

MINUTES
BOARD OF FUNERAL, CEMETERY AND CONSUMER SERVICES
April 2, 2015 - 10:00 A.M.
Embassy Suites Jacksonville-Baymeadows
9300 Baymeadows Road
Jacksonville FL 32256

1. Call to Order, Preliminary Remarks and Roll Call

Mr. Jody Brandenburg, Chair called the meeting to order at 10:00 am.

Mr. Doug Shropshire - As a preliminary matter, let me state for the record that my name is Doug Shropshire. I am Director of the Division of Funeral, Cemetery, and Consumer Services. Today is April 2, 2015; the time is approximately 10:00am. This is a public meeting of the Board of Funeral, Cemetery and Consumer Services. Notice of this meeting has been duly published in the Florida Administrative Register. An agenda for this meeting has been made available to interested persons. The meeting is occurring in person in Jacksonville 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.

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

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

ABSENT:

James "Jim" Davis

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

Also noted as present:

Tom Barnhart, Board Legal Advisor
Ellen Simon, Assistant Director
LaTonya Bryant, Department Staff
Linje Rivers, Department Counsel
Jasmin Richardson, Department Staff
Dianna Patterson, Department Field Staff

Chair – I would like to take the opportunity to recognize some of those in attendance here. First I would like to recognize a long-term Board member who served on this Board from the very beginning of this new Board and served with distinction for eight (8) years. Please recognize Gail Thomas-Dewitt. Of course I would be in trouble if I did not recognize the immediate past President of the FCCFA, my colleague and the Vice President of Hardage-Giddens Funeral Homes, Robin Giddens Sheppard. Also I see on the front row people that put up with me every day and take care of cases that are called FOJs. When they put them on the board they are Friends of Jody and they use the connotation FOJs and I know that they give FOJs special attention. So this is a group from Hardage-Giddens Oaklawn. Thank you so much. I appreciate it. Lastly I would like to

recognize Robert Dean from the Florida State College and their funeral services program and the future of funeral services. There are many students here that are in this program. Would you please rise and let us recognize you? Thank you for coming. I appreciate it. Board members, anybody you would like to recognize?

Mr. Ken Jones – Mr. Chair if I may. I have staff here from the Department of Health, Bureau of Vital Statistics, and if you would just stand. These are people that serve you as funeral directors throughout the State. Thank you.

Mr. Shropshire – Ms. Dianna Patterson is here. She is our Field Staffer Examiner for the NE sector of Florida.

Chair – Jeff, I did not forget you, my colleague, friend, Jeff Coffelt.

The Chair confirmed that the Board members had received their packets in a timely manner.

2. Action on the Minutes

A. March 5, 2015

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

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

3. Old Business

A. Application(s) for Monument Establishment Retailer

(1) Recommended for Approval without Conditions

(a) Scott Higginbotham d/b/a Red Hills Monuments (Cairo, GA)

B. Monument Retail Sales Agreement(s)

(1) Recommended for Approval with Conditions

(a) Scott Higginbotham d/b/a Red Hills Monuments (Cairo, GA)

Mr. Shropshire – Mr. Higginbotham, who is here in the audience, has asked that these two (2) items be tabled. He has waived the deemer on the license application.

C. Disciplinary Proceedings – Material Facts Not Disputed (Section 120.57(2) Hearings)

(1) Probable Cause Panel B

(a) New Horizon Funeral Chapel & Cremation, Inc.: Case No. 154917-14-FC; Division #ATN-22305 (F057661)

Mr. Linje Rivers – We were in the process of considering this case at the last Board meeting so I am not entirely sure if we are going to jump into this or just start from the beginning. Mr. Barnhart do we start from the Conclusions of Law were we left off or do we want to have everything adopted once again?

Mr. Tom Barnhart – It has already been adopted so you can proceed where you left off.

Mr. Rivers – At this time it is appropriate for the Respondent to send in any supplemental responses if any to the questions of the Board members. I believe the Respondent did send in a response and the Board is in receipt of that response.

Chair – Is there anyone here representing New Horizon? There was a negative response.

Ms. Michele Hood (IFDF) – I am not here specifically representing his response. However, I did view his response and I am here to perhaps clear up an issue with that. In his response he indicated that it was a correction of an error by adding that \$3020.55 back into that contract. The only error that occurred was Mr. Morales submitting a death claim when in fact a death had not occurred. The \$3020.55 that was added to the contract was the amount that we had paid out on the original claim. He

indicated that he had made a mistake. He submitted that check back to us. We reinstated the contract and then several months later there was an additional claim for that money. Apparently the person had passed away.

Chair – Thank you for that clarification.

Mr. Lew Hall – Looking back through the records I noticed that in '08 it appeared Mr. Helm had some questions for this same individual and the pattern was basically the same. The charges and stuff were about the same in '08.

Mr. Rivers – In 2008?

Mr. Hall – Yes.

Mr. Rivers – I did not take care of that case but I do remember it dealt with preneed violations as well.

Mr. Keenan Knopke – Mr. Chair, I am going to direct it to Michele if you do not mind. Is it common or uncommon for people to submit claims when a death has not occurred? Is it a process that is easy to do in your system?

Ms. Hood – The way our claims system works is the Licensee submits an attestation that they have fulfilled the contract. We do not require a copy of a death certificate to be filed with that claim. If in the examination process, as in this case, it was found that he had no proof that a death had occurred, he had been requested by the Examiner to provide that proof, he could not so he reinstated the contract.

Mr. Knopke – So it is not something that is online where he may have been trying to check the one above or the one below?

Ms. Hood – Correct, this is a form that he would have to fill out. He has to fax it in to us and we process what we receive based on that attestation.

Mr. Knopke – Thank you.

Chair – Mr. Rivers, anything else for this case that you want us to hear?

Mr. Rivers – I do not believe there is any more supplemental information to deliberate on so it would be appropriate at this to entertain as to the penalty phase. I believe that the Conclusions of Law were adopted. Just in case, the Department contends that the Board's Findings of Fact support a finding of the violations of Chapter 497, F.S. as charged in the Administrative Complaint. The Department feels it is appropriate at this time for the Board to entertain a motion adopting the Conclusions of Law as alleged in the Administrative Complaint.

Ms. Jean Anderson – I need to recuse myself as I served on Probable Cause Panel B in this matter.

MOTION: Mr. Jones moved to adopt the Conclusions of Law. Mr. Andrew Clark seconded the motion, which passed unanimously.

Mr. Rivers – Now as to penalty, the Department recommends the following in this case. Given the degree of harm to the consumer and the public, the disciplinary history of the Licensee and that he has a record of disciplinary action with the Division, we would recommend a \$3500 administrative fine and two (2) years probation.

MOTION: Mr. Jones moved to accept a penalty of a \$3500 administrative fine and two (2) years probation. Mr. Andrew Clark seconded the motion, which passed with one (1) dissenting vote.

4. Disciplinary Proceedings:

A. Settlement Stipulation(s)

(1) Waiver of Probable Cause

(a) Gallaher Services, Inc. d/b/a Fort Myers Mortuary Services: Case No. 157220-14-FC; Division #ATN-22598 (F071575)

Mr. Rivers – The next three (3) cases are related cases so we would ask that you consider the facts together and then vote separately to each Settlement Stipulation respectively for each Licensee. The Division alleges Gallaher Services, Inc. d/b/a Fort Myers Mortuary Services may have violated the provisions of Chapter 497, Florida Statutes, and related rules, based on the following:

At-need Contracts: The utilization of unsigned or partially executed at-need contracts and pre-signed at-need contracts. Business was allowed to be conducted by persons other than licensed funeral directors.

Unauthorized Preneed Contracts: The execution of more than 90 pre-need contracts, over a 2-plus year period, although Gallaher Services, Inc. did not hold the requisite preneed license.

Gallaher Services, Inc. d/b/a Fort Myers Mortuary Services has agreed to pay an administrative fine of \$3,166.66 and serve a one (1) year period of probation. The terms of the Settlement Stipulation are reasonable under the facts and circumstances of this case. The Department request that the Board approve the Settlement and issue the Consent Order to conclude this matter.

If there are any questions, the representative for Gallaher Services is present.

Chair – I have a question. The Stipulation calls for six (6) months to pay the fine. That is unusual.

Mr. Rivers – I believe it was agreed upon with the attorney that handled the matter and Ms. Wiener. The Division accepted that as well.

MOTION: Mr. Knopke moved to reject the Settlement Stipulation as recommended by the Department on the grounds that it was too light. Mr. Hall seconded the motion, which failed.

Mr. Knopke – The Licensee knowingly violated the statute. They knowingly changed ownership. They knowingly let a non-licensed person meet with at-need families. They knowingly did not have a preneed license and sold preneed. Six (6) months to pay a \$3000 fine and only one (1) year of probation?

Ms. Wendy Wiener – I represent all three (3) of the Licensees in this case. The fine is a total of \$9500, which is a significant financial penalty for the violations, which have all been corrected and which were not rampant. If you refer to Page 23 of the Board packet where Ms. Gina Ronick responds to each of the allegations, there were five (5) or fewer pre-signed contracts onsite. The contracts were left onsite because the Funeral Director in Charge at that moment left going to the hospital and had become gravely ill at that time. Ms. Ronick states in her statement that she met with a family outside of the presence of a licensed funeral director on only one (1) occasion and that while the facility did engage in some sales that she understands now to be preneed sales, she and many Licensees continue to operate under the false understanding that registrations are still okay. I get calls from Licensee routinely wherein people do not understand that notwithstanding that we have defined preneed to mean any arrangement whereby an arrangement is made for sales in the future that those were not preneed sales at the time. All of the monies related to preneed sales, which were in the possession of the Licensee were refunded to the families and I believe that it was that set of mitigating facts that resulted in the Division agreeing to a total fine for these three (3) Licensees of \$9500, which is certainly not insignificant to a Licensee doing the kind of volume of business that this Licensee does.

Mr. Hall – As Mr. Knopke said there are a couple different references to this. It said unlicensed personnel making arrangements outside the absence of a Funeral Director in Charge. Are they under the assumption that they can do that without the FDIC?

Ms. Wiener – No, no she is certainly not. I have talked to Ms. Ronick at length about this. What she is referring to there is that there was a Funeral Director making arrangements in all but one (1) of these particular circumstances. There was one (1) case where she did actually meet with a family and there was no funeral director present.

Mr. Hall – We are expecting there is a total of how many preneed contracts?

Ms. Wiener – She provided, and I believe we provided to the Division but I do not know if it is in this packet, but I believe she provided to Mr. Schuller a spreadsheet detailing the 92 contracts. Many of them were unfunded, what people used to think of as registrations of prearrangements. We all know that now to be preneed. Some of them there were monies collected from

four (4) families where checks were not deposited and those checks were returned. Ms. Ronick states in her statement that there were two (2) cases where checks were deposited by the funeral establishment and the monies were at that time being refunded to the family. She has since confirmed that those monies were refunded to the families. The remainder of the cases are insurance-funded, which we all now again know to be preneed but a limited number in this circumstance and her statement is that they are not conducting any types of these arrangements any further so those violations have been corrected.

Chair – As a clarification, on the write-up, it is unauthorized preneed contracts, 90 preneed contracts over a two (2) year period.

Mr. Clark – Ms. Wiener, on Page 23 as you referenced, it looks like two (2) funeral directors were added in May of last year. Prior to that, how many funeral directors were on staff while the FDIC was in the hospital? Do you know?

Ms. Wiener – I do not know. I never asked her that question. It is a small operation so my guess is that it was probably only Mr. Gallaher and maybe one (1) other person. I know that Barbara Kallevig did overlap with Mr. Gallaher but do not take that to be fact per say. I do not think they do a huge volume of business.

Mr. Clark – I was just wondering who was watching the business while the FDIC was in the hospital.

Ms. Wiener – Mr. Gallaher was replaced as FDIC as you can see a year ago or so.

Mr. Knopke – Ninety (90) preneed contracts in two (2) for maybe a small business seems to be pretty active from the preneed side. If his health was declining or he had serious issues, I have got to believe, unless he is just a very uncooperative competitor with people, he could have gotten somebody to fill in or to help him out. I just find it hard to imagine that this business could have a substantial change of ownership, do what has been alleged in here and then have it be considered just minor issues that we did not know about. If it was one (1) issue that would be one (1) thing, but have multiple issues where he decided to do whatever he wanted to do and said “catch me.”

Ms. Wiener – Ms. Ronick was a preneed sales agent. Notwithstanding that she did not have a preneed license to attach it but she was licensed as a preneed sales agent, which is why she is a Licensee being disciplined. I would just argue that \$9500 for a business of their volume is not insignificant. It is a significant number for them.

Mr. Knopke – What is their volume? What is their case volume? You have said a couple of times that it is insignificant or small. I did not look it up so I do not know.

Ms. Wiener – I do not know what their call number is per year but Ms. Ronick, when we were originally negotiating this, the idea of nearly \$10k in administrative fines put her in tears on more than one (1) occasion. She claims that they do not do a huge business, that they were not doing a huge business at that time.

Mr. Hall – Just for clarification again, we have got one (1) licensed preneed agent, Ms. Ronick, we got Mr. Gallaher and two (2) more funeral directors. Out of those four (4), it did not ring a bell to any of those people that they need a preneed license to be doing this. Is that correct?

Ms. Wiener – The other Licensees I think postdate this. The investigation concluded about the time I believe that they added the new FDIC, I know, and I do think Barbara Kallevig did overlap but I do not know for how long. I just believe she overlapped because I had heard her name in conversation, but that is as I said to some degree speculation on my part.

Mr. Helm – Ms. Wiener have they gave you the power if we wanted or had to change the Settlement?

Ms. Wiener – I do not have that authority on me but I am sure I could make a phone call.

Mr. Clark – Mr. Rivers, Ms. Wiener indicated that it may be viewed that they refunded to the family as a mitigating factor. Is that what you took into consideration on a lower fine?

Mr. Rivers – Actually, this is not my case. I am just presenting on behalf of another attorney.

Mr. Clark – I am just wondering whether the Division saw any mitigating factors for such a low fine.

Ms. Ellen Simon – I did speak with the attorney that handled this matter, Colleen Rio, and she indicated that she did take many factors into account. After speaking with Ms. Wiener, she negotiated a Settlement based on the fact that there was no consumer harm as well as other factors.

Mr. Jones – I would recommend amending the Settlement Stipulation by leaving the fine as it is, two (2) year probation and payment in three (3) months not six (6) months.

Ms. Wiener – I feel sure that they would agree to those terms but because we had negotiated the Settlement Stipulation I do not know that for a fact. Can we table the matter for just a few minutes so that I can contact them?

Chair – Of course we can do that. I think we should go on to the other two (2) cases because it may be three (3) calls that you would have to make.

Ms. Wiener – It is one (1) set of clients, so if that is the same proposal for all three (3) of the fines...

Chair – I think we are going to hear all three (3) individually.

(After contacting client via phone) Ms. Wiener – I can address whatever counter-proposal there is for Gallaher Services, Inc. d/b/a Fort Myers Mortuary Services.

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

2nd MOTION: Mr. Jones moved to approve the Settlement Stipulation with an administrative fine of \$3,166.66 to be paid within three (3) months and two (2) years probation. Mr. Helm seconded the motion, which passed unanimously.

(b) Gallaher, John E: Case No. 157224-14-FC; Division #ATN-22598 (F042170)

Mr. Rivers –The Division alleges John E Gallaher may have violated the provisions of Chapter 497, Florida Statutes, and related rules, based on the following:

At-need Contracts: The utilization of unsigned or partially executed at-need contracts and pre-signed at-need contracts. Business was allowed to be conducted by persons other than licensed funeral directors.

Unauthorized Preneed Contracts: The execution of more than 90 pre-need contracts, over a 2-plus year period, although Gallaher Services, Inc. d/b/a Fort Myers Mortuary Services did not hold the requisite preneed license.

Corporate Ownership: The failure to report a change in corporate ownership.

John E. Gallaher has agreed to pay an administrative fine of \$3,166.66 and serve a one (1) year period of probation. The terms of the Settlement Stipulation are reasonable under the facts and circumstances of this case. The Department request that the Board approve the Settlement and issue the Consent Order to conclude this matter.

Ms. Wiener – These are precisely the same facts just the discipline was with regard to all three (3) of the Licensees involved.

Chair – If it pleases the Board members, in addition to what the Settlement Stipulation calls for, I would suggest that during the probationary period Mr. Gallaher not be allowed to be the FDIC at this or any other location.

Ms. Oliver – Are we allowing him six (6) months to pay the fine or are we reducing that to three (3) months?

Chair – It has not been addressed.

Mr. Knopke – Mr. Chairman I would just recommend from ease of standpoint that whatever we do on one (1) case we do on all of them because they are all the same case just different names with different players in it.

Mr. Shropshire – Mr. Chairman, I think traditionally what the Board has done is you would ask for a motion to reject the Settlement and the motion would include a counter-proposal. In this case I would think the motion would be that the counter-proposal is that the fine be the same amount but it be payable on all three (3) cases in three (3) months and that the probation be extended to two (2) years and that all the parties agree that Mr. Gallaher would not be FDIC during the two (2) year probation. Then if that motion is made and carried, then Ms. Wiener could contact her clients and if they are agreeing then that is a deal. Otherwise she is coming back and does not know whether there would be more bargaining. Is that not the way we usually proceed Mr. Barnhart?

Mr. Barnhart – If you want to take each case separately there may be things that you want to change between the three (3) cases. One (1) resolution may not fit all three (3) depending upon the Board’s desires, but if it is then you could reject them all and let the cases come back later in the morning when all the authorizations have been received from Ms. Wiener but if it does not then it would stand as being rejected.

Mr. Shropshire – I do not mean to be presumptuous but I think Mr. Chair’s thought was that since the FDIC issue only relates specifically to the individual action against Mr. Gallaher that they needed to be addressed individually but I think generically if all the parties understand what the terms are it is cleaner to do it as one (1) motion if all three (3) Settlements are amended to include those three (3) terms. It is a little bit cleaner. The terms would be again same fine payable on all three (3) cases in three (3) months and that the probation be extended to two (2) years and that all the parties agree that Mr. Gallaher would not be FDIC anywhere during the two (2) year probation.

Ms. Wiener – I can agree to those terms on the first and third cases. I would have to contact Mr. Gallaher separately to make sure about the FDIC but I can make that call.

Mr. Shropshire – The Board has not voted.

Ms. Wiener – Right, just for purposes of information.

Mr. Clark – On Gallaher Services the funeral home, the letter dated May 2014 states that the FDIC changed to Mr. O’Shaughnessy.

Ms. Wiener – Correct

Mr. Clark – The paperwork for Mr. Gallaher from Thurman Lowe in June 2014 states that Mr. Gallaher is FDIC.

Ms. Wiener – He did go back to being FDIC for a period of time. He is no longer FDIC at this location.

Chair – Is Mr. Gallaher FDIC at any location?

Ms. Wiener – I do not know the answer to that question, but I can ask him.

(After contacting client via phone) Ms. Wiener – I can agree to the counter-proposal of an administrative fine of \$3,166.66 to be paid within three (3) months, two (2) years probation and Mr. Gallaher will not serve as an FDIC during any of that probationary term at any location.

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

MOTION: Mr. Jones moved to approve the Settlement Stipulation with an administrative fine of \$3,166.66 to be paid within three (3) months, two (2) years probation during which time Mr. Gallaher is not allowed to serve as an FDIC at any location. Mr. Helm seconded the motion, which passed unanimously.

(c) Ronick, Georgina Graham: Case No. 157226-14-FC; Division #ATN-22598 (F065051)

Mr. Rivers – The Respondent, Georgina G Ronick, a Florida licensed Preneed Sales Agent, and for the relevant time period, the office manager of Gallaher Services, Inc. d/b/a Fort Myers Mortuary Services. The Division alleges Georgina G Ronick may have violated the provisions of Chapter 497, Florida Statutes, and related rules, based on the following:

Unauthorized Preneed Contracts: The execution of more than 90 pre-need contracts, over a 2-plus year period, although Gallaher Services, Inc. d/b/a Fort Myers Mortuary Services did not hold a preneed license.

Georgina G Ronick has agreed to pay an administrative fine of \$3,166.66 and serve a one (1) year period of probation. The terms of the Settlement Stipulation are reasonable under the facts and circumstances of this case. The Department request that the Board approve the Settlement and issue the Consent Order to conclude this matter.

Ms. Wiener – I can address whatever counter-proposal there is for Ms. Ronick. I have her on the phone and can get an answer on any counter-proposal that you make.

Mr. Helm – Do we not have to reject the original Settlement Stipulation? I am just trying to get us in order because I think we need to reject the first one then offer a counter.

Mr. Barnhart – Is that the way you normally do it because are a couple of different ways you can do it. Do you want to go back and vote on each case now?

Mr. Rivers – We can consider this case first.

Chair – The cleanest way is to reject the proposal and modify the new proposal then vote on it.

Mr. Helm – All in one (2) motion or two (2)?

Chair – No, in two (2).

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

MOTION: Mr. Jones moved to approve the Settlement Stipulation with an administrative fine of \$3,166.66 to be paid within three (3) months and two (2) years probation. Mr. Clark seconded the motion, which passed with one (1) dissenting vote.

Ms. Wiener – Those terms are acceptable.

Mr. Knopke – Do they currently have a preneed license to sell?

Ms. Wiener – No and they are not selling preneed.

Mr. Knopke – Mr. Jones, I would offer an amendment to your motion that they not be granted a preneed license to sell during the probationary period, in case they do apply.

Ms. Wiener – Well, as part of the settlement negotiations, one (1) of the things that was taken into account was that they did intend to apply for a preneed license so that they could conduct preneed lawfully. It does not necessarily seem fair to a Licensee to keep them from conducting lawful business.

Mr. Knopke – They have done it now for two (2) years unlawfully so they obviously have no care about what the law says to do or not do.

Ms. Wiener – I think that perhaps is a mischaracterization. I strongly suggest to you that they care for what the law says. This settlement negotiation occurred over a matter of some months with the lawyer for the Division and in communication with the Division as to the acceptability of the proposal. The goal is to have Licensees comply with the law and the punishment for this particular Licensee is already significant as far as the Licensee is concerned. Now prohibiting it from conducting lawful business seems extreme.

Mr. Hall – Have they applied for an ownership change with the Division?

Ms. Wiener – That process is underway but I do not think you can take that into consideration with regard to this potential Settlement Stipulation.

Mr. Hall – Can they even apply for a preneed license if they are on probation?

Mr. Shropshire – Yes.

Mr. Jones – But it would come back before the Board, correct?

Mr. Shropshire – Yes.

Mr. Jones – We would have the ultimate review. That is the reason I would recommend not accepting Mr. Knopke's amendment to the motion.

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

(1) Probable Cause Panel A

(a) Able Monument Company, Inc.: Case No. 154939-14-FC; Division #ATN-22403 (F037659)

Mr. Rivers – The Probable Cause Panel members included the following: Nancy Hubbell, Keenan Knopke and Justin Baxley.

Mr. Knopke – I need to recuse myself as I served on Probable Cause Panel A in this matter.

Mr. Rivers – On August 14, 2014, the Department filed an Administrative Complaint alleging that Able Monument Company, a licensed monument establishment retailer and an active corporation failed to comply with the statutes and rules regarding failure to deliver and install a grave marker. Additionally, no contract was executed with the consumer. The Administrative Complaint was sent to the Respondent on August 18, 2014 by Certified Mail. The Administrative Complaint was returned unclaimed. The Department was unable to personally serve Mr. Skinner, an officer of the Respondent. Therefore, the Department submitted the Administrative Complaint for publication on December 15, 22, 29, 2014 and January 5, 2015 in Florida Today Newspaper for circulation in the area of Titusville, the last location of the corporation. The published notice advised the Respondent that failure to respond in writing within twenty-one (21) days of receipt of the Notice of the Administrative Complaint would constitute a waiver by the Respondent of their right to request a proceeding on the matters alleged in the Administrative Complaint and an Order of Suspension or Revocation by the Board would be entered against the Respondent. No Election of Proceeding was received from the Respondent within twenty-one (21) days or thereafter. Based on this information, the Department filed a Motion for Determination of Waiver and Final Order by Hearing Not Involving Material Facts. At this time it would be appropriate for the Board to determine that the Respondent waived its right to request a proceeding in the matters alleged in the Administrative Complaint.

MOTION: Mr. Mueller moved to find that the Respondent waived its right to request a proceeding in the matters alleged in the Administrative Complaint. Mr. Clark seconded the motion, which passed unanimously.

Mr. Rivers – Now that the Board has determined that the Respondent has waived its right to request a proceeding in this matter, 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.

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

Mr. Rivers – The Department contends that the Board's Findings of Fact support a finding of the violations of Chapter 497, F.S. and Chapter 69K, F.A.C. as charged in the Administrative Complaint. The Department feels it is appropriate at this time for the Board to entertain a motion adopting the Conclusions of Law as alleged in the Administrative Complaint.

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

Mr. Rivers – It is appropriate for the Respondent to speak on its behalf if present.

Chair – Is there anyone representing Able Monument Company, Inc? There was a negative response.

Mr. Rivers – As to penalty, the Department recommends, given the consumer harm and the fact that the Respondent failed to deliver the merchandise, we would recommend that the Licensee's license be revoked and a \$1000 administrative penalty.

Mr. Helm – Can we not add restitution on that?

Mr. Rivers – Yes we can.

Chair – That is what I had in mind also.

MOTION: Mr. Helm moved for revocation, \$1000 administrative penalty and restitution in the amount of \$1000. Mr. Hall seconded the motion, which passed unanimously.

(b) Skimmer, Barney L.: Case No. 154935-14-FC; Division #ATN-22403 (F051148)

Mr. Rivers – The Probable Cause Panel members included the following: Nancy Hubbell, Keenan Knopke and Justin Baxley.

Mr. Knopke – I need to recuse myself as I served on Probable Cause Panel A in this matter.

Mr. Rivers – This is the companion case to the previous case. The facts are substantially similar. On August 14, 2014, the Department filed an Administrative Complaint alleging that Able Monument Company, a licensed monument establishment retailer and an active corporation failed to comply with the statutes and rules regarding failure to deliver and install a grave marker. Additionally, no contract was executed with the consumer. The Administrative Complaint was sent to the Respondent on August 18, 2014 by Certified Mail. The Administrative Complaint was returned unclaimed. The Department was unable to personally serve Mr. Skinner, an officer of the Respondent. Therefore, the Department submitted the Administrative Complaint for publication on December 15, 22, 29, 2014 and January 5, 2015 in Florida Today Newspaper for circulation in the area of Titusville, the last location of the corporation. The published notice advised the Respondent that failure to respond in writing within twenty-one (21) days of receipt of the Notice of the Administrative Complaint would constitute a waiver by the Respondent of their right to request a proceeding on the matters alleged in the Administrative Complaint and an Order of Suspension or Revocation by the Board would be entered against the Respondent. No Election of Proceeding was received from the Respondent within twenty-one (21) days or thereafter. Based on this information, the Department filed a Motion for Determination of Waiver and Final Order by Hearing Not Involving Material Facts. At this time it would be appropriate for the Board to determine that the Respondent waived its right to request a proceeding in the matters alleged in the Administrative Complaint.

MOTION: Mr. Mueller moved to find that the Respondent waived its right to request a proceeding in the matters alleged in the Administrative Complaint. Mr. Clark seconded the motion, which passed unanimously.

Mr. Rivers – Now that the Board has determined that the Respondent has waived its right to request a proceeding in this matter, 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.

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

Mr. Rivers – The Department contends that the Board's Findings of Fact support a finding of the violations of Chapter 497, F.S. as charged in the Administrative Complaint. The Department feels it is appropriate at this time for the Board to entertain a motion adopting the Conclusions of Law as alleged in the Administrative Complaint.

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

Mr. Rivers – It is appropriate for the Respondent to speak on its behalf if present.

Chair – Is there anyone representing Barry L Skinner? (There was a negative response.)

Mr. Rivers – As to penalty, the Department recommends, given the consumer harm and the fact that the Respondent failed to deliver the merchandise, we would recommend that the Licensee’s license be revoked, a \$1000 administrative penalty and \$1000 in restitution to the consumer.

Mr. Helm – Did he have a sales agent license?

Mr. Rivers – I believe he did.

Chair – Yes, he did have and that is the reason we can revoke the license.

Mr. Rivers – He had a monument establishment sales agent license.

MOTION: Mr. Helm moved for revocation, \$1000 administrative penalty and restitution in the amount of \$1000. Mr. Hall seconded the motion, which passed unanimously.

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

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

Mr. Knopke – Just a favor, if possible. If it creates additional work for Staff or requires the form to be revised, forget it. I know this form has been in use for years. Is it possible to add to the form the cities where these people actually operate or work. Just out of curiosity and I have looked at them for years. It is just a question.

Mr. Shropshire – Yes, Mr. Knopke, we will look into that. I do not know if that is something that is collected on the application, but if it is we can put it on here. We will look into that and get back to you.

Mr. Knopke – Thank you.

B. Recommended for Approval without Conditions (Criminal History)
(1) Quinones, Miguel O (Appointing Entity: SCI Funeral Services of Florida, Inc.)

Mr. Shropshire – On February 17, 2015, the Department received an application from Mr. Quinones. Mr. Quinones answered “No” to Applicant Background Questions. During the review of his fingerprint results provided by FDLE it was confirmed, Mr. Quinones did have one criminal infraction that required disclosing. Mr. Quinones was asked to provide an explanation for the inaccuracy on his application.

Mr. Quinones’ explanation “*This was a misunderstanding. I was informed by the counselor at the court office that once I paid al the court costs and followed the legal procedures I would be cleared out of any criminal violation.*”

Mr. Quinones’ criminal history includes a plea of *No Contest* in February 2012 to misdemeanor of No Valid Driver License, in Florida. He was ordered to pay court cost in the amount of \$265, paid March 28, 2012. Thus, the Department assessment is that if issued a preneed sales agent license, Mr. Quinones would not pose an unreasonable risk to the members of the public who might deal with him in preneed transactions.

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

6. Application(s) for Continuing Education Course Approval
A. Recommended for Approval without Conditions – Addendum B
(1) Academy of Graduate Embalmers of GA #13609
(2) APEX Continuing Education Solutions #4201

- (3) *Education Workers Group #11208*
- (4) *Florida Cemetery, Cremation & Funeral Association #75*
- (5) *International Cemetery & Funeral Association #74*
- (6) *International Order of the Golden Rule #2201*
- (7) *National Funeral Directors Association #136*
- (8) *New Jersey Funeral Service Education Corp #7002*
- (9) *SCI Management - Dignity University #99*

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

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

- 7. **Application(s) for Florida Law and Rules Examination**
 - A. **Informational Item (Licenses Issued without Conditions) – Addendum C**
 - (1) **Direct Disposer**
 - (a) *McComb, Kindra C*
 - (2) **Funeral Director – by Internship and Exam**
 - (a) *Clifton, Irvin W*
 - (b) *Jackman, Tracy R*
 - (c) *Snow, Thomas L*
 - (3) **Funeral Director and Embalmer – by Internship and Exam**
 - (a) *Cahill, Eric S*
 - (b) *Colley, Raphael D*
 - (c) *Fernandez, Jennifer P*
 - (d) *Garcia, Tabitha*
 - (e) *Molina, Vanessa D*
 - (f) *Russo, John D*

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

- B. **Recommended for Approval without Conditions (Criminal History)**
 - (1) **Funeral Director and Embalmer by Internship and Exam**
 - (a) *Chambery, Paul*

Mr. Shropshire – The Applicant submitted an application for a Funeral Director and Embalmer License on February 24, 2015. The application was complete when submitted. The Applicant has a criminal history that has been disclosed on both the Embalmer Apprentice application that was approved for at the August 4, 2011 Board meeting and also the Concurrent Internship application that was approved for at the April 3, 2014 Board meeting. His license was placed on probation both times. The Board packet and copy of the minutes are included.

In 1998, Mr. Chambery was a Corrections Officer and was accused of sexual battery by a female inmate. He was subsequently found guilty of sexual battery in Flagler County Circuit Court. He was originally sentenced to 8 years incarceration; however, that sentence was subsequently set aside, and he was re-sentenced to 1 year of community control, followed by 2 years probation. Applicant advises that the reduced sentence was due to a finding of ineffective counsel in the original trial. Applicant makes several other comments concerning the original criminal proceedings against him (see his written statements, infra). The Division is recommending approval without conditions because of the Board’s prior review and actions.

Chair – Mr. Chambery, welcome back before the Board.

Mr. Paul Chambery – Thank you. Permission to speak?

Chair – How are things going?

Mr. Chambery – Good, very well. I will be finishing my internship Saturday actually. I am a proud graduate of Mr. Dean’s funeral service program and I am continuing my schooling. I will be getting my Bachelors Degree in August in Liberal Arts and Concentration Psychology. So things are going very, very well. I love my job. I love my career and without you guys’ support and your faith in me none of that would have been possible so I want to thank you for all of your support.

Chair – Thank you. We have supported you and we had faith in you and we have all been pulling for you to move forward.

MOTION: Mr. Helm moved to approve the application subject to the condition of for twelve (12) full months of probation. Mr. Clark seconded the motion, which passed with one (1) dissenting vote.

8. Application(s) for Internship

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

- (1) *Funeral Director*
 - (a) *Hawk, Nicole M F068749*
- (2) *Funeral Director and Embalmer*
 - (a) *Bakey, Paige N F061567*
 - (b) *Bankerd, Erika A F083172*
 - (c) *Burdge, David L F082877*
 - (d) *Edmond, Jean-Baptiste F083170*
 - (e) *Knowles, Trenise R F083171*
 - (f) *Lewis, Samuel C F053538*
 - (g) *Moore, Jamarion P F062019*
 - (h) *Pericles, Marc F082868*
 - (i) *Phillip Jr, Bernard S F082867*

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

B. Recommended for Approval with Conditions (Criminal History)

- (1) *Funeral Director and Embalmer*
 - (a) *Pinkston, Brittany*

Mr. Shropshire – The Applicant submitted an application for a Concurrent Internship on January 26, 2015. The application was incomplete when submitted. All deficient items were returned on March 2, 2015. The Applicant submitted a fingerprint card, the processing of which returned a criminal history, to wit:

- In 2011, the Applicant pled guilty to DUI. Her driver’s license was suspended and she was ordered to pay \$415.50.

The Division is recommending approval without conditions.

MOTION: Mr. Jones moved to approve the application subject to the condition of for twelve (12) full months of probation. Ms. Oliver seconded the motion, which passed unanimously.

9. Application(s) for Embalmer Apprenticeship

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

- (1) *Jones, Jonathan K F066997*

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

B. Recommended for Denial (Criminal History)

(1) Witherspoon, Charles

Mr. Shropshire – The Applicant submitted an application to become an Embalmer Apprentice on October 24. The application was incomplete when submitted. All deficient information was returned on December 15, 2014. The Applicant submitted a fingerprint card, the processing of which returned a criminal history, to wit:

- Mr. Witherspoon pled guilty to Unlawful Distribution of a Controlled Substance and Assault in the third degree in March 2007.

The application initially appeared on the agenda for the Board at its February 5, 2015 Board meeting, but was taken off the agenda by the Division for discussion with the Board's Legal Advisor, concerning his legal opinion as to the Board's authority regarding applications for embalmer apprentice licensure. The Board Legal Advisor has subsequently provided his legal opinion in writing (February 25, 2015 legal opinion provided to the Board).

The FCCS Division recommends that the application be denied pursuant to section 497.152(2), Florida Statutes, which provides as follows:

(2) CRIMINAL ACTIVITY.—Being convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction that relates to the practice of, or the ability to practice, a Licensee's profession or occupation under this chapter.

Chair – Is Mr. Witherspoon here or anyone representing Mr. Witherspoon? Are you Mr. Witherspoon?

Mr. Charles Witherspoon – Yes sir.

Chair – Is that counsel behind you.

Mr. Dennis Trahan – I am Dennis Trahan, owner of Trahan Family Funeral Home and also Mr. Witherspoon's employer.

Chair – As customary when appearing before the Board you would need to be sworn in.

Mr. Shropshire – Gentlemen, would you each raise your right hand? 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. Witherspoon – Yes sir.

Mr. Trahan – Yes sir.

Mr. Shropshire – Mr. Witherspoon would you state your full name?

Mr. Witherspoon – It is Charles Edward Witherspoon, Jr.

Mr. Shropshire – And sir I am sorry I did not catch your name but would you state your full name for the record.

Mr. Trahan – Dennis Stephen Trahan

Chair – Mr. Witherspoon or Mr. Trahan would you want to address the Board, are you here to answer questions or do you want to speak to the Board?

Mr. Witherspoon – I am here to answer questions.

Mr. Trahan – Mr. Witherspoon has been employed with us for about a year. He is a good employee, good with our families and he is outstanding. We know his past and we have reviewed it ourselves. He came to me and convinced me that he could be trusted again and be a vital part of the funeral industry. I have been in this industry for forty-four (44) years and I have seen a lot of people but Charles is one (1) that I am going to stand behind. I think this Board needs to give him a decent second chance. I know in the past, we are all young and we all make mistakes. Charles will be the first to tell you that he

made some bad errors but he has come forth, he was honest with us with everything and he has never held anything back. He just wants a second chance and I hope this Board can find it within themselves to give him that opportunity.

Chair – Thank you Mr. Trahan. Mr. Witherspoon, I think the Board members would like to hear information from you leading up to your arrest and conviction and the circumstances involved in that.

Mr. Witherspoon – I was arrested for selling marijuana and I got convicted in May 2007. I was sentenced to three (3) years supervised probation. I got off probation May 2010. I have not gotten into any trouble since.

Chair – So the controlled substance was marijuana?

Mr. Witherspoon – Yes sir.

Mr. Helm – How old were you then?

Mr. Witherspoon – I was 24.

Mr. Jones – What was the assault charge?

Mr. Witherspoon – I was put in a situation where someone got shot. That was my assault charge.

Ms. Anderson – Would you clarify that?

Chair – If you are asking the Board for consideration maybe you should elaborate on someone got shot.

Mr. Witherspoon – I am sorry. I shot someone. I am not saying that I am a bad person. It was a situation I was put in and I shot somebody.

Chair – Was it in a drug deal?

Mr. Witherspoon – No sir. It was more like an argument.

Ms. Oliver – Were you convicted of any criminal activity relating to that? Were you convicted, or charged or arrested for that?

Mr. Witherspoon – I turned myself in.

Mr. Clark – What was the charge? Assault?

Mr. Witherspoon – It was Assault 3, which was a misdemeanor.

Ms. Oliver – Were you convicted of assault?

Mr. Witherspoon – Yes.

Ms. Anderson – Did the person who was shot recover? There was no death involved?

Mr. Witherspoon – Yes ma'am.

Mr. Knopke – Mr. Shropshire, had we not gotten this legal opinion that Mr. Barnhart provided, and this was six (6) months ago, would the Division have had a different recommendation at that time?

Mr. Shropshire – Yes sir, we would have recommended approval on the understanding that we had no authority to deny.

Mr. Knopke – You would not have recommended any probation or anything like that?

Mr. Shropshire – No because our understanding of the statute was that there was basically no discrepancy. There was only the requirement that you had to be 18 years old, a resident of, but there was no character, background type criteria in the statute in which we could base it.

Mr. Knopke – My concern is that we have been granted different authority and we have approved people in the past that may have done stuff not as bad or a whole lot worse and now we are striking a new line in the sand and there may be people in the process that were lead to believe one thing, even with their background.

Chair – This is based upon new information and I do think that in the past when we did approve people with a criminal background, we affirmatively disclosed to them that each step of the way in the licensing process when they came before us that all those activities would again be considered, but for this particular embalmer apprentice we have information that we do have the authority to make decisions on granting the license.

Mr. Knopke – I understand. I just wanted to make sure I was clear on it.

Mr. Helm – I feel a little confused on the shooting. You said you served three (3) years probation. Is that all you got for shooting someone?

Mr. Witherspoon – They tried me all together and they reduced my charge from Assault 1 Felony to Assault 3 Misdemeanor. That was all I had to do.

Chair – What are your future plans in the Industry?

Mr. Witherspoon – My plans are to be a funeral director because I found something that I like to do and what I like to do is help people. I am pursuing that right now and that is what I want to do; be a funeral director.

Chair – You understand how this criminal history will follow you through the process if you do pursue additional licensing?

Mr. Witherspoon – Yes sir. That is a risk I am willing to take.

Mr. Hall – I still need more information about the shooting other than just a guy put me in a position and I shot him. Was that during the selling of the drugs? What prompted you to shoot this individual and why am I to think you would not do that again?

Mr. Witherspoon – This guy got in the passenger side of my truck saying that he wanted to take my gun from me. He put his hand on my gun, which I had in my hand. He was trying to snatch it and it shot him.

Mr. Hall – Did it go off accidentally or you intentionally shot him?

Mr. Witherspoon – No, it went off accidentally.

Chair – At that point in time did you have a concealed weapon permit?

Mr. Witherspoon – No sir I did not.

Mr. Shropshire – What time of day did this happen?

Mr. Witherspoon – It happened like 2 in the morning or something like that.

Mr. Shropshire – Did you know this gentleman that was shot?

Mr. Witherspoon – Yes I did.

Mr. Shropshire – How well did you know him?

Mr. Witherspoon – We sort of grew up together and he was on drugs.

Mr. Shropshire – Were you at that location to sell some drugs?

Mr. Witherspoon – No, I was at home in front of my house. He and some more guys were what I did not know at that time, they were in my house robbing my house. I just pulled up on him. They thought I was not coming back that night but I showed up that night.

Ms. Oliver – I was not here for the previous questioning and not to go back to a different case, but Mr. Chambery’s, where he has a conviction for sexual battery by a law enforcement officer. I was not here when you engaged in any fact finding missions, but in that case a jury of his peers found him guilty and we approved him. In this case, we have a 3rd degree misdemeanor and a drug charge, which I personally do not find to be as bad as the previous Applicants that we have approved and not put through the ringer like this.

MOTION: Ms. Oliver moved to approve the application. Mr. Jones seconded the motion, which passed with four (4) dissenting votes.

10. Application(s) for Registration as a Training Agency

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

- (1) Faith Funeral Home Inc (F050784) (Havana)
- (2) Okeechobee Funeral Home LLC (F059673) (Okeechobee)

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

Mr. Helm – Should the location on the Addendum for Okeechobee Funeral Home be Okeechobee instead of Tampa?

Ms. Jasmin Richardson – It should be Okeechobee.

B. Recommended for Approval without Conditions (Adverse Licensing History)

- (1) Loyless Funeral Homes LLC (F040834) (Land O’ Lakes) and (F075751) (Tampa)

Mr. Shropshire – An application to become a Training Facility was received on February 27, 2015. The Applicant does have reportable Adverse Licensing History.

- In March 2010, the Licensee stipulated to failing to report a death to the Polk County Medical Examiner’s Office. The Licensee was assessed an administrative fine of \$500 and costs of \$500.

The establishment is recommended for approval without conditions.

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

11. Consumer Protection Trust Fund Claims

A. Recommended for Approval without Conditions – Addendum G

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

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

12. Application(s) to Organize a New Cemetery Company

A. Recommended for Approval with Conditions

- (1) Fairway Memorial Properties, LLC d/b/a Fairway Memorial Gardens (Deerfield Beach)

Mr. Shropshire – Fairway Memorial Properties, LLC d/b/a Fairway Memorial Gardens (Fairway) herein submits an Application to Organize a New Cemetery Company for the above named cemetery property located at: 1391 NW 45th St, Deerfield Bch, FL 33064. S. 497.263, Florida Statutes, provides that “(1) No person may operate a cemetery without first obtaining a license under this section, unless specifically exempted from this chapter.

The application was received by the Division on February 19, 2015 and no deficiencies were noted on the application. A completed background check of all owners revealed no criminal history. This application is being filed by Fairway for a cemetery to be developed on the grounds of the former Tom O’Shanter Golf Course to be comprised of approximately 46.48 acres which will include the establishment of a funeral home, a crematory, and .50 acres to be set aside for use as a pet cemetery. Ownership of Fairway will be LFP Holdings, LLC, controlled by Ralph Little (50% majority owner) along with Brian Gaines (20% owner) and other minority owners: Old Saybrook Golf Capital LLC, Old Saybrook Golf Capital Portfolio II LLC, and Memorial Properties LLC. (Please refer to Attorney’s letter dated February 19, 2015)

As outlined in the attached proposed business plan for Fairway, development of the cemetery is to be for an expandable mausoleum (which will contain approximately 600 interior crypts and about 600 cremation niches), as the majority of sales is expected to be generated from cremated remain dispositions with full burials comprising the remainder of sales (please refer to Applicant’s attached proposed Business Plan Summary). If this Application to Organize a New Cemetery Company is approved, the Applicant will operate under the name Fairway Memorial Properties, LLC d/b/a Fairway Memorial Gardens, as above noted.

Documentation establishes that Ralph Little (a principal of Applicant herein of the proposed Licensee) was a passive investor along with Old Saybrook Golf Capital Portfolio II, LLC (OSGC), and later acted as Manager of Kent Golf Club LLC (Kent), a developing golf club in Connecticut. Kent defaulted under an operating agreement with OSGC and was ultimately sued by OSGC in 2004. As a result, Mr. Little, acting as Manager of Kent, submitted an alternative plan of reorganization for Kent under the Ch. 11 US Bankruptcy Code in 2006, which was agreed to by all parties, adopted, and then conveyed to a successor entity, the Bulls Bridge Golf Club, Inc (BGGC), of which Mr. Little was appointed director and currently serves in this position. This was an involuntarily bankruptcy action filed by Kent. Mr. Little has provided a sworn notarized statement documenting the disclosed bankruptcy (please see sworn statement by Ralph Little dated February 17, 2015). The Applicant’s financial statement projected as of February 18, 2015 reflects the following:

Required Net Worth	= \$	50,000
Reported Net Worth	= \$	50,000

An application for a license for a new cemetery is processed in two separate phases. In Phase 1 the Board looks to determine if the Applicant meets the following statutory criteria (from 497.263(2) Florida Statutes):

(2) APPLICATION PROCEDURES. –

- (a) A person seeking a cemetery license under this section shall apply for such licensure using forms and procedures prescribed by rule.
- (b) The Applicant shall be a corporation, a partnership, or a limited liability company.
- (c) The application shall require the name, principal place of business, date of formation, and federal tax identification number, of the Applicant.
- (d) The application shall require such historical sketches and audited or unaudited financial statements concerning the Applicant and each principal of the Applicant, as the licensing authority may require by rule.
- (e) The application shall state any and all names under which the cemetery may do business if licensed, if different from the Applicant’s name.
- (f) The application shall state the exact location of the proposed cemetery.
- (g) The proposed cemetery must contain at least 30 contiguous acres. The application shall state the exact number of acres in the proposed cemetery.
- (h) The Applicant must have a net worth of \$50,000, as attested to by a sworn statement signed by all officers of the Applicant. Such net worth must be continually maintained as a condition of licensure.
- (i) The application shall be accompanied by such description of the proposed financial structure of the cemetery as the licensing authority may require by rule.
- (j) The application shall be accompanied by a legal description of the cemetery.
- (k) The application shall be accompanied by such maps or surveys of the proposed cemetery, and maps showing the location of the proposed cemetery in the local area, as the licensing authority may require by rule, and the licensing

authority may by rule require such maps or surveys of the cemetery to be prepared by a licensed Florida professional surveyor.

- (l) The application shall include such description of the development plans for the proposed cemetery as the licensing authority may require by rule.
- (m) The Applicant shall be required to make disclosure of the Applicant's criminal records, if any, as required by s. 497.142.
- (n) The application shall require the Applicant to disclose whether the Applicant or any principal of the Applicant has ever had a license or the authority to practice a profession or occupation refused, suspended, fined, denied, or otherwise acted against or disciplined by the licensing authority of any jurisdiction. The licensing authority may require by rule additional information to be provided concerning any affirmative answers. A licensing authority's acceptance of a relinquishment of licensure, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of charges against the license, shall be construed as action against the license. The licensing authority may require by rule additional information to be provided concerning any affirmative answers.
- (o) The Applicant shall submit fingerprints in accordance with s. 497.142.
- (p) The Applicant shall demonstrate by clear and convincing evidence that the Applicant has the ability, experience, financial stability, and integrity to operate a cemetery, and that its principals are of good character.
- (q) The application shall be signed in accordance with s. 497.141(12).
- (r) The application shall be accompanied by a nonrefundable application fee of \$5,000.
- (s) The licensing authority may establish by rule requirements for the appearance before the licensing authority of the Applicant and the Applicant's principals, to stand for oral interview by the licensing authority at a public licensing authority meeting, before the application shall be deemed complete.

This application is before this Board for the Phase 1 determination. If the Board determines that the above quoted Phase 1 statutory criteria are met, the FCCS Division will notify the Applicant to that effect, and the Applicant then has 12 months to come back before the Board and demonstrate that it has by then complied with the following statutory criteria, set forth in section 497.263(3), which provides as follows:

- (3) ACTION CONCERNING APPLICATIONS.—If the licensing authority finds that the Applicant meets the criteria established in subsection (2), the Applicant shall be notified that a license will be issued when all of the following conditions are satisfied:
 - (a) The establishment of a care and maintenance trust fund containing not less than \$50,000 has been certified by a trust company operating pursuant to chapter 660, a state or national bank holding trust powers, or a savings and loan association holding trust powers as provided in s. 497.458, pursuant to a trust agreement approved by the licensing authority. The \$50,000 required for the care and maintenance trust fund shall be over and above the \$50,000 net worth required by subsection (2).
 - (b) The Applicant files with the licensing authority an opinion or certification from a Florida attorney in good standing, or a Florida title company, in a form acceptable to the licensing authority, that the Applicant holds unencumbered fee simple title to all land identified in the application.
 - (c) The Applicant obtains approval of the local zoning authorities regarding the cemetery, and files with the licensing authority evidence satisfactory to the licensing authority of such approval, or if no approval by local zoning authorities is required, such approval of residents adjacent to the proposed cemetery as the licensing authority may require by rule.
 - (d) The licensing authority determines that the Applicant has designated as general manager of the cemetery a person of integrity, who has 3 years of cemetery management experience as defined by rule of the licensing authority, and who has the ability to operate a cemetery.
 - (e) Evidence satisfactory to the licensing authority that the Applicant has fully developed not less than 2 acres for use as burial space, such development to include a paved road from a public roadway to the developed section.
 - (f) Regarding the cemetery land identified in the application, the Applicant has recorded, and provides the licensing authority with a written attestation of such recording signed by a licensed Florida attorney, in the public records of real estate in the county in which the cemetery land is located, a notice which contains the following language:

NOTICE

The property described herein shall not be sold, conveyed, leased, mortgaged, or encumbered without the prior written approval of the Department of Financial Services, as provided in Chapter 497, Florida Statutes. Such notice shall be clearly printed in boldfaced type of not less than 10 points and may be included on the face of the deed of conveyance to the Licensee

or may be contained in a separate recorded instrument which contains a description of the property.

The FCCS Division recommends approval subject to conditions as follows:

- 1) That Applicant establish a care and maintenance trust fund containing not less than \$50,000, certified by a trust company operating pursuant to Chapter 660, F.S., a state or national bank holding trust powers, or a savings and loan association holding trust powers, pursuant to a Board approved trust agreement.
- 2) Receipt by the Division an opinion or certification from a Florida title company or a letter signed by Applicant's attorney, certifying that the Applicant holds unencumbered fee simple title to all land as described to the Board in the materials provided to the Board herewith.
- 3) Receipt by the Division from Applicant or Applicant's attorney of evidence of approval of local zoning authorities, if approval is required. If no approval is required, Applicant may provide evidence of approval from residents adjacent to the proposed cemetery location.
- 4) That Applicant provides to the Division satisfactory evidence that it has fully developed at least 2 acres for use as burial space, and such development includes a roadway(s) to the developed section(s) within the first 12 months of operation.
- 5) That Applicant provides notification to the Division of the designated general manager of the cemetery who has 3 years of cemetery management experience, and the ability to operate a cemetery.
- 6) Receipt by the Division from Applicant's attorney, a written and signed attestation that the cemetery land identified in the application has been recorded in the public records of real estate in the county in which the cemetery land is located. Such notice must be clearly printed in at least 10-point type on the face of the deed or in a separate document containing a description of the property, the following language: *"The property described herein shall not be sold, conveyed, leased, mortgaged, or encumbered without the prior written approval of the Department of Financial Services, as provided in Chapter 497, Florida Statutes."*

Chair – Ms. Wiener are you representing the Applicant.

Ms. Wiener – I am representing Fairway Memorial, the Applicant. With me today is Rob Little, Principal.

Mr. Helm – As I was looking over this, on the general manager part, Mr. Little do you live out of state?

Mr. Ralph Little – I live in Connecticut, yes.

Mr. Helm – Will the general manager be living here?

Ms. Wiener – Of course. The naming of the general manager is part of Phase II.

Chair – I was remised in not swearing you in, Mr. Little.

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

Mr. Little – I do.

Mr. Shropshire – Please state your full name.

Mr. Little – My name is Ralph Edward Little, III.

Mr. Knopke – Mr. Chairman, unfortunately I have several questions. Is it the plan to build the mausoleum that is proposed or parts of it prior to opening for business or will you start building after you open for business?

Mr. Little – The plan is to number one (1) secure our license and as part of that process, as you know, is to prepare two (2) acres for cemetery for sale. That process is underway. There is a foundation being prepared or will be prepared for the mausoleum. The day after we get our license we will begin construction of the mausoleum project. I am sure everyone here is familiar with mausoleums. This will be a chapel mausoleum. My operating partners, who own fifteen (15) cemeteries in other parts of the country and are really focused on this type of product, describe it to me as a movie set mausoleum. In other

words a very attractive elevation looking at the mausoleum from the front but it would be not very deep. As we sell mausoleums we could go almost like an accordion. We can grow mausoleums this way and actually go up a second story as well so we can put an attractive product on the property almost immediately without overbuilding. It will leave us a product to sell off of. In other words it would serve as a model for future sales as well. That is a long answer to your question but yes we expect to start building the mausoleum the day after licensing.

Mr. Knopke – On your Page 7 of your document, it talks about things that you are going to be doing and the money. For Funeral Homes/Offices you have allocated \$300k for that. Is that really going to be more offices than funeral home or is it going to be a combination thereof?

Mr. Little – That number is based on a modular building that my operating partner has already built in Savannah for a number something less than that but Broward County has hurricane unlikely many other places so we added 50% to his cost for that. We will then dress it up with a roof and so forth so it would be an attractive place. We envision that as serving almost solely as offices for the first six (6) months to a year. This is the cemetery centric application. In the future we would like the flexibility to come back and put a funeral home there and it will be fitted for that but we do not anticipate using it for that for quite a while.

Mr. Knopke – You referenced twice your operating partner. Who is that?

Mr. Little – He is described in the business plan. His name is Larry Nikola. He owns a company called memorial Properties which has ten (10) cemeteries and mausoleums in New Jersey. Four (4) of which he owns, six (6) of which are subject to management contracts with churches and municipalities. He also owns five (5) cemeteries in Savannah GA and has built two (2) funeral homes in Savannah. New Jersey is such that you can be in the cemetery business or the funeral home business, but you cannot do both. So he is a cemetarian. His wife, by the way, is like you. She is a member of the New Jersey Cemetery Board. His son Kyle, who runs the Savannah operation, is Vice President of the Georgia Cemetery Association and he is also an Executive Vice President of the southern equivalent of the Southeast Region of that same entity. So it is a family with a lot of experience and they bring a lot to this operation.

Mr. Knopke – Are you very familiar with Mr. Nikola?

Mr. Little – I have known Larry for five (5) years now and I have gotten to know him and his family very well. I think having interviewed dozens of potential operators and partners, I am confident that I picked a good family to work with.

Mr. Knopke – Are you aware that he paid a fine once for burying bodies under a sidewalk?

Mr. Little – As I understand that, it was a, and again I am coming from outside the Industry, but that was explained to me that he had an abandoned cemetery in Newark NJ to the point that it was occupied more by wild dogs than anything else. He and a partner took it over and their customer, if you will, was the indigent deceased of New York City by large and he tells me that as cemeteries grow and run out of capacity that taking roadways or taking up the roads and putting in graves is an accepted practice and that is the extent of what I learned about that. Knowing Newark NJ it sounded that that was an appropriate use of the property.

Mr. Knopke – It disturbed me because I did not recognize the name, but when I saw Savannah that triggered me to go look. I searched Google for his name and it turns out that in the Newark cemetery, he promised that he would no longer bury people more than five (5) deep in a single gravesite and this is in 1996. Though he did not admit that they had done so the two (2), meaning him and a Lewis Cicalesce agreed to pay \$60k in penalties according to the Director of the Division of Consumer Affairs. That was in New Jersey. Then as things pop up, it seems that in Savannah he has now attempted to change the rules of the cemeteries that he has acquired. They no longer accept the concrete burial vaults that they have traditionally offered in that community or city and only buy something that he wants to provide exclusively.

Mr. Little – I am familiar with both incidents that you are describing and I read the same and I do not mind if you do read the judge's description of Mr. Nikola in Savannah. I can say, going back to Newark. Larry had a partner in that transaction. They severed their relationship as that property sold out but as far as the volume of interred in the graves and how that cemetery was sold to the public in the documents that I have seen, this was an extremely low-cost high-volume cemetery to handle the

deceased of New York City who could not otherwise afford burial nearby. New York City is running out of cemetery space. The typical plot or crypt, if they remain, are \$40k to \$50k and this was \$400 or \$500 services. The five (5) deep did not start with Nikola. That had been a practice of that cemetery. He continued it and, as he tells me, disclosed it in the sales documents. Whether that read well in the papers or not, I read the same articles you did. As far as Savannah goes, Larry came to Savannah seven (7) or eight (8) years ago from New Jersey. He introduced a product that he thought was better than what was being sold and misread the response that requiring a stainless steel vault as opposed to a concrete vault would trigger. At the same time, he was opening a funeral home in town and it was, in his words not mine, his competition that brought the complaints against him and made his life a little difficult his early years. Having said that, he has been there seven (7) or eight (8) years. His son Kyle has built up quite a business there. His funeral home opened less than two (2) years and is doing three hundred (300) calls a year. They are very well accepted in the market and I think have established themselves as good citizens. The judge's description of them notwithstanding.

Mr. Knopke – On the detailed revenue analysis, under “At Need Plan Revenue – Plot,” is it safe to assume that is grave spaces or what?

Mr. Little – Plots would be graves and crypts would be our mausoleum space and then we will have actual cremations. One (1) of the items that is in our site plan is a crematory. Then finally we have cremation niches. The four (4) products that we have are at need revenue generators of those. Then it goes on to “At Need Merchandise Revenue.” Some of that would be for burials, some of that would be for cremations. Then beyond that, “At Need Service Revenue,” opening and closing fees and so forth.

Mr. Knopke – An opinion about your numbers, no fact behind it other than experience. Generally when somebody opens a new business, especially a new cemetery, they struggle simply from the standpoint that people in the community generally have heritage elsewhere and the death rate does not increase because there is a new competitor or business in town. Having opened in my career two (2) cemeteries from scratch, it usually works that way no matter how good you think you are or how aggressive your salespeople may be. The fact of the matter is you are an unknown entity at that point. I struggle with \$1 million worth of burial revenue in year one (1) even if you were giving it away. Just a comment. Preneed sales, I do not find that to be a difficult number to get to down in the shaded area assuming that the mausoleum was constructed because if it is not then everyone of those that may have a death are going to be getting money back.

Mr. Little – As I said earlier, we have the funds and we fully expect to build. The contractor that we have chosen has built nearly every new mausoleum in Broward County for the past thirty (30) years or so. He has built products for the Nikola's in both Savannah and New Jersey. We are pretty sure that that building will be built and open within six (6) months of licensing. As far as comments on how aggressive or hopeful we are, like any projection it is built on assumptions. As I look at this and having spent the last couple of years with the salespeople I will be hiring and looking forward I make two (2) comments. One (1) from a confident standpoint the core sales force that I will be starting with will start with five (5) million dollar producers or are selling that level or property in this market today, but we are in a market where first there has not been a new cemetery approved in forty (40) years and second where the inventory that remains is dwindling very quickly. 2.6 million people within a short drive of this property, which is an exit of both I-95 a Florida turnpike and the Sawgrass Expressway, making it convenient to all of those people I describe. Those five (5) people if they only do half the volume that they have done most of their careers will exceed our business plan numbers. On top of that they will not be the only salespeople we will have. We will have perhaps a dozen more by the end of the year. So I understand and I have heard the same from lots of people like you, Mr. Knopke. The notion of, especially from a guy coming from the golf business, starting from zero and going full steam is obviously ambitious but I think that I have assembled a team of professions with experience in this market, not just in this Industry, who look at this as an opportunity to do better for themselves because if for example they are going to make a plot sale to a family, it is very difficult because to find two (2) never mind four (4) or six (6) plots together in Broward County is nearly impossible. I have one (1) salesperson called the White Board. I can not only put families together, I can put churches together, I put synagogues or mosques together. The opportunity to do better than they are doing now in a beautiful residential neighborhood on a golf course, which is unlike most cemeteries in Broward, has these folks very excited. That is a rambling answer but from a numbers standpoint, I think I agree that our at-need might be disproportionate to how these numbers will go. As we started putting the model together we said okay. From a guy coming outside the Industry, my first instinct was the only people who buy this product are people who have just passed away or their families. Then I learned about preneed sales and I said wait a minute. I think I want to keep this property. I do not want to sell it. I think I want to keep this. That is what lead me to apply for the license rather than to sell it to someone else. The original assumption in the

original model was I think in early years was going to be 60% at-need 40% preneed and then as we grew the at-need would grow. I think in early years preneed will be a bigger percentage but I think it is going to be a bigger number than what I have. So while at-need may be smaller and I think the preneed is going to be larger. I can jimmy with the numbers but I think we are going to end up pretty much near the same place. Look at years three (3), four (4) and five (5) when I hope this thing is hitting it's stride, as you say it takes a while to get going. I look at flash reports that the people I am going to bring on currently employ in their day to day life and they are doing better than this. Their cemeteries are doing better than this. We will get there eventually. I am confident that given our location, the product that we will have, the places we will be at we can compete with everybody in the market and are confident that we will be in this neighborhood whether the mix is the same as we modeled out, who knows.

Mr. Knopke – My concern is if you, coming from your golf course background, which is different obviously than cemeteries, are committed with the staying power to ride those rough years if they go past one (1), two (2), three (3) or four (4) because if you go south on it, it becomes a problem for the Board and the consumers.

Mr. Little – Understood and that is a valid concern. Believe me. I told some Board members last night that I am phasing out of the golf business now because I think this is not just a better business. I think this is an intergenerational business. I think this is something that my children and their children can make a living off of. As far as the current mix of the current investors goes, while we have not gotten financial statements from each of my thirty-five (35) investors who are in the original portfolio that invested in this as a golf course, I can tell you that those thirty-five (35) are largely Fortune 500 CEOs, retired CEOs and if we get to the point where we need a few extra bucks to keep it going a few years, access to more capital is not going to be a problem. Even the principals myself, Larry, Mr. Gaines who we describe in here, have the resources that if we ran out of working capital could keep this going for a few years.

Mr. Knopke – Is Mr. Nikola an owner in this business?

Mr. Little – Memorial Properties will own a 10% portion of the business.

Mr. Knopke – Mr. Chairman I do not mean to take up all the time questioning but may I continue?

Chair – Yes.

Mr. Knopke – Under the “Financial Highlights” in your package, Page 8, here I am looking for just an understanding of what has been written more than anything else. It reads, “With 140,000 interment spaces, a funeral home (to be developed) with crematory, ossuary space (in a putting green and in a traditional cremation garden), plus a pet cemetery FMG will have multiple revenue centers. All told, FMG will generate in excess of \$1 billion in revenues over its lifetime...” Back up to the 140k interment spaces. Are we talking about, and if I remember correctly, correct me if I am wrong, the site is thirty-three (33) acres?

Mr. Little – The site is forty-seven (47) acres. Of that forty-seven (47) acres the only part that cannot be developed per our agreement with our neighbors and the City is a hundred foot buffer all the way around the perimeter, so that leaves us the better part of forty (40) acres to develop. Then within the forty (40) acres, if you have seen the site plan, this is a very mausoleum centric design and we did it that way for a couple of reasons. First because Memorial Properties specializes in that, the specific capacity you can obtain by going vertical. It will extend the life of this. The second reason that we crammed in as many mausoleums as we could is that part of my negotiation with the City was to donate have my land, the back nine if you will, to the City for a park. They were very cooperative during the approval process because that was a coup for the City but City Governments change and if five (5) years from now if I had started with a plot centric design and determined that the market wanted more crypt space and went back in five (5) years and asked to go vertical, I would rather do it the other way around. I would rather have too many crypts and if the market wants to be buried I would go back to the City and say you know we are going to take one building out and put more plots in. Using Larry’s designs, an acre of mausoleum yields about 6k crypts, a two-story and for every crypt he typically gets a niche. So an acre gives him 6k crypts and it also gives him 6k niches. Having said all of that the buildings that are laid out here, the architect went building by building and said this is how many crypts you will get and it adds up to 70k crypts. We made the assumption that we would get a niche with every crypt so 70k and 70k is 140k and that leaves us about twenty (20) acres of land at 1000 plots per acre. Whether we put that many in

or not remains to be seen but in round numbers 70k, 70k and 20k is 160k. If we went strictly plots, it would be in the 40k plot range.

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

13. Application(s) for Cinerator Facility
A. Recommended for Approval without Conditions
(1) Florida Family Cremations Inc (Clearwater)

Mr. Shropshire – An application for a Cinerator Facility was received on February 3, 2015. The application was incomplete when submitted. All deficient items were returned on March 12, 2015. The Funeral Director in Charge will be Kathleen Miller (F081995). The fingerprint cards for all principals were returned with no criminal history. The establishment is recommended for 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. Mr. Hall seconded the motion, which passed unanimously.

14. Application(s) for Direct Disposal Establishment
A. Recommended for Approval with Conditions
(1) Florida Family Cremations Inc (Clearwater)

Mr. Shropshire – An application for a Direct Disposal Establishment was received on February 3, 2015. The application was incomplete when submitted. All deficient items were returned on March 12, 2015. The Funeral Director in Charge will be Kathleen Miller (F081995). The fingerprint cards for all principals were returned with no criminal history. The establishment is recommended for 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. Ms. Oliver seconded the motion, which passed unanimously.

15. Application(s) for Funeral Establishment
A. Recommended for Approval with Conditions
(1) Americare Funeral Services LLC d/b/a LifeSong (Quincy)

Mr. Shropshire – An application for a Funeral Establishment was received on February 11, 2015. The application was complete when submitted. The Funeral Director in Charge will be Tholley Taylor (F045468). The fingerprint cards for all principals were returned with no criminal history.

There is a current licensed establishment at this location; however this is a new license not a change of ownership. The old license, Bevis Holdings Inc (F040578) will be relinquished once the Board approves this application. The establishment is recommended for approval subject to the condition(s) as follows:

- 1) That the establishment passes an onsite inspection by a member of Division Staff.
- 2) That the old license for Bevis Holdings Inc (F040578) be relinquished.

MOTION: Mr. Clark moved to approve the application subject to the condition that the establishment passes an on-site inspection by a member of Division Staff and that the old license for Bevis Holdings Inc (F040578) is relinquished. Mr. Hall seconded the motion, which passed unanimously.

(2) Gallaher Services of Florida Inc (Ft Myers)

Mr. Shropshire – The application has been withdrawn from the Agenda by the Division for further inquiry.

(3) Serenity Funeral Home & Cremation LLC d/b/a Serenity Memorial Chapel (Margate)

Mr. Shropshire – An application for a Funeral Establishment was received on January 26, 2015. The application was complete when submitted. The Funeral Director in Charge will be Keila Cruet (F052106). The fingerprint cards for all principals were returned with criminal history for Keila Cruet:

- In June 2010, Ms Cruet pled no contest to driving with suspended license. She was fined \$583 and placed on probation for six months.

The establishment is recommended for 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. Mr. Helm seconded the motion, which passed unanimously.

B. *Recommended for Approval without Conditions*
(1) *R Butts Inc d/b/a Pahokee Memorial Chapel (Pahokee)*

Mr. Shropshire – An application for a Funeral Establishment was received on February 10, 2015. The application was incomplete when submitted. All deficient items were received March 16, 2015. The Funeral Director in Charge will be Cedric Cosby (F045179). The fingerprint cards for all principals were returned with no criminal history. The establishment passed its inspection on March 18, 2015. The establishment is recommended for approval without conditions.

Mr. Helm – Is West Palm Beach within seventy-five (75) miles of Pahokee?

Mr. Barnhart – Yes.

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

16. *Application(s) for Monument Establishment Sales Agent*
A. *Informational Item (Licenses Issued without Conditions) – Addendum H*

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

17. *Application(s) for Removal Facility*
A. *Recommended for Approval with Conditions*
(1) *Lisa L Kelson d/b/a L&L First Call (Orlando)*

Mr. Shropshire – An application for a Removal Facility was received on February 26, 2015. The application was complete when submitted. The fingerprint cards for all principals were returned with no criminal history. The establishment is recommended for 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. Ms. Oliver seconded the motion, which passed unanimously.

18. *Contract(s) or Other Related Form(s)*
A. *Preneed Sales Agreement(s)*
(1) *Recommended for Approval with Conditions*
(a) *Homesteaders Life Company (West Des Moines, IA)*

Mr. Shropshire – Homesteaders Life Company (Homesteaders) submits the attached preneed sales agreement forms for approval: Statement of Funeral Merchandise and Funeral Services Guaranteed Preneed Funeral Agreement (Form P501-FL) and Statement of Funeral Merchandise and Funeral Services Non-Guaranteed Preneed Funeral Agreement (Form P503-FL). If the forms are approved, they are to be used for the sale of insurance-funded preneed by various licensed preneed entities.

The agreement is recommended for approval subject to the condition that two full sized print-ready copies of each contract are received by the Department within 60 days of this Board meeting.

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

19. Executive Director’s Report
A. Rulemaking Cleanup Project (Informational)

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

B. Background on Defunct Preneed Seller – Cunningham Funeral Home (Informational)

Mr. Shropshire – You will see in the CPTF claims for this month, some claims regarding Cunningham Funeral Home. Attached is some background on this defunct seller, who sold these preneed contracts without a preneed license.

Mr. Mueller – I apologize for being out of the room when we addressed the Consumer Protection Trust claims. I know this came up in the past, but did we agree that we were going to cover claims from people who were not licensed preneed sellers?

Mr. Shropshire – They do not need to be licensed as preneed sellers. By statute they just have to been licensed in some capacity under Chapter 497, F.S.

Mr. Jones – Is there a way to go back and try to recoup any of this by any legal action?

Mr. Shropshire – We always do consider that. I think we say that we cannot find the Cunningham’s. They have disappeared. We could not even serve them when we tried to revoke their license.

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

Monthly Report of Fine and Costs Assessed and Paid
 Division of Funeral, Cemetery and Consumer Services
 April 2, 2015 Board Meeting
 Date of Report: March 23, 2015

Licensee	Board Meeting	Case No.	Total Fine & Cost Due	Date Due	Paid in Full?	Comments
Cemetery Professionals, LLC dba Beaches Memorial Gardens and Cemetery Professionals, LLC dba Beaches Memorial Park	Jun-12	110156-10-FC & 110157-10-FC	\$5,250 \$5,000 38,859.57	9/6/2012 12/7/2012 35 mo pymts	YES YES Status Pending	Licensee monthly restitution payments are current.
Carriage Florida Holdings, Inc., d/b/a Forest Lawn Memorial Cemetery	Feb-15	159822-14-FC	\$2,250	3/25/2015	Yes	
Carriage Florida Holdings, Inc., d/b/a Evergreen Memorial Park	Feb-15	159824-14-FC	\$2,250	3/25/2015	Yes	
Carriage Florida Holdings, Inc., Garden of Memories	Feb-15	159820-14-FC	\$2,250	3/25/2015	Yes	
Rick Groover	Feb-15	162136-14-fc	\$1,000	3/25/2015	Yes	
SCI Funeral Services of Florida, Inc. Groover Funeral Home at Mansion Memorial Park	Feb-15	162135-14-FC	\$1,000	3/18/2015	Yes	
Daniel A. Newsome d/b/a Gravesites L.L.C.	Feb-15	147250-14-FC	\$2500 fine/ \$4,850 restitution	3/19/2015	No payments made. Intending on submitting request to Legal for action	

Buy and Sell Cemetery	Dec-14	154941-14-FC	\$62.50 \$62.50 \$62.50 \$62.50 \$62.50 \$62.50 \$62.50 \$62.50 \$62.50 \$62.50	\$62.50 Initial payment/ \$62.50 First installment payment (paid)	On time	
Jay Monument & Vault a/k/a Jay Monument & Vault Inc.	Oct-14	153256-14-FC	\$5000 and 13 years of renewal fees	11/24/2014	No/Legal to take action	No license.
Janorise Stone	Nov-14	144432-13-FC	\$1,500	12/25/2014	No+	
Rogers Funeral Home	Dec-14	150303-14-FC	\$3,000	January 23, 2015	No.	Legal action pending
Delvis Rogers	Dec-14	150301-14-FC	\$3,500	January 23, 2015	No	Legal Action pending
<p>A. When payment in full becomes past due, the FCCS Division works with the DFS Legal Division to enforce payment.</p> <p>B. Once fines and costs are paid in full, licensee kept on this report 3 months, showing Paid in Full, and then dropped off report; also licensee dropped off report after disciplinary action filed due to nonpayment of the fine and costs.</p> <p>C. The Order re this case is still in process, so no Due date is not yet established.</p> <p>D. Due date has not passed, as of the date of this report.</p> <p>E. As of the date of this report, monthly payments were current.</p>						

20. Chairman's Report (Oral)

Chair – I would like to call upon Ken Jones.

Mr. Jones – If I may, just two (2) quick informational items. One (1) is the Department of Health, Bureau of Vital Statistics runs a seven (7) day a week Help Desk. We are looking to terminate the Sunday Help Desk that funeral directors, hospitals, everyone uses on May 3rd, the first Sunday. If you have users that are coming in part-time or on the weekend we ask that they test their access because that is the largest thing that we have calls for. Make sure they check that on Saturday as we will not be there on Sunday. We are averaging one (1) call per hour. It worked when we first started our EDRS system. Second item, we want to give a quick update for a module we are doing for fetal deaths. We are looking at automating that based on your requests and how to move forward with that. Mr. Hall has been on me for a year to make that happen. Ms. Dover, would you give an update?

Chair – Please state your name for the record.

Ms. Sharon Dover – I am Sharon Dover with the Bureau of Vital Statistics. What we are doing right now is making an initiative for automating fetal death registration. We are going to look at two (2) processes at the onset. The first one (1) is if the hospital starts the fetal death record, which happens about 50% of the time from a survey we have done, and for the funeral director there is not going to be basically any change. If the hospital starts the fetal death record they get that to you. What changes is that instead of you sending it to us you would key it into the system. The funeral director, the user would key the fetal death information into the system, demographic as well as medical and then you would fax us that paper copy that the hospital has sent to you. We would scan it and attach it and it would become a part of the original image in the system. Then we can issue from the image. We can issue from the database. With fetal(s) it is very little that we do issuance anyway. We are thinking this would save a lot of time for the funeral director. That is one process. If the funeral director starts the fetal death record, again that is about half the time. Then you go into eVitals and key in the demographic information. You can print the permit again just like you do now for the death record but you would print a fax at a station, similar to what you do for the death record, certify your fax at a station and that would go to wherever the certifier happens to be but you would also print out the hospital medical worksheet. That would also be faxed to whoever is the one that is going

to have that information for you. Those are sent to the hospital. The hospital gets the doctor to sign, completes the medical information on the medical worksheet, faxes it back to you, it is keyed into the system, you fax us only that certifier at a station. We do not need the medical information. That can be shredded. Again, we scan that and attach it to the original record. Right now it is just a very basic process. This is where we wanted to start. We have been talking about this like Ken said for a long time. We wanted to get started and we think this is a good beginning for us.

Mr. Jones – We are looking at 1700 fetal deaths a year. We are looking at piloting this. We will pick some funeral homes and establishments to help us to make sure it is working to get your feedback as to what your recommendations are. I will improve it once we get and once it seems like it is going smooth just like we do with our others, working with our users as partners, then we will look at rolling it out.

Ms. Dover – We are looking hopefully to pilot sometime during the summer.

Mr. Jones – Any questions? We just wanted to give you an update while we were together. Thank you for the time Mr. Chair.

Chair – Good report! From the Industry’s perspective it is well needed. Thank you for your work on that. I think it is the appropriate time to recognize again our Bureau of Vital Statistics in what they have done in the EDRS system and how it has positively affected the Industry. Ms. Dover, thank you so much for your work on that. Mr. Jones, thank you for spearheading that. It was a passionate cause for you and it was so evident sitting on the Committee with you to help get this started. You all were a wonderful, wonderful driving force behind that. It has really helped the Industry. Thank you.

Mr. Jones – Thank you.

Mr. Hall – Mr. Shropshire, are we able to determine where we are in this process on the Vista program? Are we able to ask the Department where we are at or how we are progressing or what timeframe we expect on that?

Mr. Shropshire – I would be glad to respond to that. The case is a disciplinary case in our Legal Department and is assigned to Mr. Rivers who is here. I wonder if perhaps some Board members ever thought that maybe that case would disappear and never get back here again. I can promise you, as long as I am in the Executive Director’s position that it will absolutely come back to you. You will get your say and your vote on it. As a matter though, the Legal Department has a lot of cases on their plate and they prioritize them. We do not have any consumer complaints at all about Vista. We have other actions where we have people getting ripped off currently. They prioritize. It will come back to you. It is being prosecuted. It will come back to you at some point and you will have your say on it. So if that is a fear that you are thinking that this case is going to go away or disappear that is not going to happen.

Mr. Hall – I think there is a fear in the Industry, when you are contacted from people in the Industry that is their fear. What is happening? This has been going on for a long time. When you go to them and say there have been no consumer complaints, the comment of course is a legitimate comment, but just because there have been no complaints it does not mean there was no crime committed or they did not violate the statutes. That is where the concern is coming from in the Industry and to make sure it is dealt with on the Board level. So, I did not know if we knew any kind of timeframe or anything.

Mr. Shropshire – I am guessing six (6) months. Mr. Rivers is nodding his head “yes.”

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

Mr. Barnhart – Every two (2) years there is a biennial review of rules and I will get with Mr. Shropshire and Ms. Simon about that. July 1st every two (2) years and it is coming up this year, there will be a report called the Annual Regulatory Plan that will be prepared for the Governor’s Office and it is supposed to show like a blueprint of where the Board may want to go the next fiscal year regarding rules; new rules, repealed rules and any need for existing rules to be amended. I will get with Mr. Shropshire and Ms. Simon about that. For the most part I think the Board staff does just about all of the rule developments and rule promulgations. This is sort of an unusual Board for me because I am usually doing all of that but I think in this case the Board staff does just about all of that. So that will be coming to you at a later date. It is just to give the Governor’s Office an idea of where we might be going in the next year regarding the need for rules and rule amendments.

Chair – Again, I continue to commend the Board. We have a great Board here. You do hard work, a lot of work. We always say we pray for the Wisdom of Solomon but that does not mean we are always granted the Wisdom of Solomon but I really admire and appreciate this Board. Thank you.

22. Administrative Report

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

23. Disciplinary Report

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

24. Upcoming Meeting(s)

- A. *April 30th (Teleconference)*
- B. *June 4th (Teleconference)*
- C. *June 25th (Tallahassee)*
- D. *July 9th (Teleconference)*

25. Adjournment

The meeting was adjourned at 12:07 p.m.