

MINUTES
BOARD OF FUNERAL, CEMETERY AND CONSUMER SERVICES
December 3, 2015 - 10:00 A.M.
Department of Financial Services
2020 Capital Circle SE, Alexander Bldg #230
Tallahassee FL 32301

1. Call to Order, Preliminary Remarks and Roll Call

Mr. Jody Brandenburg, Chair called the meeting to order at 10:04 am. Mr. Shropshire, will you make your opening remarks and do the roll call, please?

Mr. Doug Shropshire – Yes sir. My name is Doug Shropshire. I am Director of the Division of Funeral, Cemetery, and Consumer Services. Today is December 3, 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 Alexander Building here in Tallahassee 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
Vanessa Oliver

ABSENT:

James “Jim” Davis
Richard “Dick” Mueller

Mr. Shropshire – Mr. Chairman there is a quorum for the business of the Board.

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 – Thank you. Board members, did everyone receive your agenda packet in a timely manner and ready to move forward?

Board Members – Yes.

2. Action on the Minutes

A. November 5, 2015

The Chair confirmed that all Board members had read the draft of the minutes of the previous Board meeting held on November 5, 2015.

MOTION: Mr. Lew Hall moved to adopt the minutes of the meeting. Mr. Andrew Clark seconded the motion, which passed unanimously.

3. Old Business

A. Renewal of Preneed License

(1) Pershing Industries, Inc. d/b/a Vista Memorial Gardens (Miami Lakes)

Mr. Shropshire – As the Board may recall, in June of this year the Board approved a disciplinary settlement that also renewed the preneed license of Pershing. It was subject to a requirement in the Order renewing the license and approving the disciplinary that Pershing prepare and provide a balance sheet as of the day after the sale of their funeral establishment to StoneMor. Pershing has prepared that requested balance sheet and it has been provided to the Board. The balance sheet indicates a net worth of \$5,831,564 against a required minimum net worth of \$100,000, so the balance sheet appears to reflect the required minimum net worth. Mr. Klein for the Licensee is here with counsel, Mr. Rudolph, if the Board has questions.

Chair – Thank you. Board members any questions?

Mr. Hall – Mr. Chair, a couple of questions if I can.

Chair – Okay, we will have to swear in Mr. Klein.

Mr. Shropshire – Mr. Klein, would you raise your right hand? Do you swear 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. Les Klein – Yes I do.

Mr. Shropshire – State your full name please.

Mr. Klein – Les Klein.

Mr. Shropshire – Thank you sir.

Mr. Hall – We’ve got kind of a snapshot picture of what you broke apart for us between cemetery and funeral home that you provided for us like we asked for. Since we’ve just done that though, it’s really not going to provide us a good picture in the near future as to what activity is going to be there at the cemetery. I mean, before in the balance sheets we’ve got merchandise from the funeral home and that type of thing on that sheet. It goes back to 2014. Is it possible for the Division to get a copy maybe on a quarterly basis from an outside CPA firm, not an internal done of that to show your income and that type of thing coming in? Because right now we don’t, we look at these old balance sheets and we see well here’s merchandise, caskets, vaults and things from the funeral home that I assume are going away now since this funeral home has been sold.

Mr. Klein – The statement that I gave for August 31st does not include, its right after the sale, so all the information from the funeral home is not on there. So there is not caskets, there is no item on there.

Mr. Hall – All this was done internally, though, in-house? The statements that you gave us were just on software or something that you have. Correct?

Mr. Klein – Correct.

Mr. Hall – Do you all utilize any CPA firm outside your office? Does someone else prepare your taxes?

Mr. Klein – Yes.

Mr. Hall – Do they provide the financial stuff that you provide to the Division or do you all do that internally?

Mr. Klein – No, we do that internally. We have a CPA who prepares our tax returns.

Mr. John Rudolph – Mr. Klein is a certified CPA.

Mr. Hall – Is that still active, your CPA?

Mr. Klein – No. Right now I am waiting for continuing education. It's on hold right now, my CPA.

Mr. Hall – How long has that been inactive?

Mr. Klein – I don't remember how many years. It has been a couple of years at least.

Mr. Hall – And I understand that and that's a pass but I guess President Reagan would say trust but verify so since there's an issue I just think it is in the consumer's interest to be sure that we dot them and cross them to be sure that we are comfortable with this. That is my concern on it. And I understand that since we broke them apart they were together before so there's going to be some changes and stuff in that so that was my concern there.

Mr. Klein – The statements that I gave you for August 31st has already broken off. It's opposed to as the requirement was the day after the sale. Those financial statements are after the sale.

Mr. Hall – Do your CPAs who do your tax staff, do they provide you financials and stuff?

Mr. Klein – No they prepare our tax returns.

Mr. Hall – Just the tax returns. Okay.

Chair – Any other questions or comments? Thank you. We appreciate you providing that and unless there's questions otherwise?

Mr. Shropshire – Mr. Chairman, one comment if I may. Mr. Klein, I think I'm correct that you've already received a notice for an examination of the cemetery preneed.

Mr. Klein – Correct.

Mr. Shropshire – And that's, the field work hasn't started, has it?

Mr. Klein – No that will start December 14th, they come in.

Mr. Shropshire – So if that provides any comfort to the Board and also pursuant to the settlement you will be providing the CPA review, semiannual statements, six (6) of them.

Mr. Klein – Correct. They will be coming in six (6) months after the sale, so I think it will be February will be the first time they'd be coming in.

Mr. Hall – Had you all agreed upon that mutually to have the CPA do that?

Mr. Shropshire – No we haven't gotten that nailed down. Thank you, sir.

Chair – Being a status report rather than the license has already been renewed, I don't know that there's a motion necessary or a vote necessary. Thank you for the status report.

Mr. Klein – Thank you.

Mr. Rudolph – Thank you.

4. Disciplinary Proceedings:

A. Settlement Stipulation(s)

(1) Waiver of Probable Cause

(a) Anderson, Tyler: Case No. 177311-15-FC; Division No. ATN-24946 (F071520)

Mr. Shropshire – The summary of the proposed settlement is that it calls for a permanent revocation of a licensure within the meaning of s. 497.153(5)(a)(8). That is a revocation in which no future application for licensure under 497 by the revoked person or an entity shall be accepted, processed or approved. The subject has appeared pro se. The Department is represented by its counsel, Deirdre Farrington.

Ms. Deirdre Farrington – Good Morning Chairman, Director, members of the Board. May I address the Board?

Chair – Please.

Ms. Farrington – I am presenting for you this morning the case against Tyler Anderson, Case No. 177311-15-FC. Mr. Anderson is a licensed preneed sales agent holding license number F071520. The circumstances of this case are as follows. The Department received information that Mr. Anderson had incurred a criminal record subsequent to licensure and failed while holding a license under Chapter 497 to maintain one or more of the qualifications for such license. On January 9, 2014, Mr. Anderson pled nolo contendere in Leon Circuit Court to one count of knowingly developing a scheme to defraud, which is a first degree felony. Adjudication was withheld and he was placed on probation for seven (7) years. Mr. Anderson waived probable cause and agreed to the Settlement Stipulation for a Consent Order, which was accepted by the Department and is being presented to you today. Mr. Anderson is not represented by counsel and to my knowledge is not present although he was duly served with notice of today's meeting. The terms of the Settlement Stipulation require that his license be permanently revoked and that no future application by him for licensure under Chapter 497 will be accepted, processed or approved. The terms of the Settlement Stipulation are reasonable under the facts and circumstances of this case. The Department requests that the Board approve the settlement and issue the Consent Order to conclude this matter. I think it would be appropriate at this time for the Chair to entertain a motion adopting the allegations of fact in the investigative report.

MOTION: Mr. Keenan Knopke moved to adopting the allegations of fact in the investigative report. Mr. Hall seconded the motion, which passed unanimously.

Chair – Mr. Anderson? Is Tyler Anderson with us today? Hearing no response.

Ms. Farrington – The Department contends that the Board's findings of fact support a finding of violation of F.S. as charged in the Administrative Complaint and at this time I would give Mr. Anderson the opportunity to address you but he is not present so I think it would be appropriate for the Chair to entertain a motion finding Mr. Anderson in violation of F.S. as stipulated in the Settlement Stipulation.

MOTION: Mr. Ken Jones moved that Mr. Anderson in violation of F.S. as stipulated in the Settlement Stipulation. Mr. Knopke seconded the motion, which passed unanimously.

Ms. Farrington – I would also offer into evidence the investigative report with exhibits, a copy of which has been previously furnished to the Board, to establish a prima facie case for the violations alleged in the Administrative Complaint and Settlement Stipulation.

MOTION: Mr. Knopke moved to accept into evidence the investigative report with exhibits, a copy of which has been previously furnished to the Board, to establish a prima facie case for the violations alleged in the Administrative Complaint and Settlement Stipulation. Mr. Clark seconded the motion, which passed unanimously.

Mr. Shropshire – May I inquire?

Chair – Please.

Mr. Shropshire – Just for a point of clarification counsel and also of the Board’s counsel, is this a new posture that these will be in? Generally, the request for the motion on the facts and the law is reserved for informal hearings. In settlements we usually just go straight up, well accept or reject the settlement.

Ms. Farrington – If that’s how the Board would prefer to proceed that would be fine.

Mr. Shropshire – Traditionally they’ve gone that route.

Chair – Thank you.

Mr. Shropshire – I’m sorry.

Ms. Farrington – No problem.

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

(b) Related Cases – Division No. ATN-25493

a. Mullins Memorial Funeral Home & Cremation Service, LLC: Case No. 179182-15-FC; Division No. ATN-25493 (F066405)

Mr. Shropshire – This is a proposed settlement calling for a fine of \$1500. The subject is represented by counsel, Mr. Ed Bayo and the Department is represented by its counsel, Deirdre Farrington.

Ms. Farrington – Thank you, sir.

Mr. Helm – I have in my packet Cooperative Funeral Funding, Inc. Do you have that?

Mr. Shropshire – It should not be in the packet. I’m sorry.

Mr. Helm – I kept wondering. I didn’t see it on the agenda but it’s in there.

Mr. Shropshire – It should not be in the packet.

Chair – This will be Mullins Memorial Funeral Home.

Mr. Helm – It’s connected?

Mr. Shropshire – Yes it is connected.

Mr. Helm – But it’s a later date?

Mr. Shropshire – Yes. Perhaps it was included as an informational item but I’m still in contact and conversation with Mr. Bayo and his client, Cooperative.

Mr. Knopke – It’s not in the electronic packet.

Ms. Farrington – These two (2) cases are related cases based on the same facts and circumstances and will be presented together. The cases are offered for acceptance of Settlement Stipulations for Consent Orders and proposed Consent Orders. Mr. Shropshire has stated the names of the parties and the case numbers for you. I will note that Mullins Funeral Home &

Cremation Service, LLC is also on your agenda (Item 16. A.) with regarding change of name and ownership in the preneed license. The circumstances of the cases are as follows. Mullins Memorial Funeral Home & Cremation Service, LLC is a licensed funeral establishment in the state of Florida holding license number F066405. In July 2015, a routine examination of the funeral home revealed that Respondent entered into a trust agreement with Cooperative Funeral Funding, Inc. before the trust agreement was submitted to and approved by the Board and used several times a preneed sales contract form that had not been approved by the Board. In addition Respondent, in April 2014, experienced a change of ownership that was not timely reported to the Board. A Settlement Stipulation for Consent Order was offered to and accepted by the Respondent subject to the Board's approval. The Consent Order is being presented before you today. Respondent has waived probable cause and stipulated that it shall pay a fine of \$1500. The terms of the Settlement Stipulation are reasonable under the facts and circumstances of this case. The Department requests that the Board approve the settlement and issue the Consent Order to conclude this matter.

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

Chair – Would you like to address the Board?

Mr. Ed Bayo – No Sir.

Mr. Shannon Mullins – May I address the Board, sir? My attorney doesn't want me to but I'd like to.

Chair – Yes. Please be sworn in.

Mr. Shropshire – 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. Mullins – Yes sir.

Mr. Shropshire – Please state your full name.

Mr. Mullins – Shannon David Mullins. I just wanted to say to the Board, I came here from Ft Myers today because I care about my license and I don't take this lightly. I learned something from you today about trust and verify. I trusted. I didn't verify. That's where I fell short in what I should have done. This matter has been corrected on all of the twenty (20) contracts that were in question with the exception of one (1). We can't get a hold of one (1) person and we are going to do whatever we got to do to make that right. The consumer was never in jeopardy. As well, the Board didn't discover this. The inspector didn't discover this. I brought this to the inspector because we had changed and as he went through his normal audit, which we passed with no issues, I said, I went to Mr. Schuller, inspector Schuller and said I want you to see this contract and then started asking him questions about this company and he says, I don't know. He reached out to Lashonda, verified that the contract was not approved as well that the company was not approved. So, against my judgment, I felt like there should have been an element of this gentleman should be given sixty (60) days to make this right on these twenty (20) contracts that were done wrong. I wasn't given that. Just felt like it was something that I, you know, hey we made a mistake and I want to make it right and we've done everything that we could to make it right. But the Board didn't, the inspector didn't find it, I brought it to his attention. I just wanted to make that a part of the record and let everybody know that.

Chair – Thank you.

b. Mullins, Shannon David: Case No. 179184-15-FC; Division No. ATN-25493 (F044369)

Mr. Shropshire – A proposed settlement is presented calling for a fine of \$1500. The subject is represented by counsel, Mr. Ed Bayo and the Department is represented by its counsel, Deirdre Farrington.

Ms. Farrington – Mr. Mullins is a licensed funeral director and embalmer holding license number F044369. He is currently employed by Mullins Memorial Funeral Home as the FDIC. The facts of the case are similar. A routine examination in July 2015, revealed use of a trust agreement and forms that had not been approved by the Board and a change of ownership that

was not timely reported. Both the funeral home and Mr. Mullins are represented by Mr. Bayo. A Settlement Stipulation was also offered to and accepted by Mr. Mullins subject to your approval. The Consent Order is being presented today. Mr. Mullins also waived probable cause and stipulated that he will pay a fine of \$1500. The terms of the Settlement Stipulation are reasonable under the facts and circumstances of this case. The Department requests that the Board approve the settlement and issue the Consent Order to conclude this matter.

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

Chair – Now I would like to deviate from the published agenda to go to Item #16, as a matter of convenience on this, it's Mullins Memorial Funeral Home and take this matter up while we are on this subject.

16. Application(s) for Preneed Main License
A. Recommended for Approval with Conditions
(1) Mullins Memorial Funeral Home & Cremation Service, Inc. (Cape Coral)

Mr. Shropshire – Mr. Chairman, as you say, this is Item 16. This is an application by Mullins Memorial Funeral Home & Cremation Service, Inc. for a preneed main license. The Applicant operates in Cape Coral, Florida. There is no known prior disciplinary or criminal history concerning the Applicant or its principals. The Applicant appears to meet the required net worth. The Division is recommending approval at this point subject to the condition that Applicant agrees to continue to trust at 100% and/or sell insurance-funded preneed contracts in accord with terms of the attached Stipulation & Consent Agreement.

MOTION: Mr. Clark moved to approve the application subject to the condition that Applicant agrees to continue to trust at 100% and/or sell insurance-funded preneed contracts in accord with terms of the attached Stipulation & Consent Agreement. Mr. Hall seconded the motion, which passed unanimously.

Mr. Knopke – Mr. Chairman, just a quick question.

Chair – Yes?

Mr. Knopke – So when Mr. Mullins applies next year, and this is really directed to Mr. Shropshire, shall he be required to make reference to this discipline in that application?

Mr. Shropshire – Yes.

Mr. Knopke – Ok. Just so you are aware of it. Next year when you send in your application for renewal or whatever you're going to have to reference this and probably be coming back. Not that that's good or bad, just don't want you to miss something.

Mr. Mullins – Thank you.

Mr. Bayo – Thank you so much.

(c) Related Cases – Division No. ATN-25169
a. Maignan, Nadine Ingreed: Case No. 179190-15-FC; Division No. ATN-25169 (F065703)

Mr. Shropshire – This is a proposed disciplinary settlement wherein the penalty is a fine of \$500. The subject is represented by attorney Fredrick Freedman, Esq. and the Department is represented by its counsel, Deirdre Farrington.

Ms. Farrington – The following two (2) cases are related cases based on the same facts and circumstances and will be presented together. The cases are offered for acceptance of Settlement Stipulations for Consent Orders and proposed Consent Orders. Mr. Shropshire has stated for you the case names and numbers.

Mr. Shropshire – If I may Mr. Chairman?

Chair – Please.

Mr. Shropshire – I'm sorry. I stand corrected. I didn't identify the second case. Let me identify that for the record. It is Omega. The Licensee and the subject of the second disciplinary case that Ms. Farrington refers to is Licensee Omega Discount Funeral & Cremation Services, Inc., a licensed funeral establishment under license number F081283. That also is a proposed settlement stipulation calling for a fine of \$1000. Thank you, Ms. Farrington.

Ms. Farrington – And that is Case No. 179191-15-FC. The circumstances of these cases are as follows. Omega Discount Funeral & Cremation Services, Inc. is a licensed funeral establishment in the state of Florida holding license number F081283. In August 2015, a routine examination of the funeral home revealed that Omega transacted its business under names other than that by which it is licensed; advertised goods and services in a way that is fraudulent, deceptive or misleading in form or content; and failed to adopt and implement standards for the proper investigation and resolution of claims and complaints against it. Rick Freedman of Rick Freedman and Associates is counsel for the Respondents. Neither the Respondents nor Mr. Freedman is appearing today. We will come back to that. A Settlement Stipulation for Consent Order was offered to and accepted by the Respondents, subject to your approval and a Consent Order is being presented before you today. Omega waived probable cause and stipulated it shall pay a fine of \$1000 and that within thirty (30) days of executing the Settlement Stipulation it will ensure that all of its advertising, signage and business documents to include its internet-based advertising conform to the name under which it is licensed and shall provide documentation to the Department to show the same.

The companion case is against Nadine Maignan. Ms. Maignan is a licensed funeral director and embalmer holding license number F065703. She is currently employed by Omega Discount Funeral & Cremation Services, Inc. as the funeral director in charge. The facts and circumstances are the same. A routine examination in August 2015 revealed that Omega was using names other than that by which it is licensed, advertising under those names, and had failed to adopt and implement standards for investigation resolution of complaints. Ms. Maignan is also represented by Mr. Freedman and accepted a Settlement Stipulation for Consent Order subject to your approval. The Consent Order is being presented before you today. Ms. Maignan also waived probable cause and stipulated that she shall pay a fine of \$500 and that within thirty (30) days of executing the Settlement Stipulation she will ensure that all of Omega's advertising, signage and business documents to include its internet-based advertising conform to the name under which it is licensed and shall provide documentation to the Department to show the same. And her license shall be placed on probation until she has provided that documentation to us showing Omega is complying with these conditions. The terms of the Settlement Stipulations are reasonable under the facts and circumstances of these cases. The Department requests that the Board approve the settlements and issue the Consent Orders to conclude these matters.

Because Mr. Freedman is not present, I'll bring to your attention that the individual settlement for Ms. Maignan calls for her license to be placed on probation until she has provided documentation showing that Omega is using only its licensed name. Counsel for Omega and Ms. Maignan has already provided to me proof of compliance with the terms of the settlement agreement. Mr. Freedman has provided a copy of the funeral establishment's license with its registered d/b/a, which is North Miami Beach Funeral Parlor. I have verified with the Department of State that that is a duly registered d/b/a. He has provided photos of exterior and interior signage displaying the appropriate name and information that's required by rule and statute. He's provided copies of printed material such as a general price list displaying the appropriate name and he's provided a screenshot of the establishment's website displaying the appropriate name and information. So I would submit to you that no probationary period would be necessary. I consider the proof adequate to demonstrate compliance. The Department believes that it is appropriate at this time for the Chair to entertain a motion to either accept or reject the Settlement Stipulation for a Consent Order.

Chair – Thank you. Is Nicole Maignan here or anyone representing Omega Discount Funeral & Cemetery Services? Hearing no response, is there a motion?

Mr. Helm – Which one are we doing first?

Chair – Nadine Maignan.

Mr. Knopke – Mr. Chairman I got some questions.

Chair – Thank you. Mr. Knopke?

Mr. Knopke – How many complaints were made against this firm? Do you know?

Ms. Farrington – In terms of prior discipline?

Mr. Knopke – Complaints, consumer complaints.

Ms. Farrington – None that I am aware of. This was the result of a routine examination.

Mr. Knopke – Do you know how long they advertised under all these other names?

Ms. Farrington – This is a fairly new establishment. I believe she has only been in business a little more than a year and it may in fact have been the first the routine examination of the establishment so there is no prior discipline.

Mr. Knopke – She's been in business at least a year or do we really know?

Ms. Farrington – I believe that her licensure was October of 2014.

Chair – Ms. Richardson?

Ms. Jasmin Richardson – It was November 12, 2014 for the original licensure.

Mr. Knopke – If I understand correctly, the proposed settlement is probation until she gets things corrected. So if everything is corrected today there would be no probation?

Ms. Farrington – That would be correct.

Mr. Knopke – At some point Mr. Chair, I'm done with my questions, but I'll have a motion on the proposed settlement.

Chair – Ok, is there a motion on the proposed settlement?

Mr. Knopke – I'll make the motion to not accept it and decline the proposed settlement on her. I believe as the funeral director she should know that she can't advertise under any name she decides to advertise under on that day or that week or that month and secondly I think she should be placed on probation. Her personal license should be placed on probation for at least a year.

Mr. Helm – We got to deny the one first don't we?

Mr. Hall – Can I get clarification on the motion? Are you changing the fine and then placing the probation? Will you clarify the motion for me please?

Mr. Tom Barnhart – It would be a motion to reject.

MOTION: Mr. Knopke moved to reject the Settlement Stipulation as presented by the Department. Mr. Helm seconded the motion, which passed with three (3) dissenting votes.

MOTION: Mr. Knopke moved for a counter-offer of two (2) years probation and \$1000 fine, under the usual terms and conditions as stated in the rule, to be accepted within thirty (30) days. Mr. Helm seconded the motion, which passed with three (3) dissenting votes.

b. Omega Discount Funeral & Cremation Services, Inc.: Case No. 179191-15-FC; Division No. ATN-25169 (F081283)

Chair – We have before us a Settlement Stipulation. What’s the pleasure of the Board?

MOTION: Mr. Helm moved to approve the Settlement Stipulation as presented by the Department. Mr. Hall seconded the motion, which passed with one (1) dissenting vote.

(2) Probable Cause Panel B

(a) Casey Myers Funeral Services, Inc. d/b/a Casey Myers, Inc. d/b/a Casey Myers Funeral Home, Inc.: Case Nos. 157215-14-FC, 161127-14-FC, 171425-15-FC, 173182-15-FC, 174048-15-FC, 176036-15-FC; Division Nos. ATN-21129, ATN-22301, ATN-24383, ATN-24407, ATN-24631, ATN-24846 (F061184)

Mr. Shropshire – The allegations are as set forth in the materials provided to the Board. It’s a proposed settlement calling for a permanent revocation pursuant to the provisions of s. 497.153(5)(a)(8), that the revocation is permanent and that no future application for license under Chapter 497 by the revoked person or entity shall be accepted, processed or approved. The subject is represented by counsel, John Rudolph. The Department is represented by Dustin Metz, however, he can’t make it and Ms. Farrington will represent the Department. Thank you.

Ms. Farrington – The following six (6) cases are related cases based on the same facts and circumstances and will be presented together. As your Director has advised you, Assistant General Counsel Dustin Metz handled these cases for the Department. The cases are offered for acceptance of the consolidated Settlement Stipulation for Consent Order and a proposed Consent Order. The Licensee is Casey Myers Funeral Services, Inc. d/b/a Casey Myers, Inc. d/b/a Casey Myers Funeral Home, Inc., Case Nos. 157215-14-FC, 161127-14-FC, 171425-15-FC, 173182-15-FC, 174048-15-FC and 176036-15-FC. The circumstances of these cases are as follows. Casey Myers Funeral Services, Inc. is a licensed funeral establishment in the state of Florida holding license number F061184.

In February 2015, a routine examination of the funeral home revealed that numerous issues were present in the conduct of its business including untimely filed and forged death certificates and unlicensed practice within the establishment. Mr. Rudolph represents the Respondent. A Settlement Stipulation for Consent Order was offered to and accepted by the Respondent, subject to your approval today. The Consent Order is being presented today. Respondent has agreed that its funeral establishment license will be permanently revoked and it shall never apply for any kind of license under Chapter 497 and that it shall immediately cease and desist from conducting business operations in the funeral and cemetery industry in the state of Florida and I believe already has done so. The terms of the Settlement Stipulation are reasonable under the facts and circumstances of these cases. The Department requests that the Board approve this settlement and issue the Consent Order to conclude these matters. I will bring to your attention as well that Casey Myers, as the owner of the establishment, was alleged to have engaged in the unlicensed practice of funeral directing individually. Mr. Myers entered into a separate agreement with the Department whereby he agreed to cease and desist immediately from all business operations in the funeral and cemetery industry in the state of Florida and to never apply for licensure of any kind issued under Chapter 497. At this time, prior to consideration of stipulation, it might be appropriate for Mr. Rudolph.

Mr. Rudolph – No comment.

Ms. Jean Anderson – I served on Probable Cause Panel B in this and the related cases so I’m recusing myself.

Chair – Thank you. Mr. Jones?

Mr. Jones – If I may also acknowledge that this complaint was filed by myself as State Registrar and the Department of Health and filed with the Division. So I just want to make that knowledge for the record.

Chair – Thank you. Mr. Helm?

Mr. Helm – As you were saying, you have an individual also included in this?

Mr. Rudolph – The individual received a cease and desist and that was entered I believe in November. He’s been out since the 25th.

Ms. Farrington – That’s correct.

Mr. Helm – So we’re only dealing with Casey Myers Funeral Services right now?

Chair – The establishment.

Ms. Farrington – That’s correct. This deals only with the corporate entity.

Chair – Mr. Rudolph?

Mr. Rudolph – No comment.

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

(b) Related Cases – Division No. ATN-21439

a. Duvigneaud, Fritz: Case No. 150332-14-FC; Division No. ATN-21439 (F023251)

Mr. Shropshire – These are two (2) related cases. The first is in regards to Licensee Fritz Duvigneaud, license number F023251, a licensed funeral director and embalmer and a preneed sales agent. This is a proposed Settlement Stipulation in which the penalty is a proposed fine of \$1500. The second case is in regard to Funeraria Latina Emanuel, LLC, a funeral establishment, license number F063981. That case is also a proposed disciplinary settlement calling for a fine of \$1500. The subject is appearing in these actions pro se and without counsel. The Department’s counsel in this case was James Bossart, but the matter will be presented here today by Department counsel, Deirdre Farrington.

Ms. Farrington – Thank you. The following two (2) cases are related cases based on the same facts and circumstances and will be presented together. Assistant General Counsel James Bossart handled these cases for the Department. They are offered for acceptance of Settlement Stipulations for Consent Orders and proposed Consent Orders. The first case against Funeraria Latina Emanuel, LLC is Case No. 150334-14-FC. The second case against Fritz Duvigneaud is Case No. 150332-14-FC.

Funeraria Latina Emanuel, as Mr. Shropshire has told you, is a licensed funeral establishment. The Department conducted an investigation of Respondent’s activities in the death care industry resulting in allegations that Respondent, through its owner and funeral director in charge, allowed unlicensed individuals to negotiate a contract for funeral services. On September 16, 2014, Probable Cause Panel B found probable cause against the Respondent. The Department filed an Administrative Complaint on November 24, 2014. A Settlement Stipulation was subsequently offered to and accepted by the Respondent subject to your approval. The Consent Order is being presented before you today. Funeraria Latina Emanuel, LLC has agreed to pay a \$1500 fine.

Mr. Fritz Duvigneaud is a licensed funeral director and embalmer holding license number F023251 and is the funeral director in charge of Funeraria Latina Emanuel, the establishment named in the earlier case. Again, brief facts, same circumstances; an investigation revealed that Mr. Duvigneaud as funeral director in charge allowed unlicensed individuals to negotiate a contract for funeral services. On September 16, 2014, Probable Cause Panel B found probable cause against Mr. Duvigneaud. The Department filed its Administrative Complaint on November 24, 2014. A Settlement Stipulation for Consent Order was offered to and accepted by Mr. Duvigneaud subject to your approval. The Consent Order is being presented before you today. Mr. Duvigneaud has agreed to pay a \$1500 fine. The terms of the Settlement Stipulations are reasonable under the facts and circumstances of these cases. The Department requests that the Board approve the settlements and issue the Consent Orders to conclude these matters.

Ms. Anderson – Mr. Chairman, I served on Probable Cause Panel B on these related cases.

Chair – Both cases? Thank you. Board we’ll take up first the case against Mr. Duvigneaud.

Ms. Oliver – Mr. Chair, I have a question. So there's no probation as part of this proposed settlement order, it's just a fine?

Ms. Farrington – That's correct.

Ms. Oliver – So when I read the facts or the allegations that are set forth it seems a little bit more serious than just allowing unlicensed people to negotiate a contract or having people pay these contract negotiators directly and harassing the family. I think that there needs to be probation involved. I don't know what the sense of the rest of the Board might be on that.

Chair – If that's what you desire, first would be deny the Settlement Stipulation, we would vote on that and then you'd propose stipulations.

MOTION: Ms. Oliver moved to deny the proposed Settlement Stipulation as presented by the Department. Mr. Knopke seconded the motion, which passed unanimously.

MOTION: Ms. Oliver moved to counter-offer with two (2) years probation and a \$1500 fine, under the usual terms and conditions as stated in the rule. Mr. Clark seconded the motion, which passed unanimously.

b. Funeraria Latina Emanuel, LLC: Case No. 150334-14-FC; Division No. ATN-21439 (F063981)

Chair – There is a Settlement Stipulation before us.

Mr. Knopke – And what was that again?

Ms. Farrington – Funeraria Latina agreed to pay a \$1500 fine.

MOTION: Mr. Knopke moved to deny the proposed Settlement Stipulation as presented by the Department. Mr. Hall seconded the motion, which passed unanimously.

Mr. Rudolph – May I make a point of order real quick?

Chair – Please.

Mr. Rudolph – I believe you have to give the Respondent a period of time within which to accept this counter-offer.

Ms. Wendy Wiener – This is a Settlement Stipulation.

Mr. Rudolph – It's a Settlement Stipulation and they agreed to a Settlement Stipulation and now you are adding additional terms so I believe...

Mr. Barnhart – I can put in thirty (30) days that they accept within thirty (30) days or the offer is off the table.

MOTION: Mr. Knopke moved to counter-offer with two (2) years probation and \$3000 fine, under the usual terms and conditions as stated in the rule, to be accepted within thirty (30) days. Ms. Oliver seconded the motion, which passed unanimously.

Mr. Rudolph – There was a motion and a second and I didn't hear a full vote of all the Board members on that.

Chair – I thought we did vote. It was a voice vote.

Knopke – Nobody spoke real loud on that.

Chair – There was a voice vote on it. Thank you. Thank you for bringing that up. We're back to Duvigneaud. The proper procedure for adding the thirty (30) days on that would be to do what?

Mr. Barnhart – Just move to reopen then add that as a condition.

MOTION: The Chair moved to reopen the motion on Fritz Duvigneaud. Mr. Jones seconded the motion, which passed unanimously.

MOTION: Mr. Knopke moved to counter-offer with two (2) years probation and a \$1500 fine, under the usual terms and conditions as stated in the rule, to be accepted within thirty (30) days. Ms. Oliver seconded the motion, which passed unanimously.

Chair – Ms. Richardson?

Ms. Richardson – I was going to say there was also another one, Nadine Maignan, that you all had a counter-offer that we may want to go back and revisit that one also.

Mr. Barnhart – I think we took care of that one at the time.

Ms. Farrington – So that I may pass the Board’s decision accurately to Mr. Bossart, on each case against Mr. Duvigneaud and against Funeraria Latina Emanuel, the Board is counter-offering with the same fine, two (2) years probation on the usual terms to be accepted within thirty (30) days?

Mr. Helm – On which one?

Ms. Farrington – On both.

Mr. Helm – No.

Ms. Farrington – That was my understanding.

Mr. Knopke – There was a \$3000 fine on Funeraria.

Ms. Farrington – I’m sorry. Thank you.

(c) Related Cases – Division No. ATN-22744

a. Matt, Dwayne: Case No. 158718-14-FC; Division No. ATN-22744 (F045183)

Mr. Shropshire – These are two (2) related cases. The first one involves Licensee, Dwayne Matt, a funeral director and embalmer under license number F045183. This is a proposed settlement of a disciplinary matter in which the settlement calls for a fine of \$500 and one (1) year probation. The second and related case is against Zion Hill Mortuary, Inc. of Safety Harbor, FL, license number F041229. Again it’s a proposed settlement in which the Licensee would pay a fine of \$500 and one (1) year probation. The subject is represented by attorney Christopher Chestnut. Department’s counsel in the matter was Colleen Rio, but it will be presented here today, both cases, by Department counsel Deirdre Farrington.

Ms. Farrington – The following two (2) cases are related cases based on the same facts and circumstances and will be presented together. Assistant General Counsel Colleen Rio handled these cases for the Department, which are offered for acceptance of Settlement Stipulations for Consent Orders and proposed Consent Orders. The case number against Dwayne Matt is 158718-14-FC. The case number against Zion Hill Mortuary, Inc is 158720-14-FC.

Mr. Matt is a licensed funeral director and embalmer holding license number F045183 and is the funeral director in charge of Zion Hill Mortuary Services, Inc. A 2013 investigation of a consumer complaint resulted in allegations that the establishment failed to timely deliver and install a bronze vase and ceramic cameo; failed to respond to a consumer’s complaint; and failed to furnish a written contract to the purchaser. The Department filed an Administrative Complaint on May 4, 2015. I’m sorry I don’t have a note of which Probable Cause Panel heard this but I believe that was in April of 2015. The Respondent, represented by Mr. Chestnut of Atlanta, filed his answer on June 18, 2015. A Settlement Stipulation for Consent Order was

offered to and accepted by the Respondent subject to your approval. The Consent Order is being presented today. Mr. Matt has agreed to pay a \$500 fine and to serve a one (1) year period of probation.

Zion Hill Mortuary, Inc. is a licensed funeral establishment holding license number F041229. Again, based on a 2013 consumer complaint alleging failure to timely deliver and install a bronze vase and ceramic cameo; failed to respond to a consumer's complaint; and failed to furnish a written contract to the purchaser. I'm sorry Probable Cause Panel B heard this on January 20, 2015, both matters. Probable cause was found on that date and the Department filed an Administrative Complaint on May 4, 2015. The establishment is also represented by Mr. Chestnut and filed its answer on June 18, 2015. A Settlement Stipulation for Consent Order was offered to and accepted by the Zion Hill subject to your approval. The Consent Order is being presented today. Zion Hill Mortuary Services agreed to pay a \$500 fine and to serve a one (1) year period of probation. The terms of the Settlement Stipulations are reasonable under the facts and circumstances of these cases. The Department requests that the Board approve the settlements and issue the Consent Orders to conclude these matters.

Ms. Anderson – I served on Probable Cause Panel B and I'm recusing myself in these two (2) related cases.

Chair – Thank you. Anyone here with us today representing Dwayne Matt or Zion Hill Mortuary? Hearing no response, we'll take up the case of Dwayne Matt.

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

b. Zion Hill Mortuary, Inc.: Case No. 158720-14-FC; Division No. ATN-22744 (F041229)

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

(d) Related Cases – Division No. ATN-23357

a. Carol Y Washington d/b/a Washington Funeral Home: Case No. 162139-14-FC; Division No. ATN-23357 (F069251)

Mr. Shropshire – These are two (2) related cases involving Licensee Carol Y. Washington d/b/a Washington Funeral Home, a licensed funeral establishment under license F069251. This is a proposed settlement calling for a \$600 fine and one (1) year probation. The related case is concerning Licensee James T. Stewart, a funeral director under license number F044277. It's a proposed settlement calling for a \$600 fine and one (1) year probation. Again, these Licensees were represented by attorney Christopher Chestnut and the matter was handled and negotiated by Department counsel Colleen Rio, but will be presented here today by Department counsel, Ms. Farrington.

Ms. Farrington – Mr. Chair, may I speak with Mr. Shropshire very briefly?

Chair – Please do.

Mr. Shropshire – Mr. Chairman, may I briefly correct myself?

Chair – Please.

Mr. Shropshire – Concerning Licensee Carol Y. Washington d/b/a Washington Funeral Home, the proposed settlement calls for a fine and not probation but a letter of reprimand.

Chair – The fine of \$600?

Mr. Shropshire – Yes sir.

Chair – Thank you.

Mr. Barnhart – On page 6, I see one year of probation in the materials.

Mr. Shropshire – Mr. Barnhart, what paragraph in the settlement is that?

Mr. Barnhart – C, on page 6 of the materials on the computer.

Mr. Shropshire – What page of the settlement is it?

Mr. Barnhart – Second page, I think, yes second page.

Mr. Shropshire – The Consent Order apparently refers to a probation that is not agreed to in the Settlement Stipulation. Of course then the Consent Order has to be disregarded. The settlement is as stated in the settlement document which calls for a \$600 fine and a letter of reprimand and not a probation.

Ms. Farrington – I believe the stipulations had the same.

Chair – So we have a Settlement Stipulation before us on Carol Washington.

Ms. Farrington – I don't think we're there yet. Are we? We're not there yet. I haven't presented the facts and circumstances as against Mr. Stewart yet.

Mr. Shropshire – Well moreover, I don't think Mr. Stewart's Settlement Stipulation has a letter of reprimand in it. It's just a \$600 fine.

Ms. Farrington – That was what I thought. Yeah.

Mr. Shropshire – And no probation and no reprimand.

Ms. Farrington – That's correct.

Mr. Shropshire – Sorry Mr. Chairman.

Chair – That's alright. We'll get there.

Ms. Farrington – Had you finished your introduction?

Mr. Shropshire – Yes, go ahead.

Ms. Farrington – Thank you. The case against Carol Y. Washington d/b/a Washington Funeral Home is Case No. 162139-14-FC. The case against James Stewart is Case No. 162138-14-FC. Carol Y. Washington d/b/a Washington Funeral Home is a licensed funeral establishment in the state of Florida. In August 2014, a routine examination of the funeral home revealed that biomedical waste was being picked up on an as needed basis and not on the thirty (30) day basis as required by rule. On January 20, 2015, Probable Cause Panel B found probable cause against the Respondent. The Department filed an Administrative Complaint on May 7, 2015. The Respondent, represented by Mr. Chestnut, filed its answer on June 17, 2015. A Settlement Stipulation for Consent Order was offered to and accepted by the Respondent subject to your approval. The Consent Order that apparently is in your materials is not correct and should be disregarded. In the Settlement Stipulation, Carol Y. Washington d/b/a Washington Funeral Home has agreed to pay a fine of \$600 and accept a letter of reprimand.

Mr. James Stewart is a licensed funeral director and embalmer holding license number F044277. He is currently employed as the funeral director in charge by Carol Y. Washington d/b/a Washington Funeral Home. Again, an August 2014 examination revealed biomedical waste was being picked up on an as needed basis. The same Probable Cause Panel B found probable cause against the Respondent in January 2015. The Department filed an Administrative Complaint on May 7, 2015. The Respondent, through counsel, filed his answer on June 17, 2015. A Settlement Stipulation for Consent Order was offered to and accepted subject to your approval. Again, the Consent Order presented to you in your materials appears to have been

inartfully drafted and should be disregarded. Mr. Stewart has agreed to pay a fine of \$600. The terms of the Settlement Stipulations are reasonable under the facts and circumstances of these cases. The Department requests that the Board approve the settlements and issue the Consent Orders to conclude these matters. I will mention to you for your consideration the funeral home has revised its practice, has waste picked up on a thirty (30) day basis by Stericycle Customer Care. The funeral home, during the period covered by the examination, performed only nine (9) embalmings over the course of five (5) to six (6) months and the examiner did not detect any odor in the preparation room. The Department believes that it is appropriate at this time for the Chair to entertain a motion to either accept or reject the Settlement Stipulation.

Chair – For Carol Washington?

Ms. Anderson – I served on Panel B.

Chair – Thank you. Is there a motion?

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

b. Stewart, James Thomas: Case No. 162138-14-FC; Division No. ATN-23357 (F044277)

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

B. Material Facts Not Disputed (Section 120.57(2) Hearings)

(1) Probable Cause Panel A

(a) Sweeting, Calvin H.: Case No. 150305-14-FC; Division No. ATN-21144 (F046830)

Mr. Shropshire – This is a disciplinary action concerning Licensee Calvin Sweeting, a funeral director and embalmer under license number F046830. The Administrative Complaint included in the materials provided to the Board specifies the charges. This is an informal hearing. Subject was served with the allegations. Subject is not represented by counsel to my knowledge. Department counsel, Deirdre Farrington will present the case.

Ms. Farrington – The case against Calvin H. Sweeting is Case No. 150305-14-FC. This matter has been scheduled for an informal hearing to consider Department’s Motion for Determination of Waiver and for Final Order by Hearing Not Involving Disputed Issues and Material Facts. Mr. Sweeting is a licensed funeral director and embalmer holding license number F046830. In September 2013, the Department received a consumer complaint alleging that the Respondent as funeral director in charge of Rogers Funeral Home operated a funeral home without having a valid funeral establishment license. Are you Mr. Sweeting?

Mr. Calvin Sweeting – Yes.

Ms. Farrington – Very good. Engaged in the practice of funeral directing with an unlicensed funeral home; failed to perform the cremation service specified in an at-need contract; and failed to deliver the cremated remains to the family as specified in the contract. Related cases against Rogers Funeral Home and Delvis Rogers have been concluded in December of 2014. On April 28, 2014, Probable Cause Panel A found probable cause against Mr. Sweeting. On July 18, 2014, the Department filed an Administrative Complaint, which Respondent received by certified mail on July 22, 2014. Included within the Administrative Complaint were a Notice of Rights and an Election of Proceeding Form. The Notice informed the Respondent that failure to respond in writing within twenty-one (21) days of receipt of the Notice would constitute a waiver of the right to request a proceeding on the matters alleged in the Administrative Complaint and that an Order of Suspension or Revocation by the Board could be entered against him. On or about August 7, 2014, Mr. Sweeting filed with the Department an Election of Proceeding Form that did not specify the type of hearing requested. The election petition also failed to comply with Rule 28-106.201(2), F.A.C., as it did not contain a statement of disputed issues of material fact. On or about August 29, 2014, the Department served on Respondent an Order dismissing the petition for s. 120.57(1), F.S., proceeding without prejudice allowing the Respondent twenty-one (21) days from the date of the Order to amend the early Election of Proceeding form to specify the type of hearing requested and to respond with a statement of disputed issues of material fact. On or about

September 4, 2014, Respondent received the Order via certified mail. On or about December 6, 2014, the Department received a response from Respondent. The response was filed more than twenty-one (21) days after receipt of the Order and did not contain an Election of Proceeding form or allege any disputed material facts. Respondent's failure to timely or to file a timely or statutorily adequate response constitutes a de jure waiver of the right to request a proceeding on the matters alleged in the Administrative Complaint. At this time it would be appropriate for the Chair to entertain a motion determining whether the Respondent has waived his right to a s. 120.57(1) Hearing based on Respondent's failure to file a timely or statutorily adequate response.

Mr. Knopke – Mr. Chairman, I need to recuse myself. I was on Probable Cause Panel A.

Chair – Thank you. Mr. Barnhart?

Mr. Barnhart – Board members, when I review this case I see that Mr. Sweeting did respond initially to the Administrative Complaint. True he didn't check any of the boxes but I think on pages 39 – 44 he crafted a response. He apparently is not represented by an attorney. I am not comfortable saying that he did not timely respond. Now surely looks like he didn't respond to the second attempt the Department had for him to properly fill out a form that complies with the model rule but I am not comfortable saying that this person did not have the right to a formal hearing. Under s. 120.569, this is an informal hearing this morning and as I read that statute if a material issue or disputed fact arises during this proceedings then these proceedings as I read it should be terminated and then the case should be sent to DOAH, the Division of Administrative Hearings and I think that's what should be done here to make sure that Mr. Sweeting's due process rights are protected. If the Department does not believe that that's the case or should be done, they could argue to the judge that there is no disputed material facts that should be able to be raised by Mr. Sweeting and try to get it relinquished back to the Board for an informal hearing, but I'm not comfortable saying that Mr. Sweeting did not respond initially and is not entitled to a formal hearing. If you look at what he put down in pages 39-44, I think it's pretty clear that he's disputing or it says that he is without knowledge of most of the allegations that have been made by the Department and I would be much more comfortable with this going to DOAH and then have the Department if they believe that it should not be before DOAH argue that it should not be before DOAH and get it remanded back, but I think Mr. Sweeting being pro se, I think he's done what he can do to dispute the allegations.

Chair – Thank you. Board members? What is our move if we want to remand this to DOAH?

Mr. Barnhart – If you agree with that position then I think there would be a motion to terminate this informal proceeding and have the Department send him to DOAH for a formal hearing.

MOTION: Mr. Jones moved to terminate this informal proceeding and have the Department send the Respondent to DOAH for a formal hearing. Ms. Oliver seconded the motion, which passed unanimously.

Mr. Helm – Mr. Barnhart, if he is here now is there any way to clear up what you are saying so that he does not have to make another trip?

Mr. Barnhart – The only way we could clear it up this morning I think would be if he waived his right to a formal hearing and I don't think he wants to do that based on what he's filed before. I think he's disputing the facts. The main allegations that the Department is making he is disputing so I don't think he wants to waive that right to go a formal hearing and argue the case before a judge. I think he's not, Mr. Sweeting I don't think you're real familiar with the administrative law process and what would happen is if the Board did vote to send this to DOAH then you would be before an independent body with an administrative law judge to hear your case and then you could make your argument before the judge. The Department might want to try to get this back before the Board without formal hearing but you would have a chance to argue your case to the judge and then the judge could decide whether or not you're entitled to a formal hearing or not. Do you follow me?

Mr. Sweeting - Yes.

Mr. Barnhart – And that's what would happen. The Department, if they couldn't resolve this case during the time that it's in front of the DOAH judge, the Department could argue that there's no disputed material fact that could be alleged by Mr. Sweeting at this point and that it should be remanded back to the Board for consideration but it is my recommendation that

we send it to DOAH and let Mr. Sweeting have a crack at getting before a formal hearing administrative law judge to argue his case. The judge can decide whether what he did entitles him to such a formal hearing or not.

Chair – Mr. Sweeting, do you have any questions on what Mr. Barnhart is telling you? First of all, let's swear you in please.

Mr. Shropshire – Would you 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. Sweeting – I do.

Mr. Shropshire – Please state your full name.

Mr. Sweeting – Calvin H. Sweeting.

Mr. Shropshire – Thank you sir.

Chair – Now, I would like to limit this conversation to any questions you might have to Mr. Barnhart about the direction that we have moved to make before we vote on it.

Mr. Sweeting – I understand what he was saying. It really helped me out because evidently I didn't file the correct papers or whatever but I did, as you see that I was falsely of course of any of this stuff. Therefore if I have another chance to fill it out again I would do it.

Mr. Barnhart – You're disputing what the Department has alleged in the Administrative Complaint?

Mr. Sweeting – Right. Totally disputing it. Everything.

Mr. Barnhart – And you do want to go to a formal hearing if you could have one, correct?

Mr. Sweeting – If I could have one.

Chair – Thank you Mr. Sweeting. You'll be advised. Thank you for being here.

Mr. Sweeting – Ok, thank you.

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.

6. Application(s) for Continuing Education Course Approval
A. Recommended for Approval without Conditions – Addendum B
(1) National Funeral Directors Association #136

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. Hall moved to approve the application(s). Ms. Oliver seconded the motion, which passed unanimously.

Chair – Which Board members do we have on that committee?

Mr. Shropshire – Ms. Bryant?

The Division is recommending approval without conditions.

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

- 10. Application(s) for Registration as a Training Agency**
A. Informational Item (Licenses issued without Conditions) – Addendum F
(1) NorthStar Funeral Services of Florida LLC d/b/a Skyway Memorial Funeral Home & Cremation Services (F076749) (Palmetto)

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.

- 11. Notification(s) of Change in Location**
A. Informational Item – Addendum G
(1) Carriage Funeral Holdings Inc d/b/a Emerald Coast Funeral Home (F041292) (Fort Walton Beach)

Mr. Shropshire – This item is informational only and does not require Board action.

- 12. Consumer Protection Trust Fund Claims**
A. Recommended for Approval without Conditions – Addendum H

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

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

Chair – Mr. Helm?

Mr. Helm – Just a quick question for the Division. Cunningham Funeral Home, is that the one in Ocala?

Mr. Shropshire – Yes.

- 13. Application(s) for Broker of Burial Rights**
A. Recommended for Approval without Conditions
(1) Brandon Steg (Coral Springs)

Mr. Shropshire – The application was received on November 4, 2015 and no deficiencies were noted on the application. The Department completed a background check of Applicant which revealed no criminal history.

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

- 14. Application(s) for Direct Disposal Establishment**
A. Recommended for Approval with Conditions
(1) Tri County Cremation LLC (Boynton Beach)

Mr. Shropshire – An application for a Direct Disposal Establishment was received on November 6, 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 David Zulick (F044229). The Division is recommending approval subject to the condition that the establishment passes an onsite inspection by a member of Division Staff.

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

B. Recommended for Denial
(1) Sunshine Cremation Inc. (Cocoa)

Mr. Shropshire – An application for a Direct Disposal Establishment was received on October 20, 2015. The application was incomplete when submitted. All deficient items were returned on November 16, 2015. The fingerprint cards for all principals were returned with criminal history for its principle, Condor Stone. The Funeral Director in Charge will be Condor Stone (F046891). The application for direct disposal establishment license indicates that the applicant's principal is one Condor E. Stone. Condor E. Stone is a licensed Florida funeral director & embalmer, holding license number F046891, original issue date March 6, 1989.

On or about June 4, 2012 Condor E. Stone plead no contest to the first degree misdemeanor of Battery, under s. 784.03, Florida Statutes, in the Brevard County Court, case number 05-2012-MM-035559-AXXX-XX. Condor E. Stone's license as a funeral director & embalmer, F046891 was due to expire on August 31, 2013, unless renewed upon application by the license holder. Condor E. Stone did in fact apply to renew said license. Pursuant to s. 497.141(5)(a), Florida Statutes, as part of said application to renew said license, Condor E. Stone was required to state whether he had been convicted of, pled no contest to, or pled guilty to, any crime required to be reported pursuant to s. 497.142(10), Florida Statutes, which had not previously been reported to the Division. Condor E. Stone's plea of no contest to the first degree misdemeanor of Battery, under s. 784.03, Florida Statutes, in the Brevard County Court, case number 05-2012-MM-035559-AXXX-XX, was a crime he was required to disclose in said funeral director & embalmer license renewal application. In July 2013 the Division of Funeral, Cemetery, and Consumer Services received from Condor E. Stone, as part of his application to renew his funeral director & embalmer license that was otherwise to expire on August 31, 2013, in which he checked "no" to the question whether he had been convicted of, pled no contest to, or pled guilty to, any crime required to be reported pursuant to s. 497.142(10), Florida Statutes, which had not previously been reported to the Division.

On or about October 2, 2013, Condor E. Stone plead no contest to the first degree misdemeanor of Battery, under s. 784.03, Florida Statutes, in the Brevard County Court, case number 05-2013-MM-067590-AXXX-XX. Condor E. Stone's license as a funeral director & embalmer, F046891 was due to expire on August 31, 2015, unless renewed upon application by the license holder. Condor E. Stone did in fact apply to renew said license. Pursuant to s. 497.141(5)(a), Florida Statutes, as part of said application to renew said license, Condor E. Stone was required to state whether he had been convicted of, pled no contest to, or pled guilty to, any crime required to be reported pursuant to s. 497.142(10), Florida Statutes, which had not previously been reported to the Division. Condor E. Stone's plea of no contest to the first degree misdemeanor of Battery, under s. 784.03, Florida Statutes, in the Brevard County Court, case number 05-2013-MM-067590-AXXX-XX, was a crime he was required to disclose in said funeral director & embalmer license renewal application. In July 2013 the Division of Funeral, Cemetery, and Consumer Services received from Condor E. Stone, as part of his application to renew his funeral director & embalmer license that was otherwise to expire on August 31, 2015, in which he checked "no" to the question whether he had been convicted of, pled no contest to, or pled guilty to, any crime required to be reported pursuant to s. 497.142(10), Florida Statutes, which had not previously been reported to the Division.

Pursuant to s. 497.604(3)(c), Florida Statutes, an application for direct disposal establishment license may not be approved unless the Board determines that "*The applicant and the applicant's principals are of good character and have no demonstrated history of lack of trustworthiness or integrity in business or professional matters.*" The criminal record of applicant's principal, Condor E. Stone, as above specified, and the repeated failure of Condor E. Stone to disclose his criminal record on his funeral director & embalmer license renewal applications, as above specified, establishes that applicant' principal, Condor E. Stone, is not of good character. Accordingly, the application for direct disposal establishment license should be denied.

Chair – Come forward, sir.

Mr. Condor Stone – Good morning.

Chair – Good morning, are you representing Sunshine Cremation?

Mr. Stone – Yes sir I am.

Chair – Are you of counsel?

Mr. Stone – No sir, I'm not.

Chair – Would you please be sworn in?

Mr. Stone – Certainly.

Mr. Shropshire – Do you solemnly swear 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. Stone – Yes I do.

Mr. Shropshire – Please state your full name.

Mr. Stone – My name is Condor E. Stone.

Mr. Shropshire – Thank you sir.

Mr. Stone – I am the Licensee that is attempting to open Sunshine Cremation. In the twenty-seven (27) years I've been, in the twenty-eight (28) years I've been licensed, I've never had a problem; never violated anything. I had a stroke in 2011 and things went topsy turvy. I missed some reporting dates and I understand that that's why I'm being denied the opportunity to open Sunshine Cremation. I've been advised that the day to day operations of a funeral home and working at a funeral home is more than I may be able to bear at this point. My doctors have recommended a more, less stressful situation. I don't deny, I don't deny having not renewed or reported as I should have. Things were very chaotic in my life at that point. They have gotten considerably better. I am attempting to help myself by opening a cremation office. This is not a funeral home. This is just an office that offers cremation and along with a secretary, basically what would be required of me is an oversight and my signature. I'm here before you to ask you please allow me to help myself. It was out of ignorance and I know that's no defense. My license, I had been with the family firm all of my professional career and it was usually handled by a family member who was part of the staff. That was not the case. I'm no longer there. I am having to do these things on my own and again I apologize. If given the opportunity, I assure you this will never happen again.

Chair – Mr. Helm, do you want to question Mr. Stone?

Mr. Helm – Yes sir.

Chair – Mr. Stone, Board members may have a question of you. Are you willing to answer their questions?

Mr. Stone – Absolutely, I have nothing to hide.

Mr. Helm – Mr. Stone, I hear, I feel your pain I should say, but you say that you are better?

Mr. Stone – Oh, absolutely.

Mr. Helm – I would feel more comfortable with it if you had a doctor's statement saying that then you just standing up there telling me that.

Mr. Stone – Well actually I have a doctor's statement showing you where I came from and I think by reading this...

Mr. Helm – Well, I won't have time to read it now.

Mr. Stone – You tell me what I need to do and that's what I'll do.

Mr. Helm – Well, it's not me I mean it's us.

Mr. Stone – I'm sorry.

Mr. Helm – I know I would hate to deny you if what you have told me is true, but I need a little more proof of what you're telling me than just you telling me.

Mr. Stone – Tell me what you need and that's what I'll provide.

Mr. Shropshire – One option would be to table the matter and have Mr. Stone provide the Division with the material he refers to and we could reset it for a subsequent meeting.

Mr. Helm – Do you understand what he's saying?

Mr. Stone – Absolutely.

Chair – Is there a deemer concern?

Mr. Shropshire – We could ask him on the record to waive the deemer.

Mr. Stone – I'm not sure I'm understanding what you...

Chair – We'll explain it.

Mr. Stone – Okay.

Mr. Barnhart – We have a meeting next month early but I don't know what the deemer date is.

Chair – Ms. Richardson?

Mr. Barnhart – Is the Board concerned about the criminal offense that was disclosed?

Mr. Jones – Sir, do you feel comfortable describing or explaining the criminal offense?

Mr. Stone – Absolutely, absolutely. As a result of the stroke, my behavior at home had become erratic. My wife and I had a confrontation. The police were involved. God is my witness to this and that's the only witness I have. They were prepared to take her because she was the aggressive one at that point. Our nine (9) year old daughter was present. After she got physical with me, I got our child, I got out of the house, waited for the police outside. When they showed they got my version, her version and they said to me we have no choice but to take your wife to jail and I was like not in front of my child, no. Whatever she said, whatever, I did it, take me. I'm not going to sit here and let you. I volunteered. It's that simple. I wish I could tell you something elaborate. I don't have anything. That's how it happened.

Mr. Shropshire – Mr. Chairman, may I respond to Mr. Barnhart?

Chair – Yes.

Mr. Shropshire – The application was received by the Division on October 21. So October to November, December to January 21 would be the 90th day and we probably wouldn't want to hear them in January, that's a teleconference so it would be February.

Mr. Barnhart – Would the Board members be a lot more comfortable about voting on this if we received some doctor's information or would you be prepared to submit that and redact any personal information that...

Mr. Stone – I have nothing to hide.

Mr. Barnhart – Perhaps it would be best if you waive the deemer, which means that you have no objection to the Board waiting until the February meeting, which is an in person meeting to vote on this that you'd waive the deemer so that Board members can see what you'd like to present.

Mr. Stone – I'm here asking for you all's help so whatever you deem necessary.

Mr. Barnhart – Okay do you want to do that then?

Mr. Stone – Yes absolutely, sir.

Chair – I do have a question.

Mr. Stone – Yes sir?

Chair – Let me read something here. On your license renewal you were required to disclose this information on your renewal application. Can you tell us why you did not disclose this on your renewal application?

Mr. Barnhart – I think he put yes on the question though.

Ms. Oliver – On page 27?

Mr. Stone – I can tell you what happened. Okay? For the last twenty-eight (28) years I've been a part of a family business, Stone Funeral Home in Brevard County. My grandfather started it. I'm third generation. My stepmother is currently the owner and she runs the day to day operations. I should not have, but I relied on her, as we have for the last twenty something years, renewing my license. Not twenty something but every two (2) years. I relied on her to renew my license. She renewed them but didn't fully disclose everything. That relationship is now hostile. All kinds of things are coming to light now that I had no clue on, but that's another story.

Mr. Barnhart – But you did file the criminal history form with us. It's in the materials.

Mr. Stone – I believe I did. I'm not... My short term memory is gone since the stroke and most things I have to write down or my wife reminds me. I'm not trying to get over or pull any punches or anything like that. My thing is to stay in line and to have to, well I don't dislike you gentleman I just don't enjoy coming before you like this. Well I don't. I just want to live quietly and take care of myself. I'm not certain I checked that but I'll take that's my application, I'll accept responsibility.

Mr. Shropshire – Mr. Chairman may I briefly inquire of the Applicant?

Chair – Please.

Mr. Shropshire – Would you be agreeable, if the Board goes and table the matter and say you provide some evidence of the medical problems you have so that they could give proper weight to that, would you be agreeable to waiving confidentiality concerning that material you submit because it will become public record and may relate to your medical issues.

Mr. Stone – Absolutely, without reservations.

Mr. Clark – I've one question, Mr. Chairman. Was it one (1) case of battery or two (2) cases? Two (2) separate cases?

Mr. Stone – It was actually it was two (2) cases. I think they were within a year of each other and if I may and I'm sharing things I'd rather not but I'm just going to be transparent. I was on thirteen (13) medications at one time and they were seeking to find equilibrium to help me recover from this debilitating stroke. And, I know you say, well you look healthy. I thought a stroke left you with residuals more than I have but my residuals are invisible. I have no short term memory. I can walk out of this room a lot of times and can't remember what I just did. I'm grateful to be alive, okay. So, um, like I can't remember. What was your question again?

Mr. Clark – If it was one (1) case of battery or two (2)?

Mr. Stone – It was two (2), it was two (2).

Mr. Clark – Thank you sir.

Mr. Stone – There were two (2).

Chair – Just a moment. We have an order of questions here. Mr. Hall?

Mr. Hall – Does the arrest records that you alluded to earlier? Does that go ahead and explain to us, does that make reference to what you were telling us earlier, as far as you took the rap for your wife when you were arrested? Does that allude to that? Is that something you would share with us too with the medical records?

Mr. Stone – It's in the report.

Mr. Hall – The other question I have, with your medical history now and you not being able to remember what he just asked you, how will you effectively serve a family and walk out the arrangement room and effectively get Mr. Jones a death certificate and establish the things you need to do in the business if your short-term memory is that bad?

Mr. Stone – With the help of a secretary.

Mr. Hall – Will she sit in on arrangements with you or something to help you with that?

Mr. Stone – Oh, absolutely. I've been doing this for some time and things that I practice prior to the stroke, I have pretty good recollection of. Things that have happened since the stroke, my recollection is sketchy unless I sit and write it down and try to remember and talk to possible witnesses to those things.

Mr. Hall – In that situation is that secretary serving more as the direct disposer then or you if she's basically doing the work and you're just signing off on it as you said earlier?

Mr. Stone – No, she's uh, if I had not had a stroke and I had a secretary, she would still be asked to do the same duties that one that would be asked since I had a stroke. The duties would be the same. Did I make that, does that make sense? Did I answer your question?

Mr. Hall – I'm hearing what you're saying but I'm just trying to be clear on it. If the short-term memory's that bad does the family suffer from coming in making arrangements? You're statement earlier I believe was that you're just basically going to sign off on it. In other words, your license would just rubber stamp it on what she's doing and she's acting in the role as the direct disposer at that point.

Mr. Stone – No. As the result of having seen the recent things that I've not paid closer attention to, I believe that's my wake up call to say hey you need to pay very close attention to these things. Whereas before, the family business, I'd been there forever, she'll handle it she'll catch it, whatever; well that's not the case now. It's thoroughly up to me and I'll be honest with you. This is not a pleasant experience. I'm certain you all are very nice gentlemen and ladies but I'm a nervous wreck up here. I don't look forward to doing this again.

Mr. Hall – I think, Mr. Helm, our questions are trying to get us to a comfort level to where we can get comfortable to proceed moving forward. We need to know those things first. You mentioned earlier renewals and stuff but I don't know if that was just as much a problem, it wasn't for me, it's the criminal history. So that's why we're asking these questions to try to get more information to see if we feel comfortable enough to allow you to go forward on that.

Mr. Stone – Not a problem.

Mr. Hall – Mr. Knopke is the only grumpy one on the Board. The rest of us are nice.

Mr. Stone – He said that. I did not.

Chair – Mr. Stone, who will be the funeral director in charge?

Mr. Stone – I will be, sir.

Chair – What's your funeral director number?

Mr. Stone – F046891.

Chair – Pretty good memory there.

Mr. Stone – Things that have happened prior to the stroke I can remember with no problem. It's those things that have occurred since the stroke. I'm thoroughly familiar with the funeral business. The oversight on the non-reporting of the run-ins with the law, this is not an excuse this is a recount of what happened. They were trying different medications during that period. I mentioned to you earlier, I went from thirteen (13) medications. I'm on four (4) now, and two (2) of those are diabetic medications.

Chair – Where was your stroke?

Mr. Stone – Uh, left...

Chair – Cerebral?

Mr. Stone – Yes. So, numbers and well my daughter said daddy you really screw up some numbers but if that's as bad as it gets I'm okay with that.

Chair – Mr. Knopke?

Mr. Knopke – I'll try not to be grumpy. Direct disposal business? So you're going to meet with families to arrange just cremations, not funeral ceremonies?

Mr. Stone – I will not make any removals. I'll have a removal service. I will not refrigerate. I'll have a crematory that offers refrigeration and cremation. So basically I'll just be the liaison gathering the information for the death certificate and burial permit.

Mr. Knopke – In your role, you'll be the funeral director in charge? You're going to sit with the families and fill out the forms? Or will the secretary be filling out the forms and you asking the questions?

Mr. Stone – I'll be filing out the forms, with her assistance, whatever I need her to assist in, but I will be filing out the forms.

Mr. Knopke – You'll be signing all the documentation?

Mr. Stone – Absolutely.

Mr. Knopke – And you'll be directing that arrangement?

Mr. Stone – Absolutely. She won't, this won't be a situation where I'm the Licensee but you just do whatever needs to be done. No.

Chair – Unlicensed activity

Mr. Stone – Listen, I consider this the hot seat. I don't look forward to getting in the hot seat again, okay. I've not been here before nor do I wish to come here again. Did I answer your question?

Mr. Knopke – Yes sir, very good and I tried not to be grumpy.

Mr. Stone – And it worked. You were not.

Chair – Mr. Jones?

Mr. Jones – One (1) question if I may. Your license has been valid for these twenty-eight (28) years?

Mr. Stone – Yes sir.

Mr. Jones – Never a lapse? Never any issues before?

Mr. Stone – This is the first, these are the first issues period. I've never, I didn't even know how these proceedings went and that's ignorance on my behalf but it also shows that I've never been here.

Mr. Jones – I just want to make sure that you've had no issues with your license in the twenty-eight (28) years you said you've been licensed.

Mr. Stone – No sir.

Mr. Jones – Thank you.

Chair – Any other questions or comments? Board, what's your pleasure?

Mr. Helm – I believe we had a motion, didn't we?

Chair – I just checked and I didn't note that we had a motion.

Mr. Barnhart – I don't think we had a motion. We talked about waiver of the deemer but I don't think we got to it.

Mr. Helm – No, I meant before I spoke up. I thought we...

Mr. Shropshire – I believe it would be a motion to table the matter to allow Mr. Stone to present medical evidence.

Mr. Helm – I'll make a motion to table this matter until Mr. Stone can get the information to the Division so we can see it.

Mr. Barnhart – Before we vote can we get, Mr. Stone if you'll waive the deemer clause before we vote, which means that you're just allowing the Board to postpone the vote until the February meeting based upon the information that you wish to submit.

Mr. Stone – Absolutely.

Chair – Let the record reflect that.

Mr. Knopke – May I ask if they would consider amending the motion to he provides the information timely and prior to the February meeting and not just let this dangle out there.

Chair – Would you care to have a date certain on the motion?

Mr. Helm – You got a date?

Mr. Knopke – What is the time period before a Board meeting?

Mr. Shropshire – At least twenty-five (25) days before the Board meeting so by January 5th.

Mr. Hall – Was that medical and criminal, those documents?

Mr. Clark – Yea, I was going to ask.

MOTION: Mr. Helm moved to table the matter to allow Mr. Stone to present the requested criminal and medical evidence to the Division by January 5, 2016. Mr. Clark seconded the motion, which passed unanimously.

Chair – Thank you Mr. Stone.

Mr. Stone – Thank you all.

Mr. Helm – Do you have any other questions of us?

Mr. Stone – No, I will get you the information. Will someone write down...

Unidentified person – I got you.

Mr. Clark – Your secretary's got you.

Mr. Stone – That's my sister. Not a problem.

Mr. Barnhart – Can I make a suggestion? I don't think the criminal offense information contains any real narrative or description of what happened from a law enforcement point of view. Can you try and get that too?

Mr. Stone – Absolutely.

Mr. Shropshire – That would typically be in the police report.

Mr. Stone – Right.

Mr. Shropshire – And although you've stated and understandably you don't want to come before us again, you'll have to appear again in person at the February meeting.

Mr. Stone – Whatever you deem necessary, that's what I'll do.

Unidentified person – And the date that they need that by is January 10th.

Mr. Helm – The Division needs it.

Mr. Stone – Thank you very much for your time.

15. Application(s) for Funeral Establishment

A. Recommended for Approval with Conditions

(1) Florida Jewish Funerals LLC (Pompano Beach)

Mr. Shropshire – An application for a Funeral Establishment was received on November 6, 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 Mark Telesca (F042359). The Division is recommending approval subject to the condition that the establishment passes an onsite inspection by a member of Division Staff.

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. Anderson seconded the motion, which passed unanimously.

16. Application(s) for Preneed Main License

A. Recommended for Approval with Conditions

(1) Mullins Memorial Funeral Home & Cremation Service, Inc. (Cape Coral)

*****PREVIOUSLY ADDRESSED AFTER RELATED DISCIPLINARY ITEMS*****

17. Application(s) for Transfer of Preneed Main License

- A. Recommended for Approval with Conditions**
(1) Integrity Funeral Home and Cremations, Inc. (Jacksonville)

Mr. Shropshire – The Department received the application on September 23, 2015 and deficiencies were noted on the application. All items were resolved as of November 2, 2015. This is an application for the transfer of a preneed license from Integrity Removal Service, LLC d/b/a Integrity Cremations to Integrity Funeral Home and Cremations, Inc.

This application is being filed as a result of a proposed change of the preneed main license and qualifying entity license that was previously held under Integrity Removal Service, LLC d/b/a Integrity Cremations (F074103). The new qualifying entity for the preneed main license will be Integrity Funeral Home and Cremations, Inc. (F086272), at: 1104 W Adams St, Jacksonville, FL, approved for licensure as a funeral establishment at the September 3, 2015 board meeting. The principals and co-owners of both entities are: Greg and Jill Williams. A completed background check of all officers revealed no criminal history.

Applicant has agreed to assume responsibility of any preneed contracts written under the preneed licensee (F074103), which was approved as a preneed main at the December 2014 board meeting. Applicant will continue to sell insurance-funded preneed through Great Western Insurance Company and utilize its approved pre-arranged funeral agreement. The Applicant's financial statements as of September 15, 2015 reflect the following:

Outstanding Preneed Contracts	=	\$	4,227
Required Net Worth	=	\$	10,000
Reported Net Worth	=	\$	15,343

The Division recommends approval subject to condition that all preneed obligations of the preneed licensee under its current controlling party shall continue as its obligations under its new controlling party.

MOTION: Mr. Helm moved to approve the application subject to the condition that all preneed obligations of the preneed licensee under its current controlling party shall continue as its obligations under its new controlling party. Mr. Clark seconded the motion, which passed unanimously.

18. Application(s) for Preneed Branch License

- A. Recommended for Approval without Conditions – Addendum I**

Mr. Shropshire – These are preneed branch license applications, Applicants without any disciplinary or reportable criminal history and the Division recommends approval.

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

19. Application(s) for Removal Facility

- A. Recommended for Approval with Conditions**
(1) Slonaker Transportation Service, Inc. (Boca Raton)

Mr. Shropshire – An application for a Removal Service was received on November 2, 2015. The application was complete when submitted. Fingerprints for all principals have been returned with no criminal history. Applicant moved his removal service months ago. The move came to the attention of the Division when the Division tried to conduct an annual inspection of the removal service at its licensed location. Applicant did not try and hide that he had moved same, and was apparently unaware that moving same required re-licensure and re-inspection at the new location. He has now submitted the attached application, and has signed a proposed disciplinary stipulation settlement calling for him to pay a \$1,000.00 fine. The proposed disciplinary stipulation is attached and sets forth the facts. The Division recommends approval subject to the conditions as follows:

- 1) Payment of a \$1,000 fine as set forth in the attached Stipulation, and
- 2) That the facility passes an onsite inspection by a member of Division Staff.

Mr. Knopke – Mr. Chairman, question?

Chair – Please.

Mr. Knopke – Mr. Shropshire, about how long ago did they move?

Mr. Shropshire – I believe approximately ten (10) months, something in that timeframe.

Mr. Knopke – So they’ve been operating in a new location for ten (10) months without any inspection, thereabout?

Mr. Shropshire – Yes.

Mr. Knopke – Is this a stipulation that’s here?

Mr. Shropshire – Its two (2) things: it’s the application for the removal service license accompanied by a proposed disciplinary stipulation for licensure in which they acknowledged the violation and agreed to pay a \$1000 fine. The background as indicated in the materials, Kurt Schuller went out there to do an inspection of the premises at the official address of record. First he contacted the owner. The owner answered the phone and said I’m not there anymore, I’ve moved. There was no effort to hide it. The owner was ignorant of the law, which is no excuse so that’s why we imposed a \$1000 fine.

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

20. Contract(s) or Other Related Form(s)

A. Recommended for Approval without Conditions

(1) Preconstruction Trust Agreement(s)

(a) Trinity Memorial Cemetery, Inc. d/b/a Trinity Memorial Gardens (F039638) (New Port Richey)

Mr. Shropshire – The licensee has submitted for approval a Pre-Construction Master Trust Agreement. If approved this trust agreement will be used in conjunction with the future construction of mausoleum(s) at the above licensed cemetery location.

MOTION: Mr. Knopke moved to approve the agreement. Mr. Hall seconded the motion, which passed unanimously.

B. Recommended for Approval with Conditions

(1) Preneed Sales Agreement(s) and Trust Agreement(s)

(a) Funeral Services Inc (FSI) (Tallahassee)

Mr. Shropshire – FSI, through its Attorney, seeks approval of four revised master trust agreements, and 7 preneed funeral and cemetery agreements, all as more specifically set forth in Attorney’s letter dated October 30, 2015.

Exhibit A) Trust Agreements

FSI seeks approval of the following revised trust agreements:

Master cemetery care and maintenance agreement entitled “FSI Master Care & Maintenance Trust Agreement (Restated 2015).”

Master preconstruction trust agreement entitled, “FSI Master Preconstruction Trust Agreement (Restated 2015).”

Preneed trust agreement, entitled “FSI 1993 Trust Agreement (Restated 2015).”

Preneed trust agreement, entitled “First Florida Trust Agreement (Restated 2015).”

Exhibit B) Preneed Funeral and Cemetery Agreements

FSI seeks approval of the following revised preneed funeral and cemetery agreements, all as more specifically identified in the Attorney’s letter, dated October 30, 2015.

Division Recommendation:

Subject to the conditions set forth below, the FCCS Division recommends:

- 1) Approval of the four revised trust documents in Exhibit A above; and
- 2) Approval of the revised preneed funeral and cemetery agreements as identified under Exhibit B.

Conditions recommended by FCCS Division:

- 1) That the representations of FSI, through its Attorney, as set forth in Attorney's letter dated October 30, 2015, copy attached hereto, be deemed material to the Board's decisions herein.
- 2) That fully executed copies of the trust agreements as identified above be provided to the Division within 60 days of this Board meeting.
- 3) That two full sized print-ready copies each revised preneed sales agreement be provided to the Division within 60 days of this Board meeting.

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

21. Executive Director's Report

A. Rulemaking Cleanup Project (Informational)

Mr. Shropshire – The Legal Division of the Department of Financial Services continues its project to review all rules of all DFS Divisions, to assure that the rules meet the current standards of current rulemaking statutes in Chapter 120, FLCCIS System. As part of that project the DFS Legal Division has identified for change the revisions set out in the attached materials. I do not believe the changes are substantive. This is an informational item.

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

Monthly Report of Fines and Costs Assessed and Paid
 Division of Funeral, Cemetery and Consumer Services
 December 3, 2015 Board Meeting
 Date of Report: November 11, 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 YES	Paid in full.
Roy Vance Prestwood Jr.	Jun-15	139087-13-FC and 139091-13-FC	\$750 & \$2,000 respectively	10/10/2015	Note B	Paid in full.
Prestwood Funeral Home	Jun-15	139085-13-FC & 139093-13-FC	\$750 & \$2,000, respectively & Restitution of \$252.34	10/10/2015	Note B	Paid in full.

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 \$62.50	\$62.50 Initial payment/ \$62.50 First installment payment (paid)	On time	
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	Note A	The Division is reviewing the matter and expects closure within the next two months.
Pershing Industries	Jun-15	163612-14-FC	\$80,000	9/30/2015	Note B	Paid in full.
Ronald Noble	Aug-15	134801-13-FC	\$2,500	8/1/2017	Note D	
Patrick Fulton	Oct-15	159818-14-FC	\$1,500	11/14/2015	Note A	Paid in full.
Gramkow Funeral Home & Crematory, Inc.	Oct-15	159812-14-FC FC\$1500	\$1,500	11/14/2015	Note B	
Todd Garfield	Aug-15	161234-14-FC	\$500	9/15/2015	YES	Paid in full.
<p>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.</p>						

22. Chairman's Report

A. Funeral Professionals – What Do You Ask The Certifying Physician? (Informational)

Chair – This paper, if you will, a substantial portion of it I sent out a couple of years ago and as we move forward in dealing with certain medical examiners around the state of Florida it was determined that perhaps we need to send this out and offer an opportunity for Dr. Hyma of the Miami-Dade County Medical Examiner’s Office to put his input into this letter that we’re trying to get out to all funeral professionals throughout the state through various means. Through the associations and he has a list of some of the funeral directors in his area. For those of you that might not be aware of what happens is you contact a physician and the physician or the physician’s office says yes this is my patient, will you sign the death certificate. And the physician or the physician assistant says yes I’ll sign the death certificate. So the establishment goes ahead and does all the preparation it needs to do to send Ms. Jones to Kentucky or bury locally, not cremate, bury locally. So then what that death certificate, the electronic version of the death certificate comes through, Mr. Jones’ office has certain buzz words on that cause of death that trigger a wait a minute, maybe the medical examiner’s office should be involved. Medical examiner’s office has the authority to investigate every accident, homicide, suicide, death unattended by a physician and death in a penal institution. By the way, I wanted to say this before hand, Mr. Jones also sits on the Medical Examiner’s Commission and is also Registrar for the State of Florida. So jump in here at any time to clarify. So when it comes back with a traumatic injury and the person’s already been sent to Kentucky and the medical examiners in Dade County want to see the body that starts a whole other issue and a roll forward on that. We’re merely trying to make sure that the funeral professional asks the doctor or the doctor’s office before, as they say yes this is our patient and we will sign the death certificate, is there any indication of any factors or any trauma or anything that might lead it to be a medical examiner’s case. So there’s a certain amount of frustration around the state because this question’s not being asked and then the medical examiners, although they’re the good guys, turn into the bad guys and want to see grandma who fell and fractured her hip at the nursing home, and that’s the cause of death, to come back to Miami. So please add.

Mr. Jones – You’re correct. The fallacy with our system is on an online physician we would get this. We would ask that physician and those buzz words would pop for the position but when we do our facts at a station, we’re not picking these up and we don’t have a way to modify that. So Dr. Hyma asked that Mr. Brandenburg look at modifying this and trying to get it

back out and just get the funeral directors to assist the medical examiners in making sure that we don't have to bring a body from Kentucky back to Florida if he really wants to see it. That's our goal of trying to assist and work with the medical examiners. So thank you for doing this and Dr. Hyman and hopefully its helpful.

Chair – And you may remember that I said shipped out or buried locally. Not cremation because the medical examiner already has to approve every cremation death certificate that comes through so those types of things are caught on a cremation or you can't do the cremation until you have that in hand, but you can do a ship out or local burial. Anything to add? That's all I have on that.

23. Office of Attorney General's Report

A. *FTC Staff Guidance on Active Supervision of State Regulatory Boards Controlled by Market Participants (Informational)*

Mr. Barnhart – Board members, we've been asked this paper which has been prepared by FTC staff. Last, well really earlier this year, there was a decision involving the North Carolina Dental Board. North Carolina Dental Board attempted to keep people from practicing teeth whitening even though teeth whitening was not included in their statute as dental services. As you can see from this publication, the North Carolina Dental Board got in a lot of trouble from the Federal Trade Commission saying that they were being overbearing and didn't have the right to stop these individuals and businesses from participating in teeth whitening just because it hurt the Licensees that they had regulatory authority over. It's just kind of a heads up that there are some other cases out there right now involving similar issues. I think in the past there was a common perception that there were enough checks and balances in the system along with the legal appeals that would protect individuals' and companies' rights from overbearing practices of a Board or Commission but that apparently is no longer the case. At least where like in this state, there may be just one (1) or two (2) Boards that are not made up primarily of the industry members that they regulate. So if you'll take a look at this and if you have any questions, we can put like a Power Point presentation on the agenda for like February or April. February might be a good time to do it but there is a presentation that's been developed by my office, both the Administrative Law and the Anti-Trust Law of our office, and it may help you understand this a little bit better. Like in this case, we're a little bit different from what happened here in the sense that the Department is the authority for unlicensed activity. So that part of the equation is not before you but you still make decisions on licensing, discipline, petitions for waiver of variance, petitions for declaratory statements. Things like that can be problematic if there's no legal basis or rational basis for your decision. So it's not meant to scare anybody but it is meant to bring you up to date as to what's happening in other parts of the United States because this dental case is just the first of several pending actions. There's several pending actions right now across the United States that are trying similar attacks and I think at least for a while it's going to be on a case by case basis before the courts try to or can develop a guideline of what can be done in this area but we do have checks and balances in place like JAPC for any kind of rules that you try to amend or promulgate. There are things in place that help to provide a check and balance but as this case shows it may not be enough to protect a Board or commission from possible liability if there are certain actions or certain things that they do that are just way out of bound. Its not meant to scare anybody but it's meant to bring you up to date as to what is happening in the marketplace, so to speak.

Chair – I'd like to comment on this Board's actions and what we've demonstrated over the years. I've never observed any anti-competitive actions by this Board. I've never observed any industry protective actions by this Board. So I don't think that we attempt to prohibit any competition. I think we look out for and try to protect consumers and their benefits. I feel very good about where this Board stands in relationship to what the FTC has promulgated, not promulgated but white paper that they put out on it. So I just want to go on record as saying that and I feel really strongly about it.

24. Administrative Report

The information was provided on the Agenda.

25. Disciplinary Report

The information was provided on the Agenda.

26. Upcoming Meeting(s)

A. *January 7th (Teleconference)*

- B. February 4th (Tallahassee)*
- C. March 3rd (Teleconference)*
- D. April 7th (Jacksonville – DoubleTree by Hilton-Jacksonville Airport)*

27. Adjournment

The meeting was adjourned at 12:01 p.m.