

MINUTES
BOARD OF FUNERAL, CEMETERY AND CONSUMER SERVICES
TELECONFERENCE MEETING
September 1, 2016 - 10:00 A.M.

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. This is a Teleconference meeting on September 1, 2016. Its 10:00 a.m. Mr. Shropshire, will you make your usual remarks 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 September 1, 2016. It is 10:00 A.M. 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 and an agenda for this meeting had been made available to interested persons. The meeting is occurring by Teleconference. The teleconference number has been distributed to all interested persons. My assistant, Ms. LaTonya Bryant, will be taking minutes and recording 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. All persons participating by phone, other than when actively speaking to the Board or for the Board, are asked to put their phones on mute at all other times. I repeat, please put your phone on mute at all times while listening. We ask this in order to enhance the audio quality of the teleconference. If any member or other participant gets disconnected they can of course call back to the same number that they called initially. All participants are respectfully reminded of the necessary protocol that only one person may speak at a time. Please don't speak over other people.

At this time, I'll take the roll:

PRESENT (via phone):

Joseph "Jody" Brandenburg, Chairman
Keenan Knopke, Vice-Chairman
Jean Anderson
Francisco "Frank" Bango
James "Jim" Davis (delayed)
Lewis "Lew" Hall
Powell Helm
Ken Jones
Vanessa Oliver

ABSENT:

Andrew Clark

Also noted as present:

Tom Barnhart, Board Legal Advisor (via phone)
Ellen Simon, Assistant Division Director
LaTonya Bryant, Department Staff
Jasmin Richardson, Department Staff
LaShonda Morris, Department Staff

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

Chair – Thank you.

2. Action on the Minutes

A. August 4, 2016

Chair – The first agenda item is the August 4, 2016 minutes.

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

Chair – By the way, Board members, was everybody able to get their packet on a timely basis?

Board members – Yes.

Chair – Very good. Thank you.

3. Old Business

A. Recommended for Approval with Conditions

(1) Application(s) for Change of Ownership (Direct Disposal Establishment and Preneed License)

(a) Cremations of Greater Tampa Bay, Inc. (F069037) (Tampa)

Mr. Shropshire – The applications herein, for approval of change of ownership of a direct disposal establishment, and for a preneed main licensee, were presented at the June 30, 2016 Board meeting, but were tabled for further information as to why the applicant's financial statement showed revenue from viewings/visitations. The Division presented the Board's inquiry to Mr. Thomas J. Cohen, applicant's principal, by email dated July 21, 2016, which we've attached to the materials provided to the Board for this meeting. By email dated August 1, 2016, Mr. Cohen has provided an explanation. He indicates his firm never did any viewings/visitations, but for a period of time his firm did accept money in the nature of cash advances for the purpose of arranging viewings/visitations at licensed funeral establishments. He advises he has terminated that practice, and now simply refers customers desiring viewings/visitations to a licensed funeral establishment. We were advised that Mr. Cohen would be on the call today if the Board has questions for him.

Cremations of Greater Tampa Bay, Inc. (CGTB), a corporation, seeks approval for an application for a change of ownership of a direct disposal establishment and an application for a preneed main license (License # F069037) at the below listed location. The change of ownership is due to a change of control that occurred in or about 2015, wherein the former owner and majority shareholder (99%), Christine Cohen, transferred all of her shares to her son, Thomas J. Cohen. As a result, Mr. Cohen became the sole owner (100%) of the corporation. The Division finds that Applicant has already accomplished this change of ownership, without first obtaining Board approval, in violation of 497.604(7), Florida Statutes. Attached hereto is a proposed settlement of this issue, under which Applicant would pay a \$1,000 fine.

It should be noted that Mr. Cohen answered "Yes" to pleading guilty to a felony crime of: Possession of drug paraphernalia, possession of marijuana, and weapons misconduct in 2004. As a result, Mr. Cohen was placed on 30-days house arrest, 12 months of unsupervised probation (reduced to 6 months), and a fine of \$3,505, including fees. Mr. Cohen has completed and satisfied all conditions of probation and payment of all fines.

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

Cremations of Greater Tampa Bay, Inc., a licensed direct disposal establishment and preneed main, license # F069037, physical address 4021 Henderson Blvd, Tampa. Enclosed herein, are the separate applications regarding the above listed property. If approved, Applicant is assuming responsibility for all outstanding preneed contracts that have previously been issued by or for fulfillment at the above referenced direct disposal establishment (as further indicated in the explanation provided by Mr. Cohen on page 5, Question 16(c) of the Application for Direct Disposal Establishment License). The Division has no record of disciplinary action in regard to CGTB. Applicant will sell trust-funded preneed contracts through First Florida Trust (Sabal Trust Company), administered by Funeral Services, Inc. (FSI) and utilize their approved prearranged funeral agreement forms. The Applicant's financial statement as of December 31, 2015 reflects the following:

Outstanding Preneed Contracts to be acquired	= \$ 42,604
Required Net Worth	= \$ 10,000
Reported Net Worth	= \$ 10,005

The Division recommends approval of the applications referenced above, subject to the following conditions:

- 1) 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.
- 2) That the Applicant (new owner or controlling party) shall assume all existing preneed liabilities of the location(s) being acquired.
- 3) That the Board accepts the terms and conditions of the attached Stipulation and Consent Order between the Division and Licensee's principal, Thomas J. Cohen for a fine in the amount of \$1000 due within 30 days of receipt of the Order of this Board meeting approving the applications.

Mr. Keenan Knopke – Mr. Chairman?

Chair – Yes?

Mr. Knopke – This is Keenan Knopke. I was the one that asked the questions at the previous meeting.

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

Mr. Jim Davis – This is Jim Davis. I'm in the meeting now.

Mr. Shropshire – Thank you, Mr. Davis.

Chair – Thank you, Mr. Davis. We'll mark you as present, sir.

Mr. Davis – Thank you.

Mr. Thomas Cohen – Can I be recognized?

Chair – I'm sorry. Who is this?

Mr. Cohen – This is TJ Cohen, owner, Cremations Greater Tampa Bay.

Chair – Yes sir. Go right ahead.

Mr. Cohen – I just want to be clear on something. I heard the approval go through and thank you very much. One of the things I heard in there was I heard someone say upon three (3) conditions and then one (1) of the conditions, which I already knew about was the \$1000 fine that needed to be paid, which is fine. Is there two (2) other conditions that I have to meet or is it just that one (1) condition?

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

Chair – Mr. Shropshire, would you care to respond?

Mr. Shropshire – Yes. Thank you, Mr. Chairman. Mr. Cohen, the other two (2) conditions are as follows:

- 1) 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.
- 2) That the Applicant (new owner or controlling party) shall assume all existing preneed liabilities of the location(s) being acquired.

Mr. Shropshire – Those are the two (2) conditions, sir. Mr. Cohen?

Chair – Mr. Cohen? Mr. Cohen?

- (2) *Application to Organize a New Cemetery Company (Phase 2)*
 - (a) *Heartwood Preserve Conservation Cemetery, LLC (New Port Richey)*

Mr. Shropshire – This application for a cemetery license is before the Board at this September 1, 2016 Board meeting as part of Phase 2 of the licensing process under s. 497.263, Florida Statutes. If the Board accepts this Phase 2 presentation, a cemetery license will be issued to this applicant and it can begin full operations.

The application was initially presented at the December 5, 2013 Board meeting and was given Phase 1 approval subject to certain conditions as set forth in the attached Board minutes from the December 5 meeting. The application came back before the Board at the June 26, 2014 Board meeting, for presentation by applicant to show satisfaction of the conditions imposed on the Phase 1 approval. The Board accepted the presentation and gave unconditional Phase 1 approval.

In this Phase 2 presentation, the applicant provides information that it has complied with the following statutory criteria and conditions of approval, as set forth in section 497.263(3) (see letter from applicant's attorney, Wendy Wiener, dated July 1, 2016 and received by the Division on August 22, 2016):

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

If Phase 2 of Applicant's Application to Organize a Cemetery is approved, the applicant will operate under the name of Heartwood Preserve Conservation Cemetery, LLC, as above noted, and this location will serve as the qualifying establishment for the preneed main license, approved at the June 30, 2016 Board meeting. The Applicant's financial statement projected as of August 27, 2015 reflects the following:

Required Net Worth	=	\$50,000
Reported Net Worth	=	\$213,687

The Division believes that the cemetery has met all of the requirements for Phase 2 approval. We do in fact now have an opinion or certification from a Florida title company or a letter signed by applicant's attorney, certifying that the Applicant holds unencumbered fee simple title to all land as described to the Board in the materials provided to the Board herewith. We do now have the requested boundary survey of the cemetery, by a licensed Florida surveyor, which survey is consistent with the description of the cemetery as herein and heretofore provided to the Division and the Board by the applicant. So the Division recommends approval of this cemetery license application without conditions.

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

Mr. Cohen – Permission to be recognized.

Chair – Who's speaking, please?

Mr. Cohen – This is TJ Cohen, funeral director of Cremations Greater Tampa Bay. I want to apologize. When you started giving me the response on the three (3) conditions, one (1) being a \$1000 I went to go hit mute to eliminate feedback and I hit end instead, so I did not hear your response.

Chair – Okay. Mr. Shropshire will give you the responses one (1) more time. If we miss them this time call the Division after the meeting.

Mr. Cohen – Okay, thank you.

Chair – Mr. Shropshire?

Mr. Shropshire – Mr. Cohen, this is Mr. Shropshire. The two (2) conditions that you indicate you were not aware of are as follows:

- 1) 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.
- 2) That the Applicant (new owner or controlling party) shall assume all existing preneed liabilities of the location(s) being acquired.

Mr. Shropshire – Those are the two (2) conditions that you indicated you had not heard this morning.

Mr. Cohen – Okay, that's fine. Thank you very much. Sorry to re-interrupt. I appreciate it. Thank you very much.

Mr. Shropshire – Yes sir.

Chair – You're welcome.

Mr. Shropshire – Mr. Chairman, may I proceed then?

Chair – Please do.

4. Disciplinary Proceeding(s)

A. Settlement Stipulation(s)

(1) Waiver of Probable Cause – Related Cases: Division No. ATN-27438

(a) Brock's Hometown Funeral Home: Case No.: 196010-16-FC; Division No. ATN-27438 (F040821)

Mr. Shropshire – The allegations include but are not necessarily limited to that on April 14, 2016, fifteen (15) bodies were discovered at the funeral establishment that were improperly stored. Ten (10) of the bodies were discovered in the cooler, which is the maximum capacity, and the cooler was not kept at below forty (40) degrees. The other bodies were discovered in different areas of the funeral establishment with decomposition present. None of the bodies were embalmed. The type of proceeding before the Board here is a proposed voluntary relinquishment with the same effect as a revocation. The Division recommends approval of this Proposed Settlement Stipulation concerning Brock's Hometown Funeral Home.

Ms. Deirdre Farrington – This is Deirdre Farrington, the prosecutor. I'd like to add to Mr. Shropshire's presentation that this is Case No. 196010-16-FC. I'd be happy to answer any questions that you may have about this case and Mr. Jim Deason, the investigator, is here with me to answer any questions that you may have.

Chair – Thank you. Board, we have a Proposed Settlement Stipulation before us.

MOTION: Mr. Hall moved to approve the Settlement Stipulation which calls for a voluntary relinquishment with the same effect as a revocation. Mr. Jones seconded the motion, which passed unanimously.

(b) Florida Vantage Cremation Services, LLC: Case No.: 196013-16-FC; Division No. ATN-27438 (F039883)

Mr. Shropshire – The allegations include but are not necessarily limited to that on April 14, 2016, fifteen (15) bodies were discovered at the funeral establishment that were improperly stored. Ten (10) of the bodies were discovered in the cooler, which is the maximum capacity, and the cooler was not kept at below forty (40) degrees. The other bodies were discovered in different areas of the funeral establishment with decomposition present. None of the bodies were embalmed. Both the cinerator facility and the funeral establishment are located at the same address. This is before the Board on a Proposed Settlement calling for a voluntary relinquishment with the same effect as a revocation. The Department is represented by its counsel, Ms. Deirdre Farrington. Subject has appeared without counsel pro se. The Division recommends approval of this Proposed Settlement. Ms. Farrington?

Chair – Please let the record reflect this is Case No. 196013-16-FC.

Ms. Farrington – This is Deirdre Farrington. May I add one thing?

Chair – Please.

Ms. Farrington – In this case and in the previous related case the Respondent has also waived probable cause in each case.

Chair – Thank you.

MOTION: Mr. Hall moved to approve the Settlement Stipulation, which calls for a voluntary relinquishment with the same effect as a revocation. Ms. Jean Anderson seconded the motion, which passed unanimously.

Mr. Powell Helm – Mr. Chairman?

Chair – Thank you, Ms. Farrington.

Ms. Farrington – Thank you, sir.

Mr. Helm – Mr. Chairman, may I?

Chair – Thank you Mr. Deason for being present.

Mr. Jim Deason – Thank you.

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

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

6. Application(s) for Continuing Education Course
A. Recommended for Approval without Conditions – Addendum B
(1) International Cemetery, Cremation and Funeral Association (22808)
(2) National Funeral Directors Association (136)

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

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

7. Application(s) for Florida Law and Rules Examination
A. Informational Item (Licenses Issued without Conditions) – Addendum C
(1) Direct Disposer
(a) Cubello, Anthony

- (b) *Weems, Roy E*
- (2) *Funeral Director and Embalmer – by Endorsement*
 - (a) *Beecher, Matthew R*
 - (b) *Blessman, David A*
 - (c) *DeBruin, Karen D*
 - (d) *Owens, Kelly D*
 - (e) *Plymale, David H*
- (3) *Funeral Director and Embalmer – by Internship and Exam*
 - (a) *Lacey, Ashley C*
 - (b) *Mills Jr., Charles J*
 - (c) *Walls-Haim, Rebecca C*

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.

8. Application(s) for Internship

- A. *Informational Item (Licenses Issued without Conditions) – Addendum D*
 - (1) *Funeral Director and Embalmer*
 - (a) *Buggs, Alia S (F092230)*
 - (b) *Buggs, Brucia T (F092231)*
 - (c) *Mackin, Chelsi E (F092022)*
 - (d) *Sanders, Michael J (F092021)*

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 Embalmer Apprenticeship

- A. *Informational Item (Licenses Issued without Conditions) – Addendum E*
 - (1) *Breland, Damian D F092086*
 - (2) *Molina, Jesus D F092100*
 - (3) *Peters, Gloria F084882*
 - (4) *Smith, Joseph A F092232*
 - (5) *Solomon Jr., Victor E F085405*

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. Application(s) for Registration as a Training Agency

- A. *Informational Item (Licenses issued without Conditions) – Addendum F*
 - (1) *James C Boyd Funeral Home Inc. (F088222) (Ft Lauderdale)*
 - (2) *Sorensen Funeral Home LLC (F086802) (St. Petersburg)*

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.

Ms. Indira Lugo – Permission to be recognized. My name is Indira Lugo.

Chair – Ms. Lugo, go right ahead.

Ms. Lugo – Yes sir, thank you. I wanted to know if National Cremation and Burial Society was one (1) of those applicants that were approved for the training facility.

Mr. Shropshire – No ma’am. This is Shropshire. They are not listed on Addendum F.

Ms. Lugo – I see. Alright. Thank you very much.

11. Notification(s) of Change in Location

A. Informational Item – Addendum G

- (1) *Arcelays Funeral Services LLC (F077062) (Opa-Locka)*
- (2) *Lewis – Smith Mortuary (F039800) (Jacksonville)*
- (3) *Stonemor Florida Subsidiary LLC d/b/a Cardwell, Baggett and Summers Funeral Home (F071084) (South Daytona)*

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

12. Consumer Protection Trust Fund Claims

A. Recommended for Approval without Conditions – Addendum H

Mr. Shropshire – I should note that on Page 3 of this item, the very last claim listed, Claim No. CPTF-1143, there is no amount indicated in the column entitled “Amount Recommended,” but the amount recommended for that particular claim is \$1500, which is the same as the amount claimed. The Division recommends that these claims be approved for the amounts indicated in the column titled “Amount Recommended.”

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

13. Application(s) for Change of Ownership – Stone Brothers Funeral Home, Inc.

A. Recommended for Approval with Conditions (Collective Coversheet for Various Applications)

- (1) **Funeral Establishments**
 - (a) *Stone Bros Funeral Home (F041808) (Ft. Pierce)*
 - (b) *Stone Brothers Funeral Chapel (F048930) (Vero Beach)*
- (2) **Preneed Main License(s)**
 - (a) *Samuel S Gaines d/b/a Stone Brothers Funeral Home and Chapel (F019247) (Ft. Pierce)*

Mr. Shropshire – This agenda item is a request for approval to transfer ownership of 2 funeral establishments and one related preneed main licensee, all under the current common control of Mr. Samuel Gaines. Ms. Wiener indicates that the transfers are prompted by estate planning considerations on the part of Mr. Gaines.

More specifically, the entities that are the subject of the applications herein are as follows:

- 1) Stone Bros Funeral Home, a licensed funeral establishment, and training agency, license # F041808, physical address: 317 N 7th St, Ft Pierce
- 2) Stone Brothers Funeral Chapel, a licensed funeral establishment, license # F048930, physical address: 3950 Old Dixie Hwy, Vero Beach
- 3) Samuel S Gaines d/b/a Stone Brothers Funeral Home and Chapel, a licensed preneed main, license # F019247, physical address: 317 N 7th St, Ft Pierce

If approved, the licensees will continue to sell trust-funded preneed contracts through First Florida Trust (Sabal Trust Company), administered by Funeral Services, Inc. (FSI) and utilize FIS’s 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 in the attached materials and as represented 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 executed 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 of the location(s) being acquired.

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

14. Application(s) for Removal Service
A. Recommended for Approval with Conditions
(1) Legacy Removal LLC (Cape Coral)

Mr. Shropshire – An application for a Removal Service was received on August 1, 2016. The application was complete when submitted. All fingerprint cards have been returned with no criminal history. The applicant has advised the Division that it is not in any way related to Mr. A. J. Damiano or his firms. The facility is recommended for approval subject to the condition that the facility passes an onsite inspection by a member of Division Staff.

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

Mr. John Regan – Permission to be recognized, John Regan?

Chair – There's been a motion to approve subject to inspection, Mr. Knopke, and it's been seconded. Who wants to speak, please?

Mr. Regan – John Regan, sir.

Chair – Spell your last name, please.

Mr. Regan – Regan, the applicant for that.

Chair – Okay, go right ahead.

Mr. Regan – I just wanted to inform the Board that the inspection was done last week. I'm not sure of the status. I believe it was approved.

Chair – Thank you very much.

Mr. Regan – You're welcome.

Chair – Thank you, sir. There's been a motion made to approve subject to that condition and it's been seconded. All those in favor, aye?

Board members – Aye.

Chair – Any opposed? That motion carries. Congratulations, sir.

Mr. Shropshire – Mr. Regan, are you still on the line?

Mr. Regan – I am, sir.

Mr. Shropshire – This is Mr. Shropshire. Notwithstanding that the inspection was conducted, Ms. Richardson will get in contact with you when she officially verifies that the inspection was successfully passed and your license is issued. So don't commence operations until you get word from her, okay?

Mr. Regan – Absolutely, I will not. I will wait to hear from you guys.

Mr. Shropshire – Thank you, sir.

Mr. Regan – Thank you.

(2) Oak Mortuary Service LLC (Plant City)

Mr. Shropshire – An application for a Removal Service was received on June 21, 2016. The application was incomplete when submitted. Deficient items were returned on August 2, 2016. All fingerprint cards have been returned with no criminal history. The facility is recommended for approval subject to the condition that the facility passes an onsite inspection by a member of Division Staff.

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

B. Recommended for Approval without Conditions

(1) Phoenix Services of Florida LLC (Tampa)

Mr. Shropshire – An application for a Removal Service was received on August 3, 2016. The application was complete when submitted. Fingerprints for all principals have been returned with no criminal history. The removal facility passed an inspection on August 1, 2016. The Division is recommending approval without conditions.

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

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

A. Recommended for Approval with Conditions

(1) Request for Trust Transfer

(a) Corey-Kerlin Funeral Home, P.A. (F038706) (Jacksonville)

Mr. Shropshire – Corey-Kerlin Funeral Home, P.A. (Corey-Kerlin) seeks approval to transfer its preneed trusts accounts from Regions Bank to Live Oak Bank as more specifically set forth in Mr. Justin Wilson's letter dated July 21, 2016, and attachments to that letter. Live Oak will continue to operate under the existing trust agreements.

The Division recommends approval subject to conditions as follows:

- 1) That the representations of Live Oak and Corey-Kerlin as set forth in the attached materials be deemed material to the Board's decisions herein.
- 2) That within 90 days of this Board meeting date Live Oak provide the FCCS Division (ATTN: LaShonda Morris), with a letter on Live Oak's letterhead and signed and dated by a Live Oak officer or manager, as follows:
 - a. Stating that the transfers have all been completed and the date of completion.
 - b. Certifying that Live Oak 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.
 - c. Stating separately for each trust, the dollar amount of the trust assets received by Live Oak.

- 3) That the Board's executive director, for good cause shown, may extend the compliance time for the above specified conditions, an additional 90 days, with a report to the Board regarding any extension granted.

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

(b) Fred Hunter Memorial Service, Inc. (F019312 and F039596) (Hollywood)

Mr. Shropshire – Fred Hunter seeks approval to transfer its 1) preneed funeral trust funds, 2) its preneed cemetery merchandise and services trust funds, and 3) its cemetery care and maintenance trust assets from Regions Bank to Live Oak Banking Company as more specifically set forth in Mr. Justin Wilson's letter dated July 26, 2016, and attachments to that letter. Live Oak will operate under the existing trust agreements.

The Division recommends approval subject to conditions as follows:

- 1) That the representations of Live Oak and Fred Hunter as set forth in the attached materials be deemed material to the Board's decisions herein.
- 2) That within 90 days of this Board meeting date Live Oak provide the FCCS Division (ATTN: LaShonda Morris), with a letter on Live Oak's letterhead and signed and dated by a Live Oak officer or manager, as follows:
 - a. Stating that the transfers have all been completed and the date of completion.
 - b. Certifying that Live Oak 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.
 - c. Stating separately for each trust, the dollar amount of the trust assets received by Live Oak.
- 3) That the Board's executive director, for good cause shown, may extend the compliance time for the above specified conditions, an additional 90 days, with a report to the Board regarding any extension granted.

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

B. Recommended for Approval without Conditions

(1) Pre-Construction Performance Bond

(a) SCI Funeral Services of Florida, LLC d/b/a Caballero Rivero Southern (F03900) (North Miami)

Mr. Shropshire – SCI intends to construct a new mausoleum at its Caballero Rivero Southern (F039500) location, in N. Miami. Pursuant to s. 497.272, Fla. Statutes, typically, a pre-construction trust must be put in place if sales are going to occur prior to completion. However, s. 497.272(8) provides that in lieu of the pre-construction trust fund, the cemetery company may provide a performance bond in an amount and by a surety company acceptable to the regulator. The licensee has submitted for approval a performance bond, in lieu of a pre-construction trust. The mausoleum project, and the bond, is summarized as follows:

Project: 1,589 Crypt Mausoleum
Bond Amount: \$1,333,036
Bond Number: SUR0038395
Surety Company: Argonaut Insurance Company

Cemetery agrees to complete said construction approximately 270 calendar days from commencement date and in accordance with the attached construction agreement dated March 18, 2016, with Mausoleum Constructors of America, Inc. The Division recommends approval of the pre-construction performance bond without conditions.

Chair – This is Jody Brandenburg. I want to disclose my association with SCI Funeral Services of Florida and this association will in no way affect my ability to make a fair and unbiased decision on this case.

MOTION: Mr. Knopke moved to approve the pre-construction performance bond. Mr. Davis seconded the motion, which passed unanimously.

16. Executive Directors Report

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

Mr. Shropshire – This is the monthly report of fines and costs assessed and paid. Are there any questions or comments on this report?

Monthly Report of Fines and Costs Assessed and Paid
 Division of Funeral, Cemetery and Consumer Services
 September 1, 2016 Board Meeting
 Date of Report: August 19, 2016

Licensee	Board Meeting	Case No.	Total Fine & Cost Due	Date Due	Paid in Full?	Comments
Randy Straghn	Aug-16	184682-16-FC	\$1,000	9/19/2016	Note D	
Straghn & Son Tri-City	Aug-16	184654-16-FC	\$1,000	9/19/2016	Note D	
Oxley-Heard Funeral Directors, Inc.	Aug-16	183577-15-FC	\$2,000	9/19/2016	Note D	
Douglas Covell	Aug-16	183174-15-FC	\$2,000	9/19/2016	Note D	
Covell Funeral Home & Cremation Services	Aug-16	183168-15-FC	\$2,000	19-Sep-16	Note D	
Carriage Florida Funeral Holdings, Inc.,	Aug-16	190609-16-FC	\$2,000	9/19/2016	Note D	
Affordable Monument Company	Jun-16	184198-15-FC	\$1,000	Monthly payments of \$83	Payments are current	
Patricia Narciso	Jun-16	184202-15-FC	\$1,000	Monthly payments of \$83	Payments are current	
Clifford N. Robinson d/b/a CN Robinson Memorial F	Jun-16	178019-15-FC	\$1,000	Monthly payments of \$83	Payments are current	
Clifford Nathaniel Robinson	Jun-16	178002-15-FC	\$1,000	Monthly payments of \$83	Payments are current	
Vanessa Franco	Jun-16	163242-14-FC	\$2,000	12-Aug-16	Paid in Full	
Randy Howard	Jun-16	162981-14-FC 163239-14-FC 163240-14-FC 163241-14-FC	\$4,500	12-Aug-16	Note A	Immediate Final Order requested
Abbey Affordable Cremation & Funeral Services, Inc	Jun-16	169277-15-FC	\$1,000	12-Aug-16	Paid in Full	
Yvette Klausch	Jun-16	164630-14-FC	\$2,500	22-Aug-16	Paid in Full	
M&M Florida Enterprises Inc., d/b/a CFCSFC	Jun-16	162992-14-FC	\$1,500	12-Aug-16	Paid in Full	
Michael Tipton Phillips	Jun-16	162991-14-FC	\$2,000	12-Aug-16	Paid in Full	
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	3/14/2016	Note A	Immediate Final Order requested
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.						

B. Proposed Change to Unitrust Rule (69K-7.0012 - Care and Maintenance Trust Fund Withdrawal)

Mr. Shropshire – This is a request for approval of a change to the proposed Unitrust Rule. We have provided to the Board a memorandum of background on this. The Joint Administrative Procedures Committee of the Legislature, often referred to as JAPC, has indicated that they are uncomfortable with the degree of discretion, the lack of specific criteria in the rule as it relates to the Division’s decision to present matters to the Board. Although the Division believes that given enough time we could develop acceptable criteria, criteria acceptable to JAPC and the Industry, the Division believes that it is an overriding consideration that we need to get a rule approved and in place as soon as possible because of the approaching desire of the industry to use this new withdrawal method commencing in 2017. Therefore, the Division, after confirming with Mr. Barnhart’s office in the Attorney General’s Department, believes that the best and most expeditious way to address the concerns is to eliminate the discretion and to say that the Division will simply refer the cases involved to the Board for its decision and the Board can take appropriate action, which could include finding that there’s no cause for any corrective action. The Division recommends, therefore, that the Board approve the change in wording that was provided to the Board in the August 25, 2016 memo to the Board by Ms. Simon in this matter.

Chair – Is there a motion?

MOTION: Mr. Hall moved to approve the change in wording that was provided to the Board in the August 25, 2016 memo to the Board by Ms. Simon. Mr. Frank Bango seconded the motion.

C. Proposed Rule Identifying When a Change of Ownership Occurs That Requires Re-Licensure

Mr. Shropshire – This is a request for approval by the Board that the Division commence rulemaking activity to put in place a rule that would specify what is a change of ownership that requires an application for approval to the Board and a re-licensure. This matter relates to funeral establishments, removal services, refrigeration services, centralized embalming facilities and monument establishments. We've provided a memo to the Board in the materials including initial draft language for the rule, which language would be if the Board approves the rulemaking subject to the rulemaking process so that ultimately language would come out of the rulemaking process probably amended from what we're proposing currently because the Division recognizes that there is certainly a lively variance of opinion as to what the proper rule provision should be, but we have a matter before us in effect a rule challenge that makes this a matter of some urgency that we move ahead with rulemaking to get in place some rule addressing this issue. The Division therefore requests a motion or approval by motion by the Board to initiate rulemaking.

MOTION: Mr. Davis moved to approve the Division to commence rulemaking activity to put in place a rule that would specify what is a change of ownership that requires an application for approval to the Board and a re-licensure. Mr. Hall seconded the motion.

Ms. Wendy Wiener – Mr. Chairman?

Chair – Yes?

Ms. Wiener – This is Wendy Wiener. May I be recognized?

Chair – Yes?

Mr. John Rudolph – And John Rudolph if I could also.

Ms. Wiener – So, John and I have been discussing this matter and we both talked with the Division at some length in anticipation of this proposed rule and we have concerns about the 10% provision in paragraph (b)2 primarily because it will make the change of ownership provisions for these types of licensees inconsistent with the change of ownership for cemeteries, which is a change of control conceptually 50% or more change in stock ownership would trigger a change of control. We both feel strongly, and I will let John speak to the issue as well, but we both feel strongly that that 10% would be more appropriate a 50% and I'll let John speak.

Mr. Rudolph – May I speak, Mr. Chairman?

Chair – Ms. Wiener, we just voted on seeking the Board's approval to move forward with rulemaking. This is not a rule. This is only permission for the Board to move forward with rulemaking to adopt a rule. In line two (2), if you look at line two (2), (2).

Ms. Wiener – Yes.

Chair – Thank you.

Ms. Wiener – I absolutely understand that it is permission to move forward with rulemaking but the reason that we raise it at this juncture is because if this draft becomes the proposed rule it becomes somewhat more burdensome both for the Agency and for the industry to make changes to the rule and there are procedures that have to be undertaken under Chapter 120, The Administrative Procedures Act. So we thought it prudent to simply raise our concerns at this point to see if there's some movement in that before it becomes a proposed rule and then we have to go through a different process.

Chair – Thank you. Mr. Rudolph?

Mr. Rudolph – Mr. Chairman, I agree with Wendy on that the 10% should be 50%. I also have a question about No. (1), where “a person or entity acquires the ability to direct the management or policies of the licensees, which person did not previously have such ability.” I believe that would break into account if you had to change an FDIC and I believe that if you had corporate managers in there that that might bring them in too and you would have to change every time you change one of those. I understand what it is and I think when you have a change of control application at that point that’s when you look at those things for the 10% ownership and for people’s ability to do it. So anything over 50% would catch that.

Chair – Well I’m quite certain that would be considered when we move forward with rulemaking.

Mr. Rudolph – Yes sir. Thank you.

Chair – So thank you for your comments.

Mr. Bill Williams – Mr. Chairman, Bill Williams.

Chair – Yes, Mr. Williams?

Mr. Williams – I’d just like to point out that the statute’s pretty clear that it says change of ownership. It does not say change of control and suggest that everybody take that into consideration during rulemaking. I don’t think there’s authority here to create a rule for change of control when it very clearly states change of ownership.

Chair – Thank you for that clarification.

Mr. Williams – Thank you.

Chair – Board members?

Mr. Knopke – Mr. Chairman, this is Mr. Knopke. A question for Mr. Shropshire.

Chair – Please.

Mr. Knopke – Doug, do you have a, assuming this gets approved, do you have a proposed rulemaking schedule yet or when that might occur since there seems to be some concern about when it might occur or if it would occur or how it would occur?

Mr. Tom Barnhart – This is Tom Barnhart. This would just open it up for development and what would happen is I think the Board and Board staff would schedule a public hearing later where we can take written and oral comments in deciding what language that the Board would eventually want to come up with. So it’s just a preliminary step.

Mr. Knopke – Okay, that helps. Thank you.

Chair – Mr. Knopke, question to Mr. Shropshire, please.

Mr. Knopke – I’m sorry. I thought Mr. Barnhart was answering for Mr. Shropshire, Mr. Chairman.

Mr. Barnhart – This is Tom Barnhart. I was just trying to offer that as a rationale. We certainly want to get all public comment and comment from the industry but this is just a preliminary part of the rulemaking process. There will be plenty of time to submit suggestions, preferably written, but written and at the meetings we’re going to have in the future in the process of formulating the language that’s ultimately approved.

Chair – Thank you.

Mr. Shropshire – Mr. Chairman, this is Mr. Shropshire and I agree with Mr. Barnhart’s comments.

Chair – Thank you. Board? Board members? Is there a motion?

Mr. Knopke – I think you had one but if we need one:

MOTION: Mr. Knopke moved to approve the Division to commence rulemaking. Mr. Hall seconded the motion.

Mr. Barnhart – Just to clarify, you're talking about the five (5) different areas that have been listed?

Mr. Knopke – Yes.

Mr. Barnhart – Okay.

Chair – All those in favor, aye?

Board members – Aye.

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

17. Upcoming Meeting(s)

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

Chair – I certainly want to recognize that there's a lot of citizens in the State of Florida that are in the path of a potentially devastating hurricane headed their way and our thoughts and prayers are with everybody in Florida that will be affected by this. So those of us that are not in harm's way certain reach out with our thoughts and prayers. Board members? Good of the cause?

Mr. Helm – Mr. Chairman? This is Helm. I do have a question. I was just waiting until the end. Going back to Item 4, I didn't see anything about an FDIC. Is that coming later?

Mr. Shropshire – There are related cases being worked, Mr. Helm. This is Mr. Shropshire.

Mr. Helm – Yes sir, I got you. That's what I thought the answer would be but I just wanted to make sure.

Mr. Shropshire – Yes sir.

Chair – Thank you, Mr. Helm.

Mr. Helm – And I will tell you all this that this hurricane hit and its wet. We got 7' yesterday.

Mr. Rudolph – Well, according to my expert it's going to be a very strong tropical storm when it hits and that's it and hopefully it'll go to the east of us.

Chair – Everybody be sure to take the precautions to stay out of harm's way. Board members anything else?

Mr. Jones – Mr. Chair, I just want to make a comment to the staff. The minutes, when they send them out, the detail of them are excellent. Just to give compliment to the staff. It makes it very easy to go through and review them. So thank them.

Ms. Richardson – Thank you, LaTonya.

Mr. Shropshire – Thank you, LaTonya.

Chair – Mr. Jones, do you have anything to report on the Registrars and any closures or anything of that nature that the industry might be interested in?

Mr. Jones – We received a notice from the Governor. I think there were thirty-one (31) County facilities, County Health Departments closed. We along with Leon County and Duval County have been directed to close at noon today. We don't know the status for tomorrow. We sent an email out to the industry as far as helpdesk, if there's any concerns we'll be back tomorrow. We will take care of those and basically be open to serve, working with any counties that have problems with systems. We'll be here to help them.

Chair – Thank you. We appreciate that. Any other Board members? Thank you so much. I always appreciate each one of you and the time and energy you put into these meetings and the study. It's admired and appreciated. Thank you so much.

18. Adjournment

The meeting was adjourned at 10:44 a.m.