Directors was called to order via conference call by James Reinhard, Chairman, at 10:40a.m.

Roll Call

Board Members Present

James Reinhard, Chairman

Archie Camden, Public Member, Vice Chairman

Collin Follis, Secretary

Gary Fraker, Board member

Eric Pitman, Board Member - left call at 11:14a.m.

John McCulloch, Board member - recused himself and left the call at 10:55 a.m. for the discussion on Elite Funeral Chapel and Buescher Memorial Home

Staff Present

Sandy Sebastian, Executive Director

Tabatha Lenzini, Administrative Assistant

Sharon Euler, Division Legal Counsel

Approval of the Agenda

A motion was made by Gary Fraker and seconded by Collin Follis to approve the amended Open agenda that we will be going in to closed session during the call. Motion carried with John McCulloch, Archie Camden and Eric Pitman voting in favor with no votes in opposition.

Executive Director Report

No report.

Legal Counsel Report

Sharon reported that the criminal and civil cases against NPS are moving forward to trial.

Discussion regarding "The Conference Board Member Training" July 12-14, 2013

The board discussed the agenda for the board member training being presented by the Conference. Collin showed interest in attending the conference and the board was in agreement that he attend if he chose to.

Future Meeting Date

Sandy discussed with the board potential dates June board meeting for 25, 26, 27. The 27th didn't work for John; all members indicated that 25 and 26 would work for them. It was discussed having the meeting in St. Louis. Sandy will look into options and work to set the meeting dates as agreed.

Move to Closed

A motion was made by Gary Fraker and seconded by Collin Follis to move to closed session for #1, 2, 7, 8, and 9 of the attached motions to close. Motion carried with John McCulloch, Archie Camden and Eric Pitman voting in favor with no votes in opposition.

Discussion/Dialogue

No discussion

Adjournment

A motion was made by Collin Follis and seconded by Gary Fraker to adjourn 11:25 a.m. Motion carried with Archie Camden voting in favor with no votes in opposition. John McCulloch and Eric Pitman were not present.

Executive Director: _____

Approved by the board: _____

MOTIONS TO GO INTO CLOSED SESSION

1. DISCIPLINE
I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (1) RSMo and 324.001.9 RSMo for deliberation on discipline
2. LEGAL ACTIONS/LITIGATIONS/PRIVILEGED COMMUNICATIONS
I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (1) RSMo for discussing general legal actions, causes of action or litigation and any confidential or privileged communications between this agency and its attorney
3. PROMOTING/HIRING/DISCIPLINING/FIRING EMPLOYEES
I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (3) RSMo discussing hiring, firing, disciplining or promoting an employee of this agency
4. DIAGNOSIS/TREATMENT OF DISCIPLINED LICENSEES
I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (5) and Section 324.001.8 RSMo. for proceedings required pursuant to a disciplinary order concerning medical, psychiatric, psychological, or alcoholism or drug dependency diagnosis or treatment of specific licensees
5. EXAMINATION MATERIALS
I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (7) RSMo for reviewing testing and examination materials
6. EMPLOYEE PERFORMANCE RATINGS
I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (13) RSMo for making performance ratings pertaining to individual employees
7. APPLICATIONS
I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (14) and Section 324.001.8 RSMo for discussing educational transcripts and/or test scores and/or complaints and/or audits and/or investigative reports and/or other information pertaining to the licensee or applicant for licensure
8. CLOSED MINUTES
I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (14) and 324.017 RSMo for the purpose of reviewing and approving the closed minutes of previous meetings
9. COMPLAINTS/ INVESTIGATIVE REPORTS/AUDITS
I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021 subsection (14) and section 620.010.14 subsection (7) RSMo for the purpose of discussing investigative reports and/or complaints and/or audits and/or other information pertaining to a licensee or applicant

Revised 09-11

**State Board of Embalmers and Funeral Directors
Financial Examination Committee**

April 10, 2013

**State Board of Embalmers and Funeral Directors
3605 Missouri Boulevard
Jefferson City, MO 65109**

OPEN MINUTES

The meeting of the State Board of Embalmers and Funeral Directors Financial Examination Committee was called to order by James Reinhard, Committee Chair, at 8:45 a.m.

Roll Call

Board Members Present

James Reinhard, Committee Chair
Archie Camden, Member

Staff Present

Sandy Sebastian, Executive Director
Lisa Wildhaber, Examiner Supervisor
Sharon Euler, Division Legal Counsel

Approval of Agenda

A motion was made by Archie Camden and seconded by James Reinhard to approve the open agenda.

Executive Director Report

Sandy discussed future meeting date and the committee decided to set the next financial examination meeting for April 24, 2013 at 8:30 a.m.

Legal Counsel Report

No report

Move to Closed

A motion was made by Archie Camden and seconded by James Reinhard to move to closed session pursuant to #1, #2, #7 and #9 of the attached motions to close.

Adjourn

Meeting adjourned at 10:55 a.m.

Executive Director: _____

Approved by the board on: _____

MOTIONS TO GO INTO CLOSED SESSION

1. DISCIPLINE

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (1) RSMo and 324.001.9 RSMo for deliberation on discipline

2. LEGAL ACTIONS/LITIGATIONS/PRIVILEGED COMMUNICATIONS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (1) RSMo for discussing general legal actions, causes of action or litigation and any confidential or privileged communications between this agency and its attorney

3. PROMOTING/HIRING/DISCIPLINING/FIRING EMPLOYEES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (3) RSMo discussing hiring, firing, disciplining or promoting an employee of this agency

4. DIAGNOSIS/TREATMENT OF DISCIPLINED LICENSEES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (5) and Section 324.001.8 RSMo. for proceedings required pursuant to a disciplinary order concerning medical, psychiatric, psychological, or alcoholism or drug dependency diagnosis or treatment of specific licensees

5. EXAMINATION MATERIALS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (7) RSMo for reviewing testing and examination materials

6. EMPLOYEE PERFORMANCE RATINGS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (13) RSMo for making performance ratings pertaining to individual employees

7. APPLICATIONS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (14) and Section 324.001.8 RSMo for discussing educational transcripts and/or test scores and/or complaints and/or audits and/or investigative reports and/or other information pertaining to the licensee or applicant for licensure

8. CLOSED MINUTES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (14) and 324.017 RSMo for the purpose of reviewing and approving the closed minutes of previous meetings

9. COMPLAINTS/ INVESTIGATIVE REPORTS/AUDITS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021 subsection (14) and section 620.010.14 subsection (7) RSMo for the purpose of discussing investigative reports and/or complaints and/or audits and/or other information pertaining to a licensee or applicant

Revised 09-11

**State Board of Embalmers and Funeral Directors
Financial Examination Committee**

May 1, 2013

**State Board of Embalmers and Funeral Directors
3605 Missouri Boulevard
Jefferson City, MO 65109**

OPEN MINUTES

The meeting of the State Board of Embalmers and Funeral Directors Financial Examination Committee was called to order by James Reinhard, Committee Chair, at 9:09 a.m.

Roll Call

Board Members Present

James Reinhard, Committee Chair
Archie Camden, Member

Staff Present

Sandy Sebastian, Executive Director
Lisa Wildhaber, Examiner Supervisor
Sharon Euler, Division Legal Counsel

Approval of Agenda

A motion was made by Archie Camden and seconded by James Reinhard to approve the open agenda.

Approval of Minutes

A motion was made by James Reinhard and seconded by Archie Camden to approve the open financial examination committee minutes of July 2, 2012, July 31, 2012, August 9, 2012, September 7, 2012, October 2, 2012, October 18, 2012, October 31, 2012, November 8, 2012, January 3, 2013, January 9, 2013, February 15, 2013, March 6, 2013, March 19, 2013.

Executive Director Report

Sandy reminded the members that the next financial examination meeting will be May 14, 2013 at 8:30.

Legal Counsel Report

Sharon shared with the committee as an FYI that Brent Cassidy (NPS) has a new attorney in the criminal case. The attorney in the civil case has moved to withdraw.

Move to Closed

A motion was made by James Reinhard and seconded by Archie Camden to move to closed session pursuant to #1, #2, #7 and #9 of the attached motions to close.

Adjourn

A motion was made by Archie Camden and seconded by James Reinhard to adjourn 9:55 a.m.

Executive Director: _____

Approved by the board: _____

MOTIONS TO GO INTO CLOSED SESSION

1. DISCIPLINE
I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (1) RSMo and 324.001.9 RSMo for deliberation on discipline
2. LEGAL ACTIONS/LITIGATIONS/PRIVILEGED COMMUNICATIONS
I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (1) RSMo for discussing general legal actions, causes of action or litigation and any confidential or privileged communications between this agency and its attorney
3. PROMOTING/HIRING/DISCIPLINING/FIRING EMPLOYEES
I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (3) RSMo discussing hiring, firing, disciplining or promoting an employee of this agency
4. DIAGNOSIS/TREATMENT OF DISCIPLINED LICENSEES
I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (5) and Section 324.001.8 RSMo. for proceedings required pursuant to a disciplinary order concerning medical, psychiatric, psychological, or alcoholism or drug dependency diagnosis or treatment of specific licensees
5. EXAMINATION MATERIALS
I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (7) RSMo for reviewing testing and examination materials
6. EMPLOYEE PERFORMANCE RATINGS
I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (13) RSMo for making performance ratings pertaining to individual employees
7. APPLICATIONS
I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (14) and Section 324.001.8 RSMo for discussing educational transcripts and/or test scores and/or complaints and/or audits and/or investigative reports and/or other information pertaining to the licensee or applicant for licensure
8. CLOSED MINUTES
I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (14) and 324.017 RSMo for the purpose of reviewing and approving the closed minutes of previous meetings
9. COMPLAINTS/ INVESTIGATIVE REPORTS/AUDITS
I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021 subsection (14) and section 620.010.14 subsection (7) RSMo for the purpose of discussing investigative reports and/or complaints and/or audits and/or other information pertaining to a licensee or applicant

Revised 09-11

**Board of Embalmers
Financial Statement - FY 2013
as of April 30, 2013**

	Year-To-Date	Projected	Remaining
FY 2013 Beginning Fund Balance	2,335,819.93		
Revenue	700,567.70	661,855.00	(38,712.70)
Expense and Equipment	55,293.39	204,033.00	148,739.61
Total Transfers	542,676.21	950,563.96	407,887.75
Ending Fund Balance	2,438,418.03		

Line Item	FY 2013 Actual												FY 2013 Projections				
	July	August	September	October	November	December	January	February	March	April	May	June	Lapsed July	YTD Total	Projected	Remaining Reported YTD Total	
1	Embalmers - 0633																
2	FY 2013 Monthly Fund Balance Sheet																
3																	
4	Beginning Fund Balance	2,335,819.93	2,286,754.09	2,207,622.95	2,537,993.22	2,703,834.62	2,660,064.76	2,599,482.39	2,544,646.67	2,496,255.78	2,438,418.03	2,438,418.03	2,438,418.03	700,567.70	661,855.00	(38,712.70)	
5	Revenue	9,458.00	6,245.00	22,964.00	391,424.00	224,160.15	8,890.00	8,203.00	7,575.55	7,602.00	0.00	0.00	0.00	700,567.70	661,855.00	(38,712.70)	
6	Start-up Loan Transfer - Lenders Revenue	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
7	Total Revenue	9,458.00	6,245.00	22,964.00	391,424.00	224,160.15	8,890.00	8,203.00	7,575.55	7,602.00	0.00	0.00	0.00	700,567.70	661,855.00	(38,712.70)	
8	Total Funds Available	2,345,277.93	2,292,999.09	2,284,416.18	2,599,246.95	2,762,153.37	2,668,644.76	2,607,685.39	2,552,222.22	2,503,757.78	2,438,418.03	2,438,418.03	2,438,418.03	700,567.70	2,997,674.93	(38,712.70)	
9																	
10																	
11	Appropriation Costs:																
12	Expense and Equipment	2,753.24	5,267.03	5,185.76	5,159.54	5,351.51	10,447.96	7,743.58	3,548.68	5,648.21	0.00	0.00	0.00	55,293.39	204,033.00	148,739.61	
13	Personal Service and Per Diem	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
14	Total Appropriation Costs	2,753.24	5,267.03	5,185.76	5,159.54	5,351.51	10,447.96	7,743.58	3,548.68	5,648.21	0.00	0.00	0.00	55,293.39	204,033.00	148,739.61	
15																	
16	Transfer Costs (other than monthly PR Transfer):																
17	Workers Compensation	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
18	Unemployment	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
19	Board Staff Fringe Benefits	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
20	Biennial Sweep	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
21	Rent	0.00	0.00	1,134.58	597.09	0.00	1,701.87	29.35	1,134.58	597.60	0.00	0.00	0.00	5,195.07	6,821.73	1,726.66	
22	DIFP Department Cost Allocation	0.00	705.77	0.00	0.00	567.28	542.63	0.00	0.00	0.00	0.00	0.00	0.00	1,815.68	2,841.39	1,025.71	
23	Licensee Refunds	0.00	0.00	0.00	0.00	0.00	720.00	0.00	0.00	0.00	0.00	0.00	0.00	1,182.00	0.00	(1,182.00)	
24	Start-up Loan - Borrower's Expense/ Lic System	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	13,015.00	13,015.00	
25																	
26																	
27																	
28																	
29																	
30																	
31																	
32	PR Transfer:																
33	Division-Wide Costs	0.00	1,706.29	1,748.57	2,158.61	2,057.35	2,071.74	1,458.54	1,636.47	1,696.00	0.00	0.00	0.00	16,491.70	37,656.76	21,165.06	
34	Purchasing Staff	0.00	37.46	40.15	39.64	67.59	16.11	7.31	7.90	9.15	0.00	0.00	0.00	235.68	408.50	170.82	
35	PR/IT Staff	0.00	1,013.53	1,548.52	1,259.97	435.35	1,219.83	641.23	432.06	1,106.82	0.00	0.00	0.00	8,347.57	17,937.01	9,589.44	
36	Legal Team	0.00	4,897.56	3,844.83	5,355.52	4,168.83	4,361.76	5,355.26	5,011.70	3,502.39	4,337.19	0.00	0.00	40,846.02	62,846.02	22,212.68	
37	CRR Staff	0.00	250.16	269.00	204.36	248.02	221.04	213.82	238.97	205.85	296.69	0.00	0.00	2,147.91	3,545.76	1,397.85	
38	Board Specific:																
39	Expense/Equipment	0.00	10.28	73.62	85.19	273.54	1,355.00	0.00	344.00	0.00	0.00	0.00	0.00	2,850.42	1,800.00	(650.42)	
40	Personal Services	0.00	26,096.38	24,717.97	24,030.61	25,577.19	24,739.99	25,509.45	27,016.81	27,172.42	0.00	0.00	0.00	232,830.13	411,801.96	179,171.83	
41	Fringe Benefits	0.00	11,319.16	10,562.85	10,407.54	10,813.95	10,685.01	12,086.89	12,028.25	12,040.16	0.00	0.00	0.00	100,929.77	201,329.98	100,400.21	
42	Technical Support Staff	0.00	318.77	373.60	311.38	769.82	633.59	498.67	312.90	244.70	313.92	0.00	0.00	3,768.35	5,237.95	1,471.60	
43	Central Mail Processing	0.00	143.76	135.59	125.69	129.09	135.67	131.61	142.62	140.66	0.00	0.00	0.00	1,222.10	1,629.97	404.87	
44	CIU Investigations	0.00	5,435.46	6,939.19	9,695.59	6,890.42	6,106.98	6,819.44	5,722.13	7,755.48	0.00	0.00	0.00	62,021.06	81,510.03	19,488.97	
45	Total PR Transfer	0.00	51,028.81	50,253.89	53,574.10	51,482.15	50,956.16	55,295.14	51,283.18	54,868.49	0.00	0.00	0.00	471,078.03	825,700.94	354,622.91	
46	Total OA Cost Allocation Transfer	1,923.00	0.00	0.00	1,923.00	0.00	1,923.00	0.00	0.00	1,923.00	0.00	0.00	0.00	7,692.00	7,692.00	0.00	
47																	
48	GR Transfer:																
49	Attorney General	0.00	0.00	0.00	0.00	917.81	4,533.77	0.00	1,802.45	0.00	0.00	0.00	0.00	7,254.03	41,000.00	33,745.97	
50	Administrative Hearing Comm.	0.00	0.00	19.00	0.00	0.00	9.50	0.00	38.00	0.00	0.00	0.00	0.00	66.50	5,000.00	4,933.50	
51	Total GR Transfer	0.00	0.00	19.00	0.00	917.81	4,543.27	0.00	1,840.45	0.00	0.00	0.00	0.00	7,320.53	46,000.00	38,679.47	
52																	
53																	
54	FY 2012 Transfers Carried Over:																
55	FY 2012 June PR Transfer	53,847.60	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	53,847.60	53,847.60	0.00	
56	FY 2012 July Lapse PR Transfer	0.00	(35.20)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	(35.20)	(35.20)	0.00	
57	FY 2012 PR Transfer Adjustment	0.00	(6,467.72)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	(6,467.72)	(6,467.72)	0.00	
58	FY 2012 Final Rent Transfer Adj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
59	FY 2012 Final DIFP Transfer Adj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
60	FY 2012 AG - June	0.00	1,048.22	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	1,048.22	1,048.22	0.00	
61	FY 2012 AHC - June	0.00	(5,454.70)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	(5,454.70)	(5,454.70)	0.00	
62	Total FY 2012 Transfers Carried Over	53,847.60	(5,454.70)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	48,392.90	48,392.90	0.00	
63	Total Transfers	55,770.60	46,273.88	51,407.47	56,094.19	52,967.24	54,037.98	58,714.41	52,417.76	59,691.54	0.00	0.00	0.00	542,876.21	990,565.96	407,887.75	
64	Total Appropriation Costs and Transfers	58,523.84	51,546.91	56,993.23	61,253.73	58,316.75	69,162.37	63,038.72	55,966.44	65,339.75	0.00	0.00	0.00	597,969.60	1,154,596.96	556,627.36	
65	Ending Fund Balance	2,286,754.09	2,241,452.18	2,207,622.95	2,537,993.22	2,703,834.62	2,660,064.76	2,599,482.39	2,544,646.67	2,496,255.78	2,438,418.03	2,438,418.03	2,438,418.03	700,567.70	661,855.00	(38,712.70)	
66	Total PR Transfer	53,847.60	45,231.66	51,389.47	54,171.19	52,049.43	54,037.98	52,248.14	52,417.76	55,928.09	0.00	0.00	0.00	526,615.48	836,714.00	310,988.54	
67	Total GR Transfer	0.00	1,048.22	19.00	0.00	917.81	4,543.27	0.00	1,840.45	0.00	0.00	0.00	0.00	8,369.75	85,000.00	76,631.25	
68	Total	53,847.60	46,273.88	51,407.47	54,171.19	52,967.24	54,037.98	56,791.41	52,417.76	57,769.54	0.00	0.00	0.00	534,984.21	921,714.00	386,729.79	

FIRST REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 186

97TH GENERAL ASSEMBLY

2013

1112H.03T

AN ACT

To repeal sections 193.145, 194.350, 194.360, 447.559, and 447.560, RSMo, and to enact in lieu thereof five new sections relating to unclaimed veterans' remains.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 193.145, 194.350, 194.360, 447.559, and 447.560, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 193.145, 194.350, 194.360, 447.559, and 447.560, to read as follows:

193.145. 1. A certificate of death for each death which occurs in this state shall be filed with the local registrar, or as otherwise directed by the state registrar, within five days after death and shall be registered if such certificate has been completed and filed pursuant to this section. All data providers in the death registration process, including, but not limited to, the state registrar, local registrars, the state medical examiner, county medical examiners, coroners, funeral directors or persons acting as such, embalmers, sheriffs, attending physicians and resident physicians, and the chief medical officers of licensed health care facilities, and other public or private institutions providing medical care, treatment, or confinement to persons, shall be required to use and utilize any electronic death registration system required and adopted under subsection 1 of section 193.265 within six months of the system being certified by the director of the department of health and senior services, or the director's designee, to be operational and available to all data providers in the death registration process. **However, should the person or entity that certifies the cause of death not be part of, or does not use, the electronic death registration system, the funeral director or person acting as such may enter the required personal data into the electronic death registration**

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

19 system and then complete the filing by presenting the signed cause of
20 death certification to the local registrar, in which case the local
21 registrar shall issue death certificates as set out in subsection 2 of
22 section 193.265. Nothing in this section shall prevent the state registrar from
23 adopting pilot programs or voluntary electronic death registration programs until
24 such time as the system can be certified; however, no such pilot or voluntary
25 electronic death registration program shall prevent the filing of a death certificate
26 with the local registrar or the ability to obtain certified copies of death
27 certificates under subsection 2 of section 193.265 until six months after such
28 certification that the system is operational.

29 2. If the place of death is unknown but the dead body is found in this
30 state, the certificate of death shall be completed and filed pursuant to the
31 provisions of this section. The place where the body is found shall be shown as
32 the place of death. The date of death shall be the date on which the remains
33 were found.

34 3. When death occurs in a moving conveyance in the United States and
35 the body is first removed from the conveyance in this state, the death shall be
36 registered in this state and the place where the body is first removed shall be
37 considered the place of death. When a death occurs on a moving conveyance
38 while in international waters or air space or in a foreign country or its air space
39 and the body is first removed from the conveyance in this state, the death shall
40 be registered in this state but the certificate shall show the actual place of death
41 if such place may be determined.

42 4. The funeral director or person in charge of final disposition of the dead
43 body shall file the certificate of death. The funeral director or person in charge
44 of the final disposition of the dead body shall obtain or verify:

45 (1) The personal data from the next of kin or the best qualified person or
46 source available; and

47 (2) The medical certification from the person responsible for such
48 certification.

49 5. The medical certification shall be completed, attested to its accuracy
50 either by signature or an electronic process approved by the department, and
51 returned to the funeral director or person in charge of final disposition within
52 seventy-two hours after death by the physician in charge of the patient's care for
53 the illness or condition which resulted in death. In the absence of the physician
54 or with the physician's approval the certificate may be completed and attested to
55 its accuracy either by signature or an approved electronic process by the

56 physician's associate physician, the chief medical officer of the institution in
57 which death occurred, or the physician who performed an autopsy upon the
58 decedent, provided such individual has access to the medical history of the case,
59 views the deceased at or after death and death is due to natural causes. The
60 state registrar may approve alternate methods of obtaining and processing the
61 medical certification and filing the death certificate. The Social Security number
62 of any individual who has died shall be placed in the records relating to the death
63 and recorded on the death certificate.

64 6. When death occurs from natural causes more than thirty-six hours after
65 the decedent was last treated by a physician, the case shall be referred to the
66 county medical examiner or coroner or physician or local registrar for
67 investigation to determine and certify the cause of death. If the death is
68 determined to be of a natural cause, the medical examiner or coroner or local
69 registrar shall refer the certificate of death to the attending physician for such
70 physician's certification. If the attending physician refuses or is otherwise
71 unavailable, the medical examiner or coroner or local registrar shall attest to the
72 accuracy of the certificate of death either by signature or an approved electronic
73 process within thirty-six hours.

74 7. If the circumstances suggest that the death was caused by other than
75 natural causes, the medical examiner or coroner shall determine the cause of
76 death and shall complete and attest to the accuracy either by signature or an
77 approved electronic process the medical certification within seventy-two hours
78 after taking charge of the case.

79 8. If the cause of death cannot be determined within seventy-two hours
80 after death, the attending medical examiner or coroner or attending physician or
81 local registrar shall give the funeral director, or person in charge of final
82 disposition of the dead body, notice of the reason for the delay, and final
83 disposition of the body shall not be made until authorized by the medical
84 examiner or coroner, attending physician or local registrar.

85 9. When a death is presumed to have occurred within this state but the
86 body cannot be located, a death certificate may be prepared by the state registrar
87 upon receipt of an order of a court of competent jurisdiction which shall include
88 the finding of facts required to complete the death certificate. Such a death
89 certificate shall be marked "Presumptive", show on its face the date of
90 registration, and identify the court and the date of decree.

 194.350. A licensed funeral establishment which cremates, or contracts
2 for the cremation of, a dead human body, whether the cremation occurs before or

3 after August 28, 1989, may dispose of the cremated remains by:

4 (1) Disposing the remains in accordance with the cremation contract,
5 except if otherwise prohibited by law;

6 (2) Delivering the remains to or as directed by another licensed funeral
7 establishment which contracted for the cremation;

8 (3) Delivering the remains to or as directed by the person who contracted
9 for the cremation; or

10 (4) If not delivered pursuant to subdivision (2) or (3) of this section, by
11 scattering, burying, or interring the unclaimed cremated remains in a scatter
12 garden or pond, columbarium or other place formally dedicated for such purpose
13 [or], by delivering the remains to any person listed in section 194.119, **or**
14 **releasing the remains to a veterans' service organization per the**
15 **procedures set out in section 194.360**, provided, at least ninety days prior to
16 such action the funeral establishment shall send a written notice by mail, with
17 confirmation of delivery, to the last known address of the person or establishment
18 that contracted for the cremation stating that the remains will be scattered [or],
19 interred, **or delivered** under this subdivision unless the notified establishment
20 or person, or other person authorized by the notified establishment or person,
21 claims and removes the remains prior to the end of such ninety-day period.

194.360. 1. As used in this section the following terms shall mean:

2 (1) "Funeral establishment", as defined in section 333.011, a funeral home,
3 a funeral director, an embalmer, or an employee of any of the individuals or
4 entities;

5 (2) "Identifying information", **data required by the Department of**
6 **Veterans Affairs to verify a veteran or their dependent's eligibility for**
7 **burial in a national or state cemetery: name, service number, Social**
8 **Security number, date of birth, date of death, place of birth, and copy**
9 **of death certificate;**

10 (3) "Veteran", a person honorably discharged from the armed
11 forces of the United States, including, but not limited to, the Philippine
12 Commonwealth Army, the Regular Scouts "Old Scouts", and the Special
13 Philippine Scouts "New Scouts", or a person who died while on active
14 military service with any branch of the Armed Forces of the United
15 States;

16 (4) "Veterans' service organization", [an association or other entity
17 organized for the benefit of veterans that has been recognized or chartered by the
18 United States Congress, including the Disabled American Veterans, Veterans of

19 Foreign Wars, the American Legion, the Legion of Honor, the Missing in America
20 Project, and the Vietnam Veterans of America. The term includes a member or
21 employee of any of those associations or entities] **a veterans organization that**
22 **is federally chartered by the Congress of the United States, veterans'**
23 **service organization recognized by the Department of Veterans Affairs**
24 **or that qualifies as a Section 501(c)(3) or 501(c)(19), non-profit tax**
25 **exempt organization under the Internal Revenue Code that is organized**
26 **for the verification and burial of veterans and dependents.**

27 2. A funeral establishment [is not liable for simple negligence in the
28 disposition of the cremated remains of a veteran to a veterans' service
29 organization for the purposes of interment by that organization if:

30 (1) The remains have been in the possession of the funeral establishment
31 for a period of at least one year, all or any part of which period may occur or may
32 have occurred before or after August 28, 2009;

33 (2) The funeral establishment has given notice, as provided in subdivision
34 (1) or (2) of subsection 3 of this section, to the person entitled to the remains
35 under section 194.350 of the matters provided in subsection 4 of this section; and

36 (3) The remains have not been claimed by the person entitled to the
37 remains under section 194.350 within the period of time provided for in
38 subsection 4 of this section following notice to the person entitled to the remains
39 under section 194.350.] **or coroner in the possession of cremated remains**
40 **is authorized to release the identifying information to the Department**
41 **of Veterans Affairs or a veterans' service organization for the purpose**
42 **of obtaining verification of the veteran's or veterans' dependent's**
43 **eligibility for a military burial, interment, or scattering. When**
44 **verification of a veteran or dependent is completed, the funeral**
45 **establishment or coroner may release the remains to the veterans'**
46 **service organization who then may arrange for the burial, interment,**
47 **or scattering of the remains.**

48 3. [In order for the immunity provided in subsection 2 of this section to
49 apply, a funeral establishment shall take the following action, alone or in
50 conjunction with a veterans' service organization, to provide notice to the person
51 entitled to the remains under section 194.350:

52 (1) Give written notice by mail to the person entitled to the remains under
53 section 194.350 for whom the address of the person entitled to the remains under
54 section 194.350 is known or can reasonably be ascertained by the funeral
55 establishment giving the notice; or

56 (2) If the address of the person entitled to the remains under section
57 194.350 is not known or cannot reasonably be ascertained, give notice to the
58 person entitled to the remains under section 194.350 by publication in a
59 newspaper of general circulation:

60 (a) In the county of the veteran's residence; or

61 (b) If the residence of the veteran is unknown, in the county in which the
62 veteran died; or

63 (c) If the county in which the veteran died is unknown, in the county in
64 which the funeral establishment giving notice is located.

65 4. The notice required by subsection 3 of this section must include a
66 statement to the effect that the remains of the veteran must be claimed by the
67 person entitled to the remains under section 194.350 within thirty days after the
68 date of mailing of the written notice provided for in subdivision (1) of subsection
69 3 of this section or within four months of the date of the first publication of the
70 notice provided for in subdivision (2) of subsection 3 of this section, as applicable,
71 and that if the remains are not claimed, the remains may be given to a veterans'
72 service organization for interment.

73 5. A veterans' service organization receiving cremated remains of a
74 veteran from a funeral establishment for the purposes of interment is not liable
75 for simple negligence in the custody or interment of the remains if the veterans'
76 service organization interments and does not scatter the remains and does not know
77 and has no reason to know that the remains do not satisfy the requirements of
78 subdivision (1) or (2) of subsection 3 of this section, as applicable.

79 **6.] A funeral establishment or coroner who releases the**
80 **identifying information shall not be liable in any action regarding the**
81 **release of the identifying information and neither the funeral**
82 **establishment, coroner, or veterans' service organization shall be liable**
83 **in any action stemming from the final disposition, interment, burial, or**
84 **scattering of remains released to a veterans' service organization**
85 **pursuant to this chapter so long as the funeral establishment, prior to**
86 **the burial, interment, or scattering of the remains, follows the**
87 **notification procedures for unclaimed cremated remains as set out in**
88 **subdivision (4) of section 194.350.**

89 4. A veterans' service organization accepting remains under this section
90 shall take all reasonable steps to inter the remains in a veterans' cemetery.

447.559. All abandoned tangible personal property delivered to the
2 treasurer pursuant to subdivision (4) of section 447.505 that has possible

3 historical significance shall be reviewed as follows:

4 (1) The treasurer at the treasurer's discretion shall screen such property
5 to determine if the property indicates a need for further review;

6 (2) In the event it is determined that such property needs further review,
7 the treasurer shall make available such property to the state historical society of
8 Missouri for historical review. The state historical society shall issue to the
9 treasurer its report and recommend to the treasurer the appropriate state
10 department or agency to act as custodian of any property deemed to be of such
11 historical significance as to be retained;

12 (3) The state historical society shall receive a reasonable fee for its
13 services. If the treasurer and the state historical society cannot agree on the
14 amount of the fee, the commissioner of administration shall determine the
15 fee. The fee shall be paid out of appropriations made from the abandoned fund
16 account;

17 (4) The [state treasurer's office] **treasurer** upon receiving military
18 medals shall hold and maintain such military medals until the original owner or
19 [their] **such owner's** respective heirs or beneficiaries can be identified and the
20 military medal returned. **The treasurer is authorized to make the**
21 **information described in subsection 4 of section 447.560 available to the**
22 **public in order to facilitate the identification of the original owner or**
23 **such owner's respective heirs or beneficiaries.** The [state] treasurer may
24 designate a [veteran's] **veterans'** organization or other appropriate organization
25 as custodian of **military** medals until the original owner or their respective heirs
26 or beneficiaries are located **and to assist the treasurer in identifying the**
27 **original owner or such owner's respective heirs or beneficiaries; except**
28 **that, no person or entity entering into an agreement under section**
29 **447.581 shall be designated by the treasurer as custodian or military**
30 **medals, and any agreement to pay compensation to recover or assist in**
31 **the recovery of military medals delivered to the treasurer is**
32 **unenforceable.**

447.560. 1. The treasurer shall retain a record of the name and last
2 known address of each person appearing from the holders' reports to be entitled
3 to the abandoned moneys and property and of the name and last known address
4 of each insured person or annuitant, and with respect to each policy or contract
5 listed in the report of a life insurance corporation, its number, the name of the
6 corporation, and the amount due. The record shall be available for public
7 inspection at all reasonable business hours.

8 2. Except as specifically provided by this section, no information furnished
9 to the treasurer in the holder reports, including Social Security numbers or other
10 identifying information, shall be open to public inspection or made public. Any
11 officer, employee or agent of the treasurer who, in violation of the provisions of
12 this section, divulges, discloses or permits the inspection of such information shall
13 be guilty of a misdemeanor.

14 3. If an amount is turned over to the state that is less than fifty dollars,
15 the amount reported may be made available as public information, along with the
16 name and last known address of the person appearing from the holder report to
17 be entitled to the abandoned moneys; except that, no additional information other
18 than provided for in this section may be released, and any individual other than
19 the person appearing from the holder report to be entitled to the abandoned
20 moneys shall be governed by sections 447.500 to 447.595 and other applicable
21 Missouri law in his or her use or dissemination of such information.

22 4. If the abandoned property is a military medal, the treasurer
23 is authorized to make any information, other than Social Security
24 numbers, contained in the holder report and record under subsection
25 1 of this section, and any photograph or other visual depiction of the
26 military medal available to the public in order to facilitate the
27 identification of the original owner or such owner's respective heirs or
28 beneficiaries as described under subdivision (4) of section 447.559.

✓

FIRST REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 329
97TH GENERAL ASSEMBLY

1232S.03T

2013

AN ACT

To repeal sections 208.010, 361.160, 408.140, 408.590, 408.592, 408.600, and 513.430, RSMo, and to enact in lieu thereof six new sections relating to financial institutions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 208.010, 361.160, 408.140, 408.590, 408.592, 408.600, and
2 513.430, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as
3 sections 208.010, 361.160, 408.140, 408.590, 408.600, and 513.430, to read as follows:

208.010. 1. In determining the eligibility of a claimant for public assistance pursuant
2 to this law, it shall be the duty of the **family support** division [of family services] to consider
3 and take into account all facts and circumstances surrounding the claimant, including his or her
4 living conditions, earning capacity, income and resources, from whatever source received, and
5 if from all the facts and circumstances the claimant is not found to be in need, assistance shall
6 be denied. In determining the need of a claimant, the costs of providing medical treatment which
7 may be furnished pursuant to sections 208.151 to 208.158 [and 208.162] shall be disregarded.
8 The amount of benefits, when added to all other income, resources, support, and maintenance
9 shall provide such persons with reasonable subsistence compatible with decency and health in
10 accordance with the standards developed by the **family support** division [of family services];
11 provided, when a husband and wife are living together, the combined income and resources of
12 both shall be considered in determining the eligibility of either or both. "Living together" for the
13 purpose of this chapter is defined as including a husband and wife separated for the purpose of
14 obtaining medical care or nursing home care, except that the income of a husband or wife
15 separated for such purpose shall be considered in determining the eligibility of his or her spouse,

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

16 only to the extent that such income exceeds the amount necessary to meet the needs (as defined
17 by rule or regulation of the division) of such husband or wife living separately. In determining
18 the need of a claimant in federally aided programs there shall be disregarded such amounts per
19 month of earned income in making such determination as shall be required for federal
20 participation by the provisions of the federal Social Security Act (42 U.S.C.A. 301 et seq.), or
21 any amendments thereto. When federal law or regulations require the exemption of other income
22 or resources, the **family support** division [of family services] may provide by rule or regulation
23 the amount of income or resources to be disregarded.

24 2. Benefits shall not be payable to any claimant who:

25 (1) Has or whose spouse with whom he or she is living has, prior to July 1, 1989, given
26 away or sold a resource within the time and in the manner specified in this subdivision. In
27 determining the resources of an individual, unless prohibited by federal statutes or regulations,
28 there shall be included (but subject to the exclusions pursuant to subdivisions (4) and (5) of this
29 subsection, and subsection 5 of this section) any resource or interest therein owned by such
30 individual or spouse within the twenty-four months preceding the initial investigation, or at any
31 time during which benefits are being drawn, if such individual or spouse gave away or sold such
32 resource or interest within such period of time at less than fair market value of such resource or
33 interest for the purpose of establishing eligibility for benefits, including but not limited to
34 benefits based on December, 1973, eligibility requirements, as follows:

35 (a) Any transaction described in this subdivision shall be presumed to have been for the
36 purpose of establishing eligibility for benefits or assistance pursuant to this chapter unless such
37 individual furnishes convincing evidence to establish that the transaction was exclusively for
38 some other purpose;

39 (b) The resource shall be considered in determining eligibility from the date of the
40 transfer for the number of months the uncompensated value of the disposed of resource is
41 divisible by the average monthly grant paid or average Medicaid payment in the state at the time
42 of the investigation to an individual or on his or her behalf under the program for which benefits
43 are claimed, provided that:

44 a. When the uncompensated value is twelve thousand dollars or less, the resource shall
45 not be used in determining eligibility for more than twenty-four months; or

46 b. When the uncompensated value exceeds twelve thousand dollars, the resource shall
47 not be used in determining eligibility for more than sixty months;

48 (2) The provisions of subdivision (1) of this subsection shall not apply to a transfer, other
49 than a transfer to claimant's spouse, made prior to March 26, 1981, when the claimant furnishes
50 convincing evidence that the uncompensated value of the disposed of resource or any part thereof
51 is no longer possessed or owned by the person to whom the resource was transferred;

52 (3) Has received, or whose spouse with whom he or she is living has received, benefits
53 to which he or she was not entitled through misrepresentation or nondisclosure of material facts
54 or failure to report any change in status or correct information with respect to property or income
55 as required by section 208.210. A claimant ineligible pursuant to this subsection shall be
56 ineligible for such period of time from the date of discovery as the **family support** division [of
57 family services] may deem proper; or in the case of overpayment of benefits, future benefits may
58 be decreased, suspended or entirely withdrawn for such period of time as the division may deem
59 proper;

60 (4) Owns or possesses resources in the sum of one thousand dollars or more; provided,
61 however, that if such person is married and living with spouse, he or she, or they, individually
62 or jointly, may own resources not to exceed two thousand dollars; and provided further, that in
63 the case of a temporary assistance for needy families claimant, the provision of this subsection
64 shall not apply;

65 (5) Prior to October 1, 1989, owns or possesses property of any kind or character,
66 excluding amounts placed in an irrevocable prearranged funeral or burial contract under chapter
67 436, or has an interest in property, of which he or she is the record or beneficial owner, the value
68 of such property, as determined by the **family support** division [of family services], less
69 encumbrances of record, exceeds twenty-nine thousand dollars, or if married and actually living
70 together with husband or wife, if the value of his or her property, or the value of his or her
71 interest in property, together with that of such husband and wife, exceeds such amount;

72 (6) In the case of temporary assistance for needy families, if the parent, stepparent, and
73 child or children in the home owns or possesses property of any kind or character, or has an
74 interest in property for which he or she is a record or beneficial owner, the value of such
75 property, as determined by the **family support** division [of family services] and as allowed by
76 federal law or regulation, less encumbrances of record, exceeds one thousand dollars, excluding
77 the home occupied by the claimant, amounts placed in an irrevocable prearranged funeral or
78 burial contract under chapter 436, one automobile which shall not exceed a value set forth by
79 federal law or regulation and for a period not to exceed six months, such other real property
80 which the family is making a good-faith effort to sell, if the family agrees in writing with the
81 **family support** division [of family services] to sell such property and from the net proceeds of
82 the sale repay the amount of assistance received during such period. If the property has not been
83 sold within six months, or if eligibility terminates for any other reason, the entire amount of
84 assistance paid during such period shall be a debt due the state;

85 (7) Is an inmate of a public institution, except as a patient in a public medical institution.

86 3. In determining eligibility and the amount of benefits to be granted pursuant to
87 federally aided programs, the income and resources of a relative or other person living in the

88 home shall be taken into account to the extent the income, resources, support and maintenance
89 are allowed by federal law or regulation to be considered.

90 4. In determining eligibility and the amount of benefits to be granted pursuant to
91 federally aided programs, the value of burial lots or any amounts placed in an irrevocable
92 prearranged funeral or burial contract under chapter 436 shall not be taken into account or
93 considered an asset of the burial lot owner or the beneficiary of an irrevocable prearranged
94 funeral or funeral contract. For purposes of this section, "burial lots" means any burial space as
95 defined in section 214.270 and any memorial, monument, marker, tombstone or letter marking
96 a burial space. If the beneficiary, as defined in chapter 436, of an irrevocable prearranged funeral
97 or burial contract receives any public assistance benefits pursuant to this chapter and if the
98 purchaser of such contract or his or her successors in interest transfer, amend, or take any other
99 such actions regarding the contract so that any person will be entitled to a refund, such refund
100 shall be paid to the state of Missouri with any amount in excess of the public assistance benefits
101 provided under this chapter to be refunded by the state of Missouri to the purchaser or his or her
102 successors. In determining eligibility and the amount of benefits to be granted under federally
103 aided programs, the value of any life insurance policy where a seller or provider is made the
104 beneficiary or where the life insurance policy is assigned to a seller or provider, either being in
105 consideration for an irrevocable prearranged funeral contract under chapter 436, shall not be
106 taken into account or considered an asset of the beneficiary of the irrevocable prearranged funeral
107 contract. **In addition, the value of any funds, up to nine thousand nine hundred ninety-nine**
108 **dollars, placed into an irrevocable personal funeral trust account, where the trustee of the**
109 **irrevocable personal funeral trust account is a state or federally chartered financial**
110 **institution authorized to exercise trust powers in the state of Missouri, shall not be taken**
111 **into account or considered an asset of the person whose funds are so deposited if such**
112 **funds are restricted to be used only for the burial, funeral, preparation of the body, or**
113 **other final disposition of the person whose funds were deposited into said personal funeral**
114 **trust account. No person or entity shall charge more than ten percent of the total amount**
115 **deposited into a personal funeral trust in order to create or set up said personal funeral**
116 **trust, and any fees charged for the maintenance of such a personal funeral trust shall not**
117 **exceed three percent of the trust assets annually. Trustees may commingle funds from two**
118 **or more such personal funeral trust accounts so long as accurate books and records are**
119 **kept as to the value, deposits, and disbursements of each individual depositor's funds and**
120 **trustees are to use the prudent investor standard as to the investment of any funds placed**
121 **into a personal funeral trust. If the person whose funds are deposited into the personal**
122 **funeral trust account receives any public assistance benefits pursuant to this chapter and**
123 **any funds in the personal funeral trust account are, for any reason, not spent on the burial,**

124 funeral, preparation of the body, or other final disposition of the person whose funds were
125 deposited into the trust account, such funds shall be paid to the state of Missouri with any
126 amount in excess of the public assistance benefits provided under this chapter to be
127 refunded by the state of Missouri to the person who received public assistance benefits or
128 his or her successors. No contract with any cemetery, funeral establishment, or any
129 provider or seller shall be required in regards to funds placed into a personal funeral trust
130 account as set out in this subsection.

131 5. In determining the total property owned pursuant to subdivision (5) of subsection 2
132 of this section, or resources, of any person claiming or for whom public assistance is claimed,
133 there shall be disregarded any life insurance policy, or prearranged funeral or burial contract, or
134 any two or more policies or contracts, or any combination of policies and contracts, which
135 provides for the payment of one thousand five hundred dollars or less upon the death of any of
136 the following:

137 (1) A claimant or person for whom benefits are claimed; or

138 (2) The spouse of a claimant or person for whom benefits are claimed with whom he or
139 she is living. If the value of such policies exceeds one thousand five hundred dollars, then the
140 total value of such policies may be considered in determining resources; except that, in the case
141 of temporary assistance for needy families, there shall be disregarded any prearranged funeral
142 or burial contract, or any two or more contracts, which provides for the payment of one thousand
143 five hundred dollars or less per family member.

144 6. Beginning September 30, 1989, when determining the eligibility of institutionalized
145 spouses, as defined in 42 U.S.C. Section 1396r-5, for medical assistance benefits as provided for
146 in section 208.151 and 42 U.S.C. Sections 1396a, et seq., the **family support** division [of family
147 services] shall comply with the provisions of the federal statutes and regulations. As necessary,
148 the division shall by rule or regulation implement the federal law and regulations which shall
149 include but not be limited to the establishment of income and resource standards and limitations.
150 The division shall require:

151 (1) That at the beginning of a period of continuous institutionalization that is expected
152 to last for thirty days or more, the institutionalized spouse, or the community spouse, may request
153 an assessment by the **family support** division [of family services] of total countable resources
154 owned by either or both spouses;

155 (2) That the assessed resources of the institutionalized spouse and the community spouse
156 may be allocated so that each receives an equal share;

157 (3) That upon an initial eligibility determination, if the community spouse's share does
158 not equal at least twelve thousand dollars, the institutionalized spouse may transfer to the

159 community spouse a resource allowance to increase the community spouse's share to twelve
160 thousand dollars;

161 (4) That in the determination of initial eligibility of the institutionalized spouse, no
162 resources attributed to the community spouse shall be used in determining the eligibility of the
163 institutionalized spouse, except to the extent that the resources attributed to the community
164 spouse do exceed the community spouse's resource allowance as defined in 42 U.S.C. Section
165 1396r-5;

166 (5) That beginning in January, 1990, the amount specified in subdivision (3) of this
167 subsection shall be increased by the percentage increase in the Consumer Price Index for All
168 Urban Consumers between September, 1988, and the September before the calendar year
169 involved; and

170 (6) That beginning the month after initial eligibility for the institutionalized spouse is
171 determined, the resources of the community spouse shall not be considered available to the
172 institutionalized spouse during that continuous period of institutionalization.

173 7. Beginning July 1, 1989, institutionalized individuals shall be ineligible for the periods
174 required and for the reasons specified in 42 U.S.C. Section 1396p.

175 8. The hearings required by 42 U.S.C. Section 1396r-5 shall be conducted pursuant to
176 the provisions of section 208.080.

177 9. Beginning October 1, 1989, when determining eligibility for assistance pursuant to
178 this chapter there shall be disregarded unless otherwise provided by federal or state statutes the
179 home of the applicant or recipient when the home is providing shelter to the applicant or
180 recipient, or his or her spouse or dependent child. The **family support** division [of family
181 services] shall establish by rule or regulation in conformance with applicable federal statutes and
182 regulations a definition of the home and when the home shall be considered a resource that shall
183 be considered in determining eligibility.

184 10. Reimbursement for services provided by an enrolled Medicaid provider to a recipient
185 who is duly entitled to Title XIX Medicaid and Title XVIII Medicare Part B, Supplementary
186 Medical Insurance (SMI) shall include payment in full of deductible and coinsurance amounts
187 as determined due pursuant to the applicable provisions of federal regulations pertaining to Title
188 XVIII Medicare Part B, except for hospital outpatient services or the applicable Title XIX cost
189 sharing.

190 11. A "community spouse" is defined as being the noninstitutionalized spouse.

191 12. An institutionalized spouse applying for Medicaid and having a spouse living in the
192 community shall be required, to the maximum extent permitted by law, to divert income to such
193 community spouse to raise the community spouse's income to the level of the minimum monthly
194 needs allowance, as described in 42 U.S.C. Section 1396r-5. Such diversion of income shall

195 occur before the community spouse is allowed to retain assets in excess of the community spouse
196 protected amount described in 42 U.S.C. Section 1396r-5.

361.160. 1. The director of finance at least once each year, either personally or by a
2 deputy or examiner appointed by the director, shall visit and examine every bank and trust
3 company organized and doing business under the laws of this state, and every other corporation
4 which is by law required to report to the director; except, for banks or trust companies receiving
5 a Camel/MOECA 1 or Camel/MOECA 2 rating from the division of finance, the director of
6 finance at least once each eighteen calendar months, **or for a private trust company at least**
7 **once each thirty-six months**, either personally or by a deputy or examiner appointed by the
8 director, shall visit and examine such bank or trust company, and the director of finance, at the
9 director's discretion, may conduct the director's examination, or any part thereof, on the basis of
10 information contained in examination reports of other states, the Federal Deposit Insurance
11 Corporation or the Federal Reserve Board or in audits performed by certified public accountants.
12 **For purposes of this subsection, a private trust company is one that does not engage in trust**
13 **company business with the general public or otherwise hold itself out as a trustee or**
14 **fiduciary for hire by advertising, solicitation, or other means and instead operates for the**
15 **primary benefit of a family, relative of same family, or single family lineage, regardless of**
16 **whether compensation is received or anticipated.** The director shall be afforded prompt and
17 free access to any workpapers upon which a certified public accountant bases an audit. A
18 certified public accountant shall retain workpapers for a minimum of three years after the date
19 of issuance of the certified public accountant's report to the bank or trust company. The director
20 or the director's agent may concentrate the examinations on institutions which the director
21 believes have safety or soundness concerns.

22 2. The director, or the deputy or examiners designated by the director for that purpose,
23 shall have power to examine any such corporation whenever, in the director's judgment, it may
24 be deemed necessary or expedient, and shall have power to examine every agency located in this
25 state of any foreign banking corporation and every branch in this state of any out-of-state bank,
26 for the purpose of ascertaining whether it has violated any law of this state, and for such other
27 purposes and as to such other matters as the director may prescribe.

28 3. The director and the director's deputy and examiners shall have power to administer
29 oaths to any person whose testimony may be required in such examination or investigation of
30 any such corporation or agency, and to compel the appearance and attendance of any person for
31 the purpose of any such examination or investigation.

32 4. On every such examination inquiry shall be made as to the condition and resources
33 of such corporation, the mode of conducting and managing its affairs, the actions of its directors
34 or trustees, the investment of its funds, the safety and prudence of its management, the security

35 afforded to its creditors, and whether the requirements of its charter and of law have been
36 complied with in the administration of its affairs, and as to such other matters as the director may
37 prescribe.

38 5. The director may also make such special investigations as the director deems
39 necessary to determine whether any individual or corporation has violated any of the provisions
40 of this law.

41 6. Such examination may be made and such inquiry instituted or continued in the
42 discretion of the director after the director has taken possession of the property and business of
43 any such corporation, until it shall resume business or its affairs shall be finally liquidated in
44 accordance with the provisions of this chapter.

45 7. The result of each examination shall be certified by the director or the examiner upon
46 the records of the corporation examined and the result of all examinations during the biennial
47 period shall be embodied in the report to be made by the director of the department of insurance,
48 financial institutions and professional registration to the legislature.

49 8. The director may contract with regulators in other states to provide for the
50 examination of Missouri branches of out-of-state banks and branches of banks whose home state
51 is Missouri. The agreements may provide for the payment by the home state of the cost of
52 examinations conducted by the host state at the request of the home state regulators.

408.140. 1. No further or other charge or amount whatsoever shall be directly or
2 indirectly charged, contracted for or received for interest, service charges or other fees as an
3 incident to any such extension of credit except as provided and regulated by sections 367.100 to
4 367.200 and except:

5 (1) On loans for thirty days or longer which are other than "open-end credit" as such term
6 is defined in the federal Consumer Credit Protection Act and regulations thereunder, a fee, not
7 to exceed [five] ten percent of the principal amount loaned not to exceed seventy-five dollars
8 may be charged by the lender; however, no such fee shall be permitted on any extension,
9 refinance, restructure or renewal of any such loan, unless any investigation is made on the
10 application to extend, refinance, restructure or renew the loan;

11 (2) The lawful fees actually and necessarily paid out by the lender to any public officer
12 for filing, recording, or releasing in any public office any instrument securing the loan, which
13 fees may be collected when the loan is made or at any time thereafter; however, premiums for
14 insurance in lieu of perfecting a security interest required by the lender may be charged if the
15 premium does not exceed the fees which would otherwise be payable;

16 (3) If the contract so provides, a charge for late payment on each installment or minimum
17 payment in default for a period of not less than fifteen days in an amount not to exceed five
18 percent of each installment due or the minimum payment due or fifteen dollars, whichever is

19 greater, not to exceed fifty dollars. If the contract so provides, a charge for late payment on each
20 twenty-five dollars or less installment in default for a period of not less than fifteen days shall
21 not exceed five dollars;

22 (4) If the contract so provides, a charge for late payment for a single payment note in
23 default for a period of not less than fifteen days in an amount not to exceed five percent of the
24 payment due; provided that, the late charge for a single payment note shall not exceed fifty
25 dollars;

26 (5) Charges or premiums for insurance written in connection with any loan against loss
27 of or damage to property or against liability arising out of ownership or use of property as
28 provided in section 367.170; however, notwithstanding any other provision of law, with the
29 consent of the borrower, such insurance may cover property all or part of which is pledged as
30 security for the loan, and charges or premiums for insurance providing life, health, accident, or
31 involuntary unemployment coverage;

32 (6) Reasonable towing costs and expenses of retaking, holding, preparing for sale, and
33 selling any personal property in accordance with section 400.9;

34 (7) Charges assessed by any institution for processing a refused instrument plus a
35 handling fee of not more than twenty-five dollars;

36 (8) If the contract or promissory note, signed by the borrower, provides for attorney fees,
37 and if it is necessary to bring suit, such attorney fees may not exceed fifteen percent of the
38 amount due and payable under such contract or promissory note, together with any court costs
39 assessed. The attorney fees shall only be applicable where the contract or promissory note is
40 referred for collection to an attorney, and is not handled by a salaried employee of the holder of
41 the contract;

42 (9) Provided the debtor agrees in writing, the lender may collect a fee in advance for
43 allowing the debtor to defer up to three monthly loan payments, so long as the fee is no more
44 than the lesser of fifty dollars or ten percent of the loan payments deferred, no extensions are
45 made until the first loan payment is collected and no more than one deferral in a twelve-month
46 period is agreed to and collected on any one loan; this subdivision applies to nonprecomputed
47 loans only and does not affect any other subdivision;

48 (10) If the open-end credit contract is tied to a transaction account in a depository
49 institution, such account is in the institution's assets and such contract provides for loans of
50 thirty-one days or longer which are "open-end credit", as such term is defined in the federal
51 Consumer Credit Protection Act and regulations thereunder, the creditor may charge a credit
52 advance fee of **up to** the lesser of [twenty-five] **seventy-five** dollars or [five] **ten** percent of the
53 credit advanced from time to time from the line of credit; such credit advance fee may be added

54 to the open-end credit outstanding along with any interest, and shall not be considered the
55 unlawful compounding of interest as that term is defined in section 408.120;

56 (11) A deficiency waiver addendum, guaranteed asset protection, or a similar product
57 purchased as part of a loan transaction with collateral and at the borrower's consent, provided the
58 cost of the product is disclosed in the loan contract, is reasonable, and the requirements of
59 section 408.380 are met.

60 2. Other provisions of law to the contrary notwithstanding, an open-end credit contract
61 under which a credit card is issued by a company, financial institution, savings and loan or other
62 credit issuing company whose credit card operations are located in Missouri may charge an
63 annual fee, provided that no finance charge shall be assessed on new purchases other than cash
64 advances if such purchases are paid for within twenty-five days of the date of the periodic
65 statement therefor.

66 3. Notwithstanding any other provision of law to the contrary, in addition to charges
67 allowed pursuant to section 408.100, an open-end credit contract provided by a company,
68 financial institution, savings and loan or other credit issuing company which is regulated
69 pursuant to this chapter may charge an annual fee not to exceed fifty dollars.

408.590. 1. [Each division director shall cause each state financial institution which he
2 supervises, licenses or charters and which has an office within a county or a city, such county or
3 city having a population in excess of two hundred fifty thousand, to be examined periodically
4 during which examination the following shall be determined:

5 (1) The number and total dollar amount of residential real estate loans originated,
6 purchased, or foreclosed by the financial institution after January 1, 1980, in each of the
7 following categories:

8 (a) Loans secured by residential real estate located outside the state of Missouri other
9 than in counties contiguous to the state of Missouri;

10 (b) Loans secured by residential real estate located in the state of Missouri or in the
11 counties of other states which counties are contiguous to the border of the state of Missouri,
12 which number and dollar amount shall be further reported by the county in which the property
13 is located;

14 (2) The number of residential real estate loan applications denied by the institution in
15 which the real estate which was to secure the loan is situated in a county or city with a population
16 in excess of two hundred and fifty thousand by such county or city;

17 (3) By a method to be determined by each division director, such facts as will enable the
18 division director to conclude whether or not the institution has engaged or is engaged in any
19 practice in violation of sections 408.570 to 408.600.

20 2. Each division director may issue such regulations as are necessary to require the
21 maintenance of records from which the conclusions required by this section can be determined.

22 3. Each division director shall report annually to the governor and the director of the
23 department his findings made in accordance with the provisions of this section and which shall
24 include information reported under the provisions of the Federal Home Mortgage Disclosure Act
25 (12 U.S.C. 2801 et seq.), which findings shall be made as to the total industry he regulates, and
26 by each county or city with a population in excess of two hundred fifty thousand. This report
27 shall be maintained by the division as a public document for a period of five years.

28 4. The annual reports of the division directors shall state the method or methods used by
29 the division director to reach his conclusions both in examination and analysis; and shall contain
30 such facts as he deems necessary to support those conclusions, including but not limited to:

31 (1) The information required to be obtained by the provisions of subsection 1 of this
32 section;

33 (2) **As to the state financial institutions under the supervision of the respective**
34 **divisions, each division director shall report annually to the governor and the director of**
35 **the department, with regard to each county or city with a population in excess of two**
36 **hundred fifty thousand the following:**

37 (1) The number and type of violations of sections 408.570 to 408.600 which are found
38 to have occurred, a statement of the action or actions taken to enforce the provisions of said
39 sections, and the names of the financial institutions which have been found upon a hearing to
40 have violated the provisions of said sections[.

41 (3)]; **and**

42 (2) The number and nature of all complaints received by the department or division
43 regarding alleged violations of any provision of sections 408.570 to 408.600 and the action taken
44 on each complaint by the division.

45 **2. This report shall be maintained by each division as a public document for a**
46 **period of five years.**

408.600. 1. Each division director shall enforce the provisions of sections 408.570 to
2 408.600. With respect to state financial institutions which he supervises, licenses or charters,
3 each division director shall utilize the powers granted him under the general statutory authority
4 by which he regulates, supervises, licenses, or charters such institutions, as well as the powers
5 granted him by sections 408.570 to 408.600. The director of the division of finance shall enforce
6 the provisions of sections 408.570 to 408.600 as they pertain to state financial institutions not
7 supervised, licensed or chartered by a division director, and shall in that enforcement have such
8 powers as are granted in said sections. The enforcement powers granted by subsections 2
9 through 5 of this section shall be utilized by the director of the division of finance concerning

10 national banks, by the director of [savings and loan supervision] **the division of finance**
11 concerning federal savings and loan associations, and by the director of credit unions concerning
12 federal credit unions.

13 2. Any person who alleges to have been aggrieved as a result of a violation of section
14 408.575 or 408.580 may file a complaint with the appropriate division director. Within ninety
15 days of the receipt of such complaint, the division director shall determine whether there is any
16 reason to believe that a violation of section 408.575 or 408.580 has occurred. If the division
17 director determines that there is such reason, then he shall undertake to resolve the complaint by
18 negotiation or he shall conduct a hearing in accordance with the provisions of subsection 3 of
19 this section, except that the hearing shall be held in the locality where the alleged violation
20 occurred.

21 3. If the division director[, on the basis of an examination, an investigation of a
22 complaint which has not been resolved by negotiation, a report required to be filed by section
23 408.592, or any public document or information,] has reason to believe that a violation of section
24 408.575 or 408.580 has occurred or does exist, the division director shall conduct a hearing in
25 accordance with chapter 536. If the evidence establishes a violation of any provision of section
26 408.575 or 408.580, the division director may issue a cease and desist order stating specifically
27 the unlawful practice to be discontinued, which order shall be served personally, or by certified
28 mail. The decision of the division director shall be appealable directly to the circuit court
29 pursuant to chapter 536.

30 4. If, after an order of the division director has become final, the director believes a
31 violation of any provision of the order has occurred, he may seek an injunction to prohibit such
32 violations in any court of competent jurisdiction. For each violation of such injunction, the court
33 may assess a fine which may be recovered with costs by the state in any court of competent
34 jurisdiction in an action to be prosecuted by the attorney general.

35 5. The remedies provided by this section shall not be interpreted as exclusive remedies
36 but shall be in addition to remedies otherwise available to the director or to any individual
37 damaged by a violation of sections 408.570 to 408.600.

513.430. 1. The following property shall be exempt from attachment and execution to
2 the extent of any person's interest therein:

3 (1) Household furnishings, household goods, wearing apparel, appliances, books,
4 animals, crops or musical instruments that are held primarily for personal, family or household
5 use of such person or a dependent of such person, not to exceed three thousand dollars in value
6 in the aggregate;

7 (2) A wedding ring not to exceed one thousand five hundred dollars in value and other
8 jewelry held primarily for the personal, family or household use of such person or a dependent
9 of such person, not to exceed five hundred dollars in value in the aggregate;

10 (3) Any other property of any kind, not to exceed in value six hundred dollars in the
11 aggregate;

12 (4) Any implements or professional books or tools of the trade of such person or the
13 trade of a dependent of such person not to exceed three thousand dollars in value in the
14 aggregate;

15 (5) Any motor vehicles, not to exceed three thousand dollars in value in the aggregate;

16 (6) Any mobile home used as the principal residence but not attached to real property
17 in which the debtor has a fee interest, not to exceed five thousand dollars in value;

18 (7) Any one or more unmaturred life insurance contracts owned by such person, other
19 than a credit life insurance contract;

20 (8) The amount of any accrued dividend or interest under, or loan value of, any one or
21 more unmaturred life insurance contracts owned by such person under which the insured is such
22 person or an individual of whom such person is a dependent; provided, however, that if
23 proceedings under Title 11 of the United States Code are commenced by or against such person,
24 the amount exempt in such proceedings shall not exceed in value one hundred fifty thousand
25 dollars in the aggregate less any amount of property of such person transferred by the life
26 insurance company or fraternal benefit society to itself in good faith if such transfer is to pay a
27 premium or to carry out a nonforfeiture insurance option and is required to be so transferred
28 automatically under a life insurance contract with such company or society that was entered into
29 before commencement of such proceedings. No amount of any accrued dividend or interest
30 under, or loan value of, any such life insurance contracts shall be exempt from any claim for
31 child support. Notwithstanding anything to the contrary, no such amount shall be exempt in such
32 proceedings under any such insurance contract which was purchased by such person within one
33 year prior to the commencement of such proceedings;

34 (9) Professionally prescribed health aids for such person or a dependent of such person;

35 (10) Such person's right to receive:

36 (a) A Social Security benefit, unemployment compensation or a public assistance
37 benefit;

38 (b) A veteran's benefit;

39 (c) A disability, illness or unemployment benefit;

40 (d) Alimony, support or separate maintenance, not to exceed seven hundred fifty dollars
41 a month;

42 (e) Any payment under a stock bonus plan, pension plan, disability or death benefit plan,
43 profit-sharing plan, nonpublic retirement plan or any plan described, defined, or established
44 pursuant to section 456.072, the person's right to a participant account in any deferred
45 compensation program offered by the state of Missouri or any of its political subdivisions, or
46 annuity or similar plan or contract on account of illness, disability, death, age or length of
47 service, to the extent reasonably necessary for the support of such person and any dependent of
48 such person unless:

49 a. Such plan or contract was established by or under the auspices of an insider that
50 employed such person at the time such person's rights under such plan or contract arose;

51 b. Such payment is on account of age or length of service; and

52 c. Such plan or contract does not qualify under Section 401(a), 403(a), 403(b), 408, 408A
53 or 409 of the Internal Revenue Code of 1986, as amended, (26 U.S.C. 401(a), 403(a), 403(b),
54 408, 408A or 409); except that any such payment to any person shall be subject to attachment
55 or execution pursuant to a qualified domestic relations order, as defined by Section 414(p) of the
56 Internal Revenue Code of 1986, as amended, issued by a court in any proceeding for dissolution
57 of marriage or legal separation or a proceeding for disposition of property following dissolution
58 of marriage by a court which lacked personal jurisdiction over the absent spouse or lacked
59 jurisdiction to dispose of marital property at the time of the original judgment of dissolution;

60 (f) Any money or assets, payable to a participant or beneficiary from, or any interest of
61 any participant or beneficiary in, a retirement plan [or] , profit-sharing plan, **health savings plan,**
62 **or similar plan, including an inherited account or plan,** that is qualified under Section 401(a),
63 403(a), 403(b), 408, 408A or 409 of the Internal Revenue Code of 1986, as amended, **whether**
64 **such participant's or beneficiary's interest arises by inheritance, designation, appointment,**
65 **or otherwise,** except as provided in this paragraph. Any plan or arrangement described in this
66 paragraph shall not be exempt from the claim of an alternate payee under a qualified domestic
67 relations order; however, the interest of any and all alternate payees under a qualified domestic
68 relations order shall be exempt from any and all claims of any creditor, other than the state of
69 Missouri through its division of family services. As used in this paragraph, the terms "alternate
70 payee" and "qualified domestic relations order" have the meaning given to them in Section
71 414(p) of the Internal Revenue Code of 1986, as amended.

72

73 If proceedings under Title 11 of the United States Code are commenced by or against such
74 person, no amount of funds shall be exempt in such proceedings under any such plan, contract,
75 or trust which is fraudulent as defined in subsection 2 of section 428.024 and for the period such
76 person participated within three years prior to the commencement of such proceedings. For the
77 purposes of this section, when the fraudulently conveyed funds are recovered and after, such

78 funds shall be deducted and then treated as though the funds had never been contributed to the
79 plan, contract, or trust;

80 (11) The debtor's right to receive, or property that is traceable to, a payment on account
81 of the wrongful death of an individual of whom the debtor was a dependent, to the extent
82 reasonably necessary for the support of the debtor and any dependent of the debtor.

83 2. Nothing in this section shall be interpreted to exempt from attachment or execution
84 for a valid judicial or administrative order for the payment of child support or maintenance any
85 money or assets, payable to a participant or beneficiary from, or any interest of any participant
86 or beneficiary in, a retirement plan which is qualified pursuant to Section 408A of the Internal
87 Revenue Code of 1986, as amended.

2 [408.592. 1. Each state financial institution which is not supervised,
3 licensed or chartered by a division director, which operates or has a place of
4 business within a county having a population in excess of two hundred fifty
5 thousand or a city not within a county and which originated an aggregate of five
6 hundred thousand dollars or more in residential real estate loans in Missouri
7 during the last calendar year shall, on or before a date of ninety days after the end
8 of the fiscal year of the institution, file with the director of the division of finance
9 an annual statement for each such county or city showing separately the number
10 and total dollar amount of residential real estate loans both within and outside of
11 that county or city which were:

- 11 (1) Originated by that institution during the preceding fiscal year;
- 12 (2) Purchased by that institution during the preceding fiscal year; and
- 13 (3) Foreclosed by that institution during the preceding fiscal year.

14 2. The information required to be filed under subsection 1 of this section
15 shall be further itemized in order to clearly and conspicuously disclose the
16 following:

- 17 (1) The number and dollar amount of each item by census tracts for
18 residential real estate loans on property located within that county or city;
- 19 (2) The number and dollar amount of each item for all residential real
20 estate loans on property located outside that county or city.

21 3. The information required to be filed under subdivisions (1) and (2) of
22 subsection 1 shall also be itemized in order to clearly and conspicuously disclose
23 the following:

- 24 (1) The number and dollar amount of loans made for the purchase of
25 residential real estate which are insured under Title II of the National Housing
26 Act or under Title V of the Housing Act of 1949 or which are guaranteed under
27 Chapter 37 of Title 38, United States Code;

- 28 (2) The number and dollar amount of loans made for the purchase of
29 residential real estate, including loans insured under federal housing insurance
30 programs;

31 (3) The number and dollar amount of loans made for the repair,
32 rehabilitation or remodeling of residential real estate.

33 4. Each statement filed under the provisions of this section shall be filed
34 on forms approved or furnished by the director of the division of finance and
35 shall be verified by two officers of the institution. Wherever possible, the
36 director of the division of finance shall make the forms consistent with the
37 disclosure forms required under the Federal Home Mortgage Disclosure Act of
38 1975 (12 U.S.C. 2801 et seq.).

39 5. The director of the division of finance shall maintain the statements
40 filed under the provisions of this section for a period of not less than five years
41 and shall make the statements available to the public for inspection during regular
42 business hours and for copying at a cost not to exceed the actual cost to the
43 division.]

✓

Missouri State Board of Embalmers & Funeral Directors

3605 Missouri Blvd.(Physical)

P.O. Box 7001

Jefferson City, MO 65102

(573) 751-0813

Website: <http://pr.mo.gov/embalmers.asp>

Email: embalm@pr.mo.gov

2012 RENEWAL LICENSE & ANNUAL REPORT

PRENEED SELLER

RENEWAL FEE \$200.00

PER CONTRACT FEE \$36.00

Preneed Seller Number: PNS

Mailing Address:

Physical Address:

County:

Telephone:

Change in Telephone:

Fax:

Change in Fax:

Email:

Change in Email:

Website:

Businesses engaged in the retail sale of goods in Missouri must possess a no tax due compliance letter from the Department of Revenue at the time of license renewal. 144.083 RSMo. (Cum Supp 2008). You can verify your tax compliance letter at <http://dor.mo.gov/tax/business/sales/notaxdue/index.htm>. If you have any questions regarding taxes contact the Department of Revenue at 573-751-9268 or email: taxclearance@dor.mo.gov **YES NO**

1. This business engages in the sale of goods at retail in Missouri. If yes you must submit a copy of your No Tax Due Certificate along with verification of your corporate status with the Secretary of State, you can print a copy of this by visiting their website at <https://www.sos.mo.gov/BusinessEntity/soskb/csearch.asp>, This renewal will not be processed without the No Tax Due Compliance or the verification of corporate states and fictitious name registration.
2. IF yes to question #1, my retail business has filed and paid all of its Missouri sales and withholding tax obligations.
3. IF yes to question #1, what is your Missouri state tax ID number _____ (8 numeric characters)

INSTRUCTIONS

*THIS REPORT IS FOR THE REPORTING PERIOD OF
SEPTEMBER 1, 2011 TO AUGUST 31, 2012.*

If the renewal/annual report is submitted prior to the ending of the reporting period, it will be returned.

1. YOU MAY FILE THE ANNUAL REPORT OF YOUR PRENEED LICENSE AFTER AUGUST 31, 2012. **THIS RENEWAL/ANNUAL REPORT IS DUE ON OR BY OCTOBER 31, 2012 PURSUANT TO 333.320.3 AND 436.460 RSMo.** IF A SELLER FAILS TO FILE THE RENEWAL **ON OR BEFORE OCTOBER 31, 2012** THE PRENEED SELLER LICENSE SHALL **EXPIRE** UNTIL SUCH TIME AS THE RENEWAL IS FILED AND ALL APPLICABLE FEES HAVE BEEN PAID. IF A SELLER FAILS TO FILE THE ANNUAL REPORT **ON OR BEFORE OCTOBER 31, 2012** THE PRENEED SELLER LICENSE SHALL **AUTOMATICALLY BE SUSPENDED** UNTIL SUCH TIME AS THE ANNUAL REPORT IS FILED AND ALL APPLICABLE FEES HAVE BEEN PAID.

2. In Order to provide sufficient time for processing, **please return the entire renewal/annual report** with the proper fees and all supporting documents **as soon as possible. To the board office by October 1, 2012. YOU MAY NOT PRACTICE AFTER OCTOBER 31, 2012 UNLESS YOUR LICENSE HAS BEEN RENEWED.**

3. Return this annual report with the fee of **\$200.00 plus \$36.00 PER PRENEED CONTRACT** sold during the reporting period as required in Section 436.460 RSMo. All checks or money orders shall be made payable to **STATE BOARD OF EMBALMERS & FUNERAL DIRECTORS**. **Please be sure that all pages of this renewal/annual report are returned with supporting documents.** You must return the original renewal/annual report to the board office. **No self generated annual reports will be processed, however you can make copies to report additional information. All fees are non-refundable**

4. **Submit verification of our corporate status with the Secretary of State. You can print a copy of this by visiting their website at <https://www.sos.mo.gov/BusinessEntity/soskb/csearch.asp>. This renewal will not be processed without the verification of corporate status and fictitious name registration. Additional instructions can be found on the last page of the annual report.**

NOTICE:No seller, provider, or preneed agent shall procure or accept a loan against any investment or asset of or belonging to a preneed trust or joint account; or to procure or accept a loan against any insurance contract used to fund a preneed account. As of August 29, 2009, no preneed seller, provider, or agent shall use any existing preneed contract as collateral or security pledged for a loan or take preneed funds of any existing preneed contract as a loan or for any purpose other than as authorized by chapter 436.

Please carefully read the instructions on each page of this renewal/annual report and when completed, sign & notarize the forms where indicated.

The information appearing on this renewal/annual report is the information currently contained in the records of the State Board of Embalmers and Funeral Directors on the above named seller. You are responsible for the accuracy of this information. Please examine this renewal carefully and make any correction, deletions or additions.

PRENEED SELLER RENEWAL/ANNUAL REPORT
Reporting Period: September 1, 2011 – August 31, 2012

Preneed Seller:
License Number:

SECTION A: Please verify the following information. (If blank, please complete in detail.)

- According to the Board's records the owner(s) is: _____, if this has changed please contact the board office prior to submitting this renewal. Pull this from the Relationship window , pulls all Owners that are active
- The manager in charge of the above named seller pursuant to 20 CSR 2120-3.200 is _____, If there has been a change please note the new manager in charge _____ Pull this from the Relationship window , Person/Manager in Charge.

SECTION B:

Yes No

1. Since the last renewal has any owner or officer **of the corporation** ever been denied a professional license, certification, registration or permit? If yes, explain fully in a statement.
2. Since the last renewal has any owner or officer of the corporation had any professional license, certification, registration or permit revoked, suspended, placed on probation, censured, reprimanded, fined or otherwise subjected to any type of disciplinary action? If yes, attach a full explanation and provide any relevant discipline documents.
3. Is any owner or officer of the corporation presently being investigated or is any disciplinary action pending against any professional license, certification, registration or permit you hold or have applied for? If yes, attach a full explanation and provide any relevant discipline documents.
4. Since the last renewal has any owner or officer of the corporation voluntarily surrendered or resigned any professional license, certification, registration or permit? If yes, attach a full explanation.
5. Since the last renewal has any owner or officer of the corporation been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere of a violation of any federal, state or municipal law, ordinance or rule, whether or not sentence was imposed (includes suspended imposition of sentence (SIS)). If yes, explain fully in a statement and provide certified court documents (ie: Docket Sheet, Information or Indictment and Final Disposition).

~~6. Since the last renewal has any owner or officer of this licensee been arrested, charged with of any violation of any federal, state or municipal law, ordinance or rule whether or not sentence was imposed (includes suspended imposition of sentence (SIS)). If yes, explain fully in a statement and provide certified court documents (ie: Docket Sheet, Information or Indictment and Final Disposition).~~

7. Since the last renewal has any owner or officer of the corporation **been addicted to or** used in excess any controlled Substance or alcoholic beverage to an extent that such use impaired your ability to perform the work of you profession? **(including illegal drugs and prescription drugs) or alcoholic beverage?** If yes, explain fully in a statement.

8. Since the last renewal has any owner or officer of the corporation **being** **been** treated, **or have you been treated within the past five years** for drug or alcohol addiction? If yes, attach a full explanation and provide discharge summary or other official documentation that shows your diagnosis, prognosis and treatment plan.

9. Since the last renewal has any owner or officer of the corporation been adjudged mentally incompetent by a state or federal court? If yes, attach a full explanation and provide certified court documents (i.e. Docket sheet, Complaint, and Final Disposition.)

INCLUDE LANGUAGE HERE ABOUT LICENSEE'S OBLIGATION TO SELF REPORT A FINAL ADJUDICATION, GUILTY PLEA OR PLEA OF NOLO CONTENDERE IN A CRIMINAL PROSECUTION

SECTION C:

According to the Board's records this seller has entered into a written agreement with the following firms who are authorized to provide preneed contracts. In order for the Board to update our records please indicate by checking Yes or No if these licenses are associated with this license. Please use the space provided to update your record.

License #	Name	Address	Yes	No
			<input type="checkbox"/>	<input type="checkbox"/>

PRENEED SELLER RENEWAL/ANNUAL REPORT
Reporting Period: September 1, 2011 – August 31, 2012

Preneed Seller:
License Number:

SECTION D-

According to the Boards records the books or records which contain information about seller's preneed contract sales and services in Missouri are in the custody of and are available for inspection at said address: (if the location has changed please make the change below)

NAME OF LOCATION OR PERSON:

ADDRESS:

SECTION E: According to the Boards' records the following preneed agents are authorized to sell, negotiate, or solicit the sale of a preneed contract on behalf of this preneed seller (if necessary additional sheets may be attached).

Name of Agent	Address	Registration #	Yes	No
---------------	---------	----------------	-----	----

SECTION F: Report all preneed contracts that were written from **September 1, 2011 TO August 31, 2012**

Number of Preneed contracts sold: (Give totals for each)		Total Face Value of preneed contracts:
	Contracts in which payments are deposited into a <u>trust</u> . (do not report any money you have trusted with a third party seller)	\$
	Contracts in which payments are deposited into <u>joint</u> accounts.	\$
	All <u>insurance</u> funded preneed contracts.	\$
	Total Number of Contracts Sold	Total Face Value of All Contracts:
		\$
* Multiply total number of contracts sold by \$36.00 and this will be the fee you will remit to the State Board of Embalmers and Funeral Directors.		

(Do not report any contracts sold by a third party seller)

SECTION G:

According to the Boards records the following are financial institutions currently holding preneed trust accounts for the above named seller. Please make any necessary changes to update the boards' records.

Name of Financial Institution	Address	Account Number	Last reported balance
--------------------------------------	----------------	-----------------------	------------------------------

PRENEED SELLER RENEWAL/ANNUAL REPORT
Reporting Period: September 1, 2011 – August 31, 2012

Preneed Seller:
License Number:

SECTION H: Trust account information:

Complete one report for each financial institution; if this section doesn't apply please mark NA in the spreadsheet below and continue to Section K.

Section 436.400 – 436.525, RSMo identifies the reporting requirements of trust funded preneed contracts sold pursuant to Sections 436.400-436.525 RSMo.

- **Name of Financial Institution** _____ **Date of this report:)** _____
- Address of Financial Institution** _____
- **Trust Account Number:** _____
- **Trust Fund Balance Reported on previous years report** _____
- **Current face value of trust fund (as of 8-31-12)** _____
- **Total trust earnings (interest income) to the seller since the previous report (as of 8-31-12)** _____
- **Principal contributions (total of all payments made to trust, no interest) received by the trustee since the previous report (as of 8-31-12)** _____
- **Total distributions to the seller since the previous report** _____
- **Total expenses, excluding distributions to the seller since the previous report(as of 8-31-12)** _____

For the time period of *September 1, 2011 TO August 31, 2012* please list each contract sold:

Additional sheets are available on our website <http://pr.mo.gov/embalmers.asp> **In lieu of completing the spreadsheet below, a computer print out generated by your firm or the financial institution that contains the information required may be attached to this form.**

COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4	COLUMN 5	COLUMN 6	COLUMN 7	COLUMN 8	COLUMN 9
Preneed contract sequential number	Name of preneed contract beneficiary	Address of contract beneficiary	Name of purchaser on preneed contract (if different than name in column 1)	Address of purchaser on preneed contract (if different than column 3)	Face (original) amount of preneed contract	Total distributions to the seller from the trustee	Face value of trust assets assigned to this contract	Fulfilled, cancelled or transferred (if applicable)

SECTION I: Authorization

I hereby authorize the Board to request from the trustee listed in Section H a copy of any trust statement, as part of an investigation, examination or audit of the preneed seller.

Applicant Signature:	Title:
Print Name:	Date:

SECTION J: Certification (section to be completed by a corporate officer of the trustee)

I certify under oath that the information listed in **Section H** that is required by section 436.460 is complete and correct and attested to by a corporate officer of the trustee. The trustee shall be subject to the penalty of making a false affidavit or declaration. **In lieu of completing this certification, a computer print out generated certified, signed & notarized by the trustee that contains the information required by this section may be attached to this annual report.**

Notary Section	Corporate officer of trustee Signature	NOTARY PUBLIC SEAL/STAMP
	Corporate officer of trustee print name and title	
State of Missouri	County of _____	
Subscribed and sworn to (or affirmed) before me this _____ day of _____, 20____		
Notary public signature	Commission expires on:	
Notary public print name:		

PRENEED SELLER RENEWAL/ANNUAL REPORT
Reporting Period: September 1, 2011 – August 31, 2012

Preneed Seller:
License Number:

SECTION K: Joint account information:

Complete one report for each financial institution. If this section doesn't apply please mark NA in the spreadsheet below and continue to Section M.

Section 436.400 – 436.525, RSMo identifies the reporting requirements of joint account funded preneed contracts sold pursuant to Sections 436.400-436.520 RSMo.

A. Name of Financial Institution _____ **Date of this report:** _____
Address of Financial Institution _____

For the time period of **September 1, 2011 to August 31, 2012** please list each contract sold:

Additional sheets are available on our website <http://pr.mo.gov/embalmers.asp> **In lieu of completing the spreadsheet below, a computer print out generated by your firm or the financial institution that contains the information required may be attached to this form.**

COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4	COLUMN 5	COLUMN 6	COLUMN 7	COLUMN 8	COLUMN 9	COLUMN 10	COLUMN 11
Preneed contract sequential number	Date of Preneed Contract	Names on preneed contract	Name of purchaser on preneed contract	Address of purchaser on preneed contract	Individual joint account number	Face amount of preneed contract	Amount on deposit in each account (total amount consumer has paid, as of the last bank statement)	Principal contributions placed into each joint account (total of all payments made, no interest as of the last bank statement)	Total distributions to the seller from each joint account since the previous report.	Fulfilled, cancelled or transferred (if applicable)

SECTION L: Certification (section to be completed by a corporate officer of the financial institution)

I certify under oath that the information listed in **Section K** that is required by section 436.460 is complete and correct and attested to by a corporate officer of the trustee. The trustee shall be subject to the penalty of making a false affidavit or declaration. **In lieu of completing this certification, a computer print out generated certified, signed & notarized by the trustee that contains the information required by this section may be attached to this annual report.**

Notary Section	Corporate officer of trustee Signature		NOTARY PUBLIC SEAL/STAMP
	Corporate officer of trustee print name and title		
State of Missouri	County of _____		
Subscribed and sworn to (or affirmed) before me this _____ day of _____, 20____			
Notary public signature		Commission expires on:	
Notary public print name:			

PRENEED SELLER RENEWAL/ANNUAL REPORT
Reporting Period: September 1, 2011 – August 31, 2012

Preneed Seller:
 License Number:

SECTION M: Joint account information: Historical Information

Report all joint accounts written prior to this reporting period that were active (not fulfilled as of August 31, 2011). Required by Chapter 436.460.3 (1)-(7)

Complete one report for each financial institution. If this section doesn't apply please mark NA in the spreadsheet below and continue to Section O.

Section 436.460.3 , RSMo identifies the reporting requirements of joint account funded preneed contracts active as of August 31, 2011.

A. Name of Financial Institution _____ Date of this report: _____
 Address of Financial Institution _____

Additional sheets are available on our website <http://pr.mo.gov/embalmers.asp> In lieu of completing the spreadsheet below, a computer print out generated by your firm or the financial institution that contains the information required may be attached to this form.

COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4	COLUMN 5	COLUMN 6	COLUMN 7	COLUMN 8	COLUMN 9	COLUMN 10	COLUMN 11	COLUMN 11
Preneed contract sequential number (if applicable)	Date of Preneed Contract	Name on preneed contract	Name of purchaser on preneed contract	Joint account number	Amount on deposit on each joint account (as of 8-31-12)	Joint account balance as reported in the previous years report (only complete for the ones reported previously as of 8-31-12))	Principal contributions placed into each joint account since the last report (as of the last bank statement)	Total earnings since the previous report (interest income, as of the last bank statement)	Total distributions to the seller from each joint account since the previous report (as of 8-31-12)	Total expenses deducted from the joint account, excluding distributions to the seller, since the previous report (as of 8-31-12)	Fulfilled, cancelled or transferred (if applicable) between September 1, 2011 to August 31, 2012.

SECTION N: Certification (section to be completed by a corporate officer of the financial institution)

I certify under oath that the information listed in **Section M** that is required by section 436.460 is complete and correct and attested to by a corporate officer of the trustee. The trustee shall be subject to the penalty of making a false affidavit or declaration. **In lieu of completing this certification, a computer print out generated certified, signed & notarized by the trustee that contains the information required by this section may be attached to this annual report.**

Notary Section	Corporate officer of trustee Signature	NOTARY PUBLIC SEAL/STAMP
	Corporate officer of trustee print name and title	
State of Missouri	County of _____	
Subscribed and sworn to (or affirmed) before me this _____ day of _____, 20____		
Notary public signature	Commission expires on:	
Notary public print name:		

PRENEED SELLER RENEWAL/ANNUAL REPORT
Reporting Period: September 1, 2011 – August 31, 2012

Preneed Seller:
License Number:

SECTION Q: Insurance Funded Preneed Contract(s) w/ Insurance assignments account information:
Complete one report for each insurance company. If this section doesn't apply please mark NA in the spreadsheet below and continue to Section S.

Section 436.460, RSMo identifies the reporting requirements of insurance funded preneed contract sold pursuant to Sections 436.400-436.525 RSMo.

A. Name of Insurance Company _____
Address of Insurance Company _____

For the time period of September 1, 2011 TO August 31, 2012 please list each contract sold.:

You may attach additional sheets with the following information, if necessary. **In lieu of completing the spreadsheet below, a computer print out generated by your firm that contains the information required may be attached to this form.**

COLUMN 1	COLUMN 2	COLUMN N 3	COLUMN N 4	COLUMN N 5	COLUMN N 6	COLUMN N 7	COLUMN N 8	COLUMN N 9	COLUMN N 10	COLUMN N 11	COLUMN N 13
Preneed contract sequential number	Date of preneed contract.	Name on preneed contract	Address of insured in column 3	Name of purchaser	Address of purchaser	Owner of insurance policy (if known)	Face amount of preneed contract	Status of insurance policy (in force, paid in full, lapsed, reduced paid up, etc., if known)	Total face value of insurance policy (amount the policy was written for, if known)	Amount of funds the seller directly received on each preneed contract (all monies received)	Fulfilled, cancelled or transferred

SECTION R: CERTIFICATION (Section to be completed by an authorized representative of the preneed seller)

I certify under oath that the information listed in **Section Q** that is required by section 436.460 RSMo is complete and correct attested to by an authorized representative of the preneed seller. The affiant shall be subject to the penalty of making a false affidavit or declaration. **In lieu of completing this certification, a computer print out generated, certified, signed and notarized by the preneed seller that contains the information required by Section Q may be attached to this annual report.**

Notary Section	Authorized representative signature	NOTARY PUBLIC SEAL/STAMP
	Authorized representative print name and title	
State of Missouri	County of _____	
Subscribed and sworn to (or affirmed) before me this _____ day of _____, 20____		
Notary public signature	Commission expires on: _____	
Notary public print name: _____		

PRENEED SELLER RENEWAL/ANNUAL REPORT
Reporting Period: September 1, 2011 – August 31, 2012

Preneed Seller:
License Number:

SECTION S: CONSENT TO INVESTIGATE, EXAMINE AND/OR AUDIT ACCOUNTS, BOOKS AND RECORDS AND ATTESTATION

I hereby authorize and instruct the financial institution(s), insurance companies and the custodian listed on this renewal/annual report to allow at any time without prior notice any inspector, examiner, or auditor of the State Board of Embalmers & Funeral Directors to investigate, examine and/or audit seller's trust account(s), established under 436.400 to 436.520 RSMo, or seller's books and records relating to the sale of preneed contracts. I understand that the State Board of Embalmers and Funeral Directors may order this investigation, examination and/or audit at its discretion, and I consent to such an investigation, examination and/or audit. I hereby swear that the information herein contained on this renewal/annual report, as well as all information on any attachment(s) to this report, is true and complete in every respect and has not been altered or revised.

NOTARY SECTION	Authorized Representative Signature	NOTARY PUBLIC SEAL/STAMP
	Print Name	
State of MISSOURI	COUNTY OF	
Subscribed and sworn to (or affirmed) before me this _____ day of _____, 20____		
Notary Public Signature:		
Please Print Name:		

REMINDER TO LICENSEES: YOU MAY NOT OPERATE AFTER OCTOBER 31, 2012 UNLESS YOUR LICENSE HAS BEEN RENEWED BY THE RENEWAL DATE (SUBMISSION OR INCOMPLETE SUBMISSION DOES NOT CONSTITUTE RENEWAL)

WE MAY INCLUDE INSTRUCTIONS ON HOW TO EXTRACT DATA FROM SOS WEBSITE AS A LAST PAGE....LAST YEAR WE DID A SECOND MAILING TO ALL LICENSEES

PROPOSED LANGUAGE CHANGES FROM PREVIOUS YEARS

No funeral establishment to be operated by unlicensed person--license requirements, application procedure--license may be suspended or revoked or not renewed.

333.061. 1. No funeral establishment shall be operated in this state unless the owner or operator thereof has a license issued by the board.

2. A license for the operation of a funeral establishment shall be issued by the board, if the board finds:

(1) That the establishment is under the general management and the supervision of a duly licensed funeral director;

(2) That all embalming performed therein is performed by or under the direct supervision of a duly licensed embalmer;

(3) That any place in the funeral establishment where embalming is conducted contains a preparation room with a sanitary floor, walls and ceiling, and adequate sanitary drainage and disposal facilities including running water, and complies with the sanitary standard prescribed by the department of health and senior services for the prevention of the spread of contagious, infectious or communicable diseases;

(4) Each funeral establishment shall have available in the preparation or embalming room a register book or log which shall be available at all times in full view for the board's inspector and the name of each body embalmed, place, if other than at the establishment, the date and time that the embalming took place, the name and signature of the embalmer and the embalmer's license number shall be noted in the book; and

(5) The establishment complies with all applicable state, county or municipal zoning ordinances and regulations.

3. [The board shall grant or deny each application for a license pursuant to this section within thirty days after it is filed. The applicant may request in writing up to two thirty-day extensions of the application, provided the request for an extension is received by the board prior to the expiration of the thirty-day application or extension period.] **If an applicant does not meet the requirements for licensure within six months from the date of the application, the applicant shall be required to file a new application and no fees previously paid previously shall apply toward the application fee.**

4. Licenses shall be issued pursuant to this section upon application and the payment of a funeral establishment fee and shall be renewed at the end of the licensing period on the establishment's renewal date.

5. The board may refuse to renew or may suspend or revoke any license issued pursuant to this section if it finds, after hearing, that the funeral establishment does not meet any of the requirements set forth in this section as conditions for the issuance of a license, or for the violation by the owner of the funeral establishment of any of the provisions of section [333.121] **333.330**. No new license shall be issued to the owner of a funeral establishment or to any corporation controlled by such owner for three years after the revocation of the license of the owner or of a corporation controlled by the owner. Before any action is taken pursuant to this subsection the procedure for notice and hearing as prescribed by section [333.121] **333.330** shall be followed.

Applicability of law.

333.310. The provisions of sections 333.310 to 333.340 shall not apply to a cemetery operator **licensed pursuant to section 214.275** who sells contracts or arrangements for **funeral merchandise or** services for which payments received by, or on behalf of, the purchaser are **deposited either to an escrow account, or a preneed trust, governed by an agreement approved by the Office of Endowed Care Cemeteries** [required to be placed in an endowed care fund or for which a deposit into a segregated account is required under chapter 214;] provided that a cemetery operator shall comply with sections 333.310 to 333.340 if the contract or arrangement sold by the operator includes services that may only be provided by a licensed funeral director or embalmer. **A cemetery operator claiming an exemption pursuant to this section and section 436.410, shall, concurrent with the application for renewal of licensure pursuant to section 214.275, file a statement of exemption with the State Board of Embalmers and Funeral Directors and Office of Endowed Care Cemeteries. If requested by the State Board of Embalmers and Funeral Directors, the cemetery operator shall provide proof of licensure pursuant to section 214.275.**

Provider license required--application procedure--renewal of licensure--expiration of license.

333.315. 1. No person shall be designated as a provider or agree to perform the obligations of a provider under a preneed contract unless, at the time of such agreement or designation, such person is licensed as a preneed provider by the board. Nothing in this section shall exempt any person from meeting the licensure requirements for a funeral establishment as provided in this chapter.

2. An applicant for a preneed provider license shall:

(1) File an application on a form established by the board and pay an application fee in an amount established by the board by rule;

(2) Be authorized and registered with the Missouri secretary of state to conduct business in Missouri;

(3) Identify the name and address of a custodian of records responsible for maintaining the books and records of the provider relating to preneed contracts;

(4) Identify the name and address of each seller authorized by the provider to sell preneed contracts in which the provider is designated or obligated as the provider;

(5) File with the state board a written consent authorizing the state board to inspect or order an investigation, examination, or audit of the provider's books and records which contain information concerning preneed contracts sold for or on behalf of a seller or in which the applicant is named as a provider; and

(6) If the applicant is a corporation, each officer, director, manager, or controlling shareholder shall be eligible for licensure if they were applying for licensure as an individual.

3. Each preneed provider shall apply to renew his or her license on or before [October thirty-first of each year or] a date established by the division of professional registration pursuant to section 324.001. A license which has not been renewed prior to the renewal date shall expire. Applicants for renewal shall:

(1) File an application for renewal on a form established by the board [by rule];

(2) Pay a renewal fee in an amount established by the board by rule, however no renewal fee shall be required for any funeral establishment whose Missouri license is current and active;

(3) Be authorized and registered with the Missouri secretary of state to conduct business in Missouri;

(4) File an annual report with the state board which shall contain:

(a) The name and address of a custodian of records responsible for maintaining the books and records of the provider relating to preneed contracts;

(b) The business name or names used by the provider and all addresses from which it engages in the practice of its business;

(c) The name and address of each seller with whom it has entered into a written agreement since last filing an annual report with the board authorizing the seller to designate or obligate the licensee as the provider in a preneed contract; and

(d) Any information required by any other applicable statute or regulation enacted pursuant to state or federal law.

4. A license which has not been renewed as provided by this section shall expire. A licensee who fails to apply for renewal may apply for reinstatement within two years of the renewal date by satisfying the requirements of subsection 3 of this section and paying a delinquent fee as established by the board by rule.

Seller license required--application procedure--renewal of licensure--expiration of license.

333.320. 1. No person shall sell, perform, or agree to perform the seller's obligations under, or be designated as the seller of, any preneed contract unless, at the time of the sale, performance, agreement, or designation, such person is licensed by the board as a seller and authorized and registered with the Missouri secretary of state to conduct business in Missouri.

2. An applicant for a preneed seller license shall:

(1) File an application on a form established by the board and pay an application fee in an amount established by the board by rule;

(2) Be an individual resident of Missouri who is eighteen years of age or older, or a business entity registered with the Missouri secretary of state to transact business in Missouri;

(3) If the applicant is a corporation, each officer, director, manager, or controlling shareholder, shall be eligible for licensure if they were applying for licensure as an individual;

(4) Meet all requirements for licensure;

(5) Identify the name and address of a custodian of records responsible for maintaining the books and records of the seller relating to preneed contracts;

(6) Identify the name and address of each licensed provider that has authorized the seller to designate such person as a provider under a preneed contract;

(7) Have established, as grantor, a preneed trust or an agreement to utilize a preneed trust with terms consistent with sections 436.400 to 436.520. A trust shall not be required if the applicant certifies to the board that the seller will only sell insurance-funded or joint account-funded preneed contracts;

(8) Identify the name and address of a trustee or, if applicable, the financial institution where any preneed trust or joint accounts will be maintained; and

(9) File with the board a written consent authorizing the state board to inspect or order an investigation, examination, or audit of the seller's books and records which contain information concerning preneed contracts sold by or on behalf of the seller.

3. Each seller shall apply to renew his or her license on or before [October thirty-first of each year or] a date established by the division of professional registration pursuant to section 324.001. A license which has not been renewed prior to the renewal date shall expire. Applicants for renewal shall:

(1) File an application for renewal on a form established by the board [by rule];

(2) Pay a renewal fee in an amount established by the board by rule; and

(3) File annually with the board a signed and notarized annual report as required by section 436.460.

4. Any license which has not been renewed as provided by this section shall expire. A licensee who fails to apply for renewal [within two years of the renewal date] may apply for reinstatement **within two years of the renewal date** by satisfying the requirements of subsection 3 of this section and paying a delinquent fee as established by the board by rule.

Registration as a preneed agent required--application procedure--renewal of registration--expiration of registration.

333.325. 1. No person shall sell, negotiate, or solicit the sale of preneed contracts for, or on behalf of, a seller unless registered with the board as a preneed agent except for individuals who are licensed as funeral directors under this chapter. The board shall maintain a registry of all preneed agents registered with the board. The registry shall be deemed an open record and made available on the board's web site.

2. An applicant for a preneed agent registration shall be an individual who shall:

(1) File an application on a form established by the board and pay an application fee in an amount established by the board by rule which shall not exceed fifty percent of the application fee established by the board under this chapter for a funeral director license;

(2) Be eighteen years of age or older; **and possess a high school diploma, a general education equivalency diploma, or equivalent thereof, as determined, at its discretion, by the board;**

(3) Be otherwise eligible for registration under section 333.330;

(4) Have successfully passed the Missouri law examination as designated by the board;

(5) Provide the name and address of each seller for whom the applicant is authorized to sell, negotiate, or solicit the sale of preneed contracts for, or on behalf of.

(6) Upon acceptance of the completed application and fees by the board, the board may issue a temporary permit to an applicant who had made a prima facie showing that the applicant meets all of the requirements for such registration. The temporary permit shall be effective only until the applicant submits satisfactory evidence of successfully passing the Missouri law examination. In no event shall such temporary permit be in effect for more than six months after the date of its issuance and shall not be reissued to the same applicant. The holder of a temporary permit which has not expired, or been suspended or revoked, shall be deemed to be the holder of a registration issued pursuant to 333.325 until such temporary permit expires, is terminated or is suspended or revoked.

(7) If an applicant does not meet the requirements for registration within one year from the date of application, the applicant shall be required to file a new application and no fees paid previously shall apply toward the registration fee.

3. Each preneed agent shall apply to renew his or her registration on or before [October thirty-first of each year or] a date established by the division of professional registration pursuant to section 324.001. A registration which has not been renewed prior to the renewal date shall expire. Applicants for renewal shall:

(1) File an application for renewal on a form established by the board [by rule];

(2) Pay a renewal fee in an amount established by the board by rule which shall not exceed fifty percent of the application fee established by the board under this chapter for a funeral director license renewal; and

(3) Provide the name and address of each seller for whom the preneed agent is authorized to sell, negotiate, or solicit the sale of preneed contracts for or on behalf of.

(4) If an applicant does not meet the requirements for registration within one year from the date of application, the applicant shall be required to file a new application and no fees paid previously shall apply toward the registration fee.

4. Any funeral director acting as a preneed agent shall be required to report the name and address of each preneed seller for whom the funeral director is authorized to sell, negotiate, or solicit the sale of preneed contracts as part of their [biennial] renewal form. Each funeral director preneed agent shall be included on the board's registry.

5. Any registration which has not been renewed as provided by this section shall expire and the registrant shall be immediately removed from the preneed agent registry by the board. A registrant who fails to apply for renewal may apply for reinstatement within two years of the renewal date by satisfying the requirements of subsection 3 of this section and paying a delinquent fee as established by the board.

Refusal of registration, when--complaint procedure--injunctive relief authorized, when--reapplication after revocation, when.

333.330. 1. The board may refuse to issue any certificate of registration or authority, permit, or license required under this chapter for one or any combination of causes stated in subsection 2 of this section. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of his or her right to file a complaint with the administrative hearing commission as provided by chapter 621.

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621 against any holder of any certificate of registration or authority, permit, or license required by this chapter, or any person who has failed to renew or has surrendered his or her certificate of registration or authority, permit, or license for any one or any combination of the following causes:

(1) Use of any controlled substance, as defined in chapter 195, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of any profession licensed or regulated by this chapter;

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions, or duties of any profession licensed or regulated under this chapter, for any offense involving a controlled substance, or for any offense an essential element of which is fraud, dishonesty, or an act of violence;

(3) Use of fraud, deception, misrepresentation, or bribery in securing any certificate of registration or authority, permit, or license issued under this chapter or in obtaining permission to take any examination given or required under this chapter;

(4) Obtaining or attempting to obtain any fee, charge, tuition, or other compensation by fraud, deception, or misrepresentation;

(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation, or dishonesty in the performance of the functions or duties of any profession licensed or regulated by this chapter;

(6) Violation of, or assisting or enabling any person to violate, any provision of this chapter, or of any lawful rule or regulation adopted pursuant thereto;

(7) Impersonation of any person holding a certificate of registration or authority, permit, or license or allowing any person to use his or her certificate of registration or authority, permit, license, or diploma from any school;

(8) Disciplinary action against the holder of a license or other right to practice any profession [regulated by this chapter] granted by another state, territory, federal agency, or country upon grounds for which revocation or suspension is authorized in this state or **upon a finding by any state, local or federal agency or court that the holder of any professional license has engaged in any conduct involving any act of violence, fraud or dishonesty;**

- (9) A person is finally adjudged mentally incompetent by a court of competent jurisdiction;
- (10) Misappropriation or theft of preneed funds;
- (11) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated by this chapter regulating preneed who is not licensed or registered and currently eligible to practice thereunder;
- (12) Issuance of a certificate of registration or authority, permit, or license based upon a material mistake of fact;
- (13) Failure to display a valid certificate or license if so required by this chapter regulating preneed or any rule established thereunder;
- (14) Violation of any professional trust or confidence;
- (15) Making or filing any report required by sections 436.400 to 436.520 regulating preneed which the licensee knows to be false or knowingly failing to make or file a report required by such sections;
- (16) Use of any advertisement or solicitation which is false, misleading, or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed; or
- (17) Willfully and through undue influence selling a funeral;
- (18) Willfully and through undue influence selling a preneed contract;
- (19) Violation of any of the provisions of chapter 193, 194, 407, or 436;
- (20) Presigning a death certificate or signing a death certificate on a body not yet embalmed by, or under the personal supervision of, the licensee;
- (21) Failure to execute and sign the death certificate on a body embalmed by, or under the personal supervision of, a licensee;
- (22) Failure to refuse to properly guard against contagious, infectious, or communicable diseases or the spread thereof;
- (23) Refusing to surrender a dead human body upon request by the next of kin, legal representative, or other person entitled to the custody and control of the body.

3. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2 of this section, for disciplinary action are met, the board may, singly or in combination, censure or place the person named in the complaint on probation on such terms and conditions as the board deems appropriate for a period not to exceed five years, or may suspend, for a period not to exceed three years, or revoke any certificate of registration or authority, permit, or license issued under this chapter.

4. In addition to all other powers and authority granted by the board, the board may seek an injunction, restraining order or other order from the circuit court of Cole County to enjoin any seller from engaging in preneed sales upon a showing by the board that the seller has failed to make deposits into the preneed trust, has obtained funds out of the trust to which the seller is not entitled or has exercised influence or control over the trustee or has engaged in any other act that has resulted in a shortage in any preneed trust or joint account which exceeds twenty percent of the total amount required to be held or deposited into the trust or joint account under the provisions of sections 436.400 to 436.520. In addition to the power to enjoin for this conduct, the circuit court of Cole County shall also be entitled to suspend or revoke the preneed seller's license and any other license issued pursuant to this chapter, held by the seller.

5. An individual whose certificate of registration or authority, permit, or license has been revoked shall wait three years from the date of revocation to apply for any certificate of registration or authority, permit, or license under this chapter, either as an individual or as a manager, director, shareholder, or partner of any business entity. Any certificate of registration or authority, permit, or license shall be issued at the discretion of the board after compliance with all the requirements of this chapter relative to the licensing or registration of the applicant for the first time.

6. Use of the procedures set out in this section shall not preclude the application of the provisions of subsection 2 of section 333.335.

Applicability exceptions.

436.410. The provisions of sections 436.400 to 436.52[0]5 shall not apply to any contract or other arrangement sold by a cemetery operator **licensed pursuant to section 214.275, who sells, contracts or otherwise makes arrangements for funeral merchandise or funeral related services** for which payments received **from, or on behalf of, the purchase are deposited either to an escrow account, or a preneed trust governed by the provision of Chapter 214, provided that a cemetery operator shall comply with sections 333.310 to 333.340 if the contract or arrangements sold by the operator includes services that may only be provided by a licensed funeral director or embalmer. A cemetery operator claiming exemption pursuant to this section and section 333.310, shall, concurrent with the application for renewal of licensure pursuant to section 214.275, file a statement with the board and also with the office of endowed care cemeteries. If requested by the board, the cemetery operator shall provide proof of licensure under Chapter 214 to the board.** [by or on behalf of the purchaser are required to be placed in an endowed care fund or for which a deposit into a segregated account is required under chapter 214; provided that a cemetery operator shall comply with sections 436.400 to 436.520 if the contract or arrangement sold by the operator includes services that may only be provided by a licensed funeral director or embalmer.]

Trust-funded preneed contract requirements.

436.430. 1. A trust-funded guaranteed preneed contract shall comply with sections 436.400 to 436.520 and the specific requirements of this section.

2. A seller must deposit all payments received on a preneed contract into the designated preneed trust within sixty days of receipt of the funds by the seller, the preneed sales agent or designee. A seller may not require the consumer to pay any fees or other charges except as authorized by the provisions of chapter 333, RSMo, and this chapter or other state or federal law.

[3. A seller may request the trustee to distribute to the seller an amount up to the first five percent of the total amount of any preneed contract as an origination fee. The seller may make this request at any time after five percent of the total amount of the preneed contract has been deposited into the trust. The trustee shall make this distribution to the seller within fifteen days of the receipt of the request.]

[4. In addition to the origination fee, the trustee may distribute to the seller an amount up to ten percent of the face value of the contract on a preneed contract at any time after the consumer payment has been deposited into the trust. The seller may make written request for this distribution and the trustee shall make this distribution to the seller within fifteen days of the receipt of the request or as may be provided in any written agreement between the seller and the trustee.]

5. The trustee of a preneed trust shall be a state- or federally-chartered financial institution authorized to exercise trust powers in Missouri. The trustee shall accept all deposits made to it for a preneed contract and shall hold, administer, and distribute such deposits, in trust, as trust principal, under sections 436.400 to 436.520.

6. The financial institution referenced herein may neither control, be controlled by, nor be under common control with the seller or preneed agent. The terms "control", "controlled by" and "under common control with" means the direct or indirect possession of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing ten percent or more of the voting securities. This presumption may be rebutted by a showing to the board that control does not in fact exist.

7. Payments regarding two or more preneed contracts may be deposited into and commingled in the same preneed trust, so long as the trustee maintains adequate records that individually and separately identify the payments, earnings, and distributions for each preneed contract.

8. Within a reasonable time after accepting a trusteeship or receiving trust assets, a trustee shall review the trust assets and make and implement decisions concerning the retention and disposition of assets in order to bring the trust portfolio into compliance with the purposes, terms, distribution requirements, other circumstances of the trust, and all other requirements of sections 436.400 to 436.520.

9. All expenses of establishing and administering a preneed trust, including trustee's fees, legal and accounting fees, investment expenses, and taxes may be paid from income generated from the investment of the trust assets. Principal of the trust shall not be used to pay the costs of administration. If the income of the trust is insufficient to pay the costs of administration, those costs shall be paid as per the written agreements between the seller, provider and the trustee.

10. The seller and provider of a trust-funded guaranteed preneed contract shall be entitled to all income, including, but not limited to, interest, dividends, capital gains, and losses generated by the investment of preneed trust property regarding such contract as stipulated in the contract between the seller and provider **upon performance of the contract**. Income of the trust, excluding expenses allowed under this subsection, shall accrue through the life of the trust, except in instances when a contract is cancelled. The trustee of the trust may distribute market value of all income, net of losses, to the seller upon, but not before, the final disposition of the beneficiary and provision of the funeral and burial services and facilities, and merchandise to, or for, the benefit of the beneficiary. This subsection shall apply to trusts established on or after August 28, 2009.

11. Providers shall request payment by submitting a certificate of performance to the seller certifying that the provider has rendered services under the contract or as requested. The certificate shall be signed by both the provider and the person authorized to make arrangements on behalf of the beneficiary. If there is no written contract between the seller and provider, the provider shall be entitled to the market value of all trust* assets allocable to the preneed contract. Sellers shall remit payment to the provider within sixty days of receiving the certificate of performance.

12. If a seller fails to make timely payment of an amount due a provider under sections 436.400 to 436.520, the provider shall have the right, in addition to other rights and remedies against such seller, to make demand upon the trustee of the preneed trust for the contract to distribute to the provider from the trust all amounts to which the seller would be entitled to receive for the preneed contract.

13. The trustee of a preneed trust, including trusts established before August 28, 2009, shall maintain adequate books and records of all transactions administered over the life of the trust and pertaining to the trust generally. The trustee shall assist the seller who established the trust or its successor in interest in the preparation of the annual report described in section 436.460. The seller shall furnish to each contract purchaser, within thirty days after receipt of the purchaser's written request, a written statement of all deposits made to such trust regarding such purchaser's contract including the principal and interest paid to date.

14. A preneed trust, including trusts established before August 28, 2009, shall terminate when the trust principal no longer includes any payments made under any preneed contract, and upon such termination the trustee shall distribute all trust property, including principal and undistributed income, to the seller which established the trust.

Contract form, requirements--voidability of contract--waiver of contract benefits for public assistance recipients.

436.425. 1. All preneed contracts shall be sequentially numbered and in writing and in a font type and size that are easily read, and shall clearly and conspicuously:

- (1) Include the name, address and phone number of the purchaser, beneficiary, provider and seller;
- (2) Identify the name, address, phone and license number of the provider and the seller;
- (3) Set out in detail the disposition, funeral and burial services and facilities, and merchandise requested;
- (4) Identify whether the contract is trust funded, insurance funded, or joint account funded;
- (5) Include notice that the cancellation of the contract shall not cancel any life insurance funding the contract, and that insurance cancellation is required to be made in writing to the insurer;
- (6) Include notice that the purchaser will only receive the cash surrender value of any insurance policy funding the contract if cancelled after a designated time, which may be less than the amount paid into the policy;
- (7) Include notice that the board provides by rule that the purchaser has the right to transfer the provider designation to another provider;
- (8) Prominently identify whether the contract is revocable or irrevocable;
- (9) Set forth the terms for cancellation by the purchaser or by the seller;
- (10) Identify any preneed trust or joint account into which contract payments shall be deposited, including the name and address of the corresponding trustee or financial institution;
- (11) Include the name, address and phone number of any insurance company issuing an insurance policy used to fund the preneed contract;
- (12) Include the name and signature of the purchaser, the provider or its authorized representative, the preneed agent's **name and registration number** responsible for the sale of the contract, and the seller or its authorized representative;
- (13) Prominently identify whether the contract is a guaranteed or nonguaranteed contract;
- (14) Include any applicable consumer disclosures required by the board by rule; and
- (15) Include a disclosure on all guaranteed installment payment contracts informing the purchaser what will take place in the event the beneficiary dies before all installments have been paid, including an explanation of what will be owed by the purchaser for the funeral services in such an event;
- (16) Comply with the provisions of sections 436.400 to 436.520 or any rule promulgated thereunder.

2. A preneed contract shall be voidable and unenforceable at the option of the purchaser, or the purchaser's legal representative, if it is determined in a court of competent jurisdiction that the contract is not in compliance with this section or not issued by a seller licensed under chapter 333, or if the provider has not consented to serve as provider at the time the contract was executed. Upon exercising the option by written notice to the seller and provider, all payments made under such contract shall be recoverable by the purchaser, or the purchaser's legal representative, from the contract seller, trustee, or other payee thereof.
3. A beneficiary who seeks to become eligible to receive public assistance under chapter 208 or any other applicable state or federal law may irrevocably waive their rights to receive any refund or payment of any moneys from the funds or insurance used to fund their preneed contract. Such irrevocable waiver may be executed at any time and shall be in writing, signed and dated by the beneficiary and shall be delivered to the seller and any applicable trustee, financial institution or insurance company.
4. All purchasers shall have the right as provided in this chapter to cancel or rescind a revocable preneed contract and transfer any preneed contract with or without cause.
5. A preneed contract, shall not be changed from a trust-funded, insurance-funded, or joint account-funded preneed contract without the written consent of the purchaser.

Compliance of contracts entered into prior to effective date--investment of trust property and assets--loans against assets prohibited.

436.435. 1. To the extent that any provisions in this chapter which come into effect on August 28, 2009, apply to trusts governed under this chapter which are in existence on August 28, 2009, such trusts shall be in compliance with this chapter no later than July 1, 2010.

2. All property held in a preneed trust, including principal and undistributed income, shall be invested and reinvested by the trustee thereof and shall only be invested and reinvested in investments which have reasonable potential for growth or producing income. Funds in, or belonging to, a preneed trust shall not be invested in any term life insurance product.

3. A trustee shall invest and manage trust assets as a prudent investor would, by considering the purposes, terms, distribution requirements, and other circumstances of the trust. In satisfying this standard, the trustee shall exercise reasonable care, skill, and caution. A trustee who has special skills or expertise, or is named trustee in reliance upon the trustee's representation that the trustee has special skills or expertise, has a duty to use those special skills or expertise when investing and managing trust assets.

4. A trustee shall diversify the investments of the trust unless the trustee reasonably determines that, because of special circumstances, the purpose of the trust is better served without diversification.

The trustee shall set out such determination in writing, to be included in the books and records that are made available to the Board and its agents and designees.

5. In investing and managing trust assets, a trustee shall consider the following as are relevant to the trust:

- (1) General economic conditions;
- (2) The possible effect of inflation or deflation;
- (3) The expected tax consequences of investment decisions or strategies;
- (4) The role that each investment or course of action plays within the overall trust portfolio;
- (5) The expected total return from income and the appreciation of capital;
- (6) Needs for liquidity, regularity of income, and preservation or appreciation of capital.

6. No seller, provider, or preneed agent shall procure or accept a loan against any investment or asset of or belonging to a preneed trust. As of **[August 29, 2009] August 28, 2009**, no preneed seller, provider, or agent shall use any existing preneed contract as collateral or security pledged for a loan or take preneed funds of any existing preneed contract as a loan or for any purpose other than as authorized by this chapter.

PROPOSED LEGISLATIVE CHANGES NOT REVIEWED PREVIOUSLY

333.021. 1. No person **or entity** shall engage in the practice of embalming, **funeral directing or act as a preneed agent, seller, provider or funeral establishment** in this state unless **[he has a] that person holds the appropriate** license(s) as required by this chapter.

2. No person **or entity** shall **[engage in the practice of funeral directing unless he has a license issued under this chapter nor shall any person]** use in connection with his name or business any of the words "undertaker", "mortician", "funeral home", "funeral parlor", "funeral chapel", "funeral consultant", "funeral director" or other title implying that he is in the business **of acting as a funeral director, embalmer, establishment, seller or provider, as defined [as funeral directing]** herein, unless **[he or the individual having control, supervision or management of his business is duly licensed to practice funeral directing in this state] the person or entity holds a valid license to act as such as required by this chapter.**

BEFORE THE STATE BOARD OF EMBALMERS AND FUNERAL DIRECTORS
STATE OF MISSOURI

FILED

JAN 31 2013

Board of Embalmers
& Funeral Directors 85

STATE BOARD OF EMBALMERS AND)
FUNERAL DIRECTORS,)
)
PETITIONER,)
)
V.)
)
THEODORE FOSTER, SR.,)
)
45 Riviera Court)
St. Louis, Missouri 63146)
)
RESPONDENT.)

CASE NO. EMB 13-004-TV

PROBATION VIOLATION COMPLAINT

COMES NOW, the State Board of Embalmers and Funeral Directors (the "Board") and for its Probation Violation Complaint against Respondent Theodore Foster, Sr. ("Foster" or "Licensee"), states:

The Parties and Licenses

1. The Board is an agency of the state of Missouri created and established by Section 333.151, RSMo¹, for the purposes of executing and enforcing the provisions of Chapter 333, RSMo, and the portions of Chapter 436, RSMo, related to preneed funeral contracts.
2. Foster is an individual who resides at 45 Riviera Court, St. Louis, Missouri 61346.
3. Foster holds funeral director license number 000890 and embalmer license number 005469. Both licenses are current, but subject to discipline of suspension followed by probation.

¹ All statutory references are to the Revised Statutes of Missouri (2000), as amended, unless otherwise indicated.

Order of Probation and Terms and Conditions of Probation

4. The Board and Foster entered into a "Settlement Agreement between Missouri State Board for Embalmers and Funeral Directors and Theodore Foster and Ted Foster & Sons, Inc, and Ted Foster & Sons Funeral Home, Inc." that was signed by the Board on January 9, 2012 and went into effect 15 days later (the "Settlement Agreement"). A true and accurate copy of the Settlement Agreement and the letter and accompanying materials mailed to Licensee with the Settlement Agreement are attached as Exhibit A and incorporated herein by reference.

5. The Settlement Agreement suspended Foster's funeral director and embalmer licenses for a period of 3 years to be immediately followed by probation for a period of 2 years. The period of suspension and also the period of probation constitute the disciplinary period, subject to certain terms and conditions set forth in the Settlement Agreement.

6. The Settlement Agreement, in paragraph 73, lists the conditions of the disciplinary period including:

E. Licensee shall submit written reports to the Board no later than January 1 and July 1 of each year. Each of these written reports shall state truthfully whether there has been full compliance with the terms and conditions of this Order and shall fully explain any non-compliance. These reports may be submitted on a form provided by the Board, but failure to receive such a form from the Board shall not excuse the timely filing of any compliance report;

* * *

G. Licensee shall renew timely all licenses and/or registrations, shall pay timely all fees required for licensure/registration and shall meet all other requirements necessary to maintain all licenses and registrations issued by the Board current and active.

7. Licensee failed to submit the written compliance reports due on or before July 1, 2012 and due on or before January 1, 2013.

8. Effective October 12, 2010, Licensee's funeral director and embalmer licenses have also been suspended pursuant to Section 324.010, RSMo, for failure to comply with certain taxation laws.

Jurisdiction and Venue

9. The Board possesses jurisdiction over this matter pursuant to Section 324.042, RSMo, and pursuant to paragraphs 22 and 23 of the Funeral Director Probation Order.

10. Venue is proper.

Relevant Statutes

11. Section 324.042, RSMo, states:

Any board, commission, or committee within the division of professional registration may impose additional discipline when it finds after hearing that a licensee, registrant, or permittee has violated any disciplinary terms previously imposed or agreed to pursuant to settlement. The board, commission, or committee may impose as additional discipline any discipline it would be authorized to impose in an initial disciplinary hearing.

Violations

12. Foster violated the conditions of his discipline as set forth in paragraph 73.E. of the Settlement Agreement by failing to file the written compliance reports due on or before July 1, 2012 and January 1, 2013.

13. Foster violated the conditions of his discipline as set forth in paragraph 73.G. of the Settlement Agreement by allowing his funeral director and embalmer licenses to be suspended pursuant to Section 324.010, RSMo.

14. The Board has cause to impose additional discipline upon Foster's funeral director and embalmer licenses because he failed to comply with the conditions of his disciplinary period.

WHEREFORE, Petitioner asks that the Board provide notice and opportunity to be heard to Respondent pursuant to the provisions of Chapters 333 and 536, RSMo, and thereafter issue its findings of fact, conclusions of law and order imposing further discipline on the licenses of Respondent and for such other relief as the Board deems just and proper.

Respectfully submitted,



Sharon K. Euler
Missouri Bar No. 42950

Legal Counsel
Division of Professional Registration
Fletcher Daniels State Office Building
615 East 13th Street, Suite 510
Kansas City, Missouri 64106

Telephone: 816-889-3687
Telefax: 816-889-2345
E-mail: Sharon.euler@pr.mo.gov

ATTORNEY FOR THE BOARD



Jeremiah W. (Jay) Nixon
Governor
State of Missouri

Jane A. Rackers, Division Director
DIVISION OF PROFESSIONAL REGISTRATION

Department of Insurance
Financial Institutions
and Professional Registration
John M. Huff, Director

STATE BOARD OF EMBALMERS AND FUNERAL DIRECTORS
3605 Missouri Boulevard
P.O. Box 423
Jefferson City, MO 65102-0423
Email: embalm@pr.mo.gov
http://pr.mo.gov/embalmers.asp

Sandy Sebastian
Executive Director

573-751-0813
573-751-1155 FAX
800-735-2966 TTY
800-735-2466 Voice Relay Missouri

January 17, 2012

CERTIFIED MAIL 7009 2250 0001 4911 0834

Theodore Foster, Sr.
1230 Postgrove Drive
St. Louis MO 61346

Dear Mr. Foster:

Enclosed please find a copy of the fully executive amended Settlement Agreement between the State Board of Embalmers and Funeral Directors and yourself.

This settlement places your funeral director license #000890 and embalmer license #005469 under a period of 3 years suspension followed by 2 years probation. This settlement also revokes the following funeral establishment licenses: 2004021704/Ted Foster & Son's White House Chapel North, 001502/ Ted Foster & Sons Funeral Home Inc and 002397/ Ted Foster & Sons Funeral Home. This disciplinary action goes into effect on January 24, 2012. Please return all indicia of licensure to the board office upon receipt of this letter.

I have enclosed a sample compliance letter that you may use in accordance with the written report that is required in paragraph E on page 22 of the settlement. This is sample only and you may provide any form of compliance notification in accordance with the disciplinary terms.

Our records reflect that as of today both your embalmer and funeral director licenses also remain suspended pursuant to Chapter 324.010 for failure to be in compliance with the Department of Revenue.

If you have questions, please feel free to contact our office at 573.751.0813.

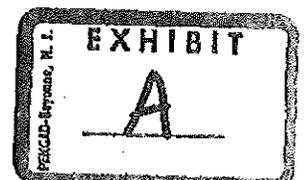
Sincerely,

Sandy Sebastian
Executive Director

Enclosures

cc Ross Brown, Assistant Attorney General
Melvin Raymond, Counsel for Licensee
4387 Laclede Avenue Suite A
St. Louis MO 63108

This letter has been sent both certified and regular mail to licensee.



SETTLEMENT AGREEMENT
BETWEEN
MISSOURI STATE BOARD FOR EMBALMERS AND FUNERAL DIRECTORS
AND
THEODORE V. FOSTER
AND
TED FOSTER & SONS, INC
AND
TED FOSTER & SONS FUNERAL HOME, INC

Theodore V. Foster ("Foster"), Ted Foster & Sons, Inc ("Foster & Sons"), Ted Forster & Sons Funeral Home, Inc ("Foster & Sons Funeral Home"), and the Missouri State Board of Embalmers and Funeral Directors ("Board") enter into this Settlement Agreement for the purpose of resolving the question of whether Foster's license as an embalmer, no. 005469, and funeral director, license no. 000890, Foster & Sons' license as a funeral home establishment, license no. 2004021704, Foster & Sons Funeral Home's licenses as funeral home establishments, license no. 001502 and no. 002397, are subject to discipline. Pursuant to § 536.060, RSMo 2000,¹ the parties hereto waive the right to a hearing by the Administrative Hearing Commission of the State of Missouri and, additionally, the right to a disciplinary hearing before the Board under § 621.110, RSMo Supp. 2010. The Board, Foster, Foster & Sons, and Foster & Sons Funeral Home, jointly stipulate and agree that a final disposition of this matter may be effectuated as described below pursuant to § 621.045, RSMo Supp. 2010.

¹ All statutory citations are to the 2000 Revised Statutes of Missouri unless otherwise noted.

Foster, Foster & Sons, and Foster & Sons Funeral Home, acknowledge that they understand the various rights and privileges afforded them by law, including the right to a hearing of the charges against them; the right to appear and be represented by legal counsel; the right to have all charges proven upon the record by competent and substantial evidence; the right to cross-examine any witnesses appearing against them at the hearing; the right to present evidence on their behalf at the hearing; the right to a decision upon the record of the hearing by a fair and impartial administrative hearing commissioner concerning the charges pending against them; the right to a ruling on questions of law by the Administrative Hearing Commission; the right to a disciplinary hearing before the Board at which time Foster, Foster & Sons, and Foster & Sons Funeral Home may present evidence in mitigation of discipline; the right to a claim for attorney fees and expenses; and the right to obtain judicial review of the decisions of the Administrative Hearing Commission and the Board.

Being aware of these rights provided to them by law, Foster, Foster & Sons, and Foster & Sons Funeral Home, knowingly and voluntarily waive each and every one of these rights and freely enter into this Settlement Agreement and agree to abide by the terms of this document as they pertain to them.

Foster, Foster & Sons, and Foster & Sons Funeral Home, acknowledge that they have received a copy of documents that were the basis upon which the Board determined there was cause for discipline, along with citations to law and/or regulations the Board

believes were violated. Foster, Foster & Sons, and Foster & Sons Funeral Home, stipulate that the factual allegations contained in this Settlement Agreement are true and stipulate with the Board that Foster's license as a embalmer, license no. 005469, and funeral director, license no. 000890, Foster & Sons' license as a funeral home establishment, license no. 2004021704, Foster & Sons Funeral Home's licenses as funeral home establishments, license no. 001502 and no. 002397, are subject to disciplinary action by the Board in accordance with the relevant provisions of Chapter 621, RSMo, and Chapter 333, RSMo, as amended.

The parties stipulate and agree that the disciplinary order agreed to by the Board and Foster, Foster & Sons, and Foster & Sons Funeral Home, in Part II herein is based only on the agreement set out in Part I herein. Foster, Foster & Sons, and Foster & Sons Funeral Home, understand that the Board may take further disciplinary action against them based on facts or conduct not specifically mentioned in this document that are either now known to the Board or may be discovered.

I.

Joint Stipulation of Facts and Conclusions of Law

Based upon the foregoing, the Board and Foster herein jointly stipulate to the following:

1. Theodore V. Foster, Sr. ("Foster") was licensed by the Board as an embalmer, License No. 005469. At all relevant times herein, Foster's license was active and current. Foster's license was suspended pursuant to § 324.010, RSMo, on or about

October 12, 2010, for failure to comply with the Department of Revenue on tax compliance. To date, it remains suspended.

2. Foster was licensed by the Board as a funeral director, License No. 000890. At all relevant times herein, Foster's funeral director license was active and current. Foster's funeral director license was suspended pursuant to § 324.010, RSMo, on or about October 12, 2010, for failure to comply with the Department of Revenue on tax compliance. To date, it remains suspended.

3. Foster was the registered funeral director in charge ("FDIC") for Ted Foster & Sons Funeral Home, Inc., and Ted Foster & Sons, Inc., as such had a duty to manage all aspects of the businesses, including the filing of notice to the Board of each individual businesses' intent to cease business.

4. Ted Foster & Sons Funeral Home, Inc. ("Foster & Sons Funeral Home") held funeral establishment licenses in the following locations in St. Louis, Missouri: 1207, 1221-1225 North Grand Avenue, License No. 001502; and 3737 Olive Street, License No. 002397. The Olive Street and Grand Avenue licenses were current and active until December 31, 2009, but business operations ceased in or about December 2007. Foster & Sons Funeral Home is a Missouri corporation, Charter No. 00854866, and is in good standing. Its principal place of business is 1811 Veronica Street, St. Louis, Missouri 63136.

5. Ted Foster & Sons, Inc. ("Foster & Sons") held a funeral establishment license for 10192 Halls Ferry Road, License No. 2004021704. The Halls Ferry license was current and active until December 31, 2009, but business operations ceased in or about July 2008. Foster & Sons is a Missouri corporation, Charter No. 00216634, and was administratively dissolved on February 8, 2008.

6. Foster & Sons Funeral Home held a preneed provider registration at the Grand location, Registration No. P00332. At all times relevant herein, the registration was active and current. On May 13, 2008, Foster filed written notification to the Board of intent to cease business for this preneed provider registration.

7. Foster & Sons held a preneed seller registration at the Halls Ferry location, Registration No. S00461. At all times relevant herein, the registration was active and current. On June 11, 2008, Foster & Sons filed written notification to the Board of intent to cease business for this preneed seller registration.

8. Foster & Sons held a preneed provider registration at the Halls Ferry location, Registration No. 2004021703. At all times relevant herein, the registration was active and current. On June 11, 2008, Foster & Sons filed written notification to the Board of intent to cease business for this preneed provider registration.

9. Because Foster was the FDIC for Foster & Sons Funeral Home, references herein to Foster are also references to Foster & Sons Funeral Home and vice versa.

10. Because Foster was the FDIC for Foster & Sons, references herein to Foster are also references to Foster & Sons and vice versa.

Applicable Law

11. Section 333.121, RSMo, sets forth the grounds for discipline for funeral directors, embalmers, and funeral establishments and provides in pertinent part:

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered his certificate of registration or authority, permit or license for any one or any combination of the following causes:

....

(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of any profession licensed or regulated by this chapter;

(6) Violation of, or assisting or enabling any person to violate, any provision of this chapter, or of any lawful rule or regulation adopted pursuant to this chapter;

....

(13) Violation of any professional trust or confidence;

....

(15) Violation of any of the provisions of chapter 193, RSMo, chapter 194, RSMo, or chapter 436, RSMo[.]

12. Section 436.015, RSMo, states in pertinent part:

2. Each provider shall under one or more preneed contracts shall:

....

(2) File annually with the state board a report which shall contain:

(a) The business name or names of the provider and all addresses from which it engages in the practice of its business;

(b) The name and address of each seller with whom it has entered into a written agreement since last filing a report;

(c) The name and address of the custodian of its books and records containing information about preneed contract sales and services;

....

(4) At least thirty days prior to selling or otherwise disposing of its business assets, or its stock if a corporation, or ceasing to do business, give written notification to the state board and to all sellers with whom it has one or more preneed contracts of its intent to engage in such sale or to cease doing business. In the case of a sale of assets or stock, the written notice shall also contain the name and address of the purchaser. Upon receipt of such written notification, the state board may take reasonable and necessary action to determine that any preneed contracts which the provider is obligated to service will be satisfied at the time of need. The state board may waive the requirements of this subsection, or may shorten the period of notification whenever in its discretion it determines that compliance with its provisions are not necessary. Failure of the state board to take action regarding such sale or termination of business within thirty days shall constitute such a waiver.

13. Section 436.021, RSMo, states in pertinent part:

2. Each seller shall under one or more preneed contracts shall:

....

(3) File annually with the state board a signed and notarized report on forms provided by the state board. Such a report shall only contain:

(a) The date the report is submitted and the date of the last report;

(b) The name and address of each provider with whom it is under contract;

(c) The total number of preneed contracts sold in Missouri since the filing of the last report;

(d) The total face value of all preneed contracts sold in Missouri since the filing of the last report;

(e) The name and address of the financial institution in Missouri in which it maintains the trust accounts required under the provisions of sections 436.005 to 436.071 and the account numbers of such trust accounts;

(f) A consent authorizing the state board to order an examination and if necessary an audit by staff of the division of professional registration who are not connected with the board of the trust account, designated by depository and account number. The staff of the division of professional registration in conducting the audit shall not release a detailed accounting of the trust account to the board unless there exist circumstances indicating that the account does not comply with the requirements of sections 436.005 to 436.071, but shall provide the board with a summary of the examination or audit showing general compliance with the provisions of

sections 436.005 to 436.071;

3. Prior to selling or otherwise disposing of a majority of its business assets, or a majority of its stock if a corporation, or ceasing to do business as a seller, the seller shall provide written notification to the state board of its intent to engage in such sale at least sixty days prior to the date set for the closing of the sale, or of its intent to cease doing business at least sixty days prior to the date set for termination of its business.

Preneed Provider Failure to Report

14. In or around June 2007, properties belonging to Foster & Sons and/or Foster & Sons Funeral Home were sold at foreclosure sales. Those properties were:

- a. 10192 Halls Ferry Road, St. Louis, Missouri;
- b. 1207, 1221-1225 North Grand, St. Louis, Missouri; and
- c. 3737 Olive Street, St. Louis, Missouri.

15. Foster & Sons Funeral Home was evicted from the Olive Street and Grand locations on or about December 12, 2007; and Foster & Sons was evicted from the Halls Ferry Road location on or about April 12, 2008.

16. The foreclosure sale and eviction from these properties represented the disposing of a majority of Foster & Sons business assets and the majority of Foster & Sons Funeral Home business assets.

17. Pursuant to § 436.015.2, RSMo, Foster & Sons, Foster, and Foster & Sons Funeral Home, as preneed providers, were required to provide written notice to the Board at least 30 days prior to the disposing of the majority of their business assets.

18. On or about May 13, 2008, Foster & Sons and Foster & Sons Funeral Home filed a notice with the Board that, as preneed providers, they intended to sell assets and was to cease doing business after the disposal of their business assets.

19. Foster & Sons and Foster & Sons Funeral Home failed to supply written notice to the Board within at least 30 days of the disposing of the majority of their business assets.

20. Based on the aforementioned conduct, Foster & Sons is in violation of § 436.015.2, RSMo, and thus provides cause for the Board to discipline Foster & Sons' funeral home establishment license pursuant to § 333.121.2(15), RSMo.

21. Based on the aforementioned conduct, Foster & Sons Funeral Home is in violation of § 436.015.2, RSMo, and thus provides cause for the Board to discipline Foster & Sons Funeral Home's funeral home establishment license pursuant to § 333.121.2(19), RSMo.

22. Foster, as FDIC for Foster & Sons and Foster & Sons Funeral Home, had a duty to ensure that both corporate entities complied with the laws regulating funeral homes.

23. Foster's conduct, as FDIC for both of the above-mentioned corporate entities, in violation of his duty to ensure compliance with the law as a FDIC constitutes incompetence, misconduct, or gross negligence in the performance of the functions and duties of a funeral director and thus cause exists for the Board to discipline Foster's embalmer's and funeral director's licenses pursuant to § 333.121.2(5), RSMo.

24. Based on the aforementioned conduct, Foster, as FDIC, in violation of his duty to ensure compliance with the law as a FDIC, assisted in enabling Foster & Sons and Foster & Sons Funeral Home to violate § 436.015.2, RSMo, and thus cause exists for the Board to discipline Foster's embalmer's and funeral director's licenses pursuant to § 333.121.2(6), RSMo.

25. Foster's conduct as outlined above, including, but not limited to, his failing to timely notify the Board of the impending disposal of a majority of business assets, constitutes incompetence, misconduct, or gross negligence in the performance of the functions and duties of an embalmer or funeral director, and thus provides grounds for the Board to discipline Foster's embalmer's and funeral director's licenses pursuant to § 333.121.2(5), RSMo.

Preced Seller Failure to Report

26. In or around June 2007, properties belonging to Foster & Sons and/or Foster & Sons Funeral Home were sold at foreclosure sales. Those properties were:

- a. 10192 Halls Ferry Road, St. Louis, Missouri;

b. 1207, 1221-1225 North Grand, St. Louis, Missouri; and

c. 3737 Olive Street, St. Louis, Missouri.

27. Foster & Sons Funeral Home was evicted from the Olive Street and Grand locations on or about December 12, 2007; and Foster & Sons was evicted from the Halls Ferry Road location on or about April 12, 2008.

28. The foreclosure sales of and evictions from these properties represented the disposing of a majority of Foster & Sons' and/or Foster & Sons Funeral Home's business assets.

29. Pursuant to § 436.021.3, RSMo, as a preneed seller, Foster & Sons was required to provide written notice to the Board at least 60 days prior to the disposing of the majority of its business assets.

30. On or about June 11, 2008, Foster & Sons filed a notice with the Board that as a preneed seller, it intended to sell assets and to cease doing business after the disposal of its business assets.

31. Based on the aforementioned conduct, Foster & Sons is in violation of § 436.021.3, RSMo, and thus cause exists for the Board to discipline Foster & Sons' establishment license pursuant to § 333.121.2(15), RSMo.

32. Foster, as FDIC for Foster & Sons and Foster & Sons Funeral Home, had a duty to ensure that both corporate entities complied with the laws regulating funeral homes.

33. Based on the aforementioned conduct, Foster, as FDIC, in violation of his duty to ensure compliance with the law as a FDIC enabled Foster & Sons to violate § 436.021.3, RSMo, and thus cause exists for the Board to discipline Foster's embalmer's and funeral director's licenses pursuant to § 333.330.2(6), RSMo Cum. Supp. 2009.

34. Foster's conduct as outlined above, in the capacity as FDIC for the above-mentioned corporate entities is in violation of his duty to ensure compliance with the law as a FDIC, and including, but not limited to, the failing to timely notify the Board of the impending disposal of a majority of business assets, constitutes incompetence, misconduct, or gross negligence in the performance of the functions and duties of an embalmer or funeral director, and thus provides grounds for the Board to discipline Foster's embalmer's and funeral director's licenses pursuant to § 333.121.2(5), RSMo.

Preneed Provider Failure to File Annual Report

35. Foster & Sons was registered as a preneed provider, Registration No. 2004021703, until a written ceasement of business notification was filed with the Board on May 13, 2008.

36. Foster & Sons Funeral Home was registered as a preneed provider, Registration No. P00332, until a written ceasement of business notification was filed with the Board on May 13, 2008.

37. As preneed providers, Foster & Sons and Foster& Sons Funeral Home were required to file annual reports pursuant to § 436.015.2(2), RSMo.

38. Foster & Sons and Foster & Sons Funeral Home failed to file preneed provider annual reports for 2007.

39. Based on the conduct described above, Foster & Sons Funeral Home is in violation of § 436.015.2(2), thus providing cause for the Board to discipline Foster & Sons Funeral Home's establishment license pursuant to § 333.121.2(15), RSMo.

40. Based on the conduct described above, Foster & Sons is in violation of § 436.015.2(2), thus providing cause for the Board to discipline Foster & Sons' establishment license pursuant to § 333.121.2(15), RSMo.

41. Foster, as FDIC for Foster & Sons and Foster & Sons Funeral Home, had a duty to ensure that both corporate entities complied with the laws regulating funeral homes.

42. Foster's conduct in violation of his duty as FDIC for the aforementioned corporate entities to ensure compliance with the law, and including but not limited to, failing to ensure the filing of the annual preneed provider reports, constitutes incompetence, misconduct, or gross negligence in the performance of the functions and duties of an embalmer or funeral director, and thus provides grounds for the Board to discipline Foster's embalmer's and funeral director's licenses pursuant to § 333.121.2(5), RSMo.

43. Based on the aforementioned conduct and because Foster, as FDIC for the aforementioned corporate entities, violated his duty as FDIC to ensure compliance with

the law, enabled Foster & Sons Funeral Home and Foster & Sons to violate § 436.015.2(2), RSMo, and thus cause exists for the Board to discipline Foster's embalmer's and funeral director's licenses pursuant to § 333.121.2(6), RSMo.

Preneed Seller Failure to File Annual Report

44. Foster & Sons was registered as a preneed seller, Registration No. S00461, until a ceasement notification was filed with the Board on June 11, 2008.

45. As a preneed seller, Foster & Sons was required to file an annual report pursuant to § 436.021.2(2), RSMo.

46. Foster & Sons failed to file a preneed seller annual report for 2007.

47. Foster, as FDIC for Foster & Sons and Foster & Sons Funeral Home, had a duty to ensure that both corporate entities complied with the laws regulating funeral homes.

48. Foster's conduct, as FDIC for the aforementioned corporate entities, violated his FDIC duty to ensure compliance with the law, and including, but not limited to, failing to ensure the filing of the annual preneed seller reports, constitutes incompetence, misconduct, or gross negligence in the performance of the functions and duties of an embalmer or funeral director, and thus provides grounds for the Board to discipline Foster's embalmer's and funeral director's licenses pursuant to § 333.121.2(5), RSMo.

49. Based on the conduct described above, Foster & Sons is in violation of § 436.021.2(2), thus providing cause for the Board to discipline Foster & Sons' establishment license pursuant to § 333.121.2(15), RSMo.

50. Based on the conduct described above, Foster, as FDIC with a duty to ensure compliance with the law, is in violation of § 436.021.2(2), thus providing cause for the Board to discipline Foster's embalmer's and funeral director's licenses pursuant to § 333.121.2(15), RSMo.

Headstones

51. Foster, as a funeral director, held a professional trust and confidence to the next of kin of the deceased and to the public at large that he served.

52. Foster & Sons Funeral Home, as a funeral home, held a professional trust and confidence to the next of kin of the deceased and to the public at large that it served.

53. In or around 1993, Foster was involved in producing at least 22 headstones for a cemetery relocation project spurred by the expansion of the St. Louis City Airport from the Washington Park Cemetery.

54. Twenty-two of the headstones were not ultimately used, despite having the names and dates of decedents on them because of disagreement by family members of the deceased on the accuracy of the information. These and other headstones remained in the possession of Foster.

55. In December 2007, Foster was evicted from his business location on Olive Street in St. Louis, Missouri.

56. Upon eviction, Foster & Sons Funeral Homes failed to remove the headstones and abandoned them in the building without any records or documentation.

57. These headstones were later moved outside of the building by the new occupant of the building, and for several weeks were left lining an adjacent sidewalk to the consternation of relatives of the deceased and the public at large who frequented the area.

58. By on or about January 24, 2008, Foster finally collected the headstones and placed them in a trailer.

59. Foster & Sons Funeral Home's conduct, as outlined above, including, but not limited to, the abandonment of the headstones, constitutes a violation of the professional trust or confidence that Foster & Sons Funeral Home had to the next of kin of the deceased and the public at large as a licensed funeral establishment, and thus provides grounds for the Board to discipline Foster & Sons Funeral Home's funeral establishment license pursuant to § 333.121.2(13), RSMo.

Failure to Notify

60. Foster, as a funeral director, held a professional trust and confidence to the next of kin of the deceased that he served.

61. Foster & Sons, as a funeral home, held a professional trust and confidence to the next of kin of the deceased that it served.

62. In or around April 11, 2008, Foster, as the registered FDIC of Foster & Sons, oversaw the eviction of Foster & Sons from its Halls Ferry location.

63. Despite having bodies belonging to families in his possession, Foster failed to contact the families in advance to provide notice of the eviction and subsequent removal of the family members' loved one's bodies.

64. Foster's conduct, as outlined above, in the capacity of FDIC for Foster & Sons, including, but not limited to, failure to provide notice to families on the eviction and subsequent removal of the aforementioned bodies, constitutes incompetence, misconduct, or gross negligence in the performance of the functions and duties of a funeral director, and thus provides grounds for the Board to discipline Foster's funeral director's license pursuant to § 333.121.2(5), RSMo.

65. Foster's conduct, as outlined above, in the capacity of FDIC for both corporate entities, including, but not limited to, failure to provide notice to families on the eviction and subsequent removal of the aforementioned bodies, constitutes a violation of the professional trust or confidence that Foster had to the next of kin of the deceased as a licensed funeral director, and thus provides grounds for the Board to discipline Foster's funeral director's license pursuant to § 333.121.2(13), RSMo.

66. Foster & Sons' conduct, as outlined above, including, but not limited to, failure to provide notice to families on the eviction and subsequent removal of the aforementioned bodies, constitutes incompetence, misconduct, or gross negligence in the performance of the functions and duties of a funeral establishment, and thus provides grounds for the Board to discipline Foster & Sons' funeral establishment's license pursuant to § 333.121.2(5), RSMo.

67. Foster & Sons' conduct, as outlined above, including, but not limited to, failure to provide notice to families on the eviction and subsequent removal of the aforementioned bodies, constitutes a violation of the professional trust or confidence that Foster & Sons had to the next of kin of the deceased as a licensed funeral home, and thus provides grounds for the Board to discipline Foster & Sons' funeral establishment's license pursuant to § 333.121.2(13), RSMo.

II. Joint Agreed Disciplinary Order

Based on the foregoing, the parties mutually agree and stipulate that the following shall constitute the disciplinary order entered by the Board in this matter under the authority of § 536.060, RSMo, and §§ 621.045.3 and 621.110, RSMo Cum. Supp. 2009.

68. Foster's license is suspended, followed by a period of probation.
Foster's license as a funeral director is hereby SUSPENDED for a period of 3 YEARS, and shall immediately thereafter be placed on PROBATION for a period of 2 YEARS. The periods of suspension and probation shall constitute the "disciplinary period."

During the period of suspension, Foster shall not be entitled to practice as a embalmer pursuant to Chapter 333, RSMo. During the period of probation, Foster shall be entitled to practice as a embalmer under Chapter 333, RSMo, provided Foster adheres to all the terms of this Settlement Agreement.

69. Foster's license is suspended, followed by a period of probation.

Foster's license as an embalmer is hereby SUSPENDED for a period of 3 YEARS, and shall immediately thereafter be placed on PROBATION for a period of 2 YEARS. The periods of suspension and probation shall constitute the "disciplinary period." During the period of suspension, Foster shall not be entitled to practice as an embalmer pursuant to Chapter 333, RSMo. During the period of probation, Foster shall be entitled to practice as an embalmer under Chapter 333, RSMo, provided Foster adheres to all the terms of this Settlement Agreement.

70. Foster & Sons Funeral Home's licenses are revoked and all indicia of licensure shall be surrendered immediately. Foster & Sons Funeral Home's licenses as funeral establishments are hereby REVOKED and ALL INDICIA OF LICENSURE SHALL BE SURRENDERED IMMEDIATELY upon this Settlement Agreement becoming effective.

71. Foster & Sons's license is revoked and all indicia of licensure shall be surrendered immediately. Foster & Son's license as a funeral home establishment is

hereby REVOKED and ALL INDICIA OF LICENSURE SHALL BE SURRENDERED IMMEDIATELY upon this Settlement Agreement becoming effective.

72. Terms and conditions of the disciplinary period. The terms and conditions of the disciplinary period are as follows:

73. Licensee shall comply with the following terms and conditions of probation during the Disciplinary Period:

General Requirements

A. Licensee shall keep the Board informed of Licensee's current work and home telephone numbers and addresses. Licensee shall notify the Board in writing within ten (10) business days of any change in this information. If Licensee utilizes e-mail, Licensee shall provide the Board with his current and active e-mail address;

B. Licensee shall comply with all applicable provisions of Chapters 194, 333 and 436, RSMo, all Board regulations and all federal, state and local laws and regulations related to business operations in the funeral and death care industry including all insurance and security laws applicable to any insurance or annuity used to fund preneed funeral contracts;

C. Licensee shall engage in no conduct that would give the Board cause to seek authority to discipline from the Administrative Hearing Commission;

D. Licensee shall meet in person with the Board or any Board representative at any such time and place as required by the Board or its representative upon reasonable notice. Any such meetings shall be at the Board's discretion;

E. Licensee shall submit written compliance reports to the Board no later than January 1 and July 1 of each year, but no compliance report shall be filed more than 14 days before it is due. Each of these compliance reports shall state truthfully whether there has been full compliance with the terms and conditions of this Order for the previous six month period and shall fully explain any non-compliance. These compliance reports shall contain all other information required by this Order. Compliance reports may be submitted on a form provided by the Board, but failure to receive such a form from the Board shall not excuse the timely filing of any compliance report;

F. Upon the request by the Board or its representative, Licensee shall immediately submit any and all records requested to show compliance with these terms and conditions;

G. Licensee shall renew timely all licenses and/or registrations, shall pay timely all fees required for licensure/registration and shall meet all other requirements necessary to maintain all licenses and registrations issued by the Board current and active;

H. Licensee shall accept and cooperate with unannounced visits from the Board, or its representatives, to monitor compliance with the terms and conditions of probation;

I. Licensee shall not serve as the supervisor of any funeral director apprentice or embalmer practicum student or embalmer apprentice without the express written consent of the Board. If Licensee seeks to supervise an apprentice, Licensee shall submit a written request to the Board that includes the name and address of the potential apprentice and a description of Licensee's ability to properly supervise an apprentice. No such apprenticeship shall commence until the Board has given its consent for Licensee to supervise the apprentice;

J. Licensee shall provide a copy of this Order to any employer engaged in the funeral industry within 5 business days of the commencement of his employment or within 5 days of Licensee's receipt of this Order;

74. Upon the expiration of the disciplinary period, the licenses of Foster shall be fully restored if all requirements of law have been satisfied; provided, however, that in the event the Board determines that Foster has violated any term or condition of this Settlement Agreement, the Board may, in its discretion, after an evidentiary hearing, vacate and set aside the discipline imposed herein and may suspend, revoke or otherwise lawfully discipline Foster's licenses.

75. No additional discipline shall be imposed by the Board pursuant to the preceding paragraph of this Settlement Agreement without notice and opportunity for hearing before the Board as a contested case in accordance with the provisions of Chapter 536, RSMo.

76. This Settlement Agreement does not bind the Board or restrict the remedies available to it concerning any future violations by Foster, Foster & Sons Funeral Home, or Foster & Sons, of Chapter 333, RSMo, as amended, or the regulations promulgated thereunder, or of the terms and conditions of this Settlement Agreement.

77. This Settlement Agreement does not bind the Board or restrict the remedies available to it concerning facts or conduct not specifically mentioned in this Settlement Agreement that are either now known to the Board or may be discovered.

78. If any alleged violation of this Settlement Agreement occurs during the disciplinary period, the parties agree that the Board may choose to conduct a hearing before it either during the disciplinary period, or as soon thereafter as a hearing can be held, to determine whether a violation occurred and, if so, may impose further disciplinary action. Foster, Foster & Sons, and Foster & Sons Funeral Home agree and stipulate that the Board has continuing jurisdiction to hold a hearing to determine if a violation of this Settlement Agreement has occurred.

79. Each party agrees to pay all their own fees and expenses incurred as a result of this case, its litigation, and/or its settlement.

80. The terms of this Settlement Agreement are contractual, legally enforceable, and binding, not merely recital. Except as otherwise contained herein, neither this Settlement Agreement nor any of its provisions may be changed, waived, discharged, or terminated, except by an instrument in writing signed by the party against whom the enforcement of the change, waiver, discharge, or termination is sought.

81. The parties to this Settlement Agreement understand that the Board will maintain this Settlement Agreement as an open record of the Board as required by Chapters 333, 610, and 324, RSMo, as amended.

82. Foster, Foster & Sons, and Foster & Sons Funeral Home, together with their partners, shareholders, officers, directors, heirs, assigns, agents, employees, representatives and attorneys, does hereby waive, release, acquit and forever discharge the Board, its respective members, employees, agents and attorneys including former members, employees, agents and attorneys, of, or from any liability, claim, actions, causes of action, fees, costs, expenses and compensation, including, but not limited to, any claim for attorney's fees and expenses, whether or not now known or contemplated, including, but not limited to, any claims pursuant to § 536.087, RSMo (as amended), or any claim arising under 42 U.S.C. § 1983, which now or in the future may be based upon, arise out of, or relate to any of the matters raised in this case or its litigation or from the negotiation or execution of this Settlement Agreement. The parties acknowledge that this paragraph is severable from the remaining portions of the Settlement Agreement in that it survives

in perpetuity even in the event that any court or administrative tribunal deems this agreement or any portion thereof void or unenforceable.

83. Foster, Foster & Sons, and Foster & Sons Funeral Home, understands that they may, either at the time the Settlement Agreement is signed by all parties, or within fifteen days thereafter, submit the agreement to the Administrative Hearing Commission for determination that the facts agreed to by the parties constitute grounds for disciplining Foster's, Foster & Sons', Foster & Sons Funeral Homes' licenses. If Foster, Foster & Sons, and/or Foster & Sons Funeral Home desire the Administrative Hearing Commission to review this Settlement Agreement, Foster may submit his request to: Administrative Hearing Commission, Truman State Office Building, Room 640, 301 W. High Street, P.O. Box 1557, Jefferson City, Missouri 65102.

84. If Foster, Foster & Sons, and/or Foster & Sons Funeral Home, request review, this Settlement Agreement shall become effective on the date the Administrative Hearing Commission issues its order finding that the Settlement Agreement sets forth cause for disciplining Foster's, Foster & Sons', and Foster & Sons Funeral Homes' licenses. If the Administrative Hearing Commission issues an order stating that the Settlement Agreement does not set forth cause for discipline, then the Board may proceed to seek discipline against Foster, Foster & Sons, and/or Foster & Sons Funeral Home, as allowed by law. If Foster, Foster & Sons, and/or Foster & Sons Funeral Home, do not request review by the Administrative Hearing Commission, then this Settlement

Agreement goes into effect 15 days after the document is signed by the Executive Director of the Board.

LICENSEE

Theodore V. Foster 12-21-11
Theodore V. Foster, Sr. Date

LICENSEE

Theodore V. Foster 12-21-11
Foster & Sons, Inc Date

LICENSEE

Theodore V. Foster, Sr. 12-21-11
Foster & Sons Funeral Home, Inc. Date

MISSOURI STATE BOARD OF
EMBALMERS AND FUNERAL
DIRECTORS

Sandy Sebastian
Sandy Sebastian, Executive Director
Date: 1-9-12

CHRIS KOSTER
Attorney General

Ross A. Brown
Ross A. Brown
Assistant Attorney General
Missouri Bar No. 62771

Supreme Court Building
207 West High Street
P.O. Box 899
Jefferson City, MO 65102
Telephone: 573-751-4087
Telefax: 573-751-5660
Attorneys for the Board

State Board of Embalmers and Funeral Directors
P.O. Box 423, 3605 Missouri Boulevard
Jefferson City, Missouri 65102

Dear Board:

On this ___ day of _____, 20____, I, _____, hereby truthfully
(name of licensee/registrant)
state that I have been in full compliance with all terms and conditions of my discipline including the following
which I have initialed to indicate my compliance:

- _____ 1. Notified the Board within 10 days of any address or telephone number changes, and if applicable, email addresses.
- _____ 2. Timely renewed all licenses, as applicable.
- _____ 3. Abided by all provisions of Chapter 333, RSMo and corresponding regulations.
- _____ 4. Abided by all provisions of Chapter 436, RSMo and corresponding regulations.
- _____ 5. Appeared/testified when requested by the Board.
- _____ 6. Complied with unannounced visits from the Board's duly authorized representatives, if applicable.
- _____ 7. To the best of my knowledge I have complied with all stipulations.

Additional comments:

Signature of Licensee

Licensee Printed Name

7009 2250 0001 4911 0834

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery info mail.gov visit our website at www.usps.com

OFFICIAL USE

Postage	\$	Postmark Here
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$	

38

38110
 Street, Apt. No. or PO Box No. Thesdale Foster St.
1230 Postgrave Dr
 City, State, ZIP+4[®] St. Louis MO 63146

SENDER COMPLETE THIS SECTION

- Complete Items 1, 2, and 3. Also complete Item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Thesdale Foster St.
1230 Postgrave Dr.
St. Louis mo
63146

2. Article Number
(Transfer from service label)

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
 Addressee

B. Received by *(Printed Name)* C. Date of Delivery

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below No

RECEIVED
 JAN 23 2012
 STATE BOARD OFFICE

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? *(Extra Fee)* Yes

7009 2250 0001 4911 0834

BEFORE THE STATE BOARD OF EMBALMERS AND FUNERAL DIRECTORS
STATE OF MISSOURI

FILED

JAN 31 2013

Board of Embalmers & Funeral Directors 85

CASE NO. EMB-13-002-PV

STATE BOARD OF EMBALMERS AND)
FUNERAL DIRECTORS,)
)
PETITIONER,)
)
V.)
)
OFFICER MORTUARY, LLC,)
1905 N. UNION BOULEVARD)
ST. LOUIS, MISSOURI 63113)
)
RESPONDENT.)

SERVE: RANDALL C. CAHILL, REGISTERED AGENT
906 OLIVE STREET, SUITE 1250
ST. LOUIS, MISSOURI 63101

PROBATION VIOLATION COMPLAINT

COMES NOW, the State Board of Embalmers and Funeral Directors (the "Board") and for its Probation Violation Complaint against Respondent Office Mortuary, LLC ("Officer Mortuary" or "Licensee"), states:

The Parties and Licenses

1. The Board is an agency of the state of Missouri created and established by Section 333.151, RSMo¹, for the purposes of executing and enforcing the provisions of Chapter 333, RSMo, and the portions of Chapter 436, RSMo, related to preneed funeral contracts.

¹ All statutory references are to the Revised Statutes of Missouri (2000), as amended, unless otherwise indicated.

2. Officer Mortuary is a Missouri limited liability company that has registered its address with the Board at 1905 N. Union Boulevard, St. Louis, Missouri 63113.

3. Officer Mortuary holds the following licenses issued by the Board:

- a. Funeral Establishment license number 201100378, current and active, subject to probation;
- b. Seller license number 2011040380, lapsed, subject to probation and suspended for failure to file its annual report due October 31, 2012;
- c. Provider license number 2011040379, lapsed and subject to probation.

4. Marion E. Officer, Jr., acting on behalf of Officer Mortuary, met with the Board on September 29, 2011 to discuss with the Board the applications of Officer Mortuary for licensure as an establishment, a provider and a seller.

5. By letter dated December 14, 2011, the Board mailed to Officer Mortuary its establishment, seller and provider licenses along with an Order from the Board for each license and the forms Officer Mortuary would need to complete to comply with the conditions of its probations. A true and accurate copy of this letter with its accompanying compliance form and copies of the licenses is attached to this Complaint as Exhibit A and incorporated herein by reference as if fully set forth in this Complaint.

6. On December 13, 2011, the Board issued its "Order Issuing Probated Funeral Establishment License to Officer Mortuary LLC" the (the "Probated Establishment Order"). A true and accurate copy of the Probated Establishment Order is attached as Exhibit B to this Complaint and incorporated herein by reference as if fully set forth in this Complaint.

7. On December 13, 2011, the Board issued its "Order Issuing Probated Seller License to Officer Mortuary LLC" (the "Probated Seller Order"). A true and accurate copy of the Probated Seller Order is attached as Exhibit C to this complaint and incorporated herein by reference as if fully set forth in this Complaint.

8. On December 13, 2011, the Board issued its "Order Issuing Probated Provider License to Officer Mortuary LLC" (the "Probated Provider Order"). A true and accurate copy of the Probated Provider Order is attached as Exhibit D to this complaint and incorporated herein by reference as if fully set forth in this Complaint.

9. In the Probated Establishment Order, the Probated Seller Order and the Probated Provider Order, the Board found cause to deny the applications of Officer Mortuary for each of these licenses for the same causes of unlicensed practice as an establishment, unlicensed practice as a provider, failure to disclose prior discipline, and discipline imposed by another state. This conduct provided cause to deny pursuant to Sections 333.330.2(4), (5), (6), (7), (11), and (14), RSMo.

10. In lieu of denial, the Board issued Officer Mortuary probated establishment, probated seller and probated provider licenses, subject to Officer Mortuary's compliance with specified terms and conditions.

11. Officer Mortuary's terms and conditions of probation are the same for each probated license.

12. The terms and conditions of probation, found in paragraph 30 of the Probated Establishment Order, and in paragraph 32 of the Probated Seller Order, and in paragraph 31 of the Probated Provider Order, include:

- a. Licensee shall keep the Board informed of Licensee's current telephone numbers and addresses. Licensee shall notify the

Board in writing within ten (10) business days of any change in this information. If Licensee utilizes e-mail, Licensee shall provide the Board with its current and active e-mail address;

b. Licensee shall comply with all applicable provisions of Chapters 194, 333 and 436, RSMo, all Board regulations and all federal, state and local laws and regulations related to business operations in the funeral and death care industry including all insurance and security laws applicable to any insurance or annuity used to fund preneed funeral contracts;

c. Licensee shall engage in no conduct that would give the Board cause to seek authority to discipline from the Administrative Hearing Commission;

* * *

e. Licensee shall submit written compliance reports to the Board no later than January 1 and July 1 of each year, but no compliance report shall be filed more than 14 days before it is due. Each of these compliance reports shall state truthfully whether there has been full compliance with the terms and conditions of this Order for the previous six month period and shall fully explain any non-compliance. These compliance reports shall contain all other information required by this Order. Compliance reports may be submitted on a form provided by the Board, but failure to receive such a form from the Board shall not excuse the timely filing of any compliance report;

* * *

g. Licensee shall renew timely all licenses and/or registrations, shall pay timely all fees required for licensure/registration and shall meet all other requirements necessary to maintain all licenses and registrations issued by the Board current and active; and

Failure to file written compliance reports

13. Officer Mortuary's written reports of compliance were due with the Board on or before January 1, 2012, on or before July 1, 2012, and on or before January 1, 2013 for each probated license.

14. Officer Mortuary failed to file with the Board its written reports of compliance due, for each license, on or before January 1, 2012, on or before July 1, 2012, and on or before January 1, 2013.

15. As of the date of filing this Complaint, Officer Mortuary has filed no written reports of compliance with the Board as required as a condition of probation in the Probated Establishment Order, the Probated Seller Order and the Probated Provider Order.

Failure to maintain licenses current and active

16. Officer Mortuary's provider license renewal was due on October 31, 2012.

17. Officer Mortuary's seller license renewal was due on October 31, 2012.

18. Officer Mortuary's seller annual report was due on October 31, 2012.

19. Officer Mortuary did not file its provider license renewal by October 31, 2012 and, as of the date of this Complaint, the provider license has not been renewed, and has lapsed.

20. Officer Mortuary did not file its seller license renewal by October 31, 2012, and, as of the date of this Complaint, the provider license has not been renewed and thus is lapsed.

21. Officer Mortuary did not file its seller annual report by October 31, 2012 nor did it pay its annual reporting fees, and, as of the date of this Complaint, has not filed its seller report nor paid its annual reporting fees. The Board suspended Officer Mortuary's seller license due to failure to file annual report and failure to pay its annual reporting fees pursuant to Section 436.460.7, RSMo. A true and accurate copy of the Board's letter, dated November 8, 2012, to Officer Mortuary notifying it of the seller

license suspension is attached as Exhibit E to this Complaint and incorporated herein by reference as if fully set forth in this Complaint.

Failure to Notify Board of Cease of Operations

22. Upon the Board's information and belief, Officer Mortuary was evicted from its premises located at 1905 N. Union Boulevard, St. Louis, Missouri 63116 as of October 9, 2012.

23. Officer Mortuary no longer has the legal right to occupy the premises for which it is licensed and thus, the funeral establishment license held by Officer Mortuary is no longer valid.

24. Officer Mortuary failed to notify the Board of its eviction.

25. Officer Mortuary failed to notify the board that it would be ceasing operation as a provider sixty days in advance of its cease and, as of the date of filing of this Complaint, Officer Mortuary has not properly notified the Board of its cessation of business as a Provider as required by Section 436.490, RSMo.

26. Officer Mortuary failed to notify the Board that it would be ceasing operation as a seller sixty days prior to its cessation of business and, as of the date of filing this Complaint, Officer Mortuary has not properly notified the Board of its cessation of business as a seller a required by Section 436.500, RSMo.

27. Officer Mortuary has not provided the Board with either a notarized statement from the person assuming its seller obligations nor with a plan detailing how the seller assets will be set aside and used to service the outstanding preneed contracts of Officer Mortuary as required by Section 436.500.2, RSMo.

28. Upon the Board's information and belief, Officer Mortuary continues to act as a seller in Missouri, even though it has held no license to do so since October 31, 2012, the date its seller license lapsed.

29. Upon its eviction, Officer Mortuary has not provided the Board with a current address and telephone number at which it can be reached.

Jurisdiction and Venue

30. The Board possesses jurisdiction over this matter pursuant to Section 324.042, RSMo, and pursuant to paragraphs 31, 32, 33 and 34 of the Probated Establishment Order, paragraphs 33, 34, 35 and 36 of the Probated Seller Order and paragraphs 32, 33, 34, and 35 of the Probated Provider Order.

31. Venue is proper.

Relevant Statutes

32. Section 324.042, RSMo, states:

Any board, commission, or committee within the division of professional registration may impose additional discipline when it finds after hearing that a licensee, registrant, or permittee has violated any disciplinary terms previously imposed or agreed to pursuant to settlement. The board, commission, or committee may impose as additional discipline any discipline it would be authorized to impose in an initial disciplinary hearing.

33. Section 333.315, RSMo, states, in relevant part:

1. No person shall be designated as a provider or agree to perform the obligations of a provider under a preneed contract unless, at the time of such agreement or designation, such person is licensed as a preneed provider by the board. Nothing in this section shall exempt any person from meeting the licensure requirements for a funeral establishment as provided in this chapter.

* * *

3. Each preneed provider shall apply to renew his or her license on or before October thirty-first of each year or a date established by the division of professional registration pursuant to section 324.001. A license which has not been renewed prior to the renewal date shall expire. Applicants for renewal shall:

(1) File an application for renewal on a form established by the board by rule;

(2) Pay a renewal fee in an amount established by the board by rule, however no renewal fee shall be required for any funeral establishment whose Missouri license is current and active;

(3) Be authorized and registered with the Missouri secretary of state to conduct business in Missouri;

(4) File an annual report with the state board which shall contain:

(a) The name and address of a custodian of records responsible for maintaining the books and records of the provider relating to preneed contracts;

(b) The business name or names used by the provider and all addresses from which it engages in the practice of its business;

(c) The name and address of each seller with whom it has entered into a written agreement since last filing an annual report with the board authorizing the seller to designate or obligate the licensee as the provider in a preneed contract; and

(d) Any information required by any other applicable statute or regulation enacted pursuant to state or federal law.

4. A license which has not been renewed as provided by this section shall expire. A licensee who fails to apply for renewal may apply for reinstatement within two years of the renewal date by satisfying the requirements of subsection 3 of this section and paying a delinquent fee as established by the board by rule.

34. Section 333.320, RSMo, states, relevant part:

1. No person shall sell, perform, or agree to perform the seller's obligations under, or be designated as the seller of, any preneed contract unless, at the time of the sale, performance, agreement, or designation, such person is licensed by the board as a seller and authorized and registered with the Missouri secretary of state to conduct business in Missouri.

* * *

3. Each seller shall apply to renew his or her license on or before October thirty-first of each year or a date established by the division of professional registration pursuant to section 324.001. A license which has not been renewed prior to the renewal date shall expire. Applicants for renewal shall:

(1) File an application for renewal on a form established by the board by rule;

(2) Pay a renewal fee in an amount established by the board by rule; and

(3) File annually with the board a signed and notarized annual report as required by section 436.460.

4. Any license which has not been renewed as provided by this section shall expire. A licensee who fails to apply for renewal within two years of the renewal date may apply for reinstatement by satisfying the requirements of subsection 3 of this section and paying a delinquent fee as established by the board by rule.

35. Section 333.330.2, RSMo, states, in relevant part:

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621 against any holder of any certificate of registration or authority, permit, or license required by this chapter, or any person who has failed to renew or has surrendered his or her certificate of registration or authority, permit, or license for any one or any combination of the following causes:

* * *

(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation, or dishonesty in the performance of the functions or duties of any profession licensed or regulated by this chapter;

(6) Violation of, or assisting or enabling any person to violate, any provision of this chapter, or of any lawful rule or regulation adopted pursuant thereto;

* * *

(14) Violation of any professional trust or confidence;

* * *

(19) Violation of any of the provisions of chapter 193, 194, 407, or 436;

* * *

3. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2 of this section, for disciplinary action are met, the board may, singly or in combination, censure or place the person named in the complaint on probation on such terms and conditions as the board deems appropriate for a period not to exceed five years, or may suspend, for a period not to exceed three years, or revoke any certificate of registration or authority, permit, or license issued under this chapter.

36. Section 436.460, RSMo, states:

1. Each seller shall file an annual report with the board which shall contain the following information:

(1) The contract number of each preneed* contract sold since the filing of the last report with an indication of, and whether it is funded by a trust, insurance or joint account;

(2) The total number and total face value of preneed contracts sold since the filing of the last report;

(3) The contract amount of each preneed contract sold since the filing of the last report, identified by contract;

(4) The name, address, and license number of all preneed agents authorized to sell preneed contracts on behalf of the seller;

(5) The date the report is submitted and the date of the last report;

(6) The list including the name, address, contract number and whether it is funded by a trust, insurance or joint account of all Missouri preneed contracts fulfilled, cancelled or transferred by the seller during the preceding calendar year;

(7) The name and address of each provider with whom it is under contract;

(8) The name and address of the person designated by the seller as custodian of the seller's books and records relating to the sale of preneed contracts;

(9) Written consent authorizing the board to order an investigation, examination and, if necessary, an audit of any joint or trust account established under sections 436.400 to 436.520, designated by depository or account number;

(10) Written consent authorizing the board to order an investigation, examination and if necessary an audit of its books and records relating to the sale of preneed contracts; and

(11) Certification under oath that the report is complete and correct attested to by an officer of the seller. The seller or officer shall be subject to the penalty of making a false affidavit or declaration.

2. A seller that sells or has sold trust-funded preneed contracts shall also include in the annual report required by subsection 1** of this section:

(1) The name and address of the financial institution in which it maintains a preneed trust account and the account numbers of such trust accounts;

(2) The trust fund balance as reported in the previous year's report;

(3) The current face value of the trust fund;

(4) Principal contributions received by the trustee since the previous report;

(5) Total trust earnings and total distributions to the seller since the previous report;

(6) Authorization of the board to request from the trustee a copy of any trust statement, as part of an investigation, examination or audit of the preneed seller;

(7) Total expenses, excluding distributions to the seller, since the previous report; and

(8) Certification under oath that the information required by subdivisions (1) to (7) of this subsection is complete and correct and attested to by a corporate officer of the trustee. The trustee shall be subject to the penalty of making a false affidavit or declaration.

3. A seller that sells or who has sold joint account-funded preneed contracts shall also include in the annual report required by subsection 1 of this section:

(1) The name and address of the financial institution in Missouri in which it maintains the joint account and the account numbers for each joint account;

(2) The amount on deposit in each joint account;

(3) The joint account balance as reported in the previous year's report;

(4) Principal contributions placed into each joint account since the filing of the previous report;

(5) Total earnings since the previous report;

(6) Total distributions to the seller from each joint account since the previous report;

(7) Total expenses deducted from the joint account, excluding distributions to the seller, since the previous report; and

(8) Certification under oath that the information required by subdivisions (1) to (7) of this subsection is complete and

correct and attested to by an authorized representative of the financial institution. The affiant shall be subject to the penalty of making a false affidavit or declaration.

4. A seller that sells or who has sold any insurance-funded preneed contracts shall also include in the annual report required by subsection 1 of this section:

(1) The name and address of each insurance company issuing insurance to fund a preneed contract sold by the seller during the preceding year;

(2) The status and total face value of each policy;

(3) The amount of funds the seller directly received on each contract and the date the amount was forwarded to any insurance company; and

(4) Certification under oath that the information required by subsections 1 to 3 of this section is complete and correct attested to by an authorized representative of the insurer. The affiant shall be subject to the penalty of making a false affidavit or declaration.

5. Each seller shall remit an annual reporting fee in an amount established by the board by rule for each preneed contract sold in the year since the date the seller filed its last annual report with the board. This reporting fee shall be paid annually and may be collected from the purchaser of the preneed contract as an additional charge or remitted to the board from the funds of the seller. The reporting fee shall be in addition to any other fees authorized under sections 436.400 to 436.520.

6. All reports required by this section shall be filed by the thirty-first day of October of each year or by the date established by the board by rule. Annual reports filed after the date provided herein shall be subject to a late fee in an amount established by rule of the board.

7. If a seller fails to file the annual report on or before its due date, his or her preneed seller license shall automatically be suspended until such time as the annual report is filed and all applicable fees have been paid.

8. This section shall apply to contracts entered into before August 28, 2009.

37. Section 436.490, RSMo, states:

1. A provider that intends to sell or otherwise dispose of all or a majority of its business assets, or its stock if a corporation, shall notify the board at least sixty days prior to selling or otherwise disposing of its business assets or stock, or ceasing to do business as a provider, and shall file a notification report on a form established by the board.

2. The report required by this section shall include:

(1) The name, phone number, and address of the purchasers of any outstanding preneed contract for which the licensee is the designated provider;

(2) The name and license numbers of all sellers authorized to designate the licensee as a provider in a preneed contract;

(3) The name, address, and license number of the provider assuming or agreeing to assume the licensee's obligations as a provider under a preneed contract, if any;

(4) The name, address, and phone number of a custodian who will maintain the books and records of the provider containing information about preneed contracts in which the licensee is or was formerly designated as provider;

(5) A final annual report containing the information required by section 436.460;

(6) The date the provider intends to sell or otherwise dispose of its business assets or stock, or cease doing business; and

(7) Any other information required by any other applicable statute or regulation enacted pursuant to state or federal law.

3. Within three days after the provider sells or disposes of its assets or stock or ceases doing business, the former provider shall notify each seller in writing that the former provider has sold or disposed of its assets or stock or has ceased doing business

38. Section 436.500, RSMo, states:

1. A seller that intends to sell or otherwise dispose of all or a majority of its business assets or its stock shall notify the board at least sixty days prior to selling or otherwise disposing of its assets or stock, or ceasing to do business as a seller, and shall file a notification report on a form established by the board.

2. The report required by this section shall include:

(1) A notarized and signed statement from the person assuming or agreeing to assume the obligations of the seller indicating that the assuming seller has been provided with a copy of the seller's final annual report and has consented to assuming the outstanding obligations of the seller;

(2) In lieu of the notarized statement required by subdivision (1) of this subsection, the seller may file a plan detailing how the assets of the seller will be set aside and used to service all outstanding preneed contracts sold by the seller; and

(3) Any other information required by any other applicable statute or regulation enacted pursuant to state or federal law.

3. Within thirty days after assuming the obligations of a seller under this section, the assuming seller shall:

(1) Notify each provider in writing that the former seller has sold or disposed of its assets or stock or has ceased doing business; and

(2) Provide written notification to the purchasers of each preneed contract assumed by the seller indicating that the former seller has transferred ownership or has ceased doing business.

4. Nothing in this section shall be construed to require the board to audit, inspect, investigate, examine, or edit the books and records of a seller subject to the provisions of this section nor shall this section be construed to amend, rescind, or supersede any duty imposed on, or due diligence required of, an entity assuming the obligations of the seller.

5. The office of the attorney general shall have the authority to initiate legal action to compel or otherwise ensure compliance with this section by a former provider licensee.

39. Regulation 20 CSR 2120.070(9) states, in relevant part:

The establishment license issued by the board is effective for a fixed place or establishment and for a specific name of a person or entity authorized to conduct business in Missouri...

Violations of terms and conditions of probation

40. Officer Mortuary violated the terms and conditions of probation found in paragraph 30 of the Probated Establishment Order, in paragraph 32 of the Probated Seller Order, and in paragraph 31 of the Probated Provider Order (collectively, the “Conditions of Probation”) as follows:

41. Officer Mortuary violation condition “a” of the Conditions of Probation by failing to keep the Board notified of its current address and telephone number after it was evicted from the premises at 1905 N. Union Boulevard, St. Louis, Missouri.

42. Officer Mortuary violated condition “b” of the Conditions of Probation by failing to comply with the provisions of Section 436.460, 436.490, and 436.500, RSMo, in that it failed to file its annual report with accompanying fees, and it failed to notify the Board of its cessation of business and to file the statutorily required documents upon cessation of the business within the statutory deadlines.

43. Officer Mortuary violated condition “c” of the Conditions of Probation by engaging in conduct that would give the Board cause to seek authority to discipline from the Administrative Hearing Commission under the following causes of discipline:

- a. Officer Mortuary engaged in incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of an establishment, a provider, and a seller thus giving cause for discipline pursuant to Section 333.330.2(5), RSMo;

- b. Officer Mortuary continues to serve as a seller, even though it holds no such license in violation of Section 333.320.1, RSMo, thus giving cause to discipline pursuant to Section 333.330.2(6), RSMo;
- c. Officer Mortuary violated the professional trust and confidence of its customers by failing to meet its financial obligations that resulted in its eviction and being unable to meet obligations owed to its customers and by continuing to act as a seller even though its seller license has lapsed and is suspended, thus giving cause for discipline pursuant to Section 333.330.2(14);
- d. Officer Mortuary violated the provisions of Sections 436.460, 436.490 and 436.500, RSMo, as set forth above, thus giving cause for discipline pursuant to Section 333.330.2(19), RSMo.

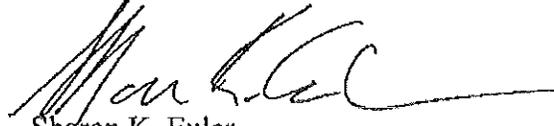
44. Officer Mortuary violated condition “e” of the Conditions of Probation by failing to file its written reports of compliance due on January 1, 2012, on July 1, 2012, and on January 1, 2013.

45. Officer Mortuary violated condition “g” of the Conditions of Probation by failing to renew timely all licenses and to maintain its licenses in current and active status in that its provider license has lapsed for non-renewal, its seller license has been suspended for failure to file its annual report and lapsed for failure to renew, and the establishment license, while current, is invalid due to lack of legal right to occupy the licensed premises.

46. Cause exists to impose further discipline on the establishment, provider and seller licenses of Officer Mortuary.

WHEREFORE, Petitioner asks that the Board provide notice and opportunity to be heard to Respondent pursuant to the provisions of Chapters 333 and 536, RSMo, and thereafter issue its findings of fact, conclusions of law and order imposing further discipline on the preneed seller license of Respondent and for such other relief as the Board deems just and proper.

Respectfully submitted,



Sharon K. Euler
Missouri Bar No. 42950

Legal Counsel
Division of Professional Registration
Fletcher Daniels State Office Building
615 East 13th Street, Suite 510
Kansas City, Missouri 64106

Telephone: 816-889-3687
Telefax: 816-889-2345
E-mail: Sharon.euler@pr.mo.gov

ATTORNEY FOR THE BOARD



Jeremiah W. (Jay) Nixon
Governor
State of Missouri

Jane A. Rackers, Division Director
DIVISION OF PROFESSIONAL REGISTRATION

Department of Insurance
Financial Institutions
and Professional Registration
John M. Huff, Director

STATE BOARD OF EMBALMERS AND FUNERAL DIRECTORS

3605 Missouri Boulevard
P.O. Box 423
Jefferson City, MO 65102-0423
Email: embalm@pr.mo.gov
<http://pr.mo.gov/embalmers.asp>

December 14, 2011

CERTIFIED MAIL 7009 2250 0001 4911 0650

Sandy Sebastian
Executive Director

573-751-0813
573-751-1155 FAX
800-735-2966 TTY
800-735-2466 Voice Relay Missouri

Marion E Officer Jr
Officer Mortuary LLC
1905 Union Blvd
St Louis MO 63113

Dear Mr. Officer:

Thank you for meeting with the members of the State Board of Embalmers and Funeral Directors on September 29, 2011 to discuss your *Application for Preneed Sellers License, Application for Preneed Provider License and Application for Funeral Establishment License.*

Following the meeting, the Board made the decision to grant licensure for each of your applications with an Order of probation on each license. In December the Board office received the final documentation necessary to complete your applications and have issued preneed seller, preneed provider and funeral establishment licenses. Those licenses are enclosed in this mailing.

A copy of the Orders issued by the Board dated December 13, 2011 are also enclosed. You are encouraged to read through the Orders to ensure you familiarize yourself with the terms and conditions and contact our office regarding any questions you might have regarding such.

I have enclosed a sample compliance letter that may be used in accordance with the written report that is required in the Orders. This is a sample only and you may provide any form of compliance notification in accordance with the disciplinary terms. This form can be located on our website at <http://pr.mo.gov/embalmers.asp> under the Discipline Monitoring Forms link.

If you have any questions, please feel free to contact our office.

Sincerely,

Sandy Sebastian
Executive Director

Enclosures

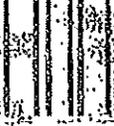
pc Laura Robinson, Counsel for Licensee
625 N Euclid Avenue #602d, St. Louis, MO 63108-1676

This letter was sent both regular and certified mail.



SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature <input type="checkbox"/> Agent <input type="checkbox"/> Addressee X</p> <p>B. Received by (Printed Name) C. Date of Delivery</p>
<p>1. Article Addressed to:</p> <p>Manion Officer Officer Moruary LLC 1905 Union Blvd St. Louis Mo 63113</p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No If YES, enter delivery address below:</p> <p>3. Service Type <input type="checkbox"/> Express Mail <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> C.O.D.</p> <p><input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Registered <input type="checkbox"/> Insured Mail</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>2. Article Number (transfer from service label)</p>	<p>7009 2250 0001 4911 0650</p>

PS Form 3811, February 2004 Domestic Return Receipt 102695-02-M-1610

UNITED STATES POSTAL SERVICE  Postage & Fees Paid
USPS
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

MISSOURI STATE BOARD OF EMBALMERS AND
FUNERAL DIRECTORS
PO BOX 235
JEFFERSON CITY, MO 65102-0423
JAN 03 2012

STATE BOARD OFFICE

000023
JAN 03 2012



State Board of Embalmers and Funeral Directors
P.O. Box 423, 3605 Missouri Boulevard
Jefferson City, Missouri 65102

Dear Board:

On this ___ day of _____, 20___, I, _____, hereby truthfully
(name of licensee/registrant)
state that I have been in full compliance with all terms and conditions of my discipline including the following
which I have initialed to indicate my compliance:

- ____ 1. Notified the Board within 10 days of any address or telephone number changes, and if applicable, email addresses.
- ____ 2. Timely renewed all licenses, as applicable.
- ____ 3. Abided by all provisions of Chapter 333, RSMo and corresponding regulations.
- ____ 4. Abided by all provisions of Chapter 436, RSMo and corresponding regulations.
- ____ 5. Appeared/testified when requested by the Board.
- ____ 6. Complied with unannounced visits from the Board's duly authorized representatives, if applicable.
- ____ 7. To the best of my knowledge I have complied with all stipulations.

Additional comments:

Signature of Licensee

Licensee Printed Name

State of Missouri

Division of Professional Registration
Preneed Seller

Probation

VALID THROUGH OCTOBER 31, 2012
ORIGINAL CERTIFICATE/LICENSE NO. 2011040380
OFFICER MORTUARY L.L.C.
1905 N UNION BLVD
SAINT LOUIS MO. 63113
USA

OFFICER MORTUARY L.L.C.
1905 N UNION BLVD
SAINT LOUIS MO 63113
USA

State of Missouri

Department of Insurance, Financial Institutions and Professional Registration
Division of Professional Registration
Board of Embalmers and Funeral Directors
Preneed Seller

Probation

VALID THROUGH OCTOBER 31, 2012
ORIGINAL CERTIFICATE/LICENSE NO. 2011040380

OFFICER MORTUARY L.L.C.
1905 N UNION BLVD
SAINT LOUIS MO 63113
USA

Sandra Sebastian
EXECUTIVE DIRECTOR

James A. Packard
DIVISION DIRECTOR

State of Missouri

Division of Professional Registration
Preneed Provider

Probation

VALID THROUGH OCTOBER 31, 2012
ORIGINAL CERTIFICATE/LICENSE NO. 2011040379
OFFICER MORTUARY LLC
1905 UNION BLVD
SAINT LOUIS MO 63113
USA

OFFICER MORTUARY LLC
1905 UNION BLVD
SAINT LOUIS MO 63113
USA

State of Missouri

Department of Insurance, Financial Institutions and Professional Registration
Division of Professional Registration
Board of Embalmers and Funeral Directors
Preneed Provider

Probation

VALID THROUGH OCTOBER 31, 2012
ORIGINAL CERTIFICATE/LICENSE NO. 2011040379

OFFICER MORTUARY LLC
1905 UNION BLVD
SAINT LOUIS MO 63113
USA

Sandra Sebastian

EXECUTIVE DIRECTOR

Jane A. Parker

DIVISION DIRECTOR

State of Missouri

Division of Professional Registration
Funeral Establishment
Embaling and Care/Preparation
Probation

VALID THROUGH DECEMBER 31, 2013
ORIGINAL CERTIFICATE/LICENSE NO. 2011040378
OFFICER MORTUARY LLC
1905 UNION BLVD
SAINT LOUIS MO 63113
USA

OFFICER MORTUARY LLC
1905 UNION BLVD
SAINT LOUIS MO 63113
USA

State of Missouri

Department of Insurance, Financial Institutions and Professional Registration
Division of Professional Registration
Board of Embalmers and Funeral Directors
Funeral Establishment

Embaling and Care/Preparation
Probation

VALID THROUGH DECEMBER 31, 2013
ORIGINAL CERTIFICATE/LICENSE NO. 2011040378

OFFICER MORTUARY LLC
1905 UNION BLVD
SAINT LOUIS MO 63113
USA

Saunder Sebastian
EXECUTIVE DIRECTOR

James A. Packer
DIVISION DIRECTOR

BEFORE THE STATE BOARD OF EMBALMERS AND FUNERAL DIRECTORS
STATE OF MISSOURI

ORDER ISSUING PROBATED FUNERAL ESTABLISHMENT LICENSE TO

OFFICER MORTUARY LLC

The State Board of Embalmers and Funeral Directors (the "Board") and pursuant to Section 324.038, RSMo¹, issues this order granting a PROBATED FUNERAL ESTABLISHMENT LICENSE to OFFICER MORTUARY LLC ("Officer Mortuary" or "Licensee") located at 1905 N. Union Blvd., St. Louis, Missouri 63113.

As set forth in Section 324.038, RSMo, Licensee may submit a written request for hearing to the Administrative Hearing Commission seeking review of the Board's decision set forth in this Order. Such written request must be filed with the Administrative Hearing Commission within 30 days of the date the Board mails this Order to Licensee. The written request should be addressed to the Administrative Hearing Commission, Room 640, Truman State Office Building, P.O. Box 1557, Jefferson City, Missouri 65102-1557. Any such request should set forth that the applicant is qualified for nonprobated licensure pursuant to the laws and administrative regulations relating to Licensee's profession. If such review is requested, a hearing shall be held pursuant to Chapter 621, RSMo. A Commissioner of the Administrative Hearing Commission will preside over the hearing. The hearing will be on the record and recorded by a court reporter. At the hearing, Licensee shall have the right to present testimony, call witnesses on its behalf, introduce evidence, cross-examine any witnesses called by the Board, and object to any evidence introduced by the Board and make legal argument to the Commission. Following the hearing, the Administrative Hearing Commission will issue an order

¹ All statutory references are to the Revised Statutes of Missouri (2000), as supplemented, unless otherwise indicated.



including findings of fact, conclusions of law and a decision based on the evidence admitted at the hearing. A copy of the Administrative Hearing Commission's order will be delivered to the parties. Chapter 536, RSMo, sets forth the procedures for review of the order of the Administrative Hearing Commission.

If no written request for review is filed with the Administrative Hearing Commission within the 30-day period, the right to seek review of the Board's decision shall be considered waived. Section 324.038.2, RSMo. Should Licensee make written request for review of this Order, the terms and conditions of this Order shall remain in full force and effect unless and until such time as the Administrative Hearing Commission or reviewing court orders otherwise.

Relevant Statutes

1. Section 324.038, RSMo, authorizes the Board to issue a license subject to probation in lieu of denial and states:

1. Whenever a board within or assigned to the division of professional registration, including the division itself when so empowered, may refuse to issue a license for reasons which also serve as a basis for filing a complaint with the administrative hearing commission seeking disciplinary action against a holder of a license, the board, as an alternative to refusing to issue a license, may, at its discretion, issue to an applicant a license subject to probation.

2. The board shall notify the applicant in writing of the terms of the probation imposed, the basis therefor, and the date such action shall become effective. The notice shall also advise the applicant of the right to a hearing before the administrative hearing commission, if the applicant files a complaint with the administrative hearing commission within thirty days of the date of delivery or mailing by certified mail of written notice of the probation. If the board issues a probated license, the applicant may file, within thirty days of the date of delivery or mailing by certified mail of written notice of the probation, a written complaint with the administrative hearing commission seeking review of the board's determination. Such complaint shall set forth that the applicant or licensee is qualified for nonprobated licensure pursuant to the laws and administrative regulations relating to his or her profession. Upon receipt of such complaint the

administrative hearing commission shall cause a copy of such complaint to be served upon the board by certified mail or by delivery of such copy to the office of the board, together with a notice of the place of and the date upon which the hearing on such complaint will be held. Hearings shall be held pursuant to chapter 621. The burden shall be on the board to demonstrate the existence of the basis for imposing probation on the licensee. If no written request for a hearing is received by the administrative hearing commission within the thirty-day period, the right to seek review of the board's decision shall be considered waived.

3. If the probation imposed includes restrictions or limitations on the scope of practice, the license issued shall plainly state such restriction or limitation. When such restriction or limitation is removed, a new license shall be issued.

2. Section 333.061, RSMo, requires a license to operate as a funeral establishment in

Missouri and states:

1. No funeral establishment shall be operated in this state unless the owner or operator thereof has a license issued by the board.

2. A license for the operation of a funeral establishment shall be issued by the board, if the board finds:

(1) That the establishment is under the general management and the supervision of a duly licensed funeral director;

(2) That all embalming performed therein is performed by or under the direct supervision of a duly licensed embalmer;

(3) That any place in the funeral establishment where embalming is conducted contains a preparation room with a sanitary floor, walls and ceiling, and adequate sanitary drainage and disposal facilities including running water, and complies with the sanitary standard prescribed by the department of health and senior services for the prevention of the spread of contagious, infectious or communicable diseases;

(4) Each funeral establishment shall have available in the preparation or embalming room a register book or log which shall be available at all times in full view for the board's inspector and the name of each body embalmed, place, if other than at the establishment, the date and time that the embalming took place, the name and signature of the embalmer and the embalmer's license number shall be noted in the book; and

(5) The establishment complies with all applicable state, county or municipal zoning ordinances and regulations.

3. The board shall grant or deny each application for a license pursuant to this section within thirty days after it is filed. The applicant may request in writing up to two thirty-day extensions of the application, provided the request for an extension is received by the board prior to the expiration of the thirty-day application or extension period.

4. Licenses shall be issued pursuant to this section upon application and the payment of a funeral establishment fee and shall be renewed at the end of the licensing period on the establishment's renewal date.

5. The board may refuse to renew or may suspend or revoke any license issued pursuant to this section if it finds, after hearing, that the funeral establishment does not meet any of the requirements set forth in this section as conditions for the issuance of a license, or for the violation by the owner of the funeral establishment of any of the provisions of section 333.121. No new license shall be issued to the owner of a funeral establishment or to any corporation controlled by such owner for three years after the revocation of the license of the owner or of a corporation controlled by the owner. Before any action is taken pursuant to this subsection the procedure for notice and hearing as prescribed by section 333.121 shall be followed.

3. Section 333.330, RSMo, authorizes the Board to deny an application for a funeral establishment license and states, in relevant portion:

1. The board may refuse to issue any certificate of registration or authority, permit, or license required under this chapter for one or any combination of causes stated in subsection 2 of this section. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of his or her right to file a complaint with the administrative hearing commission as provided by chapter 621.

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621 against any holder of any certificate of registration or authority, permit, or license required by this chapter, or any person who has failed to renew or has surrendered his or her certificate of registration or authority, permit, or license for any one or any combination of the following causes:

* * *

(4) Obtaining or attempting to obtain any fee, charge, tuition, or other compensation by fraud, deception, or misrepresentation;

(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation, or dishonesty in the performance of the functions or duties of any profession licensed or regulated by this chapter;

(6) Violation of, or assisting or enabling any person to violate, any provision of this chapter, or of any lawful rule or regulation adopted pursuant thereto;

(7) Impersonation of any person holding a certificate of registration or authority, permit, or license or allowing any person to use his or her certificate of registration or authority, permit, license, or diploma from any school;

* * *

(11) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated by this chapter regulating preneed who is not licensed or registered and currently eligible to practice thereunder;

* * *

(14) Violation of any professional trust or confidence;

4. Section 333.315.1, RSMo, requires a license to operate as a provider of preneed contracts and states:

1. No person shall be designated as a provider or agree to perform the obligations of a provider under a preneed contract unless, at the time of such agreement or designation, such person is licensed as a preneed provider by the board. Nothing in this section shall exempt any person from meeting the licensure requirements for a funeral establishment as provided in this chapter.

5. Relevant portions of 20 CSR 2120-2.070 state as follows:

(9) The establishment license issued by the board is effective for a fixed place or establishment and for a specific name of a person or entity authorized to conduct business in Missouri and may include one (1) "doing business as" name. The license issued by the board shall be displayed in a conspicuous location accessible to the general public at that location. Whenever the ownership, location, or name of the Missouri licensed establishment is changed, a new license

shall be obtained. If the Missouri licensed funeral establishment maintains a chapel, preparation room, or other facility in a building or portion physically separated from and located at a place designated by an address differing from the office, chapel, or other facilities of the applicant, the chapel, preparation room, or other funeral facility otherwise located shall be deemed to be a separate funeral establishment. Nothing contained in this rule shall be construed or interpreted to require a separate registration for a building if it is joined or connected by a private passage, walk or driveway existing between the registered establishment and the other building.

(A) If a change of ownership is caused by the elimination of one (1) or more owners, for whatever reason (death, sale of interest, divorce, etc.) without the addition of any new owner(s), it is not necessary to obtain a new establishment license. However, a new application for an establishment license form shall be filed as an amended application within thirty (30) days after the change of ownership. This form shall be filled out completely with correct, current information.

(B) A corporation is considered by law to be a separate person. If a corporation owns a Missouri licensed funeral establishment, it is not necessary to obtain a new establishment license or to file an amended application for an establishment license if the owners of the stock change. However, as a separate person, if a corporation begins ownership of a Missouri licensed funeral establishment or ceases ownership of a Missouri licensed funeral establishment, a new establishment license shall be obtained regardless of the relationship of the previous or subsequent owner to the corporation.

(10) The professional business and practice of funeral directing shall be conducted only from a fixed place or establishment that has been licensed by the board except as permitted by section 333.071, RSMo. The Missouri licensed funeral establishment physical facility shall be under the general management and supervision of the Missouri licensed funeral director-in-charge. Every Missouri licensed funeral establishment shall provide and allow access to any member or duly authorized agent of the board for the purpose of inspection as provided by sections 333.061 and 333.101, RSMo. If any representative of the Missouri licensed funeral establishment fails or refuses to provide or allow access, it shall be considered a violation of this rule by the Missouri licensed funeral establishment and by the Missouri licensed funeral director-in-charge of the Missouri licensed funeral establishment. Additionally, if the Missouri licensed funeral establishment representative who fails or refuses to provide or allow access holds any license or registration issued by this board, that person shall be in violation of this rule.

(11) No one licensed by this board may be employed in any capacity by an unlicensed funeral establishment. Violation of this section will be deemed misconduct in the practice of embalming or funeral directing.

(12) Only one (1) license will be issued by this board for any physical facility that is considered to be a Missouri licensed funeral establishment as defined by statute and rule. If a Missouri funeral establishment licensed by this board is destroyed by fire or some other disaster or act of God, the board, in its discretion, for a period of not more than six (6) months, may allow the Missouri licensed funeral establishment to continue its operation from another Missouri licensed funeral establishment or from a facility that has not been licensed as a funeral establishment if the facility meets the minimum requirements for the functions outlined in section (2) of this rule.

(13) A Missouri licensed funeral establishment may use only its registered name in any advertisement or holding out to the public.

(A) All signs, stationery and any advertising in newspapers, publications or otherwise, shall include the name(s) of the Missouri licensed funeral establishment registered with the board. Advertisements that do not comply with this section shall be deemed misleading for the purposes of section 333.121, RSMo.

(B) It shall not be deemed to be misleading if a listing appears in a telephone directory or national directory if the name of the Missouri licensed funeral establishment changes after the listing has been placed, but before a new directory is published.

Parties and Application for Licensure

6. The Board is an agency of the State of Missouri created and established pursuant to Section 333.151, RSMo, and vested with the authority to execute and enforce the provisions of Chapter 333 and portions of Chapter 436, RSMo.

7. Officer Mortuary, LLC is a Missouri limited liability company in good standing with its principal place of business at 1905 Union Boulevard, St. Louis, Missouri 63113.

8. Officer Mortuary signed on December 6, 2010 its "Application for Funeral Establishment License" (the "Application") and the Board received the Application on December 7, 2010². Marion E. Officer, Jr. signed the Application on behalf of Officer Mortuary.

² Officer Mortuary provided the Board with its application for funeral establishment, seller and provider in the same packet with the same accompanying documents to be used for each application

The Application was not completed until December 1, 2011 when Officer Mortuary completed their Application by meeting all requirements for the Board to consider it for licensure.

9. The Application listed Marion E. Officer, Jr. as the sole officer, director, manager, shareholder or owner of Officer Mortuary.

Basis for Probation

Operating Without an Establishment License

10. The Board conducted an investigation to determine whether Officer Mortuary operated as a funeral establishment without a funeral establishment license.

11. On August 11, 2011, the Board's investigator visited the location of Officer Mortuary and found the following violations:

- a. The funeral home was open for business;
- b. No funeral establishment license was posted;
- c. Mr. Officer was present and informed the Board that the funeral home was operating under a license issued to Officer Mortuary, Inc., a business that had been operated at that location by his sister, but provided the Board with no documentation so show a valid funeral establishment license;
- d. A body was present in the preparation room that was being prepared for final disposition;
- e. The register book in the preparation room showed the first entry to reflect a body was embalmed on December 15, 2010 and the 2011 register book contained 44 entries with the first dated January 1, 2011 and the last dated August 16, 2011. The log appeared to be missing 9 entries when compared against the written statements of goods and services provided to the Board's investigators;

- f. Records from the City of St. Louis indicated that the business had closed on June 15, 2011 and no new city business license had issued;
- g. Officer Mortuary produced no valid city business license;
- h. Officer Mortuary, in correspondence with the Board and others, used letterhead in at least August and September, 2011, with the name of "Officer Mortuary, L.L.C. Ellis Chapel" that listed the officers of the company and the "professional services manager" including Marion E. Officer, Jr. as president;
- i. The business card of the funeral director in charge listed the business as "Officer Mortuary L.L.C. Ellis Chapel";
- j. Officer Mortuary provided funeral service brochures to families and those in attendance at funeral services listed "Services Entrusted to: Officer Mortuary, LLC Ellis Chapel" on at least 4 occasions;
- k. The written statements of goods and services provided to families for goods and services provided to families showed the name of the business to be "Officer Mortuary, L.L.C." and listed Marion E. Officer, Jr. as President.
- l. Officer Mortuary provided 46 funeral services to families, as evidenced by the written statements of goods and services for persons who died between December 13, 2010 and August 27, 2011.
- m. Between the dates of November 10, 2010 and September 8, 2011, Officer Mortuary submitted 46 death certificates to the Division of Vital Records using the name of Officer Funeral Home, Inc.

12. On September 29, 2011, Officer Mortuary appeared, by its attorney and Marion E. Officer, Jr., before the Board to respond to inquiries of the Board regarding its unlicensed practice and the pending applications for licensure.

13. The location at which Officer Mortuary seeks licensure, 1905 N. Union Blvd., St. Louis, Missouri 63113, had previously been a licensed funeral establishment operated by Officer Funeral Home, Inc.

14. On November 29, 2010, the Board received notice from Officer Funeral Home, Inc. that it would be ceasing business and would no longer operate a funeral establishment at 1905 N. Union Blvd, St. Louis, Missouri. Officer Funeral Home, Inc. subsequently informed the Board that it ceased operation as a funeral establishment on November 18, 2010.

15. Between November 19, 2010 and until approximately September 20, 2011, Officer Mortuary operated as a funeral establishment at 1905 North Union Boulevard, St. Louis, Missouri when it had no valid funeral establishment license.

16. Officer Mortuary held out to the public that it was a duly licensed funeral establishment when it held no such license.

17. Officer Mortuary provided services for at least 46 decedents during the time when it was not licensed.

18. Officer Mortuary filed documents with the State of Missouri, Department of Health and Senior Services, Division of Vital Records holding out as Officer Funeral Home, Inc. when it had no such authority to do so and when, in fact, Officer Mortuary provided the final disposition services and not Officer Funeral Home, Inc.

Acting as Provider Without a License

19. Officer Mortuary provided the Board with 2 preneed funeral contracts listing Officer Funeral as the Provider – one contract was issued on July 13, 2011 to T.D. with a face value of \$5,335 and one contract was issued on July 5, 2011 to M.C. with a face value of \$700.60.

20. On the contract for T.D., sold to the consumer by an employee of Officer Mortuary, Marion E. Officer, Jr., signed on behalf of Officer Mortuary acknowledging it would serve as the provider for life insurance funded preneed contract.

21. On the contract for M.C., Officer Mortuary is listed as the provider and the contract was sold to the consumer by an employee of Officer Mortuary.

22. Officer Mortuary acted as a provider when it held no such license.

Disclosure of Discipline

23. On the Application, Officer Mortuary checked the “yes” box in response to the following questions:

18. Has any owner of the establishment ever had any license or right to practice held by you, restricted or disciplined, such disciplinary action to include, but not be limited to, revocation, suspension, probation, censure or reprimand whether voluntarily agreed to or not, by any U.S. state, territory, federal agency, Canadian province or foreign country? If yes, attach a full explanation.

20. Has any owner ever had any professional license, certification, registration or permit revoked, suspended, placed on probation, censured, reprimanded, fined or otherwise subject to any type of disciplinary action? If yes, attach a full explanation.

24. In explanation for the “yes” answers on the Application, Mr. Officer provided the Board with a letter of explanation.

25. Mr. Officer disclosed "In late 1989 the Officer Funeral Home of East St. Louis Illinois was reprimanded for the mishandling of a deceased human infant remains."

Discipline on License by State of Illinois

26. Records obtained from the Illinois Department of Financial and Professional Regulation show the following discipline on Mr. Officer's Illinois funeral director and embalmer license:

- a. On March 3, 1992, The State of Illinois Department of Professional Regulation ("State of Illinois") entered into a consent order with Mr. Officer placing his funeral director and embalmer license on probation for a period of one year and imposing a \$5,000 fine in settlement of allegations that Mr. Officer received dead human remains in November, 1988, but the requested cremation was not performed and the embalmed dead human remains were found abandoned at the former site of a funeral home operated by Mr. Officer.
- b. On August 24, 2004, the State of Illinois and Mr. Officer entered into a Consent Order reprimanding the embalmer and funeral director license held by Mr. Officer and imposing a \$100 fine in settlement of allegations that Mr. Officer's office manager falsified three funeral claim forms in the amount of \$2,000.
- c. On March 26, 2010, the State of Illinois and Mr. Officer entered into a consent order (the "2010 Consent Order") in settlement of allegations of misconduct including providing substandard funeral services and agreeing to refund monies to consumers, but not honoring his commitment to do so. The 2010 Consent Order included orders that Mr. Officer's funeral director and embalmer license be indefinitely suspended for a period of six months; a fine of \$5,000 be imposed;

Mr. Officer must complete continuing education coursework of 6 credit hours on regulations dealing with funeral directing and embalming and 6 credit hours of expanding funeral ethics; correct a death certificate to show burial instead of cremation; that Mr. Officer issue refunds totaling \$5,500 to two families; and provide to the State of Illinois a written business plan containing protocols for submitting accurate insurance forms and authorizations, maintaining correct records and providing funeral services as requested. The 2010 Consent Order also stated that if a petition for restoration of licenses was granted, the license would be on probation.

d. On March 28, 2011, the State of Illinois issued a "Suspension Order" due to unpaid tax liability or failure to file tax returns and suspended Mr. Officer's funeral director and embalmer license.

27. Mr. Officer's funeral director and embalmer license remains suspended in Illinois.

Statutory Basis for Denial

28. Officer Mortuary's conduct of operating as a funeral establishment when it was not so licensed and by acting as a preneed provider when it held no such license provides basis for the Board to deny its application for a funeral establishment license pursuant to cause set forth in Sections 333.330.2(4), (5), (6), (7), (11), and (14), RSMo.

29. The Board finds that issuance of a probated funeral establishment license, subject to certain terms and conditions, in lieu of denial, will ensure protection of the public.

Issuance of Probated License Subject to Terms and Conditions

The Board, in lieu of denial, hereby issues a funeral establishment license to Officer Mortuary, LLC, located at 1905 North Union Boulevard, St. Louis, Missouri 63113, on

PROBATION for a period of FIVE YEARS (the "Disciplinary Period") subject to the terms and conditions contained in this Order and set forth below.

Terms and Conditions of Probation

30. Licensee shall comply with the following terms and conditions of probation during the Disciplinary Period:

- a. Licensee shall keep the Board informed of Licensee's current telephone numbers and addresses. Licensee shall notify the Board in writing within ten (10) business days of any change in this information. If Licensee utilizes e-mail, Licensee shall provide the Board with its current and active e-mail address;
- b. Licensee shall comply with all applicable provisions of Chapters 194, 333 and 436, RSMo, all Board regulations and all federal, state and local laws and regulations related to business operations in the funeral and death care industry including all insurance and security laws applicable to any insurance or annuity used to fund preneed funeral contracts;
- c. Licensee shall engage in no conduct that would give the Board cause to seek authority to discipline from the Administrative Hearing Commission;
- d. Licensee shall meet in person with the Board or any Board representative at any such time and place as required by the Board or its representative upon reasonable notice. Any such meetings shall be at the Board's discretion;
- e. Licensee shall submit written compliance reports to the Board no later than January 1 and July 1 of each year, but no compliance report shall be filed more than 14 days before it is due. Each of these compliance reports shall state truthfully whether there has been full compliance with the terms and conditions of

this Order for the previous six month period and shall fully explain any non-compliance. These compliance reports shall contain all other information required by this Order. Compliance reports may be submitted on a form provided by the Board, but failure to receive such a form from the Board shall not excuse the timely filing of any compliance report;

- f. Upon the request by the Board or its representative, Licensee shall immediately submit any and all records requested to show compliance with these terms and conditions;
- g. Licensee shall renew timely all licenses and/or registrations, shall pay timely all fees required for licensure/registration and shall meet all other requirements necessary to maintain all licenses and registrations issued by the Board current and active; and
- h. Licensee shall accept and cooperate with unannounced visits from the Board, or its representatives, to monitor compliance with the terms and conditions of probation; and
- i. Licensee shall at all times be under the general management and supervision of a Missouri licensed funeral director who is registered with the Board as the funeral director in charge. Marion E. Officer, Jr., shall not serve as the funeral director in charge of Licensee without the written consent of the Board.

31. Upon the expiration of the Disciplinary Period and successful completion of the probation, Licensee's license shall be fully restored if all other requirements of the law have been satisfied; provided however, that in the event the Board determines that Licensee has violated any term or condition of this Order, the Board may, in its discretion, after an evidentiary hearing,

vacate and set aside the discipline imposed herein and may suspend, revoke, or otherwise lawfully discipline Licensee's license.

32. The Board shall enter no order imposing further discipline on Licensee's license without notice and an opportunity for hearing before the Board in accordance with the provisions of Chapter 536, RSMo.

33. If the Board determines that Licensee has violated a term or condition of this Order, and that violation would also be actionable in a proceeding before the Administrative Hearing Commission or in a circuit court, the Board may elect to pursue any lawful remedies or procedures afforded to it and is not bound by this Order in its determination of appropriate legal actions concerning such violation(s).

34. If any alleged violation of this Order occurs during the Disciplinary Period, the Board may choose to conduct a hearing on the alleged violation either during the Disciplinary Period, or as soon thereafter as a hearing can be held, to determine whether a violation of the terms and conditions of probation occurred and, if so, may impose further discipline on the provider license of Licensee. The Board has continuing jurisdiction to hold a hearing determine if a violation of the terms and conditions of probation occurred.

35. This Order of the Board shall be maintained as an open and public record of the Board as provided in Chapters 333, 610 and 324, RSMo.

IT IS SO ORDERED.

Dated: 12-13-11

Sandy Sebastian

Sandy Sebastian

Executive Director

State Board of Embalmers and Funeral Directors

BEFORE THE STATE BOARD OF EMBALMERS AND FUNERAL DIRECTORS
STATE OF MISSOURI

ORDER ISSUING PROBATED SELLER LICENSE TO
OFFICER MORTUARY LLC

The State Board of Embalmers and Funeral Directors (the "Board") and pursuant to Section 324.038, RSMo¹, issues this order granting a PROBATED SELLER LICENSE to OFFICER MORTUARY LLC ("Officer Mortuary" or "Licensee") located at 1905 N. Union Blvd., St. Louis, Missouri 63113.

As set forth in Section 324.038, RSMo, Licensee may submit a written request for hearing to the Administrative Hearing Commission seeking review of the Board's decision set forth in this Order. Such written request must be filed with the Administrative Hearing Commission within 30 days of the date the Board mails this Order to Licensee. The written request should be addressed to the Administrative Hearing Commission, Room 640, Truman State Office Building, P.O. Box 1557, Jefferson City, Missouri 65102-1557. Any such request should set forth that the applicant is qualified for nonprobated licensure pursuant to the laws and administrative regulations relating to Licensee's profession. If such review is requested, a hearing shall be held pursuant to Chapter 621, RSMo. A Commissioner of the Administrative Hearing Commission will preside over the hearing. The hearing will be on the record and recorded by a court reporter. At the hearing, Licensee shall have the right to present testimony, call witnesses on its behalf, introduce evidence, cross-examine any witnesses called by the Board, and object to any evidence introduced by the Board and make legal argument to the Commission. Following the hearing, the Administrative Hearing Commission will issue an order

¹ All statutory references are to the Revised Statutes of Missouri (2000), as supplemented, unless otherwise indicated.



including findings of fact, conclusions of law and a decision based on the evidence admitted at the hearing. A copy of the Administrative Hearing Commission's order will be delivered to the parties. Chapter 536, RSMo, sets forth the procedures for review of the order of the Administrative Hearing Commission.

If no written request for review is filed with the Administrative Hearing Commission within the 30-day period, the right to seek review of the Board's decision shall be considered waived. Section 324.038.2, RSMo. Should Licensee make written request for review of this Order, the terms and conditions of this Order shall remain in full force and effect unless and until such time as the Administrative Hearing Commission or reviewing court orders otherwise.

Relevant Statutes

1. Section 324.038, RSMo, authorizes the Board to issue a license subject to probation in lieu of denial and states:

1. Whenever a board within or assigned to the division of professional registration, including the division itself when so empowered, may refuse to issue a license for reasons which also serve as a basis for filing a complaint with the administrative hearing commission seeking disciplinary action against a holder of a license, the board, as an alternative to refusing to issue a license, may, at its discretion, issue to an applicant a license subject to probation.

2. The board shall notify the applicant in writing of the terms of the probation imposed, the basis therefor, and the date such action shall become effective. The notice shall also advise the applicant of the right to a hearing before the administrative hearing commission, if the applicant files a complaint with the administrative hearing commission within thirty days of the date of delivery or mailing by certified mail of written notice of the probation. If the board issues a probated license, the applicant may file, within thirty days of the date of delivery or mailing by certified mail of written notice of the probation, a written complaint with the administrative hearing commission seeking review of the board's determination. Such complaint shall set forth that the applicant or licensee is qualified for nonprobated licensure pursuant to the laws and administrative regulations relating to his or her profession. Upon receipt of such complaint the

administrative hearing commission shall cause a copy of such complaint to be served upon the board by certified mail or by delivery of such copy to the office of the board, together with a notice of the place of and the date upon which the hearing on such complaint will be held. Hearings shall be held pursuant to chapter 621. The burden shall be on the board to demonstrate the existence of the basis for imposing probation on the licensee. If no written request for a hearing is received by the administrative hearing commission within the thirty-day period, the right to seek review of the board's decision shall be considered waived.

3. If the probation imposed includes restrictions or limitations on the scope of practice, the license issued shall plainly state such restriction or limitation. When such restriction or limitation is removed, a new license shall be issued.

2. Section 333.320, RSMo, requires a license to operate as a seller and states:

1. No person shall sell, perform, or agree to perform the seller's obligations under, or be designated as the seller of, any preneed contract unless, at the time of the sale, performance, agreement, or designation, such person is licensed by the board as a seller and authorized and registered with the Missouri secretary of state to conduct business in Missouri.

2. An applicant for a preneed seller license shall:

(1) File an application on a form established by the board and pay an application fee in an amount established by the board by rule;

(2) Be an individual resident of Missouri who is eighteen years of age or older, or a business entity registered with the Missouri secretary of state to transact business in Missouri;

(3) If the applicant is a corporation, each officer, director, manager, or controlling shareholder, shall be eligible for licensure if they were applying for licensure as an individual;

(4) Meet all requirements for licensure;

(5) Identify the name and address of a custodian of records responsible for maintaining the books and records of the seller relating to preneed contracts;

(6) Identify the name and address of each licensed provider that has authorized the seller to designate such person as a provider under a preneed contract;

(7) Have established, as grantor, a preneed trust or an agreement to utilize a preneed trust with terms consistent with sections 436.400 to 436.520. A trust shall not be required if the applicant certifies to the board that the seller will only sell insurance-funded or joint account-funded preneed contracts;

(8) Identify the name and address of a trustee or, if applicable, the financial institution where any preneed trust or joint accounts will be maintained; and

(9) File with the board a written consent authorizing the state board to inspect or order an investigation, examination, or audit of the seller's books and records which contain information concerning preneed contracts sold by or on behalf of the seller.

3. Each seller shall apply to renew his or her license on or before October thirty-first of each year or a date established by the division of professional registration pursuant to section 324.001. A license which has not been renewed prior to the renewal date shall expire. Applicants for renewal shall:

(1) File an application for renewal on a form established by the board by rule;

(2) Pay a renewal fee in an amount established by the board by rule; and

(3) File annually with the board a signed and notarized annual report as required by section 436.460.

4. Any license which has not been renewed as provided by this section shall expire. A licensee who fails to apply for renewal within two years of the renewal date may apply for reinstatement by satisfying the requirements of subsection 3 of this section and paying a delinquent fee as established by the board by rule.

3. Section 333.061, RSMo, requires a license to operate as a funeral establishment in Missouri and states:

1. No funeral establishment shall be operated in this state unless the owner or operator thereof has a license issued by the board.

2. A license for the operation of a funeral establishment shall be issued by the board, if the board finds:

(1) That the establishment is under the general management and the supervision of a duly licensed funeral director;

(2) That all embalming performed therein is performed by or under the direct supervision of a duly licensed embalmer;

(3) That any place in the funeral establishment where embalming is conducted contains a preparation room with a sanitary floor, walls and ceiling, and adequate sanitary drainage and disposal facilities including running water, and complies with the sanitary standard prescribed by the department of health and senior services for the prevention of the spread of contagious, infectious or communicable diseases;

(4) Each funeral establishment shall have available in the preparation or embalming room a register book or log which shall be available at all times in full view for the board's inspector and the name of each body embalmed, place, if other than at the establishment, the date and time that the embalming took place, the name and signature of the embalmer and the embalmer's license number shall be noted in the book; and

(5) The establishment complies with all applicable state, county or municipal zoning ordinances and regulations.

3. The board shall grant or deny each application for a license pursuant to this section within thirty days after it is filed. The applicant may request in writing up to two thirty-day extensions of the application, provided the request for an extension is received by the board prior to the expiration of the thirty-day application or extension period.

4. Licenses shall be issued pursuant to this section upon application and the payment of a funeral establishment fee and shall be renewed at the end of the licensing period on the establishment's renewal date.

4. Section 333.315.1, RSMo, requires a license to operate as a provider of preneed

contracts and states:

1. No person shall be designated as a provider or agree to perform the obligations of a provider under a preneed contract unless, at the time of such agreement or designation, such person is licensed as a preneed provider by the board. Nothing in this section shall exempt any person from meeting the licensure requirements for a funeral establishment as provided in this chapter.

5. Section 333.330, RSMo, authorizes the Board to deny an application for a seller

license and states, in relevant portion:

1. The board may refuse to issue any certificate of registration or authority, permit, or license required under this chapter for one or any combination of causes stated in subsection 2 of this section. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of his or her right to file a complaint with the administrative hearing commission as provided by chapter 621.

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621 against any holder of any certificate of registration or authority, permit, or license required by this chapter, or any person who has failed to renew or has surrendered his or her certificate of registration or authority, permit, or license for any one or any combination of the following causes:

* * *

(4) Obtaining or attempting to obtain any fee, charge, tuition, or other compensation by fraud, deception, or misrepresentation;

(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation, or dishonesty in the performance of the functions or duties of any profession licensed or regulated by this chapter;

(6) Violation of, or assisting or enabling any person to violate, any provision of this chapter, or of any lawful rule or regulation adopted pursuant thereto;

(7) Impersonation of any person holding a certificate of registration or authority, permit, or license or allowing any person to use his or her certificate of registration or authority, permit, license, or diploma from any school;

* * *

(11) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated by this chapter regulating preneed who is not licensed or registered and currently eligible to practice thereunder;

* * *

(14) Violation of any professional trust or confidence;

6. 20 CSR 2120-3.200(1)(C) requires that all sellers designate a manager in charge and states:

All sellers shall designate an individual to serve as manager in charge of the seller's business. This individual shall either reside or work within the state of Missouri. The seller shall designate the manager in charge in its initial application for licensure. If the manager in charge changes, the seller shall provide written notice to the board within thirty (30) days of the change.

7. Relevant portions of 20 CSR 2120-2.070 state as follows:

(9) The establishment license issued by the board is effective for a fixed place or establishment and for a specific name of a person or entity authorized to conduct business in Missouri and may include one (1) "doing business as" name. The license issued by the board shall be displayed in a conspicuous location accessible to the general public at that location. Whenever the ownership, location, or name of the Missouri licensed establishment is changed, a new license shall be obtained. If the Missouri licensed funeral establishment maintains a chapel, preparation room, or other facility in a building or portion physically separated from and located at a place designated by an address differing from the office, chapel, or other facilities of the applicant, the chapel, preparation room, or other funeral facility otherwise located shall be deemed to be a separate funeral establishment. Nothing contained in this rule shall be construed or interpreted to require a separate registration for a building if it is joined or connected by a private passage, walk or driveway existing between the registered establishment and the other building.

(A) If a change of ownership is caused by the elimination of one (1) or more owners, for whatever reason (death, sale of interest, divorce, etc.) without the addition of any new owner(s), it is not necessary to obtain a new establishment license. However, a new application for an establishment license form shall be filed as an amended application within thirty (30) days after the change of ownership. This form shall be filled out completely with correct, current information.

(B) A corporation is considered by law to be a separate person. If a corporation owns a Missouri licensed funeral establishment, it is not necessary to obtain a new establishment license or to file an amended application for an establishment license if the owners of the stock change. However, as a separate person, if a corporation begins ownership of a Missouri licensed funeral establishment or ceases ownership of a Missouri licensed funeral establishment, a new establishment license shall be obtained regardless of the relationship of the previous or subsequent owner to the corporation.

(10) The professional business and practice of funeral directing shall be conducted only from a fixed place or establishment that has been licensed by the board except as permitted by section 333.071, RSMo. The Missouri licensed funeral establishment physical facility shall be under the general management and supervision of the Missouri licensed funeral director-in-charge. Every Missouri licensed funeral establishment shall provide and allow access to any member or duly authorized agent of the board for the purpose of inspection as provided by sections 333.061 and 333.101, RSMo. If any representative of the Missouri licensed funeral establishment fails or refuses to provide or allow access, it shall be considered a violation of this rule by the Missouri licensed funeral establishment and by the Missouri licensed funeral director-in-charge of the Missouri licensed funeral establishment. Additionally, if the Missouri licensed funeral establishment representative who fails or refuses to provide or allow access holds any license or registration issued by this board, that person shall be in violation of this rule.

(11) No one licensed by this board may be employed in any capacity by an unlicensed funeral establishment. Violation of this section will be deemed misconduct in the practice of embalming or funeral directing.

(12) Only one (1) license will be issued by this board for any physical facility that is considered to be a Missouri licensed funeral establishment as defined by statute and rule. If a Missouri funeral establishment licensed by this board is destroyed by fire or some other disaster or act of God, the board, in its discretion, for a period of not more than six (6) months, may allow the Missouri licensed funeral establishment to continue its operation from another Missouri licensed funeral establishment or from a facility that has not been licensed as a funeral establishment if the facility meets the minimum requirements for the functions outlined in section (2) of this rule.

(13) A Missouri licensed funeral establishment may use only its registered name in any advertisement or holding out to the public.

(A) All signs, stationery and any advertising in newspapers, publications or otherwise, shall include the name(s) of the Missouri licensed funeral establishment registered with the board. Advertisements that do not comply with this section shall be deemed misleading for the purposes of section 333.121, RSMo.

(B) It shall not be deemed to be misleading if a listing appears in a telephone directory or national directory if the name of the Missouri licensed funeral establishment changes after the listing has been placed, but before a new directory is published.

Parties and Application for Licensure

8. The Board is an agency of the State of Missouri created and established pursuant to Section 333.151, RSMo, and vested with the authority to execute and enforce the provisions of Chapter 333 and portions of Chapter 436, RSMo.

9. Officer Mortuary, LLC is a Missouri limited liability company in good standing with its principal place of business at 1905 Union Boulevard, St. Louis, Missouri 63113.

10. Officer Mortuary signed on December 6, 2010 its "Seller Application" (the "Application") and the Board received the Application on December 7, 2010². Marion E. Officer, Jr. signed the Application on behalf of Officer Mortuary³. The Application was not completed until December 1, 2011 when Officer Mortuary completed their Application by meeting all requirements for the Board to consider it for licensure.

11. The Application listed Marion E. Officer, Jr. as the sole officer, director, manager, shareholder or owner of Officer Mortuary.

Basis for Probation

Operating Without an Establishment License

12. The Board conducted an investigation to determine whether Officer Mortuary operated as a funeral establishment without a funeral establishment license.

13. On August 11, 2011, the Board's investigator visited the location of Officer Mortuary and found the following:

- a. The funeral home was open for business;

² Officer Mortuary provided the Board with its application for funeral establishment, seller and provider in the same packet with the same accompanying documents to be used for each application.

- b. No funeral establishment license was posted;
- c. Mr. Officer was present and informed the Board that the funeral home was operating under a license issued to Officer Mortuary, Inc., a business that had been operated at that location by his sister, but provided the Board with no documentation so show a valid funeral establishment license;
- d. A body was present in the preparation room that was being prepared for final disposition;
- e. The register book in the preparation room showed the first entry to reflect a body was embalmed on December 15, 2010 and the 2011 register book contained 44 entries with the first dated January 1, 2011 and the last dated August 16, 2011. The log appeared to be missing 9 entries when compared against the written statements of goods and services provided to the Board's investigators;
- f. Records from the City of St. Louis indicated that the business had closed on June 15, 2011 and no new city business license had issued;
- g. Officer Mortuary produced no valid city business license;
- h. Officer Mortuary, in correspondence with the Board and others, used letterhead in at least August and September, 2011, with the name of "Officer Mortuary, L.L.C. Ellis Chapel" that listed the officers of the company and the "professional services manager" including Marion E. Officer, Jr. as president;
- i. The business card of the funeral director in charge listed the business as "Officer Mortuary L.L.C. Ellis Chapel";

- j. Officer Mortuary provided funeral service brochures to families and those in attendance at funeral services listed "Services Entrusted to: Officer Mortuary, LLC Ellis Chapel" on at least 4 occasions;
- k. The written statements of goods and services provided to families for goods and services provided to families showed the name of the business to be "Officer Mortuary, L.L.C." and listed Marion E. Officer, Jr. as President.
- l. Officer Mortuary provided 46 funeral services to families, as evidenced by the written statements of goods and services for persons who died between December 13, 2010 and August 27, 2011.
- m. Between the dates of November 10, 2010 and September 8, 2011, Officer Mortuary submitted 46 death certificates to the Division of Vital Records using the name of Officer Funeral Home, Inc.

14. On September 29, 2011, Officer Mortuary appeared, by its attorney and Marion E. Officer, Jr., before the Board to respond to inquiries of the Board regarding its unlicensed practice and its pending applications for licensure.

15. The location at which Officer Mortuary seeks licensure, 1905 N. Union Blvd., St. Louis, Missouri 63113, had previously been a licensed funeral establishment operated by Officer Funeral Home, Inc.

16. On November 29, 2010, the Board received notice from Officer Funeral Home, Inc. that it would be ceasing business and would no longer operate a funeral establishment at 1905 N. Union Blvd, St. Louis, Missouri. Officer Funeral Home, Inc. subsequently notified the Board that its funeral establishment ceased operation on November 18, 2010.

17. Between November 19, 2010 and until approximately September 20, 2011, Officer Mortuary operated as a funeral establishment at 1905 North Union Boulevard, St. Louis, Missouri when it had no valid funeral establishment license.

18. Officer Mortuary held out to the public that it was a duly licensed funeral establishment when it held no such license.

19. Officer Mortuary provided services for at least 46 decedents during the time when it was not licensed.

20. Officer Mortuary filed documents with the State of Missouri, Department of Health and Senior Services, Division of Vital Records holding out as Officer Funeral Home, Inc. when it had no such authority to do so and when, in fact, Officer Mortuary provided the final disposition services and not Officer Funeral Home, Inc.

Acting as Provider Without a License

21. Officer Mortuary provided the Board with 2 preneed funeral contracts listing Officer Funeral as the Provider – one contract was issued on July 13, 2011 to T.D. with a face value of \$5,335 and one contract was issued on July 5, 2011 to M.C. with a face value of \$700.60.

22. On the contract for T.D., sold to the consumer by an employee of Officer Mortuary, Marion E. Officer, Jr., signed on behalf of Officer Mortuary acknowledging it would serve as the provider for life insurance funded preneed contract.

23. On the contract for M.C., Officer Mortuary is listed as the provider and the contract was sold to the consumer by an employer of Officer Mortuary.

24. Officer Mortuary acted as a provider when it held no such license.

Disclosure of Discipline

25. On the Application, Officer Mortuary checked the "yes" box in response to the following question:

3. Have you ever had any professional license, certification, registration or permit revoked, suspended, placed on probation, censured, reprimanded, fined or otherwise subjected to any type of disciplinary action? If yes, attach a full explanation.

26. In explanation for the "yes" answer on the Application, Marion E. Officer, Jr. ("Mr. Officer") provided the Board with a letter of explanation.

27. Mr. Officer disclosed in his letter attached to his Application: "In late 1989 the Officer Funeral Home of East St. Louis Illinois was reprimanded for the mishandling of a deceased human infant remains."

Discipline on License by State of Illinois

28. Records obtained from the Illinois Department of Financial and Professional Regulation show the following discipline on Mr. Officer's Illinois funeral director and embalmer license:

- a. On March 3, 1992, The State of Illinois Department of Professional Regulation ("State of Illinois") entered into a consent order with Mr. Officer placing his funeral director and embalmer license on probation for a period of one year and imposing a \$5,000 fine in settlement of allegations that Mr. Officer received dead human remains in November, 1988, but the requested cremation was not performed and the embalmed dead human remains were found abandoned at the former site of a funeral home operated by Mr. Officer.

- b. On August 24, 2004, the State of Illinois and Mr. Officer entered into a Consent Order reprimanding the embalmer and funeral director license held by Mr. Officer and imposing a \$100 fine in settlement of allegations that Mr. Officer's office manager falsified three funeral claim forms in the amount of \$2,000.
 - c. On March 26, 2010, the State of Illinois and Mr. Officer entered into a consent order (the "2010 Consent Order") in settlement of allegations of misconduct including providing substandard funeral services and agreeing to refund monies to consumers, but not honoring his commitment to do so. The 2010 Consent Order included orders that Mr. Officer's funeral director and embalmer license be indefinitely suspended for a period of six months; a fine of \$5,000 be imposed; Mr. Officer must complete continuing education coursework of 6 credit hours on regulations dealing with funeral directing and embalming and 6 credit hours of expanding funeral ethics; correct a death certificate to show burial instead of cremation; that Mr. Officer issue refunds totaling \$5,500 to two families; and provide to the State of Illinois a written business plan containing protocols for submitting accurate insurance forms and authorizations, maintaining correct records and providing funeral services as requested. The 2010 Consent Order also stated that if a petition for restoration of licenses was granted, the license would be on probation.
 - d. On March 28, 2011, the State of Illinois issued a "Suspension Order" due to unpaid tax liability or failure to file tax returns and suspended Mr. Officer's funeral director and embalmer license.
29. Mr. Officer's funeral director and embalmer license remains suspended in Illinois.

Statutory Basis for Denial

30. Officer Mortuary's conduct provides basis for the Board to deny its Application pursuant to cause set forth in Sections 333.330.2(4), (5), (6), (7), (11), and (14), RSMo.

31. The Board finds that issuance of a probated seller license, subject to certain terms and conditions, in lieu of denial, will ensure protection of the public.

Issuance of Probated License Subject to Terms and Conditions

The Board, in lieu of denial, hereby issues a seller license to Officer Mortuary, LLC, located at 1905 North Union Boulevard, St. Louis, Missouri 63113, on PROBATION for a period of FIVE YEARS (the "Disciplinary Period") subject to the terms and conditions contained in this Order and set forth below.

Terms and Conditions of Probation

32. Licensee shall comply with the following terms and conditions of probation during the Disciplinary Period:

- a. Licensee shall keep the Board informed of Licensee's current telephone numbers and addresses. Licensee shall notify the Board in writing within ten (10) business days of any change in this information. If Licensee utilizes e-mail, Licensee shall provide the Board with its current and active e-mail address;
- b. Licensee shall comply with all applicable provisions of Chapters 194, 333 and 436, RSMo, all Board regulations and all federal, state and local laws and regulations related to business operations in the funeral and death care industry including all insurance and security laws applicable to any insurance or annuity used to fund preneed funeral contracts;

- c. Licensee shall engage in no conduct that would give the Board cause to seek authority to discipline from the Administrative Hearing Commission;
- d. Licensee shall meet in person with the Board or any Board representative at any such time and place as required by the Board or its representative upon reasonable notice. Any such meetings shall be at the Board's discretion;
- e. Licensee shall submit written compliance reports to the Board no later than January 1 and July 1 of each year, but no compliance report shall be filed more than 14 days before it is due. Each of these compliance reports shall state truthfully whether there has been full compliance with the terms and conditions of this Order for the previous six month period and shall fully explain any non-compliance. These compliance reports shall contain all other information required by this Order. Compliance reports may be submitted on a form provided by the Board, but failure to receive such a form from the Board shall not excuse the timely filing of any compliance report;
- f. Upon the request by the Board or its representative, Licensee shall immediately submit any and all records requested to show compliance with these terms and conditions;
- g. Licensee shall renew timely all licenses and/or registrations, shall pay timely all fees required for licensure/registration and shall meet all other requirements necessary to maintain all licenses and registrations issued by the Board current and active; and

- h. Licensee shall accept and cooperate with unannounced visits from the Board, or its representatives, to monitor compliance with the terms and conditions of probation; and
- i. Licensee shall designate a manager in charge and shall notify the Board within 10 days of the date of this Order as to the name, address, phone and e-mail (if applicable) of the manager in charge of the seller. Licensee shall provide the Board with written notice of any change of the manager in charge no later than 5 days after the change occurs. Marion Officer, Jr. shall not serve as the manager in charge without the written consent of the Board..

33. Upon the expiration of the Disciplinary Period and successful completion of the probation, Licensee's license shall be fully restored if all other requirements of the law have been satisfied; provided however, that in the event the Board determines that Licensee has violated any term or condition of this Order, the Board may, in its discretion, after an evidentiary hearing, vacate and set aside the discipline imposed herein and may suspend, revoke, or otherwise lawfully discipline Licensee's license.

34. The Board shall enter no order imposing further discipline on Licensee's license without notice and an opportunity for hearing before the Board in accordance with the provisions of Chapter 536, RSMo.

35. If the Board determines that Licensee has violated a term or condition of this Order, and that violation would also be actionable in a proceeding before the Administrative Hearing Commission or in a circuit court, the Board may elect to pursue any lawful remedies or procedures afforded to it and is not bound by this Order in its determination of appropriate legal actions concerning such violation(s).

36. If any alleged violation of this Order occurs during the Disciplinary Period, the Board may choose to conduct a hearing on the alleged violation either during the Disciplinary Period, or as soon thereafter as a hearing can be held, to determine whether a violation of the terms and conditions of probation occurred and, if so, may impose further discipline on the provider license of Licensee. The Board has continuing jurisdiction to hold a hearing determine if a violation of the terms and conditions of probation occurred.

37. This Order of the Board shall be maintained as an open and public record of the Board as provided in Chapters 333, 610 and 324, RSMo.

IT IS SO ORDERED.

Dated: 12.13.11

Sandy Sebastian
Sandy Sebastian
Executive Director
State Board of Embalmers and Funeral Directors

BEFORE THE STATE BOARD OF EMBALMERS AND FUNERAL DIRECTORS
STATE OF MISSOURI

ORDER ISSUING PROBATED PROVIDER LICENSE TO

OFFICER MORTUARY LLC

The State Board of Embalmers and Funeral Directors (the "Board") and pursuant to Section 324.038, RSMo¹, issues this order granting a **PROBATED PROVIDER LICENSE** to **OFFICER MORTUARY LLC** ("Officer Mortuary" or "Licensee") located at 1905 N. Union Blvd., St. Louis, Missouri 63113.

As set forth in Section 324.038, RSMo, Licensee may submit a written request for hearing to the Administrative Hearing Commission seeking review of the Board's decision set forth in this Order. Such written request must be filed with the Administrative Hearing Commission within 30 days of the date the Board mails this Order to Licensee. The written request should be addressed to the Administrative Hearing Commission, Room 640, Truman State Office Building, P.O. Box 1557, Jefferson City, Missouri 65102-1557. Any such request should set forth that the applicant is qualified for nonprobated licensure pursuant to the laws and administrative regulations relating to Licensee's profession. If such review is requested, a hearing shall be held pursuant to Chapter 621, RSMo. A Commissioner of the Administrative Hearing Commission will preside over the hearing. The hearing will be on the record and recorded by a court reporter. At the hearing, Licensee shall have the right to present testimony, call witnesses on its behalf, introduce evidence, cross-examine any witnesses called by the Board, and object to any evidence introduced by the Board and make legal argument to the

¹ All statutory references are to the Revised Statutes of Missouri (2000), as supplemented, unless otherwise indicated.



Commission. Following the hearing, the Administrative Hearing Commission will issue an order including findings of fact, conclusions of law and a decision based on the evidence admitted at the hearing. A copy of the Administrative Hearing Commission's order will be delivered to the parties. Chapter 536, RSMo, sets forth the procedures for review of the order of the Administrative Hearing Commission.

If no written request for review is filed with the Administrative Hearing Commission within the 30-day period, the right to seek review of the Board's decision shall be considered waived. Section 324.038.2, RSMo. Should Licensee make written request for review of this Order, the terms and conditions of this Order shall remain in full force and effect unless and until such time as the Administrative Hearing Commission or reviewing court orders otherwise.

Relevant Statutes and Regulations

1. Section 324.038, RSMo, authorizes the Board to issue a license subject to probation in lieu of denial and states:

1. Whenever a board within or assigned to the division of professional registration, including the division itself when so empowered, may refuse to issue a license for reasons which also serve as a basis for filing a complaint with the administrative hearing commission seeking disciplinary action against a holder of a license, the board, as an alternative to refusing to issue a license, may, at its discretion, issue to an applicant a license subject to probation.

2. The board shall notify the applicant in writing of the terms of the probation imposed, the basis therefor, and the date such action shall become effective. The notice shall also advise the applicant of the right to a hearing before the administrative hearing commission, if the applicant files a complaint with the administrative hearing commission within thirty days of the date of delivery or mailing by certified mail of written notice of the probation. If the board issues a probated license, the applicant may file, within thirty days of the date of delivery or mailing by certified mail of written notice of the probation, a written complaint with the administrative hearing commission seeking review of the board's determination. Such complaint shall set forth that the applicant or licensee is

qualified for nonprobated licensure pursuant to the laws and administrative regulations relating to his or her profession. Upon receipt of such complaint the administrative hearing commission shall cause a copy of such complaint to be served upon the board by certified mail or by delivery of such copy to the office of the board, together with a notice of the place of and the date upon which the hearing on such complaint will be held. Hearings shall be held pursuant to chapter 621. The burden shall be on the board to demonstrate the existence of the basis for imposing probation on the licensee. If no written request for a hearing is received by the administrative hearing commission within the thirty-day period, the right to seek review of the board's decision shall be considered waived.

3. If the probation imposed includes restrictions or limitations on the scope of practice, the license issued shall plainly state such restriction or limitation. When such restriction or limitation is removed, a new license shall be issued.

2. Section 333.315, RSMo, requires a license to operate as a provider of preneed contracts and sets forth the requirements for licensure and states:

1. No person shall be designated as a provider or agree to perform the obligations of a provider under a preneed contract unless, at the time of such agreement or designation, such person is licensed as a preneed provider by the board. Nothing in this section shall exempt any person from meeting the licensure requirements for a funeral establishment as provided in this chapter. 2. An applicant for a preneed provider license shall:

(1) File an application on a form established by the board and pay an application fee in an amount established by the board by rule;

(2) Be authorized and registered with the Missouri secretary of state to conduct business in Missouri;

(3) Identify the name and address of a custodian of records responsible for maintaining the books and records of the provider relating to preneed contracts;

(4) Identify the name and address of each seller authorized by the provider to sell preneed contracts in which the provider is designated or obligated as the provider;

(5) File with the state board a written consent authorizing the state board to inspect or order an investigation, examination, or audit of the provider's books and records which contain information concerning preneed

contracts sold for or on behalf of a seller or in which the applicant is named as a provider; and

(6) If the applicant is a corporation, each officer, director, manager, or controlling shareholder shall be eligible for licensure if they were applying for licensure as an individual.

3. Each preneed provider shall apply to renew his or her license on or before October thirty-first of each year or a date established by the division of professional registration pursuant to section 324.001. A license which has not been renewed prior to the renewal date shall expire. Applicants for renewal shall:

(1) File an application for renewal on a form established by the board by rule;

(2) Pay a renewal fee in an amount established by the board by rule, however no renewal fee shall be required for any funeral establishment whose Missouri license is current and active;

(3) Be authorized and registered with the Missouri secretary of state to conduct business in Missouri;

(4) File an annual report with the state board which shall contain:

(a) The name and address of a custodian of records responsible for maintaining the books and records of the provider relating to preneed contracts;

(b) The business name or names used by the provider and all addresses from which it engages in the practice of its business;

(c) The name and address of each seller with whom it has entered into a written agreement since last filing an annual report with the board authorizing the seller to designate or obligate the licensee as the provider in a preneed contract; and

(d) Any information required by any other applicable statute or regulation enacted pursuant to state or federal law.

4. A license which has not been renewed as provided by this section shall expire. A licensee who fails to apply for renewal may apply for reinstatement within two years of the renewal date by satisfying the requirements of subsection 3 of this section and paying a delinquent fee as established by the board by rule.

3. Section 333.320, RSMo, requires a license to be a seller and states:

1. No person shall sell, perform, or agree to perform the seller's obligations under, or be designated as the seller of, any preneed contract unless, at the time of the sale, performance, agreement, or designation, such person is licensed by the board as a seller and authorized and registered with the Missouri secretary of state to conduct business in Missouri.

4. Section 333.061, RSMo, requires a license to operate as a funeral establishment in

Missouri and states:

1. No funeral establishment shall be operated in this state unless the owner or operator thereof has a license issued by the board.

2. A license for the operation of a funeral establishment shall be issued by the board, if the board finds:

(1) That the establishment is under the general management and the supervision of a duly licensed funeral director;

(2) That all embalming performed therein is performed by or under the direct supervision of a duly licensed embalmer;

(3) That any place in the funeral establishment where embalming is conducted contains a preparation room with a sanitary floor, walls and ceiling, and adequate sanitary drainage and disposal facilities including running water, and complies with the sanitary standard prescribed by the department of health and senior services for the prevention of the spread of contagious, infectious or communicable diseases;

(4) Each funeral establishment shall have available in the preparation or embalming room a register book or log which shall be available at all times in full view for the board's inspector and the name of each body embalmed, place, if other than at the establishment, the date and time that the embalming took place, the name and signature of the embalmer and the embalmer's license number shall be noted in the book; and

(5) The establishment complies with all applicable state, county or municipal zoning ordinances and regulations.

3. The board shall grant or deny each application for a license pursuant to this section within thirty days after it is filed. The applicant may request in writing up to two thirty-day extensions of the application, provided the request for an extension is received by the board prior to the expiration of the thirty-day application or extension period.

4. Licenses shall be issued pursuant to this section upon application and the payment of a funeral establishment fee and shall be renewed at the end of the licensing period on the establishment's renewal date.

5. Section 333.330, RSMo, authorizes the Board to deny an application for a provider license and states, in relevant portion:

1. The board may refuse to issue any certificate of registration or authority, permit, or license required under this chapter for one or any combination of causes stated in subsection 2 of this section. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of his or her right to file a complaint with the administrative hearing commission as provided by chapter 621.

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621 against any holder of any certificate of registration or authority, permit, or license required by this chapter, or any person who has failed to renew or has surrendered his or her certificate of registration or authority, permit, or license for any one or any combination of the following causes:

* * *

(4) Obtaining or attempting to obtain any fee, charge, tuition, or other compensation by fraud, deception, or misrepresentation;

(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation, or dishonesty in the performance of the functions or duties of any profession licensed or regulated by this chapter;

(6) Violation of, or assisting or enabling any person to violate, any provision of this chapter, or of any lawful rule or regulation adopted pursuant thereto;

(7) Impersonation of any person holding a certificate of registration or authority, permit, or license or allowing any person to use his or her certificate of registration or authority, permit, license, or diploma from any school;

* * *

(11) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated by this chapter regulating preneed who is not licensed or registered and currently eligible to practice thereunder;

* * *

(14) Violation of any professional trust or confidence;

6. Relevant portions of 20 CSR 2120-2.070 state as follows:

(9) The establishment license issued by the board is effective for a fixed place or establishment and for a specific name of a person or entity authorized to conduct business in Missouri and may include one (1) "doing business as" name. The license issued by the board shall be displayed in a conspicuous location accessible to the general public at that location. Whenever the ownership, location, or name of the Missouri licensed establishment is changed, a new license shall be obtained. If the Missouri licensed funeral establishment maintains a chapel, preparation room, or other facility in a building or portion physically separated from and located at a place designated by an address differing from the office, chapel, or other facilities of the applicant, the chapel, preparation room, or other funeral facility otherwise located shall be deemed to be a separate funeral establishment. Nothing contained in this rule shall be construed or interpreted to require a separate registration for a building if it is joined or connected by a private passage, walk or driveway existing between the registered establishment and the other building.

(A) If a change of ownership is caused by the elimination of one (1) or more owners, for whatever reason (death, sale of interest, divorce, etc.) without the addition of any new owner(s), it is not necessary to obtain a new establishment license. However, a new application for an establishment license form shall be filed as an amended application within thirty (30) days after the change of ownership. This form shall be filled out completely with correct, current information.

(B) A corporation is considered by law to be a separate person. If a corporation owns a Missouri licensed funeral establishment, it is not necessary to obtain a new establishment license or to file an amended application for an establishment license if the owners of the stock change. However, as a separate person, if a corporation begins ownership of a Missouri licensed funeral establishment or ceases ownership of a Missouri licensed funeral establishment, a new establishment license shall be obtained regardless of the relationship of the previous or subsequent owner to the corporation.

(10) The professional business and practice of funeral directing shall be conducted only from a fixed place or establishment that has been licensed by the board except as permitted by section 333.071, RSMo. The Missouri licensed

funeral establishment physical facility shall be under the general management and supervision of the Missouri licensed funeral director-in-charge. Every Missouri licensed funeral establishment shall provide and allow access to any member or duly authorized agent of the board for the purpose of inspection as provided by sections 333.061 and 333.101, RSMo. If any representative of the Missouri licensed funeral establishment fails or refuses to provide or allow access, it shall be considered a violation of this rule by the Missouri licensed funeral establishment and by the Missouri licensed funeral director-in-charge of the Missouri licensed funeral establishment. Additionally, if the Missouri licensed funeral establishment representative who fails or refuses to provide or allow access holds any license or registration issued by this board, that person shall be in violation of this rule.

(11) No one licensed by this board may be employed in any capacity by an unlicensed funeral establishment. Violation of this section will be deemed misconduct in the practice of embalming or funeral directing.

(12) Only one (1) license will be issued by this board for any physical facility that is considered to be a Missouri licensed funeral establishment as defined by statute and rule. If a Missouri funeral establishment licensed by this board is destroyed by fire or some other disaster or act of God, the board, in its discretion, for a period of not more than six (6) months, may allow the Missouri licensed funeral establishment to continue its operation from another Missouri licensed funeral establishment or from a facility that has not been licensed as a funeral establishment if the facility meets the minimum requirements for the functions outlined in section (2) of this rule.

(13) A Missouri licensed funeral establishment may use only its registered name in any advertisement or holding out to the public.

(A) All signs, stationery and any advertising in newspapers, publications or otherwise, shall include the name(s) of the Missouri licensed funeral establishment registered with the board. Advertisements that do not comply with this section shall be deemed misleading for the purposes of section 333.121, RSMo.

(B) It shall not be deemed to be misleading if a listing appears in a telephone directory or national directory if the name of the Missouri licensed funeral establishment changes after the listing has been placed, but before a new directory is published.

Parties and Application for Licensure

7. The Board is an agency of the State of Missouri created and established pursuant to Section 333.151, RSMo, and vested with the authority to execute and enforce the provisions of Chapter 333 and portions of Chapter 436, RSMo.

8. Officer Mortuary, LLC is a Missouri limited liability company in good standing with its principal place of business at 1905 Union Boulevard, St. Louis, Missouri 63113.

9. Officer Mortuary signed on December 6, 2010 its "Provider Application" (the "Application") and the Board received the Application on December 7, 2010². Marion E. Officer, Jr. signed the Application on behalf of Officer Mortuary. The Application was not completed until December 1, 2011 when Officer Mortuary completed their Application by meeting all requirements for the Board to consider it for licensure.

10. The Application listed Marion E. Officer, Jr. as the sole officer, director, manager, shareholder or owner of Officer Mortuary.

Basis for Probation

Operating Without an Establishment License

11. The Board conducted an investigation to determine whether Officer Mortuary operated as a funeral establishment without a funeral establishment license.

12. On August 11, 2011, the Board's investigator visited the location of Officer Mortuary and found the following violations:

- a. The funeral home was open for business;
- b. No funeral establishment license was posted;

² Officer Mortuary provided the Board with its application for funeral establishment, seller and provider in the same packet with the same accompanying documents to be used for each application

- c. Mr. Officer was present and informed the Board that the funeral home was operating under a license issued to Officer Mortuary, Inc., a business that had been operated at that location by his sister, but provided the Board with no documentation so show a valid funeral establishment license;
- d. A body was present in the preparation room that was being prepared for final disposition;
- e. The register book in the preparation room showed the first entry to reflect a body was embalmed on December 15, 2010 and the 2011 register book contained 44 entries with the first dated January 1, 2011 and the last dated August 16, 2011. The log appeared to be missing 9 entries when compared against the written statements of goods and services provided to the Board's investigators;
- f. Records from the City of St. Louis indicated that the business had closed on June 15, 2011 and no new city business license had issued;
- g. Officer Mortuary produced no valid city business license;
- h. Officer Mortuary, in correspondence with the Board and others, used letterhead in at least August and September, 2011, with the name of "Officer Mortuary, L.L.C. Ellis Chapel" that listed the officers of the company and the "professional services manager" including Marion E. Officer, Jr. as president;
- i. The business card of the funeral director in charge listed the business as "Officer Mortuary L.L.C. Ellis Chapel";
- j. Officer Mortuary provided funeral service brochures to families and those in attendance at funeral services listed "Services Entrusted to: Officer Mortuary, LLC Ellis Chapel" on at least 4 occasions;

- k. The written statements of goods and services provided to families for goods and services provided to families showed the name of the business to be "Officer Mortuary, L.L.C." and listed Marion E. Officer, Jr. as President.
- l. Officer Mortuary provided 46 funeral services to families, as evidenced by the written statements of goods and services for persons who died between December 13, 2010 and August 27, 2011.
- m. Between the dates of November 10, 2010 and September 8, 2011, Officer Mortuary submitted 46 death certificates to the Division of Vital Records using the name of Officer Funeral Home, Inc.

13. On September 29, 2011, Officer Mortuary appeared, by its attorney and Marion E. Officer, Jr., before the Board to respond to inquiries of the Board regarding its unlicensed practice and the pending applications for licensure.

14. The location at which Officer Mortuary seeks licensure, 1905 N. Union Blvd., St. Louis, Missouri 63113, had previously been a licensed funeral establishment operated by Officer Funeral Home, Inc.

15. On November 29, 2010, the Board received notice from Officer Funeral Home, Inc. that it would be ceasing business and would no longer operate a funeral establishment at 1905 N. Union Blvd, St. Louis, Missouri. Officer Funeral Home, Inc. subsequently notified the Board that its funeral establishment ceased operation on November 18, 2010.

16. Between November 19, 2010 and until approximately September 20, 2011, Officer Mortuary operated as a funeral establishment at 1905 North Union Boulevard, St. Louis, Missouri when it had no valid funeral establishment license.

17. Officer Mortuary held out to the public that it was a duly licensed funeral establishment when it held no such license.

18. Officer Mortuary provided services for at least 46 decedents during the time when it was not licensed.

19. Officer Mortuary filed documents with the State of Missouri, Department of Health and Senior Services, Division of Vital Records holding out as Officer Funeral Home, Inc. when it had no such authority to do so and when, in fact, Officer Mortuary provided the final disposition services and not Officer Funeral Home, Inc.

Acting as Provider Without a License

20. Officer Mortuary provided the Board with 2 preneed funeral contracts listing Officer Funeral as the Provider – one contract was issued on July 13, 2011 to T.D. with a face value of \$5,335 and one contract was issued on July 5, 2011 to M.C. with a face value of \$700.60.

21. On the contract for T.D., sold to the consumer by an employee of Officer Mortuary, Marion E. Officer, Jr., signed on behalf of Officer Mortuary acknowledging it would serve as the provider for life insurance funded preneed contract.

22. On the contract for M.C., Officer Mortuary is listed as the provider and the contract was sold to the consumer by an employer of Officer Mortuary.

23. Officer Mortuary acted as a provider when it held no such license.

Disclosure of Discipline

24. On the Application, Officer Mortuary checked the “yes” box in response to the following question:

3. Have you ever had any professional license, certification, registration or permit revoked, suspended, placed on probation, censured, reprimanded, fined or otherwise subjected to any type of disciplinary action? If yes, attach a full explanation.

25. In explanation for the "yes" answer on the Application, Marion E. Officer, Jr. ("Mr. Officer") provided the Board with a letter of explanation.

26. Mr. Officer disclosed in his letter attached to his Application: "In late 1989 the Officer Funeral Home of East St. Louis Illinois was reprimanded for the mishandling of a deceased human infant remains."

Discipline on License by State of Illinois

27. Records obtained from the Illinois Department of Financial and Professional Regulation show the following discipline on Mr. Officer's Illinois funeral director and embalmer license:

- a. On March 3, 1992, The State of Illinois Department of Professional Regulation ("State of Illinois") entered into a consent order with Mr. Officer placing his funeral director and embalmer license on probation for a period of one year and imposing a \$5,000 fine in settlement of allegations that Mr. Officer received dead human remains in November, 1988, but the requested cremation was not performed and the embalmed dead human remains were found abandoned at the former site of a funeral home operated by Mr. Officer.
- b. On August 24, 2004, the State of Illinois and Mr. Officer entered into a Consent Order reprimanding the embalmer and funeral director license held by Mr. Officer and imposing a \$100 fine in settlement of allegations that Mr. Officer's office manager falsified three funeral claim forms in the amount of \$2,000.

- c. On March 26, 2010, the State of Illinois and Mr. Officer entered into a consent order (the "2010 Consent Order") in settlement of allegations of misconduct including providing substandard funeral services and agreeing to refund monies to consumers, but not honoring his commitment to do so. The 2010 Consent Order included orders that Mr. Officer's funeral director and embalmer license be indefinitely suspended for a period of six months; a fine of \$5,000 be imposed; Mr. Officer must complete continuing education coursework of 6 credit hours on regulations dealing with funeral directing and embalming and 6 credit hours of expanding funeral ethics; correct a death certificate to show burial instead of cremation; that Mr. Officer issue refunds totaling \$5,500 to two families; and provide to the State of Illinois a written business plan containing protocols for submitting accurate insurance forms and authorizations, maintaining correct records and providing funeral services as requested. The 2010 Consent Order also stated that if a petition for restoration of license was granted, the license would be on probation.
- d. On March 28, 2011, the State of Illinois issued a "Suspension Order" due to unpaid tax liability or failure to file tax returns and suspended Mr. Officer's funeral director and embalmer license.

28. Mr. Officer's funeral director and embalmer license remains suspended in Illinois.

Statutory Basis for Denial

29. Officer Mortuary's conduct provides basis for the Board to deny its Application pursuant to cause set forth in Sections 333.330.2(4), (5), (6), (7), (11), and (14), RSMo.

30. The Board finds that issuance of a probated provider license, subject to certain terms and conditions, in lieu of denial, will ensure protection of the public.

Issuance of Probated License Subject to Terms and Conditions

The Board, in lieu of denial, hereby issues a provider license to Officer Mortuary, LLC, located at 1905 North Union Boulevard, St. Louis, Missouri 63113, on PROBATION for a period of FIVE YEARS (the "Disciplinary Period") subject to the terms and conditions contained in this Order and set forth below.

Terms and Conditions of Probation

31. Licensee shall comply with the following terms and conditions of probation during the Disciplinary Period:

- a. Licensee shall keep the Board informed of Licensee's current telephone numbers and addresses. Licensee shall notify the Board in writing within ten (10) business days of any change in this information. If Licensee utilizes e-mail, Licensee shall provide the Board with its current and active e-mail address;
- b. Licensee shall comply with all applicable provisions of Chapters 194, 333 and 436, RSMo, all Board regulations and all federal, state and local laws and regulations related to business operations in the funeral and death care industry including all insurance and security laws applicable to any insurance or annuity used to fund preneed funeral contracts;
- c. Licensee shall engage in no conduct that would give the Board cause to seek authority to discipline from the Administrative Hearing Commission;

- d. Licensee shall meet in person with the Board or any Board representative at any such time and place as required by the Board or its representative upon reasonable notice. Any such meetings shall be at the Board's discretion;
- e. Licensee shall submit written compliance reports to the Board no later than January 1 and July 1 of each year, but no compliance report shall be filed more than 14 days before it is due. Each of these compliance reports shall state truthfully whether there has been full compliance with the terms and conditions of this Order for the previous six month period and shall fully explain any non-compliance. These compliance reports shall contain all other information required by this Order. Compliance reports may be submitted on a form provided by the Board, but failure to receive such a form from the Board shall not excuse the timely filing of any compliance report;
- f. Upon the request by the Board or its representative, Licensee shall immediately submit any and all records requested to show compliance with these terms and conditions;
- g. Licensee shall renew timely all licenses and/or registrations, shall pay timely all fees required for licensure/registration and shall meet all other requirements necessary to maintain all licenses and registrations issued by the Board current and active; and
- h. Licensee shall accept and cooperate with unannounced visits from the Board, or its representatives, to monitor compliance with the terms and conditions of probation; and

- i. Licensee shall designate a manager in charge and shall notify the Board within 10 days of the date of this Order as to the name, address, phone and e-mail (if applicable) of the manager in charge of the provider. Licensee shall provide the Board with written notice of any change of the manager in charge no later than 5 days after the change occurs. Marion E. Officer, Jr. shall not serve as the manager in charge without the written consent of the Board.

32. Upon the expiration of the Disciplinary Period and successful completion of the probation, Licensee's license shall be fully restored if all other requirements of the law have been satisfied; provided however, that in the event the Board determines that Licensee has violated any term or condition of this Order, the Board may, in its discretion, after an evidentiary hearing, vacate and set aside the discipline imposed herein and may suspend, revoke, or otherwise lawfully discipline Licensee's license.

33. The Board shall enter no order imposing further discipline on Licensee's license without notice and an opportunity for hearing before the Board in accordance with the provisions of Chapter 536, RSMo.

34. If the Board determines that Licensee has violated a term or condition of this Order, and that violation would also be actionable in a proceeding before the Administrative Hearing Commission or in a circuit court, the Board may elect to pursue any lawful remedies or procedures afforded to it and is not bound by this Order in its determination of appropriate legal actions concerning such violation(s).

35. If any alleged violation of this Order occurs during the Disciplinary Period, the Board may choose to conduct a hearing on the alleged violation either during the Disciplinary Period, or as soon thereafter as a hearing can be held, to determine whether a violation of the

terms and conditions of probation occurred and, if so, may impose further discipline on the provider license of Licensee. The Board has continuing jurisdiction to hold a hearing determine if a violation of the terms and conditions of probation occurred.

36. This Order of the Board shall be maintained as an open and public record of the Board as provided in Chapters 333, 610 and 324, RSMo.

IT IS SO ORDERED.

Dated: 12.13.11

Sandy Sebastian
Sandy Sebastian
Executive Director
State Board of Embalmers and Funeral Directors



Jeremiah W. (Jay) Nixon
Governor
State of Missouri

Jane A. Rackers, Division Director
DIVISION OF PROFESSIONAL REGISTRATION

Department of Insurance
Financial Institutions
and Professional Registration
John M. Huff, Director

STATE BOARD OF EMBALMERS AND FUNERAL DIRECTORS
3605 Missouri Boulevard
P.O. Box 423
Jefferson City, MO 65102-0423
Email: embalm@pr.mo.gov
pr.mo.gov/embalmers

Sandy Sebastian
Executive Director

573-751-0813
573-751-1155 FAX
800-735-2966 TTY

November 8, 2012

800-735-2466 Voice Relay Missouri

CERTIFIED MAIL 7196 9008 9111 0820 8208

Marion Officer
Officer Mortuary LLC
1905 N Union Blvd
Saint Louis MO 63113

Dear Mr. Officer:

The State Board of Embalmers and Funeral Directors' records indicate that you have not submitted your renewal and/or filed your annual report for license number 2011040380 which were due on or before October 31, 2012. Because you have not submitted an annual report on or before October 31, 2012 your seller license number 2011040380 has been automatically suspended in accordance with Section 436.360.7. As a result of the suspension of your seller license you are not allowed to practice your profession. A suspension is a public disciplinary action.

Section 333.320.3 states, "Each seller shall apply to renew his or her license on or before October thirty-first of each year or a date established by the division of professional registration pursuant to section 324.001, RSMo. A license which has not been renewed prior to the renewal date shall expire. Applicants for renewal shall:

- (1) File an application for renewal on a form established by the board by rule;
- (2) Pay a renewal fee in an amount established by the board by rule; and
- (3) File annually with the board a signed and notarized annual report as required by section 436.460, RSMo.

Section 333.320.4 states, "Any license which has not been renewed as provided by this section shall expire. A licensee who fails to apply for renewal within two years of the renewal date may apply for reinstatement by satisfying the requirements of subsection 3 of this section and paying a delinquent fee as established by the board by rule."

Section 436.460.6 states, "All reports required by this section shall be filed by the thirty-first day of October of each year or by the date established by the board by rule. Annual reports filed after the date provided herein shall be subject to a late fee in an amount established by rule of the board."

Section 436.460.7 states, "If a seller fails to file the annual report on or before its due date, his or her preneed seller license shall automatically be suspended until such time as the annual report is filed and all applicable fees have been paid."

Enclosed is a reinstatement application/annual report for your convenience. The completed forms, along with the \$400 reinstatement fee (consisting of the \$200 renewal fee and a \$200 delinquent fee) and the \$36 per contract fee/s must be returned to and be processed by the Board before you can resume engaging in the activity of a preneed seller. Any unlicensed practice may result in further disciplinary action by the Board.

If you do not wish to renew your license, please contact the Board office immediately relating to the forms necessary to cease doing business.

If you have any questions, please feel free to contact our office at 573-751-0813.

Sincerely,

Sandy Sebastian
Executive Director

This letter has been sent both certified and regular mail



7196 9008 9111 0820 8208

TO: Marion Officer
Officer Mortuary LLC
1905 Union Blvd
Saint Louis MO 63113

SENDER: State Board of Embalmers &
Funeral Directors- Lori
REFERENCE:

RECEIVED
NOV 7 8 2012

PS Form 3800, January 2005

RETURN RECEIPT SERVICE	Postage	
	Certified Fee	
	Return Receipt Fee	
	Restricted Delivery	
	Total Postage & Fees	

US Postal Service®
**Receipt for
Certified Mail™**
No Insurance Coverage Provided
Do Not Use for International Mail

POSTMARK OR DATE

STATE BOARD OFFICE

2. Article Number



7196 9008 9111 0820 8208

3. Service Type **CERTIFIED MAIL™**

4. Restricted Delivery? (Extra Fee) Yes

1. Article Addressed to:

Marion Officer
Officer Mortuary LLC
1905 Union Blvd
Saint Louis MO 63113

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)

B. Date of Delivery

C. Signature

X

Agent
 Addressee

D. Is delivery address different from item 1?
If YES, enter delivery address below:

Yes
 No

RECEIVED

NOV 18 2012

STATE BOARD OFFICE