

MINUTES
BOARD OF FUNERAL, CEMETERY AND CONSUMER SERVICES
December 1, 2011 - 10:00 A.M.
Department of Financial Services
2020 Capital Circle SE, Alexander Bldg #230
Tallahassee FL 32301

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 December 1, 2011; 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 FAW. An agenda for this meeting has been made available to interested persons. The meeting is occurring in person at the Alexander Building in Tallahassee, FL. My Assistant, Ms LaTonya Bryant-Parker, will be taking minutes of the meeting and recording it in addition to that.

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.

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
Nancy Hubbell
Ken Jones
Richard "Dick" Mueller
Col. Don Stiegman

ABSENT:

Tracy Huggins

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
Linje Rivers, Department Counsel
Tad David, Department Counsel
Jasmin Richardson, Department Staff
LaShonda Morris, Department Field Staff
Christine Lynn, Department Field Staff

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. November 3, 2011 – Teleconference

The Chair confirmed that all Board members had read the draft of the minutes of the previous Board meeting held on November 3, 2011.

MOTION: Mr. Powell Helm moved to adopt the minutes of the meeting. Ms. Gail Thomas-Dewitt seconded the motion, which passed unanimously.

3. Old Business

A. Request for Hearing Regarding Denial of License: Material Facts Not Disputed (Section 120.57(2))

(1) Recommended for Approval with Conditions

(a) Florida Family Funeral Home Inc (Oakland Park)

Florida Family Funeral Home Inc. (Petitioner) has applied for a funeral establishment license. The matter came before the Board at the November 3, 2011 Board meeting.

Shortly before the November 3, 2011 Board meeting, the Division of Funeral, Cemetery, and Consumer Services (Division) learned that Petitioner's check for the fees related to the funeral establishment license application had not been honored by the bank. The Division advised the Board of this fact at the November 3, 2011 Board meeting, and recommended that the application be denied. The Board voted to deny the application. A Notice of Intent to Deny License was issued.

The Petitioner has subsequently requested a hearing concerning the denial. Other materials submitted by Petitioner in regard to the requested hearing have been submitted.

Petitioner admits that their check bounced. Petitioner provides an explanation, and a letter from the bank. The explanation, as understood by the Division, is that Petitioner timely deposited necessary funds in one of several bank accounts Petitioner maintains, but deposited the funds in the wrong account.

The facts appear to support Petitioner's explanation. The check and related returned check fees have now been paid. The Division recommends that the Board grant the license applied for.

MOTION: Mr. Ken Jones moved to reverse the denial and grant the license applied for subject to the facility passing an inspection by Division staff. Mr. Lew Hall seconded the motion, which passed unanimously.

4. Disciplinary Proceedings(s)

A. Entry of a Final Order after a Section 120.57(1) Hearing

(1) Landmark Funeral Home: Case No. 108626-10-FC (DOAH Case No. 11-369) (F055287) (Probable Cause Panel B)

Mr. Clark Jennings, Board Legal Advisor, stated that this is a hearing in the matter of taking disciplinary action against the license of Landmark Funeral Home, being held here in Tallahassee on the 1st of December. Mr. Jennings asked the Board members whether they all have received and reviewed the complete record of the case. All members indicated they had read the complete record.

Mr. Jennings questioned whether the Petitioner is present. There was a positive response from Mr. Tad David on behalf of the Department.

Mr. Jennings questioned whether the Respondent is present. There was a positive response from Mr. Edward Holodak, appearing on behalf of Landmark.

This hearing is being conducted pursuant to Sections 120.569 and 120.57(1), Florida Statutes. The purpose of this proceeding is to consider the Recommended Order issued by the administrative law judge (ALJ) in this cause. No exceptions to the Recommended Order have been filed by the parties. Mr. Jennings questioned whether this is correct. There was a positive response from both parties. The parties should be advised no new evidence will be admitted as this proceeding is not a *de novo* review. All discussions by the parties and the Board members must be confined to the record together with the Recommended Order. No new information, no new discussion may be had and must confine the discussion to what has already been done before the ALJ.

The Board may adopt the Recommended Order as its Final Order, or the Board may reject the ALJ's Findings of Fact, Conclusions of Law or its recommended disposition. However, the Board may not reject or modify any Findings of Fact unless it determines from a review of the complete record that the factual finding was not based on competent substantial evidence or that the proceedings upon which the findings of fact were made did not comply with essential requirements of law.

The Board may reject or modify the conclusions of law and interpretation of administrative rules over which it has substantive jurisdiction, specifically Chapter 497 and Rule 69K. When rejecting or modifying such Conclusions of Law or interpretation of administrative rules, the Board must state with particularity the reasons for rejecting or modifying the Conclusions of Law or interpretation of administrative rule and must make a finding that its substituted Conclusions of Law or interpretation of administrative rules is as reasonable or more reasonable than that which was rejected or modified. Rejection or modification of Conclusions of Law or interpretation of administrative rules may not form the basis for rejection or modification of the Findings of Fact.

The Board may not alter the recommended penalty without a complete review of the record in justifying the action and stating with particularity for its reasons in doing so in the order and citing to the Recommended Order and the transcript in justifying its actions.

After Mr. Jennings concluded his comments, he deferred to the respective parties for their comments.

Mr. David stated that this is a relatively straightforward matter. As Mr. Jennings stated, there have been no exceptions filed by either side. The Recommended Order speaks for itself, along with the transcript and record of the whole, and provides the information necessary for the Board to make its decision.

Mr. Holodak, counsel for the Respondent Landmark, stated that he agrees with everything Mr. David has said. The record does speak for itself, as well as the Order. This process has been going on actually 3 years, last month. The Respondent has been dealing with this for the last 3 years. There were proposed settlement agreements in the past that were not accepted for whatever reason. The case was taken to trial. Both parties submitted proposed orders to the judge. The judge actually rejected both proposed orders and typed up his own 30 page Order that the Board has now seen and had the opportunity to read. The Order is correct and is based upon competent, substantial evidence in that the judge did not part from the essential requirements of law. The Respondent therefore asks that this Board approve the Order as proposed by the judge and adopt it in its totality.

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

MOTION: Col. Don Stiegman moved to adopt the Conclusions of Law. Mr. Hall seconded the motion, which passed unanimously.

MOTION: Mr. Richard Mueller moved to accept the recommended penalty. Mr. Jones seconded the motion, which passed unanimously.

Col. Stiegman stated that he objects to the language that the ALJ used particularly in reference to the Board and particularly referring to some of the people that come before the Board for presentations.

Mr. Helm concurred with Col. Stiegman's remarks.

B. Material Facts Not Disputed (Section 120.57(2))

(1) Holmes Funeral Directors, Inc: Case No. 105281-09-FC (DOAH Case No. 11-11185) (Probable Cause Panel B)

Mr. David provided the Board with a copy of the Settlement Stipulation for Consent Order that has been negotiated between the Respondent and the Department. This copy is not fully executed as it was received late yesterday afternoon. Copies were made with only the Licensee's signature. There are also some formatting issues, but the terms as contained in the language are the terms that have been agreed upon. This will make it more convenient for the Board to review as far as which terms are actually being considered.

The Chair questioned whether Mr. David anticipates any changes if the Board approves the Settlement Stipulation.

Mr. David stated that there would be no changes to the terms, just formatting for the signature box.

The Chair requested that the Board members take a few minutes to review the documents.

Mr. Shropshire noted on the record that Mr. David distributed two proposed settlement stipulations and they relate to the Holmes Funeral Directors, Inc, Case No. 105281 and Deliria Holmes, Case No. 105278.

Mr. David concurred.

Mr. Shropshire stated that the two proposed settlement stipulations do not relate to the Claude Holmes case.

Mr. David concurred. The Claude Holmes case will be taken up as a s. 120.57(2) hearing subsequent to this.

Mr. Shropshire noted that on the Holmes Funeral Directors, Inc case, the word "VOID" is at the top of the settlement stipulation.

Mr. David stated that was an error. There were several incarnations of this settlement stipulation and one of them had a pretty substantial error. Evidently after she had received the settlement stipulation, the Licensee had written "VOID" on the front of that one. The first page is similar so evidently it accidentally got to be the first page of this one. The Respondent will go on record as far as the acceptance and review of these terms. That is another reason to execute another clean copy, but the terms will not change.

Mr. Jennings questioned whether the Respondent was present.

Mr. David responded that the Respondent is present and represented by counsel.

Mr. Jennings requested that the Respondents identify themselves for the record while the Board continues to review the information.

Ms. Danielle Cohen acknowledged she was present on behalf of the Respondents Deliria Holmes and Claude Holmes, both of them on behalf of Holmes Funeral Directors, Inc.

Mr. Shropshire questioned whether Ms. Cohen had been provided with copies of both settlement stipulations distributed by Mr. David.

Ms. Cohen responded that she had and added she had a clean copy without the word "VOID" on the front should the Board wish to see it. The substance, just as Mr. David represented, has not changed at all. The content is exactly the same.

Mr. Shropshire questioned whether Ms. Cohen can confirm that in fact the two Respondents, Holmes Funeral Directors, Inc and Deliria Holmes, do in fact agree to these settlement stipulations if the Board would accept them.

Ms. Cohen answered, "Yes." The Respondents do take this very seriously which is why they are present today. Ms. Holmes is present and can certainly, verbally for the record represent that she accepts all of the terms of the settlement stipulations.

Mr. David stated that it should be noted for the record that several minutes have passed since the Board received the information and there have been some moments of silence while the Board reviewed the documents.

Mr. Mueller questioned what is expected of the Board at this point.

The Chair stated that the Board is requested to review the settlement stipulations. The Chair questioned whether Mr. Jennings would like to address the Board after the review.

Mr. Jennings stated that once the Board has finished reading the information he would make some comments, not only regarding this but the other two cases that are being held under this category of s. 120.57(2) hearing hearings.

The Chair stated that all the Board members indicated that they have completed review of the settlement stipulations.

Mr. Jennings stated that the hearings identified by Mr. Shropshire that are about to be heard are being held under the provisions of s. 120.57(2), Florida Statutes, often referred to as "Informal Hearings." They are referred to that way, not because the hearing is actually informal in nature, it's a rather formal procedure, but what it means is that the Respondent, having received an Administrative Complaint, has determined that they do not dispute the material issues of fact in the Administrative Complaint and are now here before the Board to argue, perhaps, an issue of law or to provide evidence or testimony in mitigation for the Board's consideration of the Department's recommended disposition of the matter. The Department may offer information in aggravation to explain why they want a particular disposition. In the matters that are currently before the Board, the parties have apparently entered into a Settlement Stipulation that the Board now has had an opportunity to review and now may accept it in whole or to offer a counter-stipulation if so desired. If the Board offers a counter-stipulation or counter-conditions, the parties do not necessarily have to accept them right here today and may request time to go back and consider; or they may say here on the record that they accept those terms and conditions. If they do, a Final Order will be crafted listing those terms and conditions as accepted and the matter will be resolved.

The Chair questioned whether the Board members understood and/or have any questions or comments.

Mr. Hall stated just going through the file, on a short list, here is a facility that operated without an establishment license, handled and worked unlicensed individuals.

Mr. David stated it does not appear those were allegations within the Administrative Complaint. Mr. David added, although he was not the initial attorney on this, the first two references do not sound familiar. The investigator is present. Those two factual circumstances do not appear to apply here. Mr. David stated in view of the amended Administrative Complaint to which this applies, it is a 10-count complaint. The first count, which was determined to be legally insufficient, so it is actually a 9-count complaint, was in regards to an inspection that had some issues on it. Following that, the undisputed facts are that a follow-up inspection was done and that all of the issues that were corrected and they passed the subsequent inspection 30 – 45 days later. That is why the Department recommends the disposition and the settlement entered into.

Mr. Hall questioned whether the first two cases apply to the FDIC and the funeral establishment and the final case to be presented later would be regarding Mr. Holmes.

Mr. David concurred.

Mr. Hall questioned whether the information presented to the Board did not include information that the Respondents were charged with operating without an establishment license.

Mr. David stated that did not sound familiar to him.

Mr. Hall questioned whether the Respondent had a biohazard contract.

Mr. David stated that one of the issues was the timeliness of the biohazard pickup. From the second inspection, all of those issues have been cleared up.

Mr. Jones questioned whether Count 1 referenced the body disposal.

Mr. David stated that the first count referenced a pleading to a crime, which Ms. Holmes nor the funeral establishment pled to any crime. That is why it was legally insufficient.

Ms. Cohen stated there has not been any allegation from the Department regarding operating without a funeral establishment license for Holmes Funeral Directors. That is not contained in the Administrative Complaint and was not an issue on this case.

Mr. Helm stated that the information received in the Board package indicates that the license had expired.

Ms. Cohen questioned the document Mr. Helm was referring to.

Mr. Helm responded "The Administrative Complaint."

Ms. Cohen questioned whether it was the Amended Administrative Complaint.

Mr. Helm was unsure.

Mr. Jones stated that the information did state that the establishment operated a month in 2009 without a valid license.

Ms. Thomas-Dewitt stated that an unlicensed person was employed as well.

Mr. Hall stated that was what he was referring to.

Mr. David stated that it may have been more of a semantics thing. When the license was expired, from discussions with the Division, it did not appear to rise to the same level as someone who is just out there, without a license, that has never been inspected, so that may have been why. There are cases that have never been inspected and they transfer the funeral home; those people are operating without a license, but that was not the case in this circumstance. It appears to have been a couple of months lag on the payment.

Mr. Helm stated that September 2008 to February 2009 is more than a couple of months.

Mr. David stated that it was December 2008 to February 2009. Mr. David requested that the Division explain this.

Ms. Jasmin Richardson, Division staff, stated that the renewal notice was sent out on September 9, 2008 notifying the Licensee that the license needed to be renewed by November 30, 2008. If not renewed, the license goes into "expired" status on December 1st if the fee is not paid. The Licensee did not renew until February; therefore the license was expired December 1, 2008 through February 24, 2009.

Mr. Mueller questioned the Department's recommendation.

Mr. David stated that the Department is recommending that the Board approve the Settlement Stipulation and issue a Consent Order pursuant to the provisions thereof.

Ms. Wendy Wiener questioned whether the terms of the settlement could be put into the record since the public has not seen that document yet.

The Chair stated that he is not allowing any public participation during the hearing.

Mr. David stated that copies of the Settlement Stipulation have been provided to the Division and will become part of the public record in this matter. The subsequent Consent Order will contain all of the issues so if the public has an inquiry the documents can be requested.

Mr. Shropshire stated if any member of the Board was inclined to believe that, for instance, the proposed settlement in Holmes Funeral Directors, Inc. received today is an adequate and proper resolution of that case, then that Board member would make a motion to accept the first settlement in the matter of Holmes Funeral Directors, Inc. as disposing of the case. That would be the next step or likewise, if any member believes it is not an adequate resolution, the member would make a motion to reject that proposed settlement and if you have in mind a counter-stipulation as Mr. Jennings has indicated, a different fine or something, that should be included in the motion. If the motion carries, that would be something for the licensee to consider.

Col. Stiegman recused himself from all applicable cases as he served on Probable Cause Panel B.

MOTION: Mr. Jones moved to accept the Settlement Stipulation as recommended by the Department. Ms. Nancy Hubbell seconded the motion, which passed with 2 dissenting votes.

(2) Holmes, Deliria: Case No. 105278-09-FC (DOAH Case No. 11-1187PL) (Probable Cause Panel B)

Mr. David provided the Board with a copy of the Settlement Stipulation for Consent Order that has been negotiated between the Respondent and the Department. This copy is not fully executed as it was received late yesterday afternoon. Copies were made with only the Licensee's signature. There are also some formatting issues, but the terms as contained in the language are the terms that have been agreed upon. This will make it more convenient for the Board to review as far as what terms you are actually considering.

The Chair stated that the disciplinary terms are the same.

Mr. David stated that Ms. Holmes was the FDIC and therefore responsible for any deficiencies found in the funeral establishment. That is the relation here. It is not alleging any different activity on behalf of Ms. Holmes, just her role as FDIC that makes her license liable for the exact same inspection issues.

Mr. Shropshire questioned the members that comprised Probable Cause Panel B.

Mr. Anthony Miller stated that the Panel Members for Panel B would be Al Hall, Tracy Huggins and Col. Stiegman.

The Chair stated that the only member in attendance and on the Board is Col. Stiegman; therefore the vote would not be affected.

MOTION: Ms. Thomas-Dewitt moved to reject the Settlement Stipulation and offered a counter-stipulation to increase the fine from \$2000 to \$5000 fine. Mr. Hall seconded the motion, which passed with 2 dissenting votes.

Mr. Jennings stated that a counter-offer has been made to the Respondent and added that it could either be accepted now or counsel could discuss it with the Respondent and come back today before the Board meeting ends.

Ms. Cohen answered, "Sure" and stated that she wanted to be clear that the \$5000 is for Ms. Holmes exclusively as the previous settlement had already been accepted.

The Chair stated the \$5000 refers to Ms. Holmes only.

Mr. David stated that would total \$7000 between the two licensees.

The Chair questioned whether Ms. Cohen would need time to discuss this offer with her client.

Ms. Cohen answered "Certainly" and questioned whether the Board would prefer if she side-barred and brought it up later to allow the meeting to move forward.

The Chair responded that that the Board would prefer if Ms. Cohen and the Respondent side-barred and brought it up later.

After deliberation, Ms. Cohen stated that the Respondent does accept the offer and has spoken with the Department about paying the first fine of \$2000, which is against the funeral home, within 30 days of the Consent Order as stipulated and then pay the outstanding balance within 6 months of the Consent Order.

Mr. David indicated that the Department had no objection to this.

The Chair questioned whether the stipulation on the \$5000 fine would be \$5000 over a 6 month period of time or at the end of 6 months.

Mr. David stated that the Division normally likes to receive some initial payment within the 30 days.

The Chair questioned whether the Respondent would agree to half within the 30 days and the remainder at the end of the 6 months.

Ms. Cohen concurred.

Mr. Hall questioned whether the license would be suspended if the payment is not paid.

Mr. David stated that is part of the statute.

MOTION: Mr. Hall moved to accept the stipulation that the Respondent would pay half of the \$5000 fine within the 30 days and the remainder at the end of the 6 months. Ms. Thomas-Dewitt seconded the motion, which passed unanimously.

Mr. David stated that the one thing he was unable to get onto the record, but it is undisputed is that there was a comment from the Board regarding the FDIC and her knowledge of the activity of the funeral director. In reviewing the record and the investigation into all of the evidence, there did not appear to be any knowledge or reason that Ms. Holmes could have known about Mr. Holmes' activities.

(3) *Holmes, Claude Jr: Case No. 105280-09-FC (DOAH Case No. 11-1186PL) (Probable Cause Panel B)*

Mr. Shropshire noted that the Division of Administrative Hearings (DOAH) relinquished jurisdiction back to the Division for an informal hearing here today. The facts are not being disputed.

Mr. David stated, as previously stated, this is based upon a matter where the material facts are not in dispute. This is a Two-Count Administrative Complaint. The amended Administrative Complaint that is at issue here was included in the package. The material facts of the Administrative Complaint are not in dispute. The Respondent presents evidence towards mitigation and the Petitioner, the Department, presents evidence towards aggravation. Mr. David questioned whether Mr. Jennings would prefer that he go ahead and present aggravating evidence and then the recommendation or the recommendation then allow mitigating evidence and then if Mr. David needs to, he would come back and present aggravating evidence.

Mr. Jennings stated that Mr. David can go first, but if the Respondent is represented by counsel, he would like to get that on record first.

Ms. Cohen acknowledged that she represents Claude Holmes.

Mr. David stated in addition to the material facts in the Amended Administrative Complaint that are not in dispute, the Department would call the Board's attention to a few aggravators, some factual allegations believed to be in the record of the evidence submitted:

- This apparently was not an isolated incident
- The egregiousness of the funeral related activity
- The subsequent probation violations in March 2011 and September 2011 (That probation was imposed in response to the plea that underlies Count II)
- This crime was in fact a felony (Count II's legal violation is simply being convicted or found guilty of, or entering a plea of nolo contendere to a crime in any jurisdiction that relates to the practice of the funeral business.)

These facts correspond to the aggravators listed in the penalty guidelines:

- Aggravator (a) -- The danger to the public – The facts of Count I and the facts underlying the crime to which the Respondent pled nolo contendere demonstrate a clear danger to the public.
- Aggravator (f) -- The deterrent effect of the penalty imposed – The type of action and the fact of being convicted or pleading nolo contendere even to a felony crime that relates to the funeral industry demands a strong deterrent effect. The character of the crime and the level of the crime should aggravate the penalty and serve as an aggravator.
- Aggravator (g) -- The effect of the penalty upon the Licensee's livelihood – Mr. Holmes, Respondent, is married to Ms. Holmes who retains a license and runs Home Funeral Directors Inc, which will allow Mr. Holmes access to a living as Mr. Holmes is not the sole breadwinner of his family. Ms. Holmes has worked alongside of him in the funeral industry. Should the Board discipline Mr. Holmes license, it would not totally remove all access to his livelihood or at least support for his family.
- Aggravator (h) -- Any efforts at rehabilitation – From the record there appear to be no real attempts at rehabilitation as evidenced by the 2 probation violations that are a part of the criminal record. The criminal record, of which the Department obtained the certified documents from the Polk County Circuit Court, is Exhibit 5 in the Board package and it contains the entire record of the criminal charges on through the 2 probation violations related to those criminal charges. Those would support aggravation of any penalty contained in the penalty guidelines.
- Aggravator (i) -- The actual knowledge of the Licensee pertaining to the violation – Certainly with regards to Count II which is pleading nolo contendere, the knowledge is absolute. This would indicate an aggravating factor.
- Aggravator (j) -- Attempts by the Licensee to correct or stop the violations or the refusal by the Licensee to correct or stop the violations – The fact that this was apparently not an isolated incident although an isolated incident was the subject of the crime. This goes towards aggravation also.
- Aggravator (l) -- Actual negligence of the Licensee pertaining to any violation – Count I, best case scenario from Mr. Holmes' activities was that he was severely and extremely negligent. Even if you take that tact on that Count, the Department believes that the facts demonstrate the level of Mr. Holmes' negligence would aggravate the penalty subject to this (l).
- Aggravator (n) -- Any other mitigating or aggravating circumstances – One circumstance that does not fall into the others but should be considered here is the fact that within Mr. Holmes' nolo contendere plea agreement, Mr. Holmes agreed to surrender his embalmers license. Mr. Holmes holds a joint funeral director/embalmer license, which is a single license, not a severable license. Even in his nolo contendere plea, Mr. Holmes agreed to surrender his embalmers license and the Department feels that is an aggravator that should be considered.

After considering the facts from the Amended Administrative Complaint and the aggravators as presented, the Department recommends that subject to the violations that are supported within the Administrative Complaint, which are violations of ss. 497.152(1)(a), 497.152(4)(e), 497.152(1)(b), and 497.152(8)(a), F.S. in Count I and s. 497.152(2), F.S. in Count II. Reviewing the penalty guidelines for 1st and 2nd offenses and seeing the way that the penalty guidelines treat the violations, the Department recommends the permanent revocation of Mr. Holmes' license under s. 497.153, F.S., which contains the Board's authority to make a revocation permanent. The Department would reserve time to rebut any evidence that the Respondent may present. Other than that rebuttal, the Department rests.

Ms. Cohen stated that this is a case that has been going on since 2009 and the facts are not in dispute. In reference to the crime Mr. David mentioned, Mr. Claude Holmes indisputably buried human remains in a cemetery. We will present mitigating factors to why we cannot and do not agree with the Department's recommendation for permanent revocation of Mr. Holmes' license as a result of that act.

Going back to June of 2009, the decedent passed away and was not located until 7 hours later, his body thus decomposing quite a bit. Once the body arrived at Mr. Holmes' funeral home, the odor of the viscera was so overpowering that it had to be removed from the funeral home and that is exactly what Mr. Holmes did. However, Mr. Holmes did not remove the viscera until he received permission of the family of the decedent in order to do so and that is exactly what Mr. Holmes did. The family of the decedent that brings us here today, the viscera that was found in Oakland Cemetery in Polk County, not only gave Mr. Holmes permission to bury the viscera outside of the casket due to the odor because the family had requested an open casket ceremony for their son, the family was very happy and pleased with the service that Mr. Holmes had provided. The family was in no way offended, they certainly did not find it egregious and again Mr. Holmes asked for their permission. When the police located the viscera wrapped up in a biohazard bag, not buried directly into the earth in any kind of way as suggested, Mr. Holmes told the truth and did not in any way try to withhold the truth. Mr. Holmes was completely

forthcoming with authorities on what had happened in complete ignorance of knowing that he had done anything that was wrong and in complete ignorance of knowing that he could possibly permanently lose his license to do the business that he has been doing since 1980. Again, additional mitigating factors as mentioned was that Mr. Holmes believed that he owned the plot of land where the viscera was buried. It is not as though the viscera were buried in a stranger's yard or somewhere else. It was buried in land that Mr. Holmes believed that he owned at that time.

Moreover, we believe that the recommendation is extremely severe considering that Mr. Holmes has never before been before the Board. We are certainly recommending a penalty of some sort today, but are not recommending permanent revocation. Mr. Holmes is here in certain good faith and very concerned about the future of his license. The future probations mentioned by Mr. David have not to do with the funeral business. Mr. Holmes is certainly here and willing to represent to the Board that he will make every effort and guarantee that there will not be future violations, certainly not of this kind. So the fact that this is Mr. Holmes' first appearance before the Board is a mitigating factor to be considered today. Importantly, the statutes that were cited by Mr. David under ch. 497, F.S., the highlighted one certainly the plea of nolo contendere to what was reduced to a littering count in Polk County. Mr. Holmes pled to that because he spent 7 months in jail and he needed to get out of there. Mr. Holmes did, on the plea form, agree to surrender embalmers license, again not knowing that it meant surrendering his funeral directors license, as there was a time when those 2 licenses were separate, and it was Mr. Holmes' intent to cooperate at that time to get out of jail. It was never Mr. Holmes' intent to surrender both portions of his license at that time.

There is not a Florida Statute written currently under ch. 497 or otherwise that specifically states that it is unlawful to bury human remains in a cemetery in the manner that Mr. Holmes did. That is a very important mitigating factor here today because Mr. Holmes is aware of the provisions of ch. 497, has done everything in his power to comply with them, as he has not previously been before the Board, and certainly had no fraudulent or malicious intent in doing what he did back in June 2009. The fact that there is not statutory language currently in place that speaks to the direct acts that were done by Mr. Holmes, it speaks volumes. Revoking a professional's license for doing something that the statute does not speak to directly is certainly a severe sanction. If it were otherwise, we would certainly represent otherwise, but it is not the case currently. Again, the amount of the viscera is an important consideration. As submitted in the photos, it was not a voluminous bag. It was approximately a 2 lb bag. So the idea of threat and danger to the public is questionable again because it was buried in a cemetery, in a biohazard bag. Ms. Cohen added that she was unsure of the Department's allegation regarding "danger to the public."

Mr. Holmes is a leader in Polk County, a community serviceman and is highly regarded there. The opinions of his peers mean very much to him as does the opinions of the Board. Ms. Cohen stated that she had submitted 16 letters of recommendation both professionally and personally on behalf of Mr. Holmes and requested to highlight some of that language for the Board because this language is very important as a mitigating factor on Mr. Holmes behalf. Revoking his license permanently is not only revoking his ability to do the business he has only known since he was 18 years old, it removes a leader from the Polk County community. There are 16 letters of recommendation that speak to that. In fact, Adam Burgess, Vice-Mayor, Commissioner of the City of Haines City speaks that *"Mr. Holmes has not only provided professional services to our residents, continuing his father's dream, he has also contributed tremendously to the youth of the community by way of mentorship."* *"Where would I be today if it were not for the countless, thankless, reward less sacrifice of Mr. Claude Edward Holmes II."* Over and over and over again, the members of his community speak to his honesty, his integrity and his professionalism. That being said and focusing on the fact that this is in fact Mr. Holmes' first offense we would recommend a probationary period for Mr. Holmes and possibly a fine that the Board deems appropriate in this instance with very clear instruction that Mr. Holmes never do this again. Mr. Holmes has not done so since 2009, nor does he intend to do it ever again in the future.

Ms. Cohen stated that in the particular world that we live in now, the economy that we are facing, Mr. Holmes is particularly requesting that the Board gives some serious thought to the Department's recommendation. Mr. Holmes has a business that is operating and contrary to the Department's position that Ms. Holmes can handle it on her home is simply not factual. Mr. Holmes has a very heavy hand in operating the business and they will suffer tremendously if Mr. Holmes is not able to continue doing his business. Again, if this were the 2nd or 3rd time that Mr. Holmes was before this Board, I would not be making this presentation. However, I am here delightfully so on Mr. Holmes' behalf recommending a probationary period and a fine that the Board deems appropriate.

Mr. Helm questioned the offense that Mr. Holmes was on probation for.

Ms. Cohen stated that it was in regards to an altercation with a police officer, nothing to do with the funeral business.

Mr. Hall stated that Ms. Cohen speaks of leadership quality but the one reference not given was from Sheriff Grady Judd. The Board was not supplied with a list of Mr. Holmes arrest record and the problems he has had in the past.

Ms. Cohen stated that the arrest history of Mr. Holmes is not relevant, nor does the Department believe it is relevant as they did not present it. The letters presented speak to Mr. Holmes and his upbringing and having challenges in his past. There is no question, that is public record and we are certainly in no way refuting that. This charge that brings us here today is the only charge that the Mr. Holmes has ever faced having anything to do with his license. Mr. Holmes has done his time for the charges that were brought against him and has been as compliant as he can thereafter, but none of those charges have anything to do with the profession Mr. Holmes has chosen to be a part of and would like to continue being a part of. Therefore, it is our position that the previous charges are irrelevant. Frankly, I do not have a list of Mr. Holmes' criminal history to provide to the Board.

Mr. Hall questioned, "As his counsel, you have not look at that?"

Ms. Cohen stated that she does not have a list with her today to provide to the Board for review.

Mr. Hall stated that he has some information before him and questioned whether Mr. Cohen would like to hear it.

Mr. Jennings questioned whether it was included in the packet.

Mr. Hall stated that it is public record.

The Chair stated it is not part of what is before the Board.

Mr. Hall stated that he is referring to the fact that Ms. Cohen stated she has these reference of leadership in the community, but if you pull Mr. Holmes' "sheet", it does not exemplify what I feel is leadership in the community. It is my understanding that upon the new renewal of the new laws, on the renewal of a funeral director/embalmer license, if there has been a felony charge, the Licensee cannot renew. The renewal questions since the last renewal period whether there has been a felony, etc. and that would prevent them from renewing anyway.

Mr. Shropshire stated that the law is that the Licensee would have to disclose the information and then the Division would take action based on the disclosure.

Ms. Cohen stated that the law is not currently written where a funeral director, if he does have a criminal history, felony or otherwise, is not permitted to keep his license, which is new language that is being discussed now. If in the future that becomes the law, certainly we would be in a different position, but in 2009 that was not the law and it was certainly their position that Mr. Holmes should not be penalized for criminal history at this time.

Mr. Jones stated in looking through the file presented to the Board, in Mr. Holmes' conversations with Detective Macke, Mr. Holmes indicates that there are 10 to 15 times that he is aware of this happening and then he came back and said it was 5 to 10 that they did put bags of remains in the cemetery. Based on that statement, what Ms. Cohen is representing is not the first time.

Ms. Cohen stated that is correct and is not a disputed issue of fact regarding that representation that was made. My representation is that it has not been subsequent to June 2009.

Ms. Jean Anderson questioned whether there was any attempt to totally bury the bags, as they were only partially buried, whether they were on the surface where anyone could stumble across them.

Ms. Cohen stated that the images show that there was dirt dug up. It was not a situation where a biohazard bag was simply placed in between 2 graves. There was approximately 12" of earth dug up in order to bury the bags. It was not completely

buried in that there was an arm or a piece of the plastic that was sticking out that was recovered by the cemetery workers and that is when they pulled it out.

Ms. Anderson questioned whether it would have been visible for any visitor to the cemetery to have stumbled across.

Ms. Cohen stated that it was not above the earth, it was certainly buried; it was just not completely buried. It was a black biohazard bag, not an orange biohazard bag, which makes a difference as well. Mr. Holmes did not do this at night time. It was done in broad daylight and again that goes to show that it was not something at the time that Mr. Holmes did that he truly believed was in any way a violation of ch. 497 or certainly criminal conduct at the time.

Ms. Thomas-Dewitt questioned whether the body was in advanced decomposition.

Ms. Cohen stated that she would let Mr. Holmes respond as to whether it was in advanced decomposition.

Ms. Thomas-Dewitt questioned why there was no attempt made to preserve the viscera.

The Chair questioned whether the Board could hear from Mr. Holmes.

Mr. Jennings stated if Mr. Holmes is going to respond he would have to come forward and be sworn in.

Ms. Cohen stated that Mr. Holmes certainly attempted to preserve it by using the formaldehyde, which the bottles were actually found that day as well, so it was not just viscera in a biohazard bag, it was treated.

Ms. Thomas-Dewitt stated the viscera are treatable along with the body and questioned how much odor was coming from the viscera vs. the body having an odor as well.

Ms. Cohen stated that the family noticed the odor at the open casket. It was certainly a noticeable odor as the decedent was underwater for 7 hours. The odor was still present, but the family desperately wanted an open casket funeral for their son, but the odor with the viscera alone with the body decomposed was completely overbearing. Again, Mr. Holmes went out of his way to try to honor and provide dignity and respect to the decedent by not having an open casket funeral where the smell is so permeating that it would be disruptive.

The Chair stated that the packet included information from Medical Examiner Stephen Nelson that states there was no decomposition as his office performed the postmortem examination.

Ms. Cohen stated she is familiar with that letter. Mr. Holmes picked up the body that evening from the Medical Examiner's office and there is no logical explanation for what that viscera was removed, separated from the body and buried, as this is not Mr. Holmes practice nor does he do that with everybody. Certainly the standard practice is to bury the viscera with the body. Mr. Holmes went out of his way on this particular case because that odor was so bad and it was decomposing.

The Chair questioned whether the representation by Medical Examiner Stephen Nelson was incorrect.

Ms. Cohen stated that is certainly a factual issue and we have gone back and forth on this quite a bit. It is certainly Mr. Holmes' position that it was decomposing, which is what caused that foul smell. There would be no reason otherwise for Mr. Holmes to bury the viscera the way that he did. There is no other logical explanation for why he would want that viscera separated from the body and ask permission of the family before doing so.

The Chair questioned whether the Board received evidence indicating that Mr. Holmes asked the family for permission beforehand.

Ms. Cohen stated that it was submitted to the Board in Mr. Gomez's motion that was made in the criminal proceeding where that representation was made to the court at that time. The mother certainly wanted to come; however, she is very elderly and could not be present to make that representation to the Board, but it was submitted in the packet in the motion to release Mr. Holmes on his own recognizance.

Mr. Hall questioned whether this is the same bag that came from Dr. Nelson's that had 2 different viscera comingled in the same bag.

Ms. Cohen stated that she did not know factually whether that is the case but stated it was not.

Mr. Hall stated that 2 tags that were in that same bag were brought back to Dr. Nelson.

Mr. Jennings questioned whether Ms. Cohen would like to confer with her client as acting as a microphone for Mr. Holmes will not be permitted.

Mr. David stated that because these are based on undisputed allegation he would like to give his input on that undisputed fact. There were not 2 sets of viscera. It was some written information related to the 2 decedents in the bag, which is what allowed the Sheriff's Department to trace it very quickly to the Respondent's funeral home.

Mr. Mueller stated that Ms. Cohen appears to be making the point that Mr. Holmes saw nothing wrong with partially burying a bag of viscera, regardless of where he buried it, leaving it exposed to public.

Ms. Cohen stated that she is certainly aware of the Board's position in response to the act and that is why we are here today suggesting a recommended penalty as a result of that act. Our representation is that it does not amount to the levels for a permanent revocation. Ms. Cohen added that she did not want to in any way take away from the Board's opinion regarding that and this is why Mr. Holmes will never do anything of the sort again. Mr. Holmes knows loud and clear that is not accepted or permissible in any way.

The Chair questioned whether Mr. David had any final remarks.

Mr. David stated that he would like to call Investigator Kurt Schuller forward to answer one question to mainly clarify and verify something that is in the packet.

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

Mr. Kurt Schuller, employee of the Division of Funeral, Cemetery and Consumer Services answered, "I do."

Mr. David questioned Mr. Schuller's position with the Division.

Mr. Schuller stated that he is currently a Financial Specialist with the Division.

Mr. David questioned what activities Mr. Schuller engages in as part of his responsibilities in that position.

Mr. Schuller responded that he conducts routine inspections, investigations and financial examinations of Licensees.

Mr. David questioned whether Mr. Schuller was the investigator on the Claude Holmes matter that is at issue here.

Mr. Schuller answered, "Yes."

Mr. David stated in the Board's packet identified as Exhibit 8 is the letter from the Medical Examiner. I call Mr. Schuller simply to identify where the letter came from, the author and the circumstances under which it was obtained. Mr. David questioned whether Mr. Schuller obtained the letter.

Mr. Schuller answered, "Yes." As part of my investigation I visited the medical examiner's office and received that letter from the medical examiner's office as part of the investigation.

Mr. David questioned whether the letter was mailed or how it was delivered.

Mr. Schuller stated that the letter was typed up while he was in the medical examiner's office as part of the investigation and it was handed to Mr. Schuller after the medical examiner completed it.

Mr. David questioned whether Dr. Nelson handed the letter to Mr. Schuller.

Mr. Schuller concurred and added that Dr. Nelson signed the letter in his presence.

The Chair questioned whether Ms. Cohen had any questions for Mr. Schuller.

Ms. Cohen responded that she did not have any questions for Mr. Schuller.

MOTION: Mr. Jones moved to adopt the Findings of Fact. Mr. Mueller seconded the motion, which passed unanimously.

MOTION: Mr. Hall moved to adopt the Conclusions of Law. Ms. Thomas-Dewitt seconded the motion, which passed unanimously.

Mr. Shropshire stated that if the Board were inclined to accept the recommended penalty, the Board would probably want to specify on the record some reference to the aggravating factors which Mr. David specified.

Mr. Jennings agreed as permanent revocation is beyond the penalty guidelines.

Mr. Shropshire questioned since the record contains the aggravating factors laid out by Mr. David whether it would be appropriated for the motion to include "on the basis of the aggravating factors as enumerated by Mr. David."

Mr. Jennings stated that would be an adequate motion.

Mr. Mueller questioned whether permanent revocation is beyond the penalty guidelines. Mr. Mueller questioned the penalty guidelines.

Mr. David stated that the penalty guidelines are the standard penalty guidelines contained in Rule 69K-30.001(2), FAC. The list of aggravators and mitigators is a list of considerations that can be either a mitigator or an aggravator. Mr. David went through them with the perspective of the aggravators and then Ms. Cohen presented the evidence that she did as far as in mitigation which would have to fit into if you deviate downward from the penalty guidelines, you would have to cite mitigating facts and the subparagraph in order to deviate downward just like if you want to deviate upwards and aggravate it, you would have to cite or agree with the aggravating factors cited by Mr. David.

Mr. Jennings questioned if there were no mitigating or aggravating factors, if you went straight with the penalty guidelines, what the penalty would be.

Mr. David stated for an intentional violation of s. 497.152(1)(a), F.S. the penalty range for a 1st offense is reprimand with a possible fine of up to \$2500 plus the costs of investigation and prosecution, plus possibly 1 year probation with conditions all the way up to suspension until the Licensee is compliant. S. 497.152(1)(a), F.S. states that if you violate any portion of ch. 497, that in and of itself is a violation that is included in the penalty guideline. For the violation of 497.152(2), F.S., which was pled in Count II, the penalty range for a 1st offense of that type is reprimand and a fine of up to \$2500 plus costs. The next one on the list that applies here is s.497.152(4)(e), F.S., which is to knowingly concealing information relative to violations of 497 which references the pled allegation that Mr. Holmes did not disclose the location of some of the other alleged burial sites. A 1st offense violation of that particular statute in the penalty guidelines is 6 months – 1 year suspension with the usual conditions plus costs and reference to the State Attorney for a misdemeanor punishable pursuant to s. 775.082. That of course does not apply here because the criminal justice system has already addressed this issue. One of the next 2 pled in Count I would be 497.152(1)(b), if intentional, committing fraud, deceit, negligence, incompetency, or misconduct in the practice. The punishment for that 1st offense is reprimand with a possible fine of up to \$2500 but not less than \$1000 plus costs, plus 1 year probation with the usual conditions. The violation pled of 497.152(8)(a), Violation of any state law or rule or any municipal or county ordinance or regulation affecting the handling, custody, care, or transportation of dead human bodies. The 1st offense penalty for that is a fine of \$500 to \$1000, a reprimand and costs. The most severe penalty, without any aggravators and not

considering any mitigators, the highest penalty range for a violation under Count I would be 6 months – 1 year suspension with usual conditions plus costs. Then for Count II, which would be cumulative because there are 2 separate counts, the punishment would be a reprimand and a fine of up to \$2500 plus costs. The costs cannot be duplicated but fines can be aggravated. The Department recommended the penalty it has because of the aggravators cited.

Mr. Mueller questioned whether all the fines and costs Mr. David mentioned could be added together.

Mr. David stated 2 could be aggregated because there are only 2 Counts. Within the 1st Count there were several violations alleged, but you cannot add up the penalty for all 5 under Count I but you can take the highest penalty under Count I and add it to the highest penalty under Count II to come up with the penalty. Then you can aggravate the penalty for Count I and aggravate the penalty for Count II to come up with an aggregate penalty for the 2 Counts but you cannot aggregate within a Count.

Mr. Hall stated that he wish the Department would have presented this case first because there should have been a higher level of responsibility placed back, under these circumstances, onto the establishment license and the FDIC. The FDIC should have been at a higher level of accountability for this going on in that establishment.

Mr. Shropshire questioned when referring to permanent revocation whether counsel is referring to s. 497.153(8)(a), *“The board may by order on a case-by-case basis specify that a revocation is permanent and that no future application for licensure under this chapter by the revoked person or entity shall be accepted, processed, or approved.”*

Mr. David concurred.

The Chair confirmed this is the Board’s understanding of permanent revocation.

MOTION: Mr. Hall moved for permanent revocation of the license of Claude Holmes Jr on the basis of the aggravating factors as enumerated by Mr. David. Ms. Anderson seconded the motion, which passed unanimously.

*****BREAK*****

(4) Tony Tanner Funeral Services, Inc: Case No. 117957-11-FC (F054862) (Probable Cause Panel A)

Ms. Hubbell recused herself from all applicable cases as she served on Probable Cause Panel A.

Mr. Shropshire stated that Ms. Surles would be distributing a corrected Motion for Determination.

Ms. Mary K Surles stated that she has a Settlement Stipulation for Consent Order for this case. The Department filed an Administrative Complaint on August 12, 2011, which alleges Respondent, a licensed funeral establishment, located at 127 NW 20th Street, Ocala FL, allowed Mr. Stanley Gunter-Butler, the acting FDIC to practice funeral directing and embalming without having an active and valid license to practice funeral directing and embalming from September 25, 2009 through October 27, 2009. The Administrative Complaint was personally served on the Respondent on September 28, 2011. The Department has not received any response to the Administrative Complaint from the Respondent requesting an administrative proceeding. However, the Respondent entered into a Settlement Stipulation, which was provided to the Board today, with the Department on November 30, 2011 and it is before this Board for consideration and approval. The Respondent would pay an administrative fine in the amount of \$2000, the Respondent’s funeral establishment license shall be placed on a year probation with the specific condition that the Respondent shall not operate a funeral establishment without having a funeral director in charge that has an active and valid license and shall not allow embalming of bodies for which the Respondent is responsible unless the embalmer has a valid and active license to embalm. Should the Department have reasonable cause to believe that the Respondent has operated without having an active FDIC with a valid and active funeral directors license or has allowed an embalming of bodies for which the Respondent is responsible by an individual who does not have an valid or active license, the Department may immediately and without hearing suspend the Respondent’s license for up to 60 days. It would now be appropriate at this time for the Board to entertain a motion to accept the Settlement Stipulation for Consent Order that was previously provided to the Board.

Mr. John Rudolph, representing Tony Tanner Funeral Home, stated this is only involving the renewal of a license. The renewal by Mr. Butler was sent in and received by the Department before it was expired. It was not until there was an inspection and they found out that the license had not been renewed because Mr. Butler did not have enough continuing education requirements. When he was notified of that Mr. Butler immediately, that day, got the continuing education requirements that he needed and turned them in, and the license was issued. Then the Department stated he owed a \$50 fine.

Mr. Hall questioned whether the owner understands that even though he owns the funeral home, he cannot be seeing families.

Mr. Rudolph concurred. These allegations were in a complaint but we deny it.

Mr. Hall stated that it was stated that he was seeing the families.

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

C. Proposed Settlement Stipulations

(1) *Duncan, Aaron: Case No. 114642-11-FC (F045580) (Probable Cause Panel B)*

Mr. Linje Rivers stated that an inspection was conducted at Golden's Funeral Home, Inc, where Aaron Duncan was acting as the FDIC. During the inspection, several violations were discovered as relates to the care and maintenance of the funeral establishment. The Division alleges that the Licensee employed more than one FDIC at the establishment, failed to display the license of the current FDIC and failed to affix proper identification to the wrist or ankle of the deceased.

Aaron Duncan has agreed to pay a fine of \$1000 and be placed on one year probation. The terms of the Settlement Stipulation are reasonable under the facts and circumstances of this case. The Department requests that the Board approve the settlement and issue the Consent Order to conclude this matter.

MOTION: Mr. Mueller moved to accept the Settlement Stipulation. Mr. Hall seconded the motion, which passed unanimously.

(2) *Golden's Funeral Home, Inc: Case No. 114643-11-FC (F040629) (Probable Cause Panel B)*

Mr. Rivers stated that an inspection was conducted at Golden's Funeral Home, Inc, where Aaron Duncan was acting as the FDIC. During the inspection, several violations were discovered as relates to the care and maintenance of the funeral establishment. The Division alleges that the Licensee employed more than one FDIC at the establishment, failed to display the license of the current FDIC and failed to affix proper identification to the wrist or ankle of the deceased.

Golden Funeral Home has agreed to pay a fine of \$1000 and be placed on one year probation. The terms of the Settlement Stipulation are reasonable under the facts and circumstances of this case. The Department requests that the Board approve the settlement and issue the Consent Order to conclude this matter.

MOTION: Mr. Mueller moved to accept the Settlement Stipulation. Mr. Helm seconded the motion, which passed unanimously.

(3) *Memorial Gardens Cemetery of the Florida Keys LLC d/b/a Pinewood Memorial Cemetery, Division File No. ATN-17559 (F039562)*

The Licensee failed to make any care and maintenance remittances for calendar year 2010, until approximately 2011 when, upon being asked about this issue by the Division, the Licensee advised that \$609 was due and did remit same. The Division recommends that the Board approve the proposed Settlement Stipulation, which calls for a fine of \$1000.

Col. Stiegman questioned whether probation is included in the Settlement Stipulation.

Mr. Shropshire concurred.

Ms. Wiener stated that the probation was for 2 years and the fine has already been paid.

MOTION: Ms. Thomas-Dewitt moved to accept the Settlement Stipulation. Mr. Jones seconded the motion, which passed unanimously.

5. Application(s) for Authority to Acquire Control of an Existing Cemetery Company

A. Recommended for Approval *with* Conditions

(1) Nature Coast Memorials, LLC d/b/a Pineview Memorial Gardens (Perry)

Nature Coast Memorial Services, LLC, herein submits an Application for Change of Control of an existing cemetery company. The cemetery company being acquired is Pineview Memorial Gardens, Inc. located at: 530 E. Ash St., Perry, FL 32347, currently licensed under number F039640.

The application was received by the Division on September 3, 2011 and deficiencies were noted on the application. A deficiency letter was sent to the Applicant on September 15, 2011 and all deficiencies were resolved as of November 7, 2011. A completed background check of all officers revealed no criminal history. This application is being filed due to an asset purchase acquisition by Nature Coast Memorials, LLC of Pineview Memorial Gardens, Inc. from former principal, Dorothy H. Burns. Nature Coast is acquiring all of the monument, cemetery, and preneed assets of the current Licensee. It should be noted that Applicant also submitted applications for a preneed branch office and a monument establishment builder license to be presented at this meeting for approval. If the application for preneed branch office license is approved, all outstanding preneed contracts in the amount of \$95,909 (see attached list) written under the Pineview Memorial Gardens, Inc., preneed main license (F019380), will therefore be transferred under Nature Coast Services, LLC, preneed main license (F048578). The trustee of the preneed and care and maintenance trusts will remain the same. If this application for a change of control is approved, Applicant will operate under the name Nature Coast Memorial Services, LLC d/b/a Pineview Memorial Gardens. The Applicant's financial statement as of December 31, 2010 reflects the following:

Required Net Worth	= \$ 50,000
Reported Net Worth	= \$141,483

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 Division recommends approval subject to conditions as follows:

1. That upon closing of the sale, Applicant shall become responsible for all outstanding preneed contracts written under the current preneed license, Pineview Memorial Gardens, Inc. (F019380).
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.

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

(2) Northstar Cemetery Services of Florida, LLC d/b/a Eternal Light Memorial Gardens (Boynton Beach)

Northstar Cemetery Services of Florida, LLC, herein submits an Application for Change of Control of an existing cemetery. The cemetery is currently licensed as Mil-Dell, Limited d/b/a Eternal Light Memorial Gardens, located at: 11520 State Rd 7, Boynton Beach, under cemetery license number F039583.

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 application was received by the Division on November 2, 2011 and no deficiencies were noted on the application. A completed background check of all officers revealed no criminal history. The change in control is pursuant to an Asset Purchase Agreement (APA) dated October 19, 2011. The current cemetery Licensee, Mil-Dell Limited, also holds preneed license number F019281. Northstar currently holds preneed license number F019194.

The Mil-Dell preneed trust under license F019281 is being transferred in its entirety to Northstar. Northstar is assuming responsibility for all the outstanding preneed contracts under license F019281. Northstar advises that it does not intend to operate under license F019281; Northstar advises that it will make Eternal Light Memorial Gardens a branch under Northstar's license number F019194.

If this application for a change of control is approved, Applicant will operate the cemetery under the name Northstar Cemetery Services of Florida, LLC d/b/a Eternal Light Memorial Gardens. The Applicant's financial statement as of December 31, 2010 reflects the following:

Required Net Worth	= \$	50,000
Reported Net Worth	= \$	23,417,119

Applicant was fined \$800 in 2008 for failure to make timely refund on a cancelled preneed contract. The refund and fine was subsequently paid. The Division recommends approval subject to conditions as follows:

1. That upon closing of the sale, Applicant shall become responsible for all outstanding preneed contracts that (a) were written at Eternal Light Memorial Gardens, and (b) such other preneed contracts as are, at time of closing, the responsibility of preneed Licensee Mil-Dell Ltd (preneed license number F019281).
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.

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

6. 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.

B. Recommended for Approval with Conditions (Criminal History) (1) Wood, Karen Lynn (Appointing Entity: Masters Funeral Home, P.A.)

On October 25, 2011, the Department received an application from Ms. Wood. Ms. Wood answered "Yes" to Applicant Background Questions. The criminal history includes two (2) offenses that required disclosing for licensure. Ms. Wood attached the criminal history forms to her application. Ms. Wood was asked to provide a detailed written explanation of the incidents, submitted as requested.

The Department assessment is that Ms. Wood has worked hard to repair her character and believe she is of good character for licensure as Preneed Sales Agent. Ms. Wood has demonstrated in the past a lack of trustworthiness in personal matters. However, successfully completing all court order sanctions signifies to the Department that Ms. Wood has been rehabilitated and no longer poses a risk to the funeral industry or members of the public who might deal with her.

The Division recommends approval subject to the terms & conditions of the stipulation for licensure entered into by the Division and the Applicant which calls for 24 full months of probation.

MOTION: Mr. Helm moved to approve the application subject to the terms & conditions of the stipulation for licensure entered into by the Division and the Applicant which calls for 24 full months of probation. Col. Stiegman seconded the motion, which passed unanimously.

DISCUSSION: The Chair apologized for not recognizing Ms. Wood as he did not know she was present. The Chair requested that Ms. Wood come forward to be sworn in.

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

Ms. Karen Lynn Wood answered, "Yes I do." Ms. Wood thanked the Board for approving her application and stated that she appeared this morning to ask the Board to consider her favorably for a preneed license. The unfortunate incident that occurred in 2007 resulting in a nolo contendere was very unfortunate, very sad for Ms. Wood, as it involved a family member. Ms. Wood had never been arrested so she was quite unprepared. Ms. Wood humbly requested that the Board take another look at the letters of recommendation. This has been very difficult. Ms. Wood has relocated to another county as a result of that action. Ms. Wood requested that the Board consider a lesser probation or maybe no probation, as she has never had a year like 2007.

The Chair questioned whether there was a motion to reconsider. There was a negative response from the Board.

7. Application(s) for Preneed Main License
A. Recommended for Approval with Conditions
(1) Compass Pointe Cremation Services, LLC (Orlando)

The Department received the application on November 7, 2011 and deficiencies were noted on the application. A deficiency notice was sent to the Applicant on November 15, 2011 and all deficiencies were resolved as of November 17, 2011. A completed background check of all officers revealed no criminal history. Applicant currently holds a qualifying direct disposal establishment license (F066693), approved by the Board as of October 6, 2011, and will trust 100% through Forethought Federal Savings Bank and use the approved Forethought funeral planning agreement.

The Applicant's financial statements as of November 1, 2011 reflect the following:

Acquired Preneed Contracts	= \$	0
Required Net Worth	= \$	10,000
Reported Net Worth	= \$	12,650

Documentation establishes that Christopher E. Johnston (a principal of Applicant herein) was discharged from Ch. 7 bankruptcy on September 9, 2010, by the Federal District Court, Middle District of Florida. It was a personal bankruptcy action and discharge. In view of the bankruptcy, the FCCS Division requested additional materials from Applicant:

- 1) Court documentation evidencing that the bankruptcy was discharged.
- 2) A personal financial statement for officer and owner, Christopher E. Johnston.
- 3) A letter of reference from an affiliated financial institution or vendor.

Applicant has provided all requested information and material. The letter of reference is favorable. The Division recommends that the Board approve the application based upon the **Stipulation for Licensure** agreement entered into by the Division and the Applicant (2 year probation; agreement for 100% trusting or insurance funding).

Col. Stiegman questioned whether the requested materials had been received as he did not see it in his packet.

The Chair stated that the material could be located towards the back, page 28 of 38. The Chair questioned whether Col. Stiegman would like to review the information on the screen.

Col. Stiegman took The Chair's word that the information had been provided.

MOTION: Ms. Thomas-Dewitt moved to approve the application based upon the Stipulation for Licensure agreement entered into by the Division and the Applicant (2 year probation; agreement for 100% trusting or insurance funding). Ms. Nancy Hubbell seconded the motion, which passed unanimously.

(2) *Select Funeral Partners, LLC d/b/a McKee Funeral Home-Cremation Centers of America (N Port)*

Select Funeral Partners, LLC through its principal Michael S. Fuller, applies herein for a preneed main license.

The Department received the application on October 7, 2011 and deficiencies were noted on the application. A deficiency letter was sent to the Applicant as of October 13, 2011 and the Applicant resolved all deficiencies as of October 26, 2011. A completed background check of all officers revealed no criminal history.

The qualifying Licensee will be a funeral establishment located at 14538 S. Tamiami Trail, North Port, FL. This funeral establishment is controlled by Michael S. Fuller, pursuant to a change in ownership approved by this Board at its 11-3-11 meeting (but subject to conditions not yet fully satisfied; conditions stated in attached 11-3-11 Board cover sheet).

If this present application for preneed main license is approved, the existing preneed contracts in the amount of \$212,343, formerly written under preneed main license F063027, American Funeral Partners of Florida, Inc. d/b/a McKee Funeral & Cremation Services, will be transferred to Applicant, and Applicant will assume responsibility to perform all preneed contracts previously sold at this location (14538 S. Tamiami Trail, North Port, FL) (specifically, trust and insurance-funded contracts listed in the materials in this Board package). If approved, Applicant will operate under the name, Select Funeral Partners, LLC d/b/a McKee Funeral Home – Cremation Centers of America and will utilize the pre-approved Funeral Services, Inc (FSI) First Florida Trust (Sabal Trust Company) and preneed contract forms.

The Applicant's financial statements as of October 7, 2011 reflect the following:

Acquired Preneed Contracts	\$	212,343
Required Net Worth	\$	20,000
Reported Net Worth	\$	100,000

The Division recommends that the Board approve the application subject to the conditions imposed at the November 3, 2011 Board meeting, regarding the change of ownership and the passing of inspection of the qualifying funeral establishment, be satisfied.

Mr. Helm questioned whether the license would be held until all the conditions have been satisfied.

Mr. Shropshire stated that the approval would be subject to the conditions for issuance of the funeral establishment license that the Board put on last month and also that the funeral establishment passes its inspection.

Ms. Wiener stated that she was pretty sure those conditions have been met.

MOTION: Mr. Hall moved to approve the application subject to the conditions imposed at the November 3, 2011 Board meeting, regarding the change of ownership and the passing of inspection of the qualifying funeral establishment, be satisfied. Mr. Mueller seconded the motion, which passed unanimously.

8. *Application(s) for Preneed Branch License*
A. Recommended for Approval with Conditions – Addendum B

The Division recommends approval of the application(s).

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

9. *Application(s) for Continuing Education Course Approval*
A. Recommended for Approval without Conditions – Addendum C

- (1) *Florida Morticians Association #133*
- (2) *FuneralCE #43*
- (3) *Hospice Foundation of America #14410*
- (4) *National Funeral Directors Association #136*

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

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

10. **Application(s) to Become a Continuing Education Provider**
 - A. *Recommended for Approval without Conditions – Addendum D*
 - (1) *LifeNet Health of Florida #14608*

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

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

11. **Application(s) for Florida Law and Rules Examination**
 - A. *Recommended for Approval without Conditions – Addendum E*
 - (1) *Funeral Director – by Internship and Exam*
 - (a) *Bray, Michael W*
 - (2) *Funeral Director and Embalmer – by Internship and Exam*
 - (a) *Tuss, Andrew R*

The Division recommends approval of the application(s).

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

- B. *Recommended for Approval with Conditions (Criminal History)*
 - (1) *Funeral Director and Embalmer – by Internship and Exam*
 - (a) *Altman-Kingwell, Heather*

The Applicant submitted an application to become a Funeral Director & Embalmer by Internship on October 17, 2011. The application was complete when submitted. The Applicant submitted a fingerprint card, the processing of which returned a criminal history, to wit:

- In 1998 Applicant pled guilty to felony grand theft, in Florida Circuit Court. Applicant explains that she was stealing to support her drug habit.
- In 2000 Applicant pled guilty to felony possession of heroin, and resisting arrest with violence, in Florida Circuit Court.

Ms. Altman-Kingwell appeared before the Board at its October 7, 2010 meeting, seeking an embalmer apprentice license. The Division recommended denial of the application at the October 2010 meeting, based on the criminal record. However the Board, after questioning Applicant at the October 2010 meeting, and after careful consideration of the matter, approved the application for embalmer apprentice license, subject to conditions which Applicant stipulated to, including random drug testing and 24 month probation.

Ms. Altman-Kingwell also appeared before the Board at its February 3, 2011 meeting, seeking a concurrent intern license. The Applicant was approved for the Concurrent Intern license, subject to conditions with Applicant stipulated to, including random drug testing and 24 months probation.

Pursuant to the stipulation for the embalmer apprentice license and concurrent intern license, Applicant has so far been required to take three random drug tests, which she passed.

Applicant's supervisor under the concurrent intern license advises that Applicant has performed satisfactorily. The Division recommends that the application be approved based upon the Stipulation for Licensure agreement entered into by the Division and the Applicant which has a 6 month probation which basically would just finish out the 24 month probation the Applicant was originally placed under when the Board granted the internship license.

The Chair requested that Ms. Altman-Kingwell raise her right hand to be sworn in by Mr. Shropshire.

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

Ms. Heather Altman-Kingwell answered, "I do."

The Chair questioned whether the Applicant would like to make a statement or is just present to answer questions from the Board.

Ms. Altman-Kingwell stated she was present to answer questions.

Mr. Hall stated that when Ms. Altman-Kingwell first appeared, the Board took a big risk. Looking at the Applicant originally on paper, there would have been no way I would approve that application. Mr. Hall stated that he makes him feel good to know that Ms. Altman-Kingwell went through the process and have come to this point. The qualifications for drug-testing have been passed and Mr. Hall added that he is proud of Ms. Altman-Kingwell.

Mr. Helm questioned whether Ms. Altman-Kingwell would have a problem extending the drug testing through October 2013.

Ms. Altman-Kingwell answered, "No."

Col. Stiegman questioned Mr. Helm's reasoning for the extension.

Mr. Helm stated it was done for the Board and to also give the Applicant a goal to shoot for.

Ms. Richardson questioned the number of additional tests the Board is requiring.

Mr. Helm requested that an additional 2 tests be administered.

Mr. Jones questioned how long Ms. Altman-Kingwell has been taking drug tests.

Ms. Altman-Kingwell stated that she has been doing so since her original probation, October 2010.

MOTION: Mr. Helm moved to approve the application subject to the terms & conditions of the Stipulation for Licensure agreement entered into by the Division and the Applicant with the modification of extending the probation through October 2013 to include 2 additional drug tests. Ms. Thomas-Dewitt seconded the motion, which passed with 3 dissenting votes.

12. Application(s) for Internship

A. Recommended for Approval without Conditions – Addendum F

(1) Funeral Director and Embalmer

(a) Beyers Jr, Roger A

(b) Parker, Christopher D

The Division recommends approval of the application(s).

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

B. Recommended for Approval with Conditions (Criminal History)

(1) Funeral Director and Embalmer

(a) Brown, Shawn P

The Applicant submitted an application to become a Concurrent Intern on September 20, 2011. The application was incomplete when submitted. All deficient items were returned on October 11, 2011. The Applicant submitted a fingerprint card, 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).

The Division recommends that the application be approved based upon the Stipulation for Licensure agreement entered into by the Division and the Applicant.

The Chair questioned whether Mr. Brown would like to come forward, and the Applicant did so.

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

Mr. Shawn Patrick Brown answered, "Yes."

The Chair questioned whether Mr. Brown would like to make a statement or was available to answer questions.

Mr. Brown stated that he was available to answer questions.

MOTION: Mr. Jones moved to approve the application subject to the terms & conditions of the Stipulation for Licensure agreement entered into by the Division and the Applicant. Ms. Hubbell seconded the motion, which passed unanimously.

13. Application(s) for Embalmer Apprentice

A. Recommended for Approval without Conditions – Addendum G

(1) Clarke, Paul A

(2) Hyde, Adam C

(3) Schnur, Teresa M

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 Approval without Conditions (Criminal History)

(1) Hayes, Myron J

The Applicant submitted an application to become an Embalmer Apprentice on September 12, 2011. The application was incomplete when submitted. All deficient items were returned on October 7, 2011. The Applicant submitted a fingerprint card, the processing of which returned a criminal history, to wit:

- In 2010 Applicant pled no contest to Driving with a Suspended license, in Florida Circuit Court.

Mr. Hayes explained it was a mix-up with a ticket on his record that had not previously been paid; however he was under the impression he had no open tickets at the time of the incident. The Applicant was given time served and no additional fines or costs. The Division is recommending approval without conditions.

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

(2) Leavell, Jacquelyn P

The Applicant submitted an application to become an Embalmer Apprentice on September 6, 2011. The application was incomplete when submitted. All deficient items were returned on October 7, 2011. The Applicant submitted a fingerprint card, the processing of which returned a criminal history, to wit:

- In 2007 Applicant pled no contest to Assault, intent to do violence, in Florida Circuit Court.

Ms. Leavell submits she had a physical altercation with her ex-boyfriend. According to the enclosed police report, the ex-boyfriend was charged with domestic battery and she was charged with aggravated assault with a deadly weapon and ordered to pay \$390. Ms. Leavell also indicates another charge in her explanation letter; however that charge falls outside of the statutory scope in which she must submit information for.

The Division is recommending approval without conditions.

MOTION: Ms. Hubbell moved to approve the application. Col. Stiegman seconded the motion, which passed unanimously.

14. Application(s) for Training Agency

A. Recommended for Approval without Conditions – Addendum H

(1) Funeral Directing

(a) SCI Funeral Services of Florida Inc d/b/a Memorial Plan Southern Memorial Funeral Home (F040286) (North Miami)

The Division recommends approval of the application(s).

The Chair disclosed his affiliation SCI Funeral Services of Florida, Inc and stated it would not affect his ability to remain fair and impartial.

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

15. Consumer Protection Trust Fund Claim(s)

A. Recommended for Approval without Conditions – Addendum I

The Division recommends approval of the claim(s).

MOTION: Mr. Hall moved to approve the claim(s). Ms. Hubbell seconded the motion, which passed unanimously.

16. Application(s) for Monument Establishment Sales Agent

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

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

17. Application(s) for Broker of Burial Rights License

A. Recommended for Approval without Conditions

(1) Rosa S Rodriguez (Miami)

The application was received on October 11, 2011 and deficiencies were noted on the application. A deficiency letter was sent to the Applicant on October 17, 2011 and all deficiencies were resolved as of November 7, 2011. The Department completed a background check of all officers which revealed no criminal history.

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

18. Application(s) for Cinerator Facility

A. Recommended for Approval with Conditions

(1) M&M Florida Enterprises Inc d/b/a Peaceful Cremations (Lakeland)

An application for a Cinerator Facility was received on November 3, 2011. The application was incomplete when submitted. All deficient items were returned on November 17, 2011. The fingerprint cards for all principals were returned with no criminal history. The Funeral Director in Charge will be Michael Phillips (F0043647). 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: Mr. Mueller moved to approve the application subject to the condition that the establishment passes an on-site inspection by a member of the Division staff. Ms. Anderson seconded the motion, which passed unanimously.

DISCUSSION: Ms. Hubbell questioned whether Section 9 question 13 of the application regarding containers and caskets would still be applicable to the new process of alkaline hydrolysis.

Mr. Shropshire stated although the Applicant may have alkaline hydrolysis, they can also operate a flame-based crematory under the license and are not limited to alkaline hydrolysis.

(2) Treasure Coast Seawinds Funeral Home & Crematory LLC (Stuart)

An application for a Cinerator Facility was received on October 5, 2011. The application was complete when submitted. The fingerprint cards for all principals were returned with no criminal history. The Funeral Director in Charge will be Nicole Gonzales (F052351).

The following disciplinary actions involved entities in which James Young, a principal in the present application, was a principal:

- (1) In February 2002, Seawinds Funeral Home was issued a citation for advertising goods or services in a manner which is fraudulent, false, deceptive or misleading. The establishment was fined \$250.
- (2) In January 2004, Seawinds Funeral Home I LLC sold preneed funeral contracts in the form of final expense policies without a COA license. The establishment was ordered to cease and desist from preneed sells until licensed, send a letter to each customer enclosing a copy of the Consent Order, refund all money paid by the customer or enter into an approved preneed contract at the originally quoted prices, convert final expense insurance policies into approved contracts and pay an administrative fine in the amount of \$1000.

The Applicant states that the sanctions imposed above were satisfied, and the Division has no records indicating to the contrary. Due to the length of time since the above disciplinary actions were taken, the Division is recommending approval with the condition that the establishment passes an on-site inspection by a member of the Division staff.

The Chair questioned the status of the Florida Department of Environmental Protection (DEP) permit(s).

Ms. Wiener stated that the facility cannot operate until it has its DEP permit. Even if this Board issues the license, the Licensee will not operate until they have a DEP permit. Relevant to Ms. Hubbell's question, if you have an Applicant that applied for the alkaline process of cremation and then decided to do flame-based cremation, they would have to get their DEP permit before they could do that type of cremation. It is in process and is a fairly quick process with DEP.

The Chair stated that DEP does not require a permit for alkaline hydrolysis.

Ms. Wiener concurred.

Ms. Thomas-Dewitt questioned whether the \$1000 fine was satisfied.

Mr. Shropshire stated that the Division remarks that the Applicant states that the sanctions imposed above were satisfied, and the Division searched and we have no records indicating to the contrary so we do not dispute their allegation. The Division does not have those records.

Ms. Wiener stated that she represented Mr. Young at the time. The issue was addressed at the last Board meeting in Key West and the fine was paid.

Mr. Hall stated that he has been advised that DEP just has a registration of where the machines are located. The permitting process has pretty much been knocked and they are just registering the location of these units.

Ms. Wiener concurred. It is a very abbreviated process that literally takes days.

MOTION: Mr. Jones moved to approve the application with the condition that the establishment passes an on-site inspection by a member of the Division staff. Mr. Hall seconded the motion, which passed unanimously.

19. Application(s) for Direct Disposal Establishment

A. Recommended for Approval with Conditions

(1) RKF LLC d/b/a A Cremation Service of the Palm Beaches (Boynton Beach)

The application was received by the Division on September 12, 2011. The application was incomplete when submitted. All deficient items were returned on October 20, 2011. The fingerprint cards for all principals were returned with no criminal history. The FDIC for the establishment will be Steven Rider (F044422). The establishment passed its inspection on October 31, 2011. 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. Mueller moved to approve the application with the conditions recommended by the Division. Ms. Anderson seconded the motion, which passed unanimously.

20. Application(s) for Funeral Establishment

A. Recommended for Approval with Conditions

(1) Callahan Funeral Home Inc (Callahan)

The application was received by the Division on June 1, 2011. The application was incomplete when submitted. All deficient items were returned on October 28, 2011. The fingerprint cards for all principals were returned with no criminal history. The FDIC for the establishment will be Ellis McAninch (F044146). The establishment shows currently owned by Doris McAninch; however she passed away on July 25, 2007. The establishment passed its inspection on November 9, 2011. The Division is recommending approval without conditions.

Mr. Helm questioned how the establishment has been operating given the owner passed away on July 25, 2007.

Mr. Shropshire stated that the application should have been filed long ago.

Mr. Helm questioned whether there was any wrongdoing in not reporting this.

The Chair stated it could be a separate issue for investigation.

Mr. Shropshire stated that the Division did not have any indication that there was anything intentional about it which is why the Division decided to process the application. Mr. Shropshire added if it is the Board's pleasure, the Department could certainly open a file and commence some active investigation in this regard.

Mr. Helm requested that the Division issue a letter of instruction to the Applicant.

Mr. Shropshire stated that the Division would issue a Notice of Noncompliance, which the Division issues for a minor violation. The Applicant would in turn submit a certification that they have corrected the error as they have filed the application.

MOTION: Mr. Helm moved to approve the application with the issuance of a Notice of Noncompliance by the Division. Mr. Mueller seconded the motion, which passed unanimously.

(2) Florida Cremations Services LLC (Opa Locka)

An application for a Funeral Establishment was received on November 9, 2011. The application was complete when submitted. The fingerprint cards for all principals were returned with no criminal history. The Funeral Director in Charge will be Carolyn Herring-Albritton (F045170). The location is currently a Direct Disposal Establishment (F063230), but wishes to become a Funeral establishment. The Division is recommending approval subject to the establishment passing an on-site inspection by a member of the Division staff and relinquishing the Direct Disposal Establishment License (F063230).

Ms. Hubbell questioned whether the FDIC can relinquish the license of a corporation if they are not the principal.

Mr. Shropshire stated that his immediate answer would be “no.”

Ms. Hubbell stated that the letter was signed by the FDIC, but she is not a principal of the corporation.

Mr. Shropshire questioned whether Ms. Richardson recalls if the FDIC is involved in any in management control.

Ms. Richardson stated that the FDIC is not the owner, but she is operating under the guides of being in charge of the establishment. Therefore, she submitted that application on their behalf.

Mr. Shropshire requested that Ms. Richardson request a letter of the principal.

MOTION: Ms. Hubbell moved to approve the application with the conditions that the establishment passes an on-site inspection by a member of the Division staff, relinquishes the Direct Disposal Establishment License (F063230) and submits a letter of approval from the principal. Mr. Mueller seconded the motion, which passed unanimously.

*(3) Joseph A Scarano Funeral Home Inc d/b/a Joseph A Scarano Biscayne Memorial Chapel
(North Miami Beach)*

An application for a Funeral Establishment was received on October 31, 2011. The application was complete when submitted. The fingerprint cards for all principals were returned with no criminal history. The Funeral Director in Charge will be Ricci Fontana (F042265). The Division is recommending approval subject to the condition that the establishment passes an on-site inspection by a member of the Division staff.

Mr. Helm questioned why the application checked “maintain on site” regarding refrigeration, but in turn listed another facility.

Ms. Richardson stated that Mr. Scarano indicated that he does have onsite refrigeration, but in the event he does not adequate room, he has contracted with someone else for refrigeration.

MOTION: Mr. Mueller moved to approve the application subject to the condition that the establishment passes an on-site inspection by a member of the Division staff. Mr. Jones seconded the motion, which passed unanimously.

(4) Lohman Funeral Home Deltona Inc (Deltona)

An application for a Funeral Establishment was received on October 10, 2011. The application was complete when submitted. The fingerprint cards for all principals were returned with no criminal history. The Funeral Director in Charge will be Nancy Lohman (F030295). The Division is recommending approval subject to the condition that the establishment passes an on-site inspection by a member of the Division staff.

The Chair questioned whether Nancy Lohman is FDIC of any other location.

Ms. Richardson stated that Ms. Lohman is no longer FDIC of any other location effective September 30, 2011.

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

(5) Northstar Funeral Services of Florida LLC d/b/a Beth Israel Memorial Chapel (Boynton Beach)

The application was received by the Division on November 3, 2011. The application was incomplete when submitted. All deficient items were returned on November 16, 2011. The fingerprint cards for all principals were returned with no criminal history. The FDIC for the establishment will be Kenneth Kay (F046368). 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 the establishment passes an on-site inspection by a member of the Division Staff.

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

(6) Northstar Funeral Services of Florida LLC d/b/a Beth Israel Memorial Chapel (Delray Beach)

The application was received by the Division on November 3, 2011. The application was incomplete when submitted. All deficient items were returned on November 16, 2011. The fingerprint cards for all principals were returned with no criminal history. The FDIC for the establishment will be Paul Libsma (F042245). 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 the establishment passes an on-site inspection by a member of the Division Staff.

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

(7) Palm Beach National Chapel LLC (Lake Worth)

The application was received by the Division on November 9, 2011. 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 Richard Waites (F029396). The Division is recommending approval without conditions.

The following disciplinary actions involved entities in which James Young, a principal in the present application, was a principal:

- (1) In February 2002, Seawinds Funeral Home was issued a citation for advertising goods or services in a manner which is fraudulent, false, deceptive or misleading. The establishment was fined \$250.
- (2) In January 2004, Seawinds Funeral Home I LLC sold preneed funeral contracts in the form of final expense policies without a COA license. The establishment was ordered to cease and desist from preneed sells until licensed, send a letter to each customer enclosing a copy of the Consent Order, refund all money paid by the customer or enter into an approved preneed contract at the originally quoted prices, convert final expense insurance policies into approved contracts and pay an administrative fine in the amount of \$1000.

The Applicant states that the sanctions imposed above were satisfied, and the Division has no records indicating to the contrary. Due to the length of time since the above disciplinary actions were taken, 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 the establishment passes an on-site inspection by a member of the Division Staff.

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

(8) R Butts Inc d/b/a Butts Memorial Chapel (Belle Glade)

The application was received by the Division on September 14, 2011. The application was incomplete when submitted. All deficient items were returned on November 2, 2011. The fingerprint cards for all principals were returned with no criminal history. The FDIC for the establishment will be Rickey Butts (F045113). 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 the establishment passes an on-site inspection by a member of the Division Staff.

MOTION: Ms. Thomas-Dewitt moved to approve the application with the conditions recommended by the Division. Ms. Anderson seconded the motion, which passed unanimously.

(9) Treasure Coast Seawinds Funeral Home & Crematory LLC (Stuart)

An application for a Cinerator Facility was received on October 5, 2011. The application was complete when submitted. The fingerprint cards for all principals were returned with no criminal history. The Funeral Director in Charge will be Nicole Gonzales (F052351). The following disciplinary actions involved entities in which James Young, a principal in the present application, was a principal:

- (1) In February 2002, Seawinds Funeral Home was issued a citation for advertising goods or services in a manner which is fraudulent, false, deceptive or misleading. The establishment was fined \$250.
- (2) In January 2004, Seawinds Funeral Home I LLC sold preneed funeral contracts in the form of final expense policies without a COA license. The establishment was ordered to cease and desist from preneed sells until licensed, send a letter to each customer enclosing a copy of the Consent Order, refund all money paid by the customer or enter into an approved preneed contract at the originally quoted prices, convert final expense insurance policies into approved contracts and pay an administrative fine in the amount of \$1000.

The Applicant states that the sanctions imposed above were satisfied, and the Division has no records indicating to the contrary. Due to the length of time since the above disciplinary actions were taken, the Division is recommending approval with the condition that the establishment passes an on-site inspection by a member of the Division staff.

Col. Stiegman questioned whether the Division is offering the same answer regarding the payment of \$1000.

Mr. Shropshire answered, "Yes."

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

Mr. Mueller questioned whether there are any procedures in place to identify whether these fines are being paid.

Mr. Shropshire stated going forward, Mr. Hall, at the last meeting, requested that the Division provide a report on the payment of fines. So that would become a part of the record of each meeting.

Ms. Wiener stated that the fine in question was paid to the old Board of Funeral Directors and Embalmers when it was under DBPR and this is probably why there is no record.

B. Request to Withdraw Previous Application for Change of Ownership
(1) Landmark Funeral Home Inc (F055287) (Hollywood)

On November 10, 2011, the Division received a request by Landmark Funeral Home, Inc. (Landmark), through its attorney, to withdraw the previous change of ownership application that was originally presented to the Board on April 7, 2011 ("April 2011 Change of Ownership Application").

During the April Board meeting, the change of ownership application was presented as part of a global proposed settlement that also included the disciplinary matter, and an application for a preneed license. The Board rejected the proposed settlement and voted to deny the change of ownership application. The Applicant withdrew the preneed main application.

During the December Board agenda, the disciplinary matter will be presented to the Board for entry of a Final Order.

As stated in Landmark's November 10, 2011 request, after the April 2011 Board meeting, Landmark, the complainants and the Department's legal representative participated in settlement discussions in an effort to bring before the Board a revised settlement proposal that might be acceptable to the Board. The Notice of Intent to Deny the April 2011 Change in Ownership application was held in abeyance pending the outcome of the settlement discussions. Ultimately, those discussions did not produce a resolution.

In a conversation with Assistant Director Anthony Miller, Landmark's attorney indicated that his client intended to withdraw the April 2011 Change in Ownership Application. As a follow-up to that conversation, the Division emailed Landmark's attorney, advising him that the Notice of Intent to Deny was forthcoming, but that if Landmark submitted a request to withdraw, the request would be submitted to the Board for its review and consideration. On November 10, 2011, Landmark submitted its request to withdraw the April 2011 Change in Ownership Application. The Division recommends approval of the request.

Mr. Helm stated that the letter from Brady Cobb states that "*misrepresentations of Jonathan Shaw, which Judge Meale found to be nonexistent and inapplicable to Landmark, were the basis of the Board's denial...*" The ALJ's Recommended Order, page 21 states "*to this point, Petitioner has established that Mr. Shaw made statements of future operations, and operations did not conform to these statements.*" It appears that the Judge did see that some of those things did happen.

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

21. Application(s) for Monument Establishment Builder License
A. Recommended for Approval with Conditions
(1) Nature Coast Memorials, LLC d/b/a Burns Monument Company (Perry)

The application was received on November 15, 2011 and no deficiencies were noted. This application is being filed in conjunction with applications for Change of Control of an Existing Cemetery and Preneed Branch Office license due to Nature Coast acquiring all of the monument, cemetery, and preneed assets of the current Licensee, which is also being presented at this teleconference meeting. The Department completed a background check of all officers which revealed no criminal history.

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

- (1) That the Board approves the applications for change of control of cemetery and preneed branch office license.
- (2) That the Applicant passes the required inspection of facility for monument builder as set forth under 497.552, F.S.

Mr. Helm stated that in Section 9, question (a) of the application, when asked "Have you, the applicant, or any principals of applicant, had any prior experience in the monument establishment industry or in the death care industry?" and the Applicant answered "No." Mr. Helm questioned whether the applicant or principals are funeral directors.

Ms. Wiener stated that they are funeral directors and they own funeral establishments so they should have answered "Yes." It appears the Applicant was focused on the monument establishment portion of the question.

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

22. Application(s) for Monument Establishment Retailer License

A. Recommended for Approval without Conditions

(1) Gregory A Smith d/b/a Seminole Monument Company (Sanford)

The application was received on October 18, 2011 and deficiencies were noted. A deficiency letter was sent on October 21, 2011 and the Applicant resolved all deficiencies by November 7, 2011. The Department completed a background check of all officers which revealed no criminal history. This application is being filed for a new license due to a change in ownership of the establishment from former owner, Mr. Glenn M. McCall, now deceased, to the current successor and owner, Mr. Gregory A. Smith. If approved, the establishment will operate under the name: Gregory A. Smith d/b/a Seminole Monument Company. The Division is recommending approval.

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

23. Pre-Construction Performance Bond

A. Recommended for Approval without Conditions

(1) SCI Funeral Services of Florida, Inc d/b/a Forest Lawn Memorial Gardens South (Ft Lauderdale)

SCI intends to construct a new mausoleum at its Forest Lawn Memorial Gardens South (F039471), in Fort Lauderdale. Pursuant to s. 497.272, Fla. Statutes, typically, a pre-construction trust must be put in place if sales are going to occur prior to completion. However, s. 497.272(8) provides that in lieu of the pre-construction trust fund, the cemetery company may provide a performance bond in an amount and by a surety company acceptable to the regulator. The Licensee has submitted for approval a performance bond, in lieu of a pre-construction trust. The mausoleum project, and the bond, is summarized as follows:

Project: 848 Crypt Garden Mausoleum – 464 single crypts, 192 tandem crypts, 0 niches
Cost: \$837,727
Bond Amount: \$1,254,862
Bond Number: SUR 0013302
Surety Company: Argonaut Insurance Company

Cemetery agrees to complete said construction within 240 calendar days from the commencement date (proposed commencement date January 2012), or by September 2012 and in accordance with the attached Construction Agreement between SCI Funeral Services of Florida, Inc d/b/a Forest Lawn Memorial Gardens South and Gibraltar Mausoleum Construction, general contractor. Included in this packet is the Construction Agreement which consists of 30 pages along with an attached Exhibit A (2 pages), Exhibit B (3 pages), Exhibit C, and construction cost estimate. Also included is a construction cost estimate from Ken Dear, Inc., a building contractor, Building Specifications, and the Certified Architect Estimate.

The Division recommends approval of the pre-construction performance bond without conditions.

The Chair disclosed his affiliation SCI Funeral Services of Florida, Inc and stated it would not affect his ability to remain fair and impartial.

Col. Stiegman questioned why the bond is greater than the cost.

Mr. Shropshire stated that he did not have an answer to that.

Col. Stiegman questioned whether this is normal.

Mr. Shropshire stated that SCI does still have a fair amount of bonding in force and it is common. They tend to reduce the bond each year but rarely reduce it to the minimum that it could be, for whatever reason.

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

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

A. Recommended for Approval *with* Conditions

(1) Addendum to Pre-Construction Trust Agreement

(a) DFG Group, LLC d/b/a The Gardens (F039423) (Boca Raton)

The Licensee has submitted for approval an amendment to its Pre-Construction Trust Agreement for construction of its North Sanctuary Mausoleum. This request is for approval of an amendment to the trust agreement only. The existing pre-construction trust agreement was approved by the Board on June 30, 2005 (please see attached proposed change and copy of existing trust agreement). The Division recommends approval with the condition that the Licensee provides a draw schedule or proof of completion of the project to the Division within 30 days from the date of this Board meeting.

MOTION: Ms. Thomas-Dewitt moved to approve the addendum with the condition that the Licensee provides a draw schedule or proof of completion of the project to the Division within 30 days from the date of this Board meeting. Mr. Mueller seconded the motion, which passed unanimously.

B. Recommended for Approval *with* Conditions

(1) Monument Establishment Retail Sales Agreement

(a) Gregory A. Smith d/b/a Seminole Monument Company (Sanford)

The Division recommends approval without condition since the application for monument establishment retailer license presented at this meeting for Gregory A. Smith d/b/a Seminole Monument Company was approved.

MOTION: Mr. Helm moved to approve the agreement. Mr. Mueller seconded the motion, which passed unanimously.

(b) Nature Coast Memorials, LLC d/b/a Burns Monument Company (Perry)

The Division recommends approval without condition since the application for monument establishment builder license presented at this meeting for Nature Coast Memorials, LLC d/b/a Burns Monument Company was approved.

MOTION: Mr. Mueller moved to approve the agreement. Mr. Helm seconded the motion, which passed unanimously.

The Chair questioned whether the checklist that was developed for monument establishment sales agreements was something new.

Ms. Lashonda Morris responded that the checklist was not new.

Mr. Helm stated that the checklist was added after he kept inquiring about the fonts.

25. Executive Director's Report

A. Appointment of New Board Member

Mr. Andrew Clark has been appointed to the Board in the chair previously filled by Tracy Huggins. Mr. Clark's start date will be the January meeting. The Division has been in contact with him and Mr. Clark is looking forward eagerly to serve on the Board.

B. Report: Payment of Disciplinary Fines and Costs

This is the new report pursuant to Mr. Hall's request where the Division will be tracking payment of disciplinary fines and costs. Mr. Anthony Miller advises that Summers Funeral Home has in fact paid their fine although it is marked unpaid on the report.

Licensee	Case No.	Total Fine & Cost Due	Date Due	Date Paid in Full
Guerry FH	119612-11-FC	\$3,000	11/19/2011	9/2/2011
William Guerry	119611-11-FC	\$2,000	11/19/2011	9/2/2011
Riverview Memorial Inc dba Riverview Memorial Gdns	101938-09-FC	\$2,500	11/19/2011	11/8/2011
Summers FH	110895-10-FC 114637-11-FC	\$1,750	11/19/2011	unpaid
Trinity Memorial Cemetery	114209-11-FC	\$4,000	11/19/2011	11/1/2011
Willie Lucas	114639-11-FC	\$1,000	11/19/2011	11/4/2011
Omega Funeral Services LLC dba American Family Funerals & Cremations	111335-10-FC	\$2,250	11/19/2011	10/31/2011
Alan Trueba	113850-10-FC	\$2,250	11/19/2011	10/31/2011

26. Chairman's Report (Oral)

The Chair stated that the 2012 meeting schedule is still being worked on. Comments were solicited from the Board in regards to preferences for Board meeting. Ft Lauderdale, Lakeland and Jacksonville were mentioned. The schedule has not been confirmed.

Mr. Shropshire stated that the January and February meeting, because of the notice requirements, have been set. The January meeting will be a teleconference and the February meeting will be in person in Tallahassee.

Ms. Anderson questioned the dates of those 2 meetings.

Ms. LaTonya Bryant-Parker responded that the January meeting will be held on the 5th and the February meeting will be held on the 2nd.

The Chair stated that the meetings are still scheduled for 10am on the first Thursday of the month.

Mr. Helm questioned whether the meetings held in locations other than Tallahassee put a financial burden on the Division.

Mr. Shropshire answered, "Yes." It is more expensive to meet out of town than it is to meet here. The Division is in a slightly negative cash flow position. The Division will just have to monitor that. We will begin scheduling the meetings, but if we get into a cash crunch, Mr. Shropshire will get with The Chair to see if the schedule has to be modified.

Mr. Bill Williams questioned whether there has been any consideration for Rules Committee meetings and possibly having them the afternoon before the Board meeting.

Mr. Shropshire stated that there currently are not any Rules issues pending for the Committee but that would be an excellent idea. The Department is still plotting through the process of adopting all of the numerous rules that the Board approved back in January of this year. For future reference, it is likely that the Division would do that.

Mr. Williams stated that years ago it was pretty common to have the Rules Committee meeting the day before the Board meeting to prevent extra travel and expense.

Mr. Williams questioned whether Mr. Shropshire could recall, on the Consumer Protection Trust Fund, how much money goes into that fund on an annual basis as well as the amount coming out. Mr. Williams stated that he is guessing about a \$100,000k or less comes out of the fund on an annual basis.

Mr. Shropshire concurred. Last time I looked \$60-\$65,000k was about the annual average coming out and the amount going in varied somewhere in the neighborhood of \$350-\$400k.

Mr. Helm stated that he received a call prior to traveling to the meeting and promised he would mention it. There was indication where a funeral home has opened up in the area and when you type in the new funeral home, it goes to a different website. Mr. Helm questioned whether there has been any investigation into this type of issue to determine whether anything can be done about this.

Mr. Shropshire questioned whether the issue is misdirecting of the website.

Mr. Helm answered, "Yes."

Mr. Shropshire stated that issued did arise before and questioned whether Mr. Miller recalls how it came to the Department's attention.

Mr. Miller stated that one of those issues has gone through probable cause. The allegations are going through the disciplinary process so there will be some type of precedence as to how it is handled.

Mr. Helm questioned whether this would be an issue for the Rules Committee to address.

The Chair stated that there are rules in place.

Mr. Miller stated that the Department has alleged and the Probable Cause Panel has agreed that there is enough in the current statutory framework to assert a violation.

Mr. Helm questioned whether he should advise the caller to contact Mr. Miller.

Mr. Miller stated that the caller should contact the Division for a walk-through of the complaint process in an effort to get a complaint filed and investigated.

27. Office of Attorney General's Report (Oral)

None

28. Administrative Report

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

29. Disciplinary Report

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

30. Adjournment

The meeting was adjourned at 12:41 p.m.