

MINUTES
BOARD OF FUNERAL, CEMETERY AND CONSUMER SERVICES
TELECONFERENCE MEETING
June 6, 2013 - 10:00 A.M.

1. Call to Order, Preliminary Remarks and Roll Call

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

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

As a preliminary matter, let me state for the record that my name is Doug Shropshire. I am Director of the Division of Funeral, Cemetery, and Consumer Services. Today is Thursday, June 6, 2013. 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 had been made available to interested persons. The meeting is occurring by Teleconference with some members of the Public here with the Division staff here in the Pepper Building, in Tallahassee, Florida. The call in number has also been made available to the public. Members of the Board are participating by phone. My Assistant, Ms LaTonya Bryant, will take minutes of the meeting, which is being recorded.

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. All persons participating by phone, other than the Chair and Board members while speaking, are asked to place their phones on mute at all times while listening. I repeat, please place your phones on mute at all times while listening. We ask this to enhance the audio quality of the Teleconference. If any Member or participant is disconnected they can call back to the same number called initially. Participants are respectfully reminded of the necessary protocol that only one person may speak at the time.

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

PRESENT (via phone):

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

ABSENT:

Ken Jones

Mr. Chairman we have a quorum and the Board may proceed to address the matters on the agenda.

Also noted as present:

Doug Shropshire, Executive Director
Deborah Loucks, Board Legal Advisor (via phone)
Anthony Miller, Assistant Director
LaTonya Bryant, Department Staff
Lashonda Morris, Department Staff

Mr. Powell Helm questioned whether there would still be a quorum if he were not present on the call.

Mr. Shropshire stated there would still be a quorum without Mr. Helm.

Mr. Helm stated that he has all types of issues going on i.e. rain, short on help, etc. Mr. Helm added that he had no issues with any of the items on today's agenda and respectfully requested to be dismissed from the meeting.

The Chair dismissed Mr. Helm from the meeting and questioned whether he would be available via phone should the Board need him.

Mr. Helm responded that he would be available via cell phone.

Mr. Shropshire stated that this probably has to do with the Tropical Storm that is just off the coast down in Mr. Helm's area.

2. Action on Minutes

A. May 9, 2013

The Chair confirmed that all Board members had read the draft of the minutes of the previous Board meetings held on May 9, 2013.

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

The Chair declared his affiliation with SCI Funeral Services of Florida, Inc and stated that it would not affect his ability to render fair and impartial decisions in matters before this Board.

3. 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.

4. Application(s) for Continuing Education Course

A. Recommended for Approval without Conditions – Addendum B

- (1) *APEX Continuing Education Solutions (4201)*
- (2) *Batesville Casket Company (13409)*
- (3) *Cape School, Inc. (4401)*
- (4) *Florida Cemetery, Cremation & Funeral Association (75)*
- (5) *FuneralCE (43)*
- (6) *National Funeral Directors Association (136)*
- (7) *New Jersey Funeral Service Education Corp. (7002)*

The majority of the Continuing Education Committee and the Division recommends approval of the application(s) for the number of hours indicated on Addendum B in the right hand corner.

MOTION: Mr. Dick Mueller moved to approve the application(s). Mr. Lew Hall seconded the motion, which passed with one (1) dissenting vote.

5. Application(s) for Approval as a Continuing Education Provider

A. Recommended for Approval without Conditions – Addendum C

- (1) *FL West Coast Funeral Professionals Association (Provider #18209)*

The majority of the Continuing Education Committee and the Division recommends approval of the application(s) for the number of hours indicated on Addendum B in the right hand corner.

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

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

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

- (1) *Funeral Director (Internship and Examination)*
(a) *Copeland, Paul R*
(2) *Funeral Director and Embalmer (Endorsement)*
(a) *Baldwin, David G*
(b) *Dewhirst, Glenn E*
(c) *Franklin, Kent J*
(d) *Pacyna, Thomas P*
(3) *Funeral Director and Embalmer – by Internship and Exam*
(a) *Pitts, Jonathan E*

The application(s) presented are clean with no indication of a criminal or disciplinary history and have been approved by the Division pursuant to delegation by the Board. This item is informational only and does not require Board action.

7. Application(s) for Internship

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

- (1) *Funeral Director and Embalmer*
(a) *Kievet, Emily*
(b) *Mendenhall, Brenda A*
(c) *Milton, Brittnee N*
(d) *Wilkinson, Angela D*

The application(s) presented are clean with no indication of a criminal or disciplinary history and have been approved by the Division pursuant to delegation by the Board. This item is informational only and does not require Board action.

8. Application(s) for Embalmer Apprenticeship

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

- (1) *Torrez, Sandra M*

The application(s) presented are clean with no indication of a criminal or disciplinary history and have been approved by the Division pursuant to delegation by the Board. This item is informational only and does not require Board action.

9. **Application(s) for Registration as a Training Agency**
A. **Informational Item (Licenses Issued without Conditions) – Addendum G**
(1) **Funeral Directing and Embalming**
(a) **Wilson Brothers Incorporated (F040324) (Tampa)**

The application(s) presented are clean with no indication of a criminal or disciplinary history and have been approved by the Division pursuant to delegation by the Board. This item is informational only and does not require Board action.

10. **Consumer Protection Trust Fund Claims**
A. **Recommended for Approval without Conditions – Addendum H**

The Division recommends approval of the claim(s) for the amount indicated on Addendum H entitled “Amount Recommended.”

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

11. **Application(s) for Funeral Establishment**
A. **Recommended for Approval without Conditions**
(1) **Coastal Cremations Inc d/b/a Coastal Cremations & Funeral Care (New Port Richey)**

An application for a Funeral Establishment was received on March 29, 2013. The application was incomplete when submitted. All deficient items were returned on May 6, 2013. The fingerprint cards for all principals were returned with no criminal history. The Funeral Director in Charge will be John Gooldin (F044362). The location passed its inspection on May 15, 2013. The establishment is recommended for approval without conditions.

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

- B. **Recommended for Approval with Conditions**
(1) **DJ Enea Family Funeral & Cremation Care Inc (Winter Garden)**

An application for a Funeral Establishment was received on April 16, 2013. The application was incomplete when submitted. All deficient items were returned on April 29, 2013. The fingerprint cards for all principals were returned with no criminal history. The Funeral Director in Charge will be Daniel Enea (F067961).

The establishment is recommended for approval subject to the condition that the establishment passes an on-site inspection by a member of Division Staff.

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

Mr. Daniel Enea stated that his establishment did pass inspection.

The Chair indicated that this was a condition of the approval.

Mr. Enea questioned whether the business is not allowed to open even though it was approved and he has the paperwork indicating that he passed the inspection.

Mr. Shropshire stated the inspection report has to be confirmed by the Tallahassee office first, but Mr. Enea should very shortly get notice that the license has been issued, assuming that our inspector indicates that the inspection was passed. Ms. Jasmin Richardson will provide this information.

(2) SCI Funeral Services of Florida Inc d/b/a Quattlebaum Funeral and Cremation Service (West Palm Beach)

If this application is approved, the FDIC for the establishment will be Gregory Quattlebaum (F043651).

This funeral establishment is the qualifying entity for preneed license F038712, and the Applicant herein agrees to assume all existing preneed obligations of that license (see attached letter from SCI counsel, Wendy Wiener, dated May 29, 2013); Applicant has already submitted an application to make the location a preneed branch under SCI's preneed license (the application is scheduled to appear on the June 27, 2013 Board agenda).

The Division has not yet received the criminal record report on certain of Applicant's principals named below. The Division is recommending approval subject to the condition(s) as follows:

- 1) That the closing on the transaction 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 fingerprints for the following individuals (Curtis Briggs, Janet Key, Susan Garrett, Michael Triesh and Manuel Guara) are returned without criminal history, and if any of the fingerprints listed are returned with criminal history, Applicant waives the deemer and the application shall be presented at an in-person Board meeting for consideration.
- 5) That the establishment passes an on-site inspection by a member of Division Staff.

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

12. Application(s) for Removal Facility

A. Recommended for Approval with Conditions

(1) Mishkin Removal Service Inc (Homestead)

An application for a Removal Service was received on May 8, 2013. The application was complete when submitted. The fingerprint cards for all principals were returned with no criminal history.

The removal service is recommended for approval subject to the condition that the establishment passes an on-site inspection by a member of Division Staff.

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

13. Application(s) for Monument Establishment Builder License

A. Recommended for Approval with Conditions

(1) American Monument and Sign Company, LLC (Pierson)

The application was received on April 15, 2013 and deficiencies were noted. A deficiency letter was sent on April 23, 2013 and all deficiencies were resolved as of May 7, 2013. The Department completed a background check of officers which revealed no criminal history.

The establishment is recommended for approval subject to the condition that the establishment passes an on-site inspection by a member of Division Staff.

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

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

A. Recommended for Approval with Conditions

(1) Monument Retail Sales Agreement(s)

(a) American Monument and Sign Company, LLC (Pierson)

American Monument and Sign Company, LLC, Applicant, submits a monument retail sales agreement for approval. If the form is approved, it is to be used for the sale of monuments through its licensed monument builder establishment, which was presented and approved at this Board teleconference.

The agreement is recommended for approval subject to the condition that two full sized print-ready copies are received by the Department within 60 days of this Board meeting.

Mr. Mueller stated he would like to bring the Board's attention to the "Terms and Conditions of Retail Sales Agreement."

Mr. John Rudolph questioned whether Mr. Mueller was referring to paragraph (7) regarding liquidated damages.

Mr. Mueller stated he was referring to (8), "*The Seller warrants that the memorial meets all cemetery rules and regulations at the date of sale.*" Section 497.467, F.S., states that, "...*notify the purchaser in writing prior to the completion of the contract, that the merchandise being considered for purchase will be accepted in the cemetery of the purchaser's choice.*" I have found now that in looking at this that the statute and rule use different language, but the statute seems to require the language indicating that the merchandise will be accepted at the cemetery. Mr. Mueller stated that he objects to the language in the contract and would move for disapproval.

The Chair questioned the rule that Mr. Mueller is referring to.

Mr. Mueller stated that he did not bring up the rule as it uses different language from the statute and he prefers to go with the statute. The rule uses language more like the language used in the contract.

Mr. Hall questioned whether Mr. Mueller would agree to approve the agreement if the language was changed to reflect the statute rather than the rule.

Mr. Mueller responded, "Yes."

Mr. Hall questioned whether the Division would be good with the change.

Mr. Shropshire stated that he was not confident that he understood Mr. Mueller's concern.

Mr. Mueller stated that the statute calls for language which says that the "*merchandise being considered for purchase will be accepted in the cemetery of the purchaser's choice*" and that language is not in this contract.

Mr. Shropshire questioned if the Applicant changed the wording to say that *"The Seller warrants that the memorial will be accepted by the cemetery for installation"* or language close to that, whether that would be acceptable to Mr. Mueller.

Mr. Mueller concurred.

Mr. Shropshire stated that it is kind of troubling because if in fact the memorial meets all the cemetery's rules and regulations, what basis would there be for the cemetery not to accept it.

Mr. Mueller stated that his only problem is that the statute calls for a certain language and that language is not there.

Ms. Wendy Wiener stated that the statute does not contemplate inclusion of that language verbatim. There are examples in Chapter 497, F.S. where you must include specific quoted language. It contemplates that you notify them that the merchandise will be acceptable, which this contract does based on the language in paragraph (8). I do not represent the Applicant but I have had some experience with interpretation of this particular section and we have looked at this before. There are provisions in Chapter 497 F.S. which require verbatim language and there are other portions that require you make notifications which are to the essence of the statute and I think this is one of those situations.

Mr. Mueller stated that as Ms. Wiener stated, he has brought this issue up before and do not necessarily agree that the language used in the contract indeed satisfies the statute.

Mr. Rudolph stated the he tends to agree with Mr. Mueller because this limits it to the date of sale, which could actually occur prior to the time it is taken to the cemetery. If you look at this, it is subject to it being paid. The cemetery could certainly change its rules on what is accepted at a cemetery for a monument. I have seen this happen in the past. I really think, to say that it will be accepted by the cemetery is more important on the contractual provision that it meets all cemetery rules and regulations as of the date of sale.

The Chair questioned whether the objection is the wording *"at the date of sale"* at the end of (8) or whether Mr. Rudolph would be comfortable without that language.

Mr. Rudolph stated he would be comfortable with the language that Mr. Mueller suggested, *"that it will be acceptable at the cemetery of the purchaser's choice."*

Mr. Shropshire stated that the Applicant probably would not object to changing the language. The Division would ask for a conditional approval subject to the Division persuading the Applicant to the change the language.

Mr. Mueller stated that the language should read that *"The Seller warrants that the memorial will be accepted in the cemetery of the purchaser's choice."*

Mr. Shropshire stated by the time they get to the contract, the cemetery is designated in the contract. If we added that later clause, we introduce ambiguity in that the customer could say, *"Well wait a minute, I have changed my mind. I want it installed in Cemetery B"* but the monument seller was not thinking of Cemetery B. He was thinking of the cemetery named on the contract. So I would suggest that we not include that later clause.

Mr. Mueller stated that he is happy with Mr. Shropshire's suggestion.

MOTION: Mr. Mueller moved to approve the agreement subject to recommended change of the language and the condition that two full sized print-ready copies of each contract are received by the Department within 60 days of this Board meeting. Mr. Hall seconded the motion, which passed with one (1) dissenting vote.

Mr. Mueller stated that this issue with the cemeteries is a big deal as he looks at every contract received for that specific language. Mr. Mueller requested that staff note that he will be looking for that language in the future.

Mr. Shropshire made a note of this.

15. Executive Director's Report

A. Application for Appointment to Board of Funeral, Cemetery and Consumer Services (Informational)

Mr. Shropshire stated that the terms of some of the existing Board members will be expiring in September 2013. They and other interested persons should complete the documents provided by the Division and return them to Ms. LaTonya Bryant by not later than July 15, 2013 to allow time for processing.

B. Report: Payment of Disciplinary Fines and Costs (Informational)

Monthly Report of Fine and Costs Assessed and Paid
 Division of Funeral, Cemetery and Consumer Services
 June 6, 2013 Board Meeting
 Report Updated as of May 28, 2013

Licensee	Board Meeting	Case No.	Total Fine & Cost Due	Date Due	Paid in Full?	Comments
Stanley Gunter-Butler	Jun-12	117958-11-FC	\$2,750	8/20/2012	NO; See Note A	Monthly payments are not current; Licensee failed to make March and April payments in full. Partial payments of \$100 each were rec'd on 5/6/13 and 5/14/13, respectively. To date, \$1,250 remains outstanding.
Cemetery Professionals, LLC dba Beaches Memorial Gardens and Cemetery Professionals, LLC dba Beaches Memorial Park	Jun-12	110156-10-FC & 110157-10-FC	\$5,250 \$5,000 38,859.57	9/6/2012 12/7/2012 35 mo pymts	YES YES See Note E	Monthly restitution payments are current
New Serenity Memorial Funeral Home & Cremation Services	Dec-12	126168-12-FC	\$1,500	4/15/2013 5/15/2013 6/15/2013	Yes No, See Note A See Note D	Board approved modification request at April Board meeting. \$500 due each month. May payment is outstanding.
Nancy Lohman	Feb-13	126800-12-FC	\$1,000	3/14/2013	Yes	
David E. Leveck	Feb-13	126159-12-FC	\$1,000	3/15/2013	Yes	
Masters Funeral Home, PA	Feb-13	126160-12-FC	\$1,000	3/15/2013	Yes	
Edward W. Stone	Feb-13	126821-12-FC	\$2,750	3/15/2013	Yes	
Stone's Memorial Funeral Home	Feb-13	126822-12-FC	\$2,750	3/15/2013	Yes	
Doctor R. Choice	Feb-13	126172-12-FC	\$750	4/15/2013	No, See Note A	
Farrell F. Speights	Feb-13	128345-12-FC	\$2,250	3/18/2013	Yes	
Young's Funeral Home, Inc.	Feb-13	128346-12-FC	\$2,250	3/18/2013	Yes	
Kevin Blackmon	Feb-13	126775-12-FC	\$2,750	3/27/2013	Yes	
Kate Mayberry dba Agape Funeral Home & Cremation Services, Gainesville	Apr-13	130350-12-FC	\$1,750	5/9/2013	Yes	
Collison Family Funeral Home & Cremation Howell Branch Chapel	Apr-13	125720-12-FC	\$1,250	5/10/2013	Yes	
Patrick Fulton	Apr-13	125722-12-FC	\$1,250	5/10/2013	Yes	
Sara Fredericks	Apr-13	125717-12-FC	\$1,250	5/10/2013	Yes	
Alliance Monument & Marble Co, Inc.	Apr-13	129485-12-FC	\$1,000	9/2/2013	See Note D	
Gregory Collison	Apr-13	125716-12-FC	\$1,250	5/10/2013	Yes	

A. When payment in full becomes past due, the FCCS Division works with the DFS Legal Division to enforce payment.
 B. Once fines and costs are paid in full, licensee kept on this report 3 months, showing Paid in Full, and then dropped off report; also licensee dropped off report after disciplinary action filed due to nonpayment of the fine and costs.
 C. The Order re this case is still in process, so no Due date is yet established.
 D. Due date has not passed, as of the date of this report.
 E. As of the date of this report, monthly payments were current.

DM June 6 2013
DAS 6-6-13

Mr. Shropshire asked if there were any questions or comments regarding the monthly report of fine and costs.

Mr. Hall questioned whether the payment for New Serenity was received.

Mr. Miller stated that there is no update other than what is reported in the report.

Mr. Rudolph stated he would check with the Licensee on the status.

The Chair questioned whether the renewal notices for Funeral Directors/Embalmers have all gone out.

Mr. Shropshire stated that the notices have all gone out.

The Chair questioned whether the notices contained the language that was approved re whether or not the Licensee has been convicted of any crime since last reported.

The Chair stated that the next meeting will be held on June 27th.

Mr. Shropshire confirmed that the next meeting will be held in Tallahassee on June 27th.

Mr. Rudolph stated that he hopes everyone is safe and does not suffer any damage from this storm.

The Chair stated that the Board will definitely be thinking of Mr. Helm this morning as he indicated he would be out in this storm.

16. Adjournment

The meeting was adjourned at 10:30 a.m.