

MINUTES
BOARD OF FUNERAL, CEMETERY AND CONSUMER SERVICES
June 28, 2012 - 10:00 A.M.
Department of Financial Services
2020 Capital Circle SE, Alexander Bldg #230
Tallahassee, FL 32301

1. Call to Order, Preliminary Remarks and Roll Call

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

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

My name is Doug Shropshire. I am Director of the Division of Funeral, Cemetery, and Consumer Services. Today is June 28, 2012; the time is approximately 10:00am. This is a public meeting of the Board of Funeral, Cemetery and Consumer Services. Notice of this meeting has been duly published in the Florida Administrative Weekly. An agenda for this meeting has been made available to interested persons. The meeting is occurring in person at the Alexander Building in Tallahassee, FL. My Assistant, Ms LaTonya Bryant-Parker, is recording the meeting and will be preparing minutes of the meeting.

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

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

PRESENT:

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

ABSENT:

Andrew Clark
Richard "Dick" Mueller

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

Also noted as present:

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

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

2. Action on the Minutes

A. June 7, 2012

The Chair confirmed that all Board members had read the draft of the minutes of the previous Board meeting held on June 7, 2012.

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

3. Old Business

A. *Disciplinary Proceedings: Rejection of Board's Counter offer and Presentation of Revised Settlement Stipulation*

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

Ms. Allison Dudley stated that it was her understanding that there may be some intention to speak about a complaint that has been made subsequent to this case being opened. Ms. Dudley instructed that complaints that are in the process of going through the probable cause process cannot be discussed and requested that no one bring up those complaints, if there are any.

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

A settlement was proposed of a \$1000 fine. The Board rejected the settlement and came back with a counter offer of a \$5000 fine and a one year suspension and Mr. Comoletti would not be allowed to be and FDIC for one year. On May 23, 2012, the Board issued its Order rejecting the proposed settlement and making a counteroffer in this case. On May 25, 2012 the Respondent Comoletti rejected the Board's counteroffer. The Department recommends approval of the revised proposed Settlement Stipulation for Consent Order assessing Respondent a \$2500.00 fine. The Department's first problem with the Board's initial counteroffer of a \$5000 fine and a one year suspension is that the penalty guidelines did not allow for this type of penalty. The maximum penalty for the statutes that Mr. Comoletti allegedly violated is \$2500 fine and one year probation. Also, to be honest, Ms. Smith testified that she provided over 100 pre-signed blank forms to Mr. Comoletti at the time and he was allowed to use them. Ms. Smith would be the Department's only witness and the Department fears that type of testimony in front of the Division of Administration Hearing Officer would be met with skepticism and the Department would not be able to prevail in this case. It would be highly problematic that that the Department would prevail and also may be opening up the Department to attorney's fees. In light of the fact that there has been no harm to the public, the incident took place over three years ago. Mr. Comoletti is out of business and is presently not even a funeral director in the funeral business. Mr. Comoletti wants to be a school teacher.

Mr. John Rudolph, representing the Respondent, stated that Mr. Comoletti went back to school and applied for a teaching certificate, which was going to be issued until they found out about this complaint. The issuance of the teaching certificate is being held up until this issue is resolved.

Mr. Bossart stated based on that, the Department recommends that the Board approve the \$2500 fine.

Col. Stiegman questioned whether the Department is recommending a year of probation as well.

Mr. Bossart stated that a year of probation was in the Board's counteroffer. The maximum penalty is a year of probation. The Department did not recommend probation for the simple reason that Mr. Comoletti is not a funeral director. It would be up to Mr. Comoletti to accept should the Board wish to add additional conditions.

Mr. Rudolph stated that Mr. Comoletti is present should the Board have questions for him.

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

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

Mr. David Anthony Comoletti answered, "I do."

Mr. Lew Hall stated that Mr. Comoletti's counsel was present when that testimony was given, and he did not object to it. Counsel actually asked some questions of Ms. Smith. Mr. Hall questioned whether Mr. Comoletti signed the 302 permits.

Mr. Comoletti stated that he did not sign all of the permits, but he did sign a couple of them, but it was with permission. When we first bought the business, I was given pre-signed permits to use. If I ran out of those, and Ms. Smith was not available to sign some more, Ms. Smith gave permission for me or my secretary could sign. Most of the signatures affixed to the permits are my secretary's, but I did sign a couple.

Mr. Hall questioned whether there was a reason on the timeframe or whether there was any other reason Mr. Comoletti did not apply to become Sub Registrar as it is not a difficult process to go in with a Notary and get a Sub Registrar issued.

Mr. Comoletti stated that was in the process. He and his secretary both had to get their Notary first and then take the class offered by Health Department. Once we both became Sub Registrars we were no longer doing that; but until we were able to be Sub Registrars, I either used pre-signed permits or had permission to sign for ourselves.

Mr. Hall questioned whether Mr. Comoletti understands that by signing those for Ms. Smith, with her name on them, that was still forgery whether Ms. Smith gave him permission or not.

Mr. Rudolph objected to the question as Mr. Hall is stating that it is forgery. In forgery, there must be intent to defraud and the intent to defraud has to go to the face of the document. There has not been established that any of the information contained in the burial transit permit was false or misleading. All the information concerning the decedent is correct. This is not a case where the family is saying "they took possession of my body and I did not authorize it, and he forged this to get it done." There is one case out there where the State sued a person who forged birth certificates. There the court clearly stated that it is not just signing someone's name, but it is the intent to defraud. In that case, it was defrauding the police department on a birth certificate to show that a person was born in a certain place. Mr. Rudolph added there does not appear to be a claim for forgery and in this case we are not talking about a forgery. In this case, the Department has filed a claim, which Mr. Bossart can address.

Mr. Bossart stated that it is not a forgery. Mr. Comoletti submitted an official document with a signature falsely attached thereto. Mr. Comoletti submitted the documents with Ms. Smith's signature on it and he knew or should have known that Ms. Smith did not actually sign the document, so there lays the violation. I cannot prove that Mr. Comoletti signed the document.

Mr. Hall stated Mr. Comoletti admitted that he signed the document.

Mr. Rudolph stated that Mr. Comoletti signed a few of the documents. The allegation was that he forged 302 burial permits. The testimony would be that Mr. Comoletti did not sign 302.

Mr. Hall questioned whether it is okay to sign a few but not a lot, no harm no foul. As long as the public was not hurt, it was alright to do so. Had it hurt the public in any way, then there would be an issue.

Mr. Bossart stated that it certainly made a very big difference.

Mr. Rudolph stated this is the first time Mr. Comoletti has been disciplined at all. On the inspection of the funeral home, Mr. Comoletti should have been told what was wrong with the funeral home and given the opportunity to cure it. There is

nothing in the record indicating that he cured the problems with the funeral home. Soon thereafter, the replevin action occurred because this involves a case where Mr. Comoletti bought this funeral home from the Smiths at the height of the market. Mr. Comoletti signed a tremendous mortgage, \$8000 a month. Mr. Comoletti determined he could not make the mortgage payments.

Mr. Comoletti stated that he is guilty of making bad business decisions. Soon after I purchased the business, I realized that it was not going to be going well. The first year of purchasing the business, Mr. Comoletti had to buy a new AC, a new roof and a new van. The cash flow was slowing down and I got to a point where I could not sustain the business. Mr. Comoletti stated he did everything he could, but it just was not happening. Mr. Comoletti stated when he first bought the business, everything was fine as he paid \$95,000 down and over \$8000 per month.

Mr. Rudolph questioned whether the mortgage was foreclosed.

Mr. Comoletti answered that the mortgage did get foreclosed and he filed bankruptcy.

Mr. Rudolph questioned whether there is a personal judgment against Mr. Comoletti or the company on behalf of the Smiths.

Mr. Comoletti responded, "No sir."

Ms. Wendy Wiener requested permission to address the Board on behalf of the complainant, June Smith.

The Chair questioned what this is related to.

Ms. Wiener stated that is related directly to the argument, to the penalty guidelines and to the issues before the Board this morning.

Mr. Rudolph objected. Addressing the penalty guidelines is Ms. Dudley's job. Interjecting in a Settlement Stipulation where we are not trying the case and the Department has agreed to the Settlement Stipulation, and for a third party to come in and argue is not proper.

Ms. Dudley stated that these things tend to get a little out of control. These are not designed to be adversarial proceedings. The Board typically lets the complainant speak and be heard, which was allowed at the last meeting. Ms. Dudley stated that she did not want to get into a back and forth between lawyers about penalty guidelines, etc. We know what the penalty guidelines are and the Board can make their decision based upon the information that is before them and what they have previously heard from Ms. Smith. Ms. Dudley stated that she would leave it up to the Chair on whether to allow Ms. Wiener to speak but cautioned the Board that we should not let this get out of control with this back and forth type stuff on a Settlement Agreement.

The Chair granted Ms. Wiener permission to speak.

Ms. Wiener stated since the Administrative Complaint is not before the Board I do not know how you can test the penalty guidelines. There are actually four statutes that were violated, each of which carries a penalty of \$2500. Not one single penalty before the Board, but four. The Administrative Complaint was not provided to the Board in the packet. Mr. Comoletti is here on his funeral director's license. Mr. Comoletti was FDIC at the time that he signed documents and at the time that he asked his assistant to sign documents. There are 302 in total. The Board heard Ms. Smith's testimony at the last Board meeting and she is happy to testify again today that there was no permission given for her signature to be affixed to additional documents. The question of Ms. Smith having pre-signed some permits as Sub Registrar is not an issue that is before the Board and will never be an issue before the Board. Ms. Smith was not at the time a Chapter 497 Licensee and after reviewing Chapter 382, Ms. Wiener is not sure whether this is actually a violation of Chapter 382 for the Sub Registrar to pre-sign burial transit permit documents in the way that she did.

Mr. Bossart reminded the Board of the action of replevin. The inspection took place on March 9th and Ms. Smith took possession of the funeral home less than a week later.

Ms. Wiener responded, "In July."

Mr. Bossart stated that the Writ of Replevin is dated March.

Mr. Shropshire requested that the Board be guided by the evaluation of the likelihood that you would get any significantly higher penalty if you go to trial in this matter. Given that the Department's attorney indicates that \$2500 is the max penalty, it is probable that the Administrative Law Judge (ALJ) is going to believe the prosecutor on that point. Another point that the ALJ will take into consideration is that there are not any actual specific injured members of the public and finally the ALJ will give significant weight to the fact that the complainant does not have "clean hands" in this matter. Mr. Shropshire suggested that be the Board's evaluation whether there is any significant chance that you would get a higher penalty if you went to litigation. Note that litigation is going to be expensive as it always is. Mr. Shropshire recommended that the Board accept the penalty.

Mr. Ken Jones questioned whether the recommendation for probation would be applied should Mr. Comoletti decide to reenter the Industry.

The Chair stated that was not a part of the Stipulation.

Mr. Jones stated he would like to accept the \$2500 fine but would like to add a year of probation should Mr. Comoletti reenter the Industry.

Ms. Dudley stated since this is a Settlement Agreement, the Board would have to reject the Settlement Agreement and counter with that additional term.

Mr. Jones stated he was inquiring whether that could be added since Mr. Comoletti's license is still valid.

Ms. Dudley stated it is complicated since Mr. Comoletti's license is still valid. The Board is just taking Mr. Comoletti's word that he is leaving the profession.

Mr. Rudolph stated that Mr. Comoletti has applied for a teaching job, got a teaching job and waiting for the Department of Education to issue his teaching certificate but they would not because of the Administrative Complaint that was filed. We have been trying to get this thing resolved as quickly as possible. Mr. Comoletti has already missed the spring teaching but is working with disadvantaged children.

Mr. Jones stated that if his license is still valid, it would come back before the Board, so the one year probation would not matter at that point.

MOTION: Mr. Jones moved to accept the Settlement Stipulation as recommended by the Department. Col. Stiegman seconded the motion, which passed with three (3) dissenting votes.

4. Disciplinary Proceedings:

A. Proposed Settlement Stipulations (Probable Cause Panel A)

Ms. Nancy Hubbell recused herself from the following cases as she participated on Probable Cause Panel A.

(1) Barbara Ann Falowski: Case No. 122482-12-FC, Division #1-698720396 (F028017)

Mr. Linje Rivers stated that the Division alleges that Barbara Falowski Funeral & Cremation failed to cremate a body within the contractual and statutory time frame. The Division alleges that it took the funeral home approximately three weeks to remit the ashes of the cremated body to the family. The funeral home contracted with the family to remit the ashes to them within 7-10 business days.

Ms. Falowski agreed to pay a \$1,000 fine.

The terms of the Settlement Stipulation are reasonable under the facts and circumstances of this case. The Department requests that the Board approve the settlement and issue the Consent Order to conclude this matter.

Mr. Jim Stark, representing Barbara Falowski, stated that Ms. Falowski could not attend the meeting as she has a new employee starting and the manager is on vacation. Therefore Ms. Falowski would be the only person who could properly supervise the business today. Ms. Falowski's husband, her partner in the business, is also attending a seminar in Apopka. The company maintains their position that they have taken some remedial action by ceasing to do business any further with the crematory that was involved.

Col. Stiegman stated that the Respondent's explanation of the circumstances seems reasonable and questioned why the Respondent has agreed to a \$5000 fine.

Mr. Stark stated that the fine is \$1000 on each complaint. The company made a business decision, as it felt it was financially more feasible to pay the penalties than to try and litigate this in full.

MOTION: Mr. Helm moved to accept the Settlement Stipulation as recommended by the Department. Mr. Lew Hall seconded the motion, which passed with one (1) dissenting vote.

(2) Barbara Falowski Funeral & Cremation: Case No. 122487-12-FC, Division #1-698720396 (F041363)

Mr. Rivers stated that the Division alleges that Barbara Falowski Funeral & Cremation failed to cremate a body within the contractual and statutory time frame. The Division alleges that it took the funeral home approximately three weeks to remit the ashes of the cremated body to the family. The funeral home contracted with the family to remit the ashes to them within 7-10 business days.

Respondent has agreed to pay a \$1,000 fine.

The terms of the Settlement Stipulation are reasonable under the facts and circumstances of this case. The Department requests that the Board approve the settlement and issue the Consent Order to conclude this matter.

MOTION: Mr. Helm moved to accept the Settlement Stipulation as recommended by the Department. Mr. Lew Hall seconded the motion, which passed with one (1) dissenting vote.

(3) Cemetery Professionals, LLC d/b/a Beaches Memorial Gardens: Case No. 110156-10-FC, Division #1-591746095 (F039753) and Cemetery Professionals, LLC f/b/a Beaches Memorial Park: Case No. 110157-10-FC, Division #1-591746158 (F019496)

Ms. MaryK Surlis stated that from April 27, 2009 through May 6, 2009, the Division of Funeral, Cemetery and Consumer Services (hereinafter "Division") conducted an examination of the Respondents' preneed and cemetery license. On September 24, 2009, the Division completed its investigation of Respondents.

On April 26, 2010, the Division referred the matter to Legal Services. On March 23, 2011, the Department filed an Administrative Complaint alleging the Respondents failed to accurately keep records, did not prepare contracts in accordance with the Act, operated with an expired and inactive cemetery license by selling both preneed and at-need contracts, failed to properly handle its trust funds and allowed deposits from Riverview Memorial, Inc, a separately owned Licensee from Respondents, to be deposited into Respondents' bank accounts. On April 13, 2011, the Department received the Respondents' Election of Proceeding form requesting a formal hearing. On January 5, 2012, the Department filed an Amended Administrative Complaint, and on January 25, 2012, the Department received the Respondents' Election of Proceeding form to the Amended Administrative Complaint requesting a formal hearing.

On May 22, 2012, the Respondent and the Department entered into a Settlement Stipulation for Consent Order. If the Board accepts this Settlement Stipulation the Respondents will pay an administrative fine in the amount of \$5,000.00, and will pay costs in the amount of \$250.00 within thirty (30) days of the Consent Order issued in this case and Respondent's Cemetery License, F039753 (34-00), will be placed on probation for a period of three (3) years with the specific conditions that the

Respondent will pay restitution in the amount of \$38,859.57 to Riverview Memorial, Inc, and will pay the Division's costs and expenses to conduct an annual inspection and examination of the Respondents' cemetery and preneed licenses as long as Respondents remain on Probation.

Mrs. Amanda Kuzniar-Rayan will surrender her individual Preneed Sales Agent License, F020025 (37-06), at the time the Consent Order is entered in this case, and Mrs. Kuzniar-Rayan will not sell, offer to sell or make an arrangement for a preneed contract without having a valid preneed license. Mrs. Kuzniar-Rayan may apply for licensure at the end of three (3) years from the date of the entry of the Consent Order entered in this matter.

It is now appropriate for the Board, at this time, to entertain a motion to accept the Settlement Stipulation for discipline in this matter.

Mr. Alan Winter, representing the Respondent, joined Ms. Surles in asking the Board to approve the Settlement Stipulation for Consent Order. Just briefly, the allegations that were a part of the complaint are dated, that is they are several years old, and as the Department probably knows, the latest audit of this facility was two months ago in May 2012 and the results were excellent. There have been several matters that have been handled by Ms. Rayan, who, by the way is somewhere on I-10 coming here, as I am sure you all are aware of the road problems in the State of Florida right now. Ms. Rayan will be here shortly but has asked Mr. Winter to move forward so as not to delay. Persons who needed to go at the facility have since gone and people who needed to be hired have since been hired, so it appears the facility is in excellent condition at this point. Mr. Winter requested that the Board vote favorably on the motion to approve the Stipulation.

Ms. Dudley questioned whether Mr. Winter represents Ms. Rayan as well.

Mr. Winter answered, "I do. I represent Ms. Rayan, who is the President and Owner of Cemetery Professionals. Yes."

Ms. Dudley questioned whether Ms. Rayan is the person who signed the Settlement Agreement.

Mr. Winter answered, "Yes she is." Ms. Rayan will be here shortly. They called about ten minutes ago indicating that they are getting here as fast as they can.

Ms. Dudley stated she wanted to make sure as it is unusual to have a Settlement Agreement where there is a facility that is the party but then somebody else has agreed to turn in their personal license, so I just want to be sure.

Ms. Surles stated that Ms. Rayan is the owner and is also a licensed entity and this is part of the Settlement Stipulation.

Ms. Dudley stated that she is not saying it cannot happen, but Ms. Rayan is not here so she wants to ensure everyone is on the same page. Ms. Dudley stated she also wanted to confirm that the signature is Ms. Rayan, as she could not read it very well, to ensure there are no problems with the surrendering of the license after this.

Mr. Winter confirmed there would not be any problems. Ms. Rayan appears on the Agenda in another matter regarding the facility's preneed license. Hopefully, by that time, Ms. Rayan will have arrived and Ms. Dudley could inquire about that at that time if it is a concern. Mr. Winter added that he could guarantee the signature as he sat there and watched Ms. Rayan sign the Stipulation.

Ms. Dudley stated that Mr. Winter's statement clarifies things for the record.

Mr. Helm questioned the cost of an inspection by the Division.

Mr. Winter stated that historically the cost has been about \$2000.

Mr. Shropshire stated that since the Law was changed ten years ago, the Department does not charge for examinations.

Mr. Helm stated that the Stipulation indicates that the Respondent "will pay the Division's costs and expenses to conduct an annual inspection and examination..."

Mr. Shropshire stated, under the Settlement that would be the projected costs. The Examiner would keep track of her hours and any out of pocket expenses incurred by the Division in conducting the exam; her annual salary would be reduced to an hourly basis and render a bill, which would be sent to the Licensee.

Mr. Helm questioned whether there is a set fee.

Mr. Shropshire answered, "No sir."

Ms. Surles concurred with Mr. Shropshire on how the Department would keep track of the cost for conducting that examination of the cemetery or preneed license.

Mr. Helm questioned whether the cemetery license would be on probation for three years if the Board accepts the Stipulation.

Ms. Surles answered, "Yes sir."

Mr. Helm questioned the number of people currently selling preneed at that location.

Mr. Winter stated that he believes there is only one person selling preneed.

Ms. Surles stated there is another person there to sell preneed.

Mr. Winter apologized for not knowing the answer but stated that there is another person.

Mr. Helm questioned whether there is only one other person.

Mr. Winter stated that he does not have that information but believes that Mr. Rayan is properly licensed.

Mr. Hall questioned whether the Licensee is currently on probation.

Mr. Winter answered, "Yes."

Mr. Hall stated this is probation on top of probation.

Mr. Winter concurred. We understand that and want the Board to understand that we see this as very optimistic for this reason. I believe this is the last issue before this facility so I am asking the Board to grant the motion for the Consent Order. Ms. Rayan has made a lot of efforts in the last couple years to put her house in order. This is the last issue before the Board and from what I know of the facility, my office is two miles from it, seeing the day to day operation and knowing of the last audit. I think that Ms. Rayan has done an excellent job of making sure that this facility is now in excellent posture. It is unfortunate that these things happened in the past. The people that are responsible for these problems are now gone. Ms. Rayan has surrounded herself with people who can prevent this from happening in the future.

Mr. Hall questioned whether the probation runs consecutively.

Ms. Surles stated that the probations are independent of themselves. The probation was issued mainly to ensure that the installment payments to the restitution are being paid. After speaking with Mr. Miller this morning, the Division confirms that on the prior probation everything is in order, fines and costs have been paid, examinations have been completed and there have been no findings. The probation is independent of the prior probation. It is three years from the date the Consent Order is issued.

Mr. Hall stated that the prior probation was three years and one year has been served, so there are two left plus the three on this probation.

Ms. Dudley questioned whether the probations are running together.

Mr. Shropshire stated if the Board accepts this Settlement today, there would be three more years of probation aggregate of all the settlements.

Ms. Thomas-Dewitt questioned the position of the owner in regards to the deposits into the wrong account.

Mr. Winter stated that he has a lot of the records with him. They come from 2007. Ms. Surles and I did some extensive discovery in this case, and I do not really want to get into the facts of this case, but I know I want to satisfy your inquiry. Mr. Winter stated that he believes this point was reached because another license holder was asleep at the switch and confessed judgment in effect. The money that is going to be repaid here by Ms. Rayan is basically going to mitigate as to that other license holder's deficiencies. Mr. Winter stated he was not privy to that complaint and does not represent that individual obviously. These monies will make sure that all consumers are made whole for all of the allegations that are within the complaint. Ms. Rayan is paying back basically monies that are possibly for consumers at another locale. Again that was in 2007.

Mr. Hall stated that the information provided in packets addresses on that property as purchase of a mortgage on that cemetery. Mr. Hall questioned whether Mr. Winter knows this to be a fact that the agreement on payment on that cemetery to the other parties was secured with a mortgage.

Mr. Winter stated that he was not prepared to address that and would have to ask Ms. Rayan about that.

Ms. Surles stated that the Department took depositions in this case from both Mr. Kuzniar and Mrs. Kuzniar Rayan. It was presented that Ms. Rayan admitted on the record to depositing funds that were written out to Riverview into Cemetery Professionals' account, as well as Mr. Kuzniar had deposited funds that were written to Riverview Memorial that were deposited into the account of Cemetery Professionals. That was admitted in deposition.

Mr. Winter stated that Mr. Rayan is now present. Mr. Winter questioned whether that was Ms. Rayan's signature on the Stipulation.

Ms. Rayan answered yes.

The Chair stated that one of the conditions of the Stipulation was to retain a qualified cemetery manager pursuant to s. 497.263, F.S. and that part has not been discussed. The Chair questioned the plan for retaining a general manager.

Ms. Rayan stated that she has a general manager, Lou Schwartz.

Mr. Winter stated that Mr. Schwartz is well known in the Jacksonville area in this industry. Mr. Winter pointed out that Ms. Rayan had not been sworn in.

Mr. Shropshire requested that Ms. Rayan raise her right hand. "Do you swear that the testimony you are about to give and have given in this proceeding here today will be the truth, the whole truth, and nothing but the truth so help you God?"

Ms. Amanda Rayan answered, "Yes."

Ms. Wiener, representing Riverview Memorial, stated that she does not believe Mr. Winter made a misrepresentation but thinks the Board may be left with the idea that Riverview Memorial's trusts are not adequately funded and that this money that Ms. Rayan is paying is going to fund those. Mr. Duncan McKenzie who runs Riverview Memorial did contract with Cemetery Professionals to run his cemetery and to the extent that he was asleep at the wheel when that happened, that is the case. In fact, Mr. McKenzie's trust became so inadequately funded that he, within 30 days of the Consent Order on his cemetery license, put \$110,000 into trust. There is not a single consumer whose trust funds are not protected at Riverview Memorial.

Mr. Hall questioned whether there is currently a mortgage on the cemetery.

Ms. Rayan responded there is not a mortgage on the cemetery. There was a lien that was placed on a house that she owns.

Ms. Surles stated there was a prior question regarding preneed licensees.

Mr. Winter questioned what other licenses for preneed sales are there at the facility, because Ms. Rayan is surrendering her preneed license.

Ms. Rayan stated there are two other preneed licenses, Nader Rayan and the funeral director, Darryl Pinsonneault.

Mr. Shropshire stated that Mr. Winter indicated that the most recent audit had "excellent" results. The Division headquarters in Tallahassee has not received a final copy for its review of that audit and it will not be final until the Division headquarters reviews it. Mr. Shropshire questioned whether Mr. Winter's client has received a draft for comments.

Ms. Rayan answered, "No, not yet."

Mr. Shropshire questioned what Mr. Winter's is basing his comment on.

Ms. Rayan answered, "The exit exam, just off of reviewing everything and the obtainment after it was done."

Mr. Winter questioned who the auditor was.

Ms. Rayan answered, "Dianna Patterson."

Mr. Shropshire questioned when the exit exam was done.

Ms. Rayan stated it was sometime in May.

Mr. Winter added it was originally scheduled for March, but was eventually scheduled and concluded in May.

Mr. Shropshire questioned what Ms. Patterson advised in the exit exam.

Ms. Rayan stated that there were no real concerns so Ms. Patterson advised that she would receive a final report and added that she would call Ms. Rayan in a couple of weeks.

Mr. Shropshire stated in as much as the Division headquarters has not had a chance to look at the audit, I would suggest that the Board note that that representation is material to the Board's decision.

Ms. Thomas-Dewitt stated that in one of the Exhibits there were about 36 files that were missing and requested an explanation of where the files were during the time that the investigation was going on.

Ms. Rayan questioned which audit Ms. Thomas-Dewitt was referring to.

Ms. Thomas-Dewitt responded it was the complaint audit.

Ms. Rayan stated that the files are all accounted for.

Ms. Thomas-Dewitt stated at that particular time Ms. Rayan did not have all of the preneed files on location.

Ms. Rayan stated she did not know anything about that.

Ms. Thomas-Dewitt questioned whether Ms. Rayan was the funeral director at that time.

Ms. Rayan responded that she is not a funeral director.

Ms. Thomas-Dewitt questioned whether Ms. Rayan was writing preneed.

Ms. Rayan answered, "Yes."

Ms. Thomas-Dewitt stated that she has concerns about the numerous violations that were fined in line with the assessed amount of the fine. This does not appear to be in order.

MOTION: Ms. Thomas-Dewitt moved to reject the Settlement Stipulation as recommended by the Department and offer a counteroffer. Mr. Hall seconded the motion, which passed with one (1) dissenting vote.

The Chair stated it seems that most of the violations have to do with preneed sales and how preneed funds have been handled in the past. The Chair questioned what the Respondent would do differently to give the Board the security that there is protection there for the preneed funds.

Ms. Rayan stated that the preneed is 100% trusted, so every bit of the money collected goes to trust.

The Chair stated that he noted there have been a lot of cancellations and requested an explanation of the procedures on cancellations.

Ms. Rayan stated if someone defaults they are sent a certified letter. If they do not respond within 45 days, then we cancel.

The Chair questioned the cancellations on the fully funded preneed.

Ms. Rayan questioned whether The Chair is referring to the last audit.

The Chair stated he is referring to the preneed license application.

Ms. Rayan stated that they are trying to rewrite some of the old contracts that are on SunTrust to FSI to get rid of having two trust accounts.

Mr. Shropshire stated that he does believe that the most recent exam, which has occurred that I have already asked Mr. Winter about; there was specific inquiry by Ms. Patterson into the issue of the cancellations. Ms. Patterson looked into it very specifically and did not find a violation of Chapter 497 on that issue.

Ms. Thomas-Dewitt suggested that the Board consider increasing the fine to \$10,000.

Mr. Hall stated that his concern is for public safety, the fact that we had testimony earlier that Ms. Rayan's company supervised the other cemetery and that gentleman had to come in and spend \$110,000 to fund that trust fund. Now we have an issue with \$38k and an issue that Ms. Rayan is paying on for roughly \$75k in payments, she is already on probation and we are putting her on another probation. Mr. Hall stated that he is against Ms. Rayan having a preneed license period from the standpoint of public safety in lieu of everything we have in front of us.

Mr. Jones questioned whether the \$10,000 fine would be within the penalty guidelines.

Ms. Dudley stated it does not matter since this is a counteroffer to a Settlement Agreement.

2nd MOTION: Ms. Thomas-Dewitt moved to accept the Settlement Stipulation as recommended by the Department along with increasing the fine to \$10,000. Mr. Hall seconded the motion, which passed with one (1) dissenting vote.

Mr. Winter stated that he appreciates that the Motion has carried to make a counteroffer. These are material and significant changes, we believe, to the Stipulation, which we came here ready and hoping the Board would accept. Ms. Rayan cannot mentally wrap her head around this in this short period of time and I am sure the Board understands that. Mr. Winter added that he would not expect anyone else to do the same. The disposition of the second matter on this agenda this morning is material as to whether or not Ms. Rayan would accept the counteroffer. Mr. Winter recommended that the Board table this matter for right now until the Board votes on the second matter. Once the Board votes on the second matter, Ms. Rayan can decide whether or not she wants to move forward with the Stipulation and I can also give her advice in the hallway.

Ms. Dudley stated that the Board has already voted to make the counteroffer. The Department should add in the Order that the Respondent would have a certain amount of time to accept or reject the counteroffer. If the Board is okay with that, Ms. Dudley recommended seven days or three days to give Ms. Rayan time to think about it.

Mr. Shropshire questioned whether that would run from the filing of the Order.

Ms. Dudley responded yes.

Mr. Shropshire stated that the Order typically would not be prepared for two weeks.

Ms. Dudley stated it is typical to let people think about these things.

Mr. Shropshire concurred. Mr. Shropshire stated perhaps Mr. Winter thinks he is required to give an answer to the counteroffer right here at this meeting and that is not the case.

Mr. Winter stated that he understands. Also, for judicial economy, depending on how the Board votes on the second matter with Cemetery Professionals and Ms. Rayan, it may change her position and my advice. So I am simply asking that we table this for right now and recall it immediately after that second matter, as that may be a good way to handle both matters and we can walk out of here with both matters resolved.

The Chair stated that the item has been voted on.

Mr. Hall stated that right now there is about \$38k involved here and after the payments, maybe \$75k on the other issue. In concern on the part about public safety, Mr. Hall questioned whether Mr. Winter's client would potentially look at going to the bank, making other arrangements on this money, paying these funds back so money is back into the trust fund and make the monthly payments to the bank instead of the trust fund if they had a prolonged probationary period.

Mr. Winter stated the reason why the Stipulation was done the way it was is because we already inquired as to Ms. Rayan about that and she is not capable of doing that as she has children and runs this business. It is simply a cash flow issue.

Mr. Hall stated between these two payments and agreements, it is a pretty sizeable amount.

Mr. Winter stated when he and Ms. Surles were putting the Stipulation together, that was one of his concerns as he cannot promise what his client cannot do.

Mr. Hall stated it would make him feel better to know that the money was back in the trust funds.

Ms. Wiener stated that the trust funds are whole. All money is in the trust that is supposed to be in the trust. This would be a payment to reimburse Riverview for payments that it put into the trusts as a result of the money being diverted from its account to Cemetery Professionals' account.

Ms. Surles stated that the trusts at Cemetery Professionals have been met. This money is basically restitution being paid to Riverview. No trust is outstanding here.

Mr. Hall questioned the other \$75k.

Ms. Surles stated that is still being paid and Ms. Rayan is being timely on her payments.

The Chair stated he would like to proceed with the application for Preneed License Renewal for Cemetery Professionals.

*****ITEM TAKEN OUT OF ORDER*****

6. B. (4) Cemetery Professionals LLC (F019496) (Atlantic Beach)

Licensee reports a stated net worth of \$271,458, against a minimum required net worth of \$100,000. Licensee appears to meet all substantive requirements for renewal of licensure. At its January 2011 Board meeting, the Board approved a settlement of a disciplinary action against the Licensee, in Case #103192-09-FC. A consent order was filed on March 10, 2011 in the matter (copy attached). The Licensee is currently in compliance with the terms of the consent order. Among the stipulations made by the Licensee in the consent order, was an agreement to write only 100% trusted preneed contracts (see page 4 of the attached Stipulation for Consent Order).

The FCCS Division recommends that the Board approve renewal subject to conditions, and adopt the following Findings of Facts and Conclusions of Law:

At its January 2011 Board meeting, the Board approved a settlement of a disciplinary action against the Licensee, in Case #103192-09-FC. A Consent Order was filed on March 10, 2011 in the matter (copy attached). The Licensee is currently in compliance with the terms of the consent order. Among the stipulations made by the Licensee in the consent order, was an agreement to write only 100% trusted preneed contracts.

Accordingly, it is ordered that the application for renewal of the preneed license is approved subject to the condition that Licensee shall continue throughout the period of renewal to deposit into a preneed trust under section 497.458, Florida Statutes, 100% of all proceeds received from the sale of preneed contracts sold under the preneed license.

Mr. Shropshire stated that in much as it has been explained now that the \$38k Ms. Rayan is being required to pay is not to correct a deficiency in the trust, the Division continues in its recommendation that the license be renewed subject to the condition of 100% trusting or a full insurance funding of all preneed sales, which I understand is acceptable to Ms. Rayan.

Mr. Winter concurred. Mr. Winter requested that the Board follow the recommendation and renew the license.

Mr. Helm stated that had Mr. McKenzie not paid the money, the \$38k would be missing so Ms. Rayan is paying that back.

Ms. Surles stated that the \$38k has been replaced by Mr. Duncan McKenzie, the owner of Riverview. That money is owed to Riverview as restitution. It is not money that needs to go into any trust.

Mr. Shropshire stated that in the sense from the public protection point of view the trust is fully funded which is the Division's main consideration.

Mr. Winter stated that many times people appear and enter into stipulations not because a Trier of Fact has made a determination. This is what is in the best interest of Ms. Rayan, Cemetery Professionals and the consumers of the State of Florida so that we can move forward, have businesses and protect the consumers. In this case all the consumers, both at Cemetery Professionals and Riverview, have now been protected. They are fully funded. That is not a problem. The "loser" in this case is Mr. Duncan McKenzie and the \$38k is an agreed upon stipulated amount to repay to Riverview simply because of the stipulated sins of Ms. Rayan's facility.

Mr. Helm stated that had Mr. McKenzie not put the money in, it would be missing.

Ms. Wiener concurred. The amount that was agreed upon was not agreed upon with Riverview's consent. Riverview replaced \$110,000 to trusts that went missing while Cemetery Professionals was managing the cemetery. The \$38k is for specifically the checks that were diverted; scratch out Riverview, write in Cemetery Professionals, or right on the back, "pay to the order of Cemetery Professionals" and sign the name. That is the \$38k. There is still a lot more money that Mr. McKenzie repaid to the trust because as the cemetery, he was ultimately responsible for hiring a manager.

Mr. Hall stated that he is still concerned about public safety. Just the fact that the owner is currently stating that the bad apples were dismissed, she is still ultimately responsible.

Mr. Winter questioned whether the Board understands and appreciates that if the preneed license is not renewed, not only the hope for a stipulation in the currently but the prior stipulations may not be within reach of this client.

Mr. Hall stated that he does not feel Mr. Winter should hold the Board or the Division hostage. The facts speak for themselves. The problems that Ms. Rayan had are self inflicted. She brought them on herself, so now it is time to pay.

Ms. Hubbell stated that this name has been before the Board quite a few times. Whether I am right or wrong, I think that most of the problems stem from the former husband and it seems like after the divorce, Ms. Rayan is trying to get herself together and is agreeing to things very onerous, moneywise. Ms. Hubbell stated that she understands that the money is gone but to take away Ms. Rayan's ability to try to improve or do what is right does not seem proper.

Mr. Shropshire stated that he certainly understands the Board's concern but thinks Mr. Winter is probably right that the most recent examination had no significant findings in the preneed application which goes to Ms. Hubbell's point that there is objective evidence that the Licensee has turned the corner. This would be a one year renewal of the application. Ms. Rayan would be back in a year to renew this preneed main license. This is a very difficult one but there would be a lot of work that has been invested that another year's extension to see if it is going to work out would be worthwhile because that work would be lost if the Board denies.

Ms. Surles stated that the Board could actually issue the preneed license with possibly a midyear review of Ms. Rayan's preneed license because currently the prior Settlement Stipulation has not been accepted so there is not another probation.

MOTION: Mr. Hall moved to deny the application based on past history. Mr. Helm seconded the motion, which failed with four (4) dissenting votes.

Mr. Shropshire suggested that perhaps a condition that if any of the restitution payments are late, the licensee's preneed license would be suspended summarily.

The Chair questioned whether that was a part of the previous stipulation.

Ms. Surles stated that has not been stipulated.

Mr. Shropshire questioned whether Ms. Rayan would be agreeable to that.

Mr. Winter stated they are two unrelated matters but stated Ms. Rayan would agree to that in good faith because she does want the Board to renew the license. We would recognize that is a separate matter, but have no problem with Ms. Surles including that because we expect Ms. Rayan to strictly comply with the repayment schedule.

Mr. Shropshire questioned whether Mr. Winter is suggesting that the Stipulation in the underlying disciplinary case be amended. Mr. Shropshire stated he was suggesting that the license be renewed pursuant to a Consent Order that Ms. Rayan would agree to that the license is renewed subject to the condition that there is 100% trust funding or insurance funding and if any of the payments under any Order are late that there is a summary suspension of the preneed license.

Mr. Winter stated Ms. Rayan would agree to that.

Ms. Dudley stated that she understands that but what happens if we get done with this and they say we are not accepting that Settlement, then you have no restitution order.

MOTION: Col. Stiegman moved to approve the application subject to the conditions recommended by the Division. Ms. Hubbell seconded the motion, which failed with four (6) dissenting votes.

MOTION: Mr. Jones moved to approve the application subject to the conditions that there is 100% trust funding or insurance funding and if any of the payments under any Order are late that there is a summary suspension of the preneed license. Mr. Hall seconded the motion, which passed with two (2) dissenting votes.

Mr. Shropshire confirmed that Mr. Winter understands this will be issued as a Consent Order.

Mr. Winter concurred.

Mr. Winter questioned with the current Stipulation on the first matter that was before the Board, is it the Board's counteroffer to include a one year suspension of the facility preneed license.

Ms. Surles answered, "No."

Mr. Hall stated that the counteroffer would just increase the fine.

Mr. Winter stated that Ms. Rayan has given him the authority to counter the counteroffer with a fine of \$7500 as opposed to \$10,000. As Mr. Shropshire has eloquently stated and he does not know the specifics of it, but over the past couple of years Ms. Rayan has made every effort to turn this facility around and I certainly do not want simply the lack of cash to destroy what I know now to be a facility that seems to be running correctly and consistent with the State of Florida and protecting the consumers. It is my duty to request the Board to consider a counter to the counteroffer of a \$7500 fine. It is simply an amount of money. The most important thing here should be the protection to the consumers and both facilities are protected and Ms. Rayan's continuing management of this facility. So, I would make that counteroffer with the understanding that if the offer to the counteroffer is accepted then I believe we have a Stipulation on the first matter.

Mr. Hall questioned whether some additional time would be helpful to allow Ms. Rayan to pay the \$10,000.

Mr. Shropshire questioned the timeframe the fine has to be paid.

Ms. Surles stated that the Department normally gives 30 days to pay all administrative fines and costs, unless it is changed by the Board at the meeting.

Mr. Winter requested to amend his counteroffer as Ms. Rayan has authorized him to agree to the \$10,000 if the Board would be kind enough to allow her four (4) months in which to pay it off. It is simply a matter of cash flow and the size of her business. Ms. Rayan knows what she is capable of.

The Chair questioned whether Ms. Rayan is agreeing to pay the original \$5000 within 30 days and the remainder within four (4) months.

Mr. Winter concurred.

MOTION: Mr. Hall moved to accept the Respondent's counteroffer to pay the original \$5000 within 30 days and the remainder within four (4) months. Ms. Thomas-Dewitt seconded the motion, which passed with one (1) dissenting vote.

(4) Gunter-Butler, Stanley: Case No. 117958-11, Division #1-626350009 (F045059)

Ms. Surles stated that on October 30, 2009, the Division of Funeral, Cemetery and Consumer Services (hereinafter "Division") received a complaint. On April 29, 2011, the Division completed its investigation.

On June 1, 2011, the Division referred the matter to Legal Services. On August 12, 2011, the Department filed an Administrative Complaint alleging the Respondent provided funeral arrangements when his funeral director's license was not active or valid, and embalmed three separate bodies when his embalmer's license was not active or valid.

On December 5, 2011, the Respondent was personally served with the Administrative Complaint, and on December 22, 2011, the Department received Respondent's Election of Proceeding form for which he elected to have a formal hearing. On April 6, 2012, the Respondent and the Department entered into a Settlement Stipulation for Consent Order.

If the Board accepts this Settlement Stipulation the Respondent will pay an administrative fine in the amount of \$2,500.00, and pay costs in the amount of \$250.00 within thirty (30) days of the Consent Order to be issued in this case and Respondent's Funeral Director and Embalmer License will be placed on probation for a period of two (2) years with the specific condition that the Respondent will take and pass the Florida Law and Rules Exam within ninety (90) days of the Consent Order to be issued in this matter. The Respondent is responsible for bearing all costs associated with the registering and completing the Florida Law and Rules Exam.

Mr. Rudolph stated that he spoke with Mr. Gunter-Butler, who has not been working, stated he would have a very difficult time to come up with \$2500 within 30 days and would like to have four (4) months as well to pay it.

The Chair questioned when Mr. Rudolph spoke with Mr. Gunter-Butler.

Mr. Rudolph stated that he spoke with him on yesterday. Mr. Gunter-Butler stated he could agree to pay \$500 a month. Mr. Rudolph stated he would like to add that as a condition.

Mr. Helm stated that the materials provided states that the Respondent mailed his renewal application prior to the last day and the Department received the renewal and cashed the check. Mr. Helm questioned whether this is true.

Mr. Rudolph stated that is true. Mr. Gunter-Butler mailed his application and it was received before the renewal date. The problem was it was insufficient as he did not have his continuing education credits.

Ms. Surles stated that the renewal application in essence was not complete. Not only does the Division need to receive money for renewal but they have to receive all the qualifications and conditions that go along with that renewal application, which happens to be the continuing education in this matter.

Mr. Shropshire questioned whether the explanation is correct in Jasmin Richardson's recollection.

Ms. Richardson stated that she is researching the actual dates, but it appears to be correct.

Mr. Rudolph questioned whether the Division sent a deficiency notice to Mr. Gunter-Butler, as I am sure they did which is up in Georgia where he was no longer living with his girlfriend. So his girlfriend got it but never sent it back.

Mr. Helm stated that was not the Division's fault.

Mr. Shropshire stated that this is not a proper posture for this case because in the last case the Board extended by four months a payment plan but that was after they rejected the Settlement. You can withdraw from the Settlement entirely even at this point, but I believe otherwise the Settlement should be ruled on as is by the Board.

Mr. Rudolph stated that he is trying to advise the Board on what his client informed him as much as his payments were. I am not saying that he did not sign and agree to this Settlement.

The Chair stated that Mr. Gunter-Butler signed and agreed to the Settlement on April 2nd.

Mr. Shropshire urged the Board to take up the Settlement aye or nay, subject to Mr. Helm's question being answered.

Mr. Helm stated his question was answered.

MOTION: Ms. Thomas-Dewitt moved to accept the Settlement Stipulation as recommended by the Department. Mr. Hall seconded the motion, which passed with one (1) dissenting vote.

(5) White, Kimberly: Case No. 120943-11-FC, Division #1-704558535 (F045463)

Ms. Surles stated that on March 21, 2011, the Division of Funeral, Cemetery and Consumer Services (hereinafter "Division") received a complaint, and on July 6, 2011, the Division completed its investigation.

On October 10, 2011, the Division of Legal Services received the Division's investigative file. On February 13, 2012, the Department filed an Administrative Complaint alleging the Respondent wrote two separate funeral contracts for which the last dated funeral contract charged a price for funeral and/or burial services and merchandise that was more than the price represented on the General Price List for Wright and Young Funeral Home, and charged a greater price for the cemetery property than the actual cost of the cemetery property.

On June 12, 2012, the Respondent and the Department entered into a Settlement Stipulation. If the Board accepts this Settlement Stipulation the Respondent will pay an administrative fine in the amount of \$5,000.00, and will pay costs in the amount of \$250.00 within thirty (30) days of the Consent Order issued in this case, and Respondent's Funeral Director and Embalmer License, license number F045463 (25-00), will be suspended for six (6) months and will not practice as a funeral director while her license is suspended. Subsequent to the six (6) months suspension, Respondent's Funeral Director and Embalmer's License will be placed on probation for a period of two (2) years with the specific condition that Respondent will not practice as a funeral director in charge for any establishment regulated by Chapter 497, Florida Statutes, and shall not fulfill any insurance funded funeral or burial contracts or submit any insurance funded funeral or burial contracts for payment for any funeral or burial contract that involves insurance, other than a funeral or burial contract funded by insurance, and will not charge prices on any funeral contract that are not represented on the current General Price List for the licensed establishment.

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

(6) Wright & Young Funeral Home: Case No. 120941-11-FC, Division #1-704558535 (F039941)

Ms. Surles stated that on March 21, 2011, the Division of Funeral, Cemetery and Consumer Services (hereinafter "Division") received a complaint, and on July 6, 2011, the Division completed its investigation.

On October 10, 2011, the Division of Legal Services received the Division's investigative file. On December 20, 2011, probable cause was found for the Department to file an Administrative Complaint and on February 13, 2012, the Department filed an Administrative Complaint alleging the Respondent wrote two separate funeral contracts for which the last dated funeral contract charged a price for funeral and/or burial services and merchandise that was more than the price represented on the General Price List for Wright and Young Funeral Home, and charged a greater price for the cemetery property than the actual cost of the cemetery property.

On January 23, 2012, the Respondent received the Administrative Complaint and on February 13, 2012, the Department received Respondent's Election of Proceeding form for which it elected to have a formal hearing. On June 11, 2012, the Respondent and the Department entered into a Settlement Stipulation.

If the Board accepts this Settlement Stipulation the Respondent will pay an administrative fine in the amount of \$5,000.00, and will pay costs in the amount of \$250.00 within thirty (30) days of the Consent Order issued in this case, and Respondent's Funeral Establishment License, license number F039941 (26-00), shall be placed on probation for a period of two (2) years and for six (6) months shall be prohibited from fulfilling any insurance funded funeral or burial contracts and from submitting any requests for payment of a funeral or burial contract that involves proceeds from any insurance contract, other than preneed contracts funded by insurance, and during the period of probation Kimberly White will not be permitted to practice as a funeral director in charge for Wright & Young Funeral Home, and will not allow Kimberly White to practice funeral directing or embalming without a valid and active funeral director or embalmer license. The probation will run concurrent with the probation in the matter of Wright & Young Funeral Home, Inc. case number 120944-11-FC.

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

(7) Wright & Young Funeral Home: Case No. 120944-11-FC, Division #1-696971925 (F039941)

Ms. Surles stated that on February 16, 2011, the Division of Funeral, Cemetery and Consumer Services (hereinafter "Division") conducted a preneed examination for Respondent's Funeral Establishment.

On October 10, 2011, the Division of Legal Services received the Division's investigative file. On February 21, 2012, the Department filed an Administrative Complaint alleging the Respondent allowed unlicensed individuals to sell preneed funeral and/or burial merchandise and/or services on the premises of the funeral establishment for Respondent.

On February 25, 2012, the Respondent received the Administrative Complaint by certified mail and on March 16, 2012, the Department received Respondent's Election of Proceeding form for which it elected to have a formal hearing. On June 15, 2012, the Respondent and the Department entered into a Settlement Stipulation.

If the Board accepts this Settlement Stipulation the Respondent will pay an administrative fine in the amount of \$2,500.00, and will pay costs in the amount of \$250.00 within thirty (30) days of the Consent Order to be issued in this case and Respondent's Funeral Establishment License F039941 (26-00), will be placed on probation for a period of two (2) years with the specific condition that Respondent will allow only licensed preneed sales agents who have been appointed to by Respondent to sell or offer for sell preneed on the funeral establishment premises.

Mr. Rudolph stated that Wright & Young Funeral Home already entered into a Stipulation under their preneed license for the exact same facts, in April and now the exact the exact same facts are coming back on the funeral home establishment license. They both should have been included in one and the fine would have been \$2500 and \$500, but they signed the Stipulation.

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

5. Application(s) for Preneed Sales Agent

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

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) or any other matters before the Board today

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 without Conditions (Criminal History)
(1) Brown, Christopher (Appointing Entity: Daytona Memorial Park)**

On May 23, 2012, the Department received an application from Mr. Brown. Mr. Brown answered "Yes" to Applicant Background Questions. During the review of his fingerprint results provided by FDLE it was confirmed, Mr. Brown did have one criminal infraction that required disclosing.

The criminal history includes (1) offense relating to one incident of Driving Under the Influence in 2010, which occurred in Brevard County, Florida. Upon request Mr. Brown disclosed all required information. The Department assessment is that if issued a preneed sales agent license, Mr. Brown would not pose an unreasonable risk to the members of the public who might deal with him in preneed transactions.

The Division recommends approval of the application without conditions.

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

**C. Recommended for Approval with Conditions (Criminal History)
(1) Minor Jr., Jesse David (Appointing Entity: Remembrance Services of Florida, LLC)**

On February 24, 2012, the Department received an application from Mr. Minor. Mr. Minor answered "No" to Applicant Background Questions. During the review of his fingerprint results provided by FDLE it was determined Mr. Minor had one criminal infraction that required disclosing. Mr. Minor was asked to provide an explanation for the inaccuracy on his application. Mr. Minor's explanation "The Judge told me that I would not have a criminal record and it would appear only on my driving record. This is how I honestly understood it therefore I did not put it down on my application".

The criminal history includes (1) offense relating to one incident of Driving While Intoxicated in 2010, which occurred in Cattaraugus County, New York. Upon request Mr. Minor disclosed all required information. The Department assessment is

that if issued a preneed sales agent license, Mr. Minor 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 12 full months of probation.

The Chair requested that the Applicant be sworn in.

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

Mr. Jesse David Minor answered, "I do."

Mr. Helm questioned where Mr. Minor is employed.

Mr. Minor responded that he is employed with Remembrance Services of Florida, Kays-Ponger.

Col. Stiegman questioned why the Division is recommending probation since the case is similar to the previous item discussed (Christopher Brown).

Mr. Shropshire stated that the Division is recommending a 12 month probation on the basis that Mr. Minor did not answer the question accurately on the application.

Col. Stiegman stated that he did not feel this was fair.

Mr. Shropshire stated in the prior case, Mr. Brown did disclose his criminal history.

Col. Stiegman stated that Mr. Minor's point in this explanation makes sense.

Mr. Helm questioned whether Mr. Minor has any objection to the 12 month probation.

Mr. Minor stated that he was a former pastor for 25 years. He went through a very bad divorce and at that time his daughter had run away from home and had been raped by an adult when Mr. Minor found her, but he got her into a good place. Upon returning to New York State, Mr. Minor did something totally out of character, as he does not drink, but he did that night. Mr. Minor started driving home but then realized that he should not have been, so he pulled the car off the road, started walking home and was picked up by the State Police. Mr. Minor told the Officer the truth as he admitted to driving and was charged with DUI. When Mr. Minor went before the Judge, who subsequently became a wonderful friend, stated this would never show up as criminal but would be on Mr. Minor's driving record. When Mr. Minor applied for the job, he advised the hiring manager of the 2010 DUI and stated that the Judge told him it would never show as criminal because it was conditionally discharged but it appeared on the fingerprint results. Mr. Minor was not hiding anything but was under the impression that it would never be criminal against him.

Mr. Minor added that he would rather not have probation if possible.

MOTION: The Chair moved to approve the application without conditions. Col. Stiegman seconded the motion, which passed unanimously.

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) or any other matters before the Board today.

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) or any other matters before the Board today.

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

B. Recommended for Approval with Conditions
(1) A B Coleman Mortuary Inc (F019311) (Jacksonville)

Licensee reports a stated net worth of \$ 684,259, against a minimum required net worth of \$40,000. Licensee appears to meet all substantive requirements for renewal of licensure. However, Licensee was late in filing its renewal and financial statements. The forms were due not later than April 1, 2012; however, the renewal forms were not received until June 5, 2012. Licensee was late in filing its renewal statements in 2011.

The FCCS Division recommends that the Board approve renewal subject to conditions, and adopt the following Findings of Facts and Conclusions of Law:

Section 497.453(5)(e), Fla. Statutes, provides as follows: "(e) In addition to any other penalty that may be provided for under this chapter, there may be levied a late fee as determined by licensing authority Rule but not to exceed \$50 a day for each day the preneed Licensee fails to file its annual statement, and there may be levied a late fee as determined by licensing authority Rule but not to exceed \$50 a day for each day the preneed Licensee fails to file the statement of activities of the trust. Upon notice to the preneed Licensee by the department that the preneed Licensee has failed to file the annual statement or the statement of activities of the trust, the preneed Licensee's authority to sell preneed contracts shall cease while such default continues."

Rule 69K-5.0026(2) provides as follows: "(2) Failure to submit the statements as required in subsection (1) may result in the levy of a fine by the Board of Funeral, Cemetery, and Consumer Services in the amount of \$50 per day for each day the financial and renewal statements are not submitted as follows: (a) Annual COA Financial Statement must be submitted to and received by the Department of Financial Services, Division of Funeral, Cemetery, and Consumer Services, 200 East Gaines Street, Tallahassee, Florida 32399-0361, within 3 months of the end of the preneed Licensee's fiscal year. (b) Annual COA Renewal Statement and the required renewal fee must be submitted to and received by the Department of Financial Services, Division of Funeral, Cemetery, and Consumer Services, 200 East Gaines Street, Tallahassee, Florida 32399-0361, on or before April 1 of each year."

Licensee's annual preneed financial and renewal statements (R2 and R3) were due to be filed with Division by not later than April 1, 2012. The forms were received by the Division on June 5, 2012 and were thus 65 days late, which at \$50 per day indicates a late fee due of \$ 500 per statement. The Board has capped the late fee at \$1,000. Accordingly, the preneed license shall be renewed subject to the condition that Licensee pays to the Department an aggregate late fee in the amount of \$1000, which has been paid.

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

(2) Alphonso West Mortuary Inc (F038716) (Jacksonville)

Licensee's renewal application package was received by the FCCS Division on or about April 1, 2012. On May 14, 2012 the FCCS Division mailed a Deficiency Notice to Licensee, advising Licensee of the following deficiencies:

* FORM R4. You answered Yes to item 1a (changes in legal entity) on form R4. Please provide us a written explanation of the changes.

* FORM R4. You answered Yes to item 1b (changes in ownership) on form R4. Please provide us a written explanation of the changes.

* BLANK SPACES. As noted below, you left multiple entries blank in the various forms that make up the preneed renewal application papers. You may have left the space(s) blank because the answer was zero or not applicable. However, leaving the space blank is ambiguous, because we cannot tell whether you intended the blank space to be understood as zero, not applicable, or you simply did not know what the answer was. Therefore, please make an entry in every blank space.

Where accurate, enter the numeral Ø, the word "none," or "n/a" for "not applicable").

* FORM R2A. You did not provide a form R2A Balance Sheet financial statement. Please provide a form R2A Balance Sheet financial statement for your most recently completed fiscal year.

* FORM R2B. You did not provide a form R2B Income Statement financial statement. Please provide a form R2B Income Statement for your most recently completed fiscal year.

As of June 14, 2012, the date this cover sheet is prepared, the FCCS Division has not received any response to said Deficiency Notice, nor has the FCCS Division received any material relating to Licensee's net worth.

Licensee's annual preneed renewal statement (R1, R2, R3) were due to be filed with Division by not later than April 1. The renewal statement was received by the Division on May 9, 2012, and thus was 37 days late, which at \$50 per day indicates a late fee due of \$ 500 per statement. The Board has capped this late fee at \$1,000.

Licensee renewed timely in 2011 with no conditions. The FCCS Division recommends that the Board approve renewal subject to conditions, and adopt the following Findings of Facts and Conclusions of Law:

Licensee has failed to timely provide the Division or the Board, in connection with Licensee's application for renewal or otherwise, a financial statement as of the entity's most recent fiscal year end and respond to the aforesaid items of deficiency.

Licensee's annual preneed renewal statement (R1, R2, R3) were due to be filed with Division by not later than April 1, 2012. The renewal statement was received by the Division on May 9, 2012, thus 37 days late, which at \$50 per day indicates a late fee due of \$ 500 per statement. Accordingly, the preneed license shall be renewed subject to the conditions that:

- 1) Licensee submit financial statements that demonstrate that it meets the required net worth for renewal and provide an adequate response to any remaining deficient items within 30 days from the date of this Board meeting.
- 2) Licensee is to pay the required late fees due for the late filings of both the preneed renewal and financial statements, in the amount of \$1000.
- 3) Licensee is to pay to the Department an aggregate late fee in the amount of \$1000, within 60 days of this Order.

There has been a change in the status of this matter since the materials were prepared for the meeting. The financial statements have been provided. The Licensee has not corrected the other deficiencies identified in the materials before the Board. The renewal fee check bounced and has not been made good yet.

Ms. Lashonda Morris stated that the Licensee did report a net worth of over \$114,000 so that would indicate that he does meet the net worth requirement.

Mr. Shropshire stated that the Division recommends that the license be renewed, but that the renewed license be suspended effective immediately upon renewal and shall remain suspended until the following conditions are satisfied:

- 1) Licensee is to provide the Division with a written explanation regarding the R4 form, where he indicated there was a change of legal entity and a change of ownership.
- 2) Licensee is to provide answers to the renewal application field that was left blank on the application.
- 3) Licensee is to pay the Division a late fee in the amount of \$1000, pursuant to Statute and Rule.
- 4) Licensee is to make good of the renewal fee and the related return check fees.

Mr. Shropshire stated this is a new approach that the Division is trying this year to prevent matters from coming back before in a case such as there where the Licensee has a history of renewing adequately as indicated in the materials provided. This would vest some discretion in the Division that if these things are corrected the suspension would be lifted without coming back to the Board.

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

(3) Boynton Memorial Chapel Ltd (F019300) (Boynton Beach)

2009 RENEWAL (7-1-2009): Licensee had a negative stated net worth of \$(1,126,690), against a minimum required net worth of \$100,000. Licensee was renewed subject to the condition of submission of a personal guarantee of the Licensee's preneed obligations by the Licensee's principals.

2010 RENEWAL (7-1-2010): Licensee had a negative stated net worth of \$(1,399,456), against a minimum required net worth of \$100,000. Licensee was renewed subject to the conditions that: 1) Licensee agree to 100% trusting or insurance funding of all preneed contracts sold and, 2) submission of a personal guarantee of preneed obligations by the Licensee's principals.

2011 RENEWAL (7-1-2011): Licensee reports a negative stated net worth of \$(1,419,627), against a minimum required net worth of \$ 100,000. Licensee was renewed subject to the conditions that: 1) Licensee agree to 100% trusting or insurance funding of all preneed contracts sold and, 2) submission of a personal guarantee of preneed obligations by the Licensee's principals.

CURRENT RENEWAL (7-1-2012): Licensee reports a negative stated net worth of \$(1,325,425), against a required minimum net worth of \$100,000. Licensee reports a current ratio of 1.21 to 1. The net worth deficiency has decreased since last year.

The FCCS Division recommends that the Board approve renewal subject to conditions, and adopt the following Findings of Facts and Conclusions of Law:

Licensee has demonstrated a NEGATIVE net worth of \$ *1,325,425). Licensee reports total outstanding preneed contracts of \$1,883,078. The required net worth for renewal, pursuant to s. 497.453(2)(b) and (5), Fla. Statutes, and Rule 69K-5.0016, Fla. Administrative Code, is \$100,000.

Section 497.453(2)(b)2, FS, authorizes an Applicant for renewal of a preneed license who cannot demonstrate the required minimum net worth to voluntarily submit to the licensing authority, and request acceptance of, alternative evidence of financial stability and resources or agree to additional oversight in lieu of the required net worth. Section 497.453(2)(b)3, FS, provides that "The licensing authority may accept such alternative evidence or arrangements in lieu of the required net worth only if the licensing authority determines such alternative evidence or arrangements are an adequate substitute for required net worth and that acceptance would not substantially increase the risk to existing or future customers of nonperformance by the Applicant or Licensee on its retail sales agreements." The Board finds that the condition(s) specified below are, under s. 497.453(2)(b)3, FS, a proper and adequate substitute for the required net worth under the facts of this case.

The license shall be renewed subject to said condition(s):

- 1) Licensee shall, within 30 days of this Board meeting, cause the principals of the Licensee each to execute and deliver to the Division a personal guarantee of the Licensee's preneed obligations, in the form as attached hereto; and further, Licensee shall cause each such principal to file with the Division, within 60 days of the date of this Board meeting, a statement of personal assets and liabilities, compiled and reviewed by a certified public accountant, prepared and presented in conformity with Generally Accepted Accounting Principles.

Mr. Hall stated that each year this application comes up with a substantial negative worth and the Board always agrees to a personal financial. This year, on a couple of these, the Board has approved the application and allowed 60-70 days for the Licensee to submit their personal financial. Mr. Hall stated he would like to see that format change. Mr. Hall stated he would like to see the personal financial statement before the approval. The way it stands the Board is being asked to approve the application kind of blindly.

Mr. Rudolph stated if the request for the personal financial had been presented to the Licensee prior to the meeting he would have sent it.

Mr. Hall stated that the Licensee is aware as it is addressed year after year after year.

Mr. Shropshire stated that the Board could vote to deny and the Licensee could immediately request a hearing. The Statute is very plain that the Licensee could continue selling during the pendency of the preceding. This has basically been done in years past. Then we would come back to the Board with the financials and personal guarantee then the Board approves the application. So there never was a denial, as the Board withdraws the denial and approves the renewal.

Mr. Rudolph requested that the item be tabled until the next meeting, in lieu of a denial and request for hearing. Mr. Rudolph added that he would provide the financials for the Board's review.

Ms. Wiener stated that in the past tabling has been treated as continuing the license.

Mr. Shropshire concurred although it is not quite in accordance with all the Statutes. The Board understands that this person is going to be selling for a month, technically without a license, but the Division will not prosecute and the Board will not object if the Licensee continues to sell. The decision on the renewal would be made in August.

Mr. Bill Williams stated that in the past it was not unusual to table something until the next meeting, but there is a deemer date to be discussed.

Ms. Hubbell stated when looking at the breakdowns of different trust accounts and things like that, on the account ending 3046, the Preneed Contracts Outstanding is \$34k and the Trust Principal is \$19k. Ms. Hubbell questioned whether there was any way to get verification that these were just payments that were received on pre-sales as the Licensee was under order for 100% trusting.

Mr. Shropshire stated that the trust was probably an older trust and was not subject to 100% trusting.

Ms. Hubbell disagreed. If you look at the Preneed Contracts Outstanding at year end, it is \$34,660 and the SunTrust account Preneed Contracts Outstanding is \$34,660. It corresponds with the \$19k in trust and also on the R3A, but that means that during the year \$47k of Sales were made and it should have been 100% trusted pursuant to the requirement last year.

Mr. Rudolph responded that it was.

Ms. Hubbell questioned whether it was just payments that were made.

Mr. Rudolph stated that the money has been received and he would have to check with the Applicant regarding the account ending 3046.

Ms. Hubbell questioned whether all preneed contracts are 100% funded.

Mr. Rudolph responded, "No. That is only if they are paid in full at the beginning." Many times you will have it over two or three years.

Ms. Hubbell questioned whether the Division could include in the packets whether they trusted 100% or if they are contractual installment payments and that is why they do not match.

Mr. Hall stated that he does not have a problem with deferring this item. It gives time to clear up the questions posed by Ms. Hubbell and time to receive the personal financials. In an act of fairness to the other Applicants that have complied with the request to provide the personal financial and personal guarantee, the Board has to be consistent across the Board. There is a tremendous difference in what is required and what was submitted for the business, so the Board needs to see the personal.

Mr. Rudolph stated that he received a call from Mr. Norem on another issue who indicated that he had not received his renewal package on the preneed. Mr. Rudolph advised Mr. Norem that his application was on the Agenda to be renewed and advised Mr. Norem of the conditions, two days ago.

Mr. Shropshire stated that the packet submitted to the Board is the same packet received from Mr. Norem.

The Chair stated that administrative staff could have completed the packet on Mr. Norem's behalf.

Mr. Shropshire questioned whether the Applicant would waive deemer until the August meeting.

Mr. Rudolph answered affirmatively and added that he would follow up with a letter.

MOTION: Mr. Hall moved to defer the application to the August 2nd Board meeting. Ms. Anderson seconded the motion, which passed unanimously.

(5) CEP Investment Inc (F019381) (Hudson)

2009 RENEWAL (7-1-2009): Licensee had a negative stated net worth of \$(70,594), against a minimum required net worth of \$100,000. Licensee was renewed subject to the condition of 100% trusting.

2010 RENEWAL (7-1-2010): Licensee had a negative stated net worth of \$(246,192), against a minimum required net worth of \$100,000. Licensee was renewed subject to the condition that: Licensee trust 100% or sell insurance-funded contracts.

2011 RENEWAL (7-1-2011): Licensee had a negative stated net worth of \$(262,961), against a minimum required net worth of \$100,000. Licensee was renewed subject to the conditions: 1) that the Licensee provides a personal financial statement and guarantee of preneed obligations fully executed by the principal of the preneed Licensee and 2) that Licensee trust 100% or sell insurance-funded contracts.

CURRENT RENEWAL (7-1-2012): Licensee reports a negative stated net worth of \$(299,569), against a minimum required net worth of \$100,000.

The FCCS Division recommends that the Board approve renewal subject to conditions, and adopt the following Findings of Facts and Conclusions of Law:

Licensee has demonstrated a NEGATIVE net worth of \$ (299,569). Licensee reports total outstanding preneed contracts of \$1,928,528. The required net worth for renewal, pursuant to s. 497.453(2)(b) and (5), Fla. Statutes, and Rule 69K-5.0016, Fla. Administrative Code, is \$100,000.

Section 497.453(2)(b)2, FS, authorizes an Applicant for renewal of a preneed license who cannot demonstrate the required minimum net worth to voluntarily submit to the licensing authority, and request acceptance of, alternative evidence of financial stability and resources or agree to additional oversight in lieu of the required net worth. Section 497.453(2)(b)3, FS, provides that "The licensing authority may accept such alternative evidence or arrangements in lieu of the required net worth only if the licensing authority determines such alternative evidence or arrangements are an adequate substitute for required net worth and that acceptance would not substantially increase the risk to existing or future customers of nonperformance by the Applicant or Licensee on its retail sales agreements." The Board finds that the condition(s) specified below are, under s. 497.453(2)(b)3, FS, a proper and adequate substitute for the required net worth under the facts of this case. The license shall be renewed subject to said condition(s):

- 1) That Licensee shall, within 30 days of this Board meeting, cause the principals of the Licensee each to execute and deliver to the Division a Personal Guarantee of the Licensee's preneed obligations, in the form as attached hereto; and further, Licensee shall cause each such principal to file with the Division, within 60 days of the date of this Board meeting, a statement of personal assets and liabilities, compiled and reviewed by a certified public accountant, prepared and presented in conformity with Generally Accepted Accounting Principles.
- 2) Concerning all amounts received on or after July 1, 2009, by or on behalf of the Licensee, as proceeds from preneed contracts sold before July 1, 2009, the Licensee shall trust 100% of all such amounts in a trust under s. 497.458, Florida Statutes; concerning preneed contracts sold by Licensee on or after July 1, 2009, Licensee shall either trust 100% of all proceeds from such sales, or shall sell such contracts as 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.

Ms. Michele Hood stated that Mr. Prevatt apologizes for not making his annual trip here today as he is working alone today.

Mr. Hall stated that Mr. Prevatt is usually present. Mr. Prevatt provided the personal guarantee last year which qualified him and agreed to sign a personal guarantee. Mr. Hall stated he would be inclined to defer the application until the August if Mr. Prevatt is in agreement to do that again this year and provides a satisfactory financial statement.

Mr. Shropshire questioned whether Ms. Hood is authorized to waive deemer on behalf of the Applicant.

Ms. Hood responded that she is not authorized to waive deemer but would call Mr. Prevatt with that request of him. Mr. Prevatt indicated that he is willing to and has in fact provided the personal guarantee again this year. Ms. Hood questioned whether the Board is requesting an updated personal financial.

Mr. Hall stated that in the past, Mr. Prevatt has provided a personal financial which satisfied the requirement.

The Chair questioned whether Mr. Hall would be comfortable with approval based on the Division receiving the personal financial and there is no substantial change.

Mr. Hall concurred.

MOTION: Mr. Hall moved to approve the application subject to the conditions recommended by the Division to include receipt of an acceptable Personal Guarantee and personal financials. Col. Stiegman seconded the motion, which passed unanimously.

Mr. Shropshire stated that the personal guarantee and personal financials should be submitted to the Division within 30 days. The Division is authorized to review the personal financial statement and if there is no significant deterioration from last year, then it would be accepted.

The Chair concurred.

(6) Corey-Kerlin Funeral Home PA (F038706) (Jacksonville)

2009 RENEWAL (7-1-2009): Licensee had a stated net worth of \$270,175, against a minimum required net worth of \$100,000. Licensee was renewed without conditions.

2010 RENEWAL (7-1-2010): Licensee had a negative stated net worth of \$(384,035), against a minimum required net worth of \$100,000. Licensee was renewed subject to the conditions that : 1) the principals submit personal guarantees of the Licensee's obligations, and 2) all preneed sales be 100% trust or insurance- funded.

2011 RENEWAL (7-1-2011): Licensee reports a negative stated net worth of \$(201,207), against a minimum required net worth of \$100,000. Licensee was renewed subject to the conditions that: 1) the principals submit personal guarantees of the Licensee's obligations, and 2) all preneed sales be 100% trust or insurance-funded.

CURRENT RENEWAL: Licensee reports a negative stated net worth of \$(12,487), against a required minimum net worth of \$100,000. Licensee reports a current ratio of 5.3 to 1. The net worth deficiency has decreased significantly since last year.

The FCCS Division recommends that the Board approve renewal subject to conditions, and adopt the following Findings of Facts and Conclusions of Law:

Licensee has demonstrated a NEGATIVE net worth of \$(12,487). Licensee reports total outstanding preneed contracts of \$4,645,625. The required net worth for renewal, pursuant to s. 497.453(2)(b) and (5), Fla. Statutes, and Rule 69K-5.0016, Fla. Administrative Code, is \$100,000.

Section 497.453(2)(b)2, FS, authorizes an Applicant for renewal of a preneed license who cannot demonstrate the required minimum net worth to voluntarily submit to the licensing authority, and request acceptance of, alternative evidence of financial stability and resources or agree to additional oversight in lieu of the required net worth. Section 497.453(2)(b)3, FS, provides that "The licensing authority may accept such alternative evidence or arrangements in lieu of the required net worth only if the licensing authority determines such alternative evidence or arrangements are an adequate substitute for required net worth and that acceptance would not substantially increase the risk to existing or future customers of nonperformance by the Applicant or Licensee on its retail sales agreements." The Board finds that the condition(s) specified below are, under s. 497.453(2)(b)3, FS, a proper and adequate substitute for the required net worth under the facts of this case. The license shall be renewed subject to said condition(s):

- 1) Licensee shall, within 30 days of this Board meeting, cause the principals of the Licensee each to execute and deliver to the Division a Personal Guarantee of the Licensee's preneed obligations, in the form as attached hereto; and further, Licensee shall cause each such principal to file with the Division, within 60 days of the date of this Board meeting, a statement of personal assets and liabilities, compiled and reviewed by a certified public accountant, prepared and presented in conformity with Generally Accepted Accounting Principles.
- 2) Concerning all amounts received on or after July 1, 2010, by or on behalf of the Licensee, as proceeds from preneed contracts sold before July 1, 2010, the Licensee shall trust 100% of all such amounts in a trust under s. 497.458, Florida Statutes; concerning preneed contracts sold by Licensee on or after July 1, 2010, Licensee shall either trust 100% of all proceeds from such sales, or shall sell such contracts as 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.

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

(7) Craig Flagler LLC (F019176) (Flagler)

2009 RENEWAL (7-1-2009): Licensee had a stated net worth of \$137,684, against a minimum required net worth of \$60,000. The Licensee was renewed without conditions.

2010 RENEWAL (7-1-2010): Licensee had a stated net worth of \$115,786, against a minimum required net worth of \$60,000. The Licensee was renewed without conditions.

2011 RENEWAL (7-1-2011): Licensee had a stated net worth of \$134,011, against a minimum required net worth of \$40,000. The Licensee was renewed without conditions.

CURRENT RENEWAL (7-1-2012): Licensee reports a NEGATIVE net worth of \$(48,071), against a required minimum net worth of \$40,000. Licensee's current ratio is .15 to 1.

The FCCS Division recommends that the Board approve renewal subject to conditions, and adopt the following Findings of Facts and Conclusions of Law:

INADEQUATE NET WORTH - BUT ALTERNATIVE CONDITIONS ACCEPTABLE

Licensee has demonstrated a NEGATIVE net worth of \$(48,071). Licensee reports total outstanding preneed contracts of \$333,625. The required net worth for renewal, pursuant to s. 497.453(2)(b) and (5), Fla. Statutes, and Rule 69K-5.0016, Fla. Administrative Code, is \$40,000.

Section 497.453(2)(b)2, FS, authorizes an Applicant for renewal of a preneed license who cannot demonstrate the required minimum net worth to voluntarily submit to the licensing authority, and request acceptance of, alternative evidence of financial stability and resources or agree to additional oversight in lieu of the required net worth. Section 497.453(2)(b)3, FS, provides that "The licensing authority may accept such alternative evidence or arrangements in lieu of the required net worth only if the licensing authority determines such alternative evidence or arrangements are an adequate substitute for required net worth and that acceptance would not substantially increase the risk to existing or future customers of nonperformance by the Applicant or Licensee on its retail sales agreements." The Board finds that the condition(s) specified below are, under s. 497.453(2)(b)3, FS, a proper and adequate substitute for the required net worth under the facts of this case. The license shall be renewed subject to said condition(s):

Concerning all amounts received on or after July 1, 2012, by or on behalf of the Licensee, as proceeds from preneed contracts sold before July 1, 2012, the Licensee shall trust 100% of all such amounts in a trust under s. 497.458, F. S.; concerning preneed contracts sold by Licensee on or after July 1, 2012, Licensee shall either trust 100% of all proceeds from such sales, or shall sell such contracts as 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.

Ms. Hubbell stated that the financial statement reflects Cash on Hand of almost (\$25k). Also, there appears to be \$216k in FSI trust but the Division Analysis of trust for preneed contracts is \$294,850. That is a pretty big difference.

The Chair questioned whether there was anyone present representing the Applicant. There was a negative response.

Mr. Hall questioned whether the application could be deferred until the August meeting since the Board needs to request a personal guarantee.

The Chair stated the item could not be deferred without a deemer waiver.

Mr. Hall questioned whether the Applicant would be required to pay additional fees if the application is denied.

Mr. Shropshire responded no. As long as the Applicant properly requests a hearing, they could continue to sell and prepare the necessary materials for the August meeting.

The Chair stated it would reflect a denial of licensure on any subsequent application.

Mr. Shropshire stated the denial would not be reflected if the matter is addressed at the August meeting and the Board withdraws the denial, because it would still be a pending matter at that point in time.

Ms. Hubbell questioned whether “Deferred Service Revenue” on the Balance Sheet is their preneed obligation.

The Chair stated that he believes that what it would be.

Mr. Rudolph stated that in the package that gets sent to the people who are on the list, it states that the application would be recommended for approval with the condition that the Applicant submits financials and a personal guarantee. That is the way it has always been done and the items would be submitted 30 days after the Board meeting. Mr. Shropshire suggested going with Mr. Hall’s approach for next year so that the Applicants would have to provide them. Right now, if they send the financials to the Division, the Division reviews them to determine whether they are compliant and would bring them back to the Board if they were not. Right now we are running into Applicants who are assuming they are going to be approved, but are being denied because they are not present. Well, they did not plan to attend because they thought they would be approved.

Mr. Hall stated that is not totally true because some of the Applicants provided personal financials last year, like Mr. Prevatt. In an effort to be consistent and fair to everybody, then let’s do this. Mr. Hall stated he does not want to make it difficult on the Applicants but if they are not charged another fee and can continue to write preneed until the August meeting, that allows the financials to come back and both the Division and the Board can review them. It should not create a hardship on anyone.

Mr. Rudolph stated that potentially the Applicants will then have to hire a lawyer to request a hearing. In the end, the same thing happens.

The Chair questioned whether the Board would be comfortable with approval based on the Division receiving the personal financial and there is no substantial change.

Mr. Hall questioned whether the Applicant provided personal financials and a personal guarantee in the past that the Division could compare the new one to.

Mr. Shropshire stated that the Division recommended renewal subject to 100% trust funding or insurance funding of all preneed sales. The reason that we are in a bit of a dilemma is because Ms. Hubbell pointed out some very good questions that the Board needs answered before a decision is made on the renewal. This is not one of those cases involving personal guarantees or personal financial statements.

Mr. Hall stated it should be a requirement with the negative net worth and the questions Ms. Hubbell raised.

Mr. Shropshire agreed that in the past the application would have been denied subject to the Applicant appearing before the Board. These would not be new impositions. The Division tried to develop a system this year that might have shortcut it, but it is not working.

Mr. Helm stated that it has worked on some of the applications.

Mr. Shropshire suggested that the Board deny the application. The Division will work with the Licensee and try to get them back before the Board at the August meeting.

MOTION: Mr. Helm moved to deny the application based on lack of net worth. Ms. Anderson seconded the motion, which passed with one (1) dissenting vote.

(8) Funeral Services of Florida LLC (F038695) (Boca Raton)

Licensee’s renewal application package was received by the FCCS Division on or about April 1, 2012. The Licensee’s

submission included the R2 financial statements (balance sheet and income statement) that were on a consolidated basis. On May 8, 2012, the FCCS Division mailed a Deficiency Notice to Licensee, advising Licensee of the following deficiency:

* FORMS R2A-R2B. The R2A & R2B financial statements (balance sheet & income statement) you submitted are not in the name of the preneed Licensee, and appear to relate to a parent firm or consolidated group of firms. The financial statements submitted for renewal of a preneed license must relate specifically and only to the preneed Licensee. Please submit financial statements that relate specifically and only to the preneed Licensee.

As of June 14, 2012, the date this cover sheet is prepared, the FCCS Division has not received any response to said Deficiency Notice. The FCCS Division recommends that the Board approve renewal subject to conditions, and adopt the following Findings of Facts and Conclusions of Law:

Licensee has not responded to the deficiency notice sent by Division, in connection with Licensee's application for renewal to provide financial statements that are not consolidated, in compliance with Generally Accepted Accounting Principles (GAAP), as of the entity's most recent fiscal year end. Financial statements must demonstrate that the Licensee meets the required net worth.

Accordingly, it is ordered that the application for renewal is approved subject to the condition that:

- 1) Licensee provide financial statements that are not consolidated, are in compliance with (GAAP), and as of the entity's most recent fiscal year end within 30 days from the date of this Board meeting.
- 2) Financial statements must demonstrate that the Licensee meets the required net worth for renewal.

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

(9) G and L Holdings Inc (F038727) (Sarasota)

2009 RENEWAL (7-1-2009): Licensee reported net worth of \$508,779, against a minimum required net worth of \$40,000. Licensee was renewed without conditions.

2010 RENEWAL (7-1-2010): Licensee reported net worth of \$486,202, against a minimum required net worth of \$40,000. Licensee was renewed without conditions.

2011 RENEWAL (7-1-2011): Licensee reported net worth of \$502,491, against a minimum required net worth of \$40,000. Licensee was renewed without conditions.

CURRENT RENEWAL (7-1-2012): Licensee reports a stated net worth of \$513,154, against a minimum net worth of \$40,000. Licensee appears to meet all substantive requirements for renewal of licensure. However, Licensee was late in filing its renewal and financial statements (R2A, R2B, R3A, and R3B). The forms were due not later than April 1, 2012; however, the preneed renewal forms and financial statements were not received until June 15, 2012.

The FCCS Division recommends that the Board approve renewal subject to conditions, and adopt the Findings of Facts and Conclusions of Law set forth herein:

Section 497.453(5)(e), Fla. Statutes, provides as follows: "(e) In addition to any other penalty that may be provided for under this chapter, there may be levied a late fee as determined by licensing authority Rule but not to exceed \$50 a day for each day the preneed Licensee fails to file its annual statement, and there may be levied a late fee as determined by licensing authority Rule but not to exceed \$50 a day for each day the preneed Licensee fails to file the statement of activities of the trust. Upon notice to the preneed Licensee by the department that the preneed Licensee has failed to file the annual statement or the statement of activities of the trust, the preneed Licensee's authority to sell preneed contracts shall cease while such default continues."

Rule 69K-5.0026(2) provides as follows: "(2) Failure to submit the statements as required in subsection (1) may result in the levy of a fine by the Board of Funeral, Cemetery, and Consumer Services in the amount of \$50 per day for each day the financial and renewal statements are not submitted as follows: (a) Annual COA Financial Statement must be submitted to and received by the Department of Financial Services, Division of Funeral, Cemetery, and Consumer Services, 200 East Gaines Street, Tallahassee, Florida 32399-0361, within 3 months of the end of the preneed Licensee's fiscal year. (b) Annual COA Renewal Statement and the required renewal fee must be submitted to and received by the Department of Financial Services,

Division of Funeral, Cemetery, and Consumer Services, 200 East Gaines Street, Tallahassee, Florida 32399-0361, on or before April 1 of each year."

Licensee's annual preneed renewal statement (R1, R2, R3) were due to be filed with Division by not later than April 1, 2012. The forms were received by the Division on June 15, 2012, and were thus 75 days late, which at \$50 per day indicates a late fee due of \$3,750. The Board has capped late fees at \$1,000.

The application for renewal is granted, subject to payment of a \$1,000 late renewal filing fee; the renewed license is suspended, but the imposition of the suspension is stayed for 60 days from the renewal date. If the late fee is paid by said 60th day, the suspension imposed shall not take effect. If the suspension imposed takes effect, it shall continue in force until such time as the Licensee pays the late fee.

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

Mr. Williams stated that the Department has received the late fee.

Ms. Morris stated as of Monday, the Department had not received the late fee.

Mr. Shropshire stated that the Board can approve the Division's recommendation. Once the staff gets back to the office and verifies receipt of the late fee, the suspension will never have taken place.

(10) Jennings Funeral Home and Crematory LLC (Sarasota)

2009 RENEWAL (7-1-2009): Licensee reported a net worth of \$179,117, against a minimum required net worth of \$40,000. The Licensee was renewed without conditions.

2010 RENEWAL (7-1-2010): Licensee reported a net worth of \$136,031, against a minimum required net worth of \$60,000. The Licensee was renewed without conditions.

2011 RENEWAL (7-1-2011): Licensee reported a net worth of \$211,304, against a minimum required net worth of \$60,000. The Licensee was renewed without conditions.

CURRENT RENEWAL (7-1-2012): Licensee reported net worth of \$36,475, against a minimum required net worth of \$60,000. Licensee reports a current ratio of 5.96 to 1.

The FCCS Division recommends that the Board approve renewal subject to conditions, and adopt the Findings of Facts and Conclusions of Law set forth herein:

NET WORTH -- FINDING RE STATED AND REQUIRED NET WORTH

Licensee has demonstrated a net worth of \$36,475. Licensee reports total outstanding preneed contracts of \$470,817. The required net worth for renewal, pursuant to s. 497.453(2)(b) and (5), Fla. Statutes, and Rule 69K-5.0016, Fla. Administrative Code is \$60,000. Licensee has provided an explanation of past financial activity as a result of a change in the Licensee's legal entity from an LLC to an S-Corp that occurred in 2011 (please see attached explanation). In addition, Licensee elects to provide revised financial statements to the Division within 60 days demonstrating that it meets the required net worth of \$60,000 for renewal.

RENEW BUT SUSPENDED UNTIL ISSUES RESOLVED

The application for renewal is granted, but the renewed license is suspended effective upon renewal, and shall remain suspended until the Licensee satisfies the following conditions:

Licensee provides revised financial statements to the Division within 60 days demonstrating that it meets the minimum net worth requirement for renewal.

The Board authorizes the Division to determine that Licensee has met the above specified requirements and thereupon lift the suspension imposed.

Mr. Helm recused himself as he is affiliated with the Licensee.

Mr. Williams stated that Mr. Doug Jennings has submitted financials that have been approved for the past three years. It has never been a problem until this past year. For estate and tax purposes, they separated out the assets of the corporation and put them into another corporation without thinking about their requirement for net worth. Mr. Jennings is more than willing to pledge the assets of the second corporation back to the licensed corporation if need be so that they can go back to 70/30 trusting instead of 100% trusting. Mr. Jennings will be more than happy write a personal check if that what it takes to get the net worth back up.

Mr. Shropshire stated that based on Mr. Williams' representation, one solution would be approval subject to the condition that within 60 days revised financial statements are submitted showing that the contribution has been made bringing the net worth up to the minimum required.

MOTION: Mr. Jones moved to approve the application subject to the condition that within 60 days revised financial statements are submitted showing that the contribution has been made bringing the net worth up to the minimum required. Col. Stiegman seconded the motion, which passed unanimously.

(11) Marion Graham Jr (F019263) (Jacksonville)

Licensee's renewal application package was received by the FCCS Division on or about April 1, 2012. Licensee's submission did not include the R2 financial statements (balance sheet and income statement). On April 23, 2012, the FCCS Division mailed a Deficiency Notice to Licensee, advising Licensee of the following deficiency:

* FORM R2A. You did not provide a form R2A Balance Sheet financial statement. Please provide a form R2A Balance Sheet financial statement for your most recently completed fiscal year.

* FORM R2B. You did not provide a form R2B Income Statement financial statement. Please provide a form R2B Income Statement for your most recently completed fiscal year.

Licensee's Form R3B shows \$732,588 in outstanding preneed contracts. The required net worth is \$80,000. The Licensee has not yet documented that Licensee meets the net worth requirement for renewal.

As of June 14, 2012, the date this cover sheet is prepared, the FCCS Division has not received any response to said Deficiency Notice. Licensee has failed to timely provide the Division or the Board, in connection with Licensee's application for renewal, forms R2A and R2B financial statements. Licensee's annual preneed renewal statement (R1, R2, R3, R4) were due to be filed with the Division by not later than April 1, 2012. The R2A and R2B financial statements are each over 60 days late, which at \$50 per day indicates a late fee due of \$3,000. The Board has capped late fees at \$1,000, which is due. Licensee has failed to demonstrate that the Licensee meets the required net worth for renewal.

The Division recommends that the application for renewal is granted, but the renewed license is suspended effective upon renewal, and shall remain suspended until the Licensee satisfies the following conditions:

- 1) Licensee provides the Division a balance sheet (Form R2A) and income statement (R2B) as required by the renewal application.
- 2) Licensee demonstrates that Licensee meets the minimum net worth requirement for renewal.
- 3) Licensee pays to the Division a late fee in the amount of \$1,000, as required by s. 497.453(5)(e), F.S. and Rule 69K-5.0026(2), F.A.C.

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

(12) Pax-Villa USA Funeral Home Inc (F019476) (Oakland Park)

Part of Licensee's renewal application package was received by the FCCS Division on or about May 30, 2012, after the April 1, 2012 deadline. However, the submission did not include the R2 financial statements and completed Form R4. On June 4, 2012 the FCCS Division mailed a Deficiency Notice to Licensee, advising of the following deficiencies:

* FORM R2A. You did not provide a form R2A Balance Sheet financial statement. Please provide a form R2A Balance Sheet financial statement for your most recently completed fiscal year.

* FORM R2B. You did not provide a form R2B Income Statement financial statement. Please provide a form R2B

Income Statement for your most recently completed fiscal year.

* You did not submit a form R4 in your application for renewal package. A completed form R4 is required. Please complete and return a form R4 to us. (We attached a blank Form R4)

* LATE FEE DUE. Your form R3 (statement of preneed sales & summary) were received late. They were due on April 1, 2012. They were received approximately 60 days late. Pursuant to Board Rule 69K-5.0026(2), a late fee in the amount of \$500 is due.

As of June 14, 2012, the date this cover sheet is prepared, the FCCS Division has not received any response to said deficiency notice. The FCCS Division recommends that the Board approve renewal subject to conditions, and adopt the following Findings of Facts and Conclusions of Law:

Licensee has failed to timely provide the Division or the Board, in connection with Licensee's application for renewal, financial statements in as of the entity's most recent fiscal year end demonstrating that it meets the required net worth and respond to the aforesaid items of deficiency.

Licensee's annual preneed renewal statement (R1, R2, R3, R4) were due to be filed with Division by not later than April 1, 2012. The renewal statement was received by the Division on May 20, 2012, thus 60 days late, which at \$50 per day indicates a late fee due of \$3,000 per statement. The Board has capped late fees at \$1,000.

There has been a change in the status of this application since the materials were provided to the Board. The Division has received financial statements that reflect adequate net worth that exceeds the minimum required. The Licensee has provided the R4 Form and has paid \$500 of the \$1000 late fee.

The Division recommends that the application for renewal is granted, but the renewed license is suspended effective upon renewal, and shall remain suspended until the Licensee satisfies the following condition(s):

- 1) That the suspension be stayed 60 days in which the Licensee is to pay to the Department a late fee in the amount of \$500. If the late fee is paid within the 60 days, the suspension will not take effect.

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

(13) R T Brown Inc (F019364) (Crystal River)

Licensee reports a stated net worth of \$ 134,561. Licensee reports \$ 750,599 in preneed contracts outstanding as of CYE. The required minimum net worth for renewal is \$ 80,000. Licensee meets net worth requirements for renewal.

The Licensee requests a waiver of late fees. Licensee's application filing was due at the FCCS Division office not later than April 1, 2012, but was in fact was received on May 7, 2012. Pursuant to section 497.453(5)(e) and Rule 69K-5.0026(2), late fees are assessable.

Licensee submits a written explanation of the cause of the late filing, attached. The Licensee advises they mistakenly mailed the renewal package to their accountant rather than to the Division.

Licensee was initially issued their preneed license in 1995. The FCCS Division recommends that the Board approve renewal subject to conditions, and adopt the Findings of Facts and Conclusions of Law of law set forth herein:

Section 497.453(5)(e), Fla. Statutes, provides as follows: "(e) In addition to any other penalty that may be provided for under this chapter, there may be levied a late fee as determined by licensing authority Rule but not to exceed \$50 a day for each day the preneed Licensee fails to file its annual statement, and there may be levied a late fee as determined by licensing authority Rule but not to exceed \$50 a day for each day the preneed Licensee fails to file the statement of activities of the trust. Upon notice to the preneed Licensee by the department that the preneed Licensee has failed to file the annual statement or the statement of activities of the trust, the preneed Licensee's authority to sell preneed contracts shall cease while such default continues."

Rule 69K-5.0026(2) provides as follows: "(2) Failure to submit the statements as required in subsection (1) may result in the levy of a fine by the Board of Funeral, Cemetery, and Consumer Services in the amount of \$50 per day for each day the financial and renewal statements are not submitted as follows: (a) Annual COA Financial Statement must be submitted to and received by the Department of Financial Services, Division of Funeral, Cemetery, and Consumer Services, 200 East Gaines

Street, Tallahassee, Florida 32399-0361, within 3 months of the end of the preneed Licensee's fiscal year. (b) Annual COA Renewal Statement and the required renewal fee must be submitted to and received by the Department of Financial Services, Division of Funeral, Cemetery, and Consumer Services, 200 East Gaines Street, Tallahassee, Florida 32399-0361, on or before April 1 of each year."

Licensee's annual COA renewal statement (R1, R2, R3) were due to be filed with Division by not later than April 1, 2012. Those papers were received by the Division on May 7, 2012, and were thus 37 days late, which at \$50 per day indicates a late fee due of \$ 1,700. The Board has capped the late fee at \$1,000. The Division recommends that the request to waive late fees be denied and the application for renewal is granted, subject to payment of a \$ 1,000 late renewal filing fee; the renewed license is suspended, but the imposition of the suspension is stayed for 60 days from the renewal date. If the late fee is paid by said 60th day, the suspension imposed shall not take effect. If the suspension imposed takes effect, it shall continue in force until such time as the Licensee pays the late fee.

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

(14) Whitfield Funeral Home Inc (F019375) (Zephyrhills)

Part of Licensee's renewal application package was received by the FCCS Division on or about June 4, 2012, after the April 1, 2012 deadline. On June 9, 2012 the FCCS Division mailed a Deficiency Notice to Licensee, advising of the following deficiencies:

* LATE FEE DUE. Both your form R2 (financial statements) and form R3 (statement of preneed sales & summary) were received late. They were due on 4-1-2012. They were received approximately 64 days late. Pursuant to Board Rule 69K-5.0026(2), a late fee in the amount of \$1000 is due.

* FORM R3A. Section A of your form R3A is not filled out completely. The following blanks are not filled in: Account Number

* FORM R3A. You did not fill out one of Sections C, D, or E on your form R3A. At least one of sections C, D, or E must be filled out on every form R3A. Which Section you fill out depends on whether Section A on the form R3A identifies a trustee/trust servicing agent (fill out Section C), an insurer (fill out Section D), or a surety bond company (fill out Section E).

* FORM R3B. Section B of your R3B is not filled out completely. The following blanks are not filled in: (B1), (B2).

* FORM R3B. Section E of your attached form(s) R3B is not filled out completely. The following blanks are not filled in: (E1), (E2).

* Form R4. The net worth figure you entered at Item R42c on form R4 (\$331,639), does NOT MATCH the net worth figure as shown on your balance sheet (form R2A) (\$296,221). However, either figure exceeds the required net worth.

As of June 14, 2012, the date this cover sheet is prepared, the FCCS Division has not received any response to said deficiency notice. Licensee has demonstrated that it meets the required net worth for renewal. The FCCS Division recommends that the Board approve renewal subject to conditions, and adopt the following Findings of Facts and Conclusions of Law:

Licensee has failed to timely provide the Division or the Board, in connection with Licensee's application for renewal, a response to the aforesaid items of deficiency.

Licensee's annual preneed renewal statement (R1, R2, R3) were due to be filed with Division by not later than April 1, 2012.

The preneed renewal and financial statement were received by the Division on June 4, 2012, thus 64 days late, which at \$50 per day indicates a late fee due of \$ 500 per statement.

The Division recommends that the application for renewal is granted, but the renewed license is suspended effective upon renewal, and shall remain suspended until the Licensee satisfies the following condition(s):

- 1) Licensee is to pay to the Department an aggregate late fee in the amount of \$1000.
- 2) Licensee advises the Division in writing as to the correct net worth figure as of December 31, 2011.

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

(15) Wright & Young Funeral Home Inc (F038683) (Miami)

2009 RENEWAL (7-1-2009): Licensee had a stated net worth of \$502,919, against a minimum required net worth of \$20,000. Licensee was renewed without conditions.

2010 RENEWAL (7-1-2010): Licensee had a stated net worth of \$618,102, against a minimum required net worth of \$40,000. Licensee was renewed without conditions.

2011 RENEWAL (7-1-2011): Licensee reports a stated net worth of \$737,645, against a minimum required net worth of \$40,000.

2012 RENEWAL (7-1-2012): Licensee reports a stated net worth of \$828,941, against a minimum required net worth of \$40,000. Licensee appears to meet all substantive requirements for renewal of licensure.

At its April 5, 2012 Board meeting, the Board approved a settlement of a disciplinary action against the Licensee in Case #120946-11-FC. A consent order was filed on April 20, 2012 in the matter (copy attached). Among the stipulations made by the Licensee in the consent order, Licensee was placed on 24 months probation, assessed a \$2500 fine plus \$250 in costs, and agreed to utilize only licensed preneed sales agents to offer to sell or make arrangements for a preneed contract. Licensee has paid all fines due and is currently in compliance with the terms of the consent order.

The FCCS Division recommends that the Board approve renewal subject to conditions, and adopt the following Findings of Facts and Conclusions of Law:

At its April 5, 2012 Board meeting, the Board approved a settlement of a disciplinary action against the Licensee in Case #120946-11-FC. A consent order was filed on April 20, 2012 in the matter (copy attached). Among the stipulations made by the Licensee in the consent order, Licensee was placed on 24 months probation, assessed a \$2500 fine plus \$250 in costs, and agreed to utilize only licensed preneed sales agents to offer to sell or make arrangements for a preneed contract.

The Division recommends renewal subject to the probation and accordance with the disciplinary settlements.

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

(16) Zion Hill Mortuary (F019404) (St Petersburg)

2009 RENEWAL (7-1-2009): Licensee had a stated net worth of \$104,592, against a minimum required net worth of \$80,000. Licensee was renewed without conditions.

2010 RENEWAL (7-1-2010): Licensee had a stated net worth of \$101,027, against a minimum required net worth of \$100,000. Licensee was renewed without conditions.

2011 RENEWAL (7-1-2011): Licensee reports a stated net worth of \$85,186, against a minimum required net worth of \$100,000. Licensee was renewed subject to the condition: 1) that Licensee agreed to a stipulation agreement for renewal for 100% trusting or insurance funding.

CURRENT RENEWAL (7-1-2012): Licensee reports a stated net worth of \$72,612, against a required minimum net worth of \$100,000. Licensee reports a current ratio of .63 to 1. The FCCS Division recommends that the Board approve renewal subject to conditions, and adopt the following Findings of Facts and Conclusions of Law:

FINDING RE STATED AND REQUIRED NET WORTH

Licensee has demonstrated a net worth of \$72,612. Licensee reports total outstanding preneed contracts of \$ 884,851. The required net worth for renewal, pursuant to s. 497.453(2)(b) and (5), Fla. Statutes, and Rule 69K-5.0016, Fla. Administrative Code, is \$100,000.

Concerning all amounts received on or after July 1, 2011, by or on behalf of the Licensee, as proceeds from preneed contracts sold before July 1, 2011, the Licensee shall trust 100% of all such amounts in a trust under s. 497.458, Florida Statutes; concerning preneed contracts sold by Licensee on or after July 1, 2011, The Division recommends approval subject to the condition that the Licensee shall either trust 100% of all proceeds from such sales, or shall sell such contracts as 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.

MOTION: Ms. Thomas-Dewitt moved to approve the application subject to the conditions recommended by the Division. Col. Stiegman seconded the motion, which passed with one (1) dissenting vote.

C. Expirations (No Application for Renewal Received) – Addendum C

The license(s) presented are due to expire on June 30, 2012 for lack of an application for renewal. This item is informational only and does not require Board action.

D. Request(s) for Waiver of Late Fee

(1) Recommended for Approval without Conditions

(a) Becker Funeral Home Inc (F038696) (Clermont)

CURRENT RENEWAL: Licensee reports a net worth of \$349,914, against a required minimum net worth of \$100,000. Licensee appears to meet all requirements for renewal of license, except for payment of certain late fees.

This matter is before the Board on the Licensee's request for waiver of late fees. Licensee's application filing was due at the FCCS Division office not later than April 1, 2011, but was in fact was received on April 8, 2011. Pursuant to section 497.453(5)(e) and Rule 69K-5.0026(2), late fees are assessable.

Licensee submits a written explanation of the cause of the late filing, attached. In summary, the accountant used by Licensee was hospitalized due to illness and subsequently passed away during the time the renewal package was being prepared for this year, and as a result, the Licensee experienced difficulty in obtaining a new accountant. Therefore, the financial statements could not be submitted timely.

Licensee was initially issued their preneed license in 2004. The FCCS Division recommends that the Board waive the late fees in view of the unusual circumstances combined with the fact that Licensee has not previously been late in applying for renewal of preneed license.

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

*****BREAK*****

7. Application(s) for Preneed Main License

A. Recommended for Approval without Conditions

(1) A1 Affordable Cremation, Inc. (Holly Hill)

The Department received the application on April 2, 2012 and deficiencies were noted on the application. A deficiency notice was sent to the Applicant on April 12, 2012, and all deficiencies were resolved as of May 14, 2012. A completed background check of all officers revealed no criminal history. Applicant will sell insurance funded preneed through the approved provider, Great Western Insurance Company, and utilize its pre-approved Standard Contract of Funeral Goods and Services. The qualifying direct disposal establishment license was issued on September 4, 2008.

The Applicant's financial statements as of December 31, 2012 reflect the following:

| | | |
|----------------------------|------|--------|
| Acquired Preneed Contracts | = \$ | 0 |
| Required Net Worth | = \$ | 10,000 |
| Reported Net Worth | = \$ | 52,757 |

Ms. Hubbell stated that they should never put Dividends as an expense of the corporation on the Balance Sheet. On the Profit and Loss Statement they have a Dividend Expense. That is on the retained earnings side of it so they should be cautioned to ensure their financials are presented correctly.

Mr. Williams stated that the effect of that would actually be an increase in profit for that company. It probably would not have a net worth effect at all.

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

(2) *Cremation of Greater Tampa Bay Inc (Tampa)*

The Department received the application on May 30, 2012 and no deficiencies were noted on the application. Applicant will use the pre-approved Funeral Services, Inc. (FSI) First Florida Trust Agreement (Sabal Trust Company) and pre-arranged funeral agreement. The qualifying direct disposal establishment license was issued on April 6, 2012.

A completed background check of all officers revealed criminal history for principal, Thomas J. Cohen. In 2004, Mr. Cohen pled guilty to a felony charge for possession of marijuana and was sentenced to 12 months of unsupervised probation, which was reduced to 6 months. Mr. Cohen completed his probation in March 2005, and his civil rights were restored in August 2006.

Mr. Cohen has currently disclosed this criminal history as principal of the Applicant (please see attached documents). It should be noted that this information was also previously disclosed at Board meetings, in October 2006, July 2007, and on April 5, 2012 in connection with Mr. Cohen's application for licensure as a funeral director and embalmer and principal of a direct disposal establishment, respectively. All of the applications were approved by the Board.

The Applicant's financial statements as of April 30, 2012 reflect the following:

| | | |
|----------------------------|------|--------|
| Acquired Preneed Contracts | = \$ | 0 |
| Required Net Worth | = \$ | 10,000 |
| Reported Net Worth | = \$ | 20,566 |

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

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

The Department received the application on April 27, 2012 and no deficiencies were noted on the application. A completed background check of all officers revealed no criminal history. Applicant will use the pre-approved Funeral Services, Inc. (FSI) First Florida Trust Agreement (Sabal Trust Company) and pre-arranged funeral agreement. The qualifying direct disposal establishment license was issued on February 2, 2012.

The Applicant's financial statements as of December 31, 2011 reflect the following:

| | | |
|----------------------------|------|--------|
| Acquired Preneed Contracts | = \$ | 0 |
| Required Net Worth | = \$ | 10,000 |
| Reported Net Worth | = \$ | 26,359 |

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

(4) *Wolf Funeral Services Inc d/b/a Haught Funeral Home (Plant City)*

Wolf Funeral Services, Inc. d/b/a Haught Funeral Home through its principals, David and Cynthia Wolf applies herein for a preneed main license.

The Department received the application on April 25, 2012 and deficiencies were noted on the application. A deficiency letter was sent to the Applicant on May 2, 2012 and all deficiencies were resolved as of May 17, 2012. A completed background check of all officers revealed no criminal history.

This application is being filed as a result of a change of ownership of the qualifying funeral establishment for Haught Funeral Home, Inc. (License# F068748), which was approved at the March 1, 2012 Board meeting, subject to receipt of the proof of closing documents. Applicant provided the closing documents to the Division as of March 14, 2012. Applicant also provided a signed affidavit to honor all pre-existing preneed contracts previously written under the former preneed Licensee, Haught Funeral Home, Inc. (License# F019431). Applicant will use the pre-approved Funeral Services, Inc. (FSI) First Florida Trust

Agreement (Sabal Trust Company) and pre-arranged funeral agreement. The qualifying funeral establishment license was issued on March 16, 2012.

The Applicant's financial statements as of December 31, 2011 reflect the following:

| | | |
|----------------------------|------|---------|
| Acquired Preneed Contracts | = \$ | 382,711 |
| Required Net Worth | = \$ | 40,000 |
| Reported Net Worth | = \$ | 126,946 |

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

8. Application(s) for Preneed Branch License

A. Recommended for Approval without Conditions – Addendum D

The Division recommends approval of the application(s).

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

9. Application(s) for Continuing Education Course Approval

A. Recommended for Approval without Conditions – Addendum E

- (1) *American Academy McAllister Institute of Funeral Service #9808*
- (2) *Cremation Association of North America #16008*
- (3) *M.K. Jones & Associates, Inc #9605*
- (4) *National Funeral Directors Association #136*
- (5) *National Funeral Directors & Morticians Assoc Inc. #15608*
- (6) *Pinellas County Funeral Home Association #58*
- (7) *Selected Independent Funeral Home #137*

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

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

10. Application(s) for Florida Law and Rules Examination

A. Recommended for Approval without Conditions – Addendum F

- (1) *Direct Disposer*
 - (a) *Francis, Cheryl Ann*
- (2) *Funeral Director and Embalmer (Endorsement)*
 - (a) *Aiello Jr, William*
 - (b) *Kuklinski, Vincent A*
- (3) *Funeral Director and Embalmer (Internship and Exam)*
 - (a) *Evans, Gary D*

The Division recommends approval of the application(s).

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

B. Recommended for Approval without Conditions (Criminal History)

- (1) *Funeral Director and Embalmer (Internship and Exam)*
 - (a) *Hasley, Douglas E*

The Applicant submitted an application to become a Funeral Director & Embalmer on April 13, 2012. The application was incomplete when submitted. All deficient items were returned on May 2, 2012. The Applicant submitted a fingerprint card and was returned with criminal history.

Mr. Hasley pled no lo contendre to a Misdemeanor DUI charge on November 8, 2007. He was ordered to pay fine and costs in the amount of \$570 placed on probation for twelve months; his license was revoked for eleven months, ordered to complete DUI school and Victim's Awareness Program and complete fifty hours community service.

Mr. Hasley did submit this information at the April 2011 Board meeting and was approved for an internship license.

The Division is recommending approval without conditions.

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

11. Application(s) for Internship

A. Recommended for Approval without Conditions – Addendum G

(1) Funeral Director

(a) Spilmann, Steven A

(2) Funeral Director and Embalmer

(a) Bryan, Hailey R

(b) Gaver, Geoffrey A

(c) Korosi, Lisa M

The Division recommends approval of the application(s).

MOTION: The Chair moved to approve the application(s). Col. Stiegman seconded the motion, which passed unanimously.

12. Registration(s) as a Training Agency

A. Recommended for Approval without Conditions – Addendum H

(1) Funeral Directing

(a) Volusia Memorial Funeral Home (F041049) (Port Orange)

The Division recommends approval of the application(s).

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

13. Consumer Protection Trust Fund Claims

A. Recommended for Approval without Conditions – Addendum I

The Division recommends approval of the claim(s).

Mr. Helm stated that the last two claims are marked as having a reduction but the reduction is not apparent.

Ms. Christine Moore stated that was typographical error.

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

14. Application(s) for Monument Establishment Sales Agent

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

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

15. Application(s) for Cinerator Facility

A. Recommended for Approval with Conditions

(1) C L Page Mortuary Inc (Jacksonville)

An application for a Cinerator Facility was received on May 29, 2012. The application was incomplete when submitted. All deficient items were returned on June 11, 2012. The fingerprint cards for all principals were returned with no criminal history. The Funeral Director in Charge will be Carla Page (F043000). Division is recommending approval with the condition that the establishment passes an on-site inspection by a member of Division staff.

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

16. Application(s) for Funeral Establishment

A. Recommended for approval with Conditions

(1) Clark & Norris Home of Funerals LLC (Dania Beach)

An application for a Funeral Establishment was received on May 10, 2012. The application was incomplete when submitted. All deficient items were returned on May 31, 2012. The fingerprint cards for all principals were returned with no criminal history. The Funeral Director in Charge will be John Hill (F044056). Division is recommending approval with the condition that the establishment passes an on-site inspection by a member of Division staff.

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

(2) Eason and Benton Funeral Home LLC (Miami)

An application for a Funeral Establishment was received on May 9, 2012. The application was incomplete when submitted. All deficient items were returned on June 5, 2012. The fingerprint cards for all principals were returned with one, Clive Lewis, having criminal history. The Funeral Director in Charge will be Shanique Lovett (F056044).

One of the principals, Clive Davis was charged with felony battery on September 16, 1196. He was sentenced to two years probation and ordered to pay \$255 in costs. Division is recommending approval with the condition that the establishment passes an on-site inspection by a member of Division staff.

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

(3) Faupel Funeral Home Inc (Port Richey)

The Funeral Establishment application was received by the Division on May 29, 2012. The application was complete when submitted. The fingerprint cards for all principals were returned with no criminal history. The FDIC for the establishment will be Merl Faupel (F044213).

This entity is the qualifying entity for a preneed license. The current preneed license name and number are: Faupel Funeral Home Inc, F019303. The new owner does intend to sell preneed. The Applicant will be submitting an application for the preneed license that will be presented at a future Board meeting.

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

- (1) That the closing occur within 60 days of the date of this Board meeting.
- (2) Receipt by the Division within 75 days of this Board meeting, of a letter signed by Applicant or Applicant's attorney, addressed to the Division, certifying that closing has occurred.
- (3) Receipt by the Division within 75 days of this Board meeting, of a copy of the Bill of Sale, executed by all parties, and any and all amendments thereto, also fully executed.
- (4) That the Applicant submits documentation of the change in principals from the Division of Corporations.
- (5) That the establishment passes an on-site inspection by a member of the Division staff.

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

(4) *Garfield Family Funeral and Cremation Services Inc d/b/a Garfield Funeral Care –Cremation Service (Naples)*

An application for a Funeral Establishment was received on April 30, 2012. The application was incomplete when submitted. All deficient items were returned on May 25, 2012. The fingerprint cards for all principals were returned with no criminal history. The Funeral Director in Charge will be Jeanine Collins (F054840). Division is recommending approval with the condition that the establishment passes an on-site inspection by a member of Division staff.

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

(5) *Pilgrim Rest Funeral Home LLC (Opa Locka)*

An application for a Funeral Establishment was received on May 30, 2012. The application was incomplete when submitted. All deficient items were returned on June 13, 2012. The fingerprint cards for all principals were returned with no criminal history. The Funeral Director in Charge will be Leonardo Stubbs (F045211). Division is recommending approval with the condition that the establishment passes an on-site inspection by a member of Division staff.

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

17. Trust Transfer Request(s)

A. *Recommended for Approval with Conditions*

(1) *Russell Haven of Rest Cemetery Inc. (F039437) (Green Cove Springs)*

(a) *Transfer of Cemetery Care & Maintenance Trust Fund from SunBank Trust to Sabal Trust Company*

Russell Haven of Rest Cemetery Inc. (Russell Haven) has appointed Sabal Trust Company (Sabal) as successor trustee and requests transfer of the above mentioned trust account. The trust account is currently held by SunTrust Bank (SunTrust), and Russell Haven is requesting a transfer from SunTrust to the Sabal Trust Company, administered by Funeral Services, Inc. (FSI). The care and maintenance trust account will be transferred to the FSI Master Care and Maintenance Trust Agreement.

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

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

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

18. Executive Director's Report

A. *Applicability of Ch. 497 Preneed Provisions to Cemetery Flower Programs*

This is an information item regarding whether and when cemetery flower programs are subject to Ch. 497 preneed regulation. The Division solicits comment by the Board or Board members. The Division distributed the draft position paper to the industry and invited comment. Only one comment was received, from Deb Gilmore, who, among other things, disagrees that flowers sold after death cannot be considered preneed sales.

Mr. Helm stated if a person seeks to make a purchase for a future burial, it is considered preneed, but if they wish to enter the program to put flowers on a current grave, that is not preneed.

Mr. Shropshire stated that the original question and inquiry was that tracking them as preneed sales was going to expensive and troublesome and whether it was really required by the statute. The Division's response was yes if it is before death and purchased on a preneed basis. If it is after death, by definition, it is not preneed. It appears to be a cost issue.

Mr. Hall stated that it is encouraging that the Industry members are trying to monitor themselves enough to do it right for the Division. That is a positive.

B. Report: Payment of Disciplinary Fines and Costs – Informational

Monthly Report of Fine and Costs Assessed and Paid
 Division of Funeral, Cemetery and Consumer Services
 June 28, 2012 Board Meeting
 Report Updated as of June 18, 2012

| Licensee | Board Meeting | Case No. | Total Fine & Cost Due | Date Due | Paid in Full? |
|---|---------------|--------------|-----------------------|-----------|---------------|
| | | | \$2,500 | 2/2/2012 | YES |
| Deliria Holmes | Dec-11 | 105280-09-FC | \$2,500 | 7/3/2012 | YES |
| Boyd Family Funeral Home Chapel | Feb-12 | 120364-11-FC | \$2,000 | 3/22/2012 | YES |
| Laurence Boyd | Feb-12 | 120363-11-FC | \$1,000 | 4/6/2012 | YES |
| Chapel Hill Cemetery | Feb-12 | 122372-12-FC | \$1,000 | 3/24/2012 | YES |
| Daytona Memorial Park, Inc. | Feb-12 | 111349-10-FC | \$3,500 | 3/22/2012 | YES |
| Edgewater-New Smyrna Cemetery, Inc. | Feb-12 | 11347-10-FC | \$2,000 | 3/22/2012 | YES |
| Clyde Chandler | Apr-12 | 122375-12-FC | \$2,750 | 5/23/2012 | YES |
| Chandler's Funeral Chapel | Apr-12 | 122376-12-FC | \$2,750 | 5/23/2012 | YES |
| Alliance Monument & Marble Co. | Apr-12 | 122927-12-FC | \$2,750 | 6/22/2012 | See Note D |
| Wright & Young Funeral Home, Inc. | Apr-12 | 120946-11-FC | \$2,750 | 5/21/2012 | YES |
| Kimberly White | Apr-12 | 120948-11-FC | \$2,750 | 5/21/2012 | YES |
| Wilson-Wolfe, Inc. dba Sweet Dreams Memorials | Apr-12 | 118247-11-FC | \$500 | 6/17/2012 | YES |
| NOTES: | | | | | |
| A. When payment becomes past due, the FCCS Division works with the DFS Legal Division to enforce payment. | | | | | |
| B. Once fines and costs are paid in full, the licensee is kept on this report 3 months, showing Paid in Full, and is then dropped of this report. | | | | | |
| C. The Order re this case is still in process, so no Due date is yet established. | | | | | |
| D. Due date has not passed. | | | | | |

19. Chairman's Report (Oral)

The Chair questioned the dates of the next two meetings.

Ms. LaTonya Bryant-Parker responded that the Teleconference is scheduled for July 12th. The location has been changed from the Alexander Building to the Pepper Building. The August 2nd meeting will be held in Tampa at the DoubleTree.

The Chair noted that the Division has a new employee.

Mr. Shropshire stated that Mr. Paul Rantuccio, within the last two weeks, has joined the Division staff. Mr. Rantuccio was previously with the Budget and Accounting Bureau within the Department. Mr. Rantuccio is working out really well and the Division is pleased to have him. Mr. Rantuccio does not have any experience in the Funeral and Cemetery Industry but is getting a lot of exposure very quickly and picking it up rather quickly.

Mr. Rudolph questioned Mr. Rantuccio's job description and asked whether he would be working on preneed renewals.

Mr. Shropshire stated that Mr. Rantuccio does have an Accounting Degree and will be a resource to Ms. Morris on that issue. Mr. Rantuccio is assisting a lot with budgeting and will probably be involved in helping with care and maintenance trustee reports as he will pick up parts of what Tim Wheaton was doing. Mr. Rantuccio will probably eventually get into helping on exams because of his accounting background.

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

Ms. Dudley stated this would be her last live meeting as she is having trouble with travel. Ms. Dudley is being reassigned to represent Boards that do not travel. Mr. Tom Barnhart will replace Ms. Dudley and they both will call in for the July 12th Teleconference. Mr. Barnhart previously represented the Board a while back. Ms. Dudley had that it has been almost four (4) years and she has had a good time representing the Board and will miss everyone.

Mr. Helm stated that he noticed on disciplinary actions the cost is mostly \$250. Mr. Helm added that he could not imagine what the Division could do with \$250 as it seems awfully cheap. Mr. Helm requested that be looked into.

Mr. Shropshire agreed with Mr. Helm. That figure is usually assigned by the attorney in Legal.

Mr. Helm stated you can barely drive anywhere for \$250.

Mr. Miller stated that a lot of time it is done in Settlement, so the fine and costs are balanced out.

Ms. Hood stated she confused regarding Faupel Funeral Home, Inc. On one part of the Agenda there is an item for Faupel to be approved for a preneed license. Then there is a Faupel Group in the non-renewals because they did not submit, but it is at one of the same addresses on the Agenda for the funeral establishment.

Mr. Rudolph stated as of two days from now, it will be the Faupel Group Inc because the other one sold everything to Faupel.

Mr. Shropshire stated that Ms. Morris with Ms. Hood after the meeting.

Ms. Hood questioned whether the new establishment has a preneed license.

Ms. Morris they are requesting to let the current license expire. They were on the Expiration list and will apply for a new license.

21. Administrative Report

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

22. Disciplinary Report

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

23. Adjournment

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