

MINUTES
BOARD OF FUNERAL, CEMETERY AND CONSUMER SERVICES
February 9, 2012 - 10:00 A.M.
Department of Financial Services
2020 Capital Circle SE, Alexander Bldg #230
Tallahassee FL 32301

1. Call to Order, Preliminary Remarks and Roll Call

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

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

My name is Doug Shropshire. I am Director of the Division of Funeral, Cemetery, and Consumer Services. Today is February 9, 2012; the time is approximately 10:00am. This is a public meeting of the Board of Funeral, Cemetery and Consumer Services. Notice of this meeting has been duly published in the Florida Administrative Weekly. An agenda for this meeting has been made available to interested persons. The meeting is occurring in person at the Alexander Building in Tallahassee, FL. My Assistant, Ms LaTonya Bryant-Parker, is recording the meeting and will be preparing minutes of the meeting.

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

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

PRESENT:

Joseph "Jody" Brandenburg, Chairman
Gail Thomas-DeWitt, Vice-Chairman
Andrew Clark
Lewis "Lew" Hall
Powell Helm
Nancy Hubbell
Ken Jones
Richard "Dick" Mueller
Col. Don Stiegman

ABSENT:

Jean Anderson

Mr. Shropshire advised the Chair that there was a quorum present and the Board may proceed to address the matters on the agenda. Mr. Shropshire welcomed back Ms. Allison Dudley from the Attorney General's Department.

Also noted as present:

Clark Jennings, Board Legal Advisor
Anthony Miller, Assistant Director
LaTonya Bryant-Parker, Department Staff
Linje Rivers, Department Counsel
James Bossart, Department Counsel
Jasmin Richardson, Department Staff
LaShonda Morris, Department Field Staff

The Chair questioned whether all Board members received their packets. There were positive responses from all the Board members. The Chair welcomed Mr. Clark to his first in-person meeting of the Board.

JBP 2/22/12
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2. **Action on the Minutes**
A. *January 5, 2012 – Teleconference*

The Chair confirmed that all Board members had read the draft of the minutes of the previous Board meeting held on January 5, 2012.

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

3. **Disciplinary Proceedings(s)**
A. *Material Facts Not Disputed (Section 120.57(2))*
(1) *Cunningham's Funeral Home: Case No. 111260-10-FC (F041805) (Probable Cause Panel A)*

Ms. Nancy Hubbell recused herself as she served on Probable Cause Panel A.

Mr. James Bossart stated that probable cause was found on this matter on February 23, 2011. Cunningham's Funeral Home was a licensed Funeral Establishment doing business in Ocala, Florida. An inspection was performed of Cunningham's Funeral Home. The inspection revealed that Cunningham's FDIC Jesse Burns was not present at the facility during the inspection and was not available during normal business hours, in violation of Section 497.380(7), Florida Statutes. The inspection also revealed that Cunningham's preparation room and floors were dirty, unsanitary, and not properly maintained, in violation of Section 497.152(a), Florida Statutes, and Rule 69K-21.003(5), Florida Statutes. The same inspection also revealed that Cunningham's waste receptacles were dirty, unsanitary, and not properly maintained, in violation of Section 497.152(a), Florida Statutes, and Rule 69K-21.003(5), Florida Statutes. The inspection also revealed that Cunningham lacked a refrigeration room for the storage of dead bodies, or a written arrangement for such storage, in violation of Rule 69K-21.003(1), Florida Statutes.

The Department filed an Administrative Complaint on April 5, 2011. A copy of the Administrative Complaint, including an Election of Proceedings form, was sent to the Respondent's last known business address by certified mail. However, an answer or other response to the administrative complaint was not obtained from the Licensee. Personal Service of the Administrative Complaint was then attempted by Mr. Robert W. McGuinness of Nolan Process Servers. Mr. Nolan was unable to obtain service upon the Respondent. The affidavit of non-service executed by Mr. Nolan is attached to the Motion for Determination of Waiver. Service was then obtained by publication of notice in the Voice of South Marion, a newspaper located in Marion County, Florida on August 25, 2011 and republished on September 1, 8, and 15; 2011. The notice stated that the Respondent must file his answer on or before October 6, 2011. The Department has not received any response to this date.

Based on this information, the Department filed a Motion for Determination of Waiver and for a Final Order by Hearing Not Involving Disputed Issues of Material Facts. At this time, it would be appropriate for the Board to determine whether the Respondent has waived its right to request a proceeding in this matter as alleged in the Administrative Complaint.

MOTION: Mr. Ken Jones moved to find that the Respondent waived its rights to request a proceeding in this matter. Mr. Powell Helm seconded the motion, which passed unanimously.

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

MOTION: Mr. Mueller moved to adopt the Findings of Fact. Mr. Helm seconded the motion, which passed unanimously.

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

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

As to the penalty, the Department recommends revocation of the Respondent's funeral establishment license. Normally, in a situation like this, the penalty guidelines would call for a fine or probation and remedial action. However, in this case, the Respondent's license expired on June 24, 2010. Per the Department of State, the funeral home's corporation was administratively dissolved by the State in September of last year. The Department feels revocation would be appropriate in this case as it appears the Respondent has closed its business, has abandoned the business and did not respond to the Administrative Complaint, therefore there is no logical reason to keep the license in effect.

Ms. Allison Dudley stated that regardless of whether this is a waiver case there still needs to be aggravators stated if the Department is going beyond the guidelines.

Mr. Bossart stated that he understood and added that the Respondent not answering the Administrative Complaint would be the aggravating circumstance.

Ms. Dudley questioned whether Mr. Bossart had any other aggravators.

Mr. Bossart stated that he did not. The Respondent let his license expire two years ago and he allowed his corporation to dissolve. If there is any indication that the Respondent has no desire to remain in business to keep his license, that would be it.

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

Col. Don Stiegman questioned whether there is any indication that the Respondent is operating somewhere else in the State.

Mr. Bossart stated that he did not believe so. Mr. Bossart questioned whether Mr. Anthony Miller had any information on whether Mr. Cunningham is operating.

The Chair stated that the allegations are not against an individual but against the funeral home.

Ms. Dudley stated that the Board is limited in what the aggravators are. The aggravators are:

- a. Whether there is danger to the public
- b. The length of time since the violation
- c. The number of complaints filed
- d. The length of time the Licensee has practiced
- e. The actual damage
- f. The deterrent effect of the penalty imposed
- g. The effect upon the penalty upon the Licensee's livelihood
- h. Any efforts of rehabilitation
- i. The actual knowledge of the Licensee pertaining to the violation
- j. Attempts to correct the violation
- k. Related violations against the Licensee in other states
- l. Actual negligence
- m. Penalties imposed for related offenses

Mr. Bossart stated there is a final aggravator, "Other aggravating circumstances."

Ms. Dudley stated that given that the Respondent does not care about their license any more, it could probably be said that the Respondent has not made any efforts toward rehabilitation and requested to add that as an aggravator as well as the "Length of time since the violation." We need to add as many aggravators as we can to support this in case there is an appeal

Mr. Hall stated that this firm has appeared before the Board on numerous occasions. There are some additional issues with bad checks being passed.

Mr. Helm questioned which license would be revoked as the license has expired.

Mr. Bossart stated that once a license expires, it does not terminate as the license can be reinstated.

Mr. Shropshire stated that the license is in delinquent status.

Ms. Wendy Wiener stated that there is another licensed funeral establishment operating at that location, so Mr. Cunningham could not reopen at that location.

MOTION: Mr. Hall moved to accept the recommended penalty of revocation based on the aggravators stated. Mr. Mueller seconded the motion, which passed unanimously.

Mr. Mueller questioned why there was no action against an individual license in this matter.

The Chair stated that could be a separate case.

Mr. Mueller questioned whether there is an open investigation regarding the individual.

Mr. John Rudolph, representing Mr. Jesse Burns, stated that the case would be forthcoming.

Ms. Dudley stated that the case is coming and that it just was not submitted to the Board with the companion case.

(2) Miller Mortuary, P.A.: Case No. 117949-11-FC , SR1-674614801 (F041856) (Probable Cause Panel B)

Mr. Linje Rivers stated on August 29, 2011, the Department filed an Administrative Complaint, alleging that Miller Mortuary, licensed funeral establishment (hereinafter "Respondent"), did not have all licenses available upon demand, did not have a properly equipped preparation room, did not have biomedical waste picked up every 30 days, did not file the Cases Embalmed & Bodes Handled reports timely for years 2008 through 2010, did not maintain deceased bodies at a temperature of 40 degrees Fahrenheit, failed to affix proper identification on the wrist or ankle of the deceased, did not have a funeral director reasonably available to the public, did not have a copy of the last inspection report, did not have copies of signed at-need and preneed agreements, did not retain other required documents for at least 2 years, did not have prices listed on customers' written arrangement forms, failed to maintain written procedures for handling complaints, and failed to comply with a final order of the Board.

The Administrative Complaint was received by the Respondent on September 2, 2011, by certified mail. Provided in the Administrative Complaint were Notices of Rights informing the Respondent that failure to respond in writing, within twenty-one (21) days of its receipt of the notice in the Administrative Complaint, would constitute a waiver, by the Respondent, of the right to request a proceeding on the matters alleged in the Administrative Complaint and an Order of suspension or revocation by the Board would be entered against Respondent.

This Election of Proceeding was not timely received by the Department, and is deemed to be a waiver, by the Respondent, of its right to request a proceeding on the matters alleged in the Administrative Complaint. Therefore, the Department requests the Chairman of the Board to entertain a motion finding that the Respondent was served with an Administrative Complaint containing Notice of Rights, that Respondent's response was not received within 21 days and was not timely received by the Department, and Respondent has waived its rights to request a proceeding involving disputed issues of material facts in this matter. A copy of this memo has been provided to the Respondent.

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

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

MOTION: Mr. Jones moved to adopt the Findings of Fact. Mr. Hall seconded the motion, which passed unanimously.

The Department contends that the Board's Findings of Fact support a finding of the violations of Chapter 497, F.S. and Chapter 69K, F.A.C as charged in the Administrative Complaint. It is appropriate at this time for the Board to entertain a motion adopting the Conclusions of Law in the Administrative Complaint.

MOTION: Mr. Mueller moved to adopt the Conclusions of Law. Mr. Jones seconded the motion, which passed unanimously.

At this time, it is appropriate for the Respondent to address the Board concerning legal arguments for mitigating evidence.

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

The Department also offers the investigative report with exhibits, a copy that has been previously furnished to the Board, into evidence to establish a prima facie case for violations alleged in the Administrative Complaint. As to the penalty, the Department recommends revocation of the Respondent's funeral establishment licensure. The Department feels we can deviate from the penalty guidelines as there have been no efforts by the Respondent for rehabilitation. The Respondent has been a danger to the public. There was a recent inspection at the establishment in December and 17 of the 22 violations were still in effect. The Licensee has not shown any attempt to correct the violations.

MOTION: Col. Stiegman moved to accept the recommended penalty of revocation based on the stated aggravating circumstances. Mr. Hall seconded the motion, which passed unanimously.

(3) Miller, Henry L: Case No. 117948-11-FC, SR1-674614801 (F044185) (Probable Cause Panel B)

Mr. Rivers stated that on August 29, 2011, the Department filed an Administrative Complaint, alleging that Henry Miller, licensed funeral director and embalmer (hereinafter "Respondent"), did not have all licenses available upon demand, did not have a properly equipped preparation room, did not have biomedical waste picked up every 30 days, did not file the Cases Embalmed & Bodes Handled reports timely for years 2008 through 2010, did not maintain deceased bodies at a temperature of 40 degrees Fahrenheit, failed to affix proper identification on the wrist or ankle of the deceased, did not have a funeral director reasonably available to the public, did not have a copy of the last inspection report, did not have copies of signed at-need and preneed agreements, did not retain other required documents for at least 2 years, did not have prices listed on customers' written arrangement forms, failed to maintain written procedures for handling complaints, and failed to comply with a final order of the Board.

The Administrative Complaint was received by the Respondent on September 2, 2011, by certified mail. Provided in the Administrative Complaint were Notices of Rights informing the Respondent that failure to respond in writing, within twenty-one (21) days of its receipt of the notice in the Administrative Complaint, would constitute a waiver, by the Respondent, of the right to request a proceeding on the matters alleged in the Administrative Complaint and an Order of suspension or revocation by the Board would be entered against Respondent.

This Election of Proceeding was not timely received by the Department, and is deemed to be a waiver, by the Respondent, of its right to request a proceeding on the matters alleged in the Administrative Complaint. Therefore, the Department requests the Chairman of the Board to entertain a motion finding that the Respondent was served with an Administrative Complaint containing Notice of Rights, that Respondent's response was not received within 21 days and was not timely received by the Department, and Respondent has waived its rights to request a proceeding involving disputed issues of material facts in this matter. A copy of this memo has been provided to the Respondent.

MOTION: Mr. Jones moved to find that the Respondent waived its rights to request a proceeding in this matter. Mr. Helm seconded the motion, which passed unanimously.

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

MOTION: Mr. Mueller moved to adopt the Findings of Fact. Mr. Helm seconded the motion, which passed unanimously.

The Department contends that the Board's Findings of Fact support a finding of the violations of Chapter 497, F.S. and Chapter 69K, F.A.C as charged in the Administrative Complaint. It is appropriate at this time for the Board to entertain a motion adopting the Conclusions of Law in the Administrative Complaint.

MOTION: Mr. Helm moved to adopt the Conclusions of Law. Mr. Clark seconded the motion, which passed unanimously.

At this time, it is appropriate for the Respondent to address the Board concerning legal arguments for mitigating evidence.

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

The Department also offers the investigative report with exhibits, a copy that has been previously furnished to the Board, into evidence to establish a prima facie case for violations alleged in the Administrative Complaint. As to the penalty, the Department recommends a one-year suspension of the Respondent's funeral director and embalmer licensure.

Mr. Jones questioned the dates of the initial inspection and the follow-up inspection.

Mr. Rivers stated there was a follow-up inspection of December 2011.

Mr. Jones questioned the number of violations noted in the initial inspection.

Mr. Rivers stated 17 out of the 22 violations were still in effect.

Mr. Hall questioned whether the check for the citation in the amount of \$1250, which was returned for insufficient funds, was ever made good to the Department.

Mr. Shropshire stated that the Division did not have that answer but requested that Mr. Miller call Ms. Christine Moore to ascertain the answer to that.

The Chair stated that at the time of the record, it states that "to date, the Licensee has failed to pay this penalty."

Mr. Shropshire requested that the item be held in abeyance temporarily to ascertain and answer to the question, if the answer is material to the Board's decision.

Mr. Hall stated that this firm is not making any attempt to correct violations from 2008 or play by the rules and has remitted bad checks to the Department for citations issued. Mr. Hall recommended that the license be revoked

Col. Stiegman stated that there has to be aggravators for a recommendation of revocation.

Mr. Hall stated that are 17 out of 22 violations that have not been corrected since 2008; bad checks given to the Department.

Mr. Helm added there has been a lack of response.

Mr. Shropshire suggested that subject to the Board's consideration that failure to have a properly equipped preparation room, not having biomedical waste picked up every 30 days, not maintaining bodies at 40 degrees, failure to have a funeral director reasonably available and failure to have identification tags properly attached to the remains is a danger to the public under the aggravating factor list.

Ms. Dudley stated that she found those aggravators to be sufficient, so if the Board concurs, it could move forward with the recommendation of revocation.

MOTION: Mr. Hall moved to recommend a penalty of revocation based on the aggravators stated by the Division. Mr. Mueller seconded the motion, which passed unanimously.

(4) *Wilson-Wolfe, Inc. d/b/a Sweet Dreams Memorials: Case No. 118247-11-FC, SR1-633051548 (F041856)*
(*Probable Cause Panel A*)

This item was deferred to the April meeting to be held in Jacksonville.

B. Proposed Settlement Stipulations

(1) *Boyd-Pancierera Family Funeral Care, Inc: Case No. 120364-11-FC, SR1-708905359 (F054858)*

Mr. Rivers stated that on or about May 6, 2011, the Division received a complaint in reference to a contract for cremation services entered into with a consumer and Boyd-Pancierera Family Funeral Care. The consumer purchased a direct cremation, for his wife, with an ID viewing. The consumer paid an extra fee to be present when his wife was to be cremated. However, Boyd-Pancierera Family Funeral Care failed to honor this portion of the contract by cremating the body without the consumer present.

Boyd-Pancierera Family Funeral Care has agreed to a pay of fine of \$2000.

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

Mr. Hall stated that the "Pancierera" cases keep coming before the Board. At times it feels like we are having family court instead of reviewing the information as a Board. The Board received a copy of an email at the start of today's meeting from the attorney, Mr. Holodak. This is an unfortunate incident, but the firm admitted to the misunderstanding and provided the consumer with a chapel, a minister, an urn and refunded the money for the extra fee. The consumer did come in for an hour for the ID viewing of his wife, instead of 15 minutes. It appears this complaint is being initiated by Mr. Holodak.

Mr. Hall added that during the last Board teleconference meeting he was ill and wishes that the Board had postponed the case to this meeting. This attorney pushed the Board into believing there was intent, but upon reading the materials, there was no reason to explain why the previous Board denied those licenses to begin with. The motion may not have been handled properly and some of the Board members spoke to that. There is no misunderstanding on my part reading the material why the previous Board denied those licenses to that firm. The Board is in the middle of a family dispute and I do not understand why this is not in a civil arena rather than before this Board as it appears this is more of a civil issue.

The Chair stated that one of the differences in all of the cases presented to the Board is that this is a consumer complaint.

Mr. Hall stated that the consumer initiated it but the copy of the email is from the attorney. Mr. Hall questioned how Mr. Holodak became involved in the consumer complaint. Mr. Hall added that most GPLs include additional fees for ID views, expediting a cremation and viewing the cremation. It does not appear that this individual paid for these additional items. Anyone can make a mistake and I am not saying that there was not a mistake made here. This firm acknowledged the issue and does all these other things to try to help the family.

The Chair stated that it is possible that these issues are being addressed in a civil arena and the Board is not privy to that information. The Respondent did not dispute the facts in this case.

Mr. Mueller questioned whether the Department has the option to ignore a complaint once received.

Mr. Shropshire stated that the reality is that essentially the Department certainly cannot initially take into account the motivation for the complaint and choose to ignore the complaint. If the complaint states an alleged violation and appears to be legally sufficient, if true it is a violation and we have to investigate it. If the Department feels it is a violation it has to be presented to the Board. The Board is free here if it so chooses to say that we do not believe a violation has occurred.

Mr. Hall stated in the email from the complainant, he states that his wife was cremated two days after he signed the agreement for the ID before the cremation but he and his son did an ID of one hour at the funeral home. Normally a firm only allows about 15 minutes. Mr. Hall added that he did not understand the complaint that the wife was cremated two days later since

most complaints allege the firm has waited too long to cremate. The firm is required to wait 48 hours, so once the 48 hours was up, the firm proceeded with the cremation.

Mr. Rivers stated that the complainant wanted to be present while his wife was cremated.

The Chair added that complainant was also charge for that.

Mr. Hall stated that this fine is indirect correspondence with fines for more serious charges. It does not appear that the sins that were seen here are fair and equitably being handled on the fines. Mr. Hall questioned whether this is just a negotiation between the Division for whatever they can work out

The Chair stated that this is a stipulation and the Board has the authority to modify the Stipulation before it is finalized.

Mr. Shropshire concurred and stated that there is an element of negotiation between counsels for the two parties. Embedded in those negotiations are what their expectations of if they press the matter going into administrative litigation, would they win or lose, would they be wasting the Department's money or their client's money. But there is also the element here, and I reference this versus some of the other cases presented in prior times, this involves a consumer, a public member who alleges a real significant hurt. That is where the rubber meets the road, when you have a consumer who is severely disappointed and feels an emotional lost.

Ms. Wiener, representing the Respondent in this case and the one immediately following, stated that there is civil litigation pending to redress whatever emotional wrong is perceived by Mr. Blandino or the family. Ms. Wiener added that she does not believe Mr. Shropshire tends to convey that it is the Division's business to compensate emotionally for something that has happened. Ms. Wiener suggested that is not the purview of the Regulator. The Regulator's purview is to determine when there has been a violation of Chapter 497 and to impose appropriate discipline.

The Chair stated that Boyd Panciera Family Funeral Care has agreed to pay a fine of \$2000 per the Stipulation. There does not appear to be any probation period or any other discipline included in the Stipulation.

Mr. Shropshire questioned whether probation was included.

Mr. Rivers answered, "No, there is no probationary period."

Mr. Mueller questioned whether there is a range of fines where this needs to fall.

Ms. Dudley stated that there is a guideline followed in informal proceedings like we had previously, but if a settlement agreement is reached the parties can pretty much agree to anything they are willing accept.

Mr. Rivers stated that the guidelines were reviewed prior to reaching the settlement.

Col. Stiegman questioned whether the Board is bound by the amount recommended.

Ms. Dudley stated if the Board wanted to make a change to the settlement, the Board would have to make a counteroffer to the Respondent to allow them to accept the change.

The Chair stated that any change made is technically a counteroffer that has to be decided upon at a later day.

Ms. Wiener stated that she is authorized to address a counteroffer.

MOTION: Ms. Thomas-Dewitt moved to accept the Settlement Stipulation as recommended by the Department. Mr. Jones seconded the motion, which passed with 3 dissenting votes.

(2) *Boyd, Laurence Phillip: Case No. 120363-11-FC, SR1-708905359 (F043447)*

Mr. Rivers stated that on or about May 6, 2011, the Division received a complaint in reference to a contract for cremation services entered into with a consumer and Boyd-Pancieria Family Funeral Care. Laurence Boyd is the Funeral Director in Charge at Boyd-Pancieria Family Funeral Care. The consumer purchased a direct cremation, for his wife, with an ID viewing. The consumer paid an extra fee to be present when his wife was to be cremated. However, Boyd-Pancieria Family Funeral Care failed to honor this portion of the contract by cremating the body without the consumer present.

Laurence Boyd has agreed to a pay of fine of \$2000.

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

Mr. Helm questioned whether Laurence Boyd was the funeral director that made the arrangements.

Ms. Wiener answered, "He was."

MOTION: Mr. Mueller moved to reject the Settlement Stipulation as recommended by the Department. Col. Stiegman seconded the motion, which passed with 4 dissenting votes.

Ms. Thomas-Dewitt expressed concern as this is a licensed funeral director who is responsible for caring for people's loved ones and abiding by their wishes. The establishment cannot on the behalf, but the funeral director is actually person that acts and can be pinpointed for the actions. The funeral home was fined \$2000 but now we are considering only fining the responsible FDIC \$1 for a violation of the profession. That is absurd and unfair because Mr. Boyd is responsible. Those were the wishes of the consumer and those wishes should have been abided by when their loved ones are being cared for.

Col. Stiegman stated that the settlement was rejected and questioned why there has to be a counteroffer.

Mr. Shropshire stated if the Board knows what it is willing to accept, why not settle the matter today.

Col. Stiegman questioned why the rejection was not the end of the matter.

Mr. Shropshire stated this is not the end of the case and is still in effect and has to be resolved somehow.

Ms. Wiener added otherwise the case would have to proceed to a hearing. It would go back into limbo. In order to resolve the matter in the setting which we are in, the Division would make a counterproposal to the Respondent, which Ms. Wiener is authorize to either accept or reject and then the Board would vote on it.

Mr. Shropshire stated it would be more efficient and save the Board resources because in theory the Department could go back and say "we are not willing to offer you a settlement lower than that," then forcing them to go to hearing and it would come back to the Board and the Board would impose whatever penalty it chooses and feels is appropriate. Therefore, the Board should decide upon an appropriate penalty now to see whether the parties will accept it.

Mr. Bill Swain, Consumer Advocate, stated that at the very least, the Board's behavior in this case is inconsistent. I think I understand what is going on here but I am afraid it would not appear to be consistent behavior to the public at large and possibly not to the person who in this case was offended by the conduct of the funeral director.

2nd MOTION: Mr. Mueller moved to reduce the fine recommended by the Department to \$1. Col. Stiegman seconded the motion, which failed with 5 dissenting votes.

Ms. Hubbell stated that she could see Ms. Thomas-Dewitt's point from the comment that she made, but when you look at it as an aggregate to have a \$4000 fine total where the man tried to make it good does appear to be excessive. Although \$1 seems too small, there has to be a happy medium. As Ms. Thomas-Dewitt said the decision to reduce the fine probably should have been reversed as far as the funeral home versus the funeral director.

Mr. Hall stated that he does not want to minimize what the family has gone through. My point is, when we see an individual who spends four or five months in the County jail and is burying viscera bags in between monuments and that individual is fined a couple of thousand dollars, then in this case the fine is \$4000 in total, that is what bothers me. I am not saying there should not be a fine, but just when we speak of fairness, equity and consistency, that part bothers me when I see a case as egregious as the other with a fine of \$2000 and this case fined at \$4000. There is nothing the establishment could have done once it happened but the firm did step up and try to do things to help the family through their grief process by providing the memorial service, time, urn and a refund for the ID. It appears the Board is getting involved at an emotional standpoint. It is not the Board's job to work out the civil issues that are going to be dealing with in court.

Col. Stiegman questioned why the Board is considering another counteroffer since the last one for a fine of \$1 passed.

The Chair stated that the motion did not pass.

Col. Stiegman requested a recount as he did not hear the vote.

The Chair stated that the motion failed 4 to 5.

Mr. Shropshire stated that Col. Stiegman voted in support of the motion, but there were five votes in opposition of the motion.

3rd MOTION: Ms. Hubbell moved to reduce the fine recommended by the Department to \$1000. Mr. Hall seconded the motion, which passed with 1 dissenting vote.

Mr. Shropshire questioned whether the Licensee's counsel would accept the counteroffer.

Ms. Wiener responded that the Respondent will accept the counteroffer.

Ms. Dudley questioned whether the Department accepts the counteroffer.

Mr. Rivers responded that after speaking with the Division, the Department has no problem with the counteroffer.

Mr. Mueller apologized for handling the case poorly. It is a little confusing to have two complaints, one against the establishment and one against an individual. Mr. Mueller questioned whether it would appropriate in the future to discuss the related cases at the same time. Mr. Mueller stated that his intent was to reduce the total fine.

Ms. Dudley stated that procedurally the cases have to be addressed separately because of all the motions that go along with each one. When making a recommendation on the penalty there would not be any harm done by saying that the real problem was the FDIC and not the funeral home or vice versa.

Mr. Shropshire questioned whether it would be appropriate for the Board member to move to take up the subsequent case first.

Ms. Dudley stated that the Board could take the subsequent case first be they cannot be addressed at the same time.

Mr. Hall stated that the thought process was that the firm would take care of both fines.

(3) Chapel Hill Cemetery, Inc: Case No. 122372-12-FC, SR1-664121142 (F039543)

Mr. Rivers stated that on or about August 18, 2011, the Division completed a complaint investigation at the Chapel Hill Cemetery. During this investigation it was discovered that a decedent was interred in a walk-way, rather than in the plot purchased on her behalf. The cemetery has admitted to this error and is willing to settle this matter. Additionally, the Chapel Hill Cemetery disinterred and re-interred the body of the deceased in the contracted for burial plot.

Chapel Hill Cemetery has agreed to a pay of fine of \$1000.

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

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

(4) *Daytona Memorial Park: Case No. 111349-10-FC, SR1-5958398922 (F038725)*

Mr. Rivers stated that on or about July 27, 2009, the Division completed a financial examination at the Daytona Memorial Park. During this investigation it was discovered that: deposits to the trust were not sufficient to offset Pre-need trust fund liability for the examination period ending March 31, 2009, unlicensed personnel engaged in the sale of pre-need contracts and the Board was not properly notified of the termination of registered pre-need sales agents.

Daytona Memorial Park has agreed to a pay of fine of \$3500.

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

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

(5) *Edgewater-New Smyrna Cemetery: Case No. 111347-10-FC, SR1-595399150 (F039662)*

Mr. Rivers stated that on or about July 27, 2009, the Division completed a financial examination at the Edgewater-New Smyrna Cemetery. During this investigation it was discovered that: deposits made to the Care and Maintenance Trust Fund were not sufficient to offset liabilities and deposits made to the Care and Maintenance Trust Fund were not made within 30 days following the close of the calendar month in which the payment was received.

Edgewater-New Smyrna Cemetery has agreed to a pay of fine of \$2000.

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

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

4. Application(s) for Authority to Acquire Control of an Existing Cemetery Company

A. Recommended for Approval with Conditions

(1) *Select Cemetery Partners, LLC d/b/a Charlotte Memorial Funeral Home and Memorial Gardens (Punta Gorda)*

Select Cemetery Partners, LLC herein submits an Application for Change of Control of an existing cemetery company. The cemetery company being acquired is Charlotte Memorial Funeral Home & Memorial Gardens located at: 9400 Indian Springs Rd, Punta Gorda, currently licensed under number F063028.

The application was received by the Division on January 5, 2012 and deficiencies were noted on the application. A deficiency letter was sent to the Applicant on January 11, 2012 and all items of deficiency were satisfied as of January 18, 2012. A completed background check of all officers revealed no criminal history. This application is being filed due to an asset purchase acquisition by Select Cemetery Partners, LLC; principal is Michael S. Fuller from American Funeral Partners of Florida, Inc. and former principal, Brian Strauch. Select Cemetery Partners, LLC is acquiring all of the cemetery and preneed assets of the current Licensee. It should be noted that all preneed assets will be transferred under Select Cemetery Partner's preneed main license (F067184), through filing for acquisition of this location as a preneed branch office which is also being presented for approval at this Board meeting. If this Application for a Change of Control is approved, the Applicant will operate as Select Cemetery Partners, LLC d/b/a Charlotte Memorial Funeral Home & Memorial Gardens.

The Applicant's financial statement as of January 2, 2012 reflects the following:

Required Net Worth = \$ 50,000

Reported Net Worth = \$ 50,000

S. 497.264, Florida Statutes, provides that "(2) Any person or entity that seeks to purchase or otherwise acquire control of any cemetery licensed under this chapter shall first apply to the licensing authority and obtain approval of such purchase or change in control."

The Division is recommending approval subject to conditions as follows:

1. That closing occurs within 60 days of the date of this Board meeting, and without material change in the terms and conditions of the transaction as described to the Board in this cover sheet and the materials provided to the Board herewith.
2. Receipt by the Division within 75 days of this Board meeting, of a letter signed by Applicant or Applicant's attorney, addressed to the Division, certifying that closing has occurred and without material change in the terms and conditions of the transaction as described to the Board in this cover sheet and the materials provided to the Board herewith.
3. Receipt by the Division within 75 days of this Board meeting, of a copy of the Stock Purchase Agreement, executed by all parties, and any and all amendments thereto, also fully executed.

Ms. Wiener stated for clarity in the record that in the Board package, under "Division Remarks", it should read "Select Cemetery Partners, LLC herein submits an Application..." rather than American Funeral Partners of Florida, Inc. herein submits an Application..."

Mr. Shropshire concurred.

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

The Chair disclosed his affiliation with SCI Funeral Services of Florida Inc and stated that it would not affect his ability to remain fair and impartial on any of items presented on today's agenda.

5. Application(s) for Preneed Sales Agent
 - A. Informational Item (Licenses Issued without Conditions) – Addendum A

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

- B. Recommended for Approval with Conditions (Criminal History)
 - (1) DeGuzman, Larna T (Appointing Entity: Neptune Management Corp)

On the application received by the Department on October 7, 2011, the Applicant answered "Yes" to the Applicant Background Questions. During the review of her fingerprint results provided by FDLE, it was confirmed that Ms. DeGuzman did have one criminal infraction that required disclosing. The criminal history includes one (1) misdemeanor offense relating to Driving Under the Influence of Alcohol in 2007, which occurred in Volusia County, Florida. Ms. DeGuzman disclosed all required information.

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

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

6. Application(s) for Preneed Main License
 - A. Recommended for Approval without Conditions
 - (1) Countryside Funeral Home, LLC (Anthony)

The Department received the application on December 2, 2011 and no deficiencies were noted on the application. A completed background check of all officers revealed no criminal history. Applicant will use the pre-approved Independent Funeral Directors of Florida (IFDF) Master Trust and pre-arranged funeral agreement. The qualifying funeral establishment license was approved as of September 4, 2009.

The Applicant's financial statements as of December 31, 2010 reflect the following:

Acquired Preneed Contracts	= \$	0
Required Net Worth	= \$	10,000
Reported Net Worth	=	\$403,134

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

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

The Division recommends approval of the application(s).

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

8. Application(s) for Continuing Education Course Approval
A. Recommended for Approval without Conditions – Addendum C
(1) American Academy McAllister Institute of Funeral Service (Provider #9808)
(2) Florida Cemetery, Cremation & Funeral Association (Provider #75)
(3) M.K. Jones & Associates, Inc (Provider # 9605)
(4) National Funeral Directors Association (Provider #136)
(5) Selected Independent Funeral Homes (Provider #137)
(6) The Dodge Institute for Advanced Mortuary Stu (Provider #81)

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

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

9. Application(s) to Become a Continuing Education Provider
A. Recommended for Approval without Conditions – Addendum D
(1) Continental Computer Corp #15208
(2) Epsilon Nu Delta Mortuary Fraternity Inc #15609
(3) National Funeral Directors & Morticians Association #15608

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

MOTION: Mr. Mueller moved to approve the application(s). Ms. Thomas-Dewitt seconded the motion, which passed with 1 dissenting vote.

10. Application(s) for Florida Law and Rules Examination
A. Recommended for Approval without Conditions – Addendum E
(1) Direct Disposer
(a) Benjamin, Michael J
(b) Durden, Kyle J
(2) Funeral Director and Embalmer – by Endorsement
(a) Maclary, Robert L
(3) Funeral Director and Embalmer – by Internship and Exam
(a) Brown, Karlton E
(b) Giacco, Logan M

- (c) *Gray II, Russell D*
- (d) *Tago, Wayne E*

The Division recommends approval of the application(s).

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

11. **Application(s) for Internship**

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

- (1) *Funeral Director*
 - (a) *Flynn, Erica N*
- (2) *Funeral Director and Embalmer*
 - (a) *Brookin, Zacary O*
 - (b) *De Franco, Roger D*
 - (c) *Ford, Dekesha * pending TA approval*
 - (d) *Trzyna, Jacqueline C*

The Division recommends approval of the application(s).

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

B. *Recommended for Approval without Conditions (Criminal History)*

- (1) *Gosier, Glen B*

The Applicant submitted an application to become a Concurrent Intern on January 3, 2012. The application was complete when submitted. The Applicant submitted a fingerprint card, the processing of which returned a criminal history, to wit:

- In 2007 Applicant pled no contest in state court, Fayette County, Georgia, to misdemeanor Reckless Driving and Disobedience to Traffic Control Device. Mr. Gosier was sentenced to one year probation and was ordered to pay \$600 fine and costs of \$830.

The Division is recommending approval without conditions.

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

- (2) *Sisk, Scott P*

The Applicant submitted an application to become a Concurrent Intern on December 1, 2011. The application was complete when submitted. The Applicant submitted a fingerprint card, the processing of which returned a criminal history, to wit:

- In 1995 Applicant pled guilty to Aggravated Battery in Brevard County, Florida. Applicant advised he got into an altercation with a fellow classmate during non school hours. Mr. Sisk was sentenced to confinement of 11 months and 29 days (credited 83 days), two years probation and two years community control. Applicant was approximately age 18 when this occurred.

Mr. Sisk was approved at the February 7, 2007 Board meeting for an Embalmer Apprentice license, without conditions, and has served his apprenticeship since that date. This matter was disclosed in that 2007 application.

The Division is recommending approval without conditions.

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

C Recommended for Approval with Conditions (Criminal History)
(1) Dennard, Mary

The Applicant submitted an application to become a Concurrent Intern on November 15, 2011. The application was complete when submitted. The Applicant submitted a fingerprint card, the processing of which returned a criminal history, to wit:

In 1998 Applicant pled guilty to Grand Theft and Forgery. The Applicant was sentenced to three years probation. She was ordered to pay restitution in the amount of \$3900.26, court costs of \$278, and 75 hours of community service. Adjudication of guilt was withheld. She successfully completed the probation.

Ms Dennard explains the matter as follows. She was employed by Home Depot. It was determined that cash was missing from the cash register she worked at. She advises she did not steal the money, and that another employee committed the theft, but that she pled guilty for fear of a prison sentence.

Ms. Dennard is currently employed at a north Florida funeral establishment, and has been employed there for 12 years. The funeral establishment has provided a strong recommendation in support of her application, attached, and advise that they have always known of her criminal record.

The Division is recommending approval subject to the terms & conditions of the attached stipulation for licensure (12 months probation)

MOTION: Col. Stiegman moved to approve the application subject to the terms & conditions of the Stipulation for Licensure agreement entered into by the Division and the Applicant which includes 12 months probation. Ms. Hubbell seconded the motion, which passed unanimously.

D. Recommended for Denial
(1) Jones, Vancinia L

The Applicant submitted an application to become a Concurrent Intern on October 24, 2011. The application was incomplete when submitted. The application was completed on December 9, 2011. Applicant has a criminal record, to wit:

- In 1998 Applicant pled guilty to felony Possession of Cocaine, and Driving Under the Influence, in Circuit Court, Broward County, FL. Ms. Jones was placed on two-year probation, and fined of \$250. Ms. Jones did not disclose this 1998 criminal proceeding in her application for this license. The Division learned about this portion of her criminal record from other sources.
- On September 6, 2011 Applicant was found guilty of misdemeanor refusal to submit a breathalyzer (BAL) test, in violation of s. 316.1939(1), FS, in County Court, Miami-Dade County, case number 0092STJ. Applicant was ordered to pay \$500 fine and \$383 in surcharges. Applicant was also placed on a 12 months probation that began on September 6, 2011 which she is currently still serving. Applicant did disclose this matter in her application.
- On September 6, 2011, Applicant was found guilty of misdemeanor violation of s. 316.193(3), FS, (causing damage to property while DUI), Applicant was ordered to pay \$1000 fine, \$647.50 surcharges and \$50 Public Defender costs. Applicant did disclose this matter in her application.

No Applicant for funeral director and/or embalmer license may be approved, unless the Board determines the Applicant to be of good character. See, as applicable, s. 497.373(1)(c), 497.374(1)(d), 497.376, 497.368(1)(c), and 497.369(1)(d), Fla Statutes. Due to Applicant's criminal record, and her failure to disclose certain portions of her criminal record as specified above, the Board should not determine Applicant to be of good character. Accordingly, the Division recommends that this application be DENIED.

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

Ms. Vancinia Levone Jones answered "yes."

The Chair questioned whether the Applicant would like to address the Board.

Ms. Jones stated that she is a resident of Pompano Beach FL and have traveled from there on the Greyhound Bus to appear before the Board to plead her case. I admit to make some mistakes in my life and am sure my past will follow me for the rest of my life. I cannot change my past, but I can certainly change my future. I have been toiling with this degree from Miami Dade College, which was received in 2007. Ms. Jones presented her degree and graduation picture to the Board. Ms. Jones stated that she has been toiling for ten years traveling from Pompano to Miami, catching the tri-rail, driving two to three days per week to obtain her degree. Ms. Jones is a single mother, has raised two children on her own, worked two full-time jobs and has also worked full-time and attended classes part-time. Ms. Jones' mother passed in 2004 and her grandmother passed in 1996. Ms. Jones was raised by her grandmother, the one person that truly showed her love. During her grandmother's passing in 1996, it was very hard for Ms. Jones to endure her passing, but in spite of all that Ms. Jones still pursued her career in funeral service. Ms. Jones stated that she is the only child her mother has that graduated from college and this means a lot. Ms. Jones' mother was not able to see her accomplishment because of her death. Ms. Jones' pleaded with the Board for an opportunity to pursue her career. Ms. Jones had no objection to the Board placing stipulations on the license.

Ms. Thomas-Dewitt questioned whether Ms. Jones had taken the National Board exam.

Ms. Jones responded that she had and passed both portions of it.

The Chair questioned whether that information was included in the package.

Mr. Jones questioned why Ms. Jones did not disclose the 1998 incident.

Ms. Jones stated that it happened 14 years ago so she did not think she had to mention it. Ms. Jasmin Richardson did contact the Applicant requesting that she submit a letter regarding the incident, which was submitted.

Mr. Jones questioned why Ms. Jones feels she would not be a risk now.

Ms. Jones stated that she has changed her life. Ms. Jones stated that her cousin Rosa Mae (Tallahassee) took her into her home upon arriving here. Ms. Jones added that she would be boarding the Greyhound Bus this afternoon at 2:00p heading back to Pompano where her family and praying and waiting for her return. Minister Howard McMillan (Tallahassee is also present in support of Ms. Jones.

Ms. Hubbell stated that appears the Board has approved licenses for Applicant's with similar records, but the difference is the disclosure. Ms. Hubbell stated that she would propose that the application be approved with probation as it appears Ms. Jones has done very well in school and is trying.

Mr. Hall questioned whether Miami-Dade mentioned anything to Ms. Jones regarding the 1998 conviction prior to her starting the courses.

Ms. Jones answered, "No sir."

The Chair stated the college may not have known since that is private information.

Mr. Hall questioned whether the Division could request that the schools advise the Applicants of this prior to enrolling and spending their time and money.

Ms. Richardson stated that in the last year or so, the colleges have started doing that. Ms. Richardson stated that she has been receiving calls to that effect.

Mr. Shropshire stated notwithstanding that, there is no mechanism for the Division to rule at that stage. The Division can hazard an opinion to them that we may or may not oppose the application to the Board, but we cannot give them an answer that lets them competently assume that they should or should not invest their money into their education.

Mr. Shropshire questioned the last time Ms. Jones was involved in any drugs, in reference to the possession of cocaine.

Ms. Jones answered, "1998." Ms. Jones stated that she was in a nightclub and a male classmate asked for a ride. As soon as we got into the car and drove a few blocks, we were pulled over. The officer asked both of us to get out of the car. When we got out of the car and sat on the curb, the officer noticed a small baggie under the car. This passenger told Ms. Jones that he had mentioned to the officer that it was his baggie, but Ms. Jones was charged with it as it was her car. It was the passengers and Ms. Jones was just giving him a ride, not knowing that he was into that.

The Chair questioned what damage to property while driving under the influence on September 6, 2011.

Ms. Jones stated that she was coming from a Christmas party and while dropping off some female friends, she got lost. Ms. Jones needed to make a U-Turn to get back to I-95. While making the left turn, there was an oncoming car that hit the rear of Ms. Jones' car. There was already an officer on the site taking care of another incident.

Mr. Helm questioned when this offense occurred.

Ms. Jones responded that it happened on Christmas Eve, December 24, 2010.

Mr. Jones questioned whether Ms. Jones is attending AA.

Ms. Jones responded no, as that was not recommended.

The Chair questioned whether Ms. Jones is still on probation.

Ms. Jones answered, "Yes sir."

Col. Stiegman questioned what Ms. Jones was under the influence of.

Ms. Jones answered, "Alcohol."

MOTION: Ms. Hubbell moved to approve the application subject to the execution of a Stipulation for Licensure agreement entered into by the Division and the Applicant which includes 12 months probation and 4 random drug tests. Mr. Mueller seconded the motion, which passed with 1 dissenting vote.

The Chair advised Ms. Jones of the stiff terms and conditions of the Stipulation for Licensure and added that it would be in Ms. Jones' best interest not to have to come before the Board for violation of any part of the probation. The Chair requested that Ms. Jones takes this into serious consideration over the next 12 months.

Mr. Shropshire stated that the approval is somewhat conditional. The Division will present the Applicant with the typical Stipulation and if she is agreeable, executes and returns the Stipulation, the Division will then issue the license and an Order putting Ms. Jones under the terms of the Stipulation. If Ms. Jones refuses then the issue would be brought back to the Board.

Ms. Dudley concurred.

12. Application(s) for Embalmer Apprentice
 - A. Recommended for Approval without Conditions (Criminal History)
 - (1) Glisson, James E

The Applicant submitted an application to become an Embalmer Apprentice on November 14, 2011. The application was incomplete when submitted. All deficient items were returned on December 5, 2011. The Applicant submitted a fingerprint card, the processing of which returned a criminal history, to wit:

- Mr. James Glisson pled No Contest to Driving Under the Influence in January 2009. Mr. Glisson was placed on twelve months probation, six months suspended license, and fined a total of \$1630.29. Mr. Glisson's probation was terminated early due to complying with all conditions in a timely and responsible manner.

Mr. Glisson is the owner of Central Florida Removal Service (F041140) which has been licensed since January 22, 1997 with no adverse licensing history.

Mr. Glisson also applied and was approved to sit for the Florida Law and Rules examination on October 7, 2010, without conditions.

The Division is recommending approval without conditions.

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

Mr. Helm stated that it appears it would be very difficult to run a removal service with a suspended license.

Mr. Hall stated that the Applicant had his father and others working for him.

Mr. Helm questioned whether Mr. Hall thinks the Applicant was driving while his license was suspended.

Mr. Hall responded that he could not answer that.

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

(2) *Wade, Gordon E*

The Applicant submitted an application to become an Embalmer Apprentice on November 7, 2011. The application was incomplete when submitted. All deficient items were returned on November 28, 2011. The Applicant submitted a fingerprint card, the processing of which returned a criminal history, to wit:

- In 2007 Applicant pled guilty in Alabama state court, to a charge of carrying a weapon without a permit. He was pulled over for a traffic infraction and had a pistol in the glove box of the car. He was fined \$150.

The Division is recommending approval without conditions.

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

13. Application(s) for Training Agency

A. Recommended for Approval without Conditions – Addendum G

(1) *Embalming*

(a) *Russell Haven of Rest Cemetery Inc (F052582)*

(2) *Funeral Directing*

(a) *Family Funeral Care (F041213) (Orlando)*

(b) *Funeral Services Acquisition Group Inc d/b/a Lakeside Memorial Park and Funeral Home (Miami)*

(c) *SCI Funeral Services of Florida Inc d/b/a Hodges-Farley Funeral Home (Lehigh Acres)*

The Division recommends approval of the application(s).

Mr. Mueller noted that Russell Haven of Rest is located in Russell, not Orlando as indicated on the Addendum

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

B. *Recommended for Approval without Conditions (Adverse Licensing History)*
(1) *Funeral Directing and Embalming*
(a) *Richardson's Family Funeral Care Inc (F055378) (Tallahassee)*

An application for Registration as a Training Agency was received on January 9, 2012. The application was complete when submitted. The Applicant does meet the requirements of bodies handled. In the past 12 months, the establishment has embalmed 125 bodies and performed 152 funerals. The Funeral Director in Charge is Derryck Richardson (F045502). There is no criminal history for this Applicant or its principal; however there is an adverse licensing history for this Applicant, as follows:

- A consent order was filed on November 29, 2010, case number 112628-10-FC, against Richardson's Family Funeral Care Inc. A funeral director employed with Applicant, one Henry Taylor (who was not the FDIC), signed the medical examiner's name on a death certificate. Mr. Taylor explained that he made a mistake on the initial death certificate. Instead of requesting the medical examiner to sign a corrected certificate, Mr. Taylor signed the ME's name to the corrected copy. The Board fined Richardson's Family Funeral Care Inc. \$250, and fined the FDIC, Derryck Richardson, \$250, and fined Henry Taylor \$1,500.

The Division is recommending approval without conditions.

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

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

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

15. *Application(s) for Cinerator Facility*
A. *Recommended for Approval with Conditions*
(1) *Scrivens Johnson Mortuary Service LLC (Tampa)*

An application for a Direct Disposal Establishment was received on January 12, 2012. The application was complete when submitted. The fingerprint cards for all principals were returned with no criminal history. The Funeral Director in Charge will be Willie Lucas (F045298). The Division is recommending approval subject to the condition that the establishment passes an on-site inspection by a member of the Division staff.

Mr. Hall questioned whether this is the same Willie Lucas that was fined back in October.

Ms. Richardson stated that Mr. Lucas was disciplined last year; however he was also a part of the same establishment that was approved for direct disposal establishment licensure and Mr. Lucas will be the FDIC of that establishment.

Mr. Hall questioned what Mr. Lucas was fined for.

Mr. Miller stated he would look up the information.

The Chair stated that the item would be held in abeyance while Mr. Miller obtains the information.

Mr. Miller stated that in regards to Mr. Lucas, a Settlement Stipulation and Consent Order that was presented at the October 2011 Board meeting. The Board approved Settlement, which was \$1000 fine and one year probation. The allegations were failure to notify the Board regarding a change in FDIC, failure to have the license and photo of the current FDIC displayed, failure to ensure bodies had the proper identification on the ankle or wrist and failure to properly manage the biomedical waste. The Order was issued October 20, 2011 so Mr. Lucas is still on probation until October 20, 2012. The fine has been paid.

The Chair questioned whether there was anything included in the Order to prohibit Mr. Lucas from serving as FDIC during this probationary period.

Mr. Miller answered no.

Mr. Shropshire stated that the Division would recommend approval subject to the condition that the establishment passes an on-site inspection by a member of the Division staff.

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

16. **Application(s) for Direct Disposal Establishment**
A. *Recommended for Approval with Conditions*
(1) *Affordable Cremation Solutions Inc (Jacksonville)*

An application for a Direct Disposal Establishment was received on December 8, 2011. The application was incomplete when submitted. All deficient items were returned on December 28, 2011. The fingerprint cards for all principals were returned with no criminal history. The Funeral Director in Charge will be Herndon Jones (F043439). The Division is recommending approval subject to the condition that the establishment passes an on-site inspection by a member of the Division staff.

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

17. **Application(s) for Funeral Establishment**
A. *Recommended for Approval with Conditions*
(1) *Affordable Cremation and Funeral Services Network LLC (St. Petersburg)*

An application for a Funeral Establishment was received on December 12, 2011. The application was incomplete when submitted. All deficient items were returned on January 9, 2012. The fingerprint cards for all principals were returned with no criminal history. The Funeral Director in Charge will be Robert Brown (F046425). The Division is recommending approval subject to the condition that the establishment passes an on-site inspection by a member of the Division staff.

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

- (2) *Charlotte Funeral Services LLC d/b/a Charlotte Memorial Funeral Home & Memorial Gardens (Punta Gorda)*

The Funeral Establishment application was received by the Division on January 5, 2012. The application was complete when submitted. The fingerprint cards for all principals were returned with no criminal history. The FDIC for the establishment will be Juliana Fuller (F020562). The Division is recommending approval with conditions.

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

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

Mr. Helm questioned whether this is a different owner than the cemetery.

Ms. Wiener responded that it is not. Both of the corporate entities are owned by Mike Fuller. Just for clarification of the record, it is not going to be owned by Mike Fuller d/b/a, it will actually be owned by the corporate entity Charlotte Funeral Services. There are two different corporate entities both owned 100% by Mike Fuller.

Mr. Shropshire added that Michael Fuller will be the principal of Charlotte.

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

(3) *SCI Funeral Services of Florida Inc d/b/a Sunset Funeral Home and Memory Gardens
(Thonotosassa)*

An application for a Funeral Establishment was received on January 9, 2012. The application was complete when submitted. The fingerprint cards for all principals were returned with no criminal history. The Funeral Director in Charge will be James Stewart (F044277). The Division is recommending approval subject to the condition that the establishment passes an on-site inspection by a member of the Division staff.

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

(4) *South Brevard Funeral Home, Amnen and Amnen PA d/b/a Amnen Family Cremation and
Funeral Care (Titusville)*

An application for a Funeral Establishment was received on January 9, 2012. The application was complete when submitted. The fingerprint cards for all principals were returned with no criminal history. The Funeral Director in Charge will be D'Arcy Nardone II (F045440). The Division is recommending approval subject to the condition that the establishment passes an on-site inspection by a member of the Division staff.

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

18. **Application(s) for Removal Service**
A. *Recommended for Approval without Conditions*
(1) *Tri-County First Call LLC (Maitland)*

An application for a Removal Service was received on December 9, 2011. The application was incomplete when submitted. All deficient items were returned on December 27, 2011. The fingerprint cards for all principals were returned with no criminal history. The Removal Service passed its inspection on January 11, 2012. The Division is recommending approval without conditions.

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

B. *Recommended for Approval with Conditions*
(1) *JLS Removal Service LLC (Davie)*

An application for a Removal Service was received on December 2, 2011. The application was incomplete when submitted. All deficient items were corrected as of December 29, 2011.

Applicant's principal, Joseph L. Scarano, DOB 5-28-83, has a criminal record as follows:

- In 2007 he was charged with the misdemeanor of obstructing a police officer without violence. He pled no contest. The plea was accepted by the court but adjudication was withheld. He advises that his girlfriend had been driving his car, and got into an accident and totaled the car, and while she was being questioned by the police he was yelling at her or to her, and the police told him to settle down, but he continued to yell, so they arrested him and charged him with obstruction.

In 2006 he was charged with battery in Broward County. He pled not guilty, and was acquitted by a jury. He advises he was defending his girlfriend from an attacker.

On May 7, 2010 he was stopped by Broward county police while driving his car, and subsequently charged with DUI, improper backing, and resisting or obstructing police without violence. He has pled not guilty, and the matter has not yet gone to trial.

Approve subject to the terms & conditions of the attached stipulation for licensure, calling for two-year probation.

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

Mr. Helm stated that from 2006 to 2010 it appears the Applicant has some violence in him.

MOTION: Mr. Helm moved to deny the application. Ms. Thomas-Dewitt seconded the motion. (The motion was withdrawn after further discussion.)

Mr. Shropshire noted that the Applicant was acquitted of the 2006 charge and the 2010 incident has not yet gone to trial.

Ms. Dudley stated that she was concerned about lack of criminal history. Even though there is history of arrest, the only thing we have a conviction for is the 2007 misdemeanor. If the Board denies the application that would be a concern that there would not be enough to prove that the Applicant is not trustworthy.

Col. Stiegman questioned whether his track record of violations and trouble with the police would be enough.

Ms. Dudley stated that until there is a conviction, it is not really considered a track record.

Col. Stiegman responded that it has been done before.

Mr. Hall questioned if the application was approved with the condition of a probationary period and is subsequently convicted on the pending charge whether the license would be revoked.

Ms. Dudley stated the Applicant would have to notify the Division of the conviction. Then the complaint would have to go through the disciplinary process.

Mr. Shropshire stated that if the application was rejected the alternative would be for the Division to go back to the Applicant to request a Stipulation in which the Applicant would agree that if he pleads guilty or is convicted on this most recent pending charge that the license would automatically be suspended.

Ms. Dudley recommended that the Board table the item to have them go back and work on another Stipulation understanding that the Board would like to see an automatic suspension if this goes to trial and the Applicant is convicted.

Ms. Wiener questioned if the conviction is of a misdemeanor that would otherwise not be a basis for the revocation of his license. Given the nature of the arrest I'm concerned about the establishment of a precedent.

Mr. Shropshire stated if the Applicant stipulates to it then it is not an issue.

Ms. Wiener stated that on the back end it could be potentially subject to challenge because it would be a Stipulation not based on something that would otherwise be valid.

Ms. Dudley questioned why a misdemeanor would not be an issue.

Ms. Wiener stated if it is specific trustworthiness as it relates to the industry then I think a misdemeanor is potentially an appropriate basis. It just depends on the nature of the misdemeanor.

2nd MOTION: Mr. Helm moved to approve the application subject to the execution of a Stipulation for Licensure agreement entered into by the Division and the Applicant which includes 24 months probation and if he pleads guilty or is convicted on this most recent pending charge that the license would automatically be revoked. Ms. Thomas-Dewitt seconded the motion, which passed with 3 dissenting votes.

(2) *Mortuary Transport Service LLC (Clearwater)*

The Removal Service application was received by the Division on December 19, 2011. The application was complete when submitted. The establishment passed its inspection on January 10, 2012.

Mr. Joseph Venezia, the sole identified principal of the Applicant, has a criminal history. In 1993-94, in New York state court, he pled guilty to the felony of criminal possession of a narcotic drug. He was sentenced to prison. He served 7.5 years and was then paroled.

This criminal history has twice previously been disclosed by Mr. Venezia to this Board: (1) In August 2006 in connection with an application for removal service license by Mortuary Transport Division LLC (F039965); and (2) in October 2010 in connection with the application for license for the current Licensee, Mortuary Transport Service LLC (F062038). On both prior occasions, this Board, after due consideration of the matter, voted to approve the applications involved.

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

- (1) That the closing occur within 60 days of the date of this Board meeting.
- (2) Receipt by the Division within 75 days of this Board meeting, of a letter signed by Applicant or Applicant's attorney, addressed to the Division, certifying that closing has occurred.
- (3) Receipt by the Division within 75 days of this Board meeting, of a copy of the Bill of Sale, executed by all parties, and any and all amendments thereto, also fully executed.

MOTION: Ms. Hubbell moved to approve the application subject to the conditions set forth by the Division. Col. Stiegman seconded the motion, which passed unanimously.

(3) *Southwest Florida Removal Service Inc (Labelle)*

An application for a Removal Service was received on November 8, 2011. The application was incomplete when submitted. All deficient items were corrected as of December 6, 2011.

One of the Applicant's principal, Alonzo McKenzie, has a criminal record as follows:

- In 1994 he pled no contest, in Circuit Court in Sumter County, Florida, to felony possession of cocaine. He was placed on probation for two years and ordered to pay \$250 in fines and \$250 in court costs.

Applicant has provided several strong letters of recommendation, including one from the current Sheriff of Hendry County, Florida. The Division is recommending approval subject to the condition that the establishment passes an on-site inspection by a member of the Division staff.

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

19. Trust Transfer Request(s)

A. *Recommended for Approval with Conditions*

(1) *Anderson-McQueen Company d/b/a Anderson-McQueen Funeral Homes (F038703) (St Petersburg)*

(a) *Transfer of Chapter 497.458 (70/30) IFDF Master Trust Fund and Chapter 497.464 (90/10) IFDF Master Trust Fund A from Regions Bank to Sabal Trust Company*

Anderson-McQueen Company d/b/a Anderson-McQueen Funeral Home, has appointed Sabal Trust Company as successor trustee and requests transfer of the above mentioned preneed trust accounts. The trust accounts are currently held by Regions Bank, administered by IFDF, and Anderson-McQueen is requesting a transfer from Regions Bank to the Sabal Trust Company, administered by Funeral Services, Inc. (FSI). The preneed trust accounts for the 497.458 (70/30) IFDF Master Trust Fund will be

transferred to the FSI Florida Settlor Trust Fund, and the trust accounts for the 497.464 (90/10) IFDF Master Trust Fund "A" will be transferred to the FSI First Florida Trust Agreement Fund.

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

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

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

Ms. Wiener stated that the Board materials suggest that IFDF Master Trust Fund A is moving from Regions to Sabal, but it is only assets from IFDF Master Trust Fund A.

- (2) *Northstar Cemetery Services of Florida, LLC d/b/a Eternal Light Memorial Gardens (F067821) (Ornoud Beach)*
 - (a) *Transfer of Cemetery Care & Maintenance Trust, Merchandise Trust, and Pre-Construction Mausoleum Trust from Wells Fargo Bank, N.A. to BOKF, N.A. d/b/a Bank of Oklahoma*

Northstar Cemetery Services of Florida, LLC (Northstar), doing business as Eternal Light Memorial Gardens, has appointed BOKF, N.A. d/b/a Bank of Oklahoma (BOKF) as successor trustee and requests transfer of the above mentioned trust accounts currently held by Wells Fargo Bank to BOKF. The transfer includes the trust accounts for the cemetery care and maintenance, merchandise, and pre-construction mausoleum trust funds for Eternal Light, currently owned by Northstar. BOKF will continue to operate under the existing trust agreements (please see attached).

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

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

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

20. Executive Director's Report
A. 2012 Board Meeting Schedule

Thursday, January 5 th	Conference Call
Thursday, February 9 th	Tallahassee
Thursday, March 1 st	Conference Call
Thursday, April 5 th	Jacksonville
Thursday, May 3 rd	Conference Call
Thursday, June 7 th	Conference Call
Thursday, June 28 th	Tallahassee
Wednesday, July 12 th	Conference Call
Thursday, August 2 nd	Tampa
Thursday, September 6 th	Conference Call
Thursday, October 4 th	Deerfield Beach

Thursday, November 1st Conference Call
Thursday, December 6th Tallahassee

B. Notice of Procedural Rule the Division is Considering

Section 497.142(9) Florida Statutes provides as follows:

(9) If any applicant under this chapter has been, within the 10 years preceding the application under this chapter, convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, any crime in any jurisdiction, the application shall not be deemed complete until such time as the applicant provides such certified true copies of the court records evidencing the conviction, finding, or plea, as the licensing authority may by rule require.

Subject to consideration of comment from the Board, the FCCS Division presently intends to initiate rulemaking to adopt the procedural rule shown below.

New Rule 69K-1.009

(1) Pursuant to s. 497.142(9), Florida Statutes, if any applicant under this chapter has been, within the 10 years preceding the application under this chapter, convicted or found guilty of, or entered a plea in the nature of no contest to, regardless of adjudication, any crime in any jurisdiction, the applicant shall with the application for license provide the following documentation to the Division:

- a) The document in the court's file stating the charges originally filed against the applicant in the case by the state attorney's office or other law enforcement authorities, whether by information, grand jury indictment, or otherwise, and all amended and additional statements of charges filed in the case;
- b) The document or documents on which the court recorded the applicant's plea to the charges;
- c) The document or documents on which is recorded the judgment and sentence entered by the court in the matter; and
- d) If all or some of the charges were dismissed or a nolle prosequi was filed, the document or documents in the court's file reflecting such action.

(2) The document or documents provided by the applicant with the application, as satisfying the requirements of rule section (1) above, shall each be certified by the clerk of the court to be true and correct copies of the court's records.

(3) If the applicant shall assert that, as regards all or any of the requirements of rule section (1), above, no such document or documents exist in the court's records, the applicant shall provide the Division, along with the application, a written statement signed by the clerk of the court or their representative, certifying that no such document or documents exist in the court's records, and identifying the specific category of documentation under rule section (1) above, to which the said statement by the clerk's office applies.

Ms. Lisa Coney stated that she was working with a lady about a week ago that had a misdemeanor and it was seven or eight years old. The lady was a preneered agent so this would not have been any reason to prevent licensure on preneered. This was an old Kansas thing that happened when the Applicant was 18 that she did a pre-trial diversion for so it would have never had to come before the Board as it would have been informational. During the fingerprint process that misdemeanor was shown to be a misdemeanor so it did not require Board consideration. Under this rule, the young lady would have had to go back to Kansas and gotten all this information which could have prevented her application by weeks or even months and would have prevent her from becoming licensed. Sometimes there are inadvertent consequences. Ms. Coney respectfully requested that this rule be presented to the Rules Committee with participation from Mr. Miller and Ms. Christine Moore. Mr. Shropshire stated that the Division would not object to that as we seek the Board's input concerning procedural rules, notwithstanding the part that is allocated to the Division/Department. The Division is trying to shift the work back to the Applicant because otherwise we get some many of these cases in which the Applicant fills out our form, and we are forced to

take their word at it. The fingerprints come in and indicate an arrest but we do not have any detailed records on it. In that scenario, the Division ends up trying to obtain the records.

Ms. Coney stated that the last thing she wants is extra work for the Division but there are those rare occasions where it is unclear whether it is a misdemeanor or a felony until a background check is conducted. In this case, that would have prevented licensure. So, if there were a way to use this language to shift the language back to us but not say "shall" or pending background investigation or if not otherwise available through fingerprints or something that would catch those situations where we do not want to prevent someone rightful employment.

Mr. Shropshire stated that it is not clear whether we want to prevent employment until we get these criminal records.

Ms. Coney stated that their company has a very firm policy that if you are not eligible for licensure then you are not eligible to work for us. I am in no way supporting allowing an element into our industry that is undesirable but this may be more encompassing than is necessary to prevent the workload to the Division but still allow people who are able to become employed unnecessary delay. Sometimes background checks can take some time and if it is not something that would result in licensure not being appropriate then I do not know that we want to put that burden out there when what we want to do is get people working. Ms. Coney added that she does not want to create a rule that is going to stop people from working when we need people working more than ever.

Mr. Shropshire stated that the Division is caught between the deemer date and the lack of records. So, the reality is that the Board suffers because the Division has to present something based largely on the representations of the Applicant as to what happened and we cannot confirm it.

Ms. Coney stated that she would love to see regularly scheduled Rules Committee meetings so that we can have these conversations and come before the Board with something that is already flushed out. Ms. Coney added that the burden should be on the supporting entity or the Applicant without it being a part of the application or put a ten or 20 day before your deemer that those have to be produced.

Ms. Hubbell stated when you have a ten year period that someone has to disclose or to provide this kind of information, if it is past that ten year period, as with Ms. Jones, would someone assume that it is not important to the Division.

Mr. Shropshire stated if it is a felony it goes back indefinitely and if it is a misdemeanor it goes back five years. Mr. Shropshire pointed out that the first section cited is a statute; it is a statutory mandate to produce these records. We simply have never had the rule which the statute refers to. Mr. Shropshire added if the felony was related to the practice of the death care industry there is no time limit on disclosure. If it is not related it is 20 years and if it is a misdemeanor it is five years. Mr. Shropshire suggested that the Division would submit a mass email to the Industry with this attached and invite comments and see what we get back.

The Chair stated that would be a productive move.

C. Reappointments of Jean Anderson and Powell Helm

Governor Rick Scott Reappoints Two to Board of Funeral, Cemetery and Consumer Services

Tallahassee, Fla. – Today, Governor Rick Scott announced the reappointments of Jean W. Anderson and Powell E. Helm to the Board of Funeral, Cemetery and Consumer Services.

Anderson, 78, of Tallahassee, is retired. She is reappointed for a term beginning January 27, 2012, and ending September 30, 2015.

Helm, 57, of Bradenton, is the vice president of Helm Vault Service Inc. He is reappointed for a term beginning January 27, 2012, and ending September 30, 2015.

The appointments are subject to confirmation by the Florida Senate.

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D. Report: Payment of Disciplinary Fines and Costs

Licensee	Board Meeting	Case No.	Total Fine & Cost Due	Date Due	Paid in full?
Guerry FH	Oct-11	119612-11-FC	\$3,000	11/19/2011	YES
William Guerry	Oct-11	119611-11-FC	\$2,000	11/19/2011	YES
Riverview Memorial Inc dba Riverview Memorial Gdns	Oct-11	101938-09-FC	\$2,500	11/19/2011	YES
Summers FH	Oct-11	110895-10-FC			
		114637-11-FC	\$1,750	11/19/2011	YES
Trinity Memorial Cemetery	Oct-11	114209-11-FC	\$4,000	11/19/2011	YES
Willie Lucas	Oct-11	114639-11-FC	\$1,000	11/19/2011	YES
Omega Funeral Services LLC dba American Family Funerals & Cremations	Oct-11	111335-10-FC	\$2,250	11/19/2011	YES
Alan Trueba	Oct-11	113850-10-FC	\$2,250	11/19/2011	YES
Tony Tanner Funeral Services, Inc.	Dec-11	117957-11-FC	\$2,000	1/14/2012	NO
Holmes Funeral Directors	Dec-11	105281-09-FC	\$2,000	1/20/2012	NO
			\$2500	2/2/2012	See Note D
Deliria Holmes	Dec-11	105280-09-FC	\$2500	3/3/2012	See Note D
Landmark Funeral Home	Dec-11	108626-10-FC	\$1,000	2/8/2012	YES
Aaron Duncan	Dec-11	114642-11-FC	\$1,000	2/2/2012	See Note D
Golden's Funeral Home, Inc.	Dec-11	114643-11-FC	\$1,000	2/2/2012	See Note D
NOTES:					
A. When payment becomes past due, the FCCS Division works with the DFS Legal Division to enforce payment.					
B. Once fines and costs are paid in full, the licensee is kept on this report 3 months, showing Paid in Full, and is then dropped of this report.					
C. The Order re this case is still in process, so no Due date is yet established.					
D. Due date had not passed, as of the date of the report.					

Mr. Hall questioned whether the ones that have not been paid past the due date are automatically suspended or revoked or whether something else happens once they past that date.

Mr. Miller some stipulations have an automatic suspension. The Division has already referred the ones that are late on this list to our Legal Staff. Next they will consult with the Division and then represent the best legal options available to the parties.

The Chair stated this is something that the Board may want to consider including in stipulations as we move forward. The Chair questioned whether another case has to be opened to discipline the ones that are overdue.

Mr. Miller stated that he was unsure whether another new case has to be opened but administrative action has to be pursued. That is a separate action that stems from failure to pay or comply with a lawful order.

Mr. Shropshire stated that the idea of the Division administratively automatically marking our records that their license is suspending does not really work because they have to have their due process. So, the Division refers it to the Legal staff to start preparing the emergency suspension type order to serve on the Licensee. If the Licensee pays the fine prior to completion of the suspension order, generally we just accept the fine and close the matter.

Mr. Hall stated that some of the stipulations include this already.

The Chair stated that there has been some.

Mr. Helm questioned if the fine is not paid after being referred to the Legal Department is the license automatically suspended.

Mr. Shropshire stated that the Legal Department prepare and issue an order of immediate suspension based on failure to pay the fine. Then they prepare an administrative complaint and serve it on the Licensee.

Mr. Helm stated that the issue does not have to come back before the Board for suspension once the Legal Department has issued the order and the fine is not paid.

Mr. Shropshire agreed but added unless the Licensee disputes paying the fee.

Ms. Thomas-Dewitt questioned the timeframe from the beginning of the action until the license is suspended.

Mr. Miller stated that timeframes varies. Once the order is served on the Licensee, they have seven days to pay that fine. If the fine is not paid within the seven days the Licensee can be subject to some type of suspension.

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

None

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

None

23. **Administrative Report**

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

24. **Disciplinary Report**

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

25. **Adjournment**

The meeting was adjourned at 12:10 p.m.