

BOARD OF FUNERAL, CEMETERY AND CONSUMER SERVICES
February 7, 2013 - 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, The Chair, called the meeting to order at 10:00 am.

Mr. Doug Shropshire made the following prefatory comments for the record:

My name is Doug Shropshire. I am Director of the Division of Funeral, Cemetery, and Consumer Services. Today is February 7, 2013; 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 Weekly. An agenda for this meeting has been made available to interested persons. The meeting is occurring in person at the Alexander Building 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.

Mr. Shropshire took the roll and the following members were present:

Joseph "Jody" Brandenburg, Chairman
Gail Thomas-DeWitt, Vice-Chairman
Jean Anderson
Lewis "Lew" Hall
Powell Helm
Nancy Hubbell
Ken Jones
Richard "Dick" Mueller
Col. Don Stiegman

ABSENT:

Andrew Clark

Mr. Shropshire advised the Chair that there was a quorum present and the Board may proceed to address the matters on the agenda.

Also noted as present:

Lynette Norr, Board Legal Advisor
Anthony Miller, Assistant Director
LaTonya Bryant, Department Staff
Ellen Simon, Department Counsel
Tad David, Department Counsel
Mary K Surles, Department Counsel
Linje Rivers, Department Counsel
Jim Bossart, Department Counsel
Jasmin Richardson, Department Staff
Karen Duehring, Department Staff

2. Action on the Minutes

A. December 6, 2012

The Chair confirmed that all Board members had read the draft of the minutes of the previous Board meetings held on December 6, 2012.

MOTION: Mr. Ken Jones moved to adopt the minutes of the meeting. Ms. Gail Thomas-Dewitt seconded the motion, which passed unanimously.

B. January 3, 2013

The Chair confirmed that all Board members had read the draft of the minutes of the previous Board meetings held on January 3, 2013.

MOTION: Mr. Jones moved to adopt the minutes of the meeting. Ms. Thomas-Dewitt seconded the motion, which passed unanimously.

3. Old Business

A. Application(s) for Preneed Main License

(1) Recommended for Approval with Conditions

(a) Compass Pointe Cremation Services, LLC (Orlando)

This application was presented at the January 3, 2013 Board teleconference and was tabled due to the following: The Board requested that Applicant revise the income statement regarding the amount reported as "cash contribution", and provides an updated balance sheet and income statement as of the most current date. Applicant has provided an updated balance sheet and income statement as of December 31, 2012. The financial statements reflect a reported net worth amount of \$20,068, therefore demonstrating that the Applicant has met the required net worth.

The Department received the application on November 9, 2012 and all items were resolved as of December 6, 2012. It should be noted that at the December 1, 2011 Board meeting, Applicant was approved for its preneed license subject to completion of a 2 year probationary period and 100% trusting or insurance funding. Applicant held a preneed license from December 2011 to June 30, 2012, and the license expired due to Applicant's non-renewal of the license prior to the expiration date. A completed background check of all officers revealed no criminal history. Applicant currently holds a qualifying direct disposal establishment license (F066693) as of October 10, 2011, and will trust 100% through Forethought Federal Savings Bank and use the approved Forethought funeral planning agreement. The Applicant's financial statements as of December 31, 2012 reflect the following:

Acquired Preneed Contracts	= \$	3,385
Required Net Worth	= \$	10,000
Reported Net Worth	= \$	20,068

Documentation establishes that Christopher E. Johnston (a principal of Applicant herein) was discharged from Ch. 7 bankruptcy on September 9, 2010, by the Federal District Court, Middle District of Florida. It was a personal bankruptcy action and discharge. In view of the bankruptcy, the FCCS Division requested additional materials from Applicant:

- 1) Court documentation evidencing that the bankruptcy was discharged.
- 2) A personal financial statement for officer and owner, Christopher E. Johnston.
- 3) Letters of reference from an affiliated financial institution and /or vendor.

Applicant has provided all requested information and material. The letters of reference are favorable. The Division recommends approval with the condition that the Board approves the application based upon the attached Stipulation for Licensure agreement entered into by the Division and the Applicant (2 years probation; agreement for 100% trusting or insurance funding).

Ms. Nancy Hubbell stated that in reviewing the revised the financial statements, they do better reflect GAAP in presentation. There are still some discrepancies but it does appear that they still meet the net worth requirement.

MOTION: Mr. Powell Helm moved to application with the condition that the Board approves the application based upon the attached Stipulation for Licensure agreement entered into by the Division and the Applicant (2 years probation; agreement for 100% trusting or insurance funding). Ms. Thomas-Dewitt seconded the motion, which passed unanimously.

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

(1) Recommended for Denial

(a) Application for Internship

1. Bell, Ruben D.

At the October 4, 2012 Board meeting, the Board voted to deny Ruben Bell's ("Applicant") Application for Concurrent Internship. On November 14, 2012, the Notice of Intent to Deny Licensure was issued, setting forth the basis for the Board's denial. Through representative counsel, John Rudolph, Esq., Applicant filed a petition on December 21, 2012, requesting a hearing before the Board regarding the licensure denial. For the Board's reference, copies of the following have been included regarding this matter: (a) Notice of Intent to Deny Licensure, (b) Petition and supporting documentation filed by Applicant, (c) October 2012 Board meeting packet regarding the original application and the applicable minutes and (d) the Notice of Hearings.

The Division is recommending that the Board uphold its denial of the application based on the reasons as set forth in the November 14, 2012 Notice of Intent to Deny Licensure.

Mr. John Rudolph, representing the Applicant, indicated that Mr. Bell was present.

Mr. Shropshire questioned whether Mr. Bell would be speaking.

Mr. Rudolph responded, "Yes."

Mr. Shropshire requested that Mr. Bell raise his right hand to be sworn in. "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. Ruben Dean Bell answered, "Yes Sir."

Mr. Rudolph stated that his preliminary remarks are that when Mr. Bell first came up, I noticed that on the previous agenda item, there was another person named Samuel Edward Richard who had convictions after the time that Mr. Bell had a conviction, which is in 2002. I think that what somewhat clouded the issue before the Board is there was a question that Mr. Bell had been told when he went to take his courses that he could get his license, even though he had all these convictions. Now one thing I think that the Board did not really do was look at whether Mr. Bell has been rehabilitated and that is the purpose of us coming here today so that he could explain something that I think the Board needs to hear and to discuss what he has done since that conviction. Mr. Rudolph requested that Mr. Bell tell the Board the circumstances surrounding the 2002 arrest.

Mr. Bell stated concerning the 2002 arrest, it had to do with a fellow who was truck-driving with me, as I was truck-driving at the time. When the end of the month came to get payment, the company paid me directly as the other fellow was a third party agent that I pretty much hired. When we met for me to pay him, he felt that I should have paid him more as if I was holding back. I pretty much tried to calculate and explain to him how much we made per job since the trip only covered X amounts, the hotel fees, etc. At the time, he and his girlfriend were present, and he snatched the money. As we began to tussle, he handed the money off to her. She put it in her bag and tried to jump in the vehicle. I got away from him, ran over to her, reached in and grabbed the bag. As I began to back away, we were having words about the whole situation, she was yelling, he was cursing. His name is Terrance Randolph but we call him Taboo. I was saying, "No Taboo, this ain't happening." I threw her bag down and grabbed the money. I told Taboo I would give his money to the dispatch. A few days later I received a call from a detective there in Tulsa OK stating that he wanted me to come down and provide my side of the story. I cooperated. The detective stated that the young lady advised that I snatched her purse full of money. The amount went from \$5000 to \$25,000 to \$100,000. I was on probation during that timeframe. I was telling the officer exactly what happened and he said that she came in and stated that I snatched her purse, which contained money she was holding for her auntie. My lawyer at the time requested that they prove the amount in the purse, but I proved the amount from my job saying that they

had just given me a petty cash check and our monthly check so they knew that we had worked together. I proved my amount so they sort of just slowed the process down but because it had already went before the court system and I was on probation, it just locked me in further, so I had to fight it. My lawyer advised that the incident violated my probation and I understood that. My lawyer advised me to take a plea because they were telling me that due to my probation I could be facing forty (40) years. We all talked about the plea for a couple of weeks and they finally offered five (5) years. Reluctantly I eventually accepted the offer because they told me it was nonviolent and I would be out in X amount of time. So I just did what was suggested of me because this was a lawyer and I did not want to go to jail for (40) forty years because I had not done anything but they specifically told me if I violate not only would I have to do that time or whatever crime that I committed. Over a period of time I went to court, spoke to the judge, spoke to the lawyer. They tried to drop their part in saying it, they did not show up for court, they stopped speaking with the public defender and the district attorney, but I had violated. I took the (5) years and I went to jail. I found out that jail does not rehabilitate you in any form or fashion. It is a housing place for everyone to just hang out. But I knew, because my daughters were coming of age and growing up, that I would just take the time to study and begin to change. I met higher up officers, wardens and chaplains who favored me and began to open doors and opportunities for me to purchase TD Jakes seminar tapes to begin to teach other inmates and put it in to the library. I was making my donations to the chapel. It just became a time for me to sit down and reflect. As I began to do better in the system I began to get more rewards and more perks. They allowed me to go from one location to a lower security facility where my family could come and visit. I received more privileges with phone calls and mail. It allowed me to get into Heating and Air Conditioning classes, courses and different programs which I finished. Upon finishing that and being released I began to look at my daughters.

Mr. Rudolph questioned when Mr. Bell was released.

Mr. Bell stated he was released in May 2005 for a non-drug, nonviolent charge. I have four (4) daughters so I began talking to my wife about what I was going to do because college would be here soon. My brother has a funeral home. My parents and I agreed that I should have gone the school the same time my brother did but I did not. I started going to school online and I began talking with Mr. Kevin Davis and I asked him all the questions. I called and spoke with Dr. Powell and I asked all the questions. I spoke to Ms. Richardson during that timeframe and I asked all the questions. I was definitely led to believe that...nonviolent, no drugs reflecting towards our industry, no things that directly affect the industry. I guess I did not know all the questions to ask but I did ask everything that I thought pertained to me at the time. I started going to school online with Mr. Davis at St. Petersburg paying about \$1000 per class, taking a major sacrifice with the upcoming of the finances in the house. Going through that process I told myself that I could not continue so I spoke to my family and moved back here. I started going to school and I got closer to Dr. Powell. My prices dropped from \$1000 to \$300 and I kept attending, studying, working with tutors and going through the whole process. While doing that, being hooked up at the church with a mentoring group, I began to allow the older men that are also in the different business organizations or a group that they have in the church to mentor me all the more. I began to listen and watch their lives and look at how they talk about how they changed and it made me reflect to what they said how the prison system, jail system rehabilitates you. Having been there and having known many other guys that have come through the church, we all say the same thing. You are not getting rehabilitation in a prison system. You have to be determined yourself to began to change and go through a process of change within yourself by gathering the right information, hooking up with the right people, beginning to deal with the true thoughts you are having and expose yourself to someone so they can do a check and balance on your thought process. It was not the prison system it began to be from the guys. Not just all biblical based, but day in and day out business in communication and interaction with their families and how they interacted with the younger adults in the church and at the events we attended. Going through that process and still on that process, I began to finish school. Once I went through a rigorous review system at Miami-Dade through the last semester, I got to the point to take and pass the National Board exam all on the first time with the study ethics I had built, I knew I would come before this Board and here I am here again today standing before you.

The Chair stated that Mr. Bell has chosen to focus on the one (1) felony that led to imprisonment but there is: carrying a concealed weapon, burglary of a dwelling, possession of burglary tools with intent to use, possession of a firearm by a convicted felon, dealing in stolen property and false verification of ownership and grand larceny. These are all in addition to the event that Mr. Bell is focusing on. Also, The Chair questioned whether Mr. Bell or his counsel requested a statement from any of the people that told Mr. Bell he could definitely get a license.

Mr. Bell stated that he did not even think about asking those he had previously spoken to for any type of documentation, but concerning the other incidents, a lot of them are the same date. The charge for carrying the firearm was dropped as it was my

cousin's gun. We were in the car. He picked his gun up later from the court system. The charge for burglary tools with breaking and entering, it was a screwdriver. I was 19 at the time, but we did break into that house in the neighborhood. The police came, I was arrested and I went on probation at that time. There was nothing stolen. A lot of these things were the same thing but the way the system works is you will get arrested, they let you out and then over a period of time you go to court and once you go to court they put a date in the system but you are still waiting to be sentenced. Then when you go back to court for sentencing, there is another date in the system so it makes it look like multiple things. The charge for dealing in false ownership at a pawn shop was the result of pawning a watch after having it for a long period of time. I did not know the watch was stolen. I acquired the watch by gambling at a local park when I was 19 or 20 years old. I did not know much when I was younger. My mom did the best she could to raise all four of us. My brother is successful in the industry. He has two (2) funeral homes, one (1) in Fort Lauderdale and one (1) in the Pompano area. My brother was pretty much raised by my grandmother when he became of age to keep him on the straight and narrow. That is when I began to try and figure things out on my own. I met the guys, I ran with the guys, had no father, no real uncles until I came of age, but they were not real uncles just close friends of the family. They instilled a work ethic in me. They put me on the roof. I began to dig, tear off roofs and do roofing. When roofing was slow, we did construction work. It was only when I began recognizing that I was tired of going through the jail system, embarrassing my mother, people knocking on the doors looking for me, putting handcuffs on I came to my senses. I questioned what future would I have if I did not change. Having a fear of the future, I had to fight that first in my own mind and I began to recognize that I do not have to fear the future I just have to begin to make one positive decision at a time so that when my future does come I will already have some things lined up that would make the future a little easier. My daughters are my constant reminder that each day I will do what is required to ensure they have what they need. That is my driving force.

Mr. Rudolph stated that the previous felonies occurred when Mr. Bell was a young man and he has explained the situation and circumstances very well. Mr. Bell has rehabilitated himself and is leading an exemplary life if you look at all of the people who wrote letters of recommendation on his behalf, including the people that he is working with who will be responsible for him. We have had situations and I again remind you of a situation right before Mr. Bell's at the October meeting. That young man came before the Board with convictions that were after the time of his last conviction. Mr. Rudolph requested that the Board give Mr. Bell a chance. If the Board gives Mr. Bell the right to be a concurrent intern with probation, the owner of the funeral home and the direct supervisor is going to be responsible for him and they understand that and are the ones who wrote the letters of recommendation. This would give Mr. Bell a chance as this Board has given many young men and women a chance to prove themselves. As they go through that process, if there is anything that Mr. Bell does it would violate that probation and it would be over, but if he succeeds then he would come before the Board again for his funeral director and embalmer's license.

Mr. Lew Hall stated that his concern was that Applicant's come in stating that the schools told them they could be licensed. The Division expressed in the last meeting that it is the Applicant's responsibility to access the Florida Statutes. The Division was requested to send correspondence to the schools putting them on notice and they went above and beyond in doing so. Mr. Bell did have some responsibility. Mr. Kevin Davis advises that one of the first things they do at St Pete College is verify with them. Ms. Richardson is pretty good so when you call in she knows what the Rules are. So to say that these people came in and told Mr. Bell this would be surprising.

Mr. Jones questioned Mr. Bell's age.

Mr. Bell responded that he is 39 years old.

Mr. Rudolph stated when Mr. Bell had the impression that there was a chance he could get his license that was something that he understood and went forward with knowing that he would have to come before this Board and there is no guarantee. I am sure Ms. Richardson would have advised that Mr. Bell could submit his application but there is no guarantee that he would get his license. That is why Mr. Bell is here. When the issue of that he was told that even though he had the convictions, there is a chance that he could get a license. I believe that is right because if you look at the history of this Board there have been people who had convictions that came before the Board requesting an internship. The Board reviewed the applications and decided to give those Applicants a chance. Some people came before the Board who were drug addicts, bad drug addicts and the Board gave the Applicant a chance. To me, what this young man has been through, the life he began as a young man living in a bad situation where he got caught up in the wrong crowd and then he gets out and decides to make a life for

himself, which he does. This young man should be given a chance. That does not mean the Board is giving Mr. Bell a license. The Board is giving him a chance to prove everything he has said about his rehabilitation.

Mr. Hall stated that the young lady Mr. Rudolph referred to only had one conviction. She had the drug issue, letters of recommendation and reference came in and stated she was raising her child right. Mr. Bell has multiple offenses.

Mr. Rudolph stated that there are multiples here on a young man at 19, but then you have the one that he has explained to you which would be great if he had had a lawyer that could convince the other side to drop the charges but he did not. He was convicted of it, spent three and a half years, got out early and then turned his life around, but that was in 2005. Yes, you a lot of things that people do when they are younger that are wrong and they get convicted of them but when they can rehabilitate themselves and come before this Board and prove that they are a good citizen, that they are rehabilitated, this Board should give them a chance to go through this internship. This is not giving them a license. Mr. Bell still has to come back.

Ms. Hubbell stated that she is a firm believer in rehabilitation. This man could not get this many letters of recommendation if he has not proved himself to other people. I am one that would give him a chance. As Mr. Rudolph stated, it is not a license but a chance to be licensed and to move forward from here because sometimes you do make bad decisions as children and people do change. It appears to me from all of the papers provided that Mr. Bell has.

Mr. Helm stated he was a little confused and questioned Mr. Bell's age again.

Mr. Bell stated he is 39 now.

Mr. Helm stated Mr. Bell would have been 29 years old ten (10) years ago, not 19.

Mr. Bell stated he was referring to the incident that occurred when he was 19.

Ms. Jean Anderson questioned whether Mr. Bell was on probation at that time.

Mr. Bell stated he was on probation for pawning the watch at the pawn shop.

MOTION: Mr. Dick Mueller moved to rescind the previous denial and approve the application w/1 yr probation. Ms. Hubbell seconded the motion, which passed with two (2) dissenting votes.

The Chair advised that Mr. Bell communicate with the Board and the Board members at any time as the Board would like to hear of Mr. Bell's progress.

4. Disciplinary Proceedings:

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

(1) Blackmon, Kevin (F058054): Case No. 126775-12-FC, Division #ATN-18403 (Probable Cause Panel A)

Ms. Hubbell recused herself as she participated on Probable Cause Panel A.

Ms. Lynette Norr stated that the next several items are hearings being conducted pursuant to Sections 120.569 and 120.57(2), Florida Statutes, and the Probable Cause Panel members will be recused from participating in the hearings. The purpose of each hearing is to resolve any disputed issues of the Law and if a violation is found to determine what penalty if any is appropriate. The Respondent, upon receiving an Administrative Complaint, if that is the case, did not dispute any material, factual allegations and at this point does not dispute any facts. If at any point in the proceeding a disputed issue of material fact is asserted, the hearing will be terminated and this matter will be referred to DOAH. If the Respondent is present, both parties will have an opportunity to present to the Board any oral evidence relating to the Board's action. Only testimony and evidence pertinent to the charges contained in the Complaint will be allowed. Any irrelevant, immaterial or unduly repetitious testimony or evidence will not be permitted. After the close of the hearing and after the Board has reached its decision, the Board will prepare a Final Order.

Ms. Mary K Surles stated that on August 29, 2012, the Department filed an Administrative Complaint alleging that Kevin Blackmon, a licensed direct disposer, sold or attempted to sell preneed merchandise and services on behalf of Cremation Services of Mid-Florida when he entered into a contract with Ms. Marilyn E Swilley for her final death expenses without having a license pursuant to Chapter 497, F.S. On October 24, 2012, Kevin Blackmon was personally served with the Administrative Complaint and the Notice of Rights attached to it which provided Mr. Kevin Blackmon 21 days to submit his response to the Department. The Department has not received a response from Mr. Blackmon. On December 6, 2012, the Department filed its Motion for Determination of Waiver and Final Order, which is before the Board today. The Department believes that it is appropriate at this time for the Chair to entertain a motion that Mr. Kevin Blackmon has waived his rights to elect a proceeding in administrative action.

MOTION: Mr. Helm moved to find that the Respondent waived its rights to elect a proceeding in this matter. Ms. Thomas-Dewitt seconded the motion, which passed unanimously.

The Department believes it is appropriate at this time for the Chair to entertain a motion adopting the Allegations of Fact as set forth in the Administrative Complaint as the Board's Findings of Fact.

MOTION: Mr. Jones moved to adopt the Findings of Fact. Ms. Thomas-Dewitt seconded the motion, which passed unanimously.

At this time, the Department feels it would be appropriate for the Board to hear from Mr. Kevin Blackmon who is here today.

Mr. Shropshire requested that Mr. Blackmon raise his right hand to be sworn in. "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. Kevin Lebron Blackmon answered, "Yes." Mr. Blackmon stated that he did meet with Ms. Swilley who had attempted several times to get me to sell her a preneed. When I did meet with Ms. Swilley and her husband, upon finalizing everything, she wrote me a check. I told her that the check would not be cashed. Upon that, Ms. Swilley indicated that she was on her final days within like two (2) weeks and was already going blind. I am sorry that I have a soft heart. When I met with her, I told her it would not be cashed until after then. They had gone to another funeral home and I told her it may be best just to go with them. I guess I should have returned the check to her stating that we would no longer do her preneed but I failed to do so. The check was never cashed or endorsed. Mr. Blackmon requested leniency from the Board as this is his first offense. Mr. Blackmon added that he loves the job he does and he loves working with families. We are a small crematory and we do work within our community to help some of the less fortunate families to be able to have a final disposition for their families. Again, I do ask for leniency to be able to continue doing what I do.

The Chair questioned whether Mr. Blackmon continues to sell preneed for the direct disposal establishment.

Mr. Blackmon responded, "No sir, because we do not have a preneed license."

Mr. Hall stated that he is probably about 45 minutes from that location and have had some families in recently that have made accusations that they continue to do preneed. When I spoke with the Division, they were under investigation then. This is an ongoing problem. Whether they are holding checks or whatever it is they are doing, if they are telling them they are making some type agreement with the bank or its been told that he was in with a member of his church who advised he had a son in law who is a funeral director in the area and then the discussion was over.

Ms. Norr stated the discussion was not appropriate for this particular consideration as they are not facts entered into the record.

Col. Stiegman questioned Mr. Blackmon's statement that he received the check from the Swilley's and in turn sent them to another facility.

Mr. Blackmon stated that the check was never endorsed or cashed. I understood that they were thinking of somewhere else to have the memorial service, which is one the funeral homes in the area.

Col. Stiegman questioned whether the family went somewhere else.

Mr. Blackmon stated to this day he does not know and he does not know whether or not Ms. Swilley is still living.

Col. Stiegman questioned whether the family just walked away, after giving you a check, once you told them you could not do it.

Mr. Blackmon stated that the next thing he knew is that they were under investigation on this case. Ms. Swilley had advised that she would be passing within the next 30 days and was already under Hospice care. She said that she was very terminal, was already blind in one eye and going blind in the other eye. Ms. Swilley did not want to burden her family, her children or her husband so she asked that I go ahead and do the paperwork, sign the authorization for cremation so that when she did pass they would not have a burden. Ms. Swilley did make mention that they were going to have a memorial service at a funeral home in the Winter Haven area. I advised that would be good and Ms. Swilley should talk with them because our facility does not provide any place to have a service as we are a direct disposal establishment.

Ms. Thomas-Dewitt questioned whether Mr. Blackmon was on probation when this offense occurred.

Mr. Blackmon stated he was not aware of the probation, but he personally was not on probation.

Ms. Thomas-Dewitt questioned whether the establishment was on probation.

Mr. Blackmon stated that to his knowledge the establishment was and he was counseled on that through Mr. Locke, who is the owner.

Ms. Thomas-Dewitt questioned whether Mr. Blackmon received a Notice regarding the probation.

Mr. Blackmon stated that he personally did not receive a Notice stating that the establishment was on probation.

Mr. Helm questioned whether Mr. Blackmon met with Ms. Swilley in his office or at her home.

Mr. Blackmon stated that he went to Ms. Swilley's home.

Mr. Hall stated that the establishment was on probation from 2011 for a two (2) year period. The last time the Board heard the case, I was not present but it looks like an additional two (2) years was added to the probation and suspended the license for ten (10) days. In 2011 the agreement was that there would be a two (2) year probation and if they were caught doing preneed again the license would be suspended for 30 days, but at the last Board meeting it was reduced to ten (10) days. Mr. Hall questioned whether the additional two (2) years is concurrent or is it an additional two (2) years.

The Chair stated that the two (2) years would be concurrent with the probation already in place.

Ms. Surles stated that Mr. Blackmon was not involved in the initial cases involving the entity, Cremation Services of Mid-Florida, which also dealt with a different FDIC at the time, in which they ended up entering into a Settlement Stipulation which alleged that they were selling preneed without a license. The establishment, Cremation Services of Mid-Florida, was on probation for selling preneed. Then Mr. Blackmon comes in and sells preneed without a license, without the establishment having a license. That is where we are today.

Mr. Hall stated that the establishment was under two (2) years probation, which was still in effect. Mr. Hall questioned whether the probation assessed at the last in person Board meeting an addition two (2) years as there were several months left on the last probation.

Ms. Surles stated that the entity's cases were heard at the last Board meeting. The two (2) years were to run concurrent.

Ms. Anderson questioned whether Mr. or Ms. Swilley called and requested that Mr. Blackmon come to their home to discuss arrangements for her cremation after her death.

Mr. Blackmon responded that Ms. Swilley did.

Ms. Anderson questioned whether Mr. Blackmon told Ms. Swilley that he did not have a license to sell preneed.

Mr. Blackmon stated that at the time when he had spoken with Ms. Swilley he advised that he could not do anything. Ms. Swilley had indicated that she only had less than thirty (30) days to live. Mr. Blackmon told Ms. Swilley that he did not mind coming out to talk with her regarding their cremation business. Ms. Swilley advised that she did not want to be a burden to her children or her husband when she passes because they want all the whistles and the bells but she just wanted to be cremated, put in an urn and brought back to her husband. Mr. Blackmon then went out to speak with Ms. Swilley who advised she wanted to get this done and over with. Once I got out there we were talking and I explained everything to her. My heart just got heavy for her. I am a compassionate person, so my heart got ahead of my thinking and we started writing up the "contract" of how much it would be with her urn and the number of death certificates needed. Ms. Swilley did sign the cremation authorization. When we got to the total cost, Ms. Swilley indicated that she would like to go ahead and pay. I advised that I did not want to take the check but Ms. Swilley insisted and told me to hold the check. I advised that we could not cash the check until after she had passed. Ms. Swilley concurred because she was not expecting to live no more than three (3) weeks.

The Chair questioned why Mr. Blackmon did not execute the preneed contract since he did not know the entity could not write preneed.

Mr. Blackmon stated that he thought that a preneed contract would be going to as far as writing it through Forethought. I am sorry but I thought that was the contract that would be considered as a preneed contract. I had just received my license, probably a year or a year and a half, and we did not write a lot of preneed when I first started. I guess I was kind of excited maybe, but I really do not know.

The Chair stated that the fact that Mr. Blackmon did not go forward with the preneed contract would indicate that you knew you could not write it.

Mr. Blackmon stated that he knew something was going on. The issue with Mr. Locke happened in 2011 and this took place maybe ten (10) months after that. I just indicated to Ms. Swilley that we would not cash the check until after she passed because she was expected to pass within the 30 days.

Ms. Thomas-Dewitt stated if Mr. Blackmon knew he could not cash the check then he knew he should not accept it as well.

Mr. Blackmon stated that it is not that he knew they could not cash it, he just told Ms. Swilley it would not be deposited until after she passed. If she passed within 30 days I knew it had to be put into the preneed trust account with the State.

Ms. Thomas-Dewitt stated that Mr. Blackmon did not fill out the correct preneed application. He only completed a statement of goods so this could not be submitted to the State as a preneed contract.

Mr. Blackmon stated that he sees that now.

Ms. Thomas-Dewitt questioned whether there was anyone else at the facility that Mr. Blackmon could have consulted to determine whether they were licensed to sell preneed.

Mr. Blackmon stated that Mr. Locke had been sick and was very ill. I could have called him to consult with him but after I had gotten back through that week I was giving him and update on some things and he advised that I should not have done that.

Ms. Thomas-Dewitt questioned how soon afterwards Ms. Swilley passed away.

Mr. Blackmon stated that he did not know. We did not get a call that she had passed so I do not know whether she is still living. When all of this came about I assumed she went somewhere else with her family.

Col. Stiegman questioned what Mr. Blackmon did with the check.

Mr. Blackmon stated it was given into evidence for this case.

Mr. Jones questioned whether Mr. Blackmon or any of the other funeral directors were instructed not to write any preneed since there was no license for that.

Mr. Blackmon stated that he was not instructed as such. This has taught me a very good lesson.

Ms. Thomas-Dewitt questioned whether Mr. Blackmon is a licensed funeral director or just a direct disposer.

Mr. Blackmon responded that he is just a direct disposer.

Mr. Hall stated that in a letter to Jessica Helms, Mr. Blackmon indicates that he knew he could not write a preneed contract. Mr. Hall questioned whether this was correct.

Mr. Blackmon responded that he did not during the time he was speaking with Ms. Swilley. I thought that something was going on but I was not for sure and I should have spoken up. I was within a year of having my license and I had always written at-need contracts. When Ms. Swilley was asking me to do this I did not and I guess I did know of some things that may have been going on.

Mr. Hall stated that in the letter to Ms. Helms included in the Board material, Mr. Blackmon wrote, "In speaking to Ms. Marilyn Swilley on several occasions, I had told her that we cannot do a paid pre-need contract on her."

Mr. Blackmon stated he was trying to get out of writing a preneed contract for Ms. Swilley.

Ms. Surles stated that now that the Board has heard from the Respondent, the Department contends that based on the Board's Findings of Fact, the Respondent has violated ss. 497.452(1)(a), 497.152(1)(a) and (b), F. S. as charged in the Administrative Complaint. It is appropriate at this time for the Chair to entertain a motion adopting the violations set forth in the Administrative Complaint as the Board's Conclusion of Law.

MOTION: Ms. Thomas-Dewitt moved to adopt the Conclusions of Law. Mr. Helm seconded the motion, which passed unanimously.

The Department recommends for penalty in this matter a \$2500 fine, \$250 cost and 6 months suspension of Mr. Kevin Blackmon's direct disposer license.

Mr. Hall questioned whether this is something Mr. Blackmon did on his own or whether he felt pressure from the establishment to go out and see Ms. Swilley and write the form.

Mr. Blackmon stated he felt pressure from Ms. Swilley.

MOTION: Ms. Thomas-Dewitt moved to accept the Division's recommended penalty of \$2500 fine, \$250 cost 6 months suspension of Mr. Blackmon's direct disposer license. Col. Don Stiegman seconded the motion, which passed unanimously.

(2) *Moister, Brian (F042022): Case No. 126774-12-FC, Division #ATN-17177 (Probable Cause Panel A)*

(3) *Moister, Brian (F042022): Case No. 126795-12-FC, Division #ATN-16660 (Probable Cause Panel A)*

Mr. Shropshire requested that the Board take the two (2) cases together.

Ms. Hubbell recused herself as she participated on Probable Cause Panel A.

On October 24, 2012 and November 7, 2012, the Department filed Administrative Complaints alleging that Brian Moister, a licensed funeral director and embalmer, on behalf of A Cremation Services of Palm Beaches, sold or attempted to sell preneed merchandise or services when A Cremation Services of Palm Beaches did not have a license to sell preneed merchandise or services as required by Chapter 497, Florida Statutes. Brian Moister allowed the cremation of two (2) decedents' bodies

without receiving cremation authorization from the Medical Examiner's office as required by s. 406.11, F.S. On December 10th, 17th, 24th and 31st of 2012, the Administrative Complaints were published in the Palm Beach Daily Business Review in Palm Beach County. Provided in both Administrative Complaints were Notices of Rights informing Brian Moister that failure to respond in writing within 21 days of his receipt of the Notice in the Administrative Complaint would constitute a waiver by the Licensee of the right to request a proceeding on the matters alleged in each of the Administrative Complaints and an Order of Suspension or Revocation by the Board would be entered against the Licensee. On January 22nd, the Department filed its Motion for Determination of Waiver of Rights and Final Order imposing discipline, which alleged that the Department did not receive a response from Brian Moister on either of the Administrative Complaints filed against him on October 24, 2012 and November 7, 2012. Twenty-one (21) days have passed since the Licensee's time to respond to the Election of Proceeding was due and Brian Moister has waived his right to request a proceeding involving disputed issues of material facts in the matters. The Department believes that it is appropriate at this time for the Chair to entertain a motion that Brian Moister has waived his right to elect a proceeding in the administrative action before you.

MOTION: Mr. Helm moved to find that the Respondent waived its rights to request a proceeding in these matters. Mr. Jones seconded the motion, which passed unanimously.

The Department believes it is appropriate at this time for the Chair to entertain a motion adopting the Allegations of Fact as set forth in both of the Administrative Complaints as filed by the Department on October 24, 2012 and November 7, 2012 as the Board's Findings of Fact for each of the cases presented here today.

MOTION: Mr. Mueller moved to adopt the Findings of Fact. Mr. Helm seconded the motion, which passed unanimously.

At this time the Department believes it is appropriate for the Board to hear from Mr. Moister, the Respondent, if he is present here today.

The Chair questioned whether Mr. Moister or anyone representing Mr. Moister was present. There was a negative response.

The Department contends that based on the Board's Findings of Fact, the Respondent has violated ss. 497.452(1)(a), 497.252(2)(a), 497.152(13)(a), 497.152(5)(e), 497.152(4)(8), 497.152(1)(b) and (a), F. S. as charged in the Administrative Complaint for selling or attempting to sell preneed merchandise or services when the establishment did not have a preneed license to do so and allowing the cremation of two (2) decedents' bodies without receiving cremation authorization from the Medical Examiner's office as required by s. 406.11, F.S. It is appropriate at this time for the Chair to entertain a motion adopting the violations set forth in the two (2) Administrative Complaints as the Board's Conclusion of Law in each of the cases.

MOTION: Ms. Thomas-Dewitt moved to adopt the Conclusions of Law. Mr. Jones seconded the motion, which passed unanimously.

The Department recommends for penalty in this matter is revocation of the funeral director and embalmers license of Brian Moister based on the facts set forth.

MOTION: Ms. Thomas-Dewitt moved to accept the Division's recommended penalty. Mr. Lew Hall seconded the motion, which passed unanimously.

B. Settlement Stipulation(s)

(1) Choice, Doctor R (F046148): Case No. 126172-12-FC, Division #ATN-17731 (Waiver of Probable Cause)

Mr. Linje Rivers stated that Doctor Choice is licensed as a funeral director and embalmer. The Division conducted an investigation at the New Serenity Memorial's establishment, where Doctor was serving as funeral director in charge. During that investigation, it was determined that the Licensee was in violation of the Funeral, Cemetery and Consumer Services Act. The Division alleges that the Licensee failed to monitor the timely installation of a granite memorial ledger and failed to ensure that a contract for funeral goods and services purchased was provided to a consumer.

Doctor Choice has agreed to a pay of fine of \$750 and be placed on two years probation.

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.

Mr. Helm questioned whether the family was okay with the cemetery putting their name across the end of the slab.

Mr. Rivers stated he did not know. The case involving New Serenity was concluded at the last Board meeting. Mr. Rivers stated that Doctor Choice is present.

The Chair questioned whether Doctor Choice would like to address the Board.

Mr. Shropshire requested that Doctor Choice raise his right hand to be sworn in. "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. Doctor Randall Choice, III answered, "I do."

Mr. Helm questioned whether the purchaser was okay with New Serenity being placed across the foot of the slab. Mr. Helm questioned whether this is something Mr. Choice does on his own.

Mr. Choice stated he did not know anything about this transaction until he received the complaint from Mr. Schuller. Mr. Choice advised Mr. Schuller that in 43 years he had never seen anything like that before. I have never seen an inscription of the funeral home being advertised on a slab. I have not talked with the family since this slab transaction came in. I only went there and made the arrangements. I have a statement showing that the slab is not on the goods and services contract and my name is not on the contract for the slab. The slab was a separate item.

Mr. Helm questioned whether Mr. Choice knew why it took so long for it to be installed.

Mr. Choice stated that he did not know because he immediately terminated his employment at that funeral home once he discovered he had been violated in such a way.

Mr. Helm questioned whether Mr. Choice was the funeral director in charge.

Mr. Choice concurred.

Ms. Thomas-Dewitt questioned whether the owner of the funeral home sold the contract.

Mr. Choice concurred and added it was done with his knowledge. Mr. Choice stated that he was present to beg for relief from the Board of the fine and probation, if at all possible or to reduce it.

The Chair stated that on January 17th Mr. Choice signed the agreement of the Settlement Stipulation.

Mr. Choice stated that he was informed that in doing so, that would expedite matters providing him an opportunity to come before the Board.

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

Mr. Choice requested that the Board allow him to pay the fine within 60 days rather than the customary 30 days. The Department did not have any objection to the request.

MOTION: Mr. Helm moved to allow Mr. Choice to pay the fine within 60 days rather than the agreed upon 30 days. Mr. Mueller seconded the motion, which passed unanimously.

(2) Lohman, Nancy (F030295): Case No. 126800-12-FC, Division #ATN-17534 (Waiver of Probable Cause)

Mr. Rivers stated that the Respondent is currently licensed as a funeral director and embalmer. The Division alleges that the Licensee participated in misleading advertising and failed to ensure that a funeral establishment was licensed prior to advertising.

Respondent has agreed to pay a \$1,000 fine.

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. Helm moved to approve the Settlement Stipulation as recommended by the Department. Mr. Mueller seconded the motion, which passed unanimously.

The Chair disclosed his affiliation with SCI Funeral Services of Florida, Inc. and stated it would not affect his decision to remain fair and impartial on any of the items presented at this meeting.

(3) Leveck, David E (F044398): Case No. 126159-12-FC, Division #ATN-18019 (Probable Cause Panel B)

Ms. Surles stated that on September 6, 2012, the Department filed an Administrative Complaint alleging that David Leveck, as the licensed funeral director in charge of the cinerator facility for Masters Funeral Home, P.A., was responsible for ensuring that the cinerator facility and all persons employed by the facility comply with all applicable state and federal rules. On January 10, 2012, the Division Examiner conducted an annual inspection of the cinerator facility for Masters Funeral Home, P.A. and observed cigarette butts, boxes, paper and temporary cremation containers scattered through the premises, and found an unidentified bag of cremains that were not tagged with any identification. Respondent failed to ensure that the cinerator facility for Masters Funeral Home, P.A. was maintained in a clean manner throughout the premises of Masters Funeral Home, P.A., and kept in a sanitary condition.

On October 30, 2012, the Respondent was personally served with the Administrative Complaint and Notice of Rights by the Division Examiner, and on November 2, 2012, the Department received Respondent's request for a formal hearing in this matter. On December 12, 2012, the Respondent and the Department entered into a Settlement Stipulation for resolution of this matter. The terms of the Settlement Stipulation require the Respondent to pay an administrative fine of \$1000 and the Respondent's Funeral Director and Embalmer License will be placed on probation for a period of one (1) year with the specific condition that Respondent will ensure that all cremated remains are properly identified at all times. Respondent's failure to timely comply with the terms and conditions of the Board's Final Order shall be grounds for emergency suspension of all licensure held by the Respondent; provided the Department shall give written notice to Respondent, pursuant to Section 497.153(5)(c), F.S.

Mr. Rudolph, represent David Leveck and Masters Funeral Home, stated that those were comingled cremains that were cleaned out of a retort over a period of time and a person came in and saw the bag of cremains. Mr. Rudolph brought in a replica of the bag of cremains so the Board could get a visual. The cremains are comingled and swept out of the retort and there is no way to identify them to any specific person so there is no way to put a name on them. Perhaps they did violate the crematory operating procedures because the person who swept it out did not do a very good job, but we entered into this Settlement Stipulation. This was their first violation. They cleaned up the room the next day. There was no need to mark this bag of cremains with a name because you could not

MOTION: Ms. Thomas-Dewitt moved to approve the Settlement Stipulation as recommended by the Department. Col. Stiegman seconded the motion, which passed unanimously.

(4) Masters Funeral Home, PA (F040382): Case No. 126160-12-FC, Division #ATN-18019 (Probable Cause Panel B)

Ms. Surles stated that on September 6, 2012, the Department filed an Administrative Complaint alleging that Respondent's premises were not kept in a clean manner and were not kept in a sanitary condition. On January 10, 2012, the Division Examiner conducted an annual inspection of the cinerator facility for Masters Funeral Home, P.A. and observed cigarette butts, boxes, paper and temporary cremation containers scattered through the premises, and found an unidentified bag of cremains that were not tagged with any identification.

On September 10, 2012, Respondent received the Department's Administrative Complaint and Notice of Rights by certified mail and on September 28, 2012, the Department received Respondent's request for a formal hearing in this matter. On December 12, 2012, the Respondent and the Department entered into a Settlement Stipulation for resolution of this matter. The terms of the Settlement Stipulation require the Respondent to pay an administrative fine of \$1000 and the Respondent's funeral establishment License will be placed on probation for a period of one (1) year with the specific condition that Respondent will ensure that all cremated remains are properly identified at all times. Respondent's failure to timely comply with the terms and conditions of the Board's Final Order shall be grounds for emergency suspension of all licensure held by the Respondent; provided the Department shall give written notice to Respondent, pursuant to Section 497.153(5)(c), F.S.

MOTION: Mr. Helm moved to approve the Settlement Stipulation as recommended by the Department. Ms. Thomas-Dewitt seconded the motion, which passed unanimously.

(5) Speights, Farrell F (F043145): Case No. 128345-12-FC, Division #ATN-18572 (Waiver of Probable Cause)

Ms. Surles stated that on May 16, 2012, the Department received a consumer complaint alleging that Mr. Robert Young, owner of Young's Funeral Home made funeral arrangements without having a valid funeral director or embalmer license. Mr. Young's funeral director and embalmer license expired in 1997 and the license is null & void pursuant to s. 497.365(6), F.S. On January 22, 2010, the decedent's brother paid cash in the amount of \$1145 for a granite marker and was not provided a contract or proof for the memorial. On June 11, 2012, the Division's examiner visited Eternal Rest Memories Park and photographed the cemetery space for the decedent, and the granite marker was not present. The marker installation form was never completed when the marker was allegedly broken during the installation, and Farrell Speights, on behalf of Young's Funeral Home, Inc., signed the interment authorization. On July 10, 2012, the same examiner visited Eternal Rest Memories Park and photographed the cemetery space for the decedent which showed that the granite marker had been installed. Farrell Speights, as the responsible funeral director in charge of Young's Funeral Home, failed to ensure that the facility and all persons employed in the facility comply with all applicable state and federal laws and rules.

Pursuant to the executed Waiver of Finding Probable Cause and Waiver of Confidentiality, Respondent has voluntarily waived a finding of probable cause to formally charge a violation of Chapter 497, F.S., in this matter, and neither admits nor denies all the facts and violations as alleged in the Division's investigation file, as maintained in Division record ATN-18572, for resolution at the time the Consent Order is accepted in this case, pursuant to Section 497.153(4)(c), F.S.

On December 6, 2012, the Respondent and the Department entered into a Settlement Stipulation for resolution of this matter. The terms of the Settlement Stipulation require the Respondent to pay an administrative fine of \$2000 and cost of \$250, which will be paid within 30 days of the Consent Order entered in this case, and the Respondent's Funeral Director and Embalmer License will be placed on probation for a period of two (2) years with the specific condition that Respondent will maintain adequate records for the funeral establishment and provide consumers with copies of the contracts entered into with the Young's Funeral Home, pursuant to Chapter 497, F.S. Respondent's failure to timely comply with the terms and conditions of the Board's Final Order shall be grounds for emergency suspension of all licensure held by the Respondent; provided the Department shall give written notice to Respondent, pursuant to Section 497.153(5)(c), F.S.

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

(6) Young's Funeral Home, Inc. (F040557): Case No. 128346-12-FC, Division #ATN-18572 (Waiver of Probable Cause)

Ms. Surles stated that on May 16, 2012, the Department received a consumer complaint alleging that Mr. Robert Young, owner of Young's Funeral Home made funeral arrangements without having a valid funeral director or embalmer license. Mr. Young's funeral director and embalmer license expired in 1997 and the license is null & void pursuant to s. 497.365(6), F.S. On January 22, 2010, the decedent's brother paid cash in the amount of \$1145 for a granite marker and was not provided a contract or proof for the memorial. On June 11, 2012, the Division's examiner visited Eternal Rest Memories Park and photographed the cemetery space for the decedent, and the granite marker was not present. The marker installation form was never completed when the marker was allegedly broken during the installation, and Farrell Speights, on behalf of Young's

Funeral Home, Inc., signed the interment authorization. On July 10, 2012, the same examiner visited Eternal Rest Memories Park and photographed the cemetery space for the decedent which showed that the granite marker had been installed.

Pursuant to the executed Waiver of Finding Probable Cause and Waiver of Confidentiality, Respondent has voluntarily waived a finding of probable cause to formally charge a violation of Chapter 497, F.S., in this matter, and neither admits nor denies all the facts and violations as alleged in the Division's investigation file, as maintained in Division record ATN-18572, for resolution at the time the Consent Order is accepted in this case, pursuant to Section 497.153(4)(c), F.S.

On December 6, 2012, the Respondent and the Department entered into a Settlement Stipulation for resolution of this matter. The terms of the Settlement Stipulation require the Respondent to pay an administrative fine of \$2000 and administrative cost of \$250, which will be paid within 30 days of the Consent Order entered in this case, and the Respondent's Funeral Establishment License will be placed on probation for a period of two (2) years with the specific condition that Respondent will maintain adequate records for the funeral establishment and provide consumers with copies of the contracts entered into with the Young's Funeral Home, pursuant to Chapter 497, F.S. Respondent's failure to timely comply with the terms and conditions of the Board's Final Order shall be grounds for emergency suspension of all licensure held by the Respondent; provided the Department shall give written notice to Respondent, pursuant to Section 497.153(5)(c), F.S.

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

(7) Stone, Edward W (F045905): Case No. 128621-12-FC, Division #ATN-18431 (Waiver of Probable Cause)

Ms. Surles stated that on April 13, 2012, the Department received a consumer complaint alleging that Respondent made preneed funeral arrangements without a preneed sales license as required by Chapter 497, F.S., and failed to provide a written agreement for funeral goods and services for either preneed or at-need sale.

Pursuant to the executed Waiver of Finding Probable Cause and Waiver of Confidentiality, Respondent has voluntarily waived a finding of probable cause to formally charge a violation of Chapter 497, F.S., in this matter, and neither admits nor denies all the facts and violations as alleged in the Division's investigation file, as maintained in Division record ATN-18431, for resolution at the time the Consent Order is accepted in this case, pursuant to Section 497.153(4)(c), F.S.

On November 28, 2012, the Respondent and the Department entered into a Settlement Stipulation for resolution of this matter. The terms of the Settlement Stipulation require the Respondent to pay an administrative fine of \$2500, administrative cost of \$250, which will be paid within 30 days of the Consent Order entered in this case, and the Respondent's Funeral Director and Embalmer License will be placed on probation for a period of two (2) years with the specific condition that Respondent will complete a Law and Rules course at Respondent's expense, a four (2) hour course in Ethics and will not sell preneed merchandise and/or services without the required licensure pursuant to Chapter 497, F.S. Respondent's failure to timely comply with the terms and conditions of the Board's Final Order shall be grounds for emergency suspension of all licensure held by the Respondent; provided the Department shall give written notice to Respondent, pursuant to Section 497.153(5)(c), F.S.

Ms. Surles added that Mr. Stone did provide notification earlier this week that he would not be present today due to medical reasons.

The Chair confirmed that the Board members received the notification as a handout this morning.

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

Ms. Jasmin Richardson questioned whether the required Law and Rules course is a continuing education course or the educational course provided at the college.

The Chair questioned what was agreed upon.

Ms. Surles stated that it was a Law and Rules course.

Ms. Richardson questioned whether it is a college level or a continuing education course, because the Department did specify on the other course.

Ms. Surles stated that it would be a continuing education course that is offered by an approved Provider.

(8) *Stone's Memorial Funeral Home (F041949): Case No. 128622-12-FC, Division #ATN-18431 (Waiver of Probable Cause)*

Ms. Surles stated that on April 13, 2012, the Department received a consumer complaint alleging that Respondent made preneed funeral arrangements without a preneed sales license as required by Chapter 497, F.S., and failed to provide a written agreement for funeral goods and services for either preneed or at-need sale.

Pursuant to the executed Waiver of Finding Probable Cause and Waiver of Confidentiality, Respondent has voluntarily waived a finding of probable cause to formally charge a violation of Chapter 497, F.S., in this matter, and neither admits nor denies all the facts and violations as alleged in the Division's investigation file, as maintained in Division record ATN-18431, for resolution at the time the Consent Order is accepted in this case, pursuant to Section 497.153(4)(c), F.S.

On January 22, 2013, the Respondent and the Department entered into a Settlement Stipulation for resolution of this matter. The terms of the Settlement Stipulation require the Respondent to pay an administrative fine of \$2500, administrative cost of \$250, which will be paid within 30 days of the Consent Order entered in this case, and the Respondent's Funeral Establishment License will be placed on probation for a period of two (2) years with the specific condition that Respondent will ensure that each employee and other staff have received the required health and safety training as required by the Act, and will not sell preneed merchandise and services without the required licensure pursuant to Chapter 497, F.S. Respondent's failure to timely comply with the terms and conditions of the Board's Final Order shall be grounds for emergency suspension of all licensure held by the Respondent; provided the Department shall give written notice to Respondent, pursuant to Section 497.153(5)(c), F.S.

MOTION: Mr. Helm moved to approve the Settlement Stipulation as recommended by the Department. Ms. Thomas-Dewitt seconded the motion, which passed unanimously.

5. Application(s) for Preneed Sales Agent
A. Informational Item (Licenses Issued without Conditions) – Addendum A

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

Col. Stiegman stated that ten (10) years ago there was an Applicant by the name of Joe Longo, who was supposed in the witness protection program with FBI involvement. Col. Stiegman questioned whether Applicant Dominick Michael Longo was of any relation to Joe Longo.

Mr. Keenan Knopke stated that he was not aware of any relation between the two (2) Applicants.

6. Application(s) for Continuing Education Course Approval
A. Recommended for Approval without Conditions – Addendum B
(1) American Academy McAllister Institute of Funeral Service #9808
(2) Aurora Casket Company #129
(3) Florida Cemetery, Cremation & Funeral Association #75
(4) FuneralCE #43
(5) International Cemetery & Funeral Association #74
(6) M.K. Jones & Associates, Inc. #9605
(7) National Funeral Directors and Morticians Association, Inc #15608
(8) National Funeral Directors Association #136

(9) SCI Management - Dignity University #99

The majority of the Continuing Education Committee and the Division recommends approval of the course(s) for the number of hours indicated on the Addendum.

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

7. Application(s) for Florida Law and Rules Examination

A. Informational Item – Approved without Conditions – Addendum C

- (1) *Direct Disposer*
 - (a) *Korosi, Lisa M*
- (2) *Funeral Director and Embalmer – by Internship and Exam*
 - (a) *Baquedano, Karen E*
 - (b) *Bryan, Hailey R*
 - (c) *Campbell, Donald R*
 - (d) *Richards, Tameica J*
 - (e) *Wheeler, Stephen D*

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

B. Recommended for Approval with Conditions (Criminal History)

- (1) *Funeral Director and Embalmer – by Internship and Exam*
 - (a) *Dennard, Mary A*

The Applicant submitted an application for the Combination Funeral Director and Embalmer by Internship on December 12, 2012. The application was incomplete when submitted. All deficient items were returned on December 27, 2012. The Applicant previously submitted a fingerprint card, the processing of which returned a criminal history, to wit:

In 1998 Applicant pled guilty to Grand Theft and Forgery. The Applicant was sentenced to three years probation. She was ordered to pay restitution in the amount of \$3900.26, court costs of \$278, and 75 hours of community service. Adjudication of guilt was withheld. She successfully completed the probation.

Ms Dennard explains the matter as follows. She was employed by Home Depot. It was determined that cash was missing from the cash register she worked at. She advises she did not steal the money, and that another employee committed the theft, but that she pled guilty for fear of a prison sentence.

Ms. Dennard is currently employed at a north Florida funeral establishment, and has been employed there for 12 years. The funeral establishment has provided a strong recommendation in support of her application, attached, and advise that they have always known of her criminal record.

Ms. Dennard was issued a Concurrent Internship license, with a 12 month probation, at the February 9, 2012 Board meeting; this criminal record was fully disclosed to the Board before its vote at said Feb. 2012 Board meeting.

The Division is recommending approval subject to the condition that the license be placed on two (2) years probation once the Law and Rules Examination has been passed and the license has been issued.

MOTION: Mr. Hall moved to approve the application subject to the condition that the license be placed on two (2) years probation once the Law and Rules Examination has been passed and the license has been issued. Ms. Hubbell seconded the motion, which passed unanimously.

C. Recommended for Denial

- (1) *Funeral Director and Embalmer – by Endorsement*
 - (a) *Urban, Mark J*

The Applicant submitted an application to become a Funeral Director and Embalmer on June 19, 2012. The application was incomplete when submitted. All deficient items were returned on July 23, 2012. The Applicant submitted a fingerprint card, the processing of which returned a criminal history, to wit:

- 1) In 2011 Applicant pled guilty to the charge of Grand Larceny, a felony, in New York State Court.. Applicant indicates that his father transferred his funeral home to his new wife, whereas Applicant had understood that Applicant would receive the funeral home when his father retired. Relations between Applicant deteriorated and the new wife "filed charges that I wrote to many checks for different functions. " Applicant provides no further explanation of the crime he pled guilty to.
- 2) In 2011 Applicant was found guilty in NY state court, to the misdemeanor charges of Criminal Contempt and Harassment. Mr. Urban was fined \$225.

No Applicant for funeral director & embalmer license may be approved for the license applied for, unless the Board determines the Applicant to be of good character. See, as applicable, s. 497.373(1)(c), 497.374(1)(d), 497.376, 497.368(1)(c), and 497.369(1)(d), Fla. Statutes. Applicant has a criminal history as set forth herein. In consideration of the said criminal record, the Board cannot determine Applicant to be of good character; accordingly, Applicant is not eligible for the license applied for. The Division is recommending denial of the application based on criminal record as reflecting lack of good character.

Ms. Norr stated that the misdemeanor charges of Criminal Contempt and Harassment were dismissed. There was no disposition on the record.

MOTION: Ms. Thomas-Dewitt moved to deny the application based on criminal record as reflecting lack of good character. Mr. Hall seconded the motion, which passed unanimously.

8. **Application(s) for Internship**

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

- (1) **Funeral Director**
 - (a) **Wilson, Amy L**
- (2) **Funeral Director and Embalmer**
 - (a) **Prince, Tewannah C**

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

B. Recommended for Approval with Conditions (Criminal History)

- (1) **Funeral Director and Embalmer**
 - (a) **Combs, Jessica R**

The Applicant submitted an application to become a Concurrent Intern on December 6, 2012. The application was complete when submitted. The Applicant submitted a fingerprint card, the processing of which returned a criminal history, to wit:

- 1) Ms. Jessica Combs pled Guilty to Driving Under the Influence in August 2010. Ms. Combs was placed on twelve months probation, six months revocation of license and fined a total of \$925.

The Division is recommending approval subject to the terms & conditions of the agreed upon stipulation for licensure (12 months probation).

MOTION: Mr. Helm moved to approve the application subject to the terms & conditions of the agreed upon stipulation for licensure (12 months probation). Mr. Jones seconded the motion, which passed unanimously.

(b) MacDonald, Tatyana

The Applicant submitted an application to become a Concurrent Intern on December 17, 2012. The application was incomplete when submitted. All deficient items were returned on January 9, 2013. The Applicant submitted a fingerprint card, the processing of which returned a criminal history, to wit:

- 1) Ms. Tatyana MacDonald pled Guilty to Driving Under the Influence in September 2009. Ms. MacDonald was placed on six months probation, six months suspension of license, 10 day impoundment and fined a total of \$1016.

The Division is recommending approval subject to the terms & conditions of the agreed upon stipulation for licensure (12 months probation).

MOTION: Mr. Helm moved to approve the application subject to the terms & conditions of the stipulation for licensure. Ms. Anderson seconded the motion, which passed unanimously.

9. Application(s) for Embalmer Apprenticeship

A. Informational Item – Approved without Conditions – Addendum E

- (1) *Mitchell II, Priestly L*
- (2) *Olmstead, Anna C*
- (3) *Taylor, Kenneth H*

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

B. Recommended for Denial

- (1) *Lynch, William J*

The Applicant submitted an application for an Embalmer Apprentice license on July 30, 2012. The application was incomplete when submitted. All deficient items were returned on September 9, 2012. The Applicant submitted a fingerprint card, the processing of which returned a criminal history, to wit:

- 1) In 2007 Applicant was found guilty of three felony charges: Conspiracy to Distribute & Possession with Intent to Distribute (PWITD) 5 kilos or more of Cocaine & 1,000 kilos or more of Marijuana; PWITD 5 Kilos or more of Cocaine; PWITD 100 kilos or more of Marijuana. The Applicant was sentenced to 5 years imprisonment and 5 years probation
- 2) In 2007 the Applicant's Certified Residential Appraiser license was revoked for failure to notify the Board of aforementioned arrest and conviction.

No Applicant may be approved unless the Board finds the Applicant to be of good character with no demonstrated history of lack of trustworthiness or integrity. Ss. 497.373(1)(c), 497.374(1)(d), 497.376, 497.368(1)(c), and 497.369(1)(d), Fla. Statutes.

The Division is recommending denial of this application based on the criminal history of the Applicant and also the demonstrated history of lack of trustworthiness or integrity.

The Chair questioned whether Mr. Lynch was present.

Mr. Shropshire requested that Mr. Lynch raise his right hand to be sworn in. "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. William Joshua Lynch stated that he was arrested by the DA for involvement with some very bad people. They were drug dealers and I was their bookkeeper. I was involved with them for eight (8) months, which in no way diminishes my involvement whatsoever. I would like to point out that from the time that I was arrested and taken into custody, I did cooperate with law enforcement and therefore helped them to find out who else was involved regarding the distribution and manufacturer of these drugs. The licensure that I did have revoked for my appraisal certification was not revoked for any other behavior except that I was taken into custody and confined. Under state law that is one of the stipulations. Other than that, I have never been in any trouble, never had a speeding ticket under my license, and never had any questionable behavior or anything that would lead them to question my abilities or moral ethics.

The Chair questioned whether Mr. Lynch is currently working at a funeral home.

Mr. Lynch responded, "Yes sir I am."

The Chair questioned Mr. Lynch's duties.

Mr. Lynch stated that he pretty much just assists. I greet people when they come in, do a lot of cleaning up, speak with the families but not in the funeral sales portion, but just greeting them, getting to know them.

The Chair questioned whether Mr. Lynch has been involved in embalming.

Mr. Lynch stated that he has been present when embalming was taking place, but did not provide any hands on assistance.

Ms. Thomas-Dewitt questioned whether Mr. Lynch is currently on probation.

Mr. Lynch stated that he is but his supervisor lease should be eligible for dismissal November of this year and he is going to be receiving an early release due to his behavior.

Col. Stiegman stated that Mr. Lynch claims to only have been involved with the bookkeeping but the charges reflect "Possession with Intent to Distribute."

Mr. Lynch stated that it is a conspiracy because I was aware of what was taking place. By it being a conspiracy it also indicates that I was never actually in the presence of drugs, but because my name was mentioned that I knew what was going on I was involved completely.

Mr. Helm questioned whether Mr. Lynch has a degree in bookkeeping.

Mr. Lynch responded, "No sir."

MOTION: Ms. Thomas-Dewitt moved to deny the application based on the criminal history of the Applicant and also the demonstrated history of lack of trustworthiness or integrity. Mr. Hall seconded the motion, which passed with three (3) dissenting votes.

10. Consumer Protection Trust Fund Claims
A. Recommended for Approval without Conditions – Addendum F

The Division recommends approval of the claim(s). The reduction code in the first one should just be (1) not (11).

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

11. Application(s) for Cinerator Facility
A. Recommended for Approval with Conditions
(1) Heritage Funeral Home and Cremation Services LLC d/b/a Emerald Shores Cremation Centre (Panama City)

An application for a Cinerator Facility was received on December 6, 2012. The application was incomplete when submitted. All incomplete items were returned on December 20, 2012. The Funeral Director in Charge will be Justin Kent (F045368). The fingerprint cards for all principals were returned with no criminal history. The Division is recommending approval subject to the condition that the establishment passes an on-site inspection by a member of Division staff.

MOTION: Mr. Jones moved to approve the application subject to the condition that the establishment passes an on-site inspection by a member of Division staff. Ms. Thomas-Dewitt seconded the motion, which passed unanimously.

12. Application(s) for Direct Disposal Establishment
A. Recommended for Approval with Conditions
(1) Cremation Services by the Sea LLC (Lake Worth)

An application for a Direct Disposal Establishment was received on January 17, 2013. The application was complete when submitted. The Funeral Director (DDIC) in Charge will be Michael Gunderud (F042676). The fingerprint cards for all

principals were returned with no criminal history. The Division is recommending approval subject to the condition that the establishment passes an on-site inspection by a member of Division staff.

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

13. Application(s) for Funeral Establishment

A. Recommended for Approval with Conditions

(1) Pinecrest Mariner Boulevard Inc d/b/a Pinecrest Funeral Home (Brooksville)

The Funeral Establishment application was received by the Division on December 5, 2012. The application was complete when submitted. The fingerprint cards for all principals were returned with no criminal history. The FDIC for the establishment will be Thomas Monroe (F048137). This entity is not the qualifying entity for any preneed license. The establishment passed its inspection January 14, 2013. The Division is recommending approval subject to the condition(s) as follows:

- 1) That the closing occur within 60 days of the date of this Board meeting.
- 2) Receipt by the Division within 75 days of this Board meeting, of a letter signed by Applicant or Applicant's attorney, addressed to the Division, certifying that closing has occurred.
- 3) Receipt by the Division within 75 days of this Board meeting, of a copy of the Bill of Sale, executed by all parties, and any and all amendments thereto, also fully executed.

Mr. Helm stated that under the Embalming section of the application, the Applicant indicates that they will be offering embalming services and that the funeral establishment will maintain a prep room on site. However, the Applicant also indicates that arrangements have been made with another funeral establishment.

Mr. Shropshire questioned whether Ms. Richardson could provide a resolution to Mr. Helm's inquiry.

Ms. Richardson stated that she would verify with the Applicant that arrangements would be maintained on site.

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

(2) Pinecrest Mariner Boulevard Inc d/b/a Pinecrest Funeral Home (Spring Hill)

The Funeral Establishment application was received by the Division on December 5, 2012. The application was complete when submitted. The fingerprint cards for all principals were returned with no criminal history. The FDIC for the establishment will be Douglas McCaul (F044222). This entity is not the qualifying entity for any preneed license. The establishment passed its inspection January 14, 2013. The Division is recommending approval subject to the condition(s) as follows:

- 1) That the closing occur within 60 days of the date of this Board meeting.
- 2) Receipt by the Division within 75 days of this Board meeting, of a letter signed by Applicant or Applicant's attorney, addressed to the Division, certifying that closing has occurred.
- 3) Receipt by the Division within 75 days of this Board meeting, of a copy of the Bill of Sale, executed by all parties, and any and all amendments thereto, also fully executed.

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

(3) Reed & Hall Mortuary Corp (Quincy)

An application for a Funeral Establishment was received on November 29, 2012. The application was incomplete when submitted. All deficient items were returned on January 10, 2013. The fingerprint cards for all principals were returned with criminal history for one of its principals and Funeral Director in Charge, Teresa Womble.

In 1994, Ms. Womble pled guilty to Felony Possession of Cannabis. Ms. Womble was ordered to pay \$255 in court costs.

The Division is recommending approval without conditions.

MOTION: Ms. Hubbell moved to approve the application. Ms. Thomas-Dewitt seconded the motion, which passed unanimously.

(4) *Trinity Funeral Chapel LLC (North Miami)*

An application for a Funeral Establishment was received on January 22, 2013. The application was complete when submitted. The fingerprint cards for all principals were returned with no criminal history. The Division is recommending approval subject to the condition that the establishment passes an on-site inspection by a member of Division staff.

MOTION: Mr. Helm moved to approve the application subject to the condition that the establishment passes an on-site inspection by a member of Division staff. Ms. Thomas-Dewitt seconded the motion, which passed unanimously.

14. Application(s) for Removal Service

A. *Recommended for Approval with Conditions*

(1) *A J&J Mortuary Services Inc (Saint Cloud)*

An application for a Removal Service was received on January 11, 2013. The application was complete when submitted. The fingerprint cards for all principals were returned with no criminal history. The Division is recommending approval subject to the condition that the establishment passes an on-site inspection by a member of Division staff.

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

(2) *Nathan D Neal Inc d/b/a/ HR Transport (Ormond Beach)*

An application for a Removal Service was received on January 11, 2013. The application was complete when submitted. The fingerprint cards for all principals were returned with no criminal history. The Division is recommending approval subject to the condition that the establishment passes an on-site inspection by a member of Division staff.

MOTION: Ms. Hubbell moved to approve the application subject to the condition that the establishment passes an on-site inspection by a member of Division staff. Mr. Hall seconded the motion, which passed unanimously.

(3) *Special T Transport LLC (Winter Haven)*

An application for a Removal Service was received on November 19, 2012. The application was incomplete when submitted. All deficient items were returned on January 14, 2013. The fingerprint cards for all principals were returned with no criminal history. The Division is recommending approval subject to the condition that the establishment passes an on-site inspection by a member of Division staff.

MOTION: Ms. Anderson moved to approve the application subject to the condition that the establishment passes an on-site inspection by a member of Division staff. Ms. Hubbell seconded the motion, which passed unanimously.

15. Related Application(s) and Agreement(s)

A. *Legacy Options, LLC (Naples)*

(1) *Recommended for Approval without Conditions*

(a) *Application for Preneed Main License*

The Department received the application on November 29, 2012 and all items were resolved as of December 21, 2012. A completed background check of all officers revealed no criminal history. Applicant was approved for its qualifying funeral establishment license subject to passing of an inspection, approved by the Board as of December 6, 2012. Applicant will trust

through SunTrust Bank, N.A. utilizing the attached proposed preneed funeral trust agreement and preneed funeral agreement, which are also being presented for approval at this Board meeting. The Applicant's financial statements as of October 31, 2012 reflect the following:

Acquired Preneed Contracts	= \$	0
Required Net Worth	= \$	10,000
Reported Net Worth	= \$	188,752

Documentation establishes that Clarence G. Witzenburg (a principal of Applicant herein) was discharged from Ch. 13 bankruptcy on January 7, 2011, by the Federal District Court, Middle District of Florida. It was a personal bankruptcy action and discharge. In view of the bankruptcy, the FCCS Division requested additional materials from Applicant:

- 1) Court documentation evidencing that the bankruptcy was discharged.
- 2) A personal financial statement for officer and owner, Clarence G. Witzenburg
- 3) Letters of reference from an affiliated financial institution and/or vendor.

Applicant has provided all requested information and material. The letters of reference are favorable. Mr. Witzenburg has only 25% interest in this proposed Licensee. The Division is recommending approval.

MOTION: Ms. Thomas-Dewitt moved to approve the application. Ms. Anderson seconded the motion, which passed unanimously.

(2) Recommended for Approval with Conditions
(a) Preneed Funeral Agreement

Legacy Options, LLC, Applicant, submits a preneed funeral planning agreement for approval. If the form is approved, it is to be used for the sale of trust-funded preneed contracts through licensed preneed establishments and branches.

The Division is recommending approval subject to the condition that the Board approves Applicant's preneed license application and two full sized print-ready copies are received by the Department within 60 days of this Board meeting.

MOTION: Mr. Helm moved to approve the agreement subject to the condition that two full sized print-ready copies are received by the Department within 60 days of this Board meeting. Ms. Anderson seconded the motion, which passed unanimously.

(b) Preneed Funeral Trust Agreement

In accordance with ss. 497.458, Florida Statutes, Applicant, Legacy Options, LLC hereby submits a Preneed Funeral Trust Agreement through SunTrust Bank, N.A. for the trusting of preneed funds for the sale of preneed contracts through its preneed establishment and branch offices.

The Division is recommending approval subject to the condition that the Board approves Applicant's application for preneed license and receive an executed preneed trust agreement, fully executed by all parties, within 60 days of this Board meeting.

MOTION: Ms. Thomas-Dewitt moved to approve the agreement subject to the condition that an executed preneed trust agreement, fully executed by all parties, is received by the Department within 60 days of this Board meeting. Mr. Hall seconded the motion, which passed unanimously.

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

A. StoneMor Florida Subsidiary, LLC

(1) Recommended for Approval with Conditions

(a) Trust Agreement(s)

1. ***StoneMor Florida Subsidiary, LLC (Levittown, PA)***
d/b/a Scott Funeral Home (F050433)
d/b/a Daytona Memorial Park (F038725)
Alternative Preneed Funeral Trust Agreement

Preneed Funeral Trust Agreement

In accordance with ss. 497.458 and 497.464, F. S., StoneMor Florida Subsidiary, LLC hereby submits an Alternative Preneed Trust Agreement and Preneed Funeral Trust Agreement through SunTrust Bank, N.A. for the trusting of preneed funds from the sale of preneed contracts sold through its preneed establishments and branch offices. The Division is recommending approval subject to the condition that the Board approves Applicant's application for preneed license and receives an executed preneed trust agreement, fully executed by all parties, within 60 days of this Board Meeting.

MOTION: Mr. Jones moved to approve the agreement subject to the condition that the Board approves Applicant's application for preneed license and receives an executed preneed trust agreement, fully executed by all parties, within 60 days of this Board Meeting. Ms. Hubbell seconded the motion, which passed unanimously.

(b) Trust Transfer Request(s)

1. *StoneMor Florida Subsidiary, LLC d/b/a Allen J. Harden Funeral Home (Mount Dora) (F038725)*
 - a. *Transfer of CFS Funeral Services, Inc Master Preneed Funeral Trust Agreement (70/30 Trust) to Alternative Preneed Funeral Trust Agreement (90/10 Trust) under SunTrust Bank, N.A. and Transfer of Independent Funeral Directors of Florida, Inc. (IFDF) Master Trust Fund A to the Alternative Preneed Funeral Trust Agreement (90/10 Trust) and IFDF Master Trust Fund to Preneed Funeral Trust Agreement (70/30 Trust) from Regions Bank, N.A. to SunTrust Bank, N.A.*

The above Licensee is requesting a transfer of the above preneed trust accounts. Licensee is requesting transfer of the IFDF Master Trust Fund accounts, currently held by Regions to SunTrust. The preneed trust account for CFS Funeral Services, Inc. Master Trust (70/30 trust) is currently held by SunTrust and will operate under the Alternative Preneed Funeral Trust Agreement (90/10 trust). If this transfer is approved, the IFDF Master Trust Fund and IFDF Master Trust Fund A will operate under the Alternative Preneed Funeral Trust Fund (90/10 trust), and Preneed Funeral Trust Agreement (70/30 trust), respectively. The Division is recommending approval with conditions:

- 1) That SunTrust provides a certification statement that as trustee it meets the requirements of Rule 69K-7.015(1) or (2).
- 2) That the former trustee provides a certificate stating the dollar amount of trust assets being transferred.
- 3) That SunTrust, as new Trustee, provides acknowledgement of receipt of the amount of trust assets being transferred as specified by the former trustee.
- 4) That the effective date of the transfer and all above certifications be provided to the Division within 60 days of the date of this Board Meeting.

MOTION: Mr. Helm moved to approve the agreement with the conditions recommended by the Division. Ms. Thomas-Dewitt seconded the motion, which passed unanimously.

17. Amendment(s) to Cemetery Bylaws

A. Recommended for Approval *without* Conditions

(1) SE Cemeteries of Florida, LLC (Various Licensed Cemetery Properties) (Winter Park)

The attached proposed bylaws amendment for SE Cemeteries of Florida, LLC cemetery properties (please see attached list) has been submitted for approval by the Board.

In accordance with Rule 69K-6.003, F.A.C., notice has been published in *The Florida Times Union, The Tampa Tribune, Orlando Sentinel, The Miami Herald, Scripps Treasure Coast Newspapers, and Ocala Star Banner*. Notice was also published in the December 18, 2012 *Florida Administrative Weekly*, with no adverse comments received by the Division within the allotted period of 30 days, as set forth in Rule 69K-6.003(3), F.A.C.

The Division's review finds that the proposed amendment does not unreasonably restrict use of burial rights, increase costs to burial rights owners, nor unreasonably restrict competition. The Division is recommending approval.

MOTION: Mr. Mueller moved to approve the amendment(s). Ms. Hubbell seconded the motion, which passed unanimously.

18. **Board Consumer Member Report (Oral)**

Col. Stiegman made the following remarks: "Thank you Mr. Chairman. I have several issues to address today. First, the Department of Veterans Affairs announces the availability of a new online Funeral Directors resource site. Funeral Directors nationwide may use the information on the link when helping veterans and their families make burial arrangements. I will provide the Department with copies of the information and leave it to them to decide the best way to make available. An advance copy was provided to the Chair who in fact has given it out to some of the people in the field and advises that the information is valuable."

The Chair advised that he has shared the information with some of the Associations and they have agreed to also publish that information on their websites. The Chair thanked Col. Stiegman for providing the information as it was very helpful.

Col. Stiegman proceeded to his second item: "Second, in case anyone is interested, I was invited to come to Tallahassee on January 23rd to discuss my position and interpretation of the Sunshine Law and how it is being applied to our Board. You may recall I offered my opinions on the subject at our December 2012 Board Meeting. The meeting here in Tallahassee was to consist of Mr. Jennings from the Attorney General's Office, a lawyer, Ms. Simon from the CFO's office, a lawyer, Mr. Shropshire from the Department, a lawyer, Mr. Miller from the Department, a lawyer and me. I invited Ms. Wiener to attend, since I had involved her during my presentation in December. This caused considerable consternation amongst the Tallahassee triumvirate. They were "cogitating" on whether it would be acceptable for Ms. Wiener to attend. After several days of "cogitating" they agreed it would be ok. The meeting lasted about an hour and a half. At the conclusion I heard a comment as I was leaving the Department area that pretty well sums up how it went. It was said, "They sure went to a lot of trouble to bring Col. Stiegman all the way to Tallahassee for so much hot air." The result can be summed up as I was told that my interpretation of the Sunshine Law was in correct. The public is invited to attend any meeting, but are restricted from speaking. I vehemently disagree with that position and told the assembled lawyers so.

When I started on my quest for commonsense in how the Sunshine Law is presently being interpreted, I received numerous emails expressing points of views on the subject. A common theme among those correspondences was the hope that an explanation of the way the change after all these years would be explained clearly, publicly. Now there are situations when a consumer is allowed to address the Board, but those instances were so clouded in "lawyer speak" that I am unsure of what they are. Perhaps Ms. Wiener, a lawyer, will be able to expound upon that subject for us. Oh, wait a minute, my bad...under the present interpretation of the Sunshine Law she probably does not meet the criteria for offering an opinion. Thank you, Sir."

19. **Executive Director's Report**

A. Division's Position, Storing Human and Animal Remains in the Same Cooler (Informational)

The Division provided a response to an inquiry about whether human and animal remains could be stored in the same cooler.

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

Monthly Report of Fine and Costs Assessed and Paid
 Division of Funeral, Cemetery and Consumer Services
 February 7, 2013 Board Meeting
 Report Updated as of January 29, 2013

Licensee	Board Meeting	Case No.	Total Fine & Cost Due	Date Due	Paid in Full?	Comments
Alliance Monument & Marble Co.	Apr-12	122927-12-FC	\$2,750	6/22/2012	NO; See Note A	Emergency Order of Suspension issued 11/8/12; license currently suspended.
Stanley Gunter-Butler	Jun-12	117958-11-FC	\$2,750	8/20/2012	See Comments	Monthly payments are current
Kimberly White	Jun-12	120943-11-FC	\$5,250	8/20/2012	NO; See Note A	License currently suspended
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 See Note E	Monthly restitution payments are current
George Morgan, III	Oct-12	120359-11-FC	\$1250 33,711.30	11/7/2012 36 mo pymts	Yes See Note A	Last payment received 12/28/12; Jan 2013 payment is late; on 1/28/13, licensee's attorney John Rudolph, Esq, advised Division that licensee should have total remaining balance paid in full sometime in Feb 2013.
Snow's Funeral Ministry and Cremation Service	Dec-12	123305-12-FC	\$2,000	1/17/2013	Yes	
Christopher Coleman	Dec-12	122894-12-FC	\$250	1/17/2013	Yes	
John Edgley	Dec-12	119604-11-FC	\$2,500	2/11/2013	See Note D	
John Edgley	Dec-12	117342-11-FC	\$1,000	2/11/2013	See Note D	
Edgley Crematory, Inc. dba Edgley Cremation Services	Dec-12	119606-11-FC	\$2,500	2/11/2013	See Note D	
Palm Beach Removals, Inc.	Dec-12	117345-11-FC	\$1,000	2/11/2013	See Note D	
Cremation Services of Mid-Florida, Inc.	Dec-12	126781-12-FC	\$3,000	2/11/2013	See Note D	
Larry Locke	Dec-12	126779-12-FC	\$3,000	2/11/2013	See Note D	
New Serenity Memorial Funeral Home & Cremation Services	Dec-12	126168-12-FC	\$1,500	2/15/2013	See Note D	
SCI Funeral Services of Florida, Inc./Forest Lawn dba Forest Lawn Memory Gardens #907	Dec-12	ATN-17648	\$700	1/17/2013	Yes	
NOTES: See Next Page						

A. When payment 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.
 C. The Order re this case is still in process, so no Due date is 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.

CPM Feb Bd Mtg

Mr. Helm questioned what happens next now that and Emergency Order of Suspension was issued against Alliance Monument & Marble Co.

Mr. Shropshire stated that an Administrative Complaint is filed alleging violation of the Order and seeking revocation. Mr. Shropshire questioned whether Mr. Miller could provide a status.

Mr. Miller stated that the Emergency Order of Suspension, which was filed by the Department of Financial Services, is still in place. Eventually, as Mr. Shropshire stated, the Department will take it to the next level and take further disciplinary action.

Mr. Helm questioned at what point this would be taken to the next level.

Mr. Miller stated he would have to consult with the Legal Division as he is not the attorney handling the case. The Order was issued in November 2012.

Mr. Helm questioned whether there is a deadline associated with a suspension.

Mr. Miller responded that there is no deadline. It should not just linger, but the license is suspended, so action has been taken.

Mr. Shropshire stated that the Division would report back to Mr. Helm in greater detail at the next meeting.

Mr. Helm questioned whether all the cases are handled the same way.

Mr. Shropshire stated in the since that "if you do not pay" then yes, it is referred to Legal Services to issue an Emergency Suspension.

Mr. Helm questioned whether they are all handled within the same timeframe.

Mr. Shropshire responded that they should be and probably is.

20. Application(s) for Preneed Main License
A. Recommended for Denial
(1) Florida State Cremation, Inc (New Port Richey)

The application was withdrawn by the Applicant.

21. Application(s) for Transfer of Preneed Main License
A. Recommended for Approval with Conditions
(1) Faith Chapel Funeral Services, LLC (Pensacola)

S. 497.453(4), Florida Statutes, provides in pertinent part as follows: "(4) CHANGE IN CONTROL SUBSEQUENT TO LICENSURE." -- (a) Each [preneed main] Licensee under this section shall provide notice as required by rule prior to any change in control of the Licensee. Any such change is subject to disapproval or to reasonable conditions imposed by the licensing authority, for the protection of the public to ensure compliance with this chapter, based upon criteria established by rule, which criteria shall promote the purposes of this part in protecting the consumer."

The Department received the application on December 6, 2012 and completed as of December 11, 2012. This is an application for the transfer of a preneed license from Faith Chapel Funeral Home, Inc. (F019273). This application is being filed due to a change in ownership and change of the qualifying entity for the preneed license. The former qualifying entity was previously licensed as a funeral establishment under license number F072632. Applicant obtained a new qualifying funeral establishment license as of January 2, 2013. The Applicant will continue to trust through Independent Funeral Directors of Florida (IFDF) Master Trust, Forethought Federal Savings Bank (FFSB) and also sell insurance-funded preneed through Forethought Life Insurance Company, and utilize the approved prearranged funeral agreements. A completed background check of all officers revealed no criminal history.

If this application is approved, all preneed contracts that were previously written under the preneed license, Faith Chapel Funeral Home, Inc. (F019273), will then be transferred under the new preneed license operating under the name Faith Chapel Funeral Services, LLC. The Applicant's financial statements as of December 31, 2012 reflect the following:

Outstanding Preneed Contracts	=	\$ 457,790
Required Net Worth	=	\$ 60,000
Reported Net Worth	=	\$ 146,100

Documentation establishes that Michael Slayton Campbell Atwood (a principal of Applicant herein) was discharged from Ch. 7 bankruptcy on May 20, 2003, by the Federal District Court, Southern District of Mississippi. It was a personal bankruptcy action and discharge. In view of the bankruptcy, the FCCS Division requested additional materials from Applicant:

- 1) A personal financial statement for officer and owner, Christopher E. Johnston.

- 2) Letters of reference from an affiliated financial institution and/or vendor.

Applicant has provided all requested information and material. The letters of reference are favorable. The Division is recommending approval 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.

MOTION: Col. Stiegman 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. Ms. Anderson seconded the motion, which passed unanimously.

22. Chairman's Report (Oral)

None

23. Office of Attorney General's Report (Oral)

None

24. Administrative Report

The Administrative Report was provided to the Board via the Agenda.

25. Disciplinary Report

The Disciplinary Report was provided to the Board via the Agenda.

26. Adjournment

The meeting was adjourned at 12:09 p.m.