

MINUTES
BOARD OF FUNERAL, CEMETERY AND CONSUMER SERVICES
April 5, 2012 - 10:00 A.M.
Embassy Suites Jacksonville-Baymeadows
9300 Baymeadows Road
Jacksonville FL 32256

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 April 5, 2012; the time is approximately 10:00am. This is a public meeting of the Board of Funeral, Cemetery and Consumer Services. Notice of this meeting has been duly published in the Florida Administrative Weekly. An agenda for this meeting has been made available to interested persons. The meeting is occurring in person at the Embassy Suites Jacksonville-Baymeadows in Jacksonville, FL. My Assistant, Ms LaTonya Bryant-Parker, is recording the meeting and will be preparing minutes of the meeting.

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

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

PRESENT:

Joseph "Jody" Brandenburg, Chairman
Gail Thomas-DeWitt, Vice-Chairman
Jean Anderson
Andrew Clark
Lewis "Lew" Hall
Powell Helm
Richard "Dick" Mueller

ABSENT:

Nancy Hubbell
Ken Jones
Col. Don Stiegman

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:

Allison Dudley, Board Legal Advisor
Anthony Miller, Assistant Director
LaTonya Bryant-Parker, Department Staff
Linje Rivers, Department Counsel
Mary K Surles, Department Counsel
Jasmin Richardson, Department Staff

The Chair stated in view of the turnout, with a lot of Industry members in attendance, one of the items on the forefront of the Industry is the Electronic Death Registration System. That program has been worked on for many years and is finally in its implementation stage. The Chair invited Sharon Dover, who is Registration Administrator with the Department of Health,

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. March 1, 2012

The Chair confirmed that all Board members had read the draft of the minutes of the previous Board meeting held on March 1, 2012.

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

3. Old Business

A. Application for Renewal of Preneed Main License

(1) Recommended for Approval without Conditions

(a) Stephen R Baldauff Funeral Home Inc (Orange City) (F019297)

This matter is before the Board upon the application of the Licensee for renewal of their preneed license.

The preneed license was to expire on June 30, 2011. The Board deferred the matter at the Board's meeting on June 23, 2011. The matter last came before the Board at the Board's meeting on October 6, 2011, at which the Board voted to deny renewal based on Applicant's failure to meet required net worth. The required net worth for renewal of Applicant's license is \$100,000 (s. 497.45, Florida Statutes, and Rule 69K-5.0016).

Licensee is represented by attorney Wendy Wiener. Licensee now comes before the Board with revised financial statements showing a net worth of \$674,316, and letters of recommendation from Licensee's banks.

The Division also attached hereto the materials presented to the Board at the October 6, 2011 Board meeting, as well as the minutes of that meeting relating to this matter. The Division recommends that the Licensee's preneed main license be renewed for the one year period beginning July 1, 2011.

Mr. Powell Helm questioned whether the Licensee is aware that the approval would be a year from July 2011, not a year from today.

Mr. Shropshire concurred.

Mr. Hall stated that the Division had some concerns in reference to the stock and the value of the real estate. If you compare the value of the real estate on the tax assessment and some of the other things that we looked at, it does not come anywhere near that, so the net worth would not meet the requirement set forth by the Division for licensure.

Ms. Wendy Wiener stated that the financial statements as revised are GAAP compliant. The Licensee had overlooked a particular category of assets and liabilities to be booked on to their financial statements and when they added all of the correct information it, in a way similar to other preneed licensees, then their net worth does actually, even considering those other issues, come well above the required minimum net worth.

The Chair questioned what the overlooked category was.

Mr. Hall stated that the two areas that were driving this were the real estate values and treasury stock that the Division expressed concern over. Mr. Hall stated he did not recall receiving a full definition of the ownership that was addressed as to who the actual owner of the building is. The references that we have between the mortgage and the value of the property, it appears that the mortgage is probably more than the value of the property.

Mr. Bill Williams, FSI, stated that it very well could be. The reality of it is that real estate is booked at the cost that it was acquired. So if the market value of that real estate goes up or down, you cannot go in and readjust it, as a general rule. As it

relates to the mortgage, that is a different issue. However, all the financial transactions of this firm for its ownership of the assets and liabilities are stated in the current financial statements.

Ms. Allison Dudley suggested that Mr. Shropshire swear Mr. Williams in.

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

Mr. Williams answered, "I do." Mr. Williams added that the reality of it is that it is not material. If you have a mortgage on the property and/or the building, the mortgage is what it is and it is stated on the financials, then they do meet the net worth regardless of the size of the mortgage or the value of that property. As long as they meet the net worth and the mortgage is appropriate, it's there. Real estate values have dropped obviously across the entire country but that does not change the amount that real estate is booked at on the Balance Sheet for any firm. It is still booked at acquisition cost.

The Chair questioned the specific category that was changed on the financials.

Ms. Wiener stated that the financial statements were restated so that they were GAAP compliant. Previously, the financials did not contain all of the assets and liabilities such that the way that they are stated now, they are GAAP compliant. Under that compliance their net worth was adjusted significantly.

Mr. Hall questioned whether the Board could request a personal guarantee.

Ms. Wiener stated there is no need for a personal guarantee or for any conditions because the net worth of the Licensee is \$674k. When all of the assets associated with the business are included on the financial statement in a manner consistent with other preneed Licensees in this State that are routinely approved, their net worth is no longer even covering near a questionable figure. So, as recommended by the Division, this license should be approved without any conditions. The matter of the personal guarantee would no longer be required because of the net worth.

Mr. Shropshire stated that the Applicant, for renewal, has executed a personal guarantee of preneed obligations in 2009 which indicated that it ran indefinitely until or unless released by the Board. Mr. Shropshire questioned whether the Licensee would be willing to allow that to remain in place.

Ms. Wiener stated that she would rather not go into that precedence.

Mr. Shropshire added that the agreement is in force right now.

Ms. Wiener agreed that the agreement is in force at this moment, but this license should be approved without conditions. This Licensee has a net worth of almost \$700k against a required minimum net worth of \$100k. This is not a Licensee that poses problems to the State. This is not a Licensee that has not fulfilled preneed contracts. This is a Licensee that makes good on all of its obligations and has a net worth well in excess of that required in order to have its license approved without conditions.

Mr. Shropshire questioned whether the issue Ms. Wiener is asserting is worth it if it would allow the Board to move forward with a recommendation.

Ms. Wiener stated that she does not have authority at this moment to accept that because with a net worth of \$674k, there should be absolutely no conditions placed on this licensure.

MOTION: Mr. Helm moved to approve the Division's recommendation that the Licensee's preneed main license be renewed for the one year period beginning July 1, 2011. Mr. Andrew Clark seconded the motion, which passed with 2 dissenting votes.

- B. Motion for Reconsideration of Denial of License*
- (1) Recommended for Approval with Conditions*
- (a) Application(s) for Preneed Main License*
- 1. Gendron Funeral & Cremation Services, Inc (Ft Myers)*

This matter comes before the Board upon the attached Motion for Reconsideration of Board Action, dated March 6, 2012, filed on behalf of Gendron Funeral & Cremation Services, Inc. (hereinafter "Applicant") by its counsel, Wendy Wiener.

Applicant seeks reconsideration by the Board of the Board's denial of Applicant's application for preneed main license. Said denial occurred at the Board's meeting on October 6, 2011. The Division of Funeral, Cemetery, and Consumer Services (hereinafter the "Division") attaches hereto as background, the cover sheet and materials from the October 6, 2011 Board meeting. The Division had recommended denial of the application at the October 6, 2011 meeting, based upon the Vermont disciplinary record of Applicant's principal, Michael P. Gendron.

Subsequent to the October 6, 2011 Board meeting, the Division and the Applicant have negotiated the attached proposed Stipulation for Licensure, dated March 19, 2012, which, among other things, requires Applicant, once licensed, to have conducted, at Applicant's expense, annual CPA audits of the preneed operation, for the first two years of Applicant's existence as a preneed Licensee, with the audit reports to be submitted to the Division.

In addition, the Stipulation for Licensure would require Applicant to use 100% trust or insurance funding for all preneed sales, for at least 5 years, after which period Applicant may petition the Board to lift the restriction.

The Division has not received any consumer complaints against Gendron Funeral & Cremation Services, Inc. since the entity was licensed under current ownership. The Division recommends that the application be approved with conditions as set forth in the attached Stipulation for Licensure dated March 19, 2012.

Mr. Helm recalled that the denial was not mainly because of the Vermont disciplinary record but the fact that the Applicant had signed a 5-year agreement that he would not sell preneed. Mr. Helm added that was his basis for voting for the denial.

Mr. Hall stated that the agreement Mr. Helm is referring to goes through August 2014. Originally the Applicant filed an application for an establishment and then withdrew it. Another individual, Mr. Savino, came in and put the establishment in his company's name and since has come back to indicate that he has another venture and now wants to transfer it back into them.

Ms. Wiener stated that she feels very strongly that a denial based on a Stipulation contained in an unrelated license application cannot serve as the basis for a denial of this particular preneed license. This Licensee's application stands on its own and this particular license application, as Mr. Shropshire and I have agreed, is approvable consistent with conditions that were suggested by the Division to ensure that there is no problem with the preneed Licensee or any of its activity. Since Mr. Gendron has been licensed to own this establishment, there have been no problems with it at all. Furthermore, since Mr. Gendron has been licensed as a funeral director and embalmer in the State of Florida and was disciplined for what happened in Vermont more than 12 years ago, there have also been no problems with his licensure. So to base a denial of this particular license on something that happened in a completely unrelated license application would not be upheld by the Division of Administrative Hearing, which I believe was the basis for the Division Director agreeing to enter into a licensing stipulation where it would have significant oversight over this license as it goes forward and at the same time be able to allow the Licensee to engage in business.

Ms. Dudley stated just to make it clear, that this is a motion for reconsideration, so the Board is not looking at this fresh again as a denial. First the Board needs to decide whether it will reconsider this application and then if the Board decides it does not want to reconsider it, then it stands on the previous denial which was based on the Vermont disciplinary action.

Ms. Wiener stated there has not been an Order issued yet. I believe that the record would reflect that it was not just the Vermont disciplinary action, it was also the 5-year term in a completely unrelated Stipulation and that is the point that gives the lawyers in the case the collective desire to see it resolved in a way other than proceeding to hearing before the Division of Administrative Hearing.

Mr. Hall questioned whether Ms. Wiener understands why it would give the Board concern if an enticement was used to get the Board to approve it originally and then the agreement was changed. Mr. Hall requested that Ms. Wiener explain why this happened.

Ms. Wiener stated that she could not speak to that per say. Mr. Savino did acquire and operate the business validly and without any problem either with Mr. Gendron just continuing as an employee there. Mr. Savino got a new partner and wanted to move his business interest across the state so the time was right for the establishment to change hands, which it has done and which there have been no regulatory problems associated with Mr. Gendron or his establishment or the preneed contracts that have been fulfilled at his establishment. Once the Board determines whether it will reconsider this action, it should view this particular application and its merits standing alone. As regards the discipline in Vermont that really was more than a dozen years ago and Mr. Gendron has been licensed and has in fact sold preneed for other Licensees since that time for almost the entirety of the time period between now and then until the prior license was issued.

The Chair questioned whether there was a motion to reconsider the previous denial. There was a negative response.

Since there was no motion to reconsider the previous denial, the denial of the license stands.

C. Request to be Released from Disciplinary Probation
(1) Recommended for Approval without Conditions
(a) Epps Jr, Lawrence J (F043918)

This matter is before the Board upon the request of Mr. Epps to be released from disciplinary probation.

A disciplinary case concerning Mr. Lawrence Epps Jr came before the Board at the Board's December 2009 Board meeting. The Board accepted a Settlement Stipulation and a Consent Order in Case No. 103975-09-FC was issued. Mr. Epps was placed on probation for a period of two years beginning on December 10, 2009. Mr. Epps was ordered to pay a fine in the amount of \$2500 and costs of \$250, which fine and costs were paid on January 13, 2010. He was also ordered to complete the three hour Embalming II course (FSE 2140) and a one hour Embalming II Clinical course (FSE 2141L), which were completed on May 7, 2010.

The two year probation period lasted through December 2011. However, the Settlement Stipulation provides that as a condition for release from the probation, Mr. Epps (or a representative) must appear before the Board to demonstrate that he is rehabilitated and that the probation may be terminated without unreasonable danger to the public. It is the requirement for his appearance that this matter is on the April 2012 Board meeting agenda.

No consumer complaints or inspection problems have been noted since he went on probation. The Division is recommending the probation be lifted as Mr. Epps is in full compliance.

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

Mr. Lawrence J Epps Jr answered, "Yes."

The Chair questioned whether Mr. Epps would like to address the Board or just answer any questions.

Mr. Epps stated that he would answer any questions the Board may have.

MOTION: Mr. Hall moved to approve the request to lift Mr. Epps' probation as he is in full compliance. Ms. Gail Thomas-Dewitt seconded the motion, which passed unanimously.

D. Request to Reconsider Previous Board Action
(1) Recommended for Approval with Conditions
(a) Miller, Henry (F044185)

On March 2, 2012, the Division received the attached correspondence from Henry Miller, through his attorney, requesting that the Board reconsider its action at the February 2012 Board meeting, regarding the following disciplinary matters: Miller Mortuary, P.A., Case No. 117949-11-FC (Board voted to revoke license) and Henry Miller, Case No. 117948-11-FC (Board voted

to revoke license). The Board Orders are in process and have not been executed, pending Board decision regarding this request.

During the February Board meeting, the Department through its attorney recommended revocation of the funeral establishment license and a one-year suspension of Mr. Miller's funeral director and embalmer license.

After receiving the March 2, 2012 request, the Department advised the Licensees, that the Department is willing to recommend reconsideration of the matter consistent with the Department's original recommendations to the Board; revocation of the funeral establishment license and a one year suspension of Mr. Miller's funeral director and embalmer license.

The parties executed a proposed Settlement Stipulation, which is subject to Board approval. According to the terms of the proposed Settlement Stipulation, Mr. Miller agrees to accept revocation of the funeral establishment license and a one-year suspension of his funeral director and embalmer license. The Division recommends approval of the Settlement Stipulation for Consent Order, in Case No. 117948-11-FC.

Mr. Clark stated that Mr. John Rudolph indicates that Mr. Miller now understands the need of the complaint log and identification of remains. Mr. Clark questioned what has changed.

Mr. Rudolph, representing the Applicant, stated that in a number of cases with elderly funeral directors that did not understand that when the law changed it would now require them to have complaint logs. When I talked to Mr. Miller he advised that he had not received notice of this but indicated that he had fixed everything. Mr. Miller indicated that he does put tags on the bodies and he keeps his funeral records on a laptop. Mr. Miller had all of his funeral contracts scanned and put on a laptop, which he tried to show to the Examiner but the Examiner would not look at it. Mr. Miller did not understand that he had to have a complaint log even if he did not have any complaints. Mr. Miller now understands that he has to have a complaint log and procedures. Mr. Miller is 70 years old. Mr. Rudolph stated that revoking Mr. Miller's license for an inspection that was not harming an individual or a danger to the public was a little extreme. Suspension of the license is the appropriate penalty and that is what the Department recommended. I believe we went a little bit beyond it and that is why I am asking for reconsideration for this 70 year old man who I do not know how much longer he is going to be around.

Mr. Dick Mueller stated that Mr. Miller did not appear at the meeting or made no response to the issues raised.

Mr. Rudolph stated that Mr. Miller advised that he did not receive notice of the meeting until after the meeting. Mr. Linje Rivers advised that the notice was submitted to Mr. Miller and was received. For some reason, Mr. Miller forgot and did not come. Mr. Rudolph stated if you have a complaint filed against you, you should respond to it, request a hearing because if you do not you have waived all rights, you cannot argue anything and then you are at the Board's mercy. In this case, we are trying to get it changed from revocation of Mr. Miller's license to a suspension.

Ms. Thomas-Dewitt questioned why Mr. Miller is not present at today's meeting.

Mr. Rudolph responded that he told Mr. Miller he did not need to attend as he would be present to represent him. Mr. Rudolph stated if the Board wanted Mr. Miller present, he could have asked his client to come all the way up here.

Ms. Thomas-Dewitt stated that it appears Mr. Rudolph is suggesting that Mr. Miller is not quite up to faculties, yet he stocks all of his information on a laptop.

Mr. Rudolph stated that a lot of people are scanning things in and putting them into computers.

Ms. Thomas-Dewitt stated it would appear that Mr. Miller is not computer illiterate.

Mr. Rudolph stated that he does believe Mr. Miller is computer literate or maybe someone is helping him.

Mr. Hall stated that Mr. Miller is computer literate but he is unable to read his requirements of the law.

Mr. Rudolph stated that ignorance of the law is no excuse. These older funeral directors who had a different standard under DBPR, who were probably never written up because I do not see any prior discipline, for some reason it did not click in Mr. Miller's mind.

The Chair stated that the Settlement Stipulation calls for one year suspension of Mr. Miller's funeral director and embalmer's license. The Chair questioned whether Mr. Miller would also agree that after the one year suspension he would not be permitted to serve as a FDIC at any establishment.

Mr. Rudolph stated that Mr. Miller would agree to the condition as suggested by the Chair.

Mr. Clark questioned whether the Division could confirm whether the Bodies Handled Reports were received by the Division.

Mr. Shropshire stated that sitting here he could not confirm whether or not they were received.

Mr. Hall questioned whether the Division has the manpower to perform a current inspection to ensure the problems have been corrected if this Order is approved.

Mr. Shropshire stated that the Division could conduct a special inspection.

Mr. Hall questioned whether Mr. Miller would agree to appear before the Board at the end of the one year suspension for reinstatement of his license.

Mr. Rudolph stated he would call to discuss that with Mr. Miller right now.

The item was held in abeyance while Mr. Rudolph consulted with Mr. Miller.

Mr. Rudolph stated that he has spoken to Mr. Miller and he has agreed that he would come before the Board after the one year suspension and will not act as an FDIC for one year after the suspension.

Mr. Shropshire stated that he did not recall the one year period.

The Chair stated that he said for a period of time and Mr. Rudolph went back to his client and asked about a year.

MOTION: Mr. Helm moved to approve the Settlement Stipulation for Consent Order, with the condition that Mr. Miller appear before the Board after the one year suspension for reinstatement of his license and Mr. Miller cannot act as FDIC for a period of five years after the suspension. The motion failed as there was no second.

MOTION: The Chair moved to approve the Settlement Stipulation for Consent Order, with the condition that Mr. Miller appear before the Board after the one year suspension for reinstatement of his license and Mr. Miller cannot act as FDIC for a period of one year after the suspension. Ms. Jean Anderson seconded the motion, which passed with 1 dissenting vote.

4. Disciplinary Proceedings(s)

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

(1) *Wilson-Wolfe, Inc d/b/a Sweet Dreams Memorials: Case No. 118247-11-FC, Division #1-633051548 (F041856) (Probable Cause Panel A)*

Mr. Rivers stated that on August 29, 2011, the Department filed an Administrative Complaint, alleging that Wilson-Wolfe, Inc., d/b/a Sweet Dreams Memorials licensed monument establishment retailer (hereinafter "Respondent"), failed to comply with the rules regarding the installation of grave markers. Additionally, the Licensee did not present fully executed written agreements upon request.

The Administrative Complaint was received by Respondent on September 1, 2011, by certified mail. Provided in the Administrative Complaint were Notices of Rights informing the Respondent that failure to respond in writing, within twenty-one (21) days of its receipt of the notice in the Administrative Complaint, would constitute a waiver, by the Respondent, of the

right to request a proceeding on the matters alleged in the Administrative Complaint and an Order of suspension or revocation by the Board would be entered against Respondent.

On September 17, 2011, the Department received an Election of Proceeding from Respondent. The Respondent elected to have a formal hearing as to this case. However, in this Election of Proceeding the Respondent did not include any material facts in dispute. The Department sent the Respondent an Order Dismissing Petition for Section 120.57(1) ("Order"), Florida Statutes, proceeding without prejudice so the Respondent could amend the earlier Election of Proceeding form and respond with material facts that were in dispute. Respondent did not file an Election of Proceeding form or other responsive pleading in this case within the statutory time frame to dispute the allegations contained in the Administrative Complaint. Respondent did file a response after the twenty-one (21) day time period. However, even this late response failed to include any materially disputed facts as required by Rule. Therefore, the Department requests the Chairman of the Board to entertain a motion finding that the Respondent was served with an Administrative Complaint containing Notice of Rights, that Respondent's response was not received within 21 days and was not timely received by the Department, and Respondent has waived its rights to request a proceeding involving disputed issues of material facts in this matter.

MOTION: Mr. Hall moved to find that the Respondent waived its rights to request a proceeding in this matter. Ms. Thomas-Dewitt seconded the motion, which passed unanimously.

Now that the Board has determined that the Respondent has waived its right to request a proceeding, the Department believes it is appropriate at this time for the Chair to entertain a motion adopting the Allegations of Fact as set forth in the Administrative Complaint.

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

Now the Department contends that the Board's Findings of Fact support a finding of the violations of the alleged sections of Chapter 497, F.S. and Rule 69K, F.A.C as charged in the Administrative Complaint and requests that the Board entertain a motion adopting the Conclusions of Law as alleged in the Administrative Complaint.

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

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

Mr. David Wilson-Wolfe responded, "Yes sir." Mr. Wilson-Wolfe stated that he owns Sweet Dreams Memorials. I am a small business owner and have been in this country for six years. Two years ago I installed into a cemetery in Ruskin, which Mr. Powell Helm is a member of the Board. I do want to say that he should actually have no, there is a conflict of interest with Mr. Helm in this matter and I have got proof of that. Mr. Wilson-Wolfe added that he installed a slab for a family into a cemetery and the family had gotten the go ahead from a member of the Committee. Ruskin is a rundown cemetery, not really looked after. I submitted paperwork to you guys, photographs. There were never any rules or regulations pinned up or posted anywhere in this cemetery. As we all are aware, many cemeteries in Florida do not have caretakers or anyone to look after them. Sometimes it's maybe just a Committee member, couple of Committee members, old ladies, old guys, whatever they are and I have dealt with some of those people like that who indicate they do not know who is going to look after the cemetery once they are gone. Mr. Wilson-Wolfe stated that he has installed into Ruskin Cemetery several times before for the funeral homes and have never had a problem. I went to install a slab after being told we had the go ahead with no paperwork given to the family on the sale at that time. The only time they got paperwork or rules and regulations was months after the actual installation. Mr. Wilson-Wolfe stated that he has proof of this and has also submitted it to the Department with regards to that. The situation was, in my eyes, I contacted Mr. McMurray down in Tampa who listened to my case and advised everything was okay, do not worry about it, not a problem. Mr. McMurray would never send anything in writing other than when I got the letter advising I had done something wrong. Mr. Wilson-Wolfe advised that he had copies of paperwork with photos of the cemetery with the rules and regulations if anyone would like to see.

Mr. Hall advised that the Board received the photos,

Mr. Wilson-Wolfe objected and stated that those photos were taken afterwards. Mr. Wilson-Wolfe stated he was told he could submit paperwork which is paperwork you should have gotten from the original get go from the original pages I sent. This is the original one, the letter.

The Chair stated that there is no disputing of the facts.

Mr. Wilson-Wolfe stated that he was fed rubbish when he contacted the Department Mr. Rivers stated he would be assisting him but he was not. I then found out the following time afterwards, he was who he was and I complained to "Tracy Coburn" with the Department to dispute all the problems. I faxed, I emailed, and I sent registered letters which were turned away by the Department.

The Chair stated before today Mr. Wilson-Wolfe chose not to dispute the facts.

Mr. Wilson-Wolfe stated that he did not choose that. They sent me a letter and we have no mail being delivered because there is road work being done on our road and they have moved all the mailboxes so I never got that letter. When I did receive the letter, it was passed the 21 day mark, which I explained to Mr. Rivers who then sent me some more paperwork to fill out and I submitted. Mr. Wilson-Wolfe stated that he called to ask Mr. Rivers if he would like for him to submit some proof and all of his paperwork. Mr. Wilson-Wolfe stated that he does not understand all the terminology as he is English. No apologies that my brain is not as clever as all the guys in the room. At the same time, he read through all the sections and all I could see in my head was that I was going to lose my license and have to pay a high fine. At that time, Mr. Wilson-Wolfe claims that he went into a state of shock and is still shaking now. I spoke to this guy (Mr. Rivers) for advise thinking, not knowing who he was, and he is giving me the opposite. He is telling me things that he should not have said and then later on, the last thing he then says to me "I'm not supposed to be talking to you". This is after the paperwork, the 21 days I had been sent by registered mail, they turned it away at the office. It got to them three days after with the paperwork in there. Three days after because they refused to sign for it at the Department.

Mr. Helm stated at the bottom of Mr. Wilson-Wolfe's contract, it reads, "*ALL TERMS OF THIS AGREEMENT WILL CONFORM WITH FLORIDA STATUTE GOVERNING MONUMENT ESTABLISHMENTS AND WILL (if necessary) BE ENFORCED IN HILLSBOROUGH COUNTY, FLORIDA. THIS IS NOT A PRENEED CONTRACT....*" Mr. Helm quoted Rule 69K-12.005(9) "*The agreement shall disclose the latest date the memorial or monument will be installed and that the memorial or marker meets all of the cemetery's rules and regulations as of the date of the contract.*"

Mr. Wilson-Wolfe concurred but questioned "Where were your rules and regulations in your cemetery?" You (Mr. Helm) are the Board member, you are on the Committee, you should know better than to have rules and regulations in your cemetery that you are looking afterwards. No rules and regulations. I have proof. I actually take pictures of every job I do. When your caretakers were telling me that you guys are involved and who you are and also that Thurman Lowe is a member of your Board and your friends then obviously I start panicking. I take photographs. I have photographs in here of the cemetery entrance where it bricked up and nice with all the designs. You see two little signs. Those little signs were moved to the gate and on those signs it said note the times for going into the cemetery and then no drinking alcohol...and that is all it states. Nothing was in there.

Ms. Dudley stated that she understands Mr. Wilson-Wolfe disputes whether he has waived his rights to present facts in this matter but the Board already ruled that Mr. Wilson-Wolfe has waived his right to dispute the facts. Mr. Helm had a questioned that was answered so Ms. Dudley requested that the Board move on to any further questions.

Mr. Wilson-Wolfe stated that the Board has been fed what they wanted you to see and I've got the proof here.

Mr. Helm questioned the Division's recommendation.

Mr. Shropshire stated that the Division recommends that the Licensee be given 30 days to bring the monument into compliance with the cemetery's rules that the license be suspended but the imposition be stayed for 30 days to give him time to correct the monument. If he corrects it then the suspension will not go into effect. In addition, a \$500 fine will be imposed. The 30 days begin on the filing of the Board Order.

MOTION: Mr. Mueller moved to accept the Division's recommended penalty. Mr. Hall seconded the motion, which passed unanimously.

Mr. Wilson-Wolfe questioned the appeal process.

Ms. Dudley stated that Mr. Wilson-Wolfe would receive an Order in the mail entailing the appellate rights.

Mr. Wilson-Wolfe stated that the Department has let him down as a person by not looking after him when he needed help.

B. Proposed Settlement Stipulations

(1) Alliance Monument & Marble Co, Inc: Case No. 122927-12-FC, Division #17130 (F037816)

Ms. Mary K Surles stated that on October 10, 2011, the Department conducted an investigation of Respondent's activities in the death care industry for failing to produce and deliver timely a marker or, in the alternative, issue a refund as of October 10, 2010, to the consumer.

Pursuant to the executed Waiver of Finding Probable Cause and Waiver of Confidentiality, Respondent has voluntarily waived a finding of probable cause to formally charge a violation of Chapter 497, Florida Statutes, in this matter, and admits all the facts and violations as alleged in the investigation for resolution at the time the Consent Order is accepted in this case, pursuant to Section 497.153(4)(c), Florida Statutes.

If the Board accepts this Settlement Stipulation the Respondent will pay an administrative fine in the amount of \$2,500.00, and costs in the amount of \$250.00 within sixty (60) days of the Consent Order issued in this case, and Respondent's Monument Establishment License will be placed on probation for a period of two (2) years with the specific condition that Mr. Sandy Barany will complete four (4) hours of continuing education in Ethics in addition to any required continuing education for Mr. Sandy Barany.

MOTION: Ms. Thomas-Dewitt moved to accept the Settlement Stipulation as recommended by the Department. Mr. Mueller seconded the motion, which passed unanimously.

(2) Chandler, Clyde: Case No. 122375-12-FC, Division #1-670888071 (F043169)

Ms. Surles stated that on July 15, 2012, the Department conducted an investigation of the Respondent's activities in the death care industry for offering and selling preneed for final expenses to consumers without having a valid preneed license as required by Chapter 497, Florida Statutes.

Pursuant to the executed Waiver of Finding Probable Cause and Waiver of Confidentiality, Respondent has voluntarily waived a finding of probable cause to formally charge a violation of Chapter 497, Florida Statutes, in this matter, and admits all the facts and violations as alleged in the investigation for resolution at the time the Consent Order is accepted in this case, pursuant to Section 497.153(4)(c), Florida Statutes.

If the Board accepts this Settlement Stipulation the Respondent will pay an administrative fine in the amount of \$2,500.00, and costs in the amount of \$250.00 within thirty (30) days of the Consent Order issued in this case, and Respondent's Funeral Director and Embalmer License will be placed on probation for a period of two (2) years with the specific terms and conditions to complete four (4) hours of continuing education in Ethics in addition to any required continuing education, and that the Respondent will not offer or sell preneed for final expenses without being licensed to do so.

MOTION: Mr. Clark moved to accept the Settlement Stipulation as recommended by the Department. Ms. Anderson seconded the motion, which passed unanimously.

(3) Chandler's Funeral Home: Case No. 122376-12-FC, Division #1-670888071 (F040796)

Ms. Surles stated that on July 15, 2012, the Department conducted an investigation of the Respondent's activities in the death care industry for offering and selling preneed for final expenses to consumers without having a valid preneed license as required by Chapter 497, Florida Statutes.

Pursuant to the executed Waiver of Finding Probable Cause and Waiver of Confidentiality, Respondent has voluntarily waived a finding of probable cause to formally charge a violation of Chapter 497, Florida Statutes, in this matter, and admits all the facts and violations as alleged in the investigation for resolution at the time the Consent Order is accepted in this case, pursuant to Section 497.153(4)(c), Florida Statutes.

If the Board accepts this Settlement Stipulation the Respondent will pay an administrative fine in the amount of \$2,500.00, and costs in the amount of \$250.00 within thirty (30) days of the Consent Order issued in this case, and Respondent's Funeral Establishment License will be placed on probation for a period of two (2) years with the specific condition that the funeral establishment will not offer or sell preneed for final expenses without being licensed to do so..

MOTION: Mr. Clark moved to accept the Settlement Stipulation as recommended by the Department. Ms. Anderson seconded the motion, which passed unanimously.

(4) Comoletti, David: Case No. 114204-11-FC, Division #1-589589813 (F041679) (Probable Cause Panel B)

Mr. Rivers stated that David Comoletti, at all times relevant, was the Funeral Director in Charge (FDIC) at Atlantic Mortuary, Inc., of Rockledge, Florida. Atlantic Mortuary is no longer an operating concern. It is alleged that David Comoletti falsely executed and filed approximately 302 Burial Transit Permits with the signature of the sub-registrar falsely affixed and all done without the sub-registrars knowledge and informed consent. This would be a violation of Sections 497.152(1)(a)(b)(g) and (h). Additionally, an inspection was performed at Atlantic Mortuary. The inspection revealed that Atlantic Mortuary's preparation room and floors were dirty, unsanitary, and not properly maintained, in violation of Section 497.152(a), Florida Statutes, and Rule 69K-21.003(5), Florida Statutes. The same inspection also revealed that Atlantic Mortuary did not have a sink with cold and hot running water, in violation of Section 497.152(a), Florida Statutes, and Rule 69K-21.003(1)(e), Florida Statutes.

Evidence supports the conclusion that Respondent violated the enumerated statutes and administrative rules. The Respondent has elected to enter into this Settlement Stipulation. Mr. Comoletti has agreed to pay a fine of \$1000.

Mr. Hall questioned how the Department came up with the fine amount of \$1000 when there are 302 fraudulent signatures.

Mr. Rudolph, representing Mr. Comoletti, stated that they have contested the 300 signatures. It has been our position that Ms. Smith signed a number of the forms as a sub-registrar for a long period of time and then gave authority to Ms. Brenda Brietzke, who is a previous employee of the funeral home, when she sold it to Mr. Comoletti. She signed her name to a bunch of them and Mr. Comoletti signed four or five. In looking at all the evidence and all the handwriting on the signature lines that is supported by the record so we came up with a \$1000 fine. Mr. Comoletti is no longer in the funeral home. It was foreclosed and turned back to the Smiths who got upset because Mr. Comoletti filed bankruptcy and did not pay back the mortgage on it. Mr. Comoletti is trying to become a teacher but because of this complaint, the Department of Education is not allowing him to teach until this is resolved.

Mr. Hall questioned whether there was any action taken against Mr. Comoletti's personal license.

Mr. Rudolph stated that is what this is. This is a first offense against Mr. Comoletti. There is no prior discipline against Mr. Comoletti. This relates to his signing as a sub-registrar, June Ellis Smith's name. Looking at the 302 signature, you can tell the four or five Mr. Comoletti signed because they were different it appears that a lot of them were signed by June Ellis Smith.

Ms. Dudley questioned whether Mr. Hall means whether there is no suspension or anything because the \$1000 fine is action against the license.

Mr. Hall concurred. Mr. Hall questioned whether the penalty would be affected by the bankruptcy.

Mr. Rudolph stated it would be a post-petition debt.

Ms. Wiener, representing the complainant June Smith, advised that she would like to address the Board concerning these issues. The forgeries by Mr. Comoletti were forgeries by Mr. Comoletti. I do not know whether the material the Board has paints a complete picture.

Ms. Dudley advised Ms. Smith that her discussion must strictly relate to this case here today and the allegations in this case only.

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

Ms. June Ellis Smith answered, "I do." On approximately February 12, 2009, my husband and I went to the funeral home to make an inspection which was a part of the contract between us and Mr. Comoletti. Upon looking around, I found this blue folder marked non compliant. It caught my eye so I opened it up and found letters from the Department of Health where burial transit permits and death certificates had not been filed in a timely manner, so I thumbed through it. "Oh my Lord," I said to my husband. This is not my signature. As I began going through the boxes of his files I discovered over 300 burial transit permits with my signature forged. None of these signatures were affixed by my hand. At no time did I give Mr. Comoletti or any of his employees, permission to use my name. It was my understanding that Mr. Comoletti was going to have a sub-registrar of his own. At the time of the signing it was going to be his wife. Obviously that did not go through. The rest of the stipulation for the Board has to do with the condition of his embalming room being filthy. On the same visit when I filed the complaint, we found deplorable conditions of the embalming room as well. My husband left the funeral home, went to a CVS store on the corner, bought a camera and made pictures of the embalming room. Ms. Smith presented the Board members with the pictures.

Ms. Dudley advised that she did not need a copy and requested that Ms. Smith give her copy to Mr. Rudolph.

Ms. Smith stated that Mr. Aldon Asher went to the funeral home on a normal inspection on March 11, 2009. In the packet, someone indicated that the embalming room was filthy and it appeared it had not been cleaned for a very long time. We know at least a month. This gentleman was using this embalming room. At some point without a current license as his license had expired and was not renewed until the end of January. Ms. Smith stated that she feels the \$1000 fine is extremely minimal for over 302 forgeries of her name and also the condition of this that he was presenting the public.

Ms. Thomas-Dewitt questioned whether there was staff present when Ms. Smith was there taking photos.

Ms. Smith stated that Mr. Comoletti was present.

Mr. Helm questioned which license was expired.

Ms. Smith stated that Mr. Comoletti's establishment license was not renewed at the end of 2008 until January 2009.

Mr. Rudolph questioned when Ms. Smith foreclosed on the funeral home.

Ms. Smith stated that proceedings began in March 2009. The complaint was filed before we started foreclosure proceedings.

Mr. Rudolph stated that Ms. Smith foreclosed on the funeral home and took it over.

Ms. Smith stated it was ten months later.

Mr. Rudolph questioned when Ms. Smith sold the funeral home to Mr. Comoletti.

Ms. Smith stated that Mr. Comoletti took possession on September 1, 2006.

Mr. Rudolph questioned whether it is Ms. Smith's testimony today that she never signed as sub-registrar on a burial transit permit for David Comoletti while he was owner of the business.

Ms. Smith stated that she never said that. I never gave him permission to sign my name.

Mr. Rudolph questioned whether Ms. Smith signed a number of burial transit permits for David Comoletti.

Ms. Smith stated that she had but not any of the ones in question.

Mr. Rudolph questioned the estimated number of burial transit permits that Ms. Smith did sign for David Comoletti.

Ms. Smith stated it was a period of three to four months, so it was probably 100.

Mr. Rudolph questioned whether Ms. Smith ever signed multiple copies and left them when she went on a vacation.

Ms. Smith concurred.

Mr. Rudolph questioned whether Ms. Smith told Brenda Brietzke or David Comoletti that if they ran out they could sign.

Ms. Smith responded, "Never."

Ms. Thomas-Dewitt stated that it is not a proper practice to pre-sign burial transit permits and allow them to be used at their leisure. Ms. Smith has openly admitted to this. The \$1000 fine is very lenient. There should be another investigation opened regarding the accusations being brought up today.

Mr. Hall questioned whether the Board is able to assess some additional penalty against his personal license, such as suspension or revocation.

The Chair stated that there is a motion on the floor that does not do anything other than increase the fine from \$1000 to \$5000.

Mr. Shropshire stated the motion would be to reject the present Stipulation and make a counteroffer.

Ms. Dudley stated that motion is limited to that but Mr. Hall could request that the motion be amended.

Mr. Hall stated he would like to see revocation of the personal license.

Mr. Rudolph questioned what would be the basis for the revocation.

Mr. Hall questioned whether Mr. Rudolph saw the photos.

Mr. Rudolph responded that the photos from a private person walking into an embalming room right after an embalming or at a time when there was not an inspection done and there is no time stamp on when the photos were taken.

Mr. Hall stated that was not an embalming room that was just not cleaned after an embalming. That embalming room had not been cleaned in months and it is horrid.

Ms. Thomas-Dewitt stated that she would be willing to add a probationary period to the motion.

Mr. Hall questioned whether Mr. Rudolph would like to see his mother on that embalming room table.

Mr. Rudolph stated that was cold and answered, "no."

Mr. Hall stated that is what happens.

Mr. Rudolph stated that this is information being provided to the Board at the last minute. Mr. Comoletti was trying to settle this case as quickly as possible.

Mr. Hall questioned whether Mr. Rudolph agrees with the assertion that Mr. Comoletti operated without a license.

Mr. Rudolph stated that he does not agree with that.

The Chair stated that issue is not before the Board today.

Ms. Wiener stated that the issue is among the allegations in the Administrative Complaint.

Mr. Shropshire questioned whether Mr. Rivers considers that charge to be before the Board in the Settlement Stipulation.

Mr. Rivers stated that he would have to read through the Administrative Complaint as it was prepared by Mr. Bossart.

Mr. Mueller questioned whether Ms. Thomas-Dewitt's suggestion for additional investigation should be included in this motion.

Ms. Dudley stated that Mr. Shropshire would follow through with opening any additional investigations if needed.

Mr. Shropshire stated that he made a note to investigate the allegations that Ms. Smith pre-signed blank burial transit permits, she acknowledged doing so at the Board meeting and apparently Mr. Comoletti agreed to accept and used the pre-signed burial transit permits.

Mr. Rivers stated that the license was delinquent from December 1, 2008 through January 23, 2009.

Ms. Dudley stated she could not find the Administrative Complaint in the packet.

Mr. Rudolph stated that there is an Administrative Complaint, however, it was not included in the Board packet.

Ms. Dudley questioned whether the allegation that Mr. Comoletti was practicing with a delinquent license is included in the Administrative Complaint.

Mr. Rudolph stated that he just looked at the Administrative Complaint and it was not included.

The Chair stated the allegation was not a part of the Administrative Complaint.

Mr. Rudolph stated he would have to confer with his client to see if the counteroffer is acceptable.

Ms. Dudley stated that if the Board wants to make a counteroffer, Mr. Rudolph could confer with his client and accept the offer after the meeting.

Mr. Shropshire questioned whether Ms. Dudley is suggesting that the Board could authorize the Division to do a Settlement Stipulation if he accepts.

Ms. Dudley stated that it could be done that way or the Order could state what the counteroffer is and the Respondent would be given a timeframe to accept or reject it in writing. The Settlement Stipulation would actually make it easiest.

The Chair questioned which would be best for Mr. Rudolph and his client.

Mr. Rudolph stated it would be best to take back the counteroffer to his client.

Mr. Shropshire stated it does not appear an Order would be issued in this case because if Mr. Comoletti rejects the Settlement Stipulation, he still has his DOAH rights.

Ms. Dudley stated she would do an Order that does not have DOAH rights on it, "Order of the Board Rejecting the Settlement and Making a Counteroffer," indicating a timeframe to accept the Order in writing. The motion would include that the Settlement Stipulation would stand with an increase in the fine so that Mr. Comoletti would be bound by what he signed.

Mr. Hall questioned whether there is an automatic suspension or revocation if the fine is not paid on time.

Mr. Shropshire stated if the fine is not paid within the specified period then the Legal staff begins the process of issuing an immediate Order. Yes, the license will be suspended unless he gets the fine in before the Immediate Final Order is issued.

Mr. Mueller questioned the current status of the license.

Mr. Shropshire stated that the license would be valid unless Mr. Comoletti fails to pay the fine on time and becomes subject to an Immediate Final Order for failure to pay the fine.

Mr. Mueller questioned whether Mr. Comoletti could be doing business today since the license is valid.

Mr. Shropshire stated he believes that is the case.

Mr. Clark questioned whether the motion on the floor is based on the burial transit permits and the condition of the floor only.

Ms. Thomas-Dewitt concurred.

Ms. Wiener stated that the imposition of a fine without any other additional oversight or action taken against his licensure really seems inconsistent even with what we have seen here today. We have a Licensee who failed to place a marker in a timely fashion or to refund money to the consumer and they were placed on two years probation. Someone who has engaged in over 300 acts of forgery and who keeps the condition of the Licensee for which they are responsible in the condition evidenced by the photographs, I suggest to you that the imposition of a fine alone is inconsistent with previous practice.

MOTION: Ms. Thomas-Dewitt moved to reject the Settlement Stipulation as recommended by the Department and counter with \$5000 fine, 1 year suspension and Respondent cannot act as FDIC for a period of 5 years; Respondent has 30 days to accept or reject the counteroffer. Ms. Anderson seconded the motion, which passed with 2 dissenting votes.

(5) *Itwaru, Steven: Case No. 122930-12-FC, Division #1-705938419 (F062801)*

Ms. Surles stated that the Department received the Respondent's application for licensure as a Preneed Sales Agent on November 11, 2011, on which Respondent made a material misstatement. The Department issued a Preneed Sales Agent License to the Respondent on December 22, 2010. However, the Department, on April 28, 2011, conducted an investigation of Respondent's activities in the death care industry and determined that the Respondent answered in the negative to the question that asked whether the Respondent had ever had a license or the authority to practice a profession or occupation acted against or disciplined by the licensing authority of any jurisdiction. Eight months prior to the Preneed Sales Application being submitted, the Office of Financial Regulation issued an Immediate Final Order to Steven Itwaru for practicing without a license as a mortgage broker, mortgage businesses and soliciting the public for loan modification services.

Pursuant to the executed Waiver of Finding Probable Cause and Waiver of Confidentiality, Respondent has voluntarily waived a finding of probable cause to formally charge a violation of Chapter 497, Florida Statutes, in this matter, and admits all the facts and violations as alleged in the investigation for resolution at the time the Consent Order is accepted in this case, pursuant to Section 497.153(4)(c), Florida Statutes.

If the Board accepts this Settlement Stipulation the Respondent will voluntarily surrender all licenses issued to the Respondent, pursuant to Chapter 497, Florida Statutes, which shall have the same force and effect as a revocation pursuant to Section 497.153, Florida Statutes. The Respondent shall not have the right to apply for licensure with the Department for another two (2) years from the effective date of the Consent Order issued in this case.

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

(6) *Poka, Michael: Case No. 122932-12-FC, Division #1-705938301 (F062800)*

Ms. Surles stated that the Department received the Respondent's application for licensure as a Preneed Sales Agent on November 11, 2011, on which Respondent made a material misstatement. The Department issued a Preneed Sales Agent License to the Respondent on December 22, 2010. However, the Department, on April 28, 2011, conducted an investigation of Respondent's activities in the death care industry and determined that the Respondent answered in the negative to the question that asked whether the Respondent had ever had a license or the authority to practice a profession or occupation acted against or disciplined by the licensing authority of any jurisdiction. Eight months prior to the Preneed Sales Application being submitted, the Office of Financial Regulation issued an Immediate Final Order to Michael Poka for practicing without a license as a mortgage broker, mortgage businesses and soliciting the public for loan modification services.

Pursuant to the executed Waiver of Finding Probable Cause and Waiver of Confidentiality, Respondent has voluntarily waived a finding of probable cause to formally charge a violation of Chapter 497, Florida Statutes, in this matter, and admits all the facts and violations as alleged in the investigation for resolution at the time the Consent Order is accepted in this case, pursuant to Section 497.153(4)(c), Florida Statutes.

If the Board accepts this Settlement Stipulation the Respondent will voluntarily surrender all licenses issued to the Respondent, pursuant to Chapter 497, Florida Statutes, which shall have the same force and effect as a revocation pursuant to Section 497.153, Florida Statutes. The Respondent shall not have the right to apply for licensure with the Department for another two (2) years from the effective date of the Consent Order issued in this case.

MOTION: Mr. Clark moved to accept the Settlement Stipulation as recommended by the Department. Mr. Helm seconded the motion, which passed unanimously.

(7) *White, Kimberly: Case No. 120948-11-FC, Division #1-696971925 (F045463) (Probable Cause Panel A)*

Ms. Surles stated that on December 9, 2011, the Department filed an Administrative Complaint in this matter with the Probable Cause Panel members of Keenan Knopke and Justin Baxley alleging Kimberly White, as the responsible funeral director in charge of the funeral establishment for Wright & Young Funeral Home, allowed three unlicensed individuals to sell preneed contracts on behalf of Wright & Young Funeral Home and on the funeral home's premises during July 1, 2006 through December 31, 2010.

If the Board accepts this Settlement Stipulation the Respondent will pay an administrative fine in the amount of \$2,500.00, and costs in the amount of \$250.00 within thirty (30) days of the Consent Order issued in this case. Respondent's Funeral Director and Embalmer License will be placed on probation for a period of two (2) years with the specific conditions to complete four (4) hours continuing education in Ethics, and to take and pass the Florida Law and Rules Exam within ninety (90) days of the issuance of the Consent Order to be issued in this case. Respondent is responsible for bearing all costs associated with the registration and completion of the Florida Law and Rules Exam. Respondent will provide written proof, to the Department, upon successfully passing the Florida Law and Rules Exam, within ninety (90) days of the Consent Order to be issued in this case.

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

(8) *Wright & Young Funeral Home, Inc: Case No. 120946-11-FC Division #1-696971925 (F038683) (Probable Cause Panel A)*

Ms. Surles stated that on December 9, 2011, the Department filed an Administrative Complaint in this matter with the Probable Cause Panel members of Keenan Knopke and Justin Baxley alleging Kimberly White, as the responsible funeral director in charge of the funeral establishment for Wright & Young Funeral Home, allowed three unlicensed individuals to sell

preneed contracts on behalf of Wright & Young Funeral Home and on the funeral home's premises during July 1, 2006 through December 31, 2010.

If the Board accepts this Settlement Stipulation the Respondent will pay an administrative fine in the amount of \$2,500.00, and costs in the amount of \$250.00 within thirty (30) days of the Consent Order issued in this case. Respondent's Preneed License will be placed on probation for a period of two (2) years with the specific condition that the preneed Licensee will utilize only licensed preneed sales agents either on or off the funeral establishment's premises to sell, offer to sell or make arrangements for preneed contracts. Should a Probable Cause Panel make a determination that probable cause does exist, for the filing of an Administrative Complaint, based on a finding that unlicensed preneed sales agents have sold, offered to sell, or made arrangements for preneed contracts then Respondent's Preneed Main License may be suspended for up to sixty (60) days.

Mr. Mueller questioned whether 60 days is all that would be allowed if the Respondent violates the Order and allows unlicensed preneed sales.

Ms. Surles stated that should that occur the Department may suspend the license for up to 60 days. At least that provides immediate action. There would then be a separate action brought after the Probable Cause Panel determines probable cause exists of a new administrative action based on new founded facts.

The Chair added this allows for immediate action and then later determination on the case.

Mr. Mueller questioned whether the Board could revoke the preneed license if that case was taken up.

Ms. Surles stated that the Board would then have another shot at the license.

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

*****BREAK*****

5. Application(s) for Authority to Acquire Control of an Existing Cemetery Company
A. Recommended for Approval *with* Conditions
(1) Live Oak Memorial Park, LLC (Crestview)

Live Oak Memorial Park, LLC herein submits an Application for Change of Control of an existing cemetery company. The cemetery company being acquired is Live Oak Memorial Park of Crestview, LLC d/b/a Live Oak Memorial Park located at: 112 North Avenue East, Crestview, currently licensed under number F039371.

The application was received by the Division on February 16, 2012 and deficiencies were noted on the application. A deficiency letter was sent to the Applicant on February 23, 2012 and all items of deficiency were satisfied as of March 9, 2012. A completed background check of all officers revealed no criminal history. This application is being filed due to an asset purchase acquisition by Live Oak Memorial Park, LLC; principal is David H. Chapman. Live Oak Memorial Park, LLC is acquiring all of the cemetery and preneed assets of the current Licensee. It should be noted that all preneed assets will be transferred under the preneed license of Live Oak Memorial Park, LLC (application pending), through filing for licensure of this location as a preneed main, which is also being presented for approval at this Board meeting. If this Application for a Change of Control is approved, the Applicant will operate as Live Oak Memorial Park, LLC.

The Applicant's financial statement as of January 31, 2012 reflects the following:

Required Net Worth	= \$ 50,000
Reported Net Worth	= \$ 70,000

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 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.
- 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 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 copy of the Asset Purchase Agreement, executed by all parties, and any and all amendments thereto, also fully executed.

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

6. Request(s) to Relocate Cemetery Records

A. Recommended for Approval with Conditions

(1) Live Oak Memorial Park of Crestview, LLC d/b/a Live Oak Memorial Park (Crestview) (F039371)

Live Oak Memorial Park of Crestview, LLC d/b/a Live Oak Memorial Park, Inc. (F039371), requests Board approval to relocate cemetery records currently held at 492 Pine Avenue, Crestview, FL to the location at 100 Martin St, Crestview, FL. This relocation is due to the filing of an application for a change of control of the cemetery, where by if the application is approved, all of the cemetery records will then be moved to the new location, upon completion of the closing of sale. The Licensee affirms the records will be housed securely in fire-proof file cabinets. Pursuant to Rule 69K-6.005, records will be available for review at the licensed facility or an alternative site of the cemetery company if approved by the Board.

The Division recommends approval with the condition that the application for a change of control of the cemetery from Live Oak Memorial Park of Crestview, LLC d/b/a Live Oak Memorial Park to Live Oak Memorial Park, LLC, also being presented at this meeting, be approved by the Board subject to stated conditions.

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

7. Application(s) for Preneed Main License

A. Recommended for Approval with Conditions

(1) Live Oak Memorial Park, LLC (Crestview)

Live Oak Memorial Park, LLC through its principal David H. Chapman, applies herein for a preneed main license. The Department received the application on February 16, 2012 and deficiencies were noted on the application. A deficiency letter was sent to the Applicant as of February 23, 2012 and the Applicant resolved all deficiencies as of March 15, 2012. A completed background check of all officers revealed no criminal history.

This application is being filed in conjunction with an application for a change of control due to an asset purchase acquisition by Live Oak Memorial Park, LLC; principal is David H. Chapman. Live Oak Memorial Park, LLC is acquiring all of the cemetery and preneed assets of the current Licensee. The qualifying Licensee will be a cemetery company located at 112 North Avenue East, Crestview, for which an application for a change of control has been filed by the Applicant, and is also being presented for approval at this Board meeting.

Prior to this application for a change in ownership, preneed was sold at this location under the name of Live Oak Memorial Park of Crestview, while it was licensed as a preneed branch under the preneed license of Funeral Services of Florida LLC d/b/a Rose Lawn Funeral Home of Gulf Breeze, LLC (F038695); principal is Vincent C. Manopoli.

If this present application for a preneed main license is approved, the existing preneed contracts formerly written under the preneed main license (F038695), Funeral Services of Florida, LLC d/b/a live Oak Memorial Park of Crestview, will be transferred to the Applicant upon completion of the closing of sale, and the Applicant will assume responsibility to perform all preneed contracts previously sold at this location (specifically, trust -funded contracts listed in the materials in this Board

package). If approved, Applicant will operate under the name, Live Oak Memorial Park, LLC, 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 January 31, 2012 reflect the following:

Acquired Preneed Contracts	\$	0
Required Net Worth	\$	10,000
Reported Net Worth	\$	70,000

The Division recommends approval subject to conditions as follows:

- 1) That the application for the change of control of the qualifying cemetery company, Live Oak Memorial Park cemetery, license number F039371, 112 North Avenue East, Crestview, Florida, also presented at this meeting, be approved subject to stated conditions.
- 2) That closing occurs within 120 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 135 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 135 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.
- 5) Upon closing of the transaction that will result in the change of control of Live Oak Memorial Park cemetery, license number F039371, 112 North Avenue east, Crestview, Florida, the preneed Licensee under this application shall become responsible for the existing preneed contracts previously written under preneed main license (F038695), Funeral Services of Florida, LLC d/b/a Live Oak Memorial Park of Crestview, as more fully specified in the Asset Purchase Agreement dated January 26, 2012 (included in the attached materials).

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

B. Recommended for Approval without Conditions
(1) McGan Cremation Service, LLC (Hernando)

The Department received the application on February 8, 2012 and no deficiencies were noted on the application. A completed background check of all officers revealed no criminal history. Applicant will use the pre-approved Funeral Services, Inc. (FSI) First Florida Trust Agreement (Sabal Trust Company) and pre-arranged funeral agreement. The qualifying direct disposal establishment license was issued on January 17, 2012.

The Applicant’s financial statements as of January 31, 2012 reflect the following:

Acquired Preneed Contracts	= \$	0
Required Net Worth	= \$	10,000
Reported Net Worth	= \$	10,546

The Division is recommending approval without conditions.

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

8. 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.

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

The Division recommends approval of the application(s).

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

10. **Application(s) for Continuing Education Course Approval**
 - A. *Recommended for Approval without Conditions – Addendum C*
 - (1) *Florida Cemetery, Cremation & Funeral Association (Provider #75)*
 - (2) *Independent Funeral Directors of Florida Inc (Provider #135)*
 - (3) *National Funeral Directors Association (Provider #136)*
 - (4) *Pinellas County Funeral Home Association (Provider #58)*
 - (5) *Practicum Strategies (Provider #65)*

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

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

11. **Application(s) for Approval as a Continuing Education Provider**
 - A. *Recommended for Approval without Conditions – Addendum D*
 - (1) *Cremation Association of North America #16008*
 - (2) *Didasko Communications, LLC #15808*

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

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

12. **Application(s) for Course of Study**
 - A. *Recommended for Approval without Conditions*
 - (1) *Commonwealth Institute of Funeral Service (Houston TX)*

Commonwealth Institute of Funeral Service submitted an application for approval for the Type 2 Course of Study. The Applicant certifies that the Type 2 Course of Study submitted for approval under this application covers the subject matters examined on in the national funeral service arts examination administered by the Conference of Funeral Service Examining Boards. The Division is recommending approval without conditions.

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

13. **Application(s) for Florida Law and Rules Examination**
 - A. *Recommended for Approval without Conditions – Addendum E*
 - (1) *Direct Disposer*
 - (a) *Tilley, Terry A*
 - (2) *Funeral Director and Embalmer – by Endorsement*
 - (a) *Dean, Robert J*
 - (3) *Funeral Director and Embalmer – by Internship and Exam*
 - (a) *Brown, Christopher R*
 - (b) *Eichacker, Jeffery A*
 - (c) *Eichenblatt, Debora*
 - (d) *Moody, Jeffrey M*
 - (e) *Shorter Jr., Michael D*
 - (f) *Waites, Kay L*

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.

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

The Applicant submitted an application to become a Funeral Director & Embalmer on February 17, 2012. The application was complete when submitted. The Applicant submitted a fingerprint card, the processing of which returned a criminal history, to wit:

- 1) In 2001 Applicant pled guilty to felony Breaking & Entry; Larceny in Building; and Malicious destruction of property, in Massachusetts state court. He was fined \$500, and placed on probation. He completed the probation in 2003. Applicant advises that this criminal matter relates to when he was executive secretary to the mayor of the city of Quincy, MA, and was instructed by the mayor, towards the end of the mayor's term, to enter the city's personnel offices and records and remove certain items.
- 2) In 2010, Applicant pled no contest to Reckless Driving, in Lee County, Florida. Applicant was sentenced to pay \$250 fine and \$353 in court costs.

Mr. Keating was issued an Embalmer Apprentice License on October 2, 2008. The Applicant fully disclosed the above criminal record to the Board in connection with the said apprentice license application. Mr. Keating served his apprenticeship until he was issued a Concurrent Intern license at the June 23, 2011 Board meeting (that license was issued subject to a one year probation). The Applicant fully disclosed the above criminal record to the Board in connection with the said intern license application. He has received excellent marks on all Supervisor Quarterly Reports submitted.

The Division is recommending approval with the condition that the Applicant be placed on probation for one year, to commence at time of licensure.

MOTION: Ms. Anderson moved to approve the application subject to the condition that the Applicant is placed on probation for one year, to commence at time of licensure. Ms. Thomas-Dewitt seconded the motion, which passed unanimously.

- 14. Application(s) for Internship**
- A. Recommended for Approval without Conditions – Addendum F**
- (1) Funeral Director and Embalmer**
- (a) Eldridge, Kristina L**
- (b) Lee, Darnell L**
- (c) Polser, Natalie E**
- (d) Smith, Jermaine A**
- (e) Thomas, Tasheena**
- (f) Wheeler, Stephen D**

The Division recommends approval of the application(s).

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

- B. Recommended for Approval with Conditions – Criminal History**
- (1) Funeral Director and Embalmer**
- (a) Lane, David M**

The Applicant submitted an application to become a Concurrent Intern on January 20, 2012. The application was incomplete when submitted. All deficient information was returned on March 19, 2012. The Applicant submitted a fingerprint card, the processing of which returned a criminal history, to wit:

- 1) In 2005, in Circuit Court, Bay County, Florida, case # 05-1333, Applicant pled no contest to the third degree felony, Burglary of a Structure. Specifically, Applicant was apprehended by police behind a closed restaurant, attempting to break in the back door; he advised police he was breaking in because he wanted a drink of liquor.

- 2) In 2007, in County Court, Bay County, Florida, case # 07-5433MMMWW, Applicant pled guilty to the misdemeanor Payment with a Worthless Check. There were three bad checks issued to Publix supermarket. Applicant was ordered to pay \$315 fine and \$498.30 restitution.
- 3) In 2008, in County Court, Bay County, Florida, Case # 080005454MMMWW, Applicant pled no contest to the misdemeanor charge of passing worthless checks. There were two bad checks, both issued to Tom Thumb convenience store. Applicant was ordered to pay \$399 fine and \$166 restitution.
- 4) In 2008, Applicant pled no contest to the misdemeanor crime, No Motorcycle Endorsement or License. Applicant was ordered to pay a fine of \$357.

The Applicant did fully disclose the above criminal record and has also submitted several letters of recommendation.

Applicant admits to a prior drug and alcohol abuse problem. Applicant indicates that for the last 3 years he has not abused alcohol or drugs.

Applicant has a strong letter of recommendation from his current supervisor, James Teuton, a licensed funeral director at Heritage Funeral Home. Mr. Teuton advises that he has known Applicant for years; that over the last 1.5 years Applicant has worked for Heritage FH full time, and that in that period Mr. Teuton has not seen Applicant exhibit any mood swings or behavioral changes. This indicates to the Division that Applicant has not been abusing drugs or alcohol while employed at the funeral home over at least the last year and a half.

Applicant has documented through tax returns he provided to the Division, that he was running a painting and home improvement business in the period 2006-09. The Division has not included the tax returns in the Board materials.

The Division is recommending approval subject to the terms & conditions of the attached Stipulation for Licensure dated March 21, 2012, including but not limited to 12 months probation and random drug testing.

The Chair requested that Mr. Lane come forward to be sworn in.

Mr. Shropshire requested that Mr. Lane 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. David Michael Lane answered, "I do."

The Chair questioned whether Mr. Lane would like to address the Board or was he present to answer questions.

Mr. Lane stated that he would answer any questions the Board may have.

Mr. Helm questioned whether Mr. Lane understands the Stipulation for Licensure.

Mr. Lane stated that he did as he had read, signed and returned the Stipulation.

MOTION: Mr. Helm moved to approve the application subject to the terms & conditions of the Stipulation for Licensure dated March 21, 2012, including but not limited to 12 months probation and random drug testing. Mr. Clark seconded the motion, which passed unanimously.

15. **Change in Location of Establishment**

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

- (1) **Accent Cremation Consultants Inc (F058025) (Orange City)**
- (2) **Eric George Funeral Home (F041460) (Hallandale)**
- (3) **The Myana Group LLC d/b/a R D Sears Funeral Home (F060613) (Jacksonville)**

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

16. **Application(s) for Registration as a Training Agency**
A. *Recommended for Approval without Conditions – Addendum H*
(1) *Funeral Directing and Embalming*
(a) *Fuller Brothers Funeral Home Inc (F060086) (Pompano Beach)*
(b) *Southern Funeral Care and Cremation Services Inc (F039963) (Riverview)*

The Division recommends approval of the application(s).

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

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

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

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

The Division recommends approval of the claim(s).

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

19. **Application(s) for Cinerator Facility**
A. *Recommended for Approval with Conditions*
(1) *Atlantic Cremation Society of Florida LLC d/b/a Heritage Crematory (Bunnell)*

An application for a Cinerator Facility was received on February 27, 2012. The application was incomplete when submitted. All deficient items were returned on March 7, 2012. The fingerprint cards for all principals were returned with no criminal history. The Funeral Director in Charge will be Deldon Price (F043969).

Related matters:

- 1) Atlantic Cremation Society of Florida LLC currently holds direct disposal establishment license (F066075), located at 620 Dunlawton Ave, Port Orange.
- 2) Atlantic Cremation Society of Florida LLC is currently owned solely by Mr. Robert Baggett. Upon approval of the Funeral Establishment license and this Cinerator Facility license, Mr. Darin Felton will, unless the Board objects herein, acquire part ownership of said corporation (as indicated in the cover letter provided by Wendy Wiener, attached).

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.

Mr. Shropshire stated that the packet indicated there was an application on this Agenda to convert a Direct Disposal Establishment into a Funeral Establishment. That statement is incorrect. In fact, that application did not get into this packet.

Ms. Wiener added there was a deficiency yet to be resolved.

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

20. Application(s) for Direct Disposal Establishment

A. Recommended for Approval *with* Conditions

(1) Cremation of Greater Tampa Bay Inc (Tampa)

An application for a Direct Disposal Establishment was received on March 1, 2012. The application was complete when submitted. The fingerprint cards for all principals were returned with a criminal history for one principal, Thomas J. Cohen. The Funeral Director in Charge will be Thomas Cohen (F043919).

Thomas Cohen has submitted his criminal history at two previous Board meetings, October 2006 and July 2007. Both applications were approved with no conditions. In 2004 he pled guilty to felony possession of marijuana. He was sentenced to 12 months unsupervised probation. His civil rights were restored on August 7, 2006.

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. Helm 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. Clark seconded the motion, which passed unanimously.

21. Application(s) for Funeral Establishment

A. Recommended for Approval *with* Conditions

(1) Carol Y Washington d/b/a Washington Funeral Home (Plant City)

The application for a Funeral Establishment was received on November 4, 2011. The application was incomplete when submitted. All deficient items were returned on November 21, 2011. The fingerprint cards for all principals were returned with no criminal history. The Funeral Director in Charge will be James Stewart (F044277).

Carol Washington, the Applicant (hereinafter referred to as "Applicant" or "Respondent"), is the spouse of Anthony Washington, Jr. Carol Y. Washington is the Applicant and listed owner for the pending funeral home application, Carol Y. Washington d/b/a Washington Funeral Home. The Applicant's pending application is for a new establishment application for the same location of a previously revoked establishment, owned by her husband. The Board recently revoked Anthony Washington, Jr's funeral establishment license, Washington Funeral Chapel (F041858). The physical address of the revoked establishment is 909 West Madison Street Plant City, FL, which is the same location of the pending funeral establishment license application.

Recent Disciplinary Action against Anthony Washington, Jr. and his Funeral Establishment

Anthony Washington, Jr's funeral director and embalmer license (F043405) became null and void on 9/1/09. He has a pending application for a funeral director and embalmer license. On August 2, 2011, a Consent Order was entered against Anthony Washington, Jr., in Case No. 114636-11-FC for practicing funeral directing without a valid funeral director's license and for acting as the FDIC of a funeral establishment without having a valid license. As part of the Consent Order, he agreed to pay a \$1,000 fine, and if licensed in the future, to undergo a 2 year probation. Mr. Washington paid the fine.

A Final Order (copy attached) was issued November 1, 2011 in Case No. 114632-11-FC, revoking Washington Funeral Chapel funeral establishment license. The administrative allegations included: operating on a delinquent license; failure to have an FDIC appointed; failure to file timely reports of cases embalmed or bodies handled; failure to have biomedical waste timely removed; failure to attach proper ID tags to wrists or ankles of human remains; failure to include the least expensive casket in the funeral establishment's binder displayed to customers; failure to have a funeral director available during inspection of the funeral establishment; and failure to keep adequate records. Pursuant to a Bill of Sale provided by Respondent as part of the funeral establishment application, on August 26, 2011, Anthony Washington, Jr., transferred the assets of Washington Funeral Chapel to Carol Washington, without prior approval of the Board.

Proposed Settlement Terms and Conditions - The Respondent agrees that any licensure issued pursuant to this agreement is restricted according to the following terms:

- 1) Respondent acknowledges that Washington Funeral Chapel, since the date of revocation on November 1, 2011, has not engaged in any activity that requires licensure under Chapter 497, F.S;
- 2) If licensed, the new Funeral Establishment shall not enter into any contracts or agreements with Anthony Washington, Jr. or any business where he is an officer, director of, or in which he has a direct or indirect ownership or controlling interest;
- 3) Anthony Washington, Jr. will not have any direct or indirect ownership interest in the new funeral establishment;
- 4) Anthony Washington, Jr. will not exercise any control, directly or indirectly, over the new funeral establishment;
- 5) Anthony Washington, Jr. will not be a creditor of the new funeral establishment, directly or indirectly;
- 6) If the principal(s) of the new funeral establishment seek to sell or otherwise transfer ownership or control of the new funeral establishment, they will make it a condition with the party to whom ownership or control is to be transferred, to take ownership or control subject to the conditions specified herein;
- 7) During the probationary period, Anthony Washington, Jr. will not serve as the funeral director in charge of the new funeral establishment; at the conclusion of the new funeral establishments 24 months probationary period, Anthony Washington, Jr., will not serve as the FDIC, until approved by the Board. The Licensee understands that the Board may consider several factors in approval or disapproval of Respondent's request to have Anthony Washington serve as its FDIC, including but not limited to:
 - a. Anthony Washington having a valid license as a funeral director and embalmer;
 - b. Anthony Washington compliance with previous orders entered against him;
 - c. Anthony Washington's compliance with Chapter 497, F.S.
 - d. Anthony Washington demonstration that he is competent and trustworthy to serve as FDIC;
 - e. Whether Anthony Washington, Jr. has completed his probation;
 - f. Any letters of recommendation reflecting on Anthony's Washington's character and fitness;
 - g. Any other factors considered by the Board.
- 8) Anthony Washington, Jr. will not perform any activities at the funeral establishment that are regulated under Chapter 497, unless properly licensed.

The stipulation does not prohibit Mr. Washington, Jr. from being employed at the new establishment, as long as he is in compliance with the terms of the Settlement Stipulation and is not engaged in any activities at the new funeral establishment that require licensure under 497, F.S.

Proposed Fine and Probation

- 1) Respondent agrees to pay an administrative fine of Five Hundred Dollars (\$500), for violation of Section 497.380(12) (a), which requires that a change of ownership of a funeral establishment be promptly reported and also requires the relicensure of the funeral establishment, including reinspection and payment of applicable fees. Respondent shall pay an administrative fine within thirty days (30) of the entry of an Order in this matter.
- 2) Respondent will be on probation from the date the license is issued, through the last day of the month that is **24** full calendar months thereafter.

The terms and conditions are more fully detailed in the executed stipulation for licensure. The Division is recommending approval subject to the terms & conditions of the stipulation for licensure and the passing of an on-site inspection

Mr. Shropshire requested that Ms. Washington 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. Carol Yvonne Washington answered, "I do."

The Chair questioned whether Ms. Washington would like to address the Board or was she present to answer questions.

Ms. Washington stated that she would answer any questions the Board may have.

Mr. Hall stated when the Board addressed this issue with Ms. Washington's husband previously and according to Ms. Washington's answers, it does not appear Ms. Washington has any previous experience operating a funeral home.

Ms. Washington stated that she had helped out at the funeral home.

Mr. Hall questioned how Ms. Washington would assure that all the requirements are met, given the fact that she would be working full-time at the clinic.

Ms. Washington stated that she has an FDIC and a day person that would be there. Ms. Washington stated that she has the flexibility to leave the clinic should she need to. Ms. Washington added that she would be going into retirement soon.

Mr. Hall questioned whether the firm is still doing about twelve calls per year.

Ms. Washington concurred.

Mr. Hall questioned how Ms. Washington can afford the additional help to ensure the requirements of the Division are being met for licensure.

Ms. Washington stated that she does work and Mr. Washington does have his income, VA and Social Security.

Mr. Hall questioned who Mr. Williams is, the person that has been handling the cases since the establishment license was pulled.

Ms. Washington stated that Mr. Williams is located in Tampa FL.

Mr. Hall questioned whether Mr. Williams has been handling all the legal documents, death certificates, permits, etc.

Ms. Washington stated that everything has been referred to Mr. Williams.

MOTION: Ms. Thomas-Dewitt moved to approve the application subject to the terms & conditions of the stipulation for licensure and the passing of an on-site inspection. Ms. Anderson seconded the motion, which passed with 2 dissenting votes.

(2) Elijah Bell's Funeral Services LLC (Pompano Beach)

An application for a Funeral Establishment was received on March 5, 2012. 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 Jenny Adair (F045188). The Division is recommending approval subject to the establishment passing an on-site inspection by a member of the Division staff.

MOTION: Ms. Thomas-Dewitt moved to approve the application subject to the establishment passing an on-site inspection by a member of the Division staff. Mr. Clark seconded the motion, which passed unanimously.

(3) Holly Hill Funeral Home LLC (Port St. Joe)

An application for a Funeral Establishment was received on December 30, 2011. The application was incomplete when submitted. All deficient items were returned on March 7, 2012. The fingerprint cards for all principals were returned with no criminal history. The Funeral Director in Charge will be Paul LaMoy (F042196). The Division is recommending approval subject to the establishment passing an on-site inspection by a member of the Division staff.

MOTION: Mr. Mueller moved to approve the application subject to the establishment passing an on-site inspection by a member of the Division staff. Ms. Thomas-Dewitt seconded the motion, which passed unanimously.

(4) Professional Funeral Services of Northwest Florida LLC d/b/a Davis-Watkins Crestview Memorial (Crestview)

The Funeral Establishment application was received by the Division on February 10, 2012. The application was incomplete when submitted. All deficient items were returned on March 2, 2012. The fingerprint cards for all principals were returned

with no criminal history. The FDIC for the establishment will be Joseph McLendon (F044978). This entity is not the qualifying entity for any preneed Licensee. 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 subject to the conditions recommended by the Division. Ms. Anderson seconded the motion, which passed unanimously.

(5) *SCI Funeral Services of Florida Inc d/b/a Aycock Funeral and Cremation Center (Stuart)*

An application for a Funeral Establishment was received on January 31, 2012. 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 Cheryl Godbout (F042060). The Division is recommending approval subject to the establishment passing an on-site inspection by a member of the Division staff.

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

Ms. Thomas-Dewitt expressed concern over the extensive criminal history.

Mr. Shropshire stated that the history is SCI's overall history, not this particular entity that is the Applicant.

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

(6) *Serenity Funeral Home & Cremation LLC (Oakland Park)*

An application for a Funeral Establishment was received on March 9, 2012. The application was complete when submitted. The fingerprint cards for all principals were returned with criminal history for one principal, Keila Cruet. The Funeral Director in Charge will be Keila Cruet (F052106).

Ms. Cruet was pled no contest to Driving with a Suspended License in March 2010. She was fined \$583 and placed on six months probation, which have both been completed. The Division is recommending approval subject to the establishment passing an on-site inspection by a member of the Division staff.

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

22. *Application(s) for Removal Service*

A. *Recommended for Approval with Conditions*

(1) *Karen Hartsfield d/b/a Beacon Mortuary Service (Merritt Island)*

An application for a Removal Service was received on February 28, 2012. The application was complete when submitted. The fingerprint cards for all principals were returned with no criminal history. The Division is recommending approval subject to the establishment passing an on-site inspection by a member of the Division staff.

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

(2) *Miami VIP Removal Service LLC (Miami Gardens)*

An application for a Removal Service was received on February 26, 2012. The application was incomplete when submitted. All deficient items were returned on March 15, 2012. The fingerprint cards for all principals were returned with no criminal history. The Division is recommending approval subject to the establishment passing an on-site inspection by a member of the Division staff.

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

(3) Panhandle Removal Service LLC (Pensacola)

An application for a Removal Service was received on February 17, 2012. The application was incomplete when submitted. All deficient items were returned on March 1, 2012. The fingerprint cards for all principals were returned with no criminal history. The Division is recommending approval subject to the establishment passing an on-site inspection by a member of the Division staff.

MOTION: Mr. Helm moved to approve the application subject to the establishment passing an on-site inspection by a member of the Division staff. Ms. Thomas-Dewitt seconded the motion, which passed unanimously.

23. Trust Transfer Request(s)

A. Recommended for Approval with Conditions

(1) Don's Funeral Home, Inc d/b/a Brown Funeral Home (Chipley)

(a) Transfer of Chapter 497.417 (pre-2005) Prime Succession Preneed Cemetery Trust from SunTrust Bank, N.A. to Forethought Federal Savings Bank

Don's Funeral Home, Inc., doing business as Brown Funeral Home, requests approval to appoint Forethought Federal Savings Bank (FFSB), as successor trustee and requests transfer of the above mentioned trust account. The trust account is currently held by SunTrust Bank, N.A. (SunTrust), and Don's Funeral Home is requesting a transfer from SunTrust to FFSB. The preneed trust account for the 497.417 (pre-2005) Prime Succession Preneed Cemetery Trust will be transferred to the FFSB Florida Preneed Master Trust.

The following is supplemental information:

Don's Funeral Home, Inc. d/b/a Brown Funeral Home is currently licensed as a preneed main located at 1068 Main Street, Chipley (F019354).

In approximately 2001 the qualifying entity establishment for the preneed main, Brown Funeral Home, was licensed as a preneed branch under Prime Succession of Florida, Inc. (the Loewen Group) and subsequently sold preneed under that preneed license (F021624) until approximately 2004. Prime Succession also formerly owned the funeral establishment location known as Brown Funeral Home (License number F040097), located at the same above address.

In 2004, Don's Funeral Home, Inc. acquired the above identified location, Brown Funeral Home, from the Loewen Group and obtained a preneed license (F019354). This location currently serves as the qualifying funeral establishment for the preneed main (F039386).

Don's Funeral Home, Inc. also acquired the preneed trust and is responsible for honoring the preneed contracts associated with the funeral establishment location identified above while it was licensed as a preneed branch under Loewen. Don's Funeral Home, Inc. is now seeking transfer of the preneed trust accounts and assets to FFSB.

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

- 1) That Forethought Federal Savings Bank provides a certification statement that as trustee it meets the requirements of Rule 69K-7.015(1) or (2).
- 2) That the former trustee provides a certificate stating the dollar amount of trust assets being transferred.
- 3) That Forethought Federal Savings Bank, as new Trustee, provides acknowledgement of receipt of the amount of trust assets being transferred as specified by the former trustee.

- 4) That the effective date of the transfer and all above certifications be provided to the Division within 60 days of the date of this Board Meeting.

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

- (2) *Eternal Light Funeral Care, Inc (Multiple DBAs) (St Petersburg)*
 - (a) *Transfer of Ch 497.417 (pre-2005) Preneed and Merchandise Trust, Sylvan Abbey Memorial Park Merchandise Trust, Woodlawn Memory Gardens Inc Merchandise Trust, Congregation B'Nai Israel of St Petersburg d/b/a Chapel Hill Memorial Park Preneed Merchandise Trust, Garden of Memories Inc Merchandise Trust, Simplicity Plan 1997 Master Preneed Trust, Memorial Park Cemetery Inc Merchandise Trust, and Garden of Memories Inc d/b/a Myrtle Hill Memorial Park Merchandise Trust from SunTrust Bank, N.A. to Sabal Trust Company*

Eternal Light Funeral Care, Inc. (Eternal Light), doing business as David C. Gross Funeral Homes, has appointed Sabal Trust Company (Sabal), administered by Funeral Services, Inc. (FSI) as successor trustee and requests transfer of the above mentioned trust accounts currently held by SunTrust Bank, N.A. to Sabal. This transfer will include only the trust accounts that are specific to the preneed and merchandise trust funds associated with the above David C. Gross Funeral Home properties that were acquired by Eternal Light from Stewart Enterprises, Inc. The transfer of the above named preneed trust and merchandise accounts that are associated with the David C. Gross properties will be transferred to the 1993 FSI Master Trust Agreement.

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

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

MOTION: Ms. Thomas-Dewitt moved to approve the agreement with the conditions set forth by the Division. Mr. Mueller seconded the motion, which passed unanimously.

24. Executive Director's Report

A. Divisions Response to Inquiry re the 48 Hour Cremation Requirement at 497.607(1) (Informational)

On March 26, 2012, Mr. Shropshire provided the following reply to Ms. Wiener's letter dated January 9, 2012 and email of February 16, 2012, on the topic of what a cremation contract can say regarding when the cremation will occur. Mr. Shropshire modified his suggestion as set out in his February 7, 2012 letter to Ms. Wiener, to accept her response in her February 16, 2012 email.

"Section 497.607(1) FS (2011) reads as follows (underline added for emphasis):

497.607 Cremation; procedure required. —

- (1) At the time of the arrangement for a cremation performed by any person licensed pursuant to this chapter, the person contracting for cremation services shall be required to designate her or his intentions with respect to the disposition of the cremated remains of the deceased in a signed declaration of intent which shall be provided by and retained by the funeral or direct disposal establishment. A cremation may not be performed until a legally authorized person gives written authorization for such cremation. The cremation must be performed within 48 hours after a specified time which has been agreed to in writing by the person authorizing the cremation.

You indicate that cremation cannot occur prior to receipt of certain authorizations or signatures, to include 1) Medical Examiner authorization, 2) attending physician signature on death certificate, and 3) signature of a legally authorized person consenting to the cremation.

I believe that the legislative intent in the underlined language was to insert into cremation contracts, for the benefit of consumers, some standard by which the consumer could judge whether the cremation should have occurred. Please advise if you disagree.

I believe that the reference to "specified time" in s. 497.607(1) requires that a specific date or time period be stated in the contract, as a starting point for determining whether the cremation was timely accomplished. The stated date or time period may be made conditional, with the conditions stated.

You propose the following language for inclusion in contracts for cremation, as complying with the statutory requirement:
Cremation will be performed within 48 hours after receipt of all legally required authorizations, which 48 hours does not include days on which the cinerator facility is closed, such as weekends or legal holidays.

I believe that your proposed language is too vague to satisfy the statutory requirement. The vagueness relates to the fact that under your language the Licensee may delay by simply not diligently seeking the required authorizations.

I suggest that either the following provisions would satisfy the statutory requirement.
The cremation will occur within [eg 10 days] days of the date of death of [name of person to be cremated], unless the cremation facility, having made good faith efforts in that period to obtain the following required authorizations, is unable by the end of that time to obtain same: (1) medical examiner approval for the cremation; or (2) signature of a physician on the death certificate as to cause of death. . If the cremation is delayed due to delay in receiving the above identified required authorizations, the cremation will occur within 48 hours after the receipt of the aforesaid required authorizations.

The cremation will occur on or before [enter specific date], unless the cremation facility, having made good faith efforts prior to that date to obtain the following required authorizations, is unable by the end of that time to obtain same: (1) medical examiner approval for the cremation; or (2) signature of a physician on the death certificate as to cause of death. If the cremation is delayed due to delay in receiving the above identified required authorizations, the cremation will occur within 48 hours after the receipt of the aforesaid required authorizations.

The FCCS Division does not purport to dictate the language that Licensees must use concerning this issue. The above two provisions are merely suggestions.

The Licensee should make and preserve a record of promptly and diligently seeking the required authorizations, so that same may be exhibited to the Division's field staff if a complaint or issue arises as to whether the cremation was timely performed."

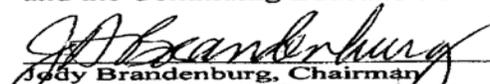
B. Appointment of Tracy Huggins to Serve as a Member of Probable Cause Panel B and the Continuing Education Committee (Informational)



MEMORANDUM

TO: Board of Funeral, Cemetery and Consumers Services
FROM: Jody Brandenburg, Chairman
Division of Funeral, Cemetery and Consumer Services
RE: Appointment of Tracy Huggins to serve as member of Probable Cause Panel B and the Continuing Education Committee
DATE: March 16, 2012

Tracy Huggins, is hereby, appointed to served as a member of Probable Cause Panel B and the Continuing Education Committee.


Jody Brandenburg, Chairman
Board of Funeral, Cemetery and
Consumer Services

Date 3/19/12

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

Monthly Report of Fines and Costs Imposed and Paid
 Division of Funeral, Cemetery and Consumer Services
 April 5, 2012 Board Meeting
 Updated March 26, 2012

Licensee	Board Meeting	Case No.	Total Fine & Cost Due	Date Due	Paid in Full?
Holmes Funeral Directors	Dec-11	105281-09-FC	\$2,000	1/20/2012	YES
			\$2,500	2/2/2012	NO*
Deliria Holmes	Dec-11	105280-09-FC	\$2,500	7/3/2012	See Note D
Landmark Funeral Home	Dec-11	108626-10-FC	\$1,000	2/8/2012	YES
Aaron Duncan	Dec-11	114642-11-FC	\$1,000	2/2/2012	YES
Golden's Funeral Home, Inc.	Dec-11	114643-11-FC	\$1,000	2/2/2012	YES
Boyd Family Funeral Home Chapel	Feb-12	120364-11-FC	\$2,000	3/22/2012	YES
Laurence Boyd	Feb-12	120363-11-FC	\$1,000	4/6/2012	YES
Chapel Hill Cemetery	Feb-12	122372-12-FC	\$1,000	3/24/2012	YES
Daytona Memorial Park, Inc.	Feb-12	111349-10-FC	\$3,500	3/22/2012	NO
Edgewater-New Smyrna Cemetery, Inc.	Feb-12	11347-10-FC	\$2,000	3/22/2012	NO
NOTES:					
A. When payment becomes past due, the FCCS Division works with the DFS Legal Division to enforce payment.					
B. Once fines and costs are paid in full, the licensee is kept on this report 3 months, showing Paid in Full, and is then dropped of this report.					
C. The Order re this case is still in process, so no Due date is yet established.					
D. Due date has not passed.					
*Partial payment of \$2,000 received.					

Mr. Shropshire stated that all of the fines have been paid in full as of today.

25. Chairman's Report (Oral)

The Chair thanked Ms. Sharon Dover for her report on the Electronic Death Registration.

Mr. Rudolph stated that at the Teleconference Meeting, the Chair asked for a moment of silence for Mr. Pete Ballas who passed away and was a long time member of the Board. Mr. Rudolph stated that it would be appropriate to do the same at this in person meeting.

The Chair requested that everyone stand for a moment of silence for Col. Ballas.

Mr. Hall stated there has been some discussion on contracting for flowers in the cemetery. Mr. Hall questioned whether the members are required to do a preneed contract on each of those every three months, is it considered merchandise, or is it not merchandise since it is not permanent. Mr. Hall questioned whether it is possible for the Division to provide an opinion on that so that it is done correctly as there have been different opinions on whether it is actually merchandise or not.

Mr. Shropshire suggested that he would contact Mr. Hall after the meeting to obtain more specifications to the issue and come to back to the Board with an opinion.

Mr. Rudolph stated that some believe that flowers are not merchandise. The vase in which the flowers are placed is merchandise.

Ms. Wiener questioned whether Mr. Rudolph's position is that flowers would not need to go on a preneed contract.

Mr. Rudolph concurred.

Mr. Mueller thanked Mr. Shropshire for reminding the Board to combine the related disciplinary cases.

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

None

27. Administrative Report

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

28. Disciplinary Report

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

29. Adjournment

The meeting was adjourned at 12:32 p.m.