

**MINUTES**  
**BOARD OF FUNERAL, CEMETERY AND CONSUMER SERVICES**  
**June 24, 2010 - 10:00 A.M.**  
**Department of Financial Services**  
**2020 Capital Circle SE, Alexander Bldg #230**  
**Tallahassee, FL 32301**

**THIS MEETING IS OPEN TO THE PUBLIC**

**1. Call to Order and Roll Call**

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

Mr. Doug Shropshire requested to make the usual prefatory comments for the record and then take the roll.

My name is Doug Shropshire. I am Director of the Division of Funeral, Cemetery, and Consumer Services. Today is June 24, 2010; the time is approximately 10:00am. This is a public meeting of the Board of Funeral, Cemetery, and Consumer Services. Notice of this meeting has been duly published in the FAW. An agenda for this meeting has been made available to interested persons. The meeting is occurring in person at the Alexander Building in Tallahassee, FL. My Assistant, Ms LaTonya Bryant-Parker, will be taking minutes of the meeting and recording it in addition to that.

Persons speaking are requested to identify themselves for the record each time they speak. Participants are respectfully reminded that the Board Chair, Mr. Brandenburg, runs the meeting. Persons desiring to speak should initially ask the Chair for permission.

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

**PRESENT:**

Jean Anderson  
Joseph "Jody" Brandenburg, Chairman  
Lewis "Lew" Hall  
Powell Helm  
Nancy Hubbell  
Tracy Huggins  
Ken Jones  
Col. Don Stiegman  
Virginia "Ginny" Taylor  
Gail Thomas-DeWitt, Vice-Chairman

**ALSO PRESENT:**

Doug Shropshire, Executive Director  
Anthony Miller, Assistant Director  
Allison Dudley, Board Counsel  
Mary K Surles, Department Counsel  
James Gellepis, Department Staff  
LaTonya Bryant-Parker, Department Staff  
Jasmin Richardson, Department Staff

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

**2. Action on the Minutes**

A. *June 3, 2010 – Teleconference*

The Chair confirmed that all Board members had read the draft of the minutes of the previous Board meeting held on June 3, 2010.

**MOTION:** Mr. Ken Jones moved to adopt the minutes of the meeting. Col. Don Stiegman seconded the motion, which passed unanimously.

**3. Disciplinary Proceeding(s)**

- A. Settlement Stipulation for Consent Order and Proposed Consent Order (Probable Cause Panel A)*  
*(1) Morning Glory Funeral Chapel of St Petersburg, Inc., Case Nos.: 102557-09-FC & 101888-09-FC*

Ms. Nancy Hubbell recused herself as she participated on the Probable Cause Panel.

Ms. Mary K Surles provided the Board members with a revised Settlement Stipulation. There is no real difference in the terms of the Settlement, just some language that was changed which allows the Settlement to cover any and all periods up until today's date.

Mr. Shropshire questioned whether there would be any conduct released that was not released under the first settlement.

Ms. Surles answered no.

Mr. Shropshire questioned whether Ms. Surles was representing that there is no material change, no change in the penalty or terms.

Ms. Surles stated this was correct.

Morning Glory Funeral Chapel of St. Petersburg, is a licensed funeral establishment in this state (license number F040186), located at 3301 5<sup>th</sup> Avenue South, St. Petersburg, Florida. Lisa Speights is the owner and funeral director in charge for Morning Glory Funeral Chapel of St Petersburg.

From 2007 through the present date, Ms. Speights was the licensed funeral director in charge for Morning Glory Funeral Chapel of St Petersburg is responsible for ensuring that the funeral establishment and all persons employed by the funeral establishment comply with all applicable laws and rules of the Board. Morning Glory Funeral Chapel of St Petersburg is alleged to have committed multiple violations of Chapter 497 Florida Statutes, and Chapter 69K, Florida Administrative Code. These violations involve allowing unlicensed individuals to remove and transport bodies without having completed a Board approved course in communicable diseases, entering into contracts and accepting payment for preneed funeral and burial goods and/or services when not licensed to offer or sell preneed, aiding and assisting Harold Jones and/or Morning Glory Funeral Chapel located in Tampa, Florida with unlicensed activities in the death care industry, failing to complete the necessary corrections for previously cited violations in Department inspection reports, failing to transact business of a funeral establishment under the name by which it is licensed, failing to furnish for consumers' retention written agreements and any necessary price lists, failing to properly embalm decedents' bodies, failing to properly store and maintain decedents' bodies, and knowingly causing to be submitted fraudulent training certificates to the Department after being requested to provide proof of completion of Board approved communicable diseases course for operational personnel.

The Department requests that the Board accept the Settlement Stipulation presented today with the terms that the licensee, will not reapply for five years and surrenders its license, which would have an effect of revocation and the Respondent would also be responsible that any and all restitution has been paid on any claims that would arise under Chapter 497.

Mr. Jones questioned whether Morning Glory Tampa is closed.

Ms. Surles answered yes.

Ms. Surles stated there may be some other cases out there but the establishment for Morning Glory Funeral Chapel that the Board licensed at 5100 Nebraska Avenue is no longer a valid license.

Mr. Jones questioned whether approving the Settlement Stipulation would close Morning Glory St Pete so the establishment could not sell or have someone else to operate the facility.

Ms. Surles the establishment has been closed for 2 years.

Ms. Surles stated that the establishment would no longer have a license to operate.

Col. Stiegman questioned whether the Respondent would still have to pay restitution if they never reapplied.

The Chair stated that is what is contained in the Consent Order.

Ms. Dudley stated that the people who are owed restitution could still seek civil action in the court system in an attempt to recover their money that way.

Ms. Surles stated that there have been consumers harmed by the actions of Ms. Speights and Morning Glory Funeral Chapel of St Petersburg that have actually filed legal action and have obtained civil judgments and liens against them. The consumers are seeking and taking other legal means that they have under the law.

Ms. Dudley added when a license is revoked, it is very difficult to collect the money so even if the Board ordered \$10,000 in fines today, if the license is revoked, it would be very difficult to collect. The licensee would have to be placed on probation to ensure the monies are collected.

Ms. Thomas-Dewitt questioned whether the Board could place a restriction on any future application by Ms. Speights' that would prevent her from being an FDIC or owner of a funeral establishment.

Ms. Surles stated that the Board can always place whatever conditions it sees fit on a new application for licensure.

Mr. Hall questioned whether the Board could also assess fines prior to approving the application.

Ms. Surles stated that the Board could not do so based on these facts.

Ms. Dudley stated if a new application comes before the Board and the Applicant clearly has violations of the practice Act, at that point, the Board could actually impose a fine as a condition of issuance of the license. The Board could not add a fine onto the Settlement Agreement right now, but if the Respondent reapplies to the Board a fine may be imposed as condition of approval.

Ms. Surles stated this would not necessarily be tied to the violations of this Administrative Complaint.

Ms. Dudley stated that the Board would as the Applicant would have to state previous disciplinary actions. This would allow the Board to place conditions on the license.

Col. Stiegman questioned whether there are any statutes of limitations on that.

Ms. Dudley answered no.

Mr. Shropshire stated that the Settlement Stipulation for Morning Glory is the issue at hand and questioned whether these questions are re Ms. Speights.

The Chair stated that the Board has already acted on Ms. Speights' individual license.

**MOTION:** Mr. Jones moved to accept the Stipulation. Ms. Huggins seconded the motion, which passed with three dissenting votes.

*(2) Speights, Lisa, Case Nos.: 102556-09-FC & 101888-09-FC*

Ms. Nancy Hubbell recused herself as she participated on the Probable Cause Panel.

Ms. Mary K Surles provided the Board members with a revised Settlement Stipulation. There is no real difference in the terms of the Settlement, just some language that was changed which allows the Settlement to cover any and all periods up until today's date.

Lisa Speights is a licensed funeral director and embalmer in this state (license number F045057). Ms. Speights was the funeral director in charge for Morning Glory Funeral Chapel located in Tampa, Florida before she became the funeral director in charge for Morning Glory Funeral Chapel of St. Petersburg, located at 3301 5<sup>th</sup> Avenue South, St. Petersburg, Florida. Subsequent to becoming the funeral director in charge for Morning Glory Funeral Chapel of St. Petersburg, Ms. Speights continued to be a funeral director for Morning Glory Funeral Chapel in Tampa, Florida.

From 2007 through the present date, Ms. Speights is alleged to have committed multiple violations of Chapter 497 Florida Statutes, and Chapter 69K, Florida Administrative Code. These violations involve the mishandling of infant remains, allowing unlicensed individuals to remove and transport bodies without having completed a Board approved course in communicable diseases, entering into contracts and accepting payment for preneed funeral and burial goods and/or services when not licensed to offer or sell preneed, aiding and assisting Harold Jones and/or Morning Glory Funeral Chapel located in Tampa, Florida with unlicensed activities in the death care industry, failing to complete the necessary corrections for previously cited violations in Department inspection reports, failing to transact business of a funeral establishment under the name by which it is licensed, failing to furnish for consumers' retention written agreements and any necessary price lists, failing to properly embalm decedents' bodies, failing to properly store and maintain decedents' bodies, and knowingly causing to be submitted fraudulent training certificates to the Department after being requested to provide proof of completion of Board approved communicable diseases course for operational personnel.

The Department requests that the Board accept the Settlement Stipulation presented today in which the Respondent voluntarily surrenders her Funeral Director and Embalmer license, will not reapply for five years and will have the burden of proving rehabilitation and that she has made any and all restitution in relation to activities that Respondent was involved in while licensed under the Act.

Ms. Gail Thomas-Dewitt stated she has concerns that were not addressed in this particular issue. In reference to preneed, Ms. Speights appeared before the Board and was questioned thoroughly as to whether she was associated to Morning Glory in Tampa and at that time she respectfully stated she was not, but in fact, based on these allegations, she was. Ms. Speights did not give the Board truthful information at that particular time. Ms. Thomas-Dewitt stated that her recommendation would be to reject the Settlement Stipulation and revoke Ms. Speights' license because if the Board accepts the Stipulation, we are giving her permission to come back into the funeral industry. There are so many counts and Ms. Speights was questioned previously, at which time her actions could have been corrected but they were not.

Ms. Danielle Cohen, legal counsel for Lisa Speights and Morning Glory, stated that the Settlement Stipulation does in fact revoke Ms. Speights license for a period of 5 years and only provides Ms. Speights the ability to reapply to the Board upon showing that she is in good standing and meets all of the Board's requirements to be given her license again. The Respondent and the Department agree that a 5 year term revoking her license is sufficient in order to remedy whatever wrong Ms. Speights may or may not have done in the past.

Ms. Surles stated that Page 4 of the Settlement Stipulation states that the voluntary surrender by Respondent and all of Respondent's licensure under Chapter 497 F.S. shall have the same force and effect of a revocation by the Board as a licensee surrenders.

Ms. Thomas-Dewitt states this Stipulation allows her in 5 years to be able to come back and get her license.

Ms. Surles stated it allows Ms. Speights to come back and apply for licensure under the showing that she has complied and made restitution to any and all potential consumers that were victims under her actions as licensed by this Board.

Ms. Allison Dudley stated if Ms. Speights' was revoked, there is nothing to prevent her from reapplying but the Board does not have to accept the application. Even if her license was revoked by the Board she could reapply and would not be under the 5 year term limit. Right now, Ms. Speights is agreeing that the Board would not see an application from her for 5 years.

Mr. Lew Hall questioned whether this includes any license under Chapter 497.

Mr. Shropshire answered yes. Page 4 states the Respondent shall not apply for any licensure under Chapter 497 for a period of 5 years.

Mr. Hall questioned whether there are any provisions under the Stipulation for Ms. Speights to pay any fines on the numerous counts prior to reapplying in 5 years.

The Chair stated there is nothing contained in the Consent Order.

Ms. Surles stated that Ms. Speights would be responsible for any and all restitution, judgments, liens filed against her.

Mr. Powell Helm stated Ms. Speights could still come back and apply for licensure if the Board revokes her license but if the Settlement Stipulation is accepted, she would not be allowed to apply for 5 years.

Ms. Dudley stated that was correct.

Ms. Surles stated that the Settlement Stipulation before the Board today prevents Ms. Speights from coming back within 5 years to apply for any Chapter 497 licensure. Should the Board simply revoke the license, Ms. Speights could then apply any and every time she wants and the application would have to be assessed.

Ms. Thomas-Dewitt questioned what impact the voluntary surrender has on Ms. Speights as a licensee.

Ms. Surles stated it is the same as if the license was revoked. It is a disciplinary action against her that would always have to be reported. Once a license is surrendered, it is treated with the full force and effect as if it were a revocation by the Board.

**MOTION:** Ms. Thomas-Dewitt moved to reject the Stipulation and revoke Ms. Speights' license. The motion failed as there was no second.

Col. Stiegman stated that Page 41 mentions one or more of the following penalties: fines, reprimand, corrective actions, refunds and questioned when those penalties were addressed.

Ms. Surles stated that Col. Stiegman is referring to the Administrative Complaint where the Department alleges that disciplinary action may entail fines, revocation, suspensions, probation, etc. The settlement terms of the revised Settlement Stipulation for the Board to consider involving this case calls for Ms. Speights to voluntarily surrender her license and that she would not reapply for any licensure under Chapter 497 for 5 years.

Col. Stiegman stated he understood but questioned whether the fines are going to be considered.

The Chair stated that the issue was not before the Board on the Settlement Stipulation.

Mr. Hall questioned whether there is anything that prevents the Board from levying the fines for all the counts if the Settlement Stipulation is accepted.

The Chair stated that this is a Settlement of all the counts and infractions listed.

Ms. Surles concurred.

**MOTION:** Mr. Jones moved to accept the Settlement Stipulation as presented. Ms. Tracy Huggins seconded the motion, which passed with three dissenting votes.

**4. Application(s) for Preneed Sales Agent**

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

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

**B. Recommended for Approval with Conditions (Criminal History)**

**(1) Brauer, Gerald M (Appointing Entity: SCI Funeral Services of Florida Inc)**

The application was withdrawn by the appointing entity.

**(2) Quadara, Daniel (Appointing Entity: Security Trust Plans Inc.)**

On May 13, 2010, the Department received an application from Mr. Quadara. Mr. Quadara answered “Yes” to Applicant Background Questions. During the review of his fingerprint results provided by FDLE it was confirmed, Mr. Quadara did have four criminal infractions that required disclosing.

The criminal history includes one (1) offense relating to DUI Blood Alcohol above .20, (1) Speeding, (1) Disobey/Avoid Red Light, (1) Fail to Wear Safety Belt/Oper in 2005 and (1) Drive While License Suspended in 2008, which occurred in Broward County, Florida. Mr. Quadara disclosed all required court documents. However, in his written explanation Mr. Quadara failed to mention the infraction that took place in 2008. This may have been an oversight but based on the remorse described in Mr. Quadara’s letter it appears he understands the severity of these infractions. Mr. Quadara has accepted full responsibility for his actions. Mr. Quadara has been very truthful and cooperative with the Division’s staff.

The Department assessment is that if issued a preneed sales agent license, Mr. Quadara would not pose an unreasonable risk to the members of the public who might deal with him in preneed transactions.

The Division recommends approval subject to the terms & conditions of the attached stipulation for licensure as follows:

- (1) That the licensee be on 24 full months of probation.

**MOTION:** Col. Stiegman moved to approve the application with the condition of 24 month probation. Mr. Helm seconded the motion, which passed unanimously.

**(3) Rodriguez, George (Appointing Entity: The Simplicity Plan Inc.)**

On the application received by the Department on January 22, 2010, the applicant answered “No” to the Applicant Background Questions. During the review of his fingerprint results provided by FDLE it was determined Mr. Rodriguez did have one criminal infraction that required disclosing.

The criminal history includes one count of Failure to Pay Fine in Florida that occurred October 3, 2009. Due to the date of the infraction, Mr. Rodriguez was required to disclose this offense on his application. Upon request, Mr. Rodriguez submitted a statement indicating that he meant no disrespect to the court system by not attending the scheduled court date for a traffic violation. In Mr. Rodriguez’s written explanation, his demeanor appears to be remorseful.

The Department assessment is that if issued a preneed sales agent license, Mr. Rodriguez would not pose an unreasonable risk to the members of the public who might deal with his in preneed transactions.

The Division recommends approval subject to the terms & conditions of the attached stipulation for licensure as follows:

- (1) That the licensee be on 24 full months of probation.

Ms. Huggins disclosed her affiliation with The Simplicity Plan and stated it would not affect her ability to remain fair and impartial on this application.

The Chair requested that Mr. Rodriguez be sworn in.

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

Mr. Helm questioned whether Mr. Rodriguez understands the terms of the probation.

Mr. Rodriguez answered, "Yes."

**MOTION:** Mr. Helm moved to approve the application with the condition that the licensee be placed on 24 full months of probation. Col. Stiegman seconded the motion, which passed unanimously.

**C. Update Concerning Pending License Application(s)**  
**(1) MacQuarrie, Barbara (Appointing Entity: International Cremation Society Inc)**

This Applicant is the subject of a pending investigation under Division file # SR1-642250361. Due to the pending investigation, at the April 1, 2010 Board meeting, the Board voted to defer the application to the next meeting. The Division advised the Board that an update regarding the application would be provided at the June 24 Board meeting.

On November 6, 2009, the Department received an application from Ms. MacQuarrie. Ms. MacQuarrie answered "No" to Applicant Background Questions. During the review of her fingerprint results provided by FDLE it was discovered that Ms. MacQuarrie did have a criminal infraction that required disclosing. The criminal history includes one (1) offense relating to an incident of DUI in 2007, which occurred in Florida.

Upon request, Ms. MacQuarrie subsequently disclosed all required information. Ms. MacQuarrie was asked to provide an explanation for the inaccuracy on her application, and she explained: *"I was not aware of my first offense a DUI is to be considered a criminal history. That is the reason I wrote that on my application. I realized that I misrepresented myself on my application but I am very sorry for this horrible endeavor that has caused me so much humiliation to my family, my job, my church and I have to live with this horrible situation that was caused over losing a husband 2-1/2 years ago."*

Section 497.141(5), Florida Statutes, provides as follows:

(5) The Board may refuse to rule on an initial application for licensure by any applicant who is under investigation or prosecution in any jurisdiction for an action which there is reasonable cause to believe would constitute a violation of this chapter if committed in this state, until such time as such investigation or prosecution is completed and the results of the investigation or prosecution are reviewed by the Board.

This is the Applicant's initial application for licensure as a Preneed Sales Agent.

The investigation report and findings have been submitted to DFS Division of Legal Services, which will determine whether there is legal sufficiency to submit the matter to a probable cause panel. The Division believes that there is reasonable cause to believe that a violation of Ch. 497 by Applicant has occurred. Section 497.172(3) (c), Florida Statutes, provides as follows:

(c) Except as otherwise provided in this subsection, information held by the department pursuant to an investigation of a violation of this chapter is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, until the investigation is completed or ceases to be active or until 10 days after a determination regarding probable cause is made pursuant to s. 497.153.

The Division recommends that the Board continue to refuse to rule on this application due to the pending investigation, as authorized by s. 497.141(5), F.S.

**MOTION:** Mr. Hall moved to affirm the Division's recommendation to refuse to rule on this application due to the pending investigation, as authorized by s. 497.141(5), F.S. Ms. Ginny Taylor seconded the motion, which passed unanimously.

**5. Cemetery Item(s)**  
**A. Application(s) for Authority to Acquire Control of Existing Cemetery Company**  
**(1) GM-1 Partners LLC d/b/a Lincoln Gardens Cemetery, Inc (Ocala)**

GM-1 Partners LLC, a Florida limited liability company, hereinafter referred to as "Applicant," has applied to the board for "Authority to Acquire Control of an Existing Cemetery Company" (hereinafter the "Application." The cemetery involved is "Lincoln Memorial Gardens of Ocala FL," approximately 22 acres in size, and whose address of record is 3035 Blitchton Road, Ocala, Florida (hereinafter "the cemetery"). The cemetery commenced operation in the mid-1950s. The cemetery has operated under current licensees for several decades, under license number F039546.

**Attachments A and B** are maps of the cemetery. Applicant has also supplied the Division with a full size survey of the cemetery property; Applicant has paid the \$5,000 application fee; Applicant meets the \$50,000 net worth requirement. Applicant has provided a letter stating applicant's general business plan for the cemetery. (Attachment G) and Applicant has agreed to hire an experienced cemetery manager and to consult with the Division in regard to selecting the manager.

#### How the Change of Control Occurred

In Feb. 2007 the current licensee and owners of the current cemetery licensee mortgaged the cemetery property, and multiple other parcels of real estate owned by principals of the current licensee, to secure re-payment of a \$550,000 loan from "GM-1 Partnership, a Florida general partnership." The cemetery and its principals thereafter defaulted on repayment of the loan. On April 2, 2008 the lender filed a "Complaint to Foreclose a Mortgage," in Marion County Circuit Court. The matter was assigned case number 42-2008-CA-001586. On Nov. 16, 2009, the trial court filed its Partial Summary Judgment for Plaintiff, as to foreclosure on certain of the mortgaged parcels, including the parcels which comprise all the real estate of Lincoln Memorial Gardens of Ocala. The Court ordered a judicial sale as to the parcels on which summary judgment was given, including the cemetery property. On March 9, 2010 the Clerk of the Court conducted a judicial sale of the property on which Partial Summary Judgment for Foreclosure had been issued. The only bidder was GM-1, and the property was sold to GM-1. On March 22, 2010, the Clerk of the Court filed a Certificate of Title, recognizing that ownership of the property sold at the judicial sale, which included all the real estate comprising Lincoln Memorial Gardens of Ocala, was in "GM-1 Partners, LLC." Subsequently, the Marion County Property Appraiser's records were amended to show GM-1 as owner of the parcels comprising Lincoln Memorial Gardens of Ocala. On May 25, 2010, upon motion of GM-1 Partnership, the Court issued an injunction against the current licensee, prohibiting the current licensee from entering onto the land comprising Lincoln Memorial Gardens of Ocala. GM-1 Partnership, a Florida general partnership, has subsequently transferred the cemetery property to the applicant herein.

#### Considerations of Public Interest

The Division believes strongly that new ownership of the cemetery would be very much in the public interest. The current licensee has an extensive adverse administration action record:

Disciplinary Citation, March 1999. In March 1999 disciplinary citation # 99-018 was issued to Lincoln Memorial Gardens of Ocala, for failure to have a price list available; a fine of \$100 was assessed in the Citation; the Citation was accepted and paid.

Final Order, Sept. 2001. In Sept. 2001 the Board of Funeral, Cemetery, and Consumer Services (hereinafter the "Board") entered a Final Order against the current licensee, in case number 6664-F-7/99. Among other things, the order fined the current licensee \$5,000, which was never paid.

Emergency Suspension, Jan. 2004. On Jan 30, 2004 the Department of Financial Services (hereinafter the "Department") issued an "Emergency Order of Summary Suspension" (hereinafter "ESO") against Lincoln Memorial Gardens of Ocala, on grounds that included "lying" to the Division.

Consent Order, April 2006. A Consent Order directed to Lincoln Memorial Gardens of Ocala was filed on Apr 20, 2006. The consent order fined the current licensee \$2,500 and imposed several requirements on the licensee. The fine has not been paid in full, and multiple others of the requirements of that order have not been complied with. See **Attachment F**, Affidavit of Division Examiner Tina Williams.

Emergency Suspension, June 2010. Another emergency order of suspension of license was filed against the current licensee in June 2010. The grounds included, among other things, falsely denying in writing to the Division that the cemetery had been mortgaged. **Attachment E**

Administrative Complaint, June 2010. Subsequent to issuance of the June 2010 Emergency Suspension, probable cause has been found on the attached Administrative Complaint against the current licensee.

#### Approval or Disapproval of the Mortgage

Pursuant to s. 497.270, the current licensee should have, but did not, seek and obtain Board approval prior to mortgaging the property. The Applicant has attested in writing to the Division, in the attached Stipulation for Licensure, that the Applicant was not aware of the Board approval requirement when it loaned the money and took the mortgage on the cemetery property. See attached **Attachment H**, Stipulation for Licensure, at para. 5. The Division believes that the Board can retroactively approve or disapprove the mortgage. The Division strongly recommends that the Board retroactively approve the mortgage, to facilitate the change in ownership of the cemetery which the Division believes would be in the public interest. To disapprove the mortgage at this point would likely plunge the cemetery into several years of litigation and uncertainty as to ownership, and the persons who would suffer most in that scenario would be the public. Moreover, the Division believes strongly that it would be against the public interest that the cemetery ownership goes back into the hands of the current licensee. Applicant has been facilitating access to the cemetery by local funeral establishments to conduct burials in spaces previously sold, under the supervision of licensed funeral directors.

#### Stipulation for Licensure

The Applicant has signed the attached Stipulation for Licensure, **Attachment H**. The Stipulation for Licensure covers multiple issues, including but not limited to: the Applicant agrees therein to make good the \$22,709 care and maintenance deficit attributable to the current licensee; the Applicant agrees to honor interment rights sold by the current licensee; and the Applicant agrees to honor any preneed contracts sold by the current licensee, but would have a claim for costs against the preneed trust fund, and a claim against the Consumer Protection Trust Fund when and if the preneed trust fund is exhausted.

#### Due process for Current Licensee

Due process is being afforded the current licensee, in that the most recent Administrative Complaint will be served on the current licensee, and the current licensee will have the opportunity to have a hearing under chapter 120, Florida Statutes. The Applicant has agreed that if the current licensee's license to operate the cemetery is not ultimately revoked or surrendered, or if by in civil litigation the current licensee regains title and possession of the cemetery, then Applicant will upon written request of the Division voluntarily surrender the license granted under this application, without prejudice to re-apply. See **Attachment H**, at para. 8. The current owner was notified in writing concerning the present application, and was invited to attend this Board meeting and make presentation to the Board, if they desired. See **Attachment C**.

#### **DIVISION RECOMMENDATION**

The Division recommends that the Board adopt the attached Consent Order (**Attachment I**) as its decision in this matter. The Consent Order would, among other things retroactively approve the mortgaging of the cemetery; approve and accept the Stipulation for Licensure by Applicant, and make it part of the Board order; and approve the application herein.

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

**MOTION:** Mr. Jones moved to approve and accept the Stipulation for Licensure by Applicant. Ms. Hubbell seconded the motion, which passed unanimously.

**MOTION:** Col. Stiegman moved to approve the application subject to the terms and conditions of the Stipulation for Licensure. Ms. Taylor seconded the motion, which passed unanimously.

#### **B. Trust Transfer Request(s)**

##### **(1) Lincoln Memorial Gardens, Inc. d/b/a Lincoln Memorial Gardens of Ocala (Ocala)**

- (a) Chapter 497.417 (pre 2005) Preneed Merchandise Trust from 2004 the Preneed Funeral Merchandise and Services Revocable Trust (US Bancorp) to the Funeral Services, Inc. (FSI) 1993 Master Trust Agreement (Sabal Trust Co.)**

Lincoln Memorial Gardens, Inc., d/b/a Lincoln Memorial Gardens of Ocala, requests transfer of preneed funds held by the 2004 Preneed Funeral Merchandise and Services Revocable Trust (US Bancorp) to the Funeral Services, Inc. (FSI) 1993 Master Trust Agreement (Sabal Trust Co.).

The Division recommends approval with the condition that certification of the transfers is received by the Department within 60 days of this Board meeting date.

**MOTION:** Ms. Thomas-Dewitt moved to approve the request with the condition that certification of the transfers is received by the Department within 60 days of this Board meeting date. Mr. Helm seconded the motion, which passed unanimously.

**(b) Chapter 497 Care & Maintenance Trust from the 1958 Future Maintenance Fund (Wachovia Bank N.A.) to the Funeral Services, Inc. (FSI) Care & Maintenance Trust (Sabal Trust Co.)**

Lincoln Memorial Gardens, Inc., d/b/a Lincoln Memorial Gardens of Ocala, requests transfer of preneed funds held by the 1958 Future Maintenance Fund (Wachovia Bank N.A.) to the Funeral Services, Inc. (FSI) Care & Maintenance Trust (Sabal Trust Co.).

The Division recommends approval with the condition that certification of the transfers is received by the Department within 60 days of this Board meeting date.

**MOTION:** Ms. Thomas-Dewitt moved to approve the request with the condition that certification of the transfers is received by the Department within 60 days of this Board meeting date. Mr. Helm seconded the motion, which passed unanimously.

Mr. Shropshire questioned whether there was any representative present of the former licensee of Lincoln Memorial as they were invited to attend and make remarks if they cared to.

There was a negative response from the audience.

**6. Application(s) for Preneed License Renewals**

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

The Division recommends approval as the application(s) meet the net worth requirement and there is no material adverse information.

Ms. Thomas-Dewitt disclosed her affiliation with Gail and Wynn Mortuary and stated it would not affect her ability to remain fair and impartial on these application(s).

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 these application(s).

Ms. Taylor disclosed her affiliation with Oaklawn Cemetery Association and stated it would not affect her ability to remain fair and impartial on these application(s).

Mr. Hall disclosed his affiliation with Lew Hall and Associates and stated it would not affect his ability to remain fair and impartial on these application(s).

Ms. Huggins disclosed her affiliation with The Simplicity Plan and stated it would not affect her ability to remain fair and impartial on these application(s).

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

**B. Recommended for Approval with Conditions**

**(1) American Funeral Partners of Florida, Inc (Punta Gorda)**

Licensee has applied for renewal of their preneed main license. Licensee satisfies the net worth and all other requirements for renewal except that certain late fees are due.

Pursuant to Board Rule 69K-5.0026, the licensee's annual preneed renewal statement was due to be submitted to the Division on or before April 1, 2010, but in fact was not submitted until May 27, 2010. Accordingly, under said rule a late fee in the amount of not more than \$50 per day late is due.

Pursuant to Board Rule 69K-5.0026, the licensee was required to submit an annual financial statement within 3 months of the end of the licensee's most recent fiscal year. Licensee's fiscal year ended on December 31, 2009, and accordingly the financial statement was due on or before April 1, 2010. The financial statement was not submitted until May 27, 2010. Accordingly, under said rule a late fee in the amount of not more than \$50 per day late is due.

The Division recommends that the license shall be renewed. Licensee shall remit to the Division a late fee in the total aggregate amount of \$ 1,000.00, within 30 days of the date a Board order in this matter is filed. The renewed license shall not be transmitted to licensee until the late fee is paid.

**MOTION:** Ms. Taylor moved to approve the application subject to receipt of a late fee in the total aggregate amount of \$1,000.00 within 30 days of the date a Board order in this matter is filed and that the renewal license shall not be transmitted until the late fee is paid. Mr. Hall seconded the motion, which passed unanimously.

**(2) *Boynton Memorial Funeral Chapel, LTD (Boynton Beach)***

The licensee does not meet the net worth financial requirements set forth in Rule 69K-5.0016 F.A.C. based on the following:

From data supplied for July 1, 2010 renewal:

Total Preneed Contracts outstanding:	\$2,099,608
Preneed trust fund, principal	\$1,531,639
Preneed trust, acc'd interest	\$233,893
Required Net Worth:	\$100,000
Reported Net Worth:	\$(1,399,456)
Current ratio: 1.27 (Current assets \$187,151, current liabilities \$147,664)	

Net worth trend is adverse. Reported net worth, prior renewals:

- for July 1, 2009 renewal: \$(1,126,690)
- for July 1, 2008 renewal: \$(1,336,931)

The Licensee submitted a letter with the current renewal application, acknowledging inadequate net worth, and asking that an attached property appraisal be accepted in lieu of meeting net worth. The appraisal, by Callaway & Price, is dated July 29, 2009 (approximately 11 months old), and is the same appraisal submitted for the 2009 renewal. The appraisal states a July 29, 2009 market value of the 800 Boynton Beach Blvd property of \$3,325,000. The balance sheet submitted for the current renewal shows real estate as an asset at gross value of \$1,941,094. The difference between appraised value and balance sheet gross value is \$ 1,383,906. Applying that against the current negative net worth still leaves a negative net worth of (\$15,550), against a required net worth of \$100,000. In addition, the Division is concerned that the appraisal is almost a year old.

The licensee has provided a personal guarantee of Stormet C. Norem, owner. However, no personal financial statements have been provided, so the weight that can be assigned the personal guarantee is uncertain.

The Division recommends, due to failure to meet required net worth as set forth above, that the Board issue an order approving renewal subject to the following conditions:

- a) Concerning all preneed sales by licensee under the renewed license, the licensee shall either trust 100% of the preneed contract proceeds in a trust under s. 497.458, Fla. Statutes; or licensee shall assure that the preneed contract price is funded by a life insurance policy on the preneed contract beneficiary's life with a death benefit amount at least equal to the total preneed contract price.
- b) The Board accepts the personal guarantee of licensee preneed obligations submitted by Stormet C. Norem, and binds the submitter to that personal guarantee.

The Chair ensured all Board members received a copy of the email from Mr. Norem.

Mr. Hall questioned whether the Division received a personal financial on this individual.

Mr. James Gellepis stated he was not aware that the Division received personal financials for the applicant.

Mr. Hall stated with the appraisal being a year old, if you take 30% off that, he would be in a negative position with his mortgage. Mr. Hall questioned whether it is customary for a licensee to supply a personal financial if they are going to do a personal guarantee.

Mr. Shropshire stated the Division does try to obtain a personal financial. Mr. Shropshire questioned whether the Division attempted to obtain one in this case.

Mr. Gellepis responded no.

Mr. Helm questioned whether this could be added to the stipulation as a condition of approval.

Mr. Shropshire stated that the application could be deferred to the next Board meeting while the Division attempts to obtain a personal financial statement from the Applicant.

Ms. Huggins questioned whether the application could be deferred without Mr. Norem agreeing to it as he is not present.

Mr. Shropshire stated as a practical matter, unless the Board instructed otherwise, if the application is deferred today the Applicant would be advised that he could continue to sell until the matter comes back before the Board.

**MOTION:** Mr. Jones moved to defer the application to allow the Division time to obtain a personal financial statement from the Applicant. Col. Stiegman seconded the motion, which passed with 1 dissenting vote.

**(3) Carthage Chapel Funeral Home, Inc (Jacksonville)**

The licensee does not meet the net worth financial requirements set forth in Rule 69K-5.0016 F.A.C. based on the following:

Does not meet minimum net worth requirements of Rule 69K-5.0016 (3):

Total Preneed Contracts:	\$	740,484		
Required Net Worth:	\$	80,000		
Reported Net Worth:	\$	54,002	Reported Net Worth Last Renewal:	\$ 75,443

The renewal statements indicate all of the outstanding preneed sales are insurance-funded.

A deficiency notice was sent on April 30, 2010 notifying the licensee that the preneed license renewal financial statements did not meet the required minimum net worth of \$80,000. Denial would be recommended if a response was not received by June 1<sup>st</sup>.

On June 1, 2010 the Division received a response from Mr. Kenneth Peele Jr., which stated that the licensee would continue to sell only insurance-funded contracts during the period 2010 – 2011 licensing period. In addition, Mr. Peele offers to subordinate a note receivable from Carthage Chapel Funeral Home in the amount of \$5,561.30, and to pledge property at 2368 Sherrington Street, Jacksonville, Florida to be held as collateral for the fulfillment of the Licensee's preneed obligations.

The Division recommends that that the Board order that the renewal of the license is approved subject to the following conditions, and licensee shall diligently and strictly comply with said condition(s), due to the failure to meet required net worth as set forth above:

a) Concerning all preneed sales by licensee under the renewed license, the licensee shall either trust 100% of the preneed contract proceeds in a trust under s. 497.458, Fla. Statutes; or licensee shall assure that the preneed contract price is funded by a life insurance policy on the preneed contract beneficiary's life with a death benefit amount at least equal to the total preneed contract price.

b) A completed, executed, and notarized agreement for subordination of all loans and amounts due from licensee shall be submitted by Kenneth Peele Jr., to the Division, within 30 days of the date the Board's Order is filed. The subordination agreement shall be in the form as set in the materials herein.

Col. Stiegman questioned the value of the property.

Mr. Gellepis stated that the Applicant submitted a personal subordination of loans. Mr. Gellepis stated that there is \$72,406 pledged equity in the property.

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

Mr. Peele answered yes. Mr. Peele stated that the amount of equity in the property should be \$72,000.

Ms. Hubbell stated that financials are disturbing when noting the amount of cash in the bank and the amount of the payroll tax liability. It appears that payroll taxes, for most of the year, for most of the payroll period, have not been deposit.

Mr. Peele stated that he is working to correct that matter by making additional payments.

The Chair questioned the amount.

Ms. Hubbell stated it was \$14,000. There was an increase this year of \$11,000 in payroll tax liability.

**MOTION:** Ms. Taylor moved to approve the application. The motion failed as there was no second.

Mr. Hall questioned when an individual pledges real estate, whether there is anything that prevents that person from refinancing the building, pulling equity out or placing a 2<sup>nd</sup> on that property.

Mr. Shropshire stated that Paragraph 17 of the form letter the Division specifies be used states:

I/We will not hereinafter, so long as this pledge is in force, sell the property, or grant a mortgage or other security interest in the property, without first obtaining an order of the Board, authorizing the sale or the granting of such mortgage or security interest. We understand and agree that the Board may, in its sole discretion, decline to authorize the sale or the granting of such mortgage or other security interest, if the Board deems same would materially impair the value of this pledge in securing full performance of the preneed contracts.

Ms. Huggins questioned whether there currently is a mortgage on the property.

Mr. Peele stated there is a City Mortgage for roughly \$7,100.

**MOTION:** Mr. Jones moved to approve the application subject to the conditions set forth by the Division. Ms. Taylor seconded the motion, which passed with 3 dissenting votes.

**(4) CEP Investment, Inc (Hudson)**

The licensee does not meet the net worth financial requirements set forth in Rule 69K-5.0016 F.A.C. based on the following:

From data supplied for July 1, 2010 renewal:

Total Preneed Contracts outstanding:	\$1,472,837	insurance funded
	\$523,306	trust funded
Total outstanding	\$1,996,143	
Preneed trust fund, principal	\$496,929	
Preneed trust, acc'ed interest	\$2,656	
Required Net Worth:	\$100,000	
Reported Net Worth:	\$(246,192)	
Current ratio: 2.27	(Current assets \$94,951, current liabilities \$41,751)	

Net worth trend is significantly adverse. Reported net worth, prior renewals:

- for July 1, 2009 renewal: \$(70,594)

- for July 1, 2008 renewal: \$16,197

The Licensee submitted a letter with the current renewal application, asking that an attached property appraisal be considered. The appraisal, by Dohring Group, is dated July 24, 2009 (approximately 11 months old), and is the same appraisal submitted for the 2009 renewal. The appraisal states a July 24, 2009 market value of the Prevatt Funeral Home, 7099 Sate Rd 52, Hudson FL property, of \$600,000. The balance sheet submitted for the current renewal shows land, building, and building improvements at a gross aggregate value of \$256,253. The difference between appraised value and said balance sheet gross value is \$343,747. Applying that against the current negative net worth indicates a hypothetical net worth of \$97,555, slightly short of the required \$100,000 net worth. The Division is reluctant to give full weight to the appraised value, because of the age of the appraisal, and the appraisal methodology is not clear to the Division.

The Division recommends that the Board order that the renewal of the license is approved subject to the following conditions, and licensee shall diligently and strictly comply with said condition(s):

a) Concerning all preneed sales by licensee under the renewed license, the licensee shall either trust 100% of the preneed contract proceeds in a trust under s. 497.458, Fla. Statutes; or licensee shall assure that the preneed contract price is funded by a life insurance policy on the preneed contract beneficiary's life with a death benefit amount at least equal to the total preneed contract price.

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

Mr. Prevatt answered, "I do" and added that all of the monies since the establishment has been open has been 100% trusting or a life insurance policy, so all of the funds are there. The establishment is audited by the Board every couple of years and there are no negative problems as far as funding those accounts.

The Chair questioned whether since the last renewal, Mr. Prevatt has been operating under the stipulations as stipulated by the Board in the past.

Mr. Prevatt answered yes.

Col. Stiegman questioned the Division's recommendation for approval with conditions if it does not agree with the methodology of the appraisal and is reluctant to give full weight to the appraisal.

Mr. Shropshire stated it is very close to the required net worth if you give weight to the appraisal, as it is \$97,555 which is within \$3000 of the net worth. The Division may not even require a condition if there was more confidence in the appraisal.

Col. Stiegman stated that Mr. Hall pointed out earlier that an appraisal from a year ago is probably 30% less now.

The Chair questioned whether Mr. Prevatt has a more current appraisal.

Mr. Prevatt answered no. The appraisal was taken from a cost analysis from a current funeral home that was sold in the area last year. There have been none others sold since that period of time. Mr. Prevatt stated if he finds himself in that situation he would probably submit a new appraisal to the Board. Since it was so close, Mr. Prevatt did not feel the value of the neighborhood has gone down as it is not a depressed area.

Mr. Hall requested whether this application could be deferred to the next meeting to allow Mr. Prevatt to obtain an upgrade for the appraisal.

The Chair questioned whether the appraisal is based upon real estate value or a comparison of funeral homes sold in the area.

Mr. Gellepis stated he did not know.

Mr. Shropshire stated that the alternative might be that the Board rejects the Division's recommendation and the Board in theory could deny the renewal. In the face of that theory the Applicant could stipulate to this being continued and would provide a new appraisal to the Board by the next meeting.

Mr. Prevatt asked that the Board keep in mind that all those funds are in the account. All the funds from the beginning since the business opened have been 100% trusted or insurance policies. The liability on those accounts is null at this point in time because the funds are there and have accumulated revenue for 14 years.

Ms. Taylor questioned whether Mr. Prevatt has been at the same location for 14 years.

Mr. Prevatt answered yes.

**MOTION:** Ms. Taylor moved to approve the application subject to the conditions set forth by the Division. Mr. Jones seconded the motion, which passed with 3 dissenting votes.

**(5) *Corey-Kerlin Funeral Home, PA (Jacksonville)***

The licensee does not meet the net worth financial requirements set forth in Rule 69K-5.0016 F.A.C. based on the following:

From data supplied for July 1, 2010 renewal:

Total Preneed Contracts outstanding:	\$2,128,637	insurance funded
	\$1,759,846	trust funded
Total outstanding	\$3,888,483	
Preneed trust fund, principal	\$1,661,375	
Preneed trust, acc'd interest	\$125,077	
Required Net Worth:	\$100,000	
Reported Net Worth:	\$(384,035)	
Current ratio: 7.55	(Current assets \$916,479, current liabilities \$121,311)	

Reported net worth, prior renewals:

- for July 1, 2009 renewal: \$270,175
- for July 1, 2008 renewal: \$123,541

On May 27, 2010 the Division received a response from Mr. Kevin Hazlip, CPA, which explains the licensee's financial situation as a result of a Treasury Stock issue due to a stockholder retirement which was funded by the corporation repurchasing stock in the amount of \$573,599. As a result of prior retirements, the total amount for Treasury Stock on the balance sheet is now \$1,486,422. The Licensee requests approval on the conditions that the Licensee continues trusting at 100% and/or selling insurance only and submission of a personal guarantee of the licensee's preneed obligations by all current owners.

The Division recommends that based on the licensee's failure to have the required net worth as above set forth, that the Board issue an order that the renewal of the license is approved subject to the following condition(s), and licensee shall diligently and strictly comply with said condition(s):

- Concerning all preneed sales by licensee under the renewed license, the licensee shall either trust 100% of the preneed contract proceeds in a trust under s. 497.458, Fla. Statutes; or licensee shall assure that the preneed contract price is funded by a life insurance policy on the preneed contract beneficiary's life with a death benefit amount at least equal to the total preneed contract price.
- A completed, executed, and notarized personal guaranty, to secure licensee's preneed obligations, shall, within 30 days of the date this Order is filed, be submitted to the Division by each person having an ownership interest in the licensee as of June 24, 2010, making each such person and their property personally liable for the preneed liabilities of licensee, as set forth in the personal guaranty document. The personal guaranty shall be in the form as set out in the specimen provided to the Board in the attached materials.

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

Mr. Hazlip answered, "I do." Two of the owners are also present and have no issues with the stipulations. All of the documents have been signed and notarized for the Board's perusal today.

**MOTION:** Ms. Taylor moved to approve the application with the conditions set forth by the Division. Ms. Huggins seconded the motion.

Mr. Helm mentioned it was stated that this issue relates to the treasury stock, \$573k but the difference in last year and this year is over \$650k.

Mr. Hazlip stated that the effect of current activities would have taken place and there is a premium on the treasury stock listed as well in the financial statements. The main catalyst for the reduction in net worth was the result of the retirement of a stockholder.

Mr. Shropshire stated that Mr. Gellepis could provide Mr. Hazlip with a copy of the financials so that he could further explain the difference, which is the difference between the positive net worth on July 1, 2009 of \$270,175 and the negative net worth of \$384,035.

Mr. Gellepis stated he did not have last year's financial statement.

Mr. Hazlip stated the difference between the 2 items would be the total of the treasury stock plus the results of operations. Mr. Hazlip stated he would be glad to add it all up and come back before the Board in a few moments to specifically answer the question to try and account for that difference. Plus, the other part that would have an impact on it would be any trust activity that did take place as well, so there are 3 components to that. Mr. Hazlip requested to have the item deferred until later in the meeting or deferred to the next meeting as he would like an opportunity to answer Mr. Helm's question correctly.

Mr. Shropshire stated that the Board could pass the item temporarily.

The Chair stated that the item would be passed temporarily while Mr. Hazlip obtains the answer to the question

***\*\*\*ITEM HELD IN ABEYANCE UNTIL LATER IN THE MEETING\*\*\****

Mr. Hazlip stated he did not prepare the financial statements but is present as a courtesy for the firm that prepared them as they could not be present. If you take the prior year renewal net worth, subtract out the treasury stock, and add the current year profit, you get a net worth of \$(287,978), which is actually better by \$96,000. Mr. Hazlip called the accounting firm who prepared the financial statements and inquired as to whether there were any transactions involving the equity section other than the treasury stock transaction and the answer received was "No." Mr. Hazlip added that he has no idea why there is a \$96,000 difference as he is unable to figure it out based on the information he has.

The Chair stated that he has known this company for many, many years. The owners and former owners have been upstanding and outstanding in the community and everything known to him about them is of legal and ethical operations.

Mr. Hazlip stated that he can not account for the \$96,000 and requested that the Board make a decision on the financials as presented.

Mr. Williams stated if you look at the rest of the financial conditions of this company, especially the quick ratios, this is a very viable company with enough cash to take care of the current liabilities. This company has been around a long time and is not a problem company. Treasury stock has been a problem for a lot of firms over the years and is starting to get addressed now.

**MOTION:** Mr. Jones moved to approve the application with the conditions set forth by the Division. Ms. Taylor seconded the motion, which passed unanimously.

**(6) *Graham Marion Jr (Jacksonville)***

Licensee has applied for renewal of their preneed main license. Licensee satisfies the net worth and all other requirements for renewal except that certain late fees are due.

Pursuant to Board rule 69K-5.0026, the licensee was required to submit an annual financial statement within 3 months of the end of the licensee's most recent fiscal year. Licensee's fiscal year ended on December 31, 2009, and accordingly the financial statement was due on or before April 1, 2010. The financial statement was not submitted until June 1, 2010. Accordingly, under said rule a late fee in the amount of not more than \$50 per day late is due.

The Division recommends that the license shall be renewed. Licensee shall remit to the Division a late fee in the total aggregate amount of \$500.00, within 30 days of the date a Board order in this matter is filed. The renewed license shall not be transmitted to licensee until the late fee is paid.

**MOTION:** Mr. Helm moved to approve the application subject to receipt of a late fee in the total aggregate amount of \$500.00 within 30 days of the date a Board order in this matter is filed and that the renewal license shall not be transmitted until the late fee is paid. Ms. Taylor seconded the motion, which passed unanimously.

**(7) *Whitfield Funeral Home, Inc (Zephyrhills)***

Licensee has applied for renewal of their preneed main license. Licensee satisfies the net worth and all other requirements for renewal except that certain late fees are due.

Pursuant to Board rule 69K-5.0026, the licensee was required to submit an annual financial statement within 3 months of the end of the licensee's most recent fiscal year. Licensee's fiscal year ended on 12-31-09, and accordingly the financial statement was due on or before 4-1-10. The financial statement was not submitted until 6-1-10. Accordingly, under said rule a late fee in the amount of not more than \$50 per day late is due.

Pursuant to Board rule 69K-5.0026, the licensee's annual preneed renewal statement was due to be submitted to the Division on or before April 1, 2010, but in fact was not submitted until 6-1-10. Accordingly, under said rule a late fee in the amount of not more than \$50 per day late is due.

The Division recommends that the license shall be renewed. Licensee shall remit to the Division a late fee in the total aggregate amount of \$ 1,000.00, within 30 days of the date a Board order in this matter is filed. The renewed license shall not be transmitted to licensee until the late fee is paid.

**MOTION:** Ms. Taylor moved to approve the application subject to receipt of a late fee in the total aggregate amount of \$1,000.00 within 30 days of the date a Board order in this matter is filed and that the renewal license shall not be transmitted until the late fee is paid. Mr. Hall seconded the motion, which passed unanimously.

**(8) *Williams Daphina Carnegie (Chiefland)***

Licensee has applied for renewal of their preneed main license. Licensee satisfies the net worth and all other requirements for renewal except that certain late fees are due.

Pursuant to Board rule 69K-5.0026, the licensee was required to submit an annual financial statement within 3 months of the end of the licensee's most recent fiscal year. Licensee's fiscal year ended on 12-31-09, and accordingly the financial statement was due on or before 4-1-10. The financial statement was not submitted until 5-14-10. Accordingly, under said rule a late fee in the amount of not more than \$50 per day late is due.

Pursuant to Board rule 69K-5.0026, the licensee's annual preneed renewal statement was due to be submitted to the Division on or before April 1, 2010, but in fact was not submitted until 5-14-10. Accordingly, under said rule a late fee in the amount of not more than \$50 per day late is due.

The Division recommends that the Board order the license shall be renewed. Licensee shall remit to the Division a late fee in the total aggregate amount of \$ 1,000.00, within 30 days of the date a Board order in this matter is filed. The renewed license shall not be transmitted to licensee until the late fee is paid.

**MOTION:** Ms. Huggins moved to approve the application subject to receipt of a late fee in the total aggregate amount of \$1,000.00 within 30 days of the date a Board order in this matter is filed and that the renewal license shall not be transmitted until the late fee is paid. Mr. Jones seconded the motion, which passed unanimously.

*C. Recommended for Denial*

**(1) Cemetery Professionals LLC (Jacksonville)**

The application was withdrawn by the Division as the deficiency notices had been sent to the wrong address and the Applicant did not receive adequate notice of this meeting.

**(2) Oosco Funeral Homes, Inc (Orlando)**

Board Rule 69K-5.0016, Florida Administrative Code, specifies net worth requirements that licensee must meet and maintain. Licensee's net worth fails to meet the minimum required by said rule. Licensee has reported in papers submitted in support of renewal, a total retail value of preneed contracts outstanding of \$ 1,773,039. Pursuant to said rule, licensee must have a net worth of \$ 100,000. Licensee's net worth as indicated by financial statements provided by licensee in support of renewal is \$ (505,013).

The reported net worth at July 2009 renewal is \$(371,358). The net worth trend is adverse.

The December 31, 2009 Renewal Statement identifies all outstanding contracts as trust funded. Trust principal is \$998,520 and trust interest is \$102,049.

For the July 1, 2009 renewal, the licensee stated that the Florida Department of Transportation, in an eminent domain action on November 24, 2008, was taking 1,637 square feet from the property which had been appraised by FDOT to be valued at \$730,000.

For the July 2009 renewal the licensee (through their accountant) indicated to the effect that completion of the eminent domain action would result in a cash receipt and improve net worth by a minimum of \$700,000.

The current income statement reflects "Other Income" gains of \$929,065 for Gain on Property Condemnation and \$413,150 for Business Damage Income, while the Statement of Cash Flows reflects the release of the deposit liability of \$730,000. However, the income statement reflects a Distribution to Shareholders of \$1,279,212, which resulted in a negative ending Retained Earnings of \$(532,013).

The Division recommends denial of this application based upon the Licensee not meeting the net worth financial requirements as set forth in Rule 69K-5.0016, FAC.

Mr. Shropshire requested that Mr. William E "Manny" Adams raise his right hand. "Do you solemnly swear 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. Adams answered yes. Mr. Adams stated that the negative net worth has been affected by a transaction of a condemnation and taking of 13' of the western boundary that the funeral home sits on. In their infinite wisdom, 3 different CPA firms and 2 legal firms, once the final agreement had been made with the Department of Transportation, has inadvertently comingled personal assets with business assets with preneed assets. This has been going on now for about 4 months. There is no way to undo what has already been done for 2009, which would entail restating our 2009 income taxes at 7 different levels as there are 7 different businesses that filter into this funeral home. Mr. Adams requested that between now and the beginning of the renewal period in March, that the establishment be allowed to trust 100% until this is all separated properly. Mr. Adams added this only came to his desk about what was actually reported at the beginning of June. In short of just trusting 100% for the next 6 months, Mr. Adams stated he would just request to withdraw the application for renewal hence we would know that the license would expire on June 30<sup>th</sup> and the establishment would not write preneed until everything is straightened out, then come back to the Board in March with a proper picture of exactly what the business assets are and the personal assets.

The Chair questioned whether the licensee is requesting a withdrawal.

Mr. Adams stated he is requesting permission to write 100% trust in this interim period only. In March, the Licensee would apply again if they desired to do anything less of 100% trusting.

**MOTION:** Col. Stiegman moved to deny the application based upon failure to meet the net worth financial requirements. Mr. Helm seconded the motion, which failed with 6 dissenting votes.

**MOTION:** Ms. Hubbell moved that the application be approved subject to 100% trusting, which would continue throughout the renewal period unless the Licensee re-approaches the Board and obtains express approval to terminate the 100% trusting. Ms. Taylor seconded the motion, which passed with 2 dissenting votes.

**(3) *Stephen R Baldauff Funeral Home, Inc (Orange City)***

The licensee does not meet the net worth financial requirements set forth in Rule 69K-5.0016 F.A.C. based on the following:

From data supplied for July 1, 2010 renewal:

Total Preneed Contracts outstanding:	\$2,134,641 insurance funded	\$135,472 trust funded
Total outstanding	\$2,270,113	
Preneed trust fund, principal	\$107,254	
Preneed trust, acc'ed interest	\$13,025	
Required Net Worth:	\$100,000	
Reported Net Worth:	\$(344,223)	
Current ratio: .46 (Current assets \$63,110, current liabilities \$137,115)		

Reported net worth, for July 1, 2009 renewal: \$(323,694)

On May 27, 2010 the Division received a response from Mr. Kevin Hazlip, CPA, which advises that the licensee's negative net worth situation is a result of a Treasury Stock issue. The net worth problem has gotten worse since last renewal, and the current ratio is very disturbing in the Division's opinion.

The Division recommends that the application for renewal be denied due to licensee's failure to meet net worth requirements as above set forth.

Mr. Shropshire reminded Mr. Hazlip that he is under oath from his prior appearance.

Mr. Hazlip requested that the Board defer the application. At the time that everything was submitted, the certificateholder had a history of this type of activity with the Board for 10 years. The business was purchased 10 years ago from the former owner and the Licensee has been in these types of stipulations for some period of time. Over the last year and a half or so, the Licensee has refinanced the entire package to a much lower interest rate and his payment has been cut in half. The Licensee thought the application had been placed on the Consideration list. Instead of bringing all these issues now, Mr. Hazlip requested that this be deferred to allow the Department time to reevaluate with the new material, which would provide a more favorable response from the Division to the Board.

Mr. Jones questioned whether the information would be submitted to the Department within the next 30 days.

Mr. Hazlip answered "easily." Mr. Hazlip added that Mr. Johnson actually mailed the information to him last night, so it is probably in route as we speak.

The Chair questioned why the Division has not already received the information if Mr. Hazlip could easily have it to the Department within 30 days.

Mr. Hazlip stated he did not know the Licensee was recommended for denial until he saw the agenda. That was Mr. Johnson's fault for not understanding the significance of what it meant.

Mr. Gellepis stated that the letter that was sent out indicating that the application would be denied was returned to the Division. Evidently there is a mix up with his address as it was mailed to the address on record, but it was returned yesterday.

Mr. Hazlip questioned whether the letter was mailed certified.

Mr. Gellepis answered, "No."

Mr. Hazlip stated he would try and find out why it was sent back.

Mr. Shropshire stated it was returned by the post office stating that was no longer a good address for that person.

Mr. Hazlip stated that the business has been there forever.

Mr. Gellepis stated that a PO Box is listed as the mailing address.

Mr. Jones requested that the Licensee provide updated contact information to the Division.

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

Col. Stiegman questioned how the license would be affected between now and the next meeting.

The Chair stated the Licensee could continue to operate under the license.

Mr. Hazlip stated he would operate under the previous conditions that have been in place since the year 2000, to trust 100% or sell insurance. In fact, the Licensee really just sells insurance as the trust is less than \$20,000.

**(4) Stonemor Florida Subsidiary LLC (Lake Placid)**

Board Rule 69K-5.0016, Florida Administrative Code, specifies net worth requirements that licensee must meet and maintain. Licensee's net worth fails to meet the minimum required by said Rule. Licensee has reported in papers submitted in support of renewal, a total retail value of preneed contracts outstanding of \$ 338,526. Pursuant to said rule, licensee must have a net worth is \$ 40,000. Licensee's net worth as indicated by financial statements provided by licensee in support of renewal is \$(224,631).

The Division recommends that the Board order that the application for renewal of the license be denied for the reasons set forth above.

Ms. Mia McKown stated that the financial statements do in fact indicate a problem with the net worth. The parent company has elected to present an original copy of the guarantee agreement and also their Deloitte Touche audited financial statements. The purpose of the guarantee is to give the Board and the Department the assurance that in fact there is going to be sufficient capital during the renewal period for the Florida subsidiary to meet the minimum net worth requirements as required under statute. Additionally, the parent company is also going to ensure that all the preneed contract obligations are met. To give the Board some comfort level with that, attached are audited financial statements which demonstrate that the parent company has a net worth which is approximately \$115,248,000, so we feel comfortable that we have demonstrated that the parent company is going to step in and put some backup for our Florida corporation to provide comfort level. Ms. McKown requested that the Board approve the application based upon the guarantee presented. Obviously Staff has not had time to review the guarantee. The Licensee just received the letter June 15<sup>th</sup> and Ms. McKown only found out about the recommendation 36 hours ago. If the Board would feel more comfortable, the Licensee would ask that the Board in the alternative would approve the license with the condition that it is subject to Staff approval of the guarantee.

Mr. Hall stated that the company knew ahead of time what the requirements were and questioned why the parent company did not come forward earlier.

Ms. McKown stated once the parent company became aware of the situation, they immediately began taking steps. The financial statement submitted by the Florida subsidiary is in fact in error. If you note, there is quite a bit of intercompany liability that is noted in there. Also missing from the prior renewal is a \$100,000 capital contribution which should have been in there. If you take those into account versus last application versus this, there should have been a net worth of about \$87,000. The parent company did not want to go into those machinations they wanted to step up and demonstrate to the Board that they would stand behind their subsidiary, meet these conditions and assure the Board that all these preneed contracts and outstanding obligations will in fact be met. Further, they have also guaranteed if the Department has to dip into the trust fund for any reason, it is stated in that the guarantee that the parent company would provide restitution to this Board for that. They fully intend to stand behind each and every obligation that is required by the law with the duty that they owe to this Board.

Mr. Shropshire stated that the Division has not had a chance to review any of the paperwork presented. If the Board is not inclined to deny the application as the Division recommends, we would ask that you defer the matter.

Mr. Helm questioned last year's net worth.

Mr. Shropshire stated the same thing happened last year and the Licensee hired Holland and Knight to come before the Board to try and fix this same problem and it has happened again.

Ms. McKown stated that it is important for consumers that we continue to keep this license in place. Ms. McKown requested the Board's indulgence for one more year and added that they would do everything possible to prevent this from happening again. If Staff is more comfortable with a deferral, the Licensee would appreciate and welcome that.

Ms. Taylor questioned the number of years the Licensee has been in business.

Ms. McKown responded that the Stonemor subsidiary made their first application in 2007 as there were a lot of different companies purchased.

Ms. Taylor stated she is referring to this specific location.

Ms. McKown stated she was unsure exactly how long at this particular location under the name of Stonemor, but could get that information and provide it to the Board.

Ms. Huggins questioned whether the licensee is trusting or selling insurance and if they are trusting, at what amount.

Ms. McKown stated they are not selling insurance.

Mr. Hall questioned the name of their accounting firm.

Ms. McKown answered, "Deloitte Touche."

**MOTION:** Col. Stiegman moved to deny the application based on failure to meet the required net worth. Ms. Thomas-Dewitt seconded the motion, which passed with 2 dissenting votes.

*D. Expirations (No application for renewal received) – Addendum E*

The license(s) presented are due to expire on June 30, 2010 for lack of an application for renewal. This item is informational only and does not require Board action.

*E. Request(s) to Reduce or Eliminate Late Penalties*

*(1) Recommended for Denial*

*(a) International Cremation Society, Inc. (Punta Gorda)*

On April 28, 2010 the Department issued a notice of deficiency to licensee stating that the 2010-2011 preneed license renewal package had not been received. In accordance with Rule 69K-5.0026 the financial statement is due within 3 months of the end of the preneed licensee's fiscal year and the renewal statement (DFS-COA-R3) is due on or before April 1<sup>st</sup>.

The Department received the renewal package on May 4, 2010. A second deficiency notice was issued on May 26, 2010 informing the Licensee of the late fees due. The Licensee's fiscal year-end is December 31, 2009, which requires submission on or by April 1<sup>st</sup>. The Licensee was assessed a late penalty of \$1,500 - \$500.00 each for the financial and renewal statements and the renewal fee, which were each 33 days late. The late fees were assessed pursuant to s. 497.453(5)(e), and rule 5.0026.

On June 3, 2010 the Division received payment of the \$1,500 late penalties and a letter from Patricia A. Koczara, CPA of MillerMusmar, CPAs (copy attached) which requested Board abatement of the late penalties, providing an explanation for why the submissions were late.

The Department recommends that the Board reduce the late fee by \$500 to \$1,000. The Division has determined that the late fee was charged for 3 items (late financial, late renewal, failure to pay the fee on time). There is no statutory authority to impose a late fee for failure to pay the actual fee on time, so the only fees that would be justifiable under the law would be the 2 \$500 fees for a total of \$1,000. Therefore, if the request is approved, the Department would refund the \$500 to the Licensee.

**MOTION:** Ms. Jean Anderson moved to approve the request. Ms. Taylor seconded the motion, which passed unanimously.

**7. Application(s) for Preneed Main License**

**A. Recommended for Approval with Conditions**

**(1) Foundation Partners of Florida, LLC d/b/a Kersey Funeral Home (Auburndale)**

The Department received the application on May 6, 2010 and deficiencies were noted on the application. A deficiency letter was sent to the applicant on May 12, 2010 and all deficiencies were resolved as of June 7, 2010.

This application is filed as a result of a change in ownership from Keystone America, Inc. d/b/a Kersey Funeral Home to Foundation Partners of Florida, LLC d/b/a Kersey Funeral Home. The sale of the funeral home is to be completed as of July 1, 2010. A completed background check of all applicant's officers revealed no criminal history.

Applicant will sell both trust and insurance funded preneed contracts. Applicant will use the pre-approved First Florida Trust Agreement (BB&T) and pre-arranged funeral agreement through Funeral Services Inc (FSI) and will sell insurance-funded preneed contracts through Forethought Life Insurance Company and use the pre-approved Forethought funeral planning agreement, respectively.

The applicant submitted an application for a funeral establishment which was presented to the Board on June 3, 2010 and was approved with the following conditions: (1) That the establishment passes the on-site inspection by Division staff and (2) That the establishment provides the division with proper closing documents in regards to the sale of the facility within 30 days of the closing.

The Applicant's financial statements as of June 1, 2010 reflect the following:

Acquired Preneed Contracts	= \$	2,334,446
Required Net Worth	= \$	100,000
Reported Net Worth	= \$	23,000,000

SCI has or is acquiring control of Keystone North America Inc. The Federal Trade Commission (FTC) made investigations as to whether the acquisition would have improperly reduced competition. A settlement was entered into circa April 2010 between the FTC, SCI, and Keystone, under which 23 properties of SCI/Keystone would be sold to Foundation Partners Group LLC. Kersey Funeral Home is one of the 23 properties.

Recommendation is for approval of the application with the condition that the Applicant meets the specified conditions for licensure of the qualifying funeral establishment as stated above at the June 3 Board teleconference and that the Applicant provides properly executed closing of sale documentation to the Division within 30 days of the completion of the sale.

Mr. Hall stated that the balance sheet was rounded off in even numbers and there were no explanation as to the inventory, values, etc. Mr. Hall questioned whether there is cause for concern.

Ms. Hubbell stated that they have not done any business.

Mr. Hall questioned whether there would be any explanation as to where the money came from or the inventory.

Mr. Shropshire requested that Mr. Bill Williams raise his right hand. "Do you solemnly swear 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. Williams stated this is a new company that has been formed and has acquired assets in funeral homes across numerous states from the merger of another company. These are the funeral homes that are left out of that. They have acquired them but have not started operating yet. Therefore, there is not a whole lot of information on the PNL side. There is a tremendous amount of net worth. The Board will receive a full fledged set of financial statements after they have a year of operating, which they have not even started quite yet.

**MOTION:** Mr. Jones moved to approve the application with the condition that the Applicant meets the specified conditions for licensure of the qualifying funeral establishment as stated above at the June 3 Board teleconference and that the Applicant provides properly executed closing of sale documentation to the Division within 30 days of the completion of the sale. Ms. Taylor seconded the motion, which passed unanimously.

**(2) Gertrude L Betsey d/b/a Betsey Funeral Home (Quincy)**

The Department received the application on May 6, 2010 and deficiencies were noted on the application. All deficiencies were resolved as of June 1, 2010. This application is filed as a result of a change in ownership from Sam W. Betsey, Jr. d/b/a Betsey Funeral Home to Gertrude L. Betsey d/b/a Betsey Funeral Home. Mrs. Betsey, the applicant, is now the sole owner and officer of Betsey Funeral Home. A completed background check revealed no criminal history. Applicant will sell preneed through Funeral Services Inc (FSI) and will use the pre-approved First Florida Trust Agreement (BB&T) and pre-arranged funeral agreement. The applicant has also submitted an application for a funeral establishment to the Board on this same agenda.

The Applicant's financial statements as of December 31, 2009 reflect the following:

Acquired Preneed Contracts	= \$	90,522
Required Net Worth	= \$	10,000
Reported Net Worth	= \$	790,650

Recommendation is for approval of the application with the condition that the application for a funeral establishment license is approved by the Board.

**MOTION:** Ms. Thomas-Dewitt moved to approve the application with the condition that the application for a funeral establishment license is approved by the Board. Ms. Taylor seconded the motion, which passed unanimously.

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

The Division recommends approval of the application(s) with the one condition that the funeral establishment license on the agenda are approved at this meeting.

**MOTION:** Ms. Thomas-Dewitt moved to approve the applications noting that the approval would be subject to approval of the related pending application for funeral establishment license. Mr. Hall seconded the motion, which passed unanimously.

9. **Continuing Education Course Approval(s)**
- A. *Recommended for Approval without Conditions – Addendum G*
- (1) *American Academy McAllister Institute of Funeral Service #9808*
  - (2) *Elite CME, Inc #113*
  - (3) *Epsilon Nu Delta Mortuary Fraternity #5801*
  - (4) *FuneralReview.com #122*
  - (5) *International Order of the Golden Rule #2201*
  - (6) *MK Jones & Associates, Inc #9605*
  - (7) *National Funeral Directors Association #136*
  - (8) *New Jersey Funeral Service Education Corp. #7002*
  - (9) *Practicum Strategies #65*
  - (10) *Southeast Tissue Alliance #108*

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

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

10. **Application(s) for Florida Laws and Rules Examination**
- A. *Recommended for Approval without Conditions – Addendum H*
- (1) *Direct Disposer*
    - (a) *Kenaiou, Shirley A*
    - (b) *Kuzniar, Stephen J*
    - (c) *Peare, Ryan*
  - (2) *Funeral Director and Embalmer - by Endorsement*
    - (a) *Brown, Rodney M*
    - (b) *Cascio, Salvatore M*
  - (3) *Funeral Director and Embalmer – by Internship*
    - (a) *Collins, Jeanine D*

The Division recommends approval of the application(s) with the exception of Stephen J Kuzniar, which has been withdrawn from the Agenda for further investigation of some information that has come to the Department's attention.

**MOTION:** Ms. Taylor moved to approve the application(s) with the exception of Stephen J Kuzniar. Col. Stiegman seconded the motion, which passed unanimously.

11. **Application(s) for Internship**
- A. *Recommended for Approval without Conditions – Addendum I*
- (1) *Funeral Director and Embalmer*
    - (a) *Hieber, Thomas D K*
    - (b) *Medina, Alan M*
    - (c) *Rice Jr., Floyd O*
    - (d) *Wilson, Daniel B*
    - (e) *Zahn, Edward P*

The Division recommends approval of the application(s).

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

12. **Application(s) for Embalmer Apprentice**
- A. *Recommended for Approval without Conditions – Addendum J*
- (1) *Thompson, William P*

The Division recommends approval of the application(s).

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

**13. Registration(s) as a Training Agency**

**A. Recommended for Approval without conditions – Addendum K**

**(1) Funeral Directing and Embalming**

**(a) KentKare Inc d/b/a Marianna Chapel Funeral Home (F039855)**

The Division recommends approval of the application(s).

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

**14. Consumer Protection Trust Fund Claims**

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

The Division recommends approval of the claim(s).

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

**15. Application(s) for Monument Establishment Sales Agent**

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

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 Cinerator Facility**

**A. Recommended for Approval with Conditions**

**(1) Carriage Florida Holdings Inc d/b/a Fuller-Cape Coral Funeral Home-Cremation Service (Cape Coral)**

An application for a Cinerator Facility was received on May 27, 2010. 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 Daniel Fuller (F042678). The Division is recommending approval with the conditions that the establishment passes an on-site inspection by a member of the Division staff and that the applicant provides the Division with proper closing documents in regards to the sale of the facility within 30 days of the closing.

**MOTION:** Ms. Anderson moved to approve the application with the condition that the establishment passes an on-site inspection by a member of the Division staff and receipt of proper closing documents in regards to the sale of the facility within 30 days of the closing. Col. Stiegman seconded the motion, which passed unanimously.

**(2) Carriage Florida Holdings Inc d/b/a Fuller Funeral Home-Cremation Service (Naples)**

An application for a Cinerator Facility was received on May 27, 2010. 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 Michael Fuller (F019840). The Division is recommending approval with the conditions that the establishment passes an on-site inspection by a member of the Division staff and that the applicant provides the Division with proper closing documents in regards to the sale of the facility within 30 days of the closing.

**MOTION:** Col. Stiegman moved to approve the application with the condition that the establishment passes an on-site inspection by a member of the Division staff and receipt of proper closing documents in regards to the sale of the facility within 30 days of the closing. Mr. Helm seconded the motion, which passed unanimously.

**(3) Carriage Florida Holdings Inc d/b/a Muller-Thompson Funeral Chapel & Cremation Service (Naples)**

An application for a Cinerator Facility was received on May 27, 2010. 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 Todd

Muller (F042480). The Division is recommending approval with the conditions that the establishment passes an on-site inspection by a member of the Division staff and that the applicant provides the Division with proper closing documents in regards to the sale of the facility within 30 days of the closing.

**MOTION:** Mr. Helm moved to approve the application with the condition that the establishment passes an on-site inspection by a member of the Division staff and receipt of proper closing documents in regards to the sale of the facility within 30 days of the closing. Ms. Thomas-Dewitt seconded the motion, which passed unanimously.

**(4) *Viera Crematorium LLC d/b/a Viera Crematory (Melbourne)***

An application for a Cinerator Facility was received on May 27, 2010. 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 Christopher Vieira (F048223). The Division is recommending approval with the condition that the facility passes an on-site inspection by a member of the Division staff.

The Chair noted that the spelling on the name of the crematorium and the principles are one letter difference. The Chair questioned whether that was correct.

Ms. Jasmin Richardson stated that was correct. The inspector advised since the Applicant lives in the Viera area, they wanted to recognize the community rather than their name.

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

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

**A. *Recommended for Approval without Conditions***

**(1) *Cremation Services of Polk County LLC (Haines City)***

An application for a Direct Disposal Establishment was received on May 7, 2010. The application was incomplete when submitted. All deficient items were returned on May 20, 2010. The fingerprint cards for all principals were returned with no criminal history. The Funeral Director in Charge will be Dave Holt (F043720). The Division is recommending approval without conditions.

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

**(2) *Gulf Coast Cremations LLC (Sarasota)***

An application for a Direct Disposal Establishment was received on April 26, 2010. The application was incomplete when submitted. All deficient items were returned on May 24, 2010. The fingerprint cards for all principals were returned with no criminal history. The Funeral Director in Charge will be James Klausch (F044291). The Division is recommending approval without conditions.

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

**B. *Recommended for Approval with Conditions***

**(1) *Carriage Florida Holdings Inc d/b/a All Cremation Options (Naples)***

An application for a Direct Disposal Establishment was received on May 27, 2010. 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 Ashley Luer (F044921). The Division is recommending approval with the conditions that the establishment passes an on-site inspection by a member of the Division staff and that the applicant provides the Division with proper closing documents in regards to the sale of the facility within 30 days of the closing.

**MOTION:** Ms. Taylor moved to approve the application with the condition that the establishment passes an on-site inspection by a member of the Division staff and receipt of proper closing documents in regards to the sale of the facility within 30 days of the closing. Ms. Huggins seconded the motion, which passed unanimously.

**(2) *The Beachwood Society Inc (Bonita Springs)***

An application for a Direct Disposal Establishment was received on May 3, 2010. The application was incomplete when submitted. All deficient items were returned on May 19, 2010. The fingerprint cards for all principals were returned with no criminal history. The Funeral Director in Charge will be Alexandra Jettke (F052721). The Division is recommending approval with the condition that the establishment passes an on-site inspection by a member of the Division staff.

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

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

**A. *Recommended for approval without Conditions***

**(1) *Gertrude L Betsey d/b/a Betsey Funeral Home (Quincy)***

An application for a Funeral Establishment was received on May 6, 2010. The application was incomplete when submitted. All deficient items were returned on June 1, 2010. The fingerprint cards for all principals were returned with no criminal history. The Funeral Director in Charge will be Lee Evans (F036346). The Division is recommending approval without conditions.

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

**(2) *The Myana Group LLC d/b/a Roger D. Sears Funeral Directors (Jacksonville)***

An application for a Funeral Establishment was received on May 19, 2010. 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 Roger Sears (F043139). The Division is recommending approval without conditions.

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

**B. *Recommended for approval with Conditions***

**(1) *Carriage Florida Holdings Inc d/b/a Fuller-Cape Coral Funeral Home-Cremation Service (Cape Coral)***

An application for a Funeral Establishment was received on May 27, 2010. 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 Daniel Fuller (F042678). The Division is recommending approval with the conditions that the establishment passes an on-site inspection by a member of the Division staff and that the applicant provides the Division with proper closing documents in regards to the sale of the facility within 30 days of the closing.

**MOTION:** Mr. Jones moved to approve the application with the condition that the establishment passes an on-site inspection by a member of the Division staff and receipt of proper closing documents in regards to the sale of the facility within 30 days of the closing. Mr. Hall seconded the motion, which passed unanimously.

**(2) *Carriage Florida Holdings Inc d/b/a Fuller Funeral Home-Cremation Service (Naples)***

An application for a Funeral Establishment was received on May 27, 2010. 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 Michael Fuller (F019840). The Division is recommending approval with the conditions that the establishment passes an on-site inspection by a member of the Division staff and that the applicant provides the Division with proper closing documents in regards to the sale of the facility within 30 days of the closing.

**MOTION:** Mr. Jones moved to approve the application with the condition that the establishment passes an on-site inspection by a member of the Division staff and receipt of proper closing documents in regards to the sale of the facility within 30 days of the closing. Mr. Hall seconded the motion, which passed unanimously.

**(3) *Carriage Florida Holdings Inc d/b/a Fuller Funeral Home-Cremation Service (Naples)***

An application for a Funeral Establishment was received on May 27, 2010. 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 Tim Miller (F020164). The Division is recommending approval with the conditions that the establishment passes an on-site inspection by a member of the Division staff and that the applicant provides the Division with proper closing documents in regards to the sale of the facility within 30 days of the closing.

**MOTION:** Mr. Jones moved to approve the application with the condition that the establishment passes an on-site inspection by a member of the Division staff and receipt of proper closing documents in regards to the sale of the facility within 30 days of the closing. Mr. Hall seconded the motion, which passed unanimously.

**(4) *Carriage Florida Holdings Inc d/b/a Fuller Funeral Home-Cremation Service (Naples)***

An application for a Funeral Establishment was received on May 27, 2010. 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 Juliana Fuller (F020562). The Division is recommending approval with the condition that the establishment passes an on-site inspection by a member of the Division staff.

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

**(5) *Carriage Florida Holdings Inc d/b/a Muller-Thompson Funeral Chapel & Cremation Service (Naples)***

An application for a Funeral Establishment was received on May 27, 2010. 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 Todd Muller (F042480). The Division is recommending approval with the conditions that the establishment passes an on-site inspection by a member of the Division staff and that the applicant provides the Division with proper closing documents in regards to the sale of the facility within 30 days of the closing.

**MOTION:** Mr. Jones moved to approve the application with the condition that the establishment passes an on-site inspection by a member of the Division staff and receipt of proper closing documents in regards to the sale of the facility within 30 days of the closing. Mr. Hall seconded the motion, which passed unanimously.

Ms. Wendy Wiener noted there were a lot of applications for Carriage Florida Holdings and Staff, Jasmin Richardson and Lashonda Morris, worked really well with the Applicants.

**(6) *Siders Funeral Home Inc (Riviera Beach)***

An application for a Funeral Establishment was received on May 24, 2010. The application was incomplete when submitted. All deficient items were returned on June 3, 2010. The fingerprint cards for all principals were returned with no criminal history. The Funeral Director in Charge will be Anthony Siders (F046629). The Division is recommending approval with the condition that the establishment passes an on-site inspection by a member of the Division staff.

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

**(7) *SMFH Inc d/b/a Sunset Memorial Funeral Home (Ocala)***

An application for a Funeral Establishment was received on May 10, 2010. The application was incomplete when submitted. All deficient items were returned on May 19, 2010. The fingerprint cards for all principals were returned with no criminal history. The Funeral Director in Charge will be Jesse Burns, Jr. (F043753). The Division is recommending approval with the condition that the establishment passes an on-site inspection by a member of the Division staff.

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

**19. Application(s) for Monument Establishment Retailer License**

**A. Recommended for Denial**

**(1) William R Carr d/b/a Cornerstone Granite & Monuments of Florida (Pinellas Park)**

The application was received on January 29, 2010 and deficiencies were noted. A deficiency letter was sent on February 8, 2010 and the applicant resolved all deficiencies by April 30, 2010. The Department completed a background check of all officers which revealed no criminal history.

The available evidence indicates that the address applicant has provided in his application for his monument establishment is his residence address, and that same is a single family home in a residential subdivision.

A "monument establishment" is defined as "a facility that operates independently of a cemetery or funeral establishment" under section 497.005(43), Florida Statutes. The Random House Webster's Unabridged Dictionary defines "facility" as "something designed, built, installed, etc., to serve a specific function...." It does not appear to the Division that applicant's residence was designed, built, or installed to serve the function of a monument establishment. Accordingly, it does not appear that applicant qualifies as a monument establishment.

The Division recommends denial of the application for the reasons set forth above.

**MOTION:** Mr. Helm moved to deny the application for failure to have a facility as required by statute. Mr. Hall seconded the motion, which passed unanimously.

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

**A. Recommended for Approval with Conditions**

**(1) Eternal Light Funeral Care, Inc. d/b/a David C. Gross Funeral Homes (St. Petersburg)**

**(a) Chapter 497.417 (pre 2005) Preneed Merchandise Trusts from SunTrust Bank to the Funeral Services, Inc. (FSI) 1993 Master Trust Agreement (Sabal Trust Co.)**

The item was withdrawn from the Agenda at the request of one of the parties.

**(2) Hubbell Family Holding Corporation d/b/a Hubbell Funeral Home (Belleair Bluffs)**

**(a) Chapter 497.417 (pre 2005) Preneed Funeral & Merchandise Trusts from the SunTrust Bank to the Funeral Services, Inc. (FSI) 1993 Master Trust Agreement (Sabal Trust Co.)**

Hubbell Family Holding Corporation, d/b/a Hubbell Funeral Home, requests transfer of preneed funds held by SunTrust Bank to the Funeral Services, Inc. (FSI) 1993 Master Trust Agreement (Sabal Trust Co.). The transfer includes preneed funds trusted on contracts sold through cemeteries owned by Simplicity Plan, Inc. The Simplicity Plan, Inc. was the former owner of Hubbell Funeral Home.

The Division recommends approval with the condition that certification of the transfers is received by the Department within 60 days of this Board meeting date.

**MOTION:** Ms. Anderson moved to approve the request with the condition that certification of the transfers is received by the Department within 60 days of this Board meeting date. Ms. Taylor seconded the motion, which passed unanimously.

**21. Contract(s) or Other Related Form(s)**

**A. Recommended for Denial**

**(1) Monument Establishment Retail Sales Agreement**

**(a) William R Carr d/b/a Cornerstone Granite & Monuments of Florida (Pinellas Park)**

The Division recommends denial of the agreement upon the grounds that the Applicant does not have a monument establishment license.

**MOTION:** Mr. Helm moved to deny the agreement based upon the grounds that the Applicant does not have a monument establishment license. Mr. Hall seconded the motion, which passed unanimously.

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

The Chair mentioned with the untimely passing of Judy Ralph, there was an appointed position available on a Probable Cause Panel and Justin Baxley has been appointed to fill that role.

The Chair added there is no meeting in July.

Mr. Shropshire stated that there is a July Teleconference scheduled.

Col. Stiegman questioned whether the position of the Chairman of the Board not a voting member of the Board.

The Chair answered, "Yes."

Col. Stiegman responded that he has never heard a voice vote from The Chair and during the roll call vote The Chair's name is never called.

The Chair stated on the roll call vote, there was already a majority. The Chair stated he would voice his vote from now on.

Col. Stiegman stated he would like to know where The Chair stands.

**23. Executive Director's Report**

**A. Director's presentation at IFDF Conference, June 11, 2010 (oral report)**

Mr. Shropshire stated that he attended the Independent Funeral Directors of Florida Conference on June 11<sup>th</sup> in Tampa. Mr. Shropshire made a brief presentation. Everything went very nicely and Mr. Shropshire thanked the Association for inviting him.

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

None

**25. Administrative Report**

A.	New Cemetery Applications Received Since Last Meeting	0
	Recommended for Approval	0
	Pending	0
B.	Cemetery Acquisition Applications Received Since Last Meeting	1
	Recommended for Approval	1
	Pending	0
C.	Preneed License Applications Received Since Last Meeting	3

	Active Preneed Licenses	385
	Presented to the Board at this Meeting	1
	Pending	2
D.	Preneed License Branch Applications Received Since Last Meeting	3
	Active Preneed License Branches	341
	Recommended for Approval	3
	Pending	0
E.	Preneed Sales Agent Applications Received Since Last Meeting	194
	Active Sales Agents as of June 15, 2010	3840
	Recommended for Approval	37
	Temporary Licenses Issued; Pending Permanent	131
F.	Monument Establishment Applications Received Since Last Meeting	1
	Active Monument Establishments	98
	Pending	0
G.	Broker of Burial Rights Applications Received Since Last Meeting	0
	Active Brokers of Burial Rights	13
	Pending	0
H.	Exempt Cemetery Reports Received Since Last Meeting	2
	Active Exempt Cemeteries	71
	Pending	0
I.	Preneed Funeral Contract Consumer Protection Trust Fund Balance as of June 15, 2010	\$7,856,701.68
	# Claims Presented at This Board Meeting	6
	\$ Claims Presented at This Board Meeting	\$3,124.59
	Claims Paid as of June 15, 2010 (for fiscal year 2009-2010)	\$52,152.81
J.	New Establishment Applications Received Since Last Meeting	29
	Pending	19
	Completed	10
K.	New Individual Applications Received Since Last Meeting	45
	Pending	11
	Completed	34
L.	Request for Training Facility Applications Received Since Last Meeting	4
	Pending	1
	Completed	3
M.	Request for CE Providers and Courses Received Since Last Meeting	44

	Pending	0
	Completed	44
N.	Initial Inspections Received Since Last Meeting	22
	Pending	0
	Completed	22
O.	Inspections Received Since Last Meeting	314
	Pending	0
	Completed	314
P.	Initial Licenses Issued Since Last Meeting	30
	Renewal Licenses Issued Since Last Meeting	5
	Duplicate Licenses Issued Since Last Meeting	4

**26. Disciplinary Report**

	Issued Since Last Meeting (April 1, 2010)	Issued Since January 1, 2010
Notice of Non Compliance	13	31
Citations	6	11

**27. Adjournment**

The meeting was adjourned at 12:04 p.m.