

SECOND AMENDED AGENDA (issued 4-1-09)
(showing cumulative changes to agenda as initially issued -- changes are shown in boxes)

BOARD OF FUNERAL, CEMETERY AND CONSUMER SERVICES

April 8, 2009 - 10:00 A.M. to 5:00 P.M.

Hawthorn Suites Lake Buena Vista

8303 Palm Parkway

Orlando, FL 32836

THIS MEETING IS OPEN TO THE PUBLIC

I. Call to Order and Roll Call

II. Action on the Minutes

- A. February 4, 2009
- B. March 4, 2009 Teleconference

III. Disciplinary Proceeding(s)

- A. Abbey Affordable Cremation and Funeral Service: Case No: 87262-08-FC
- B. Evergreen Memorial Park Cemetery, Inc.: Case No. 97370-08-FC

IV. Application(s) to Acquire Control of an Existing Cemetery Company

- A. American Funeral Partners of Florida, Inc. d/b/a Charlotte Memorial Funeral Home and Memorial Gardens to acquire Charlotte Memorial Gardens (Punta Gorda) **REVISED COVER SHEET FOR THIS MATTER IS ATTACHED TO THIS SECOND AMENDED AGENDA**

V. Application(s) for Preneed Sales Agent

- A. Informational Item - Addendum A
- B. Recommended for Approval (Criminal History)
 - 1. Brown, Linda Hackney (Appointing Entity: Daytona Memorial Park)
 - 2. Haas, Gary E. (Appointing Entity: Neptune Management Corp)
 - 3. Suarez, Alvaro L. (Appointing Entity: JGR Funeral Services Inc.)
- C. Recommended for Denial (Criminal History)
 - 1. Burch, Ronald J. (Appointing Entity: Neptune Management Corp)
 - 2. Caballero, Cristina (Appointing Entity: SCI Funeral Services of Florida Inc.)
 - 3. Diaz-Damas, Roberto (Appointing Entity: SCI Funeral Services of Florida Inc.)
 - 4. Kazor, Shelia A. (Appointing Entity: SCI Funeral Services of Florida Inc.)

VI. Application(s) for Preneed Main License

- A. American Funeral Partners of Florida, Inc. d/b/a Charlotte Memorial Funeral Home and Memorial Gardens (Punta Gorda)

- B. Boyd-Panciera Family Funeral Care, Inc. d/b/a Panciera Memorial Home Chapel (Hollywood)
THIS APPLICATION WAS ADDED AFTER INITIAL AGENDA; THE APPLICATION WAS EMAILED TO YOU 3-31-09

- C. Tracy Morton Memorial Chapel, LLC (Pensacola)

VII. Application(s) for Preneed License Branch

A. Recommended for Approval - Addendum B

SEE ATTACHED AMENDED ADDENDUM B (NAMES WHERE ADDED)

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

A. Recommended for Approval - Addendum C

1. Funeral Director and Embalmer - by Internship
 - a. Bench, Adrienne D
 - b. Duncan, Jeanette R
 - c. Haisley, Beatrice Q
 - d. Jannasch, Elissa A
 - e. Ohmart, Michelle A
 - f. Roberts, Troy A
 - g. Wantuck, Gary M
 - h. Williams, Omar C
2. Funeral Director and Embalmer- by Endorsement
 - a. Aubin, Jr., Timothy D
 - b. Dooley, Vincent P
 - c. Duran, Jennifer
3. Embalmer-by Endorsement
 - a. Geiser, William B
 - b. Romano, John M

B. Recommended for Approval (Criminal History)

1. Direct Disposer
 - a. Nicholson, Enoch
2. Funeral Director and Embalmer- by Endorsement
 - a. Hutchison, Byron

C. Recommended for Denial (Criminal History)

1. Funeral Director and Embalmer - by Internship
 - a. Seegert, Scott S

IX. Application(s) for Internship

A. Recommended for Approval – Addendum D

1. Funeral Director and Embalmer
 - a. Barber, Craig R
 - b. Dorsey, Joshua
 - c. McHayle, Bonnie M
 - d. Sheppard, Tommy G
 - e. Williams, Jr, Matthew J

X Application(s) for Embalmer Apprentice

A. Recommended for Approval – Addendum E

1. Borders, Willard M
2. Chambers, Elizabeth S
3. Collins, Jeanine D
4. Vachier, Marcie M

XI. Application(s) for Continuing Education Course Approval

A. Recommended for Approval – Addendum F

1. Academy of Graduate Embalmers of Georgia #69
2. Creative Business Financing, Inc. #70
3. Florida Funeral Directors Association, Inc. #75
4. Florida Morticians Association #133
5. Florida Wilbert #6801
6. FuneralReview.com #122
7. Independent Funeral Directors of Florida #135
8. Matthews #6802
9. MKJ Marketing #85
10. National Funeral Directors and Morticians Association #120
11. National Funeral Directors Association #136
12. Pinellas County #58
13. Practicum Strategies #65
14. SCI Management - Dignity University #99

XII. Application(s) for Registered Training Facility

A. Recommended for Approval – Addendum G

1. Funeral Directing and Embalming
 - a. Gutterman's Inc d/b/a Gutterman Warheit Memorial Chapel (F039865)
 - b. Manasota Memorial Park & Funeral Home (F041926)

XIII. Consumer Protection Trust Fund Claims

A. Recommended for Approval - Addendum H

XIV. Application(s) for Monument Establishment Sales Agent

A. Informational Item – Addendum I

XV. Monument Retail Sales Agreement(s)

A. Faith Memorials, Inc. d/b/a Comerford Vault & Memorial Service (Sneads) – NAME CHANGED FROM FAITH MEMORIALS, INC. D/B/A COMERFORD FUNERAL HOME TO THE ABOVE
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B. Pierce Developments, Inc. d/b/a Southside Granite Company (Dothan, AL)

XVI. Application(s) for Funeral Establishment

A. Recommended for Approval

1. Becker Funeral Home Inc (Minneola)
2. Boyd-Panciera Family Funeral Care, Inc. d/b/a Boyd Family Funeral Home Chapel (Pembroke Pines)
3. Boyd-Panciera Family Funeral Care, Inc. d/b/a Funeraria Panciera Chapel (Pembroke Pines)
4. Boyd-Panciera Family Funeral Care, Inc. d/b/a Panciera Memorial Home Chapel (Hollywood)
5. Boyd-Panciera Family Funeral Care, Inc. d/b/a Panciera's Alternative Funeral & Cremation Care and The Memorial Store (Hollywood)
6. Hayes Brothers Funeral Home (Fern Park)
7. Joseph A. Scarano Funeral Home Inc d/b/a Joseph A Scarano Chapel at Grand Palms (Pembroke Pines)
8. Pax-Villa USA Inc (Homestead)-(adverse licensing history)
9. Shane Obert Funeral Home Inc (Chipley)

10. Tony Tanner Funeral Services Inc (Ocala)
11. Tracy Morton Memorial Chapel LLC (Pensacola)
12. Unity Memorial Funeral Home Inc (Wildwood)

B. Recommended for Denial

1. Gendron Funeral Home-Cremation Service Inc (Fort Myers)
2. Nacional Memorial Funeral Chapel LLC (Hollywood)

XVII. Funeral Establishment - Conditional Considerations

A. Motion to Withdraw Application

1. Presidential Circle Funeral Home, prior application (Valeria Panciera) (Hollywood)

B. Application for Funeral Establishment License

1. Presidential Circle Funeral Home (different owner, Jonathan Shaw) (Hollywood)

XVIII. Application(s) for Removal Facility

A. Recommended for Approval (Criminal History)

1. D Removal Services LLC (Miami)

XIX. Application(s) for Direct Disposal Establishment

A. Recommended for Approval

1. International Cremation Society Inc d/b/a ICS Cremation Society (Harbour Heights)
2. Johnson-Herring Cremation Services (Jacksonville)
3. Neptune Management Corp d/b/a Neptune Society (Palm Harbor)

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

A. Neptune Management Corporation (Fort Lauderdale)

1. Financial Accommodation Addendum (NEP-FL-999-Addendum 03/18/09)

B. State Park Cemetery Company, Inc d/b/a Washington Park Cemetery (Orlando)

1. Purchase Contract

XXI. Trust Transfer Request(s)

A. Seawinds Funeral Home I, LLC d/b/a Cox-Gifford-Seawinds Funeral Home & Crematory (Vero Beach)

1. Forethought Federal Savings Bank Florida Preneed Master Trust to Funeral Services, Inc. (FSI) 1993 Master Trust Agreement (BB&T)

B. Thomas Aikens, Inc., LLC d/b/a Suncoast Cremation Society (Tampa)

1. Thomas Aikens, Inc. 1999 Trust Agreement (U.S. Bank) to Funeral Services, Inc. (FSI) 1993 Master Trust Agreement (BB&T)

XXII. Request to Extend Concurrent Internship

A. Brahim, Khateeja

XXIII. Chairman's Report (Oral)

XXIV. Executive Director's Report

- A. 2009 Proposed Meeting Schedule (January thru June) (see attachment)
- B. Preneed License Renewal Late Fee Schedule
- C. Report from Richard Baldwin, Examiner for Menorah Gardens, January '09 (see attachment)
- D. Rule 69K-6.009 – ID Tags

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

XXVI. Administrative Report

1/22/09 - 3/31/09

A.	New Cemetery Applications Received Since Last Meeting	0
	Recommended for Approval	0
	Pending	0
B.	Cemetery Acquisition Applications Received Since Last Meeting	0
	Recommended for Approval	1
	Pending	0
C.	Preneed License Applications Received Since Last Meeting	1
	Active Preneed Licenses	336
	Presented to the Board at this Meeting	1
	Pending	1
D.	Preneed License Branch Applications Received Since Last Meeting	0
	Active Preneed License Branches	336
	Recommended for Approval	1
	Pending	3
E.	Preneed Sales Agent Applications Received Since Last Meeting	66
	Active Sales Agents as of March 31, 2009	2128
	Recommended for Approval	56
	Temporary Licenses Issued; Pending Permanent	158
F.	Monument Establishment Applications Received Since Last Meeting	1
	Active Monument Establishments	104
	Pending	1
G.	Broker of Burial Rights Applications Received Since Last Meeting	0
	Active Brokers of Burial Rights	14
	Pending	0
H.	Exempt Cemetery Reports Received Since Last Meeting	4
	Active Exempt Cemeteries	60
	Pending	0
I.	Preneed Funeral Contract Consumer Protection Trust Fund Balance as of March 31, 2009	\$7,570,208.32
	# Claims Presented at This Board Meeting	19
	\$ Claims Presented at This Board Meeting	\$ 12,560.76
	Claims Paid as of March 31, 2009	\$59,873.37

J.	New Establishment Applications Received Since Last Meeting	20
	Pending	15
	Completed	5
K.	New Individual Applications Received Since Last Meeting	35
	Pending	26
	Completed	9
L.	Request for Training Facility Applications Received Since Last Meeting	3
	Pending	2
	Completed	1
M.	Request for CE Providers and Courses Received Since Last Meeting	81
	Pending	0
	Completed	81
N.	Initial Inspections Received Since Last Meeting	19
	Pending	0
	Completed	19
O.	Inspections Received Since Last Meeting	260
	Pending	0
	Completed	260
P.	Initial Licenses Issued Since Last Meeting	15
	Renewal Licenses Issued Since Last Meeting	31
	Duplicate Licenses Issued Since Last Meeting	10

XXVII. Disciplinary Report

	Issued Since Last Meeting (February 4, 2009)	Issued Since January 1, 2009
Notice of Non-Compliance	0	1
Letters of Guidance	60	62
Citations	0	14

XXVIII. Adjournment

THE CHAIRMAN MAY MAKE SPECIFIC CHANGES IN THE AGENDA AFTER IT HAS BEEN MADE AVAILABLE FOR DISTRIBUTION, ONLY FOR "GOOD CAUSE" SHOWN.

DIRECTIONS TO THE HOTEL

South from FL Turnpike: Exit on I-4 Heading West. Take exit 68 - SR535/Lake Buena vista. Turn right at end of ramp. At 2nd traffic light - Palm Parkway - make a right. Olive Garden will be on the right-hand corner. Hawthorn Suites is located 1/4 mile on left.

From I-4 East: Take Exit 68 - SR535/Lake Buena Vista. Turn left at end of ramp. At 3rd traffic light - Palm Parkway, make a right. Olive Garden will be on the right-hand corner. Hawthorn Suites is located 1/4 mile on left.

From I-4 West: Take Exit 68 - SR535/Lake Buena Vista. Turn right at end of ramp. At 2nd traffic light - Palm Parkway make a right. Olive Garden will be on the right-hand corner. Hawthorn Suites is located 1/4 mile on left.

From Orlando Intl Airport (15 Miles): Take 528 W to I-4 W to Exit 68. Make a right at the traffic light. Take 535 1 mile to Palm Parkway, make a right. Hotel will be on the left hand side.

Corrected

ADDENDUM B

Board of Funeral, Cemetery, and Consumer Services, meeting date : APRIL 8, 2009
Preneed Branch -- Clean Applications for Board Approval

Pursuant to s. 497.453(7), Fla. Statutes, the applicants listed below have applied for a preneed branch license. The applications were complete, without reportable criminal or disciplinary history, and accompanied by the required fee. The record indicates that the applicants qualify for branch licensure. **Recommendation:** That the applicants be approved for the branch licenses applied for.

Sponsoring preneed main's lic #	Sponsoring preneed main's name	Branch name	Branch City
F019336	Kadek Enterprises of Florida, Inc	Coral Ridge Funeral Home & Cemetery	Cape Coral
*Pending Approval	Boyd-Panciera Family Funeral Care, Inc.	Boyd Family Funeral Home Chapel	Pembroke Pines
*Pending Approval	Boyd-Panciera Family Funeral Care, Inc.	Funeraria Panciera Chapel	Pembroke Pines
*Pending Approval	Boyd-Panciera Family Funeral Care, Inc.	Panciera's Alternative Funeral & Cremation Care and The Memorial Store	Hollywood
TOTAL branches, this presentation			4

Initials of FCCS staffer who prepared this document:

Approved for presentation to the Board (Director or Assistant Dir):
DNR

CORRECTED COVER SHEET (4-1-09)
Application to Acquire Control of Existing Cemetery
Cover Sheet For Presentation To The Board

"x" indicates the applicable answer.

- 1) **Date of Board meeting:** April 8, 2009
- 2) **Applicant name:** American Funeral Partners of Florida, Inc.
d/b/a Charlotte Memorial Funeral Home and Memorial Gardens
- 3) **Type of license applied for:** Acquire Control of an Existing Cemetery Company
- 4) **Applicant's address:** 9400 Indian Springs Rd, Punta Gorda, FL 33950
- 5) **Is there any known prior disciplinary record on this applicant?** ☐ Yes ☒ No
- 6) **Does applicant have a criminal history required to be disclosed under 497.142(10)?**
☐ Yes ☒ No (if, yes, see summary and checklist, subsequent page)

7) Division Remarks

(a) American Funeral Partners of Florida, Inc., (hereinafter "American Funeral Partners" or "Buyer" or "Applicant") (A.J. Daoud, President) has filed an application for approval to acquire control via asset purchase of Charlotte Memorial Gardens Acquisition, Inc.(CMGAI), a licensed cemetery operating under license number F039725, and located at 9400 Indian Springs Road, Punta Gorda, Florida, which does business as Charlotte Memorial Gardens (CMG).

(b) A related application by American Funeral Partners for a preneed main license is also pending before the Board at this April 8, 2009 meeting, and this application should be considered by the Board in conjunction with that preneed license application.

(c) American Funeral Partners was formed in Florida on June 28, 2008 for this acquisition. A completed background check of all officers revealed no criminal history. The Applicant's principals are Abraham J. Daoud and David Deighton.

(d) American Funeral Partners' financial statement (current as of September 22, 2008), in the name of American Funeral Partners of Florida, Inc., reflects the following:

Required Net Worth	= \$	50,000
Reported Net Worth	= \$	130,000

(e) Currently, Charlotte Memorial Gardens is owned by “Funeral Services Acquisition Group Inc.” (hereinafter FSAG or “Seller”), and FSAG is ultimately controlled by Service Corporation International (SCI).

(f) Currently, Charlotte Memorial Gardens operates as preneed branch number 000089, under preneed main license number F019323, which preneed main license is held of record by the same FSAG, ultimately controlled by SCI.

(g) There is a funeral establishment immediately adjacent to and operated in conjunction with Charlotte Memorial Gardens, and in Nov. 2008 this Board approved a change of ownership of that funeral establishment, from FSAG/SCI, to American Funeral Partners.

(h) As more fully set forth in the asset sales agreement, among the assets being purchased by American Funeral Partners, are the following: 1) the cemetery real estate; 2) equipment, vehicles, and personal property on the real estate used to operate the cemetery; 3) certain cemetery merchandise in inventory; 4) certain preneed contracts and related liabilities, and rights to preneed trust funds and insurance proceeds related to the preneed contracts; 5) Seller’s rights and liabilities under certain contracts related to operation of the cemetery; 6) certain accounts receivable, utility deposits and other deposits; 7) Charlotte Memorial Gardens trade name, goodwill, customer lists, books of account.

(i) The preneed contracts to be transferred to American Funeral Partners are described on page 2 of the Asset Sale Agreement, at 1.1(f), as follows:

All preneed funeral and/or cemetery merchandise and/or service agreements generated in the operation of the Business that have not yet been serviced, cancelled or transferred as of the effective time (the “Preneed Agreements”), including contracts and accounts receivable associated therewith.

(j) The FCCS Division advised the parties that the Division was of the opinion that the preneed contracts to be transferred to American Funeral Partners and which American Funeral Partners was to become responsible and liable for, must be more definitively set forth in the record in this application.

(k) On 3-16-09 Mr. Lee Longino, President of SCI Florida, on behalf of Seller, provided to the Division by email certain materials, one of which was an Excel spreadsheet, identifying 1,858 preneed contracts that American Funeral Partners will become responsible and liable for under the sale agreement (see note A below), showing, among other things, for each of said 1,858 preneed contracts the contract number, purchaser name, sale date, sale amount, and, in column “T” entitled “Total Liability, the amount currently in trust for each contract, and showing the total trust liability, for all 1,858 preneed contracts, as being \$1,467,310, all as of 1-31-09 (said spreadsheet is hereinafter referred to as the “1-31-09 Preneed Contract List”; the document is over 25 pages long – the first and last page are provided herewith, as illustrative).

Note A: Said 1,858 number and related dollar amounts are subject to adjustment for preneed contracts fulfilled or cancelled between 1-31-09 and the date of closing of the sale from Seller to Buyer.

(l) In accordance with Rule 69K-5.006(3) and (4) (a), the applicant requested a Division examination of the preneed merchandise and the care and maintenance trusts. The examiner's final report was issued on November 24, 2008. The exam and report, which addressed the period 11/01/2003 through 07/31/2008, indicated a \$1,812,035 deficit in the preneed trust, due to what appeared to be an unauthorized withdrawal from the corpus of the fund. SCI disputed the deficit finding.

(m) 1. The Division inquiry indicates that the \$1,812,035 was withdrawn from the preneed trust by a prior owner of the cemetery and preneed business, Alderwoods. As you know, Alderwoods was the result of the bankruptcy reorganization of Loewen, and Alderwoods had obtained the cemetery and preneed business from its predecessor, Loewen. Loewen in turn had acquired the cemetery and preneed business out of the receivership proceedings of a former owner.

2. Division records document that in the late 2004 timeframe Alderwoods representatives met with the FCCS Director, to explain a problem that Alderwoods had encountered and to seek Division approval of a proposed course of action. The problem, as stated by Alderwoods, was that "Upon acquisition of the cemeteries, there were no records to determine the correct historic principal and earning split in the trust accounts. A high level review strongly suggests that previous trustees did not correctly categorize principal, capital gains/losses, and income given the overall percentage of principal in the trust assets accounts today [2004]." Alderwoods indicated that it was their belief that the preneed trust contained a substantial amount of appreciation related to fulfilled preneed contracts, that was properly subject to withdrawal.

3. The Division thereafter in 2004 advised Alderwoods "If the apparent surplus exists because capital gains were not previously withdrawn with the principal amount on fulfilled contracts, you can now make the allocation and respective withdrawal. However, there must be an audit trail and any withdrawal must be allocated to a preneed sale."

4. Alderwoods thereafter withdrew the \$1,812,035 from the preneed trust, presumably as earnings associated with fulfilled contracts. The methodology Alderwoods used to derive the \$1,812,035 figure is not clear, and it is not clear how Alderwoods allocated the withdrawal among contracts then in trust. In 2006 Alderwoods was acquired by SCI.

(m) The Division subsequently met with Mr. Lee Longino and other representatives of Seller, and ascertained, upon representation by Seller as supported by certain records provided by Seller, that the \$1,812,035 in issue was not in fact withdrawn from trust, but was instead transferred within the trust, from the trust principal account to the trust earnings/appreciation account (realized capital gains). Based on SCI's representations to the Division, and the materials provided to the Division by SCI in support of their representations, the Division finds that the transfer of the \$1,812,035 from principle to earnings within the trust, was not prohibited by ch. 497, and that the transfer itself did not create a deficit in the preneed trust.

(n) The above referenced transfer of \$1,812,035 from one account to another account within the same trust, was done to facilitate prorata withdrawal of earnings on individual preneed contracts as the contracts are fulfilled. It is and has been SCI's practice to "sprinkle" trust interest income, and trust capital gains and losses, to the individual preneed contract balances within the trust, on a prorata formula basis. In accordance with those practices, SCI has withdrawn a significant portion of the appreciation in the trust, as prorated to contracts that have been fulfilled or cancelled.

(o) By letter dated March 16, 2009 (attached), Seller's representative Lee Longino indicated to the Division that the preneed trust records showed the total trust liability for the 1,858 preneed contracts as being \$1,467,310, and that the total amount (principal and earnings) in preneed trust for those preneed contracts was \$1,903,681, as of 1-31-09.

(p) Charlotte Memorial Gardens has had a turbulent history since it was formed in 1972 (see ownership timeline, infra). One of its prior owners was charged with fraud and deceit. Two of its prior owners went into bankruptcy/receivership proceedings and took Charlotte Memorial Gardens with them into those proceedings. Furthermore, as the 1-31-09 Preneed Contract List shows, the date of sale of some of the preneed contracts to be transferred to Buyer go back as far as 1977.

(q) Consequently, and notwithstanding the Division's examination and exam report referenced above, the Division cannot provide assurance that the total amount currently in trust for the 1,858 preneed contracts to be transferred to Buyer, is the appropriate amount. Buyer knows the specific number (1,858) and identity of the preneed contracts it will become responsible for under the application before the Board, and how much is in trust for those contracts (\$1,903,681 as of 1-31-09). The Division recommends that approval of the present application be subject to the condition and understanding that as regards Buyer's obligation under ch. 497 to honor the 1,858 preneed contracts transferred to Buyer, it will not be a defense to Buyer's obligation that the amount in trust is less than should have been in trust; and furthermore, that no claims against the Consumer Protection Trust Fund for any deficiency in the amount trusted, will be approved. The preceding sentence is not in any way intended to address or affect a cause of action, if any, which Buyer might have against Seller, in relation to any deficiency in the amount in the preneed trust.

(r) The Division's most recent inspection of Charlotte Memorial Gardens disclosed that graves in Section 1-A (the oldest section in the cemetery) have a serious vault encroachment issue. The Division had the cemetery Superintendent probe the edges of the vaults to verify if the markers were off or if the vaults were interred outside of the legal property description. It was determined to be the vaults, based upon the newly surveyed lot pins. Some vaults were off by two feet or more, measured from the lot pin. This section is from the wall (by the street) on the south side of the cemetery to the lawn crypts located approximately 1/3 of the length of the cemetery from the street. The cemetery managers have indicated that there are no new burials occurring in this section, only second interments.

(s) The Division's exam disclosed that there is a \$2,067 deficiency in the Charlotte Memorial Gardens care and maintenance trust fund.

8) Division Recommendation. The Division recommends approval of the present application, subject to the following conditions:

1. Within 30 days after Board approval, the applicant shall provide an executed (by both Buyer and Seller) copy of the Asset Sales Agreement between the parties that is substantially identical to the draft Agreement provided to the Division, dated January 20, 2009, which is attached hereto.
2. The sale of assets transaction, between Buyer and Seller, shall close within 90 days of 4-8-09, and evidence of such closing shall be provided by Applicant to the Division.
3. Seller shall prior to closing deposit an additional amount of \$2,067 into the Charlotte Memorial Gardens care and maintenance trust fund.
4. Applicant shall assume full responsibility for all 1,858 preneed contracts identified in the 1-31-09 Preneed Contract; as between the Board and the Applicant in regards to Applicant's obligation to honor the 1,858 preneed contracts transferred to Applicant, it will not be a defense to Applicant's obligation that the amount in trust is less than should have been in trust; and furthermore, no claims against the Consumer Protection Trust Fund in regard to such contracts will be approved while Applicant remains solvent and the preneed contracts remain the obligation of the Applicant. (All references here to 1,858 preneed contracts is understood to be subject to adjustment to reflect preneed contracts fulfilled or cancelled between 1-31-09 and date of closing of sale from Seller to Buyer.)
5. Seller FSAG shall preserve and transfer at closing the preneed trust account balance of \$1,903,681, to Buyer's preneed trustee, at or within 10 days of closing of the sale from Seller to Buyer. (All references here to \$1,903,681 preneed trust fund balance is understood to be subject to adjustment to reflect preneed contracts fulfilled or cancelled between 1-31-09 and date of closing of sale from Seller to Buyer.)
6. The Seller and SCI shall remain responsible for any and all "preneed funeral and/or cemetery merchandise and/or service agreements generated in the operation of the Business" (Asset Sale Agreement, at 1.1(f)), not already fulfilled or cancelled, that are not specifically listed in the 1-31-09 Preneed Contract List.
7. Based on an additional finding in the examiner's report, there shall be no new burials (first interments) in Section 1-A of the cemetery, which was found to have marker placement/vault encroachment problems, until such time as the applicant obtains approval from the FCCS Division, which approval shall be issued upon the FCCS Division determining that the problems having been corrected.

TO: Board of Funeral, Cemetery, and Consumer Services
FR: Division of Funeral, Cemetery, and Consumer Services
DT: 3-30-09

Timeline of the ownership of Charlotte Memorial Gardens cemetery:

- Incorporated in December 1972. Raymond H. Woodrow, owner and sole officer.
- Throughout Mr. Woodrow's ownership in the 1980's, there were numerous complaints and Department actions taken against Mr. Woodrow. In 1993 he was charged and disciplined for a number of violations related to fraud and deceitful sales practices.
- In February 1994, Mr. Woodrow commenced sale of Charlotte Memorial Gardens to Memorial Services International, Inc. (MSI) via a stock purchase. The Board approved the sale in July 1994.
- In December 1995, the Department requested Charlotte Memorial Gardens be placed into receivership. Douglas I. Kinzer was named Receiver.
- In June 1996, the court approved an asset purchase agreement between Douglas Kinzer, Loewen Group International, Inc. and MSI (Memorial Services International) to sell the cemetery to the Loewen Group. Charlotte Memorial Gardens became licensed in Florida under Funeral Services Acquisition Group, Inc., a Loewen entity.
- In June 1999 the Loewen Group filed for Chapter 11 bankruptcy. A reorganization plan provided for a reorganization of the corporate structure of Loewen and its subsidiaries. The new operating company became Alderwoods Group Service Inc.
- In November 2006, Alderwoods was acquired by Service Corporation International (SCI) and its entire corporate structure became a Division of SCI. Alderwoods continued to own the stock of its Florida subsidiary companies, which continued to own and operate their respective businesses.