

SOUTH CAROLINA DEPARTMENT OF LABOR, LICENSING AND
REGULATION
BEFORE THE SOUTH CAROLINA PERPETUAL CARE CEMETERY BOARD
MARCH 29, 2012

BOARD MEMBERS:

JAMES W. RUSS, CHAIRMAN

RUSSELL M. FLOYD

RICK RIGGINS

ROGER D. FINCH

JACQUELINE PETTY

JOHN E. BARTUS

JAMES SAXON, ADVICE COUNSEL

This meeting/hearing were held at the South Carolina Department of Labor, Licensing and Regulation, The Kingstree Building, 110 Centerview Drive, Columbia, South Carolina, reported by Cecelia P. Englert, Verbatim Court Reporter and Notary Public in and for the State of South Carolina; said meeting/hearing being held on the 29th day of March, 2012, scheduled for 10:00 a.m.

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1 MR. RUSS: The meeting is called to
2 order. Public notice of this meeting was properly
3 posted at the South Carolina Perpetual Care
4 Cemetery Board Office, Synergy Business Park,
5 Kingstree Building and provided to all requesting
6 persons, organizations and news media in compliance
7 with Section 30-4-80 of the South Carolina Freedom
8 of Information Act. And a quorum is present.

9 For those of you who may not know the board
10 members and the staff members, at this time I'd
11 like to introduce them. I'm J.W. Russ from Conway,
12 presently the chair. Russell Floyd from
13 Spartanburg, Jackie Petty from Union, John Bartus.
14 I can't ever remember where you're from.

15 MR. BARTUS: Mauldin.

16 MR. RUSS: Rick Riggins from
17 Lancaster and --

18 MR. SAXON: James Saxon, you can
19 call me Jamie, from right here in Columbia, Forest
20 Acres.

21 MR. RUSS: Okay. Columbia. Amy
22 Holloway.

23 MS. HOLLEMAN: Holleman.

24 MR. RUSS: Holleman, excuse me.

25 MS. HOLLEMAN: That's okay.

1 MR. RUSS: I'm trying to change your
2 name to Jim's. And where is Wendi?

3 MS. HOLLEMAN: I don't know where
4 Wendy is.

5 MR. SAXON: Wendi just went to get
6 some things that you're going to need in just a
7 second.

8 MR. RUSS: All right. Ernest Adams,
9 who's on our staff as an inspector. Raymond Lee.
10 Who else is here on staff?

11 MS. HOLLEMAN: We've got Sharon
12 Cook and Sharon Wolfe.

13 MS. WOLFE: I'm Sharon Wolfe.

14 MS. HOLLEMAN: Sharon Cook is your
15 new investigator. And Sharon Wolfe, I think you
16 met before; she's over the investigator area.

17 MR. RUSS: Good. Now, visitors, we
18 have Adam Taylor. Rivers --

19 MR. STILWELL: Rivers Stilwell.

20 MR. RUSS: -- Stilwell. Jim
21 Holloway is on our staff too.

22 MR. HOLLOWAY: Sometimes.

23 MR. RUSS: Sometimes. Bill Gaffney.
24 And I'm sorry, I don't know, Mr. Kent, your first
25 name is what?

1 MR. KENT: Steve.

2 MR. RUSS: Steve Kent. And you
3 serve?

4 MR. KENT: Wallace McKnight.

5 MR. RUSS: Okay. And you're from
6 where? Georgetown?

7 MR. KENT: Georgetown.

8 MR. RUSS: Okay.

9 MS. RANDOLPH: Tamala Randolph,
10 (inaudible) Corporation. Tamala Randolph.

11 MR. RUSS: And our court reporter is
12 who?

13 COURT REPORTER: Ciel Englert.

14 MR. RUSS: Okay. Have I missed
15 anybody?

16 BOARD MEMBER: No.

17 MR. RUSS: Thank you.

18 MR. SAXON: And we're going to have
19 to wait for just a second. Wendi has gone to pick
20 up some things that the chairman is going to need,
21 that I didn't realize the chairman didn't have. So
22 if you'll bear with us for a second.

23 MS. HOLLEMAN: Did you want to go
24 ahead and vote on the excused absences?

25 MR. SAXON: We can do everything

1 else that leads up to --

2 MR. RUSS: We don't have anybody to
3 be excused today, right?

4 MS. HOLLEMAN: Is Roger coming?

5 MR. FLOYD: Roger Finch.

6 MR. RUSS: Oh, Roger's not here.

7 I'm sorry, yeah. We'll entertain a motion to
8 excuse Roger.

9 MR. FLOYD: Well does he have a
10 excuse.

11 MR. RUSS: Okay. Have a motion and
12 a --

13 MR. FLOYD: Did he have an excuse?

14 MS. HOLLEMAN: Right now is the
15 first time I knew he wasn't going to be here. So
16 Wendi may -- we actually we may need Wendi for that
17 too. She may have heard something.

18 MR. SAXON: We haven't done the
19 Pledge of Allegiance yet. We can do that.

20 MR. RUSS: We'll wait for that,
21 then.

22 MS. HOLLEMAN: Oh, actually, here he
23 comes.

24 MR. FLOYD: Yeah, here he comes.

25 MR. RUSS: Here's Roger. We don't

1 need to excuse him.

2 MR. FINCH: Sorry, sorry for being
3 late.

4 MR. RUSS: Roger, if you would,
5 introduce yourself to all these people, please,
6 sir.

7 MR. FINCH: I'm Roger Finch. I'm
8 from Honea Path.

9 MR. RUSS: All right. If y'all
10 would, please stand with me while we do the pledge.

11 (The Pledge of Allegiance is recited.)

12 MR. RUSS: Board members, have you
13 had the chance to review the November 3rd minutes?
14 And do you have any corrections or alterations to
15 those minutes?

16 MR. FLOYD: Mr. Chairman, on Line
17 130, that's one long sentence.

18 MR. RUSS: 130?

19 MR. FLOYD: On Line 130, it says,
20 "Mr. Floyd made a motion the board approved Mr.
21 Harold as manager and approved the pending changes
22 to the trust agreement, clarifying income
23 distributions." And I want to insert that net
24 capital gains are not income. I want to insert "to
25 be distributed," just for clarification purposes.

1 COURT REPORTER: I didn't hear that
2 last three words you said.

3 MR. FLOYD: Insert after -- well, it
4 says "And that net capital gains are not income,"
5 and to insert "to be distributed." Any question
6 there of that? Just for clarification purposes.

7 And I have another one, Mr. Chairman.

8 MR. RUSS: Okay.

9 MR. FLOYD: On Line 195, starts with
10 194. "Mr. Floyd made a motion. The board approved
11 the name change, pending a corrected contract
12 showing the" -- I'm going to insert statutory right
13 of substitution.

14 And I want to insert "for contractee when
15 burial vault purchased is no longer available after
16 substitution," so that it reads "The name change
17 pending a corrected contract showing the statutory
18 right of substitution for contractee when burial
19 vault purchased is no longer available and
20 disclosures don't require charges as an optional
21 charges."

22 MR. RUSS: Okay.

23 MR. FLOYD: That's all I have there
24 for the November 3rd minutes.

25 MR. RUSS: All right. Board

1 members, you've heard corrections to the November
2 3rd meeting minutes. Do you have anything further?

3 (NO RESPONSE.)

4 MR. RUSS: Do I have a motion then
5 that we accept the minutes as amended?

6 MS. PETTY: I make a motion.

7 MR. RUSS: Do I have a second?

8 MR. FLOYD: Second.

9 MR. RUSS: All right. All those in
10 favor, say aye.

11 BOARD MEMBERS: Aye.

12 MR. RUSS: All those oppose, by like
13 sign.

14 (NO RESPONSE.)

15 MR. RUSS: Okay. November the 29th
16 minutes. Do we have any corrections or alterations
17 to that?

18 MR. FLOYD: I had none. I make a
19 motion they be approved as written.

20 MR. RUSS: Okay. I have a motion
21 that we approve November 29th minutes as written.
22 Do I have a second?

23 MR. FINCH: Second.

24 MR. RUSS: All those in favor, say
25 aye.

1 BOARD MEMBERS: Aye.

2 MR. RUSS: All those oppose by like
3 sign. I don't really have any remarks this
4 morning, other than to thank all of you for coming
5 again. We'll try to move as quickly as we can
6 through these. I think we have some of the
7 hearings this morning. We do need to amend our
8 agenda some, which we'll do in just a few minutes,
9 okay?

10 Matter of fact, do we need to do that now,
11 Amy?

12 MS. HOLLEMAN: I believe it would
13 probably be a good time. We need to move Items 6,
14 which is information update, the financial
15 statement, and Item 7, which is the administrator
16 remarks. We need to move this until Doris Cubitt
17 arrives, probably -- we may want to do those even
18 after new business, whenever you would like those.

19 And then we need to move old business, 11-1, A
20 through H -- those are the cemetery equity
21 solutions, Adam Taylor cemeteries -- we need to
22 move those directly after 8-C, which is the
23 inspection report that Ernest Adams will give us,
24 because Mr. Holloway needs to leave.

25 Also, 11-2, the update on Heritage Memorial

1 Gardens and Greenhaven, to go directly after 11-1 A
2 through H, because Mr. Stilwell may be available to
3 answer questions on those, if needed. The
4 disciplinary hearings will happen directly after
5 that.

6 MR. RUSS: Okay. Just so I
7 understand, we're moving Cemetery Equity Solutions
8 between 8C and 8D?

9 MS. HOLLEMAN: Yes, sir.

10 MR. RUSS: And we're moving Doris to
11 where. whenever she gets here.

12 MS. HOLLEMAN: Yes whenever she's
13 available.

14 MR. SAXON: She's in the legislature
15 right now.

16 MR. RUSS: Yeah.

17 MS. HOLLEMAN: And then we need to
18 move 11-2, which is the update on Heritage Memorial
19 Gardens and Greenhaven Memorial Gardens directly
20 behind the Cemetery Equity Solutions, so that will
21 also go between C and D on No. 8, directly
22 following the Cemetery Equity Solutions.

23 MR. SAXON: Same order, just moved
24 above?

25 MS. HOLLEMAN: Right. Just above.

1 MR. RUSS: And actually, I don't
2 believe the board will have any questions on that,
3 so we can leave it where it's at. I think the
4 letter that we received --

5 MS. HOLLEMAN: Satisfactory?

6 MR. RUSS: -- is satisfactory until
7 they come back before us. Okay? All right. So we
8 have -- do we have --

9 MR. FLOYD: I make a motion to that
10 affect, that we amend the agenda.

11 MR. RUSS: All right. So we've got
12 a motion to amend our agenda. Do we have a second?

13 MS. PETTY: Second.

14 MR. RUSS: I have a motion to a
15 motion to amend our agenda and a second. All those
16 in favor, say aye.

17 BOARD MEMBERS: Aye.

18 MR. RUSS: All those opposed?

19 (NO RESPONSE.)

20 MR. RUSS: All right. It's amended.
21 So then the next thing we have then would be Sharon
22 Wolfe; is that correct?

23 MS. HOLLEMAN: Yes, sir.

24 MS. WOLFE: Morning, everyone.

25 MR. RUSS: Morning.

1 MS. WOLFE: We have a brief report
2 this morning. We currently have four active cases,
3 and we've only received one complaint so far this
4 year. And with the board approval on our previous
5 IRC cases. And so I would ask that you review the
6 IRC report. And if you have questions, let us
7 know.

8 MR. RUSS: Okay. Anybody have any
9 questions for Ms. Wolfe?

10 (NO RESPONSE.)

11 MR. RUSS: No? Then do I have a
12 motion to accept her report?

13 MR. FLOYD: I make a motion to that
14 affect.

15 MR. RUSS: Okay. Do I have a
16 second?

17 MR. RIGGINS: I second.

18 MR. RUSS: All those in favor of
19 accepting the report as written, say aye.

20 BOARD MEMBERS: Aye.

21 MR. RUSS: All those opposed?

22 (NO RESPONSE.)

23 MR. RUSS: Okay. Thank you, Ms.
24 Wolfe.

25 MS. WOLFE: Thank you.

1 MS. HOLLEMAN: Earnest will do the
2 inspection report. Mr. Adams. I'm sorry, Mr.
3 Adams.

4 MR. ADAMS: Good morning, Mr.
5 Chairman and members of the board. If you will
6 turn to your cemetery report, we have -- there's
7 two cemetery inspectors now, myself and Mr. Buddy
8 Poole. Buddy's on vacation this week, so he wasn't
9 able to attend. And I must beg the chairman's
10 pardon; I need to leave at lunch. I had to take my
11 wife to the hospital this morning for chest pains.
12 So I need to get back to the hospital. But I
13 wanted to come and meet with the board, since it's
14 our first opportunity and Buddy couldn't be here to
15 meet with the board, so the board could get to know
16 both of us. And if you have any questions, you can
17 ask us.

18 But over that period of time, you see we've
19 done about 81 inspections. Now, we are still
20 learning, so we're going to need your expertise and
21 give us some pointers on things. Raymond had done
22 a very excellent job in training. But still some
23 things that we need to get some training on.

24 Anyone have any questions or anything?

25 MR. RUSS: So how are y'all dividing

1 the state? Is it --

2 MR. ADAMS: I take the lower,
3 Columbia down and Buddy takes from Columbia up.
4 And we try to manage it. At the same time, we're
5 doing funeral homes and crematories. And it's
6 working out pretty good.

7 MR. RUSS: Okay.

8 MR. ADAMS: Yes, sir.

9 MR. RUSS: So how many cemeteries
10 does that give each one of you, approximately?

11 MR. ADAMS: We haven't even looked
12 at that, but we tried to divide it in half. But,
13 you know, if he's not able to get somewhere, then
14 I'll go do it. We just interchange.

15 MR. RUSS: Well, from what I've seen
16 here, you guys are doing a good job.

17 MR. ADAMS: Well, thank you so much.

18 MR. RUSS: Thank you very much. And
19 I do commend Raymond on training you guys pretty
20 well.

21 So now we would be ready for --

22 MS. HOLLEMAN: Mr. Taylor.

23 MR. RUSS: -- Cemetery Equity
24 Solutions, Adam Taylor. Good morning, Adam.

25 MR. TAYLOR: Good morning.

1 MR. RUSS: And Rivers.

2 MR. TAYLOR: How are y'all?

3 MR. RUSS: Okay.

4 MR. STILWELL: Mr. Chairman, I
5 know I've been down here too much when you can call
6 my name right off, right at the beginning. I've
7 made a lot of trips down here. I promise this one
8 won't be as high octane as the last one. When I
9 went home in Greenville, all the associates had
10 looked at the tape of me almost getting in a fight
11 with the lawyer twice as big as me. But they were
12 watching it on the internet and laughing to death.
13 So I'm going to be on my best behavior today.

14 Today is, I think, the third time I've been
15 down here with Adam. This is the best trip for me
16 because I'm going to ask y'all to be prepared to
17 accept good news because we came down here last
18 time, we had to get the Aiken numbers; now I've got
19 the other set of numbers and we can discuss which
20 all ones to do with them. But I just -- I got --
21 the books are under here under Adam's knee. These
22 are the summary of them, on the PC accounts. And
23 this is literally going grade by grade, all back
24 through the decades, like we talked about. Instead
25 of using a method to say figuring how many did we

1 sell in each decade, we actually looked at every
2 real one. I'm out of copies. If y'all need one, I
3 have more on my desk.

4 And so if you look at the PC account, it's
5 actually -- the PC account's tally, some are over
6 and some are under. But if you look at that last
7 one, "plantation," it's 179 over, itself. And that
8 gives -- and with the sum there you'll see the PC
9 accounts are 180 over.

10 How they got this way, I have no idea. I
11 mean, through history, I don't know how they got to
12 where some are under like that, and I don't know
13 why the guys who had this before Adam had them to
14 where they were like 180 over on plantations. But
15 that's just accepting good news right there. I
16 mean, we went through so much stuff, talking about
17 bonding those accounts and stuff, and they're
18 actually funded.

19 MR. TAYLOR: That's contract by
20 contract, every single one of them. Dates written,
21 paid, trusts, deposits, it's contract by contract.

22 MR. RUSS: But in order for it to be
23 over that much, what kind of a pattern did you see
24 there? Or did you see any --

25 MR. TAYLOR: When you go back -- Mr.

1 Russ, when you go back to the original, when it was
2 started in the '50s, I've got the exact deposit,
3 the exact deposit date, everything contract by
4 contract, name by name. And we can literally
5 physically pull everyone of them. So we were
6 running off of a formula. Think when Mr. Holloway
7 did it, I think it was an estimated guess, and we
8 looked at developed --

9 MR. STILWELL: It may be a little
10 bit --

11 MR. TAYLOR: I think what was good
12 and what we did is said "Hey, this the worst case
13 scenario," and used the formula. I don't recall
14 exactly what the formula was, but this is literally
15 every contract in every one of our file rooms
16 pulled day by day to have it done. And right now,
17 we're getting an accountant to sign off on it so
18 we'll be having the procedures taken care of. They
19 are going back behind and doing it.

20 MR. RUSS: You feel like you're at
21 the point now where you guys can do an audit on
22 everything?

23 MR. TAYLOR: I think on the PC, no
24 question, because, I mean, this binder right here,
25 lists every single contract, every name, date

1 written, date trust funded for every contract in
2 every cemetery. You know, how many spaces, if it
3 happened to be a lawn crypt, mausoleum crypt. I
4 mean, it's broken out piece by piece.

5 So as far as the PC liability stuff, I'm a
6 hundred percent confident in everything because I
7 physically had this done myself. And I did it. I
8 mean, I was physically there. Because I was just
9 tired of the guessing game on what I thought was
10 there. So I just bit the bullet and said, "Hey,
11 this month, this is all we're going to do." So on
12 the PC, I'm a hundred percent confident on it.

13 MR. RUSS: All right. In your trust
14 account, where do you stand with that as far as
15 what you think real balance is there?

16 MR. TAYLOR: As far as the
17 Professional Care trust?

18 MR. RUSS: Yeah.

19 MR. TAYLOR: That's exactly it.
20 I've got a million, three ninety-six, oh eighty-
21 nine oh seven, and the liability was 1.25. I'm
22 actually over by \$180,000.

23 MR. RUSS: Okay. I misspoke; I'm
24 sorry. In your merchandise account.

25 MR. TAYLOR: Merchandise trust, I'm

1 not sure yet. But right now we are submitting to
2 get, as the original order said --

3 MR. STILWELL: I think we were at
4 \$500.

5 MR. TAYLOR: Good. -- that bond
6 that y'all -- oh, I couldn't get the PC trust
7 funded. They just said that's not a bondable item.
8 But the merchandise trust, as we all know, can be
9 bonded. So right now I'm working with the -- Bell
10 -- Bell is his last name. Y'all may know him.
11 I've never done bonding on it. So right now I'm
12 submitting to agree with the original order of
13 having a bond on the merchandise trust, half a
14 million dollars.

15 MR. RUSS: So how close are you on
16 that?

17 MR. TAYLOR: I don't know. I don't
18 know. I know right now on the merchandise trust,
19 we've got --

20 MR. STILWELL: Two fifty-seven.

21 MR. TAYLOR: I got \$257,000 in cash,
22 sitting there right now, and we have not taken --
23 you know, everything that's been delivered, all the
24 back stuff, we delivered probably somewhere -- I
25 think we looked at it -- about three quarters of a

1 million dollars -- in merchandise that we've
2 delivered since we took over -- the Cemetery Equity
3 Solutions took over -- out of our own pockets, not
4 taking anything out of the merchandise trust
5 whatsoever.

6 So I can't see that it could be -- I mean,
7 there's two fifty-seven in there and they weren't
8 really writing a bunch of business when we took
9 over. So there wasn't that many contracts that
10 were paid off and undelivered other than what the
11 complaints that were sitting there. So I just
12 don't see that it could be much -- I mean, that's a
13 million dollars with the two fifty-seven, seven
14 fifty I figure we'd delivered.

15 MR. RUSS: All right. You've
16 delivered a million what?

17 MR. TAYLOR: No, I think we've
18 delivered about seven hundred and fifty thousand.
19 I mean, that's just a estimated guess since we took
20 over, because I know in the first two months we
21 delivered almost a quarter million dollars in
22 bronze that was, you know -- but it was all over
23 the papers in Orangeburg and all that stuff. I
24 know when we went in and did that. We took Camden,
25 Orangeburg and Columbia, and that was an internal

1 check written, not like nothing was pulled out.
2 The trust has never been touched. We've never
3 pulled any money out of it.

4 So the original order -- so we, you know --
5 maybe Rivers can into more in-depth, but the
6 original order said, "Hey, you need to bond the
7 professional care trust," which you can't find
8 anybody to bond professional care trust. Now, a
9 merchandise trust is a different story. And the
10 original order said you need to bond it at least
11 half a million dollars. So we're trying to make
12 this as easy as possible and say, "Okay."

13 MR. STILWELL: We've got so
14 many huge numbers -- different levels of estimation
15 and stuff. To get down to the point where we're
16 talking about, \$500,000 versus two sixty already
17 sitting in the bank is relative of everything we've
18 been talking about. I mean, this is a happy day.

19 MR. RUSS: It would be good if you
20 could if you could get an agreed-upon procedures
21 done on your PC.

22 MR. TAYLOR: That's the problem.

23 MR. RUSS: Because that would remove
24 -- I know I may be speaking for the board when I
25 shouldn't be, but I think that would go a long way

1 with the board.

2 MR. TAYLOR: I've already hired
3 an accountant to start getting that taken care of.

4 MR. RUSS: All right.

5 MR. TAYLOR: We're already working
6 on that.

7 MR. RUSS: Anybody --

8 MR. FLOYD: So this is just for
9 information purposes?

10 MR. TAYLOR: This is not --

11 MR. STILWELL: Mr. Floyd what I was
12 saying -- we were here about a year ago, and I've
13 had a draft ordered from Sheridan since like June,
14 and the numbers in here are in order to
15 substantiate the draft ordered. It's basically
16 been hanging for the board consideration. So I
17 don't know exactly mechanically what we do next,
18 but I think the accountant looks at these numbers.
19 And I don't know how the agreed-upon procedure is
20 written that was in this proposed order would be
21 ready to be the order in this finally.

22 MR. RUSS: Well, just speaking from
23 my own experience, an agreed-upon procedure, you've
24 got a disinterested third party who is attesting to
25 all of this. So, I mean, when we see figures here,

1 nobody signed off on them.

2 MR. STILWELL: Right. I guess my
3 question was whether Mr. Holloway were going to be
4 involved. Or if we go to the agreed-upon
5 procedure, that would just be a private accountant.
6 A third party. Mr. Holloway's not a third party,
7 but he's affiliated with y'all.

8 MR. RUSS: Actually, that's not part
9 of what Mr. Holloway is supposed to do. He's --

10 MR. STILWELL: Right.

11 MR. RUSS: -- here to advise the
12 board. But it's not his duty to try to do an
13 agreed-upon procedure.

14 MR. STILWELL: Right. That's what
15 I was saying. But the last time we were down here,
16 maybe it was that year ago where Mr. Holloway was
17 involved in it; we were talking about him. And so
18 now with this kind of data -- but I guess that's
19 what we're saying; we don't probably need Mr.
20 Holloway now.

21 MR. TAYLOR: I think the easiest
22 thing is I get a third party external accountant to
23 audit these and get it done. I'm ready for it to
24 -- all be water under the bridge and be done, you
25 know? I went and I got and, you know, this is just

1 -- there's only one way to figure this thing out,
2 and that's take the bull by the horns and pull
3 every single file. And that's what we did.

4 So, I mean, this is with my own eyes. I'm not
5 an accountant. But I can look at cemetery
6 contracts all day long and tell what's supposed to
7 be there, what was funded and where it was funded.
8 And this right here is a printout that was entered
9 of every contract. For instance, this open one,
10 you know, 1967, Clarence Abram bought four spaces
11 and the money was put in the PC. It was paid in
12 full in '66 and the money was put in the PC of
13 \$37.60. That shows the date. This is every single
14 contract that's in our file rooms. And that's a
15 bunch of contracts to pull.

16 MR. RUSS: Mr. Holloway you got any?

17 MR. HOLLOWAY: Yes, sir. What I
18 wanted to do is just kind of refresh the board's
19 memory of what I was asked to do. Since, when they
20 first came, they were claiming the records either
21 didn't exist or was too hard. So the board asked
22 me to go down and make some estimates. And you
23 didn't want to pay my professional rates to go to
24 eight cemeteries and do what he's done.

25 Now, I've given you copies of my work

1 papers. And if you look at the one that's on C --
2 or at least is A --

3 MR. FLOYD: Are these your work
4 papers?

5 MR. HOLLOWAY: Yes, sir.

6 MR. FLOYD: These are not Adam's
7 work papers.

8 MR. HOLLOWAY: These are my work
9 papers.

10 MR. FLOYD: These are Jim Holloway
11 work papers.

12 MR. HOLLOWAY: This one that's
13 labeled "A," this was the first one that I did.
14 And what I did, I went to each cemetery, and I got
15 how many sites were platted. And from that, I
16 deducted all the unsold sites and calculated the
17 number of sold sites, and then did an estimate.
18 And if you'd look at that, that's the theoretical
19 -- what it would -- if everything was sold at
20 today's prices, you needed to have about seven
21 million dollars in the account. But we know that's
22 not true.

23 So my second step was to, let's go back and
24 make a estimate. And so the one that's labeled "B
25 estimated," went back and using the CPI, went back

1 to the date of the start of the cemetery. Made a
2 assumptions, say "I assume that the cemetery plots
3 or prices would pretty much follow CPI." Now, it
4 may or may not be true, but it's an assumption.
5 And I also assumed that on the average, once a
6 cemetery was up, the sales weren't -- they really
7 wouldn't spike. I mean, they pretty much plot
8 along about the same every year.

9 And that was the one where I came up with four
10 million, three hundred and sixty. And you can see
11 that summarized down at the bottom. And that was
12 the one that I think you used. Now, although in
13 your order, I think whoever took the minutes
14 misunderstood me. I said four million three and it
15 wound up being four comma zero, zero, three. It
16 was four million, three hundred and fifty-six.

17 But now, so what I did then in
18 preparation of today --

19 MR. FLOYD: Excuse me, Jim. Four
20 million, three is what? What you estimated should
21 be there?

22 MR. HOLLOWAY: It's under my
23 methodology.

24 MR. FLOYD: If everything was sold?

25 MR. HOLLOWAY: No. Just from what

1 was sold on the day I visited. All right now, I
2 then went back. Took the very same work papers and
3 I said, "Okay. What should be in there if they
4 gave everyone of them away?" And that's the one
5 that I've labeled "minimum." If they simply gave
6 them all away, how much did the law require to be
7 in there? And that's the one that's labeled "C."
8 That's the minimum deposit. And that's one
9 million, six hundred and seventy-eight thousand.
10 Now, so I don't see how it could be any less than
11 that because the law requires you to put something
12 in there, even if you give it away. So in terms of
13 what the actual balance should be, I can't see it
14 being any less than that.

15 I guess I'd also say -- I'd also say, Mr.
16 Chairman, that if these were -- I would strongly
17 encourage the board not to aggregate these PC
18 accounts. If you think of the cemeteries as eight
19 cemeteries, each cemetery could be bought and sold
20 tomorrow, and I would say that each cemetery should
21 have its separate account. And so to --

22 MR. FLOYD: And the fact that
23 one is over by \$180 doesn't have anything to do
24 with the other \$70.

25 MR. HOLLOWAY: That's the way I look

1 at it, sir.

2 MR. FLOYD: That's your point

3 MR. HOLLOWAY: That's the way I look
4 at it.

5 MR. FLOYD: That's exactly
6 right. Each one stands on its own. You've got one
7 that's over-funded by the amount of \$180, and the
8 other -- well, there's two others that are slightly
9 over-funded. And the real issue that we're
10 comparing liabilities. And you determine these
11 liabilities, this 1.2 liabilities by going through
12 all your contracts.

13 MR. TAYLOR: Yes, sir.

14 MR. FLOYD: Real issue is
15 matching liabilities with deposits in the trust
16 account. The fact that the balance varies has to
17 do with market value.

18 MR. TAYLOR: That's what we've
19 done. One of my questions --

20 MR. FLOYD: Well --

21 MR. TAYLOR: -- would be back
22 in the '50s and --

23 MR. FLOYD: -- the balance. But
24 you're comparing it to the balance.

25 MR. TAYLOR: -- the balance is --

1 this is when everything was deposited. I mean,
2 they can lose a million dollars or gain a million
3 dollars. When the market changes, they change. We
4 all know that it's an investment portfolio. But I
5 was going to ask Jim because I don't know -- you
6 know, there was a minimum of a \$40 deposit at one
7 point in time. But back in the '50s and '60s, it
8 was ten dollars a lot.

9 MR. HOLLEMAN: They're \$20. The
10 thing you sent me was \$20, the minimum.

11 MR. TAYLOR: I believe back a long
12 -- I believe that's incorrect.

13 MR. FLOYD: Well, that was if they
14 were given away. Did you have -- did they have
15 free space programs back then?

16 MR. TAYLOR: All of these had free
17 space programs.

18 MR. FLOYD: Was it ten percent of
19 whatever --

20 MR. TAYLOR: Ten percent or the
21 minimum, whichever is greater.

22 MR. FLOYD: Again, I think that's
23 the point of the ADP, that's your independent
24 auditor, goes in there and makes some
25 determination, so --

1 MR. HOLLEMAN: In other words, this
2 was --

3 MR. FLOYD: -- this is interesting,
4 but --

5 MR. HOLLEMAN: I don't know that --
6 I think it's a little premature to them some relief
7 just right now. And if you did give them some
8 relief, I certainly would wait for the ADP because
9 I'm fairly comfortable that -- again, it's a
10 guesstimate. You can see on the bottom, right
11 inside the summary "by cemetery." And it could
12 pretty much -- it moves kind of like gives to us.
13 It's just -- you know, I would wait before we give
14 it relief.

15 MR. FLOYD: And we've been
16 discussing the Perpetual Care Trust --

17 MR. TAYLOR: Uh-huh.

18 MR. FLOYD: -- regarding
19 merchandise. You've said numerous times that you
20 provided all this and delivered all these
21 memorials?

22 MR. TAYLOR: Uh-huh.

23 MR. FLOYD: I've yet to seen any
24 proof of that.

25 MR. TAYLOR: Just look in the

1 newspaper.

2 MR. FLOYD: I'm not interested in
3 looking in the newspaper. I'm interested in having
4 copies of paid-in-full invoices from whoever your
5 bonds distributor is. That's a easy enough way
6 to --

7 MR. TAYLOR: No problem.

8 MR. FLOYD: -- demonstrate that.

9 MR. STILWELL: Matter of fact, I
10 think we sent that in before.

11 MR. TAYLOR: That's part of what we
12 brought last time.

13 MR. STILWELL: It was. We've
14 brought that stuff before.

15 MR. FLOYD: Amy?

16 MS. HOLLEMAN: I apologize, I --

17 MR. FLOYD: I don't remember ever
18 seeing it, but -- but again, you can verify
19 that one way or the other. Y'all determine you
20 either have it or you don't. We haven't seen
21 it. We just need -- that would go towards
22 underwriting your comments about \$750,000 worth of
23 bronze being --

24 MR. TAYLOR: I said "merchandise."

25 MR. FLOYD: Merchandise, vaults and

1 bronze.

2 MR. TAYLOR: Yes, sir.

3 MR. FLOYD: Where do you get --
4 where do you get your vaults from?

5 MR. TAYLOR: Numerous different
6 people. It just depends on like, I mean --

7 MR. FLOYD: Wilbur?

8 MR. TAYLOR: It depends. I mean,
9 for instance, if I use Charleston Wilbur. But I
10 use -- in the Upstate, Charleston Wilbur doesn't
11 deliver to us. I mean, Greenville Wilbur
12 sometimes. But a lot of times we get, you know,
13 six delivered at a time.

14 MR. FLOYD: So you were using third
15 party --

16 MR. TAYLOR: Yes, sir.

17 MR. FLOYD: -- vault manufacturers.

18 MR. TAYLOR: Yes, sir.

19 (Off-the-record discussion.)

20 MR. FLOYD: Chairman, I'd like to
21 make a motion we go into executive session.

22 MR. RUSS: I have a motion to go
23 into executive session. Do I have a second?

24 MR. RIGGINS: Second.

25 MR. BARTUS: Second.

1 MR. RUSS: All those in favor, say
2 aye.

3 BOARD MEMBERS: Aye.

4 MR. RUSS: All those opposed?

5 (NO RESPONSE.)

6 (Executive Session.)

7 MR. RUSS: Do I have a motion to
8 come out of executive session?

9 MR. FLOYD: So moved.

10 MR. RUSS: Do I have a second?

11 MS. PETTY: Second.

12 MR. RUSS: All those in favor, say
13 aye.

14 BOARD MEMBERS: Aye.

15 MR. RUSS: No motions were made and
16 no votes were taken during executive session.

17 MR. FLOYD: Mr. Chairman, I'd like
18 to make a motion and ask Jamie to read it for us.

19 MR. RUSS: Okay.

20 MR. SAXON: Mr. Taylor and Mr.
21 Stilwell, the board wants you to provide eight
22 independent AUPs, verified by a CPA who is
23 independent of your company. This would be at your
24 own expense. Copies of paid vendors invoices
25 regarding all bronze and vaults you've provided.

1 You can submit the AUPs individually. The first
2 must be submitted, however, no later than May 25th,
3 2012. Thereafter, you should submit them once
4 monthly or sooner, but all must be submitted by the
5 end of 2012 or earlier.

6 Is that the --

7 MR. FLOYD: I make that in the --

8 MR. SAXON: -- motion?

9 MR. FLOYD: -- form of a motion.

10 MR. RUSS: Okay. You've heard the
11 motion. Do I have a second?

12 MR. RIGGINS: Second.

13 MR. RUSS: All those in favor, say
14 aye.

15 BOARD MEMBERS: Aye.

16 MR. RUSS: All those opposed?

17 (NO RESPONSE.)

18 MR. RUSS: Motion carries. Mr.
19 Taylor and Mr. Stilwell, what the board is trying
20 to do here is bring closure -- you understand?

21 MR. TAYLOR: That's what I want.

22 MR. RUSS: For you and for us, okay?

23 MR. TAYLOR: Believe me, that's
24 what I want too.

25 MR. RUSS: And that's why we want to

1 do it this way.

2 MR. STILWELL: And Mr. Chairman, I
3 think that's basically what we want to do today. I
4 mean, like when Mr. Holloway said that we not get
5 relief today, somebody had to look at these
6 numbers. There was -- obviously, it had to be a
7 next step. So I think we're all --

8 MR. RUSS: And, of course, we've got
9 the numbers for information purposes. But an
10 independent audit or so should hopefully bring us
11 to closure, okay?

12 MR. TAYLOR: Nothing would make me
13 happier.

14 MS. PETTY: Well, you've already
15 done all the work since you got all that with the
16 proof of every contract.

17 MR. TAYLOR: I mean, it literally --
18 believe me, I didn't -- see, I hadn't had time to
19 get a haircut since the last time I was here.
20 While I was pulling all these contracts.

21 (Off-the-record discussion.)

22 MR. TAYLOR: We'll get it taken care
23 of.

24 MR. RUSS: All right. Thank you
25 very much.

1 MR. TAYLOR: Thank you.

2 MR. SAXON: If you've got any
3 questions, just give me a call or give Ms. Cubitt a
4 call.

5 (Off-the-record discussion.)

6 MR. RUSS: Christa Bell, are you
7 ready to proceed?

8 MS. BELL: Good morning. I am.

9 MR. RUSS: Thank you very much for
10 agreeing to let us amend our agenda.

11 MS. BELL: Oh, no problem at all. I
12 have the -- the first thing I want to is No. 8,
13 Item D on your agenda. It's the case status
14 report. And if I could -- if I could get you to
15 take one and pass it. But this is just the number
16 of cases that we currently have in the Office of
17 General Counsel. We have six open cases. One is
18 pending action. There is one pending a Memorandum
19 of Agreement, which will be covered today. There
20 are two pending Final Order hearings, and actually,
21 those will be two hearings that you will hear
22 today.

23 And then there are two that are pending Final
24 Orders, and I believe those two are the ones where
25 you accepted -- Mr. Spoon actually was with you-all

1 then; it may have been in December -- but where
2 you-all accepted a Memorandum of Agreement with the
3 Iglehearts, those two cases. And I see they're on
4 the agenda for an update. But those are the two
5 cases that we are just waiting for a final order.

6 MR. SAXON: Which one is that, Ms.
7 Bell?

8 MS. BELL: That is Greenlawn -- I'm
9 sorry --

10 MR. SAXON: Greenhaven.

11 MS. BELL: -- Greenhaven and
12 Heritage. And they're on Page 2.

13 MR. SAXON: Yeah. So there has been
14 no final order in that?

15 MS. BELL: Well, what has happened
16 is they have some application issues, but they also
17 have discipline issues.

18 MR. SAXON: Okay.

19 MS. BELL: They have not resolved
20 all the issues related to their application, so the
21 board --

22 MR. SAXON: Was the disciplinary
23 matters dealt with?

24 MS. BELL: The MOA was accepted, but
25 no sanction has been rendered yet, because they're

1 waiting to get some of the audits and things -- Mr.
2 Stilwell was involved in that matter on behalf of a
3 bank. The Iglehearts were represented by counsel.
4 But the long and short of it is, they accepted the
5 MOA, so we are -- that part has been -- but we
6 don't have a final order yet because they're still
7 trying to resolve -- final order is probably going
8 to be fashioned to include some of the issues with
9 the application.

10 MR. SAXON: Okay. And I apologize;
11 I wasn't here for that.

12 MS. BELL: You were not. Mr. Spoon
13 was --

14 MR. SAXON: So when we looked at --

15 MS. HOLLEMAN: That was actually
16 Dean.

17 MS. BELL: Oh, Dean, I'm sorry. Mr.
18 Grigg was here.

19 MR. SAXON: And, Mr. Chairman, if
20 it's okay, may I continue to ask her --

21 MR. RUSS: Sure.

22 MR. SAXON: -- a few questions, to
23 get myself up-to-date?

24 MR. RUSS: Well, let me fill you in
25 a little bit. We've got a letter from their

1 attorney.

2 MR. SAXON: Yes, sir.

3 MR. RUSS: Okay. And where their
4 issue is right now, they can't find all the old
5 documents.

6 MR. SAXON: So basically, No. 2 is
7 on here for information purposes right now?

8 MR. RUSS: Yeah.

9 MR. SAXON: Is that your
10 understanding too, Ms. Bell?

11 MS. BELL: Number --

12 MR. RUSS: 11-2.

13 MR. SAXON: 11-2.

14 MS. BELL: Correct.

15 MR. SAXON: Okay. Thank y'all.

16 MR. RUSS: Until they get --

17 MR. SAXON: That changes it's
18 complexion quite a bit.

19 MR. RUSS: Until they get all that
20 information in hand.

21 MR. SAXON: Yes. Got it. We
22 cannot --

23 MR. RUSS: And they don't know
24 and --

25 MR. SAXON: We can't do an order

1 until we get the information; is that --

2 MS. BELL: Exactly.

3 MR. SAXON: Okay. Got it.

4 MS. BELL: And then there's been two
5 closed since January of last year.

6 MS. HOLLEMAN: Mr. Chairman, the new
7 agency director, Holly Pisarik, is due in in about
8 five or six minutes. Would you like to proceed
9 with another item on the agenda? Take a five
10 minute break? How would you like --

11 MR. RUSS: Take a five minute break.

12 (Off the record.)

13 MR. RUSS: Call to order. And I
14 believe our new director is with us. Holly
15 Pisarik; is that correct?

16 MS. PISARIK: That's correct, yes.

17 MR. RUSS: Well, thank you very much
18 for coming.

19 MS. PISARIK: Well, thank you for
20 allowing me to come. I just wanted to come and
21 introduce myself and hand out cards to all of you
22 and let you-all know that I am available, any
23 concerns that you-all have as a board. My office
24 door is always open. I'm always available to come
25 to your meetings, or I'm available to have you come

1 to my office and meet on specific issues, if you
2 have any concerns. And I hope that you'll keep me
3 updated on any issues that the board has, because
4 I'm here to help you-all.

5 MR. FLOYD: Thank you, dear.

6 MR. RUSS: The word has already
7 reached me that you're wonderful, okay?

8 MS. PISARIK: Well, it's hard to
9 live up whenever someone calls you wonderful. It's
10 hard to live up to that. So I like to set the bar
11 low and then surprise.

12 MR. RUSS: I'd much rather them tell
13 me that than something else.

14 MS. PISARIK: So thank you for
15 allowing me to come in. Again, please call on me
16 if I can ever help your board.

17 MR. RUSS: All right. Thank you very
18 much.

19 (Off the record.)

20 MR. RUSS: You have the floor.

21 MS. BELL: Thank you.

22 MR. SAXON: Ms. Bell, are we going
23 to do -- what are we going to do -- where you going
24 first?

25 MS. BELL: If we go in order, that

1 would be fine. The next matter on your agenda is
2 9. And the first case is 2010-27, and that
3 involves Mr. McKnight. He's here on behalf of
4 Morning Glory Cemetery.

5 MR. SAXON: Mr. McKnight, which are
6 you? Would you have a seat at this table for us?
7 Just make yourself comfortable there.

8 MR. MCKNIGHT: Okay. Thank you.

9 MR. SAXON: Before we get started,
10 Mr. McKnight, would you give me your full name, so
11 I can write it down and know how to spell it?

12 MR. MCKNIGHT: First name is
13 Wallace, W-A-L-L-A-C-E. Last name is McKnight, -C-
14 capital K-N-I-G-H-T.

15 MR. SAXON: Thank you, Mr. McKnight,
16 and thank you, Mr. Chairman.

17 MR. RUSS: You're welcome.

18 MR. SAXON: And y'all have seen the
19 MOA? Y'all have got the MOA before you?

20 MR. RUSS: Yeah.

21 MR. SAXON: Okay.

22 (Board members review the documents.)

23 MR. SAXON: While the board is
24 reading, why don't we go ahead and have you sworn
25 in, Mr. McKnight. Would you draw your attention to

1 the court reporter, please?

2 (The witness is sworn in.)

3 MR. SAXON: Mr. McKnight, you are
4 aware that you have the right to bring an attorney
5 with you today?

6 MR. MCKNIGHT: I was not aware of
7 that and I feel that if I need one, perhaps I can
8 get one after this.

9 MR. SAXON: Well, you'd have to have
10 someone here today. And I believe the notice of
11 the hearing tells you, alerts you to the fact that
12 you can bring legal counsel with you. Is that
13 right, Ms. Bell?

14 MS. BELL: Correct.

15 MR. SAXON: So the hearing notice
16 that brought you here today did tell you that you
17 could bring a lawyer if you wanted to, at your own
18 expense.

19 MR. MCKNIGHT: Right.

20 MR. SAXON: But you're choosing to
21 represent yourself; is that correct?

22 MR. MCKNIGHT: That's correct.

23 MR. SAXON: Okay. Thank you.

24 MR. RUSS: And, Mr. McKnight, you'll
25 find this is a fairly -- we do have protocol and

1 procedures we'll follow, but otherwise, it's a
2 fairly informal process. You are not represented
3 by counsel, and I can't give you legal advice, nor
4 can Ms. Bell. What we will do, however, is make
5 sure that you stay in right pathways, as it were,
6 and we'll do that as gently and kindly as we can.
7 And if you have any questions at any time, just
8 ask, okay?

9 MR. MCKNIGHT: Thank you.

10 Appreciate it.

11 MR. RUSS: Basically, as I see it,
12 he has agreed --

13 MR. SAXON: He has agreed to the --
14 the state and Mr. McKnight agreed to the facts.
15 And so what the board is here to do today is either
16 accept the Memorandum of Agreement, and if you
17 accept it, to decide what sanctions, if any, to
18 impose. Or you may decide not to accept the MOA,
19 in which case this would go to an independent
20 hearing. And if you want to go into an executive
21 session for any of that, you're welcome to do that.
22 But we can hear from the parties first. And I
23 think, if y'all are ready for that, Ms. Bell would
24 start.

25 MR. RUSS: Well, let's let Ms. Bell

1 start and see where it leads us.

2 MS. BELL: Good morning and thank
3 you. And we do have some exhibits also that I will
4 share with you-all, so you'll be better informed
5 about what may be the appropriate sanction to
6 render in this matter. But I'll just read from the
7 Memorandum of Agreement. "Whereas Morning Glory
8 Cemetery, as a Perpetual Care Cemetery Company,
9 duly licensed by South Carolina Perpetual Care
10 Cemetery Board, herein after 'the Board,' to engage
11 in the business of operating a Perpetual Care
12 Cemetery Company in South Carolina and was so
13 licensed at all times relevant to this matter.
14 Whereas the Board has not received those certain
15 financial reports from Morning Glory Cemetery, as
16 required by South Carolina Code Annotated 40-8-110,
17 and 40-8-100."

18 And I actually will supplement the record.
19 After the case was sent down to the Office of
20 General Counsel, I was informed by Ms. Holleman
21 that they did receive the reports. So really, what
22 the case is going to boil down to, and that there
23 has been --

24 MR. SAXON: So the financial reports
25 have been received?

1 MS. BELL: Financial reports. And I
2 will make -- I've got copies of those and I will
3 circulate those to you for the years that are in
4 question. So basically, the exhibits that you're
5 going to see here today are correspondences from
6 the board dating back as earlier, I guess, as 2005,
7 where they were asking for the certain reports, up
8 until 2010.

9 And then sometime in 2010, after the
10 administrator sent the last one saying "don't send
11 it; this matter will be forwarded," you'll see the
12 date in April of 2010 that they received the
13 reports.

14 MR. SAXON: April of 2010?

15 MS. BELL: Correct. There has also
16 been an accounting of the accounts in question.
17 And what it's going to -- and you'll get a copy of
18 that. That was on December 26th of 2008. And I
19 think that's someone that Mr. McKnight retained to
20 do --

21 MR. SAXON: 2008, you said? I'm
22 sorry.

23 MS. BELL: Correct. Where there was
24 basically a deficiency determined in the amount of
25 probably around \$34,331. Mr. Holloway did a very

1 -- he did not have all the information, so he could
2 not really do a very informed audit. But with the
3 rough numbers that he received, he came up with a
4 calculation that was in that neighborhood. I'll be
5 presenting an email to you-all that will show that.

6 So he really does not disagree with based on
7 the fact that the audit by Harper, Poston and Moree
8 CPAs, they had more information and documentation
9 to work with. And he's had an opportunity to look
10 at that this morning, and does not disagree with
11 their findings. So I'll make that part of the
12 record as well.

13 MR. FLOYD: Is not disagreeing
14 the same thing as supporting?

15 MS. BELL: Correct.

16 MR. MCKNIGHT: Yes, sir. Yes, sir.
17 I would tell you to accept it.

18 MR. SAXON: Well, let's swear you in
19 before you say that. How about that? Madam Court
20 Reporter.

21 (The witness is sworn in.)

22 MS. BELL: So we may have to have
23 the admissions be that the reports have now been
24 filed, but they were not timely filed.

25 MR. HOLLOWAY: Right.

1 MS. BELL: So I think that may be
2 the better characterization at this point in time.
3 And Mr. McKnight probably wouldn't have a problem
4 with that. Do you understand, Mr. McKnight, that
5 we're not alleging that now that you haven't
6 provided the reports. You have provided the
7 reports; they just weren't timely provided, and
8 that would still be a violation of the statute.

9 MR. SAXON: Mr. Chairman, may I ask
10 a question of the state?

11 MR. RUSS: Yes, sir.

12 MR. SAXON: Ms. Bell, concerning the
13 Memorandum of Agreement, the paragraphs, I guess, 1
14 through 5, what you're saying is that we now have
15 all that information. We just didn't have it at
16 the time, and we didn't have it in a timely
17 fashion.

18 MS. BELL: Correct.

19 MR. SAXON: But is there any
20 information still missing?

21 MS. BELL: I believe there's
22 probably due now -- the last report we have is from
23 2009.

24 MR. SAXON: Okay.

25 MS. BELL: The merchandise account

1 annual report, the last one is from 2009.

2 MR. SAXON: Okay.

3 MS. BELL: And the last Perpetual
4 Care --

5 MS. HOLLEMAN: We don't have the last
6 agreed-upon procedure that was due in 2010.

7 MS. BELL: Right. And we --

8 MR. SAXON: There was -- I guess the
9 merchandise account for January 1st of '09 through
10 April 26th of '10, have we received that?

11 MS. BELL: We don't have the agreed-
12 upon procedures, as stated in Page 2 of the MOA,
13 No. 5.

14 MR. SAXON: Okay. But we've got
15 everything else from Paragraphs 4, 3, 2 and --

16 MS. BELL: Uh-huh.

17 MR. SAXON: Okay.

18 MR. FLOYD: So, for clarity, we're
19 missing two year's worth? I'm not --

20 MS. BELL: Right. Well, I don't
21 know when the ones we got, from 2003 to 2009 --

22 MS. HOLLEMAN: Right.

23 MS. BELL: '10 for the agree-upon
24 procedures.

25 (Talking over one another.)

1 MR. SAXON: But 2011 is not part of
2 today; is it?

3 MS. BELL: No.

4 MR. SAXON: Okay.

5 MR. FLOYD: It's not scheduled.

6 MR. SAXON: But if it's not an MOA,
7 we can't consider it anyway. So 2011, we're not
8 worried about right now. So it's really just
9 Paragraph 5 that we're missing. Thank you, Ms.
10 Bell, and I'm sorry for the interruption.

11 MS. BELL: And I'm sorry.

12 MR. SAXON: Ms. Holleman.

13 MS. HOLLEMAN: Did you need me to be
14 sworn in for what I just said?

15 MR. SAXON: No. Thank you, though.
16 I just viewed that as you speaking with Ms. Bell.

17 MS. BELL: And then the next thing I
18 will --

19 MR. SAXON: What are you calling
20 Exhibit 1, Ms. Bell?

21 MS. BELL: Exhibit 1 is the MOA.

22 MR. SAXON: Okay.

23 MS. BELL: Exhibit 2 is Care and
24 Maintenance Fund Annual Reports from 2003 to 2009.

25 MR. SAXON: And that's what you're

1 handing out now?

2 MS. BELL: Correct. And you'll see
3 the date they were received by the board staff was
4 April 27th, 2010.

5 MR. SAXON: Okay.

6 MR. FLOYD: Amy, for clarification,
7 remind us what the AUP time frames were or are.

8 MS. HOLLEMAN: The first set of
9 agreed-upon procedures which Mr. McKnight
10 submitted, that is run through the year 2006. The
11 second set of agreed-upon procedures, which we do
12 not have, cover the years 2007, '8 and '9. Is that
13 the question?

14 MR. SAXON: I thought we had those.
15 We do not?

16 MS. HOLLEMAN: We have the first,
17 but not the second.

18 MR. SAXON: Got it.

19 MS. BELL: And I think that's what
20 No. 5 covers.

21 MR. SAXON: Yeah, that's still
22 Paragraph 5. We've got everything but the
23 information that is talked about in Paragraph 5 of
24 the MOA.

25 MR. FLOYD: So we have the annual

1 reports. We just don't have the AUP for '7, '8 and
2 '9.

3 MR. SAXON: I believe. Ms. Bell, is
4 that correct?

5 MS. BELL: Right.

6 MS. ELROD: We don't have '10.

7 MR. SAXON: I think that's
8 included --

9 MR. FLOYD: Well, that's not in
10 this --

11 MS. BELL: Right. And at the time
12 that it came down, it was not due at the time.

13 MR. SAXON: Right. So it's not in
14 the MOA, so it's not --

15 MS. BELL: Right.

16 MR. SAXON: -- part of what's before
17 us today.

18 MR. FLOYD: But it is due. It is
19 due.

20 MS. BELL: Now. Now it is.

21 MR. SAXON: Yes. But that would be
22 another -- that would be another matter for another
23 day.

24 MS. BELL: This is a merchandise
25 account annual report and it has a zero balance for

1 all those years, for 2003 to 2009?

2 MR. SAXON: Mr. McKnight, do you
3 have any objections to either States 1, 2 or 3?

4 MR. MCKNIGHT: 1, 2 or 3?

5 MR. SAXON: 1 is the Memorandum of
6 Agreement that you signed.

7 MR. MCKNIGHT: Uh-huh.

8 MR. SAXON: No. 2 is the Care and
9 Maintenance Fund Annual Report that you submitted,
10 and No. 3 is the Merchandise Account Annual report
11 that you submitted.

12 MR. MCKNIGHT: The only thing about
13 the merchandise account, we did not sell vaults.

14 MR. SAXON: Okay. Don't give me
15 testimony just yet. We'll let you do that in a
16 minute.

17 MR. MCKNIGHT: All right.

18 MR. SAXON: But do you have any
19 objection to the document itself being part of the
20 record?

21 MR. MCKNIGHT: No.

22 MR. SAXON: Okay. The chair has
23 asked if we could announce that Exhibits 1, 2 and 3
24 are accepted into evidence, moved into evidence,
25 with no objection.

1 [MARKED FOR IDENTIFICATION AS
2 STATE'S EXHIBIT NO. 1 - MEMORANDUM
3 OF AGREEMENT.]

4 [MARKED FOR IDENTIFICATION AS
5 STATE'S EXHIBIT NO. 2 - CARE AND
6 MAINTENANCE FUND ANNUAL REPORT.]

7 [MARKED FOR IDENTIFICATION AS
8 STATE'S EXHIBIT NO. 3 - MERCHANDISE
9 ACCOUNT ANNUAL REPORT.]

10 MR. FLOYD: Exhibits 1, 2, and 3 are
11 what?

12 MR. SAXON: 1 is the Memorandum of
13 Agreement, 2 is the Care and Maintenance Fund
14 Annual Report that you were just handed, and 3 is
15 the Merchandise Account annual report.

16 MR. FLOYD: That's for one year.

17 MR. SAXON: Just dated April 23rd,
18 2010.

19 MR. FLOYD: This exhibit, 2 and 3?

20 MR. SAXON: All right, 3 is the
21 Merchandise Account, 2 is the Care and Maintenance
22 Fund.

23 MR. FLOYD: Okay.

24 MR. SAXON: And the way I do it
25 just to mark it State's 1, 2 and 3, in case Mr.

1 McKnight has something he wants to submit today.
2 Ciel, that's correct?

3 COURT REPORTER: Yes.

4 MS. BELL: These next series of
5 documents, the significance of these, these are
6 correspondences from board staff to the respondent,
7 chronologically. I'll send them to you
8 chronologically, where they have asked for these
9 forms to be provided.

10 MR. SAXON: When we all have one,
11 because how you want to mark -- Ciel, will you tell
12 them how -- will you tell us how you've marked
13 them?

14 COURT REPORTER: Yeah, this one's 4.

15 MR. SAXON: As y'all can see, one of
16 the most important people in any board meeting is
17 the court reporter.

18 (Exhibits are being distributed.)

19 MR. SAXON: Mr. McKnight, do you
20 have any objections to these documents that Ms.
21 Bell has shown you?

22 MR. MCKNIGHT: Let me make sure I
23 understand No. 6.

24 MR. SAXON: Well, how about going
25 with No. 4 first --

1 MR. MCKNIGHT: Okay.

2 MR. SAXON: -- since we're marking
3 that right now, if you don't mind.

4 [MARKED FOR IDENTIFICATION AS
5 STATE'S EXHIBIT NO. 4 - Letter dated
6 August 3, 2005 requesting 2003
7 Perpetual Care Trust Fund annual
8 reporting form.]

9 [MARKED FOR IDENTIFICATION AS
10 STATE'S EXHIBIT NO. 5 - Letter dated
11 March 21, 2005 requesting 2003
12 Perpetual Care Trust Fund annual
13 reporting form.]

14 [MARKED FOR IDENTIFICATION AS
15 STATE'S EXHIBIT NO. 6 - Notice of
16 Requesting forms from Morning Glory
17 Cemetery dated April 3, 2007.]

18 [MARKED FOR IDENTIFICATION AS
19 STATE'S EXHIBIT NO. 7 - Notice of
20 Requesting forms from Morning Glory
21 Cemetery dated April 9, 2007.]

22 [MARKED FOR IDENTIFICATION AS
23 STATE'S EXHIBIT NO. 8 - Notice of
24 Requesting forms from Morning Glory
25 Cemetery dated October 31, 2007.]

1 [MARKED FOR IDENTIFICATION AS
2 STATE'S EXHIBIT NO. 9 - Notice of
3 Requesting forms from Morning Glory
4 Cemetery for multiple years, dated
5 March 31, 2010.]

6 MR. SAXON: Any objections to these?

7 MR. MCKNIGHT: No, I don't.

8 MR. SAXON: Okay. Mr. Chairman,
9 with no objection, are these then accepted into
10 evidence?

11 MR. RUSS: Does anybody have any
12 objection?

13 MR. SAXON: No, they have no
14 objection. So it's up to you.

15 MR. RUSS: Okay.

16 MR. SAXON: With no objection with
17 the chairman, these are moved into evidence.

18 MS. BELL: Okay. And then probably
19 what's going to be most important to you is No. 10,
20 which I marked 10 on top of all these. I'm sorry.

21 MR. SAXON: I was going to say, I
22 don't have that one, Ms. Bell.

23 MS. BELL: I didn't put State's on
24 10, but 10. And it's dated December 26th, 2008,
25 and it's an independent --

1 MR. FLOYD: This is State's 10?

2 MR. SAXON: Yeah. And she's got 10
3 written up at the top.

4 MR. FLOYD: Oh, okay.

5 MR. SAXON: Any objection to this
6 one, Mr. McKnight? This is on Harper, Poston and
7 Moree.

8 MR. MCKNIGHT: I have -- I have -- I
9 have no objection. But No. 6, I'd like to ask a
10 question.

11 MR. SAXON: Okay. A question of us?
12 Or of Ms. Bell?

13 MR. MCKNIGHT: Maybe Ms. Bell.

14 MR. SAXON: Okay.

15 MR. MCKNIGHT: The difference here,
16 Ms. Bell, resulting in a difference of \$23.

17 MS. BELL: Right. A deficiency.

18 MR. MCKNIGHT: Question answered.

19 MR. SAXON: Okay. Any objection,
20 then, to No. 10? I can't remember if you said yes
21 or no.

22 MR. MCKNIGHT: No objection.

23 MR. SAXON: Okay. Thank you. Can
24 we move that into evidence then, Mr. --

25 MR. RUSS: Yes.

1 MR. SAXON: -- Chairman? All right.
2 That's moved into evidence, then, as No. 10, Ciel.
3 Thank you.

4 [MARKED FOR IDENTIFICATION AS
5 STATE'S EXHIBIT NO. 10 - Agreed-Upon
6 Procedures dated December 26, 2008
7 prepared by Harper, Poston & Moree,
8 P.A.]

9 MS. BELL: And I guess for the
10 record too, when this was prepared and at the time
11 it was prepared --

12 MR. SAXON: No. 10?

13 MS. BELL: Uh-huh.

14 MR. SAXON: Okay.

15 MS. BELL: It indicates that
16 management, including Mr. McKnight, agrees with the
17 calculations. The under funding noted in this
18 report will be deposited and communicated to the
19 buyer. So that at the time that this was prepared,
20 Mr. McKnight did not have a problem with it, and
21 nor does he have a problem with this report today.

22 MR. SAXON: Where were you reading
23 from Ms. Bell?

24 MS. BELL: That's on Page 2 of
25 the --

1 MR. SAXON: Okay. Under "management
2 response"?

3 MS. BELL: Response. Correct.

4 MR. SAXON: Thank you.

5 MS. BELL: And I think the issue
6 that the board is going to have to deal with today
7 is that I don't believe there's been any evidence
8 that the under funding, which is on Page 4 under
9 No. 6 that Mr. McKnight has already identified.

10 MR. SAXON: That's Exhibit 4?

11 MS. BELL: Uh-huh. The deficiency
12 of \$23,891, we do not have any evidence that that
13 has been funded yet. So that deficiency is
14 outstanding.

15 So the two things today, based on the MOA and
16 the information that we have, the two things today
17 that the state would submit to you -- and I don't
18 think Mr. McKnight disagrees -- is that the second
19 part of the agreed-upon procedures report needs to
20 be provided to the board, and an explanation of the
21 deficiency in the account, as stated --

22 MR. FLOYD: By the second part,
23 you're referring to what?

24 MS. BELL: The agreed-upon
25 procedures as Ms. Holleman --

1 MS. HOLLEMAN: The second agreed-
2 upon procedures.

3 MR. FLOYD: Oh, second agreed upon.
4 So for the time period of 2007, '8 and '9, just for
5 clarity.

6 MR. SAXON: So it's still all --

7 MS. BELL: Yes.

8 MR. SAXON: -- No. 5 --

9 MS. BELL: I apologize, yes.

10 MR. SAXON: -- Paragraph 5, that's
11 an issue, Ms. Bell; is that correct?

12 MS. BELL: Correct.

13 MR. SAXON: Okay. Is that all that
14 remains an issue?

15 MR. FLOYD: Paragraph 5 talks
16 about --

17 MR. SAXON: The agreed-upon
18 procedure in the Merchandise Account.

19 MR. FLOYD: But for the period of
20 January 2009 to 2010.

21 MR. SAXON: Right.

22 MR. FLOYD: I thought y'all were
23 saying -- well, '7, '8 and '9 --

24 MS. HOLLEMAN: '7, '8 and '9 are the
25 agreed-upon procedures.

1 MR. FLOYD: Yeah, this is No. 5
2 Merchandise Account.

3 MR. SAXON: Right.

4 MR. FLOYD: And they're saying the
5 Perpetual Care paid the --

6 MR. SAXON: Is that right, Ms. Bell?

7 MS. HOLLEMAN: It actually should be
8 the Perpetual Care.

9 MR. FLOYD: Agreed-upon procedures.

10 MS. HOLLEMAN: Procedures, right.

11 MR. SAXON: Rather than Merchandise
12 Account?

13 MS. HOLLEMAN: From 2007, '8 and '9.

14 MR. FLOYD: That's a different --

15 MS. HOLLEMAN: The agreed-upon
16 procedure for the -- yes, that's for the Care and
17 Maintenance for '7, '8 and '9. We don't have that.

18 MS. BELL: Uh-huh.

19 MS. HOLLEMAN: I apologize.

20 MR. FLOYD: That's my name in the
21 MOA. Is it?

22 (Off-the-record discussion.)

23 MR. FLOYD: Not according to what
24 we've got.

25 MR. SAXON: It's my understanding

1 we've received the financial reports regarding the
2 Care and Maintenance Trust Fund for '05, '06, '07
3 and '08; is that correct?

4 MS. BELL: I apologize.

5 MR. SAXON: As seen in Paragraph 2
6 of the Memorandum of Agreement, financial reports
7 for Care and Maintenance Trust Funds for '05, '06,
8 '07 and '08?

9 MS. BELL: Well, we don't have any
10 agreed-upon procedure reports.

11 MR. SAXON: Well, okay. And that's
12 in No. 3?

13 MS. BELL: Uh-huh.

14 MR. SAXON: So, we don't have
15 those.

16 MR. FLOYD: Well, No. 3 just makes
17 reference to one year. From '09 --

18 MR. SAXON: So we do not have the AUP
19 from '09?

20 (Off-the-record discussion.)

21 MS. BELL: I sincerely apologize to
22 the board -- I am very sorry -- and to Mr.
23 McKnight. But what is deficient today is the
24 agreed-upon procedures from 2007, 2008 and 2009.

25 MR. FLOYD: For both Merchandise and

1 Perpetual Care.

2 MS. BELL: Correct.

3 MR. SAXON: All right. So would you
4 do that one more time, Ms. Bell, please? what we're
5 missing.

6 MS. BELL: Agreed-upon procedures
7 report for both Merchandise and Perpetual Care for
8 2007, 2008, 2009. Now, they've indicated they do
9 not have a Merchandise Account. I don't want to
10 cloud issues because I think Mr. McKnight and Ms.
11 Holleman had discussions about the Merchandise
12 Account.

13 MR. FLOYD: He said he didn't sell
14 vaults.

15 MS. BELL: Right. But --

16 MR. FLOYD: He didn't say that he
17 didn't sell bronze.

18 MS. BELL: Right. There may be some
19 indication from Ms. Holleman from a conversation
20 with Mr. McKnight that maybe they were selling some
21 merchandise. But they didn't have a Merchandise
22 Account.

23 (Off-the-record discussion.)

24 MS. BELL: The one last exhibit, and
25 it will be No. 11, and I didn't mark it, but it's

1 State's No. 11. And this is a email, and I talked
2 to Mr. McKnight about it. He's indicated he
3 doesn't have an objection.

4 MR. SAXON: Okay. Moved into
5 evidence then. That will be No. 11.

6 [MARKED FOR IDENTIFICATION AS
7 STATE'S EXHIBIT NO. 11 - Note dated
8 4-10-10 that A. Holleman made form a
9 telephone conversation with Mr.
10 McKnight.]

11 MS. BELL: It is a note that Ms.
12 Holleman made into the record, based on a phone
13 conversation she had with Mr. McKnight on
14 4/19/2010. And I think it was shortly after that
15 phone conversation that he would have sent in those
16 reports.

17 MR. SAXON: Ms. Bell, do we need to
18 alter the MOA in any way?

19 MS. BELL: I think we probably do,
20 to reflect accurately what's missing, because --

21 MR. SAXON: Do you want to do that
22 now? Or how do you want to handle that? I think
23 the board's amenable to what you need to do, what
24 you'd like to do.

25 MS. BELL: Okay.

1 MR. SAXON: Is that right, board
2 members?

3 MR. FLOYD: Uh-huh.

4 MS. BELL: Would you like me to
5 draft enough just to modify?

6 MR. SAXON: How would you like to do
7 it?

8 MS. BELL: We could modify it in
9 writing, to reflect what we're dealing with now.

10 MR. SAXON: Okay. Whatever is
11 easiest and most convenient is fine. Mr. McKnight,
12 is that fine with you?

13 MR. MCKNIGHT: That's okay.

14 MR. SAXON: We want it to reflect
15 what we have now and what we don't have, which also
16 is in your best interest and everybody's best
17 interest.

18 (Off-the-record discussion.)

19 MR. SAXON: Ms. Bell has some
20 logistical difficulties right now that will be
21 fixed in a few minutes. So if it's all right with
22 the board and Ms. Cubitt, we could take your
23 reports now. And then maybe the board would like
24 to break for lunch. And once we come back from
25 lunch, Ms. Bell will have the corrected MOA to

1 submit.

2 MS. CUBITT: Okay.

3 MR. SAXON: Does that suit
4 everybody? Board members?

5 MR. RUSS: Board? Okay. Ms.
6 Cubitt.

7 MS. CUBITT: Yes, sir. Well, I'm on
8 there for the financial statements and we've
9 included that in your packet, and they're there.
10 If you've got any questions on them, I'll be glad
11 to address them.

12 I really don't have a lot of administrator's
13 remarks. It's good to see you-all. I'm glad to
14 have you in town. Please remember that your
15 economic interest forms are due by the 15th of
16 April, which is approaching fast. So you have to
17 go online and do them, and there's a big penalty if
18 you don't. So please make sure you do it. And if
19 you send me a short email that says "I did mine,"
20 then I won't bug you about it.

21 MR. RIGGINS: I did mine right after
22 Michael sent me the email.

23 (Off-the-record discussion.)

24 MS. CUBITT: And that's all I happen
25 to have today.

1 MR. RUSS: That was short and sweet.
2 Ms. Cubitt, what we're going to do, I think for
3 now, is break for lunch.

4 MS. CUBITT: Yes, sir.

5 MR. RUSS: And that will give Ms.
6 Bell time to get her Memorandum of Agreement
7 problems squared away, and then we'll proceed. It
8 is 12:35. Let's try to be back here by 1:30. That
9 long enough?

10 MS. CUBITT: Uh-huh.

11 MR. RUSS: Okay.

12 MS. PETTY: Don't we need a motion
13 for that? Don't we need a motion for that, to
14 break for lunch?

15 MR. FLOYD: So motion.

16 MS. BARTUS: Second.

17 MR. RIGGINS: Second, aye.

18 (Lunch break.)

19 (Back from lunch. Board members review
20 the amended Memorandum of Agreement.)

21 MR. SAXON: Mr. Chairman, if I may
22 clear this up. Madam Court Reporter, we now have a
23 new Memorandum of Agreement and Stipulations signed
24 by both parties. It will take the place of former
25 State's No. 1 and become State's No. 1. And Mr.

1 McKnight, I'm going to ask you, you signed this
2 freely and of your own accord; is that right?

3 MR. MCKNIGHT: Right.

4 MR. SAXON: And both parties agree
5 with this; is that right, Ms. Bell? and Mr.
6 McKnight?

7 MS. BELL: That's correct.

8 MR. SAXON: Okay. Mr. Chairman, is
9 it the board's -- is it your pleasure to let this
10 become evidence as Exhibit Number 1?

11 MR. RUSS: Yes, sir.

12 MR. SAXON: Ciel, if you'll mark
13 this Exhibit Number 1, please.

14 [MARKED FOR IDENTIFICATION AS
15 STATE'S EXHIBIT NO. 1 - Replaced
16 MEMORANDUM OF AGREEMENT - former
17 Exhibit No. 1.]

18 MR. SAXON: And if y'all just let me
19 know when you've finished looking at it, we can let
20 the parties proceed.

21 MR. RUSS: When you're ready.

22 MR. SAXON: Okay. All right.

23 MS. BELL: I feel like I need to
24 first apologize to you-all this morning for the
25 confusion that I created in this matter. But I've

1 had an opportunity to talk with Mr. McKnight in
2 reference to the matter and believe that the
3 current Memorandum of Agreement and Stipulations as
4 worded is an accurate reflection of where we're at
5 in this matter to date.

6 As far as the stipulations of facts, I will
7 just go down to No. 1. The respondent and the
8 state have agreed that the board has jurisdiction
9 over the respondent and the submit matter contained
10 herein. In No. 2, that the respondent failed to
11 timely furnish to the board financial reports with
12 respect to the respondent's Care and Maintenance
13 Trust Fund for the years 2005 through 2010, as
14 required in Violation 40-8-110(D) and 40-8-100(A).
15 However, on or about April of 2010, the respondent
16 did provide the reports for the years in question,
17 with the exception of the 2010 report, which was
18 not due at that time, but it is now past due.

19 No. 3, the respondent has failed to submit to
20 the board the agreed-upon procedures report for the
21 respondent's Care and Maintenance Trust Fund for
22 the years 2007, 2008 and 2009, as required, and
23 which became due no later than September 30th,
24 2010, in violation of 40-8-110(D). And that
25 September 30th date was based on their fiscal year

1 ending March 30th.

2 MR. SAXON: And we still have not
3 received that?

4 MS. BELL: And that is outstanding
5 now. And then 4, as part of respondent's last
6 Agreed Upon Procedures Report, it was determined by
7 an independent accounting firm, the contents of
8 which the respondent has agreed. And I believe
9 that is No. 10 of your exhibits. That there was a
10 deficiency, which to date has not been funded into
11 the Care and Maintenance Trust Fund, based upon the
12 report which covered a period through December
13 31st, 2006. Even though that report is dated 2008,
14 it covered through December 31st, 2006. The
15 deficiency was approximately \$24,000. However,
16 until the next Agreed Upon Procedures Report is
17 provided by the respondent, the exact amount of the
18 current deficiency is unknown.

19 And No. 5, the respondent failed to submit to
20 the board financial reports with respect to the
21 Merchandise Trust Funds. While the respondent
22 indicates that the cemetery does not sell
23 merchandise, which would require such a fund, the
24 reports must still be submitted annually, as
25 provided in 40-8-110(G). In April of 2010, the

1 respondent provided reports for the years in
2 questions, which the exception of year 2010, which
3 was not due at that time, but has since become due.

4 And so those would be the factual recitations,
5 as well as the state and the respondent agreed that
6 these facts constitute a violation of 40-8-150 and
7 40-1-110, as well as the other statutes that were
8 named.

9 MR. SAXON: And so we have 40-8-
10 110(D), as in David, 40-8-110(A), as in Abel, 40-8-
11 110(G), as in govel -- I don't know what G is, what
12 the call sign is for --

13 MS. BELL: Gamma? I don't know.

14 MR. SAXON: Gamble? George; that's
15 it.

16 MS. BELL: Oh, I was thinking of --

17 MR. SAXON: It's George.

18 MS. BELL: -- the Greek alphabet,
19 Gamma.

20 MR. SAXON: Anything else from the
21 state?

22 (NO RESPONSE.)

23 MR. SAXON: All right. If the board
24 has any questions for the state before Mr. McKnight
25 speaks. You may not have.

1 MR. RUSS: Anybody have any
2 questions for Ms. Bell?

3 MR. SAXON: Mr. McKnight, then, do
4 you have anything you would like to add or say to
5 the board? remembering you're still under oath.

6 MR. MCKNIGHT: I understand. I
7 agreed with what -- what has been reported.
8 However, I'd like to take some documents back to my
9 accountant and have him carefully go over it.

10 MR. SAXON: But you agree with the
11 contents of the MOA here?

12 MR. MCKNIGHT: Yes.

13 MR. SAXON: Okay. Anything else you
14 want to bring to our attention?

15 MR. MCKNIGHT: Well, in this where
16 it states deficiency is \$24,000, and I think it
17 went on to say "more or less," and I trust it's
18 less.

19 MR. SAXON: Thank you Mr. McKnight.
20 And the board may ask questions of Mr. McKnight, if
21 you've got any questions. Don't have to, but it's
22 an option.

23 (Off-the-record discussion.)

24 MS. BELL: I will state that I -- if
25 Mr. McKnight doesn't mind me mentioning, when we

1 talked about this matter and the deficiency that
2 was determined, I guess back in 2008 when that
3 report was furnished, I asked him how long did he
4 think it would take if that were the amount. I
5 understand that there's another Agreed Upon
6 Procedures Report that's due that could change the
7 amount. But he thought at that time that he could
8 get that funded within 60 days.

9 MR. FLOYD: Has he?

10 MR. SAXON: No. She just talked
11 with him today about that.

12 MR. FLOYD: Within 60 days of
13 today.

14 MS. BELL: Of whenever the board
15 makes its decision.

16 MR. SAXON: It would be effective 60
17 days within the date of the Final Order.

18 MS. CUBITT: Can I add something
19 about Agreed Upon Procedures --

20 MR. SAXON: Yes.

21 MS. CUBITT: -- just in general?
22 The Agreed Upon Procedure was done through that
23 period, and that gives you an amount due. So that
24 would be a definite figure. Then when you do the
25 next Agreed Upon Procedures, it would tell you what

1 the difference is, just from the last one until
2 this one's completed. And it could be no
3 deficiencies, or it could be deficiencies; you
4 don't know. But they won't go back into the other
5 part. That's already done and they've established
6 their baseline, and they'll just do the remaining
7 periods. So the 24 plus or minus would be the
8 figure for that Agreed Upon Procedure, and then
9 there would be a different figure for the new
10 Agreed Upon Procedure. And that would hold true to
11 anybody.

12 MR. SAXON: Okay.

13 MR. RUSS: Do we have someone --

14 MR. SAXON: Ms. Petty, the court
15 reporter can't hear you.

16 MS. PETTY: I asked when the next
17 Agreed Upon Procedure was due. Is that this year?

18 COURT REPORTER: I don't know because
19 I didn't get a copy of that one.

20 MS. BELL: '10, '11 and '12.

21 MR. FLOYD: It would be 2010, '11,
22 '12.

23 MS. PETTY: Right. It would be
24 whenever the board determined --

25 MS. CUBITT: And '13.

1 MR. FLOYD: So we're in-between.

2 MR. RUSS: But is 2007, 2008 and
3 2009 being done now?

4 MR. FLOYD: It's due now.

5 MS. BELL: It's due.

6 MS. HOLLEMAN: It's past due.

7 MS. BELL: It's past due.

8 MR. FLOYD: Past due.

9 MR. RUSS: Past due, as of
10 September, right?

11 MS. BELL: Of 2010.

12 MR. RUSS: Almost, two years?

13 MS. CUBITT: It would have been due
14 September of '11. It would have been through the
15 end of -- no.

16 MR. SAXON: No, '10.

17 MR. FLOYD: That would be due
18 September 2010.

19 MS. CUBITT: September 2010; I'm
20 sorry.

21 MR. RUSS: So has he got someone
22 doing that now? Have you got an accountant doing
23 that Agreed Upon Procedure?

24 MR. MCKNIGHT: Will be when I get
25 back.

1 MR. RUSS: Okay.

2 MR. MCKNIGHT: I'd like to ask a
3 question of the board, for information. What is
4 the purpose of the trust fund?

5 MR. SAXON: Ms. Cubitt, do you want
6 to answer that?

7 MS. CUBITT: The purpose of the
8 trust fund is, cemeteries are selling their spaces
9 based on perpetual care, so that even when a
10 cemetery -- and board members, please correct me if
11 I speak wrong, please; y'all are the authority
12 -- but when a cemetery is fully sold out and
13 there's nothing else to sell, then that money
14 should be there and the interest off that money
15 should keep the cemetery up after that.

16 MR. MCKNIGHT: The interest does not
17 take place unless the cemetery is fulfilled up.

18 MS. CUBITT: Right.

19 MR. FLOYD: No, no, no. Ask
20 the question again.

21 MS. CUBITT: Ask me again.

22 MR. MCKNIGHT: The interest does not
23 take place for upkeep until the cemetery is fulfilled
24 up?

25 MR. FLOYD: No. The interest

1 occurs --

2 MS. CUBITT: The interest occurs --

3 MR. MCKNIGHT: The question I'm
4 trying to ask is, the cemetery has to be upkeep --
5 kept, and you have to spend money to upkeep it.
6 And I'm asking the question: Does that money come
7 from the interest?

8 MS. CUBITT: Part of the upkeep is
9 just the responsibility of the cemetery. If you
10 have it invested and you get dividend for interest,
11 and those are paid out to you that year, you can
12 use that money for upkeep. It can't be used for
13 anything else, but you can use it for upkeep. But
14 if that only pays a portion of the upkeep, then the
15 cemetery has to pay the rest of it out of their
16 offering funds.

17 MR. FLOYD: That's only the
18 interest. Only the interest.

19 MR. MCKNIGHT: Right. That's what
20 I'm saying.

21 MR. RUSS: Or dividends.

22 MR. FLOYD: Or dividends, yes.

23 MR. MCKNIGHT: The reason I ask that
24 question, our cemetery is a small cemetery;
25 interest has been very low. And all of the upkeep

1 has been paid out of pocket. And I'm wondering if
2 that would have some bearing on the deduction of the
3 amount.

4 MR. RIGGINS: No, sir.

5 MR. MCKNIGHT: Okay.

6 MR. RIGGINS: Can't use any of the
7 principal at all.

8 MR. MCKNIGHT: I understand that.

9 MR. RIGGINS: The idea is as the
10 fund grows, it will generate more income, which
11 helps underwrite the cost of maintaining the
12 cemetery.

13 MR. FLOYD: I make a motion we go
14 into executive session.

15 MR. RUSS: I have a motion that we
16 enter into executive session. Do I have a second?

17 MS. PETTY: Second.

18 MR. RUSS: All those in favor, say
19 aye.

20 BOARD MEMBERS: Aye.

21 MR. RUSS: All those opposed?

22 (NO RESPONSE.)

23 (Executive Session.)

24 MR. RUSS: Can I have a motion that
25 we --

1 MR. FLOYD: So moved.

2 MR. RUSS: -- move to come out of
3 executive session?

4 MR. RIGGINS: Second.

5 MR. RUSS: All those in favor, say
6 aye.

7 BOARD MEMBERS: Aye.

8 MR. RUSS: No votes were taken and
9 no actions were taken during the executive session.

10 MR. FLOYD: Mr. Chairman, I'd like
11 to make a motion. I'm going to ask our advice
12 counsel to read it off for us.

13 MR. RUSS: I have a motion and a
14 second.

15 MR. SAXON: Well, let me read it
16 first. And, Russell, as I understand it, the board
17 accepts the Memorandum of Agreement and
18 Stipulations. The sanctions are as follows:
19 Public reprimand. The respondent must bring
20 current with the board all AUPs, records and annual
21 reports within 60 days of the date of a Final
22 Order; the respondent must correct any and all
23 deficiencies within 60 days of the date of the
24 final order; respondent shall be assessed a fine of
25 \$1,000, to be payable within 60 days of the date of

1 a Final Order. This is not deemed to be paid until
2 the board receives it. Should the respondent fail
3 to comply with these sanctions, his license will be
4 suspended until such time as he does comply. Is
5 that the motion?

6 MR. RIGGINS: You have "accept the
7 MOA"?

8 MR. SAXON: Yes, sir.

9 MR. RIGGINS: Yes, it is.

10 MR. RUSS: You've heard the motion.
11 Do I have a second?

12 MR. FLOYD: Second.

13 MR. RUSS: All those in favor, say
14 aye.

15 BOARD MEMBERS: Aye.

16 MR. RUSS: All those opposed, alike
17 sign.

18 (NO RESPONSE.)

19 MR. SAXON: And the parties will
20 receive an Order in the mail as quickly as I can
21 get it to the chairman and we can get it out to
22 you.

23 MS. BELL: Thank you for your
24 consideration.

25 MR. SAXON: Ms. Bell, we've got

1 companion cases next; is that right?

2 MS. BELL: That is correct.

3 MR. SAXON: And I believe these are
4 Barnwell County Memory Gardens and Bamberg County
5 Memory Gardens?

6 MS. BELL: Correct.

7 MR. SAXON: Do we have anyone here
8 for -- is the respondent here? Sir, would you mind
9 giving me your name, please?

10 MR. KENT: Jon Steven Kent.

11 MR. SAXON: With a V? or P-H?

12 MR. KENT: V.

13 (Off-the-record discussion.)

14 (The witness is sworn in.)

15 (Off-the-record discussion.)

16 MR. SAXON: I'll take this
17 opportunity to ask the state, Ms. Bell and Mr.
18 Kent, do either of y'all have any objections to
19 these being treated as companion cases and held at
20 one time, instead of two separate hearings?

21 MS. BELL: I don't have any
22 objection.

23 MR. SAXON: Mr. Kent?

24 MR. KENT: I have no objection.

25 MR. SAXON: It's a little more

1 efficient this way. Is it okay for Ms. Bell to
2 start?

3 MR. RUSS: Sure.

4 MR. SAXON: Ms. Bell.

5 MS. BELL: Thank you. Good
6 afternoon now. We are here today in the matter of
7 Bamberg County Memory Garden and Barnwell County
8 Memory Garden, Case No. 2011-3 and -4. Both cases
9 have the same allegations. The state has alleged
10 and the evidence will show that the respondent's
11 license was suspended on November the 3rd, 2010 for
12 failure to provide accounting reports as required,
13 among other things.

14 On or about March the 8th, 2011, Investigator
15 Raymond Lee with LLR actually went to both
16 cemeteries and you will hear from him in that
17 regard. Part of the order required that the
18 respondent could not engage in any new sales from
19 the date of the suspension. And you will see and
20 hear evidence that there were -- there was evidence
21 of new sales, and that would be in violation of the
22 Order and also in violation of the Practice Act.

23 At the conclusion of the hearings, we will
24 just ask that you take the appropriate action that
25 you deem is necessary to protect the public. Thank

1 you.

2 MR. SAXON: Mr. Kent, I realize
3 you're not represented by counsel. I've noticed
4 you in the gallery, so you've seen kind of what
5 goes on. If you have any questions, feel free to
6 ask them. Now is an opportunity for you to give an
7 opening statement. You're not required to give
8 one. We're just giving you the opportunity. An
9 opening statement is not an opportunity for you to
10 give testimony, but sort of give an overview of
11 what you plan to present later on.

12 MR. KENT: Okay. I just -- I plan
13 to present that the only reason that the things
14 happened the way they did is that the cemeteries
15 needed to survive, and the maintenance needed to be
16 done, and I needed to protect our customers.

17 MR. SAXON: Thank you.

18 MS. BELL: Thank you. At this time,
19 the state will call Amy Holleman.

20 (The witness is sworn in.)

21 DIRECT EXAMINATION OF AMY HOLLEMAN

22 BY MS. BELL:

23 **Q. Good afternoon.**

24 **A. Good afternoon.**

25 **Q. Could you for the record just state your**

1 full name?

2 A. Amy Holleman.

3 Q. And, Amy, where are you employed?

4 A. At the South Carolina Department of
5 Labor, Licensing and Regulation.

6 Q. And in what capacity?

7 A. I work as an administrative assistant for
8 the South Carolina Perpetual Care Cemetery Board,
9 Board of Funeral Services and Board of Accountancy.

10 Q. And how long have you worked in that
11 capacity here?

12 A. Since March 2006.

13 Q. And did you have an occasion -- as part
14 of your duties, do you maintain records that are
15 kept by staff with the Board of Perpetual Care
16 Cemetery?

17 A. Yes, I do.

18 Q. And are you familiar with cases involving
19 Bamberg County Memory Gardens and Barnwell County
20 Memory Gardens?

21 A. Yes, I am.

22 Q. And do you have knowledge that both
23 cemeteries were under a board order?

24 A. Yes.

25 Q. Okay. I'm going to --

1 MS. BELL: Mr. Kent, any objection
2 to this?

3 MR. KENT: (Inaudible.)

4 [MARKED FOR IDENTIFICATION AS
5 STATE'S EXHIBIT NO. 1 - Waiver of
6 Attorney.]

7 [MARKED FOR IDENTIFICATION AS
8 STATE'S EXHIBIT NO. 2 The Order -
9 filed November 16, 2010 for both
10 cemeteries.]

11 **Q. I'm going to show you what's been marked**
12 **as State's No. 2 into evidence.**

13 MS. BELL: I understand without
14 objection, Mr. Saxon.

15 MR. SAXON: Okay.

16 **Q. Ms. Holleman, do you recognize this**
17 **document, State's No. 2?**

18 **A. Yes, I do.**

19 **Q. And what do you recognize this document**
20 **as?**

21 **A. That was the board's Order as a result of**
22 **a hearing for Bamberg County Memorial Gardens in**
23 **November -- at the November -- I think it was 3rd,**
24 **2010 board meeting.**

25 **Q. Okay. And as part of that Order, what**

1 was the sanction that was rendered in this case?

2 A. The board publically reprimanded the
3 respondent. The respondent's license is suspended
4 indefinitely, as of the date of the Final Order,
5 until such time as he submits all records and
6 documents as described above and pays a fine of
7 \$5,000. And do you need the rest?

8 Q. And then was there any other restrictions
9 that were placed on the license?

10 A. During the time of suspension, let's see
11 here, the respondent was obliged to maintain all
12 preexisting contracts and their resulting
13 obligations, included, but not limited to, the
14 opening and closing of pre-owned graves. Further,
15 the respondent must comply with all requirements
16 and laws governing perpetual care cemetery
17 companies. And it does say "during the suspension
18 period, the respondent is prohibited from entering
19 into any new sales or sales contract until such
20 time as he is in compliance with the terms of this
21 Final Order and all state laws."

22 Q. Okay. And then what was the date of that
23 Order?

24 A. This Order is dated November 16th, 2010.

25 Q. Okay. And the board did not receive --

1 or staff did not receive this back, saying that it
2 was not delivered; is that correct?

3 A. No, we did not.

4 Q. Okay. And is there a similar order in
5 place for Barnwell County?

6 A. Yes, there is.

7 Q. Okay. And I will have that one marked as
8 well.

9 MS. BELL: Any objection?

10 MR. SAXON: Since there's no
11 objection, would either the state or Mr. Kent
12 object to us just combining, simply by stapling,
13 these two Orders and keeping them State's Exhibit
14 2?

15 MS. BELL: No objection.

16 MR. SAXON: Mr. Kent, is that okay
17 with you?

18 MR. KENT: Yeah, that's fine.

19 COURT REPORTER: Mr. Saxon, can you
20 explain that to your court reporter?

21 MR. SAXON: Yes.

22 COURT REPORTER: Because I have two
23 piles here.

24 MR. SAXON: We've got the State's
25 No. 2 is Bamberg County Memory Gardens. We're just

1 going to attach to it the Barnwell Memory Garden,
2 since it's the same thing, just two different --

3 MS. BELL: Facilities.

4 MR. SAXON: Does that --

5 COURT REPORTER: I was keeping them
6 separate.

7 MR. SAXON: You were keeping them
8 separate?

9 COURT REPORTER: Yeah.

10 MR. SAXON: Is that how you prefer
11 to do it?

12 COURT REPORTER: If you don't mind.

13 MR. SAXON: I don't.

14 COURT REPORTER: I'm naming Bamberg
15 No. 3 because that's the last digit in the case
16 number.

17 MR. SAXON: Well, Bamberg's State's
18 2.

19 COURT REPORTER: Yeah, I understand.
20 But I'm saying as, you know --

21 MR. RIGGINS: One's 12 and one's 15.

22 COURT REPORTER: That's right.

23 MR. SAXON: Okay. So Barnwell will
24 be Exhibit 2; is that correct? I mean, 3?

25 COURT REPORTER: I've got it -- if

1 you don't mind me asking, I've got it as, whatever
2 this first thing is called, is No. 1 --

3 MR. SAXON: Right.

4 COURT REPORTER: -- of the Barnwell.
5 And then this is No. 2 of Barnwell.

6 MR. RIGGINS: What's the No. 1?

7 COURT REPORTER: The No. 1 is the
8 Waiver of Attorney. She had two pieces of paper.
9 They both say Waiver. And then under the other
10 one, I have Bamberg 1 and Bamberg 2. Am I
11 confusing you?

12 MS. BELL: Yes.

13 MR. SAXON: Now, why is there a
14 Bamberg 1 and 2?

15 COURT REPORTER: Bamberg Exhibit 1
16 and Exhibit 2.

17 MR. FLOYD: Waiver of attorney

18 COURT REPORTER: That's what she
19 gave me.

20 MR. SAXON: Yes.

21 MS. BELL: Yeah. And I understand.
22 A lot of times we combine cases when it's the same
23 licensee.

24 MR. SAXON: I think, however, in
25 this instance, the court reporter is going to be

1 given the record, so --

2 MS. BELL: Okay.

3 COURT REPORTER: What do you want me
4 to do?

5 MR. SAXON: Is it okay if we just
6 bow to her --

7 MS. BELL: Sure.

8 MR. SAXON: -- how she wants it?

9 MS. BELL: Certainly.

10 MR. SAXON: All right. Madam Court
11 Reporter, the Bamberg County, Number 0015 Order.

12 COURT REPORTER: Oh, talking about
13 on my paper here. Sorry.

14 MR. SAXON: Right. Bamberg County
15 Memory Garden, Case No. 2010-0015 --

16 COURT REPORTER: Yes, sir.

17 MR. SAXON: -- what did you label
18 it?

19 COURT REPORTER: That is Exhibit
20 Number 2.

21 MR. SAXON: State's 2.

22 COURT REPORTER: That's correct.

23 MR. SAXON: All right. So the
24 Barnwell County Memory Garden which is 2010-0012
25 would be State's --

1 COURT REPORTER: It would be No. 2
2 also. She handed me these two and told me to mark
3 them as No. 1.

4 MR. SAXON: Okay.

5 COURT REPORTER: Okay. So I've got
6 the Waiver of Attorney for Barnwell County as No. 1
7 and Waiver of Attorney for Bamberg County, and then
8 I've put them together with the two --

9 MR. SAXON: Well, that's what I was
10 suggesting, that we just put them together as
11 State's 2.

12 MS. BELL: I'm fine with that, if
13 that's --

14 MR. SAXON: But I think we're
15 reaching the same --

16 COURT REPORTER: It does not matter.

17 MR. SAXON: It's reaching the same
18 conclusion, so I think that's fine.

19 COURT REPORTER: Okay.

20 MR. SAXON: If you will, when we
21 accept something into evidence, and we have without
22 any objection -- is that right, Mr. Russ --

23 MR. RUSS: Uh-huh.

24 MR. SAXON: -- you just tell us what
25 number to put on it. That's what we'll do.

1 COURT REPORTER: Okay. Well, Ms.
2 Bell tells me, so -- we're just trying to keep it
3 straight.

4 MS. BELL: But you are preparing one
5 order with both cases; is that the way it's going
6 to read? Or --

7 MR. SAXON: I was going to, unless
8 the parties want two different orders.

9 MS. BELL: Okay. No, that's fine
10 with me.

11 MR. SAXON: Mr. Kent, does that suit
12 you to get one order instead of two?

13 MR. KENT: That's fine. Yes.

14 MS. BELL: Well, in that case, I
15 think it is best if we just do a running number of
16 exhibits.

17 MR. SAXON: And that seems to be
18 what she's doing anyway. So I think that's fine.

19 EXAMINATION CONTINUES:

20 Q. So we talked about State's No. 2, which
21 was Bamberg County Memorial Garden Order; is that
22 right?

23 COURT REPORTER: Uh-huh.

24 Q. Then I'm going to also show you now
25 what's being marked as State's No. 3, and that's

1 **Barnwell County Memory Garden.**

2 MR. SAXON: Is this order Case No.
3 12?

4 MS. BELL: Yes.

5 COURT REPORTER: No, I don't have
6 that.

7 MR. SAXON: Now, you've already
8 marked that 2, haven't you, Ciel?

9 COURT REPORTER: Actually, I already
10 have that one.

11 MR. SAXON: I think Ciel has marked
12 both of them as Exhibits 2.

13 COURT REPORTER: Right. And I did
14 it under -- the last four digits of the OIE case
15 number.

16 MR. SAXON: That's fine.

17 COURT REPORTER: I was doing it as,
18 you know, that.

19 MR. SAXON: That's fine. You're the
20 record keeper, so we'll bow to your expertise.

21 MS. BELL: So it's No. 2?

22 COURT REPORTER: That is No. 2.

23 MR. SAXON: So they're both No. 2.

24 COURT REPORTER: Correct.

25 MR. SAXON: Ms. Bell, is there any

1 substantive difference between the two?

2 MS. BELL: Just the facility.

3 MR. SAXON: Just the facility;
4 that's all.

5 MS. BELL: Just the facility.

6 MR. SAXON: Okay. So two different
7 cemeteries, but the findings of fact are the same
8 and the alleged violations are the same.

9 MS. BELL: Correct.

10 MR. SAXON: Okay. Thank you.

11 MS. BELL: And the orders from the
12 underlying -- from what this case is about, the
13 underlying orders are the same, except they're for
14 the different facilities.

15 EXAMINATION CONTINUES:

16 Q. And Ms. Holleman, do you recognize what's
17 also been marked as State's No. 2?

18 A. Yes. The Barnwell County Memorial
19 Gardens Order.

20 Q. Okay. And was that hearing held on the
21 same day as the Bamberg County?

22 A. Yes, it was.

23 Q. And is the Order dated the same date?

24 A. Yes, it is.

25 Q. And was the cemetery -- was Barnwell

1 County Memory Garden, were they placed under the
2 same restrictions and received the same sanction
3 that Barnwell did?

4 A. Yes, they were.

5 Q. Okay. And was part of that that the
6 cemetery was prohibited from engaging in any new
7 sales from the date of the Order?

8 A. Yes.

9 Q. And what is the current status of the
10 cemetery's licenses?

11 A. Both licenses are currently suspended.

12 Q. Okay. Based on these Orders.

13 A. Yes.

14 Q. And did your office send notification to
15 the cemeteries, kind of a non-compliance letter to
16 them?

17 A. That was the Office of Licensure and
18 Compliance. Kathy Burgess, who I don't believe is
19 with the agency anymore, but I think they kind of
20 sent like a reminder, "Hey, don't forget your
21 license was suspended" sort of. I mean, I think
22 that's basically what that was.

23 [MARKED FOR IDENTIFICATION AS
24 STATE'S EXHIBIT NO. 3 - Letter
25 following the Order suspending the

1 **License for non-compliance with the**
2 **Orders.]**

3 **Q. We will show you what's been marked as**
4 **State's No 3.**

5 MR. KENT: Yes, I remember seeing
6 it.

7 MR. SAXON: Take a moment to look at
8 it, Mr. Kent, and just let us know when you've
9 finished.

10 MR. KENT: I did.

11 MR. SAXON: Oh, you have?

12 MR. KENT: That's why -- I knew when
13 she put it down here, I read it.

14 MR. SAXON: Having read it, do you
15 not have any objections to it?

16 MR. KENT: No objections.

17 EXAMINATION CONTINUES:

18 **Q. And, Ms. Holleman, as part of your**
19 **responsibilities, are you kind of a custodian of**
20 **records for board staff documents that pertains**
21 **to --**

22 **A. Yes.**

23 **Q. Uh-huh.**

24 **A. Yes, I am.**

25 **Q. Okay. So would this letter that I've**

1 shown you, that's marked State's No. 3, is this
2 something that's kept in the ordinary course of
3 business for the board? Are these the kind of
4 documents you-all keep?

5 A. Yes. We do keep this in the file for the
6 cemeteries.

7 Q. Okay. And can you tell us what this
8 letter is?

9 A. This letter is where our Office of
10 Licensure and Compliance on December 6th, 2010 also
11 mailed the Kents a copy of the Orders dated
12 November 16th. And not only did they include a
13 copy of the Orders, but they outlined what they
14 needed to do, letting them know that their license
15 was suspended indefinitely, until they submitted
16 all records and documents and paid the fine of
17 \$5,000.

18 Q. Okay. And let me ask you, as of today's
19 date, have you-all received the \$5,000 fine for
20 either, under either Order for Bamberg or Barnwell?

21 A. Not as of the time I came into this
22 meeting this morning at least.

23 Q. Okay. And then as of today, have you-all
24 received the records and documents that were
25 required to be provided under the board's Order?

1 A. Also, no, not as of this meeting.

2 Q. Okay. And that's for both Barnwell and
3 Bamberg locations; is that correct?

4 A. Correct.

5 Q. So are the cemeteries out of compliance
6 with the board's Order?

7 A. Yes, they are out of compliance with the
8 board's Order.

9 Q. Okay. Now, do you have information as to
10 who is the manager for the cemeteries?

11 A. We have on record Jon Steven Kent as the
12 cemetery managers.

13 Q. Okay. And do you also have documents
14 that your office has sent to Mr. Kent in regards to
15 operation of the cemeteries?

16 A. Over the years?

17 Q. Over the years.

18 A. Yes. We have letters we've sent, renewal
19 notices, etc.

20 Q. Okay. And I'm going to show you what I'm
21 having marked as State's No. 4.

22 [MARKED FOR IDENTIFICATION AS
23 STATE'S EXHIBIT NO. 4 - Letter dated
24 March 15, 2006 to Barnwell County
25 Memory Gardens.]

1 MR. SAXON: And I don't believe that
2 we moved in No. 3. Mr. Russ, is it all right? If
3 there are no objections to Exhibit 3, is it okay to
4 move that into evidence?

5 MR. RUSS: Yes.

6 **Q. And State's No. 4, can you identify this**
7 **document?**

8 **A. This document is the initial application**
9 **for Barnwell County Memory Gardens, and it also**
10 **includes a letter that Wendi Elrod sent.**
11 **Apparently, there were some issues over the land**
12 **development, but just letting him know that since**
13 **we hadn't -- let's see here -- that we did accept**
14 **"as confirmation of your development restrictions."**
15 **Let's see here. It tells Mr. Kent that we were**
16 **unable to accept a letter he had written about**
17 **county -- excuse me, about development restrictions**
18 **on the land and that we needed to get something**
19 **from the county, describing the restrictions.**

20 **Q. Okay. So some zoning issues? Or --**

21 **A. It was, I believe, something about how**
22 **much of the land the Kents actually were allowed to**
23 **develop. So I don't know if it was zoning or how**
24 **much the county had other restrictions on. I**
25 **apologize.**

1 Q. Okay. But do these documents tie Mr.
2 Kent to the respondent cemetery?

3 A. Yes, they do.

4 Q. And have you gotten any other information
5 that anybody else operates the cemetery?

6 A. No, I have not.

7 Q. Okay. And that would be both for
8 Barnwell and for --

9 A. Bamberg.

10 Q. -- Bamberg.

11 A. That's correct.

12 Q. Okay. Ms. Holleman, I don't think I have
13 any further questions for you. Please answer any
14 questions that Mr. Kent or the board members may
15 have for you.

16 A. Sure.

17 EXAMINATION BY MR. KENT:

18 Q. Regarding this letter here --

19 A. Can you tell me --

20 Q. -- did you have a conversation about the
21 county, why didn't you issue the license?

22 A. I apologize --

23 Q. That letter was never sent back because
24 this was a cemetery when I purchased it.

25 MR. SAXON: Don't make statements.

1 Just ask questions, okay?

2 MR. KENT: I mean, I just asked, why
3 wasn't a license issued.

4 MR. SAXON: Okay.

5 **A. Unfortunately, I was not working with the**
6 **Perpetual Care Cemetery Board at that time, so I**
7 **don't have an answer for that.**

8 **Q. The license was issued.**

9 MR. SAXON: Hold off on your
10 testimony. You'll get to do that in a minute,
11 okay? But do you have any other questions for Ms.
12 Holleman?

13 MR. KENT: No.

14 MR. SAXON: And now does the board
15 have any questions for Ms. Holleman?

16 MS. BELL: Okay. Thank you.

17 MS. HOLLEMAN: You're welcome.

18 MS. BELL: At this time, the state
19 would call Raymond Lee.

20 (The witness is sworn in.)

21 DIRECT EXAMINATION OF RAYMOND LEE

22 BY MS. BELL:

23 **Q. Good afternoon, Mr. Lee.**

24 **A. Good afternoon.**

25 **Q. Just for the record, would you mind**

1 stating your full name again?

2 A. It's Raymond Lee.

3 Q. And where are you currently employed?

4 A. With the Department of Labor, Licensing
5 and Regulation.

6 Q. And in what capacity?

7 A. Inspector.

8 Q. And what boards do you do inspections
9 for?

10 A. A number of boards. Right now I'm with
11 Barber and Cosmetology and Barber School and OJT.

12 Q. Takes a good bit of your time; doesn't
13 it?

14 A. Yes, ma'am.

15 Q. Did you also have an occasion to do
16 inspections for the Cemetery Board?

17 A. For a number of years, yes, ma'am, I did.

18 Q. Okay. And as part of your duties, did
19 you go out and do an inspection on both Bamberg
20 County Memory Garden and Barnwell County Memory
21 Garden?

22 A. Yes, ma'am, on numerous occasions.

23 Q. Okay. And did you have an occasion to go
24 out there in March of last year?

25 A. Yes, ma'am, I did.

1 Q. And at that particular time, was it your
2 -- did you have an understanding as to what the
3 licensure status was of both those cemeteries?

4 A. Yes, I had been requested by the Cemetery
5 Board, Office of the Board, to go by the legal
6 department and see if I could gather any
7 information as to whether there had been any sales
8 completed after the date of suspension from the
9 prior year.

10 Q. Okay. And did you go to both cemeteries
11 in March?

12 A. Yes, ma'am.

13 Q. Okay. And did you speak with anybody
14 affiliated with the cemeteries at that time?

15 A. Yes, ma'am, I did. I might explain,
16 though. There are two cemeteries. They're small
17 cemeteries, both of them. But the office is
18 located in one central location at the Bamberg
19 County Memory Gardens on Heritage Highway.

20 Q. Okay. So one office that has the records
21 for both cemeteries --

22 A. Both cemeteries.

23 Q. -- is that right?

24 A. Yes, ma'am.

25 Q. And you said that you did speak with

1 someone that was affiliated with the cemeteries.

2 Do you recall who you spoke with?

3 A. Yes, ma'am, certainly. It was Mr. Kent.
4 I inspected and talked with him on numerous
5 occasions. And he was there that day, very
6 cooperative. He -- I explained why I was there and
7 he was aware of the suspension and -- and what I
8 might be after, record-wise.

9 Q. Okay. So when you went there, you spoke
10 with Mr. Kent and you had known in the past him
11 being affiliated with the cemeteries; is that
12 correct?

13 A. Yes, ma'am.

14 Q. He confirmed with you in March of last
15 year that he was still affiliated with the
16 cemeteries; is that correct?

17 A. Yes, ma'am.

18 Q. And he was aware of the disciplinary
19 order from November of 2010; is that correct?

20 A. Yes, ma'am.

21 Q. Okay. And when you went, you indicated
22 that he was cooperative with you. Did he show you
23 the contract books? contract for sales?

24 A. Yes, ma'am. He opened the books, which
25 is a log that shows the sales on a month-by-month

1 basis, as well as the contracts themselves. And I
2 asked for copies of them. He didn't have any way
3 of making copies and he turned -- voluntarily
4 turned the records over to me. And I took them to
5 the Bamberg County Courthouse, where I made copies
6 of the records, which as I recall, indicated at the
7 Barnwell -- which is a smaller cemetery of the two
8 -- Memory Gardens, there were only two sales had
9 been made in the past year.

10 And then at Bamberg Memory Garden, it was
11 somewhere around 12 that had been made for the past
12 year, after the Order had taken place.

13 Q. Okay. And as part of your duties, did
14 you also compile an inspection report that detailed
15 your findings when you went there in March of last
16 year.

17 A. Yes, ma'am.

18 Q. Okay. I'm going to ask you if you can --

19 A. I've got.

20 Q. You got copies? Okay.

21 A. I've the originals.

22 Q. Of Mr. Lee's inspection report?

23 A. Yes.

24 MS. BELL: Is there any objection to
25 that?

1 MR. KENT: No objection.

2 MS. BELL: Okay.

3 [MARKED FOR IDENTIFICATION AS
4 STATE'S EXHIBIT NO. 5 - Inspection
5 Report for Bamberg County Memory
6 Gardens dated 03-08-2011.]

7 Q. Mr. Lee, do you recognize this document
8 that has been marked as State's No. 5?

9 A. Yes, ma'am, I do.

10 Q. And what do you recognize that as?

11 A. That was the inspection report that I
12 conducted for the location and the date that I
13 visited the location.

14 Q. And Mr. Kent has indicated he received a
15 copy, on March the 8th, 2011. Did you provide him
16 with a copy of this report?

17 A. Yes, ma'am, I did.

18 Q. And at the time that you went out there,
19 what was the status of the license?

20 A. They were expired. I noted it ??? left
21 top of the inspection report, "expired 12-31-2010."

22 MR. SAXON: I'm sorry. Mr. Kent,
23 did you have any objections to this document? I
24 couldn't hear earlier. What's been marked as
25 State's No. 5.

1 MR. KENT: No.

2 MR. SAXON: We'll take this into
3 evidence then as Exhibit Number 5, please. I'm
4 sorry for the interruption.

5 A. If I might add, he's got a number of
6 those copies in arrears. I don't know if you have
7 the up-to-date copies.

8 Q. Oh, okay.

9 A. You may want to --

10 MR. KENT: With this, you're talking
11 about the one from --

12 MR. LEE: 2000. 3/8.

13 MR. SAXON: This is March 8th, 2011.

14 MR. KENT: I may not have that one.

15 Q. And so you were testifying that the
16 license was actually be expired -- it had been
17 suspended in November.

18 A. Yeah.

19 Q. But then it would have expired in
20 December.

21 A. I -- I didn't have the suspension status
22 with me, to know that they were suspended. But the
23 license that was posted indicated it had expired on
24 that date, 12-31-2010.

25 Q. Okay. So they did not have a current

1 **license posted at the time that you did your**
2 **inspection.**

3 **A. That's correct.**

4 **Q. And it appears that there would have**
5 **been, regardless of the suspension status, that**
6 **they would have been operating under an expired**
7 **license; is that right?**

8 **A. Yes.**

9 MR. SAXON: If you'll forgive me,
10 what was the date again of the expiration of the
11 licenses?

12 MR. LEE: I noted 12-31-2010.

13 MR. SAXON: Thank you.

14 **Q. And then did you also have a similar**
15 **report for Bamberg as well?**

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

17 **[MARKED FOR IDENTIFICATION AS**
18 **STATE'S EXHIBIT NO. 6 - Inspection**
19 **Report for Barnwell County Memory**
20 **Gardens dated 03-08-2011.]**

21 MR. SAXON: There was no objection,
22 Mr. Russ. Is it okay to move this into evidence?

23 MR. RUSS: Yes, sir.

24 **Q. And at this time, since there's no**
25 **objection, I'd like to make State's 6, then, which**

1 is the Bamberg County Memory Garden --

2 MR. SAXON: And Mr. Russ has
3 indicated this is moved in.

4 MS. BELL: Okay.

5 Q. Mr. Lee, this is in the inspection report
6 for Bamberg County Memory Gardens; is that correct?

7 A. Yes, ma'am, it is.

8 Q. And Mr. Kent provided you with the books
9 as it pertained to Bamberg County Memory Gardens;
10 is that right?

11 A. Yes, ma'am. Both sets of books for both
12 locations.

13 Q. And did you find any violations as it
14 pertained to those books?

15 A. Yes, ma'am. I found 11 contracts that he
16 had copies of and one in the book that we couldn't
17 find, Contract No. 856, but were listed in the book
18 as a owner. Mr. Kent provided me copies. Since I
19 didn't have that contract, I couldn't bring back
20 the copy of that one particular contract, 856.

21 Q. Okay. All right. And you indicated that
22 you went and made copies of the contracts; is that
23 right?

24 A. Yes, ma'am.

25 (Off-the-record discussion.)

1 [MARKED FOR IDENTIFICATION AS
2 STATE'S EXHIBIT NO. 7 - Barnwell
3 Contract Book - July 2001.]

4 Q. State's No. 7 is the -- which I
5 understand is admitted without objection.

6 MR. SAXON: So moved.

7 MS. BELL: Okay.

8 Q. -- is the contract -- this is information
9 that you received out of the contract book
10 pertaining to Barnwell; is that right?

11 A. Yes, ma'am, to -- to the smaller
12 cemetery, Barnwell County.

13 Q. And then did you actually highlight some
14 particular entries there in the contract book?

15 A. Yes, ma'am. I highlighted one on -- next
16 to the last page dated 3/4/11 for \$499. And I
17 highlighted one as you go back, a little further
18 back, I think what -- what I was trying to indicate
19 here was an -- this was a -- the lot was pre-sold,
20 but the merchandise was sold after-the-fact. And
21 what I was indicating there. Now it was unclear on
22 the last page as to what date, simply was no date
23 put down on that sale, so I didn't count it as a
24 third sale.

25 Q. You mean the Eddie Hutto? It says

1 3/4/11?

2 A. No, it doesn't have a date on the last
3 page, this bronze.

4 Q. Oh, okay.

5 A. Okay.

6 Q. Oh, I'm sorry. Okay. But Eddie Hutto,
7 that was the one that was March 4th, 2011 --

8 A. Yes, ma'am.

9 Q. -- for \$499 as a down payment?

10 A. Yes, ma'am.

11 Q. And the date of this sale was 3/4/2011.
12 That would have been after the Order suspending the
13 license; is that correct?

14 A. Yes, ma'am.

15 Q. Okay. And then you actually pulled the
16 actual contracts themselves; is that correct?

17 A. If the -- if he had the contracts,
18 whatever he had available, I pulled.

19 MR. KENT: And they were all
20 available, right?

21 MR. SAXON: Is this Barnwell or
22 Bamberg?

23 MS. BELL: Barnwell.

24 [MARKED FOR IDENTIFICATION AS
25 STATE'S EXHIBIT NO. 8 - Purchase and

1 Security Agreement dated March 2,
2 2011.]

3 A. The first contract which is dated -- I
4 mean, numbered as 51-501-140 and it looked like it
5 was changed into a 3 is for Eddie Hutto. That was
6 -- contract was signed, it says here February 11th,
7 but he has it in his book as March 4th. I'm
8 unclear whether that was when they completed paying
9 for it or not. But the signed contract was still
10 -- excuse me, March 2nd, 2011, down here.

11 Q. Okay. But either way, that date would
12 have been after the --

13 A. After -- the Order had taken place in
14 2010 at some particular point. I don't remember
15 the date.

16 Q. And then you've got the second one --

17 A. Ruby Peoples was the second one, and I
18 think they pre-sold something, the grounds, I
19 believe it was. And they followed through on
20 February 25th, 2011 with this other sales of
21 merchandise here.

22 Q. Okay.

23 A. Yeah, two bronze's. Well, no. This may
24 be two copies of the same thing. Yeah, this is two
25 copies of the same thing, what I'm looking at. One

1 contract, okay?

2 Q. Okay. So those were the two that you
3 found that were new sales.

4 A. During 2011.

5 Q. '11.

6 A. Yes, ma'am.

7 Q. And that pertains to Barnwell, the
8 smaller cemetery; is that right?

9 A. Yes, ma'am.

10 Q. Okay. And I'm going to switch back to
11 Bamberg.

12 A. Okay.

13 Q. And you did an inspection report. And
14 ask you, you also got the copy of the contract book
15 in that one as well.

16 A. Yes, ma'am.

17 [MARKED FOR IDENTIFICATION AS
18 STATE'S EXHIBIT NO. 9 - Bamberg
19 Contract Book July 2001.]

20 [MARKED FOR IDENTIFICATION AS
21 STATE'S EXHIBIT NO. 10 - Purchase
22 and Security Agreement dated June
23 11, 2011.]

24 MR. SAXON: This is State's No. 9.

25 And this is State's No. 10.

1 Q. Showing you No. 9, which I think you're
2 looking at now. Is that for Bamberg, that came out
3 of Mr. Kent's contract book for Bamberg?

4 A. Yes, ma'am, it is.

5 Q. Okay. And did you find any sales that
6 are recorded there that would have been after the
7 November 2010 Order of the board suspending their
8 license?

9 A. Yes, ma'am. In actuality, I found more
10 than what I listed in my report or my inspection.
11 Due to the fact we had a discussion, as I recall,
12 as to when I had -- I had a date of when the
13 suspension was. But he implied that he didn't open
14 the mail or didn't receive it until many -- several
15 months later. So I tried to work from his figuring
16 of the dates forward versus what the court order
17 was when he said he had received the mail. Or it
18 may have been a few more than 12.

19 Q. Well, let's see. The Order was from
20 November of 2010, correct?

21 A. Yes, ma'am.

22 Q. And you went in March of 2011, correct?

23 A. Yeah. I started --

24 Q. So it had just been three months in-
25 between the time of the Order and when you went,

1 correct?

2 A. Yes, ma'am.

3 Q. Okay. But when you went there in March,
4 he already knew about the order and he knew that he
5 was under suspension, correct?

6 A. Yes.

7 Q. Okay. Got you. And you highlighted a
8 couple from December of 2010, correct?

9 A. Yes, ma'am.

10 Q. Which would have been after the order; is
11 that right?

12 A. Yes, ma'am.

13 Q. And then on the very last page, aren't
14 all those sales after -- even though not all of
15 them are highlighted, are all of those after the
16 November Order?

17 A. Yes, ma'am, they are, starting at 12/16
18 forward. That's what I used for my base here, this
19 page here.

20 Q. Okay. And then No. 10, which has been
21 marked without objection, and I would ask that No.
22 9 be moved into evidence at this time.

23 MR. SAXON: So moved.

24 MS. BELL: No. 10 that has been
25 marked for identification, did you pull these up

1 here? Can you tell me what they were?

2 A. Yes, ma'am. These were contracts in his
3 contract book, and they were dated -- this is
4 January -- it looks like -

5 MR. KENT: January 11th.

6 A. -- January 11th of 2001. I don't
7 remember --

8 Q. Okay. The first one, Luther Grimes; is
9 that right? up at the top.

10 A. Yes, ma'am.

11 Q. Okay. And that was January 11th of 2011;
12 is that correct?

13 A. Yes, ma'am.

14 Q. And was that evidence of a new sale?

15 A. Yes, ma'am.

16 Q. And that was after the date of the Order?

17 A. Yes, ma'am.

18 Q. And then the second one that we have here
19 under State's 10, Delores Faust?

20 A. Yes, ma'am.

21 Q. Was that a new sale?

22 A. Delores Faust -- looked like Stewart.

23 Yeah.

24 Q. There was a marker added, correct?

25 A. Yes, ma'am.

1 Q. Okay. And that was January the 19th of
2 2011; was that right?

3 A. Yes, ma'am.

4 Q. And that was after the date of the
5 Suspension Order; is that right?

6 A. Yes, ma'am.

7 Q. Then the third one is Harriet Conley.

8 A. Uh-huh.

9 Q. And what was the date on that one?

10 A. February 21st, 2011.

11 Q. Okay. And that was a new sale? Says a
12 pre-need marker, but was there new --

13 A. Yeah. It would have been a new sale. It
14 would be contracted on that date, so it would have
15 been a sale for that date.

16 Q. Okay. And that was for a pre-need marker
17 that she was purchasing at that time; is that
18 right?

19 A. Yes, ma'am.

20 Q. Okay. And that was after the Suspension
21 Order; is --

22 A. Yes, ma'am.

23 Q. -- that right? And then there was a
24 Gladys Wilson.

25 A. Yes, ma'am.

1 Q. And the date of that was 2/11/2011; is
2 that right? 2/8.

3 A. 2/8/2011.

4 Q. And was that for a new sale?

5 A. Yes, ma'am. New sale for an --
6 internment space.

7 Q. And that was after the date of the Order?

8 A. Yes, ma'am.

9 Q. And then I believe with the Grimes, that
10 was actually -- that may -- so it's a different --
11 this is actually a different contract number,
12 correct?

13 A. Yeah. This is for the marker; the other
14 one for his internment space.

15 Q. Okay.

16 A. February 4th is what it's dated, 2011.

17 Q. Okay. And that was a new sale?

18 A. Yes, ma'am.

19 Q. And it was after the date of the Order.

20 A. Yes, ma'am.

21 Q. Arthur Smith was the next one.

22 A. Yes, ma'am. Dated -- it looks like
23 January 1st to me -- it may be February; I'm not
24 sure -- 2011. But it was after the order and it
25 was for an opening and closing for Mr. Smith and a

1 internment space.

2 Q. An internment space?

3 A. Yes, ma'am.

4 Q. Okay. And then Bertha Moody?

5 A. Yes. And can't see the date. Well, up
6 here it's -- it's missing the correct date.

7 Q. I'm sorry. It might have gotten cut
8 off --

9 A. Cut off, yeah.

10 Q. -- on your copy. Let me show you this
11 copy and see if we can see it.

12 A. Yeah. This is February 1st, 2011, is
13 what I have on Moody, and that was for an
14 internment space.

15 Q. Okay. And that was after -- that was a
16 new sale after the date of the Order.

17 A. Yes, ma'am.

18 Q. And then Mary Gaston?

19 A. Yes, ma'am. That was a internment space
20 and it was dated January 21st, 2011, after the
21 Order.

22 Q. And then Alice -- two individuals, a
23 Harvey and Thomas Courial?

24 A. That's what it looks like. I can't quite
25 make out the last names, but this was for an

1 internment space, two individuals, January 21st,
2 2011, after the Order date.

3 MR. KENT: And an opening and
4 closing.

5 MR. LEE: Is that mine?

6 A. And an opening and closing. Internment
7 space, opening and closing.

8 Q. Okay. And then a Mr. Raysor; is that
9 right? Bradley Raysor?

10 A. What it looks like here. And this is
11 dated on January 20th, 2011 after the Order. And
12 this is for a opening and closing and an internment
13 space.

14 Q. Okay. And did Mr. Kent deny to you that
15 he conducted business after receiving the Order?

16 A. No, ma'am, he did not. He referred to --
17 it was -- his financial condition was the reason
18 that he continued. He wasn't able to -- he was
19 barely getting by with the cemetery, the size that
20 it was.

21 Q. So when he spoke with you, did he tell
22 you that he knew that he was selling these things
23 in violation of the Order?

24 A. He didn't specifically put it like that,
25 but he knew about the Order. And then he knew he

1 was selling -- you know, he had to make the sales
2 anyway, is what he was saying.

3 Q. Okay. And have you had any other
4 conversations other than when you went to see Mr.
5 Kent and visit the cemeteries on those days? Do
6 you remember the conversations?

7 A. Over the years I've had numerous
8 conversations. I don't remember if I talked with
9 him by phone. I was trying to relay Jim Holloway's
10 phone number for him, to see if he could assist him
11 in any way in trying to take care of his finances,
12 his affairs.

13 Q. Okay. And that was after the --

14 A. I believe I did have a conversation after
15 this inspection with him about that.

16 Q. Okay. Thank you, Mr. Lee. I don't have
17 any further questions at this time. Please answer
18 any questions that Mr. Kent may have for you or the
19 board may have for you.

20 EXAMINATION FROM MR. KENT:

21 Q. I have no questions about this, but other
22 than these contracts, how did you find the
23 conditions of the cemetery?

24 A. Cemetery has always been in good
25 condition.

1 **Q. Both of them.**

2 **A. Both of them.**

3 COURT REPORTER: What did you say?
4 I didn't hear what you just said.

5 MR. LEE: Both cemeteries are always
6 in excellent condition.

7 **Q. Other than this, did you find any other**
8 **violations?**

9 **A. No other violations.**

10 **Q. Thank you.**

11 MS. BELL: And at this time, the
12 state would rest.

13 MR. SAXON: Were there any board
14 questions for Mr. Lee?

15 MR. FLOYD: Mr. Lee, on one of
16 these exhibits, it was a renewal application for
17 Barnwell Memorial Gardens, and the application says
18 that ten of the acres --

19 MR. SAXON: Is this State's 4, Ciel?
20 Yes, I think it's State's 4.

21 MR. FLOYD: It says that ten acres
22 of non-perpetual care on this application.

23 MR. LEE: I don't normally handle
24 the licensing.

25 MR. FLOYD: I think -- I think it's

1 a renewal, 2004.

2 MR. SAXON: He still wouldn't be
3 involved in that, so he can't really answer that.

4 MR. FLOYD: Well, the reason I ask
5 that is because on his inspection report --

6 MR. KENT: It wasn't any signage.

7 MR. FLOYD: -- it was supposed
8 to be signage if it is non-perpetual care? And I
9 guess --

10 MR. SAXON: Are you asking if there
11 was signage?

12 MR. FLOYD: Yes. Was there signage.

13 MR. SAXON: Was there signage, Mr.
14 Lee?

15 MR. FLOYD: Identifying that this
16 area was not perpetual care?

17 MR. LEE: I would have to look at
18 the paperwork.

19 MR. RIGGINS: It's listed on one of
20 these.

21 MR. FLOYD: It's State's No. 5.
22 Yeah, State's No. 5, it asks signs that specified
23 non-perpetual care section, and you had -- you put
24 in here "N/A," not applicable.

25 MR. LEE: I may have, because I ask

1 those questions a lot of times --

2 MR. FLOYD: Well, I guess my point
3 is if you don't know it's not perpetual care, you
4 don't know it's supposed to have a sign. According
5 to your inspection report, it doesn't have a sign.

6 MR. SAXON: I think we're going a
7 little --

8 MR. FLOYD: Identifying part of it
9 is not perpetual care.

10 MR. SAXON: -- we're going beyond
11 the compliance, so let's not do that.

12 MR. FLOYD: Okay. I have no
13 questions.

14 MR. SAXON: Any other questions from
15 the board? The state has rested, Ms. Bell?

16 MS. BELL: Correct.

17 MR. SAXON: Now it's your turn, Mr.
18 Kent. Do you have any witnesses, first of all?

19 MR. KENT: No, I don't.

20 MR. SAXON: Okay. What would you
21 like to tell us?

22 MR. KENT: All I'd like to tell you
23 is that everything that's been presented is exactly
24 right. It all started because I didn't have the
25 files reported. I have compiled the information

1 and I can get all records from 2003 to 2010 in the
2 next 60 days. I've got the figures, but I've got
3 to get them confirmed.

4 MR. SAXON: You said between 2003
5 and --

6 MR. KENT: 2010.

7 MR. SAXON: Within what period of
8 time did you say you could get it?

9 MR. KENT: Within 60 days. I can do
10 it within 30 days. I just got to get it confirmed,
11 because we've got it figured -- Barnwell Memory
12 Gardens Trust Fund is up today. Its Merchandise
13 Trust Fund is up today. Barnwell -- I mean,
14 Bamberg is \$7,600 behind, and the Merchandise Trust
15 Fund is up to date because I don't sell
16 merchandise. When I do sell markers, I buy them.
17 I do not merchandise them. I do -- even if they're
18 pre-need, they're ordered when they're paid for. I
19 get them in the cemetery and warehouse them.

20 And as a matter -- one of the -- another
21 reason that we had to do what we had to do the day
22 that Raymond was there and made copies of it and
23 come back there, we had just been robbed of all of
24 our lawn mowers and everything else, and there was
25 no insurance on it, and I had to replace them.

1 MS. CUBITT: Can I just offer one
2 point? For all cemeteries, the Agreed Upon
3 Procedures would be due and they're -- have to be
4 prepared by a CPA. And I think it would be
5 difficult to have that Agreed Upon Procedures done
6 within 60 days.

7 MR. SAXON: Okay.

8 MR. RUSS: And at this time of year,
9 I'm sure it is.

10 COURT REPORTER: What did you say,
11 Mr. Russ?

12 MR. SAXON: He said, "this time of
13 year." Anything else you want to bring to our
14 attention, Mr. Kent?

15 MR. KENT: No.

16 MR. SAXON: Ms. Bell.

17 DIRECT EXAMINATION OF JON STEVEN KENT

18 BY MS. BELL:

19 Q. Good afternoon, Mr. Kent.

20 A. Good afternoon.

21 Q. So you do not deny that these sales were
22 done in violation of the Order, correct?

23 A. No, I can assure you there's been more.

24 Q. Okay.

25 A. Because I have to sell to survive because

1 our perpetual care trust fund in Barnwell costs
2 money. Even though we put money into it, it still
3 costs us for administration fees, and there's no
4 money coming in, and I can't provide the
5 maintenance for the families there unless there's
6 money, and I do it out of Barnwell -- or Bamberg.

7 Q. In addition to not complying with the
8 Order as it relates to sales, you would agree that
9 you're also in violation of the Order because you
10 have not paid the civil penalties that were
11 imposed; is that right?

12 A. That I might have a problem ever doing.
13 I mean, paying the fine, because I have a hard
14 enough time paying the perpetual care and doing the
15 maintenance.

16 Q. Okay. And in --

17 A. I do 24 burials a year out of Barnwell
18 and -- and we do 50 out of Bamberg. And if we
19 didn't do 50 out of Bamberg, Barnwell would go
20 under.

21 Q. And in addition to not complying with
22 that aspect of the Order, you would also agree that
23 you have not submit your required reports; is that
24 right?

25 A. I already said that.

1 **Q. Okay. But you have not to date.**

2 **A. Right.**

3 **Q. That will be all.**

4 MR. SAXON: From the board?

5 MR. RUSS: Anyone have any
6 questions?

7 MR. FLOYD: How long have you owned
8 these cemeteries?

9 MR. KENT: I come there in '88 and I
10 bought them in '93. And I'm buying them through
11 sales.

12 MR. FLOYD: Who did you buy them
13 from?

14 MR. KENT: Dick Herbert.

15 MR. SAXON: Any other questions?

16 MS. BELL: Can I ask a followup
17 question, just based on Mr. Floyd's question? When
18 you said that you're buying those through sales,
19 what do you mean by that? When you say you're
20 buying the cemetery through sales, what do you mean
21 by that?

22 MR. KENT: We make a payment every
23 month out of the cemetery to buy it.

24 MS. BELL: Out of the sales? Is that
25 what you're saying?

1 MR. KENT: Out of income from sales,
2 let's put it that way.

3 MS. BELL: Okay.

4 MR. SAXON: Closing arguments?
5 Would the state like to defer?

6 MS. BELL: Well, I will. I'll
7 defer.

8 MR. SAXON: Okay. Would you like
9 to make a closing argument, Mr. Kent? And again,
10 that's not necessary, if you don't want to.

11 MR. KENT: I don't want to

12 MR. SAXON: Okay. Ms. Bell?

13 MS. BELL: Thank you. And I
14 appreciate the board's indulgence. I believe that
15 the facts, number one, are undisputed by the
16 respondent. He admits that he's in violation of
17 the Order, not just by having these sales but the
18 other aspects of the Order as well. So we would
19 ask that you take a sanction or render a sanction
20 that would serve to protect the public. Thank you.

21 MR. RUSS: Thank you, Ms. Bell.

22 MR. SAXON: And thank you, Mr. Kent.

23 MR. RUSS: Okay, are we ready to go
24 into executive session.

25 MR. SAXON: If somebody wants to

1 move that.

2 MR. BARTUS: I'll move we go to
3 executive session.

4 MR. RUSS: I have a motion. Do I
5 have a second to go into executive session?

6 MR. FINCH: Second.

7 MR. RUSS: All those in favor, say
8 aye.

9 BOARD MEMBERS: Aye.

10 (Executive Session.)

11 MR. FLOYD: I make a motion we come
12 out of executive session.

13 MR. BARTUS: Second.

14 MR. RUSS: Okay. I have a
15 second. All those in favor, say aye.

16 BOARD MEMBERS: Aye.

17 MR. RUSS: No motions were made and
18 no votes were taken during executive session.

19 MR. FLOYD: Mr. Chairman, I'll
20 ask Jamie to read our motion.

21 MR. SAXON: With sober minds and
22 hearts, the board has made the decision to revoke
23 the respondent's licenses. And before any possible
24 reinstatement, the respondent must appear before
25 the board and answer for his misconduct and show

1 compliance with all prior Orders. And then at that
2 time it would be up to the board's discretion as to
3 whether to reinstate the licenses.

4 Is that the --

5 MR. FLOYD: Yes.

6 MR. SAXON: -- motion?

7 MR. RUSS: You've heard the motion.

8 Do I have a second?

9 MR. BARTUS: Second.

10 MR. RUSS: All those in favor, say
11 aye.

12 BOARD MEMBERS: Aye.

13 MR. RUSS: All those opposed?

14 (NO RESPONSE.)

15 MR. RUSS: Motion carried. Thank
16 you, Ms. Christa. Thank you, Mr. Kent.

17 MR. KENT: When could I meet with
18 the board? How long is this revoked?

19 MR. SAXON: A revocation is
20 permanent. If at such time as you comply with the
21 previous orders and do all the paperwork and follow
22 all the other laws, statutes governing this
23 practice, you could come before the board at that
24 time. But frankly, you would be wasting your time
25 and the board's to come before you've paid the fine

1 and complied with the previous order and made sure
2 that you're up-to-date on all your reports and AUPs
3 and everything else that's required by statute.

4 MR. KENT: So I guess the only
5 alternative is to file bankruptcy? Is that --

6 MR. SAXON: I can't give you legal
7 advice, sir.

8 MR. KENT: Okay.

9 MR. SAXON: Ms. Elrod, are we at No.
10 11-2?

11 MR. RUSS: 11-3 we've got here.

12 MR. SAXON: Oh, that's right. We've
13 already done No. 2.

14 MR. RUSS: Yeah.

15 MR. SAXON: Okay.

16 MS. ELROD: They took that as
17 information.

18 MR. SAXON: That's right. So we're
19 11-3, Anderson Memorial Garden.

20 MR. RUSS: There's nobody here.

21 MR. SAXON: Okay. So let's --

22 MS. ELROD: But I guess we need a
23 motion for that.

24 MR. RUSS: All right. We need a
25 motion to table that.

1 MR. SAXON: Continue it until a
2 further meeting, future meeting.

3 MR. RUSS: Do I have a motion to
4 table Anderson Memorial Garden?

5 MR. FLOYD: You do.

6 MR. RIGGINS: Second.

7 MR. RUSS: All those in favor, say
8 aye.

9 BOARD MEMBERS: Aye.

10 MR. RUSS: Motion carries

11 MR. SAXON: For the record, Mr.
12 Russ, Chairman Russ, is recusing himself from 12,
13 No. 1. Russell, you'll be our chair.

14 MR. FLOYD: Okie dokie.

15 MR. SAXON: And, Ciel, for the
16 record, Mr. Floyd, Russell Floyd, Jr., will be the
17 acting chair right now.

18 MR. FLOYD: If y'all will turn
19 to 12-1 on your agenda. Forest Lawn is an
20 application --

21 MS. PETTY: Forest Hills.

22 MR. FLOYD: Forest Hills.

23 (Off-the-record discussion.)

24 MR. FLOYD: And it is an application
25 for a transfer of license; is that what --

1 BOARD MEMBER: It was a name change
2 and an application.

3 MR. SAXON: So it's both a new
4 license and a name change, Ms. Cubitt?

5 MS. CUBITT: (Nods head.)

6 MR. FLOYD: Anything you want to say
7 to us?

8 MS. CUBITT: I would defer to Amy.
9 She's done an excellent job today.

10 MS. HOLLEMAN: Forrest Hills
11 Memorial Park Cemetery is -- I apologize; I
12 apparently am -- is being purchased by Mr. John
13 Wayne Brown. J.W. Russ is the proposed manager,
14 general manager, for the next two years, right?
15 until Mr. Brown has adequate perpetual care
16 experience. This is the cemetery that has up until
17 now been known as Cedar Hill. That, you'll be
18 familiar with as Terry Lanford's cemetery. And
19 what can I say or not say?

20 MS. CUBITT: The cemetery was
21 actually sold in a tax sale.

22 MS. HOLLEMAN: Yes, it was. It was
23 sold in a tax sale --

24 MS. CUBITT: Tax sale --

25 MS. HOLLEMAN: -- to a Frank

1 Waters.

2 MS. CUBITT: -- but you bought it
3 from the person that bought it in the tax sale.

4 MR. BROWN: That's correct. Yes,
5 ma'am.

6 MS. CUBITT: Oh, the person that
7 bought it at the tax sale is present too if you
8 have any.

9 COURT REPORTER: What?

10 MS. CUBITT: The person who bought
11 it at the tax sale, Mr. --

12 MR. BROWN: Frank Waters.

13 MS. CUBITT: -- Waters is here too.

14 MR. FLOYD: So you're asking us to
15 approve a name change and transfer?

16 MS. CUBITT: Of ownership. Yes,
17 sir.

18 MR. FLOYD: And y'all have done all
19 the -- all the paperwork is here. All the
20 paperwork's been provided.

21 MR. SAXON: Do we have everything we
22 need, Ms. Holleman? Are we missing anything?

23 MS. HOLLEMAN: Well, we do not
24 have the Agreed Upon Procedures. I believe that
25 Mr. Russ or Mr. Brown may be better prepared to

1 address that situation due to the -- I'm not sure.

2 I defer --

3 MR. SAXON: Okay. Will you draw
4 your attention to the court reporter, please.

5 MR. BROWN: Yes.

6 (The witness is sworn in.)

7 MR. SAXON: Will you state and spell
8 your full name for the record, please?

9 MR. BROWN: John, J-O-H-N, Wayne, W-
10 A-Y-N-E, Brown, B-R-O-W-N.

11 MR. SAXON: What would you like us to
12 know? In other words, why should we transfer this
13 ownership?

14 MR. BROWN: As -- as -- as stated,
15 the cemetery fell into a tax sale. And it is
16 located in Woodruff, where I also operate Forest
17 Hill's Funeral Home. The name change will do away
18 with the stigma that has previously been attached
19 to the cemetery since its inception. And I intend
20 to give it back to the folks at Woodruff as a first
21 class cemetery and have plans to develop it
22 further, for the future.

23 MR. SAXON: So you'll be owner and
24 Mr. Russ will be manager for two years.

25 MR. BROWN: Yes, sir.

1 MR. SAXON: Have you provided the
2 staff with all the required paperwork, including
3 the AUPs?

4 MR. BROWN: There are no AUPs as to
5 this date because there are no records for the
6 cemetery to be found, other than those that I have
7 compiled since working with the cemetery, trying to
8 establish some sort of record keeping. All I have
9 to my knowledge in existence was a ledger book with
10 the entries of the 19 burials that had interred
11 there since its creation of the cemetery.

12 And some folks that have heard that I am in
13 the process of taking over the cemetery, they have
14 come forward with the information and their
15 Certificates of Deed and they're Certificates of
16 Ownership to let me know that they have pre-needs
17 there. I fully intend to honor their pre-needs.
18 And I have started making a file with their records
19 in it.

20 MR. SAXON: Mr. Brown, so we can
21 have this on the record, many of the board members
22 may be familiar with this situation and the
23 cemetery, but just briefly if you would give a
24 little explanation of the place and what has
25 happened, that has resulted in our being here.

1 MR. BROWN: To my -- to the best of
2 my knowledge, there's a 10-acre cemetery located
3 just barely inside the city limits of Woodruff.
4 The name currently is Cedar Hill Memorial Park
5 Cemetery that belonged to Mr. Terry G. Lanford, who
6 when the cemetery was started operated Cedar Hills
7 Funeral Home and Cedar Hill Memorial Park, along
8 with Lanford Memorial Parks, which was Greenhaven,
9 which is previously on the agenda, as well as
10 Heritage, Woodruff Memorial, and Green Pond
11 Memorial.

12 Mr. Terry Lanford, due to extenuating
13 circumstances, is in the federal prison at this
14 time. A lot of his properties fell into tax lien
15 and property tax sales at county auction in
16 Spartanburg County. That's where Mr. Waters took
17 possession of the property in tax sale. And the
18 general description of the property was "ten acres
19 of property located in Woodruff, South Carolina,"
20 and he was not aware it was a cemetery until after
21 he purchased it and drove up to see his property
22 that he had purchased.

23 MS. HOLLEMAN: That is true. I
24 called him when I learned about it, and he was like
25 "Oh, no, I did not purchase a cemetery; it's

1 residential." So --

2 MR. BROWN: And also, of course --

3 MR. SAXON: Well, I suppose it is
4 residential, in a sense.

5 MR. BROWN: And also, of course,
6 Spartanburg County, I guess, had the authority to
7 sell it at tax auction, although, as we all know,
8 cemeteries are supposed to go before the Cemetery
9 Board. I applied and conversed with Wendi and Amy
10 and Ms. Jeannie on the proper way to proceed before
11 I ever filed an application, in order to bring
12 everything up-to-date.

13 I have managed to get a copy of the balance
14 that's in the trust. As far as I know, there are
15 no maintenance trusts for the facility. I'm very
16 surprised that the funds are still there in the
17 trust fund that are there. Everything else has
18 been well taken care of. And even though it's not
19 in my possession as of yet, I have personally went
20 out and trimmed the shrubs and cut the grass, so --
21 ten acres seems to grow on you when you're on a
22 five foot Longhorn.

23 MR. SAXON: Is there anything else
24 the staff would like the board to know?

25 MS. HOLLEMAN: I mean, I think

1 that's --

2 MS. ELROD: Pretty much sums it up.

3 MS. HOLLEMAN: -- pretty much summed
4 it up. I think the big questions are with the
5 trust. But since there aren't any records, I don't
6 know what you'll do with that. But I think that's
7 the only issue that staff is aware of that's not in
8 a hundred percent order.

9 MR. SAXON: The board may ask
10 questions of either Ms. Holleman or Mr. Brown.

11 MR. RIGGINS: Mr. Brown, how many
12 interments have you got there, you say?

13 MR. BROWN: There have been 19 prior
14 to me being affiliated with it, and there have been
15 three since. On each occasion, I did -- I did
16 contact LLR to inform them of the internments that
17 were taking place there and assured them that any
18 funds that were taken in would be placed into
19 escrow until approval by the State Board.

20 MR. FLOYD: Mr. Brown, I noticed in
21 reading the package that you were charging care,
22 maintenance and installation on a third party
23 bronze, contrary to the statute. You can't charge
24 an outside installer or outside monument dealer
25 more. Perhaps your manager could help you

1 straighten that out.

2 MR. BROWN: After discussing the
3 rules and regulations with Mr. Russ, what I did in
4 developing the rules and regulations was I had
5 copied and obtained those from another firm.
6 Heritage Memorial Park provided me with their copy.
7 I just copied those and made them my own. I have
8 since made a copy of the rules and regulations that
9 Mr. Russ has provided for me, and those, in lieu of
10 the ones that you have now, will be the ones that
11 we will follow.

12 MR. FLOYD: Do I hear a motion we go
13 into executive session?

14 MR. BARTUS: So move we go into
15 executive session.

16 MR. FLOYD: Hear a second?

17 MR. RIGGINS: Second.

18 MR. FLOYD: All in favor?

19 BOARD MEMBERS: Aye.

20 MR. FLOYD: We'll enter into
21 executive session.

22 (Executive Session.)

23 MR. FLOYD: Hear a motion to come
24 out --

25 MR. RIGGINS: I make a motion.

1 MS. PETTY: Second.

2 MR. FLOYD: All in favor?

3 BOARD MEMBERS: Aye.

4 MR. SAXON: And while in executive
5 session, no votes were taken.

6 MR. FLOYD: We'll entertain a
7 motion?

8 MR. RIGGINS: I'll ask vice counsel
9 to read it.

10 MR. SAXON: The motion as I
11 understand it is to grant the request, pending
12 statutory compliance. Is that right?

13 MR. RIGGINS: Right. Yes, it is.

14 MR. FLOYD: I've heard the motion.
15 Is there a second?

16 MR. BARTUS: I second it.

17 MR. FLOYD: John Bartus. All in
18 favor, say aye.

19 BOARD MEMBERS: Aye.

20 MR. FLOYD: No opposed. Motion
21 carries.

22 MR. SAXON: I'll note for the record
23 that there was some concern about having Mr. Russ
24 as -- but --

25 MR. BROWN: Did the best I could.

1 MR. SAXON: We're now at new
2 business, 12, No. 2, Rest Lawn Memorial Park in
3 Lake City. And, board members, I would like to
4 introduce you to Representative Ronnie Sabb, who is
5 representing -- and correct me if I'm wrong -- Mr.
6 Brown and Greater Saint James AME Church of Lake
7 City.

8 MR. SABB: Kind of, sort of.

9 MR. SAXON: Okay.

10 MR. SABB: We -- we represent Mr.
11 Brown and the LLC. Technically, we don't represent
12 the church, but we've been working very closely
13 with the church.

14 MR. SAXON: Mr. Brown is not here;
15 is that right?

16 MR. SABB: That is correct.

17 MR. SAXON: And it's my
18 understanding he's elderly and not well?

19 MR. SABB: Yes, sir. And for the
20 record, if it pleases the chair, we did bring the
21 doctor's excuse, just so that there would be
22 something in the record, in the event we're making
23 a record, just so the board would know.

24 MR. SAXON: If you would just mark
25 that. Yeah, just let her mark it for the record,

1 and that will be fine.

2 MR. FLOYD: I think that's
3 appropriate.

4 MR. SAXON: Yes, yes.

5 [MARKED FOR IDENTIFICATION AS
6 EXHIBIT NO. 1 - Doctor's excuse for
7 Mr. Wilbur Brown dated 3/28/12.]

8 MR. SAXON: Y'all tell us what bring
9 us here and what maybe the board can do for y'all.

10 MR. SABB: Go ahead and we'll follow
11 you.

12 MS. HOLLEMAN: Rest Lawn Memorial
13 Park of Lake City was owned by Wilbur Brown, who
14 donated this cemetery to Greater Saint James AME,
15 who we have with us today. This is Reverend
16 Sinclair Frasier?

17 PASTOR FRASIER: Pastor, yes.

18 MS. HOLLEMAN: Pastor Sinclair
19 Frasier, I apologize, who is the pastor of the
20 church. The staff's question is kind of what do we
21 do with it. It was perpetual care. It is a
22 perpetual care cemetery as Rest Lawn, and it was
23 licensed as such. But since it's been donated to
24 the church, the question sort of remains, once
25 perpetual care, always perpetual care, but are

1 churches exempt, including when they kind of take
2 over perpetual care.

3 So we kind of need you guys to tell us and
4 them what we all need to be doing. Does that --

5 MS. CUBITT: Mr. Chairman, that's an
6 excellent summary of what is there. And that was
7 our concern because there is a place in the statute
8 that it says once a cemetery is perpetual care,
9 must always be perpetual care. And if the church
10 had started a church cemetery, had never been
11 perpetual care, they just opened up their own
12 church cemetery, clearly by the statute they would
13 be exempt.

14 But because it is a perpetual care cemetery,
15 our concern was that there would need to be an
16 application, just like a regular sale. It didn't
17 matter whether it was donated or not. And that the
18 way the staff's reading the statute, they would
19 need to be willing to assume everything you have to
20 do with a perpetual care cemetery and run it as
21 such. But we needed board guidance.

22 MR. SAXON: Pastor, does the church
23 want to assume the cemetery as a perpetual care
24 cemetery?

25 PASTOR FRASIER: Well, sir, what the

1 church does not want to do is run the cemetery as
2 an LLC. We want to dissolve the LLC and just have
3 a church cemetery, which is what it is now. And we
4 are in position to just care for it, maintain it as
5 a church cemetery. But we're not in the business
6 of --

7 MR. SAXON: So you don't want to
8 maintain it as a perpetual care cemetery.

9 PASTOR FRASIER: No, sir, we do not.

10 MR. SAXON: Just as a church
11 cemetery.

12 PASTOR FRASIER: We do not. Just a
13 church cemetery and no sales of any plots or
14 anything like that.

15 MR. SAXON: May I, Chairman, ask
16 some questions?

17 MR. RUSS: Well, let me make a
18 statement, please. We've had a similar situation
19 where we've had a perpetual care cemetery that was
20 donated to a ministry, and they continued to
21 operate that as a perpetual care cemetery. And I
22 can't speak for the board yet; they'll have to make
23 a decision about that. But once contracts are
24 written for people, it is my opinion that those
25 contracts have to be honored, and they are promised

1 perpetual care as a part of that. So we do have a
2 precedent for that already.

3 MR. SAXON: And Representative Sabb,
4 if I may -- whichever of you would like to answer
5 -- was the church aware of the perpetual care
6 nature of the cemetery when it acquired it?

7 MR. SABB: Yes. And what they would
8 like to do, obviously with this board's permission
9 and consent, they've been given all of the current
10 contracts. And so what they intend to do is to
11 honor all contracts that have been given. But
12 going forward, their desire is not to sell
13 additional lots, plots, if you will, as it has
14 been traditionally sold. So they don't want to
15 be in the business of selling the lots in the
16 future, but they understand that they've got an
17 obligation to honor all contracts that have been
18 given at this point. And from what I understand,
19 all of those have been turned over to the church
20 and they probably have.

21 PASTOR FRAZIER: We do.

22 MR. FLOYD: Do you know how many
23 there are?

24 PASTOR FRAZIER: You know, I just
25 asked my secretary behind me. There are many. We

1 did not bring -- we have actually all of the pre-
2 paid plots that's been sold and every plot that has
3 been occupied in the cemetery, we do have a record
4 of it, but she did not bring it. But there are
5 many. But did not bring those copies with us.

6 MR. RIGGINS: Many. Fifty?

7 PASTOR FRASIER: Over a hundred.

8 MR. RIGGINS: Over a hundred, okay.

9 MR. BARTUS: How large --

10 PASTOR FRASIER: 16.3 acres.

11 MR. BARTUS: 16.3 acres?

12 PASTOR FRASIER: Yes, sir.

13 MS. PETTY: Is all of that
14 developed?

15 PASTOR FRASIER: Couldn't hear the
16 question.

17 MS. PETTY: Is all of that developed
18 in the cemetery?

19 MR. SABB: No. No, ma'am, it's not.
20 Not at this time. Only about six acres is
21 developed into the cemetery -- about six acres
22 right now that's developed into a cemetery. The
23 rest of it is trees and of course there's a spot
24 where the astronaut Ron McNair was -- an area is a
25 park area. There's no graves or anything around

1 that area. There are some prepaid plots that has
2 been sold and already been accounted for, and we
3 have records of those individuals, and we intend to
4 honor those, but not sell anymore.

5 MR. RIGGINS: So you won't be
6 selling at all? If I'm a church member, I can be
7 buried there, but it won't cost me anything?

8 PASTOR FRAZIER: Well, yes and no.
9 We were just discussing that. Oh, it won't cost
10 you anything as a church member. There is a
11 cemetery fund that's been asked -- we have a church
12 cemetery funding, that all members are asked to pay
13 into. Because along with this acquiring of the
14 property also comes a trust fund with the grace of
15 Mr. Brown that's a pretty substantial amount of
16 money, to keep us going as we are right now at
17 least for the next couple of years.

18 And with that and the funding -- and the other
19 thing that we have been doing for individual --
20 because we recognize that many people in that area
21 that's buried in the cemetery already are not
22 members of Greater St. James. So what we have
23 done, if they have -- and they have come to us and
24 asked us to bury their loved ones there, maybe not
25 next to the ones that are there, but in the

1 cemetery, we have gracefully honored them the
2 privilege of burying their loved one there for a
3 donation or a maintenance fee donation that they
4 can give.

5 Also, along with that, Mr. Brown stipulated
6 that as a part of giving us the cemetery, if
7 someone in the community came with a need and not
8 having the means to pay for a burial spot, that he
9 would honor those individuals with a free spot, and
10 we concurred to do so. So that being said, that's
11 the manner by which we intend to operate as just a
12 church cemetery.

13 MR. SAXON: Just out of curiosity,
14 is this contiguous to the existing church's
15 cemetery?

16 MR. SABB: The church didn't
17 have one.

18 MR. SAXON: Oh, the church didn't
19 have one, okay.

20 MR. SABB: No, sir.

21 MR. SAXON: Okay.

22 MR. FLOYD: It's just contiguous
23 with the church.

24 MR. SABB: It is. It is contiguous
25 with the church.

1 MR. FLOYD: Is it adjoining the
2 church property?

3 MR. SABB: Two miles down the street
4 from the church.

5 MR. RIGGINS: And it has a trust
6 fund
7 with it.

8 MR. SABB: Has a trust fund. And
9 Mr. Brown stipulated that we should open a trust
10 fund in the name of the church, so that when the
11 transfer comes the money will always be earmarked
12 for the trust fund, and we have since done that.
13 And Mr. Brown has also turned over to us all of the
14 operational monies that he had in the account, a
15 little bit over \$5,000, when he gave us the
16 property. He's already turned those funds over.
17 So those funds are already in the trust fund in the
18 name of Greater St. James AME Church at this time,
19 and we are currently using it to maintain the
20 cemetery at this point in time.

21 MR. RIGGINS: Amy, have we gotten
22 any AUPs or anything from this cemetery in the
23 past? Or any --

24 MS. HOLLEMAN: No. But that is a
25 whole other ball of wax that had to do with --

1 MR. SAXON: Do you have an
2 application?

3 MS. HOLLEMAN: No. We don't have an
4 application. Nor do we have an Agreed Upon
5 Procedure. So we don't exactly know what's
6 supposed to be in there. I don't know if the
7 Browns know what's supposed to be in there, to be
8 honest.

9 MR. SABB: I apologize. Are you
10 talking about the trust fund?

11 MS. HOLLEMAN: Yes. Yes, yes, yes.

12 MR. RIGGINS: Yes, sir.

13 MR. SABB: From what we understand,
14 there is some \$22,772.50 as of April 30th of
15 last --

16 MR. SAXON: Would you give that
17 amount one more time, please?

18 MR. SABB: Yes, sir.

19 MR. SAXON: I'm sorry.

20 MR. SABB: Twenty-two thousand,
21 seven hundred seventy-two dollars and fifty cents,
22 as of April the 30th, 2011. And that account is
23 with Wells Fargo. And one of the reasons why I
24 wanted to chime in is their -- and let me express
25 my appreciation -- my conversations with Ms. Cubitt

1 and also with you, Mr. Saxon. It's really kind of
2 helped me to focus on some of the issues to try to
3 help everybody help.

4 And one of the challenges that they've had is
5 how do you transfer this account money where the
6 approval has been through Mr. Brown, now onto the
7 new owners, current owners of the LLC where these
8 folks, Wells Fargo has been --

9 MS. MCFADDEN: Very little --

10 MR. SABB: -- less than cooperative
11 in that process, and so to the extent that there is
12 some guidance that we can glean from you-all or
13 something by way of Order.

14 COURT REPORTER: I need to have your
15 name.

16 MS. MCFADDEN: Helen McFadden.

17 COURT REPORTER: Can you spell that
18 for me?

19 MS. MCFADDEN: M-C-F-A-D-D-E-N.

20 COURT REPORTER: Helen?

21 MS. MCFADDEN: Helen, H.

22 MR. FLOYD: Did you say you had
23 already transferred it to another trust account?

24 MR. SABB: No, sir.

25 MS. MCFADDEN: Let me speak to that

1 point, Mr. Floyd. This gift to the AME Church was
2 done toward the end of December. And orally, all
3 of us contacted the bank and took the two banks --
4 there were two banks involved initially -- took
5 them copies of the agreement.

6 In the agreement were sites in it, a transfer
7 of two banking accounts. One was the operational
8 account, which was held in the First Citizens Bank,
9 and one was the trust account, which was held --
10 initially it had started with Wachovia. So it was
11 then held by Wells Fargo.

12 And when we got nowhere in person, and when
13 the Wells Fargo personnel in Lake City were getting
14 nowhere with their higher ups, they said to Mr.
15 Brown, "You need to write the trust department in
16 Winston Salem." He did that on January the 19th,
17 sending them a copy of the agreement and saying,
18 "Please acknowledge the ownership of the church."
19 Resounding silence.

20 I started calling and writing in early March.
21 I have continued to get resounding silence from
22 them. And I called Tuesday of this week, trying
23 again, you know, saying to the bank, "What do you
24 want us to send you? What will cause you to
25 respond to this?" And so we've gotten resounding

1 silence from Wells Fargo.

2 MR. FLOYD: So the name of the -- so
3 the account is still at Wells Fargo. It's still in
4 the name of Wilbur Brown?

5 MS. MCFADDEN: It's still in the
6 name of Rest Lawn with Wilbur Brown as the signer
7 and coming to his address. We're trying to change
8 the signer and have it come to a church address.

9 MS. CUBITT: Mr. Chairman, it could
10 be that the bank is not doing that because they're
11 aware of the provision in our statute --

12 MR. RIGGINS: Exactly.

13 MS. CUBITT: -- that it can't be
14 done without board approval.

15 MR. RIGGINS: Yeah.

16 MS. MCFADDEN: So if that's what we
17 need, if the board could give us some sort of
18 approval to have it transferred to the ownership or
19 recognized the ownership of the church. And
20 technically, let me interject with this as well.
21 This transfer was done in compliance with the AME
22 Book of Discipline. So everything was transferred
23 to Greater St. James in trust for the AME
24 Conference. The (inaudible) of everything is the
25 AME Conference, because only the conference itself

1 can own anything under their Book of Discipline so,
2 the gifting agreement speaks in terms of Greater
3 St. James holding it in trust for the conference of
4 the AME church.

5 And that -- we have listened here today to
6 folks going belly up and -- and folks being in tax
7 sales. The -- the church has been alive and well
8 since 1781 and is still going quite strongly. And
9 I think we could certainly expect it to continue
10 for several hundred more years. So that gives even
11 greater protection to the ownership and the -- the
12 church's agreement. And -- and actually, the
13 written agreement says that they will honor all the
14 prior sales, and that they will maintain it in
15 perpetual care status.

16 MR. BARTUS: Since you said that
17 the church can't own anything; it has to be the
18 AME --

19 MS. MCFADDEN: The conference.

20 MR. BARTUS: -- the conference
21 actually owns it. So therefore, from the way I
22 understand that is that you really can't get into
23 the perpetual care cemetery business.

24 MR. SABB: We don't intend to.

25 MR. BARTUS: No, I know you don't

1 intend to, but, you know, I don't think you have an
2 option, from what I just heard.

3 MR. FINCH: Once you sell forever
4 care, perpetual care, to a client, you can't take
5 it back, looks like. Once the cat's out of the
6 bag, you can't put it back in. So that's what
7 we are up against.

8 MR. SABB: But I think that the
9 idea of honoring all of those cats that are out of
10 the bag, to make sure that they're taken care of,
11 may very well allow a transition of the kind that
12 they are requesting.

13 MR. BARTUS: Oh, I don't necessarily
14 -- you may even offer a better standard level of
15 care that the state can offer over the next hundred
16 years. You know, I see that too as a possibility.
17 But because somebody went belly-up, or something
18 like that, then the states going to have a dilemma
19 there too possibly. And so, you know, I see that
20 you-all would do what you're supposed to do. And I
21 have no -- you know, I have all the faith that you
22 would do that. It's just that our hands are really
23 in a bind right now.

24 MR. SAXON: Ms. Cubitt, do you
25 have --

1 MS. CUBITT: I wanted to answer a
2 question that one of the board member rose earlier,
3 about reports being filed. They have filed annual
4 reports, but they have never had an Agreed Upon
5 Procedure.

6 MR. FLOYD: Like to make a motion to
7 go into executive session.

8 MR. RUSS: I have a motion that we
9 go into executive session. Do I have a second?

10 MR. RIGGINS: Second.

11 MS. PETTY: Second.

12 MR. RUSS: All those in favor, say
13 aye.

14 BOARD MEMBERS: Aye.

15 MR. RUSS: All those opposed?

16 (NO RESPONSE.)

17 (Executive Session.)

18 MR. SAXON: Representative Sabb it
19 has come to my attention y'all didn't get to tell
20 us everything you wanted to. I didn't know that.
21 So please feel free.

22 MR. SABB: Well, this is informal.

23 MR. FLOYD: Do we need to make a
24 motion to come out of executive session?

25 MR. SAXON: Oh, yeah.

1 MR. FLOYD: Make a motion --

2 COURT REPORTER: Back up then.

3 MR. FLOYD: Make a motion to come
4 out of executive session.

5 MR. RUSS: I have a motion --

6 MS. PETTY: Second.

7 MR. RUSS: -- to come out of
8 executive session. Do I have a second?

9 MS. PETTY: I did.

10 MR. RUSS: Seconded. All in favor,
11 say aye.

12 BOARD MEMBERS: Aye.

13 MR. RUSS: No votes were taken and
14 no motions were made during executive session.
15 Okay now --

16 MR. SAXON: Y'all go ahead, please.

17 MR. SABB: Well, thank you. And,
18 again, thanks to the staff for just the fair way
19 that they treat folks. But here's what I was
20 afraid of. I was afraid that we had gone out -- my
21 view was that we would have somewhat of an informal
22 kind of discussion and that there would be some
23 guidance given an opportunity to address any
24 concerns you-all have an learn, based upon the
25 concerns that you share with us, because everybody

1 want to do what's right and follow the law and all
2 that good stuff. And, quite frankly, I was
3 concerned that we were going to come back in, and
4 perhaps this is going to happen anyway, but that we
5 were going to come back in and there was going to
6 be a motion made and an order issued and I was
7 going to say "Oh, my goodness, what happened?"

8 And so, quite frankly, I don't know that there
9 was just information that we wanted to share, other
10 than everybody we've talked to are really honorable
11 people and that want to do what's right and in the
12 right way. But I just wondered if there was a
13 concern. And I know one concern was expressed by
14 the gentleman to my right and I don't have my
15 glasses on, so I can't hardly see your name.

16 MR. BARTUS: Bartus.

17 MR. SABB: But, you know, the
18 opportunity to address concerns and see whether or
19 not we couldn't fashion a remedy that's consistent
20 with what the church would like to be involved in
21 was -- was one of the things. And -- and since you
22 permitted me to speak, I thought I'd go out and
23 just reacquaint myself with the definition of
24 "perpetual care" because I was listening to
25 Reverend Frasier speak and really what the church

1 does, to me, meets the definition of perpetual
2 care. And the only question -- well, for me anyway
3 -- was the regulations themselves.

4 And so if the spirit is that the cemetery be
5 operated in a manner that's consistent with
6 perpetual care, and that is the reasonable
7 administration of the cemetery grounds and
8 buildings, in keeping with the cemetery being
9 properly maintained and cared for. And a trust
10 fund, the way that it's currently established and
11 all that, well, you know, that's sort of in place.
12 And so to accept that everybody's protected, then
13 the question is whether or not we've addressed --
14 well, everybody's protected in terms of all the
15 cats being out of the bag, then perhaps we've
16 successfully addressed that.

17 But I'm just not sure that we've addressed any
18 concerns that you-all had. And I really didn't
19 want us to have a rule in the issue, then not get a
20 chance, Mr. Chairman to --

21 MR. SAXON: Well, let me set your
22 mind at ease. The board's not going to make any
23 ruling. We look at it as you did, a way to figure
24 out how to make a win-win situation for everybody.

25 MR. SABB: Okay.

1 MR. SAXON: So please rest assured
2 that we're any formal order or anything like that.

3 MR. SABB: I appreciate that.

4 MR. SAXON: The reason the board
5 went into executive session was to discuss freely
6 what, if anything, can be done to make it a win-win
7 situation. I know that's a trite phrase. I just
8 don't know a better one right off hand.

9 MR. SABB: Yes, sir.

10 MR. SAXON: And the board has asked
11 me to explain, we can't think of anything other
12 than that a perpetual care cemetery has to remain a
13 perpetual care cemetery. And if the church is
14 willing to operate it statutorily as it's defined
15 in this board's statutes, then that's fine. But we
16 cannot figure out any way -- a perpetual care
17 cemetery has to remain a perpetual care cemetery,
18 regardless of who obtains it.

19 Now, of course, if the church itself had its
20 own land and created its own cemetery, then that
21 would be fine because churches are exempt. But
22 once it obtains a perpetual care cemetery, we don't
23 see a way for it to not remain a perpetual care
24 cemetery.

25 MR. BARTUS: The statute doesn't

1 give us that leeway.

2 MR. SAXON: Unfortunately, we can't
3 figure out a way -- it just doesn't give us any
4 flexibility.

5 MR. SABB: All right. Well, let me
6 plead ignorance and ask someone if they would,
7 please, kind of give the church an indication as to
8 what they would have to do to be in compliance to
9 the extent that they wanted to assume the role of a
10 perpetual care owner.

11 MR. SAXON: I suspect it's not going
12 to be much different than what you're doing. I may
13 be wrong. Ms. Cubitt, I think is better placed to
14 say that.

15 MS. CUBITT: They'd need to file an
16 application to obtain ownership of this cemetery.
17 They'd have to file all the documents that are
18 required to be filed with that. Annual reports
19 have been sent in to us, which is really just self-
20 reporting. You told us what you've sold and what
21 you've done.

22 There's a report called an Agreed Upon
23 Procedures that has to be prepared by a CPA. They
24 are behind two of those, so they would have to have
25 those done. It could be one report that covers all

1 the years that are in arrears.

2 MR. SAXON: Right now, that would be
3 Mr. Brown's responsibility because -- am I right,
4 Representative Sabb -- technically, Mr. Brown is
5 still in charge of the cemetery; am I right?

6 MR. SABB: Kind of sort of. I hate
7 to use that, but --

8 MR. SAXON: Well, I know.

9 MR. SABB: See, what they've done --
10 what they've done is they've done a transfer that
11 really is not in compliance because they didn't get
12 approval, but the transfer was done.

13 MR. SAXON: Okay.

14 MR. SABB: So Mr. Brown is not
15 actively operating, they are. I mean, we just got
16 to be candid with y'all in terms of what's
17 happening, I mean. And so -- and, I mean, he's
18 just not able to do a lot of the things that he was
19 doing before. And so this was his -- God's will,
20 if you will, passing it onto somebody who is
21 responsible, who's going to do the right thing.
22 And so that's where they found themselves.

23 But I was kind of thinking, as I was listening
24 to everything, pretty much what you said. But let
25 me ask a question or two. You mentioned that to

1 the extent that there are additional plots sold,
2 would the same hold true if there are plots given?

3 MS. CUBITT: Yes, sir. There is a
4 provision in the statute that if you -- there's a
5 minimum amount you have to put into perpetual care
6 for each plot. It's based on a percentage of the
7 sale or a minimum amount. And so if a sale -- if a
8 plot is given away, you have to at least put that
9 minimum amount in for each plot.

10 MR. SABB: Into the trust fund?

11 MS. CUBITT: Uh-huh. And so they
12 could chose -- it's a business decision, and they
13 could chose to just charge the person whatever the
14 perpetual care is. Isn't that correct? I mean,
15 that was their choice, that they could charge a
16 minimum amount that would cover that deposit and
17 some extra money to help them with the upkeep. But
18 he would have to -- each plot that's used in that
19 grounds for that cemetery that was already
20 established, he would need to make the deposits to
21 perpetual care for each one of them.

22 MR. FLOYD: Ten percent of the
23 sales price? Or \$40 minimum --

24 MR. SAXON: And it's my
25 understanding, y'all aren't sell them, right?

1 PASTOR FRASIER: Right.

2 MR. SAXON: Would be \$40.

3 MS. CUBITT: Be \$40 minimum.

4 MR. SABB: Forty dollars would be
5 the minimum? Yeah, that's --

6 MR. SAXON: Yes, sir.

7 MR. SABB: -- for a new one.

8 MS. CUBITT: And, of course, then he
9 would have the cost every three years of having --
10 you'd have the initial cost for the Agreed Upon
11 Procedures and then the cost every three years to
12 have that done.

13 MR. SAXON: And, Doris, that's just
14 whatever the CPA charges?

15 MS. CUBITT: Yes.

16 MR. FLOYD: Right. Yeah. But if
17 you've got a CPA --

18 (Talking over one another.)

19 MS. CUBITT: That might be a
20 violation of their independence rules. That
21 doesn't mean that a CPA who's not a member of your
22 church couldn't give you a very good price on it or
23 donation or whatever. You could work with them.

24 MS. PETTY: How about the
25 memorial stones Do they know about -- are they

1 going to be selling memorials? Or just -- outside
2 sales?

3 MR. RIGGINS: Probably that would
4 outside sales.

5 PASTOR FRASIER: Currently, all we
6 do is, when someone that have a loved one that's
7 already there -- just happened the other day --
8 went out and purchased a headstone for a family
9 member. We allow them to come -- because the grave
10 site has been there for years, we allow them to
11 then place that headstone, you know.

12 MR. SAXON: But that's their
13 responsibility to obtain the headstone and all
14 that?

15 PASTOR FRASIER: They have to pay
16 for it themselves, and they just ask us for
17 permission to come in and install it.

18 MR. RIGGINS: So you're not going to
19 sell anything.

20 PASTOR FRASIER: We're not going
21 to --

22 MR. RIGGINS: You're not going to
23 get into that business.

24 PASTOR FRASIER: We're not selling
25 any -- get into any business except the business of

1 salvation. That's it.

2 MR. FLOYD: The statute requires at
3 eight cents a square inch, based on the base.

4 PASTOR FRASIER: That's -- that's
5 for the business, right. That's for the business.
6 And that's -- and Brown and Company told me that.
7 That's the company that used to sell to Mr. Brown,
8 a company called Brown and Company, who actually
9 sold headstone. They told us that is what they
10 were charging. And so we ask people when they come
11 to put them in there, you know, to install them.
12 If they want to give us a love gift of \$50 or
13 whatever it is to put it there for maintenance fee,
14 that's fine. But we're not selling them anything.
15 They --

16 MR. SAXON: Right.

17 PASTOR FRASIER: -- they do that
18 themselves.

19 MS. CUBITT: You would have to
20 charge that eight cent per square inch and deposit
21 it into that perpetual care account.

22 PASTOR FRASIER: Okay. Okay.
23 That's understandable.

24 MR. FLOYD: That and the \$40 per
25 space.

1 MR. SAXON: I don't think would be
2 onerous, the eight inch -- I mean the --

3 MR. FLOYD: Eight cents?

4 MR. SAXON: -- eight cents.

5 MS. CUBITT: Eight cent per inch.

6 (Talking over one another.)

7 MR. SAXON: We were establishing that
8 an eight cent per square inch must be charged for
9 the memorials and I was just getting an idea from
10 the board members how much that might be, could be
11 as much as a hundred dollars, depending on the size
12 of the monument.

13 MS. CUBITT: Yeah. It could be any
14 amount.

15 MR. FLOYD: That's a minimum.

16 MR. BARTUS: That's a minimum.

17 MR. FLOYD: That's the minimum. You
18 can charge more than that, if you want to build up
19 the fund quicker. Ultimately, you're the
20 beneficiary. Whoever owns the cemetery is the
21 beneficiary of the fund. The more money in the
22 fund, the more money comes out of it, the more
23 money comes out of it, helps underwrite the cost of
24 maintaining the cemetery.

25 MR. SABB: Well, we've already

1 implemented guidelines that they're only going to
2 accept flat headstone, for the purpose of
3 maintenance, so we don't have a lot of maintenance
4 problems. So we already did that in our bylaws,
5 that we're only accepting the flat headstones. So,
6 you know, I don't care how wide they get it, it's
7 going to be flat. It's not going to be anything
8 erected because the land is low and during real
9 rainy weather, the headstone, they start to lean
10 and we don't want anymore responsibility than we
11 already have for those that are already there.

12 MR. FLOYD: So you're already --
13 you're kind of thinking the same way we do.

14 MR. SABB: That's right.

15 MR. FLOYD: It's a maintenance
16 issue.

17 MR. SABB: Absolutely. Maintenance
18 issue and the money to keep it up, right, as it
19 come from the church.

20 PASTOR FRAZIER: And one of the
21 things, and I'm sure this is true with most
22 churches, but there is an extraordinary amount of
23 pride in these folks and having what they do will
24 represent them.

25 MR. SAXON: It sounds like it's

1 certainly well earned.

2 MR. RIGGINS: We can see that.

3 MR. SABB: Let me do this, if I
4 might. Wanted to express my appreciation for all
5 the information that was gathered. They need to
6 sit down and go over a lot of what's been shared.
7 And I hasten to say, if he calls this young lady
8 over there, I promise you, she'll probably give you
9 good information, just like she's done every time
10 I've called.

11 And so they've got to make some decisions
12 along those lines. In addition to that, when I say
13 this, please, I mean no disrespect when I say that
14 they've got lawyers that are much brighter than I
15 am. And so to the extent that the lawyer takes the
16 position that they qualify for the exemption, in
17 spite of what has been shared in this room, please
18 don't foreclose them on that opportunity, if they
19 decide to appear before this board and make
20 arguments and give testimony as to why they ought
21 to be exempt. But I'm reasonably clear on what
22 you-all have shared.

23 MR. SAXON: I think I speak safely,
24 that if you decide, Pastor, that you'd like to go
25 ahead and, you know, keep it as a perpetual care,

1 which we think that you'd have to do to operate it
2 that way. I can assure you that I and the board
3 and staff will do what we can to help you do that
4 correctly, in filling out the papers, getting the
5 stuff to you. We are here for you.

6 PASTOR FRASIER: Okay.

7 MR. FINCH: I feel parallel what
8 you-all were going to do and what we're --

9 MR. SAXON: It really sounds --

10 (Talking over one another.)

11 MR. SAXON: It's more formalized,
12 but it sounds like the same thing you've got -- it
13 sounds like everybody's on the same page to use
14 another trite phrase.

15 PASTOR FRASIER: I just -- my main
16 concern as the pastor and the current pastor now is
17 that I don't want to get into any IRS issue with
18 the church, because we're not selling anything.
19 We're -- we're just -- we're just, you know,
20 affording people the opportunity to be buried and
21 give them a nice home going service and that's it.
22 We're not selling anything except salvation, and
23 that's free.

24 MR. SAXON: Thank you for mentioning
25 that it is free.

1 MR. BARTUS: May be he can pray me
2 to heaven.

3 MR. SAXON: He hasn't done it, you
4 can't do it, can you Pastor?

5 PASTOR FRASIER: I'm about to say,
6 you got to get your part first and I'll do the
7 rest. I'll send a message, that is. Got to have
8 your heart right.

9 MR. SAXON: We hope this has been of
10 some help.

11 PASTOR FRASIER: Thank you very
12 much; it has.

13 MS. CUBITT: If you decide to go
14 forward with it and if it's a perpetual care
15 cemetery, you're going to be responsible for it and
16 run it as such and get licensed and whatnot, the
17 money that's in the funds is intended to grow, so
18 that -- the way we've always looked at it is that
19 when the cemetery is totally sold out or
20 everybody's in it, you're not getting any funds for
21 upkeep, you will be able to draw the interest and
22 dividends out to help pay to keep it up.

23 And so you are allowed to do that. You can't
24 take any of the body or the corpus of the trust,
25 but the dividends and interest from that trust each

1 year, you will also be able to use that towards the
2 upkeep of the cemetery.

3 PASTOR FRASIER: Okay.

4 MR. RIGGINS: If you decide to take
5 it out. You can leave the interest and let it grow
6 naturally with the principal. But you can --

7 MS. CUBITT: It is a better thing to
8 do, but you can.

9 PASTOR FRASIER: So let me see if I
10 understand what you're saying. You're saying that
11 all we can use to maintain the cemetery is the
12 interest that comes off of the --

13 MS. CUBITT: Yes, sir.

14 PASTOR FRASIER: So -- but what do
15 we do in the meantime? We're not selling anything.

16 MR. FLOYD: That's why --

17 MS. CUBITT: You have to keep it up.

18 MR. FLOYD: -- cemeteries sell their
19 spaces for more than the perpetual care
20 contribution --

21 PASTOR FRASIER: Right.

22 MR. FLOYD: -- to live off of other
23 profit.

24 PASTOR FRASIER: Off of the sale
25 that we're selling, but we're not selling and

1 -- and -- and -- and there's no fee. Then how do
2 we maintain the cemetery in not being able to touch
3 the trust fund? because it's there until the end of
4 the --

5 MS. CUBITT: Right.

6 PASTOR FRASIER: -- end of all
7 times.

8 MR. SABB: Well, it appears to me,
9 and somebody correct me if I'm wrong, that the
10 approach that you-all had adopted with the idea of
11 not selling, but creating a fund that the church
12 members are paying into, it appears to me that you
13 could simply use that, and then you'd have to
14 determine whether or not -- well, there's some
15 mandatory things that you must do. But from a
16 business perspective, you have to determine whether
17 or not there needs to be any increases on that, in
18 order to build a larger pile of money in the trust
19 fund, in order that the interest would be
20 meaningful, to the extent that there is no income
21 coming in from the sales of the lots.

22 And so the same system that you've really got
23 in place now would work, and y'all just have to
24 decide whether or not you want to grow the trust
25 fund by charging more -- not charging; that's a bad

1 term -- by allowing people to give more or not.

2 So --

3 MR. SAXON: Pastor Frasier, it's
4 like the alter guild telling you that we need more
5 for the flower fund.

6 PASTOR FRASIER: Yeah, but the -- I
7 understand. But the only problem I'm having is, is
8 again, that works fine when it was an LLC with Mr.
9 Brown because he had two account. That's money
10 that he was able to give us from the operating
11 account, over \$5,000; that's because of sales,
12 because that didn't go into the trust fund, because
13 the trust fund has just accumulated; it stays there
14 besides the interest.

15 But what I'm faced with now, if I don't sell
16 anything and we're all wanting to be here as long
17 as we can, if nothing happens, the church is still
18 obligated of taking care of that 16.3 acres. Not
19 just the graveyard, but 16.3 acres. We're still
20 obligated to taking care of that. And we really
21 have no funds, no means of doing that, other than
22 if we were going to, you know, sell, as it has been
23 before.

24 MS. MCFADDEN: Can I ask this
25 question?

1 MR. FLOYD: The only developed acres
2 you had to maintain. I assume the rest of it's in
3 trees.

4 PASTOR FRASIER: Right. It's trees.

5 MR. FLOYD: There's no maintenance
6 for that.

7 PASTOR FRASIER: Okay. And park.

8 MR. FLOYD: Just mowing the grass.

9 PASTOR FRASIER: And the park area,
10 right.

11 MS. MCFADDEN: That's what I was
12 going to ask. My understanding is that the whole
13 tract is 16.5 acres. Only --

14 MR. SAXON: Not just the --

15 MS. MCFADDEN: -- a limited portion
16 of it has actually been laid out --

17 PASTOR FRASIER: Right.

18 MS. MCFADDEN: -- and licensed as a
19 cemetery.

20 PASTOR FRASIER: Oh, okay.

21 MR. FLOYD: No, it's all licensed.
22 Only six acres have been developed.

23 MS. MCFADDEN: Okay. Developed.

24 MR. FLOYD: I assume that -- and
25 that's developed is what you're mowing. That's how

1 you kind of determine what --

2 PASTOR FRASIER: Right.

3 MS. MCFADDEN: So that you don't
4 have to -- there's no maintenance right now --

5 PASTOR FRASIER: For the rest of it.

6 MS. MCFADDEN: -- on the balance.

7 MR. FLOYD: No. And you'll probably
8 have a certain amount of inventory of spaces that
9 aren't sold, that can be sold tomorrow.

10 PASTOR FRASIER: And we intend to do
11 something with the trees that's just growing, you
12 know, like maybe sell them one day.

13 MR. FLOYD: That's pine you can
14 forest them.

15 PASTOR FRASIER: I don't know.

16 MR. FLOYD: You know, there's no
17 reason you can't sell spaces for \$200, put \$40,
18 which is the minimum, in the trust fund. You'd
19 have \$160 sitting there that you can use --

20 PASTOR FRASIER: I understand.

21 MR. FLOYD: -- to subsidize any
22 shortfalls in the interest that comes out.

23 PASTOR FRASIER: Okay.

24 MR. FLOYD: Everybody that operates
25 a cemetery, it's hard to rely on the income coming

1 out of the trust fund now.

2 PASTOR FRASIER: I understand.

3 MR. FLOYD: It's never enough in it
4 now to generate income to cover your expenses.

5 PASTOR FRASIER: Okay.

6 MR. FLOYD: So you use operating
7 profit, some of it, to do that.

8 PASTOR FRASIER: Okay. But that
9 being said then, then why is it that we still need
10 a license? Why do we need a license? because we're
11 still under the auspice of perpetual care. And
12 even if we give it away, you still need a license
13 to give it away.

14 MR. FLOYD: You're promising
15 perpetual care.

16 PASTOR FRASIER: That you're going
17 to continue --

18 MR. FLOYD: You know, we don't care
19 -- well --

20 PASTOR FRASIER: I understand.

21 MR. FLOYD: You've promised
22 perpetual care, so there are certain things you
23 have to do.

24 PASTOR FRASIER: To keep the
25 promise.

1 MR. FLOYD: You won't make enough
2 money to live off of --

3 PASTOR FRASIER: Right.

4 MR. FLOYD: That's a very short-term
5 problem, but --

6 PASTOR FRASIER: Right.

7 MR. FLOYD: -- that's not our
8 problem. That's --

9 PASTOR FRASIER: I understand.

10 MR. FLOYD: -- an operational
11 problems with the owner cemetery.

12 PASTOR FRASIER: Okay. So that --

13 MR. FLOYD: If you sell property is
14 promise perpetual care. Ten percent of the lot
15 price goes in the fund, or a minimum of \$40.

16 PASTOR FRASIER: Okay.

17 MR. FLOYD: You sell a memorial,
18 eight cents a square inch goes in to perpetual care
19 fund.

20 PASTOR FRASIER: That's fine.

21 Okay.

22 MS. CUBITT: Or if it's installed.

23 MR. FLOYD: Well, I'm talking about
24 if it's installed.

25 MS. CUBITT: Yeah, but you said

1 "sell," and they're not going to sell. If you let
2 somebody else install it, you still have to --

3 PASTOR FRASIER: Pay us a fee.

4 Right. I understand.

5 MR. FLOYD: It goes towards weed-
6 eating around it.

7 PASTOR FRASIER: Right. Sure.

8 Sure.

9 MR. FLOYD: But you don't get to
10 keep that eight cents, but you can charge --

11 PASTOR FRASIER: It goes into --

12 MR. FLOYD: -- 20 cents.

13 PASTOR FRASIER: Right. And I get
14 to keep the --

15 MR. FLOYD: But you've got to put in
16 eight cents.

17 PASTOR FRASIER: Right.

18 MR. FLOYD: Or put in 20 cents.

19 PASTOR FRASIER: I'll keep the 12
20 cents; I understand.

21 (Talking over one another.)

22 MR. SAXON: One at a time, for Ciel.

23 MR. FLOYD: But whatever his charge
24 has to go into that account.

25 MR. RIGGINS: Right.

1 MR. FINCH: See, the rationale
2 behind all this perpetual care is because there
3 have been companies in the past that have gotten
4 into the business of cemetery and burials that have
5 violated individuals over the years by promising
6 them certain things or doing this because it's
7 called perpetual care. And then when something
8 happens, sometimes they don't honor what they said
9 they were supposed to do. So there's the rationale
10 why you need some kind of oversight over those kind
11 of businesses.

12 PASTOR FRASIER: Understand.

13 MR. FINCH: Because there are people
14 that are in this -- some of the cemetery businesses
15 that have been around, the international-type
16 companies that have done a lot of misrepresentation
17 and have caused a lot of problems.

18 MR. RUSS: Let me assure you that
19 this board would do anything it can to assist you
20 in any way we can. I'm sorry that we couldn't give
21 you the news that you wanted to hear. But we just
22 don't see any way to do that.

23 MR. SAXON: And not just the board
24 but the board's advice counsel and staff.

25 MR. FINCH: Is there anything you

1 could advise J W? Anybody he could talk to about
2 this?

3 MR. FLOYD: No, I mean we're the
4 board.

5 (Talking over one another.)

6 MR. RUSS: Do you have any
7 questions?

8 MR. SABB: Yes, sir, one other. One
9 of the things that they don't want to do, of
10 course, is to drag the current status that they
11 have too long. And so my question was: How long
12 does he think he needs in order to be able to speak
13 with his congregation, to speak with their lawyer
14 and decide whether or not they want to do it or
15 not? He is asking for 60 days. I hope that's not
16 too long.

17 MS. CUBITT: We don't need to get
18 into it before that long anyway.

19 MR. FLOYD: Okay. Perfectly fine.
20 That's good.

21 MR. SABB: The only other thing that
22 I just have a wee bit of concern about is we shared
23 with this body that transfers have actually already
24 been made. And so the question is whether or not
25 you-all do retroactive-type approvals, or will they

1 need to transfer back, then transfer again after
2 approval. And so if you-all would give some
3 guidance on that.

4 MS. CUBITT: I wouldn't think --
5 you wouldn't have to do that, but you would have to
6 apply for a license, furnish all the information,
7 show the transactions that occurred from the time
8 you obtained possession of it and make the
9 deposits, from then until the time you get your
10 license, and then stay current from then forward.

11 MR. SAXON: But you don't have to go
12 backward.

13 MR. SABB: Okay. Okay.

14 MR. SAXON: Hope we've been of some
15 help.

16 MR. SABB: Absolutely.

17 PASTOR FRASIER: Very much.

18 MR. SAXON: And we really appreciate
19 y'all coming. It's nice that people come before
20 they're in trouble.

21 MR. FLOYD: And I apologize for
22 taking all day to get to it.

23 MR. SABB: Actually, I appreciate it
24 because you-all accommodated me. Originally, it
25 was suggested I need to be here early morning. I

1 had to be over at the State House. So I asked that
2 it be moved at two o'clock. And then low and
3 behold for the first time, other than operating and
4 working on the budget, we're late on a Thursday.
5 So I appreciate y'all. Thank you.

6 MR. RUSS: Thank you.

7 MR. SAXON: The best to your church.

8 PASTOR FRASIER: Thank you.

9 MR. FLOYD: Keep doing what you're
10 doing.

11 PASTOR FRASIER: Certainly will.

12 God bless.

13 (Off the record.)

14 MR. RUSS: Ms. Cubitt, you've got
15 the floor.

16 MS. CUBITT: I have on here about
17 the regulations. And it says "fees discussion."
18 Just wanted to update you. LLR went through
19 everybody's, all the board's regulations and made
20 what they called some clean-up changes and that's
21 been discussed with y'all before. And
22 unfortunately with ours, when the group started on
23 that, they didn't realize that we didn't have
24 current regulations that are -- the regulations
25 that are out there go back to the statute -- was

1 like 1980 or something. And so that caused some
2 discussion at the State House because it looked
3 like we were raising fees now from \$400 to \$850
4 because the old regs said \$400.

5 And so I did testify down there this morning
6 and I did explain to them that the fee is actually
7 in the statute; it's not in the regs now, and that
8 it is the \$850. But that currently we were
9 charging less than that, but we might at some point
10 have to charge a little bit more because we have to
11 stay self-funded and cover our expenses. And
12 because it's such a lower number of cemeteries, it
13 naturally makes the fee higher. They were all
14 right with that.

15 I also had a meeting yesterday with Andy
16 Fifit in the House, to discuss the regulations that
17 the board had approved and that we filed. They
18 were filed last year and they lack about two weeks
19 timing out. We re-filed them this year. The House
20 was okay with them, but the Senate had a problem.
21 Last year they had a problem, and so they were
22 withdrawn. They lacked about two weeks.

23 And the only thing that was mentioned at that
24 time that there was a problem with was where we had
25 put in there about you couldn't pre-bury a vault or

1 a liner. And so we took that language out and
2 resubmitted them this time, but something in
3 Senator Robert's office, they didn't -- I know one
4 thing I heard was they didn't like it because the
5 manager -- we were saying that the manager had to
6 be a resident of the state. And the reason that we
7 did that is, the owners can be anywhere, but
8 whoever's responsible for it in the state needs to
9 be in the state because of our subpoena power. We
10 can subpoena within the state, but we can't
11 subpoena outside. So I would hope that Senator
12 Robert would understand that.

13 And the other issue was, that I heard, and
14 there may be more, but that I heard was having on
15 the contract to list the manufacturer and the model
16 number of a vault or grave liner. And I'm going to
17 call Senator Robert's office and see if that's the
18 only two questions and see what are their concerns,
19 what could we do to get it passed, because we
20 really do need the regulations to match the
21 statute, and try and get it on track and let it go
22 ahead and finish this year. We may not be able to
23 do that. And if not, we'll have to submit it
24 totally again next year. But I'm hoping I can find
25 out exactly what the concerns are and what can we

1 do, give and take, or whatnot, to compromise all of
2 that.

3 And I, of course, will notify y'all when I
4 know that. And that's before any compromise could
5 be made, that would be a decision of the board.
6 That was short.

7 MR. RUSS: That's good. Thank you.
8 Does anybody have anything else to offer?

9 MR. RIGGINS: Motion to adjourn.

10 MR. RUSS: Do I have a motion to
11 adjourn. Do I have a second?

12 MR. FLOYD: Second.

13 MR. RUSS: All those in favor, say
14 aye.

15 BOARD MEMBERS: Aye.

16 MR. RUSS: All those opposed?

17 (NO RESPONSE.)

18 MR. RUSS: Thank you very much.

19 *****

20 (Whereupon the meeting/hearings concluded at
21 5:41 p.m.)

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25

1 CERTIFICATE OF REPORTER

2 I, CECELIA P. ENGLERT, COURT REPORTER AND NOTARY
3 PUBLIC IN AND FOR THE STATE OF SOUTH CAROLINA AT LARGE,
4 HEREBY CERTIFY THAT I RECORDED AND TRANSCRIBED THE SOUTH
5 CAROLINA DEPARTMENT OF LABOR, LICENSING AND REGULATION,
6 BOARD OF ACCOUNTANCY MEETING/HEARING ON THE 29TH DAY OF
7 MARCH, 2012, AND THAT THE FOREGOING 191 PAGES CONSTITUTE
8 A TRUE AND CORRECT TRANSCRIPTION OF THE SAID HEARINGS.

9 I FURTHER CERTIFY THAT I AM NEITHER ATTORNEY NOR
10 COUNSEL FOR, NOR RELATED TO OR EMPLOYED BY ANY OF THE
11 PARTIES CONNECTED WITH THIS ACTION, NOR AM I FINANCIALLY
12 INTERESTED IN SAID CAUSE.

13 I FURTHER CERTIFY THAT THE ORIGINAL OF SAID
14 TRANSCRIPT WAS THEREAFTER SEALED BY ME AND DELIVERED TO
15 DORIS CUBITT, ADMINISTRATOR, SCLLR - BOARD OF
16 ACCOUNTANCY, KINGSTREE BUILDING, 110 CENTERVIEW DRIVE,
17 COLUMBIA, SOUTH CAROLINA, WHO WILL RETAIN THIS SEALED
18 ORIGINAL TRANSCRIPT.

19 IN WITNESS WHEREOF, I HAVE SET MY HAND AND SEAL
20 THIS 29TH DAY OF MARCH, 2012.

21

22 _____
CECELIA P. ENGLERT, COURT REPORTER

23 MY COMMISSION EXPIRES JUNE 03, 2018