

**MINUTES**  
**BOARD OF FUNERAL, CEMETERY AND CONSUMER SERVICES**

**August 1, 2013 - 10:00 A.M.**  
**Hilton Orlando/Altamonte Springs**  
**350 S Northlake Blvd**  
**Altamonte Springs FL 32701**

**1. Call to Order, Preliminary Remarks and Roll Call**

Prior to the start of the meeting, the Chair thanked Col. Don Stiegman for his many years of service on the Board and to the consumers of the State of Florida. Ms. Wendy Wiener and Ms. Lisa Lyons also recognized Col. Stiegman with presentations.

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

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

My name is Doug Shropshire. I am Director of the Division of Funeral, Cemetery, and Consumer Services. Today is August 1, 2013; the time is approximately 10:00am. This is a public meeting of the Board of Funeral, Cemetery and Consumer Services. Notice of this meeting has been duly published in the Florida Administrative Weekly. An agenda for this meeting has been made available to interested persons. The meeting is occurring at the Hilton Hotel in Altamonte Springs FL. My Assistant, Ms LaTonya Bryant, is recording the meeting and will be preparing minutes of the meeting.

Persons speaking are requested to identify themselves for the record each time they speak. Participants are respectfully reminded that the Board Chair, Mr. Brandenburg, runs the meeting. Persons desiring to speak should initially ask the Chair for permission. Participants are requested to keep in mind the necessary protocol that only one person may speak at a time.

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

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

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

**Also noted as present:**

Clark Jennings, Board Legal Advisor  
Anthony Miller, Assistant Director  
LaTonya Bryant, Department Staff  
Mary K Surles, Department Counsel  
Linje Rivers, Department Counsel  
Jasmin Richardson, Department Staff  
Thurman Lowe, Department Field Staff  
Tina Williams, Department Field Staff  
Miriam Del Valle, Department Field Staff

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

Mr. Shropshire recognized Staff from the Central Florida office. We have with us Mr. Thurman Lowe, supervisor of all field staff. Mr. Shropshire requested that Mr. Lowe introduce his staff.

Mr. Thurman Lowe stated that he has the privilege of serving with an amazing group of dedicated people statewide. A few of those individuals are here today and I would like to take just a moment to introduce them: Ms. Tina Williams, Financial Specialist and Ms. Miriam Del Valle, Financial Examiner/Analyst. Both Ms. Williams and Ms. Del Valle are based in our Orlando regional office and it is my pleasure to serve with both of them. On behalf of the Division Field Staff, we too would like to thank Col. Stiegman for his years of service to our country and our state. It is a privilege for us as field staff to be here on this special day.

The Chair recognized the newly installed President of the Florida Cemetery, Cremation and Funeral Association, Robin Giddens Sheppard.

**2. Action on the Minutes**

**A. June 27, 2013**

The Chair confirmed that all Board members had read the draft of the minutes of the previous Board meetings held on June 27, 2013.

**MOTION:** Mr. Ken Jones moved to adopt the minutes of the meeting. Mr. Andrew Clark seconded the motion, which passed unanimously.

**B. July 11, 2013**

The Chair confirmed that all Board members had read the draft of the minutes of the previous Board meetings held on July 11, 2013.

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

**3. Old Business**

**A. Application for Preneed License Renewal**

**(1) Recommended for Renewal without Conditions**

**(a) Poitier J Woodrow (F019254) (Pompano Beach)**

The above identified Licensee seeks renewal of their preneed license pursuant to s. 497.453, FS, effective July 1, 2013

Due to Licensee's current renewal application package being received by the FCCS Division on June 17, 2013, it was after the June 27, 2013 Board agenda deadline, therefore, it could not be included for consideration at the June 27, 2013 Board meeting.

2010 RENEWAL (7-1-2010): Licensee reported net worth of \$ 540,027, against a minimum required net worth of \$80,000. Licensee was renewed without conditions.

2011 RENEWAL (7-1-2011): Licensee reported net worth of \$567,303, against a minimum required net worth of \$100,000. Licensee was renewed without conditions.

2012 RENEWAL (7-1-2012): Licensee reported net worth of \$591,616, against a minimum required net worth of \$80,000. Licensee was renewed without conditions.

CURRENT RENEWAL: Licensee reports a net worth of \$ 591,766. Licensee reports total preneed contracts outstanding of \$729,463. The required minimum net worth for renewal is \$80,000.

Pursuant to s. 497.453(5)(e), Florida Statutes, and rule 69K-5.0026(2), the Licensee's properly completed application for renewal of preneed license was not timely received, and a late fee of \$1,000 is due.

- Licensee's annual financial statements and PNL renewal statement (R2, R3) was due to be filed with Division by not later than April 1, 2013. Licensee's renewal was received by the Division on June 17, 2013, and was thus 77 days late.
- Licensee provided a signed, notarized form R4 with the Licensee's renewal application. However, the form R4 had some portions not completed (see attached form R4). A properly completed form R\$ was finally received on July 22, 2013.
- The Board has capped late fees at \$1,000.

The application for renewal is now complete. The Licensee has met the net worth requirements for renewal, and was renewed without conditions in 2010, 2011, and 2012. The Division recommends renewal subject to payment of a \$1,000 late fee to be paid within 60 days. More specifically:

The application for renewal is granted, subject to payment of a \$ 1,000.00 late renewal filing fee; the renewed license is suspended, but the imposition of the suspension is stayed for 60 days from the renewal date. If the late fee is paid by said 60th day, the suspension imposed shall not take effect. If the suspension imposed takes effect, it shall continue in force until such time as the Licensee pays the late fee.

**MOTION:** Ms. Gail Thomas-Dewitt moved to approve the renewal application subject to payment of a \$ 1,000.00 late renewal filing fee; the renewed license is suspended, but the imposition of the suspension is stayed for 60 days from the renewal date. If the late fee is paid by said 60th day, the suspension imposed shall not take effect. If the suspension imposed takes effect, it shall continue in force until such time as the Licensee pays the late fee. Mr. Helm seconded the motion, which passed unanimously.

***B. Disciplinary Proceedings, Revised Settlement Stipulation(s)***

***(1) Ruskin Memorial Park Association, Inc.: Case No. 130457-12-FC, Division # ATN -18598 (F039551) (Waiver of Probable Cause)***

Mr. Shropshire stated that this matter was before the Board previously. The Board made a counter on the offer on the settlement.

Ms. Mary K Surles stated that on May 30, 2012, the Department conducted an inspection of the cemetery owned and operated by the Ruskin Memorial Park Association ("Ruskin") located at 1<sup>st</sup> Street SW and Little Manatee River, Ruskin FL. The Division's Examiner found that Ruskin had not corrected previous violations as maintained in Division's records #ATN-16642, SR1-695484132 and SR1-698695311 for failing to properly maintain the cemetery grounds, sequentially number all contracts and accounts receivable records. The Examiner did note in the inspection report that Ruskin established a new Board and was in the process of establishing new bylaws, rules and regulations for the cemetery.

Pursuant to the Executed Waiver of Finding Probable Cause and Waiver of Confidentiality, Ruskin has voluntarily waived a finding of probable cause for the violations as alleged in the Division's investigation file as maintained in Division record #ATN-18598 for resolution at this time the Consent Order is issued in this case pursuant to s. 497.153(4)(c), F.S. The Settlement Stipulation for Consent Order before you today provides that Ruskin's cemetery license will be placed on two (2) years probation and shall schedule an inspection within ninety-one (91) days after the Consent Order is issued in this matter with the Division of Funeral, Cemetery and Consumer Services for the Division to conduct an inspection of the cemetery grounds and the cemetery records.

It is now appropriate for the Board to entertain a motion to accept the Settlement Stipulation before you today.

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

**4. Disciplinary Proceedings:**

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

***(1) White, Kimberly (F045463): Case Nos. 130461-12-FC and 130347-12-FC, Division Nos. ATN-19656 and ATN-19620 (Probable Cause Panel B)***

Ms. Surles stated that the Probable Cause Members in this case include Al Hall, Jean Anderson, Tracy Huggins and Rick Chesler.

Ms. Jean Anderson recused herself based on her participation in the Probable Cause Panel meeting.

On March 11, 2013, the Department filed an Administrative Complaint alleging that Respondent, Kimberly White, failed to comply with two (2) Final Orders of the Board. On April 21, 2012, the Board issued a Consent Order in Case No. 120948-11-FC, requiring Respondent to complete four (4) hours of continuing education in Ethics and take/pass the Florida Law and Rules Exam. On July 19, 2012, the Board issued a Consent Order in Case No. 120943-11-FC requiring Respondent to pay \$5250 in administrative fines and costs. The Department has not received any payment towards the administrative fines and costs. On June 10<sup>th</sup>, 17<sup>th</sup> 24<sup>th</sup> and July 21, 2013, the Administrative Complaint was published in the Miami Daily Business Review. Provided in the published notice and in the Administrative Complaint was the Notice of Rights informing Respondent that failing to respond in writing within twenty-one (21) days of its receipt of the Notice in the Administrative Complaint would constitute a waiver, by the Respondent, of the right to request a proceeding on the matters alleged in the Administrative Complaint, and an Order of Suspension or Revocation by the Board would be entered against the Licensee. On July 23, 2013, the Department filed a Motion for Determination of Waiver of Rights and Final Order Imposing Discipline, which alleged that the Department did not receive a response from Kimberly White and twenty-one (21) days have passed since the Respondent's response to the Election of Proceeding was due. Thus, Kimberly White has waived her rights to request a proceeding involving disputed issues of material facts in the matter. The Department believes that it is appropriate at this time for the Chair to entertain a motion that Kimberly White, the Licensee, has waived her right to elect a proceeding in the administrative action.

**MOTION:** Ms. Thomas-Dewitt moved that the Respondent has waived her right to elect a proceeding in the administrative action. Mr. Clark seconded the motion, which passed unanimously.

The Chair questioned whether the Respondent or a representative was present at the meeting.

Mr. John Rudolph, who has represented Ms. White in the past, questioned whether the Board received Ms. White's letter.

Ms. Surles stated that the letter dated July 29, 2013 was submitted to all Board members by email.

The Chair confirmed that the Board received the letter.

Ms. Surles stated that the Department believes that it is appropriate at this time for the Chair to entertain a motion adopting the Allegations of Fact as set forth in the Administrative Complaint as the Board's Findings of Fact for the case presented here today.

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

Ms. Surles stated that at this time the Department believes that it is appropriate for the Board to hear from the Respondent, who is not present, but a representative who may speak on her behalf is here if the Board chooses.

Mr. Rudolph clarified that he represented Ms. White in the past, but he did not represent the Respondent in the current matter before the Board.

Ms. Surles stated that the Department contends that based on the Board's Findings of Fact, the Respondent has violated s. 497.452(1)(a), F.S., for failing to comply with the Board's Orders as alleged in the Administrative Complaint. It is appropriate at this time for the Chair to entertain a motion adopting the violations set forth in the Administrative Complaint as the Board's Conclusions of Law in this case.

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

Ms. Surles stated that the Department's recommendation for penalty in this matter is revocation of the funeral director and embalmer license of Kimberly White.

**MOTION:** Mr. Jones moved for a penalty of revocation. Mr. Hall seconded the motion, which passed unanimously.

**B. Settlement Stipulation(s)**

**(1) Bishop, William (F044382): Case No. 122747-12-FC, Division #1-648472009 (Probable Cause Panel B)**

Mr. Linje Rivers stated that the Division completed an inspection and financial examination at Global Mortuary. William Bishop is the Funeral Director in charge at Global Mortuary. The Division alleges that the Licensee failed to treat a deceased's remains with dignity and respect, allowed agents at Global Mortuary to make false statements when surrendering a prior preneed license, allowed agents at Global Mortuary to make unauthorized withdrawals from a preneed trust account, operated without a funeral home license, represented the license of another as its own, permitted unlicensed individuals to make funeral arrangements, and allowed agents at Global Mortuary to file for and keep Consumer Protection Trust Fund reimbursements for consumers which had preneed arrangements with the Licensee.

Mr. Bishop has agreed to relinquish his Funeral Director and Embalmer license. The terms of the settlement stipulation are reasonable under the facts and circumstances of this case. The Department requests that the Board approve the settlement and issue the Consent Order to conclude this matter.

Mr. C Bryant Boydston, Jr, attorney for Mr. Bishop, stated that Mr. Bishop is 80+ years old now and is not mentally or physically able to participate in person. Mr. Bishop realizes it is time to let go and surrender his license.

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

**(2) Global Mortuary (F039911): Case No. 122746-12-FC, Division #1-648472009 (Probable Cause Panel B)**

Mr. Rivers stated that the Division completed an inspection and financial examination at Global Mortuary. William Bishop is a Funeral Director and Embalmer at Global Mortuary. The Division alleges that the Licensee failed to treat a deceased's remains with dignity and respect, allowed agents at Global Mortuary to make false statements when surrendering a prior preneed license, allowed agents at Global Mortuary to make unauthorized withdrawals from a preneed trust account, operated without a funeral home license, represented the license of another as its own, permitted unlicensed individuals to make funeral arrangements, and allowed agents at Global Mortuary to file for and keep Consumer Protection Trust Fund reimbursements for consumers which had preneed arrangements with the Licensee.

Global Mortuary has agreed to pay a fine of \$8,000. In addition, Global Mortuary will be placed on probation for two (2) years following the execution of the Consent Order, with specific conditions that the Licensee will not engage in activity that is the subject of this investigation. Global Mortuary has also agreed to reimburse the Consumer Protection Trust Fund the full amount as the subject in this investigation, which shall be done with six (6) months of the execution of the Consent Order. Global Mortuary has also agreed to reimburse the Consumer Protection Trust Fund for any funds that the Division finds subsequent to the execution of the Consent Order. The Division will make a determination of the exact amount due to the Trust Fund and the Respondent will pay that amount. Global Mortuary shall also pay the preneed trust account the full amount for any unauthorized withdrawals identified in the Division's investigation report, which shall be done with six (6) months of the execution of the Consent Order. The Division will make a determination of the exact amount due to the Preneed Trust Fund and the Respondent will pay that amount. Prior to the completion of the probationary as described, Global Mortuary, through Mr. John Competiello, shall appear before the Board of Funeral, Cemetery and Consumer Services and demonstrate that he is in full compliance with the Final Consent Order. Failure to demonstrate compliance may result in additional administrative action, including immediate suspension. The terms of the settlement stipulation are reasonable under the facts and circumstances of this case. The Department requests that the Board approve the settlement and issue the Consent Order to conclude this matter.

Mr. Jones questioned whether there is a timeline on when the Department determines the exact amount owed the Consumer Protection Trust Fund.

Mr. Rivers stated that the Department is in the process of making that determination. The Investigators are currently working on that.

The Chair questioned whether the Department has an estimate on the amount.

Mr. Rivers stated that it is about \$2100.00.

Mr. Lew Hall stated that there are principals that have already surrendered their licenses in the past. Now the FDIC has surrendered his license. It is evidently obvious that the principal is going out and buying a license to hang on the wall because Mr. Boydston indicated that Mr. Bishop is 80+ years old. Mr. Bishop is obviously not able to come in and oversee the operation. With the nature of the charges against this establishment, why would we even leave them in business?

Mr. Rivers stated that there are still Consumer Protection Trust issues that need to be taken care, as well as reimbursements to the Consumer Protection Trust Fund. If the Department were to take away their license, there is no guarantee that the monies would be reimbursed to the Consumer Protection Trust Fund or the preneed trust account.

Mr. Hall stated that it appears the Board is being held hostage by allowing a firm like this with these charges against them, to hold that over the Board to keep them in business. Mr. Hall questioned how would the Licensee obtain the money to pay these fines and what would happen to the consumer to allow them to get the money to pay these.

Mr. Rivers stated that he understands Mr. Hall's concerns. This hinges on whether or not the Licensee will repay that money. The Settlement Stipulation is more than adequate to make sure that it is a deterrent as well as ensuring that the Consumer Protection Trust Fund and the preneed trust account are reimbursed and the consumers are made whole.

Mr. Hall stated that the charge of taking money from the Preneed Trust Fund prior to death is theft. Mr. Hall questioned whether this would automatically be sent to the State Attorney's Office for criminal charges or whether the Board could request this be done.

Mr. Rivers stated that would be a separate investigation within itself.

Mr. Shropshire stated that the Division would send the file to the State Attorney's Office. Mr. Shropshire requested that Mr. Anthony Miller make a note of that request.

Mr. Boydston, on behalf of Global Mortuary, stated that Mr. John Competiello, the principal, is also available for questions. "We have worked with the Board diligently. Mr. Rivers and I have appeared a bunch to work this out. There were, as in any contested matter, a number of the charges that I am confident we would have been able to defeat, but there are also charges that the Department would have won in. That is the essence of compromise and settlement and that is what we are here to do."

Ms. Thomas-Dewitt questioned if the Licensee fails to pay the fine whether their license would be suspended.

Mr. Boydston stated that the Licensee is on probation during this whole period so that would be a part of the deal.

Mr. Rivers stated that if the Licensee fails to comply with the Consent Order then there would be an immediate suspension of Global Mortuary's license

**MOTION:** Mr. Jones moved to approve the Settlement Stipulation as recommended by the Department. Mr. Clark seconded the motion, which passed with two (2) dissenting vote.

***(3) Flagler Palms Cemetery, LLC d/b/a Flagler Memorial Gardens (F039430): Case No. 133741-13-FC, Division # ATN-17863 (Waiver of Probable Cause)***

Ms. Surles stated that on April 10, 2012, the Department conducted an examination of the cemetery company records of the Care & Maintenance Trust Fund of Flagler Palms Cemetery and found that withdrawals were made from the principal for

fiduciary taxes instead of from income, in the amount of \$4236. The Licensee has decided that it is in its best interest to enter into a Settlement Stipulation for Consent Order and has waived probable cause in this matter.

On June 5, 2013, the Department received proof from the Trustee, SunTrust Bank, that the Licensee deposited \$4236 into the Flagler Palms Memorial Care and Maintenance Trust Account. Pursuant to the Executed Waiver of Finding Probable Cause and Waiver of Confidentiality, the Licensee has voluntarily waived a finding of Probable Cause for the violations as alleged in the Division's investigation file as maintained in Division record #ATN-17863 for resolution at the time the Consent Order is issued in this case, pursuant to s. 497.152(4)(c), F.S.

The Settlement Stipulation before you today provides that the Licensee will pay an administrative fine in the amount of \$2500 and cost in the amount of \$250 within thirty (30) days of the Consent Order issued in this case. The cemetery license will be placed on probation for a period of two (2) years with the specific condition that the Licensee will make only authorized withdrawals from the principal or corpus of the Care and Maintenance Trust Fund.

It is now appropriate for the Board to entertain a motion to accept the Settlement Stipulation for Consent Order as discipline in this matter.

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

**5. Application(s) for Preneed Sales Agent**

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

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

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

**B. Recommended for Approval without Conditions (Criminal History)**

**(1) Roosevelt, Steven Dale (Appointing Entity: Family Owned Service Company, Inc.)**

On June 10, 2013, the Department received an application from Mr. Roosevelt. Mr. Roosevelt answered "Yes" to Applicant Background Questions. During the review of his fingerprint results provided by FDLE it was confirmed, Mr. Roosevelt did have one criminal infraction that required disclosing.

The criminal history consists of one offense relating to one incident of Driving While License Cancelled/Suspended/Revoked in 2005, which occurred in Seminole County, Florida. Upon request Mr. Roosevelt disclosed all required information. (Applicant, in his written submission, also refers to a domestic violence incident. The incident occurred in the year 2000. The state attorney *nolle prossed* the matter, so there is no criminal record regarding that matter.)

The Department assessment is that if issued a preneed sales agent license, Mr. Roosevelt would not pose an unreasonable risk to the members of the public who might deal with him in preneed transactions.

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

**6. Application(s) for Continuing Education Course Approval**

**A. Recommended for Approval without Conditions – Addendum B**

**(1) International Order of the Golden Rule #2201**

**(2) National Funeral Directors Association #136**

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



9. **Application(s) for Embalmer Apprenticeship**  
A. *Informational Item (Licenses issued without Conditions) – Addendum E*  
(1) *Miller, James K (F075002)*

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

10. **Application(s) for Registration as a Training Agency**  
A. *Informational Item (Licenses issued without Conditions) – Addendum F*  
(1) *Embalming*  
(a) *Naples Funeral Home Inc (F040781) (Naples)*  
(2) *Funeral Directing*  
(a) *Professional Funeral Services of Northwest Florida LLC (F039983) (Fort Walton Beach)*  
(3) *Funeral Directing and Embalming*  
(a) *Beggs Funeral Home Inc (F050428) (Tallahassee)*  
(b) *Professional Funeral Services of Northwest Florida LLC (F048366) (Defuniak Springs)*

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

11. **Consumer Protection Trust Fund Claims**  
A. *Recommended for Approval without Conditions – Addendum G*

The Division recommends approval of the claim(s) for the amount indicated entitled “Amount Recommended.”

Col. Stiegman questioned “reason code #4” as the code sheet was omitted.

Mr. Shropshire apologized as Ms. Christine Moore usually attaches the code sheet. Mr. Shropshire requested that Ms. Jasmin Richardson call Ms. Moore for clarification on “reason code #4.”

The Chair questioned whether anyone had a previous Board packet and could see what the code is.

Ms. Lisa Coney noted that “reason code #4” is “Claim reduced by amount of trust funds available.”

Mr. Anthony Miller confirmed that “reason code #4” reads “Claim reduced by amount of trust funds available.”

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

12. **Application(s) for Cinerator Facility**  
A. *Recommended for Approval with Conditions*  
(1) *Mullins Memorial Funeral Home & Cremation Service LLC (Cape Coral)*

An application for a Cinerator Facility was received on July 3, 2013. The application was incomplete when submitted. All deficient items were returned on July 17, 2013. The fingerprint cards for all principals were returned with no criminal history. The Funeral Director in Charge will be Shannon Mullins (F044369).

The Division recommends approval subject to the condition that the establishment passes an on-site inspection by a member of Division Staff.

Mr. Mueller noted a typo on the information provided: ...the condition that the ~~removal service~~ cinerator facility passes an on-site inspection by a member of Division Staff.

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

**(2) Orlando Crematory LLC (Orlando)**

An application for approval of a change of control for this Cinerator Facility was received on May 31, 2013. The application was incomplete when submitted. All deficient items were returned on June 21, 2013. The fingerprint cards for all principals were returned with no criminal history. The Funeral Director in Charge will be Janene Rhodes (F045576). The Applicant answered yes to, "8) Is there any known prior disciplinary record on Applicant or Applicant's principals?" but it is not indicated in the packet. Mr. Shropshire asked Ms. Richardson whether this was a typo.

Ms. Richardson confirmed that this was a typo.

Mr. Shropshire clarified that there is no known prior disciplinary record on the Applicant or Applicant's principals.

Section 497.606(7) provides as follows regarding cinerator facilities:

CHANGES SUBSEQUENT TO LICENSURE.— Each Licensee under this section shall provide notice as required by rule prior to any change in location or control of the Licensee or licensed person in charge of the Licensee's operations. A change in control is subject to approval by the licensing authority and to reasonable conditions imposed by the licensing authority, for the protection of the public to ensure compliance with this chapter. Operations by the Licensee at a new location may not commence until an inspection by the licensing authority of the facilities at the new location, pursuant to rules of the licensing authority, has been conducted and passed.

The establishment is recommended for approval subject to the condition(s) as follows:

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

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

**13. Application(s) for Funeral Establishment**

**A. Recommended for Approval with Conditions**

**(1) Baker and Ross Mortuary (Jacksonville)**

An application for a Funeral Establishment was received on May 7, 2013. The application was incomplete when submitted. All deficient items were returned on July 17, 2013. The fingerprint cards for all principals were returned with no criminal history. The Funeral Director in Charge will be Donna Prince (F045442).

The Division recommends approval subject to the condition that the establishment passes an on-site inspection by a member of Division Staff.

Mr. Helm stated that the letter regarding refrigeration and cremation from Broadus-Raines was not included in the packet.

Mr. Mueller noted a typo on the information provided: ...the condition that the ~~removal service~~ funeral establishment passes an on-site inspection by a member of Division Staff.

The Chair noted that Mr. Shropshire read the correction into the record.

**MOTION:** Mr. Clark moved to approve the application subject to the condition that the establishment passes an on-site inspection by a member of Division Staff and receipt of the contract letter from Broadus-Raines. Mr. Jones seconded the motion, which passed unanimously.

***(2) Falowski-Riposta Cremation and Funeral Services LLC (Fort Lauderdale)***

If this application is approved, the FDIC for the establishment will be Mark Riposta (F042254).

This funeral establishment is the qualifying entity for preneed license F019482, and the Applicant herein agrees to assume all existing preneed obligations of that license (see attached letter from counsel, Wendy Wiener, dated July 19, 2013); Applicant has already submitted an application to make the location a preneed branch under Rolling Oaks Cemetery and Cremation Gardens (F066604) (the application is scheduled to appear on the August 1, 2013 Board agenda).

Fingerprints were submitted and a criminal history was reported for Applicant. Applicant pled no contest to Misdemeanor DUI on December 30, 2011. He was given \$1000 fine, his license was suspended for six months and was placed on a year probation that terminated after seven months. The Division does not believe this matter presents any risk to the public concerning licensure under Chapter 497.

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

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

Mr. Shropshire noted that there was an error on the coversheet provided, which references "see attached letter from SCI counsel, Wendy Wiener." The reference to SCI is an error as SCI has nothing to do with this application.

Mr. Helm stated he would like to see a condition of probation be attached since there is some criminal stuff.

Ms. Wendy Wiener stated that the Applicant was approved in October for another license without any probation. There have been no problems at the location that would warrant any difference.

Mr. Helm questioned whether Ms. Wiener represents the Applicant.

Ms. Wiener stated that she is counsel for the Applicant. The Applicant was approved to acquire Rolling Oaks Cemetery back in October and has been operating it.

**MOTION:** Col. Stiegman moved to approve the application subject to the conditions recommended by the Division. Ms. Hubbell seconded the motion, which passed unanimously.

**(a) Application(s) for Preneed Branch License – Addendum H**

The Division recommends approval of the application.

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

**14. Application(s) for Removal Service**

**A. Recommended for Approval *with* Conditions**

**(1) James P Robinson d/b/a Love & Care Removal Service (Port St. Lucie)**

An application for a Removal Service was received on May 13, 2013. The application was incomplete when submitted. All deficient items were returned on July 10, 2013. The fingerprint cards for all principals were returned with no criminal history.

The Division recommends approval subject to the condition that the establishment passes an on-site inspection by a member of Division Staff.

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

**(2) Removal Concepts LLC (Boynton Beach)**

An application for a Removal Service was received on June 20, 2013. The application was complete when submitted. The fingerprint cards for all principals were returned with no criminal history.

The Division recommends approval subject to the condition that the establishment passes an on-site inspection by a member of Division Staff.

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

**15. Contract(s) or Other Related Form(s)**

**A. Recommended for Approval with Conditions**

**(1) Trust Transfer Request**

**(a) Hillside Cemetery Association, Inc. (Ormond Beach) (F039533)**

**1. Transfer of Hillside Cemetery Future Maintenance Fund Agreement from Morgan Stanley Private Bank, N.A. to Regions Bank, N.A.**

The Hillside Cemetery Association is requesting transfer of the above named perpetual cemetery care and maintenance trust account from Morgan Stanley, and the appointment of Regions as successor trustee. (Please refer to attached letter dated 6-20-13) Hillside is currently licensed as a cemetery (License # F039533), located at 200 Seton Trail, Ormond Beach.

If approved, as appointed successor trustee, Regions will continue to operate under the existing Hillside Cemetery Future Maintenance Fund agreement.

The Division recommends approval subject to the condition(s):

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

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

**(b) StoneMor Florida Subsidiary, LLC d/b/a Seawinds Funeral Home (F058284)**

**1. Transfer of The Forethought Federal Savings Bank (FFSB) Preneed Master Trust (1/23/2001) to the Forethought Federal Savings Bank (FFSB) Florida Preneed Master Trust for StoneMor Florida Subsidiary, LLC (and related preneed Licensees)**

StoneMor Florida Subsidiary is requesting to transfer the above preneed trust currently held at FFSB under its Florida Preneed Master Trust (effective as of January 23, 2001). StoneMor recently acquired all preneed assets and liabilities associated with Seawinds Funeral Home I, LLC (License # F019490), and currently operates it as a preneed branch under StoneMor's preneed main license (License # F058284). StoneMor is requesting transfer of these preneed funds to the newly created FFSB Florida Preneed Master Trust for StoneMor Florida Subsidiary, LLC and its related Licensees, which was approved at the July 11, 2013 Board teleconference subject to receipt of the fully executed agreement by all parties within 60 days. (Please refer to attached letter dated July 3, 2013 from attorney, Wendy Wiener).

If this transfer is approved, FFSB will operate under the FFSB Florida Preneed Master Trust agreement for StoneMor and its related Licensees.

The Division recommends approval subject to the condition(s):

- 1) That FFSB provides a certification statement that as trustee it meets the requirements of Rule 69K-7.015(1) or (2).
- 2) That FFSB provides a certificate stating the dollar amount of trust assets being transferred.
- 3) That FFSB provides acknowledgement of receipt of the amount of trust assets being transferred as specified under the former trust.
- 4) That the effective date of the transfer and all above certifications be provided to the Division within 60 days of the date of this Board Meeting.
- 5) That the Department receives the FFSB Florida Preneed Master Trust agreement for StoneMor and its related Licensees, fully executed by all parties within 60 days of this Board meeting

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

## **16. Board Consumer Member Report (Oral)**

Col. Stiegman made the following presentation to the Board:

*“Thank you Mr. Chairman. I have been missing in action recently from our in-person Board meetings. As a result, I have not been able to report my activities to you face to face.*

*In February, I sent a complaint package to the Governor, stating my objection to the manner in which the Sunshine Law is being interpreted and applied to the proceedings of this Board. My complaint was forwarded to the Governor’s Legal Department and it was not until June that I was contacted with a reply. I was informed that mine was one (1) among many complaints about how the Sunshine Law is being applied, throughout the State. Three (3) of the complaints are still in the judicial process and one (1) has had a judicial decision. That decision upholds the opinion given at our Funeral, Cemetery and Consumer Services Board Meeting in October 2012; that the public has the right to attend Board meetings, but restricts their right to be heard.*

*I brought up my argument that in the “Government in the Sunshine Manual,” Page 44 states “Accordingly, the Attorney General’s Office strongly encourages public Boards to consider a reasonable opportunity for the public to address the Board prior to taking action.” Ah, I was told that is only the Attorney General’s opinion and the opinion of the Court (in the case already decided) trumps the Attorney General’s opinion. The lawyer’s words, not mine. The opinion of the Court trumps the opinion of the Attorney General. Keep that last statement in mind. I asked if that isn’t sort of like a carrot dangling from a stick in front of the donkey. No matter what the donkey does, he will never reach the carrot. To which I received only a chuckle for an answer. So, I’ll leave this topic unsettled in my mind, but I will offer this suggestion. The next time our Legal Representative to the Board whispers in your ear, Mr. Chairman, remember that he is only giving you his opinion and I submit that your opinion, Mr. Chairman, trumps the Legal Representative’s opinion. The Legal Representative has neither the right nor the power to dictate the decisions of this Board. As stated in the opening remarks of every Board meeting by Mr. Shropshire, “Participants are respectfully reminded that the Board Chair, Mr. Brandenburg, runs the meeting.” As such, you alone have the right and the power to courteously offer a reasonable opportunity to the public to address the Board, prior to taking any action, on any issue.*

*Our lawyers, unfortunately, are only worried that a petitioner appearing before the Board, will object to the decision of the Board and appeal his case. Isn’t that what the right to appeal is designed for? Any petitioner has the right to appeal any decision of the Board. The lawyers are concerned that they will have to work a little harder to prepare for and appear before an appeals hearing. Well tough pittooty. In my opinion, that’s why the taxpayers of the State of Florida pay them the big bucks. Let them earn their pay. Mr. Chairman, you have super intelligent people on your Board. You should have enough confidence in them to allow them to hear arguments from all sides of an issue, and using that superior intelligence, separate the wheat from the chaff and make a proper decision.*

*I believe I will attend a Board meeting sometime in the future as a member of the public...sit out there in the peanut gallery and see if this Board has the collective balls to recognize and listen to what a Joe Blitzfik or Mrs. Wiener or D L Stiegman has to say.*

*Thank you Mr. Chairman. If there are no questions, that concludes my report and my participation on this Board and I must say I have enjoyed every confrontational minute I’ve spent here.”*

17. Executive Director's Report  
 A. Report: Payment of Disciplinary Fines and Costs (Informational)

Monthly Report of Fine and Costs Assessed and Paid  
 Division of Funeral, Cemetery and Consumer Services  
 August 1, 2013 Board Meeting  
 Report Updated as of July 23, 2013

Licensee	Board Meeting	Case No.	Total Fine & Cost Due	Date Due	Paid in Full?	Comments
Stanley Gunter-Butler	Jun-12	11766-11-FC	\$2,750	8/20/2012	NO; See Note A	Monthly payments are not current. Licensee failed to make March and April payments in full. Partial payments of \$100 each were rec'd on 5/6/13 and 5/14/13, respectively. To date, \$1,250 remains outstanding; file has been submitted to Legal for appropriate administrative action.
Cemetery Professionals, LLC dba Beaches Memorial Gardens and Cemetery Professionals, LLC dba Beaches Memorial Park	Jun-12	110156-10-FC & 110157-10-FC	\$5,250 \$5,000 38,859.57	9/6/2012 12/7/2012 35 mo pymts	YES YES See Note E	Monthly restitution payments are current
New Serenity Memorial Funeral Home & Cremation Services	Dec-12	126168-12-FC	\$1,500	4/15/2013 5/15/2013 6/15/2013	Yes Yes No; See Note A	Board approved modification request at April Board meeting. \$500 due each month. \$225 partial payment rec'd 6/17/13 and \$100 partial payment rec'd 7/3/13. A total of \$175 remains outstanding. File has been submitted to Legal for appropriate administrative action.
Doctor R. Choice	Feb-13	126172-12-FC	\$750	4/15/2013	Yes	Payment in full rec'd 7/8/13, after file was submitted to Legal.
Kate Mayberry dba Agape Funeral Home & Cremation Services, Gainesville	Apr-13	130380-12-FC	\$1,750	5/9/2013	Yes	
Collison Family Funeral Home & Cremation Howell Branch Chapel	Apr-13	125720-12-FC	\$1,250	5/10/2013	Yes	
Patrick Fulton	Apr-13	125722-12-FC	\$1,250	5/10/2013	Yes	
Sara Fredericks	Apr-13	125717-12-FC	\$1,250	5/10/2013	Yes	
Alliance Monument & Marble Co, Inc.	Apr-13	129483-12-FC	\$1,000	9/2/2013	See Note D	Licensee currently suspended, based on Emergency Order of Suspension issued 11/8/12 for failure to pay fine & costs in previous separate administrative action taken against licensee in Case No. 128348-12-FC.
Gregory Collison	Apr-13	125716-12-FC	\$1,250	5/10/2013	Yes	
Golden's Funeral Home, Inc.	Jun-13	122935-12-FC	\$4,000	10/8/2013	Yes	Paid in full on 7/9/2013
Dove Funeral Home:	Jun-13	114224-11-FC & 114213-11-FC	\$1,000	8/9/2013	See Note D	
Lynn Arruda	Jun-13	114245-11-FC & 114211-11-FC	\$1,000	8/9/2013	See Note D	
Gary Daughtery	Jun-13	114222-11-FC & 114212-11-FC	\$1,000	8/9/2013	See 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 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.

OQM Aug Bd Mtg  
 PMS PFS Bd

**18. Chairman's Report (Oral)**

The Chair questioned the date of the upcoming Board meetings.

Ms. LaTonya Bryant stated that the next meetings would be a teleconference on September 5<sup>th</sup> and an in-person meeting on October 3<sup>rd</sup> in Tampa.

**19. Office of Attorney General's Report (Oral)**

None

**20. Administrative Report**

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

**21. Disciplinary Report**

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

**22. Adjournment**

The meeting was adjourned at 10:51 a.m.