

IN THE MATTER OF

The Pre-arranged Funeral Services Act

R.S.N.B. 2012, c. 109

- and -

IN THE MATTER OF

Amy Elisabeth Shaddick

REASONS FOR DECISION

Date of Opportunity to be Heard: 18 December 2024

Date of Decision: 21 February 2025

Date of Reasons for Decision: 6 June 2025

Heard Before

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 manager's licence of Amy Shaddick (Ms. Shaddick), under subsection 28(2) of the *Pre-arranged Funeral Services Act*, RSNB 2012, c. 109 (Act). At the relevant time, Ms. Shaddick worked for 513189 N.B. Ltd., doing business as Northumberland Funeral Home, a licensed funeral provider (licensed funeral provider).
- [2] Subsections 6(5) and 6(5.2) of the Act provide authority for the Director to impose terms and conditions on a manager's licence, or to refuse to licence a manager, but only after providing the applicant or licence holder an opportunity to be heard:

6(5) The Director may at any time restrict a manager's licence by imposing any terms and conditions that he or she considers appropriate on the licence.

6(5.2) The Director shall not refuse to issue a manager's licence for a reason other than that referred to in subsection (4) or impose terms and conditions on the licence without giving the applicant or holder of the licence an opportunity to be heard.

BACKGROUND

Licensing History

- [3] Ms. Shaddick has been the licensed manager since 8 July 2014.

Licensing Requirements

- [4] Section 3 of the Act stipulates that a person who wishes to undertake to provide or make provision for the funeral services of another person under a pre-arranged funeral plan must obtain a funeral provider's licence.
- [5] Subsection 6(1) requires a licensed funeral provider to employ a licensed manager at each location.
- [6] Subsection 6(4) requires the licensed manager to be licensed as a Funeral Director:

6(4) The Director shall not issue a manager's licence under subsection (3) unless the applicant is licensed as a Funeral Director under the Embalmers, Funeral Directors and Funeral Providers Act.

- [7] Subsection 6(6) sets out the following requirements of the licensed manager when acting on behalf of a licensed funeral provider:

6(6) For the location at which a licensed manager acts on behalf of a licensed funeral provider under subsection (1), the licensed manager

(a) shall represent the licensed funeral provider in all matters relating to its licensed activities under this Act,

- (b) shall be responsible for the operation of the business of providing funeral services under pre-arranged funeral plans,*
- (c) shall ensure that the licensed funeral provider maintains books, records, accounts and documents in accordance with this Act and the regulations, and*
- (d) shall ensure that a person licensed as a Funeral Director under the Embalmers, Funeral Directors and Funeral Providers Act and provided with the authority to do so by the licensed funeral provider, enters into pre-arranged funeral plans on behalf of the licensed funeral provider.*

Compliance Review of Funeral Provider

- [8] The Commission performs regular compliance reviews of licensed funeral providers under their authority granted by section 30.12 of the Act.
- [9] The most recent compliance reviews of the licensed funeral provider were undertaken in March 2022, July 2023 and August 2024.
- [10] On the 19 and 20 of August 2024, Commission staff conducted a compliance review of the licensed funeral provider. This review identified several concerns, including:
1. Funds received by the licensed funeral provider had not been deposited into the trust account in the preceding eight months, as required by section 12 of the Act.
 2. Significant compliance recommendations made over the course of five separate compliance reviews since 2015 had not been implemented.
- [11] Commission staff estimated that funds totalling \$63,877.27 were missing from the trust account. Most of this money was being held in the licensed funeral provider's operating account. Ms. Shaddick's explanation to Commission staff was that the financial institution had a freeze on deposits and the licensed manager was advised she was not allowed access to deposit funds in trust. However, Commission staff had been copied in email correspondence between the financial institution and Ms. Shaddick that indicated the trust account was fully operational during the time in question.
- [12] On 21 August 2024, Commission staff provided Ms. Shaddick a breakdown of the \$63,877.27 missing from the trust account and requested Ms. Shaddick deposit the funds in trust by the 23 August 2024.
- [13] Ms. Shaddick provided proof of deposit on 23 August 2024.
- [14] Ms. Shaddick was unable to provide written evidence from the financial institution that there had been a freeze on deposits and that she had been instructed that she did not have access to make trust deposits.

RECOMMENDATION

- [15] On 27 November 2024, Ms. Shaddick was notified by letter that Commission staff had reviewed her compliance history since March 2022. Staff noted ongoing instances of non-compliance, particularly with respect to trust fund management. Commission staff indicated they were concerned with Ms. Shaddick's integrity and accountability in the role, despite extensive support and education provided by Commission staff. Given the severity of the compliance issues and repeated demonstrations of incompetence and untrustworthiness, Commission staff were recommending that the Director cancel their manager's licence.
- [16] The letter advised Ms. Shaddick that she was being provided with an opportunity to be heard before the Director with respect to the recommendation. The letter advised of:
1. a right to legal counsel.
 2. a right to be heard in either official language.
 3. a right to disclosure of information related to the licensing recommendation, and
 4. that the opportunity to be heard was her opportunity to provide any additional information or rationale to aid the Director in determining their licensing status.
- [17] On 3 December 2024, Ms. Shaddick acknowledged receipt of the letter. Staff engaged in a series of email exchanges with Ms. Shaddick, providing details about the hearing process and her rights. Subsequently, on 5 December 2024, Ms. Shaddick formally requested an opportunity to be heard in person. On 11 December 2024, Commission staff confirmed that the hearing was scheduled for 18 December 2024.

Opportunity to be Heard

- [18] A Senior Compliance Officer and a Compliance Officer for Consumer Affairs were in attendance on behalf of the Commission.
- [19] At the start of the opportunity to be heard, the Director reviewed the following:
- The purpose of the opportunity to be heard was in relation to Ms. Shaddick's licence as a manager for the licensed funeral provider.
 - The recommendation that had been made by staff in their letter of 27 November 2024 included a list disclosing the information that had been relied upon in making the recommendation.
 - That Ms. Shaddick has a right to disclosure of this information.
 - 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 other consumer legislation, including licensing and compliance 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 (s.6(5))

- iii. licence cancellation (s.28(2)), which will mean suspending the funeral providers licence (s. 28(3)) and freezing the trust account until a new manager is licensed (s. 15(4))
 - Ms. Shaddick was also advised of the legislative requirement that licence cancellation requires newspaper publication, pursuant to subsection 28(10).
- [20] Ms. Shaddick attended the opportunity to be heard alone and was reminded that legal counsel could be present.
- [21] During the opportunity to be heard, the Senior Compliance Officer provided a summary of Commission staff's concerns and the basis for them, including that:
- there was ongoing non-compliance with trust fund management, deposits and record keeping.
 - issues persisted and became more severe despite coaching from Compliance staff.
 - trust fund mismanagement during the transition of moving the trust account to a new financial institution showed a lack of oversight and required extensive intervention and follow-up from our office.
 - trust funds received from August 2023 to August 2024 totalling \$63,877.27 were not deposited into trust but rather held in an operating account.
 - when the trust account funds were moved from Scotiabank to UNI, a discrepancy of \$4,752.79 went unresolved for over one year.
 - the funeral provider went several months without an active trust account.
 - there were actions that the Commission staff believed were an attempt to stall the compliance review process.
 - there was a recurring history of incomplete or unavailable records during compliance reviews.
 - the completion of response documents in 2022 and 2023 were significantly delayed and required numerous extensions and multiple follow-up efforts by the Commission staff.
 - numerous follow-ups and interventions were needed to address unresolved issues.
 - Ms. Shaddick failed to take timely corrective actions despite acknowledging the severity of the violations and the risk of licence suspension.
- [22] Ms. Shaddick was then provided with the opportunity to speak. Ms. Shaddick indicated that she took accountability for a lot of the issues. She is the only manager, and she is on her own. She recognized issues with proper record-keeping but indicated that there was never any malicious intent or missing funds.
- [23] Ms. Shaddick indicated frustration with the process of transferring trust funds from Scotiabank to UNI (required as a result of Scotiabank choosing to discontinue trust services). She indicated that she had been told by the financial institution(s) that the transfer of funds would be seamless. She believed that Scotiabank had it under control and would send the trust funds to UNI. She indicated that there was a lot of back and forth and a lot of work on UNI's end. Regardless of what information Ms. Shaddick sent the financial institution; it wasn't enough.
- [24] The licensed manager indicated that after Scotiabank closed the licensed funeral provider's trust account, there was a delay with opening the new trust account with UNI. Because of this delay,

Ms. Shaddick was unable to produce statements for this period for review (there was no account, therefore there were no statements).

- [25] Ms. Shaddick indicated that the rightful owners of the \$4,752.79 discrepancy had been identified (two weeks prior to the opportunity to be heard).
- [26] Ms. Shaddick indicated that she had understood that UNI wanted the licensed funeral provider to pause and wait on using the trust account, because of the \$4,752.79 discrepancy. Ms. Shaddick thought she could resume depositing into trust once the trust figures were sorted out. Ms. Shaddick indicated that this is why she had deposited trust funds into the operating account. Resolving this issue took longer than she thought. She indicated that there was never a malicious intent to keep funds – she didn't have a holding account to keep the money in. Ms. Shaddick indicated that she was unable to locate an email from the financial institution to confirm that she could not deposit funds into the trust account during this period.
- [27] Ms. Shaddick took full accountability for ledgers and books not being up to date. She indicated that the funeral provider's call volume has increased in the last 3 years (increased by at least 20 calls per year). Bookkeeping was put on the back burner while accommodating the families. She indicated that this has been a contributing factor to the delays.
- [28] Ms. Shaddick denied trying to stall or push the compliance review. Ms. Shaddick indicated that she is the only person that looks after the bookkeeping. They have an apprentice, but they wouldn't know where to find records. Ms. Shaddick thought she had to be present for the review to answer questions. Ms. Shaddick acknowledged that if everything (the records and trust account) had been up to date, it would have been easy.
- [29] Ms. Shaddick's father is the owner of the funeral home. Ms. Shaddick indicated that things are "backed up", but they are trying to get everything "sorted out". Ms. Shaddick and the owner have had a conversation about needing help. They are both trying to get Ms. Shaddick help with the workload. She indicated that they are in the position to hire a full-time office administrator. They are hiring someone in January. She shared that they have also purchased new (accounting) software for the funeral home. Ms. Shaddick's mother has recently retired and has been working part-time at the funeral home to help assist in catching up.
- [30] Ms. Shaddick indicated that she had asked for the opportunity to be heard to let us know she wasn't trying to be deceitful. She advised she takes pride in holding her licence and in her position at the funeral home. Ms. Shaddick admitted that the evidence sheds a different light on her character. She will respect whatever decision is reached and would be grateful for some time to get things sorted out.
- [31] Ms. Shaddick was asked about the status of other employees at the funeral home. Ms. Shaddick indicated that her father is a licensed funeral director, her sister will be licensed as a funeral director in the next month or so, and their apprentice will be licensed as a funeral director in the spring of 2025.
- [32] When asked if the licensed funeral provider had sold any new contracts since its last review in August 2024, Ms. Shaddick indicated that she had sold one or two and that the funds had been deposited into trust.

- [33] When asked if Ms. Shaddick felt she was meeting the requirements of the Act, Ms. Shaddick indicated that since 1 November 2024, they are “more caught up than ever” and that her mother’s assistance with the paperwork has got them there.
- [34] During the opportunity to be heard (as well as in a follow up email the same day), Ms. Shaddick was asked to produce:
- Monthly bank statements from August 2024—December 2024.
 - Records of any withdrawals made from the trust account from August 2024 to December 2024.
 - Records of any partial payments made from August 2024 to December 2024.
 - Records for any new pre-arranged contracts entered since August 2024 (with accompanying receipts).
- [35] Before concluding the opportunity to be heard, Ms. Shaddick was provided with the opportunity to provide any further information she felt was necessary or that could help inform the Director’s decision. Ms. Shaddick reiterated that she is taking the matter seriously and that the licensed funeral provider has new staff and resources. The funeral provider hired a new accountant last year who was finalizing the 2023 financial statements. She indicated that it should only then take a couple months to finalize the 2024 financial statements and that going-forward, trust account reconciliations would be done monthly by the accountant.
- [36] Ms. Shaddick asked for terms and conditions to be considered on her licence as opposed to licence cancellation. She suggested she could report every 30 days to the regulator by sending documents (receipts or contracts and the monthly trust statement).
- [37] At the conclusion of the hearing, Ms. Shaddick was advised that the Director would be evaluating all the information previously disclosed, the information she provided during the hearing, along with the follow up documentation requested during the hearing. This information would be used to make a decision regarding her licence.
- [38] The Director referred to the previous list of potential outcomes:
1. maintain licence
 2. licence with terms and conditions (s. 6(5))
 3. licence cancellation (s. 28(2)), which will mean suspending the funeral providers licence (s. 28(3)) and freezing the trust account until a new manager is licensed (s. 15(4))

and advised of her right to appeal if she is dissatisfied with the Director’s decision. The Director advised that after reviewing all the information that had been provided during the opportunity to be heard, the Director may perform some follow up.

- [39] To support Ms. Shaddick’s oral testimony, the Director followed up with Ms. Shaddick via email later the same day. Ms. Shaddick was asked to provide the information outlined in paragraph 34 above. Ms. Shaddick was also asked to have the owner of the funeral home (the licensed funeral

provider) confirm in writing by 10 January 2025, the following statements made by Ms. Shaddick at the hearing:

- That a new accountant has been engaged and has taken over the preparation of financial statements and will be assisting in reconciling monthly accounts, including the name of the accountant and/or accounting firm, and date of engagement.
- That someone has been assisting on a part-time basis with office administration for the funeral home, including the employee's name and the commencement date of employment.
- That the funeral home is in the process of hiring an office administrator, including what stage of the hiring process the funeral home is at, potential candidate's names (if applicable) and the anticipated start date.

Ms. Shaddick was advised that this information must be submitted by 10 January 2025. If not received by this date, a licensing decision will be rendered based on the information on file.

[40] Via email on 9 January 2025, Ms. Shaddick provided the following:

- 15 separate deposits confirmations, for deposits since August 2024
- A letter dated 8 January 2025, signed by the (owner) licensed funeral provider
- Three Receipts (numbered 276 through 278).
- Six separate trust deposit confirmations dated between 2-6 January 2025.
- Two trust withdrawals.

[41] The 8 January 2025 letter from the licensed funeral provider:

- confirmed that the accounting firm of Allen, Paquet & Arseneau had been assisting with their accounting needs, including completing their financial statements. The accountants will be keeping their financial records accurate moving forward. The letter did not specifically indicate that the accountant will be assisting in reconciling monthly accounts, and did not confirm the date of engagement.
- confirmed someone has been assisting on a part-time basis with office administration for the funeral home, but that they have not been officially hired as a part-time employee.
- indicated that they would like to hire a person to handle the day-to-day office needs, however it has been challenging to find the right fit. The candidate they had in mind was not able to fully commit, but they do intend to fill the position in the near future.

[42] On 10 January 2025, Ms. Shaddick provided a further email with details and documentation to support a pre-arranged funeral contract that was transferred from another funeral home.

[43] The submissions provided by Ms. Shaddick to support the trust account activity from August to December 2024 was insufficient.

[44] On 15 January 2025, the Director emailed Ms. Shaddick to advise that a review of the submitted documents had been completed, and that insufficient backup had been provided. The following documents were requested:

1. All receipts written for funds received between August 1 and December 20, for both full and partial payments made.
2. All pre-arranged contracts prepared since August 1, including for [client A], along with any/all receipts issued.
3. An updated pre-arranged contract ledger.
4. Updated partial payment ledgers for clients that made partial payments between August 1 and December 31, including for [client B and client C].
5. File documentation for the late [client D] and the late [client E] supporting funds withdrawn in December, such as copies of their contracts, statements of death, invoices and evidence showing the date the contract was fulfilled i.e. services performed.

Ms. Shaddick was advised that this information must be submitted by 22 January 2025. If not received by this date, a licensing decision will be rendered based on the information on file.

[45] Via email on 21 January 2025, Ms. Shaddick provided eight separate emails, containing:

- three contracts,
- two proof of death certificates,
- August deposits,
- two partial payment ledgers, and
- an updated pre-arrangement ledger.

[46] Via email on 22 January 2025, in six separate emails, Ms. Shaddick provided four contracts, and two receipts.

[47] On 27 January 2025, Ms. Shaddick was advised via email that a review had been conducted on the submissions and that based on the records provided it appears that the trust account is short \$350. This was based on the partial payment ledger provided for one contract valued at \$7,406. The partial payment ledger showed a balance owing of \$3,756. This indicated that payments totalling \$3,650 should be in trust. Deposits in the trust account total only \$3,300. Therefore, a difference of \$350 appeared to still be owing in trust. Ms. Shaddick was advised to reconcile the partial payment ledger, receipts, and trust deposits by 31 January 2025, and advise of her findings. Should the trust account be under funded, funds must be deposited immediately, and proof of deposit must be provided. Ms. Shaddick was further advised that the process of rendering a decision regarding their licence was underway. She was advised that if she provided the requested information by the 31 January 2025 deadline, it will also be considered before a decision would be made regarding her licence.

[48] On 30 January 2025, Ms. Shaddick responded regarding the \$350 discrepancy. Ms. Shaddick advised that the correct amount of the deficiency is \$250. Ms. Shaddick indicated that the ledger was incorrect and provided an explanation along with copies of all receipts and deposits, along with evidence of the amount transferred from Scotiabank to UNI. On the same date, Ms. Shaddick sent an email to UNI advising of the deficiency and advised that, if necessary, the \$250 could be taken from the licensed funeral provider's operating account.

[49] On 19 February 2025, Ms. Shaddick advised via email that she would have the \$250 transferred from their operating account to their trust account.

- [50] On 21 February 2025, Ms. Shaddick was advised by letter, sent via email, of the Director's decision to place terms and conditions, along with an undertaking on the licence (as described in paragraphs 82 and 83 below). Ms. Shaddick was advised that reasons for decision would follow.
- [51] On 25 February 2025, Ms. Shaddick emailed a receipt to show that the \$250 had been deposited into the trust account on 20 February 2025.

THE COMMISSION'S MANDATE AND APPLICABLE LAW

- [52] 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...*"
- [53] 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*.
- [54] 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.
- [55] Subsection 28(2) of the Act provides the Director the authority to suspend or cancel a manager's licence if the Director is satisfied that Ms. Shaddick has violated or failed to comply with the Act, has made a statement in any information or material submitted to the Director that is misleading or untrue, or has demonstrated incompetence or untrustworthiness in the business of providing pre-arranged funeral plans.
- [56] Subsection 6(5) provides the Director the authority to restrict a manager's licence by imposing terms and conditions considered appropriate on the licence.

DUTIES AND OBLIGATIONS OF LICENSED MANAGER

- [57] Prior to suspending, cancelling or imposing terms and conditions on a licensee, the Director must consider the appropriateness of any action taken. In making this determination, it is necessary to consider the mandate of the Commission and whether the licensee is meeting their legislative obligations in holding a licence and if there are any public interest concerns to consider.
- [58] Consumer protection as a mandate creates an obligation on the Director to ensure the public interest is protected. The Director must ask whether issuing or continuing a licence leaves consumers exposed to a risk of harm or exploitation? The Director must consider minimizing and mitigating the risks to the public stemming from the practice of licensing the individuals that wish to operate in the regulated areas.
- [59] The Director must evaluate the nature and seriousness of the allegations that led to the recommendation. The Director will weigh the information presented in conjunction with the allegations and will look to the behaviour and the conduct of the licensee.

- [60] The Director is mindful that there must be a balance between two important considerations: one being the underlying rationale of consumer protection legislation, to protect the public interest and reputation of the pre-arranged funeral industry; while the other is the consideration of the professional and financial consequences to the licensee of a decision to revoke (or to not grant) a licence.
- [61] The Director's review must take into consideration the specific legislative requirements that are imposed upon the licensed manager, by virtue of them being responsible for the operations of the licensed funeral provider's ability to provide pre-arranged funeral services.
- [62] Under subsection 6(6) of the Act, the manager is responsible for the operation of the business of providing funeral services under the pre-arranged funeral plans and ensuring the licensed funeral provider maintains books, records, accounts and documents.
- [63] The following legislative requirements outline some of the responsibilities the licensed funeral provider must adhere to in managing trust funds:
- Section 10 - they are entitled to money paid under a pre-arranged plan as a result of providing the funeral services or portion of the funeral services contracted for under the plan;
 - Section 12 - money held in trust under a pre-arranged funeral plan shall be deposited into trust within 10 working days;
 - Section 13 - within 15 working days after depositing money into trust, they shall obtain proof of deposit and provide a copy to the purchaser; and
 - Section 15 - they shall not withdraw the money unless they have provided the funeral service or portion of the funeral service, or the plan has been terminated, cancelled, or discontinued.
- [64] Subsections 30.1(2) and 30.1(5) of the Act and subsection 12(2) of General Regulation 88-32 set out the requirements in terms of the licensed manager's responsibility to maintain proper records.

ANALYSIS

- [65] Ms. Shaddick has been responsible for managing the funeral provider's pre-arranged affairs for 10 years. There has been a recurring theme across all compliance reviews:
- Trust reconciliation failures - Monthly trust reconciliations have not been performed consistently since 2015, despite repeated commitments to do so from Ms. Shaddick.
 - Improper record-keeping – There have been ongoing issues since 2017, including missing or incomplete trust statements and ledgers.
 - Late or missing deposits – Funds have not been deposited within the required 10-working day period, with some deposits delayed by over six months or not deposited at all.

- Premature withdrawals – Funds have been withdrawn from trust before services were performed, a violation noted repeatedly since 2011.
- Non-compliance with trust account requirements – Delays and lack of responsiveness in transitioning the trust account to UNI in 2023, resulting in funds being held improperly in an operating account, or not being deposited at all.

- [66] In response to each compliance review, Ms. Shaddick made commitments to improve her compliance but has not followed through. In 2022, she used issues with her financial institution and the pandemic as excuses for continually withdrawing funds early from trust.
- [67] In 2023, Ms. Shaddick demonstrated continued non-compliance when she failed to reconcile the trust account, continued to make deposits late, and withdrew funds early. She failed to provide the required information to UNI in order to have the trust account properly set up. She continued to demonstrate a lack of follow through on her commitments.
- [68] In November 2023, UNI advised Ms. Shaddick that they were unable to identify the owner of \$4,752.79 that was transferred from Scotiabank. By April 2024, UNI sought the Commission's assistance to resolve the outstanding issue with Ms. Shaddick. The Commission was involved in a series of 27 emails between the financial institution and Ms. Shaddick between April and November 2024, before the issue was rectified.
- [69] In 2024, Ms. Shaddick failed to deposit \$63,877.27 into trust. She made contradictory statements about UNI's acceptance of trust deposits and she attempted to cancel a compliance review at the last minute, despite prior notice.
- [70] Ms. Shaddick has demonstrated both administrative and communication failures. Each compliance review has required extensive follow-up (17+ emails per review over the course of several months) to obtain the necessary documentation.
- [71] Ms. Shaddick has not been prepared for compliance reviews, despite advanced notice. In terms of the August 2024 review, Ms. Shaddick stated that she was not trying to stall or push the review. She claimed that she thought she had to be present for the review. Ms. Shaddick had indicated that she was sick and that the owner was not available and the review would need to be rescheduled. Yet the owner of the funeral home was on-site and welcomed the Commission staff into the funeral home. The compliance review was scheduled to take place on a Monday morning. Ms. Shaddick attempted to cancel the evening before, claiming she was unexpectedly sick. Yet, the records were not available for review, despite the advanced notice and the last-minute cancellation.
- [72] Ms. Shaddick made inconsistent statements about her use of the trust account. There were contradictions between her claims and documented communications with both UNI and Commission staff.
- [73] Ms. Shaddick shifted blame to the financial institution for delays in opening and reconciling the trust account, despite clear evidence of internal disorganization and failure to act.

- [74] Overall, there are numerous reasons to have concern about Ms. Shaddick's competence and oversight of the licensed funeral provider's regulatory duties. Even with part-time help and a claim of improved organization, Ms. Shaddick failed to provide complete and organized documentation. It took 21 emails between Ms. Shaddick and Commission staff for her to submit sufficient evidence of 5 months of trust activity, during which there were very few transactions.
- [75] There is a clear lack of understanding by Ms. Shaddick of her legislative requirements. This has persisted despite increased compliance reviews and assistance from Commission staff on various issues. Statements made during the opportunity to be heard suggest a fundamental misunderstanding of trust fund obligations.
- [76] Ms. Shaddick has failed to improve compliance with the legislative requirements, despite numerous warnings and guidance from Commission staff. Persistent compliance issues over a decade, with no sustained corrective action raises serious concerns about Ms. Shaddick's ability to fulfil her legislated managerial responsibilities.
- [77] Since 2022, the compliance issues identified at each compliance review have resulted in concerns of elevated risk to consumers of pre-arranged funeral services and resulted in a need for more frequent compliance reviews.

DECISION OF DIRECTOR

- [78] Ms. Shaddick has brought into question her competence and trustworthiness through continued trust account issues, her insufficient record keeping and lack of responsiveness to the regulator. The Director must consider if she has fallen short of the competence and trustworthiness necessary to maintain her manager licence or, alternatively, if there are appropriate terms and conditions that could be placed on the licensees to properly protect consumers?
- [79] The licensed funeral provider must have a licensed funeral director to manage the sale of pre-arranged funerals. At the time of the opportunity to be heard, the funeral provider had two licensed funeral directors: the current licensed manager and the owner. The owner had previously been manager and had transferred the management duties to the current licensed manager. The funeral provider also had two additional apprentices who were expected to receive their funeral director licences within the next six months. Due to their limited experience, these apprentices do not seem suitable to replace the current manager.
- [80] The best indicator of future behaviour is past conduct. Ms. Shaddick has made serious and repeated mistakes. However, the Director believes that she should be given a chance to demonstrate she can improve with assistance. The Director recommends terms and conditions on her licence (s. 6(5)).
- [81] Ms. Shaddick needs assistance managing the trust account. She should be required to send monthly updates to the Commission. These reports should confirm that trust reconciliations are being done, deposits are made on time, and records are complete and accurate.

ORDER

[82] On 21 February 2025, the Director advised that after careful consideration, she had concluded that for Ms. Shaddick to maintain her licence to act as the manager, the best course of action is for the manager's licence be restricted with the following terms and conditions:

- Filing with the Director within 30 days of month end, monthly bank statements of the trust and operating account(s), including bank reconciliations, trust ledger and all other related record keeping. These filings must be reviewed, signed and dated by the licensed manager.
- Notifying the Director, without delay, of any shortages within the trust account and providing supporting documentation indicating reason for shortage and corrective actions taken to immediately correct deficiency.

[83] The Director also requires a signed undertaking committing to:

- Provide written confirmation from Donna Sturgeon of Allen, Paquet & Arseneau, Chartered Professional Accountants, on or before 14 March 2025, that, at the funeral provider's own expense, Allen, Paquet & Arseneau will provide assistance to the licensed manager with monthly reconciliation of the trust account and trust liabilities.
- Submit the 2023 annual financial statements by 31 March 2025.
- Submit the 2024 annual financial statements by 31 May 2025.
- On an ongoing basis, provide annual financial statements, no later than 120 days after the end of each fiscal year.

[84] These conditions will remain in place until the expiration date of the current licences and will continue on future licences until otherwise determined by the Director.

[85] Should the terms and conditions and/or undertaking not be fulfilled the Commission may exercise its discretion under section 28 to cancel the licence or pursue penalties under section 30.71.

[86] If Ms. Shaddick is dissatisfied with this decision, she 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 the Decision. The New Brunswick Energy and Utilities Board can provide their Rules of Procedure or answer any questions regarding the hearing process.

Dated this 6 day of June 2025.

Original decision signed by Alaina M. Nicholson

Alaina Nicholson
Director of Consumer Affairs
Financial and Consumer Services Commission