

*Minutes of Meeting*  
**BOARD OF FUNERAL, CEMETERY & CONSUMER SERVICES**  
**Teleconference Meeting**  
**March 4, 2009 - 9:00 A.M. to 11:00 A.M.**

**I. Call to Order and Roll Call**

Mr. Greg Brudnicki, Chairman, called the meeting to order at 9:01 am.

Mr. Doug Shropshire, Executive Director, requested to make the usual prefatory comments for the record and then take the role.

As a preliminary matter, let me state for the record that my name is Doug Shropshire. I am Director of the Division of Funeral, Cemetery, and Consumer Services. This is a meeting of the Board of Funeral, Cemetery, and Consumer Services. Today is March 4, 2009. The meeting is occurring by teleconference, although the Staff is in Tallahassee with members of the public participating here in the Alexander Bldg. in Tallahassee, FL.

Notice of this meeting has been duly published in the FAW. An agenda for this meeting has been made available to interested persons.

Members of the Board are participating by teleconference. My Assistant, Ms LaTonya Bryant, is recording these proceedings. Persons speaking on the phone are requested to identify themselves, as well as person participating here in Tallahassee, each time they speak. Participants are respectfully reminded that the Chair or Vice Chair runs the meeting. Persons desiring to speak should initially ask the Chair or Vice Chair for permission to speak. Participants are requested to keep in mind the necessary protocol that only one person may speak at a time. Persons participating by teleconference are reminded that if you try to speak while someone else is speaking on the phone neither Board members nor the public will be able to hear you.

At this time I will take the role and Board members will please respond with "aye" or "present" when I call their name:

**PRESENT (via phone):**

Greg Brudnicki, Chairman  
Jody Brandenburg, Vice-Chairman  
Justin Baxley  
Ken Jones  
Powell Helm  
Nancy Hubbell  
Tracy Huggins  
Gail Thomas-DeWitt  
Catherine Zippay

**ALSO PRESENT:**

Doug Shropshire, Executive Director  
Anthony Miller, Assistant Director  
Allison Dudley, Board Counsel (via phone)  
Jim Bossart, Department Attorney  
Tad David, Department Attorney (via phone)  
LaTonya Bryant, Department Staff

Mr. Chairman, we have a quorum for the business before the Board.

**II. Disciplinary Proceedings**

*A. Alexander Wynn Case No. 98264-08-FC*

Mr. Jim Bossart stated that Alexander Wynn, at all times relevant, was the Funeral Director in Charge (FDIC) at R.J. Gainous Funeral Home of Daytona Beach Florida. Alexander Wynn was negligent in its performance of a burial contract by not properly overseeing the actions and job performance of LBJ Cemetery Services. The vault and casket of Mrs. Doris Oglesby was damaged by employees of LBJ Cemetery Services (LBJ). R.J. Gainous Funeral Home had contracted with LBJ to perform the opening and closing and to purchase the vault of Mrs. Oglesby. The Casket was oversized and did not fit into the vault. LBJ employees removed the casket handles and ornaments and unsuccessfully attempted to force the casket into the vault. In doing so, they further damaged the casket and the vault. They then left the grave site with the casket exposed to the elements. It became subsequently necessary to open the vault, remove and replace the casket and vault, and reinter Mrs. Oglesby. This is a violation of Sections 497.152(1)(a) and (b); 497.152(13); and 497.171, Florida Statutes and Rule 69K-6.008, Florida Administrative Code.

Evidence supports the conclusion that Respondent violated the enumerated statutes and administrative rules. The Respondent has elected to enter into this settlement stipulation.

The Department recommends approval of the Settlement Stipulation for Consent Order assessing the Respondent a \$ 1000 fine and a six month period of probation.

Ms. Gail Thomas-Dewitt recused herself from voting on this issue.

Mr. John Rudolph advised that Ms. Thomas Dewitt is employed by R J Gainous.

Mr. Powell Helm questioned whether this cemetery is one in which they leave the lid showing.

Mr. Rudolph stated this has been addressed by his client. This was a community cemetery where the body was interred. The 12" below the ground rule is not applicable to exempt cemeteries. In this case, that was an allegation that was made that was clearly refuted.

Mr. Helm stated that the fine was pretty lenient.

Mr. Bossart stated that the funeral home will also be assessed a \$1000 fine.

Mr. Rudolph stated that Mr. Wynn was approached by the Oglesby family to inter the wife and it was clear to him that it would require an oversized casket. Mr. Wynn called LBJ Cemetery Services and

informed them that they would need an oversized vault to which LBJ Cemetery Services actually came and measured the casket and was supposed to supply an oversize vault. Mr. Wynn has used LBJ on a number of occasions to perform interments. In this case, the oversized vault was supposed to be there. Mr. Wynn had 2 burials that day, one in this cemetery and one later in another cemetery. LBJ was doing both of them. Mr. Wynn waited while the service took place. He saw that the casket was being lowered, so he left and went to the other service. What apparently happened, unbeknownst to him, and it was not disclosed until 5 or 6 months later when the family went out to the gravesite, was that the oversized vault had not been put there as they had been instructed to do. Mr. Wynn left before the casket was all the way in the ground, but LBJ never contacted him to advise that the wrong vault had been installed. The Respondent has entered into this stipulation because technically Mr. Wynn was not there until the casket was put all the way into the vault.

Mr. Jody Brandenburg questioned who regulates LBJ Cemetery Services.

Mr. Rudolph stated that they just dig graves and provide the vault.

The Chair questioned whether they are in the monument business.

Mr. Rudolph answered no.

The Chair stated it does not appear our Department regulates them.

Mr. Shropshire stated that the Department does not regulate them in this context.

Mr. Sam Betsey stated that he was a former member of the Board from 1993 to 2005 and numerous cases came up that were similar to this and also one almost exactly. For example, some debris from a tornado in South Florida damaged a gravesite. The owner of the gravesite contacted the cemetery to have the debris removed so that he could install another headstone. The debris was removed as well as the whole tree. In doing so, another gravesite was damaged. The person in charge of doing the work assumed the responsibility as it was their workers who did the damage. The cemetery was not charged. This case is similar to Mr. Wynn's case, but the other was given a letter of guidance and no charges were filed. During that time, the Board approved it. Mr. Wynn, if given the same opportunity, would not allow for this to happen again. It appears Mr. Wynn is being penalized for something he did not do but was responsible for.

Ms. Allison Dudley stated that this is a settlement agreement that was agreed upon by the parties for these particular fines.

Mr. Rudolph stated that he is here representing Mr. Wynn and is supporting the settlement stipulation. However, anyone else can come in and make a statement concerning the past acts of the Department or the Board.

The Chair suggested that Mr. Wynn go to LBJ and ask them to reimburse him for the fines he has been assessed.

Mr. Betsey questioned whether the Board would consider dismissing the probation if Mr. Wynn pays the fine.

The Chair questioned whether Mr. Rudolph is in agreement with the 6 month probation and fine.

Mr. Rudolph stated when the agreement was negotiated they tried to remove the 6 month probation. However, it was explained that it was a fine and 6 month probation was the only option. A petition was filed to challenge this, which went to DOAH, so we ended up settling for this amount.

Mr. Bossart stated that the probationary period is contained in the penalty guidelines and there is nothing underneath a 6 month probation.

**MOTION:** Mr. Ken Jones moved to accept the order. Ms. Tracy Huggins seconded the motion, which passed with 1 dissenting vote.

***B. R.J. Gainous Funeral Home Case No. 98265-08-FC***

Mr. Bossart stated that R.J. Gainous Funeral Home, at all times relevant, was a licensed funeral establishment doing business in Daytona Beach Florida. Alexander Wynn was the licensed FDIC and this file is cross referenced with his file in Case No. 98264-08-FC. The funeral establishment was negligent in its performance of a burial contract by not properly overseeing the actions and job performance of LBJ Cemetery Services. The vault and casket of Mrs. Doris Oglesby was damaged by employees of LBJ Cemetery Services (LBJ). R.J. Gainous Funeral Home had contracted with LBJ to perform the opening and closing and to purchase the vault of Mrs. Oglesby. The Casket was oversized and did not fit into the vault. LBJ employees removed the casket handles and ornaments and unsuccessfully attempted to force the casket into the vault. In doing so, they further damaged the casket and the vault. They then left the grave site with the casket exposed to the elements. It became subsequently necessary to open the vault, remove and replace the casket and vault, and reinter Mrs. Oglesby. This is a violation of Sections 497.152(1)(a) and (b); 497.152(13); and 497.171, Florida Statutes and Rule 69K-6.008, Florida Administrative Code.

Evidence supports the conclusion that Respondent violated the enumerated statutes and administrative rules. The Respondent has elected to enter into this settlement stipulation.

The Department recommends approval of the Settlement Stipulation for Consent Order assessing the Respondent a \$1000 fine, \$200 costs and a six month period of probation.

Ms. Thomas-Dewitt recused herself from voting on this issue.

**MOTION:** Mr. Justin Baxley moved to accept the order. Ms. Huggins seconded the motion, which passed with 1 dissenting vote.

**III. Application(s) for Preneed Sales Agents**  
***A. Informational Item - See 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.

Mr. Brandenburg disclosed his affiliation with SCI Funeral Services of Florida, Inc., which does not render him unable to make a fair and impartial judgment in any of the matters before the Board.

Ms. Thomas-Dewitt questioned who would be the sales agent for The Fralin Group as there was no one listed on the Addendum.

Mr. Anthony Miller stated that Aaron T Bivens (F05215) should have been listed under The Fralin Group instead of The Simplicity Plan.

**IV. Application(s) for Preneed Branch Office License**  
**A. Informational Item - See Addendum B**

The Division recommends approval.

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

**V. Application(s) for Florida Laws and Rules Examination**  
**A. Recommended for Approval - Addendum C**  
**1. Funeral Director and Embalmer - by Internship**  
**a. Hart, Daniel C**  
**2. Funeral Director and Embalmer- by Endorsement**  
**a. Tone, David J**

The Division recommends approval.

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

**VI. Application(s) for Internship**  
**A. Recommended for Approval – Addendum D**  
**1. Funeral Director and Embalmer**  
**a. Conway, Jr, Thomas G**  
**b. Felmey, Loriann**  
**c. Miller, Ashley S**  
**d. Opper, Karen A**  
**e. Pittman, Bettye**

The Division recommends approval.

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

**VII. Application(s) for Embalmer Apprentice**  
**A. Recommended for Approval – Addendum E**  
**1. Copeland, Daniel G**  
**2. Shannon, Ryan**

The Division recommends approval.

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

**VIII. Application(s) for Training Agency**

**A. Recommended for Approval – Addendum F**

**1. Funeral Directing/Embalming**

**a. Emmanuel Funeral Homes Inc-F040175 (Lake Worth)**

The Division recommends approval.

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

**IX. Continuing Education Course Approval(s)**

**A. Recommended for Approval – Addendum G**

**1. Florida Funeral Directors Association Inc #75**

**2. Independent Funeral Directors of Florida, Inc #135**

**3. International Cemetery & Funeral Assoc #74**

**4. National Funeral Directors Association #136**

**5. Pinellas County Funeral Home Association #58**

**6. SCI Management - Dignity University #99**

**7. Selected Independent Funeral Homes #137**

**8. Southeast Tissue Alliance #108**

The CE Committee and the Division recommends approval.

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

**X. Continuing Education Provider Approval(s)**

**A. Recommended for Approval – Addendum H**

**1. Informed #8205**

The CE Committee and the Division recommends approval.

**MOTION:** Ms. Zippay moved to approve the application(s). Ms. Hubbell seconded the motion, which passed unanimously.

**XI. Application(s) for Centralized Embalming Facility**

**A. Angel's Mortuary LLC (Opa Locka)**

The application for a Centralized Embalming Facility was submitted on December 3, 2008. The application was incomplete when submitted and a deficiency letter was sent to the applicant. All deficient items were returned on February 6, 2009. The Funeral Director in Charge of the facility will be Joanna Janvier (F045432). The fingerprint cards for all principals were submitted and returned without criminal history. The establishment passed its inspection on February 23, 2009 and is recommended for approval.

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

**XII. Application(s) for Cinerator Facility**

**A. Recommended for Approval**

**1. Clymer Cremations & Funeral Home Inc d/b/a Clymer Crematory (Bunnell)**

The application for a Cinerator Facility was submitted on January 12, 2009. The application was complete when submitted and a deficiency letter was not sent to the applicant. The Funeral Director in Charge of the facility will be Kenneth Clymer (F046666). The fingerprint cards for all principals were submitted and returned without criminal history. The establishment passed its inspection on February 10, 2009.

The Division recommends approval.

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

**XIII. Application(s) for Direct Disposal Establishment**

**A. Recommended for Approval**

**1. Nautilus Cremations of Florida Inc (Crescent City)**

The application for a Direct Disposal Establishment was submitted on January 16, 2009. The application was complete when submitted and a deficiency letter was not sent to the applicant. The Direct Disposer in Charge of the establishment will be Stephen Falowski (F037294). The fingerprint cards for all principals were submitted and returned without criminal history. The establishment passed its inspection on February 10, 2009.

The Division recommends approval.

**MOTION:** Ms. Zippay moved to approve the application. Mr. Baxley seconded the motion, which passed unanimously.

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

**A. Recommended for Approval**

**1. Atlantic Mortuary & Cremation Service Inc d/b/a Atlantic Burial & Crem. Service (Cocoa)**

The application for a Funeral Establishment was submitted on December 11, 2008. The application was incomplete when submitted and a deficiency letter was sent to the applicant. All deficient items were returned on February 10, 2009. The Funeral Director in Charge of the establishment will be George Reed (F044796). The fingerprint cards for all principals were submitted and returned without criminal history. The establishment passed its inspection on February 17, 2009.

The Division recommends approval.

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

**XV. Application(s) for Refrigeration Facility**  
**A. Recommended for Approval (Criminal History)**  
**1. Executive Removal Service Inc (Pompano Beach)**

The application for a Refrigeration Facility was submitted on November 21, 2008. The application was complete when submitted and a deficiency letter was not sent to the applicant. The fingerprint cards for all principals were submitted and returned without criminal history. The establishment passed its inspection on December 16, 2008.

Applicant was arrested for burglary of a vehicle in 1993; that charge was dropped. See applicant's explanation of this matter in the attached sworn interview.

The applicant was arrested in connection with burglary of a home in 1995; the Division's inquiry indicates that the policy believed applicant did not participate in the actual burglary but was assisting by driving the get-away car. See applicant's explanation of this matter in the attached sworn interview. Applicant plead no contest, and was sentenced to probation, and payment of \$4000 to charity (he has satisfied the sentence requirements).

At its March 2008 meeting the Board reviewed an application by this same applicant re a change of location for his Removal Service; the Board, being advised of his criminal record, approved that application.

Applicant has provided several significant letters of recommendation with this application. Although the criminal record is serious, on balance, given his explanation of the matters, and especially given the letters of recommendation he has provided, the FCCS Division believes that this application can be approved without unreasonable risk to the public.

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

**XVI. Application(s) for Monument Establishment Builder**  
**A. Recommended for Approval**  
**1. Cecil E Murray d/b/a Murray Monument Co (Plant City)**

The application was received on June 23, 2008 and deficiencies were noted. A deficiency letter was sent to applicant on July 17, 2008 and applicant provided a response by August 1, 2008. All outstanding deficiencies were resolved and applicant passed inspection for licensure as of February 13, 2009. The Department completed a background check of all officers which revealed no criminal history.

The Division recommends approval.

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

**XVII. Application(s) for Monument Establishment Retailer**  
**A. Recommended for Approval**  
**1. Gulf Coast Wilbert d/b/a Gulf Coast Monuments (Fort Walton Beach)**

The application was received on November 12, 2008 and deficiencies were noted. A deficiency letter was sent to applicant on December 10, 2008 and applicant provided a response by December 29, 2008. All outstanding deficiencies were resolved by February 12, 2009. The Department completed a background check of all officers which revealed no criminal history. In addition, the applicant is currently licensed as a Monument Establishment Retailer at four locations: (1) Gulf Coast Wilbert, Inc. d/b/a Ward Memorial (Defuniak Springs), (2) Gulf Coast Wilbert, Inc. d/b/a Gulf Coast Monuments (Panama City), (3) Gulf Coast Wilbert, Inc. d/b/a Pensacola Marble and Granite (Pensacola), and (4) Gulf Coast Wilbert, Inc. d/b/a Gulf Coast Monuments (Crestview).

The Division recommends approval.

**MOTION:** Mr. Brandenburg moved to approve the application. Ms. Zippay seconded the motion, which passed unanimously.

### **XVIII. Contracts or Other Related Forms**

#### ***A. Neptune Management Corporation (Fort Lauderdale)***

##### ***1. Preneed Funeral Agreement (NEP-FL-999-PN 02/18/09)***

The Division recommends approval.

**MOTION:** Mr. Baxley moved to approve the agreement pending Department receipt of 2 print-ready copies within 60 days. Ms. Thomas-Dewitt seconded the motion, which passed unanimously.

##### ***2. Financial Accommodation Addendum (NEP-FL-999-Addendum 02/18/09)***

Ms. Huggins stated that she did not receive the Addendum for Neptune.

Ms. Wendy Wiener stated that it was submitted and contemplated by Mr. Gellepis.

Mr. Shropshire questioned whether any of the Board members received the addendum.

There was a negative response.

Mr. Shropshire stated through error of the Division, the Board would not be able to rule on this item if they have not received it. This item will be deferred to the next meeting.

#### ***B. Monument Retail Sales Agreements***

##### ***1. Carl J. Carnegie d/b/a Carnegie's Monument Sales & Services (Williston)***

The Division recommends approval of the agreement.

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

##### ***2. Cecil E. Murray d/b/a Murray Monument Co (Plant City)***

The Division recommends approval of the agreement.

Mr. Rudolph stated that agreement states “Seller agrees to install monument within 6 to 10 weeks of purchase unless delay is caused by natural disasters, strikes, availability...” Mr. Rudolph questioned whether this overcomes the date it has to be provided.

Mr. Helm stated that it is specified by “Delivery and installation date by no later than.”

Mr. Rudolph questioned why the additional language is included.

Ms. Dudley stated that the language confused her as well as it is confusing to the purchaser.

The Chair requested that the Division take another look at the agreement.

Mr. Shropshire stated that the item could be tabled or the Board could approve it subject to the removal of that language.

**MOTION:** Mr. Helm moved to approve the agreement subject to the removal of the above referenced language. Mr. Jones seconded the motion, which passed unanimously.

**3. Cecil Lawrence, Inc. d/b/a Helm Funeral Home (Green Cove Springs)**

The Division recommends approval of the agreement.

**MOTION:** Mr. Brandenburg moved to approve the agreement. Ms. Huggins seconded the motion, which passed unanimously.

**4. Chips Monument & Stone Co (Orange City)**

The Division recommends approval of the agreement.

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

**5. Laurie W Dayhoff d/b/a Custom Monuments (Tallahassee)**

The Division recommends approval of the agreement.

**MOTION:** Ms. Huggins moved to approve the agreement. Mr. Baxley seconded the motion, which passed unanimously.

**6. Roy C. Smith d/b/a Madison Marble & Granite Works (Madison)**

The Division recommends approval of the agreement.

Mr. Helm stated that the contract number should not be written at the bottom. It should be a part of the contract.

**MOTION:** Mr. Brandenburg moved to approve the agreement subject to the contract number being moved to the top and a part of the form. Mr. Jones seconded the motion, which passed unanimously.

7. *Silas Worth Monument Co, Inc. (Hazlehurst, GA)*

The Division recommends approval of the agreement.

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

**XIX. Trust Transfers**

*A. Daytona Memorial Park, Inc. DBA: Cardwell Funeral Homes (Daytona Beach)*

1. *Community Trust & Investment Company Master Preneed Merchandise Trust to Independent Funeral Directors of Florida, Inc. (IFDF) Agreement and Declaration of Trust Master Trust Fund*

The Division recommends approval pending receipt of the certification of the transfer being received by the Department within 60 days.

**MOTION:** Mr. Brandenburg moved to approve the request subject to certification of the transfer being received by the Department within 60 days. Mr. Baxley seconded the motion, which passed unanimously.

*B. Daytona Memorial Park, Inc. DBA: Deland Memorial Gardens (Daytona Beach)*

1. *Community Trust & Investment Company Master Preneed Merchandise Trust to Independent Funeral Directors of Florida, Inc. (IFDF) Agreement and Declaration of Trust Master Trust Fund*
2. *Community Trust & Investment Company Master Perpetual Care and Maintenance Trust to Independent Funeral Directors of Florida, Inc. (IFDF) Agreement and Declaration of Trust*

The Division recommends approval pending receipt of the certification of the transfer being received by the Department within 60 days.

**MOTION:** Mr. Brandenburg moved to approve the request subject to certification of the transfer being received by the Department within 60 days. Mr. Baxley seconded the motion, which passed unanimously.

**XX. Executive Director's Report**

*A. Proposed Quarterly Preneed Remittance Form*

The Division is proposing to utilize a new preneed quarterly remittance form later this year. On February 13, 2009, the Division held a public workshop to receive comments or concerns from the Industry concerning the proposed form. No adverse comment has been received. The form has been published on our website. The form would be adopted by Rule of the Department.

Mr. Brandenburg stated that "signature", Item 8, was spelled incorrectly.

Ms. Dudley questioned whether the Board should authorize rulemaking at this point for this form or would it be brought back at a different time.

Mr. Shropshire stated that this is a form that would be adopted by the Department and is being presented to fulfill our obligation to coordinate with the Board.

***B. Report from Richard Baldwin, Examiner for Menorah Gardens, December '08 (see attachment)***

The Board members received copies of the reports from Richard Baldwin for the month of December '08. Mr. Baldwin continues to assist consumers.

**XXI. Adjournment**

The meeting was adjourned at 9:41 a.m.