

MINUTES
BOARD OF FUNERAL, CEMETERY AND CONSUMER SERVICES
August 4, 2016 - 10:00 A.M.
Embassy Suites by Hilton Orlando - North
225 Shorecrest Drive
Altamonte Springs FL 32701

1. Call to Order, Preliminary Remarks and Roll Call

Mr. Jody Brandenburg, Chair – Good morning everyone. Welcome to the Board of Funeral, Cemetery, and Consumer Services meeting. It's August 4, 2016. We're at the Embassy Suites Orlando in Altamonte Springs FL. Mr. Shropshire, will you make your preliminary remarks please and do the roll call, please?

Mr. Doug Shropshire – Yes Mr. Chairman. My name is Doug Shropshire. I am Director of the Division of Funeral, Cemetery, and Consumer Services. Today is August 4, 2016; it is 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 and extra copies are located in the back of the meeting room here. This meeting is occurring 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.

At this time, Mr. Chairman, I will take the roll:

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 – Thank you.

Also noted as present:

Tom Barnhart, Board Legal Advisor
Ellen Simon, Assistant Director
LaTonya Bryant, Department Staff
Jim Bossart, Department Counsel
Jasmin Richardson, Department Staff

2. Action on the Minutes

Chair – We'll do them each, individually.

A. June 30, 2016

Chair – The first agenda item is the June 30, 2016 minutes.

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

B. July 7, 2016

Chair – The first agenda item is the July 7, 2016 minutes.

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

C. July 22, 2016

Chair – The first agenda item is the July 22, 2016 minutes.

MOTION: Mr. Keenan Knopke moved to adopt the minutes of the meeting. Ms. Jean Anderson seconded the motion, which passed unanimously.

3. Disciplinary Proceedings:

A. Settlement Stipulation(s)

(1) Waiver of Probable Cause

(a) Carriage Florida Funeral Holdings, Inc. d/b/a North Brevard Funeral Home: Case No. 190609-16-FC; Division No. ATN-26327 (F041101 – Funeral Establishment)

Mr. Shropshire – The allegations include but are not necessarily limited to that Respondent failed without reasonable justification to timely honor a contract entered into for funeral, burial merchandise, or services. The matter is before the Board today on a proposed Settlement. The proposed penalty in the proposed Settlement calls for a \$2000 fine and probation for six (6) months. The Department was represented by Deirdre Farrington, who is unable to make it to this meeting, so the Department is represented by its counsel, Jim Bossart. The subject is represented by its counsel, Wendy Wiener. Mr. Bossart?

Mr. Jim Bossart – Thank you, sir. Mr. Chairman?

Chair – Good morning.

Mr. Bossart – My name is Jim Bossart. I represent the Department. Mr. Shropshire has pretty much said it all, actually. The Division alleges the Respondent failed without reasonable justification to timely honor a contract entered into by the Respondent or under Respondent’s license for funeral, burial merchandise, or services. The actual circumstances of this case was that the complainant’s mother was inadvertently cremated without notice, even though the cremation was authorized. There is no indication in the file that this was anything but an unhappy accident and that is why the Department recommends that the Settlement approved with a fine \$2000 and probation for six (6) months.

Chair – Thank you. Ms. Wiener, did you want to address the Board?

Ms. Wendy Wiener – No sir, just here to answer any questions. Thank you.

Chair – Board, we have a Stipulation Agreement before us. Any questions?

MOTION: Mr. Helm moved to approve the Settlement Stipulation with an administrative fine of \$2000 and probation for six (6) months. Mr. Jones seconded the motion, which passed unanimously.

(b) Related Cases – Division No. ATN-25718

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

1. *Covell Funeral Home & Cremation Services: Case No. 183168-15-FC; Division No. ATN-25718 (F041194 – Funeral Establishment)*

Mr. Shropshire – The allegations include but are not necessarily limited to that Respondent failed to have adequate refrigerated storage for the average daily number of bodies stored; failed to affix proper identification to the ankle or wrist of all deceased in custody; and failed to complete and retain monthly Bodies Handled Reports. The matter is before the Board on a proposed Settlement. The proposed penalty in the Settlement includes a \$2000 fine and probation for one (1) year. The Department was represented by Deirdre Farrington originally, but Mr. Bossart will represent the Department today. The subject is represented by attorney, W. Wade Thompson. Mr. Bossart?

Mr. Bossart – Thank you, sir.

Mr. Helm – Mr. Chairman?

Chair – Yes?

Mr. Helm – I wish to announce my affiliation with Covell Funeral Home. He is a customer of mine, but it will not impair my judgment.

Chair – Thank you.

Mr. Bossart – Mr. Chairman?

Chair – Please.

Mr. Bossart – Again, my name is Jim Bossart, representing the Department. The Respondent, in this case, waived probable cause and has agreed to pay a fine of \$2000 and have its license placed on probation for one (1) year. The Department recommends that you accept the Settlement Stipulation.

Mr. Shropshire – Mr. Chairman, may I clarify with Mr. Bossart?

Chair – Please do.

Mr. Shropshire – So we're on the case here today of two (2) related cases. This is the case against the establishment and the next case is against the individual. Is that correct, Mr. Bossart?

Mr. Bossart – That's correct.

MOTION: Mr. Knopke moved to approve the Settlement Stipulation with an administrative fine of \$2000 and probation for one (1) year. Mr. Lew Hall seconded the motion, which passed unanimously.

2. *Covell, Douglas A.: Case No. 183174-15-FC; Division No. ATN-25718 (F046882 – Funeral Director and Embalmer)*

Mr. Shropshire – The allegations include but are not necessarily limited to that Respondent, as funeral director in charge of Covell Family Home & Cremation Services, failed to do the following: have adequate refrigerated storage for the average daily number of bodies stored; properly affix proper identification to the ankle or wrist of all deceased in custody; and complete and retain monthly bodies handled reports. The matter is before the Board on a proposed Settlement. It calls for a \$2000 fine and probation for one (1) year. The Department is represented by Jim Bossart here today. The subject is represented by attorney, W. Wade Thompson. Mr. Bossart?

Mr. Bossart – Thank you, sir. Mr. Chairman, this is Jim Bossart. Again, I represent the Department. The Respondent in this case, Douglas Covell, has waived probable cause and stipulated they shall pay a fine of \$2000 and his license shall be placed on probation for one (1) year. The Department recommends that you accept the Stipulation.

MOTION: Mr. Hall moved to approve the Settlement Stipulation with an administrative fine of \$2000 and probation for one (1) year. Ms. Vanessa Oliver seconded the motion, which passed unanimously.

(c) Oxley-Heard Funeral Directors, Inc.: Case No. 183577-15-FC; Division No. ATN-25488 (F019216 – Preneed Main)

Mr. Shropshire – The allegations include but are not necessarily limited to that Respondent failed to furnish for retention a written agreement to each purchaser, the form of which has been previously approved if and as required by Chapter 497, Florida Statutes, that lists in detail the items and services purchased together along with the prices for the items and services purchased, the name, address, and telephone number of the licensee, the signatures of the customer and the licensee or his or her representative, and the date signed. Additionally, the licensee failed to ensure that the merchandise sold is accepted at the cemetery of the customer’s choice. The matter is before the Board today on a proposed Settlement Stipulation. The proposed penalty is summarized as being a \$2000 fine. The Department is represented by Jim Bossart, its attorney. The licensee is represented by attorney, Wendy Wiener. Mr. Bossart?

Mr. Bossart – Thank you, sir. Mr. Chairman?

Chair – Please.

Mr. Bossart – This is Jim Bossart and I represent the Department in this matter of Oxley-Heard Funeral Directors. The Respondent, in this case, has agreed to an administrative fine in the amount of \$2000 and to correct all violations, if they haven’t already been done so. The Department recommends that the Settlement Stipulation be accepted.

Chair – Did you say they have already corrected the violations?

Mr. Bossart – That I’m not...they are required to correct the violations. I assume they have. I would hope they have but nevertheless, they are required to do it.

Ms. Wiener – I’d be happy to speak to that. This is Wendy Wiener for the Respondent. The issues had to do with the way that they were completing their preneed contracts and all of those have been addressed.

Chair – Thank you.

Mr. Knopke – Mr. Chairman, can I ask Ms. Wiener a question?

Chair – Please do.

Mr. Knopke – Wendy, can you explain that a little bit further because I’m looking at the Settlement and I’m fine with the fine but I was a little surprised that there wasn’t probation. I was going to ask that so maybe you can explain that. What they were doing.

Ms. Wiener – Certainly. There were a number of mitigating factors with regard to this matter. Not the least of which was the licensee’s long, long time licensure without any violations. The issues really had to do with just how they were finalizing some of their preneed contracts and some recordkeeping or some very minor issues with regard to not including the full information on certain merchandise that was selected. There was information. It just wasn’t super complete. And in several cases, failure to complete the section on the cemetery of the consumer’s choice having accepted the merchandise, etc. And so these were very minor issues, based upon our communications with counsel and on the number of mitigating factors the determination was made that probation wasn’t warranted.

Mr. Knopke – Thank you.

MOTION: Mr. Jones moved to approve the Settlement Stipulation with an administrative fine of \$2000. Mr. Hall seconded the motion, which passed unanimously.

(2) *Probable Cause Panel A*
(a) *Related Cases – Division No. ATN-25542*

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

1. *Straghn & Son Tri-City: Case No. 184654-16-FC; Division No. ATN-25542 (F040782 – Funeral Establishment)*

Mr. Shropshire – The allegations include but are not necessarily limited to that Respondent failed to do the following: Display a license of each funeral director along with a photograph taken within the last six (6) years; Complete and maintain monthly Bodies Handled Reports; Display the name of its full-time FDIC at the public entrance of the establishment; Furnish upon request a printed or typewritten list specifying the range of retail prices for burial rights, burial or funeral merchandise, or burial or funeral services; and Adopt and implement standards for the proper investigation and resolution of claims and complaints received. The matter is before that Board today on a signed Settlement Stipulation. The proposed penalty includes a \$1000 fine and probation for six (6) months. The Department is represented by its attorney, Jim Bossart. The subject is represented by attorney, Dedrick Straghn. Mr. Bossart?

Mr. Bossart – Thank you, sir. Mr. Chairman, this is Jim Bossart and I represent the Department in this matter. The Respondent in this case has agreed to pay, that's Straghn & Son Tri-City, has agreed to pay an administrative fine in the amount of \$1000, agreed to correct all violations and agreed to six (6) months of probation, licensure probation. The Department recommends that you accept this Settlement Stipulation.

Chair – Thank you.

Mr. Knopke – Mr. Chairman?

Chair – Yes?

Mr. Knopke – Let me recuse myself. I was on Probable Cause Panel A.

Chair – Thank you, Mr. Knopke. Yes, sir? You are?

Mr. Dedrick Straghn – Good morning. Dedrick Straghn, counsel for the establishment, Straghn & Son Funeral Home.

Chair – Thank you. Would you like to address the Board or are you hear to answer questions?

Mr. Straghn – Just answer any questions that the Board may have.

Chair – Thank you. Do you know if Respondent has corrected the deficiencies?

Mr. Straghn – Yes, Your Honor. As a matter of fact, I believe we submitted documentation prior to the actual complaint being filed. It was my understanding in speaking with Ms. Farrington that the general price list was not sufficient so we've been working trying to correct whatever deficiencies were there. Of course, they were not spelled out to us by Ms. Farrington, so we've contacted other funeral homes to figure out what it was that we were doing that was not the same, um, that was not acceptable to the Board. In addition to that we've actually changed the sign, the funeral director sign, the funeral director in charge. That's been changed and I believe that was the final thing. The pictures were never an issue as it relates to us not having pictures. They were just more than....

Chair – Out of date?

Mr. Straghn – Yes. Yes, but we submitted all of that information prior to, again, the complaint being filed in this matter. It's just an issue of them just not being complete.

Chair – Thank you. Board?

MOTION: Mr. Jones moved to approve the Settlement Stipulation with an administrative fine of \$1000 and probation for six (6) months. Mr. Helm seconded the motion, which passed unanimously.

Chair – Mr. Shropshire, I have a general question. Not on this case. Thank you very much. After stipulations are executed, is there any routine by the Division to check behind that after a certain number of months to assure that the agreements in the Stipulations to correct the deficiencies are in place?

Mr. Shropshire – Mr. Chairman, yes. It is my understanding and it is Department procedure that Mr. Lowe, the supervisor, will send an inspector out within a month or two, after the Settlement, unless the next routine annual inspection is in that same timeframe, but he will send an inspector out to check to make sure that the corrections have been done.

Chair – I appreciate that. I think that that would probably give, I know it gives me and other Board members a piece of mind to know that that's being done on a timely basis. Thank you, sir.

Mr. Shropshire – Yes sir.

2. *Straghn, Randy D.: Case No. 184682-16-FC; Division No. ATN-25542 (F046685 – Funeral Director and Embalmer)*

Mr. Shropshire – The allegations include but are not necessarily limited to that as FDIC of Straghn & Son Tri-City, the Respondent failed to do the following: display a license of each funeral director along with a photograph taken within the last six (6) years; complete and maintain monthly Bodies Handled Reports; display the name of its full-time FDIC at the public entrance of the establishment; furnish upon request a printed or typewritten list specifying the range of retail prices for burial rights, burial or funeral merchandise, or burial or funeral services; and adopt and implement standards for the proper investigation and resolution of claims and complaints received. The matter is before that Board today on a proposed Settlement calling for a penalty of a \$1000 fine and probation for six (6) months. The Department is represented by its attorney, Jim Bossart. The subject is represented by attorney, Dedrick Straghn. Mr. Bossart?

Mr. Bossart – Mr. Chairman, again sir, this is Jim Bossart representing the Department. The Respondent in this case, Randy Straghn, has agreed to pay an administrative fine in the amount of \$1000, has agreed to correct the violations, as we've discussed, and also agreed to six (6) months of probation. The Department recommends that this Settlement be accepted.

Chair – Thank you.

MOTION: Mr. Helm moved to approve the Settlement Stipulation with an administrative fine of \$1000 and probation for six (6) months. Mr. Hall seconded the motion.

Chair – Mr. Knopke, were you on this Panel, also?

Mr. Knopke – Yes.

Chair – Thank you, sir. And it's been seconded. All those in favor, aye?

Board members – Aye.

Chair – Any opposed? That motion carries. Thank you.

(b) *Rayan, Nadar: Case Nos. 163855-14-FC & 192298-16-FC; Division Nos. ATN-22737 & ATN-25950 (F062791 – Preneed Sales Agent)*

Mr. Shropshire – The allegations include but are not necessarily limited to that in case number 163855-14-FC, Respondent, while employed at the Kuzniar Group, d/b/a First Coast Funeral Home, failed to remit funds he collected, as payment for a preneed contract, for timely deposit into the preneed trust fund; failed to provide the consumer with a completed preneed contract; and used the services of an unlicensed person in the sale of a preneed contract. In case number 192298-16-FC,

Respondent, while employed at the Kuzniar Group, d/b/a First Coast Funeral Home, committed fraud, deceit, negligence, incompetency, or misconduct in the practice of an activity regulated by Chapter 497 and practiced beyond the scope of his preneed sales agent license by practicing as a funeral director. This matter is before the Board on a proposed Settlement. The proposed penalty in the Stipulation Settlement calls for a Voluntary Relinquishment which has the same force and effect as a revocation. Additionally, Mr. Rayan will never again apply for licensure under Chapter 497. The Department is represented here today by its attorney, Jim Bossart. The subject has appeared pro se. Mr. Bossart?

Mr. Bossart – Thank you. Mr. Chairman, this is Jim Bossart and I represent the Department in this matter of Nadar Rayan. Mr. Rayan has agreed to surrender his license with the stipulation that surrender shall have the same effect as a revocation and that he shall never again apply for any category of licensure, individual or corporate, under Chapter 497. The Department recommends you accept the Stipulation allowing him to surrender his license.

Chair – Thank you.

Mr. Knopke – Mr. Chairman, I was on Probable Cause Panel A for this one.

Chair – Thank you, Mr. Knopke, for that disclosure.

MOTION: Mr. Hall moved to approve the Settlement Stipulation with a Voluntary Relinquishment which has the same force and effect as a revocation. Mr. Clark seconded the motion, which passed unanimously.

Chair – Thank you, Mr. Bossart.

Mr. Knopke – Mr. Chairman?

Chair – Yes?

Mr. Knopke – May I ask Mr. Shropshire a question?

Chair – Sure.

Mr. Knopke – Doug, will you, in your report, be giving us an update on the new ownership of this business and so forth? We approved the new owner a couple of weeks ago. Is there anything to provide update on how it's going or nor going? Just it's more to give your thought on or around your report, if you want to make any comments.

Mr. Shropshire – Yes sir, thank you.

(3) Probable Cause Panel B
(a) Related Cases – Division No. ATN-24288

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

**1. Stonemor Florida Subsidiary LLC D/B/A Atlantis Cremation and Volusia Crematory:
Case No. 173610-15-FC; Division No. ATN-24288 (F071082 – Direct Disposal Establishment and
F071081 – Cinerator Facility)**

Mr. Shropshire – The allegations include but are not necessarily limited to that Respondent failed to keep its refrigeration unit at or below 40 degrees (The coversheet says above 40 degrees, but that is a typo. I think the parties understand that it was intended to be below 40 degrees). The matter is before the Board on a proposed Settlement Stipulation callings for a \$1500 fine and probation for six (6) months. The Department is represented by its attorney, Jim Bossart. The licensee is represented by attorney, Wendy Wiener. Mr. Bossart?

Mr. Bossart – Okay, thank you, sir. Mr. Chairman, this is Jim Bossart and I represent the Department in this matter. Pursuant to a consumer complaint from Kimberly Valle, and this is Ms. Valle right here and she'd like to address the Board after

conclusion of my remarks, an inspection was performed at Volusia Crematory on December 1, 2014, by Investigator Del Valle, who is our investigator, (the names are similar, but they're two (2) separate people), at the request of Kimberly Valle who was concerned about the refrigeration and the conditions of the remains of her deceased mother who'd been refrigerated at the crematory pending final disposition. Ms. Valle's mother died on November 22, 2014. Investigator Del Valle observed, on December 1, 2014, that the temperature of refrigeration unit holding the remains was below 40 degrees and that the body was in an advance state of decomposition. This would be a violation of s. 497.386(2), which provides that a dead human body may not be held at any place or in transit for over 24 hours after death depending final disposition unless the body is maintained under refrigeration at a temperature of 40 degrees or below or otherwise embalmed. The Respondent in this case has agreed to enter in a proposed Stipulation for a fine of \$1000 (the memorandum contains a typo) and six (6) months of probation. The Department recommends that you accept this Stipulation.

Ms. Anderson – Mr. Chairman, I recuse myself as I served on Probable Cause Panel B.

Char – Thank you, Ms. Anderson.

Mr. Bossart – And as I said, this is Ms. Valle would like to address the Board.

Chair – Ms. Valle, it's customary that when you address the Board that you're sworn in, so Mr. Shropshire will swear you in.

Mr. Shropshire – Would you raise your right hand, ma'am? Do you 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. Kimberly Valle – I do.

Mr. Shropshire – Please state your full name.

Ms. Valle – Kimberly Valle.

Mr. Shropshire – Thank you, ma'am.

Chair – Spell that last name.

Ms. Valle – Valle.

Chair – I had it. I got it right. Thank you. Proceed.

Ms. Valle – My concern, well I don't agree with the Stipulated Order, the fine or the suspension. I don't believe it's adequate for what occurred. I don't agree that the evidence and the statements that were provided by Investigator Del Valle support exactly the issue with the temperature gauge. Obviously she went there and that is what it is, but I believe there is some other issues involving this that were brought to the State's attention and I'm not sure how to get it addressed. I've addressed those concerns to Ms. Simon and Mr. Bossart. I've also made some calls to Ms. Del Valle and they've not been returned, but I don't believe that her investigation was complete and the Stipulation properly reflects the evidence that was as a result of that investigation. And I can go into further detail. I'm not sure how this works but um....

Chair – There was a mention of your mother's decomposition.

Ms. Valle – Yes, sir?

Chair – How did you learn of that?

Ms. Valle – My sister and I paid for a private autopsy two (2) days after her death.

Chair – Okay and her death was?

Ms. Valle – Saturday, November 22, 2014.

Chair – Excuse me, I’m just making notes. Anything else to say to the Board?

Ms. Valle – Nothing other than if you’re able to explain to me how we can get my concerns addressed as far as the investigation is concerned.

Mr. Knopke – Mr. Chairman, may I ask her a question at some point?

Chair – Yes. Mr. Shropshire, would you want to answer that question or is it appropriate for you to answer that question?

Mr. Knopke – Not mine. She had a question.

Mr. Shropshire – Well I’m not sure exactly what the concerns are. I believe that the Stipulation is entered into, and counsel may be able to address this better, because of the uncertainties of litigation, in terms of the weight and the physical condition of the decedent at time of death, as those conditions relate to our ability to prove that the refrigerator temperature was the proximate cause of the decomposition of the body. Those are litigation issues, I believe, that drove the Settlement Stipulation.

Mr. Bossart – May I address that, sir?

Chair – Mr. Counsel?

Mr. Bossart – My concerns as I was reviewing the file and filing the Administrative Complaint was eight, nine days passed between the date of death and the date of cremation. Our investigator did not see the temperature gauge of the refrigerator until December 1st, the same day of the investigation. Also, the autopsy report seemed to be inconclusive as to what the reason for the decomposition was. The person that performed the autopsy at the University of Florida Health Center made oral comments to the Investigator that the decomposition could have been as a result of a faulty refrigerator but also could have been because of her weight or the passage of time and he was also not willing to put that down in an affidavit so it seems to be inconclusive as to what I didn’t feel I could prove what actually caused the decomposition or what the temperature of the refrigerator was at the time that Ms. Valle’s mother was placed in it. All that I could prove was that on December 1st the refrigerator wasn’t working.

Chair – Thank you. Mr. Knopke?

Mr. Knopke – I guess my question will go to counsel then. Well to Ms. Del Valle. Mother passed away on Saturday.

Chair – No, who’s this addressed to? Ms. Valle?

Mr. Knopke – Ms. Valle. I’m sorry. Her mother passed away on November 2nd, if I wrote that down correctly.

Mr. Bossart – 22nd

Mr. Knopke – 22nd. I’m sorry, and that was a Saturday. Then two (2) days later you authorized or you and your sister authorized an autopsy. Is that correct? Is that what you said?

Ms. Valle – We put things in motion actually that Monday but the funeral home wasn’t cooperative and she didn’t actually go until that Tuesday to UF Autopsy Services.

Mr. Knopke – Was the purpose of the autopsy for cause of death, to determine cause of death or was it something to do with the refrigeration at that point?

Ms. Valle – We didn’t know anything about the refrigeration at that point but it was to determine cause of death because she did die suddenly, within like an hour of a family member even leaving her home.

Mr. Knopke – Did you see her before she went to the University of Florida?

Ms. Valle – I did. I actually saw her on the evening of November 22nd, it's in my sworn statement, at Atlantis Cremation viewing room at 9pm.

Mr. Knopke – Okay, thank you.

Mr. Clark – Mr. Chair, I have a question.

Chair – Yes, Mr. Clark?

Mr. Clark – What services were arranged with the funeral home? Was it direct cremation?

Ms. Valle – She did have a direct cremation contract, yes.

Mr. Clark – Okay. When you brought the concern, when you became aware of this issue, what was the funeral home's response when you voiced your concerns?

Ms. Valle – They still to this day have not returned my phone calls.

Ms. Wiener – This is Wendy Wiener. I represent both licensees in this matter. There is no...

Chair – Let me just say one thing. Mr. Clark, were you finish with your question?

Mr. Clark – Yes sir.

Chair – I'm sorry.

Ms. Wiener – Well, and in response to your question, there is a response from the licensee in the Board packet, Notice of Complainant's Exhibit 11.

Mr. Clark – I see that there was a letter to the Division but I was asking about what the funeral home's response was to the family. Refund or....

Ms. Wiener – And I don't know. I don't know. I don't have that information.

Mr. Clark – So you didn't receive any type of refund or anything from the funeral home?

Ms. Valle – No and we sat there many hours on many days and we were just declined the option to schedule a viewing or view our mother or get any answers as to what happened. I don't know if this is the proper forum to say this but what our concern was all along is I saw her right after she was transported to Lohman's and Atlantis that night, in that viewing room and by then she had only been passed away about three (3) hours and it was my position and my sister's position and it says it in our statements that she was left in that room all weekend because the livery driver, Elizabeth, was not able to move her by herself. I had offered to help her and she declined and said that if she needed assistance she would call someone in. When we called the funeral home Monday morning, we were told my mother wasn't even there. So that's why there's more to this than I think has been properly reflected as part of what's on paper in your file.

Ms. Wiener – And of course the problem is there is no evidence that she was left out of refrigeration and of course as Mr. Shropshire had mentioned and as Mr. Bossart mentioned, if this becomes a legal proceeding there won't evidence that she was left out of refrigeration. It is the statement and you have affidavit testimony in the record that she was refrigerated since she was brought in to the facility.

Ms. Valle – You have statements from all of the employees at the funeral home that indicate that at least two (2) people were needed to remove or transport my mother while she was there. However, you have no statements from the livery driver who brought her to the funeral home that night that indicates that anyone helped her move her from the van to the refrigeration.

Chair – Ms. Valle, where did your mother pass away?

Ms. Valle – In her bedroom.

Chair – At home?

Ms. Valle – Yes sir.

Chair – Thank you.

Mr. Knopke – Mr. Chairman?

Chair – Yes?

Mr. Knopke – I'll ask counsel for StoneMor, is there a log, do they have a log that records bodies when they arrive at the cooling facility or when they're transported out from there to another location so they can keep up with where they're going and when they're coming back or any of that?

Ms. Wiener – They may. It's not part of the record in this case. The way that the case progressed through to the Settlement process it was not...I don't know. Maybe, but I don't know.

Mr. Knopke – So nobody from the Department or anywhere, anybody asked the question is there a log to track where bodies go once they arrive at the refrigeration facility and removed from there as to who took them or where they're going or who brought them back?

Ms. Wiener – I would assume or guess that Ms. Del Valle checked for that and since the only allegation was with regard to the failure of the refrigeration unit, because that is all the evidence that there is. There is no evidence that the actions of the licensees contributed in any way to the state of decomposition of the body. I can make an assumption that she saw such a thing but it would just be a guess on my part.

Mr. Bossart – If I could answer your question, sir. As I recall, there is a log that she was received on the night of November 22nd. That would be the initial reception but I don't believe there is any log indicating that she was sent to the University of Florida for an autopsy and brought back.

Mr. Knopke – Mr. Bossart, where I'm going with this is if there's a log that showed her going into the cooler, there should have been a log documentation saying that she left the cooler, that she left the cooler and went some place. I would assume there would be a log statement that says the date and time when she was brought back. And from Ms. Valle's request, she's alleging that based upon her comments here that her mother was never taken back. That question can easily be answered if somebody would go look and ask is there a log; let me see it and that would show when the remains were brought back and by who.

Mr. Bossart – The autopsy was performed on November 25th. It was always my assumption that she was returned after that.

Mr. Knopke – Well if she stayed at the funeral home, not in a refrigerated facility, for two (2) days or twenty-four (24) hours for that matter, you got some serious problems.

Mr. Bossart – I understand.

Ms. Wiener – Let me answer your question better.

Mr. Knopke – Okay.

Ms. Wiener – Exhibit 03, in your Board packet, is the cooler log showing her going into refrigeration.

Chair – What page is that, please?

Ms. Wiener – Um, of the Board packet, its Page 58 of 99.

Chair – We’re getting there. Hold on, please. Exhibit 03, Copy of cooler log for Volusia Crematory. Okay.

Ms. Valle – Please note on that log that it also says my mother was embalmed and that didn’t happen either.

Mr. Knopke – And where on, about on the page, Wendy?

Ms. Wiener – The decedent is the fifth line down, Cino.

Mr. Knopke – Okay.

Mr. Bossart – November 22nd.

Mr. Knopke – She was brought there on the 22nd. It says she was embalmed, but not. Then the funeral home was Atlantis it looks like. It says she was removed by Liz from the residence from the residence and then disposition, valuables found none, disposition I’m not sure what the language says. When she was, that says when she was brought. Where is the log that says she was taken out? Where is the log that says she was returned? Or is there one?

Ms. Wiener – I have what you have in the Board packet.

Mr. Bossart – I don’t believe there is one.

Ms. Wiener – No, I believe the original allegation was that she was not put into refrigeration. On November 22nd, as you’ve just heard, there was a suggestion that she was brought to the funeral home and left out over the weekend and not refrigerated and so I believe what Ms. Del Valle was looking at was to determine whether in fact the cooler log showed that when she was received at the location she went into refrigeration, which is what this shows.

Mr. Knopke – Okay, but if she was received at the location at...is this saying that she was received there at 9:30?

Ms. Wiener – I believe. I believe that under that section it says embalmed. I think that’s the time they went into refrigeration otherwise every single body that’s in there cooler has been embalmed. I suspect that that’s how they use that block.

Mr. Knopke – Okay, but is that 9:30 am or pm? From following the log above, it would say that Ms. Gonzalez, third from the top, was placed in there, if I’m understanding this correctly, at 11:56am. The next one, Dale Rolfe was placed in at 4:05 it looks like.

Chair – P.M.

Mr. Knopke – P.M., thank you. The next one, Ms. Cino at 9:30, but it doesn’t state a time. And the next one, two, three, four, five, six, all the way down to Edward Payne on the 25th gets back to P.M. So maybe I’m just confused myself. What was the time of death on our deceased?

Mr. Bossart – The afternoon of November 22nd, I believe.

Mr. Knopke – Okay.

Ms. Wiener – I’m assuming that’s 9:30pm if I’m following the log. There’s a P.M. above it and then its 9:30 and then the next is a different day.

Mr. Knopke – Again, my question is a variety of questions now because the more we talk the more questions. The question is, was Ms. Cino, from the time she passed away and was taken into their care, the business care, was she ever in the cooler before she was taken some place for a private viewing? Yes or no? And if so, where is that log? Where does it state here or somewhere else that she went there? Second question is when that viewing was over, was she ever returned to the cooler or taken to the cooler for her initial visit to the cooler?

Ms. Wiener – I don't believe that the record before you answers those questions except with regard to the affidavits provided by the licensee and the response provided by the licensee, which indicate that she was returned to refrigeration and was kept in refrigeration during all times that the body was in their care other than when she was being transported back and forth from Shands and there's no, there may be suggestions to the contrary, but there is no evidence to the contrary.

Ms. Knopke – Okay. We'll stay on that trail for just a moment then. If she was brought back at 9:30, placed in the cooler at that point, and let's assume just for discussion that was on the 22nd as it states here she's there at 9:30. Where does it show here, if she left on the 25th to go to Shands, do they have a log that says the body's left?

Ms. Wiener – On Exhibit 03 there's a notation that the body was removed and I believe it says to go to Shands.

Mr. Knopke – Which page is that?

Ms. Wiener – I think on that same page. Isn't there a notation on the side? I went away from that page, so let me get back.

Mr. Bossart – There was a notation but no time.

Mr. Knopke – I'm not seeing it. Somebody point it out to me if it does. I don't see anything to that.

Ms. Wiener – Doesn't that say in the box under Autopsy Yes or No, out to Shands to autopsy?

Mr. Jones – That's what it looks like.

Mr. Knopke – Oh. That little writing? Okay.

Ms. Wiener – I believe that is that notation there.

Mr. Knopke – Let's do this then. Out to Shands, if I was to make an argument there, out to Shands I'll agree it says that. What date do you think that is?

Ms. Wiener – It looks to me like the 25th.

Mr. Knopke – I was going to say it looks to me like the 23rd.

Ms. Wiener – I mean....

Ms. Valle – It's not accurate.

Ms. Wiener – It could kind of go either way, but it looks like the 25th to me, which would have been that Tuesday, which is the day she was taken to Shands for the autopsy.

Ms. Valle – It's a very important thing to note though that the livery person's statement does not indicate that she needed any assistance in moving my mother about that facility yet the police report, the rescue report, multiple people were needed to get my mother out of her home and into the livery van. Also, the other statements from the funeral home's employees clearly indicate, all of them do, that it took a minimum of two (2)

people to move my mother about the facility, in and out of refrigeration. So, how did she get this, how did it happen that night is what I would like to know? There's no indication that this investigation revealed that everybody on this log was in advanced stages of decomposition.

Mr. Knopke – How large was your mother?

Ms. Valle – She was a very big woman. She was probably 400 lbs., about 5'8".

Mr. Hall – Mr. Chair?

Chair – I believe under the Removed by column, it does list two (2) people: Liz and Rest.

Ms. Valle – I was told that that was pertaining to when she was removed from her home and that was supposed to reflect rescue as they had to assist. They had to call additional people to assist her. She came alone and the police and the rescue were called additional people to assist in removing her from the home. That's how it was explained to me.

Chair – Thank you.

Ms. Valle – I can assure you there was nobody else there that night when I viewed her at the funeral home other than Liz and I specifically asked her how she was going to remove her from that room because there was a step up into the other facility and she said don't worry about it, if I can't do it I'll call for help.

Chair – Okay. Mr. Hall?

Mr. Hall – That was one of the questions I had, Mr. Chair, and I think that's what Mr. Knopke was eluding to earlier. When they're logged in, as you can see on some of these others, it tells who was assisting. So that maybe would have helped us determine when she left the facility was there someone else there to help log that in. I don't see that name beyond Liz's name there anywhere else on that log sheet. When they brought her mother in, whether that's rescue or whatever, that name is not listed on the log sheet the rest of that page and Liz is listed a lot. The other question I had is this says it's a preparation room log sheet. Is this the same as a cooler log sheet? We have a preparation log sheet in our facilities and it tells who brought them in, when, etc. Then when we determine whether or not they are going to be embalmed or go to the cooler for cremation, there's a cooler log sheet. Is this supposed to be one in the same or is this different?

Ms. Wiener – Ms. Del Valle's investigation recorded this as the cooler log so I take from her investigation that this was the cooler log.

Mr. Hall – Do you know what the answer is to the name behind Liz's on that log?

Ms. Wiener – I don't. I didn't know we were going to have any of these questions frankly, and if I had I probably would have brought some additional answers with me.

Mr. Hall – Okay.

Ms. Wiener – This is, as I've stated, as Mr. Bossart has stated, as Mr. Shropshire stated, this is a case where there may be questions but there is no evidence that anything that the licensee did contributed to the decomposed state of the decedent. So the Settlement that was agreed to was agreed to.

Chair – Mr. Barnhart?

Mr. Tom Barnhart – I think we've heard from Ms. Valle that there was no embalming, correct?

Ms. Valle – No sir.

Mr. Barnhart – The sheet shows, I believe, embalming at 9:30, so it makes you wonder what else might be wrong with this.

Ms. Valle – Exactly.

Mr. Barnhart – And then if you look down farther on the form, I believe there's another Rest just more than half way down. I don't want to say the name but to the right of it, it looks like it says painted or something or printed. It's got Liz/Mark Rest. Is that the same Rest that's in that line that we're looking at or not?

Ms. Wiener - Could certainly be.

Mr. Barnhart – And I don't know what it means.

Chair – That's the removed from column.

Mr. Barnhart – Right.

Mr. Hall – Mr. Chair?

Chair – Yes sir?

Mr. Hall – Was there any...

Chair - Excuse me just a moment. Were you done?

Mr. Barnhart – Yes, I just wanted to make those comments.

Mr. Hall – Was there any testimony from this employee that she did call in additional help to assist her going to the cooler?

Ms. Valle – No. Her statement is in the file. I have a copy and I read it. I've also read all of the other statements from all of the other employees and none of them had contact with my mother until that Monday, which was November 24th. And like I said, when I called that Monday morning we were making the arrangements for the autopsy and such and because she did die suddenly we were going to have a private viewing for the family and the funeral home initially told me that she wasn't even there and then never returned my phone calls after that.

Mr. Knopke – Mr. Chairman?

Chair – Yes, Mr. Knopke?

MOTION: Mr. Knopke – I'll make a motion to reject the proposed Settlement and ask the Department to go back and reinvestigate the entire happenings, re-interview employees that are available, ask for additional logs and explanations. If nothing else, to get some closure for this family.

Ms. Wiener – Let me just quickly address Mr. Hall's question, which may also go to the concerns by Mr. Knopke. In Liz's sworn statement she says that she placed her on an air tray and placed her in our refrigeration care unit at 9:30, which is constant with what Ms. Del Valle found to be the cooler log showing her going into refrigeration at 9:30. So there is a sworn statement that she went into refrigeration at 9:30 that evening.

Mr. Hall – Did she comment that she had assistance there?

Ms. Wiener – She did not comment.

Mr. Hall – I'm just thinking that's difficult to do by yourself with that size individual. The air tray was for support but I don't know how one individual could have done that.

Chair – We have a motion on the floor.

Mr. Hall – Second.

Chair – And it's been seconded. All those in favor, aye?

Board members – Aye

Chair – Any opposed? The motion carries. Thank you.

2. *Lohman, Ty; Case No. 173624-15-FC; Division No. ATN-24288 (F035734 – Funeral Director and Embalmer)*

Mr. Shropshire – Mr. Chairman, I would recommend then, since this item is factually related to the case we just heard be tabled for further investigation along the same lines as the case we just dealt with.

Chair – is there a motion?

MOTION: Mr. Hall moved to reject the proposed Settlement and ask the Department to go back and reinvestigate the entire happenings, re-interview employees that are available, ask for additional logs and explanations. Mr. Jones seconded the motion, which passed unanimously.

Mr. Hall – Mr. Chair I just have one quick question before she leaves. You said there were some inaccuracies in the statements made. Is there anything you can give us specifics on that need to be looked at or addressed that would maybe help the Division or anything that you think is in there that is inaccurate?

Ms. Wiener – I would, because now we're no longer in the context of the Stipulation, I would strongly object to any further testimony from Ms. Valle. She can communicate with the investigator and then when it comes back to the Division to go to Legal and be presented again to the Board then that would be an appropriate time, but at this point I think from an evidentiary standpoint...

Chair – Mr. Hall, I agree with counsel. Thank you for your interest in that. Thank you.

Ms. Valle – Thank you.

Mr. Helm – Mr. Chairman? Ms. Valle?

Ms. Valle – Yes sir?

Mr. Helm – Did we address your concerns?

Ms. Valle – Yes sir.

Mr. Helm – Okay.

Chair – Thank you.

Ms. Valle – I appreciate that.

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

- (b) *Rymer, April (F091790)*
- (2) *Funeral Director and Embalmer*
 - (a) *Comas, Rebeca M (F081710)*
 - (b) *Hazelwood, Richard A (F091670)*
 - (c) *Pettapiece, Robert (F080233)*
 - (d) *Prosoco, Laurel R (F091927)*

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. Application to Renew Internship

- (1) *Recommended for Approval without Conditions (Hardship)*
 - (a) *Cornish, Cathleen (F086469)*

Mr. Shropshire – Ms. Cornish’s Funeral Director Internship license was issued on September 14, 2015 and expires September 16, 2016. Ms. Cornish began her internship at a location that was 200 miles away and it was a hardship to continue and she ended her internship with Allen-Beyer Funeral Home around October 15, 2015. Ms. Cornish began working for Frank Donald Terry Jr D/B/A All Veterans – All Family Funerals & Cremations on April 14, 2016. On May 13, 2016, she submitted an application to renew the internship to continue the Course of Study for a period of up to one year. By August 4, 2016 (Board meeting date), Ms. Cornish will have only completed 20 weeks of the internship. The Division is recommending approval of her renewal for the period of one year from the date of this Board meeting.

MOTION: Mr. Helm moved to approve the application for the period of one year from the date of this Board meeting. Mr. Hall seconded the motion.

Chair – Hold on just a moment.

Mr. Barnhart – Mr. Shropshire, could we make it one year from the date that her original time would have elapsed because that would give her the twenty-six weeks that she would need to be at least one-half the way through? I think she is twenty (20) weeks right now. I think she has to complete at least one-half. Isn’t that correct?

Ms. Jasmin Richardson – She has to complete fifty-two weeks or fifty out of fifty-two weeks...

Mr. Barnhart – But doesn’t she have to be twenty-six weeks through before she can be approved for an extension?

Ms. Richardson – No. They cannot apply until at least ten (10) months into the internship for extension.

Mr. Barnhart – Okay, I read it differently that she had be at least twenty-six weeks through that before you can get an extension.

Ms. Richardson – In the Rule it states at 69K-18.002(7)(c), *“The application to renew internship must be filed before the initial internship period ends. No renewal shall be granted if the application to renew is not filed before the end of the initial internship period. An application to renew may not be filed earlier than the 10th month of the initial internship period.”*

Mr. Barnhart – But if you look at the statute, doesn’t the statute say that the training agency has to certify that she has completed at least one-half of the course of study?

Ms. Richardson – That’s a different one. That is to go to general supervision, not to extend.

Chair – From direct supervision to general supervision.

Mr. Barnhart – It says a funeral director intern may renew her/his funeral director interim license. Is this not what it is?

Ms. Richardson – An internship to renew or to, what you're reading is to transfer from direct supervision to general supervision and they cannot do that unless (a) they've completed half of the internship and they've completed the schooling and the supervisor certifies all of the other information. So these are two (2) separate issues.

Mr. Barnhart – But this rule we're talking about is implementing the statute, correct?

Ms. Richardson – You may want to defer to Doug.

Chair – Actually, I'm not sure why that statute is even in the information, s. 497.375 is in the information, because 69K is what applies to this case.

Ms. Richardson – Correct.

Mr. Barnhart – Right, but to have authority for the rule, you have to have authority in the statute to promulgate the rules.

Chair – I think, yes. I think this s. 497.375, does that not apply to the, well it does apply to the twelve (12) month funeral director internship on the abbreviate program. That's what I'm calling it, the abbreviated program.

Mr. Shropshire – Well, Mr. Chairman, this is Mr. Shropshire. The rule that is produced in the material, s. 497.375(4)(c) and the statute that's been reproduced above there is 497.375(4)(b), so we're not looking at the right statute.

Chair – Right. What is s. 497.375(4)(c)? Anybody got that?

Mr. Shropshire – S. 497.375(4)(c) reads as follows: *"The licensing authority may adopt rules that allow a funeral director intern to renew her or his funeral director intern license for an additional 1-year period if the funeral director intern demonstrates her or his failure to complete the internship before expiration of the license due to illness, personal injury, or other substantial hardship beyond her or his reasonable control or demonstrates that she or he has completed the requirements for licensure as a funeral director but is awaiting the results of a licensure examination. However, a funeral director intern who renews her or his license under paragraph (b) is not eligible to renew the license under this paragraph."* So, in other words, you can't have two (2) renewals. You can't renew for hardship and to complete your course of study because (d) is course of study. So, she has a hardship. The grounds for her request is a hardship so that falls under (c) and the statute says that she *may adopt rules that allow a funeral director intern to renew her or his funeral director intern license for an additional 1-year period*, so the statute would authorize the one (1) year period.

Mr. Knopke – So the statute is s. 497.375(4)(c)?

Mr. Shropshire – Yes.

Mr. Knopke – So 69K-18.007(2)(c) as shown here is correct? The statue cited is not correct?

Mr. Shropshire – Correct.

Chair – It was (c), as you mentioned.

Mr. Knopke – Is the recommendation still the same?

Mr. Shropshire – Yes sir. Mr. Barnhart, have we addressed your concern?

Mr. Barnhart – Yes, that cleared it up for me. Thank you.

Chair – Thank you.

Mr. Barnhart – Mr. Shropshire, it does say in the provision (c) that it should be started the end of the initial one (1) period, I believe so. So would it be at the start of the second period as opposed to today? It says the renewal shall be for an additional one (1) year period to commence immediately upon the end of the initial internship period.

Mr. Shropshire – Yes, you are correct.

Mr. Barnhart – Okay.

Mr. Shropshire – Jasmin, would you please note that in communicating with her?

Mr. Helm – Do I need to change the motion or not?

Chair – Yes, you can change the motion to...

Mr. Helm – Where it says today's date, what date do you want me to put there?

Mr. Shropshire – The date on which the initial internship terminated.

MOTION: Mr. Helm moved to approve the application for the period of one year from the date on which the initial internship terminated. Mr. Jones seconded the motion, which passed unanimously.

8. **Application(s) for Embalmer Apprenticeship**
 - A. **Informational Item (Licenses Issued without Conditions) – Addendum E**
 - (1) *Davis, Cheryl L (F091791)*
 - (2) *Hart, Christopher (F091697)*

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.

9. **Application(s) for Registration as a Training Agency**
 - A. **Informational Item (Licenses issued without Conditions) – Addendum F**
 - (1) *Heritage Memorial Company d/b/a Lewis W Mohn Funeral Home & Cremation Services (F087536) (Seminole)*

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.

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

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

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

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

Mr. Shropshire – The application was received on June 24, 2016 and all deficiencies were resolved as of July 14, 2016. The Department completed a background check of Applicant which revealed no criminal history. The Department recommends approval of this application without conditions.

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

12. Application(s) for Change of Ownership – Gause Funeral Home Inc.

A. Recommended for Approval *with* Conditions

(1) Collective Coversheet for Various Applications

(a) Gause Funeral Home Inc. (Bartow)

- Application(s) for Funeral Establishment
- Application(s) for Registration as a Training Agency
- Application(s) for Transfer of Preneed License

Mr. Shropshire – This is a collective matter. Gause Funeral Home, Inc. (Gause), a corporation, seeks approval for an application for a change of ownership of a funeral establishment (F041811), a training agency, and an application for transfer of a preneed main license (F019344) at the below listed locations. The change of ownership is due to an internal change of control wherein the current owner, George R. Sabb is transferring 49% of his ownership interests to his spouse, Charlotta M. Sabb. The fingerprints for the principals were returned without criminal history.

More specifically, the entities that are being acquired is as follows:

- 1) Gause Funeral Home, Inc., a licensed funeral establishment, and training agency, license # F041811, physical address: 625 S Holland Pkwy, Bartow
- 2) Gause Funeral Home, Inc., a licensed preneed main, license # F019344, physical address: 625 S Holland Pkwy, Bartow

Enclosed herein, are the separate applications regarding the above listed properties. Applicant has confirmed that there are currently no unfulfilled preneed contracts. Documentation establishes that Charlotta M. Sabb (principal and co-owner of applicant herein) filed for Ch. 7 bankruptcy in 2000. This was a personal bankruptcy action that was discharged as of June 2000 by the Middle District Court of Florida. Mrs. Sabb has provided a notarized statement and court documentation evidencing the disclosed bankruptcy. (Please see attached Bankruptcy Documentation). If approved, Applicant will continue to sell trust and insurance-funded preneed contracts through First Florida Trust (Sabal Trust Company), administered by Funeral Services, Inc. (FSI) and Forethought Life Insurance Company, and utilize their approved prearranged funeral contract forms. The Division recommends approval of the applications referenced above, subject to the following conditions:

- 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 establishment(s) under the application(s) herein pass an onsite inspection by a member of Division Staff.
- 7) That the Applicant (new owner or controlling party) shall assume all existing preneed liabilities, (if any), of the location(s) being acquired.

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

13. Application(s) for Funeral Establishment

A. Recommended for Approval *with* Conditions

(1) Brasota Services Inc. (Sarasota)

Mr. Shropshire – An application for a Funeral Establishment was received on April 13, 2016. The application was complete when submitted. The Funeral Director in Charge will be Kirk Hild (F058559). All fingerprint cards have been returned with

no criminal history. The current location is a licensed Centralized Embalming Facility (F058289) and if approved by the Board, the centralized embalming facility license will be placed invalid upon issuance of the funeral establishment license. The Division is recommending approval subject to the condition that the establishment passes an onsite inspection by a member of Division Staff.

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

(2) Gendron Funeral & Cremation Services Inc. (Naples)

Mr. Shropshire – An application for a Change of Ownership for the funeral establishment was received on July 13, 2016. The application was complete when received. The Funeral Director in Charge will be Michael Gendron (F042014). This funeral establishment is not the qualifying entity for a preneed license; however, a letter from Wendy Weiner, dated July 13, 2016, states the establishment will assume the preneed liabilities.

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 establishment(s) under the application(s) herein pass an onsite inspection by a member of Division Staff.

Mr. Helm – Mr. Chair? A question? I thought Michael Gendron was already a funeral director in charge somewhere else. I may be wrong.

Chair – That was my question.

Ms. Wiener – I didn't understand the question. I didn't hear the question.

Mr. Helm – Michael Gendron is not already a funeral director in charge somewhere else?

Ms. Wiener – No, he's not?

Mr. Helm – Who's the funeral director in Ft. Myers?

Ms. Wiener – He does have a funeral home in Ft. Myers, but he's not the funeral director in charge there.

Mr. Helm – Never has been?

Ms. Wiener – I think he might have been at the beginning but I believe he, his license is not hanging as FDIC at that location.

Chair – Thank you for that clarification.

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

14. Application(s) for Removal Service

A. Recommended for Approval *with* Conditions

(1) Metro Mortuary Transport Inc. (Weeki Wachee)

Mr. Shropshire – An application for a Removal Service was received on June 14, 2016. The application was complete when submitted. Fingerprints for all principals have been returned with no criminal history. The Division is recommending approval subject to the condition that the facility passes an onsite inspection by a member of Division Staff.

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. Clark seconded the motion, which passed unanimously.

Mr. Helm – May I ask a quick question?

Chair – Please.

Mr. Helm – I know we have mileage limits on other places. Is there any mileage limit on removal services?

Chair – I’ll answer the question to the best of my ability. It’s ironic that you’re asking that question. I was thinking about the same thing on this particular case. As far as I know there’s none.

Mr. Helm – Okay. I was just wondering.

Chair – That’s ironic that you mention that.

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

A. Recommended for Approval *with* Conditions

(1) Request(s) for Trust Transfer and Approval of Preneed Sales and Trust Agreement

(a) Baldwin Brothers Memorial Care Services, Inc. (F019366) (New Smyrna Beach)

Mr. Shropshire – Baldwin, through its Attorney, Wendy Wiener, seeks approval of a proposed preneed trust agreement, a proposed prearranged trust funded funeral agreement, and approval to transfer certain preneed trust assets, all as more specifically set forth in Mrs. Wiener’s attached letter dated June 22, 2016.

Item 1) The Proposed New Preneed Trust Agreement and Preneed Sales Agreement

Baldwin seeks approval of the following:

Attachment 2 hereto is a proposed new preneed trust agreement entitled “*Baldwin Brothers Preneed Trust Agreement.*”

Attachment 3 hereto is a proposed new preneed sales agreement entitled, “*Pre-Arranged Trust Funded Funeral Agreement.*”

Item 2) Proposed Trust Transfers

Baldwin seeks approval to transfer its preneed trust funds from the following: The FSI 1993 Master Trust (70/30 trust under Sabal Trust Company) to Live Oak Banking Company. Live Oak Banking Company is or will be the successor trustee and will operate under the above proposed new trust agreement, if approved, all as more specifically set out in the letter from Mrs. Wiener, dated June 22, 2016.

Division Recommendation:

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

- A) Approval of the proposed new trust document and preneed sales agreement in Item 1 above; and
- B) Approval of the proposed trust transfer as identified in Item 2 above.

Conditions recommended by FCCS Division:

- 1) That the representations of Baldwin, through its Attorney, Mrs. Wiener, as set forth in the attached letter dated June 22, 2016 be deemed material to the Board’s decisions herein.

- 2) That within 90 days of this Board meeting Live Oak Bank provide the FCCS Division (ATTN: LaShonda Morris), the effective date of the transfer and certifications, stated as following:
 - a) That Live Oak Bank 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 Bank pursuant to Mrs. Wiener’s letter dated June 22, 2016.
 - b) A letter from Live Oak Bank, signed and dated by one of its officers, stating:
 - That Live Oak Bank provides a certificate stating the dollar amount of trust assets being transferred as identified under Attachment 4, as referenced in Mrs. Wiener’s attached letter dated June 22, 2016.
 - That Live Oak Bank provides acknowledgement of receipt of the amount of trust assets being transferred as specified under the former trust, as identified under **Attachment 4**, as referenced in Mrs. Wiener’s attached letter dated June 22, 2016.
- 3) Fully executed copy of the trust agreement and 2 print-ready copies of the preneed sales agreement, as identified in Item 1 above.
- 4) That the Board's executive director, for good cause shown, may extend the compliance time for the above specified conditions, an additional 90 days.

Mr. Knopke – Mr. Chairman, let the record reflect that I’m related to one of the principals in Baldwin Brothers, my brother Skip Knopke, and that will not affect my ability to make a fair and impartial decision.

Chair – Thank you for that disclosure.

Mr. Knopke – You’re welcome.

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

(2) Preneed Sales Agreement

(a) Fred Hunter Memorial Services, Inc. d/b/a Fred Hunter's Funeral Home (F019312) (Hollywood)

Mr. Shropshire – Fred Hunter Memorial Services, Inc. d/b/a Fred Hunter’s Funeral Home (Fred Hunter) submits the attached revised Financial Accommodation Addendum form for approval. If the form is approved, it is to be used in conjunction with the sale of trust-funded preneed contracts by the above named and its related preneed branches. The Division is recommending approval subject to the condition that two full sized print-ready copies of each contract are received by the Department within 60 days of this Board meeting.

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

(b) Homesteaders Life Company (West Des Moines, IA)

Mr. Shropshire – Homesteaders Life Company (Homesteaders) submits the attached revised preneed sales agreement form for approval: Non-Guaranteed Preneed Funeral Agreement (Form P503-FL 06/16). If the form is approved, it is to be used for the sale of insurance-funded preneed contracts by various licensed preneed establishments and their related preneed branches. Homesteaders received approval for authorization of the sale of insurance products from the Florida Office of Insurance Regulation as of July 20, 1981, and is currently active. The Division is recommending approval subject to the condition that two full sized print-ready copies of each contract are received by the Department within 60 days of this Board meeting.

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

16. Request(s) to Relocate Cemetery Records

A. Recommended for Approval without Conditions

(1) Mount Sinai Cemetery Association, Inc. (F039379) (Daytona Beach)

Mr. Shropshire – Mount Sinai Cemetery Association, Inc. requests Board approval for relocation of its cemetery records from its former location at 324 White St, Daytona Beach to the location at 1825 Business Park Blvd, Suite C, Daytona Beach. This request is being made by the licensee due to closure of the former office location, as described in the attached letter dated May 17, 2016. The licensee affirms the records will be housed securely in fire-proof file cabinets. Pursuant to Rule 69K-6.005, records will be available for review at the licensed facility or an alternative site of the cemetery company if approved by the Board. The Division recommends approval of this request to relocate records.

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

17. Executive Director's Report

A. Embalmer Apprentice Rule, Proposed Changes (Action)

Mr. Shropshire – This matter is continued over from the June 30, 2016 Board meeting. It was suggested by Mr. Knopke at the June 30, 2016 Board meeting that the public and industry perhaps had not had enough time to review the proposed rule changes so as to able to comment on the proposed changes. Therefore, the Division re-presents this matter at this meeting, for any such comment.

Chair – Any comments? Any comments? Hearing none. Can we move forward with adopting the rule?

Mr. Shropshire – With the rulemaking process? Yes, sir.

Chair – Yes.

Mr. Knopke – Do we need a motion to that effect?

Mr. Shropshire – I don't think at this particular state we do. We will have to when we bring it back later.

Chair – Okay, so nothing to be done at this point?

Mr. Shropshire – Nothing formal, no sir.

Chair – Thank you.

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

Mr. Shropshire – This is the monthly report of fines and costs assessed and paid. Any comments on that item?

Monthly Report of Fines and Costs Assessed and Paid
Division of Funeral, Cemetery and Consumer Services
August 4, 2016 Board Meeting
Date of Report: July 25, 2016

Licensee	Board Meeting	Case No.	Total Fine & Cost Due	Date Due	Paid in Full?	Comments
Affordable Monument Company	Jun-16	184198-15-FC	\$1,000	Monthly payments of \$83	Note D	
Patricia Narciso	Jun-16	184202-15-FC	\$1,000	Monthly payments of \$83	Note D	
Clifford N. Robinson d/b/a CN Robinson Memorial F	Jun-16	178019-15-FC	\$1,000	Monthly payments of \$83	Note D	
Clifford Nathaniel Robinson	Jun-16	178002-15-FC	\$1,000	Monthly payments of \$83	Note D	
Vanessa Franco	Jun-16	163242-14-FC	\$2,000	12-Aug-16	Note D	
		162981-14-FC				
		163239-14-FC				
		163240-14-FC				
Randy Howard	Jun-16	163241-14-FC	\$4,500	12-Aug-16	Note D	
Abbey Affordable Cremation & Funeral Services, Inc	Jun-16	169277-15-FC	\$1,000	12-Aug-16	Note D	
Yvette Klausch	Jun-16	164630-14-FC	\$2,500	22-Aug-16	Note D	
M&M Florida Enterprises Inc., d/b/a CFCSFC	Jun-16	162992-14-FC	\$2,500	12-Aug-16	Note D	
Michael Tipton Phillips	Jun-16	162991-14-FC	\$2,000	12-Aug-16	Note D	
Ronald Noble	Aug-15	134801-13-FC	\$2,500	8/1/2017	Note D	
James S. Moore	Feb-16	181961-15-FC	\$3,000	3/10/2016	Note A	Immediate Final Order issued
Smooore Enterprises	Feb-16	181954-15-FC	\$2,000	3/10/2016	Note A	Immediate Final Order issued
James West	Feb-16	165110-14-FC & 165112-14-FC	\$2,500	3/11/2016	Note A	
Tony Anderson	Apr-16	180938-15-FC	\$1,000	5/25/2016	Paid in Full	
International Cremation Society (DDE)	Apr-16	176044-15-FC	\$1,750	5/25/2016	Paid in Full	
International Cremation Society (Preneed)	Apr-16	184692-16-FC, 184698-16, 184699-16-FC	\$1,500	5/25/2016	Paid in Full	
Ron Nichols	Apr-16	176049-15-FC	\$1,750	5/25/2016	Paid in Full	
Integrity Removal Services, LLC d/b/a Integrity Cremations	Apr-16	177712-15-FC	\$1,000	5/25/2016	Paid in Full	
Amanda Weeks-Moats	Apr-16	177706-15-FC	\$1,000	5/25/2016	Paid in Full	
Paul Buxton	Apr-16	178802-15-FC	\$1,000	5/25/2016	Paid in Full	
Okeechobee Crematory	Apr-16	178805-15-FC	\$1,000	5/25/2016	Paid in Full	
<p>A. When payment in full becomes past due, the FCCS Division works with the DFS Legal Division to enforce payment. B. Once fines and costs are paid in full, licensee kept on this report 3 months, showing Paid in Full, and then dropped off report; also licensee dropped off report after disciplinary action filed due to nonpayment of the fine and costs. C. The Order re this case is still in process, so no Due date is not yet established. D. Due date has not passed, as of the date of this report. E. As of the date of this report, monthly payments were current.</p>						

Mr. Knopke – Are you going to make any comments? If you want to. If you don't or you're not prepared.

Mr. Shropshire – Oh yes. Well, Mr. Knopke has asked the Division for any comments on the Beaches Memorial Gardens and First Coast Funeral Home situation. The owner or the new licensee, which the Board approved, has in fact been on site from the date of that approval, the afternoon of that approval and the Division has received nothing but good remarks about that entity's performance to date. However, there hasn't been a closure on the transaction so I don't believe we can make any further comments on that.

Ms. Wiener – We anticipate closing hopefully by tomorrow close of business. We are waiting for the First American Title Insurance Company to finalize its report and make sure that we can get good title. The manager has been doing a lot on property. He has repaired the irrigation system, he's pressure washed the funeral home, he has begun to paint the funeral home. They're going to have to do a renovation of the inside, entirely. He's been addressing consumers' complaints. Ordering a lot of date of death plaques, as you can imagine and just generally trying to make the community feel more comfortable and take care of things.

Chair – Thank you.

Mr. Shropshire – The Division is very pleased so far with his performance.

Chair – Thank you.

18. Chairman's Report (Verbal)

None

19. Office of Attorney General's Report

A. Old Business

(1) Denial of Renewal, Charles Adams

Mr. Shropshire – The licensee is here today before the Board. Mr. Charles Adams, who holds an embalmer license (F042986). Mr. Adams presented an application to renew his embalmer license earlier this year. It was determined that he had not disclosed certain criminal matters on his renewal application. The Board voted to deny his application to renew his license. He was sent a Notice of Intent to Deny and he elected to have a formal hearing before the Division of Administrative Hearings. That formal hearing before Administrative Law Judge D. R. Alexander was held. The Administrative Law Judge, Mr. Alexander, has issued a Recommended Order to this Board in which the Administrative Law Judge recommends that Mr. Adams license not be renewed that he has failed to demonstrate that he would not be a danger to the public if his license were renewed. At this point, subject to hearing from Mr. Adams, the Division recommends that the Board adopt in total the Findings of Fact and Conclusions of Law and the penalty and finding of Mr. Adams in the Recommended Order, but recommends that the Board hear Mr. Adams here today.

Chair – Mr. Barnhart?

Mr. Barnhart – Yes. Board members, as far as what you should do in this case, I'm going to have to give that responsibility over to Mr. Bossart because it's a similar situation where I represented the Board in litigation so I cannot make recommendations to you about what you should do. It's similar to a prosecutor's case where they make a presentation and then I make a recommendation to the Board if you have any questions. Mr. Adams, as you've seen through the record, he's been a licensee for some thirty-three (33) years, but what bothers me about this case the most I think is that Mr. Adams did not disclose those offenses to you beginning in 2007. Now as far as the hearing was concerned, we just presented the last two (2) renewal applications, which were 2013 and 2015, and of course on both of those he did not disclose a single offense. That to me is pretty egregious. That list of offenses was kept from you for a long period of time, since 2007 and because of your capabilities now of doing background checks on renewal applications the last two (2) were picked up, especially the 2015. We were finally able to get a full listing of the crimes that had been committed and I just want to leave you with that and we can hear from Mr. Adams here in just a couple of minutes.

Chair – Did you mention Mr. Bossart?

Mr. Barnhart – Yes. I said that if the Board members had any questions about what they should do in this case that they could ask Mr. Bossart about what they could or could not do, and now I think it would be appropriate to hear from Mr. Adams for a few minutes. Mr. Adams? You got the floor. You need to be sworn in sr.

Chair – Good Morning. It's proper that you be sworn in before the Board and Mr. Shropshire will swear you in.

Mr. Shropshire – Mr. Adams, 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. Charles Adams – I do, sir.

Mr. Shropshire – Please state your full name.

Mr. Adams – Charles Coleman Adams.

Mr. Shropshire – Thank you, sir.

Chair – Do you want to address this Board or are you here to answer questions?

Mr. Adams – I would like to address the Board and I am available to answer any questions.

Chair – Thank you. You may proceed.

Mr. Adams – I've been licensed since about May of 1982. I got blessed, in all due respect, in my chosen profession of Mortuary Science. I got on with the Navy, got injured permanently but not life threatening, so I had to leave the Navy early. I went into the Navy at 34 then I got on with the US Post Office and was able to get a successful retirement. I'm not a lawyer. I'm not a doctor. I haven't studied law other than recreational on my own just on subjects of interest, as I have several other subjects. I've been around a lot of deaths. I can't undo the last two (2) applications. I've been consecutively licensed since I got an original license in 1982, even though I haven't practiced. I have opted not to put it on an inactive status because I never knew when I might be called on for a friend or a family member. Not just in this state, but an active license has more credibility and authority than an inactive license. After my daddy's death, we buried him on his 83rd birthday in 2000. The last time I extensively reviewed that Chapter 497, F.S. pertaining to the industry, and periodically reviewed it in light detail for people asking me questions, I have multiple people from time to time asking me questions just inquiries, the only thing that I've seen in there and it was an error on my part because I just looked up the issues relevant to the questions, but it says if you ever been convicted of a crime indirectly or directly related to funeral service. So, based on that, I answered no to that question. Now I had a deposition by Your Honorable Assist Attorney Robert Milne. He told me shortly after that deposition when we made contact and at the end of the deposition that particular afternoon that the State Attorney's Office will offer no opposition to license renewal. I have talked to Mr. Attorney Special Counsel Barnhart on several times throughout this entire process prior to the deposition. He's been very helpful. Very kind and Christian man. Obviously after the fact, and the record is public record, the criminal element came in basically because of mouth-itis on my part. I've been under the treatment from time to time of a psychiatrist, you know, for attitude control, depression and aggravation, which all people have whether they admit it or not. So I'm just asking for the mercy of the Board. I've had a lot of experience. Mr. Knopke over there. I've done extensive interments and entombments in his former cemetery, Garden of Memories. Done all aspects of funeral service except funeral directing because I'm not a funeral director, but if this Board might see a chance to give me some consideration or forgiveness, it was an error on my part. I can't undo it. I would like to, as soon as possible, petition the Board to sit for the FD exam. I had a monetary issue with one of my employers with a high volume funeral home, 12-15,000 case calls a year. I was the only one out of school. The employer was tight with the payroll money. We didn't have OSHA back then like we have it now. Formaldehyde is very carcinogenic, and back then we did a lot of non-glove body preparation. May be contributory to my skin condition. I grew up in the country and you know we knew what a bucket of water was and a bar of soap and a rag. We didn't necessarily think anything about getting dirty, you know, working with your hands, so that was ignorance on our part, but now the industry is a lot more enlightened technology wise. So I can just, not to drag on, I'm just asking for consideration and if this Board might find that I would be most appreciative. I want to thank Special Counsel Barnhart for being very helpful to me pro se as a non-lawyer. Thank you Mr. Barnhart.

Chair – I have a question for you.

Mr. Adams – Yes sir?

Chair – When was the last time you worked as an embalmer? As a licensed embalmer?

Mr. Adams – It was probably, I probably only worked, well early mid-1980s. I got licensure. I came back as soon as I passed the National and the State Board. I took the State Board it was somewhere around '83 or '84. I got higher paying employment in the private sector and then at the age of thirty-four (34), believe it or not, I signed up for the US Navy.

Chair – So you haven't practiced as a licensed embalmer since the '80s?

Mr. Adams – No sir,

Chair – Thank you.

Mr. Adams – But I used to be a student assistant teacher in Mortuary School and it's still very fluent. I know my anatomy and my physiology.

Chair – Thank you. Any other questions or comments? Yes, Mr. Adams?

Mr. Adams – I have taken my continuing education every two (2) years very timely. I have made decent scores on an open book test. I keep up currently with the industry, academically, medically. I just want to add that in. I've always kept that license active and renewed it without issue, even though I didn't use it. I didn't read the full volume once I saw that part in 497, criminal record, as it pertained directly or indirectly to the industry, I quit reading and that was an error on my part.

Mr. Knopke – Mr. Chairman?

Chair – Let me just ask one more question, please. Thank you. I got you next. Have you done any trade embalming or anything of that nature?

Mr. Adams – No sir. That's what I'm interested in. I've got an opportunity to do trade embalming. I'd like to make a go of the St. Pete College and I'm now a dual resident. When this issue originally came up I was homeless coming off a thirty-five plus (35+) year relationship of marriage. Now I am a dual state resident and I have three (3) properties and all respect to the real estate gurus. Carlton Cheeks, buy real estate with no money down. That does work. So if I had not been totally successful at that, I brought real estate with a little bit down. So, but I would like to get back in the field because I enjoy the trade. I enjoy music. When I was in the Navy they gave me a six (6) year, no option enlistment, put be in drill company right in the Navy band.

Chair – Are you currently licensed in any other state?

Mr. Adams – No sir, I am not.

Chair – Thank you. Mr. Knopke?

Mr. Knopke – Mr. Adams has mentioned me once in his address to the Board and I just want the record to reflect that I may know Mr. Adams from years gone by and we spoke both inside this room and outside this room earlier today, not about his issue at all, but I want to recuse myself just from the simple standpoint of the appearance of our conversation and that's all I've got to say about it.

Chair – Thank you.

Mr. Knopke – I just don't want it to be a problem in the future.

Chair – Thank you.

Mr. Helm – May I ask what is before us?

Chair – I'm sorry, Mr. Helm?

Mr. Helm – What is before us?

Mr. Barnhart – What you have is a Recommended Order by Judge Alexander. He's set forth some Findings of Fact and Conclusions of Law and a recommendation. As far as what you should do, I'll refer it to Mr. Bossart for that.

Mr. Helm – Have we not already done it?

Mr. Barnhart – No. You have a Recommended Order and this is what he is recommending to you, as a Board, to enter a Final Order doing something.

Mr. Helm – But we have already denied it. Have we not?

Chair – Yes and then it went to the Administrative Judge.

Mr. Bossart – He was entitled to appeal.

Chair – On his appeal, it went before the Administrative Judge who came back upholding our decision.

Mr. Helm – What do we do now.

Mr. Bossart – This is Jim Bossart. The Board should enter into a Final Order affirming the denial of the application.

Mr. Shropshire – Mr. Chairman, may I?

Chair – Please.

Mr. Shropshire – So you have a Recommended Order before you. You can only reject the Findings of Fact if you have very clear basis. The Findings of Fact that the hearing officer has made...

Mr. Bossart – Well actually, I don't want to get into an argument here, but no you can't reject the Findings of Fact.

Mr. Shropshire – Basically you can't reject the Findings of Fact. You could alter the Conclusions of Law and you could certainly reduce the penalty if you decide to. I would submit that you could decide to grant him renewal subject to conditions such as training or probation or such as those types of conditions on a renewal or you could just accept the Recommended Order of the Hearing Office in its totality, its facts, its Conclusions of Law and its recommendation action that he not be renewed.

Chair – Does that answer your question, Mr. Helm?

Mr. Helm – I think. I'm not really sure.

Chair – Mr. Adams, you were trying to get my attention. Go ahead, sir.

Mr. Adams – Yes sir. I omitted one thing. The Honorable D. R. Alexander, the Administrative Hearing Judge, noted in his Final Order of Recommendation that I failed to prove that I wasn't a danger to the public. Well in all my 5,000 more or less, plus or minus case exposures direct involvement, I've never had any discipline from any of my employers. I've had several funeral home employers in mortuary school. When I first started I had two (2). When I started mid-term. I mean I can't defend or prove the non-defendable. I've never had a reprimand from the State Board. I've never had a chewing from a funeral home employer, except twice.

Chair – We understand and you've made that quite clear.

Mr. Adams – Each of you all except the two (2) members at large or three (3) whatever...

Mr. Bossart – May I say something, sir?

Chair – Mr. Bossart?

Mr. Bossart – I believe what the Hearing Officer, Mr. Alexander, was trying to say is the burden is on Mr. Adams to prove that he is not a danger to the public and he failed to do that. He provided some letters of reference but the Hearing Officer ruled them to be inadequate. Therefore, that is the basis for why he found that he was still a danger to the public. If it makes the Board, if it helps any, Mr. Adams is not precluded from reapplying again for licensure to clean up his act and to start again and he can apply as many times as he wishes.

Chair – So is there a motion from the Board to accept the Recommended Order?

MOTION: Ms. Oliver moved to accept the Recommended Order. Mr. Clark seconded the motion, which passed unanimously.

Mr. Adams – So that means, if I may ask, that the renewal is denied?

Chair – That’s correct.

Mr. Adams – Now, I’m entitled to file a new application?

Chair – That’s correct.

Mr. Adams – And that will not require schooling?

Chair – The application will not require schooling.

Mr. Adams – Thank you, sir.

Mr. Shropshire – Mr. Chairman, may I?

Chair – Yes.

Mr. Shropshire – You’ll have to meet the normal requirements and there is an educational requirement, but presumably you already met it to get your initial license, but you’ll have to show you met it.

Mr. Adams – And I’ve got certification for successful State Board and National Board.

Chair – If I may?

Mr. Adams – Please.

Chair – I don’t feel confident to advise you so I’m sorry.

Mr. Adams – Understood.

Chair – Thank you. Thank you for coming before us today.

Mr. Adams – Thank you so much. May I ask how much time do I have to file?

Mr. Shropshire – There’s no deadline, sir.

Chair – Unlimited.

Mr. Shropshire – No deadline and I would suggest that you get in contact with our Jasmin Richardson sitting right there and she can help you or Ms. Simon sitting right there, the Assistant Director, and they’ll help you with these procedural questions, Mr. Adams.

Mr. Adams – Thank you Mr. Shropshire.

Mr. Shropshire – Yes.

Chair – Thank you, sir.

(2) 69K-7.0012 - Care and Maintenance Trust Fund Withdrawal

Mr. Shropshire – This relates to proposed changes to the rule concerning Care and Maintenance Trust Withdrawals under the new unitrust method. These are changes. Mr. Barnhart’s office is handling the rulemaking to get this proposed rule enacted and my understanding from Mr. Barnhart is that these are changes that JAPC has requested be made. Mr. Barnhart?

Mr. Barnhart – Right. Most of them are. If you have the rule in front of you, I’ll go through them really quickly with you. When we first filed this rule language we didn’t have the Forms A and B. We didn’t have a number for those forms and then we received the numbers from the Department’s General Counsel’s Office. Then we added the rule language that they wanted added about incorporating them by reference and showing where the public can get the rules from either the websites listed there or the Board office. There were a few typos, some spacing problems that they didn’t like. If you go down to, the only real change is the language in 6, paragraph 6. In consultation with Ms. Simon we, you see the language used to be “the Division shall conduct such investigation” and we felt that should be discretionary because if you have shall there’s going to have to be an investigation every time it occurs and so the thought was to provide some discretion there to do an investigation where it should be done. So we changed that shall language to may.

Chair – Was that the only substantive change? Everything else was really cleaning up the language and the form?

Mr. Barnhart – Right and providing the references to the websites and such.

Chair – Do you need any action from the Board on this or is it just an informational item?

Mr. Barnhart – If I could have a motion to approve these changes to the rule.

MOTION: Chair moved to approve the changes to the rule. Mr. Jones seconded the motion.

Chair – All those in favor? Mr. Knopke?

Mr. Knopke – Mr. Bill Williams, do you agree with the change?

Mr. Bill Williams – I haven’t seen it at this point but if the main change is from may to shall or shall to may, I have no problem with that.

Ms. Lisa Coney – This is as we discussed in April, I understand, and this is just the continued promulgation of the April rulemaking and in that Committee setting this discretionary was something that Committee had recommended so this is just finalizing that language that the Committee at that time recommended for rulemaking.

Chair – Yes.

Mr. Knopke – Thank you.

Chair – The motion was made and seconded. All those in favor, aye?

Board members – Aye.

Chair – And any opposed? And that motion carries.

20. Administrative Report

The information was provided on the Agenda.

21. Disciplinary Report

The information was provided on the Agenda.

Mr. Shropshire – The Division has no further business to present to the Board at this meeting.

Chair – Board members?

Mr. Jones – If I may?

Chair – Yes sir?

Mr. Jones – Just to go in the minutes and then I'll update the minutes when I get them, but access to the Electronic Death Registration System through the Department of Health, Bureau of Vital Statistics, we have a tutorial, a training class that we posted on a vendor website that any funeral directors asking access would do the tutorial then complete the access form. That tutorial link has changed. We're getting that updated. We've also taken the training from a two (2) training module to a one (1) training module to make it easier. I will have, for the minutes, all of the updated information but I wanted to get it out and then update the minutes with that trying to put the link in and simplify the process.

Chair – Ms. Bryant did you take note of that? Mr. Jones will provide you information on that. Thank you.

Mr. Jones – Thank you.

Chair – I appreciate that. Board members? Good of the cause? I want you to know that Ms. Anderson made a grand entry into the room today and it was acknowledged. No music was playing but we're glad you're here. Everybody else, hope everybody is happy, health and family is doing well and everyone's prospering.

NOTE: Subsequent to the meeting, Ken Jones submitted the following to the Division for inclusion in the minutes:

The funeral director training tool can be found at: <https://attendee.gotowebinar.com/recording/192470985762973444>

Once the web page opens, to get started, the user logs in using their name and an email address.

When the webinar opens, it instructs the user that the course is presented in a recorded video format, accompanied by narrations. Therefore, the user's playback device must have audio capabilities in order to receive the full benefits of this presentation. The duration of the presentation is 47 minutes.

After completion, users will receive credit for completing the course.

22. Upcoming Meeting(s)

- A. September 1st (Teleconference)
- B. October 6th (Tampa – DoubleTree by Hilton-Tampa Airport-Westshore)
- C. November 3rd (Teleconference)
- D. December 1st (Tallahassee)

23. Adjournment

The meeting was adjourned at 11:42 a.m.