

MINUTES
BOARD OF FUNERAL, CEMETERY AND CONSUMER SERVICES
April 7, 2016 - 10:00 A.M.
Doubletree by Hilton Jacksonville Airport
2101 Dixie Clipper Drive
Jacksonville FL 32218

1. Call to Order, Preliminary Remarks and Roll Call

Mr. Jody Brandenburg, Chair called the meeting to order at 10:00 am. I would like to recognize some special guests that we have here. First is Robert Dean who is the Faculty Director and Professor at Florida State College Jacksonville Funeral Services Program. He has with him today some of his students. These are the future of funeral service and we're glad that you're in the program and wish you all the best in your endeavors and in your future and in your profession, so please stand. Mr. Dean, would you want to say something?

Mr. Robert Dean – It's good to be here, Mr. Chairman.

Chair – Thank you for coming. We appreciate you.

Mr. Dean – Thanks for having us.

Chair - Mr. Shropshire, will you make your preliminary remarks please and the roll call?

Mr. Doug Shropshire – Yes sir. My name is Doug Shropshire. I am Director of the Division of Funeral, Cemetery, and Consumer Services. Today is April 7, 2016; the time is approximately 10:00am. This is a public meeting of the Board of Funeral, Cemetery and Consumer Services. Notice of this meeting has been duly published in the Florida Administrative Register. An agenda for this meeting has been made available to interested persons. The meeting is occurring at the DoubleTree Hotel at the airport 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. Please do not speak over one another.

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

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

ABSENT:

Francisco "Frank" Bango
James "Jim" Davis

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

Chair – Ms. Anderson, we're glad you're here. We're proud of your reappointment by the Governor. Mr. Helm congratulations on your reappointment. Mr. Clark congratulations on your reappointment. I'd also like to mention that those

approaching the podium and speaking from the podium, the sound system is such today that you must press the button when speaking and hold that button down. If there is any inconvenience, I apologize but that's the way the system is setup today.

Also noted as present:

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

2. Action on the Minutes

A. March 3, 2016

Chair – The first agenda item is the March 3, 2016 minutes.

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

3. Old Business

A. Proposed Settlement of Denial of Application

(1) Gallaher Services Inc. d/b/a Mortuary Services of Florida (Georgina Ronick) (Ft Myers)

Mr. Shropshire – This relates to an application for funeral establishment licensure for approval of change of ownership rather of a funeral establishment; the proposed new owner being Gallaher Services, Inc. d/b/a Mortuary Services of Florida; principal being Georgina Ronick; the name of the current owner being Gallaher Services, Inc. d/b/a Mortuary Services of Florida (F071577); the principal being John Gallaher.

This matter came before the Board previously by application dated April 16, 2015, signed by Georgina G. Ronick (hereinafter "Ronick"), which application was received by the FCCS Division on or about May 21, 2015, Ronick applied for approval by this Board of her acquisition of ownership of a funeral establishment located at 13720 JetPort Commerce Parkway, Suite 1, Fort Myers, FL 33913. At the time of said application, and currently, the said funeral establishment was licensed to Gallaher Services Inc. The application came before the Board at the Board's meeting on August 6, 2015. The materials presented to the Board at that meeting, regarding this matter, are attached and provided to the Board here today. The Board voted to deny said application. The minutes of said Board meeting as relates to this matter, are also provided again to the Board here today. In accordance with Chapter 120, Florida Statutes (Administrative Procedures Act), a Notice of Intent to Deny the application was prepared and filed by the Division on August 18, 2015, and sent to Ronick and Ronick's attorney. At the time Ms. Ronick was represented by attorney Wendy Wiener, however, she is now represented by attorney John Rudolph.

On September 10, 2015 the Division received from Ronick a timely Request for Formal Hearing, regarding said Notice of Intent to Deny. A copy of said Request for Formal Hearing, with its attachments, is attached and provided to you today. By Referral for Hearing dated October 6, 2015, signed by attorney Tom Barnhart representing the Board in this matter, the matter was referred to the Division of Administrative Hearings. As is customary regarding license application denials, any litigation regarding the denial of the application is handled by the Dept. of Legal Affairs, more specifically in this matter, Mr. Barnhart. By pleading dated October 15, 2015, Mr. Barnhart suggested to the Division of Administrative Hearings that the hearing be held in Fort Myers. In November 2015 Ms. Ronick, through her attorney John Rudolph, proposed a settlement of the proposed denial, to Mr. Barnhart. A proposed settlement was thereafter prepared and executed. Mr. Rudolph signed the proposed settlement for his client, Ronick; his signature is dated November 20, 2015. The proposed settlement was thereafter forwarded to the Division where myself, as Division Director, signed the proposed settlement on November 23, 2015. The Notice of Intent to Deny is back before this Board upon the said proposed settlement today. The Division has reserved its recommendation in this matter, in order to hear and evaluate Ms. Ronick and her presentation at this Board meeting.

Chair – Thank you.

Mr. John Rudolph – Members of the Board, my name is John Rudolph. I'm representing my client, Georgina Ronick, who is here today. Would you like to swear in the witness?

Chair – Thank you.

Mr. Shropshire – Yes. Would you raise your right hand ma'am? 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?

Ms. Ronick – I do.

Mr. Shropshire – Please state your full name.

Ms. Ronick – Georgina Ronick.

Mr. Shropshire – Thank you ma'am.

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

Mr. Rudolph – Yes I would. As you well know, there are a number of settlement stipulations, oh...

Mr. Powell Helm – You have to hold it.

Mr. Rudolph – As you well know, there are a number of settlement stipulations that have come before the Board where the parties do not admit or deny and the settlement stipulation that Georgina Ronick signed on February 17, as a vice president, and that Mr. Gallaher signed as retired on that date, show that she did not take ownership of that funeral home until February 20 when she changed the um, changed it on the corporate records. Furthermore, she never signed ninety (90) preneed contracts. As a matter of fact, the person who signed ninety (90) preneed contracts was, well, she did sign, there were eighteen (18) that she signed and we have agreed to that but she never took any money. When she first came to Gallaher Funeral Home she was picking up cremated remains of a friend who had prearranged with Gallaher. When she went to the door, and to pick it up, she asked Mr. Gallaher, Mr. Gallaher can I, uh do you have a job? I'm looking for a job. She was writing for, who were you writing for?

Ms. Ronick – Uh, I was working for NorthStar Group at the time.

Mr. Rudolph – And when she asked that question, what did he tell you?

Ms. Ronick – He said when would you like to start? We'll make lots of money.

Mr. Rudolph – So, she said she was a preneed license. He told her that she would make a lot of money. She was still working for NorthStar...

Ms. Ronick – Right.

Mr. Rudolph – ...during that time, and came in?

Ms. Ronick – One (1) day a week.

Mr. Rudolph – One (1) day a week. Many of those preneed contracts were written before she came there. They were written by a woman named Cathy Miller who I filed a complaint against. They were not written by Georgina Ronick. As a matter of fact, after John, after that settlement stip came through, she paid the fine, out of her own funds, for herself and the funeral home. And she paid back all those people who had had preneed contracts because John Gallaher and Ms. Miller wrote preneed contracts, took cash and then used it for their own purposes. Georgina Ronick has been basically, when she found out she had breast cancer, which was on February 10, she became extremely anxious. My client raises a fifteen year old, 6'2,

285 pound mentally handicap grandson. He can't speak. She takes care of dogs that people have brought to the funeral home after somebody has died and she puts them in her house. She has been a single mom since, when?

Ms. Ronick – 1980

Mr. Rudolph – 1980, raising two (2) daughters. Georgina Ronick not only didn't sign that, she did not sign an at-, she did not meet with an at-need family. She met with an at-need family. A woman came in. She was looking for a funeral director. She took his phone number and address, phone number and name, gave it to John Gallaher who called her. John Gallaher has raised a number of complaints against my client that are false. He never, she never did any of those things. She has the change of ownership after she had this issue about the, she was concerned about her grandson, she started having chemotherapy; not only radiation but chemo, at the same time, as a preparation. During that time she had seven (7) small strokes. When she sent in her first application, it was on the 20th of April.

Ms. Ronick – Yeah.

Mr. Rudolph – It was the 20th of April. She did it from her hospital bed and she didn't know how to fill it all the way out so she did the best she could. She had her godson who happened to be a friend of hers in Tallahassee that she cared for when she was going through cancer and her godson was there to be with her. And she, he filled it out for her because she couldn't do it. She was, she could not physically or mentally fill it out. So when she filled it out and got it back in May, she filled it out as best she could and returned the other page. Now since basically January, because when Gallaher delivered the letter on January 29, he left the funeral home. He didn't come back. They had five (5) families that were coming in that day. She had to find a funeral director that would agree to come and handle those five (5) families. She was struggling with whether she should keep that funeral home, but she kept seeing these people. These people that are that she sees are people who can't afford a traditional funeral. People who can't afford to pay a lot for a cremation. She didn't take a salary from that funeral home until February of this year. She took \$600 and that's because she was paying back all the debts that John Gallaher left at that funeral home.

Ms. Ronick - \$50,000 worth.

Mr. Rudolph - \$50,000 worth. I'm telling you that it is my opinion as a lawyer in this industry that this woman serves a part of the population that can't be served. She, the funeral directors meet with all the families, but she makes decisions on what the people are going to be paid. She told me about a woman who had been married to a man for, how many years that died?

Ms. Ronick – I don't remember.

Mr. Rudolph – There was a man that came to her in January of this year that her husband had died and she had to go borrow the money for the cremation. And she was an older woman and she came in and she says now I can pay for the cremation and Georgina Ronick told the woman you use that money and grieve your husband. I'll do it for free. And she did the cremation for free. Georgina Ronick is in my opinion like I say a person who deserves a funeral home. When she came here in August, she was still going undergoing treatment for cancer. She cancelled the treatment for her cancer when she came here. She couldn't understand many of the questions and Keenan you asked a question that wasn't on the minutes, which is why I got a court reporter. You asked if you didn't do these things why did you sign the stipulation. She signed the stipulation because she wanted to keep the funeral home alive. She signed the stipulation that we filed with this Division because she wants to serve those people. The one thing I can't understand about the stipulation, with John Gallaher and all that he's done; he is stalking her; he is calling her daughters; he is raising all kind of issues with with her; filing complaints against the Division, with the Division against her, which are all false, and it is. If you have any other questions please ask me or ask her.

Chair – Thank you. Board members any questions, comments, motions?

Mr. Lew Hall – I have one question, Mr. Chair. First of all I just say to you is my wife is a twenty year cancer patient. You can beat this. So I wish you a lot of luck in that area. The fact that you've had seven (7) strokes after that, too, and everything that we've studied in our journey with my wife says the less stress and stuff you can have the better for your health. The strokes add to that. My concern is and I think that when the Board looked at this before, our concern was when you were managing it for Mr. Gallaher and when you were doing it after in his absence after he left, some of the things that happened we were

concerned about your knowledge of what needed to happen in the business and the establishment concerned us and was there a public threat or what might happen to public in concern for them, okay. I don't see anything here today in what we're looking at that has changed any of that other than the fact that you're saying I will pay for his fine that he had that he generated. And I hope we continue to make our decisions based on the facts and not what remuneration we get back to the Division in fines. Now, the fact that you have had these additional strokes and had these additional health issues, is there something you can share with me or the Board that gives me comfort in knowing that you understand the process of the establishment and what your requirements are back to the Division and that type of thing that would tell me, that could comfort me to say the public's going to be well taken care of here?

Ms. Ronick – Yeah.

Mr. Hall – She understands what her requirements are.

Ms. Ronick – Yes. I'm in remission, thankfully.

Chair – Please press the uh, microphone button. I'm sorry...

Mr. Rudolph – I'll press it for you.

Ms. Ronick – I'm in remission currently. Um, I'm feeling very good. Thank you for your good wishes. And, um every other night I spend about two (2) hours reading the statutes to educate myself because I ultimately am the person that's going to be fined, is responsible and I want to make sure that everything is done properly. That's one of the reasons Mr. Gallaher and I had conflict because once my name went on the business I was more apt to make sure things ran legally. Um, I have two (2) funeral directors that uh I use that I'm very, very comfortable with. I have a lot of faith in them. One (1) is a young girl, one (1) is an elderly gentleman that's been in the business for forty-five (45) years and he's our source of uh, when we don't have the statutes in front of us, he's our source of answering questions. So I'm quite confident in the fact that I'm on top of everything and uh, I educate myself with the reading the statutes every other night and I have two (2) funeral directors that really know what they're doing. So I hope that answers your question.

Mr. Hall – Which of the funeral directors is your FD in charge?

Ms. Ronick – Her name is Jodi Schefers.

Mr. Hall – The younger girl?

Ms. Ronick – Yeah, she's in her forties.

Mr. Hall – If something were to happen and you need, and again I don't want to discourage you, but through the twenty (20) years my wife has found that there's other procedures and things that we may do through the years, in your absence, who do you have confidence in that's going to continue to take care of the public and see to their needs?

Ms. Ronick – I have an additional funeral director named Richard Mengeling who comes in when I'm unable to be there. He's there now so that we have that additional backup and he's a very experienced funeral director that knows the funeral industry.

Mr. Rudolph – And you have Judy.

Ms. Ronick – And I have Judy Marcotullio who's um, my, she's an intern. So yeah I have a very good staff that I'm very confident if I had to be hospitalized again and I always did, I'm always in touch. I'm always by phone in touch. I'm considered a bit of a helicopter owner and that's because I'm ultimately responsible for everything so I hope that answers your question.

Mr. Rudolph – One thing I got to tell you that she was not managing it when all this was going on and I don't know how you hold a manager responsible because if a manager was responsible for everything that happened in a funeral home, who's just

a preneed licensee, then every manager in every funeral home whoever they are, even though they're not the FDIC would be responsible and I've never seen that happen under Florida law. I understand that when she was managing that you have questions. Well she's been managing it for over a year. There hasn't been a single complaint against her that has been sustained and I know that um, Chris, the, what's Chris' last name?

Mr. Shropshire – McMurray.

Mr. Rudolph – McMurray called me and wanted to know about the complaints and I told him about the complaints and American, Gallaher's American Family Funeral Home had as their FDIC John Gallaher's wife who is in a nursing home in New York City for a long time and is would move to a nursing home in St. Pete and cannot make any decisions. And John Riczo who is a, what is he? John Riczo is a removal guy, got a removal license. He filed an LLC in the name of that company back in June and no application was filed. So I guess Chris went out there and talked to him. And I'm telling you the person who did everything in this, and I'm saying this with a straight face, was John Gallaher and not Georgina Ronick. She tried to get it straightened out and she's not saying paying a fine to the Division is going to solve this issue. She has shown that she can run this funeral home and do it in the right way and I think if she is given this application, if she is given this opportunity, under the stipulation, you have that you want her to write you letters certifying that everything is being done in accordance. That she's not making at-need sales. That's she's not doing all these violations. She'll sign them and I guarantee you she wouldn't violate the laws. And I hope that gives you some, some confidence.

Mr. Hall – I have no doubt in, for her compassion for her families in caring for them. I just have concerns in her understanding of what's required of her. And some of the individuals you mentioned are retired people, again, who I think have had some health issues themselves so then again that concerns me. Are they um, do they got their finger on the button as you say? As you as the owner, you live it, sleep it 24/7. I mean your mind's on it when you're away from it, etc. That's a good owner, okay, but some of the people that you're mentioning to me that are in place for you there are retired individuals, that's retired from other places and have had some issues themselves so now I question my concern again for the public. It's not that I think that you don't have the compassion to show to the families or care for them but do you have the ability and people in place to do it if you're out.

Ms. Ronick – Well, American Gallaher Family is a different funeral home than Gallaher Services Inc.

Mr. Rudolph – And he's talking about the funeral director the older funeral director.

Ms. Ronick – Oh, my older funeral director?

Mr. Rudolph – Yeah.

Ms. Ronick – Oh, I see. Well he's very knowledgeable and he's very sharp. You know, he's, uh I don't know what you mean by older. I just turned sixty-four. I don't feel old.

Mr. Hall – I don't mean it that way. What I was just trying to differentiate between is your younger director that you referred to and the older gentleman. I mean I just know him. I know there's been some issues in the past with health, I think with him too.

Ms. Ronick – Oh, Mr. Mengeling?

Mr. Hall – And so, so my concern is as we all get older, and I'm including myself in that, the mind's not quite as sharp as it used to be. I'm feeling that and so to stay on top of things the way they need to be you know watched after if your, in your absence because in the testimony originally it was well when Mr. Gallaher left, I took over and I was trying and I think you were trying to right the ship but still there were some issues. And you had mentioned that he hadn't been there for some time at the time you took over and was trying to get it straightened out.

Ms. Ronick – Right.

Mr. Rudolph – I think when she was saying it's for some time that was from January 29th when he left. And she's, I mean...

Ms. Ronick – I'm there every day.

Mr. Rudolph – I believe, I believe that the stipulation that I signed on her behalf gives the Division a lot of things that they could do if she does anything wrong. And I believe that under the circumstances that signing that she's entitled to have this funeral establishment license issued to her because even though there was, I think there was a valid justification for why she didn't get her application in on time and I really do feel that way. And she had those seven (7) small infarctions in her brain, but that was a long time ago.

Chair – Ms. Ronick?

Ms. Ronick – Yes?

Chair – On days like today when you're not there and you're traveling, or you're out for health reasons, who is writing preneed there?

Ms. Ronick – We don't have a prearrangement license. We don't write preneed.

Chair – That's the right answer. Thank you.

Ms. Ronick – Yeah. Oh, never again.

Chair – Mr. Shropshire?

Mr. Shropshire – Uh yes, tell me again who is the FDIC.

Ms. Ronick – Her name is Jodi Schefers.

Mr. Shropshire – And how old is she?

Ms. Ronick – Uh, forty-two.

Mr. Shropshire – Is she on salary from you?

Ms. Ronick – She's an independent contractor.

Mr. Shropshire – What are your hours at your funeral establishment?

Ms. Ronick – 9 'til 4.

Mr. Shropshire – Monday thru Friday?

Ms. Ronick – Yes, Monday thru Friday.

Mr. Shropshire – Is she, how much of that time is she there?

Ms. Ronick – She's there all of the time.

Mr. Shropshire – Um, is she there right now?

Ms. Ronick – She is.

Mr. Shropshire – Does she have any other employments that you know of?

Ms. Ronick – She does not.

Mr. Shropshire – Basically her only employment is at your agency?

Ms. Ronick – Correct.

Mr. Shropshire – Your establishment?

Ms. Ronick – Oh, I'm sorry, that's not true. She works on Sundays at uh an insurance place.

Mr. Shropshire – Do you um, how many cases did your establishment handle last month?

Ms. Ronick – Uh, thirty-four.

Mr. Shropshire – Is that average? Is that typical?

Ms. Ronick – Um, that's average. We've been doing forty-five and fifty-five, but last month we dropped to thirty-four.

Mr. Shropshire – Can you break that out roughly how many of those are funerals, cremations and uh...

Ms. Ronick – I would say 98% of them are cremations.

Mr. Shropshire – Who do you use for your cremations?

Ms. Ronick – ICS in Charlotte County.

Mr. Shropshire – Do you lease your premises or own?

Ms. Ronick – We do.

Mr. Shropshire – You lease your premises?

Ms. Ronick – Yes.

Mr. Shropshire – What kind of lease do you have?

Ms. Ronick – I have a two (2) year lease.

Mr. Shropshire – Two (2) years?

Ms. Ronick – Yes.

Mr. Shropshire – Is Mr., do you currently have any litigation pending from Mr. uh Gallaher?

Ms. Ronick – No but I'm about to because he's stalking me.

Mr. Rudolph – We're about to file a lawsuit against him and we're going to get all her damages.

Mr. Shropshire – Are you currently, are you current on all your uh trade bills?

Ms. Ronick – I don't owe anyone any money at all.

Mr. Rudolph – And, I tell you, I told her to quit paying me and she wouldn't.

Mr. Shropshire – Who is your medical waste provider?

Ms. Ronick – Um, Judy handles that. MedWaste.

Mr. Shropshire – When was the last time they picked up? Do you remember?

Ms. Ronick – Um, a couple of months?

Mr. Shropshire – I'm sorry, who's answering for you here?

Mr. Rudolph – Judy, come up here.

Ms. Ronick – Judy Marcotullio is the office manager now.

Mr. Shropshire – How long has she been employed there?

Ms. Ronick – Judy's been there since I've been there, which would have been January of 2014, but she worked for Mr. Gallaher prior to me coming on board, part-time.

Mr. Shropshire – Can, I should swear her in?

Chair – Are you going to ask her questions that she needs to respond to?

Mr. Shropshire – Yes sir, if it's okay.

Chair – Please.

Mr. Shropshire – Raise your right ma'am. 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?

Ms. Judy Marcotullio – I do.

Mr. Shropshire – Please state your full name.

Ms. Marcotullio – Uh, Judy Marcotullio.

Mr. Shropshire – And you used to work for Mr. Gallaher?

Ms. Marcotullio – I started with him part-time about, about almost four (4) years ago.

Mr. Shropshire – How many hours are you at the establishment?

Ms. Marcotullio – Oh, 9 – 4, Monday through Friday.

Mr. Shropshire – How many hours is the FDIC?

Ms. Marcotullio – The same.

Mr. Shropshire – The same?

Ms. Marcotullio – Umm hmm.

Mr. Shropshire – Do you have an opinion on Mr. Gallaher's handling of the establishment?

Ms. Marcotullio – It was a horrible situation. Um, the first year or so I only worked one (1) day a week and the first year was okay but after the second year he um, I started working a little bit more and um and he kind of changed and he got verbally abusive and violent and he walked out on us five (5) times within a year and always came back.

Mr. Shropshire – Do you have any, did you have any employment experience in the death care industry before starting with him?

Ms. Marcotullio – I worked for Hope Hospice and I worked at the houses. I admitted patients.

Mr. Shropshire – That’s all I have, Mr. Chairman.

Chair – Thank you. Any other questions or comments?

Mr. Andrew Clark – I have one (1) question. Um, what I think Lew was referring to earlier he and I, Ms. Ronick, uh Lew and I both I think had the same concern at the last meeting, which was there were decisions that were made, several decisions that I think we questioned your judgment.

Ms. Ronick – Right.

Mr. Clark – You referenced studying laws two (2) hours a night I believe, the statutes. Is there anything else that you can share about what’s changed since the last Board meeting because there’s concerns about the poor judgment?

Ms. Ronick – Right.

Mr. Clark – We were very serious last time. Is there anything else that’s beyond just reading the statutes?

Ms. Ronick – Well I think I mentioned in the last meeting that I was new to the industry. I do have a Bachelor’s Degree in business and so I prided myself in turning Mr. Gallaher’s train wreck of a funeral home around. I really have. I’ve increased the business three (3) times of the volume that was being done when I first came there so I think that...

Mr. Clark – Is that case count or are you talking about revenue? What do you mean when you say you’ve increased?

Ms. Ronick – Case count, yes. I think that I’m learning. I’m still learning. I think everyone learns the business every day and things change all the time and that’s why I’m studying and I’m reading up all the time.

Mr. Rudolph – What specifically were you concerned with that, about, what she handled?

Mr. Clark – Well we talked about the preneed. I think I asked a question at the last meeting about fulfilling preneeds and she said oh I’ll just do it for free. And then it may have been the...

Mr. Rudolph – Oh, well I can tell you she was confused at that last meeting.

Mr. Clark – Okay.

Mr. Rudolph – And that’s because she was undergoing chemo and radiation at the same time and she was there by herself. If I had been representing her I would told her not to say a lot of things because at that time I didn’t understand that she really had nothing to do with those things.

Mr. Clark – But based on what information we had at the time...

Mr. Rudolph – I understand. I understand.

Mr. Clark – Okay.

Mr. Rudolph – I perfectly understand. She was up here. She was trying to answer questions. Doug came up with something about an at-need thing and I think that startled her because she didn't know about that. That was something Gallaher said she'd done. That she had met with a at-need family and I think there was a letter written by Wendy that seemed to indicate that she took vital statistics but it was really, the only at-need family there was a woman who asked for a funeral and she had got his her phone and her name and gave it to John Gallaher who called her back. I think John Gallaher said she met with a family. She didn't. Now she did write, admittedly, she did write preneed contracts but she took no money from the families because she saw what was going on at the funeral home. They were stealing money. They had \$57 left in the account each month. John Gallaher was buying liquor and he and Cathy Miller would go into his office and get drunk together and Judy saw something that I can't even describe.

Chair – We have before us a disciplinary stipulation for licensure. Mr. Knopke?

Mr. Knopke – Excuse me Mr. Chairman. Just a couple of questions if you don't mind. The eighteen (18) preneed contracts that you just referenced, Mr. Rudolph, she wrote them. The families believed that they had prearrangements even though they didn't pass or give her money. Is that correct?

Mr. Rudolph – Well, there's only two (2) that were signed by people and one (1) that she signed.

Ms. Ronick – Right, they weren't. Could I explain that?

Mr. Rudolph – Yes.

Ms. Ronick – Um, I was working for NorthStar Group at the time and I had my license hung with NorthStar Group. I worked for Mr. Gallaher one (1) day a week. Those forms that I had families fill out that were requesting to prearrange were really just files I was stacking waiting on my license to be associated with his facility, okay. I kept asking him over months where, you know where is it because that's why I didn't leave my other job. Um, he said well you know the State. It takes forever. So that's why I didn't take money from people and I just really was gathering information so that when my license did get hung with him I could then follow up and call them and then take, write, go to their home or wherever and take the money, but then we had the complaint against us and at that point I discovered he didn't have a prearrangement license for his facility. So I immediately stopped altogether doing that and I said to him I guess I'm going to have to leave and he said no, I'd like to offer you the job as working in the office. You can help me you know straighten out the office, which was an absolute huge job. So that's why I switched positions at that point, but I was not, in my heart, prearranging even though it's illegal, that's illegal to do is to take any information at all, which I found out later. But that was not my intention.

Mr. Rudolph – And I got to tell you it was John Gallaher who kept telling her that he had a preneed license and that he was waiting for the State to...

Ms. Ronick – Change the license over to his.

Mr. Rudolph – Change her license over to his. And so he kept telling her that he had a preneed license, which is ridiculous.

Ms. Ronick – And he'd been doing it for two (2) years prior to me getting there. And the first time I met him, when I went to pick up remains, was for a lady friend of mine who had prearranged with him two (2) years before.

Mr. Knopke – On these alleged prearrangements...

Ms. Ronick – Yes?

Mr. Knopke – ...and cremations, how much information did you gather?

Ms. Ronick – I'm sorry?

Mr. Knopke – How much information did you gather form the consumer?

Ms. Ronick – It differed for each one. Sometimes I took the whole form filled out, sometimes I just took a name and an address. A couple of them I do have social security numbers on, but each one differed.

Mr. Rudolph – And they were all for a direct cremation.

Ms. Ronick – Right.

Mr. Knopke – When you say the whole form what does that mean?

Ms. Ronick – Well there's a form a vital statistics form that give you everyone's information. Some of them were filled out completely and some of them weren't filled out completely.

Mr. Knopke – Did you provide pricing?

Ms. Ronick – Um, yes I did.

Mr. Rudolph – Yeah, \$695.

Ms. Ronick – Yes.

Mr. Rudolph – Which is still the price.

Mr. Knopke – Did you discuss anything else as far as the pricing, what was included, what wasn't included, that type of thing?

Ms. Ronick – Um, if they asked me, yes, I probably would have.

Mr. Knopke – Would you, as a salesperson, would you classify those presentations as a sales presentation of some sort?

Ms. Ronick – Well, they were asking me to take their information. I told them I couldn't really take their money and I couldn't prearrange for them and they said well just take my information, when you get your license, call me and then we'll sign up and we'll give you the money. So they were, I made them fully aware of the fact that I wasn't able to really lock it in, in stone. That it wasn't a completed circle of a prearrangement. There was going to be another phase later when I would call them back and then they would come back in and finalize it. So no I didn't mislead them in that regard.

Mr. Knopke – Did your employer NorthStar know that you were working?

Ms. Ronick – Yes, they did. Yes.

Mr. Knopke – And they approved that? They were okay with that?

Ms. Ronick – Yeah, they knew. Yeah, they knew I had another job, another part-time job somewhere else, yes.

Mr. Knopke – A couple more questions real quick. John, you mentioned a January 29th letter.

Mr. Rudolph – Yep.

Mr. Knopke – Is that 2015? 2016? When is that?

Mr. Rudolph – That was for 2015 wasn't it?

Ms. Ronick – Umm hmm. I have it right here.

Mr. Rudolph – It was 2015, which is when he said I'm giving you the rest of the shares. Well, that's an offer. It's not an acceptance until she accepts those shares and she didn't accept them until late February.

Mr. Knopke – Do you still have a billboard on I-75?

Ms. Ronick – I do. Mr. Gallaher put that billboard up.

Mr. Knopke – You're still paying for it?

Ms. Ronick – Yes.

Mr. Knopke – That's all my questions. Thank you.

Chair – Thank you. At this point the Division has reserved, you'll notice on your coversheet Board members, the Division has reserved its recommendation. Mr. Shropshire would you like to address that?

Mr. Shropshire – Uh yes. Thank you Mr. Chairman. The um, well, the Division feels that certainly reasonable people could feel that Ms. Ronick has established a track record adequate for reason in which she should be denied approval on this change of ownership. The Division feels that there's no question that a large part of her problems stem from the person she was dealing with and his character and nature and activities and the Division feels that unbalanced the facts don't reach that critical mass that warrant a denial of the approval and we recommend approval subject to the terms of the settlement stipulation that's before the Board.

Chair – Is there a motion?

MOTION: Mr. Jones moved to approve the application with the conditions as Mr. Shropshire stated.

Chair – That motion is to accept the disciplinary stipulation for licensure?

Mr. Jones – Yes sir.

Chair – Is there a second? I second that motion. Any discussion? There's a motion.

Mr. Clark – If I can, Mr. Chairman?

Chair – Yes.

Mr. Clark – And I keep, I ask the same question and Mr. Rudolph kind of cut in, which is great, and clarified some things. Explain in a little more detail what's changed since that last Board meeting when you acknowledged these errors in judgment. It's beyond reading the statutes. What else?

Ms. Ronick – I feel, okay, I feel better. I have fought breast cancer and I have recovered. I am educating myself at home reading the statutes and the changes and I've also started to read the rules and regs. I'm on top of everything that happens in the funeral home and I run a very tight ship. I'm very concerned about everything being done the way it should be. So the change from the last time I was here to today is that I am not in a fog. I don't have chemo brain and I understand that it's very important to be clear on, on every aspect of running a funeral home. And even although I'm not a funeral director I need to educate myself in that regard and that's exactly what I'm doing.

Mr. Clark – Thank you Mr. Chairman.

Chair – You're welcome. There's been a motion made and it's been seconded and all those in favor aye? And those opposed? Um, I'd like a show of hands, all those in favor aye? One, two, three, four. And all those opposed? Four opposed. The motion does not carry. Um...

Ms. Ronick – So what does that mean?

Chair – So the disciplinary stipulation for licensure is in fact denied. Mr. Barnhart?

Mr. Barnhart – Mr. Chairman I believe it's in a position where with a tie vote we would go back into DOAH for a formal proceeding. I just wanted to see if there's a way we could break this tie and if it can't be broken then I have no problem going back into DOAH where we'd be setting up a formal proceeding to try and find out what the outcome of that would be, which I plan to do. I just wanted to point that out in case people were unclear about what would happen from this point. Um, Mr. Rudolph and I agreed earlier that if the stipulation was not accepted that we would re-file in DOAH and litigate the issue so I just wanted to make sure that everybody knew that, that that was the case at this point.

Mr. Jones – Would you explain DOAH so that everyone would understand, Tom?

Mr. Barnhart – Well DOAH is Division of Administrative Hearings, which assigns an administrative law judge to oversee any disputes of material fact. And the way this case started out is that it was a denial of course and then Mr. Rudolph filed a request for formal hearing, so that's when we sent it to DOAH to be assigned an administrative law judge to preside over the case. So we'd go back into DOAH if we couldn't get this resolved. We'd just go back into DOAH and litigate the issues and whatever happens there will, would come back to you in the form of a Recommended Order by the judge and then we would have to deal with that Recommended Order, but of course at that point you really don't know what you're going to get. It's kind of like a box of chocolates. You don't really know what you're going to get when you go for an administrative especially a formal administrative hearing, but I just wanted to advise the Board that that's what would happen from this point. I have no problem doing that. I just wanted everybody to know that that would be the procedure that we would take.

Mr. Jones – Thanks.

Mr. Rudolph – And, Board, I want you to know that I'm going to be filing the doctor's reports. I'm going to be filing those preneed contracts that were written. I'm going to be proving up that those preneed contracts were not written by her. I'm going to prove up that she did not have an at-need contract. I'm going to prove up that there were eighteen (18) contracts that she wrote and I'm going to prove that she was denied twice and I've got a court reporter here. And I got to make a mention of something. She is the lowest cost person out there. She has to drive, she has to go, almost drive eighty (80) miles to an embalming facility because no one in that area is letting her embalm and she has to go. It's within the seventy-five (75) mile radius. But there is a group of people that do not like her because she is the lowest cost provider. And this is something, you put her out of business, you put you close down this funeral home, you're taking away the one (1) entity out there that is serving an unserved group. But is there anything else that the Board could do to approve that at this meeting?

Mr. Knopke – Mr. Chairman, a question?

Chair – Yes?

Mr. Knopke – Would Mr. Shropshire be willing to, for the public as well as the Board members, since the file is deep, what the proposed settlement from Ms. Ronick and counsel was?

Mr. Shropshire – To summarize it, sir?

Mr. Knopke – Yes.

Mr. Shropshire – The settlement calls for, among other things, a fine of \$1000; and that Ms. Ronick would pay the balance of certain fines imposed concerning Mr. Gallaher that amount to two thousand, the balance owed is \$2,666.66; and that she will be on probation for a period of eighteen (18) months.

Mr. Rudolph – There's something else in there. She has to send monthly...

Mr. Shropshire – Yes, as part of the probation, she has to send monthly affidavits to the Department to the effect that she's not acting in any way as a funeral director.

Mr. Jones – Are those approved by you, Mr. Rudolph?

Mr. Rudolph – Yes.

Mr. Knopke – Mr. Chairman, I'll make a proposal to that. I'll include all of those except eighteen (18) months to twenty-four (24) months, as well as ask the Department to do quarterly, unannounced inspections and review preneed look for any preneed contracts, look for any at-need contracts, see who's signing them. And third, require Ms. Ronick to immediately notify the Department immediately meaning within forty-eight (48) hours, if any of her funeral directors leave employment that that be reported to the Department immediately.

Mr. Rudolph – Can I get you to say that when she learns of that, within twenty-four hours of when she learns that the funeral director leaves?

Mr. Knopke – Why wouldn't she know if they're working for her every day?

Mr. Rudolph – Well, I'm just, what I'm saying is, if she's gone somewhere and doesn't find out. But, I mean, what do you think?

Ms. Ronick – I would know.

Mr. Knopke – Mr. Rudolph I'm just basing it upon what she said she's on top of

Ms. Ronick – I would know. I always notify within twenty-four (24) hours always.

Mr. Rudolph – Okay. And you're agreeable to all that he's said?

Ms. Ronick – Absolutely. That's not a problem.

Mr. Knopke – If that's acceptable could the Department?

Ms. Ronick – Now there has been a situation where because we're closed on the weekends, someone quit on a Friday. We had a funeral director that took some jewelry and he quit on a Friday and I didn't know about it until he didn't show up on Monday, so that weekend went by. Would that be counted as a weekend or are you talking about business days? As soon as I was aware of that though I notified the Board. That was a little different circumstance though. That normally never happens.

Mr. Knopke – If someone passes away and they call your firm on Saturday afternoon are you open for business or not?

Ms. Ronick – No, not until I find another funeral director, but I do have a backup.

Mr. Knopke – Not my question.

Mr. Rudolph – Oh, with your right now, right now.

Mr. Knopke – This Saturday?

Ms. Ronick – This Saturday?

Mr. Knopke – Yes. Somebody has a death and your funeral home is called, are you open for business? Yes or no?

Ms. Ronick – Yes.

Mr. Knopke – Then I would consider you to be open seven (7) days a week, correct?

Ms. Ronick – Okay, yes. Yes.

Mr. Knopke – So I'd consider that. You need to notify the Department whether the Department acknowledges that notification or not, you need record that you did it.

Ms. Ronick – I understand.

Chair – We have a motion before us for a revision on the disciplinary stipulation for licensee. If this motion passes, are you in agreement and could immediately accept the stipulation?

Mr. Rudolph – My client just did Mr. Chairman and I do too.

Chair – Thank you. There's a motion made and that has been seconded.

Mr. Shropshire – Mr. Chair, could I summarize the conditions again?

Chair – Please.

Mr. Shropshire – It would be the same as the current settlement except that there would be quarterly inspections, unannounced inspections by the Division. In those inspections we would make a special effort to look for any preneed contracts written and that she would notify the Division within twenty-four (24) hours of any of her funeral directors leaving her employment.

Chair – And twenty-four months probation instead of the eighteen (18). That was the original.

Ms. Ronick – Could I ask a question about the probation.

Mr. Knopke – Excuse me just a second. Let me make sure that Mr. Shropshire's got it. Preneed contracts or any unlicensed activity. At-need contracts being signed by unlicensed people.

Mr. Rudolph – Is this probation or is this for her to give you the reports?

Mr. Shropshire – This is condition of the probation.

Mr. Rudolph – Okay. Okay.

Ms. Ronick – Is it in addition to the probation that was already placed?

Mr. Knopke – yes.

Ms. Ronick – So that means I have another year of that to serve so now we're looking at thirty-four months?

Chair – Six months. From eighteen to twenty-four.

Mr. Shropshire – If this is approved by the Board today you'll begin a new twenty-four month probation.

Ms. Ronick – And the other one goes away? Okay.

Mr. Shropshire – And during that twenty-four months we will come out unannounced each quarter for an inspection and go through your records somewhat and you have to notify us if one of your funeral directors leaves.

Mr. Rudolph – Yes.

Chair – Ms. Oliver, was that your understanding on your second? Yes. We have a motion and we have a second and all those in favor aye? And any oppose? Let's have a show of hands please. I could not determine by the voice vote. All those in favor aye? One, two, three, four, five, six. And those opposed? And the motion carries. Thank you very much.

Mr. Rudolph – Thank you very much.

Ms. Ronick – Thank you very much.

4. Disciplinary Proceedings:

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

(1) Probable Cause Panel A

(a) Howard, Randy Dale: Cases Nos. 162981-14-FC, 163239-14-FC, 163240-14-FC, 163241-14-FC; Division Nos. ATN-23244, ATN-23285, ATN-23334, ATN-23400 (F062630 - Funeral Director and Embalmer)

Mr. Shropshire – This case has been pulled off of the agenda.

(2) Probable Cause Panel A and B

(a) Related Cases – Division No. ATN-23544

Mr. Shropshire – These are two (2) related cases.

1. Carey, Royal, Ram'n Mortuary, Inc., d/b/a Carey Royal Ramn Funeral Home, Inc.: Case No. 164629-14-FC; Division No. ATN-23544 (F040777 - Funeral Establishment)

Mr. Shropshire – The allegations include but are not necessarily limited to that on September 1, 2014, “DC” the child of “AC” and “CL” died. (“DC” hereinafter being referred to as the decedent) On September 2, 2014, “AC”, the father of the decedent engaged the Respondent, Carey, Royal, Ram'n Mortuary, Inc., to perform burial services to include the cremation of the decedent's remains. On September 4, 2014, at approximately 3:50 p.m., an employee of the Respondent removed the decedent's remains from refrigeration at Mt. Sinai Medical Center and delivered the remains to Respondent's place of business. At no time material to the complaint were the decedent's remains embalmed. An employee of Respondent removed the decedent's remains from Respondent's place of business, placed the remains in a transportation vehicle, drove to his personal residence, parked and left the vehicle unattended for an extended period of time. On September 5, 2014, at approximately 5:45 a.m., the Decedent's remains were discovered next to a dumpster behind a convenience store located at 1601 N.W. 119 St., North Miami, FL. On September 5, 2014, at approximately 11:02 a.m., the Decedent's remains were delivered to the Miami Medical Examiner's Office and returned to refrigeration. The Decedent's remains were maintained outside of refrigeration from approximately 3:50 p.m. on September 4, 2014, until approximately 11:02 a.m. on September 5, 2014.

The Respondent's employee referred to above was one Jarren Hood, son of the FDIC and owner of the funeral establishment, Ms. Jeanette Royal. After the remains were found next to the dumpster, Mr. Hood was questioned, and indicated to the effect that the vehicle (a van) containing the remains was broken into while parked at his residence (where his mother also resided), and that the unknown person who broke into the vehicle took the remains and was responsible for the remains ending up next to the dumpster. Investigation determined that there was insufficient evidence to refute Mr. Hood's explanation, so that it is not alleged that Mr. Hood or the funeral establishment was directly responsible for placing the remains next to the dumpster. Instead, the Administrative Complaint alleges, among other things, that it constituted negligence, incompetence, and misconduct on the part of the funeral establishment, to store the unembalmed remains in an unattended transportation vehicle, parked at the employee's residence, resulting in the remains being found next to a dumpster behind a convenience store. Ms. Jeanette Royal, FDIC, indicates that she had no advance knowledge of Mr. Hood's actions in taking the remains away in the van and parking it at his residence. There is insufficient evidence to refute her assertion in this regard.

This is an informal hearing. Subject was served with the allegations and has responded and the factual allegations are not disputed. The Department is represented by its counsel, Deirdre Farrington. Subject is appearing pro se. The Division recommends a penalty to be consisting of a fine of \$5000 payable within thirty (30) days of the filing of a Board Order imposing same and the suspension of all licensure held by subject under Chapter 497, from the date of a Final Order filed in this proceeding and continuing until such time as a Final Judgment, attached to the materials provided to the Board. The judgment being in the amount of \$28,500,000 entered in the Dade County Circuit Court on March 14, 2016, Case No. 2152710-CA-01 against Respondent in an action brought by the parents of the deceased infant in regards to the matter alleged in the Administrative Complaint herein, until that judgment is satisfied or reversed on appeal. Ms. Farrington?

Chair – Thank you. Ms. Farrington?

Mr. Knopke – Mr. Chairman I need to recuse myself. It says Probable Cause Panel B but it's really Probable Cause Panel A, which I served on.

Chair – Any other Board members on that Panel?

Mr. Knopke – No.

Chair – Thank you.

Ms. Jean Anderson – Actually I was on Probable Cause Panel B in this case.

Ms. Ellen Simon – This matter actually went before both Panels at two (2) different times, so there are two (2) different people that will be recused from this case, however, there is still a quorum for business.

Chair – Thank you. I appreciate the clarification. Ms. Farrington?

Ms. Deirdre Farrington – Good Morning Mr. Chair, ladies and gentlemen of the Board, counsel. I just want to add a couple of items to Mr. Shropshire's summary. The Department's attorney on this case is actually Dustin Metz and I think it's apparent to hear Carey, Royal, Ram'n Mortuary as a funeral establishment. Ms. Royal is present. I have nothing else to add to the facts as set out by Mr. Shropshire so I will defer to your questions if you have any for me and to Ms. Royal's comments.

Chair – Any questions of Ms. Farrington? Hearing none, Ms. Royal, do you want to address the Board or would you prefer to answer questions if there are any from the Board?

Ms. Jeanette Royal – I would like to address any questions and then I would like to give a breakdown summary, a statement.

Chair – Okay. Would you like to give a statement first or answer questions first?

Ms. Royal – Questions, sir.

Chair – Thank you. Any questions?

Mr. Shropshire – Ma'am, it's our routine practice to swear in any witnesses. 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. Royal – Yes.

Mr. Shropshire – Ma'am, would you state your record?

Ms. Royal – I'm sorry?

Mr. Shropshire – State your full name for the record please.

Ms. Royal – Jeanette Kim Royal.

Mr. Shropshire – Should I swear in the young man too, Mr. Chairman, since he may interject?

Chair – Are you here to address the Board or answer questions?

Mr. Jarren Hood – Sir I would like to address the Board.

Chair – Alright we would like to have you sworn in also, sworn in also.

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

Mr. Hood – Yes sir.

Mr. Shropshire – Please state your full name

Mr. Hood – My name is Jarren Hood.

Mr. Shropshire – Thank you sir.

Chair – Thank you. Ms. Royal? Any questions, Board?

Mr. Powell Helm – Mr. Chair, I have a question of the Division just to clarify something for me, please. The suspension?

Mr. Shropshire – Yes sir?

Mr. Helm – If I understand, it's suspended until the time of judgment?

Mr. Shropshire – It's suspended until they either pay the judgment or the judgment is reversed on appeal in the civil courts.

Mr. Helm – So we really don't have any kind of a time period then?

Mr. Shropshire – It's indefinite, yes, until the judgment is paid, the \$28,500,000 judgment was the courts the courts reversed that judgment which was obtained as I understand it essentially on default in the civil courts.

Mr. Hall – Could we hear their statements and then it might generate some questions we might have at that time? Could we hear that first?

Chair – That's what I would have preferred but Ms. Royal wanted to answer questions first and I'm giving her the courtesy of that. If there are no other questions at this point, that's not to say that there won't be questions after your statement but at this point I sense that there are no other questions from the Board members. Would you like to make a statement?

Ms. Royal – Yes sir and I'd be willing to answer questions following my statement.

Chair – Thank you so much.

Ms. Royal – No problem. On the day in question, I received a phone call from a family at Mt. Sinai Hospital, okay. I went to that hospital. I spoke with the father of the stillborn child. The wife was like in a very depressed state so he didn't want to bother her. I noticed that on most of the paperwork it, this was a fetal death, okay, it was not a child that was born. It was a stillborn fetus. When I went to the hospital, I went myself to the hospital on the first call. The family then decided they wanted to have an autopsy done. So it was like two (2) or three (3) days later. I went back. They called me back and I went to the hospital, okay, and they still were not ready for release. Actually there was no one there at the morgue. At that point, later on that day, Floyd Benton who signed the form at Mt. Sinai Hospital removed the baby and it was like 3:30 in the afternoon, okay, because that's what's on their sign out sheet. Okay, he brought the baby to the funeral home. At the time that he brought the baby to the funeral home we had services scheduled and we were dressing out, okay, and we worked well into the night. I got sick. I had an allergic reaction. I'm allergic to mosquito bites and I was going in and out during the evening. So around 11:30ish, 12 o'clock, I really wasn't paying attention to the time because my schedule, I didn't have any idea that anything was going to be taking place that I needed to be watching a clock, okay. It had to be around 11ish or a little bit after, I was going kind of like outside back and forth because I was straightening up the chapel and doing different things and at that point I started feeling labored breathing so I knew I needed to take some of my Benadryl because I was having an allergic reaction. So I came inside and I said I'm getting ready to leave. Okay, I had some people there. William Manker was there,

my son was there and I was there, okay, and we were just trying to get everything straight for the next day. I left and went home. I wasn't feeling...

Chair – Excuse me for interrupting but I do have a question. Who was there? You and your son and who was the third person?

Ms. Royal – William Manker. William Manker.

Chair – Is he an employee?

Ms. Royal – No, he's a friend. He's a funeral director. He has his own funeral home but he was there because he saw that we were there late and he came over and he was just running his mouth, talking, just a visit.

Chair – Thank you.

Ms. Royal – But he's a funeral director.

Chair – Thank you.

Ms. Royal – Okay, so I left and went home. At the point that I left and went home, earlier after Floyd had picked up the baby like around 3ish-3:30, my son came by and um he was going out to the crematory, which was Marcel Crematory okay, and so then I told him okay no problem and I told him about the baby because he was going to check on ashes. So then I told him I said well Floyd just brought the baby in so you can take the baby. So I got all the paperwork together and then he went to the crematory and she was closed. Now her scheduled time for closing is like 5:00 so at that point he called the number, called her number because we have her number and upon talking with her she said that she had to step out. So we were kind of like checking back and forth to see when she was coming in. The father stressed the situation that he wanted the cremation done immediately, okay, and I told him I said well there are certain things that we have to follow and immediate is not immediate unless everything falls into place. So we were trying to get everything scheduled for that Friday. So I sent in the paperwork, um generally speaking, Mt. Sinai gives you a death certificate on field cases at the time that you come to pick the baby up. What detained this was the fact that they requested an autopsy but the doctor still left a signed paper certificate at the nursing station so that death certificate was sent in to the medical examiner for which the cremation was approved so we was trying to really expedite it. One of the reasons that we did the infant, we did a lot of them at Mt. Sinai Hospital and we never had a problem, was because my son my oldest son's wife has been struggling to try and have children and unfortunately his wife sustained several miscarriages from early on so we kind of did it like almost at no cost at all. Only what it cost us. If it was over twenty (20) weeks then that mean we needed to get an approval which was \$63 at that time at the medical examiner's and we charged them that. Basically, we didn't even charge. It was something that we did as a service and I guess because we kind of went through that situation ourselves several, several times. So and I had explained that even to the family. When Marcel's Cremations was closed, he came back to the, that was earlier in the day around 3ish or 4. He came back to the funeral home because we still was doing dress outs, okay. So when he came back the baby was in refrigeration, okay and we did have the baby at our establishment. I left around 11ish or 12 as I stated and my son did not leave until much later but we was in contact with Marcel because they have people coming in 24/7 so we asked that once you have, if you get a call, let us know so that we can bring the baby in because I would like if you could do this on an expedited way and she agreed, okay, as soon as I get a call then I'll let you know. In the meantime, we had gotten another call and then Marcel was thinking that they would be getting a call coming in too. So then I told him, I told Jarren to come by and pick up the release and Diane said that it would be someone that would be possibly, Marcel's, be coming through so at that point he came by the house, and the house is my house, okay.

Mr. Hood – I don't live with my mom.

Ms. Royal – It's my house, it's not his house. It's my house.

Mr. Hood – My address is the same address as the funeral home. There are living quarters at the funeral home in which I utilize and my address is 5235 NW 7th Avenue. At the time my mother left that night, I was, my duties were to clean the chapel floors, set up the chairs to arrange for a service that they were having the following day. At the time that I transported

the child to the crematory, the crematory gates were closed. I made an attempt to contact someone in which they told me that they had to step out. Ms. Diane gave me a phone number to what would be her sexton or facility attendant who receives bodies because they're not just a crematory but also a refrigeration facility. He informed me that he would be on his way there. I had a removal to transport that would have been going to the same facility so I packaged the child in the initial packaging as it came from Mt. Sinai Hospital and I loaded the cart to the stretcher and strapped the box to the stretcher that the child was initially released to me in. The child was strapped in a box maybe about 2' by 2' to the stretcher by the use of one of the stretcher straps. Another stretcher was next to that in the vehicle empty in anticipation for the reception of the next decedent. I left the funeral home, my living quarters, at 1:30ish approximately 2:00 that morning to drive to my mother's house, which is ten (10) to fifteen (15) miles away. At the time that I arrived there, the driveway is concrete enclosed. I informed my mother that I was coming to pick up the release form that she had received from the family that she had counseled and I needed to confirm whether or not he had made it to the crematory at that point. I went inside the residence to use the restroom to relieve myself and immediately after that I got the paperwork from my mother who is in the kitchen right next to, adjacent to the front door of the residence. At the time that I received that I heard a dog barking. I went outside. My dog was acting, well my brother's dog, was acting crazy in the yard running around. At the time I heard tires squealing going down the street. So I ran out into the yard and I saw the van broken into. My laptop and all of my other equipment, so to speak, my electronic equipment, laptop, cell phone and my book bag and the fire extinguisher and everything that was in there was all thrown around and my book bag and laptop and paperwork was missing, which was on the front seat of the vehicle. I opened the side door of the van I discovered that the box was gone. So I went inside and I start telling my mom what happened. We called Metro-Dade Police. Metro-Dade Police arrived. I'm not the owner of the vehicle so I can't report the theft. One of the officers got a transmission from another police department or some kind of way through their radios and he said that he has information that it's a possibility that the child that I'm trying to report now is at the gas station on 119th Street, which is maybe about a mile, two (2) miles away from my mother's house.

Ms. Royal – In a different jurisdiction.

Chair – And that's how you learned of it?

Mr. Hood – Yes sir.

Chair – Not on the news or on TV?

Mr. Hood – No sir. No sir. I found that out after. When I went to the scene where the police were, I approached the scene and notified them. At that time I had a copy of the release form to transport the child. I asked a uniformed officer if there was a child contained in a box or was this just a deceased child. He said that there is a box but I'd have to have you speak to a detective. At that time Detective Michael Tovar came to me. His badge number is 339. At the time that I spoke with Michael Tovar, Michael Tovar was rather belligerent. Um there was a mix up in our communication. I informed him that Jeanette Kim Royal was my mother. He told me that's impossible that she could be my mother because Jeanette Kim Royal is a Caucasian lady and I am for the lack of better speech a black person but used in a racially derived manner. He and another fellow officer approached my mother to verify my story at which time it was verified. I explained to him that we had contacted Metro-Dade who is the Dade County Sheriff and North Miami Police Department is a municipality within Dade County. Because the incident happened in an unincorporated area of Dade it should have been the Sheriff's responsibility to investigate such crime. However, them finding the child created a jurisdictional fault, which I knew nothing about because I'm not a cop. So one set of officers respond to calls in an area then another set would respond to and we're divided by 119th Street. The northbound side is North Miami's jurisdiction. The southbound side of 119th Street is Metro-Dade County's jurisdiction.

Chair – I don't want to cut you short on that, but who's jurisdiction it was and what the boundaries are and all that is not germane to us making a decision so if you could abbreviate your statement and we don't need the jurisdictional authority and the explanation of that.

Mr. Hood – I do apologize but that explanation of such time caused a delay in my communication with proper law enforcement personnel. According to the state statute no deceased human remains should be transported or kept unrefrigerated for 24 hours. Within that 24 hour period that body must be transported from the location of death or the location of initial reception to a definitive location of care, which would be a funeral home, a refrigeration facility or crematory. I went to the Miami-Dade Mortuary School and graduated. I'm fully aware of the parameters by which the scope

of practice for a funeral director should be conducted. I'm also a United States Army Infantry Veteran and I hold myself to the highest level of integrity, honor and respect. Because of these, because of my lack of knowledge of police work, I was unable for a period of about 4-5 hours to speak to the person who would have been the definitive law enforcement personnel in a proper fashion. At that time, because of the discrepancy of my identity, not knowing that I was related to the funeral home, employed by the funeral home, I could have been a potential suspect. The police officers initially discredited everything I said. They didn't want to hear what I had to say until it was verified, which was understood because they have a job to do and they have to express certain due diligence, but I too, just like the family, am a victim of a crime. As a victim of a crime I had no way to know when or at what time a criminal would intervene or intercede or cause me to be robbed. That's the reason why people use alarms on their homes and on their vehicles and such, but I didn't know that it would happen and immediately after it did happen I tried to make immediate contact with local law enforcement personnel. The media and law enforcement personnel initially threw everything out of proportion and gave a lot of misleading information to a lot of different people. From what I understand, from what I've seen, none of these allegations were fact other than the fact that I was the one who transported the child from the funeral home. They said I went to my home, which is not true because I don't live at the address where the robbery took place and I was also informed by the police that I was in fact not robbed because that would mean that an assailant approached me but in fact I was burglarized because he, the assailant encroached into a vehicle, which would be classified as a conveyance.

Chair – Mr. Barnhart?

Mr. Barnhart – Ms. Royal, it sounds as if you are disputing the allegations of facts and we're here on an informal hearing. The basis of an informal hearing is that the facts are basically admitted to and you're here to offer mitigating circumstances asking the Board to issue less penalty or less punishment than they might normally do in a situation where these violations are established. Do you understand that?

Ms. Royal – Yes.

Mr. Barnhart – Now do you wish to proceed with this informal hearing? If you do, then we can't get into disputes of facts because disputes of facts are not for this proceeding. You have to go through a formal proceeding in front of a judge. Now do you wish to continue this informal hearing?

Ms. Royal – Okay, let me just ask you this. In reference to the statement the gentleman made concerning the FE license that is on appeal, okay, and as you stated it was by default because we were never notified.

Mr. Barnhart – Okay, I'm going to stop you right there. What we're here for is this amended Administrative Complaint. It's on Page 7 of the Board materials and it has General Allegations and Material Facts.

Ms. Royal – On Page 7?

Mr. Barnhart – It would probably be your Page 7 and it's entitled Amended Administrative Complaint and there are General Allegations and I believe there were four (4) counts; Material Facts and there were four (4) counts, I believe. In an informal hearing, what happens is you've admitted that the material facts are not in dispute and that you're asking the Board to consider information which you believe is mitigating meaning that you don't contest the allegations of the Administrative Complaint but you're arguing or presenting a case to the Board or reasons why you think the punishment should be less severe than they might normally be. Do you understand that?

Ms. Royal – I understand what you're saying but what I don't understand is you're saying that I filed it under the wrong thing because I filed twice. The first one that I sent in to the State was after speaking with Marc Adel and when I sent it in, when I sent it in, uh...I'm looking for the paper.

Mr. Barnhart – I see an Election of Proceeding that's blank. Ms. Farrington, can you kind of give us a synopsis of what happened in her election of the proceedings? I see on Page 16 there's an Election of Proceeding but it's blank. There's no information provided there.

Ms. Farrington – Yes, Mr. Chair, there was an Administrative Complaint filed. Ms. Royal responded with a blank election, I'm sorry...

Ms. Royal – That's the first one and then I and then I, I...

Ms. Farrington – I'm sorry I have it reversed. She initially filed an election that stated she wanted a hearing at DOAH. The Administrative Complaint was then amended and Ms. Royal filed a second election requesting, was the second blank?

Ms. Royal – No. The second one was the...

Ms. Farrington – Requesting an informal hearing.

Ms. Royal – Yeah. And then we were supposed to come to Tallahassee in February and then I didn't receive a notice and I contacted the Board because at the time that I received this they said that which did I want? I told them I want to come in February and so then they said okay. I never received any notice from the Board for February and then I called a few days before because I had already made preparations and expenditures because I was told February is when I would be scheduled and then I had to cancel that. And then I was told that I would be notified that it would be today.

Mr. Barnhart – Ms. Farrington, do you, is it your position that she timely elected a proceeding under s. 120.57(2)?

Ms. Royal – I don't understand.

Mr. Barnhart – Even if she's asked for an informal hearing, if she now is disputing the facts then I think the proper recourse would be for these two (2) cases to be referred to DOAH unless you can resolve through stipulation.

Ms. Royal – What is DOAH?

Mr. Barnhart – DOAH is the Division of Administrative Hearings. They are like an independent body and they would assign a judge to hear the case. If you disagree with the statement of facts the Department made in their Amended Administrative Complaint then that's where you would go. It'll take a few months for you to get to the position of you to go to a hearing. That would be the proper way if you dispute the facts that are set forth in the Division's Amended Administrative Complaint.

Ms. Stephanie Gray – The complaint was served to Ms. Royal on October 30th and she responded or we received the request on November 23rd.

Mr. Barnhart – Well, she's not here for a waiver, correct?

Ms. Farrington – No sir. It's not here on a waiver. My understanding is that she filed a request for DOAH hearing. It appears it was outside of the time boundary but that in subsequent discussions with Mr. Metz, she uh after the filing of the Amended Administrative Complaint elected an informal and I believe the documents in the materials should reflect that.

Ms. Royal – That is true.

Mr. Barnhart – So we're here on the Amended Administrative Complaint but she has requested an informal hearing for it she requested at that time, correct?

Ms. Farrington – The informal request was timely, to my knowledge.

Mr. Barnhart – Okay. Ms. Royal, if you contest the facts that are stated in the Amended Administrative Complaint then it would be my recommendation to the Board that this be sent to DOAH because if you dispute material facts then the Board is not in a position to resolve that dispute. You need to go through an administrative law judge to determine what facts should be established in this proceeding. So I'm going to ask you, do you dispute the facts that are in the Amended Administrative Complaint?

Ms. Royal – In terms of?

Mr. Barnhart – In terms of do you agree with what's stated as the facts or do you disagree?

Ms. Royal – Can I come back and answer that? I want to review some of the paperwork.

Mr. Barnhart – Board do you want to table this matter to the end of the disciplinary proceedings to give her a chance to do that?

Chair – Yes. Yes I'd like to do that to give you the opportunity to review that and we'll go on to other cases and then we'll call you back after you make your determination.

Ms. Royal – Thank you sir.

Mr. Shropshire – So Mr. Chairman then we'll pass over items 4. A. (2) (a) 1. and 2., the case against Carey, Royal, Ram'n and the case concerning Jeanette Royal individually.

2. Royal, Jeannette: Case No. 164613-14-FC; Division No. ATN-23544 (F042332 - Funeral Director)

Item deferred to the end of the disciplinary proceedings to allow Ms. Royal an opportunity to review the documentation.

B. Settlement Stipulation(s)

(1) Waiver of Probable Cause

(a) Related Cases – Division No. ATN-25565

Mr. Shropshire – These are two (2) related cases.

1. Eastside Funeral Home, Inc.: Case No. 180936-15-FC; Division No. ATN-25565 (F041874 - Funeral Establishment)

Mr. Shropshire – The allegations include but are not necessarily limited to that a September 2015 inspection of Eastside Funeral Home revealed numerous violations: that the Division had not been notified of an FDIC change, that two of the funeral directors had invalid licenses, that the FDIC's license had expired, that bio-medical waste had not been properly disposed of, and that the Licensee was not maintaining the monthly bodies handled reports. This is a proposed settlement. The proposed penalty in the Stipulation includes a \$1500 fine and one-year probation. The Department is represented here today by Deirdre Farrington, Esquire, and subject has appeared in this proceeding pro se without counsel. Ms. Farrington?

Ms. Farrington – I would note the Case No. 180936-15-FC against this funeral establishment. I believe the description of the allegations against the Respondent include that there were Licensees who were without licenses. Further investigation revealed that the licenses were simply not posted. That was corrected and so that would not be part of the allegations included in the discipline. I'm happy to answer any questions that you may have.

Chair – Thank you. Is there anyone here representing Eastside Funeral Home? Okay we have a Settlement Stipulation before us. I'm sorry. Sorry sir. I didn't recognize you. So we have a Settlement Stipulation before us that's been accepted and signed. Do you want to address the Board or are you here to answer any questions?

Ms. Farrington – Can I ask you to identify yourself?

Mr. Tony Anderson – Tony Anderson.

Chair – I'm sorry?

Mr. Anderson – Tony Anderson.

Chair – Let’s swear you in, Mr. Anderson.

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

Mr. Anderson – Yes sir.

Mr. Shropshire – Please state your full name.

Mr. Anderson – Tony Anderson.

Mr. Shropshire – Thank you sir.

Chair – Thank you. So, uh...

Mr. Shropshire – Mr. Chairman I would note, too that this is the first of two (2) related cases. There’s an individual case concerning Mr. Anderson to follow.

Chair – Correct. Thank you. Board members, any questions of Mr. Anderson on this case?

Mr. Helm – I have a question. I’m sorry I didn’t hear counsel. Did you say the licenses were up to date? What did you say when you were finishing up? I didn’t understand what you said.

Ms. Farrington – Our investigator learned that the licenses were in fact valid but not posted and that was corrected in a timely way.

Mr. Helm – Thank you.

Chair – Thank you. We have before us a Settlement Stipulation for Consent Order.

MOTION: Mr. Jones moved to accept the Settlement Stipulation for Consent Order subject to the correction that Ms. Farrington indicated that the licenses of the two funeral directors were not invalid they were just not posted. Mr. Clark seconded the motion, which passed unanimously.

2. Anderson, Tony R.: Case No. 180938-15-FC; Division No. ATN-25565 (F046410 - Funeral Director and Embalmer)

Mr. Shropshire – The allegations are as previously stated and subject to the correction that Ms. Farrington indicated that the licenses of the two funeral directors were not invalid they were just not posted. This is before the Board on a proposed settlement calling for a \$1500 fine and one year probation. The Department is being represented herein by Deirdre Farrington, Esquire, and the subject appearing pro se. Ms. Farrington?

Ms. Farrington – I just want to amend Mr. Shropshire’s statement. Mr. Anderson’s correct license number is F046410 and there was also an error in the coversheet. The stipulation calls for a fine of \$1000 and a one year probation.

Mr. Shropshire – Thank you.

Chair – Thank you. So instead of the \$1500 fine its \$1000 fine and that’s stated correctly in the stipulation. Is there a motion?

MOTION: Mr. Hall moved to accept the Settlement Stipulation for Consent Order subject to the correction that Ms. Farrington indicated that the licenses of the two funeral directors were not invalid they were just not posted. Mr. Helm seconded the motion, which passed unanimously.

Chair – Thank you Mr. Anderson for appearing here.

Mr. Anderson – Thank you.

(b) Related Cases – Division Nos. ATN-24781, ATN-25062, ATN-24919

Mr. Shropshire – These are several related cases.

1. ***International Cremation Society, Inc. d/b/a ICS Cremation Society: Case Nos. 176044-15-FC, 176048-15-FC, 178172-15-FC; Division Nos. ATN Nos.: ATN-24781, ATN-25062, ATN-24919 (F054865 - Direct Disposal Establishment)***

Mr. Shropshire – The allegations include but are not necessarily limited to this administrative action is based upon three different investigations, all of which are involved in this one settlement stipulation. All three investigations resulted in a determination that International Cremation Society failed to timely refund preneed contracts. This is before the Board as a proposed settlement. The proposed penalty is a \$1750 administrative fine. The Department is represented by Stephanie Gray. The subject is represented by attorney Wendy Wiener. Ms. Gray?

Ms. Gray – I have nothing to add to your statement.

Chair – Thank you. Ms. Wiener?

Ms. Wendy Wiener – Only here to answer questions.

Chair – There’s an agreement.

Mr. Hall – Are we doing one at a time, Mr. Chair?

Chair – Yes, one at a time.

Mr. Hall – Okay.

MOTION: Mr. Jones moved to accept the Settlement Stipulation for Consent Order. Mr. Hall seconded the motion.

Chair – Mr. Knopke?

Mr. Knopke – I have just one just one question. How many preneed contracts were involved in this particular case, in this Item 1?

Ms. Wiener – If I knew what button to push, oh, the thing that says push, that’s it?

Chair – Yes.

Ms. Wiener – Three.

Knopke – Thank you.

Chair – The motion has been made and seconded. All those in favor aye and any opposed? That motion carries.

2. ***International Cremation Society, Inc. d/b/a ICS Cremation Society: Case Nos. 184692-16-FC, 184698-16-FC, 184699-16-FC; Division Nos. ATN-24781, ATN-25062, ATN-24919 (F019474 - Preneed Main and Preneed Branch Licenses)***

Mr. Shropshire – Allegations include but are not necessarily limited to that this administrative action is based upon three different investigations, all of which are involved in this one settlement stipulation. All three investigations resulted in a determination that International Cremation Society failed to timely refund preneed contracts. This matter is before the Board as a proposed settlement calling for a \$1500 administrative fine and one year probation. The Department is represented by Stephanie Gray, Esquire. The subject is represented by attorney Wendy Wiener. Ms. Gray?

Ms. Gray – I have nothing to add.

Chair – And Ms. Wiener?

Ms. Wiener – For questions.

MOTION: Mr. Hall moved to accept the Settlement Stipulation for Consent Order. Mr. Helm seconded the motion.

Chair – For discussion, Mr. Knopke?

Mr. Knopke – How many preneed contracts on this one?

Ms. Wiener – Um, Mr. Knopke, all three of these cases are related to the same set of facts so it's the same three contracts involved in all three of the disciplinary proceedings so it's just against the various Licensees.

Mr. Knopke – Ok, a follow up question then, Mr. Chairman.

Chair – Please.

Mr. Knopke – To the Department, the probations, do they run concurrently?

Mr. Shropshire – Yes sir.

Mr. Knopke – Thank you.

Chair – The motion's made and been seconded and all those in favor aye. And any opposed? And that motion carries.

3. Nichols, Ron: Case Nos. 176038-15-FC, 176049-15-FC, 178163-15-FC; Division Nos. ATN-24781, ATN-25062, ATN-24919 (F020599 - Direct Disposer)

Mr. Shropshire – The allegations are the same as in the prior two cases: three instances of failure to timely refund on preneed contracts. The matter is before the Board on a proposed settlement calling for a \$1750 administrative fine. The Department is being represented herein by Stephanie Gray, Esquire. The subject is represented by Wendy Wiener, Esquire. Ms. Gray?

Ms. Gray – I have nothing to add.

Chair – Thank you.

Ms. Wiener – Questions only.

Chair – Any questions? Is there a motion?

Mr. Helm – Question, I'm sorry. Why is there not probation on this one?

Ms. Gray – I can address that. The, Mr. Nichols was put on probation for this very violation last fall, um for a similar violation last fall. These cases took place prior to that disciplinary action so he's already on probation for that.

Mr. Helm – But that probation was something different?

Ms. Wiener – Well, what had happened was there was a confusion at the, well not a confusion, but the Licensee had instituted some procedures related to the cancellation of preneed contracts because they had actually been sued by a family for fulfilling a cancellation based on the request of a family member to cancel the preneed contract, but the law technically says that it is the purchaser that can cancel the preneed contract and in that particular circumstance the purchaser was not the family member. And so the Licensee, in an effort to protect itself, instituted procedures onsite that resulted in preneed cancellations that were taking longer than the statutorily mandated thirty (30) days. And so technically they did violate the law. They were thirty (30) days past due, um or beyond thirty (30) days on handling some cancellations. There had been a prior case regarding the same situation or the same type of situation and typically the Division is able to kind of see if there are any other disciplinary matters in the pipeline and kind of grab them and bundle them together so that you have one disciplinary proceeding, but it so happened that these did not come to the attention of the Division at the time that we did that prior settlement so he was already on probation so we didn't include an additional probation here.

Chair – Mr. Helm?

Mr. Helm – I'm just a little bit puzzled now. So help me with the time period. These violations that we're seeing before us were after he was on probation?

Ms. Wiener – No, they occurred prior to the time that the other case came up. These were in the pipeline but the Division somehow just hadn't become aware of them.

Mr. Helm – Is that correct?

Mr. Shropshire – Yes sir.

Chair – They came before the Board at different times, but in sequence.

Mr. Helm – Thank you.

Chair – There's been a motion made and it's been seconded. All those in favor aye. And any opposed? And that motion carries.

(2) Probable Cause Panel A

(a) Related Cases – Division No. ATN-25057

Mr. Shropshire – These are two (2) related cases.

1. Integrity Removal Services, L.L.C.: Case No. 177712-15-FC; Division No. ATN-25057 (F074103 - Direct Disposal Establishment)

Mr. Shropshire – The allegations include but are not necessarily limited to that the Licensee placed its name in at least two obituary notices when it was not statutorily permitted to do so. This matter is before the Board under a proposed settlement calling for a \$1000 administrative fine and one year probation. The Department is represented by Deirdre Farrington, Esquire. The subject is appearing pro se. Ms. Farrington?

Mr. Knopke – Mr. Chairman, let me recuse myself. I'm on Probable Cause Panel A.

Chair – Thank you for doing that.

Ms. Farrington – I have nothing to add to Mr. Shropshire's summary but I'm happy to answer any questions you may have.

Ms. Oliver – Mr. Chair?

Chair – Yes, Ms. Oliver?

Ms. Oliver – How does the second obituary violate the statute? Are we on this one? Are we on the same one, Integrity Removal Services?

Chair – What page is that?

Ms. Oliver – It is on page 54 of 56, so the next to last.

Mr. Helm – What was your question? I didn't hear what you said.

Ms. Oliver – How the second obituary violates the statute.

Mr. Helm – The second one?

Ms. Oliver – Um hmm.

Chair – I believe that it's a memorial service is to be determined.

Ms. Oliver – See, I'm just playing devil's advocate here, but to me that means they're going to determine if a memorial service is going to occur. In the statute I think it says that one is definitely going to occur and is mentioned, so I just didn't think it was that bad of a violation.

Ms. Farrington – Ms. Oliver did you want additional...I could pull the statute out for you if you like.

Ms. Oliver – Is it the Department's interpretation that saying a memorial service is to be determined that that is violating the statute?

Ms. Farrington – I would say yes that it does discuss arrangements for a service and it has the name of the direct disposer in the advertisement. I agree with you. It's certainly lesser than saying arrangements by but I will also mention to you that when contacted by the Department when the establishment was contacted they responded that they didn't even know that they weren't supposed to do that.

Ms. Oliver – I saw that. I just, you know there's no indication that a memorial service did in fact take place. To me it seems like a memorial service might occur. It's to be determined whether or not one is going to occur. At the end of the day it's not that big of a deal.

Chair – Thank you. We have a settlement proposal stipulation before us.

MOTION: Mr. Hall moved to accept the Settlement Stipulation for Consent Order. Mr. Clark seconded the motion, which passed unanimously.

Chair – It's been brought to my attention that on the previous case with Ron Nichols, that we did have some questioning and then I called for a vote but perhaps that there was not a motion made to accept the Settlement Stipulation. So is there a motion?

MOTION: Mr. Jones moved to accept the Settlement Stipulation for Consent Order. Ms. Anderson seconded the motion, which passed unanimously.

Chair – Thank you Ms. Simon for catching that.

2. *Weeks-Moats, Amanda L.: Case No. 177706-15-FC; Division No. ATN-25057(F056362 - Funeral Director and Embalmer)*

Mr. Shropshire – The allegations include but are not necessarily limited to that Integrity Removal Service, for which the Licensee was FDIC, placed its name in at least two obituary notices when it was not statutorily permitted. This matter is before

the Board on a proposed settlement calling for a \$1000 fine and one year probation. The Department is represented by attorney Farrington and the subject is appearing pro se. Ms. Farrington?

Ms. Farrington – I have nothing to add but happy to answer your questions.

MOTION: Mr. Hall moved to accept the Settlement Stipulation for Consent Order. Mr. Helm seconded the motion, which passed unanimously.

(3) Probable Cause Panel B
(a) Related Cases – Division No. ATN-25353

Mr. Shropshire – These are two (2) related cases.

1. Buxton, Paul Madison: Case No. 178802-15-FC; Division No. ATN-25353 (F044093 - Funeral Director and Embalmer)

Mr. Shropshire – The allegations include but are not necessarily limited to that an inspection of Okeechobee Crematory, LLC, for which this Licensee is the FDIC, revealed that the business entity had relocated without notifying the Division. This matter is before the Board under a proposed settlement calling for a fine of \$1000 plus one year probation. The Department is represented by its attorney Deirdre Farrington. The subject is represented by attorney Wendy Wiener. Ms. Farrington?

Ms. Farrington – I would just add that Mr. Buxton holds a funeral director and embalmer’s license. Other than that I am happy to answer any questions that you may have.

Ms. Anderson – Mr. Chairman, I served on Probable Cause Panel B. I’m recusing myself.

Chair – Thank you, Ms. Anderson. Ms. Wiener?

Ms. Wiener – I’m here to answer questions.

MOTION: Mr. Hall moved to accept the Settlement Stipulation for Consent Order. Mr. Jones seconded the motion, which passed unanimously.

2. Okeechobee Crematory, L.L.C.: Case No. 178805-15-FC; Division No. ATN-25353 (F039826 - Cinerator Facility)

Mr. Shropshire – The allegations include but are not necessarily limited to that an inspection of Okeechobee Crematory, LLC, revealed that the business entity had relocated without notifying the Division. The matter is before the Board under a proposed settlement calling for a \$1000 and one year probation. The Department is represented by its Ms. Deirdre Farrington, Esquire. The subject is represented by attorney Wendy Wiener. Ms. Farrington?

Ms. Farrington – I have nothing to add. I’ll answer any questions and we find the terms of the Settlement Stipulation to be reasonable under the circumstances.

Chair – Thank you. Ms. Anderson?

Ms. Anderson – Mr. Chairman, I served on Panel B and I’m recusing myself.

Chair – Thank you. Ms. Wiener?

Ms. Wiener – Here for questions.

MOTION: Mr. Knopke moved to accept the Settlement Stipulation for Consent Order. Mr. Clark seconded the motion, which passed unanimously.

Chair – Thank you.

1. *Carey, Royal, Ram'n Mortuary, Inc., d/b/a Carey Royal Ramn Funeral Home, Inc.: Case No. 164629-14-FC; Division No. ATN-23544 (F040777 - Funeral Establishment)*
2. *Royal, Jeannette: Case No. 164613-14-FC; Division No. ATN-23544 (F042332 - Funeral Director)*

Ms. Farrington – Mr. Chair, I did speak with Ms. Royal very briefly and she indicated to me that she had one or two questions for me. I had answered a question for her with regard to what referring the case to DOAH meant. That it means appearing in front of an administrative law judge and both sides presenting their case but because I had to cut short my contact with her, I think she's waiting in the hall.

Ms. Royal – I'm here.

Ms. Farrington – Oh, there she is. Very good. I don't know whether she has additional questions or if she's ready to proceed.

Ms. Royal – I'm ready to proceed.

Chair – Do you want to come forward? It's noted that Ms. Royal has already been sworn in. Thank you.

Ms. Royal – I've decided to go with my first decision for the formal hearing.

Chair – Okay.

Mr. Barnhart – And does that include both cases, the one against the funeral home and against you individually?

Ms. Royal – I'm sorry sir?

Mr. Barnhart – Against you individually and the one against the funeral home?

Ms. Royal – Yes sir.

Chair – So how do we proceed in this?

Mr. Barnhart – So, Ms. Farrington would you submit these cases to DOAH and proceed to a formal hearing if you don't resolve by stipulation or do you want the Board to vote? I don't think we need to vote but if you would prefer the Board can take a vote.

Ms. Farrington – I believe the Board would need to terminate the proceeding so that jurisdiction would go back to DOAH.

Mr. Barnhart – Okay, but jurisdiction never been with DOAH but do you want the Board to take a vote and take a vote to say that this should be sent to DOAH, both the one against the funeral home and the one individually. Is there a motion to do that?

MOTION: Mr. Jones moved to refer both cases to DOAH for a formal hearing. Mr. Hall seconded the motion.

Mr. Barnhart – Mr. Helm do have a question?

Mr. Helm – I was just going to put in the motion that at her request we were doing it.

Mr. Barnhart – Okay.

Chair – And it's been seconded. All those in favor aye. The next case that we were holding, Ms. Farrington, I assume that the circumstances for the next case for Jeanette Royal.

Mr. Barnhart – That was for both cases.

Chair – Thank you. Is there a motion to refer to DOAH? And seconded? All those in favor aye and any opposed? That motion carries. Thank you for your help on that.

Ms. Farrington – Thank you sir.

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

Mr. Shropshire – The applications 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.

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) Didasko Communications, LLC #15808
(3) Elite CME, Inc #113
(4) Funeral Service Academy #23408
(5) National Funeral Directors and Morticians Association #15608
(6) National Funeral Directors Association #136

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

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

7. Application(s) for Approval as a Continuing Education Provider
A. Recommended for Approval without Conditions – Addendum C
(1) Newcomer Funeral Service Group (25408)

Mr. Shropshire – The majority of the Continuing Education Committee and the Division recommends approval of the application listed on Addendum C.

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

8. Application(s) for Florida Law and Rules Examination
A. Informational Item (Licenses Issued without Conditions) – Addendum D
(1) Embalmer (Endorsement)
(a) Turner, Rodney S
(2) Funeral Director (Endorsement)
(a) Akers, Charles
(3) Funeral Director and Embalmer (Endorsement)
(a) Daugherty, Danielle L
(b) Hand, April R

Mr. Shropshire – The applications 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
(1) Funeral Director and Embalmer
(a) McBride, Peter H

Mr. Shropshire – The Applicant has no reportable criminal or disciplinary history. He submitted an application for Funeral Director and Embalmer by Endorsement on February 2, 2016. He has submitted all documentation required however at the time he was licensed he did not take the National Board Examination. New York submitted a Certificate of License History to whit stating that Mr. McBride took a Law and Rules examination and also that he took an “other examination” in 1971. I, meaning Jasmin, spoke with a representative from New York that attested that the examination was equivalent to the National Board examination at the time; however they do not have any records from that time because the records have been purged. The Division recommends approval of this Applicant for the licensure sought.

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

(b) Tomlinson, David G

Mr. Shropshire – He has no reportable criminal or disciplinary history. He submitted an application for Funeral Director and Embalmer by Endorsement on February 10, 2016. He has submitted all documentation required however at the time he was licensed he did not take the National Board Examination. Jasmin spoke with the Director of Funeral Services from Oklahoma that attested that the examination was equivalent to the National Board examination at the time; however they do not have any records from that time because the records have been purged. The Division recommends approval of this Applicant for the licensure sought.

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

9. Application(s) for Internship

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

(1) Funeral Director

- (a) Mazzone, Dillon J (F089655)*
- (b) McAlpin, Laura D (F089239)*
- (c) Wieber II, John P (F056721)*
- (d) Weimer, Daniel V (F081816)*

(2) Funeral Director and Embalmer

- (a) Adams, Jonathan M (F089634)*
- (b) Katerman, Kathy M (F089726)*
- (c) Roberto, Shane A (F089432)*
- (d) Skillman, Bethany (F089561)*
- (e) Smith, David C (F089403)*
- (f) Spence, Bruce W (F089727)*
- (g) Ware, Amanda M (F082891)*

Mr. Shropshire – The applications 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.

*****BREAK*****

B. Recommended for Denial

(1) Funeral Director and Embalmer

- (a) Holmes III, Claude E*

Mr. Shropshire – Mr. Holmes has no disciplinary history, but he does have a reportable criminal history. The fingerprint card and information related thereto indicated a return criminal history as follows. In 2006, Mr. Holmes pled no contest to a Felony charge of Uttering a Forged Instrument. He was sentenced to 26 months of probation. The Division is recommending a denial of the application.

Chair – Mr. Rudolph, don't forget to push the button, please.

Mr. Rudolph – John Rudolph representing Claude Holmes III.

Chair – And you are, sir?

Mr. Claude Holmes III – I'm Claude Holmes III.

Chair – Okay, thank you. Did you want to address the Board or are you here for questions?

Mr. Rudolph – I would like to have him sworn in.

Chair – Please.

Mr. Shropshire – Would you raise your right hand, sir?

Mr. Holmes – Yes sir.

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

Mr. Holmes – Yes sir.

Mr. Shropshire – Please state your full name.

Mr. Holmes – My name is Claude Edward Holmes III.

Mr. Shropshire – Thank you sir.

Mr. Rudolph – Mr. Holmes, would you tell the Board the circumstances behind what happened?

Mr. Holmes – Yes. I was the age of 22 at the time.

Chair – You can move that.

Mr. Holmes – Okay. I was 22 years old at the time that the crime occurred. I was at a club in Orlando and I had a hundred dollar bill. I bought a drink to get change and I unknowingly knew I had two (2) \$20 counterfeit bills which I tried to spend. In order for me to go on to mortuary school, I was in Dallas TX at the time, that's why I pleaded no contest and I was given probation but I completed everything successfully, but I never knew I had possession of those two (2) \$20 bills and that's what kind of got me in the situation I'm in right now.

Mr. Rudolph – Could you have proven that that you got them at that thing, at the club?

Mr. Holmes – I had no knowledge of it at all. I just knew I bought drinks and that's how I ended up with the change, the twenty dollar bills.

Mr. Rudolph – So when he gave the two \$20 bills, he had no idea that they were counterfeit but when the people got them they found they were counterfeit and they turned them in.

Chair – “When the people?” You mean at the club?

Mr. Holmes – No sir.

Mr. Rudolph – No, these are the people he paid the money, bought things with.

Mr. Holmes – Yes. There was one at a Sunoco gas station or something. I was buying gas and that's when I found out that one of them was counterfeit.

Chair – Was that a federal offense?

Mr. Rudolph – I don't know.

Chair – It didn't appear to be.

Mr. Rudolph – No, it's probably, it could be a state violation. Yeah, if it's \$20 I think it's a state.

Chair – It wasn't clear on our documents what the forged instruments were.

Mr. Rudolph – Yeah, they were \$20.

Chair – Nor the amounts were included in our documentation that I remember.

Mr. Barnhart – It's Polk County Circuit Court.

Mr. Rudolph – Polk County Circuit Court? We'd be happy to provide you with the court documents. We will get them for you.

Chair – Mr. Hall?

Mr. Hall – Just a couple questions. One is when you started to Dallas, in my paperwork it shows that that was a felony. Did they have any conversation with you about the fact that you would not be able to get a license with a felony? Is \$20 a felony?

Mr. Holmes – It was just two (2) \$20 bills. They never said anything to me because I went before the Board in Austin also and I was approved but the only reason I moved back from Texas because I wanted to be with my family.

Mr. Hall – I mean is there anybody that's able to tell us if a \$20 bill is a felony or is there a level of the amount of money to be a felony?

Mr. Rudolph – Not if its, I think if it's a forgery that's why it goes to a, and you know for him to prove who gave it to him, there's no way he can prove it so he worked out a deal where he had probation and he served the probation and that's why he did it.

Chair – Were you represented by counsel in your criminal case?

Mr. Holmes – I represented myself.

Chair – There wasn't a public defender?

Mr. Holmes – Yes. Yeah I had a lawyer at the time as far as those with the two (2) \$20 bills. Yes sir.

Chair – And that was a lawyer that you engaged or a public defender?

Mr. Holmes – That I engaged.

Chair – In Polk County?

Mr. Holmes – Yes sir.

Chair – Thank you.

Mr. Holmes – Yes sir.

Ms. Oliver – Just a question. Have you ever looked into getting this sealed? I don't think you can get it expunged but if you had a withhold of adjudication that means you weren't technically convicted and it looks like you had a withhold.

Mr. Holmes – Exactly. They said once I just completed my probation that it would.

Ms. Oliver – I think you have to take those steps and fill out some paperwork but I'm semi sure that you can get it sealed so that it doesn't come back when people run your fingerprints and you can answer truthfully no to have you ever been convicted of a crime or whatever.

Chair – Mr. Holmes, you were licensed in Texas?

Mr. Holmes – I was a license apprenticeship but I've never been licensed before. I was doing my apprenticeship in Dallas.

Chair – Did you make application for funeral director and embalmer in Texas?

Mr. Holmes – Yes sir.

Chair – And it was denied because of this felony?

Mr. Holmes – No it was approved.

Chair – So you were a licensed funeral director and embalmer in Texas?

Mr. Holmes – Licensed apprentice.

Mr. Rudolph – Licensed apprentice? Is that what it was?

Mr. Holmes – I was applying for my apprenticeship license.

Mr. Rudolph – No here, apprenticeship but in Texas...

Chair – My question was in Texas, okay, did you ever apply for a funeral director and embalmers license from the State of Texas.

Mr. Holmes – Yes sir.

Chair – And did you obtain a funeral director and embalmers license from the State of Texas?

Mr. Holmes – No sir.

Chair – Okay. For, uh, why were you denied a license in Texas?

Mr. Holmes – No I was never denied, I just, I was in the process of moving back and forth to Florida and once I didn't pass my National Exam....

Chair – So your application for licensure was never acted upon in the State of Texas?

Mr. Holmes – Yes it was acted upon, but I just didn't complete everything as far as my apprenticeship and passing the National Boards.

Chair – In any licensure application in Texas, in any of them, were any of your applications ever denied?

Mr. Holmes – No sir. No sir.

Chair – Thank you.

Mr. Rudolph – He’s got a professional funeral director’s, his provisional funeral license, provisional embalmer license.

Chair – In what state?

Mr. Holmes – It was expired but that was just the first.

Chair – In what state?

Mr. Holmes – In Texas.

Chair – Okay, thank you. Board?

Mr. Clark – Mr. Holmes, what year did you graduate from mortuary school?

Mr. Holmes – I graduated from mortuary school in 2007.

Mr. Clark – And just to be clear, there’s been no other issues with the law other than this one, correct?

Mr. Holmes – Correct.

Mr. Clark – I have a question for Mr. Shropshire. Mr. Shropshire, is the denial based on, what is your denial based on? Is it the character of?

Mr. Shropshire – It’s the character and it’s our standard practice to invite Applicants in this situation to provide a written statement to the Division explaining what happened in the details and providing any letters of recommendation. And in the absence of those things, in this case, we asked and we didn’t get anything, so hence the denial recommendation.

Mr. Clark – Mr. Holmes, can you speak to that? The Division asked for some additional information and why you didn’t respond.

Mr. Holmes – Yes, I was never informed of that as far as the additional. I was never informed about additional information.

Mr. Shropshire – May I ask? Jasmin do recall contacting him?

Ms. Jasmin Richardson – I do not recall asking him for an additional letter, so he did not supply an additional one. We only submitted what was supplied initially.

Mr. Shropshire – It appears there’s been a failure within the Division of its internal processes.

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

10. Application(s) for Embalmer Apprenticeship

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

- (1) *Brett, Andrew L (F089505)*
- (2) *Lee, Solomon (F089238)*
- (3) *White, Dwayne F (F089431)*

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

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

- A. *Informational Item (Licenses issued without Conditions) – Addendum G*
 - (1) *Hodges Family Funeral Home LLC (F083541) (Dade City)*
 - (2) *Island Cremations LLC (F064576) (Merritt Island)*
 - (3) *Lanier-Andler Funeral Home (F041629) (Sneads)*
 - (4) *StoneMor Florida Subsidiary LLC d/b/a Lohman Funeral Home Port Orange (F071090) (Port Orange)*

Mr. Shropshire – The applications 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.

- 12. **Notification(s) of Change in Location**
 - A. *Informational Item – Addendum H*
 - (1) *Premier Funeral Services and Cremations Inc (F041253) (Oakland Park)*
 - (2) *Serenity Funeral Home & Cremation LLC (F071434) (Oakland Park)*

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

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

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

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

- 14. **Application for Broker of Burial Rights License**
 - A. *Recommended for Approval without Conditions*
 - (1) *Benjamin A. Pierre (Miami)*

Mr. Shropshire – The application was received on March 8, 2016 and no deficiencies were noted on the application. The Department completed a background check of Applicant which revealed no criminal history.

Mr. Knopke – Mr. Chairman, I just have a question for the Division.

Chair – Mr. Knopke?

Mr. Knopke – Mr. Shropshire, does this gentleman have a preneed license or has he ever had one with the Department? It’s a curiosity question.

Mr. Shropshire – I don’t have any information that he does, Mr. Knopke, but I can’t definitively answer that question.

Chair – Perhaps the Division could get that for you after the meeting?

Mr. Knopke – That’s fine.

Chair – Does it have any bearing on your decision now?

Mr. Knopke – No, I’m always amazed why people become brokers of burial rights and so many of them have nothing to do with the industry or never have and you wonder why. That’s all, just curiosity. Thank you.

Chair – Thank you. Is there a motion?

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

Chair – Special note, would you please get that answer for Mr. Knopke?

Mr. Knopke – No, we got the answer. Thank you.

Chair – Got the answer? How's that for quick service? The answer is no.

15. Application(s) for Change of Ownership – Thomas Family Funeral Service, Inc (TFFS)

A. Recommended for Approval with Conditions

(1) Collective Coversheet for Various Applications

- **Application(s) to Acquire Control of an Existing Cemetery and Application for Transfer of Preneed License**
 - (a) **Forest Meadows Funeral Home and Cemeteries, Inc. d/b/a Forest Meadows Cemeteries – Central (Gainesville)**
 - (b) **Forest Meadows Funeral Home and Cemeteries, Inc. d/b/a Forest Meadows Cemeteries – East (Gainesville)**
 - (c) **Forest Meadows Funeral Home and Cemeteries, Inc. d/b/a Forest Meadows Cemeteries – West (Gainesville)**
 - (d) **Forest Meadows Funeral Home and Cemeteries, Inc. (Gainesville)**
- **Application(s) for Cinerator Facility**
 - (a) **TFFS Forest Meadows Funeral Home LLC d/b/a TFFS Crematory (Gainesville)**
- **Application(s) for Direct Disposal Establishment**
 - (a) **TFFS ADC Gainesville LLC d/b/a A Direct Cremations (Gainesville)**
 - (b) **TFFS ADC Summerfield LLC d/b/a A Direct Cremations (Summerfield)**
- **Application(s) for Funeral Establishment**
 - (a) **TFFS Evans-Carter Funeral Home LLC d/b/a Evans-Carter Funeral Home (High Springs)**
 - (b) **TFFS Forest Meadows Funeral Home LLC d/b/a Forest Meadows Funeral Home (Gainesville)**

Mr. Shropshire – This is a collective matter. The matter relates to Mr. Jon C. Thomas, II, who applies hereinto multiple applications and multiple entities of which he is the sole owner and principal for approval to acquire control by asset purchase of three (3) cemeteries, two (2) funeral establishment licenses, one (1) cinerator facility license, two (2) direct disposal establishment licenses and for approval of transfer of the preneed main license that currently sales through one or more of the preceding licensees; and for approval to make Forest Meadows Funeral Home a branch under the said preneed main license after transfer; and for approval to transfer the training agency approval at Forest Meadows Funeral Home to the new controlling entity. All of the licensees being acquired/transferred are currently controlled by entities of which Jon C. Thomas II's mother, Patsy A. Thomas, is primary principal. The Division recommends approval of all of these applications subject to the conditions indicated in the cover sheet provided to the Board:

- 1) That the closing on the transactions to acquire ownership/control of the afore-mentioned entities occurs within 60 days of the date of this Board meeting.
- 2) That the closing on the transaction shall be on terms and conditions as represented to the Board at this Board meeting, and without significant deviation from the terms and conditions in the draft Asset Purchase Agreement attached hereto.
- 3) That Applicant shall assure receipt by the Division within 75 days of the Board meeting, of a letter signed by Applicant or Applicant's attorney, addressed to the Division, certifying that closing has occurred and stating the date of closing, and stating that closing occurred on terms and conditions not inconsistent with those as represented to the Board at this Board meeting. Applicant shall also provide a copy of the fully executed Asset Purchase Agreement, or any other document by which the acquisition transaction is consummated, executed by all parties, and any and all amendments, schedules, and other attachments thereto, also fully executed.
- 4) That the Director of the Division of Funeral, Cemetery, and Consumer Services may extend any deadline set out in these conditions, by up to 90 days, for good cause shown. The Director shall report any such extensions to the Board as an informational item.
- 5) That all representations by the Applicant in the application and related materials provided to the Board or FCCS Division by the Applicant, or made at the Board meeting, in support of the application(s), are deemed material to the Board's action herein.

- 6) That the funeral establishments, direct disposal establishments and cinerator facility under the application(s) herein pass an onsite inspection by a member of Division Staff prior to commencement of operations under the new ownership.
- 7) That the preneed Applicant (new owner or controlling party) shall assume all existing preneed liabilities of the location(s) being acquired.
- 8) That all fictitious names are registered with the Division of Corporations and the registration confirmation be given to the Division.

Chair – Would all these be acted upon in one motion?

Mr. Shropshire – I think so, yes sir.

Chair – Thank you. Ms. Wiener?

MOTION: Mr. Jones moved to approve the application subject to the conditions recommended by the Division. Mr. Hall seconded the motion.

Chair –Ms. Wiener?

Ms. Wiener – Here to answer any questions.

Chair – Thank you. All those in favor aye and any oppose? That motion carries.

(2) Application(s) for Preneed Branch License – Addendum J

Mr. Shropshire – These are applications for preneed branch licensure. These are applications with no disciplinary or reportable criminal history. The Division recommends approval of these applications for branch licensure.

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

16. **Application(s) for Direct Disposal Establishment(s)**
 - A. **Recommended for Approval *with* Conditions**
 - (1) ***Affordable Cremation Solutions Inc (Orange Park)***

Mr. Shropshire – An application for a Direct Disposal Establishment was received on February 7, 2016. The application was incomplete when submitted. All deficient items were received on March 9, 2016. The fingerprint cards for all principals were returned with no criminal history. The Funeral Director in Charge will be Thomas Carver (F045429). The Division is recommending approval subject to the condition that the establishment passes an onsite inspection by a member of Division Staff.

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

17. **Application(s) for Funeral Establishment**
 - A. **Recommended for Approval *with* Conditions**
 - (1) ***Apostle I Funeral Home LLC (Bradenton)***

Mr. Shropshire – An application for a Funeral Establishment was received on March 4, 2016. The application was complete when submitted. The fingerprint cards for all principals were returned with no criminal history. The Funeral Director in Charge will be Lavelle Bing (F043718). The Division is recommending approval subject to the condition that the establishment passes an onsite inspection by a member of Division Staff.

Mr. Helm – Mr. Chairman?

Chair – Yes, Mr. Helm?

Mr. Helm – For the Division, this Applicant called me and they passed their inspection on Monday, the 4th.

Mr. Shropshire – Jasmin, can you confirm that?

Ms. Richardson – Um, I don't know.

Mr. Shropshire – As soon as Jasmin gets back to the office and...

Chair – We can still...

Mr. Helm – I was just giving that for information.

Chair – Thank you.

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

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

Mr. Shropshire – An application for a Change of Ownership for the funeral establishment was received on March 1, 2016. The application was incomplete when received. All deficient items were received on March 9, 2016. The Funeral Director in Charge will be Thomas Monroe (F048137). All fingerprint information was returned without criminal history. This funeral establishment is the qualifying entity for a preneed license. As stated in the application, Theodore Kaduk states there are currently no unfulfilled contracts sold at this establishment. The establishment passed its inspection on March 19, 2016. The Division is recommending approval subject to the condition(s) as follows:

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

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

(3) Rick Gooding Funeral Home Chiefland LLC (Chiefland)

Mr. Shropshire – An application for a Change of Ownership for the funeral establishment was received on December 18, 2015. The application was incomplete when received. All deficient items were received on February 25, 2016. The Funeral Director in Charge will be Otis Evans (F046229). All fingerprint information was returned without criminal history. This funeral establishment is not the qualifying entity for a preneed license. The establishment passed its inspection on March 4, 2016. The Division is recommending approval subject to the condition(s) as follows:

- 1) That the closing on the transaction to acquire ownership shall occur within 60 days of the date of this Board meeting.

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

Mr. Clark – Mr. Chairman?

Chair – Yes?

Mr. Clark – I have a previous affiliation with Dale and Carolyn Langford but that relationship will not impair my ability to render a fair and impartial decision.

Chair – Thank you for disclosing that.

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

(4) SCI Funeral Services of Florida LLC d/b/a National Cremation Society (North Palm Beach)

Mr. Shropshire – An application for a Funeral Establishment was received on March 8, 2016. The application was incomplete when submitted. We are currently waiting on fingerprint results from two principals. The Funeral Director in Charge will be William Schad (F043768). 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 Division receives the fingerprint results for Janet Key and Susan Garrett.

Chair – I want to disclose my affiliation with SCI Funeral Services of Florida and in no way will it affect my decision to render a fair and impartial decision on this case or anything coming before the Board today.

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

(5) Signature Memorial Funeral and Cremation Services LLC (Gainesville)

Mr. Shropshire – An application for a Funeral Establishment was received on February 8, 2016. The application was incomplete when submitted. All deficient information was received on March 15, 2016. Fingerprint results were returned with no criminal history. The Division is recommending approval subject to the condition that the establishment passes an onsite inspection by a member of Division Staff. I should note a correction that the cover materials indicate that the Funeral Director in Charge would be William Schad (F043768), but in fact I'm advised that the FDIC would be Mr. Willie Owens I believe.

Chair – Yes sir, are you representing Signature?

Mr. Willie Owens – Yes sir.

Chair – Would you want to address the Board or are you here to answer any questions we might have.

Mr. Owens – Yes sir, I'll do what I can to answer those.

Chair – Before I swear you in, are there any questions? There is a question. Would you please be sworn in?

Mr. Shropshire – Sir would you raise your right hand? Do you solemnly swear sir 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. Owens – Yes sir.

Mr. Shropshire – Please state your full name.

Mr. Owens – Willie J. Owens.

Mr. Shropshire – Thank you, sir.

Mr. Knopke – Thank you Mr. Chairman. My question is on our paperwork you changed the FDIC. Has the Department done the background check and so forth on Mr. Owens yet?

Mr. Shropshire – Mr. Owens' licensure is in good standing, isn't it Jasmin?

Ms. Richardson – Yes it is.

Mr. Shropshire – That's normally all we would ascertain.

Mr. Knopke – Thank you.

Chair – I think that change was a typo because Mr. Schad was on another as another FDIC and it just carried over on that.

Mr. Knopke – Thank you.

Chair – Any other questions for Mr. Owens? Board?

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

Chair – Thank you and congratulations.

Mr. Owens – Thank you. I appreciate it.

18. Application(s) for Monument Establishment Sales Agent License
A. Informational Item (Licenses issued without Conditions) – Addendum K

Mr. Shropshire – The applications 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.

19. Application(s) for Removal Service
A. Recommended for Approval with Conditions
(1) Hurst Removal Service LLC (Jacksonville)

Mr. Shropshire – An application for a Removal Service was received on February 26, 2016. The application was incomplete when submitted. All deficient items were returned on March 11, 2016. Fingerprint results were returned with criminal history for the principal Angela Edmonds.

- In May 2015, Ms. Edmonds pled Nolo Contendere to Driving Under the Influence. She was sentenced to one day credited time, 12 months probation, 50 hours community service, DUI school, fine of \$1031.
- In December 2015, Ms. Edmonds pled Guilty to Driving on a Suspended license. She was sentenced to two days probation and a fine of \$371.

Ms. Edmonds' stated her license was initially suspended for an accumulation of points on her license. Her license is currently valid and a print out from the Department of Motor Vehicles has been included. The facility is recommended for approval subject to the condition that the establishment passes an onsite inspection by a member of Division Staff.

Chair – Note that her license is currently valid. It's been checked that it's currently valid.

Mr. Shropshire – Yes we have.

Chair – Thank you.

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

(2) Jerry Russler d/b/a Firstcal (Brandon)

Mr. Shropshire – An application for a Removal Service was received on March 10, 2016. The application was complete when submitted. Fingerprint results were returned with no criminal history. The facility is recommended for approval subject to the condition that the establishment passes an onsite inspection by a member of Division Staff.

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

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

A. Recommended for Approval with Conditions

(1) Request(s) to Transfer Trust

(a) Independent Funeral Directors of Florida, Inc (IFDF) (Tallahassee)

Mr. Shropshire – IFDF, through its representative, Mark A. O'Connell, seeks approval to transfer certain cemetery care and maintenance trust assets, all as more specifically set forth in the letters dated March 2, 2016, and March 7, 2016 from Justin Wilson of Live Oak Bank.

Proposed Trust Transfers

IFDF seeks approval to transfer two (2) cemetery care and maintenance trust accounts: IFDF Cemetery Care and Maintenance Trust Fund- (Eternal Rest Memories Park) and IFDF Cemetery Care and Maintenance Trust Fund- (St. Augustine Memorial Park) from Regions Bank to Live Oak Banking Company (Live Oak), wherein Live Oak is or will be the successor trustee, all as more specifically set out in the letter from Mr. Wilson, dated March 7, 2016. Live Oak will continue to operate under the existing trust agreements. The Division recommends approval subject to the conditions as follows:

- 1) That the representations of IFDF, through its representative, Mr. O'Connell as set forth in his letter dated March 2, 2016, and Mr. Wilson of Live Oak Bank's letter dated February 17, 2016, copies attached hereto, is deemed material to the Board's decisions herein.
- 2) That within 90 days of this Board meeting Live Oak provide the FCCS Division (ATTN: LaShonda Morris), the effective date of the transfer and certifications, stated as following:
 - a) That Live Oak provides a letter signed and dated by one of its officers, certifying that it meets one or more of the applicable criteria in s. 497.266(1), and s. 497.458(1)(b), to act as trustee of the trusts to be transferred to Live Oak pursuant to the above letters dated March 2, 2016, and March 7, 2016.
 - b) A letter from Live Oak, signed and dated by one of its officers, stating:
 - That Live Oak provides a certificate stating the dollar amount of trust assets being transferred as referenced in Mr. Wilson's attached letter dated March 7, 2016.
 - That Live Oak provides acknowledgement of receipt of the amount of trust assets being transferred as specified under the former trust, as identified in Mr. Wilson's attached letter dated March 7, 2016.

- 3) That the Board's executive director, for good cause shown, may extend the compliance time for the above specified conditions, an additional 90 days.

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

(b) Independent Funeral Directors of Florida, Inc (IFDF) (Tallahassee)

Mr. Shropshire – IFDF, through its representative, Mark A. O'Connell, seeks approval to transfer certain preneed funeral trust assets, all as more specifically set forth in the letters dated February 9, 2016, and February 17, 2016 from Justin Wilson of Live Oak Bank.

Proposed Trust Transfers

IFDF seeks approval to three (3) preneed funeral trust accounts: IFDF Master Trust/Master Trust A (Fund #3), IFDF Master Trust/Master Trust A (Fund #4), and IFDF Master Trust/Master Trust A (Fund #6) from Regions Bank to Live Oak Banking Company (Live Oak), wherein Live Oak is or will be the successor trustee, all as more specifically set out in the letter from Mr. Wilson, dated February 17, 2016. Live Oak will continue to operate under the existing trust agreements. The Division recommends approval subject to the conditions as follows:

- 1) That the representations of IFDF, through its representative, Mr. O'Connell as set forth in his letter dated February 9, 2016, and Mr. Wilson of Live Oak Bank's letter dated February 17, 2016, copies attached hereto, is deemed material to the Board's decisions herein.
- 2) That within 90 days of this Board meeting Live Oak provide the FCCS Division (ATTN: LaShonda Morris), the effective date of the transfer and certifications, stated as following:
 - a) That Live Oak provides a letter signed and dated by one of its officers, certifying that it meets one or more of the applicable criteria in s. 497.266(1), and s. 497.458(1)(b), to act as trustee of the trusts to be transferred to Live Oak pursuant to the above letters dated February 9, 2016 and February 17, 2016.
 - b) A letter from Live Oak, signed and dated by one of its officers, stating:
 - That Live Oak provides a certificate stating the dollar amount of trust assets being transferred as referenced in Mr. Wilson's attached letter dated February 17, 2016.
 - That Live Oak provides acknowledgement of receipt of the amount of trust assets being transferred as specified under the former trust, as identified in Mr. Wilson's attached letter dated February 17, 2016.
- 3) That the Board's executive director, for good cause shown, may extend the compliance time for the above specified conditions, an additional 90 days.

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

(c) Sun City Funeral Home LLC (F019448) (Sun City Center)

Mr. Shropshire – Sun City Center Funeral Home LLC (Sun City), through its representative, Michael Langjahr, seeks approval to transfer its preneed funeral trust assets, all as more specifically set forth in Mr. Langjahr's letter dated February 3, 2016.

Proposed Trust Transfers

Sun City seeks approval of transfer of its preneed funeral trust assets from SunTrust Bank to ClearPoint Federal Bank & Trust (fka Forethought Federal Savings Bank), wherein ClearPoint is or will be the successor trustee, all as more specifically set out in the letter from Mr. Langjahr, dated February 3, 2016. ClearPoint will operate under the approved Forethought Federal Savings Bank (now ClearPoint Federal Bank) Florida Prearrangement Master Trust Agreement. The Division recommends approval subject to the conditions as follows:

- 1) That the representations of Sun City, through its representative, Mr. Langjahr, as set forth in Mr. Langjahr's letter dated February 3, 2016, be deemed material to the Board's decisions herein.
- 2) That within 90 days of this Board meeting ClearPoint provide the FCCS Division (ATTN: LaShonda Morris), the effective date of the transfer and certifications, stated as following:
 - a) That ClearPoint provides a letter signed and dated by one of its officers, certifying that it meets one or more of the applicable criteria in s. 497.266(1), and s. 497.458(1)(b), to act as trustee of the trusts to be transferred to ClearPoint pursuant to Mr. Langjahr's letter dated February 3, 2016.
 - b) A letter from ClearPoint, signed and dated by one of its officers, stating:

- That ClearPoint provides a certificate stating the dollar amount of trust assets being transferred as referenced in Mr. Langjahr’s attached letter dated February 3, 2016.
 - That ClearPoint provides acknowledgement of receipt of the amount of trust assets being transferred as specified under the former trust, as identified in Mr. Langjahr’s attached letter dated February 3, 2016.
- 3) That the Board’s executive director, for good cause shown, may extend the compliance time for the above specified conditions, an additional 90 days.

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

21. Executive Director’s Report

A. Do-It-Yourself Burials and the Responsibility of Involved Funeral Establishments and Families (Informational)

Mr. Shropshire – This is an information item of guidance that the Division has provided to its staff concerning and inquiry we made. We refer to these perhaps inartfully as do it yourself burial inquiries, which we try to discourage as you’ll see when you read these. I would indicate though that maybe one error in the Department’s reasoning and that is we state in here that only a funeral director can file for the death certificate, under Chapter 497. Now under the Vital Stats laws, only a funeral director can get online to do that, but under Ch. 497, technically the funeral director is the only one who can collect the vital information but the Chapter is very clear that once it’s collected it can be delegated to basically any clerical to do the actual processing, which from Ch. 497’s point of view would include filing of the application. So there’s no prohibition in Ch. 497 from a non-funeral director filing a death certificate for a burial transit permit, although there may be that prohibition under Vital Stats laws.

Mr. Jones – And if I may, under Chapter 382, a person can apply for a burial transit permit but a death certificate must be from a licensed physician.

Chair – Thank you for that clarification.

B. Initial CPTF Claim re Toston-LaFran’s Funeral Home

Mr. Shropshire – This is the background report on the initial CPTF claim seen by the Board at this meeting on Toston-LaFran’s Funeral Home.

C. Rulemaking Cleanup Project (Informational)

Mr. Shropshire – This is just a background item on the continuing rulemaking cleanup project unrelated to any other rulemaking being discussed here today. This is just the Department’s Legal Division’s ongoing project, which they are doing with all of the Divisions in the Department. They’re going through and making sure that the rules meet the technical requirements. Ellen reviews these carefully to make sure there’s no substantive changes being made.

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

Mr. Shropshire – Were there any questions concerning that?

Monthly Report of Fines and Costs Assessed and Paid
 Division of Funeral, Cemetery and Consumer Services
 April 7, 2016 Board Meeting
 Date of Report: March 18, 2016

Licensee	Board Meeting	Case No.	Total Fine & Cost Due	Date Due	Paid in Full?	Comments
Buy and Sell Cemetery	Dec-14	154941-14-FC	\$62.50 \$62.50 \$62.50 \$62.50 \$62.50 \$62.50 \$62.50 \$62.50 \$62.50	\$62.50 Initial payment/ \$62.50 First installment payment (paid)	Paid in full	As of February 2016-Licensee has provided sufficient evidence that liens have been paid and the Consent Order is now fully satisfied. Proof provided on 2-15-16
John Gallaher	Apr-15	157224-14-FC	\$3,166	7/8/2015	Note A	The Division is reviewing the matter and expects closure within the next two months. The licensee has paid \$250
Ronald Noble	Aug-15	134801-13-FC	\$2,500	8/1/2017	Note D	
Carol Y. Washington d/b/a Washington Funeral Home	Dec-15	162139-14-FC	\$600	1/14/2016	Paid in Full	
Mullins Memorial Funeral Home & Cremation Service, LLC	Dec-15	179182-15-FC	\$1,500		Paid in full	
Shannon David Mullins	Dec-15	179184-15-FC	\$1,500		Paid in full	

Omega Discount Funeral & Cremation Services, Inc.	Dec-15	179191-15-FC	\$1,000		Paid in Full	
Funeraria Latina Emanuel		150334-14-FC	\$3,000	2/11/2017	Paid in Full	
Dwayne Matt	Dec-15	128718-14-FC	\$500	1/15/2016	Paid in full	
Zion Hill Mortuary, Inc.	Dec-15	158720-14-FC	\$500	1/15/2016	Paid in Full	
Mullins Memorial Funeral Home & Cremation Services LLC	Dec-15	179182-15-FC	\$1,500	1/15/2016	Paid in Full	
James Stewart	Dec-15	162138-14-FC	\$600	1/22/2016	Paid in Full	
Fritz Duvigneaud	Dec-15	150332-14-FC	\$1,500	2/11/2016	Paid in Full	
Carriage Florida Holdings, Inc.	Feb-16	166408-15-FC	\$2,250		Note D	
Manker Funeral Home	Feb-16	182008-15-FC	\$1,000		Paid in Full	
William Manker	Feb-16	182006-15-FC	\$1,000		Paid in Full	
James S. Moore	Feb-16	181961-15-FC	\$3,000		Note D	
Smooore Enterprises	Feb-16	181954-15-FC	\$2,000		Note D	
James West	Feb-16	165110-14-FC & 165112-14-FC	\$2,500		Note D	
William E. Welborn	Feb-16	177485-15-FC	\$1,000		Paid in Full	
Culley's Meadow Wood Funeral Home	Feb-16	177497-15-FC	\$1,000		Paid in Full	

Licensee	Board Meeting	Case No.	Total Fine & Cost Due	Date Due	Paid in Full?	Comments
John Edgley	Feb-16	161118-14-FC	\$2,000		Note D	
Edgley Crematory, Inc. d/b/a Edgley Cremation Services	Feb-16	161120-14-FC	\$2,000		Note D	
Stonemor Florida L.L.C., d/b/a Edgewater-New Smyrna Cemetery	Feb-16	166455-15-FC	\$5,000		Note D	
Stonemor Florida L.L.C., d/b/a Deland Memorial Gardens	Feb-16	164658-14-FC	\$7,500		Note D	
SCI Funeral Services of Florida d/b/a/ Dignity Memorial Funeral & Cremation Services	Feb-16	182011-15-FC	\$1,000		Paid in Full	
Rolling Oaks Cemetery and Cremation Gardens L.L.C., d/b/a Rolling Oaks Cemetery	Feb-16	165096-14-FC	\$2,250		Note D	
Nadine Ingreed Maignan	Mar-16	179190-15-FC	\$500		Note D	

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

22. Chairman's Report (Oral)

Chair – Considering the legislation that was passed and signed into law, s. 497.267(5), there was rulemaking in the statute that was required and we have a Rules Committee consisting of Keenan Knopke, Bill Williams, Ken Jones and myself. With a lot of input from those attending this Rules Meeting and with the pre-meeting preparation done by Mr. Shropshire and staff, we promulgated a rule that we wanted the Board to approve so that the formal rulemaking could begin, but we wanted to go by the Board and through the Board and we need a motion on that.

MOTION: Mr. Jones moved to accept the rule and request that the Department move forward with rule promulgation on this rule.

Mr. Shropshire – May I respond to that?

Chair – Please.

Mr. Shropshire – Under Ch. 497, as you will recall, there is a very distinct division of authority and responsibility between the Board and the Division. Some rules are Division rules and some are Board rules. I believe this is a Board rule and traditionally then, since the statute expressly gives each of the parties, the Board and the Division, the right to challenge each other's rules, I've tried to make careful, take careful care to preserve the distinction between Board rules and Division rules. So, all that's just to say that the rulemaking would be through Mr. Barnhart's office because it's a Board rule.

Mr. Jones – Thank you.

Mr. Knopke – I'll second the motion.

Mr. Jones – With the clarification?

Mr. Knopke – With the clarification.

Chair – With the clarification.

Mr. Jones – Thank you sir.

Chair – And all those in favor, aye? And any oppose? That motion carries.

Mr. Jones – Also, if I can make one more motion.

MOTION: During this process through Mr. Barnhart them if there's any questions that I'd like to appoint Bill Williams as a contact point, if Bill accepts. To be answer questions and be able to address minor issues that need immediate attention. Mr. Knopke seconded the motion, which passed unanimously.

Mr. Shropshire – So Mr. Chairman, would my office and Mr. Barnhart then understand that Mr. Williams is authorized to approve minor changes to the rule?

Chair – Yes.

Mr. Shropshire – On behalf of the Board?

Chair – Yes.

Mr. Shropshire – Thank you.

Chair – I think that was a good motion and well clarified. Thank you for that.

Mr. Barnhart – May I speak?

Chair – Yes, please.

Mr. Barnhart – Just to add that any change to any part of it is going to come before the Board in a subsequent meeting for a vote so just to clarify that.

Chair – Okay. At this point I'd like to call upon Richard Mueller. Mr. Mueller?

Mr. Richard Mueller – I'd like to tell this Board and the staff and all of you what a pleasure it's been for me over the last 4.5 years to work with you and I wish you all happy trails.

Chair – Thank you and the type of person and the service that the State of Florida received from Dick Mueller is just indicative of what quality people that we have on this Board, and I thank you.

Mr. Mueller – Thank you sir.

Mr. Rudolph – I'd like to have a standing ovation for Dick.

Chair – Two (2) things for the Board members and for Mr. Dean and his group, immediately after the Board meeting, as expeditiously as we can, is this okay in this corner for a photograph with you and your students?

Mr. Dean – That's fine.

Chair – Good. And also, a second request, please. I'd like to get a photograph for Mr. Mueller with Board members, too. That concludes the Chairman's Report.

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

A. Anti-Trust Presentation by Tom Barnhart

B. FTC Staff Guidance on Active Supervision of State Regulatory Boards Controlled by Market Participants

Mr. Barnhart – Good afternoon. I've been asked to present this PowerPoint presentation to the Board members to let you know what's going on in the board and commission arena all around the country. We brought this up in a prior meeting. The Federal Trade Commission put forth a memorandum trying to advise boards and commissions of their duties under the antitrust law. In prior years, there's a comfort level I guess you'd say that the courts would be the protector, so to speak, of any problems that might arise from board or commission work, but in recent years it's started with the Federal Trade Commission looking for, I believe it was the perfect case for them to try this out. They filed a complaint against the North Carolina Dental Board. You may be familiar with that where the dental board attempted to keep certain individuals and companies from performing teeth whitening work. They sent out cease and desist letters to a number of companies and got the Federal Trade Commission's attention by doing so. Well, the Federal Trade Commission filed this complaint against the North Carolina Dental Board and to a lot of person's surprise they came out deciding against the dental board. Now the dental board in North Carolina has the authority to go after unlicensed activity and that's essentially what they were doing. The problem was teeth whitening was not in the definition of what constitutes the practice of dentistry. That was the first problem and they came after them pretty hard. Now this PowerPoint presentation that you have on your computers is about forty (40) pages or so. I'm not going to take you through every page of it because I'm assuming that you've actually been able to look it over and see what the thrust of these cases are. The thrust of the cases are is that they were requiring states that have active supervision of boards and commissions, which if you're familiar with the way boards and commissions are structured under the Florida Statutes is that you're doing the work of what normally would be done by a state agency because of your expertise you've been appointed to this Board. I believe one of the present structures is at least six (6) members that are involved in the industry of the ten (10) person Board. That is very relevant to the Federal Trade Commission's look into the North Carolina Board of Dentistry where they have eight (8) members and six (6) members are practicing dentist. So they took a very serious what they consider to be the dental board's attempt to limit this practice of teeth whitening only to licensed dentist because they apparently according to the evidence found out that they were losing lots of revenue to these other places that were doing it instead of the licensed dentists. So the background of this case in some respects that it's not just like your situation. Unlicensed activity in your case like it is with most boards in Florida that's the responsibility of the Department of Financial Services. So you're not going to have this problem coming in the way of unlicensed activity but in

terms of licensing, in terms of discipline and probably petitions for declaratory statements. Any kind of decision which impacts substantial interest is something that could be subject to further review. Now there's a lot of unanswered questions. You're active market participants just like any other case that might come out of first impression. There's a lot of unanswered questions a lot of unanswered terms of art, but the premise that I have here this morning is to make you aware of this situation and under the present structure I would submit that there is no active state supervision of your Board or any other board that I know of. So under the present scenario we're in a similar situation, a similar situation as some of these boards might be including the dental board in North Carolina. Now I've looked at some of these cases that are listed in your PowerPoint presentation as recent litigation and sometimes it's a little hard to believe that some lawsuits or what might be filed from such factual scenarios. I looked at this one involving a Virginia Real Estate Appraisal Board just because I do advise a Real Estate Commission so I had an interest in looking at that case. The Virginia Real Estate Appraisal Board denied license to this company because primarily of their track record in other states. They were having problems in several states in which they had a license, both in terms of discipline and carrying through what they had already promised to do and stipulations and so forth. Well, they denied licensure and they were sued by this company. That's not to say that you can do a stellar job and you still could get sued for anything as you know if you've ever been in litigation or know of litigation and you might scratch your head as to why such a case might be filed. The real important thing too to be taken from this presentation is that if you look at Page 38, you need to be aware of the current situation that Risk Management has taken. They have said that if a Board member or Board gets sued for antitrust just by itself, there's no other allegation or cause of action, that they're not going to provide legal defense costs. If antitrust is part of a number of different cause of action that someone brings then they will provide costs for legal defense and so forth. The good thing about this is that you probably don't know that many attorneys that will just pursue a single cause of action. If they think that there's other grounds they will throw everything in there, so that's to your advantage in a sense, but they are also saying that at this time there's no mechanism for the Division of Risk Management to pay for damages that might be awarded by a court with competent jurisdiction and that court is most likely going to be a federal court because antitrust violations if they're alleged would be in a federal court, a US District Court to start off with. So any protection that you got under state law like a very typical and you have the type of provisions that your decisions as long as you are acting within the scope of your appointment that your decisions are protected under state law in a state court, but this is going to be a federal cause of action. So that, in my opinion, is not going to give you much protection. Now what is happening in the area, for example, we have a contract with the Department of Business and Professional Regulation. Under that contract, because our office represents so many boards and commissions under that Department, the Attorney General's Office reached a decision with DBPR that representation would be provided by either someone in our Civil Section or a private attorney appointed and legal defense costs would be covered by that. So what am I saying here? I would try to get what you can done to make sure the Legislature, when they meet again this coming year, that there's some provision placed in the law to protect all board and commission members in the event that one or more of them are sued. That they stand up and represent, make sure you're represented in legal defense costs, representation as well as costs and that any damages that could be awarded by a court that they would take care of those damages. At the present time, that's not in place. So that's the primary message that I have this morning or this afternoon rather. Do you have any questions at this time?

Mr. Knopke – Mr. Barnhart?

Mr. Barnhart – Yes?

Mr. Knopke – Would, from this standpoint, would Mr. Shropshire, should we ask Mr. Shropshire to ask the CFO's Office to initiate that legislation or should the Board do it on its own through you or on its own as individual members?

Mr. Barnhart – As I understand it, generally doesn't the Board as a commission submit like legislative, or propose legislation to the Department for possible inclusion into the legislative package each year? I think that would be a proper way to approach that is to submit your proposals to Mr. Shropshire and then I think he would pass them on to the legislative liaison and the Legislative Office of the Department of Financial Services. I think that's what's happening with some of the other boards under the different Departments, like the Department of Health, Department of Business and Professional Regulation. It is too late to do anything this year but try to see if you can get that in a package for next year and make sure that this addressed by the Florida Legislature.

Mr. Knopke – Okay. Mr. Chairman?

Chair – Yes?

Mr. Knopke – I'd like to make a motion that we direct Mr. Shropshire to request that the items, the defense costs and penalties if any, as explained by Mr. Barnhart be presented to the CFO for inclusion in a legislative package next legislative session and further included in that motion that if the Department does not have a package next session to please advise the Board of that. The Board can possibly look at other alternatives whenever that packet's decision is determine.

Chair – There's been a motion made and it's been seconded and all those in favor aye? And any oppose? That motion carries. Thank you for that motion.

Mr. Barnhart – And, Board members, the reason that I don't think active supervision is going to take place is because it would require a complete transition of what the boards and commissions do in the State of Florida and I think that's one of the reasons why you're here is to take some of that responsibility and pressure off the state agencies because you have the expertise in your fields to help guide the State in what needs to be done. I think you have a very valuable service that you give to the boards and commissions and I think it stands to reason that you should be protected on decision making efforts in this regard.

Chair – Mr. Barnhart, having advised this Board for some time now and being around proceedings of this Board, do you see any special risks that we may be subject to action against?

Mr. Barnhart – Well, just in terms of a petition for declaratory statement. Let's say they were trying to get a clarification on scope of practicing and let's say you're asked whether something like teeth whitening in the funeral industry or whatever it might be would be within the scope of practicing. And it really was not but you wanted it to be. Let's say the Board said I think this should be included in the scope of practice and you have to be licensed to do it. That would be the type of thing that you might want to be careful about.

Chair – Have you observed anything during the time that you've been involved with this Board that might qualify as a factor similar to those you described?

Mr. Barnhart – Not that I can think of.

Chair – Thank you.

Mr. Barnhart – But remember that anybody can sue if they don't get what they want. If a certain situation doesn't turn out the way they want it to. It's not something that, you know, you're not going to be sue-proof by any means, but no I have not seen anything like that in the time that I have been here.

Chair – I just want your any cautionary words specific that you may have towards this Board.

Mr. Barnhart – Right. Just as I do for every meeting, I try to figure out what cases might be problematic, where we need to be careful on certain things. We want everybody to have their rights to due process for example at the same time if they didn't respond to any Administrative Complaints and they have proper service then a waiver is going to be appropriate but I am going to be trying to help guide you in these areas so we don't do something that's very objectionable.

Chair – Thank you. Any questions on that matter? Thank you.

Mr. Shropshire – Mr. Chairman, may I briefly respond?

Chair – Please.

Mr. Shropshire – The Division and I will certainly be glad and will press the matter as I can within the Department and try and seek legislation. I would urge though the Board, which you know the industry often seeks its own legislation. The bill that was passed this year was an industry bill. The reason I say this is because of the need time that is necessary to find a sponsor and get something written and get all the necessary folks lined up, it takes a lot of time and in my experience in the

Division is that I may not know until fairly late in the process what makes the cut, what doesn't make the cut in the CFO's package. So I will certainly do all I can but if the industry can press something through their own channels, find a sponsor, that would also might be advisable. I ask Mr. Barnhart, because this cries out for us like a single piece of legislation applicable to all boards, is the Attorney General by any chance, because they specialize in representing boards and guiding boards, do you anticipate they AG's Office might be seeking some legislation?

Mr. Barnhart – I think we'd be in support of it but because of the nature of the services we're performing we don't want to in there could be conflict of interest because I have responsibilities to advise the Board on a lot of different matters so I don't think we'd be sponsoring something but I think we would definitely be supportive. I know that there's some pretty large associations at the present time that are trying to move in that direction but I think the solution is that it would apply to every board and commission that is formed under state law so I do think there's going to be a comprehensive effort to get this done at the broadest level possible to cover as many people that should be covered. Of course the Division of Risk Management is a Division of the Department of Financial Services and I think that might be a special opportunity to try to use some of those people to try and get something done because they ultimately are going to be involved if they agree to provide for any type of action whatsoever.

Chair – Thank you. Anything else under your purview on today's meeting?

Mr. Barnhart – I did want to point out if there's any confusion about when people come up for discipline on an informal hearing matter, if you can take a look at the statute. Section 120.569 is the provision that provides us if they've not waived, in other words if they've responded timely to the Administrative Complaint, let's say they're schedule for an informal hearing and they start disputing the facts, the general rule in that statute is that we have to terminate the proceeding unless it's waived by the party being disciplined that we have to terminate that proceeding and refer that matter to the Division of Administrative Hearings for a formal hearing. So if I'm confusing some of you I do apologize, but that's the statute that governs that type of proceeding. They generally come in and if they've asked for an informal hearing then we're just here to determine aggravation or mitigation and they can tell their story to you to try and get some leniency but we should probably put that statute into the Board material just so we have it and from time to time we're going to be referring to that.

Chair – We appreciate you counsel.

Mr. Barnhart – Thank you.

Chair – Board members anything good of the cause?

Mr. Hall – Just a brief question for clarification. If I understand right, if another group were to take this and run with it, the AG Department and the CFO's Office would be in support and offer their support on this?

Mr. Barnhart – I can't officially say it because I don't really know but I certainly think, speaking individually. I don't really know what our office's position on it is. I was just asked to bring this message to you and just hope that my tires are not punctured before I left today.

Mr. Shropshire – And the Division will certainly urge it to the CFO's Office.

Chair – Good. Good. Board Members? Any good of the cause? Any comments? Thank you for coming back from your visit to DC and being able to make our meeting here, Ken.

Mr. Jones – Wouldn't miss it.

Chair – I appreciate that very much. Good work, Board members. We got a lot accomplished today and a lot done. Thank you for your knowledge, your active involvement and it's obvious that you reviewed the material and are familiar with it so I applaud each one of you.

24. Administrative Report

The information was provided on the Agenda.

25. Disciplinary Report

The information was provided on the Agenda.

26. Upcoming Meeting(s)

- A. *May 19th (Teleconference)*
- B. *June 30th (Tallahassee)*
- C. *July 7th (Teleconference)*
- D. *August 4th (Altamonte Springs – Embassy Suites Hotel Orlando-North)*
- E. *September 1st (Teleconference)*
- F. *October 6th (Tampa – DoubleTree by Hilton-Tampa Airport-Westshore)*
- G. *November 3rd (Teleconference)*
- H. *December 1st (Tallahassee)*

27. Adjournment

The meeting was adjourned at 1:15 p.m.