IN THE MATTER OF

The Pre-arranged Funeral Services Act
RSNB 2012, c. 109

\- and -

IN THE MATTER OF

Thompson's Funeral Home Ltd.

REASONS FOR DECISION

Date of Opportunity to be Heard: **March 18, 2026**

Date of Decision: **March 27, 2026**

Date of Reasons for Decision: **June 1, 2026**

<u>Heard Before</u>

Alaina M. Nicholson, Director of Consumer Affairs

INTRODUCTION

[1] This matter involves a recommendation by Financial and Consumer Services Commission (Commission) staff (Commission Staff) to the Director of Consumer Affairs (Director) to cancel the funeral provider's licence of Thompson's Funeral Home Ltd. (Thompson's), under paragraphs 28(1)(a) and (d) of the *Pre-arranged Funeral Services Act*, RSNB 2012, c 109 (Act).

[2] Subsections 5(5) and 5(7) of the Act provide authority for the Director to impose terms and conditions on a funeral provider's licence, or to refuse to licence a funeral provider, but only after providing the applicant an opportunity to be heard:

> *5(5) The Director may at any time restrict a funeral provider's licence by imposing any terms and conditions that he or she considers appropriate on the licence*
>
> *5(7) The Director shall not refuse to issue a funeral provider's licence for a reason other than that referred to in subsection (3) or (4) or impose terms and conditions on the licence without giving the applicant or holder of the licence an opportunity to be heard.*

[3] If the Director imposes terms and conditions as per subsections 5(5) the licensed funeral provider shall comply with the terms and conditions imposed as per subsection 5(6) of the Act.

[4] Subsection 28(1) of the Act provides authority for the Director, after notice to the licensed funeral provider and a hearing, to suspend or cancel a funeral provider's licence issued under this Act if the Director is satisfied that the funeral provider has:

> *28(1)(a) has violated or failed to comply with any provision of this Act, has been charged with or convicted of an offence under this Act or has violated any term or condition to which the licence is subject,*
>
> *28(1)(d) has demonstrated incompetence or untrustworthiness in carrying on the business of providing funeral services under pre-arranged funeral plans.*

BACKGROUND

<u>Licensing History</u>

[5] Thompson's has been licensed as a funeral provider under the Act since 2010.

[6] To act as a licensed funeral provider under the Act the funeral provider must employ a licensed manager as explained further below.

[7] At the time of the opportunity to be heard on March 18, 2026, Thompson's did not have the required licensed manager in place. The previous licensed manager was no longer employed with the funeral provider, and a newly hired funeral director, who was expected to assume the role, had not yet submitted an application for a manager's licence.

Licensing Requirements

[8] Section 3 of the Act provides that a person who undertakes to provide or make provision for the funeral services of another person under a pre-arranged funeral plan must be licensed as a funeral provider.

[9] Subsection 5(1) of the Act requires a funeral provider to hold a valid licence at all relevant times.

[10] Subsection 6(1) of the Act requires a licensed funeral provider to employ or contract with a licensed manager to act on behalf of the licensed funeral provider for each location.

[11] Funeral providers who accept funds under pre-arranged funeral plans are entrusted with consumer funds and must comply with statutory requirements governing the receipt, deposit, safeguarding, reconciliation, and reporting of trust funds.

Compliance History and Regulatory Findings

[12] Since becoming licensed as a funeral provider, Thompson's has been subject to multiple on-site compliance reviews conducted by Commission Staff. These reviews occurred in 2011, 2013, 2015, 2016, 2019, 2023, 2024, and 2025.

[13] Compliance reviews assess whether a funeral provider is meeting its obligations under the Act and General Regulation 88-32 (Regulation), including compliance with licensing requirements, trust fund administration, record-keeping practices, and mandatory reporting obligations. Following each review, Commission Staff issue a Recommendation and Response Document (Response Document) to the funeral provider identifying deficiencies and setting out required corrective actions and deadlines.

[14] Between 2013 and 2025, compliance reviews identified recurring and significant compliance deficiencies at Thompson's. These deficiencies included missing or unaccounted pre-arranged funeral plan forms, incomplete or missing trust account reconciliations, unclear or incomplete trust records, withdrawals from trust prior to the provision of funeral services, and late or inaccurate filings.

[15] Thompson's compliance history also reflects repeated failures to maintain valid licensing. The funeral provider and associated manager's licence were not renewed on time in 2019, 2023, 2024, and 2025, resulting in periods during which Thompson's operated without a valid funeral provider licence or licensed manager, contrary to subsections 5(1) and 6(1) of the Act.

[16] In March 2024, both the funeral provider licence and the manager's licence expired. Despite repeated follow-up reminders from Commission Staff, Thompson's did not promptly renew the

licences. As a result, on March 14, 2024, Thompson's was directed to cease all activities under the Act until proper licensing was reinstated.

[17] As a corrective measure, Thompson's entered into a formal undertaking dated May 30, 2024, committing to specific actions including renewing its licence, submitting trust agreements, and updating corporate registry records. Thompson's did not meet the conditions of the undertaking within the prescribed timelines, representing a further escalation in regulatory concern and constituting an offence under paragraph 30.6(1)(f) of the Act. While an offence did occur, no further regulatory action was pursued at that time, as the actions outlined in the undertaking were ultimately completed, albeit outside the prescribed timeline.

[18] Trust account administration has been a persistent area of concern for Thompson's. Section 30.1 of the Act and section 12 the Regulation require funeral providers to maintain accurate books, records, accounts, and documents relating to pre-arranged funeral plans. Compliance reviews conducted in 2015, 2016, 2019, and 2024 identified ongoing trust account deficiencies, including missing monthly reconciliations, difficulty matching trust balances to outstanding contracts, incomplete documentation supporting withdrawals, and delays in producing records requested by Commission Staff. These deficiencies impaired the regulator's ability to verify that consumer trust funds were properly safeguarded and administered in accordance with the Act.

[19] Significant issues were also identified with respect to the control and accountability of Standard Forms of Pre-Arranged Funeral Plans prescribed by Regulation and issued by the Commission to each licensed funeral provider (each bearing a unique identifying number). Compliance reviews conducted in 2019 and 2023 identified 33 unaccounted forms and 44 missing forms, without documentation confirming their return or voiding. Missing or unaccounted forms present a serious regulatory concern, as they hinder verification that all pre-arranged contracts and associated funds are properly recorded.

[20] Thompson's also demonstrated ongoing non-compliance with mandatory reporting obligations. Subsection 9(1) of the Regulation requires funeral providers to file an annual Form 1 reporting trust account activity for the preceding year. Thompson's filed Form 1 late on multiple occasions despite repeated follow-ups from Commission Staff. Discrepancies identified in the 2023 Form 1 remain unresolved, and the 2024 Form 1, due March 31, 2025, was not submitted until August 15, 2025.

RECOMMENDATION

[21] On February 13, 2026, Thompson's was notified by letter that Commission Staff recommended cancellation of its funeral provider's licence pursuant to paragraphs 28(1)(a) and (d) of the Act. The recommendation was based on findings that Thompson's had failed to comply with multiple provisions of the Act and Regulation 88-32 and had demonstrated incompetence and untrustworthiness in carrying on the business of providing funeral services under pre-arranged funeral plans.

[22] The letter advised Thompson's that it was being provided with an opportunity to be heard before the Director with respect to the recommendation. The letter further advised of:

- the right to be represented by legal counsel or an agent.
- the right to be heard in either official language.
- the right to disclosure of the information relied upon by Commission Staff in support of the recommendation.
- that the opportunity to be heard was Thompson's opportunity to provide any additional information or explanation to assist the Director in determining its continued suitability to hold a funeral provider's licence.

[23] On February 19, 2026, Bernard Doucette (Mr. Doucette), acting on behalf of Thompson's, advised Commission staff that Thompson's wished to exercise its right to an opportunity to be heard. During that communication, Mr. Doucette also requested access to the information relied upon by Commission Staff in support of the recommendation.

[24] Between February 25 and 27, 2026, Commission Staff engaged in further communications with Mr. Doucette regarding the opportunity-to-be-heard process and his rights. Commission Staff provided proposed dates and times for the hearing and advised that disclosure materials would be provided in advance of the hearing.

[25] On February 27, 2026, Commission Staff advised Mr. Doucette by email that the hearing was scheduled for March 11, 2026.

[26] On March 2, 2026, in response to Mr. Doucette's request made on February 19, 2026, Commission Staff provided him with a hyperlink where he could view or download the disclosure documents.

[27] On March 10, 2026, Commission Staff spoke with Mr. Doucette by telephone to reschedule the hearing date due to forecasted adverse weather conditions. Commission Staff confirmed *via* email later that same day that the opportunity to be heard was postponed to March 18, 2026**.** Mr. Doucette was also advised that Thompson's recently submitted the Response Document for their 2025 compliance review which had been reviewed by Commission Staff and would be considered as part of the disclosure package for consideration by the Director.

OPPORTUNITY TO BE HEARD

[28] An opportunity to be heard was held on March 18, 2026. Mr. Doucette attended on behalf of Thompson's at the request of the owner of the funeral provider, Linda Thompson.

[29] A Senior Compliance Officer and a Compliance Officer for Consumer Affairs were in attendance on behalf of the Commission.

[30] At the outset of the hearing, the Director reviewed the following:

- The purpose of the opportunity to be heard was in relation to Thompson's funeral provider licence under the *Pre-Arranged Funeral Services Act*.
- The recommendation made by Commission Staff in their letter dated February 13,2026 included a list disclosing the information that had been relied upon in making the recommendation.
- That Thompson's has a right to disclosure of this information, which was provided to them on March 2, 2026, when Commission Staff emailed access to the disclosure information through a secured hyperlink.
- The mandate of the Commission to protect consumers and enhance public confidence in the financial and consumer marketplace through the provision of regulatory and educational services.
- That the Commission is responsible for the administration and enforcement of provincial legislation that regulates a wide range of consumer legislation, including licensing and compliance of funeral providers under the Act.
- The rights and responsibilities of the Commission, including the process of determining a decision and the possible outcomes:
    i. maintain licence
    ii. licence with terms and conditions (subsection 28(2))
    iii. licence cancellation (subsection 28(1)), which may include reassignment of pre-arranged funeral plans (subsection 28(9)) and other statutory consequences under the Act.

[31] Thompson's was also advised of the legislative requirement that licence cancellation requires newspaper publication, pursuant to subsection 28(10) of the Act. Mr. Doucette was also reminded that legal counsel was welcome to attend, but it was not necessary. This was Thompson's opportunity to be heard and provide information he thinks is necessary in determining licence suitability.

[32] Commission Staff summarized the basis for their recommendation and emphasized several key areas of concern arising from Thompson's compliance history. Commission Staff noted that the recommendation was not based on a single incident, but on a long-standing pattern of non-compliance with the Act and its regulations, spanning many years despite repeated guidance, extensions, and follow-up by Commission Staff.

[33] Commission Staff identified Thompson's management of trust accounts as one of the primary concerns. Commission Staff emphasized that Thompson's is responsible for administering more than one million dollars in consumer trust funds. Commission Staff highlighted recurring

deficiencies identified through multiple compliance reviews, including missing or incomplete trust account reconciliations, unclear or incomplete trust records, and withdrawals made prior to the provision of funeral services.

[34] Commission Staff further emphasized persistent record-keeping deficiencies, including missing or unaccounted assigned Standard Form of Pre-arranged Funeral Plan identified during compliance reviews in 2019 and 2023. Staff noted that these deficiencies undermine the regulator's ability to verify that consumer contracts and trust funds are properly accounted for.

[35] Commission Staff reported that Thompson's repeatedly failed to renew funeral provider and manager licences on time in 2019, 2023, 2024, and 2025, leading to unlicensed operations. In March 2024, with both licences expired, Thompson's was directed to cease activities under the Act until the required licensing was obtained. Upon re-licensing Thompson's entered a formal undertaking (i.e. submitting trust agreements and updating corporate registry records) but did not comply within the prescribed timelines, constituting an offence under paragraph 30.6(f) of the Act. The actions outlined in the undertaking were ultimately completed, albeit outside the prescribed timelines. No further regulatory action was pursued at that time.

[36] Commission Staff also emphasized Thompson's repeated failures to meet mandatory reporting obligations, including late Form 1 filings and unresolved discrepancies, despite repeated follow-ups. Taken together, staff advised that these deficiencies relate to core consumer protection obligations under the Act and, in light of their recurring nature and the volume of trust funds involved, raise serious concerns regarding Thompson's suitability to continue operating under the Act.

[37] The Director then invited Mr. Doucette to address these concerns. Mr. Doucette explained that he had become actively involved in the business approximately one year earlier following operational and financial difficulties under prior management. He stated that his initial focus had been stabilizing the business and its premises, including: addressing issues with creditors, completing necessary building repairs, and resolving outstanding tax matters.

[38] Mr. Doucette acknowledged the deficiencies identified by Commission Staff and apologized on behalf of Thompson's. He stated that he had only recently become fully aware of the extent of regulatory non-compliance under the Act after receipt of Commission Staff's February 13, 2026, recommendation letter.

[39] Mr. Doucette described steps taken to improve internal processes, including changes to staffing, engagement of new professional accounting support, meetings with their financial institution, and improvements to record-keeping. Mr. Doucette advised that the funeral provider had recently let go of its previous licensed manager and, as a result, did not have a licensed manager in place at the time of the opportunity to be heard. He further indicated that a new funeral

director had been hired and that it be the intent she act as the Manager and he had brought her manager application with him to the hearing.

[40] Mr. Doucette stated that trust funds remained secure and advised that Thompson's had ceased selling pre-arranged funeral plans and were dealing primarily with insurance products. He expressed a willingness to work with the Commission to ensure compliance with future regulatory obligations.

THE COMMISSION'S MANDATE AND APPLICABLE LAW

[41] The *Financial and Consumer Services Commission Act* (FCSC Act), in paragraph 2(a) provides that the purpose of the FCSC Act is to "enable the Commission to provide regulatory services that protect public interest and enhance public confidence in the regulated sectors..."

[42] The FCSC Act, in paragraph 12(2)(b) provides that "the Commission shall administer the financial and consumer services legislation*"*. The *Pre-arranged Funeral Services Act* is listed at paragraph (p) of the "financial and consumer services legislation" definition in section 1 of the FCSC Act.

[43] Consumer protection is a fundamental consideration and a key purpose of the Commission's mandate. It is a key responsibility of the Director, as the gatekeeper to the industry, to determine if an applicant or a licensee should be permitted or continue to operate in the sector.

[44] Under subsection 28(1) of the Act, the Director may cancel a licence if the licensee has failed to comply with the Act or demonstrated incompetence or untrustworthiness.

[45] Under subsection 28(2), the Director may instead impose terms and conditions on a licence where appropriate to protect the public interest.

DUTIES AND OBLIGATIONS OF A LICENSED FUNERAL PROVIDER

<u>Directors Considerations</u>

[46] Prior to suspending, cancelling, or imposing terms and conditions on a licence, the Director must consider the appropriateness and proportionality of the regulatory action being taken. In making this determination, the Director must consider the mandate of the Commission, whether the licensee is meeting its legislative obligations, and whether there are public-interest or consumer protection concerns arising from the licensee's conduct.

[47] Consumer protection is a central objective of the Act. The Director must consider whether allowing a licensee to continue operating under the Act exposes consumers to a risk of harm or undermines public confidence in the pre-arranged funeral services sector. Where risks are identified, the Director must consider how those risks can be minimized or mitigated through appropriate regulatory measures.

[48] In assessing suitability, the Director must evaluate the nature, seriousness, and duration of the compliance concerns that gave rise to the recommendation. This includes consideration of the licensee's conduct over time, responsiveness to regulatory direction, and demonstrated ability or willingness to comply with statutory requirements.

[49] The Director is mindful that a balance must be struck between two important considerations: the protection of the public interest and the integrity of the pre-arranged funeral services industry, and the professional and financial consequences to the licensee of regulatory action. The Director must ensure that any decision taken is proportionate to the risk identified and consistent with the purposes of the Act.

[50] As a licensed funeral provider, Thompson's is responsible for the administration of pre-arranged funeral plans and for ensuring that trust funds received from consumers are handled strictly in accordance with the Act and Regulation. This includes maintaining accurate books, records, accounts, and documents, and ensuring that trust funds are properly deposited, safeguarded, reconciled, and reported.

[51] The following provisions outline some of the statutory obligations applicable to licensed funeral providers:

- Section 3 of the Act, which prescribes the licensing requirements to undertake pre-arranged funeral plans;
- Section 10 of the Act, which governs entitlement to trust funds following the provision of contracted funeral services;
- Section 15 of the Act, which restricts the withdrawal of trust funds except in accordance with the Act;
- Section 18 of the Act and section 9 of Regulation 88-32, which sets out the annual reporting requirements; and
- Section 30.1 of the Act and section 12 of Regulation 88-32, which sets out the record-keeping requirements.

[52] Section 30.1 of the Act and subsection 12(2) of the Regulation further impose obligations on funeral providers to maintain complete and accurate records to enable effective regulatory oversight and verification that consumer funds are properly safeguarded.

ANALYSIS

[53] The Director has carefully considered the entire record, including Thompson's compliance history, the recommendation of Commission Staff, and the information shared during the opportunity to be heard.

[54] The Director finds that Thompson's has demonstrated a long-standing and systemic pattern of non-compliance with fundamental regulatory obligations. These deficiencies are serious and raise significant consumer protection concerns.

[55] The Director is particularly concerned by Thompson's repeated failures to renew licences on time, its inability to account for trust records and contract forms, and its failure to comply with an undertaking previously issued by Commission Staff.

[56] At the same time, the Director has considered the mitigating information provided at the hearing, including the change in management, recent corrective steps, and the cessation of pre-arranged funeral sales.

[57] The Director accepts that there has been increased engagement with regulatory obligations in recent months and that Thompson's expressed a willingness to comply with enhanced oversight.

[58] The Director must balance the need to protect consumers and public confidence with the proportionality of regulatory intervention. Given the representations made at the hearing and the current reduction in consumer risk resulting from the cessation of pre-arranged funeral sales, the Director determined that immediate cancellation was not required at this time.

[59] However, the Director finds that strict and ongoing regulatory controls are necessary. The compliance failures identified are not isolated, but Thompson's should be provided one final opportunity to demonstrate that it can meet its statutory obligations.

DECISION OF THE DIRECTOR

[60] On March 27, 2026, the Director advised that after careful consideration, she had concluded that pursuant to subsection 28(2) of the Act, Thompson's funeral provider's licence shall be restricted with the following terms and conditions:

- The trust account must be reconciled monthly, including identifying the names of each new or withdrawn contract holder on the statement and identifying any withdrawals made from the investment account and deposited to the control account.
- Maintenance of a trust ledger, including recording any trust activity without delay.
- Notifying the Director, without delay, of any shortages within the trust account and providing supporting documentation outlining the reason for any shortage and the corrective actions taken to immediately correct any deficiency.
- Notifying the Director, without delay, of any legal proceedings or judgments filed against the funeral provider.

[61] Thompson's was also advised that they must agree to undertake the following:

- The licensed manager attending a training session with Commission staff regarding the legislative requirements of administering pre-arranged funeral contracts and trust accounts before the end of May 2026 (completed May 28, 2026).
- Creating a ledger of all outstanding pre-arranged contracts containing the information outlined in the attached sample ledger. A copy must be provided to the Commission by July 31, 2026.
- Refraining from negotiating any insurance funded pre-need funeral contracts until such time as the funeral home has obtained the required licence under the *Insurance Act* OR has verified that the life insurance agent, they are working is licensed and that all paperwork is completed by the Insurance Agent.
- Submitting the 2024 annual financial statements by April 30, 2026 (received April 28, 2026).
- Submitting the 2025 annual financial statements by June 30, 2026 (received April 28, 2026).
- On an ongoing basis, provide annual financial statements, no later than 120 days after the end of each fiscal year.

[62] These measures remain in place until otherwise determined by the Director.

[63] If Thompson's is dissatisfied with this decision, it has the right to appeal to the Tribunal as provided in paragraph 28.1(1)(b) of the Act. The deadline for filing an appeal is 30 days from the issuance of this Decision. The New Brunswick Energy and Utilities Board can provide its Rules of Procedure or answer any questions regarding the appeal process.

Dated at Fredericton, New Brunswick, this 1 day of June, 2026.

Original decision signed by

Alaina M. Nicholson
Director of Consumer Affairs
Financial and Consumer Services Commission