

MINUTES
BOARD OF FUNERAL, CEMETERY AND CONSUMER SERVICES
October 1, 2015 - 10:00 A.M.
Embassy Suites Fort Myers - Estero
10450 Corkscrew Commons Drive
Estero FL 33928

1. Call to Order, Preliminary Remarks and Roll Call

Mr. Jody Brandenburg, Chair called the meeting to order at 10:00 am. Mr. Shropshire, will you make your opening remarks and do the roll call, please?

Mr. Doug Shropshire – Yes, Mr. Chairman. My name is Doug Shropshire. I am Director of the Division of Funeral, Cemetery, and Consumer Services. Today is October 1, 2015; the time is approximately 10:00am. This is a public meeting of the Board of Funeral, Cemetery and Consumer Services. Notice of this meeting has been duly published in the Florida Administrative Register. An agenda for this meeting has been made available to interested persons. The meeting is occurring at the Embassy Suites in Estero FL. My Assistant, Ms LaTonya Bryant, is recording the meeting and will be preparing minutes of the meeting.

Persons speaking are requested to identify themselves for the record each time they speak. Participants are respectfully reminded that the Board Chair, Mr. Brandenburg, runs the meeting. Persons desiring to speak should initially ask the Chair for permission. Participants are requested to keep in mind the necessary protocol that only one person may speak at a time. Please do not speak over one another.

At this time I will take the roll and Board members will please respond clearly with “present”, as preferred, when I call their name:

Joseph “Jody” Brandenburg, Chairman
Keenan Knopke, Vice Chair
Jean Anderson
Andrew Clark
Lewis “Lew” Hall
Powell Helm
Ken Jones
Richard “Dick” Mueller
Vanessa Oliver

ABSENT:

James “Jim” Davis

Mr. Shropshire – Mr. Chairman we have a quorum and the Board may proceed to address the matters on the agenda.

Also noted as present:

Tom Barnhart, Board Legal Advisor
Ellen Simon, Assistant Director
LaTonya Bryant, Department Staff
Deirdre Farrington, Department Counsel
Jasmin Richardson, Department Staff

Chair – All Board members, did you receive your agenda packet in a timely manner and able to review it?

Board Members – Yes.

Chair – Good. Thank you.

2. Action on the Minutes

A. September 3, 2015

The Chair confirmed that all Board members had read the draft of the minutes of the previous Board meeting held on September 3, 2015.

MOTION: Mr. Keenan Knopke moved to adopt the minutes of the meeting. Mr. Dick Mueller seconded the motion, which passed unanimously.

3. Old Business

A. Motion(s) for Reconsideration (Probable Cause Panel A)

- (1) Mitchell, Bernard: Case No. 110594-10-FC, Division No. SR1-624105065 (F043273) and Mitchell & Mitchell Mortuary: Case No. 129484-12-FC, Division No. ATN-16963 (F058023)*

Mr. Shropshire – Mr. Mitchell is here with his attorney. Mr. Mitchell, would you please come forward Sir? Counselor, would you introduce yourself, please?

Mr. Shawn Smith – Good Morning. I am Attorney Shawn Smith, on behalf of Mr. Bernard Mitchell.

Chair – Mr. Mitchell, would you please be sworn in?

Mr. Shropshire – Mr. Mitchell raise your right hand. Do you solemnly swear that the testimony you are about to give in this matter will be the truth, the whole truth and nothing but the truth so help you God?

Mr. Bernard D. Mitchell – So help me God.

Mr. Shropshire – Please state your full name, Sir.

Mr. Mitchell – My name is Bernard D. Mitchell.

Mr. Shropshire – Thank you.

Chair – Mr. Smith do you want to address the Board?

Mr. Smith – I would like to. Thank you.

Chair – Go right ahead.

Mr. Smith – Thank you so very much. Good morning. It is a pleasure to be here before this Board again. We are here, as it has been titled, for reconsideration. However, in reviewing the application and the statements and presentations made by Mr. Mitchell, I believe and I agree with Ms. Simon in the packet that she presented to you in that the best way to address the concerns and the issues that Mr. Mitchell had in regards to the Probable Cause Panel would have been through an appeal. However, I have reviewed the statutes in regards to the penalties and I believe a better presentation, which we would make to this Board this morning, is under Florida Statutes 497.153(5)(a)(8), and that is under the revocation and licensure statute. That particular statute indicates that before an individual may present an application before the Board that there needs to be clear and convincing evidence that he has been rehabilitated. As you have seen through the packet, Mr. Mitchell's final disposition was that of a permanent revocation. Florida Statutes 497.153(5)(a)(8) indicates that this body may either permanently revoke someone's license or permanently revoke and indicates a stipulation that that particular person cannot apply again for another license. In this particular case, Mr. Bernard Mitchell's license was revoked, however, there was no stipulation that he could not apply for a licensure. So, Mr. Mitchell is requesting this Court to, not this Court, this Body to approve an application that he has previously submitted to this particular body and I believe it is in a stagnant position as we speak. In the Florida Statute it indicates that in no event shall any person or entity that has been revoked under this section subsequently be issued the same or other licensure under this chapter unless such a person shall show by clear and convincing evidence that the person or entity has been rehabilitated or otherwise qualifies for licensure as applied for. What I would like to do now is acquiesce to

Mr. Mitchell so that he can speak to this Court regarding his rehabilitation and the things that he has done since this Court, this Body revoked his license back in 2011.

Chair – Thank you Mr. Smith.

Mr. Mitchell – First let me say I made mistakes and I believe that perhaps others have made mistakes. I have regretted deeply of the mistakes that I made with my hands. I have been forgiven by my family, my wife and my God, most of all. Many nights I have not slept well because of the error that I made. I tried to make amends early in the situation. I contacted, I did not contact, but my attorney, Wesley Blankner, contacted the office in Orlando and stated our position. We regretted then in 2009 to make amends. Whatever monetary they said that I owed, we were ready to do it at that time but we were told that it was out of the hands of the Division and that we had go through the victim, which we attempted to do. I was sentenced, in court. I stood there in front of many friends and enemies as well. I accepted the punishment and I am still accepting the punishment because I believe any time anybody does anything wrong he should be punished but when a man is willing to admit his mistake early, I think whatever penalties that he would face should not be so harsh. Being permanently revoked not only hurt me, it hurt my family and it hurt those who surround me in working. It took money and food off their tables, especially during the Christmas season. It hurt them financially. Yes, I take the blame and yes I have made amends with most people in my community. I have at this time eighteen (18) character letters. Someone, on my behalf, took it upon themselves to go out into the community to solicit and it was addressed to Mr. Doug at the time in reference to me being a threat to the community of Sanford. They went out and collected over three hundred (300) signatures stating that I am not a threat to the community and that yes I should accept the punishment, but also the punishment should not have been as hard and harsh as it was. I have been involved in my community. Recently I sat on a panel trying to target poverty areas in the Georgetown and Goldsboro District. I have volunteered my time and I have supported a walk that will be done on October 14th in memory of Mary Alice, a woman who died from Alzheimer's disease and other conditions. Her son is putting on an event and I am a co-sponsor of that. There are other things I have done within my community to rehabilitate myself. Again, I just want to say yes, I was wrong, yes this Board should have punished me, but no, the Board should not have punished me in the manner in which it was done. I am this morning that you would reconsider and give me a chance not only to prove to this Board that I am worthy of reconsideration but am worthy to continue to work within my community. If you can do that for me, my lifelong dream will be fulfilled.

Chair – Thank you Mr. Mitchell. Mr. Smith?

Mr. Smith – Mr. Mitchell also did bring with him a Mr. Harris who traveled with him and can also corroborate the statements of Mr. Mitchell and can also attest to his rehabilitation. Now, in reviewing the statute, the question may be asked why does the permanent revocation that was provided to Mr. Mitchell in 2011 not prevent him from coming back now for a reapplication. There are two (2) things I want to make in reference to that. The statute specifically reads that there must be a permanent revocation and he cannot apply again. In fact this same body in 2014 in a case having similar situation arise in reference to penalties in Idalmis Soca, Case No. 146377-14-FC. In this particular case it was approved by this body that revocation would be necessary for Ms. Soca. In fact, during the discussion, Mr. Helm questioned whether or not there could be something more in addition to the revocation and it was brought up by Mr. Shropshire at that particular time that something more could be done, which would have been revocation and them being disqualified from applying again. In Mr. Mitchell's particular case, there was only a permanent revocation, not a stipulation that there was a permanent revocation and that he could not apply again, which is why Mr. Mitchell is back before this Board seeking that they process his application and also approve his application based upon his rehabilitation. Also, I want to make mention again as he indicated that the restitution has fully been paid. There have been no issues with him in regards to him being on probation. He has abided by all of the conditions of the court and so again I think that shows what type of person he is in addition to the three hundred (300) signatures he got and the letters that were provided to this Board in regards to his rehabilitation. So with that I ask this Board to approve Mr. Mitchell's application for his funeral license.

Mr. Shropshire – Mr. Chairman may I clarify? Counselor, there is no application before the Board at this time. You are before the Board on a motion to reconsider the permanent revocation. That is my understanding of the status of the matter.

Mr. Smith – I spoke to Mr. Mitchell in regards to his application. He indicated to me that he sent in that application in July of last year. I do not know if that application has been presented to the Board, but in speaking with Mr. Mitchell, I indicated to him that that would be the proper avenue, proper arguments to make before this body referencing his application rather than

a reconsideration over issues that have been litigated four (4) or five (5) years ago. So it was with that that we wanted to present to this body the application that he presented in July 2014. If I could, just allow him to speak more specifically on that issue.

Mr. Mitchell – I did make an application. Last year I was speaking with Mr. Miller when he was the Assistant Director. I had spoken with him several times, sent him several letters and he responded back through an email telling me that I needed to sign the letter, because we emailed it to the Division, in order for it to be looked at and processed. During my conversation with him, he had said not to send in letters for reconsideration, just do the application. On November 17th, Ms. Jasmin had sent me a waiver to sign. On November 18th, I got a call from Ms. Simon saying disregard the application because you need to make a motion to go before the Board, which we have done. One other additional thing I want to say. I think it is very good, like I said earlier, when a man makes a mistake he needs to own up to it and stand firm that yes he made a mistake. From January 2014 up through August 2015, there were several people who made applications for funeral director and embalmers licenses who had criminal history and each one of those persons was approved, and that is why I am asking this morning. I made a mistake, yes and I am asking you all to reconsider the punishment that was placed upon my head.

Chair – Board members, I call your attention to page four (4) of your electronic and the paragraph that starts “At the hearing before the Board Mr. Mitchell offered to relinquish his license as opposed to receiving disciplinary action. The Board declined to allow him to relinquish his license. In point of fact, after considering the circumstances, the Board ordered that Mr. Mitchell’s license be permanently revoked. The Final Order reflecting the Board’s decision was filed September 13, 2011.” That was the Board’s response to his offer to relinquish his license. Before us today, we can either accept or deny reconsideration. So that is what is before us now, whether we deny or reconsider. The Chair will entertain motions.

Mr. Knopke – May I ask our attorney a question first?

Chair – Yes.

Mr. Knopke – Mr. Barnhart, in reading through the packet, back when it went before Probable Cause Panel A back in 2009, I was on Probable Cause Panel A. Do I need to recuse myself at this point?

Mr. Tom Barnhart – I do not think so because the action has already been taken in the Final Order, so this would be like a post-proceeding so I think you are fine.

Mr. Knopke – Ok, I just wanted to make sure.

Mr. Lew Hall – Mr. Mitchell, first of all, I would say to you that I felt like you scolded the Board because some of your employees lost their wages and stuff at Christmas time and those types of things. That was not because of the action of the Board. That was because of your actions, so I want to make sure that you are clear on that.

Mr. Mitchell – Yes sir, you are right.

Mr. Hall – The other thing that is concerning to me is that you keep saying that I made a mistake, but it was actually fourteen (14) felony mistakes here in the records. It was not one (1) time. It was multiple felony charges. I would agree with the Chair and the people here that we went back and did not suspend the license because we wanted a permanent revocation of it. I think permanent is what that means. That is my concern on it because of the seriousness of what happened here. Out of curiosity though, it is my understanding if I remember right, at your hearing did Ms. Wilson not come in and pick up that \$50k and reestablish it back into the trust to make it whole? Is that correct? I believe she came to that meeting and paid that. Did she not to make the trust whole?

Mr. John Rudolph (representing Ms. Wilson at the time) – She did it out of her personal account.

Mr. Hall – Was that reimbursed to her?

Mr. Mitchell – Actually it was \$60k. May I add a little more to that?

Chair – Mr. Hall, are there any other comments?

Mr. Hall – Well my question was, did you reimburse that to her personal funds?

Mr. Mitchell – Yes sir. It was reimbursed a month ahead of me being sentenced. If the Board feels like I have been scornful, please accept my apology. Sometimes I know I get excited when I talk and it may sound like I may be arguing or doing as you said, but no that is not in my heart to do anything like that. So please accept my apology, if you felt that way. Then one other thing I would like to say. During this process and I do not know why Ms. Simon did not send in everything that I sent to her, I never received a Notice for a written complaint to respond. I never received that. I talked with Mr. Doug, I talked with Anthony Miller and I talked with Ms. Simon in reference to that. No one has given me a definite answer as to why that was never done. I have owned up to my mistakes. I mentioned to Ms. Simon when I first talked to her, yes I was wrong, but it appears that the Board has been wrong for not sending me that notice for me to respond to.

Chair – Thank you. Is there a motion?

Mr. Powell Helm – Several times there has been mention about him reapplying and Mr. Shropshire’s comment was that there was no application before the Board so we are only dealing with reconsideration and nothing to do with an application?

Mr. Shropshire – Mr. Helm, Mr. Mitchell has submitted an application as he has indicated. He has been told though that we cannot consider it because of the permanent revocation. In order for us to consider it you are going to have to get the Board to reconsider.

Mr. Helm – Thank you. I understand.

Mr. Smith – As I argued through my statements, my reading of Florida Statute 497 indicates that this Board can address an application because there was no stipulation in his Order indicating that it was permanent and that he could not reapply. My distinction in that is that a permanent revocation without that additional language basically means that same thing. There has been a permanent revocation of which he can apply for but he has to show through clear and convincing evidence that he has been rehabilitated. Without that specific language, my position would be that he can apply, but with that specific language I would agree that he could not reapply.

Mr. Barnhart – I understand your argument but the Board members have not seen the application so we would not be able to do anything about that at this meeting. We just have the motion for reconsideration before us this morning.

Mr. Mueller – Mr. Chairman it is my belief that there is no motion on the floor. Is that correct?

Chair – There is no motion on the floor.

Mr. Mueller – In the absence of a motion, no action will be taken, correct?

Mr. Barnhart – Technically that is true but this has been noticed and I think the Board should take a vote on the motion for reconsideration.

Chair – There has been no motion to deny the reconsideration or no motion for reconsideration.

Ms. Vanessa Oliver – I was wondering if staff has researched the matter raised by Mr. Smith regarding whether or not we would have to approve a motion to reconsider in order to process the application. Does staff have an opinion and could explain?

Mr. Shropshire – The Division’s understanding of the statute is that it is quite clear that we cannot consider an application once there has been a permanent revocation within the meaning of Chapter 497, F. S., unless and until the Board reconsiders the matter.

Mr. Hall – If an individual had a license, and it came up for renewal, with fourteen (14) felony counts, it would not be renewed anyways, correct?

Mr. Shropshire – That would be the Board’s decision. The Board would have to consider it and find that notwithstanding that criminal record he should be renewed.

Mr. Andrew Clark – There was some discussion about whether to go this route or appeal. Can you clarify? Did you say you spoke with the Division and they advised you to come before the Board as opposed to an appeal?

Mr. Smith – My understand was from Mr. Mitchell that the proper venue to address the complaint issue in regards to the original probable cause hearing would have been via an appeal to allege through an appeal that he did not receive the original complaint and therefore due process was not followed. My reading of the law is in agreement with Ms. Simon’s in that an appeal would probably been necessary but my position before this Board this morning is that under Chapter 497, F.S., in order to get a license again, the application must be made and that he must show before this Board that he has been rehabilitated. So it is our position that he has made an application. I understand that the Board is saying that the application is not before you this morning, so my suggestion would be to table it until the Board has that application in front of them so that they can address the application.

Mr. Helm – I am very sorry for the circumstances but I believe this Board did what they needed to do and did the correct thing.

MOTION: Mr. Helm moved to deny the request for reconsideration. Mr. Hall seconded the motion, which passed unanimously.

B. Request(s) for a Modification of a Stipulation Order
(1) Gallaher, John: Case No. 157224-14-FC; Division No. ATN-22598 (F042170)

Mr. Shropshire – This is a request for a Modification of a Stipulation Order in a disciplinary case.

Ms. Ellen Simon – A notice was sent to Mr. Gallaher upon his request for reconsideration. I spoke with Mr. Gallaher earlier this year and he asked that the motion be placed on today’s agenda. I did mail him notice, which is in your Board packet and I have not heard from him since that time. To my knowledge, he is not represented.

Chair – Is there anyone here representing Mr. Gallaher? Is Mr. Gallaher here? There was no response.

MOTION: Mr. Hall moved to deny the request. Mr. Ken Jones seconded the motion, which passed unanimously.

4. Disciplinary Proceedings

A. Settlement Stipulation(s)
(1) Probable Cause Panel B
(a) Fulton, Patrick: Case No. 159818-14-FC; Division No. ATN-22702 (F035586)

Mr. Shropshire – Representing the case for the Department will be its attorney, Deirdre Farrington.

Ms. Deirdre Farrington – Good Morning Board members. My name is Deirdre Farrington. I am the attorney for the Department. May I address the Board?

Chair – Please do.

Ms. Farrington – On or about April 28, 2014, the Department conducted an investigation into the activities of Gramkow Funeral Home & Crematory, Inc., based on a consumer complaint received by the Department. M.D. died on April 11, 2014. On April 12, 2014, L.R.D, M.D.’s husband, met with Patrick Fulton, the funeral director in charge of Gramkow and entered into an at-need services and merchandise contract. On April 15, 2014, L.R.D. learned that Gramkow had submitted an assignment of insurance to C&J Financial, the insurer for M.D. L.R.D. was unaware of any assignment of insurance made to

Gramkow. After further investigation, he discovered that an irrevocable power of attorney and a second services and merchandise contract also bore his purported signature, although he had not signed such documents. L.R.D. learned that Fulton had forged L.R.D.'s signature on the irrevocable power of attorney and the second services and merchandise contract and then provided the documents to C&J Financial. L.R.D. did not consent to Fulton signing the irrevocable power of attorney and the second contract on his behalf. The Administrative Complaint was filed on April 30, 2015, and served on Fulton. The Election of Proceeding in which Fulton requested a formal hearing before the Division of Administrative Hearings was filed on or about May 20, 2015. On July 23, 2015, the Department filed a motion to relinquish jurisdiction because a Settlement Agreement was reached and DOAH relinquished jurisdiction on July 24, 2015. Fulton agreed to the Settlement Stipulation for Consent Order, which was accepted by the Department and is being presented to you today. He is represented by Mr. Blair Jackson. I do not know if Mr. Jackson is present today. The terms of the Settlement Stipulation require Fulton to pay an administrative fine in the amount of \$1500, to be paid within thirty (30) days of the entry of the Consent Order to be issued in the case. The terms of the Settlement Stipulation are reasonable under the facts and circumstances of this case and the Department requests that the Board approve the Settlement and issue the Consent Order to conclude this matter.

Ms. Jean Anderson – Mr. Chairman, I served on Probable Cause Panel be and I would like to recuse myself.

Chair – Thank you for that, Ms. Anderson.

MOTION: Mr. Mueller moved to approve the Settlement Stipulation as presented by the Department. Mr. Clark seconded the motion, which passed unanimously.

(b) Gramkow Funeral Home & Crematory, Inc.: Case No. 159812-14-FC; Division No. ATN-22702 (F039906)

Ms. Farrington – The circumstances of this case are based on the same facts as those previously described to you in the case against Mr. Fulton, so I will not repeat them unless you would like me to. The Administrative Complaint against Gramkow was filed on May 4, 2015, and served on Gramkow. The Election of Proceeding was filed on or about May 8, 2015. On May 26, 2015, Gramkow filed a request for formal hearing before the Division of Administrative Hearings. On July 23, 2015, the Department filed a motion to relinquish jurisdiction because a Settlement Agreement was reached and DOAH relinquished jurisdiction on July 24, 2015. Gramkow agreed to the Settlement Stipulation for Consent Order, which was accepted by the Department and is being presented to you today. Gramkow is represented by Mr. John Rudolph, who is present. The terms of the Settlement Stipulation require Gramkow to pay an administrative fine in the amount of \$1500, to be paid within thirty (30) days of the entry of the Consent Order to be issued in the case. The terms of the Settlement Stipulation are reasonable under the facts and circumstances of this case and the Department requests that the Board approve the Settlement and issue the Consent Order to conclude this matter.

Mr. Clark – Mr. Rudolph, in the packet there is a comment about 8% filing fee by C&J Financial for processing the insurance. C&J Financial Services forward the funds from the policy, 8% service charge. Do you know if that is correct?

Mr. Rudolph – If it was in there then it is correct. All I know is that my clients denied that they did anything wrong.

MOTION: Mr. Helm moved to approve the Settlement Stipulation as presented by the Department. Mr. Jones seconded the motion, which passed unanimously.

5. Application(s) for Preneed Sales Agent

A. Informational Item (Licenses Issued without Conditions) – Addendum A

Mr. Shropshire – The application(s) presented are clean and have been approved by the Division. This item is informational only and does not require Board action.

B. Recommended for Denial Criminal History)

(1) Taylor, Timothy B (Appointing Entity: Charlotte Memorial Funeral Home, Cemetery and Crematory)

Mr. Shropshire – On February 11, 2015, the Applicant submitted an application for licensure as Preneed Sales Agent. On this application, Mr. Taylor checked a box indicating that he had no criminal history to report. On February 14, 2015, as there were no deficiencies noted on his application, Mr. Taylor was issued a temporary Preneed Sales Agent license. Due to Mr. Taylor's failure to comply with the fingerprint requirements for a background check, his temporary license expired without being converted to permanent licensure.

On June 18, 2015, the Department notified Mr. Taylor that his application file was closed, as it had been over 120 days since the application was received. And, that in order to be licensed as a Preneed Sales Agent, he must now reapply. Thus, on July 1, 2015 the Division received Mr. Taylor's fingerprint results which indicated he had criminal history. On August 7, 2015, once again Mr. Taylor submitted an application for preneed licensure. On this application, when asked about his criminal history, Mr. Taylor failed to respond and left the box blank. It was only after consulting with his attorney that Mr. Taylor placed a checkmark in the box indicating that he had criminal history he needed to report.

Mr. Taylor's criminal history includes one count of Reckless Driving which occurred On May 4, 2011, in Charlotte County, Florida. Mr. Taylor was placed on probation for a period of 6 months, which he violated on or about September 13, 2011. At this time, he was convicted of a probation violation and ordered to serve 60 days in the county jail. Upon release from jail, his probation was reinstated for another 5 months. Then, on or about March 17, 2012, Mr. Taylor was charged with another probation violation. On June 29, 2012, he was convicted, and sentenced to 10 days in jail, and his probation was revoked/terminated. According to Mr. Taylor, he was not able to obtain supporting documentation from the Clerk of Courts that all court ordered special conditions had been completed. Mr. Taylor failed to include any information regarding these criminal activities on either application.

The Department assessment is that the misrepresentation on his applications and repeated violations of the law are indicative of Mr. Taylor's untrustworthiness. Also, it is the Division's belief that if issued a preneed sales agent license, Mr. Taylor would pose an unreasonable risk to members of the public who might deal with him in preneed transactions.

The Division recommends denial as the Applicant would pose an unreasonable risk to members of the public, Florida Statutes, section 497.466 (5)(c)(2).

Ms. Wendy Wiener – Wendy Wiener, representing Applicant Timothy Taylor. It is our very strong position that Mr. Taylor would not present an unreasonable risk to consumers if licensed. I want to give you just a little bit of information about the background of this application and then of course offer for questions both Mr. Taylor and his employer Rick Tuss. The situation was as follows. Mr. Taylor went to apply for a job with Mr. Tuss, disclosed to him at that time complete information about his reckless driving conviction, applied for his temporary preneed license. When he did so, he was given incorrect information via an administrator at the Applicant's office that he needed to submit fingerprint cards. That is a very common misconception that we are still using fingerprint cards. I will tell you personally that I answer this question many times a day about the distinction between using digital fingerprint cards and paper fingerprint cards, but, in any event, Mr. Taylor submitted paper fingerprint cards, which were of course rejected because we do not use those in the State of Florida anymore for in state applicants. His fingerprint cards were rejected. His temporary license expired. He was told that he needed to apply for new licensure. A full month and seven (7) days before he applied for licensure, he submitted his digital fingerprints to the State of Florida and so Mr. Taylor's criminal record of reckless driving conviction was at the Board well before he made the second application. When he made his second application, he did fail to answer either yes or no on the question regarding whether or not he had a misdemeanor record, knowing that he had already submitted his fingerprints and that his record was already at the Board. Quite frankly, until about a week or so ago when I started talking with the Division, I did not know that reckless driving was a misdemeanor. I thought reckless driving was a traffic infraction, which it was years ago and then it was reclassified to a misdemeanor. In any event, the point is that there was no intent to deceive the Board. There was no deception of Mr. Taylor's employee, who is here to testify today if you care to ask him questions about that. Mr. Taylor's criminal conviction for reckless driving is certainly not the type of conviction that should keep him from being licensed as a preneed sales agent. This Board routinely licenses persons who have had DUIs or reckless driving convictions as preneed sales agents and so I would offer to you Mr. Taylor or Mr. Tuss for questions.

Chair – Mr. Taylor, do you want to address the Board or do you want to answer questions of the Board?

Mr. Timothy Taylor – May I speak?

Chair – After you are sworn in, please Sir.

Mr. Shropshire – Please raise your right hand. Do you solemnly swear that the testimony you are about to give in this matter will be the truth, the whole truth and nothing but the truth so help you God?

Mr. Taylor – Yes sir.

Mr. Shropshire – Please state your full name for the record.

Mr. Taylor – My name is Timothy Brandon Taylor. I would like to answer any questions that the Board may have for me, sir.

Ms. Oliver – I actually have a question for Mr. Shropshire. Is the Board's position that Mr. Taylor poses a risk because of the criminal conviction or because of the failure to disclose the criminal conviction on two (2) of his applications?

Mr. Shropshire – It is certainly not the crime itself that it's the follow up to the crime. The fact that when he first applied to us online he said no he did not have one. Well, ok maybe, as Ms. Wiener indicates, he did not realize that was criminal, maybe. Then when he applied again, he did not answer the question in writing. Then his probation has been revoked twice. He has violated the probation on that reckless driving twice and had to come back before the court. It is the full record that makes the Division question his reliability, his character and it is on the basis of that full record that we recommend denial.

Mr. Jones – What would you like to tell us?

Ms. Wiener – Speak to the issue of the revocation of your probation.

Mr. Taylor – You know, I was given probation by the State and by the county court. At that time I realized that probation was not a constitutional right but a privilege and opportunity to show my character. I did make mistakes. For five (5) years I paid for those mistakes. I served as a full-time pastor for ten (10) years. December 31, 2014, I stepped down to reevaluate where I felt led. Being in the funeral business, working with families at their lowest point in their life was an opportunity for me to still be in the ministry, so to speak. Since that time, this has followed me everywhere and I understand that. At that time that I did violate the probation, I went before my congregation of 750 people and I admitted everything, and I stepped down. I let my church down, I let the people who believed in me down, I let my family down and at that time I let my God down. Since then, it seems that my record has been a synopsis and a narrative of what people are read into that one (1) year out of thirty-two (32) years is the narrative of who apparently I am. Every day I have had to pay for that; financially, reputation, conviction for me personally. That is not who I am and it is my desire that the Board does not see that as of what happened five (5) years ago is who I am. Thank you.

Chair – Do you deal with client families after the death has occurred?

Mr. Taylor – As of right now, I am just doing at-need. That is all I am allowed to do at this time, sir, but I have been with the funeral home for about nine (9) months and I have done many funerals for families that did not have a pastor. I have done aftercare and met with the families to see if they were doing alright.

Chair – What are you doing now at-need?

Mr. Taylor – At-need sir, just really markers. I am doing a lot of administrative work and marketing for our actual funeral home and so forth but mainly desk related responsibilities, sir.

Chair – Mr. Tuss come forward please and be sworn in.

Mr. Shropshire – Please raise your right hand. Do you solemnly swear that the testimony you are about to give in this matter will be the truth, the whole truth and nothing but the truth so help you God?

Mr. Rick Tuss – I do.

Mr. Shropshire – Please state your full name for the record.

Mr. Tuss – My name is Rick Tuss. I am co-owner of Charlotte Memorial Funeral Home and Cemetery in Punta Gorda. I just want to say just a couple of things. When Timothy came to me, I think it was in February, one of the first things he told me when we were in the interview process, he told me all about the reckless driving situation. He laid everything out on the table. I also did not think reckless driving was a misdemeanor or a felony. I hired him on the basis of where he had been, where he was trying to go with his life and his career. When all this came up, it has been very much of a distraction. If this was somebody of less character than this gentleman right here, I would not be standing here. I missed an FCCA meeting on the other side of the state to be here to help him out with this thing. What he is doing right now, Mr. Brandenburg, at the funeral home, I did not want to lose him. We are a new entity out there; we have been there three (3) years. So when I was told he could not sell preneed anymore, at that time that was 50% of my preneed staff. Anybody else I would have said I am sorry; this is not going to work. I would have gone and gotten another preneed person and put them on the job. He is so valuable to my place and he is so good with our families that I worked something out, a salary thing for him just to get him through to this day. That is how much I believe in what he does with our families. There is not a week that goes by that a family that he has dealt with either when he was selling preneed or when he does an aftercare, if they are at my place visiting or at another funeral inevitably they come in and find me and they find Timothy just to say hi. He is that kind of a guy. He is a credit to this industry and this is all an unfortunate lot of stuff. He has admitted that he has made some mistakes. I would just ask this Board to give this guy a shot.

Chair – Thank you. At the time before hiring, Mr. Tuss, you mentioned that he disclosed the reckless driving to you. Did he also disclose the violation of probations?

Mr. Tuss – He did not and I think that needs to be explained, probably not by me, what that actually was and why it occurred.

Mr. Taylor – The first violation, the court had sanctioned or ordered me to pay several thousand dollars in probation fees, court fees, the attorney fees that I had, prosecutor fees, classes that I had to take. We were \$50.00 short of that and that was one of the violations at that time. Another violation that occurred was that the probation officer did ask me if I had any alcohol. I did not lie to her, I said yes and I was violated at that point. What was coupled with that was I was one (1) class short of obtaining the certification. At that point I was sent to jail for ten (10) days. After that I completed the courses still. I even went to more courses, self recovery, things of that nature. I have the certificates and the signed letter from the directors, but I continued the courses after I had finished. During that time, we were one (1) class short of finishing. My wife has a disability. She is a high school teacher. Five (5) years ago, we had moved to Florida for a church. After I was let go from that church, after I stepped down, she was pregnant and there were many nights that I stayed with her. Is that a reason to miss a court sanctioned order? It is not, but I did make that choice at that time to stay with her. She has no balance, no equilibrium and it was very hard on us during the pregnancy for us personally and many facets of our life.

Chair – How many times were you cited for violation of probation?

Mr. Taylor – Twice, well one (1) violation was coupled; being \$50 short and the one (1) class being short. That was together. That was all during one (1) court hearing. The other time that I violated was the urine test, sir, after I admitted to my probation officer that I did ingest alcohol.

Ms. Oliver – Did you have a driver's license during the time that you missed a couple of the classes, while you were on probation?

Mr. Taylor – No, I did not, actually. I had to depend on somebody and being in a situation where I should have been but I was ostracized at that time, reaching out to people that had lost faith in me was very difficult at that time, along with my wife's situation. I am not trying to shift the blame. It was my choice but it was very, very difficult honestly.

Ms. Oliver – How many cab companies are there in Charlotte County?

Mr. Taylor – They just started one (1) a few months ago I believe, but it was not around five (5) years ago.

Mr. Hall – Mr. Taylor, I have five (5) family members in the ministry so I know the stress and stuff can be sad, but can you explain to me what led up to that year, what created that problem for you for that year you had the issue and what can you tell us that is going to comfort us that you have that under control and that it is fixed?

Mr. Taylor – We had been interviewed by a large church in Port Charlotte to come over to Florida from Texas. We accepted the position as an associate pastor to that congregation. At that time when I accepted, I had come over to be mentored. They offered me my own church. I was twenty-eight (28) at the time and I felt that I was too young to lead that size of a church and so they then offered me an opportunity to be trained and mentored. What we did not know was that the pastor and his wife were cheating on one another in the congregation and that came out later. So what I was really brought in for that I later learned was to really take over. I was not prepared for that spiritually, emotionally, mature-wise. So what happened was on Saturday night and Sunday morning, I was teaching four (4) different services every week to 750 people and it was being broadcasted as well. During that time, I was doing all of the counseling throughout the week, morning, afternoon and night. They had let go of the youth minister so I was teaching youth group coming up with sermons every single Wednesday for them, doing their mission trips and so forth. I was leading a men's group at 5:30 on Tuesday morning where I cooked breakfast for thirty-five (35) men and then I taught for an hour. I was also leading an adult Bible Study that I had to prepare for every week on Thursday at 12 o'clock. With all that aside, I had a family that was new to the area and I neglected them for the church and that was my mistake. To answer your question sir and it is no excuse, but the only way that I could digest that after about six (6) months of constant phone calls and so forth was just to escape through alcohol, sir, and that is what I did.

Mr. Hall – Well can you tell me now that it is fixed or that you are through that?

Mr. Taylor – My wife would have divorced me by now if I was not rehabilitated through that. There is a high accountability within our house. You can go to my house right now and find not a bottle of alcohol, honestly.

Mr. Helm – Mr. Taylor, earlier you said you stepped down and just a second ago you said you were let go. Which one (1) was it?

Mr. Taylor – When the crime happened, the very next day I offered a resignation. They did not accept it until a few weeks later. The Board got together and felt that it was appropriate that we part. So I offered my resignation to step down, then they accepted it and went from there, sir. To be honest, it was a very confusing situation.

Mr. Helm – Is there a stipulation that we can put on it that he only works for Mr. Tuss?

Mr. Shropshire – As it is now, if a motion was approved, he would be licensed as a preneed and Mr. Tuss would appoint him. I suppose you could make a condition that he not be appointed by any other preneed licensee without coming before the Board.

Mr. Hall – Would you feel any better in lieu of restricting him that way to having him do a drug test for Mr. Shropshire for the Division during that probation period?

Mr. Helm – No. To me that does not get it. I would rather see him under Mr. Tuss' supervision.

Mr. Jones – Can that condition be enforced?

Mr. Barnhart – I think that would be a reasonable condition. If they did not agree with that Mr. Taylor could appeal that and go to a hearing if he did not agree. I think that is a reasonable condition

Ms. Wiener – We are in agreement.

Mr. Barnhart – Would that be one (1) year employment from the time of approval that he remain with Mr. Tuss.

Mr. Helm – If he is on one (1) year probation, yes.

Ms. Wiener – Just to clarify to make sure that I understand, so the condition of probation would be he continues to be employed at Charlotte by Mr. Tuss or if he is going to be appointed by another preneed licensee he would have to make another appearance before the Board prior to that appointment?

Mr. Jones – Yes ma'am.

Mr. Knopke – Is that only during the probationary period?

Mr. Jones – That is correct.

Chair – Good clarification.

MOTION: Mr. Jones moved to approve the application with one (1) year probation and the condition that he not be appointed by any other preneed licensee without coming before the Board prior to that appointment. Ms. Anderson seconded the motion, which passed unanimously.

Mr. Barnhart – Mr. Brandenburg I have a question. What are the usual requirements for probation? Are there any reporting requirements or anything or is it just a status that he is on probation?

Chair – Generally, we do not have any reporting requirements. Sometimes we do put in reporting requirements but there was no motion on this for any reporting requirements.

6. **Application(s) for Continuing Education Course Approval**
 - A. **Recommended for Approval without Conditions – Addendum B**
 - (1) *Education Workers Group #11208*
 - (2) *Florida Cemetery, Cremation & Funeral Association #75*
 - (3) *National Funeral Directors and Morticians Association #15608*

Mr. Shropshire – The majority of the Continuing Education Committee and the Division recommends approval of the application(s) for the number of hours indicated on Addendum B in the right hand corner.

MOTION: Mr. Mueller moved to approve the application(s). Mr. Hall seconded the motion, which passed unanimously.

7. **Application(s) for Florida Law and Rules Examination**
 - A. **Informational Item (Licenses Issued without Conditions) – Addendum C**
 - (1) **Direct Disposer**
 - (a) *Hull III, Albert M*
 - (b) *Walker, David K*
 - (2) **Funeral Director (Endorsement)**
 - (a) *Campbell, Bruce W*
 - (b) *Cremer, Shawn P*
 - (c) *Gilmartin, John T*
 - (3) **Funeral Director and Embalmer (Endorsement)**
 - (a) *McCormick, Julie A*
 - (b) *Schrivver, William J*
 - (c) *Turner, Bernard R*
 - (4) **Funeral Director and Embalmer (Internship and Exam)**
 - (a) *May, Rebecca A*

Mr. Shropshire – The application(s) presented are clean with no indication of a criminal or disciplinary history and have been approved by the Division pursuant to delegation by the Board. This item is informational only and does not require Board action.

- B. **Recommended for Denial (Criminal History)**

(1) Funeral Director and Embalmer (Endorsement)

(a) Cuccia, Thomas G

Mr. Shropshire – The Applicant submitted an application for a Funeral Director and Embalmer license on July 7, 2015. The application was incomplete when submitted. All deficient items were returned on August 13, 2015. Mr. Cuccia was issued a funeral director & embalmer license by the Florida Department of Business and Professional in June 1996. That license expired on August 31, 2007. Applicant was born in 1968, and is currently approximately 47 years old.

In March 1999, in Broward County Circuit Court, Applicant pled no contest to a 2nd degree felony, Possession of a controlled substance, cocaine, for the purpose of sale or delivery. He was sentenced to jail time, which he indicates he served in a work release status. When asked about this criminal record, Applicant states on his criminal history form as follows: "*It's been a long time. I do not want to discuss.*"

In the period of at least 2003-04 Applicant was serving in the US Army. In March 2004 he was awarded the Bronze Star Medal for "*exceptionally meritorious service as a mortuary affairs specialist during the time of hostilities in support of Operation Iraqi Freedom.*" In August 2004, the Governor of the state of Florida restored Applicant's civil rights in Florida. In September 2004 Applicant was charged by the US Army with wrongful use and possession of cocaine; the matter was disposed of by a Chapter 10 discharge in lieu of court-martial, the discharge being a general discharge under other than honorable condition; he was reduced in grade to E-1; he was barred from the Army post. In view of this record, the Division recommends that his application be denied. We have urged him to be here if he possibly could to answer questions.

Chair – Is Mr. Cuccia here?

Mr. Thomas Cuccia – I am here.

Chair – Good Morning, would you care to address the Board?

Mr. Cuccia – I would.

Chair – Would you please be sworn in?

Mr. Shropshire – Please raise your right hand. Do you solemnly swear that the testimony you are about to give in this matter will be the truth, the whole truth and nothing but the truth so help you God?

Mr. Cuccia – I do.

Mr. Shropshire – Please state your full name for the record.

Mr. Cuccia – My name is Thomas Cuccia.

Chair – Do you feel comfortable addressing the Board?

Mr. Cuccia – I do. There was a time in the late 90s, early 90s where I had a substance abuse problem. It was a difficult time. I went through it. It was a long time ago. I have not been in trouble since. I do have an honorable discharge. I can submit that to you. I did earn a Bronze Star in a tour in Iraq. Do you have any questions?

Chair – What was the substance that you were abusing?

Mr. Cuccia – It was cocaine.

Mr. Shropshire – I just wanted to clarify. I hope I did not say that you had a dishonorable discharge. Your discharge was a general discharge under other than honorable conditions.

Mr. Cuccia – I also have an honorable one as well, in 1992.

Mr. Shropshire – Your most recent one was the general one. I have no records concerning your initial discharge. I was not even aware of that. My understanding is that was in lieu of a court-martial for possession of cocaine.

Mr. Cuccia – That is correct. It was a dirty urine test.

Chair – What?

Mr. Shropshire – A urine test that came back positive.

Mr. Cuccia – That is correct.

Chair – Did you have any appeal of that or was it rightful?

Mr. Cuccia – My attorney had suggested again that I already had an honorable discharge and not to fight it; just to take it and go on my way. That was her advice.

Mr. Clark – Regarding the felony in 1999, were you selling cocaine?

Mr. Cuccia – It looks worse on paper but I had a problem. I got in trouble and I was on probation. While I was on probation somebody had come to my house. This somebody was an exotic dancer that wanted to spend some time, so, again I was a user never a dealer. I gave her a ride and made a few phone calls for her and the bottom fell out. Again it was a long time ago so I do not quite remember. The bottom fell out and that is when everything came to an end. I remember the day that that happened. While I was on probation I heard my dog barking and I went outside to see who she was barking at and I noticed two (2) Jehovah's Witness gentleman walking down the street knocking at the neighbor's door and I said fellows she is an older woman, please do not bother her. They said ok no problem. I asked if they could say a prayer for me because I was having some issues and they said sure we will. That night is when it happened. Something had to happen because again it was a difficult, difficult situation that I was in. I am glad it is over. It has been a long time.

Chair – Mr. Cuccia, when was the last time that you were drug tested?

Mr. Cuccia – It was probably in the Army when I was in.

Mr. Barnhart – The materials I looked at said that you had a license with DBPR as a funeral director and embalmer. Is that correct?

Mr. Cuccia – Previously, yes.

Mr. Barnhart – From 1996 to 2007?

Mr. Cuccia – Correct.

Mr. Barnhart Were you actively working as a funeral director and embalmer during that time?

Mr. Cuccia – Part of that time, up until 2000 and then that is when I moved up to Boston MA and I put my license in an inactive status.

Mr. Barnhart – The Department did not take any action against you?

Mr. Cuccia – I do not think that they were aware of it.

Mr. Barnhart – You did not tell them about it?

Mr. Cuccia – I did not. I moved up to Boston MA and I kept it under inactive status and after 9/11 I went back into military service. I did not stop paying for it.

Chair – Are you currently residing in Massachusetts?

Mr. Cuccia – I do.

Chair – Are you working for a funeral home there?

Mr. Cuccia – I do.

Chair – As a licensed funeral director and embalmer?

Mr. Cuccia – No, I am currently not licensed in Massachusetts.

Ms. Anderson – Did you discuss why you were barred from the Army post in 2004?

Mr. Cuccia – I was discharged. I got out.

Ms. Anderson – So automatically once you are discharged you are not allowed back on post?

Mr. Cuccia – Correct, you are not allowed back on post.

Ms. Oliver – Have you been in trouble with the law since 2004?

Mr. Cuccia – No I have not.

Ms. Oliver – Are you currently using or abusing cocaine or any other substance?

Mr. Cuccia – No I do not, nothing. I do not even drink. I want to come back to Florida, my hometown Hollywood, my home state rather. I want to get out of Massachusetts because it is cold. I do not like blizzards.

Chair – Do you have a job offer?

Mr. Cuccia – Presently no I do not.

Mr. Clark – Why are you not a funeral director in Massachusetts? You said that you switched your status to inactive. Why did you not try and reactivate it?

Mr. Cuccia – I just did not. I have a job at a funeral home and I am happy. I do maintenance, I help with the door, help out with funerals. I wish to come back to Florida.

Mr. Shropshire – If the Board was so inclined, one possible way to handle this if the Board was inclined to be lenient and give him another chance, if he would agree to waive the deemer, set this aside and let the Division go and back and do a written settlement with him that would include random, periodic drug testing and he would be on probation for that period. If he would be agreeable to that, the matter would come back before the Board on a stipulation for licensure in which he would agree to random, periodic drug testing.

Mr. Cuccia – I have no problem with that.

Mr. Shropshire – Suspending it would allow us to do a written stipulation to that regard that Mr. Cuccia would get and sign, but that is just a suggestion to the Board.

Mr. Hall – Did we receive anything from Boston regarding his license there?

Mr. Shropshire – He has no license in Massachusetts. He was licensed in Florida.

Mr. Hall – Florida was the inactive one?

Mr. Cuccia – Correct.

Mr. Hall – What lead to the substance abuse? Was that pressure from the military? What lead to that?

Mr. Cuccia – There could be several reasons. Genetically both my parents. My mother died of alcoholism at forty (40) and my father had a gambling addiction. I do not know if you can relate that to substance abuse, but that I have to deal with. Then I was going through a divorce and I started drinking a lot. It lead me to going to adult clubs, exotic places and one thing lead to another and I got caught up in it. There is nothing I can do. I am labeled for the rest of my life. I paid my dues to society. I paid big. I lost a lot.

Mr. Shropshire – How long have you been employed at this funeral establishment in Boston?

Mr. Cuccia – Since 2001.

Mr. Shropshire – Do they know that you are applying to get back into Florida for a license?

Mr. Cuccia – Yes they do.

Mr. Shropshire – I do not recall that they gave us a letter of recommendation. If you asked them would they give the Division a letter of recommendation?

Mr. Cuccia – Yes they would.

Mr. Shropshire – What kind of work do you do there?

Mr. Cuccia – I do maintenance, I fix things, I help with the door during calling hours, I help out on funerals, help set up flowers. They are very strict when it comes to making removals and being in the preparation room. Well obviously because of state law I cannot be in there.

Mr. Shropshire – Do you meet with families?

Mr. Cuccia – No I do not. While I was licensed, I never met with a family as well. I spent most of my time in a preparation room.

Chair – When you were in South Florida and licensed, with what firms were you employed?

Mr. Cuccia – I worked with Panciera in Hollywood Florida, which is now Landmark Funeral Home in Hollywood. That is it.

Chair – The whole time, with Panciera?

Mr. Cuccia – The whole time under Mark Panciera and his father Irving.

Mr. Knopke – Let us assume he waives the deemer and there is a settlement agreed upon. What is the procedure for him getting his license then? Does that automatically occur at that point? Is there anything else he has to do?

Mr. Shropshire – He has passed the National Board, correct Jasmin?

Ms. Jasmin Richardson – Yes.

Mr. Shropshire – So he would have to take the Florida Law and Rules exam again and his application would come before the Board.

Ms. Richardson – No, that is what he is applying for now to take the Florida Law and Rules exam.

Mr. Shropshire – Yes, I stand corrected. Once he passes it, he does not need an internship because he has already been licensed. So it would be pro forma if the Board approved it under those conditions.

Mr. Cuccia – Would I have to come back again in front of this Board because it is a little difficult for me to commute?

Chair – That would depend upon the stipulation in the motion. I hear that you are requesting that you would not have to come back before the Board due to travel hardship, but there still may be other stipulations in there.

Mr. Cuccia – I can understand if for disciplinary situations but prior to being approved to take the State Board will I have to?

Chair – At this point in time we do not know the answer to that question.

Mr. Helm – Mr. Shropshire, based on what you were saying, do we need to act on anything today?

Mr. Barnhart – Not if he waives the deemer.

Mr. Shropshire – Not if he waives the deemer. If you table the matter today The Division will go back, prepare a written stipulation and send it to him. It will call for you sir to take random drug tests. Our staffer, Jasmin, will call and advise you that you need to take a drug test within twenty-four (24) hours of this call and get us the results. So you would have to go to a commercial drug testing place. There may be five (5) occasions in the stipulation where we would make that call to you during the term of the probation. We send that written stipulation to you. If it is acceptable to you, you would sign it and send it back to us. We would set the matter back before the Board at one of its next meetings. I am presuming the Board would approve it because it has all been talked about here. I do not think you would have to be there, but the Board could say that otherwise if they want. The Board would approve the application and assuming you pass the Law and Rules exam, you would get your license as a Florida funeral director and embalmer.

Mr. Cuccia – Understood.

Mr. Helm – Do you understand exactly what he just said?

Mr. Cuccia – Somewhat.

Mr. Helm – Well we cannot have somewhat. You need to understand.

Mr. Cuccia – Will I get a date to take the State Board while this is going on?

Chair – The Florida Law and Rules exam is what you are referring to, right?

Mr. Cuccia – Right.

Mr. Shropshire – So we send the stipulation, you sign it, have it notarized and sent back to me. I set it before the Board. The Board approves it then you get your date to take the Florida Law and Rules exam.

Mr. Cuccia – Understood.

Mr. Helm – Do you understand what waiving the deemer means?

Mr. Cuccia – I understand. Yes I do.

Mr. Shropshire – The deemer means that we have to act on your license application within ninety (90) days of it being complete and we are asking you to waive your right to the application of that law because this is going to take a little more than ninety (90) days to get it done.

Mr. Cuccia – As long as I know that there will be a time I will become a licensed funeral director of Florida.

Chair – It is the date of acting on your application. We have ninety (90) days to act on your application. In the process that we really have not had a motion on yet but we are searching for ways that are fair and equitable to you, asking you to waive that ninety (90) day requirement. Otherwise we have to make a decision today.

Mr. Cuccia – I do not understand.

Mr. Barnhart – The ninety (90) days does not mean that we are not going to do anything for ninety (90) days. It is just that the Board would have to act upon your application within ninety (90) days of a completed application and I get the sense that you may not pass that vote if you put the Board to a vote right now. So by waiving it,

Mr. Cuccia – Okay then no, no.

Mr. Barnhart – Then no what?

Mr. Cuccia – No. Do not waive. Do not waive whatever you have to. Do you understand what I am saying?

Mr. Barnhart – No I do not. But if you say I waive the deemer...

Mr. Cuccia – I do. I waive the deemer.

Ms. Oliver – Just for discussion purposes for the Board's sake, I personally would not have a problem with approving his application subject to one (1) year probation. I feel that all of his criminal and substance abuse history is pretty remote in time. It is ten (10) – eleven (11) years old at this point and he has not been in trouble with the law since 1999. I personally would not have an issue with just approving it today subject to one (1) year probation.

Mr. Hall – I was just going to add to Mr. Shropshire's if he decides to do the drug tests could we ask then in the interim, since he has waived the deemer, for a referral from Panciera here in Florida and also the funeral home there in Boston?

Mr. Shropshire – Yes sir that is a good point. Do you believe that you would get a favorable recommendation from Mark Panciera?

Mr. Cuccia – Yes.

Mr. Shropshire – Would you be agreeable to obtaining written recommendations from both your current employer and Mr. Panciera?

Mr. Cuccia – Yes.

Mr. Shropshire – As part when you return the stipulation, return those written recommendations. Thank you.

Mr. Cuccia – Immediately, yes I will.

Chair – Ms. Oliver did you have a motion?

Mr. Barnhart – I just wanted to know if that was also going to include the other two (2) conditions that were just mentioned.

Ms. Oliver – No it would not.

Mr. Barnhart – No?

Ms. Oliver – No.

Mr. Knopke – I was asking the same question.

Mr. Mueller – Was one (1) of the conditions you did not include random drug testing.

Ms. Oliver – No, I did not include that in my motion.

Mr. Mueller – I would be more comfortable I think with something that given the appearance to the public of the crimes here that the random drug testing take place during the probationary period.

Ms. Oliver – I would be amenable to that, but do we have to have a written stipulation or can we just approve it subject to that orally today? Can we just do it on the record?

Mr. Shropshire – In my opinion, it would be virtually unenforceable. We have done these written stipulations and they are pretty complicated. There are a lot of terms and conditions. Unless you get it in writing, making it enforceable is very difficult.

Mr. Barnhart – I think you could make it conditional upon him signing the stipulation as presented by the Department.

MOTION: Ms. Oliver moved to approve the application subject to one (1) year probation. Ms. Anderson seconded the motion, which failed with six (6) dissenting votes.

2nd MOTION: Mr. Knopke moved to approve the application subject to one (1) year probation, signed stipulation for licensure to include random drug testing and written recommendations from both Mr. Cuccia's current employer and Mr. Panciera. Mr. Hall seconded the motion, which passed with one (1) dissenting vote.

Mr. Shropshire – For clarification, you are not licensed yet. Early next week we will prepare and send you a stipulation for the drug testing and the probation and you will be working on getting two (2) letters of recommendation. When you send those items back to us then Jasmin will tell you when you are authorized to take the test.

Mr. Cuccia – Do I just get a letter from my current employer and you will take care of the letter from Panciera or do I get both?

Mr. Shropshire – No, you agreed to get both letters.

Mr. Cuccia – I will get both of them.

Mr. Shropshire – From Mr. Panciera and your current employer?

Mr. Cuccia – Understood.

Chair – Any questions you have about it?

Mr. Cuccia – None.

Mr. Barnhart – Drug testing was mentioned, but is it going to be random?

Mr. Shropshire – Yes, I think I mentioned five (5) incidents of random drug testing.

Mr. Hall – Just for clarification, really we are not holding him up. He does not have to come before the conference call next month. Once he gets this information to you then he can go forward with his test.

Mr. Shropshire – Once he gets that and Jasmin calls him back with the authorization then he can take the test.

Mr. Cuccia – Thank you.

Chair – Good luck to you.

Ms. Oliver – As far as the letters of recommendation go, I will say in our office we as a rule do not provide them. Especially when it is someone that we employed ten (10) – fifteen (15) years ago and do not remember. What is going to happen if he cannot get that extra letter of recommendation? I can see from his current employer but it might be really difficult for him to get that second letter.

Chair – Let us ponder that for just a moment. I understand exactly what you are saying on that and there are many firms that do not give letters. They give dates of employment and current status but do not give letters of recommendation.

Mr. Knopke – The reason I included that part of it in the motion is he volunteered one from his current employer and when questioned by Mr. Shropshire would his former employer do the same he quickly responded and said yes, at least once if not twice and so that is why I included that.

Chair – I understand. That is a good point that it was offered by the Applicant.

Mr. Knopke – Yes, he volunteered it and eagerly volunteered it was my impression.

Mr. Helm – He has mentioned already about will he or will he not have to come back in person. Is there a way that we can fix it so if everything goes well he will not have to come back?

Mr. Shropshire – He will not have to come back if everything goes well. I would say if he cannot get that second letter he is going to have to come back and explain it to the Board. In that event, undoubtedly I would call Mr. Panciera and try to elicit from him why he is unwilling but I think that it is important because cocaine is a very powerful drug and it is not just one (1) episode. It was two (2) incidents two (2) years apart, at least two (2) years apart. I think that the protective measures for the public are important.

Ms. Oliver – I can appreciate that.

Chair – Thank you for appearing before us.

C. Recommended for Approval without Conditions (Criminal History)
(1) Funeral Director and Embalmer (Endorsement)
(a) Harman, Suzanne R

Mr. Shropshire – The Applicant submitted an application for a Funeral Director and Embalmer license on June 29, 2015. The application was incomplete when submitted. All deficient items were returned on September 8, 2015. The Applicant submitted a fingerprint card, the processing of which returned a criminal history, to wit:

- In December of 2010, guilty to Driving while Intoxicated. Ms. Harman’s license was restricted for one year.

The Division is recommending approval without conditions.

Chair – Is Ms. Harman here? Hearing no answer

MOTION: Mr. Knopke moved to approve the application. Mr. Mueller seconded the motion, which passed unanimously.

(b) Wilson, Timothy J

Mr. Shropshire – The Applicant submitted an application for a Funeral Director and Embalmer license on July 28, 2015. The application was complete when submitted. The Applicant submitted a fingerprint card, the processing of which returned a criminal history, to wit:

- In 2011 the Applicant pled no contest to Assault of a family member and was placed on probation for one year.
- In 2014 the Applicant pled no contest to Curse and Abuse over a public’s airwaves and was placed on probation for one year.

The Division is recommending approval without conditions.

MOTION: Mr. Knopke moved to approve the application. Mr. Mueller seconded the motion, which passed unanimously.

8. Application(s) for Internship

A. Informational Item (Licenses Issued without Conditions) – Addendum D

- (1) *Funeral Director*
 - (a) *Cornish, Cathleen (F086469)*
 - (b) *Wilson, Eric L (F055315)*
- (2) *Funeral Director and Embalmer*
 - (a) *Jones, Michelle N (F086236)*
 - (b) *Lacey, Ashley C (F086470)*
 - (c) *Saldarriaga, Yuliana (F086173)*
 - (d) *Soll, Kenneth A (F086234)*
 - (e) *Starks, Anna C (F038774)*
 - (f) *Walls-Haim, Rebecca C (F034274)*

Mr. Shropshire – The application(s) presented are clean with no indication of a criminal or disciplinary history and have been approved by the Division pursuant to delegation by the Board. This item is informational only and does not require Board action.

Chair – Let me just address the Board. Many years ago we authorized that delegation to the Division and we have never revisited it in the meantime. Is the Board feeling comfortable with that and wish to continue that delegation?

Board Members – Yes sir.

Chair – I just thought in some point in time we need to revisit it. Thank you for doing that.

B. Recommended for Approval without Conditions (Criminal History)

- (1) *Funeral Director and Embalmer*
 - (a) *Vallejera, Anthony*

Mr. Shropshire – The Applicant submitted an application for a Concurrent Intern license on July 22, 2015. The application was incomplete when submitted. All deficient items were returned on August 26, 2015. The Applicant submitted a fingerprint card, the processing of which returned a criminal history, to wit:

- In 2001 the Applicant pled guilty to Burglary of a Dwelling and Grand Theft. He was sentenced to 364 days in jail, \$670 court costs and \$1980 restitution. Letters of recommendation from employers and also from St. Petersburg College are included.

The Division is recommending approval without conditions.

Chair – Is Mr. Vallejera here?

Mr. Vallejera – Yes I am.

Chair – Do you want to address the Board sir or would you just like to answer questions.

Mr. Vallejera – If it is necessary I can.

MOTION: Mr. Knopke moved to approve the application. Mr. Clark seconded the motion, which passed unanimously.

Mr. Knopke – It is important, at least in my viewpoint that you took the time to come. We may have questions and we may not but just the fact that you cared enough to take the time to come is important. Thank you very much.

Mr. Vallejera – Thank you.

Chair – Very good point, Mr. Knopke. Thank you for making that point.

9. Application(s) for Embalmer Apprenticeship

A. Informational Item (Licenses Issued without Conditions) – Addendum E

- (1) Garcia, Keri L (F086237)
- (2) Gregory, Christine A (F086233)
- (3) Kellam-Carter, Yolanda S (F086502)
- (4) McArdle, Shannon G (F071595)
- (5) Tranchese, Michael (F086202)

Mr. Shropshire – The application(s) presented are clean with no indication of a criminal or disciplinary history and have been approved by the Division pursuant to delegation by the Board. This item is informational only and does not require Board action.

10. Application(s) for Training Agency

A. Recommended for Approval without Conditions

- (1) Request(s) for Waiver
 - (a) Beggs Funeral Homes Inc (Monticello) (F085268)

Mr. Shropshire – Beggs Funeral Homes Inc submitted and was approved for a Change of Ownership at the July 15, 2015 Board meeting. Applicant has submitted herein requests (Petition) that the training agency status of this location be continued and has been duly published in the Florida Administrative Register as of September 2, 2015.

The Division is recommending approval subject to the condition that the Petition relating to continuation of training agency status be approved, so that the training agency status of said locations is continued under the new owners, provided there has been no dispute by the public within 30 days of the date waivers were published.

MOTION: Mr. Jones moved to approve the request subject to the condition that the Petition relating to continuation of training agency status be approved, so that the training agency status of said locations are continued under the new owners, provided there has been no dispute by the public within 30 days of the date waivers were published. Mr. Hall seconded the motion, which passed unanimously.

- (b) StoneMor Florida Subsidiary LLC d/b/a Vista Funeral Home (Miami Lakes) (F086269)

Mr. Shropshire – StoneMor Florida Subsidiary LLC d/b/a Vista Funeral Home submitted and was approved for a Change of Ownership at the June 25, 2015 Board meeting. Applicant has submitted herein requests (Petition) that the training agency status of this location be continued and has been duly published in the Florida Administrative Register as of September 11, 2015.

The Division is recommending approval subject to the condition that the Petition relating to continuation of training agency status be approved, so that the training agency status of said locations are continued under the new owners, provided there has been no dispute by the public within 30 days of the date waivers were published.

MOTION: Mr. Hall moved to approve the request subject to the condition that the Petition relating to continuation of training agency status be approved, so that the training agency status of said locations are continued under the new owners, provided there has been no dispute by the public within 30 days of the date waivers were published. Mr. Helm seconded the motion, which passed unanimously.

11. Notice of Change in Location

A. Informational Item – Addendum F

- (1) Nakia Ingraham Funeral Home Inc (F039967) (Pembroke Pines)
- (2) Okeechobee Crematory LLC (F039826) (Okeechobee)

~~(3) Stevens Brothers Funeral Home (F041634) (Belle Glade)~~

Mr. Shropshire – This item is informational only and does not require Board action. Stevens Brothers Funeral Home has not been approved by the Division. It is still under review.

12. Consumer Protection Trust Fund Claims

A. Recommended for Approval without Conditions – Addendum G

Mr. Shropshire – The Division recommends that these claims be approved for the amounts indicated in the column titled “Amount Recommended.”

MOTION: Mr. Mueller moved to approve the claim(s) for the amount indicated on the Addendum entitled “Amount Recommended.” Mr. Hall seconded the motion, which passed unanimously.

Chair – Currently, what do we have in our Consumer Protection Trust Fund?

Mr. Shropshire – The balance is \$8.6 million, as of September 20, 2015.

13. Application(s) for Monument Establishment Sales Agent

A. Informational Item (Licenses Issued without Conditions) – Addendum H

Mr. Shropshire – The application(s) presented are clean with no indication of a criminal or disciplinary history and have been approved by the Division pursuant to delegation by the Board. This item is informational only and does not require Board action.

Mr. Helm – Would it be possible to include a city in the column where it states “Monument Establishment Identified as Employer?”

Mr. Shropshire – Yes sir. We will do that.

14. Application(s) for Funeral Establishment

A. Recommended for Approval without Conditions

(1) Baldwin Brothers Memorial Care Services LLC d/b/a Baldwin Brothers (Port Orange)

Mr. Shropshire – An application for a Funeral Establishment was received on August 11, 2015. The application was complete when submitted. The Funeral Director in Charge will be Christina Stanley (F081593). All fingerprint information was returned with criminal history for one of its principals. The establishment passed its inspection on September 11, 2015.

Criminal History:

Evans P Baldwin criminal history has been presented to the Board in 2010 when he was granted a preneed agent license, at the June 27, 2013 Board meeting when he applied for and was granted a Funeral Director Intern license and again at the July 11, 2013, October 3, 2013, November 7, 2013, March 6, 2014 and September 4, 2014 Board meetings when he applied to be a principal of an Establishment. The preneed sales agent license was approved with conditions. He was ordered to be placed on two years’ probation which was completed in May 2012. The Funeral Director Intern license was approved without conditions. The Funeral Establishment application was approved without conditions. The criminal recorder Evans Baldwin consists of one incident, as follows:

- On September 25, 2002 Applicant, then age 17, while driving a car at approximately 9 PM in Winter Park, struck a woman on a bicycle that he asserts he never saw, and caused her death. Applicant did not stop at the scene. Applicant asserts he pulled over at gas station a little way further on, and saw people apparently helping the victim, and heard emergency vehicles going to the scene, and decided to drive home. At home that same night he told his girlfriend that he had struck a bicyclist and he could hear her screaming. The next day, when his step-mother noticed the damage to the car Applicant had been driving, Applicant told her he had fallen out of a tree onto the car and damaged it. It was not until October 5, 2002 that Applicant told his parents the truth. His father went to see an attorney to obtain advice

and representation for Applicant. On October 14, 2002 the attorney for Applicant delivered a letter to the highway patrol, revealing Applicant's involvement, which the police were not previously aware of.

- Thereafter, on or about January 4, 2004, Applicant pled guilty to the felony charge of leaving the scene of an accident with death, in Florida Circuit Court, Orange County. His sentence included 5 years supervised probation, 150 hours of community service including 10 hours of speaking to groups in victim awareness programs using a photo of the victim, his driver's license was restricted to business driving for one year, he had to pay the victim's funeral costs, and court costs were imposed. He has successfully completed the court-ordered probation.

The Division is recommending approval without conditions.

MOTION: Mr. Hall moved to approve the application. Mr. Helm seconded the motion, which passed unanimously.

B. Recommended for Approval with Conditions

(1) American Burial and Cremation Service Inc d/b/a Affordable Online Cremation Service (Punta Gorda)

Mr. Shropshire – An application for a Funeral Establishment was received on July 13, 2015. The application was incomplete when submitted. All deficient items were received on August 26, 2015. The fingerprint cards for all principals were returned with no criminal history; except one principle (George Werner) fingerprints returned illegible and the Division is waiting for the results from the FDLE. The Funeral Director in Charge will be Micah Botts (F043684). The establishment passed its inspection on September 15, 2015. The Division is recommending approval subject to the condition that the fingerprint results for George Werner are returned without criminal history.

MOTION: Mr. Jones moved to approve the application subject to the condition that the fingerprint results for George Werner are returned without criminal history. Mr. Mueller seconded the motion, which passed unanimously.

(2) Baldwin Brothers Memorial Care Services LLC d/b/a Baldwin Brothers (Tavares)

Mr. Shropshire – An application for a Funeral Establishment was received on August 11, 2015. The application was complete when submitted. The Funeral Director in Charge will be Janet Ellis (F038018). All fingerprint information was returned with criminal history for one of its principals.

Criminal History:

Evans P Baldwin criminal history has been presented to the Board in 2010 when he was granted a preneed agent license, at the June 27, 2013 Board meeting when he applied for and was granted a Funeral Director Intern license and again at the July 11, 2013, October 3, 2013, November 7, 2013, March 6, 2014 and September 4, 2014 Board meetings when he applied to be a principal of an Establishment. The preneed sales agent license was approved with conditions. He was ordered to be placed on two years' probation which was completed in May 2012. The Funeral Director Intern license was approved without conditions. The Funeral Establishment application was approved without conditions.

The criminal recorder Evans Baldwin consists of one incident, as follows:

- On September 25, 2002 Applicant, then age 17, while driving a car at approximately 9 PM in Winter Park, struck a woman on a bicycle that he asserts he never saw, and caused her death. Applicant did not stop at the scene. Applicant asserts he pulled over at gas station a little way further on, and saw people apparently helping the victim, and heard emergency vehicles going to the scene, and decided to drive home. At home that same night he told his girlfriend that he had struck a bicyclist and he could hear her screaming. The next day, when his step-mother noticed the damage to the car Applicant had been driving, Applicant told her he had fallen out of a tree onto the car and damaged it. It was not until October 5, 2002 that Applicant told his parents the truth. His father went to see an attorney to obtain advice and representation for Applicant. On October 14, 2002 the attorney for Applicant delivered a letter to the highway patrol, revealing Applicant's involvement, which the police were not previously aware of.
- Thereafter, on or about January 4, 2004 Applicant pled guilty to the felony charge of leaving the scene of an accident with death, in Florida Circuit Court, Orange County. His sentence included 5 years supervised probation, 150 hours of community service including 10 hours of speaking to groups in victim awareness programs using a photo of the victim, his driver's license was restricted to business driving for one year, he had to pay the victim's funeral costs, and court costs were imposed. He has successfully completed the court-ordered probation.

The Division is recommending approval subject to the condition that the establishment passes an onsite inspection by a member of Division staff.

Mr. Knopke – My brother is president of Baldwin Brothers and that will not impact my ability to make a fair and impartial decision.

MOTION: Mr. Jones moved to approve the application subject to the condition that the establishment passes an onsite inspection by a member of Division staff. Mr. Mueller seconded the motion, which passed unanimously.

(3) *Families Come First Funeral Services LLC (North Miami Beach)*

Mr. Shropshire – An application for a Funeral Establishment was received on August 10, 2015. The application was complete when submitted. The fingerprint cards for all principals were returned with no criminal history. The Funeral Director in Charge will be Saraita Anderson (F045430). The Division is recommending approval subject to the condition that the establishment passes an onsite inspection by a member of Division staff.

Chair – Ms. Simon, is there any comment on this application?

Ms. Ellen Simon – Upon request that I look into the matter further, I did speak with the Applicant and he put down on the application a visitation chapel. However, he was incorrect. His application does not include a request for a funeral home with a visitation chapel.

MOTION: Mr. Knopke moved to approve the application subject to the condition that the establishment passes an onsite inspection by a member of Division staff. Ms. Oliver seconded the motion, which passed unanimously.

(4) *Sorensen Funeral Home LLC (St. Petersburg)*

Mr. Shropshire – A change of ownership application was submitted on September 1, 2015. The application was complete when submitted. The Funeral Director in Charge will be Richard Sorensen (F043775). All fingerprint information was returned without criminal history. The current establishment is the qualifying entity for a preneed license (F038718) and the current Applicant has submitted a Transfer Request license for the preneed license and it will be presented at a future meeting.

The Division is recommending approval subject to the condition(s) as follows:

- 1) That the closing on the transaction to acquire ownership shall occur within 60 days of the date of this Board meeting.
- 2) That the closing on the transaction shall be on terms and conditions as represented to the Board at this Board meeting.
- 3) That Applicant shall assure receipt by the Division within 75 days of the Board meeting, of a letter signed by Applicant or Applicant's attorney, addressed to the Division, certifying that closing has occurred and stating the date of closing, and stating that closing occurred on terms and conditions not inconsistent with those as represented to the Board at this Board meeting, and providing a copy of the fully Bill of Sale, Asset Purchase Agreement, or other document by which the acquisition transaction is consummated, executed by all parties, and any and all amendments, schedules, and other attachments thereto, also fully executed.
- 4) That the Director of the Division of Funeral, Cemetery, and Consumer Services may extend any deadline set out in these conditions, by up to 90 days, for good cause shown. The Director shall report any such extensions to the Board as an informational item.
- 5) That all representations by the Applicant in the application and related materials provided to the Board or FCCS Division by the Applicant, in support of the application(s), are deemed material to the Board's action herein.
- 6) That the establishment(s) under the application(s) herein passes an onsite inspection by a member of Division Staff.
- 7) That the Applicant (new owner or controlling party) shall assume all existing preneed liabilities of the location(s) being acquired.

MOTION: Mr. Hall moved to approve the application subject to the conditions recommended by the Division. Mr. Knopke seconded the motion, which passed unanimously.

15. **Application(s) for Cinerator Facility**
A. **Recommended for Approval with Conditions**
(1) **Sorensen Funeral Home LLC (St. Petersburg)**

Mr. Shropshire – A change of ownership application was submitted on September 1, 2015. The application was complete when submitted. The Funeral Director in Charge will be Dean Bolvin (F042779). All fingerprint information was returned without criminal history.

The Division is recommending approval subject to the condition(s) as follows:

- 1) That the closing on the transaction to acquire ownership shall occur within 60 days of the date of this Board meeting.
- 2) That the closing on the transaction shall be on terms and conditions as represented to the Board at this Board meeting.
- 3) That Applicant shall assure receipt by the Division within 75 days of the Board meeting, of a letter signed by Applicant or Applicant’s attorney, addressed to the Division, certifying that closing has occurred and stating the date of closing, and stating that closing occurred on terms and conditions not inconsistent with those as represented to the Board at this Board meeting, and providing a copy of the fully Bill of Sale, Asset Purchase Agreement, or other document by which the acquisition transaction is consummated, executed by all parties, and any and all amendments, schedules, and other attachments thereto, also fully executed.
- 4) That the Director of the Division of Funeral, Cemetery, and Consumer Services may extend any deadline set out in these conditions, by up to 90 days, for good cause shown. The Director shall report any such extensions to the Board as an informational item.
- 5) That all representations by the Applicant in the application and related materials provided to the Board or FCCS Division by the Applicant, in support of the application(s), are deemed material to the Board’s action herein.
- 6) That the establishment(s) under the application(s) herein passes an onsite inspection by a member of Division Staff.

MOTION: Mr. Mueller moved to approve the application subject to the conditions recommended by the Division. Mr. Knopke seconded the motion, which passed unanimously.

16. **Application(s) for Preneed Main License**
A. **Recommended for Approval without Conditions**
(1) **Family Funeral Home & Cremation Services LLC (Crawfordville)**

Mr. Shropshire – The Department received the application on August 5, 2015 and deficiencies were noted on the application. All deficiencies were resolved as of August 20, 2015. The sole principal and owner of the LLC will be: L.F. “Skip” Young, Jr. A completed background check of all officers revealed no criminal history. Applicant obtained its current qualifying funeral establishment license (#F083557) as of April 2, 2015. If approved, Applicant will use the pre-approved Funeral Services, Inc. (FSI) First Florida Trust Agreement (Sabal Trust Company) and pre-arranged funeral agreement. The Applicant’s financial statements as of July 31, 2015 reflect the following:

Outstanding Preneed Contracts	= \$	0
Required Net Worth	= \$	10,000
Reported Net Worth	= \$	75,166

The Division is recommending approval without conditions.

MOTION: Mr. Jones moved to approve the application. Mr. Hall seconded the motion, which passed unanimously.

(2) **Florida Family Cremations, Inc (Clearwater)**

Mr. Shropshire – The Department received the application on September 8, 2015 and the application was complete and no deficiencies were noted on the application. The principals and co-owners of the corporation will be: Thomas S. Heyward (III) and David T. Menneke. A completed background check of all officers revealed no criminal history. Applicant obtained its current qualifying direct disposal establishment license (F085031) as of June 29, 2015. If approved, Applicant will use the pre-approved Funeral Services, Inc. (FSI) First Florida Trust Agreement (Sabal Trust Company) and pre-arranged funeral agreement. The Applicant’s financial statements as of July 31, 2015 reflect the following:

Outstanding Preneed Contracts	= \$	0
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Required Net Worth	= \$	10,000
Reported Net Worth	= \$	18,095

The Division is recommending approval without conditions.

Mr. Hall – Mr. Shropshire, I know the net worth requirement is met on this establishment. Does the negative income on this case concern the Division?

Mr. Shropshire – It is concerning to the Division but it is not anything specific that we can take action on.

MOTION: Ms. Anderson moved to approve the application. Mr. Clark seconded the motion, which passed with two (1) dissenting votes.

(3) Whitfield Funeral Home, Inc (Zephyrhills)

Mr. Shropshire – The Department received the application on August 10, 2015 and deficiencies were noted on the application. All deficiencies were resolved as of September 3, 2015. This application for a preneed license is being filed by the Applicant due to non-renewal of its preneed license (F019375), which was issued as of November 1995 and valid through June 30, 2015. If approved, Applicant will assume all preneed contracts written under the former preneed license # F019375. The qualifying funeral establishment license (F041938) for the preneed license was obtained as of January 1991. A completed background check of all officers revealed no criminal history.

Applicant will continue to sell insurance-funded preneed through Forethought Life Insurance Company and use its pre-approved Preneed Funeral Agreement and Enrollment forms. The Applicant’s financial statements as of December 31, 2014 reflect the following:

Acquired Preneed Contracts	= \$	2,217,170
Required Net Worth	= \$	100,000
Reported Net Worth	= \$	246,148

Documentation establishes that Alvin E. and Ernestine K. Whitfield (principals and co-owners of Applicant herein) filed for Ch. 11 bankruptcy in 1992. This was a personal bankruptcy action that was discharged as of December 1992 by the Middle District Court of Florida. Mr. and Mrs. Whitfield has provided a notarized statement and court documentation evidencing the disclosed bankruptcy along with letters of good standing from their financial institution. This bankruptcy was completed and discharged approximately 33 years ago, and there have been no other issues or actions taken by the Division against Applicant as of to date. The Division is recommending approval without conditions.

MOTION: Mr. Knopke moved to approve the application. Mr. Mueller seconded the motion, which passed unanimously.

17. Application(s) for Removal Facility
A. Recommended for Approval *with* Conditions
(1) T&T Removal LLC (Pembroke Pines)

Mr. Shropshire – An application for a Removal Facility was received on August 26, 2015. The application was incomplete when submitted. All deficient items were returned on September 10, 2015. The fingerprint cards for all principals were returned with no criminal history. The Division is recommending approval subject to the condition that the facility passes an onsite inspection by a member of Division Staff.

MOTION: Mr. Knopke moved to approve the application subject to the condition that the facility passes an onsite inspection by a member of Division Staff. Mr. Mueller seconded the motion, which passed unanimously.

18. Executive Director’s Report
A. 2016 Board Meeting Schedule

Mr. Shropshire – The Division recommends that this be approved as the 2016 meeting schedule.

BOARD OF FUNERAL, CEMETERY AND CONSUMER SERVICES
2016 Meeting Schedule

ALL MEETINGS WILL BEGIN @ 10:00am

Thursday, January 7 th	Conference Call
Thursday, February 4 th	Tallahassee
Thursday, March 3 rd	Conference Call
Thursday, April 7 th	Jacksonville
Thursday, May 19 th	Conference Call
Thursday, June 30 th	Tallahassee
Thursday, July 7 th	Conference Call
Thursday, August 4 th	Orlando/Altamonte Springs
Thursday, September 1 st	Conference Call
Thursday, October 6 th	Tampa/Brandon
Thursday, November 3 rd	Conference Call
Thursday, December 1 st	Tallahassee

MOTION: Mr. Mueller moved to approve the meeting schedule. Mr. Jones seconded the motion, which passed unanimously.

B. Consideration of Anti-Competitive Effects of a Board's Actions (Informational)

Mr. Shropshire – This is simply an informational item re: a Supreme Court decision on the anti-competitive effects of a particular Board, the North Carolina Dental Board.

Chair – Thank you for sharing that with us. It was an interesting read.

MEMORANDUM
Department of Financial Services
Division of Funeral, Cemetery, and Consumer Services

TO: Board Members (Board of Funeral, Cemetery, and Consumer Services)
FROM: Douglas Shropshire, Division Director *DS*
DATE: 10-1-15
RE: Consideration of Anti-Competitive Effects of a Board's Actions

(1) It is my belief and has been my observation that the Florida Board of Funeral, Cemetery, and Consumer Services consistently puts the general public good first as a criteria for decision in all their actions as a Board.

(2) Having said that, it may nevertheless be useful for this Board, as a prophylactic measure, to review the attached U.S. Supreme Court case regarding the actions of the North Carolina Dental Board that were found to be anticompetitive and unfair, and were reversed by the courts. Although it is not quite put this way by the court, I would paraphrase the finding to be, in effect, that the NC Board put industry protection ahead of the general public good.

C. Report: Payment of Disciplinary Fines and Costs (Informational)

Monthly Report of Fines and Costs Assessed and Paid
 Division of Funeral, Cemetery and Consumer Services
 October 1, 2015 Board Meeting
 Date of Report: September 22, 2015

Licensee	Board Meeting	Case No.	Total Fine & Cost Due	Date Due	Paid in Full?	Comments
Cemetery Professionals, LLC dba Beaches Memorial Gardens and Cemetery Professionals, LLC dba Beaches Memorial Park	Jun-12	110156-10-FC & 110157-10-FC	\$5,250 \$5,000 38,859.57	9/6/2012 12/7/2012 35 mo pymts	YES YES NO	Matter under review.
Roy Vance Prestwood Jr.	Jun-15	139087-13-FC and 139091-13-FC	\$750 & \$2,000 respectively	10/10/2015	Note D	
Prestwood Funeral Home	Jun-15	139085-13-FC & 139093-13-FC	\$750 & \$2,000, respectively & Restitution of \$252.34	10/10/2015	Note D	
Buy and Sell Cemetery	Dec-14	154941-14-FC	\$62.50 \$62.50 \$62.50 \$62.50 \$62.50 \$62.50 \$62.50 \$62.50 \$62.50	\$62.50 Initial payment/ First installment payment (paid)	On time	
Jay Monument & Vault a/k/a Jay Monument & Vault Inc.	Oct-14	153256-14-FC	\$5000 and 13 years of renewal fees	11/24/2014	No	Legal served licensee with a Notice of Intent on issuing an emergency order of suspension. Business is no longer in operation, nbo further action has been taken..
Delvis Rogers	Dec-14	150301-14-FC	\$3,500	January 23 2015	No	The license was suspended as of July 27, 2015 (by emergency order)
John Gallaher	Apr-15	157224-14-FC	\$3,166	7/8/2015		Modition to Modify Final Order to be heard by the Board at this October meeting
Pershing Industries	Jun-15	163612-14-FC	\$80,000	9/30/2015	D	Closing took place on August 31, 2015.
Ronald Noble	Aug-15	134801-13-FC	\$2,500	8/1/2017	A	
Todd Garfield	Aug-15	161234-14-FC	\$500	9/15/2015	YES	

A. When payment in full becomes past due, the FCCS Division works with the DFS Legal Division to enforce payment.
 B. Once fines and costs are paid in full, licensee kept on this report 3 months, showing Paid in Full, and then dropped off report; also licensee dropped off report after disciplinary action filed due to nonpayment of the fine and costs.
 C. The Order re this case is still in process, so no Due date is not yet established.
 D. Due date has not passed, as of the date of this report.
 E. As of the date of this report, monthly payments were current.

Mr. Helm – What does “Matter under review” mean? What is under review for Cemetery Professionals? I thought it was done.

Ms. Simon – Actually, it was finished at one point. However, we are just checking verification to assure that all payments have been made. We needed to look at one additional thing.

Mr. Shropshire – Yes, we are purposely being vague. We need to check into something that has come to light, after our last report and we do not want to prejudice the Board at this point.

Mr. Hall – Has payment been received on the final one on Vista? Do we know that? It is coming up.

Ms. Simon – The total payment was received by the Division.

19. Chairman’s Report (Oral)

Chair – Again I want to commend the Board. What a great Board we have. Thank you so much for serving. It is truly a pleasure to serve alongside you.

20. Office of Attorney General’s Report (Oral)

None

21. Administrative Report

The information was provided on the Agenda.

22. Disciplinary Report

The information was provided on the Agenda.

23. Upcoming Meeting(s)

A. November 5th (Teleconference)

B. December 3rd (Tallahassee)

24. Adjournment

The meeting was adjourned at 11:45 a.m.