

**COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS**

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**THE STATE BOARD OF FUNERAL DIRECTORS**

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**COMMONWEALTH OF PENNSYLVANIA,  
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS**

**v.**

**ANDREW T. SCHEID, F.D. &  
ANDREW T. SCHEID FUNERAL HOME  
RESPONDENTS**

**CASE NOS. 16-48-08296  
16-48-13160  
17-48-010595**

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**FINAL ADJUDICATION AND ORDER**

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**K. KALONJI JOHNSON  
ACTING COMMISSIONER OF PROFESSIONAL  
AND OCCUPATIONAL AFFAIRS**

**WILLIAM G. HARRIS, F.D.  
CHAIRPERSON  
STATE BOARD OF FUNERAL DIRECTORS**

**2601 NORTH THIRD STREET  
P.O. BOX 69523  
HARRISBURG, PA 17106-9523**

**JDB**

Prothonotary Filed On: Mar 23 2020 11:57 AM Department of State
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## HISTORY

This matter comes before the State Board of Funeral Directors (Board) to determine whether the licenses to practice funeral directing and funeral supervising issued to Andrew T. Scheid, F.D. (Respondent Scheid) and the license to operate as a sole proprietor funeral establishment and branch location issued to Andrew T. Scheid Funeral Home (Respondent SFH), by and through Respondent Scheid, should be revoked, suspended, or otherwise disciplined under the Funeral Director Law<sup>1</sup> (Act).

This matter commenced on December 19, 2019, when the Commonwealth filed an Order to Show Cause (OSC) alleging that the Board is authorized to suspend, revoke, or otherwise discipline Respondents' licenses under sections 11(a)(5),(11)(a)(6), and 17(b) of the Act, 63 P.S. §§ 479.11(a)(5), 479.11(a)(6) and 479.17(b), sections 5(b)(4) of Act 48, 62 P.S. §§ 2205(b)4 and 2205(b)(5), as well as the Board's regulations at 49 Pa. Code §§ 13.201(1), 13.201(6)(i), 13.202(11), 13.202(13), 13.202(15), 13.202(16), and 13.204(a), in that Respondents committed misconduct and engaged in gross immorality in the practice of the profession; refused to release remains until consideration, whether earned or not, had been paid; furnished embalming, other services or merchandise without having obtained written permission from a family member or other person authorized by law to make funeral arrangements for the deceased, or failed to obtain oral permission to embalm, followed by a confirmatory e-mail, fax, telex, telegram, mailgram, or other written communication; failed to provide full and factual representation concerning aspects of the services rendered or the funeral furnishings; retained funds intended to pay for funeral goods and services when the funeral director and funeral entity have not provided any funeral goods and services; failed to comply with the Federal Trade Commission by failing to provide

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<sup>1</sup> Act of January 14, 1952 (P.L. 1898 of 1951), *as amended*; 63 P.S. §§ 479.1 *et seq.*

customers with a Casket Price List, a General Price List, and a Statement of Funeral Goods and Services; failed to give the family representative or agency official arranging for a funeral a written agreement form statement of funeral goods and services at the time of arrangement which must be prior to the disposition of the deceased; and failed to embalm, seal in a container that will not allow fumes or odors to escape, or refrigerate, human remains held twenty-four (24) hours beyond death.

According to the certificate of service, the Commonwealth sent the OSC to Respondents via certified mail, return receipt requested, and first-class mail, postage prepaid, to Respondent Scheid and Respondent SFH at 320 Blue Rock Road, Millersville, PA 17551, which is Respondent Scheid's address on file with the Board and the address on file with the Board for Respondent SFH's sole proprietor license. Additionally, the Commonwealth sent the OSC to Respondents via certified mail, return receipt requested, and first-class mail, postage prepaid, to at 121 S. Prince Street, Lancaster, PA 17603, which is the address on file with the Board for Respondent SFH's branch license. The OSC sent by first class mail to Respondent SFH's locations at 320 Blue Rock Road, Millersville, PA 17551 and 121 S. Prince Street, Lancaster, PA 17603 were not returned. The OSC sent to Respondent SFH's location at 320 Blue Rock Road, Millersville PA, 17551 by certified mail, return receipt requested, was returned to the Commonwealth marked "unclaimed". The OSC, marked as Exhibit B to the MDFA, was sent to Respondent SFH's location at 121 S. Prince Street, Lancaster, PA 17603 by certified mail, return receipt requested, and was marked as "delivered" and signed for at the 121 S. Prince Street, Lancaster, PA location on December 23, 2019.

On January 16, 2020, the Commonwealth filed a Petition for Immediate Temporary

Suspension (Petition) against Respondents<sup>2</sup>, which was granted. A hearing on the Petition was scheduled for February 14, 2020 in order to address the permanency of Respondents' temporary suspension. On February 14, 2020, the Commonwealth filed a Joint Motion with Respondents, cancelling the hearing on the Petition and agreeing Respondents' licenses would be suspended indefinitely.

On January 23, 2020, the Commonwealth filed a Motion To Deem Facts Admitted And Enter Default (MDFA). The Commonwealth's MDFA alleged that Respondents failed to file an answer to the OSC. Pursuant to 1 Pa. Code § 35.37, the MDFA requested that the Board deem admitted the factual allegations set forth in the OSC and impose upon Respondents an appropriate sanction for their actions. Respondents did not respond to the MDFA. By Order of February 21, 2020, the Board granted the Commonwealth's MDFA. The Order further provided that an Adjudication and Order would be issued in due course. The Board's Order was sent to Respondents' addresses on file with Board at 320 Blue Rock Road, Millersville, PA 17551 and 121 S. Prince Street, Lancaster, PA 17603 and has not been returned to the Board. Respondents have not responded to the OSC, the MDFA, or the Board's Order granting the Commonwealth's MDFA.

The Board deliberated on the full record of this matter at its regularly scheduled meeting on March 18, 2020. The Board now issues this Adjudication and Order in final disposition of this matter.<sup>3</sup>

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<sup>2</sup> The Petition filed is docketed under case nos. 20-48-000264 and 20-48-000702.

<sup>3</sup> All Board members participating in the deliberation or decision in this matter have reviewed the entire record.

## **FINDINGS OF FACT**

1. Respondent Scheid holds a license to practice as a funeral director in the Commonwealth of Pennsylvania, license no. FD013388L. (OSC ¶ 1; Board records).
2. Respondent Scheid's funeral director license was originally issued on August 21, 1995, and expired on February 1, 2020. (OSC ¶ 2; Board records).
3. Absent further Board action, Respondent Scheid's funeral director license may be renewed, reactivated or reinstated thereafter upon the filing of the appropriate documentation and payment of the necessary fees. (OSC ¶ 2; Board records).
4. Respondent Scheid's funeral director license, no. FD 01338L, is currently suspended. (Board records).
5. At all times pertinent to the Factual Allegations, Respondent Scheid held a license to practice as a funeral director in the Commonwealth of Pennsylvania. (OSC ¶ 3; Board records).
6. Respondent Scheid also holds a license to practice as a funeral supervisor in the Commonwealth of Pennsylvania, license no. FS015683. (OSC ¶ 4; Board records).
7. Respondent Scheid's funeral supervisor license was originally issued on March 26, 2013 and expired on February 1, 2020. (OSC ¶ 5; Board records).
8. Absent further Board action, Respondent Scheid's funeral supervisor license may be renewed, reactivated or reinstated thereafter upon the filing of the appropriate documentation and payment of the necessary fees. (OSC ¶ 5; Board records).
9. Respondent Scheid's funeral supervisor license, no. FS015683, is currently suspended. (Board records).
10. Respondent Scheid's address on file with the Board is Andrew T. Scheid Funeral Home, 320 Blue Rock Road, Millersville, PA 17551. (OSC ¶ 6; Board records).

11. Respondent SFH is Respondent Scheid's sole proprietor business. (OSC ¶ 7; Board records).

12. Respondent SFH holds a license to operate as a sole proprietor funeral establishment in the Commonwealth of Pennsylvania, license no. FO013388L. (OSC ¶ 8; Board records).

13. Respondent SFH's sole proprietor license was originally issued on September 6, 1995 and expired on February 1, 2020. (OSC ¶ 9; Board records).

14. Absent further Board action, Respondent SFH's sole proprietor license may be renewed, reactivated or reinstated thereafter upon the filing of the appropriate documentation and payment of the necessary fees. (OSC ¶ 9; Board records).

15. Respondent SFH's sole proprietor license, no. FO013388L, is currently suspended. (Board records)

16. Respondent SFH's main establishment is licensed at 320 Blue Rock Road, Millersville, PA 17551. (OSC ¶ 10; Board records).

17. Respondent SFH also holds a branch funeral license to operate as a branch funeral establishment in the Commonwealth of Pennsylvania, license no. FB014562. (OSC ¶ 11; Board records).

18. Respondent SFH's branch license was originally issued on March 26, 2013 and expired February 1, 2020. (OSC ¶ 12; Board records).

19. Absent further Board action, Respondent SFH's branch license may be renewed, reactivated or reinstated thereafter upon the filing of the appropriate documentation and payment of the necessary fees. (OSC ¶ 12; Board records).

20. Respondent SFH's branch license, no. FB014562, is currently suspended. (Board records)

21. Respondent SFH's branch establishment is licensed at 121 S. Prince Street, Lancaster, PA 17603. (OSC ¶ 13; Board records).

22. At all times pertinent to the factual allegations, Respondent SFH held a license to operate as a sole proprietor funeral establishment in the Commonwealth of Pennsylvania and held a license to operate as a branch funeral establishment in the Commonwealth of Pennsylvania. (OSC ¶ 14; Board records).

23. At all times pertinent to the factual allegations, Respondent Scheid was the owner and operator of Respondent SFH. (OSC ¶ 15; Board records).

24. On January 4, 2015, Mary Klouse died. (OSC ¶ 17).

25. Ms. Klouse made pre-need funeral arrangements with Respondents in 1998. (OSC ¶ 18).

26. On January 5, 2015, Respondent Scheid created a new Statement of Funeral Goods and Services Selected for the funeral of Ms. Klouse. (OSC ¶ 19 and attached Exhibit A).

27. The Statement of Funeral Goods and Services Selected contains the purported signature of Ms. Klouse's daughter, Vonda L. Kirchner. (OSC ¶ 20 and attached Exhibit A).

28. Respondent Scheid subscribed Ms. Kirchner's signature on this Statement of Funeral Goods and Services Selected. (OSC ¶ 21 and attached Exhibit A).

29. At no time was Ms. Kirchner presented with this Statement of Funeral Goods and Services Selected by Respondent Scheid or any agent or employee of Respondent SFH. (OSC ¶ 22).

30. At no time did Respondent Scheid or any agent or employee of Respondent SFH discuss any of the contents of this Statement of Funeral Goods and Services Selected with Ms. Kirchner. (OSC ¶ 23).

31. At no time did Ms. Kirchner give Respondent Scheid, or any other agent or employee of Respondent SFH, permission to subscribe her signature on this Statement of Funeral Goods and Services Selected. (OSC ¶ 24).

32. At no time was Ms. Kirchner aware that Respondent Scheid was subscribing her signature on this Statement of Funeral Goods and Services Selected. (OSC ¶ 25 and attached Exhibit A).

33. On October 18, 2016, Lieutenant Kurtis Miller of the Lancaster City Police Department interviewed Respondent Scheid. (OSC ¶ 27).

34. During the interview, Respondent Scheid admitted that he subscribed Ms. Kirchner's name on the Statement of Funeral Goods and Services Selected. (OSC ¶ 28 and attached Exhibit A)

35. On June 4, 2016, J. Lester Witwer died at Colonial Manor Nursing Home in York, Pennsylvania. (OSC ¶ 33).

36. J. Lester Witwer had previously made a verbal agreement with Respondent SFH that Respondent SFH would provide funeral goods and services for his funeral. (OSC ¶ 34).

37. On June 4, 2016, Colonial Manor Nursing Home informed Respondent SFH of the death of J. Lester Witwer, and agents of Respondent SFH picked up and transported the remains of J. Lester Witwer to one of Respondent SFH's facilities. (OSC ¶ 35).

38. On June 5, 2016, J. Lester Witwer's son, John Witwer, contacted Respondent SFH by telephone and scheduled a meeting with Respondent Scheid to be held on June 6, 2016 at 6:00 p.m. at Respondent SFH's Millersville facility. (OSC ¶ 36).

39. On June 6, 2016, John Witwer and other family members traveled to Respondent SFH's Millersville facility, arriving at approximately 6:00 p.m. (OSC ¶ 37).

40. John Witwer and the other family members waited at Respondent SFH's Millersville facility for over an hour, but Respondent Scheid was not at the facility. (OSC ¶ 38).

41. On June 6, 2016, at around 7:05 p.m., due to Respondent Scheid's failure to meet the family as agreed, John Witwer made arrangements for Charles F. Snyder Funeral Home and Crematory, Inc. to provide the funeral goods and services for the funeral of J. Lester Witwer. (OSC ¶ 39).

42. Subsequently that day, funeral director Justin Koehler of Charles F. Snyder Funeral Home and Crematory, Inc. called Respondent SFH and spoke to Joselyn Scheid, Respondent Scheid's wife. (OSC ¶ 40).

43. Mrs. Scheid informed Mr. Koehler that Respondent SFH would not release the remains of J. Lester Witwer unless Respondent SFH received eight hundred ninety-five dollars (\$895.00) for funeral services provided by Respondent SFH. (OSC ¶ 41).

44. On June 7, 2016, Mr. Koehler traveled to Respondent SFH's Millersville facility and spoke to Mrs. Scheid. (OSC ¶ 42).

45. During the June 7, 2016 meeting, Mrs. Scheid repeated that Respondent SFH would not release the remains of J. Lester Witwer unless Respondent SFH received eight hundred ninety-five dollars (\$895.00) for funeral services provided by Respondent SFH. (OSC ¶ 43).

46. Mrs. Scheid subsequently agreed to release the body to Mr. Koehler in exchange for payment of a transportation fee in the amount of two hundred ninety-five dollars (\$295.00). (OSC ¶ 44).

47. Mr. Koehler paid Respondent SFH the two hundred ninety-five dollars (\$295.00) and took possession of J. Lester Witwer's remains. (OSC ¶ 45).

48. During the time period that Respondent SFH was holding the remains of J. Lester Witwer, an agent or employee of Respondent SFH embalmed the body of J. Lester Witwer. (OSC ¶ 46).

49. At no time did John Witwer, or any other family member, give authorization, verbally or in writing, to any agent or employee of Respondent SFH to embalm the body of J. Lester Witwer. (OSC ¶ 47).

50. On December 31, 2016, Elizabeth Zimmerman died. (OSC ¶ 60).

51. Subsequently, Ms. Zimmerman's body was cremated, and Ms. Zimmerman's daughter Ellen Trythall took possession of the cremains. (OSC ¶ 61).

52. In April 2017, Ms. Trythall entered into an agreement with Respondents. (OSC ¶ 62).

53. Under the Agreement, Respondents would transport Ms. Zimmerman's cremains to Waldfriedhof in Munich, Germany for two hundred ninety-five dollars (\$295.00), provide an urn for three hundred twenty dollars (\$320.00) and bury the cremains at Waldfriedhof for four hundred seventy-eight dollars (\$478.00). (OSC ¶ 63).

54. On April 6, 2017, Ms. Trythall delivered Ms. Zimmerman's cremains to Respondent Scheid and paid Respondents one thousand ninety-three dollars (\$1,093.00) for the agreed upon funeral goods and services. (OSC ¶ 64).

55. Pursuant to the Agreement, Respondent Scheid was to take the cremains to Waldfriedhof and bury the cremains there by Easter 2017. (OSC ¶ 65).

56. In late April 2017, Respondent Scheid contacted Ms. Trythall and informed her that Waldfriedhof only allows for burial of cremains twice a year: Easter and November 1<sup>st</sup>. (OSC ¶ 66).

57. Respondent Scheid informed Ms. Trythall he had not arrived at Waldfriedhof with the cremains by Easter 2017; therefore, he left the cremains at a funeral home in Heidelberg, Germany. (OSC ¶ 67).

58. Respondent Scheid stated he would have the cremains buried at Waldfriedhof in November 2017. (OSC ¶ 68).

59. On September 17, 2017, Ms. Trythall sent an email to Respondent Scheid, in which she reminded him that the cremains were to be buried at Waldfriedhof on November 1, 2017. (OSC ¶ 69).

60. On January 30, 2018, having received no communication from Respondent Scheid or any agent or employee of Respondent SFH about her mother's cremains, Ms. Trythall sent Respondent Scheid another email regarding her mother's cremains. (OSC ¶ 70).

61. On January 31, 2018, Ms. Trythall received an email from Respondent Scheid stating that he would be contacting Ms. Trythall soon. (OSC ¶ 71).

62. On February 21, 2018, having received no further communication from Respondent Scheid, or any agent or employee of Respondent SFH, about her mother's cremains, Ms. Trythall sent Respondent Scheid another email asking if her mother's cremains had been buried at Waldfriedhof on November 1, 2017, or whether the cremains would be buried at Waldfriedhof on Easter 2018. (OSC ¶ 72).

63. On February 11, 2019, Ms. Trythall, having received no communication from Respondent Scheid or any agent or employee of Respondent SFH, became aware that her mother's cremains had still not been buried, and they continued to be held by the funeral home in Heidelberg. (OSC ¶ 73).

64. On February 12, 2019, having received no further communication from Respondent Scheid or any agent or employee of Respondent SFH about her mother's cremains, Ms. Trythall sent Respondent Scheid another email asking him to contact her about her mother's cremains. (OSC ¶ 74).

65. On April 18, 2019, Ms. Trythall spoke to Respondent Scheid. (OSC ¶ 75).

66. Prior to the April 18, 2019 discussion, Ms. Trythall had no contact with Respondent Scheid since January 2018, and had no substantive contact with Respondent Scheid since April 2017. (OSC ¶ 76).

67. During that conversation, Respondent Scheid informed Ms. Trythall that Waldfriedhof would not accept her mother's cremains. (OSC ¶ 77).

68. During that conversation, Ms. Trythall and Respondent Scheid agreed that Respondent Scheid would scatter the cremains in Germany in April 2019 instead of burying the cremains at Waldfriedhof. (OSC ¶ 78).

69. On May 28, 2019, Ms. Trythall became aware that her mother's cremains had still not been scattered as requested, and they continued to be held by the funeral home in Heidelberg. (OSC ¶ 79).

70. On May 30, 2019, Ms. Trythall made arrangements with and paid a third party in Germany to transport her mother's cremains to Waldfriedhof and bury the cremains there. (OSC ¶ 80-81).

71. On May 30, 2019, Ms. Trythall became aware that Respondents had never provided an urn for her mother's cremains; therefore, Ms. Trythall has to purchase an urn from the third party in Germany. (OSC ¶ 82-83).

72. On November 1, 2019, Ms. Trythall's cremains were buried at Waldfriedhof. (OSC ¶ 84).

73. Respondent Scheid did not transport Ms. Zimmerman's cremains to Waldfriedhof in Munich, Germany, did not provide an urn for the cremains, and did not bury the cremains in the cemetery, as agreed to. (OSC ¶ 85).

74. Respondents did not refund the one thousand ninety-three dollars (\$1,093.00) that Ms. Trythall paid Respondents for these funeral goods and services. (OSC ¶ 86).

75. On September 23, 2019, a Department of State Professional Conduct investigator called Respondent SFH and spoke to employee Eileen. (OSC ¶ 87).

76. During the telephone call on September 23, 2019, the investigator requested that Respondent Scheid contact him about several matters, including the matter involving Ms. Zimmerman. (OSC ¶ 88).

77. On or about October 10, 2019, having received no communication from Respondents, the investigator called Respondent SFH and spoke to Eileen again. (OSC ¶ 89).

78. During the conversation, the investigator told Eileen that he needed to interview Respondent Scheid about several matters, including the matter involving Ms. Zimmerman. (OSC ¶ 90).

79. On October 16, 2019, having received no communication from Respondents, the investigator sent a certified letter to Respondent Scheid at 320 Blue Rock Road, Millersville, PA 17551 requesting that Respondent Scheid contact him about several matters. (OSC ¶ 91).

80. The certified letter was never claimed by Respondents and was returned to the Investigator. (OSC ¶ 92).

81. On August 27, 2017, Elizabeth Weeks died. (OSC ¶ 106).

82. Prior to her death, Ms. Weeks made pre-need funeral arrangements with Respondents, consisting of certain funeral goods and services, but it did not include the actual burial or funeral service. (OSC ¶ 107).

83. On August 28, 2017, Ms. Weeks' daughter Marie Prichard met with licensed funeral director ZulMarie Gonzalez, an employee of Respondent SFH, and made additional arrangements for Ms. Weeks' funeral. (OSC ¶ 108).

84. At that meeting, Ms. Prichard informed Ms. Gonzalez that after services were held locally, the remains of Ms. Weeks would need to be transported to Reger's Funeral Home in Huntington, West Virginia, because that is where the remains of Ms. Weeks would be interred. (OSC ¶ 109).

85. Respondents agreed to provide all aspects of the funeral in Pennsylvania, including a traditional burial package for five thousand two hundred ninety-five dollars (\$5,295.00), copies of death certificates for one hundred twenty dollars (\$120.00), flowers for sixty dollars (\$60.00), and obituaries for one thousand six hundred eighty-six dollars and fifty cents (\$1,686.50), for a total cost of seven thousand one hundred sixty-one dollars and fifty cents (7,161.50). (OSC ¶ 110).

86. The family of Ms. Weeks stated that they had already purchased the casket, outer burial container, clothing, cemetery plot, grave opening and cemetery equipment. (OSC ¶ 111).

87. Ms. Gonzalez informed Ms. Prichard that the only additional items that Respondent SFH would be adding to the price of the funeral would be the costs for the services provided by Reger's Funeral Homes, which would be approximately two thousand dollars (\$2,000.00), and the cost of additional flowers, which would be approximately two hundred forty dollars (\$240.00). (OSC ¶ 112).

88. Ms. Gonzalez did not indicate that there would be additional costs for the transportation of Ms. Weeks' remains to Reger's Funeral Home. (OSC ¶ 113).

89. The family of Ms. Weeks informed Ms. Gonzalez that the funeral would be paid for with the proceeds from insurance policies. (OSC ¶ 114).

90. Ms. Gonzalez did not indicate that there would be additional costs for the processing of the insurance policies. (OSC ¶ 115).

91. Ms. Weeks' family was presented with a statement of funeral goods and services selected that outlined all of the funeral goods and services that Respondents had agreed to provide and identified the cost of those funeral goods and services. (OSC ¶ 116 and attached Exhibit B).

92. At no time before, during or after the meeting was Ms. Prichard provided with Respondent SFH's general price list for retention. (OSC ¶ 118).

93. Respondents received eight thousand dollars (\$8,000.00) from Ms. Weeks' insurance policies on August 28, 2017. (OSC ¶ 119).

94. On August 30, 2017, a viewing occurred. (OSC ¶ 120).

95. At the viewing, an employee of Respondent SFH provided Ms. Prichard with a handwritten bill for the funeral. (OSC ¶ 121 and attached Exhibit C).

96. The bill stated that the total cost of the funeral was ten thousand seven hundred eighty-five dollars and twenty-one cents (\$10,781.21), which was approximately one thousand two hundred dollars (\$1,200.00) more than Ms. Gonzalez informed Ms. Prichard that it would cost. (OSC ¶ 122 and attached Exhibit C).

97. The bill stated that the family of Ms. Weeks owed Respondents two hundred ninety-five dollars (\$295.00) for "[b]ase delivery." (OSC ¶ 123 and attached Exhibit C).

98. The two hundred ninety-five dollars (\$295.00) charge for “[b]ase delivery” was not included on the Statement of Funeral Goods and Services Selected. (OSC ¶ 124 and attached Exhibit B).

99. The bill stated that the family of Ms. Weeks owed Respondents seven hundred fifty-three dollars and seventy-five cents (\$753.75) for “[h]earse mileage.” (OSC ¶ 125 and attached Exhibit C).

100. The Statement of Funeral Goods and Services Selected did not include a charge for mileage or an estimate for mileage. (OSC ¶ 126 and attached Exhibit B).

101. The bill stated that the family of Ms. Weeks owed Respondents one hundred seventy-five dollars (\$175.00) for “[p]rocessing fee [i]ns.” (OSC ¶ 127 and attached Exhibit C).

102. The one hundred seventy-five dollars (\$175.00) for “[p]rocessing fee [i]ns” was not included on the Statement of Funeral Goods and Services Selected. (OSC ¶ 128 and attached Exhibit B).

103. After receiving the bill, the family of Ms. Weeks paid Respondents the remaining balance Respondents claimed was owed, in the amount of two thousand seven hundred eighty-five dollars and twenty-one cents (\$2,781.21). (OSC ¶ 130).

104. On April 15, 2018, Bernice Benn died. (OSC ¶ 139).

105. Ms. Benn’s brother, Malcolm Cohen, contacted Respondent SFH by telephone and spoke to Ms. Laporte. (OSC ¶ 140).

106. Mr. Cohen informed Ms. Laporte that he wanted Respondent SFH to provide a simple Jewish burial for Ms. Benn’s funeral. (OSC ¶ 141).

107. Ms. Laporte agreed that Respondent SFH would provide a simple Jewish burial for Ms. Benn. (OSC ¶ 142).

108. Mr. Cohen and Ms. Laporte agreed that the funeral would occur on April 18, 2018. (OSC ¶ 143).

109. There was no discussion regarding the cost of the funeral. (OSC ¶ 144).

110. Between April 15, 2018 and April 18, 2018, Mr. Cohen had a meeting with Ms. Laporte at one of Respondent SFH's establishments to discuss the funeral of Ms. Benn; however, during that meeting, there was no discussion of the cost of the funeral and no documents were presented to Mr. Cohen. (OSC ¶ 145-147).

111. On April 18, 2018, the funeral of Ms. Benn was held. (OSC ¶ 148).

112. At no time prior to the funeral was Mr. Cohen presented with a General Price List, a Casket Price List, a Statement of Funeral Goods and Services, or any other written contract containing the funeral goods and services being provided and their cost. (OSC ¶ 149-151).

113. Mr. Cohen did not sign a Statement of Funeral Goods and Services Selected, or any other written contract containing the funeral goods and services being provided and their cost. (OSC ¶ 152).

114. Between May 2018 and June 2018, Mr. Cohen received two bills from Respondent SFH indicating that Mr. Cohen owed Respondent SFH two thousand one hundred sixty dollars and fifty-one cents (\$2,160.51). (OSC ¶ 153-154 and attached Exhibit D).

115. Mr. Cohen attempted to contact Respondent Scheid by telephone on multiple occasions to discuss the funeral bill, leaving multiple messages with employees of Respondent SFH; however, Respondent Scheid never contacted Mr. Cohen. (OSC ¶ 156).

116. On January 23, 2019, Respondent Scheid provided a Department of State, Bureau of Professional Conduct investigator with a Statement of Funeral Goods and Services Selected for the funeral of Ms. Benn. (OSC ¶ 157 and attached Exhibit E).

117. The Statement of Funeral Goods and Services Selected was signed by Respondent Scheid. (OSC ¶ 158 and attached Exhibit E).

118. The Statement of Funeral Goods and Services Selected contained the purported signature of Mr. Cohen. (OSC ¶ 159 and attached Exhibit E).

119. Mr. Cohen was never presented with this Statement of Funeral Goods and Services Selected by Respondent Scheid or any agent or employee of Respondent SFH. (OSC ¶ 161).

120. Mr. Cohen did not subscribe his signature on this Statement of Funeral Goods and Services Selected. (OSC ¶ 162).

121. Either Respondent Scheid or some other agent or employee of Respondent SFH subscribed Mr. Cohen's signature on the Statement of Funeral Goods and Services Selected without the consent of Mr. Cohen. (OSC ¶ 162).

122. On July 7, 2019, at 6:48 p.m., Elwood Reese died at Lancashire Hall Nursing Home. (OSC ¶ 172).

123. At the time of death, the family of Mr. Reese informed Lancashire Hall Nursing Home that the funeral would be provided by Melanie B. Scheid Funeral Home and Cremation Services. (OSC ¶ 173).

124. On July 7, 2019, after Mr. Reese's death, Lancashire Hall Nursing Home released the remains of Mr. Reese to Respondent SFH by mistake. (OSC ¶ 174).

125. On July 10, 2019, at 1:00 p.m., funeral director James Porterfield of Melanie B. Scheid Funeral Home and Cremation Services picked up the remains of Mr. Reese at Respondent SFH's branch establishment. (OSC ¶ 175).

126. Respondent SFH held Mr. Reese's remains at Respondent SFH's branch establishment from July 7, 2019 to July 10, 2019, at 1:00 p.m. (OSC ¶ 176).

127. During the period when Respondent SFH held the remains of Mr. Reese at its branch establishment, the remains of Mr. Reese were not embalmed, were not refrigerated, and were not kept in a sealed container. (OSC ¶ 177).

128. During the period when Respondent SFH held the remains of Mr. Reese at its branch establishment, the remains of Mr. Reese were kept in a room with no air conditioning. (OSC ¶ 178).

129. When Mr. Porterfield picked up the remains of Mr. Reese from Respondent SFH's branch establishment, the remains of Mr. Reese had significantly decomposed. (OSC ¶ 179).

130. On September 5, 2019, an investigator with the Department of State, Bureau of Professional Occupational Affairs called Respondent SFH and spoke to Eileen, an employee of Respondent SFH. (OSC ¶ 180).

131. During the telephone call on September 5, 2019, the investigator requested that Respondent Scheid contact him about several matters, including that of Mr. Reese. (OSC ¶ 181).

132. On September 13, 2019, having received no communication from Respondents, the investigator traveled to Respondent SFH's establishment and spoke to an office manager. (OSC ¶ 182).

133. During the visit on September 13, 2019, the investigator requested that Respondent Scheid contact him and provide documentation about several matters, including that of Mr. Reese. (OSC ¶ 183).

134. On September 23, 2019, having received no communication from Respondents, the investigator called Respondent SFH and spoke to Eileen again. (OSC ¶ 184).

135. During the telephone call on September 23, 2019, the investigator requested that Respondent Scheid contact him about several matters, including that of Mr. Reese. (OSC ¶ 185).

136. On October 10, 2019, having received no communication from Respondents, the investigator called Respondent Scheid SFH and spoke to Eileen again. (OSC ¶ 186).

137. During the conversation, the investigator told Eileen and he needed to interview Respondent Scheid about several matters, including that of Mr. Reese. (OSC ¶ 187).

138. On October 16, 2019, having received no communication from Respondents, the investigator sent a certified letter to Respondent Scheid at 320 Blue Rock Road, Millersville, PA 17551 requesting that Respondent Scheid contact him regarding several matters. (OSC ¶ 188).

139. The certified letter was never claimed by Respondents and was returned to the investigator. (OSC ¶ 189).

140. On January 29, 2018, Florence Alexander died. (OSC ¶ 199).

141. Ms. Alexander had previous made pre-need funeral arrangements with Respondent SFH, which included a direct cremation. (OSC ¶ 200).

142. On January 30, 2018, Ms. Alexander's son Thomas Alexander met with Respondent Scheid and made final arrangements for the cremation of his mother's remains. (OSC ¶ 201).

143. During that meeting, Respondent Scheid agreed to cremate Ms. Alexander's remains and mail the cremains to Centreville Friends Cemetery in Delaware. (OSC ¶ 202).

144. On February 9, 2018, Respondents had cremated the remains of Ms. Alexander, and were in possession of her cremains. (OSC ¶ 203).

145. On February 9, 2018, Respondent Scheid informed Mr. Alexander that his mother's cremains would be mailed to Centreville Friends Cemetery in the next few days. (OSC ¶ 204).

146. On March 2, 2018, having received no communication from any agents or employees of Respondent SFH about the cremains, Mr. Alexander placed a phone call to Respondent SFH. (OSC ¶ 205).

147. During the March 2, 2018 phone call, Mr. Alexander spoke to an employee of Respondent SFH and requested a status on the location of his mother's cremains. (OSC ¶ 206).

148. During the March 2, 2018 phone call, the employee of Respondent SFH informed Mr. Alexander that Respondent SFH did not know where to mail Ms. Alexander's cremains. (OSC ¶ 207).

149. During the March 2, 2018 phone call, despite Mr. Alexander previously informing Respondent Scheid of the location of Centreville Friends Cemetery, Mr. Alexander provided the employee of Respondent SFH with the location again. (OSC ¶ 208).

150. On April 9, 2018, having received no communication from any agents or employees of Respondent SFH regarding the cremains, Mr. Alexander traveled to Respondent SFH's establishment. (OSC ¶ 209).

151. During the April 9, 2018 visit, Mr. Alexander learned that his mother's cremains were still located at Respondent SFH's establishment and were not mailed to Centreville Friends Cemetery as requested. (OSC ¶ 210).

152. On April 9, 2018, Mr. Alexander took possession of his mother cremains. (OSC ¶ 212).

153. Respondents never mailed Ms. Alexander's cremains to Centreville Friends Cemetery as agreed despite the cremains being in Respondents' possession for 2 months. (OSC ¶ 213).

154. On July 7, 2019, Mildred Riker died. (OSC ¶ 214).

155. In 2011, Mrs. Riker's husband, William Riker, had made pre-need arrangements for Mrs. Riker's funeral with Respondent SFH. (OSC ¶ 215).

156. On the evening of July 7, 2019, Mrs. Riker's daughter Sarah Dent, and other family members, met with Respondent Scheid to make final arrangements. (OSC ¶ 216).

157. During the meeting, Ms. Dent and her family informed Respondent Scheid that they wanted the obituary placed in the newspaper on July 9, 2019 and a slideshow to play during the funeral service on July 11, 2019. (OSC ¶ 217).

158. On July 9, 2019, Ms. Dent called Respondent SFH and left a message with a receptionist requesting to speak with Respondent Scheid. (OSC ¶ 218).

159. On July 10, 2019, having received no communication from any agents of employees of Respondent SFH, Ms. Dent called Respondent SFH and left a message with a receptionist requesting to speak with Respondent Scheid. (OSC ¶ 219).

160. Respondents did not publish Mrs. Riker's obituary until July 10, 2019. (OSC ¶ 220).

161. On July 11, 2019, a funeral service was held for Mrs. Riker's funeral at Respondent SFH's establishment. (OSC ¶ 221).
162. During the funeral service, Respondents did not show a slideshow as requested. (OSC ¶ 222).
163. Respondent Scheid did not attend Mrs. Riker's funeral service. (OSC ¶ 223).
164. On September 5, 2019, a Department of State, Bureau of Professional Conduct investigator called Respondent SFH and spoke to Eileen, an employee of Respondent SFH. (OSC ¶ 224).
165. During the telephone call on September 5, 2019, the investigator requested that Respondent Scheid contact him about several matter, including that of Mrs. Riker. (OSC ¶ 225).
166. On September 13, 2019, having received no communication from Respondents, the investigator traveled to Respondent SFH's establishment and spoke to an office manager. (OSC ¶ 226).
167. During the visit on September 13, 2019, the investigator requested that Respondent Scheid contact him and provide documentation about several matters, including that of Mrs. Riker. (OSC ¶ 227).
168. On September 23, 2019, having received no communication from Respondents, the investigator called Respondent SFH and spoke to Eileen. (OSC ¶ 228).
169. During the telephone call on September 23, 2019, the investigator requested that Respondent Scheid contact him about several matters, including that of Mrs. Riker. (OSC ¶ 229).
170. On October 10, 2019, having received no communication from Respondents, the investigator called Respondent SFH and spoke to Eileen again. (OSC ¶ 230).

171. During the conversation, the investigator told Eileen that he needed to interview Respondent Scheid about several matters, including that of Mrs. Riker. (OSC ¶ 231).

172. On October 16, 2019, having received no communication from Respondents, the investigator sent a certified letter to Respondent Scheid at 320 Blue Rock Road, Millersville, PA 17551 requesting that Respondent Scheid contact him regarding several matters. (OSC ¶ 232).

173. The certified letter was never claimed by Respondents and was returned to the investigator. (OSC ¶ 233).

174. On August 5, 2019, Jean Paul died. (OSC ¶ 235).

175. The family of Ms. Paul arranged for Respondent SFH to take possession of Ms. Paul's remains and provide a cremation. (OSC ¶ 236).

176. Agents for Respondent SFH took possession of Ms. Paul's remains on August 5, 2019. (OSC ¶ 237).

177. On August 5, 2019, Kathy, an employee of Respondent SFH, telephoned Ms. Paul's daughter, Michelle Cortright, and stated Respondent SFH would send her a checklist of things that needed to be done for the funeral, and that a funeral director would contact Ms. Cortright. (OSC ¶ 238).

178. On August 7, 2019, having received no communication from any agent or employee of Respondent SFH, Ms. Cortright called Respondent SFH and left a message with a receptionist. (OSC ¶ 239).

179. On August 9, 2019, having still received no communication from any agent or employee of Respondent SFH, Ms. Cortright called Respondent SFH and left a message with a receptionist. (OSC ¶ 240).

180. On August 12, 2019, having still received no communication from any agent or employee of Respondent SFH, Ms. Cortright called Respondent SFH and spoke to a receptionist. (OSC ¶ 241).

181. On August 12, 2019, Ms. Cortright received a telephone call from Cassie, an employee of Respondent SFH, who informed Ms. Cortright that a funeral director would call her at 8:00 p.m. on August 12, 2019. (OSC ¶ 242).

182. At the time of the telephone call from Cassie, Ms. Cortright received the checklist by email. (OSC ¶ 243).

183. Ms. Cortright never receive the August 12, 2019 8:00 p.m. telephone call from a funeral director at Respondent SFH. (OSC ¶ 244).

184. On August 12, 2019, at approximately 10:00 p.m., Respondent SFH called Ms. Cortright but Ms. Cortright did not answer because she was already in bed. (OSC ¶ 245).

185. Between August 13, 2019 and August 26, 2019, Ms. Cortright and another family member called Respondent SFH multiple times and left multiple messages requesting a return call. (OSC ¶¶ 246-253).

186. On August 28, 2019, an employee of Respondent SFH contacted Ms. Cortright by telephone and left a message informing her that Ms. Paul's cremains were available for pick-up or delivery. (OSC ¶ 254).

187. On August 30, 2019, Ms. Cortright received Ms. Paul's cremains by mail from Respondent SFH. (OSC ¶ 255).

188. For a period of over three (3) weeks, neither Respondent Scheid nor any agent or employee of Respondent SFH contacted Ms. Cortright despite Ms. Cortright and another family

member leaving fourteen (14) messages with Respondent SFH requesting to be contacted. (OSC ¶ 256).

189. From August 5, 2019 to August 30, 2019, Ms. Cortright and her family did not know the location of Ms. Paul's remains or whether Ms. Paul had been cremated. (OSC ¶ 257).

190. On October 10, 2019, a Department of State, Bureau of Professional Conduct investigator called Respondent SFH and spoke to Eileen, an employee of Respondent SFH. (OSC ¶ 258).

191. During the conversation, the investigator told Eileen that he needed to interview Respondent Scheid about several matters, including that of Ms. Paul. (OSC ¶ 259).

192. On October 16, 2019, having received no communication from Respondents, the investigator sent a certified letter to Respondent Scheid at 320 Blue Rock Road, Millersville, PA 17551 requesting that Respondent Scheid contact him about several matters. (OSC ¶ 260).

193. The certified letter was never claimed by Respondents and was returned to the investigator. (OSC ¶ 261).

194. On August 27, 2019, Catherine Deisley died. (OSC ¶ 263).

195. Mrs. Deisley had previously made pre-need funeral arrangements with Respondent SFH. (OSC ¶ 264).

196. On August 27, 2019, at 4:30 p.m., agents or employees of Respondent SFH picked up the remains of Mrs. Deisley and transported them to one of Respondent SFH's establishments. (OSC ¶ 265).

197. During the time Mrs. Deisley's remains were transported to Respondent SFH's establishment, Mrs. Deisley's friend, Katherine Acker, contacted Respondent SFH in order to

make an appointment to meet with Respondent Scheid to discuss the funeral arrangements. (OSC ¶ 266).

198. The appointment made between Ms. Acker and Respondent Scheid included Mrs. Deisley's husband, Samuel Deisley, and was to be held at 10:30 a.m. on August 28, 2019. (OSC ¶ 266).

199. On August 28, 2019 at 10:30 a.m., Ms. Acker and Mr. Deisley traveled to Respondent SFH's establishment. (OSC ¶ 267).

200. Ms. Acker and Mr. Deisley waited at Respondent SFH's establishment for over an hour, but Respondent Scheid was not there. (OSC ¶ 268).

201. Ms. Acker and Mr. Deisley informed the employees of Respondent SFH, that were present that day, of the funeral goods and services they wanted for Mrs. Deisley's funeral, and then they left the funeral home. (OSC ¶ 269).

202. Between August 28, 2019 and September 16, 2019, Ms. Acker and Mr. Deisley did not receive any contact from Respondent Scheid, or any other agents or employees of Respondent SFH, regarding the funeral of Mrs. Deisley. (OSC ¶ 270).

203. On September 16, 2019, Mr. Deisley contacted Respondent SFH and left a message requesting information about the funeral of Mrs. Deisley. (OSC ¶ 271).

204. On September 17, 2019, an employee of Respondent SFH returned Mr. Deisley's call and arranged for the cremains of Mrs. Deisley to be returned to Mr. Deisley. (OSC ¶ 272).

205. On October 10, 2019, a Department of State Professional Conduct investigator called Respondent SFH and spoke to Eileen, an employee of Respondent SFH. (OSC ¶ 273).

206. The investigator told Eileen he needed to interview Respondent Scheid about several matters, including that of Mrs. Deisley. (OSC ¶ 274).

207. On October 16, 2019, having received no communication from Respondents, the investigator sent a certified letter to Respondent Scheid at 320 Blue Rock Road, Millersville, PA 17551 requesting that Respondent Scheid contact him about several matters. (OSC ¶ 275).

208. The certified letter was never claimed by Respondents and was returned to the investigator (OSC ¶ 276).

209. Despite numerous attempts by investigators to interview Respondent Scheid, Respondent Scheid has never contacted the investigators about the matters involving Mrs. Zimmerman, Mr. Reese, Mrs. Riker, Ms. Paul, or Mrs. Deisley. (OSC ¶¶ 87-93, 180-190, 224-234, 258-262, and 273-277).

210. The costs of investigation in this matter total one thousand, three hundred seventy-three dollars and eighty-four cents (\$1,373.84). (OSC ¶ 284).

211. On December 19, 2019, the Commonwealth filed an OSC in this matter and sent it to Respondent via certified mail, return receipt requested, and first-class mail, postage prepaid, to Respondents at 320 Blue Rock Road, Millersville, PA 17551, which is Respondent Scheid's address on file with the Board and the address on file for Respondent SFH's sole proprietor license. (Motion to Deem Facts Admitted and Enter Default (MDFA) ¶¶ 1-2, 7, and 11 and attached Exhibit A of the MDFA, OSC Certificate of Service).

212. The OSC sent by first class mail to Respondents at 320 Blue Rock Road, Millersville, PA 17551 was not returned to the Commonwealth. (MDFA ¶¶ 5 and 11).

213. The OSC sent by certified mail to Respondents at 320 Blue Rock Road, Millersville, PA 17551 was returned to the Commonwealth marked "unclaimed." (MDFA ¶ 6 and attached Exhibit A of the MDFA).

214. On December 19, 2019, the Commonwealth sent the OSC to Respondents via certified mail, return receipt requested, and first-class mail, postage prepaid, to Respondents at 121 S. Prince Street, Lancaster, PA 17603, which is the address on file with the Board for Respondent SFH's branch license. (MDFA ¶¶ 3 and 11 and attached Exhibit B of the MDFA).

215. The OSC sent by first-class mail, postage prepaid to Respondents at 121 S. Prince Street, Lancaster PA 17603, has not been returned to the Commonwealth. (MDFA ¶¶ 8 and 11).

216. The OSC sent by certified mail to Respondent SFH at 121 S. Prince Street, Lancaster, PA 17603 was delivered on December 23, 2019. (MDFA ¶9 and attached Exhibit B of the MDFA).

217. The OSC directed Respondents to file an answer within 30 days of its date. (MDFA ¶ 12).

218. On January 16, 2020, the Commonwealth filed a Petition for Immediate Temporary Suspension (Petition) against Respondents. (Case Nos. 20-48-000264 and 20-48-000702).

219. On January 16, 2020, the Petition was granted and temporarily suspended Respondents' licenses pending the outcome of a hearing scheduled for February 14, 2020. (Case Nos. 20-48-000264 and 20-48-000702).

220. On January 23, 2020, the Commonwealth filed an MDFA and sent it by first-class mail, postage pre-paid, to Respondents at 320 Blue Rock Road, Millersville, PA 17551 and 121 S. Prince Street, Lancaster, PA 17603. (MDFA and attached Certificate of Service).

221. More than 30 days have lapsed since the OSC was served on Respondents. (MDFA ¶ 13).

222. Respondents have not filed an answer to the OSC or the MDFA. (MDFA at ¶ 14 and Board records).

223. On February 14, 2020, a Joint Motion to Cancel Hearing and Continue Suspension Indefinitely (Joint Motion) was filed by the Commonwealth stating that Respondents agreed to cancel the hearing on the issue of the temporary suspension and agreed to the indefinite suspension of Respondents' licenses. (Case Nos. 20-48-000264 and 20-48-000702).

224. By order dated February 21, 2020, the Board granted the MDFA and mailed a copy to Respondents at 320 Blue Rock Road, Millersville, PA 17551 and 121 S. Prince Street, Lancaster, PA 17603. (Order Granting Commonwealth's MDFA).

225. Respondents have not responded to the Board's order granting the MDFA. (Board records).

226. Respondents have not requested a hearing in this matter. (Board records).

## CONCLUSIONS OF LAW

1. The Board has jurisdiction in this matter. (Findings of Fact Nos. 1-19).
2. Respondents had adequate notice of the charges against them and were given an opportunity to be heard in accordance with the Administrative Agency Law, 2 Pa.C.S. § 504. (Findings of Fact Nos. 207-220).
3. Respondent Scheid is subject to discipline under section 11(a)(5) of the Act, 63 P.S. § 479.11(a)(5), in that Respondent Scheid engaged in gross incompetency, negligence and misconduct in the carrying on of the profession. Therefore, Counts One, Three, Nine, Fifteen, Nineteen, Twenty-three and Twenty-seven are sustained. (Findings of Fact Nos. 20-205).
4. Respondent SFH is subject to discipline under section 11(a)(5) of the Act, 63 P.S. § 479.11(a)(5), in that Respondent SFH, by and through Respondent Scheid, engaged in gross incompetency, negligence and misconduct in the carrying on of the profession. Therefore, Counts Two, Four, Ten, Sixteen, Twenty, Twenty-four, and Twenty-eight are sustained. (Findings of Fact Nos. 20-205).
5. Respondent Scheid is subject to discipline under section 11(a)(6) of the Act, 63 P.S. § 479.11(a)(6), in that Respondent Scheid refused to release remains until consideration, whether earned or not, had been paid, in violation of section 13.202(15) of the Board's Regulations, 49 Pa. Code § 13.202(15). Therefore, Count Five is sustained. (Findings of Fact Nos. 31-45).
6. Respondent Scheid FH is subject to discipline under section 11(a)(6) of the Act, 63 P.S. § 479.11(a)(6), in that Respondent SFH, by and through Respondent Scheid and other agents and employees, refused to release remains until consideration, whether earned or not, had been paid, in violation of section 13.202(15) of the Board's Regulations, 49 Pa. Code § 13.202(15). Therefore, Count Six is sustained. (Findings of Fact Nos. 31-45).

7. Respondent Scheid is subject to discipline under section 11(a)(6) of the Act, 63 P.S. § 479.11(a)(6), in that Respondent Scheid furnished embalming, other services or merchandise without having obtained written permission from a family member or other person authorized by law to make funeral arrangements for the deceased, or obtained oral permission to embalm, followed by a confirmatory email, fax, telex, telegram, mailgram or other written confirmation, in violation of section 13.202(11) of the Board's Regulations, 49 Pa. Code § 13.202(11). Therefore, Count Seven is sustained. (Findings of Fact Nos. 31-45).

8. Respondent SFH is subject to discipline under section 11(a)(6) of the Act, 63 P.S. § 479.11(a)(6), in that Respondent SFH, by and through Respondent Scheid and other agents and employees, furnished embalming, other services or merchandise without having obtained written permission from a family member or other person authorized by law to make funeral arrangements for the deceased, or obtained oral permission to embalm, followed by a confirmatory email, fax, telex, telegram, mailgram or other written confirmation, in violation of section 13.202(11) of the Board's Regulations, 49 Pa. Code § 13.202(11). Therefore, Count Eight is sustained. (Findings of Fact Nos. 31-45).

9. Respondent Scheid is s subject to discipline under section 11(a)(6) of the Act, 63 P.S. § 479.11(a)(6), in that Respondent Scheid retained funds intended to pay for funeral goods and services when the funeral director and funeral entity have not provided any funeral goods and services, in violation of section 13.202(13) of the Board's Regulations, 49 Pa. Code § 13.202(13). Therefore, Count Eleven is sustained. (Findings of Fact Nos. 46-76).

10. Respondent SFH is subject to discipline under section 11(a)(6) of the Act, 63 P.S. § 479.11(a)(6), in that Respondent SFH, by and through Respondent Scheid and other agents and employees, retained funds intended to pay for funeral goods and services when the funeral

director and funeral entity have not provided any funeral goods and services, in violation of section 13.202(13) of the Board's Regulations, 49 Pa. Code § 13.202(13). Therefore, Count Twelve is sustained. (Findings of Fact Nos. 46-76).

11. Respondent Scheid is subject to discipline under section 11(a)(6) of the Act, 63 P.S. § 479.11(a)(6), in that Respondent Scheid failed to provide full and factual representation concerning aspects of the services rendered or the funeral furnishings provided, in violation of section 13.201(1) of the Board's Regulations, 49 Pa. Code § 13.201(1). Therefore, Counts Thirteen, Seventeen, and Twenty-nine are sustained. (Findings of Fact Nos. 46-99 and 136-205).

12. Respondent SFH is subject to discipline under section 11(a)(6) of the Act, 63 P.S. § 479.11(a)(6), in that Respondent SFH, by and through Respondent Scheid and other agents and employees, failed to provide full and factual representation concerning aspects of the services rendered or the funeral furnishings provided, in violation of section 13.201(1) of the Board's Regulations, 49 Pa. Code § 13.201(1). Therefore, Counts Fourteen, Eighteen and Thirty are sustained. (Findings of Fact Nos. 46-99 and 135-205).

13. Respondent SFH is subject to discipline under section 11(a)(6) of the Act, 63 P.S. § 479.11(a)(6), in that Respondent SFH, by and through Respondent Scheid and other agents and employees, failed to comply with the regulations of the Federal Trade Commission in violation of section 13.202(16) of the Board's Regulations, 49 Pa. Code § 13.202(16), by failing to give a Casket Price List in violation of 16 CFR 453.2(b)(2), by failing to give a customer a General Price List in violation of 16 CFR 453.2(b)(4), and by failing to give a customer a Statement of Funeral Goods and Services Selected in violation of 16 CFR 453.2(b)(5). Therefore, Count Twenty-one is sustained. (Findings of Fact Nos. 100-117).

14. Respondent SFH is subject to discipline under section 11(a)(6) of the Act, 63 P.S. §

479.11(a)(6), in that Respondent SFH, by and through Respondent Scheid and other agents and employees, failed to give the family representative or agency official arranging for a funeral a written agreement form statement of funeral goods and services at the time of arrangements which must be prior to the disposition of the deceased, in violation of section 13.204(a) of the Board's Regulations, 49 Pa. Code § 13.204(a). Therefore, Count Twenty-two is sustained. (Findings of Fact Nos. 100-117).

15. Respondent Scheid is subject to discipline under section 11(a)(6) of the Act, 63 P.S. § 479.11(a)(6), in that Respondent Scheid failed to embalm, seal in a container that will not allow fumes or odors to escape, or refrigerate, human remains held twenty-hour (24) hours beyond death, in violation of section 13.201(6)(i) of the Board's Regulations, 49 Pa. Code § 13.201(6)(i). Therefore, Count Twenty-five is sustained. (Findings of Fact Nos. 118-135).

16. Respondent SFH, is subject to subject to discipline under section 11(a)(6) of the Act, 63 P.S. § 479.11(a)(6), in that Respondent SFH, by and through Respondent Scheid and other agents and employees, failed to embalm, seal in a container that will not allow fumes or odors to escape, or refrigerate, human remains held twenty-hour (24) hours beyond death, in violation of section 13.201(6)(i) of the Board's Regulations, 49 Pa. Code § 13.201(6)(i). Therefore, Count Twenty-six is sustained. (Findings of Fact Nos. 118-135).

## DISCUSSION

### Due Process

Due process requires that “[p]arties whose rights are to be affected are entitled to be heard and, in order that they may enjoy that right, they must first be notified.” *Celane v. Commonwealth, Insurance Commissioner*, 415 A.2d 130, 132 (Pa. Cmwlth. 1980) (citation omitted). The General Rules of Administrative Practice and Procedure specifically authorize service by mail as set forth at 1 Pa. Code § 33.31. *Id.* “Constitutionally adequate notice of administrative action is notice which is reasonably calculated to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.” *Milford Township Board of Supervisors v. Department of Environmental Resources*, 165 Pa. Cmwlth. 14, 18, 644 A.2d 217, 219 (1994). Personal receipt is not required where notice has been mailed to an appropriate address. *Kobylski v. Commonwealth, Milk Marketing Bd.*, 516 A.2d 75, 77 (Pa. Cmwlth. 1986).

On December 19, 2019, the Commonwealth issued a notice and ordered Respondents to show cause why the Board should not take disciplinary action against them. On December 19, 2019, the Commonwealth sent the Notice and OSC by first-class mail, postage pre-paid, and certified mail, return receipt requested, to Respondents at 320 Blue Rock Road, Millersville, PA 17551, which is the address on file with Board for both Respondent Scheid and Respondent SFH’s sole proprietor license. The certified mailing of the OSC mailed to Respondents at 320 Blue Rock Road, Millersville, PA 17551 was returned to the Commonwealth marked “unclaimed,” as evidenced by the USPS Electronic Receipt 9171 9690 0935 0226 6070 42. The OSC sent to Respondents at 320 Blue Rock Road, Millersville, PA 17551 by first-class mail, postage prepaid, has not been returned to the Commonwealth. On December 19, 2019, the

Commonwealth also sent the Notice and OSC by first-class mail, postage pre-paid, and certified mail, return receipt requested, to Respondents at 121 S. Prince Street, Lancaster, PA 17603, which is the address on file with Board for Respondent SFH's branch license. The certified mailing of the OSC mailed to Respondents at 121 S. Prince Street, Lancaster, PA 17603 was delivered and signed for by Respondents or Respondents' agent on December 23, 2019 as evidenced by the USPS Electronic Receipt 9171 9690 0935 0226 6070 59. The OSC sent to Respondents at 121 S. Prince Street, Lancaster, PA 17603 by first-class mail, postage prepaid, has not been returned to the Commonwealth. Therefore, the Board may reasonably conclude that the OSC was delivered as addressed and that Respondents received it.

The Commonwealth properly served Respondents with the Notice and OSC cause as the General Rules of Administrative Practice and Procedure require. Respondents received adequate notice of the charges as well as an opportunity to have a hearing regarding the charges. The Notice and OSC directed Respondents to file an answer within 30 days. Respondents did not file an answer and did not request a hearing. The General Rules of Administrative Practice and Procedure provide, in pertinent part, that:

A person upon whom an order to show cause has been served under § 35.14 (relating to orders to show cause) shall, if directed to do so, respond to the same by filing within the time specified in the order an answer in writing. The answer shall be drawn so as specifically to admit or deny the allegations or charges which may be made in the order, set forth the facts upon which respondent relies and state concisely the matters of law relied upon. ... A respondent failing to file an answer within the time allowed shall be deemed in default, and relevant facts stated in the order to show cause may be deemed admitted.

1 Pa. Code § 35.37 (relating to answer to order to show cause).

The Commonwealth filed its MDFA January 23, 2020, and sent it via first-class mail, postage prepaid, to Respondents at 320 Blue Rock Road, Millersville, PA 17551 and 121 S. Prince Street, Lancaster, PA 17603. Respondents did not respond to the MDFA. By order dated

February 21, 2020, the Board granted the MDFA. As such, Respondents are deemed to have admitted to the allegations contained within the OSC.

**Substantive charges**

The Commonwealth’s OSC against Respondents is brought under sections 11(a)(5) and 11(a)(6) of the Act, 63 P.S. §§ 479.11(a)(5), (6) and sections 13.201(1), 13.201(6)(i), 13.202(11), 13.202(13), 13.202(15), 13.202(16), and 13.204(a) of the Board’s regulations, 49 Pa. Code §§ 201(1), 13.201(6)(i), 13.202(11), 13.202(13), 13.202(15), 13.202(16), and 13.204(a), which provide, in pertinent part, as follows:

**§479.11. Refusal; Suspension; Revocation.**

(a) The board, by a majority vote thereof, may...suspend or revoke a license of any applicant or licensee, whether originally granted under this act or under any prior act, for the following reasons:

\* \* \*

(5) Gross incompetency, negligence or misconduct, in the carrying on of the profession.

(6) Violation with noncompliance with the provisions of this act or the rules and regulations of the board.

479.11(a)(5), (6)

**§13.201. Professional responsibilities.**

The responsibilities and duties of licensed funeral directors in connection with a funeral include the following:

(1) Provide full and factual representation concerning aspects of the services rendered or the funeral furnishings provided.

\* \* \*

(6) Providing proper disposal of human remains in accordance with the following:

(i) Human remains held 24 hours beyond death shall be embalmed or sealed in a container that will not allow fumes or odors to escape or kept under refrigeration, if this does not conflict with a religious

belief or medical examination.

**§13.202. Unprofessional conduct.**

Unprofessional conduct includes the following:

...

(11) Furnishing embalming, other services or merchandise without having obtained written permission from a family member or other person authorized by law to make funeral arrangements for the deceased. Oral permission to embalm, followed by a confirmatory e-mail, fax, telex, telegram, mailgram or other written confirmation will be acceptable.

...

(13) Retaining funds intended to pay for funeral goods and services when the funeral director and funeral entity have not provided any funeral goods and services or when the amount of funds retained is in excess of the value of funeral goods and services actually

provided

by the funeral director or funeral entity, as set forth on the general price list in effect at the time the funeral goods and services are actually provided. This paragraph does not apply to funds received under an agreement entered into by the funeral director, or the funeral entity employing that funeral director, while the decedent was still living to provide goods or services on behalf of the decedent when needed.

...

(15) Refusing to release remains until consideration, whether earned or not, has been paid.

(16) Failing to comply with the regulations of the Federal Trade Commission in 16 CFR Part 453 (relating to funeral industry practices).

**§13.204. Written agreement.**

(a) A written agreement form, either for at need or preneed, statement of funeral goods and services approved by the Board, containing the name and address of the funeral director, the date the arrangements were made, the name of the deceased and the date of death, a specific listing of professional services, merchandise, facilities and equipment to be supplied by the funeral director for the preparation and burial, cremation or other disposition of the deceased as outlined in subsection (c); an itemized statement of of

cash advances and expenditures as explained in subsection (d); and the total cost, signed by the funeral director, shall be given to the family representative or agency official arranging or the funeral at the time of arrangements which must be prior to the disposition of the deceased. The forms or statements used by licensees in this Commonwealth must conform with the requirements imposed by the Federal Trade Commission under 16 CFR Part 453 (relating to funeral industry practices).

49 Pa. Code §§ 13.201(1), (6)(i), 202(11), (13), (15), and (16), 13.204(a)

The allegations in the thirty (30) count OSC filed by the Commonwealth focus on the actions of Respondent Scheid, who holds both a funeral director license and a funeral supervisor license, and Respondent SFH, which has a sole proprietor and branch license.

Respondent Scheid holds a license to practice as a funeral director in the Commonwealth of Pennsylvania, license no. FD013388L. Respondent Scheid's funeral director license was originally issued on August 21, 1995 and was current through February 1, 2020.<sup>4</sup> Respondent Scheid also holds a license to practice as a funeral supervisor in the Commonwealth of Pennsylvania, license no. FS015683. Respondent Scheid's funeral supervisor license was originally issued on March 26, 2013 and was current through February 1, 2020. Absent further Board action, Respondent Scheid's funeral director license and supervisor license may be renewed, reactivated or reinstated thereafter upon the filing of the appropriate documentation and payment of the necessary fees. At all times pertinent to the factual allegations, Respondent

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<sup>4</sup> On January 16, 2020, the Commonwealth filed a Petition for Immediate Temporary Suspension against Respondents licenses (Case nos. 20-48-000264 and 20-48-000702). Said petition was granted that same day. A hearing was scheduled for February 14, 2020 to determine the status of Respondent's temporary suspension. On February 14, 2020, a Joint Motion to Cancel Hearing and Continue Suspension Indefinitely (Joint Motion) was filed by the Commonwealth stating that Respondent agreed to cancel the hearing on the issue of the temporary suspension and agreed to the indefinite suspension of Respondents' licenses. (Case Nos. 20-48-000264 and 20-48-000702).

Scheid held a license to practice as a funeral director and supervisor in the Commonwealth of Pennsylvania.

Respondent SFH holds a license to operate as a sole proprietor funeral establishment in the Commonwealth of Pennsylvania, license no. FO013388L. Respondent SFH's sole proprietor license was originally issued on September 6, 1995 and was current through February 1, 2020. Respondent SFH's main establishment is licensed at 320 Blue Rock Road, Millersville, PA 17551; however Respondent SFH also holds a branch funeral license to operate as a branch funeral establishment in the Commonwealth of Pennsylvania, license no. FB014562. Respondent SFH's branch establishment is licensed at 121 S. Prince Street, Lancaster, PA 17603. FB014562. Respondent SFH's branch license was originally issued on March 26, 2013 and is current through February 1, 2020. At all times pertinent to the factual allegations, Respondent Scheid was the owner and operator of Respondent SFH. Absent further Board action, Respondent SFH's sole proprietor license and branch license may be renewed, reactivated or reinstated thereafter upon the filing of the appropriate documentation and payment of the necessary fees.

On January 4, 2015, Mary Klouse died. In 1998, Ms. Klouse made pre-need funeral arrangements with Respondents, which contained a Statement of Goods and Services Selected. On January 5, 2015, Respondent Scheid created a new Statement of Funeral Goods and Services Selected for the funeral of Ms. Klouse. The Statement of Funeral Goods and Services Selected contained the purported signature of Ms. Klouse's daughter, Vonda L. Kirchner.

Respondent Scheid subscribed Ms. Kirchner's signature on this new Statement of Funeral Goods and Services Selected. At no time was the Statement of Funeral Goods and Services discussed with or presented to Ms. Kirchner, nor did Ms. Kirchner give Respondent Scheid, or

any other agent or employee of Respondent SFH, permission to subscribe her signature on this Statement of Funeral Goods and Services Selected. On October 18, 2016, Lieutenant Kurtis Miller of the Lancaster City Police Department interviewed Respondent Scheid. During the interview, Respondent Scheid admitted that he subscribed Ms. Kirchner's name on the Statement of Funeral Goods and Services Selected.

On June 4, 2016, J. Lester Witwer died at Colonial Manor Nursing Home in York, Pennsylvania. J. Lester Witwer had previously made a verbal agreement with Respondent SFH that Respondent SFH would provide funeral goods and services for his funeral. Subsequently, Colonial Manor Nursing Home informed Respondent SFH of the death of J. Lester Witwer, and agents of Respondent SFH picked up and transported the remains of J. Lester Witwer to one of Respondent SFH's facilities that day.

On June 5, 2016, J. Lester Witwer's son, John Witwer, contacted Respondent SFH by telephone and scheduled a meeting with Respondent Scheid to be held on June 6, 2016 at 6:00 p.m. at Respondent SFH's Millersville facility. On June 6, 2016, John Witwer and other family members traveled to Respondent SFH's Millersville facility and arrived at the previously scheduled time. John Witwer and the other family members waited over an hour for Respondent Scheid to arrive. When Respondent Scheid failed to show as agreed, John Witwer made arrangements for Charles F. Snyder Funeral Home and Crematory, Inc. to provide the funeral goods and services for the funeral of J. Lester Witwer. Justin Koehler, funeral director for Charles F. Snyder Funeral Home and Crematory, Inc. called Respondent SFH and spoke to Joselyn Scheid, Respondent Scheid's wife. During that conversation, Mrs. Scheid informed Mr. Koehler that Respondent SFH would not release the remains of J. Lester Witwer unless

Respondent SFH received eight hundred ninety-five dollars (\$895.00) for funeral services provided by Respondent SFH.

On June 7, 2016, Mr. Koehler traveled to Respondent SFH's Millersville facility and again spoke to Mrs. Scheid to discuss the matter of transporting the remains of J. Lester Witwer. Mrs. Scheid initially restated that Respondent SFH was owed eight hundred ninety-five dollars (\$895.00) for funeral services provided by Respondent SFH; however, she eventually agreed to release the body to Mr. Koehler in exchange for two hundred ninety-five dollars (\$295.00) as a transportation fee. Mr. Koehler paid Respondent SFH the fee and took possession of the remains of J. Lester Witwer.

While the remains of J. Lester Witwer were in the custody of Respondent SFH, an agent or employee of Respondent SFH embalmed the body of J. Lester Witwer. At no time did John Witwer, or any other family member, authorize any agent or employee of Respondent SFH to embalm the body of J. Lester Witwer, either verbally or in writing.

On December 31, 2016, Elizabeth Zimmerman died. Subsequently, Ms. Zimmerman's body was cremated, and Ms. Zimmerman's daughter Ellen Trythall took possession of the cremains. In April 2017, Ms. Trythall entered into an agreement with Respondents whereby, Respondents agreed to provide an urn and transport Ms. Zimmerman's cremains for burial in Waldfriedhof in Munich, Germany. The agreement between Respondent and Ms. Trythall stated the price for these services would be one thousand, ninety-three dollars (\$1,093).

On April 6, 2017, Ms. Trythall delivered Ms. Zimmerman's cremains to Respondent Scheid and paid Respondents the total fee amount. At the time of the Agreement, Respondent Scheid agreed to take the cremains to Waldfriedhof and bury the cremains there by Easter 2017. In late April 2017, Respondent Scheid contacted Ms. Trythall and informed her that

Waldfriedhof only allows the burial of cremains twice a year: Easter and November 1<sup>st</sup>.

Respondent Scheid informed Ms. Trythall that he had not arrived at Waldfriedhof with the cremains in time for burial in Easter 2017. Therefore, Respondent Scheid left the cremains at a funeral home in Heidelberg, Germany. Further, Respondent Scheid indicated that he would have the cremains buried at Waldfriedhof in November 2017.

On September 17, 2017, Ms. Trythall sent an email to Respondent Scheid, in which she reminded him that the cremains were to be buried at Waldfriedhof on November 1, 2017. On or about January 30, 2018, having received no communication from Respondent Scheid, or any agent or employee of Respondent SFH, about her mother's cremains, Ms. Trythall sent Respondent Scheid another email regarding her mother's cremains. On or about January 31, 2018, Ms. Trythall received an email from Respondent Scheid stating that he would be contacting Ms. Trythall soon. Between February 21, 2018 and February 12, 2019, Ms. Trythall did not receive any further communication from Respondent Scheid, or any agent or employee of Respondent SFH, about her mother's cremains, despite numerous attempts by Ms. Trythall to contact Respondent Scheid.

On April 18, 2019, Ms. Trythall finally spoke to Respondent Scheid. During that conversation, Respondent Scheid informed Ms. Trythall that Waldfriedhof would not accept her mother's cremains. Ms. Trythall requested, and Respondent Scheid agreed, that Respondent Scheid would scatter the cremains in Germany in April 2019 instead of burying the cremains at Waldfriedhof. On May 28, 2019, Ms. Trythall became aware that her mother's cremains had still not been scattered as requested, and they continued to be held by the funeral home in Heidelberg. On May 30, 2019, Ms. Trythall made arrangements with a third party in Germany to transport her mother's cremains to Waldfriedhof and bury the cremains there. It was during this

time that Ms. Trythall discovered that Respondents never provided an urn for her mother's cremains and so, Ms. Trythall had to purchase an urn from the third party in Germany. On November 1, 2019, Ms. Trythall's cremains were buried at Waldfriedhof.

Despite Respondent Scheid failing to provide an urn and transporting Ms. Zimmerman's cremains to Waldfriedhof in Munich, Germany, Respondents did not refund the one thousand ninety-three dollars (\$1,093.00) Ms. Trythall paid Respondents for these funeral goods and services.

On August 27, 2017, Elizabeth Weeks died. Ms. Weeks had previously made pre-need funeral arrangements with Respondents, which consisted of certain funeral goods and services, but did not include the actual burial or funeral service. On August 28, 2017, Ms. Weeks' daughter, Marie Prichard, met with licensed funeral director ZulMarie Gonzalez, an employee of Respondent SFH, and made additional funeral arrangements for Ms. Weeks' funeral.

During the meeting, Ms. Prichard informed Ms. Gonzalez that after the services were held locally, the remains of Ms. Weeks would need to be transported to Reger's Funeral Home in Huntington, West Virginia, who would inter the remains of Ms. Weeks. Respondents were to provide all aspects of the funeral in Pennsylvania for a total cost of seven thousand one hundred sixty-one dollars and fifty cents (7,161.50), which would include a traditional burial package, copies of death certificates, flowers, and obituaries. Additionally, Respondents were informed that a casket, outer burial container, clothing, cemetery plot, grave opening and cemetery equipment had previously been purchased. The family of Ms. Weeks also told Ms. Gonzalez that the funeral would be paid for with the proceeds from insurance policies. Ms. Gonzalez informed Ms. Prichard that the only additional items that Respondent SFH would be adding to the price of the funeral would be the costs for the services provided by Reger's Funeral Homes, which would

be approximately two thousand dollars (\$2,000.00), and the cost of additional flowers, which would be approximately two hundred forty dollars (\$240.00). Ms. Gonzalez made no mention of additional costs for the transportation of Ms. Weeks' remains to Reger's Funeral Home or to process the insurance policies.

At that meeting, Ms. Weeks' family was presented with a statement of funeral goods and services selected that outlined all of the funeral goods and services that Respondents had agreed to provide and identified the cost of those funeral goods and services. However, at no time before, during or after the meeting was Ms. Prichard provided with Respondent SFH's general price list for retention.

Respondents received eight thousand dollars (\$8,000.00) from Ms. Weeks' insurance policies at or around the time of the meeting on August 28, 2017. Ms. Weeks' viewing occurred on August 30, 2017. At the viewing, an employee of Respondent SFH provided Ms. Prichard with a hand-written bill for the funeral, which stated that the total cost of the funeral was ten thousand seven hundred eighty-five dollars and twenty-one cents (\$10,781.21). The bill contained several charges that Ms. Prichard did not authorize or of which she was not aware. These charges included two hundred ninety-five dollars (\$295.00) for "[b]ase delivery," seven hundred fifty-three dollars and seventy-five cents (\$753.75) for "[h]earse mileage," and one hundred seventy-five dollars (\$175.00) for "[p]rocessing fee [i]ns." The additional charges were not included on the Statement of Funeral Goods and Services Selected.

Unfortunately, the family of Ms. Weeks paid Respondents the excess balance that Respondents claimed was owed, in the amount of two thousand seven hundred eighty-five dollars and twenty-one cents (\$2,781.21).

On April 15, 2018, Bernice Benn died. Ms. Benn's brother Malcolm Cohen subsequently contacted Respondent SFH by telephone and spoke to Ms. Laporte, an agent or employee of Respondent. Mr. Cohen and Ms. Laporte agreed that Respondent SFH would provide a simple Jewish burial for Ms. Benn. It was agreed that the funeral would occur on April 18, 2018. During the phone call, there was no discussion of the cost of the funeral.

Sometime between April 15, 2018 and April 18, 2018, Mr. Cohen met with Ms. Laporte at one of Respondent SFH's establishment to discuss Ms. Benn's funeral. There was still no discussion of the cost of the funeral, and no documents were presented to Mr. Cohen.

On April 18, 2018, the funeral of Ms. Benn was held. At no time prior to the funeral was Mr. Cohen presented with a General Price List, a Casket Price List, a Statement of Funeral Goods and Services Selected, or any other written contract containing the funeral goods and services being provided and their cost. Mr. Cohen never signed a Statement of Funeral Goods and Services Selected, or any other written contract containing the funeral goods and services being provided and their cost.

Between May 2018 and June 2018, Mr. Cohen received two bills from Respondent SFH: each indicating that Mr. Cohen owed Respondents two thousand one hundred sixty dollars and fifty-one cents (\$2,160.51). Mr. Cohen attempted to contact Respondent Scheid by telephone on multiple occasions to discuss the funeral bill, and left multiple messages with employees of Respondent SFH, but Respondent Scheid never contacted Mr. Cohen. The Statement of Funeral Goods and Services Selected for the funeral of Ms. Benn was signed by Respondent Scheid and contained the purported signature of Mr. Cohen; however, Mr. Cohen was never presented with this Statement of Funeral Goods and Services Selected by Respondent Scheid, or any agent or employee of Respondent SFH, nor did he himself subscribe his signature on this Statement of

Funeral Goods and Services Selected. Either Respondent Scheid, or some other agent or employee of Respondent SFH, subscribed Mr. Cohen's signature on the Statement of Funeral Goods and Services Selected without the consent of Mr. Cohen.

On July 7, 2019, Elwood Reese died at Lancashire Hall Nursing Home. At the time of his death, the family of Mr. Reese informed Lancashire Hall Nursing Home that the funeral would be provided by Melanie B. Scheid Funeral Home and Cremation Services. The nursing home mistakenly released the remains of Mr. Reese to Respondent SFH. On or about July 10, 2019, James Porterfield, funeral director for Melanie B. Scheid Funeral Home and Cremation Services, picked up the remains of Mr. Reese at Respondent SFH's branch establishment.

Respondent SFH held Mr. Reese's remains at Respondent SFH's branch establishment from July 7, 2019 to July 10, 2019, a period well in excess of twenty-four (24) hours. During that time period, the remains of Mr. Reese were not embalmed, were not refrigerated, and were not kept in a sealed container. Respondent SFH kept the remains of Mr. Reese in a room with no air conditioning. When Mr. Porterfield picked up the remains of Mr. Reese from Respondent SFH's branch establishment, the remains of Mr. Reese had significantly decomposed.

On January 29, 2018, Florence Alexander died. Ms. Alexander had made pre-need funeral arrangements with Respondent SFH, which consisted of a direct cremation. On January 30, 2018, Ms. Alexander's son Thomas Alexander met with Respondent Scheid and made final arrangements for the cremation of his mother's remains. During that meeting, Respondent Scheid agreed to cremate Ms. Alexander's remains and mail the cremains to Centreville Friends Cemetery in Delaware. On February 9, 2018, Respondents had cremated the remains of Ms. Alexander, and informed Mr. Alexander that his mother's cremains would be mailed to Centreville Friends Cemetery in the next few days.

On March 2, 2018, having received no communication about the cremains from any agents or employees of Respondent SFH, Mr. Alexander contacted Respondent SFH and requested a status on the location of his mother's cremains. An employee of Respondent SFH told Mr. Alexander that Respondent SFH did not know where to mail Ms. Alexander's cremains. Despite Mr. Alexander previously providing this information, he gave the employee the location again.

On April 9, 2018, having still received no communication regarding the status of his mother's cremains, Mr. Alexander traveled to Respondent SFH's establishment and discovered that his mother's cremains were still located at Respondent SFH's establishment, having never been mailed to Centreville Friends Cemetery as requested. Mr. Alexander took possession of his mother cremains.

On July 7, 2019, Mildred Riker died. In 2011, Mrs. Riker's husband, William Riker, had made pre-need arrangements for Mrs. Riker's funeral with Respondent SFH. On the evening of July 7, 2019, Mrs. Riker's daughter Sarah Dent, and other family members, met with Respondent Scheid in order to make final arrangements. During the meeting, Ms. Dent and her family informed Respondent Scheid that they wanted the obituary placed in the newspaper on July 9, 2019 and arranged to have a slideshow played during the funeral service. The funeral service was to occur on July 11, 2019. On July 9, 2019, Ms. Dent called Respondent SFH and left a message with a receptionist requesting to speak with Respondent Scheid. On July 10, 2019, having received no communication from any agents or employees of Respondent SFH, Ms. Dent again called Respondent SFH and left a message with a receptionist requesting to talk to Respondent Scheid. Respondents did not publish Mrs. Riker's obituary until July 10, 2019.

On July 11, 2019, a funeral service was held for Mrs. Riker at Respondent SFH's establishment. During the funeral service, Respondents did not show a slideshow as requested and Respondent Scheid did not attend the funeral service.

On August 5, 2019, Jean Paul died. That same day, her family arranged for Respondent SFH to take possession of Ms. Paul's remains and provide a cremation. Kathy, an employee of Respondent SFH, telephoned Ms. Paul's daughter, Michelle Cortright, to tell her that Respondent SFH would send her a checklist of things that needed to be done for the funeral and informed her that a funeral director would contact her.

Between August 7, 2019 and August 12, having received no communication from any agent or employee of Respondent SFH, Ms. Cortright made multiple calls to Respondent SFH, each time leaving a message with a receptionist asking for a return call. On August 12, 2019, Ms. Cortright received a telephone call from Cassie, an employee of Respondent SFH, who informed Ms. Cortright that a funeral director would call her at 8:00 p.m. that evening. Around the time Ms. Cortright received the call from Cassie, she received the aforementioned checklist by email. However, Ms. Cortright never receive the 8:00 p.m. telephone call from a funeral director at Respondent SFH. An individual from Respondent SFH called Ms. Cortright's around 10:00 p.m. that evening, but Ms. Cortright missed the call because she was already in bed.

Between August 13, 2019 and August 26, 2019, having still received no communication from any agent or employee of Respondent SFH, Ms. Cortright and another family member made multiple calls to Respondent SFH, each time leaving a message with a receptionist asking for a return call.

On August 28, 2019, an employee of Respondent SFH contacted Ms. Cortright by telephone and left a message informing her that Ms. Paul's cremains were available for pick-up

or delivery. On August 30, 2019, Ms. Cortright received Ms. Paul's cremains in mail. For a period of over three (3) weeks, neither Respondent Scheid nor any agent or employee of Respondent SFH contacted Ms. Cortright despite Ms. Cortright and another family member leaving fourteen (14) messages with Respondent SFH requesting to be contacted. From August 5, 2019 to August 30, 2019, Ms. Cortright and her family did not know the location of Ms. Paul's remains or whether Ms. Paul had even been cremated.

Catherine Deisley made pre-need funeral arrangements with Respondent SFH. When Mrs. Deisley died on August 27, 2019, agents or employees of Respondent SFH picked up the remains of Mrs. Deisley and transported them to one of Respondent SFH's establishments. Around the time that Mrs. Deisley's remains were transported to Respondent SFH's establishment, Mrs. Deisley's friend, Katherine Acker, contacted Respondent SFH in order to make an appointment to meet with Respondent Scheid to discuss the funeral arrangements. The appointment between Ms. Acker and Respondent Scheid also included Mrs. Deisley's husband, Samuel Deisley. The meeting was scheduled for 10:30 a.m. on August 28, 2019.

At the agreed upon time, Ms. Acker and Mr. Deisley arrived at Respondents' facility and waited for over an hour at Respondent SFH; however, Respondent Scheid did not arrive. Ms. Acker and Mr. Deisley proceeded with the meeting by selecting the funeral goods and services for Mrs. Deisley with the employees of Respondent SFH who were present during their visit.

Between August 28, 2019 and September 16, 2019, Ms. Acker and Mr. Deisley did not receive any contact from Respondent Scheid, or any other agents or employees of Respondent SFH, regarding the funeral of Mrs. Deisley.

Despite numerous attempts by investigators with the Bureau of Professional and Occupational Affairs with the Pennsylvania Department of State, Respondent Scheid never

availed himself for questions regarding the matters involving Mrs. Zimmerman, Mr. Reese, Mrs. Riker, Ms. Paul, or Mrs. Deisley.

The facts of the OSC, deemed admitted, establish that Respondents did engage in the conduct as charged by the Commonwealth. Respondents engaged in gross incompetency, negligence and misconduct in the carrying on of the profession. Respondents refused to release human remains until consideration, whether earned or not, had been paid. Respondents furnished embalming, other services or merchandise without having obtained written permission from a family member or other person authorized by law to make funeral arrangements for the deceased, nor did they obtain oral permission to embalm, followed by a confirmatory email, fax, telex, telegram, mailgram or other written confirmation. Respondents retained funds intended to pay for funeral goods and services when the funeral director and funeral entity had not provided any funeral goods and services. Respondents failed to provide full and factual representation concerning aspects of the services rendered or the funeral furnishings provided. Respondent SFH, by and through Respondent Scheid and other agents and employees, failed to comply with the regulations of the Federal Trade Commission by failing to give a Casket Price List, a General Price List, and a Statement of Funeral Goods and Services Selected. Respondent SFH, by and through Respondent Scheid and other agents and employees, failed to give the family representative or agency official arranging for a funeral a written agreement form statement of funeral goods and services at the time of arrangements, which must be prior to the disposition of the deceased. Respondents failed to embalm, seal in a container that will not allow fumes or odors to escape, or refrigerate, human remains held twenty-hour (24) hours beyond death. As such, Counts One through Thirty are sustained.

## **Sanction**

The Commonwealth has met its burden of proof on all counts of the OSC, and the Board must determine an appropriate sanction. In determining a sanction, the Board considers the seriousness of the offense and any mitigating evidence. Because Respondent did not answer the OSC or request a hearing, the Board has no mitigating evidence to consider.

Section 17(b) of the Act permits the Board to levy a civil penalty of up to one thousand dollars (\$1,000) for each violation. 63 P.S. § 479.17(b). Based on Respondent's multiple violations of the Act and Board regulations, the Board is authorized to impose a maximum penalty under the Act of \$30,000, or \$1,000 for each violation.

As an alternative to the civil penalty provided under the Act, Act 48 authorizes the Board to "levy a civil penalty of not more than \$10,000 per violation on any licensee . . . who violates any provision of the applicable licensing act or board regulation." 63 P.S. § 2205(b)(5). The only statutory restriction regarding the imposition of such a civil penalty is that Act 48 precludes the Board from imposing "a civil penalty under any other act for the same violation for which a civil penalty has been imposed pursuant to this section." 63 P.S. § 2205(c). In other words, the Board may impose the civil penalty that the Act authorizes or the civil penalty that Act 48 authorizes, but it may not impose both. As a result of the violations in counts one through thirty of the OSC, the Board could impose either a maximum civil penalty of \$30,000.00 under the Act or a maximum civil penalty of \$300,000.00 under Act 48.

When it enacted the Act, the General Assembly indicated in the statute's title that its purpose was "[t]o provide for the better protection of life and health of the citizens of this Commonwealth." Under professional licensing statutes such as the Act, the Board is charged with the responsibility and authority to oversee the profession and to regulate and to license

professionals to protect the public health and safety. *Barran v. State Board of Medicine*, 670 A.2d 765, 767 (Pa. Commw. 1996), *appeal denied* 679 A.2d 230 (Pa. 1996). The Board is responsible for protecting the citizens of the Commonwealth from those that would use their license to harm others. *Barran*, 670 A.2d at 767.

In addition to the requisite knowledge, experience and training, every licensed funeral director must possess “good moral character.” 63 P.S. § 479.5. Funeral directors are called upon to meet, counsel, and service individuals and families at times of deep grief, when individuals and families are often in a most vulnerable state. Licensees are in positions of great responsibility, positions that require them to exercise judgment and integrity. As the regulations that it has promulgated indicate, the Board expects all licensees to demonstrate dignity and respect to not only the deceased but also to those family members entrusting licensees with their loved ones’ final funeral arrangements. As evidenced above, Respondents failed in this responsibility. Respondents’ conduct was not an isolated incident but involved multiple families and multiple violations of the Law. Families entrusted Respondents with their money and their loved ones, and Respondents violated that trust. Additionally, when Respondents were contacted by these families and asked about rectifying these matters, Respondents chose to ignore them. Respondents’ conduct damages the faith of the public in all licensed funeral directors. Further, Respondents failed to respond to, or cooperate with, Bureau personnel investigating allegations made against Respondents.

Given the seriousness of the violations, the nature of the violations, the lack of judgment demonstrated, and the egregious lack of respect and dignity that Respondents exhibited to the deceased and their families, the Board concludes that sufficient grounds exist to suspend Respondents’ licenses. Additionally, in order to warn Respondents and other members of the

profession that the Board will not tolerate such misconduct, and to maintain the public's faith in the profession, the Board has determined that the imposition of a civil penalty in the amount of \$5,000 per violation, as allowed under Act 48, is appropriate.

Wherefore, the Board enters the following order:

**COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
THE STATE BOARD OF FUNERAL DIRECTORS**

<b>Commonwealth of Pennsylvania,</b>	:	
<b>Bureau of Professional and</b>	:	
<b>Occupational Affairs</b>	:	
	:	<b>Case Nos. 16-48-08296</b>
v.	:	<b>16-48-13160</b>
	:	<b>17-48-010595</b>
<b>Andrew T. Scheid, F.D. &amp;</b>	:	
<b>Andrew T. Scheid Funeral Home,</b>	:	
<b>Respondents</b>	:	

**FINAL ORDER**

**AND NOW**, this 23<sup>rd</sup> day of March, 2020 the State Board of Funeral Directors, having duly convened and considered the entire record of the proceedings, and based upon the foregoing Findings of Fact, Conclusions of Law and Discussion, hereby levies a **CIVIL PENALTY** of **\$150,000.00** and **SUSPENDS INDEFINITELY, BUT FOR NO LESS THAN THREE (3) YEARS**, the licenses to practice funeral directing and as a funeral supervisor of Andrew T. Scheid, FD, license numbers FD01388L and FS015683, and the funeral establishment and branch location of Andrew T. Scheid Funeral Home, license numbers FO013388L and FB014562.

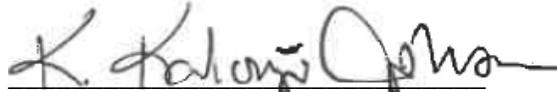
The civil penalty shall be paid by cashier’s check, certified check, attorney’s check or US Postal Service money order payable to “Commonwealth of Pennsylvania.” All licensure documents, including wall certificate and wallet cards, shall be returned to the State Board of Funeral Directors. The full amount of the civil penalty and the licensure documents shall be delivered to Board Counsel, State Board of Funeral Directors, Bureau of Professional and Occupational Affairs, P.O. Box 69523, Harrisburg, PA 17106-9523, on or before April 23, 2020, thirty days after the mailing date of this order.

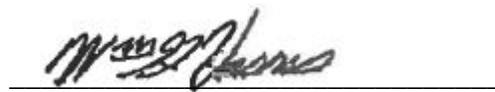
This order is effective immediately, but the discipline imposed shall take effect on April 23, 2020, thirty days from the mailing date of this Final Order.

**BY ORDER:**

**BUREAU OF PROFESSIONAL AND  
OCCUPATIONAL AFFAIRS**

**STATE BOARD OF FUNERAL  
DIRECTORS**

  
**K. KALONJI JOHNSON  
ACTING COMMISSIONER**

  
**WILLIAM G. HARRIS, F.D.  
CHAIRPERSON**

Respondent's address:

Andrew T. Sheid, FD  
Andrew T. Scheid Funeral Home  
320 Blue Rock Road  
Millersville, PA 17551

Andrew T. Scheid, FD  
Andrew T. Scheid Funeral Home  
121 S. Prince Street  
Lancaster, PA 17603

Prosecuting attorney:

Timothy A. Fritsch, Esquire

Board counsel:

Jaime D. Black, Esquire

Date of mailing:

March 23, 2020

## NOTICE

The attached Adjudication and Order represents the final agency decision in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by the filing of a Petition for Review with that Court within 30 days after the entry of the order in accordance with the Pennsylvania Rules of Appellate Procedure. See Chapter 15 of the Pennsylvania Rules of Appellate Procedure entitled “Judicial Review of Governmental Determinations,” Pa. R.A.P 1501 – 1561. Please note: An order is entered on the date it is mailed. If you take an appeal to the Commonwealth Court, you must serve the Board with a copy of your Petition for Review. The agency contact for receiving service of such an appeal is:

Board Counsel  
P.O. Box 69523  
Harrisburg, PA 17106-9523

The name of the individual Board Counsel is identified on the Order page of the Adjudication and Order.