

Minutes of Meeting
Board of Funeral, Cemetery and Consumer Services
August 6, 2008 - 10:00 A.M. to 5:00 P.M.
Hilton Deerfield Beach/Boca Raton
100 Fairway Drive
Deerfield Beach, FL

I. Call to Order and Roll Call

Mr. Greg Brulnicki, The Chair, called the meeting to order at 10:00am. Mr. Doug Shropshire, Executive Director, called the roll:

PRESENT:

Greg Brulnicki, Chairman
Jody Brandenburg, Vice-Chairman
Powell Helm
Tracy Huggins
Gail Thomas-DeWitt
Catherine Zippay

ALSO PRESENT:

Doug Shropshire, Executive Director
Anthony Miller, Assistant Director
Diane Guillemette for Deborah Loucks, Board Counsel
Tad David, Department Counsel
MaryK Surles, Department Counsel
James Gellepis, Department Staff
LaTonya Bryant, Department Staff
Karen Duehring, Department Staff
Field (Miami - Gladys Hennen, Marc Adel; Plantation - Dianna Patterson; W Palm - Bob Ditolla)

ABSENT:

Justin Bailey
Nancy Hubbell
Ken Jones

Mr. Shropshire advised the Chair that a quorum was present.

Mr. Shropshire introduced staff in attendance. Ms Karen Duehring, field supervisor for the Northern and Southern regions, introduced Mr. Bob Ditolla, Ms Dianna Patterson, Ms Gladys Hennen and Mr. Marc Adel.

II. Action on the Minutes

A. June 25, 2008

The Chair confirmed that all Board members had read the draft of the minutes of the previous Board meeting held on June 25th.

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

III. Old Business

A. Application(s) for Preneed License

1. Rolling Oaks Cemetery, Inc. (Port St Lucie)

The Department received the application on April 28, 2008. A letter of deficiency was sent to the applicant on May 16, 2008 and the applicant responded to all deficiencies by May 22, 2008. A completed background check of all of the officers revealed no criminal history. The applicant previously held a Preneed License that expired on July 1, 2007 due to untimely renewal.

The Applicant's financial statements for the period ended December 31, 2007 reflect the following:

Preneed Contracts	= \$	710,527
Required Net Worth	= \$	80,000
Reported Net Worth	= \$	93,194

At the June 25, 2008 meeting it was disclosed that Rolling Oaks continued to sell preneed subsequent to expiration of their license on July 1, 2007. Preneed contracts were written beginning in August 2007 until June 17, 2008, upon which date the final preneed contract was written. During that period twentyseven (27) preneed contracts have been identified as having been written. To date, of those 27, six (6) have become at need, which leaves 21 outstanding preneed contracts.

Attorney John Rudolph, Rolling Oaks' representative, has informed the Department that Rolling Oaks has agreed to enter into a settlement stipulation, pay a fine of \$2,500 and to waive any requirements under law that the matter be taken before a probable cause panel. In addition, they will contact the outstanding contract purchasers and offer them refunds of all monies paid for preneed items and cancellation of the contracts. The purchasers will have the option to cancel and receive the refund or, rewriting a new contract under the same terms and conditions (prices and credits for monies paid) as in the original contract if Rolling Oaks' application for a new preneed license is approved by the Board at this meeting.

There is no indication, nor does the Department have knowledge of harm to any purchasers or other parties related to the execution or performance of these contracts.

Applicant will use the pre-approved SunTrust Bank Preneed Cemetery and Merchandise and Services Trust agreement and previously approved pre-arranged funeral agreement.

Staff recommends approval of this application subject to Rolling Oaks' execution of the proposed settlement stipulation calling for payment of the \$2,500 fine.

The Chair questioned whether a license fee was ever paid for the time period that the 27 contracts were sold.

Mr. John Rudolph responded no. The only fee that was paid occurred when SCI filed its application for change of control to acquire the cemetery, which was a \$500 fee, paid at the June 27, 2007 meeting when that application was approved. At that point, Rolling Oaks was anticipating a closing.

The Chair stated that one of the stipulations is that Rolling Oaks go back to the owners and rewrite a contract. This should not be done. The Chair questioned the amount of the license fee had they been operating.

Mr. Rudolph stated that this information could be obtained.

The Chair questioned whether the fee would be less than the fine.

Mr. Rudolph responded yes.

The Chair stated that it is not practical to rewrite those contracts.

Mr. Rudolph disagreed. It has always been the policy of the Board to go back and contact those families to offer a refund for what they paid for on any contract written without authority to do so. The alternative would be, if they get their PNL, they could offer a refund or rewrite the contract with the same prices for the same merchandise and equipment today. After the applicant did not close in August, they filed their renewal application late, but were advised by the Department that the license had expired.

Mr. Shropshire stated that the suggestion that the consumers are contacted and the contracts be rewritten originated with the applicant. If the Board is under the opinion that this is not necessary and inconvenient to the consumers needlessly, the Division would have no objection re-doing the stipulation and taking that requirement out.

Mr. Rudolph stated that the applicant would be willing to remove it from the stipulation.

Mr. Jody Brandenburg questioned whether the process of contacting the consumers had commenced.

Mr. Phillip Weinstein stated that to his knowledge they have not yet.

The Chair stated that this is not necessary as this company has been in business.

Ms. Catherine Zippay stated that if they did something incorrect, they need to go back and make it right, whether they have been in business a long time or whether they are brand new. If the preneed contracts were written while they were not permitted to do so, then they need to go back and re-do them.

The Chair stated that this would confuse the consumer and would be harmed rather than helped by re-doing this.

Mr. Rudolph stated that he was hired after the last Board meeting. Every contract written, both at-need and pre-need, was submitted to the Department with a detailed explanation of everything. Also, there was the issue where the application to purchase the cemetery was approved and for whatever reason, the negotiations went to a lull most February 2008. In the interim in November there was a cemetery inspection done and the inspection form indicated that the cemetery had a valid pre-need license, which was a mistake, but the personnel on site began selling again.

Ms Diane Guillemette stated that there appearsto be 2 separate issues: the application and the disciplinaryaction. Ms Guillemette questioned whether the disciplinaryaction isbefore the Board today.

Mr. Shropshire responded yes

Mr. Rudolphstated that the applicantwaived Probable Cause.

Ms Guillemette stated that the portion of the disciplinaryaction stipulation would come upduring the disciplinarycase, but they could be addressed together. A settlement stipulation can either be accepted or rejected by the Board. The Board could reject the stipulation and submit a counter offer, which changes the terms, and the respondent could either accept it or reject it.

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

Mr. Tad David questioned who would be representing the Department.

Mr. Shropshire responded that he would.

MOTION: Mr. Brandenburg moved to accept the settlement stipulation. Ms Tracy Huggins seconded the motion, which passed with one dissenting vote.

B. Cemetery Bylaws

1. Trinity Memorial Cemetery, Inc. db/a Trinity Memorial Gardens (New Port Richey)

Amendments to the existing bylaws were received by the Department on January 23, 2008. In accordance with Rule 69K-6003, notice was published March 14, 2008 in the West Paso Press and in the March 14, 2008 Florida Administrative Weekly. Comments were received and as a result, a hearing was held on May 8, 2008 that included the Division, Department Legal Office, the licensee and representatives from monument establishment industry. As a result of the hearing, on May 23, 2008 the licensee submitted revised proposed amended bylaws.

The revised bylaws were submitted to the Board at the June 25, 2008 meeting. After much discussion, the Board voted to defer the bylaws to the August 6th meeting in order to allow the parties involved to come to an agreement on the proposed revisions.

On July 28, 2008, upon discussion with Trinity Memory Cemetery's legal representative, Mr. Kyle L. Kemper, the Department was notified that the parties had not yet come to an agreement regarding the proposed amended bylaws. They would, however, request that the Board defer the item to the October 1, 2008 meeting.

Staff recommends deferral of this item to the October Board meeting.

Mr. Brandenburg questioned whether there was an applicable deemer clause.

Mr. Shropshire answered no.

MOTION: Mr. Brandenburg moved to defer the item to the October meeting. Ms. Zippy seconded the motion, which passed unanimously.

C. Preneed License Renewals

1. Buxton Funeral Home, Inc. (Okeechobee)

The above Certificate holder was recommended for Board consideration at the June 25, 2008 meeting based on the following:

Did not meet the Financial Requirements set forth in Rule 69K-5.006 F.A.C. As of December 31, 2007, renewal and financial statements reflect:

Total Preneed Contracts	\$ 1,192,798
Required Net Worth:	\$ 100,000
Reported Net Worth:	\$ (89,423)

The December 31, 2007 Renewal Statement identified \$746,208 of the outstanding contracts as insurance funded and \$446,590 as trust funded. Trust principal is \$260,354 and trust interest is \$28,543. The Licensee's current (liquidity) ratio (current assets/current liabilities) is .33. Cumulative Retained Earnings on the income statement are (\$342,920).

At the June 25th meeting Mr. Paul Buxton explained the net worth position resulted from losses of 100% of the structure and content of the funeral home from hurricanes. Mr. Buxton stated that the situation was improved since December 31st as \$85,000 had been placed into equity and as of May 31, 2008, the net worth stood at (\$24,999). The Board voted to defer the renewal to the August meeting pending Department receipt of new financial statements.

On July 22nd the Department received financial statements as of June 30, 2008, which reflect a net worth of (\$778) and current (liquidity) ratio of .54. In addition a letter was submitted requesting consideration based upon the improvement in the current financial situation as well as a 2008 pro-forma statement projecting additional cash flow from elimination of recurring and non-recurring expenses.

Staff recommends denial of the renewal application based upon the Applicant's inadequate net worth.

Mr. Paul Buxton stated that during Hurricanes Frances and Gene, the entire funeral home was lost 100%, structure and content. As a result, the funeral home was operated out of 3 single-wide trailers. Since the last Board meeting, the licensee finally received the certificate of occupancy on the new building on June 27th and the insurance settled at the end of January. The Buxton's have actually regained 90% of the local market share. A financial consultant was hired to assist on a daily basis. The applicant has an impeccable 20+ year record with the Department and wishes to continue. A denial would be extremely devastating.

The Chair questioned whether a public insurance adjuster was utilized. With their good name and history, the applicant should be able to go to the bank for a loan on the good will.

Mr. Bill Williams stated that this family is in the process of doing exactly that. The problem is the insurance company did not settle until January of this year and the settlement was quite a bit less than what it should have been. A bad faith claim has been filed against the insurance company. In the past couple of years, the Board has allowed this family to continue to operate and sell preneed. Their current

financial condition is improving daily. The applicant is willing to submit quarterly financial statements 100% trusting and/or insurance.

Mr. Brandenburg questioned the current trusting method.

Mr. Williams stated that they are currently utilizing the 70/30 trust.

Mr. Brandenburg questioned whether the applicant would be willing to trust 100%.

Mr. Buxton answered yes.

MOTION: Ms. Huggins moved to approve the application contingent upon trusting 100%. Ms. Zippy seconded the motion, which passed unanimously.

2. Family Owned Service Company, Inc. d/b/a Brewer & Sons Funeral Homes and Cremation Service (Brooksville)

The above Licensee was recommended for Board consideration at the June 25, 2008 meeting based on the following:

Did not meet the Financial Requirements set forth in Rule 69K-5.0016 F.A.C. As of March 31, 2008:

Total Preneed Contracts	\$ 7,761,318
Required Net Worth:	\$ 100,000
Reported Net Worth:	\$ 79,438

The December 31, 2007 Renewal Statement identifies \$5,065,350 of the outstanding contracts as insurance funded and \$2,65,963 as trust funded. Trust principal is \$1,663,28 and trust interest is \$349,9017.

The licensee's originally submitted December 31, 2007 financial statements reflected a net worth of (\$59,819). In response to a Department notice of deficiency, the licensee submitted updated financials as of March 31, 2008, which reflected a positive \$79,438 net worth, but still under the required net worth. The licensee submitted property appraisals for other licensee-owned funeral homes for use as additional evidence in the Board's assessment of the licensee's net worth.

As the Balance Sheet pre-need trust assets and liabilities did not conform to the figures reported on the Renewal Statement, the Board voted to defer the application to the August meeting pending receipt of updated financial statements in accordance with GAAP.

On July 21st the Department received restated GAAP financial statements as of December 31, 2007, which reflect a net worth of (\$159,000). Preneed assets and liabilities are appropriately classified as non-current and the dollar amounts accurately reflect the figures from the Renewal Statement. As provided for in Rule 69K-5.0016(5), Board consideration is requested based upon current appraised values of licensee-owned funeral homes as evidence of net worth.

Staff recommends approval of the renewal application.

Mr. Helm questioned whether the applicant is trusting 100%.

Mr. Barry Brewer stated they are doing 99% insurance and the 1% is trusted 100%.

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

IV. Disciplinary Proceeding(s)

A. Bishop, William Case No.: 95105-08-FC

B. Global Mortuary, Inc Case No.: 95108-08-FC

Mr. David stated that these 2 cases originated from a December 30, 2005 inspection conducted by the Department which found the body of the deceased was held over twenty four hours without being refrigerated, in violation of Sections 497.152 and 497.38(2), Florida Statutes. Evidence supports the conclusion that Respondent violated the enumerated statutes. The Respondents have elected to waive a determination of probable cause by the Board and enter into the settlement stipulations.

The Department recommends approval of the Settlement Stipulations for Consent Order assessing both Respondents a \$750.00 fine and a six month period of probation.

MOTION: Ms Huggins moved to accept the order. Ms Zippay seconded the motion, which passed unanimously.

C. Morton-Skipper, Heather Case No.: ~~8639~~-06-FC

Attached hereto for the Board's review and final action are the documents and information received at the informal hearing conducted by the hearing officer, Don Dowdell. This action is based on an Administrative Complaint filed by the Department against the above-referenced respondent, and it relates to possible disciplinary action to be taken against the respondent. Documents included are the following: Hearing Officer's Written Report and Recommended Order, Petitioner's Exhibit admitted, and Respondent's Exhibit admitted.

Ms Guillemette stated that the hearing officer of the Department conducted an informal hearing on the case. Each Board member has received an excerpt of 120.57(L), the Administrative Procedures Act. Should the Board elect to change anything in the recommended order, there are certain standards that have to be articulated on the record.

MOTION: Ms Zippay moved to adopt the findings of fact. Ms Thomas-Dewitt seconded the motion, which passed unanimously.

MOTION: Mr. Brandenburg moved to adopt the findings of law. Ms Zippay seconded the motion, which passed unanimously.

MOTION: Ms Zippay moved to adopt the findings of penalty. Ms Huggins seconded the motion, which passed unanimously.

D. Rhodes Funeral Directors Case No.: 8744607-FC

Mr. David stated that the stipulation is based on Count 2 alone. After further investigation, the allegations in Count 1 were not substantiated. The agreement was reached based on the admission of the alleged facts in Count 2.

Ms Wendy Wiener stated that the check for the \$1000 fine is being held in her office and would be delivered upon execution of the consent order by The Chair.

MOTION: Mr. Brandenburg moved to accept the order. Ms. Huggins seconded the motion, which passed unanimously.

E Singleton, Tebbie Case No.: 8997607-FC

Mr. David stated that the Settlement Stipulation is as presented and Mr. Tebbie Singleton is present to answer any questions the Board may have.

Mr. Helm questioned whether Mr. Singleton currently has a preneed license.

Mr. Singleton answered no.

Mr. Helm questioned whether Mr. Singleton has sold any more preneed contracts.

Mr. Singleton answered no.

MOTION: Ms. Thomas-Dewitt moved to accept the order. Ms. Huggins seconded the motion, which passed unanimously.

*****BREAK*****

V. Informal Hearing(s)

A. Jackson Funeral Home Case No.: 94511-08-FC

B. Singleton, Tebbie Case No.: 9046-08-FC

Mr. David stated that both of these administrative complaints stem from the same facts and circumstances. Mr. Singleton is now the Funeral Director in Charge for Jackson Funeral Home.

Ms. Guillemette questioned whether Mr. Singleton would like to proceed in front of this Board as he had elected to personally attend a hearing conducted by a Department Hearing Officer in Tallahassee.

Mr. Singleton stated that he contacted Mr. David and elected to appear before the Board.

Ms. Guillemette questioned whether Mr. Singleton had elected to proceed in front of the Board.

Mr. Singleton answered yes.

Mr. David stated that he received a written statement to that effect for Mr. Singleton and Jackson Funeral Home.

Mr. Shropshire questioned whether Mr. David is requesting that the Board hear both proceedings at one time.

Mr. David responded yes.

The Chair stated he did not see a problem with this.

Mr. David stated that as shown by the Election Proceeding in each case, the factual allegations and administrative complaint were not disputed. Mr. David suggested that the Board adopt the factual allegations in each complaint, but recite the key allegations for the record.

Mr. Brandenburg questioned whether a motion is required for each fact or whether they could be addressed collectively.

Ms. Guillemette stated that once Mr. David recites them, the Board could accept the facts altogether.

Mr. David stated that both of these matters stem from an inspection by Division Examiner Kurt Schuller, which was conducted on February 19, 2008. During the inspection of Jackson Funeral Home (FO41514), located at 4605N 34th Street, Tampa, FL, Tebbie Singleton (FO43742) identified himself as Funeral Director in Charge for Jackson. Mr. Singleton also signed the inspection report that was filed by Mr. Schuller in the matter. During the inspection it was observed that the funeral director and embalmer license of Mr. Ronald Derr (FO43603), an employee of Jackson, was not displayed for public inspection as required by the statutes and rules. A current copy of the inspection rule and criteria adopted by the Board and Department were not readily available upon demand for public inspection.

The Chair questioned whether all the violations have been rectified.

Mr. Singleton answered yes.

Mr. David stated procedurally, the Board's attorney could have input.

Ms. Guillemette questioned whether Mr. David had completed his factual recitation.

Mr. David stated that was not the end of the factual recitation of the administrative complaint. After presenting the factual allegations as contained in the administrative complaint, Mr. Singleton and a representative for Jackson could, under oath, testify to facts as to mitigating factors.

Ms. Guillemette requested Mr. David proceed with reciting the facts of the administrative complaint then the Board would make a motion to adopt them. Mr. Singleton could elect to say something in mitigation after the penalty is discussed.

Mr. David stated in Count II, it was observed that the preparation room at Jackson did not have sanitary floors with non-porous surfaces and many of the tiles were cracked and/or missing; there were no towels available; the prep room was not maintained in a clean and sanitary manner.

Ms. Guillemette stated if the facts are listed in the administrative complaint, the Board could do a motion to adopt the facts as stated in the administrative complaint.

MOTION: Mr. Brandenburg moved to adopt the facts as stated in both administrative complaints. Ms. Thomas-Dewitt seconded the motion, which passed unanimously.

DISCUSSION: Ms. Guillemette stated that now would be the opportunity for Mr. Singleton to present mitigation and for the Board to consider the appropriate penalty.

The Chair questioned whether all allegations within the nine counts have been rectified.

Mr. Singleton answered yes

Ms Thomas-Dewitt stated that the Board received a copy of a funeral contract for services and goods sold by Ronald Derr. The others do not have a heading. Ronald Derr Funeral Home and Jackson Funeral Home are two different entities

Mr. Singleton stated that although Mr. Derr is a licensed funeral director at Jackson, he was not aware of that particular contract

Ms Thomas-Dewitt stated that there are others included without a heading. Ms Thomas-Dewitt questioned whether these contracts were copied and submitted to the Board without a heading on them.

Mr. Singleton answered yes

Ms Thomas-Dewitt questioned whether this is the only contract for Mr. Derr as an individual not a firm.

Mr. Singleton stated that there should be four or five contracts signed by Mr. Derr on behalf of Jackson Funeral Home.

The Chair questioned whether Ronald Derr Funeral home exists

Mr. Singleton stated he has no knowledge of this contract and has never seen it before. All of the contracts for Jackson are signed by Mr. Singleton or Mr. Derr.

The Chair questioned whether Mr. Derr was present

Mr. Ronald Derr answered yes

Ms Thomas-Dewitt questioned whether the death certificate filed with Vital Statistics would list Jackson as the funeral establishment that performed the service for Mr. Comer.

Mr. Singleton stated that Jackson should not be listed as he has no knowledge of this contract

Mr. Brandenburg questioned Mr. Derr owns a licensed funeral establishment

Mr. Derr answered no.

The Chair questioned where was the service for Mr. Comer performed.

Mr. Derr stated during that time, the contract was written up on one of his old contracts in error.

The Chair questioned whether Mr. Derr owned a funeral home in March 2007.

Mr. Derr stated that he owned a funeral home prior to that. This case was handled through Jackson Funeral Home, but the contract was accidentally written upon the old contract.

The Chair questioned whether this was a Jackson Funeral Home case.

Mr. Derr answered yes

Mr. Brandenburg stated that payment was expected from the Veteran's Administration. There is a copy of a check from the Veteran's Administration made out to Mr. Derr.

Ms. Guillemette stated there appears to be grounds to conduct an investigation to determine whether Mr. Derr has violated any disciplinary actions. It appears Mr. Derr entered into a contract with someone under his name and was paid for the contract. It is unclear whether the service was supplied by the funeral home.

Mr. David stated that there may or may not be a case pending.

Ms. Guillemette stated that it would be confidential if it is pre-probable cause, but if there is no investigation pending, the Board could suggest that one be initiated.

Mr. Brandenburg questioned which funeral home handled the case.

Mr. Derr answered "Jackson"

Mr. Singleton stated that he is only aware of Jackson Funeral Home contracts

The Chair questioned whether Mr. Jackson had any knowledge of this contract.

Mr. Singleton stated that Mr. Jackson was present.

Mr. Brandenburg stated there was a copy of a US Government check made payable to Ronald J. Derr Sr, LFD.

Ms. Thomas-Dewitt stated that the General Price List contains the word "From" in front of all the prices listed. The amount should be a precise amount.

The Chair stated that the contract should not be approved with "From" in front of all the prices

Mr. David stated if the Board wishes for the Department to conduct further investigation, this could be done. The administrative complaints are presented on the alleged facts noted therein. Mr. Singleton was testifying as to mitigating facts but as far as factual allegations go, they have been presented as outlined in the administrative complaints

The Chair questioned the penalty involving the actions listed in the administrative complaints

Mr. David stated that he did not have that information.

Ms. Guillemette questioned the statute number of the first count.

Mr. David answered "497.380(10), FS."

The Chair questioned whether the Department has a recommendation for a fine.

Ms. Huggins questioned whether there is a consent order and whether the Board had to approve the administrative complaints before moving on to the consent order.

Ms Guillemette stated that this is an informal hearing. The Board can do informal hearings and is making the finding that a hearing officer normally would. There is no consent order at this point. The Board to put it together.

Mr. David suggested that the issues of the facts and conclusions of law be addressed and hold the decision on a penalty in abeyance while the Board considers other items on the agenda. Mr. David questioned whether the Board would like Mr. Singleton to testify to further mitigating facts now.

Ms Guillemette suggested waiting until the penalties are established.

The Chair stated that the item would be held in abeyance until later in the meeting.

VI. Request(s) for Board Appearance

A. *Friedlander; Cary P*

Mr. Cary Friedlander requests to appear before the board in hopes to reinstate his Funeral Director and Embalmer license. Mr. Friedlander's license (FE3773) expired August 31, 2008 and, per the statute, the license remained in a delinquent status for one full licensure cycle. At that time, the license status changed to null and void. When Mr. Friedlander contacted the division, it was stated to him that he must meet the current requirements of licensure in order to obtain his license. He does not have an Associate Degree, but stated that he does have at least 60 credit hours from an accredited university along with his certificate from the Pittsburgh Institute of Mortuary Science.

FS. ~~497.365~~ 497.366 provide that a delinquent status licensee must affirmatively apply with a complete application, as defined by rule of the licensing authority, for active or inactive status during the licensure cycle in which a licensee becomes delinquent. Failure by a delinquent status licensee to become active or inactive before the expiration of the current licensure cycle shall render the license null without any further action by the board or the licensing authority. Any subsequent licensure shall be as a result of applying for and meeting all requirements imposed on an applicant for new licensure. FS. 497.373(1)(d) requires an applicant for Funeral Director license to have an Associate Degree or Higher.

Mr. Friedlander presented the Board with a copy of his resume'.

Mr. Friedlander stated that he was licensed in the State of Florida by endorsement in 1993 with the intent of going into partnership with an existing funeral director, but it did not pan out. Mr. Friedlander has been a resident of Florida since 1983 and has spent the last 20 years as an Administrator at 3 different hospitals. In April 2008, the opportunity arose for the applicant to return to the funeral business as a salesman/ager. Staff advised that the applicant would have to obtain an AA degree. At the time the initial license was granted, the requirement was sixty hours. The applicant has 94 credit hours, which is more than enough for an equivalent Associate degree. Upon recommendation of Staff, the HIV training was completed and a copy of the National Board scores was submitted. Ten hours of continuing education credits have been accumulated, fingerprinting has been completed and the Applicant has been cleared through FDLE, as he currently holds a preneed sales agent license, which was issued in April. The Applicant is requesting to have his license reinstated in Florida, as he intends to eventually go back into the profession as a funeral director.

Ms Huggins questioned what the Applicant is lacking.

Mr. Friedlander stated that he is lacking 6 credit hours

Ms Huggins questioned why the Mr. Friedlander has not taken the Credit hours

Mr. Friedlander responded that he had planned to, but is having financial difficulties, as this would cost a little over \$3000. The license was not renewed at the time as the Applicant was putting two children through school.

Ms Guillemette stated in reviewing the Statutes and Rules, this Board would not be able to legally reinstate a null and void license. The Applicant would have to reapply as there is no provision for this

MOTION: Ms. Thomas-Dewitt moved to deny the request. Ms Zippay seconded the motion, which passed unanimously.

V II. Application(s) for Funeral Establishment

A. Recommended for Approval

1. Vieira Funeral Homes LLC d/b/a Beach Funeral Homes & Cremation Services (Indian Harbour River)

The change of ownership application for a Funeral Establishment was submitted on July 7, 2008. The application was complete when submitted and a deficiency letter was not sent to the applicant. The Funeral Director in Charge will be Isabel Vieira (FO48222). The fingerprint cards for all principals were submitted and returned without criminal history. The establishment will be inspected on July 21, 2008. The establishment is recommended for approval pending proof of sale.

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

2. Vieira Funeral Homes LLC d/b/a Beach Funeral Homes & Cremation Services (Melbourne)

The change of ownership application for a Funeral Establishment was submitted on July 7, 2008. The application was complete when submitted and a deficiency letter was not sent to the applicant. The Funeral Director in Charge will be Christopher Vieira (FO48223). The fingerprint cards for all principals were submitted and returned without criminal history. The establishment will be inspected on July 21, 2008. The establishment is recommended for approval pending proof of sale.

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

B. Recommended for Consideration

1. Legacy Funeral Home & Cremation Services LLC (Kissimmee)

The application for a new Funeral Establishment was submitted on April 30, 2008. The application was incomplete when submitted and a deficiency letter was sent to the applicant. The final deficient item was received on July 9, 2008. The Funeral Director in Charge will be Robert Gonzales (FO44913). The fingerprint cards for all principals were submitted and returned without criminal history. The establishment passed its inspection on July 11, 2008.

It has been brought to the attention of the Department that an ad was run by the aforementioned establishment. In reference to Florida Statute 497.445(2) FALSE INFORMATION AND ADVERTISING GENERALLY.--Knowingly making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public; The advertisement was placed in the Osceola News Gazette on July 17, 2008. The enclosed advertisement states it is "Serving South Orange, Osceola and Polk" counties; however the establishment cannot currently serve the particular counties because it does not hold a valid Funeral Establishment license.

Ms. Guillemette stated that she had spoken with Board Staff and discussed a contingent approval. Basically, it appears that Legacy Funeral Home was not doing right and now they want to come clean. There is some authority in the Rule where an assessment could be done for the past behavior that would be paid prior to the license becoming active, rather than having a disciplinary action against the license. It would not be considered a fine or discipline, but in order for the license to be granted the applicant would have to meet the contingency.

Mr. Brandenburg stated that the Board would definitely want some type of disciplinary action on record.

Ms. Guillemette stated if the Board would like there to be disciplinary action on record, the issue would have to be referred to the Department in order to start an investigation, then it would have to go through Probable Cause Panel and there would have to be an Administrative Complaint, etc.

Mr. Shropshire stated that since this is an application for new licensure, there would be no license to go to Probable Cause.

Ms. Guillemette stated the applicant could be prosecuted for unlicensed activity.

Mr. Robert Gonzalez requested clarification on the discussion.

The Chair stated that the applicant ran an advertisement July 17, 2008 prior to becoming licensed.

Mr. Gonzalez stated that "Coming Soon" was included in the ad, but the printer made a mistake. This was immediately corrected.

The Chair stated that the ad read "Serving South Orange, Osceola and Polk Counties"

Mr. Gonzalez questioned the edition The Chair was referring to.

The Chair responded that it was the Osceola News Gazette on July 17, 2008.

Mr. Gonzalez stated that he faxed to the Board the corrected next edition that came out.

Mr. Shropshire questioned whether Mr. Gonzalez was shown a copy of the ad in question.

Mr. Gonzalez responded that he just received a copy. The error was noticed the second the ad came out and the newspaper was notified as it was supposed to state "Coming Soon." The newspaper apologized and provided a letter of apology, which was forwarded to the Board with a copy of the corrected ad.

Ms. Thomas-Dewitt stated that even with the word in "Coming Soon" that is still a form of advertising prior to becoming licensed.

Mr. Gonzalez stated that he contacted the Board and was advised that as long as he did not have the word "preneed" in the ad, that would be okay.

Ms. Thomas-Dewitt questioned whether there is a maximum on how many firms are allowed to utilize one facility for centralized embalming, as the applicant has listed Robert Bryant as the embalming facility. Robert Bryant already has five funeral homes utilizing his embalming facility.

The Chair stated that he was unaware of any such cap.

Mr. Helm questioned whether the applicant has made any funeral arrangements.

Mr. Gonzalez responded no. There are no signs on the building.

Ms. Huggins questioned whether the applicant is listed in the phone book.

Mr. Gonzalez responded no.

Ms. Thomas-Dewitt questioned what would be heard if Mr. Rodriguez's telephone number was dialed.

Mr. Gonzalez responded "This is Legacy Funeral Home. We are not currently open right now. If there are any questions, please leave a message."

Ms. Thomas-Dewitt questioned whether it is a violation to answer the phone as a funeral home prior to becoming licensed.

Mr. Gonzalez stated that he was not aware of this as he was trying to follow the requirements for the facility establishment license.

Ms. Huggins questioned whether Mr. Gonzalez's business cards have Legacy Funeral Home printed on them.

Mr. Gonzalez answered yes, but they have not been handed out yet. At no point in time has the public received the impression that the funeral home is currently open. The applicant understands the advertising issue, but advised that they did not come clean after being caught doing something bad. This had already been corrected prior to Mr. Aldon Asher requesting a copy of the newest edition.

Ms. Zippy questioned whether the newest edition was submitted to the Department.

Mr. Gonzalez stated that he faxed it over, but would be willing to present the Board with another copy.

The Chair questioned what Mr. Gonzalez would do if he was contacted by someone with a dead loved one at home.

Mr. Gonzalez stated that he would refer them to other licensed funeral homes in the area.

Mr. Shropshire read the July 29, 2008 letter of apology from the Osceola Shopper/Osceola News Gazette submitted by Mr. Gonzalez.

Ms Huggins stated that letter does not really matter as unlicensed funeral home is prohibited from running an ad.

Mr. Gonzalez questioned where that prohibition is in the Statutes

Mr. Shropshire stated that the Division would recommend approval, should Mr. Gonzalez accept it, with a \$1000 fine against Mr. Gonzalez's license.

Mr. Gonzalez agreed with the recommendation.

MOTION: Ms Huggins moved to approve the application pending receipt of \$1000 fine. Ms Thomas-Dewitt seconded the motion, which passed unanimously.

2. Richardson's Family Funeral Care Inc db/a Richardson's Family Funeral Care of Monticello (Monticello)

The application for a new Funeral Establishment was submitted on April 29, 2008. The application was incomplete when submitted and a deficiency letter was sent to the applicant. The final deficient item was received on July 11, 2008. The Funeral Director in Charge will be Henry Taylor (FO46673). The fingerprint cards for Derryck Richardson were submitted and returned without criminal history. The establishment passed its inspection on July 14, 2008.

The applicant answered "yes" to Section 6(a). Adverse Licensing History Questions: Have you ever had any death care industry license revoked, suspended, fined, reprimanded, or otherwise disciplined, by any regulatory authority in Florida or any other state or jurisdiction?

Order Date: 8/23/2007
Case #: 83399-05-FC
Offense: Failing to renew Funeral Establishment License
Stipulation: Funeral Establishment to pay \$800 Fine and Reprimand

Order Date: 8/23/2007
Case #: 83400-05-FC
Offense: Failing to renew Funeral Establishment License
Stipulation: Funeral Director In Charge (Derryck Richardson) to pay \$800 Fine and Reprimand

The Chair questioned the distance from Monticello to Tallahassee.

Mr. Rudolph responded 28 miles

The Chair questioned whether it is reasonable to have refrigeration 30 minutes away.

Mr. Helm questioned how late the applicant was on their renewal.

Mr. Shropshire stated that the information was not available at the meeting.

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

VIII. Application(s) for Direct Disposal Establishment

A. Recommended for Approval

1. Marcel's Cremations Inc (Opa-Locka)

The application for a new Direct Disposal Establishment was submitted on June 17, 2008. The application was complete when submitted and a deficiency letter was not sent to the applicant. The Direct Disposer in Charge will be Dianne McCloud (FO43955). The fingerprint cards for Dianne McCloud were submitted and returned without criminal history. The establishment passed its inspection on July 2, 2008.

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

2. Volusia County Cremation Society (Daytona Beach)

The application for a Direct Disposal Establishment was submitted on May 14, 2008. The application was complete when submitted and a deficiency letter was not sent to the applicant. The Funeral Director in Charge will be Robert Glassheim (FO42537). The fingerprint cards for all principals were submitted and returned without criminal history. The establishment passed its inspection on July 17, 2008.

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

IX. Application(s) for Cinerator Facility

A. Recommended for Approval

1. Taylor & Modeen Realty Company db/a Oak Hammock Crematory (Indiantown)

The application for a new Cinerator Facility was submitted on June 24, 2008. The application was complete when submitted and a deficiency letter was not sent to the applicant. The Funeral Director in Charge will be Jacqueline McCluskey (FO24367). The fingerprint cards for all principals were submitted and returned without criminal history. The applicant chose to adopt its own written procedures for removal of cremated remains. The procedures have been enclosed for Board approval. The facility passed its inspection on July 18, 2008.

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

DISCUSSION: The Chair questioned whether having "Realty Company" in the name matters.

Ms. Guillemette responded that there is no prohibition.

Mr. William Taylor stated that Taylor & Modeen Realty Company is also Taylor & Modeen Funeral Home. The Realty Company came into existence prior to the day of Subchapter S corporations, which held the assets of the company.

VII. Application(s) for Preneed Sales Agent

A. Recommended for Approval - See Addendum A

The Chair presented the application(s) for approval.

Mr. Brandenburg disclosed his affiliation with SCI Funeral Services of Florida, Inc.

Ms. Guillemette questioned whether this would impact his decision making ability to render a fair and impartial decision regarding this application(s).

Mr. Brandenburg responded no.

Ms. Huggins disclosed her affiliation with The Simplicity Plan.

Ms. Guillemette questioned whether this would impact her decision making ability to render a fair and impartial decision regarding this application(s).

Ms. Huggins responded no.

The Chair disclosed his affiliation with CFS Funeral Services

Ms. Guillemette questioned whether this would impact his decision making ability to render a fair and impartial decision regarding this application(s).

The Chair responded no.

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

B. Recommended for Approval with 1yr Probation

1. Ross Roy Barry (Appointing Entity: SCI Funeral Services of Florida Inc.)

On the application received by the Department on July 8 2008, the applicant answered "Yes" to Applicant Background Questions: "Has the PSA applicant ever been convicted or entered a plea in the nature of no contest, (a) regardless of whether a adjudication was entered or withheld by the court in which the case was prosecuted, and (b) regardless of whether the criminal conduct occurred inside or outside the state of Florida, and (c) regardless of whether the criminal prosecution occurred in a Florida state court or the courts of another state, the United States, or foreign country, of or to any of the following crimes (2) Any other felony which was committed within the 2 Years immediately preceding the date of this on-line application; or (3) Any other crime, whether a misdemeanor or felony, committed within the 5 years immediately preceding the date of this on-line application?"

The applicant has submitted documentation in response to Applicant Background Questions as follows:

Date: 06/13/2007
Location: Hallandale Police Department
Case #: 07010840CF10A
Offense: Improper Display of Weapon, Misdemeanor
Pled: No Contest
Sentence: One year Probation, Anger Management and Court Cost \$367.00
Disposition: Adjudication Withheld

Mr. Ross is on probation until the Division of Funeral, Cemetery and Consumer Services receives documentation from the Broward County Clerk of Court that his Court sanctioned probation and Anger Management has been successfully completed.

Mr. Shropshire stated that the Division recommends that Mr. Ross be approved, but on probation until the Division receives documentation that Mr. Ross has successfully completed his court imposed probation, including the anger management course.

Mr. Helm questioned when the court imposed probation is scheduled to end.

Mr. Roy Ross stated that the probation would end on May 26 2009.

Ms Guillemette suggested putting a deadline on the probation. The Board should request a reasonable time by which Mr. Ross needs to submit the requested documentation. Ms Guillemette questioned when Mr. Ross would be done with the probation and anger management course.

Mr. Ross stated that the anger management course would be completed within five weeks. The probation may very well end in November as there was talk of terminating it at the end of six months.

Ms Guillemette suggested that the Board use June 1, 2009 as the date for proof of completion.

MOTION: Ms Zippay moved to approve the application with probation until Mr. Ross provides proof of compliance with anger management and his probation term inated by June 1, 2009, otherwise the application would be denied. Mr. Jones seconded the motion, which passed unanimously.

XI. Application(s) for Preneed License

A. Recommended for Approval

1. Legacy Funeral Home and Cremation Services, LLC (Kissimmee)

The Department received the application on May 16 2008. No deficiencies were noted by the Department. Fingerprint cards were received by the Department and a completed background check revealed no criminal history. It should also be noted that officers Linda and Ross J Littlefield both held positions of management pertaining to legal guardianship of the elderly in association with the following organizations Florida Long Term Care and Medicaid Planning Consultants, Littlefield Enterprises, LLC and are currently managing the Littlefield Law Group, P.A.

The Applicant's financial statements as of December 31, 2007 reflect the following:

Preneed Contracts	= \$	0
Required Net Worth	= \$	10,000
Reported Net Worth	= \$	11,173

The Applicant will use the pre-approved Funeral Services, Inc. (FSI) First Florida Trust Agreement (South Trust Estate & Trust Co.) and pre-arranged funeral agreement.

Staff recommends that this application be held in abeyance until an adequate determination can be made as to whether a conflict of interest may be imposed in connection with the applicant's affiliations.

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

2. Nature Coast Funeral Services, LLC d/b/a Joe P. Burns Funeral Home (Perry)

The Department received the application on July 2, 2008. No deficiencies were noted by the Department. Fingerprint cards were received by the Department and a completed background check revealed no criminal history. The funeral establishment license was obtained on November 9, 2007.

The Applicant's financial statements as of December 31, 2007 reflect the following:

Preneed Contracts	= \$ 1,970,533
Required Net Worth	= \$ 100,000
Reported Net Worth	= \$ 105,093

It should be noted on the financial statement that the applicant reported under 'Other Assets Goodwill - Preneed Trust' in the amount of \$653,303.

The Applicant will use the pre-approved Funeral Services, Inc. (FSI) First Florida Trust Agreement (SouthTrust Estate & Trust Co.) and pre-arranged funeral agreement.

Staff recommends approval of this application.

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

XII. Application(s) for Preneed License Branch

A. Recommended for Approval - See Addendum B

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

XIII. Application(s) for Florida Laws and Rules Examination

A. Recommended for Approval - Addendum C

1. Funeral Director and Embalmer - by Internship

- a. Conlon, Stephen J
- b. Lowe, Charles R
- c. Newman, Omin D
- d. Rowker, George J
- e. Tammaro, Gregory P
- f. Wuebbels, Katie

2. Funeral Director and Embalmer - by Endorsement

- a. Carlson, Trevor E
- b. Cartagena, Anthony
- c. Cole, James E
- d. Hines, Spencer G
- e. Mainord, Nathaniel L
- f. Mitchell, Steven R
- g. Zeese, Jody J

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

B. Recommended for Consideration

1. Meyers, Barry E - Direct Disposer

The applicant answered "Yes" to Section 7, in Criminal History Questions - Have you, the applicant herein, ever plead guilty, been convicted, or entered a plea in the nature of no contest, regardless of whether adjudication was entered or withheld by the court in which the case was prosecuted, in the courts of Florida or another state or the United States or a foreign country.

Date: 10/22/1992
Location: Paso County
Case #: 92-03481
Offense: Possession of Hallucinogens
Pled: No Contest
Sentence: One Year and a Half Probation; Court Costs (\$250)
Disposition: Adjudication Withheld

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

2. Rudy III, William P - Funeral Director and Embalmer

The applicant answered "Yes" to Section 9, in Criminal History Questions - Have you, the applicant herein, ever plead guilty, been convicted, or entered a plea in the nature of no contest, regardless of whether adjudication was entered or withheld by the court in which the case was prosecuted, in the courts of Florida or another state or the United States or a foreign country, regarding any crime indicated below.

Date: 05/22/2006
Location: Howard County, IN
Case #: 34D030604CM 549
Offense: Driving Under the Influence
Pled: Guilty
Sentence: Ninety Day Probation; Thirty Day License Suspension; Alcohol/Drug Program; Thirty Hours of Community Service; Fine (\$400); Attend Victim Impact Panel

Date: 08/08/2007
Location: Steuben County, IN
Case #: 76D010704FD428
Offense: Driving Under the Influence
Pled: Guilty
Sentence: One Year Probation; One Year License Suspension; Alcohol Evaluation; Fourteen Day Jail Work Release; Fine (\$150)

The Chair stated that in a letter of March 2007, Mr. Rhudy stated that he is terrified of alcohol, but then August 8, 2007 was charged with driving under the influence. The Chair questioned whether the date was incorrect.

Mr. Shropshire stated that the date appears to be correct, but this was the date that Mr. Rhudy pled guilty. Therefore, the violation may have occurred prior.

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

XIV. Application(s) for Internship

A. Recommended for Approval – See Addendum D

1. Funeral Director and Embalmer

- a. Bick, Sarah**
- b. Bivens, Aaron T**
- c. Cruet, Keila K**
- d. Daniels, Jordan**
- e. Falconer, Vivienne**
- f. Glasgo, Jace C**
- g. Happel, Meghan J**
- h. Kutlesic, Julie K**
- i. Mertens, Guinevieve F**
- j. O Imart, Michelle A**
- k. Petrasek, Rachel E**
- l. Potter, Gregory D**

2. Funeral Director

- a. Silva, Jennifer**

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

DISCUSSION: Mr. Brandenburg stated that he spoke with Mr. Jordan Daniels, who has a bachelor's degree from the University of Florida and also an associate's degree in mortuary science from FCCJ. Mr. Brandenburg also spoke with Mr. Daniels' instructor at FCCJ and the facilitator of the funeral services school there. Mr. Daniels passed the National Board exam in April and sent his application in to the Department in April or May. However, the school did not recognize all the credits he earned from the University of Florida and there was a SNAFU of him getting his associate degree confirmed and sent to the Board. Mr. Daniels thought that this was taken care of, but FCCJ did not send it in to the Department. Mr. Daniels has been working at his family's funeral home and they need him to be licensed.

Mr. Brandenburg recommended that Mr. Daniels' internship begin June 1st.

Ms. Guilmette stated that this may be a problem. Recusals are most appropriately done when it is not only your opinion or knowledge of the person is helpful to a disadvantage but also to an advantage.

Mr. Rudolph stated that there was a discussion at the last Board meeting about the past practice under the 470 Rule, which you did not have to bring before the Board. The question was "when does the internship start."

Mr. Shropshire stated that in the Director's Report, the Board was provided a memo responding to that question. Ms. Jasm in Richardson who used to work at DBPR concurred that there had been an informal arrangement with the old 470 Board by which it was just understood that DBPR was just approving clean interim applications and issuing a license. It was never recognized that they would do that in the statutes or rules, but it was just an informal understanding. There was no legal standing then or under the current 497. In another area, Mr. Brandenburg has proposed, for the Rule Workshop that is coming up, a delegation to the Department in another context to approve clean applications. This would be perhaps another area where the Board may decide to do that and the Division would be agreeable to that, but presently, there is no such arrangement.

Mr. Rudolph stated that would take care of any questions about backdating approvals.

Ms. Thomas-Dewitt questioned when the application was sent in for approval.

Mr. Brandenburg stated that he did not have the exact date, but it was April or May and was expected to be on the June Board agenda, but was not because the school did not submit the certification of the associate's degree in a timely manner. This issue has since been resolved.

Ms. Guilmette stated that the Board can do whatever it wants but there may be a violation of recusal. Board members should recuse themselves not only when there is a negative impression of a person that would affect objectivity, but also when knowledge of the person is a positive one as well.

Mr. Rudolph stated that would be to the extent that it affects his objectivity.

MOTION: The Chair moved to approve the application effective June 1, 2008. Ms. Huggins seconded the motion, which passed with one dissenting vote.

B. Recommended for Consideration- Funeral Director and Embalmer
1. Francis Charlotte E

The applicant answered "Yes" to Section 7(b), in Criminal History Questions - "Any other felony not already disclosed under subparagraph 1. immediately above, which was committed within the 20 years immediately preceding the date you submit this application." The applicant verbally confirmed that her probation was successfully completed and she will be submitting the corresponding documentation.

Date: 8/23/2001
Location: Duval County
Case #: 00-12341-CF-A
Offense: Accessory After the Fact
Pled: No Contest
Sentence: Three Year Probation; Drug Evaluation and Recommended Treatments; Restitution (\$1300); Court Costs (\$273)
Disposition: Adjudication Withheld

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

XV Application(s) for Embalmer Apprenticeship
A. Recommended for Approval – See Addendum E

1. *Edgemon, John*
2. *Locklear, Krystal M*
3. *Lopez, Wanda I*
4. *Lyle, Megan A*
5. *Manna, Anthony L*
6. *Searles, Stephanie R*
7. *Stage, Matthew A*
8. *Wilson, Trevor J*

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

XVI. Application(s) for Continuing Education Course Approval

A. Recommended for Approval – See Addendum F

1. *Batesville Management Services #86*
2. *Cremation Association of North America. #80*
3. *Florida Funeral Directors Association #75*
4. *Florida Morticians Association, Inc. #133*
5. *Funeral Review.com, LLC #122*
6. *National Funeral Directors & Morticians Assoc #120*
7. *National Funeral Directors Association #136*
8. *Pinellas County Funeral Home Association #58*
9. *Practicum Strategies #65*
10. *Southeast Tissue Alliance #108*

Mr. Brandenburg questioned whether the Committee had reviewed the courses

Ms Huggins answered yes

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

XVII. Application(s) to Become a Continuing Education Provider

A. Recommended for Approval – See Addendum G

1. *Health Studies Institute #702*
2. *Life Appreciation Training #762*
3. *New Jersey Funeral Service Education Corp \$702*

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

XVIII. Application(s) for Registered Training Facility

A. Recommended for Approval – See Addendum H

1. *Funeral Directing and Embalming*
 - a. *Faith Chapel Funeral Home North (Cantonment)*
 - b. *RJGainous Funeral Home Inc (Daytona Beach)*

Ms Thomas-Dewitt disclosed her affiliation with RJGainous Funeral Home Inc.

Ms Guillemette questioned whether this would impact the decision making ability to render a fair and impartial decision regarding this application(s).

Ms Thomas-Dewitt responded no.

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

XIX. Consumer Protection Trust Fund Claims
A. Recommended for Approval - See Addendum I

MOTION: Ms Huggins moved to approve the claim(s). Ms Zippy seconded the motion, which passed unanimously.

XX. Application(s) for Monument Establishment Sales Agent
A. Recommended for Approval – See Addendum J

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

XXI. Application(s) for Monument Establishment Builder
A. Previously Approved by Department
1. Volusia Monument Company, Inc (Deland)

This application for Monument Establishment license should have been presented to the Board for decision. However, the application was approved by the Division, acting under the erroneous understanding that the Division was authorized to approve Monument Establishment applications.

In the future all applications by Monument Establishment license will be presented to the Board for decision. However, to correct the Division's error in approving this application, it is necessary for the Board to review this application and, if the Board sees fit, to ratify the Division's action.

This applicant was clean (no criminal or disciplinary record).

If applicant had a disciplinary or criminal record indicated above, applicant was advised to attend this Board meeting in case the Board had questions.

The Division recommends that the Board ratify the Division's erroneous prior action approving the application (with the understanding that in the future all Monument Establishment applications will be presented to the Board for decision.).

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

XXII. Application(s) for Monument Establishment Retailer
A. Recommended for Denial
1. Orlando Cuevas d/b/a Metropolitan Memorial Monuments (Lake Alfred)

The Department received the application on October 25, 2007 and deficiencies were noted. A deficiency letter was sent to applicant on November 15, 2007, followed by a second letter of deficiency sent on January 15, 2008. Applicant resolved part of the deficiencies by February 26, 2008 and all deficiencies were resolved and a background check of all officers was completed by May 30, 2008. It should be noted that the applicant previously held a Monument Establishment Retailer license from May 4, 2005 through September 30, 2005 under International Memorial, Inc d/b/a Caguas Memorial. The applicant also held an individual Pre-need sales agent license through October 31, 2005.

Pursuant to Section 497.141(3), Florida Statutes, the Department conducted an investigation of the applicant and the application. As a result of that investigation, the following information was received and reviewed by the Department:

- ✂✂ In violation of Sections 497.152(13)(a) and (14)(1), Florida Statutes, the applicant negotiated and received payments from six consumers for monuments or markers, but failed to timely deliver or provide the merchandise as originally contracted with the purchaser.
- ✂✂ In violation of Section 497.432, the applicant sold, advertised, or made a arrangement for a preneed contract, while he did not have a valid preneed license.
- ✂✂ In violation of Section 497.50(1), Florida Statutes, the applicant conducted, maintained, managed, or operated a monument establishment in Florida without being properly licensed.
- ✂✂ In violation of Section 497.432(2)(a), Florida Statutes, the applicant received funds for payments on preneed contracts without holding a valid preneed license.
- ✂✂ In violation of Section 497.152(1)(b), Florida Statutes, the applicant committed fraud, deceit, negligence, incompetency, or misconduct in the practice of activities regulated under Chapter 497, Florida Statutes.
- ✂✂ In violation of Section 497.152(5)(a), Florida Statutes, the applicant practiced or offered to practice beyond the scope permitted by Chapter 497 and rules adopted under this chapter for the type of licensure held or accepted and performed professional responsibilities the licensee knows, or has reason to know, the applicant is not competent to perform.
- ✂✂ In violation of Section 497.152(5)(b), Florida Statutes, the applicant practiced or attempted to practice with a revoked, suspended, inactive, or delinquent license.
- ✂✂ In violation of Section 497.152(9)(f), applicant made false or misleading statements to purchasers regarding the sale of monuments or markers and/or corrections to be made to monuments or markers as promised by the applicant.
- ✂✂ In violation of Section 497.152(14)(b)1, Florida Statutes, the applicant failed to acknowledge and act promptly upon communications from customers with respect to claims or complaints relating to the applicant's activities.

Based upon the above information and the supporting documents contained in the Department's investigative file, staff is recommending denial of the application.

MOTION: Mr. Brandenburg moved to deny the application based on prior bad acts. Ms. Huggins seconded the motion, which passed unanimously.

B. Previously Approved by Department
1. Custom Monuments Inc (Auburndale)

This application for Monument Establishment license should have been presented to the Board for decision. However, the application was approved by the Division, acting under the erroneous understanding that the Division was authorized to approve Monument Establishment applications.

In the future all applications by Monument Establishment license will be presented to the Board for decision. However, to correct the Division's error in approving this application, it is necessary for the Board to review this application and, if the Board sees fit, to ratify the Division's action.

This applicant was clean (no criminal or disciplinary record).

If applicant had a disciplinary or criminal record indicated above, applicant was advised to attend this Board meeting in case the Board had questions.

The Division recommends that the Board ratify the Division's erroneous prior action approving the application (with the understanding that in the future all Monument Establishment applications will be presented to the Board for decision).

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

2. Daniel A Newsome d/b/a Grave Sites, LLC (Arcadia)

This application for Monument Establishment license should have been presented to the Board for decision. However, the application was approved by the Division, acting under the erroneous understanding that the Division was authorized to approve Monument Establishment applications.

In the future all applications by Monument Establishment license will be presented to the Board for decision. However, to correct the Division's error in approving this application, it is necessary for the Board to review this application and, if the Board sees fit, to ratify the Division's action.

This applicant was clean (no criminal or disciplinary record).

If applicant had a disciplinary or criminal record indicated above, applicant was advised to attend this Board meeting in case the Board had questions.

The Division recommends that the Board ratify the Division's erroneous prior action approving the application (with the understanding that in the future all Monument Establishment applications will be presented to the Board for decision).

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

3. RCK Monuments (Cleviston)

This application for Monument Establishment license should have been presented to the Board for decision. However, the application was approved by the Division, acting under the erroneous understanding that the Division was authorized to approve Monument Establishment applications.

In the future all applications by Monument Establishment license will be presented to the Board for decision. However, to correct the Division's error in approving this application, it is necessary for the Board to review this application and, if the Board sees fit, to ratify the Division's action.

This applicant was clean (no criminal or disciplinary record).

If applicant had a disciplinary or criminal record indicated above, applicant was advised to attend this Board meeting in case the Board had questions.

The Division recommends that the Board ratify the Division's erroneous prior action approving the application (with the understanding that in the future all Monument Establishment applications will be presented to the Board for decision.).

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

4 Sutton Monuments Cemetery Services (Wauchula)

This application for Monument Establishment license should have been presented to the Board for decision. However, the application was approved by the Division, acting under the erroneous understanding that the Division was authorized to approve Monument Establishment applications.

In the future all applications by Monument Establishment license will be presented to the Board for decision. However, to correct the Division's error in approving this application, it is necessary for the Board to review this application and, if the Board sees fit, to ratify the Division's action.

This applicant was clean (no criminal or disciplinary record).

If applicant had a disciplinary or criminal record indicated above, applicant was advised to attend this Board meeting in case the Board had questions.

The Division recommends that the Board ratify the Division's erroneous prior action approving the application (with the understanding that in the future all Monument Establishment applications will be presented to the Board for decision.).

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

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

A. Monument Retail Sales Agreements

1. American Monument & Sign Co (Pierson)

The agreement was submitted in compliance with Section 497.553, Florida Statutes, that requires monument establishment sales agreement forms be filed with and approved by the Board.

Staff recommends approval of the agreement pending Department receipt within 45 days of two print-ready agreements.

MOTION: Mr. Brandenburg moved to approve the agreement pending Department receipt within 45 days of two print-ready agreements. Ms. Zippay seconded the motion, which passed unanimously.

2. Integral Theft Proof Vase, Inc db/a Letter Memorial Studio (Ormond Beach)

The agreement was submitted in compliance with Section 497.553, Florida Statutes, that requires monument establishments a sales agreement form to be filed with and approved by the Board.

Staff recommends approval of the agreement pending Department receipt within 45 days of two print-ready agreements

MOTION: Ms Thomas-Dewitt moved to approve the agreement pending Department receipt within 45 days of two print-ready agreements. Mr. Helm seconded the motion, which passed unanimously.

3. Mosley Monuments Vaults & Caskets, Inc (DeFuniak Springs)

This application was withdrawn from the agenda.

4 Riverview Memorial Park db/a Treasure Coast Monument (Ft Pierce)

The agreement was submitted in compliance with Section 497.553, Florida Statutes, that requires monument establishments a sales agreement form to be filed with and approved by the Board.

Staff recommends approval of the agreement pending Department receipt within 45 days of two print-ready agreements

MOTION: Mr. Helm moved to approve the agreement pending Department receipt within 45 days of two print-ready agreements. Mr. Brandenburg seconded the motion, which passed unanimously.

XXIV. Preneed Trust Transfer Request(s)

A. StoneMor Florida Subsidiary, LLC db/a Scott Funeral Home (Lake Placid)

The Applicant requests approval for the transfer of the Preneed Trust Funds of Scott Funeral Home from the 1985 Security Trust Master Fund Agreement (U.S. Bank N.A.- Successor) under Chapter 639 to the 2007 Regions Bank Master Florida Preneed Funeral Trust Agreement under Chapter 497.

Regions Bank agrees to act as trustee in accordance with the terms and provisions of the 1985 Security Trust Master Fund Agreement and Chapter 639, including:

1. Segregation of any Chapter 639 funeral trust funds into separate accounts apart from any Chapter 497 funeral trust funds
2. Make proper payment upon the death of a beneficiary or proper refund upon cancellation of a contract written under Chapter 639.

Staff recommends approval of the request contingent upon the Chapter 639 Trustee providing certification of the transfer of assets and the Chapter 497 Trustee providing receipt to the Department within 60 days of the Board meeting date.

Compliance with other State and Federal regulations is the responsibility of the Preneed Licensee.

MOTION: Ms Huggins moved to approve the request contingent upon the Chapter 639 Trustee providing certification of the transfer of assets and the Chapter 497 Trustee providing receipt to the Department within 60 days. Ms Zippay seconded the motion, which passed unanimously.

XXV. Request(s) to Withdraw Funds

A. Serenity Gardens Inc. of Santa Rosa (Milton)

Dana Stone, Manager of Serenity Gardens cemetery, requests withdrawal of \$40,000 from the corpus of the care and maintenance trust fund for reimbursement of maintenance costs incurred by damages from automobile accidents, hurricane costs and sprinkler system installation.

Although damage to the cemetery's front wall were reimbursed by insurance up to the insured maximum of \$10,000. The cemetery states it did not have funds to seek the remainder of the total cost of \$21,000 in court due to lack of funds.

Damages resulting from hurricanes in 1995, 2004 and 2005 resulted in losses due to no insurance reimbursement as the cemetery could not afford to insure.

A sprinkler system installation required an additional \$10,000 expenditure due to the death of a donor.

The cemetery states there is not sufficient capital to continue servicing the cemetery lot owners. Per section 497.266(3), Florida Statutes, no person may withdraw or transfer any portion of the corpus of the care and maintenance trust fund without first obtaining written consent from the licensing authority.

The trustee's report of the care and maintenance trust fund for December 31, 2007 reflects a balance of \$178,530.

MOTION: Mr. Brandenburg moved to deny the request based on ordinary expenses. Ms. Huggins seconded the motion, which passed unanimously.

XXI. Chairman's Report (Oral)

None

XXV II. Executive Director's Report

A. Rules Committee meeting set for August 12, 2008

The Notice of the August 12, 2008 Rules Committee meeting has been published and circulated. Members of the Rules Committee may participate by telephone and members of the public may attend at the Division's office in Tallahassee. LaTonya Bryant will assign the extra lines available on a first come first serve basis.

Mr. Shropshire noted that on the rules making process, a Notice of monthly meetings would be published in FAW for the months of September, October and November. This would be subject to the Rules Committee Chair's approval.

B. Consolidation of DFS' Consumer Services Call Centers around the State, impact of FCCS staff

For several years the Department of Financial Services has housed Consumer Services Division staff in regional offices around the state, whose work consists of answering consumer phone calls on various topics, mostly insurance related.

The Department of Financial Services recently announced that it would be consolidating all those call center staff into two locations, Largo and Tallahassee. See attached email from CFO Sink to DFS staff.

From about 1993 to 2003, cemetery and preneed regulation was a "Bureau" within the old Department of Banking and Finance (DBF). In 2003, the legislature merged DBF and the former Department of Insurance, to form the Department of Financial Services. After the merger the Bureau became a part of the DFS Consumer Services Division. As such, Bureau field staff was housed in the regional field offices of the Consumer Services Division. This arrangement has continued right up to the present.

Significantly, the former Bureau, and the current Division of Funeral, Cemetery, and Consumer Services (FCCS Division), has never been required to pay rent for the space it occupied in the Consumer Services Division regional offices.

The closure of the Consumer Services Division call center offices thus impacts the field staff of the FCCS Division, in two ways:

- 1) FCCS Division will have to seek other office space for field staff.
- 2) FCCS Division will in the coming months have to commence paying rent for the space it occupies in field offices. We are working on determining how much this cost will be.

To reduce costs and possibly increase efficiency, the FCCS Division is exploring the possibility of having field staff telecommute – that is, work out of their homes, without office space in the field, or share a single office (each staff uses it on a different day). As it is, field staff are typically only in their offices 1 to 1.5 days per week. The rest of the time they are at a licensee's place of business or driving between such places of business. They rarely meet people in the Division's field offices, and instead go to the licensee's place of business or the complainant's home, for meetings. We are currently conducting a test of the telecommuting concept. No decision has been made by FCCS Division on these issues.

C. Issue re Interns – when does their internship begin?

At the June 2008 Board meeting in Ruskin an issue was raised as to when an intern's internship began. Some present at the Board meeting suggested that under DBPR practice, an intern sent in their application to the Board office, and began their internship right away. The Board requested the Division to research the issue and report back to the Board.

Division staff member Jason Richardson currently processes all intern applications. Ms. Richardson previously worked for DBPR, supporting the Ch. 470 Board's operations. She recalls that practice at DBPR was that if an intern's application was clean (e.g., no criminal or disciplinary record), the Board office approved the application and so advised the applicant, and it never went to the Board. Only non-clean applications went to the Board. However, under DBPR practice, the internship did not begin, even for clean applicants, until the applicant was advised by the Board office that the application had been reviewed and was approved by the Board office. Ms. Richardson's recollection is that this practice of the Board office approving the applications, was done with the Board's permission, but was not officially recognized by the statutes or rules they operated under.

Pursuant to s. 497.103(1)(j), Florida Statutes (2008), the current Board is the sole authority regarding granting or denying licenses, unless some other provision of ch. 497 expressly provides otherwise.

The current statutes regarding interns, s. 497.370 and 497.375, Florida Statutes (2008) (copy attached), do not provide for approval of applications by the Division.

The current rules regarding interns are at 69K-18.001 and 18.02 (copies attached). The rules do not give the Division authority to approve applications.

Therefore, under current law, an internship does not begin until the application is presented to, and approved by, the Board.

If the Board wishes to speed up the process of having internship applications approved, the Board could perhaps delegate to the Division authority to approve clean applications, and only bring to the Board non-clean applications. The Division would be agreeable to this, if the Board's Legal Advisor, Ms. Lourks, is agreeable to such delegation.

Such delegation should ultimately be reflected in the pertinent rules of the Board.

MOTION: Mr. Helm moved to delegate to the Division authority to approve clean applications, and only bring to the Board non-clean applications. Ms. Thomas-Dewitt seconded the motion, which passed unanimously.

D. Division staff's attendance at FFDA convention in Orlando, July 8 2008

Mr. Shropshire, Mr. Anthony Miller and Mr. Thuman Lowe attended the FFDA Convention in Orlando.

E. Discussion drafts of possible legislative proposals regarding:

- 1. Investigative photographs of dead bodies and body parts—public record exemption & confidentiality***
- 2. Rule authority to require online applications***

Attached are discussion drafts of possible legislative initiatives on the following topics:

- 1) confidentiality of photos of bodies/body parts
- 2) authority to require online license application

Board Action Requested:

A statement by the Board as to whether it supports moving forward on the two legislative initiatives reflected in the attached drafts.

MOTION: Mr. Brandenburg moved to support the Division in moving forward on the two legislative initiatives. Mr. Helm seconded the motion, which passed unanimously.

F. Status report, proposal to shift from quarterly to annual preneed remittances including:

- 1. Copy of auditor's report***
- 2. Preliminary legislative proposal published July 15, 2008 by FCCS Division***
- 3. Results of July 23 public workshop***
- 4. Revised legislative proposal by FCCS Division, reflecting some changes suggested at July 23 Workshop***

A public workshop was held in Tallahassee, on July 23, 2008, to receive public comment on the proposal to shift from quarterly to annual preneed remittances.

Attached hereto are the following items:

- 1) A revised version of the proposed legislation, identified as the "July 24 revision," reflecting some changes suggested at the July 23, 2008 workshop.
- 2) A report concerning the July 23 workshop.
- 3) The original discussion draft (document name includes 77755) of proposed legislation sent out to the industry by the Division by email on July 15, 2008, for comment at the July 23rd public workshop.
- 4) The audit report, dated June 9, 2008 that initiated the recommendation to move from quarterly to annual remittances. The Division's response to the auditors is also included.

Board Action Requested:

A motion made and carried that the Board support moving ahead with the proposed legislation reflected in the attached July 24 revision.

MOTION: Mr. Brandenburg moved to support the Division in moving forward on the proposed legislation. Ms. Huggins seconded the motion, which passed unanimously.

G. Processing fees in preneed contracts

In June 2008 the Division of Funeral, Cemetery, and Consumer Services received an inquiry from Mr. John Nixon, concerning processing fees in preneed contracts.

On July 18, 2008 the Division sent Mr. Nixon the attached response to his inquiry. The response explains the issues and provides some background.

The issues raised are summarized here as follows:

Issue 1: Do processing fees identified in a preneed contract have to be trusted (assuming the preneed licensee is using the trust option for securing the preneed contract).

Issue 2: If processing fees are put in trust, may they be withdrawn as soon as they are earned?

The Division's response to Mr. Nixon in effect answers these questions YES and YES.

The Division believes that the Board itself has already answered Issue 1, in Board rule 69K-8.007(3), and that the answer in that rule is YES, processing fees must be trusted. The Division agrees with the rule. The Division believes that under the current trust law at s. 497.458(1)(a), no other answer is possible.

Some reasonable folks will argue that a processing fee shown on a preneed contract is not subject to trust requirements under s. 497.458 on the grounds that processing fee services are not preneed services, since there is an expectation that the service will be provided immediately after the contract is executed.

? However, the Division would respond that those processing fee services have not been delivered as of the moment the contract is entered into. Furthermore, there is no requirement in statute or rule, as to how soon the processing fee services must be provided. And, while it is true that there are at-need sales that involve merchandise or services that are not immediately provided, the difference here is that these processing fees are charged on what is admittedly a pre-need contract and the seller implicitly represents that the processing fees are a necessary cost of providing the pre-need services and merchandise.

Reasonable people will also argue that the processing fee services are not "funeral services or merchandise or burial services or merchandise" [s. 497.458(1)(a)].

? However, the Division believes that such a distinction is a dangerous and slippery slope to start across. By that logic, the cost attributable to gas for the hearse should not be subject to trusting, because gas is not funeral or burial merchandise or service.

The Division's response to Mr. Mixon recognizes that it seems pointless to put the fees in trust if they are to be immediately withdrawn. However, the Division feels the current statutes provide no flexibility to reach a more sensible result.

On or about July 22, 2008 the Division emailed to Industry representatives the attached discussion draft of proposed legislation on this topic.

The fundamental reasoning behind the Division's position is a belief that the Division and the Board should be conservative in applying the trust statutes in ch. 497 – that is, a gray area should be resolved in favor of the maximum application of trust requirements.

The Division does not oppose processing fees. Nor does the Division in principle oppose the exemption of reasonable processing fees from trust requirements. The Division simply believes that Ch. 497 should be amended to expressly allow such exemption to occur, subject to Board regulation. The attached legislative proposal would --

- ? guarantee that pre-need licensees can charge a processing fee of up to \$50
- ? allow the Board to limit the amount of processing fees over \$50
- ? allow the Board by rule to exempt processing fees (in amounts approved by Board rule) from trust requirements

Requested Board Action:

- 1) The Division seeks a sense of the Board's reaction to the Division's July 18, 2008 letter to Mr. Mixon.

MOTION: Mr. Helm moved to give Mr. Mixon and his clients the relief that they are requesting. Ms. Huggins seconded the motion, which passed unanimously.

- 2) The Division seeks a Board motion made and carried, stating that the Board does not oppose the Department moving forward with the legislative proposal attached hereto.

MOTION: Mr. Brandenburg moved to have this issue worked out through Rules process. Mr. Helm seconded the motion, which passed unanimously.

H. Report from Richard Baldwin, Examiner for Menorah Gardens, May 08

The Board members received a copy of the report from Richard Baldwin for the month of May '08. Mr. Baldwin continues to assist consumers.

XXIII. Attorney Report (Oral)

None

XXIV. Administrative Report

The Administrative Report was submitted to the Board on the Agenda.

XXV. Disciplinary Report

The Disciplinary Report was submitted to the Board on the Agenda.

***** SUPPLEMENTAL AGENDA *****

A. Care & Maintenance Trust Transfer Request(s)

1. Jacksonville Memory Gardens, Inc. (Orange Park)

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

B. Preneed Trust Transfer Request(s)

1. Jacksonville Memory Gardens, Inc. (Orange Park)

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

C. Application(s) for Continuing Course Approval Pending Satisfactory Review by Continuing Education Committee

1. International Cemetery & Funeral Association #74
 - a. 2008 ICCFA University, College of Funeral Home Management #29209
 - b. 2008 ICCFA University, College of Sales & Marketing #29211
 - c. 2008 ICCFA University, College of 21st Century Services #29206
 - d. 2008 ICCFA University, College of Administration & Management #29207
 - e. 2008 ICCFA University, College of Cremation Services #29208
 - f. 2008 ICCFA University, College of Land Management & Grounds Operations #29210

Mr. Shropshire stated that these applications were filed back in April. A computer glitch caused them to fall out of the system and they did not get referred to the Committee.

MOTION: Mr. Brandenburg moved to approve the applications pending satisfactory review by the Committee. Mr. Helm seconded the motion, which passed unanimously.

***** ITEMS HELD IN ABEYANCE *****

V. Informal Hearing(s)
A. Jackson Funeral Home Case No.: 94511-OB-FC
B. Singleton, Tebbie Case No.: 95046-OB-FC

Mr. David stated that the penalty guidelines list a range for each count. On each Count, I–IV, the penalty guidelines carry an administrative fine of \$1000 to \$2500 plus applicable costs, 6 months to 1 year probation with the usual conditions and also allow for suspension until the licensee has shown they are compliant.

Mr. Helm questioned whether Mr. David has come up with a recommendation.

Mr. David stated he would go through the penalty guidelines and then give a total recommendation after that. Mr. Singleton would then be allowed to testify as to any mitigating circumstances reserving a brief moment for any rebuttal. The Board could then consider whether the penalty should depart from the recommendation.

Mr. Helm questioned whether the Board could just hear Mr. David's recommendation.

Ms. Guillemette stated that it is appropriate for the Board to know what the guidelines are.

Mr. David stated that Count V is \$500 to \$1000 fine plus applicable costs, 6 months probation with the usual conditions. Count VI–IX are \$1000 to \$2500 plus applicable costs, 1 year probation with the usual conditions.

Ms. Guillemette calculated a minimum of \$7500 and a maximum of \$13,000.

Mr. David calculated that the maximum would be \$21,000.

The Chair questioned the applicable costs.

Mr. David stated that the costs have not been established. Mr. David recommended \$10,000 fine and suspension until compliant.

Ms. Huggins questioned whether this penalty was for both.

Mr. David stated the penalty would be for each licensee.

Mr. Singleton stated that on Count I, the sign was removed due to construction. In regard to Count II, the tile has been redone. The funeral home has been inspected prior to Mr. Singleton placing his license at Jackson and that was the condition of the floors. When Mr. Schuller came out in February and indicated that the floors had to be redone, Mr. Jackson had the floors replaced. Regarding Count IV, the funeral home currently has a complaint log. The facility was inspected a week ago by Mr. Schuller and the complaint log was available.

The Chair questioned whether all these issues were reconciled prior to last week inspection.

Mr. Singleton stated that Mr. Schuller indicated that the floor still had to be sealed.

Mr. Brandenburg questioned whether Mr. Singleton had a copy of the newest inspection form.

Mr. Singleton answered no. The funeral home now has sanitary towels for the prep room. Regarding the permission to embalm forms, Mr. Singleton had no knowledge of those files. Mr. Derr was the funeral director that assisted those families. Mr. Singleton stated that he did not check Mr. Derr's work as he is a licensed funeral director.

The Chair stated that Mr. Singleton should get Mr. Derr to help him pay the fine.

Mr. Brandenburg questioned whether Mr. Jackson is a licensed funeral director.

Mr. Singleton answered no.

Mr. David stated that the record keeping issues seemed to have been resolved but the condition of the building and signage were not resolved as of that inspection. Specifically, the prep room conditions have not been resolved pursuant to that inspection.

Mr. Brandenburg questioned whether Mr. Singleton works for other funeral homes.

Mr. Singleton stated that he does trade embalming. In his absence from Jackson, Mr. Derr meets with the families.

Mr. Brandenburg questioned whether Mr. Singleton is the FDIC at any other location.

Mr. Singleton answered no.

Mr. David suggested adding 2 years of probation as a minimum for each licensee.

Ms. Huggins questioned whether Mr. Singleton is compensated to be FDIC at Jackson.

Mr. Singleton answered no. Jackson is probably doing less than fifty cases. Mr. Singleton stated that he is only paid by his performance.

MOTION: Ms. Zipp moved to accept \$10,000 fine and suspension until compliant and two years probation on Jackson Funeral Home. Ms. Huggins seconded the motion, which passed unanimously.

MOTION: Mr. Helm moved to accept \$5,000 fine and one year probation on Mr. Tebbie Singleton. Ms. Thomas-Dewitt seconded the motion, which passed unanimously.

Ms. Guillemette questioned when Mr. Singleton's fine is payable.

Mr. Shropshire stated that the fine is payable within 90 days.

Mr. Brandenburg questioned whether the Board could prevent Mr. Singleton from ever being FDIC.

Ms. Guillemette answered no.

Mr. David stated that maybe a provision of the probation, but it would only be during the period of the probation.

Mr. Brandenburg stated that Mr. Singleton is not being compensated directly and being FDIC has put him in a compromising position.

Mr. Singleton stated that he trades embalms for three other firms that contact him once they receive an at-need case. When Mr. Singleton started with Jackson Funeral Home, Mr. Jackson was doing less than forty cases. Mr. Singleton expressed how much he would like to be compensated for his license, but the establishment was not in a position to do so. Mr. Singleton has known Mr. Jackson since childhood.

Mr. Singleton objected to having his license suspended as the violations are a result of Jackson not taking care of their financial responsibility.

The Chair stated that there was no recommendation to suspend Mr. Singleton's license.

Mr. Arthur Jackson stated that the building, which is an older building, is currently under reconstruction. The signage was taken down as a result. The things that should have been corrected have been.

The Chair stated that the establishment has to comply with the \$10,000 fine and the license is suspended until compliant. If what Mr. Singleton says is true, Jackson should probably pay Mr. Singleton's fine.

Mr. Shropshire suggested that Mr. Jackson contact the examiner and have him come out again. The suspension will be lifted once the examiner reports back to the Division that everything has been resolved. At that point, a letter would be sent from the Division office advising that the suspension has been lifted.

Ms. Guillemette questioned whether the license is suspended until the fine is paid.

The Chair stated that part of the compliance is paying the fine.

Ms. Guillemette questioned the time frame for paying the fine.

Mr. Shropshire stated that the fine should be paid in 90 days.

Ms. Huggins stated that Mr. Singleton needs to protect his license.

Mr. Jackson stated that the penalty was severe as they have never had a disciplinary action.

Ms. Guillemette stated that the guidelines were \$7500 to \$21,000 so \$10,000 is actually the low end.

XXVI. Adjournment

At 12:42 pm., the meeting was adjourned.