

**MINUTES**  
**BOARD OF FUNERAL, CEMETERY AND CONSUMER SERVICES**  
**October 4, 2012 - 10:00 A.M.**  
**Hilton Deerfield Beach/Boca Raton**  
**100 Fairway Drive**  
**Deerfield Beach FL 33441**

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

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

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

My name is Doug Shropshire. I am Director of the Division of Funeral, Cemetery, and Consumer Services. Today is October 4, 2012; the time is approximately 10:00am. This is a public meeting of the Board of Funeral, Cemetery and Consumer Services. Notice of this meeting has been duly published in the Florida Administrative Weekly. An agenda for this meeting has been made available to interested persons. The meeting is occurring at the [Hilton Deerfield Beach/Boca Raton in Deerfield Beach, FL](#). My Assistant, Ms LaTonya Bryant, is recording the meeting and will be preparing minutes of the meeting.

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

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

**PRESENT:**

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

**ABSENT:**

Andrew Clark  
Nancy Hubbell

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

**Also noted as present:**

Clark Jennings, Board Legal Advisor  
Anthony Miller, Assistant Director  
LaTonya Bryant-Parker, Department Staff  
Mary K Surles, Department Counsel  
Jasmin Richardson, Department Staff

Mr. Shropshire stated that some Division Staff were present from the South Florida Offices. Mr. Shropshire recognized Mr. Thurman Lowe, Director of Field Staff Statewide, and requested that he introduce his Staff.

Mr. Thurman Lowe stated that he has the privilege of serving with an amazing, dedicated group of professionals based all over the state of Florida. Many of you have had an opportunity to meet the South Florida Team before, but just in case you

have not, I appreciate the opportunity to introduce them: Mr. Marc Adel, Mr. Bob Ditolla and Ms. Jessica Cordero. Thank you for the opportunity and welcome to South Florida.

The Chair questioned whether all Board members received their packets. There were positive responses from all the Board members.

## 2. Action on the Minutes

### A. September 6, 2012

The Chair confirmed that all Board members had read the draft of the minutes of the previous Board meetings held on September 6, 2012.

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

## 3. Disciplinary Proceeding(s)

### A. Settlement Stipulation for Consent Order

#### (1) *Morgan III, George B: Case No. 120359-11-FC, Division #1-661097805 (F045041) (Probable Cause Panel A)*

Mr. Clark Jennings stated that the following is a hearing in the matter of taking disciplinary action against George B Morgan, III, being held in Deerfield Beach, FL Case No. 120359-11-FC. Let the record reflect that Board member Nancy Hubbell is recused from participating in these proceedings because of her participation on Probable Cause Panel A.

Mr. Jennings questioned whether the Respondent was present or represented by counsel.

Mr. John Rudolph identified himself as counsel for the Respondent and acknowledged Mr. Morgan's presence.

Mr. Jennings stated that the Respondent, upon receiving the Administrative Complaint, entered into a Stipulation with the Department. Initially when the Administrative Complaint was issued, the Respondent filed an Election of Rights requesting a formal hearing before the Division of Administrative Hearings. Subsequently, the Respondent and Department negotiated a proposed stipulated settlement and requested the Division to remand the issue back to the Board, which it has done. Before you today is that Settlement Stipulation. The Board is authorized to accept or reject the stipulated offer. If the Board rejects the Stipulation it may make a counter-proposal to the Respondent. If the Respondent rejects the counter-proposal then the parties will determine whether to go before the Division of Administrative Hearing. This hearing is being conducted pursuant to Sections 120.569(3), Florida Statutes and Rule 28-106, Florida Administrative Code. Mr. Jennings asked whether the Board members had any questions.

There was a negative response from the Board members.

Ms. MaryK Surles presented the facts of the case. On January 20, 2012, the Department filed an Administrative Complaint against the Respondent alleging that the Respondent, as the licensed funeral director in charge of Morgan Funeral Home, Inc., was responsible for ensuring that the funeral establishment and the employees of Morgan Funeral Home, Inc. complied with all applicable state and federal laws and rules as required by Section 497.380(7), Florida Statutes. Respondent failed to ensure that monies were timely remitted to any trust fund for each and every payment received or collected for preneed contracts sold by Morgan Funeral Home, Inc. for funeral services or merchandise or burial services or merchandise as required by Sections 497.458(1)(a) and 497.152(15)(b), Florida Statutes.

Morgan Funeral Home Inc purchased the Arlington Funeral Home contracts and was aware at the time of the purchase of those Arlington preneed contracts that not all monies received by either Jerry B Thompson or Arlington Funeral Home had been remitted to trust. Morgan Funeral Home Inc assumed liability and responsibility to fulfill each of the Arlington contracts, pursuant to the bill of sale executed by George Morgan III on behalf of Morgan Funeral Home Inc.

On February 1, 2012, Respondent received the Administrative Complaint by certified mail, and on February 21, 2012, the Department received Respondent's request for a formal hearing in this matter. On August 15, 2012, the Respondent and the

Department entered into a Settlement Stipulation for Consent Order (“Settlement Stipulation”) for resolution of this matter. The terms of the Settlement Stipulation require the Respondent to pay restitution in the amount of \$33,711.30 to IFDF, which will be paid in thirty-six installments. The first installment is to be paid in the amount of \$951.30 and the subsequent thirty-five (35) installments are to be paid in the amounts of \$936.43. Respondent is required to pay an administrative fine in the amount of \$1,000 and \$250 in costs within thirty days of the entry of the Consent Order in this case and Respondent’s Funeral Director and Embalmer License will be placed on probation for three (3) years with the specific condition not to act as a funeral director in charge of any establishment licensed under the Act. It is now appropriate for the Board to entertain a motion to accept the Settlement Stipulation for Consent Order as discipline in this matter. As previously stated, Mr. John Rudolph is representing the Respondent in this matter.

Mr. Rudolph stated that the Respondent does not have to pay back anything on the Arlington contracts per the Settlement and under the law he does not have to pay back. Mr. Morgan assumed those contracts and honored those contracts and will continue to do so. We have come before the Board to settle this case, to answer questions, but we are prepared to go to hearing on it because there are a number of different issues having to do with Faupel and what he did.

Mr. Hall stated there were multiple contracts involved. It looks like Arlington and Mr. Morgan both would utilize the monies from the preneed accounts for cash flow as an “IOU.” They indicated that the Division was aware. It is not the funeral establishment’s money and is not there for their usage. When Faupel brought it he got a reduction in his price so is Faupel not repaying that.

Mr. Rudolph stated that Faupel should be paying that. Arlington’s were assumed by Faupel. On the Morgan contracts, he has fulfilled some of those contracts. Between the time of this complaint and the Settlement Stipulation, he had actually fulfilled one of those by giving the people their money back. So that was reduced from the amount shown. Mr. Rudolph agreed with Mr. Hall and admitted that the Respondent violated the statute by using monies in the trust but that is Faupel’s issue. Faupel has sold it.

Mr. Shropshire requested that Mr. Morgan raise his right hand to be sworn in. “Do you solemnly swear that the testimony you are about to give in this matter is the truth, the whole truth and nothing but the truth, so help you God?”

Mr. George Morgan III answered, “I do.” Originally when we assumed the contracts of Arlington, we fulfilled every single one of those contracts that came due and never filed for Consumer Protection Trust Fund money. Then when we sold the business, Mr. Faupel and I sat down and looked at the Arlington contracts and came up with a figure of approximately \$36k, which I paid to Mr. Faupel in the closing, which is on the closing statement. The funds that I am paying restitution on are funds that we did not file in a timely manner. I am taking responsibility for that and am paying restitution for that. The only reason that this came before the Board is because Mr. Faupel and I knew that the contracts were not trusted going into the closing. He kept coming up with numbers that were not even close to the actual numbers. He kept adding to it and adding to it and we could not come to terms on that. The reason that this is before the Board is because Mr. Faupel brought it to the attention of the Board. The Division did not find out.

Mr. Hall questioned whether Mr. Morgan understands that going forward he cannot just pull monies from the preneed account.

Mr. Morgan agreed. It was a combination of poor recordkeeping and basically trying to keep the doors open. We were in a bad financial situation. It was not a matter where the monies went into someone’s pockets. Mr. Morgan stated that his home was foreclosed, cars were repossessed and is currently living with his mother.

Mr. Mueller stated appears Mr. Faupel was aware of the original amount and then he found additional amounts.

Mr. Morgan stated Mr. Faupel says he did but has never provided any evidence of this.

Mr. Rudolph stated there was due diligence. All the contracts, all the accounts receivable, all the trust records were in Mr. Faupel’s possession and taken out of the funeral home. Many times the Division has said if the purchaser comes in and fails to do due diligence despite having an opportunity to do that they are bound with what those records will show. We are here to settle this case but this is not over for us. Mr. Faupel’s attorney is holding money in trust in escrow and was supposed to pay

the taxes but decided not to pay the taxes because there is a dispute. There will be legal actions taken to get those monies to be put into trust.

Mr. Mueller stated that Mr. Morgan was the FDIC after Mr. Faupel bought the business and there were additional contracts that occurred after the business was purchased.

Ms. Surles stated that after Mr. Faupel purchased Morgan Funeral Home there were contracts entered into possibly, but those would be considered Morgan Funeral Home contracts, which is what is being paid back.

Mr. Morgan stated once the business was sold, he was still the FDIC and there were no contracts that were not trusted.

Ms. Surles stated she could not speak wholeheartedly to that. There may have been but Ms. Surles would have to review the documents.

Mr. Rudolph stated that would be the subject of the complaint against Faupel.

Mr. Hall questioned what actions would be taken if the payments are not made.

Ms. Surles stated that Mr. Morgan's individual license is being disciplined. If Mr. Morgan fails to comply with the terms and conditions of the Board's Final Order in this, it potentially is a violation of a Board Final Order and there would be further action taken against the license of Mr. George Morgan.

Col. Stiegman noted that the coversheet indicates the restitution would be paid to FSI but the Stipulation indicates it would be paid to IFDF.

Ms. Surles stated that it should be IFDF. There was a typo on the memo.

Mr. Mueller stated that the payments do not add up to the amounts. The required payments appear to exceed the restitution amount by \$25.25.

Ms. Surles stated that this is the amount of the Stipulation that is before the Board today.

Mr. Morgan stated that he would be willing to pay the additional \$25.25.

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

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

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

**5. Application(s) for Continuing Education Course Approval**  
*A. Recommended for Approval without Conditions – Addendum B*  
*(1) American Academy McAllister Institute of Funeral Service (Provider #9808)*  
*(2) International Cemetery & Funeral Association (Provider #74)*  
*(3) National Funeral Directors Association (Provider #136)*  
*(4) Pinellas County Funeral Home Association (Provider #58)*

The Continuing Education Committee and the Division recommends approval of the application(s).

**MOTION:** Mr. Ken Jones moved to approve the application(s). Mr. Mueller seconded the motion, which passed with one (1) dissenting vote.

6. **Application(s) for Approval as a Continuing Education Provider**  
A. **Recommended for Approval *without* Conditions – Addendum C**  
(1) **Kates-Boylston Publications (Provider #17208)**

The majority of the Continuing Education Committee and the Division recommends approval of the application(s).

Col. Don Stiegman, Continuing Education Committee Member, voiced his disagreement on Providers coming before the Committee for approval. As a member of that Committee, I have no idea of this Provider. I do not have the facilities or the time to vet this Applicant or their facilities. I am disagreeing with the Division on this one. However, I cannot talk to other members on the Committee. I just do not think this is correct. The courses, I can understand as I can look at the course information to determine whether it would be detrimental to the consumer, but I cannot do that with a Provider.

Mr. Shropshire stated that the primary reason the Board has the Committee to review the applications is because the Board feels that Committee members, at least the ones in the Industry, may hear things that allow them to provide input. Mr. Shropshire agreed that Col. Stiegman would not be in a position to hear that input.

Col. Stiegman stated that Mr. Shropshire just made his point because if someone in the Industry had such information, he could not talk to them.

Mr. Shropshire agreed but stated that Col. Stiegman could talk to the Division who would in turn look into it.

Col. Stiegman stated that he does not feel he can rule on these Providers.

Mr. Shropshire stated that he does not disagree that as a Consumer member, Col. Stiegman would not be in a position to have heard any of the scuttlebutt in the Industry referring to these Providers. This leaves the question of whether this is a misuse of Col. Stiegman's time. The Division has no objection if the Board wants to delegate all approval authority for the providers to the Division.

The Chair stated that Col. Stiegman would in turn be able to review every course the Provider submits.

**MOTION:** Mr. Mueller moved to approve the application(s). Mr. Hall seconded the motion, which passed with one (1) dissenting vote.

7. **Application(s) for Florida Law and Rules Examination**  
A. **Recommended for Approval *without* Conditions – Addendum D**  
(1) **Embalmer – by Endorsement**  
(a) **Barretta, Ellie M**  
(2) **Funeral Director and Embalmer – by Endorsement**  
(a) **Geeslin, James M**  
(b) **Hughes, Jerry W**  
(c) **Sparks, Dennis L**  
(3) **Funeral Director and Embalmer – by Internship and Exam**  
(a) **Eschenbach, Janet A**  
(b) **Roberson, Mark L**

The Division recommends approval of the application(s).

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

B. **Recommended for Approval *without* Conditions**  
(1) **Funeral Director and Embalmer – by Endorsement**  
(a) **Vickery, Michael D**

The Applicant submitted an application on August 13, 2012 for licensure as a Funeral Director and Embalmer by endorsement. Applicant is currently licensed in Illinois as a funeral director & embalmer. The application was complete when submitted. The Applicant submitted a fingerprint card, the processing of which returned no criminal history; however the Applicant does have documented adverse license history, to wit:

- In 1993 Illinois regulatory authorities found that Mr. Vickery did not file a burial permit with the state registrar prior to cremating an individual. Mr. Vickery was reprimanded and also ordered to pay \$500.

The Division is recommending approval without conditions.

Ms. Gail Thomas-Dewitt stated that the application is incomplete. The Applicant did not indicate whether he had taken the National Board Exam. Neither did the Applicant supply a copy of his National Board certificate.

Ms. Jasmin Richardson stated that Mr. Vickery did not take the National Board Exam. However, he did take a State Exam. The State submitted the examination and checked all of the information that is the State equivalent to the National Board Exam. So at the time, Mr. Vickery did not need to take the National Board because the State offered an equivalent examination. They also submitted a license certification.

Ms. Thomas-Dewitt stated that Florida requires the National Exam. The new law requires the Applicant to take the State exam but in order to be considered for endorsement the Applicant must all of Florida's qualifications and this Applicant does not.

Ms. Richardson stated that the Statute states the National Board or a State examination that is equivalent or astringent.

Mr. Shropshire quoted s. 497.374(3) Funeral directing; licensure as a funeral director by endorsement; licensure of a temporary funeral director. —

*(3) State, regional, or national examinations and requirements for licensure in another state shall be presumed to be substantially equivalent to or more stringent than the examination and requirements in this state unless found otherwise by rule of the licensing authority.*

Mr. Shropshire stated that the Rule substantially repeats the Statute. There has not been a review of the different states to see whether the Board deems their exams to not be equivalent to the Conference exam. Since the deemer date is not until January I would suggest to the Board that you table this item and allow the Division to do more research. It may be that if this particular state has no longer given the state exam and has moved to using the Conference exam, they may be willing to release their state exam which could be included for the Board review. If they will not release it because they still offer the state exam, the Division would report back to the Board at the December meeting.

The Chair disclosed his affiliation with SCI Funeral Services of Florida and stated it would not impair his ability to make a fair and impartial decision on any of the items being presented to the Board today. The Chair stated he would like to see the application passed provisionally so that this person can go to work, based upon the provision that he does satisfy the statute.

Ms. Thomas-Dewitt stated that the Board would be possibly licensing someone that is not qualified so I would much rather wait. Hopefully whatever job he has now will carry him through until the Board is certain that Mr. Vickery is eligible for Florida licensure.

The Chair questioned whether the Board would be willing to delegate the decision on the exam equivalency to the Division so that the Applicant would not have to wait the full 30 days. Then at that point, the Applicant would be licensed.

Mr. Jennings stated that Mr. Shropshire's recommendation is the cleanest course of action. Mr. Jennings recommended that the Board either approve the application or defer the item to the next meeting.

Mr. Shropshire stated that the next meeting would be a Teleconference and added that the Board may want to address the item at the next in person meeting, which would be December.

Col. Stiegman questioned whether the Division would have enough time to research the issue if it is addressed on the Teleconference.

Mr. Shropshire stated it probably would be enough time. If they are using the Conference exam I do not see why they would object to giving us a copy of the state exam since they are not using it anymore. If they are still using the state exam they are going to say no.

**MOTION:** Mr. Jones moved to defer the application to the November meeting. Mr. Hall seconded the motion, which passed with one (1) dissenting vote.

- C. *Recommended for approval with Conditions*
  - (1) *Funeral Director and Embalmer – by Internship and Exam*
    - (a) *Brown, Shawn P*

The Applicant submitted an application for the Combination Funeral Director and Embalmer license on September 11, 2012. The application was complete when submitted. The Applicant submitted a fingerprint card along with his application for Concurrent Internship in 2011, the processing of which returned a criminal history, to wit:

- In 2009 Applicant was found guilty to three misdemeanor charges: Driving Under the Influence, Fraud (insufficient funds) and Worthless Check, in Florida Circuit Court.

Mr. Brown explained the charges stemmed from an incident where he did contracting work for a client and before he was duly paid for the work performed, he wrote a check to his suppliers. The amount was not covered because of lack of payment from his client and a Settlement could not be reached. Mr. Brown was found guilty of these charges, but has since completed all requirements (i.e. restitution and community service).

Mr. Brown was issued a Concurrent Intern license at the December 2011 Board meeting and his license was placed on probation for the duration of the internship. The Division is recommending approval subject to the condition that the Applicant be placed on one year probation, once he has passed the Law and Rules examination and been issued a license.

**MOTION:** Mr. Jones moved to approve the application subject to the condition that the Applicant be placed on one year probation, once he has passed the Law and Rules examination and been issued a license. Ms. Jean Anderson seconded the motion, which passed unanimously.

- 8. *Application(s) for Internship*
  - A. *Recommended for Approval without Conditions – Addendum E*
    - (1) *Funeral Director Intern*
      - (a) *Pare, Denise M*
      - (b) *St Clair, Taylor*
    - (2) *Funeral Director and Embalmer*
      - (a) *Alley-Berry, Carla D*
      - (b) *Fuller, Jason D*
      - (c) *Tilley, Terry A*
      - (d) *Webster, Charles E*

The Division recommends approval of the application(s).

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

- B. *Recommended for Approval with Conditions*
  - (1) *Funeral Director and Embalmer*
    - (a) *Fulton, Montalvis*

The Applicant submitted an application for the Concurrent Intern license on June 19, 2012. The application was incomplete when submitted. All deficient items were returned on August 7, 2012. The Applicant submitted a fingerprint card, the processing of which returned a criminal history, to wit:

- In 2009 Applicant was pled guilty to two misdemeanor charges: Resisting Arrest and Petit Theft. Mr. Fulton was sentenced to 10 days confinement and court costs of \$283.

The Division is recommending approval subject to the condition that the Applicant be placed on one year probation.

**MOTION:** Mr. Jones moved to approve the application subject to the condition that the Applicant be placed on one year probation. Col. Stiegman seconded the motion, which passed with one (1) dissenting vote.

*(b) Richard Jr, Samuel E*

The Applicant submitted an application for a Concurrent Intern License on July 2, 2012. The application was incomplete at the time of submission. All deficient items were returned on July 24, 2012. The Applicant submitted a fingerprint card, which processing came back with criminal history disclosed on a previous application. Mr. Richard pled guilty and was convicted of crimes ranging from having narcotics paraphernalia, possession of marijuana, carrying a concealed weapon to more serious offenses such as conspiracy to traffic cocaine and trafficking cocaine.

Mr. Richard submitted an Embalmer Apprentice application on October 29, 2009 and his application was recommended for denial by the Division. The Board, however, did grant Mr. Richard a license at the April 1, 2010 Board meeting with a Stipulation of 24 months probation, which Mr. Richard has successfully completed.

Based on the previous approval of the Board, the Division is recommending approval with the condition that the Applicant's Concurrent Internship license be placed on probation for one year.

Col. Stiegman questioned whether the Applicant has had any problems since last appearing before the Board.

Mr. Shropshire responded there had been no issues but questioned whether the Applicant was present.

The Chair requested that the Applicant be sworn in.

Mr. Shropshire requested that Mr. Richard raise his right hand to be sworn in. "Do you solemnly swear that the testimony you are about to give in this matter is the truth, the whole truth and nothing but the truth, so help you God?"

Mr. Samuel Edward Richard Jr. answered, "I do." Mr. Richard responded that he had not any other issues since the last time he appeared before the Board.

Col. Stiegman questioned whether Mr. Richard found another establishment to complete his internship.

Mr. Richard stated he is interning at Charles Lewis Funeral Home.

Col. Stiegman questioned whether this was the location that Mr. Richard was advised not to be associated with.

Ms. Richardson stated she believed it to be a different place.

**MOTION:** Mr. Helm moved to approve the application with the condition that the Applicant's Concurrent Internship license be placed on probation for one year. Ms. Anderson seconded the motion, which passed unanimously.

*C. Recommended for Denial*

*(1) Funeral Director and Embalmer*

*(a) Bell, Ruben D*

The Applicant submitted an application for a Concurrent Internship license on May 30, 2012. The application was incomplete when submitted. All deficient items were returned on July 18, 2012. The Applicant submitted a fingerprint card, the processing of which returned a criminal history, to wit:

- 3/7/1994 – Felony carrying a concealed weapon. Sentenced to 3 months confinement and 3 years probation.
- 37//1994 – Felony Burglary of a dwelling. Sentenced to 3 months confinement, 3 years probation and restitution of \$150.
- 8/14/1995 – Felony Possession of a Firearm by a convicted felon. Sentenced to 1 year probation.
- 12/14/1999 – Felony Dealing in Stolen Property and False Verification of Ownership. Sentenced to 2 years confinement, probation revoked.
- 5/1/2002 – Felony Robbery by Force or Fear. Sentenced to 5 years confinement.
- 514/2002 – Felony Grand Larceny. Sentenced to 5 years confinement.

*No Applicant may be approved unless the Board finds the Applicant to be of good character with no demonstrated history of lack of trustworthiness or integrity. Ss. 497.373(1)(c), 497.374(1)(d), 497.376, 497.368(1)(c), and 497.369(1)(d), Florida Statutes.*

The Applicant has provided additional letters of recommendations and requests that the Board take a moment review the information handed out by Jasmin Richardson.

Mr. Shropshire stated that several minutes and the Board members were given the additional letters of recommendation provided by the Applicant. The Division is recommending denial of this application based on the criminal history of the Applicant and also the demonstrated history of lack of trustworthiness or integrity.

The Chair questioned whether the Applicant would like to address the Board.

Mr. Shropshire requested that Mr. Bell raise his right hand to be sworn in. "Do you solemnly swear that the testimony you are about to give in this matter is the truth, the whole truth and nothing but the truth, so help you God?"

Mr. Ruben D Bell answered "Yes I do." Mr. Bell stated that during his incarceration he was provided a different line of thinking and was advised he needed a mentor in his life. I began changing my life by hooking with certain people who were already going forward in life. Individuals who had come out of situations, either worse than mine or something similar. Over time I began to notice the change in me. I accepted internships in different churches which opened doors for jobs and stability in the community. Mr. Bell stated that he started researching whether his history would hinder or limit from getting licensed. At the time I was told it would not so I began to sign up for the classes. Mr. Bell stated that he finished his National Board Exam and got a job with Van Orsdel Funeral Chapel in Miami where he submitted an application for internship.

Ms. Thomas-Dewitt questioned whether Mr. Bell has taken the Communicable Disease class.

Mr. Bell responded that he had.

Mr. Mueller stated regardless of the Board's decision today he would be praying that Mr. Bell continues to be success.

Mr. Bell thanked Mr. Mueller.

**MOTION:** Ms. Thomas-Dewitt moved to deny the application based on the criminal history of the Applicant and also the demonstrated history of lack of trustworthiness or integrity. Col. Stiegman seconded the motion, which passed with two (2) dissenting votes.

**DISCUSSION:** Mr. Hall stated this is not the first time someone has come before the Board and indicated that they were told by the school that their records would not affect them getting a license. So the school puts them through the curriculum, they invest all their time and effort to get through school, they pay their money and then they come before the Board and we have to deny them. Mr. Hall questioned whether there is a way to send some type of letter to the schools requesting that the direct the Applicants to review the statute if they have felony charges. The school should not be taking those individuals' time, effort, money, etc if they do not have a chance at licensure because of their felonies. There should be some way to put these schools on notice.

Ms. Richardson stated that maybe a few years ago the schools were not informing the Applicants but the culture has changed and I am receiving a lot of phone calls now indicating that the school requested they call because of their felonies. We are telling them that it would probably impact them depending on the date, time and nature of the crime. The schools in Florida are now advising them to contact the Board first to determine whether it would impact their licensure.

Mr. Hall stated that Kevin at St Pete College indicated they are making every effort to do that. Mr. Hall questioned whether it would be possible for those with felonies to come before the Board ahead of time with their records to find out whether they could possibly get a license.

Mr. Shropshire stated there is no mechanism for that in the statute.

Ms. Richardson stated that in the instance that they call, they are told they are not eligible with education to anything other than an embalmer apprentice and that could be a stepping stone. If you apply as an embalmer apprentice, you could see the Board's decision. However if you apply as an apprentice and then in turn apply as an intern, you would still have to submit that information. So it does not guarantee that you would get a license as an intern or even a funeral director if the criminal history applies but you would see if the Board is willing to allow you to be licensed as an embalmer apprentice if you meet the basic educational requirements. There is an avenue if they want to apply as an embalmer apprentice, however, it does not guarantee them as an intern or funeral director.

Mr. Hall stated that would allow them to test the water, however, they may invest a lot of time again as an embalmer apprentice and come back to be turned down.

Mr. Shropshire stated there is no question in his mind that people are doing exactly what Ms. Richardson said. It would be very difficult for the Board to have approved an Applicant for an embalmer apprentice license and then turn around and disapprove them if there is nothing new on their record. They are almost guaranteed that if they get the embalmer license they are good to go. Well not guaranteed but very likely. Mr. Shropshire added that the Division could send a letter to the schools at the Board's request, but we cannot tell them anything and I do not want to suggest to them that they do this embalmer apprentice route.

Mr. Hall stated if the school gets the letter on file and the Applicant comes before the Board, we could refer to the letter sent to the school indicating they were made aware to try and reinforce this problem we are having.

Mr. Shropshire stated that the Division would work with the Legal Advisor in drafting a letter to the schools.

Col. Stiegman stated that he does not feel this is a good idea at all. We should not be dictating the schools as they are in business to do their business.

Mr. Hall stated that the Board is not dictating or making a demand. We are just making them aware.

Col. Stiegman stated that Ms. Richardson advised that the people are already calling the Division so that is not necessary.

Ms. Thomas-Dewitt stated she graduated in 1976 and it was a known thing that if you are a convicted felon, at that particular time, you would not be licensed. There was no possibility of coming before the Board because you would not be licensed. The majority of the responsibility should be on the individual. Convicted felonies are limited to what they can or cannot do. Basically it states in the law that the responsibility is put back on the individual. I think the schools are notifying the people but they are taking a chance on the possibility that the Board may grant them permission to take the exam. It is a known fact that convicted felonies may or may not be permitted to take the State Board exam.

Mr. Shropshire advised that Mr. Bell is still under oath.

Mr. Bell stated they are not getting much information from the schools concerning what the Board will or will not do. If is the individual's responsibility to determine what the Board will or will not do based on reading the statute. In phoning the Division and speaking with Ms. Richardson, our understanding is that it is based on the infraction. It is not simply because you have a felony or a misdemeanor, violent or non-violent. If the crime is related to funeral Industry or is a violent crime you

are more likely not to receive a license. Mr. Bell stated he would have done more research or obtained an attorney had he known getting here to this point because the information I was given has led me down this path and will allow me to go further down this path. Mr. Bell stated he would not have applied had he known that there would be an obstacle in front of him that he could not go through. The information that the schools are given is very limited. They really try to stay out of it because it is really not their place but they direct us to the Board. The information that I was, which I previously stated, is my reason for pursuing this. It is a surprise for me to hear the motion for denial and it is a surprise for me to hear that people get this far who should have been told three (3) years ago that they could not go down this road. Mr. Bell stated he would thought he would have been approved with conditions and did not think he came this far to be denied. Mr. Bell requested that the Board reconsider the previous motion to deny and consider an ethical course or someone to watch him to see the person he is now because the information read today is not the person he is today. It all boils down to who should have given us the information at the proper time or should a person be given a second if they have ten years of clear conduct and has established himself in the community.

Mr. Shropshire stated that the Order from the Division would include Mr. Bell's appeal rights.

**9. Application(s) for Embalmer Apprenticeship**

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

- (1) Dorsey, Marcuss L
- (2) Garrett, Joseph M
- (3) Hadley III, Emory E
- (4) Oliveira, Ludmila
- (5) Schichtel, Matthew H
- (6) Teel, James G

The Division recommends approval of the application(s).

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

**B. Recommended for Denial**

- (1) Lynch, William J

The Applicant has withdrawn the application and requests that it be resubmitted at the December Board meeting.

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

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

- (1) Funeral Directing
  - (a) Ponte Vedra Valley Inc (F040678) (Ponte Vedra Beach)
- (2) Funeral Directing and Embalming
  - (a) Faupel Funeral Home Inc (F071054) (Port Richey)
  - (b) Foundation Partners of Florida Inc d/b/a Hiers-Baxley Funeral Services – Ocala Chapel (Ocala)
  - (c) Landmark Funeral Home Inc (F067906) (Hollywood)
  - (d) Tracy Morton Memorial Chapel LLC (F054863) (Pensacola)

The Division recommends approval of the application(s).

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

**11. Change of Location of Establishment**

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

- (1) Henry M Forbes Jr d/b/a Forbes Funeral Home (F060873) (Macclenny)
- (2) Sinai Memorial Chapels Inc (F039893) (Delray Beach)

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

12. **Application(s) for Monument Establishment Sales Agent**  
A. *Informational Item (Licenses Issued without Conditions) - Addendum I*

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

13. **Consumer Protection Trust Fund Claim(s)**  
A. *Recommended for Approval without Conditions – Addendum J*

The Division recommends approval of the claim(s).

Mr. Mueller requested that the Division provide the Board with the balance in the Consumer Protection Trust Fund monthly or at each in person meeting.

Mr. Helm stated that the information is already being provided on the Agenda under the Admin Report.

**MOTION:** Ms. Thomas-Dewitt moved to approve the claim(s). Ms. Anderson seconded the motion, which passed unanimously.

14. **Application(s) for Funeral Establishment**  
A. *Recommended for Approval without Conditions*  
(1) *Divine Departures Funeral and Cremation Professional Services LLC (Jacksonville)*

An application for a Funeral Establishment was received on July 10, 2012. The application was incomplete when submitted. All deficient items were returned on August 8, 2012. The Funeral Director in Charge will be Rickie Vanorren King Sr (F048002). The fingerprint cards for all principals were returned with criminal history; and also Rickie King does have a denial for an Embalmer Apprentice License on his record. The establishment passed its inspection on August 30, 2012.

In 1993 Applicant pled guilty to the purchase of crack cocaine, in Duval County Circuit Court; he was sentenced to 18 months in jail but his jail time was suspended, and instead he served 18 months probation. In 1997 Applicant pled guilty to felony robbery, in Duval County Circuit Court; he served 9 months in jail.

In 2006 Applicant applied for an Embalmer Apprentice License. He disclosed his criminal history. That application was initially denied at the February 2007 Board meeting based on the criminal history. Mr. King requested an informal hearing regarding that denial, and after hearing his presentation at the informal hearing, the Board issued him the embalmer apprentice license.

Mr. King has since been issued a Concurrent Intern license and then a Funeral Director and Embalmer license; he disclosed his criminal history in each application. In view of the prior license approvals, the FCCS Division believes a denial based on criminal history would not be supportable. The Division is recommending approval without conditions.

Mr. Helm questioned whether Mr. King was present.

The Chair requested that the Applicant be sworn in.

Mr. Shropshire requested that Mr. King raise his right hand to be sworn in. "Do you solemnly swear that the testimony you have given and are about to give in this matter is the truth, the whole truth and nothing but the truth, so help you God?"

Mr. Rickie King Sr answered, "Yes sir."

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

B. *Recommended for Approval with Conditions*  
(1) *Alavon Direct Cremation Service d/b/a Abacos Crematorium LLC (New Smyrna Beach)*

An application for a Funeral Establishment was received on June 4, 2012. The application was incomplete when submitted. All deficient items were returned on July 31, 2012. The Funeral Director in Charge will be Donald Teasdale (F044592). The fingerprint cards for all principals were returned with no criminal history; however the establishment does have an adverse licensing history.

Alavon Direct Cremation Service currently holds direct disposal establishment license F041583, located at 661 Beville Rd Suite 110, South Daytona. A citation was issued to the establishment in December 2009 for the amount of \$300 (copy of citation attached). Currently the direct disposer in charge at the direct disposal establishment is Paula Pezzimenti (F061894). The Division is recommending approval subject to the condition that the establishment passes an on-site inspection by a member of Division staff.

Mr. Helm questioned whether the establishment would be offering embalming.

Mr. Shropshire answered no.

The Chair stated that the establishment is not required to offering embalming.

Mr. Shropshire stated the establishment could conceptually only providing cremations.

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

## *(2) Landmark Funeral Home Inc (Hollywood)*

This application for approval of change of ownership of a funeral establishment was received by the Division on September 17, 2012. The application was complete when submitted. The fingerprint cards for all principals were returned with no criminal history. The FDIC for the establishment will be Kevin Rieth (F028016). Valerie Panciera Rieth has no criminal or disciplinary history. She is licensed as a preneed sales agent under Chapter 497, and holds no other licensure.

In 2008 the Board received a funeral establishment license application for Presidential Circle Funeral Home Inc. (hereinafter Presidential FH), and the application indicated Valerie Panciera Rieth as owner. Before the Board ruled on that application, a complaint was received from or on behalf of her brother, which complaint in effect was against Valerie Panciera Rieth. The complaint alleged to the effect that Presidential FH had engaged in business as an unlicensed funeral establishment and had misled the public. The Board tabled the Presidential FH application pending investigation of the complaint. The investigation was subsequently completed and the Presidential FH application, and the investigative report, was presented to the Board together. The FCCS Division recommended that the Presidential FH be approved, urging that the alleged violations, even if true, were not under the circumstances of the family dispute that was the context, sufficient to merit denial of the Presidential FH application. However, the Board denied the Presidential FH application on the basis of the investigative report. Presidential FH requested a hearing to dispute the grounds for the denial, but subsequently withdrew the hearing request to allow the Board to act on a subsequent funeral establishment license application relating to the same location. The FCCS Division subsequently sent the investigative file to the Department Legal Division for prosecution action individually against Valerie Panciera Rieth. Notably, the Legal Division returned that file to FCCS Division, recommending closure without action, because legal staff *"does not believe that any of the allegations could be proven by clear and convincing evidence."*

By Final Order filed on January 9, 2012, this Board fined Landmark Funeral Home Inc. \$1,000 for advertising to sell preneed contracts without then having a preneed license. The administrative complaint did not allege that Valerie Panciera Rieth was involved in advertising to sell preneed contracts without a preneed license.

The FCCS Division believes that there is no adequate basis to find that Valerie Panciera Rieth is unfit to be a principal of a funeral establishment. The FCCS Division recommends that the Board find likewise. The Division is recommending approval subject to the condition that the establishment passes an on-site inspection by a member of the Division staff.

**MOTION:** The Chair moved to approve the application subject to the condition that the establishment passes an on-site inspection by a member of Division staff. Mr. Jones seconded the motion, which failed with four (4) dissenting votes.

Mr. Edward Holodak, attorney for Landmark, stated if the Board has questions regarding the application, the Applicant would be happy to answer any such questions. It is obvious there are some questions or concerns about the application.

Mr. Jennings stated that the application is not considered denied at this point but is still under consideration. If the Board wished to deny the application then it would be necessary for the Board member making the motion to deny the application to state on the record the reason for the denial.

Mr. Shropshire stated that the Division encourages the Board to approve the application as the Division does not believe there are any supportable grounds to find that Ms. Valerie Panciera-Rieth would be unfit to be a principal so the Division strongly encourages the Board to approve the application.

Mr. Mueller questioned what would happen if the Board takes no action.

Mr. Shropshire responded that if the Board takes no action ultimately the application would be approved by deemer.

The Chair encouraged the Board to reconsider that application and approve it with the condition the condition that the establishment passes an on-site inspection.

Mr. Holodak noted that as part of the allegation, Kevin Rieth, who is the current and not only funeral director in charge but owner of the establishment license, will remain in the business. Mr. Rieth's wife will be co-owner of the business. They will be listed as principals of the business. Since Mr. Rieth has been approved, the establishment license for Landmark has been approved and there have been no issues whatsoever. Ms. Panciera-Rieth is qualified as the Division has recommended. Given that we ask that the Board reconsiders the application. Obviously there has been some history here that I do not necessarily want to go into unless Ms. Wiener wants to get into it and then I would be happy to. As the Board is aware, prior cases regarding different Applicants have gone through administrative hearings and were successful in the administrative hearings. We do not necessarily want to go through that again. We are simply requesting to add Ms. Panciera-Rieth to the establishment license as a co-owner with her husband. There is nothing in the Division's record that would prohibit Ms. Panciera-Rieth from being on the establishment license. Mr. Holodak requested that the Board reconsider the motion for approval with the condition.

Mr. Hall requested that Mr. Holodak share the previous issues that were only discussed on paper with the Board.

Mr. Holodak responded as it was stated by the Judge in the 30 page Order that was produced as a result of the administrative hearing, the old Applicant was Valerie Panciera-Rieth Funeral Home Inc. The Applicant today is Landmark Funeral Home Inc. There was one part of the Order regarding Landmark as far as advertising a preneed applicant which is the disciplinary proceeding. Advertising pre-arrangements were available, there was concern that the word pre-arrangement as opposed to preneed was too close to the line and was in violation of the Statute. We did not argue that point at the trial. There was a \$1000 fine that was paid. The issues with prior denials were addressed by the prior Division. If you look back at the Board minutes of the hearing at which the separate corporation was initially denied, when the application was before the Board the application was attempted to be withdrawn. The Board, for whatever reason, said that the application could not be withdrawn so it was open for denial, for that separate corporation. We then came back in under a different corporation, applied and eventually went up and had the hearing in which the Court ruled that the Board's records did not establish any basis whatsoever where the prior denial of the application for Landmark Funeral Home Inc, which again is the Applicant before the Board today.

Mr. Hall stated that he is not questioning the corporation. The minutes indicated that the denial was based on Ms. Panciera-Reith's character and integrity.

Mr. Holodak stated that the issue at the time was the temporary injunction. Valeria Panciera-Reith is the sister of Mark Panciera. There was much litigation between the family members in the Circuit Court of Broward County. At the time Ms. Panciera-Rieth submitted her initial application, there was a temporary injunction entered by the Broward County Circuit Court against Ms. Panciera-Rieth to ensure she did not use the name "Panciera" in her corporation or in her business. Ms. Wiener, representing Mr. Mark Panciera, came before the Board waiving the temporary injunction insisting that a Court in Broward County had found Ms. Panciera in violation of the law and therefore entered an injunction and if Ms. Panciera-Rieth

is in violation of civil law she would not qualify to hold a license. Since that time, Mr. Holodak has represented Ms. Panciera-Rieth, Landmark, Mr. Rieth and that temporary injunction was set aside by the judge who entered the temporary injunction. The litigation between the family members has come to an end. There is one current litigation which my clients sued the members of Panciera-Boyd Funeral Home for defamation. That case is pending before the Circuit Courts and is about to be settled. So the family litigation that caused the initial license to be denied has since been resolved by the family members and the courts. The temporary injunction which was the basis stating Ms. Panciera-Rieth did not qualify to hold a license was deemed to have been improper by the courts. That was the basis for the denial. We have worked our way through the court system. This has been going on since 2008-2009. Again, when the Board issued to Landmark its license back in January, we were hoping that would be the last time we would have to address any of these issues before the Board. We simply want to put the husband and wife on the license application together. The Division has recommended that there is no basis whatsoever to deny Ms. Panciera-Rieth this particular license so we would ask that the Board reconsider the motion.

Mr. Helm stated that he understands what Mr. Hall is asking and questioning whether he can provide Mr. Hall with his opinion so that his question is answered.

The Chair answered, "Yes."

Mr. Helm stated this has been going on a long time. The ALJ threw out some items as the Board did not put it as a condition for licensure. At that point, those minutes meant nothing. Mr. Helm stated he voted "no" as he knew he had been lied to. Anybody that was on the Board at time knows what we were told was not carried out. However, because of the technicality, the Board was asked to approve the application.

The Chair stated it was a separate Applicant altogether.

Mr. Helm stated they were all tied in together.

Mr. Jennings stated that he has seen many times where something occurs before a Board and emotions begin to take over. Mr. Jennings cautioned the Board against that and added that the Board should consider each and every case as it is presented individually and rule on it in a cool, calculated and logical fashion. Mr. Jennings strongly cautioned the Board to keep its emotions at bay.

Ms. Anderson questioned whether the Board could hear information from Ms. Wiener.

The Chair stated that he has been advised that Ms. Wiener does not represent anyone who has a case before the Board on this particular licensing issue.

Col. Stiegman questioned whether anyone in the audience has a right to speak up on any issue.

The Chair stated not unless they are representing someone before the Board.

Col. Stiegman stated since it is an open meeting, if someone in the back has a comment to make could they come up and do so.

Mr. Jennings stated that Sunshine Law grants the public the right to be present and to observe. It does not grant the public the right to participate. That is granted by the Chair. If the Chair grants one individual the right to speak, then everyone has the right subject to whatever conditions may have been established, but for this case it is not a right unless you are a party to the matter being brought before the Board. This has been reviewed by the Legislature on numerous occasions and has yet to be modified.

Col. Stiegman stated that some people spoke this morning that were not involved in anything.

Mr. Jennings stated but not regarding this particular case. It depends on the matter. It is a matter by matter issue. For example, the Board may be addressing a rule. At that point you would want to open discussion to the public because you would have all the parties at play that would provide information regarding the rule being drafted. On the other hand, if it is a case, such as the one this morning where a Settlement Stipulation was brought before the Board, then only the parties to the

case or whatever witnessed called by the parties would appear. The general public would not have a right to stand up and speak in those matters because those are clearly quasi judicial. This is a quasi judicial property right matter. We have an Applicant who is either going to get a Notice of Intent to Deny, which would then open up all types of litigation rights. If the Department wishes to call witnesses to support their position or if the Applicant wishes to call witnesses to support their position they may do so but the general public may not interject their opinion in such matters.

Col. Stiegman asked whether anyone who has a question regarding any item discussed on the agenda would be permitted to address the Board with those issues.

Mr. Jennings stated the individual would have to be recognized by the Chair or would have to be on the agenda. Again, the Sunshine Law only entitles the public to appear and observe.

**2<sup>nd</sup> MOTION:** Mr. Mueller moved to approve the application subject to the condition that the establishment passes an on-site inspection by a member of Division staff. Mr. Jones seconded the motion, which passed with three (3) dissenting votes.

### ***(3) Ocoee Family Funeral and Cremation Chapel Inc (Ocoee)***

The Funeral Establishment application was received by the Division on July 3, 2012. The application was incomplete when submitted. All deficient items were returned on August 27, 2012. The fingerprint cards for all principals were returned with no criminal history. The FDIC for the establishment will be Daniel Enea (F067961). This entity is not the qualifying entity for any preneed license. The establishment passed its inspection on August 10, 2012. The Division is recommending approval with conditions.

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

- 1) That the closing occur within 60 days of the date of this Board meeting.
- 2) Receipt by the Division within 75 days of this Board meeting, of a letter signed by Applicant or Applicant's attorney, addressed to the Division, certifying that closing has occurred.
- 3) Receipt by the Division within 75 days of this Board meeting, of a copy of the Bill of Sale, executed by all parties, and any and all amendments thereto, also fully executed.
- 4) That Salvatore Cascio is removed as an officer from the registration on the Division of Corporation's registration and a copy of the corrected registration is submitted to the Division.

Mr. Helm questioned whether there was a name omitted from the answer to question #5 ("Salvatore Cascio and") or whether "and" was a typo.

The Chair stated that Daniel Enea is the only listed principal on the application, but on the Division of Corporations document, Salvatore Cascio is included as well. The Chair questioned whether the Division had any insight into what the ownership is.

Ms. Richardson responded that it is Salvatore Cascio and Daniel Enea but once the application is approved, Salvatore Cascio will be removed. Mr. Cascio will be relinquishing his part of the ownership so it will only be Mr. Enea.

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

## **15. Related Applications**

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

- (1) Robarts Family Funeral Home Inc (Wauchula)***
  - (a) Application(s) for Funeral Establishment***

The Funeral Establishment application was received by the Division on July 16, 2012. The application was complete when submitted. The fingerprint cards for all principals were returned with no criminal history. The FDIC for the establishment will be George Allen (F045776). This entity is the qualifying entity for a preneed Licensee. The preneed Licensee name and

license number are Robarts Family Funeral Home Inc, F019473. The Applicant is submitting a change of ownership application for a preneed license that will be presented at this meeting.

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

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

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

*(b) Request to Renew Temporary Preneed Main License (F019473)*

The Department received a completed application from Robarts Family Funeral Home, Inc. (hereinafter "Robarts") for the transfer of an existing preneed license (F019473) from principal, Dennis Robarts to his son and daughter-in-law, Dennis R. Robarts (II) and Summer S. Robarts. An application for a change of ownership of the funeral establishment for Robarts is also being presented at this Board meeting, and said funeral establishment license, if approved, will be Robart's qualifying entity for the preneed license to be transferred.

**Section 497.453(4)(b), Florida Statutes, provides in pertinent part as follows:** *"The licensing authority may authorize the transfer of a preneed license and establish by rule a fee for the transfer in an amount not to exceed \$500. Upon receipt of an application for transfer, the executive director may grant a temporary preneed license to the proposed transferee, based upon criteria established by the licensing authority by rule, which criteria shall promote the purposes of this chapter in protecting the consumer. Such a temporary preneed license shall expire at the conclusion of the next regular meeting of the Board unless renewed by the Board."*

In the transfer application, Robarts requested that it be granted a temporary preneed license. The Board's Executive Director granted the temporary license. The matter is now before the Board seeking "renewal" of the temporary preneed license through the remainder of the normal licensure period for preneed licenses (that is, through June 30, 2013). In other words, this is the Board's opportunity to review the character and finances of the Applicant, Robarts, to determine if the Board believes that the Applicant meets the criteria to hold a preneed license. If the Board answers that question in the affirmative, the Board should "renew" the temporary license. If the Board finds that Robarts does not meet the requirements to hold a preneed license, the Board should vote to non-renew the temporary license.

The FCCS Division finds that the Applicant qualifies to hold a preneed license, and recommends that the Board renew the temporary license. If the renewal is approved, the Applicant will continue to operate under the existing approved trust(s) and pre-arranged agreements for the preneed license being transferred to it.

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

- 1) That the Board approves the related change of control of the funeral establishment application.
- 2) That closing of the transaction occurs within 60 days of the date of this Board meeting, and without material change in the terms and conditions of the transaction as described to the Board in this cover sheet and the materials provided to the Board herewith.
- 3) Receipt by the Division within 75 days of this Board meeting, of a letter signed by Applicant or Applicant's attorney, addressed to the Division, certifying that the closing has occurred and without material change in the terms and conditions of the transaction as described to the Board in this cover sheet and the materials provided to the Board herewith.
- 4) Receipt by the Division within 75 days of this Board meeting, of a copy of the Bill of Sale, executed by all parties, and any and all amendments thereto, also fully executed.

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

*(2) Rolling Oaks Cemetery Incorporated d/b/a Rolling Oaks Cemetery (Port St Lucie)*  
*(a) Application to Acquire Control of an Existing Cemetery*

Applicant seeks to acquire control of Rolling Oaks Cemetery, located at: 2200 SW Del Rio Blvd, Port St Lucie, FL 34953, currently licensed under number F066604. Prior to approximately July 2011, Rolling Oaks Cemetery, Incorporated (F039732), and its preneed Licensee by the same name, were owned by First Peoples Bank, N.A. (FPB), which acquired the cemetery by foreclosure on a promissory note.

On July 15, 2011, FPB of Port St. Lucie was closed by the Office of Financial Regulation and the Federal Deposit Insurance Corporation (FDIC) was named as receiver. As receiver of FPB, the FDIC sold various assets of FPB to Florida Community Bank, N.A. (FCB), also formerly known as the Premier American Bank, N.A. As of when this matter comes before the Board on October 4, 2012, FCB owns the entity that holds the cemetery license. S. 497.264, Florida Statutes, provides that *“(2) Any person or entity that seeks to purchase or otherwise acquire control of any cemetery licensed under this chapter shall first apply to the licensing authority and obtain approval of such purchase or change in control.”*

The change of control will be accomplished via an asset purchase agreement (attached). The Applicant is assuming responsibility for all existing preneed contracts of the cemetery. The Applicant is also accepting responsibility for deficiencies, if any, in the cemetery care and maintenance trust.

Rolling Oaks Cemetery, Incorporated currently holds a preneed license (F066604). Applicant has submitted an application for transfer of the preneed license in conjunction with this application, which is also being presented at this 10-4-12 Board meeting. The Applicant’s financial statement as of July 31, 2012 reflects the following:

Required Net Worth	= \$ 50,000
Reported Net Worth	= \$ 129,000

The application was received by the Division on August 13, 2012 and no deficiencies were noted on the application. The principal of the Applicant is Mr. Mark Riposta. In 2011 Mr. Riposta pled no contest in Charlotte County, Florida, to misdemeanor DUI. He has been released from the probation imposed by the court, and he has paid the fine imposed by the court. Mr. Riposta has no other criminal history. Mr. Riposta is a licensed funeral director in Florida. In December 2007 a Consent Order was entered against Mr. Riposta wherein he was reprimanded and fined \$1,000. The Settlement indicates that in December 2006, Mr. Riposta was a principal of Abbey Riposta Funeral Home, in Tallahassee; while Mr. Riposta was out of town on urgent business, three at-need funeral contracts were entered into by his unlicensed staff at the said funeral home.

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

- 1) The Board approval of change of control does not include approval of any development plans. If after approval of the change in control the new controlling person intends to develop the cemetery, the new controlling person shall cause development plans to be submitted to the Board for approval prior to implementing same.
- 2) That closing occurs within 60 days of the date of this Board meeting, and without material change in the terms and conditions of the transaction as described to the Board in this cover sheet and the materials provided to the Board herewith.
- 3) Receipt by the Division within 75 days of this Board meeting, of a letter signed by Applicant or Applicant’s attorney, addressed to the Division, certifying that closing has occurred and without material change in the terms and conditions of the transaction as described to the Board in this cover sheet and the materials provided to the Board herewith.
- 4) Receipt by the Division within 75 days of this Board meeting, of a copy of the Asset Purchase Agreement, executed by all parties, and any and all amendments thereto, also fully executed.

Col. Stiegman questioned whether there were any deficiencies in the cemetery care and maintenance trust.

Mr. Shropshire stated that the Division has not done an exam in that regards yet. If there is determined to be one, the Application has accepted responsibility for that.

Mr. Mueller questioned whether the same applies to the merchandise trust fund.

Mr. Shropshire stated it is basically the same answer. The Applicant is assuming full responsibility for all preneed obligations.

Ms. Wendy Wiener, representing the Applicant, concurred.

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

*(b) Request to Renew Temporary Preneed Main License (F066604)*

On or about August 14, 2012 the Department received a completed application from Rolling Oaks Cemetery and Cremation Gardens, LLC and its principal, Mark Riposta, for the transfer of existing preneed license F066604 from Rolling Oaks Cemetery, Incorporated, to Rolling Oaks Cemetery and Cremation Gardens, LLC.

This application is related to a request by the same Applicant to acquire control of Rolling Oaks Cemetery, Incorporated, (F066604), which application is also being presented at this October 4, 2012 Board meeting. Said cemetery will be the qualifying entity for the preneed license to be transferred to Rolling Oaks Cemetery and Cremation Gardens LLC. Currently, Florida Community Bank, N.A. (FCB) owns the entity that holds the cemetery and preneed license. The change of control will be accomplished via an asset purchase agreement (attached). The Applicant is assuming responsibility for all existing preneed contracts.

**Section 497.453(4)(b), Florida Statutes, provides in pertinent part as follows:** *"The licensing authority may authorize the transfer of a preneed license and establish by rule a fee for the transfer in an amount not to exceed \$500. Upon receipt of an application for transfer, the executive director may grant a temporary preneed license to the proposed transferee, based upon criteria established by the licensing authority by rule, which criteria shall promote the purposes of this chapter in protecting the consumer. Such a temporary preneed license shall expire at the conclusion of the next regular meeting of the Board unless renewed by the Board."*

In the preneed transfer application, Rolling Oaks Cemetery and Cremation Gardens, LLC requested that it be granted a temporary preneed license. The Board's Executive Director granted the temporary license.

The matter is now before the Board seeking "renewal" of the temporary preneed license through the remainder of the normal licensure period for preneed licenses (that is, through June 30, 2013). In other words, this is the Board's opportunity to review the character and finances of the Applicant, Rolling Oaks Cemetery and Cremation Gardens, LLC to determine if the Board believes that the Applicant meets the criteria to hold a preneed license. If the Board answers that question in the affirmative, the Board should "renew" the temporary license. If the Board finds that the Applicant does not meet the requirements to hold a preneed license, the Board should vote to non-renew the temporary license.

The principal of the Applicant is Mr. Mark Riposta. In 2011 Mr. Riposta pled no contest in Charlotte County, Florida, to misdemeanor DUI. He has been released from the probation imposed by the court, and he has paid the fine imposed by the court. Mr. Riposta has no other criminal history. Mr. Riposta is a licensed funeral director in Florida. In December 2007 a Consent Order was entered against Mr. Riposta wherein he was reprimanded and fined \$1,000. The Settlement indicates that in December 2006, Mr. Riposta was a principal of Abbey Riposta Funeral Home, in Tallahassee; while Mr. Riposta was out of town on urgent business, three at-need funeral contracts were entered into by his unlicensed staff at the said funeral home.

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

- 1) That the Board approves the related cemetery change of control application.
- 2) That closing of the Asset Purchase Agreement transaction occurs within 60 days of the date of this Board meeting, and without material change in the terms and conditions of the transaction as described to the Board in this cover sheet and the materials provided to the Board herewith.
- 3) Receipt by the Division within 75 days of this Board meeting, of a letter signed by Applicant or Applicant's attorney, addressed to the Division, certifying that the closing has occurred and without material change in the terms and conditions of the transaction as described to the Board in this cover sheet and the materials provided to the Board herewith.

- 4) Receipt by the Division within 75 days of this Board meeting, of a copy of the Asset Purchase Agreement, executed by all parties, and any and all amendments thereto, also fully executed.

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

**16. Request(s) to Renew Temporary Preneed Main License**

**A. Recommended for Approval without Conditions**

**(1) Faupel Funeral Home, Inc. (F019303) (New Port Richey)**

The Department received a completed application from Faupel Funeral Home, Inc. (hereinafter "Faupel") for the transfer of an existing preneed license (F019303) from principal, Merl D. Faupel to Theodore Kaduk. At the June 2012 Board meeting the Board approved a change of ownership of the funeral establishment for Faupel, and said funeral establishment license will be Faupel's qualifying entity for the preneed license to be transferred.

**Section 497.453(4)(b), Florida Statutes, provides in pertinent part as follows:** *"The licensing authority may authorize the transfer of a preneed license and establish by rule a fee for the transfer in an amount not to exceed \$500. Upon receipt of an application for transfer, the executive director may grant a temporary preneed license to the proposed transferee, based upon criteria established by the licensing authority by rule, which criteria shall promote the purposes of this chapter in protecting the consumer. Such a temporary preneed license shall expire at the conclusion of the next regular meeting of the Board unless renewed by the Board."*

In the transfer application, Faupel requested that it be granted a temporary preneed license. The Board's Executive Director granted the temporary license. The matter is now before the Board seeking "renewal" of the temporary preneed license through the remainder of the normal licensure period for preneed licenses (that is, through June 30, 2013). In other words, this is the Board's opportunity to review the character and finances of the Applicant, Faupel, to determine if the Board believes that the Applicant meets the criteria to hold a preneed license. If the Board answers that question in the affirmative, the Board should "renew" the temporary license. If the Board finds that Faupel does not meet the requirements to hold a preneed license, the Board should vote to non-renew the temporary license. Faupel currently holds a preneed license in its own name, license number F019303. The FCCS Division finds that the Applicant qualifies to hold a preneed license, and recommends that the Board renew the temporary license. If the renewal is approved, the Applicant will continue to operate under the existing approved trust(s) and pre-arranged agreements for the preneed license being transferred to it. The Division is recommending approval of the request

Mr. Hall questioned whether there is some money due from this Applicant in relation to the disciplinary matter discussed this morning.

Mr. Shropshire stated there may be but there is no legal connection between the two issues at this point.

Ms. Surles stated she was not aware of any current pending cases.

**MOTION:** Mr. Hall moved to approve the request. Ms. Thomas-Dewitt seconded the motion, which passed unanimously.

**17. Trust Transfer Request(s)**

**A. Recommended for Approval with Conditions**

**(1) CFS Funeral Services, Inc. (F019491) (Panama City) d/b/a Emerald Coast Funeral Home; d/b/a McLaughlin Mortuary; d/b/a Twin Cities Cremation Services & Funeral Home**

**(a) Transfer of Ch. 497.417 (pre-2005) Emerald Coast Funeral Home Merchandise Trust, Ch. 497.417 (pre-2005) Carriage Funeral Holdings, Inc. Master Prepaid Funeral Trust, and Ch. 639 Funeral Services Acquisition Group, Inc Preneed Funeral and Security Trust (amended)**

The above Licensees, collectively doing business as identified, has appointed Regions as successor trustee and requests transfer of the above trust accounts currently held by ITC to Regions. The transfer includes the accounts for the Chapter 497.417 (pre-2005) preneed and merchandise trust funds for the above named and its affiliated preneed branches, which if

approved, will operate under the CFS Funeral Services, Inc. Preneed Funeral Trust Agreement (please see attached). Regions will continue to operate under the existing Chapter 639 preneed funeral trust agreement.

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

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

**MOTION:** Mr. Helm moved to approve the agreement with the conditions set forth by the Division. Mr. Mueller seconded the motion, which passed unanimously.

## 18. **Executive Director's Report**

### *A. Delegation of Approval to FCCS Division re Certain Categories of License Applications (Action)*

Mr. Shropshire submitted a memorandum requesting the delegation of approval to the Division to approve certain categories of license applications:

- (1) Subject to certain exclusions and procedures specified in the attached proposed delegation agreement, the FCCS Division requests that the Board delegate to the Division authority to approve the following categories of license applications:
  - Embalmer apprentice
  - Embalmer intern
  - Funeral director intern
  - Funeral director & embalmer intern
  - Embalmer
  - Funeral director
  - Funeral director & embalmer
  - Direct disposers
  - Training facilities
- (2) The Division seeks this delegation for several reasons:
  - a) As a service to applicants, to shorten the time between license application and issuance of license; and
  - b) As a recognition of the reality that as to these categories of licensure, the Board has for many years relied upon the Division's review and recommendation as to the license applications, and the Board does not itself receive or review the underlying applications or related papers. The only applications the Board typically sees in these categories, are those with disciplinary or criminal history, and under the requested delegation the Board would continue to have sole authority as to applications with a disciplinary or criminal history; and
  - c) Historically, regarding these license categories, the Board has very rarely rejected any Applicant recommended by the Division. The decisions as to whether Applicants in these categories qualify for licensure are fairly "cut and dried." The criteria are clear and rarely subject to dispute or uncertainty.
- (3) Applicants in these license categories frequently have employment lined up, at a significant pay increase over their current pay rate, but they cannot start receiving the increased pay until they receive the license applied for. In some cases they may actually lose the employment opportunity due to delays in getting licensed. But for the sake of careful, orderly, and fair review of all applications in the order they are received, s. 497.167(9), requires that an application be complete at least 25 days prior to a Board meeting, in order to get on the agenda for that Board meeting. As to Applicants who just miss the deadline for the next Board meeting, there is frequently significant friction and anger directed by Applicants and their employers, at the Division, and indirectly against the Board, because these Applicants will have to wait an entire month to get on the next Board agenda and obtain their license, notwithstanding that, as to these license categories, the Board review and approval is largely a formality.

- (4) This delegation would be revocable by the Board at any time, if the Board becomes dissatisfied with the results of the delegation or the Division's performance under the delegation. The Board was presented the following proposed delegation:

**DELEGATION TO FCCS DIVISION REGARDING APPROVAL OF CERTAIN CATEGORIES OF LICENSE APPLICATIONS**

- (1) The Board of Funeral, Cemetery and Consumer Services, desiring to provide qualified license applicants the shortest possible time between applying for a license and getting to work under the license applied for, hereby delegates to the Division of Funeral, Cemetery, and Consumer Services (hereinafter the "Division), the authority to make approval of certain categories of license applications, and subject to the terms, conditions and restrictions set forth herein. This delegation may be revoked by the Board for any reason, at any time, by motion made, seconded and carried by vote of the Board at any duly noticed meeting. Termination of the delegation will not undo license approvals issued by the Division under the delegation while same was in force.
- (2) The delegation herein is limited to the following categories of licensure:  
Embalmer apprentice  
Embalmer intern  
Funeral director intern  
Funeral director & embalmer intern  
Embalmer  
Funeral director  
Funeral director & embalmer  
Direct disposers  
Training agencies
- (3) EXCLUSIONS.
- (a) No application wherein the applicant, or any principal of Applicant, has a criminal or disciplinary record, may be approved by the Division under this delegation. The authority to approve licensure as to any applicant with a disciplinary or criminal record is reserved exclusively to the Board.
- (b) The Division may not deny any application for license; the authority to deny licensure is reserved exclusively to the Board. If the Division finds that an Applicant does not qualify for licensure applied for, the Division shall set the matter for review and decision of the Board.
- (4) PROCEDURE.
- (a) Applicants shall make application for license as required by chapter 497 and applicable rules.
- (b) The Division shall review the application for completeness and compliance with all requirements of chapter 497 and applicable rules.
- (c) If the Division finds that the applicant meets all requirements for licensure under chapter 497 and applicable rules there under, the Division shall notify the Applicant in writing that the application is approved. The license shall be deemed issued upon issuance of such notification by the Division.
- (d) Each month the FCCS Division shall provide the Board, in materials provided to the Board and the public for the Board's regular monthly meeting, informational lists of all license application approvals issued by the Division under this delegation, since the preceding Board meeting' provided, approvals issued by the Division within 10 days of a Board meeting shall be reported to the Board in the materials for the next subsequent Board meeting. Such lists shall include the applicant name, address, type of license, and date of approval.
1. If any Board member has any question or concern as to any approval shown in such lists, they shall direct their concern directly to the Division Director or Assistant Director before or after the Board meeting, and may request investigation and report in regard to the issue or concern they raise. If investigation reveals reasonable grounds to believe that Applicant did not qualify for licensure, or is otherwise subject to disciplinary action, the Division shall prepare and provide a report to the Board's probable cause panel, seeking revocation or other appropriate disciplinary action against the licensee.

- (5) In the event of uncertainty by the Division in any regard as to whether an applicant is eligible for the licensure applied for, the Division shall not approve the application and shall instead set the matter for decision by the Board.

#### END OF DELEGATION AGREEMENT

The Division would request, if the Board was so inclined, a motion to approve the delegation as presented. The Division would also accompany that with a request for Board approval that the Division commence rulemaking proceedings to place the delegation into the Board's Rules.

**MOTION:** Mr. Mueller moved to approve both items as requested by the Division. Mr. Hall seconded the motion, which passed unanimously.

#### *B. Research Memo: Is a "Degree" Required for Issuance of an Intern License? (Informational)*

The Division seeks to learn whether the Board agrees with the FCCS Division's reading of the phrase "**Holds an associate degree or higher.**" This issue relates to Applicants seeking a funeral director-only intern license under the new law that allows them to intern while getting their funeral services formal education. See 497.375(1)(b)2a. The Division present the Board the following:

#### **ASSUMED FACTS**

Assume a person is actively enrolled in and attending a 4-year university, and they are currently in their third or fourth of the program. If they had enrolled in 2-year Community College program they would by now probably have an Associate Degree. But because they are enrolled in a 4-year Degree program, they do not yet have any type of "Degree."

Section 497.375(2)(b)2a, requires that the Applicant for the intern license have "*an associate degree or higher.*" The Applicant does not have a degree, but has more credit hours at the 4-year school than would be required for an associate degree at the 2 year community college. Under these facts, does the Board consider the person to have "*an associate degree or higher*"?

#### **APPLICABLE STATUTES**

Section 497.375 FS (2012) is entitled "Funeral directing; licensure of a funeral director intern ." Subsection 497.375(1)(b) provides as follows:

- (b) 1. Except as provided in subparagraph 2., an Applicant must hold the educational credentials required for licensure of a funeral director under s. 497.373(1)(d).
2. An Applicant who has not completed the educational credentials required for a funeral director license is eligible for licensure as a funeral director intern if the Applicant:
  - a. **Holds an associate degree or higher** in any field from a college or university accredited by a regional accrediting agency recognized by the United States Department of Education.
  - b. Is currently enrolled in and attending a licensing authority-approved course of study in mortuary science or funeral service arts required for licensure of a funeral director under s. 497.373(1)(d)2.
  - c. Has taken and received a passing grade in a college credit course in mortuary law or funeral service law and has taken and received a passing grade in a college credit course in ethics.

#### **APPLICABLE RULES**

Current Rule 69K-18.002, entitled "Funeral Director Intern Training Program," provides in pertinent part as follows:

- (1) This rule implements Sections 497.375 and 497.373(2)(c), F.S.
- (2) APPLICATION FOR FUNERAL DIRECTOR INTERN LICENSE.
  - (a) Persons desiring licensure as a funeral director intern shall apply for such license by completing a form DFS-N1-1722, "Application for Funeral Director Intern License," which is incorporated by reference in Rule 69K-1.001, F.A.C., and filing same, together with a nonrefundable fee of \$105, with the Division. The application form shall be filed with the Division at the address stated on the form.
  - (b) Applicants shall submit with their application for license, proof of satisfying the education requirements of Section 497.375(1)(b), F.S.

Discussion with FCCS Division staffer Jasmin Richardson, who commenced processing intern license applications in 2004 at DBPR, indicates that over the years she has from time-to-time been asked by potential Applicants, whether they can substitute some number of college level credit hours, for the "Degree." She has uniformly advised "no," relying on the terms of the statutes and rules. She is not aware of the issue ever previously being presented to the chap. 470 or 497 Board. She advises that she has not the expertise to determine whether the coursework reflected in a certain number of credit hours would be accepted by a 2-year college as adequate for issuance of a 2-year degree.

Webster's II New Riverside University Dictionary (1994) defines "Degree" as follows (emphasis added):

1. One of a series of steps or stages in a process, course of action, progression, or retrogression.
2. The relative distance or a step in a direct hereditary line of descent or ascent.
3. Relative social or official status, dignity, or position.
4. Relative amount or intensity, as of a quality or attribute <a high degree of sensitivity>.
5. The measure or extent of a state of being, action, or relation <improved my playing to a great degree>.
6. A unit Division of a temperature scale.
7. Math. A unit of angular measure equal in magnitude to the central angle subtended by 1/360 of the circumference of a circle.
8. A unit of latitude or longitude, 1/360 of a great circle.
9. a. The greatest sum of the exponents of the variables in a term of a polynomial or polynomial equation.  
b. the exponent of the derivative of highest order in a differential equation in standard form.
10. a. **An academic title granted by a university or college to a student who has completed a given course of study.**  
b. A similar title conferred as an honorary distinction.
11. Law. A Division or classification of a specific crime according to its seriousness.
12. One of the grammatical forms used in the comparison of adjectives and adverbs.
13. Mus. a. One of the seven notes of a diatonic scale. b. A space or line of the staff.

#### **FCCS Division Conclusion**

Although the FCCS Division is very sympathetic to the situation of the Applicant in the assumed facts, the FCCS Division believes that the Applicant does not qualify for an internship license because they do not have an associate degree or higher degree (e.g., a Bachelor's Degree). The FCCS Division believes that the plain meaning of the phrase "**holds an associate degree or higher**" is that the Applicant must have an associate degree or a higher degree. The Applicant must actually have been awarded the "degree," and not just be eligible for the degree or have a number of credit hours equal to or in excess of the number of credit hours required for the associate degree.

Mr. Helm questioned whether the Division is requesting that the Board vote on this item.

Mr. Shropshire stated that the item requires a motion in which the Board would rule that the Division is correct in its analysis of the statute.

Ms. Lisa Coney, SCI Funeral Services of Florida, stated that this item came to the Board's attention because they have two (2) intern candidates that are going to be eligible for their Bachelor's Degree, one at the end of this year and one in the spring. Both are tremendously talented young ladies and have far greater credit hours than would be required for an Associate's Degree. They have met the educational requirements for an Associate's, but they simply did not request the two (2) year piece of paper because they are going to be granted four (4) year piece of paper in the upcoming months. We asked for an interpretation on that because we wanted these young ladies to enter internship now knowing that they have far exceeded the requirements of an Associate's Degree. I understand that the Division does not agree with that but rather than support or deny, if we are going to consider rulemaking in some other areas perhaps this is something that we could look at in the statutory rulemaking revision process because there might be opportunities to get fantastic people working in our Industry that exceed the requirements that are spelled right now for an Associate's Degree but we are not giving them an opportunity to work for months or a couple of years because of a piece of paper. Maybe the alternative to this would be someone from the Registrar's Office assesses that the requirements for an Associate's are met and the next degree is pending on a certain day and that would suffice as evidence of an Associate's. For the record, we withdrew the two (2) candidates so they are not in front of you today but we have an amazing, professional interns seeking our Industry and denying them because they chose the path of Bachelor's or Master's instead of getting a two (2) year piece of paper seems unreasonable.

Col. Stiegman stated that the number of hours exceeded may be in basket weaving.

Ms. Coney stated that they have letters from the Registrar's Office that all the general educational requirements for an Associate's Degree has been exceeded. They are going to be granted Bachelor's licenses in the next semester, one in November the other in the spring semester. There is no question that had they applied for an Associate's Degree, someone would have printed that, but they did not need an Associate's Degree because they were getting a Bachelor's Degree. It became a question of words mean things: Does the words mean that you have to have a piece of paper that says Associate's?; or Does the words mean that you need the educational requirements of an Associate's as evidenced by the fact that in three (3) months you are getting a Bachelor's Degree? Are we penalizing these people for pursuing higher education? If there is a rulemaking opportunity that would be wonderful but these candidates are fantastic and we want to find ways to keep them interested in our Industry.

Mr. Hall stated he understands what the Col. is saying, but the Statute just says "Associate's Degree." It could be in anthropology or anything. Mr. Hall stated he agrees with the Division. The Board cannot do anything without an amendment to the Statute or something.

Mr. Rudolph stated that he agrees with Mr. Shropshire's analysis. A legislative change is required.

Mr. Mueller questioned whether the Department has seen any of the letters that indicate the hours earned would qualify for an Associate's Degree.

Mr. Shropshire responded that very late in the process the Division saw such a letter.

Mr. Hall questioned whether the institutions would go ahead an issue the Associate's since the candidates are a few months away from a Bachelor's.

Ms. Coney stated that the Registrar's Office indicated since the candidates requested a Bachelor's Degree they are not going to be granted Associate's Degrees. Ms. Coney added that she does not necessarily disagree with the Division's decision.

Mr. Jones agrees with the analysis but encourages the Department to review this issue so that if it is beneficial to the Industry in the future the Department could support it statutorily and come back to the Board with what their options are.

Ms. Thomas-Dewitt requested clarification. If you are going for a Bachelor's, after the first two (2) years you have exceeded the hours required for an Associate's Degree so it would be easy to go back and get that degree because it is the minimum requirement.

Mr. Jones stated that there could be people that have not attended school in 25-30 years. They may have all the hours they need but they may have never applied for an Associate's but if the Division reviews this and based on the determination of what is presented, they may meet certain requirements.

Ms. Thomas-Dewitt stated according to the new ruling they can already become a Funeral Director Only and just take the State exam.

Mr. Jones stated that these individuals do not have Associate's. They are working towards their Bachelor's but do not have it yet. They exceed the hours of an Associate's. The catch right now is whether the candidates qualify based on the hour credits.

Mr. Shropshire suggested that the Board refer this matter to its Legislative Committee to draw up a proposed statutory amendment. The Division would not oppose that because we are very sympathetic to these people. Ms. Richardson does not have the expertise to say based just on the number of hours this person could have gotten it. Looking at the letter, the Registrar was very prone to be arcane and obtuse in their letters. We can set up a Committee meeting in relation to the next in person meeting or slightly before or after that.

Mr. Hall suggested that the Associations go back to their groups to see whether there is any opposition or any thoughts.

The Chair stated that the Division's position is very clear on this from the research. The Chair feels this is an information item that does not require a motion.

Mr. Shropshire stated in that posture the Division would understand the Board to agree with the Division's analysis.

The Chair suggested that the Division move forward with a legislative initiative.

Mr. Shropshire stated that he would be reluctant to release that degree requirement and it is going to be very controversial. Mr. Shropshire suggested that the Industry associations work it out together and bring the Division proposed language presenting the consensus of the associations. The Division would be glad to move forward with this.

### *C. Vendor Cost Increase for Law & Rules Exam (Informational)*

The law and rules exam is administered for the FCCS Division by PearsonVue, a nationwide testing service vendor. The cost charged per test administered, has been \$20 since 1998 (approximately 14 years). This charge is basically a pass-through item for the Division; Applicants pay the Division, but the Division pays PearsonVue that same amount.

The Department's contract with PearsonVue was scheduled to expire recently, and after considering all options, including other testing service vendors, the Department elected to enter into a new contract with PearsonVue. However, PearsonVue insisted that the charge per law and rules test administered be increased to \$42. This charge will remain a pass-through item for the Division; Applicants will pay the Division, but the Division will pay PearsonVue that same amount.

Col. Stiegman questioned whether the other testing vendor are equally as qualified as the one selected by the Department.

Mr. Shropshire stated that the fact that PearsonVue was selected indicates that the Department determined them to be the best choice.

Col. Stiegman questioned the determining factor if all of the other vendors were qualified as well.

Mr. Shropshire stated it was a formal selection process done in conjunction with the Division of Agents and Agency Services on a master contract for their testing as well as this Division's testing.

Col. Stiegman questioned the rates of the other vendors as 110% increase is a lot.

Mr. Shropshire stated that the Division does not have that information but could relay the requested information back to the Board at a subsequent meeting.

The Chair stated that the price had been \$20 for fourteen years.

Col. Stiegman stated that the 110% is not coming out of the State's pocket but out of the individual's pockets who are taking the test. That appears to be an awfully large increase.

### *D. New Probable Cause Panel Member (Informational)*

Mr. Shropshire advised with regret that Ms. Ginny Taylor has resigned her position on the Board's probable cause panel. Ms. Taylor has retired from the cemetery business and is pursuing other business interests. She was a very valuable probable cause panel member, and we will miss her services. We wish her the best in her future endeavors.

The Board Chair, Mr. Brandenburg, has appointed a replacement. The new probable cause panel member is Mr. Richard Chesler, a long time licensed funeral director and embalmer, license number F042802, who resides in the Pinellas County area.

### *E. Report: Payment of Disciplinary Fines and Costs (Informational)*

Monthly Report of Fine and Costs Assessed and Paid

Division of Funeral, Cemetery and Consumer Services  
 October 4, 2012 Board Meeting  
 Report Updated as of September 25, 2012

Licensee	Board Meeting	Case No.	Total Fine & Cost Due	Date Due	Paid in Full?	Comments
Alliance Monument & Marble Co.	Apr-12	122927-12-FC	\$2,750	6/22/2012	NO; See Note A	
David Comoletti	Jun-12	114204-11-FC	\$2,500	8/13/2012	YES	
Barbara Ann Falowski	Jun-12	114204-12-FC	\$1,000	8/20/2012	YES	
Barbara Falowski Funeral & Cremation	Jun-12	122487-12-FC	\$1,000	8/20/2012	YES	
Stanley Gunter-Butler	Jun-12	117958-11-FC	\$2,750	8/20/2012	NO; See Note A	\$500 partial payment (rec'd 8-1-12) \$150 partial payment (rec'd 9-21-12)
Kimberly White	Jun-12	120943-11-FC	\$5,250	8/20/2012	NO; See Note A	Licensee currently suspended
Wright & Young Funeral Home, Inc.	Jun-12	120941-11-FC	\$5,250	8/20/2012	YES	
Wright & Young Funeral Home, Inc.	Jun-12	120944-11-FC	\$2,750	8/20/2012	YES	
Cemetery Professionals, LLC d/b/a Beaches Memorial Gardens and Cemetery Professionals, LLC f/b/a Beaches Memorial Park	Jun-12	110156-10-FC & 110157-10-FC	\$5,250 \$5,000 38,859.57	9/6/2012 11/7/2012 35 mo payments	YES See Note D NO; See Note A	First restitution payment made but incorrectly made payable to Dept rather than Riverview; returned to licensee to make payment directly to Riverview per order; working with DFS Legal to enforce payments.
NOTES:						
A. When payment becomes past due, the FCCS Division works with the DFS Legal Division to enforce payment. B. Once fines and costs are paid in full, the licensee is kept on this report 3 months, showing Paid in Full, and is then dropped of this report. C. The Order re this case is still in process, so no Due date is yet established. D. Due date has not passed, as of the date of this report.						

Mr. Hall questioned, in regards to Cemetery Professionals LLC, whether the restitution payment that was incorrectly made payable to the Department ever delivered to Riverview.

Mr. Anthony Miller stated that it would not be appropriate to report on this as it is part of an ongoing investigation.

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

The Chair stated that the meeting schedule for 2013 is being worked on and we should have a draft out to the Board members. The schedule will be approved at the November Board meeting as some of the Board members are probably trying to work on their 2013 schedule.

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

None

**21. Administrative Report**

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

**22. Disciplinary Report**

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

**23. Adjournment**

The meeting was adjourned at 12:16 p.m.