

*Minutes of Meeting*  
*Board of Funeral, Cemetery and Consumer Services*  
*February 6, 2008 - 10:00 A.M. to 5:00 P.M.*  
*Betty Easley Conference Center*  
*4075 Esplanade Way, Room 152*  
*Tallahassee, FL 32399*

**I. Call to Order and Roll Call**

Mr. Greg Brudnicki, Chairman, called the meeting to order at 10:00 am. Ms. Diana Marr, Executive Director, called the roll:

PRESENT:

Greg Brudnicki, Chairman  
Jody Brandenburg, Vice-Chairman  
Justin Baxley  
Powell Helm  
Nancy Hubbell  
Ken Jones  
Gail Thomas-DeWitt

ALSO PRESENT:

Diana Marr, Executive Director  
Joy Tootle, Board Counsel  
Diana Shumans, Department Counsel  
James Gellepis, Department Staff  
LaTonya Bryant, Department Staff  
Crystal Grant, Department Staff

ABSENT:

Col. Pete Ballas  
Tracy Huggins  
Catherine Zippay

Ms. Marr declared a quorum.

Mr. Chairman read the following letter into the record:

*Dear Diana:*

*This letter of resignation is posted with great sorrow. I hate to leave membership in the Board of Funeral, Cemetery and Consumer Services. For the past two months, I have suffered pneumonia, arthritis, heart waver and a terrific loss of energy, having spent some time in hospitals. It has been a great honor for me to have been a practicing partner in our great organization. I will surely miss the dedicated participation with all the ladies and gentlemen in our organization and the competent staff. Please tell each one that I admire and respect their individual professionalism and charisma and wish each one "all-the-best" in everything they do henceforth.*

*God Bless,  
Parascho "Pete" Ballas*

Mr. Chairman added that Col. Ballas had been an active member since the Board began. The Board will honor Col. Ballas in the future.

Ms. Marr stated that Staff would begin the process to fill Col. Ballas' position.

## **II. Action on the Minutes**

### *A. December 7, 2007*

Mr. Chairman confirmed that all Board members had read the draft of the minutes of the previous Board meeting held on December 7<sup>th</sup>.

**MOTION:** Mr. Powell Helm moved to adopt the minutes of the meeting. Mr. Ken Jones seconded the motion, which passed unanimously.

### *B. January 2, 2008 - Teleconference*

Mr. Chairman confirmed that all Board members had read the draft of the minutes of the previous teleconference meeting held on January 2<sup>nd</sup>.

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

## **III. Old Business**

### *A. Morton-Skipper, Heather J L DFS Case Nos. 86369-06-FC and 89663-07-FC*

Mr. Thomas A David stated that this case stems from an investigation in which there were two allegations involving one consumer each. The allegations allege that Ms. Morton-Skipper did not honor two contracts, one made with each of the consumers. They also allege that there was deception and misrepresentation to at least one of the consumers and admissions to Ms. Morton-Skipper's former boss, who actually filed a complaint with the Department. Ms. Morton-Skipper pled nolo contendere to third degree grand theft, which this plea falls under one of the applicable statutes also. It is an offence in and of itself especially since it stems from the circumstances surrounding Ms. Morton-Skipper's license.

Mr. David stated that there is a formal administrative complaint drafted, but it has not been filed. Ms. Morton-Skipper has not denied any of the allegations made during the investigation. There has been a probable cause finding by the Probable Cause Panel and the Department was in the process of trying to reach a stipulated settlement.

Ms. Morton-Skipper and the Department presented a stipulated settlement to the Board at the December meeting, but it was denied. During the past couple of months, the Department has attempted to reach another stipulated settlement that would satisfy the Board and one that Ms. Morton-Skipper would agree to sign, but have not been able to do that so far.

Mr. David stated that there is no way for the activity involved with the consumers in this matter to be interpreted or construed as serving the consumers. Ms. Morton-Skipper has not denied any of the allegations. This may present itself as an admission of guilt, but the other thing it may do is present an acceptance of responsibility and a sign of contrition on Ms. Morton-Skipper's part. Mr. David added that Ms. Morton-Skipper did not have time to forward documentation being presented to the Board today.

The Department requested that Ms. Morton-Skipper make 16 copies to be presented to the Board members.

Ms. Heather Morton-Skipper stated she was unable to afford legal representation for herself; therefore she prepared a short statement along with a photo copy of statements from other professionals, the Department of Corrections and the Substance Abuse Program that she attended and completed successfully.

“It is my request to the Board that I continue practicing funeral directing. I understand that I behaved in an unprofessional and unethical manner. I do realize that there must be sanctions and I would like the Board to know that my professional career is my livelihood. I have been in the funeral business for over 22 years and it is the only business I know. Moreover being a single parent with a 7 year old son to provide for, I humbly request that I may continue to use my funeral directors license. I know that I will be reprimanded for my actions and I hope for probationary status instead of a suspension.”

Mr. Justin Baxley requested that Ms. Morton-Skipper explain what happened.

Ms. Morton-Skipper stated that she worked for a funeral home in South Florida for 14 years and decided to move to Central Florida, Polk County. Ms. Morton-Skipper was hired as a funeral director, assistant manager at Oakridge Funeral Care in Haines City, FL and was given a tremendous amount of responsibility as far as funeral directing, embalming, removal service and so forth. Ms. Morton-Skipper was introduced to the drug Methamphetamine and became addicted. The drug helped Ms. Morton-Skipper achieve all her duties at work and home as well. Unable to afford to pay bills and keep up this habit, Ms. Morton-Skipper took the money. However, the money was repaid. Ms. Morton-Skipper was fired from Oakridge after 4 years. Ms. Morton-Skipper was arrested after the funeral home filed a complaint with the Police Department. Ms. Morton-Skipper served time in jail prior to being sentenced to Bridges of America, which is a 6 month program that was successfully completed.

Ms. Morton-Skipper’s current employer, Mr. Mike Phillips decided to give her a second chance at being a funeral director in the industry. The program was completed in October and Ms. Morton-Skipper continues to attend AA meetings and random urinalysis by the Department of Corrections.

Ms. Morton-Skipper added that she loves her job; she made a mistake and is truly sorry.

Mr. Chairman questioned the year the incident occurred.

Ms. Morton-Skipper responded 2004.

Mr. Chairman questioned whether there had been any issue since then.

Ms. Morton-Skipper responded no.

Mr. Chairman questioned who took care of Ms. Morton-Skipper’s child while she was in jail.

Ms. Morton-Skipper responded that her parents took care of him.

Mr. Helm questioned what it is that Ms. Morton-Skipper is requesting of the Board.

Ms. Morton-Skipper responded probationary status. Ms. Morton-Skipper stated that if her license was suspended, her rate of pay would be lowered. If this occurs, Ms. Morton-Skipper could not afford to house her child.

Mr. Jody Brandenburg questioned whether Ms. Morton-Skipper was introduced to Methamphetamine in the workplace.

Ms. Morton-Skipper responded yes.

Mr. Brandenburg questioned whether that was part of the record.

Ms. Morton-Skipper responded that it is stated in some sort of court document.

Ms. Thomas-Dewitt questioned how Ms. Morton-Skipper would be prepared to deal with the stress of the business, if given the opportunity to re-enter the workforce.

Ms. Morton-Skipper stated that the facility where she is currently employed is independent, privately owned and very small. Mr. Phillips has a removal service. Ms. Morton-Skipper does not do any embalming; only the office work, meet with families and make funeral arrangements. Ms. Morton-Skipper works Monday – Friday, 9a – 4:30p. Mr. Phillips is very accommodating regarding Ms. Morton-Skipper's son, as she is allowed to bring him to work if she does not have a babysitter.

Mr. Thomas-Dewitt questioned Ms. Morton-Skipper's charges.

Ms. Morton-Skipper responded 2 counts of grand theft.

Mr. Helm questioned whether Ms. Morton-Skipper has made full restitution.

Ms. Morton-Skipper responded yes.

Mr. Jones questioned whether Mr. Phillips was present.

Ms. Morton-Skipper responded no. Mr. Phillips wrote a letter as he was unable to attend.

Mr. David stated that if a stipulated settlement is possible, the Department wants to reach it. If the Board would suggest a punishment that Ms. Morton-Skipper would agree to, it would be much more efficient from the Department's point of view. The Department is fully prepared to follow through with the administrative complaint, if necessary.

Mr. Chairman questioned whether Ms. Morton-Skipper is currently on probation.

Ms. Morton-Skipper responded yes.

Mr. Chairman questioned for how long and when it began.

Ms. Morton-Skipper responded that it is a 5 year probation and she has been on it for a little over a year now. Yesterday, Ms. Morton-Skipper's probation officer advised since she had paid full restitution, there is an anti-theft class she must attend. After 2.5 years of probation, Ms. Morton-Skipper could request a hearing to go in front of the judge for an early termination of probation.

Mr. Chairman questioned how often the urinalysis is given.

Ms. Morton-Skipper responded that it is given randomly.

Mr. Chairman questioned whether this would continue for the next 2.5 years.

Ms. Morton-Skipper responded yes. Right now it is 5, until the anti-theft class is completed and the request to go before the judge to ask for early termination.

Mr. Jones questioned whether Ms. Morton-Skipper would continue the AA meetings.

Ms. Morton-Skipper responded yes.

Mr. Chairman questioned whether that was a condition of the probation.

Ms. Morton-Skipper responded no.

Mr. Brandenburg questioned what issues are at impasse in the proposed stipulation

Mr. David stated that Ms. Morton-Skipper is trying to avoid a suspension. After reading the record of the December meeting, Mr. David did not feel comfortable enough to do all the work and think that the Board may accept something without any suspension unless Ms. Morton-Skipper was allowed to present her side. As far as an impasse goes, the Department could get relatively creative in probation conditions. For example, since Ms. Morton-Skipper is currently on criminal probation, the Department could run something concurrent with that or something that ties in with any violation of the criminal probation would be automatic suspension. This appears to be a very unique case. The Department would like to tailor the settlement stipulation to achieve the goal of ensuring that this would not happen again but also allow Ms. Morton-Skipper to be a productive citizen, if possible.

Mr. Jones recommended that Ms. Morton-Skipper be placed on 1 year probation, be reviewed by this Board, continue AA treatment, with the understanding that anything within that 1 year would potentially result in a revocation.

Ms. Thomas-Dewitt expressed great concern of setting a precedent. This violation is directly in the line of duty while on the job. The Board should not forget the actual principle and the ruling of the Statute. This involves a felony on the job. The Board should not set a precedent where anyone willfully commits a crime, in the line of duty, and the Board places them on probation. This needs to be researched more thoroughly before a ruling is made.

Mr. Chairman questioned Ms. Morton-Skipper's job if she were suspended.

Ms. Morton-Skipper responded that she would be an Administrative Assistant. Ms. Morton-Skipper stated that she would pretty much do everything except see families and sign documents.

Mr. Baxley questioned whether Ms. Morton-Skipper is currently writing any prefunded agreements.

Ms. Morton-Skipper responded yes.

Mr. Chairman stated if suspended, Ms. Morton-Skipper would not be able to write any agreements, but she would still be able to make deposits and handling the administrative duties of the business.

Ms. Morton-Skipper responded yes.

Mr. Helm questioned whether the Board made a recommendation at the December meeting.

Ms. Joy Tootle responded that the minutes reflect that there was not a counter offer. There was a stipulation before the Board that was rejected, but the Board as a whole did not come to an agreement on what the counter stipulation would be.

Mr. Jones stated that the Board did not realize what the time constraint was.

**MOTION:** Mr. Jones moved to have concurrent probation with mandatory AA meetings. Ms. Nancy Hubbell seconded the motion, which failed with 4 dissenting votes.

Mr. Helm stated that the motion was not severe enough. It would help if the Board knew what the Department's charges would be.

Mr. David stated that he has a draft of the administrative complaint, which has not been filed. The factual recitations allege that in May 2004 and October 2004 Ms. Morton-Skipper sold funeral monuments to 2 separate consumers. There is a 4-count complaint. Each of the 4 counts cite 497.152(1)a, F.S. which states conduct that is prohibited is violating any provision of this chapter or any lawful order of the Board or Department or of the statutory predecessors to the Board or Department.

In Count 1, the statutory basis of charging Ms. Morton-Skipper is the prohibited activity of being convicted or found guilty of or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction that relates to the practice of or the ability to practice a licensee's occupation under this Chapter.

Count 2 charges directly or indirectly making any deceptive, misleading, or untrue representations, whether oral or written, or employing any trick, scheme, or artifice, in or related to the practice of a profession or occupation regulated under this chapter, including in the advertising or sale of any merchandise or services related to the any practice of the profession or occupation.

Count 3 and 4 are based on the two separate incidents each for Failing without reasonable justification to timely honor contracts entered into by the licensee or under the licensee's license for funeral or burial merchandise or services.

Mr. David stated those are the 4 counts that would be alleged in the administrative complaint if a stipulation is not reached.

Mr. Chairman questioned whether the consumers received the services and/or merchandise they were supposed to receive from the money Ms. Morton-Skipper took.

Ms. Morton-Skipper responded yes.

Ms. Thomas-Dewitt questioned the guidelines, minimum to extreme.

Ms. Tootle responded that revocation would be extreme.

Mr. David stated that the Board has a pretty wide discretion. Mr. David questioned whether the Board's probation would end if the criminal probation was terminated early.

Mr. Helm responded no.

Mr. David suggested additional CE units especially in the area of Ethics.

Mr. Helm stated that he would not be making this recommendation had Ms. Morton-Skipper not made restitution.

**2<sup>nd</sup> MOTION:** Mr. Helm moved for \$1000 fine, 5 years probation concurrent with criminal probation, must appear before Board before probation is lifted, additional CE units in Ethics and mandatory AA meetings during time of probation. Mr. Jones seconded the motion, which passed with 3 dissenting votes.

**IV. Disciplinary Proceeding(s)**

*A. Singleton Funeral Home, DFS Case Nos. 87638-07-FC and 89976-07-FC*

Mr. Chairman stated that this item had been withdrawn from the Agenda.

**V. Application(s) for Funeral Establishment**

*A. Recommended for Approval*

*1. A Funeral & Cremation Center LLC (Hollywood)*

Ms. Marr stated that the application was submitted on October 29, 2007. The application was incomplete when submitted and a deficiency letter sent. All deficient items were returned on December 18, 2007. The fingerprint cards for Mario McDonald were submitted and returned without criminal history. The establishment passed its inspection on December 19, 2007.

Mr. Baxley stated that the application indicates Premier Funeral Services would be handling the embalmings and refrigeration, but the letter is from Restview Mortuary.

Mr. Brandenburg stated that question 3a on page 5 is not answered, nor is question 6. Mr. Brandenburg questioned whether there is any indication as to who is going to be the funeral director in charge. Mr. Brandenburg added that there is no inspection report.

**MOTION:** Mr. Brandenburg moved to deny the application. Mr. Baxley seconded the motion, which passed unanimously.

*2. D. Alan Moore, Licensed Funeral Director (Palmetto)*

Ms. Marr stated that the application was submitted on June 8, 2007. The application was incomplete when submitted and a deficiency letter sent. All deficient items were returned on December 27, 2007. The fingerprint cards for D. Alan Moore were submitted and returned without criminal history. The establishment passed its inspection on January 7, 2008.

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

**3. *Faith Funeral Home and Services Inc (Miami)***

Ms. Marr stated that the application was submitted on December 3, 2007. The application was incomplete when submitted and a deficiency letter sent. All deficient items were returned on January 10, 2008. The fingerprint cards for David Eason and Larry Bush were submitted and returned without criminal history. The establishment passed its inspection on January 10, 2008.

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

**4. *Kathi M. Sloan Hansberry d/b/a Branch Street Funeral Home (Monticello)***

Ms. Marr stated that the application was submitted on January 7, 2008. The application was incomplete when submitted and a deficiency letter sent. All deficient items were returned on January 15, 2008. The fingerprint cards for Kathi M. Sloan Hansberry were submitted and returned without criminal history. The establishment passed its inspection on January 16, 2008.

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

**5. *Omega Funeral Services Inc d/b/a American Family Funerals & Cremations (Casselberry)***

Ms. Marr stated that the application was submitted on December 14, 2007. The application was incomplete when submitted and a deficiency letter sent. All deficient items were returned on January 9, 2008. The fingerprint cards for Alan Trueba were submitted and returned without criminal history. The establishment passed its inspection on January 14, 2008. Mr. Trueba is purchasing the assets of American Family Funerals & Cremations from Mr. James Powell. Mr. Powell has already submitted a letter stating as soon as the Board approves this application, the Funeral Establishment that is operating will cease to exist and the assets will be turned over to Mr. Trueba.

Mr. Helm stated that Section 9 (2b) was not answered. There is a letter attached from Union Park Chapel.

**MOTION:** Mr. Brandenburg moved to approve the application pending clarification of Section 9(2b). Ms. Thomas-Dewitt seconded the motion, which passed unanimously.

**B. *Recommended for Consideration***

**1. *StoneMor Florida Subsidiary LLC d/b/a Scott Funeral Home (Lake Placid)***

Ms. Marr stated that the application had been withdrawn from the agenda and would be deferred to the April meeting.

**VI. *Application(s) for Removal Service***

**A. *Recommended for Approval***

**1. *Joseph C. Wise III d/b/a Wise Firstcare Transport (Alachua)***



Ms. Marr stated that the application was submitted on December 13, 2007. The application was complete when submitted and a deficiency letter was not sent. The fingerprint cards for Joseph C. Wise were submitted and returned without criminal history. The establishment passed its inspection on January 7, 2008.

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

***B. Recommended for Consideration***

***1. Executive Removal Service Inc (Sunrise)***

Ms. Marr stated that the application was submitted on December 13, 2007. The application was complete when submitted and a deficiency letter was not sent. The fingerprint cards for Keith Rider were submitted and returned with criminal history. The establishment passed its inspection on January 4, 2008.

Date: 03/14/1993  
Location: Broward County  
Case # 93004563CF10A  
Offense: Burglary  
Pled: No Contest  
Sentence: Probation  
Disposition:

Date: 03/14/1993  
Location: Broward County  
Case # 93004561CF10C  
Offense: Burglary  
Pled: No Contest  
Sentence: Probation  
Disposition:

Date: 07/13/1995  
Location: Broward County  
Case # 95012339CF10A  
Offense: Burglary  
Pled: No Contest  
Sentence: Probation, \$4000 Restitution  
Disposition:

Date: 07/13/1995  
Location: Broward County  
Case # 95012338CF10B  
Offense: Burglary  
Pled: No Contest  
Sentence: Probation, \$4000 Restitution  
Disposition:

Mr. Baxley stated that 2 of the cases appear to be in relation to breaking into a car. It is unclear what type burglary the other 2 are in relation to, but theoretically, this is someone who would be entering homes of strangers.

Ms. Hubbell questioned when the applicant was granted a license for removal service.

Ms. Thomas-Dewitt stated that this application is for removal service.

Mr. Brandenburg stated that there is an Other License Form attached that indicates a removal service with a removal service license number. Mr. Brandenburg questioned Mr. Rider's relationship to an existing removal service.

Mr. Chairman questioned whether Mr. Rider works for the other removal service.

Mr. Brandenburg stated that the form reflects that it is not in force. Mr. Brandenburg questioned whether they went out of business as a result of disciplinary action.

**MOTION:** Mr. Jones moved to defer the application to the March meeting until further information is received. Ms. Thomas-Dewitt seconded the motion, which passed unanimously.

## **VII. Application(s) for Cinerator Facility**

### **A. Recommended for Approval**

#### **1. Vero Beach Crematory LLC (Vero Beach)**

Ms. Marr stated that the application was submitted on December 31, 2007. The application was complete when submitted and a deficiency letter was not sent. The fingerprint cards for Glenn Strunk were submitted and returned without criminal history. The establishment passed the inspection on January 25, 2008.

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

## **VIII. Application(s) for Preneed Sales Agent**

### **A. Recommended for Approval - See Addendum A**

Ms. Marr presented the applicants for approval.

Mr. Brandenburg disclosed his affiliation with SCI Funeral Services of Florida, Inc. Mr. Brandenburg added that his affiliation would not render him unable to make a fair and impartial judgment.

Mr. Chairman disclosed his affiliation with CFS Funeral Services, Inc. Mr. Chairman added that his affiliation would not render him unable to make a fair and impartial judgment.

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

### **B. Recommended for Consideration**

#### **1. Alphonse, Anthony (Appointing Entity: CFS Funeral Services Inc.)**

Ms. Marr stated that on the application received by the Department on September 28, 2007, the applicant answered "Yes" to Applicant Background Questions: "Has the PSA applicant ever been convicted or entered a plea in the nature of no contest, (a) regardless of whether adjudication was entered or withheld by the court in which the case was prosecuted, and (b) regardless of whether the criminal conduct occurred inside or outside the state of Florida, and (c) regardless of whether the criminal prosecution occurred in a Florida state court or the courts of another state, the United States, or foreign country, of or to any of the following crimes: (2) Any other felony which was committed within the 20 years immediately preceding the date of this on-line application; or (3) Any other crime, whether a misdemeanor or felony, committed within the 5 years immediately preceding the date of this on-line application?"

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

**Date:** 09/16/1988  
**Location:** Collier County  
**Case #:** A49500  
**Offense:** Drug Sale Delivery, Manufactory of Controlled Substance, Felony  
**Pled:** Nolo Contendre  
**Sentence:** 2 year state probation, 2 years community control  
**Disposition:** Guilty/Convicted

**Date:** 10/07/1988  
**Location:** Collier County  
**Case #:** A49500  
**Offense:** Probation Violation, Felony  
**Pled:** Nolo Contendre  
**Sentence:** 2 year state probation, 2 years community control  
**Disposition:** Guilty/Convicted

**Date:** 03/13/1990  
**Location:** Collier County  
**Case #:** A49500  
**Offense:** Probation Violation, Felony  
**Pled:** Nolo Contendre  
**Sentence:** 2 years community control  
**Disposition:** Guilty/Convicted

**Date:** 09/11/1990  
**Location:** Collier County  
**Case #:** A49500  
**Offense:** Probation Violation, Felony  
**Pled:** Nolo Contendre  
**Sentence:** 2 year 9 months prison confinement  
**Disposition:** Guilty/Convicted

**Date:** 06/25/1999  
**Location:** Naples Florida  
**Case #:** 67349

Offense: Cocaine Trafficking in Manufacturing and Dangerous Drugs Possession Controlled Substance, Felony  
Pled: Guilty  
Sentence: Prison Confinement  
Disposition: Guilty/Convicted

**Date:** 07/06/1999  
Location: Collier County  
Case #: 49500  
Offense: Cocaine Sell Crack, Cocaine Possession with Sell Crack, Felony  
Pled: Guilty  
Sentence: Prison Confinement  
Disposition: Guilty/Convicted

Ms. Marr added that there is a report of the fingerprint results from FDLE. Ms. Marr reminded the Board that the applicant was only required to report to the Department and should only consider felonies within the last 20 years and misdemeanors within the last 5 years. After the packets went out, this applicant submitted several letters of accommodations and reference letters.

**MOTION:** Mr. Brandenburg moved to deny the application based on criminal history presented on the cover memo. Mr. Baxley seconded the motion, which passed unanimously.

**IX. Application(s) to Acquire Control of an Existing Cemetery**

**A. *Memorial Gardens Cemetery of the Florida Keys, LLC acquiring Pinewood Memorial Cemetery (Big Pine Key)***

Ms. Marr stated that the application was received on January 4, 2008 from Memorial Gardens Cemetery of the Florida Keys, LLC d/b/a Pinewood Memorial Cemetery, for authority to acquire control via stock purchase of Pinewood Memorial Cemetery. Pinewood Memorial Cemetery is formerly owned by Florida Keys Funeral Services, LLC.

Criminal background investigations of the Applicant principals were conducted and criminal history and a personal bankruptcy was disclosed by Jeffery W. Dean. All criminal charges against Mr. Dean were dismissed in July 2004 and bankruptcy discharged in 2005. The Applicant principals are: Donna S. Dean, CEO and Jeffery W. Dean, managing member of the LLC.

The Department recommends approval of the acquisition contingent upon review of the examination report from the audit of applicant's account records to be obtained from the field office.

Ms. Wendy Weiner recollects sending a letter from the applicant waiving final examination. There has not been any preneed written at this location by the prior owner for many years since he relinquished his certificate of authority after the last examination.

Ms. Marr questioned whether the applicant is also waiving the examination of the care and maintenance trust fund.

Ms. Weiner responded yes.

Mr. Helm questioned the meaning of bankruptcy discharge.

Ms. Weiner responded that the bankruptcy court has done all that it could to be assured that whatever creditors could have been paid from the bankrupt estate have been paid.

Ms. Hubbell questioned the reasoning in the balance sheet reflecting Partners' Capital as \$50,000 and the historical sketch reflects a total of \$75,000 as the value of the business.

Ms. Weiner states that she often directs applicants, who are initially acquiring a location, is to simply make a deposit into an account for the balance sheet, because obviously they are going to be acquiring the assets. Immediately after the closing, the balance sheet would be completely different.

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

**X. Application(s) for Preneed License**

**A. Recommended for Approval**

**1. Lincoln Memorial Park, Inc (Princeton)**

Ms. Marr stated that the Department received the application on October 23, 2007. All deficiencies were resolved by November 28, 2007. Applicant acquired the above cemetery company in 2004. A completed background check revealed no criminal history.

The Applicant's financial statements for the period ending November 28, 2007 reflect the following:

Preneed Contracts	= \$	0
Required Net Worth	= \$	10,000
Reported Net Worth	= \$	73,052

Applicant will be using the Forethought Federal Savings Bank Florida Preneed Master Trust Agreement and will use its pre-approved Funeral Planning Agreement.

Mr. Helm stated that the applicant did not provide an answer regarding the value of holding in the business.

Ms. Hubbell stated that the net worth on the balance sheet does not total \$73,052. The net worth is about \$18,000 short.

Ms. Marr stated that assets minus liabilities is \$73,000, but the net worth is not correctly stated.

Mr. Brandenburg questioned whether the reported net worth is deficient.

Mr. Chairman responded no, there was an error in calculating the net worth.

Ms. Weiner stated that she would contact the applicant to ensure this issue is resolved within 10 days.

**MOTION:** Mr. Jones moved to approve the application pending resolution of financial statement within 10 days. Ms. Thomas-Dewitt seconded the motion, which passed unanimously.

**2. Elijah Bell's Funeral Services, LLC (Lauderdale Lakes)**

Ms. Marr stated that the Department received the application on December 24, 2007. No deficiencies were noted by the Department. Fingerprint cards were received by the Department and a completed background check revealed no criminal history. The Applicant obtained a funeral establishment license on July 3, 2007.

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

Preneed Contracts	= \$	0
Required Net Worth	= \$	10,000
Reported Net Worth	= \$	122,484

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

Mr. Helm stated that the applicant did not provide an answer regarding the value of holding in the business.

Mr. Chairman stated that the question is sort of subjective.

Mr. Brandenburg questioned whether this could either be reworded or eliminated from the historical sketch.

Ms. Marr stated that the form would be amended.

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

**3. Phoenix Cremation Society Inc d/b/a Tri-County Cremation and Funeral Home (Longwood)**

Ms. Marr stated that the Department received the application on December 24, 2007. No deficiencies were noted by the Department. Fingerprint cards were received by the Department and a completed background check revealed no criminal history. Applicant acquired the funeral home and Preneed License as of June 25, 2004. The previously held Preneed License expired on July 1, 2005 due to applicant not renewing. Applicant obtained a new funeral establishment license on November 16, 2006.

The Applicant's financial statements for the period ended December 31, 2006 reflect the following:

Preneed Contracts	= \$	0
Required Net Worth	= \$	10,000
Reported Net Worth	= \$	40,588

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

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

**B. Recommended for Consideration**

1. *StoneMor Florida Subsidiary LLC d/b/a Scott Funeral Home (Lake Placid)*

Ms. Marr stated that the application had been withdrawn from the agenda and would be deferred to the April meeting.

**XI. Application(s) for Florida Laws and Rules Examination**

**A. Recommended for Approval - Addendum B**

1. *Funeral Director and Embalmer - Internship*
  - a. *Stubbs, Leonardo H*
  - b. *Urban, Jennifer J*
2. *Funeral Director and Embalmer- Endorsement*
  - a. *Fernandez-Almanzar, Mariluz*
3. *Direct Disposer*
  - a. *Ray, Faye M*

Ms. Marr presented the Applicant(s) for the Florida Laws and Rules Exam.

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

**XII. Application(s) for Funeral Director and Embalmer Internship**

**A. Recommended for Approval – See Addendum C**

1. *Wyn, Javardia R*

Ms. Marr presented the Application(s) for Internship.

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

**XIII. Application(s) for Embalmer Apprentice**

**A. Recommended for Approval – See Addendum D**

1. *Linhart, Zachary D*
2. *Marotta, Anthony J*
3. *Trahan, Pamela D*
4. *West, Hunter J*

Ms. Marr presented the Application(s) for Embalmer Apprentice.

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

**XIV. Application(s) for Continuing Education Course Approval**

**A. Recommended for Approval – See Addendum E**

1. *360training.com, Inc. D/B/A Funeralcampus.com #4601*
2. *All Star Professional Training, Inc. #37*
3. *Aurora Casket Company #129*
4. *Epsilon Nu Delta Mortuary Fraternity #5801*
5. *Florida Funeral Cemetery, Funeral & Cremation Association #5202*

6. *International Cemetery & Funeral Association #74*
7. *MKJ Marketing #85*
8. *National Funeral Directors Association #136*
9. *Stewart Enterprises #92*

Ms. Marr presented the course(s) for approval.

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

**XV. Application(s) for Continuing Education Provider**

- A. *Recommended for Approval*
  1. *Epsilon Nu Delta Mortuary Fraternity*

Ms. Marr presented the provider application(s) for approval.

**MOTION:** Ms. Thomas-Dewitt moved to approve the courses. Mr. Baxley seconded the motion, which passed unanimously.

**XVI. Application(s) for Registered Training Facility**

- A. *Recommended for Approval – Funeral Directing and Embalming*
  1. *A Community Funeral Home & Sunset Cremations (Orlando)*

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

2. *Gee & Sorensen Funeral Home & Cremation Service (St. Petersburg)*

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

- B. *Recommended for Approval – Funeral Directing*
  1. *North/Meadowlawn Funeral Home and Cemetery (New Port Richey)*

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

**XVII. Consumer Protection Trust Fund Claims**

- A. *Recommended for Approval - See Addendum F*

Ms. Marr presented the claims for approval.

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

**XVIII. Contracts or Other Related Forms**

- A. *Curlew Hills Memory Gardens, Inc. (Palm Harbor)*
  1. *Cemetery Interment Rights, Merchandise and Services Purchase/Security Agreement*



Ms. Marr stated that Staff recommends approval of the above Pre-need Contract with the following revisions being completed within 45 days of notification:

- The following shall appear in bold-faced, 10 point or larger type on the signature page:
  1. Cancellation Clause
  2. Department contact clause, page 1, #3.
  
- Additional Terms and Conditions:
  - #14 and #15: Liquidated Damages are not defined or explained to purchaser.
  - #18: All monies paid plus interest earned shall be returned to the purchaser.
  - #21: The cemetery company cannot waive or relieve itself from all further liability.

Note: Mandatory binding Arbitration and Non-Binding Mediation: This section may be liable for challenge by a claimant under state or federal law that may provide for civil action and/or greater amounts for damages.

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

Mr. Helm questioned whether under Item 21, Additional Terms and Conditions, Right to Remove or Transfer Remains, authorization by the family is not required.

Mr. Brandenburg stated that it is subject to Florida Law.

Ms. Marr added that Florida Law requires the next of kin to authorize.

**MOTION:** Mr. Jones moved to approve the contract contingent upon revisions being completed within 45 days. Ms. Thomas-Dewitt seconded the motion, which passed unanimously.

## *2. Preneed Funeral Merchandise and/or Services Contract*

Ms. Marr stated that Staff recommends approval of the above Pre-need Contract with the following revisions being completed within 45 days of notification:

- Merchandise Selected section - If the product is sold to the purchaser generically, this section must comply with the requirements of Rule 3F-8.006, Florida Administrative Code. If this section cannot be brought into compliance with the rule, the applicant must use an approved merchandise addendum.
  
- The following shall appear in bold-faced, 10 point or larger type on the signature page:
  1. Cancellation Clause

Note: Mandatory binding Arbitration and Non-Binding Mediation: This section may be liable for challenge by a claimant under state or federal law that may provide for civil action and/or greater amounts for damages.

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

**MOTION:** Mr. Helm moved to approve the contract contingent upon revisions being completed within 45 days. Mr. Brandenburg seconded the motion, which passed unanimously.

**B. Monument Retail Sales Agreement(s)**

**1. Gulf Coast Wilbert, Inc d/b/a Gulf Coast Monuments (Crestview)**

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

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

**MOTION:** Mr. Helm moved to approve the contract contingent upon receipt of two print-ready agreements within 45 days. Mr. Jones seconded the motion, which passed unanimously.

**2. Gulf Coast Wilbert, Inc d/b/a Gulf Coast Monuments (Panama City)**

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

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

**MOTION:** Mr. Helm moved to approve the contract contingent upon receipt of two print-ready agreements within 45 days. Mr. Jones seconded the motion, which passed unanimously.

**3. Gulf Coast Wilbert, Inc d/b/a Ward Memorial (Defuniak Springs)**

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

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

**MOTION:** Mr. Helm moved to approve the contract contingent upon receipt of two print-ready agreements within 45 days. Mr. Jones seconded the motion, which passed unanimously.

**4. North Florida Monument Co. (Williston)**

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

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

- Include section for the address and telephone number of Interment Right owner

**MOTION:** Mr. Helm moved to approve the contracts contingent upon revisions being completed within 45 days and two print-ready agreements. Mr. Baxley seconded the motion, which passed unanimously.

**XIX. Administrative Report**

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

**XX. Disciplinary Report**

	Issued Since Last Meeting (December 7, 2007)	Issued Since January 1, 2008
Notice of Non-Compliance	0	0
Letters of Guidance	0	0
Citations	0	0

**XXI. Rules Committee Report**

**A. 69K-17.003 – Fees for Part III Licensees**

Mr. Jones questioned in regards to (3) whether it is clear that subsection (2) refers to 69K-17.003.

Ms. Margaret Karniewicz stated that subsection (2) “above” could be added.

Mr. Jones added that it should be clarified in subsection (4) as well.

**MOTION:** Mr. Baxley moved to approve the rule with the recommended changes. Mr. Helm seconded the motion, which passed unanimously.

**B. 69K-17.0035 – Communicable Disease Education Required for Operational Personnel and Nonlicensed Individuals**

**MOTION:** Mr. Brandenburg moved to approve the rule. Mr. Baxley seconded the motion, which passed unanimously.

**C. 69K-17.010 – Inactive Status Fee**

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

**D. 69K-17.011 – Reactivation Fee**

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

**XXII. Disciplinary Rules Report (Oral)**

Ms. Corinne Olvey stated that the Committee has met several times over the last year. The Committee has gone through all the statutes that require some sort of discipline and has come up with recommended disciplinary action from the minimum to the maximum and the fines. The Committee has also looked at the Minor Violation section and the Citations section. The rules will be grouped together and submitted to the Department for the last review. The Committee anticipates meeting one last time in April. Hopefully, at that time, a final product would be made available for the Rules Committee to review.

**XXIII. Emergency Preparedness Committee Report (Oral)**

Ms. Marr stated that the Committee met in December and again yesterday. From the December meeting, there was a referral to the Rules Committee, which will be meeting this afternoon, on the rule regarding

using the corpus of the care fund on an emergency basis. Also, the Committee moved forward a list of rules that could be suspended in the event of an emergency. A little more work needs to be done to go over the statutes that may need to be suspended. This would only be in the cases where the Governor declares a State of Emergency. The Rules would be recommended for suspension only for the Counties that are under the State of Emergency. There will be one more meeting of this Committee and hopefully by the April Board meeting there would be a presentation of the final report.

#### **XXIV. Preneed License Financial Requirements Report (Oral)**

Mr. Bill Williams stated that the Committee met yesterday and had 2 wonderful hours of accounting discussion. The Committee decided to recommend in the near future that financials submitted to the Board should include comparative year to year analysis for current year and prior year end for the Board and Department to review. Outside of that, there were a couple recommendations that are still being discussed. The committee will have one more meeting and then make final recommendations to the Rules Committee.

#### **XXV. Chairman's Report (Oral)**

Mr. Chairman questioned whether people are getting a rash of phone calls, in light of the AARP article.

Ms. Marr stated that the Department has received many calls.

Mr. Chairman questioned whether there is any kind of condensed periodical that could be presented to a consumer to show what type of protection they have.

Ms. Olvey stated that it would be nice if the CFO wrote a letter to AARP to explain that Florida is not one of those bad states. We are highly regulated, our trust funds are audited and we have a Consumer Protection Trust Fund. If the statement came from the Department or Governor Crist, AARP would be compelled to print that. Even if not, if there was some letter to consumers initiated from CFO that all the people could have, like the preneed brochures, it would be nice to be able to say we are not one of the bad states, we are one of the good states.

Ms. Weiner stated it should also be posted on the Department's website.

Mr. Bill Swain stated that what happens sometimes is Florida gets lumped with other states because of the problem with refundability. Mr. Swain added that he always advises that the security aspect is not a problem in Florida.

Ms. Michele Hood stated that one member was advised to get a supply of the Department's brochure. Ms. Hood stated in searching the website, she was unable to obtain an application for the brochure or was she able to find an example of the brochure. Ms. Hood requested that this be added to the website. In addition to that, there is a specific prohibition against preneed sellers from mentioning or using the Consumer Protection Trust Fund in their sales presentation. Ms. Hood questioned whether a preneed seller would be penalized for mentioning the Consumer Protection Trust Fund while speaking to a consumer group.

Ms. Marr stated it depends on whether the seller is making a presentation to a consumer group that may be a retirement condo and he is really making a sales presentation, it could be a problem because that would appear to be an inducement. If it were a public service, then it would not be a problem.

**XXVI. Attorney Report (Oral)**

None

**XXVII. Executive Director's Report (Oral)**

*A. Report from Richard Baldwin – Examiner for Menorah Gardens November '07*

The Board members received copies of the report from Richard Baldwin for the month of November '07. Mr. Baldwin continues to assist consumers.

*B. Update on Computer Project*

Ms. Marr stated that the Division has a new vendor who promises to get us stabilized this month and next month, then we could go forward with getting some other things fixed. An estimate was received in the amount of \$144,000. The internal IT Department has provided more support. Things are slowly but surely getting fixed. Ms. Marr apologized for all the snafus.

*C. Update on Staffing*

Ms. Marr stated that we have a vacancy in the examination staff in Pensacola. There is a vacancy for an Examiner I in our Licensing staff in Tallahassee. The advertisement has been closed and applications are being reviewed for interviews. Friday, there will be another vacancy in the Licensing staff. The administrative assistant is resigning to take care of her family, as she can not do both right now. Ms. Marr introduced Ms. Karen Duehring who is the Examiner Supervisor for Jacksonville, Tallahassee, Pensacola and South Florida.

*D. Update on Website*

Ms. Marr stated that the Division is working on updating the website. The Publications Unit is assisting with this task. Changes are expected within the next month.

**\*\*\*ITEM REVISITED\*\*\***

**VIII. Application(s) for Preneed Sales Agent**

*B. Recommended for Consideration*

*1. Alphonse, Anthony (Appointing Entity: CFS Funeral Services Inc.)*

Mr. Anthony Alphonse stated that he had vehicle trouble on the way from Hernando.

Mr. Chairman questioned Mr. Alphonse has been doing since 1999.

Mr. Alphonse responded that he was released from prison and re-incarcerated. Mr. Alphonse stated that his final incarceration was September 4, 2001 and was released April 10, 2006. Mr. Alphonse resided in a halfway house for a short stint and was reunited with his family in Hernando shortly thereafter.

Since then, Mr. Alphonse has been a painter and a paint contractor. Mr. Alphonse responded to an ad with Fountains Memorial and was allowed to sit in on a lot of family services and is requesting preneed

licensing. Mr. Alphonse stated that he has no fraud, theft, violence or sexual misconduct in his extensive criminal background. All offenses are drug-related as in drug use and drug sale of cocaine in particular.

Mr. Alphonse stated that he lived that lifestyle for quite a while, but people do change. Mr. Alphonse possessed letters of recommendations from coworkers and customers. Mr. Alphonse questioned whether there was a probationary term or some such application as he does have an extensive criminal background. Mr. Alphonse emphasized that he is no longer that person and would appreciate a change to be a productive member of society, especially in the cemetery field. Mr. Alphonse states that he has been involved intricately with a lot of cases helping families on a meaningful level.

Mr. Baxley questioned how Mr. Alphonse assists at-need families.

Mr. Alphonse responded that he would stand at committals. The Cemetery has a Heavenly Ascension Program, where after the committal itself, he would walk to a clearing, say a poem, think a nice thought, and release balloons. Mr. Alphonse would also go on condolence calls, get the entombment authorization paperwork and transit paperwork. Mr. Alphonse states that it is a very hard job, but he does his best and has done well considering he has only been involved for 4 months. Mr. Alphonse stated that he had 2 glowing letters of accommodation.

Mr. Alphonse stated for him to be denied based on his criminal background implies that there is no rehabilitation available, but there is.

Mr. Baxley questioned the type of drug rehabilitation Mr. Alphonse has undergone.

Mr. Alphonse stated that he has been through several drug rehabilitations, but being in federal prison for 5 years is what got him off of drugs. Mr. Alphonse stated that he is currently on probation and is in complete compliance with the terms. Mr. Alphonse stated that his probation officer could not endorse him, but he advised her to disclose anything that would assist with licensure. Mr. Alphonse stated that he also has a copy of his Judgment Commitment Order from the court showing that he did serve his time and is now on probation.

Mr. Brandenburg questioned where Mr. Alphonse is currently working.

Mr. Alphonse responded that he is currently working at Fountains Memorial Park as an apprentice.

Mr. Brandenburg questioned whether Mr. Alphonse makes funeral arrangements with at-need families.

Mr. Alphonse responded that he sits in on them. Mr. Alphonse stated he acts as a middle man.

Mr. Chairman questioned whether there is also a funeral home.

Mr. Alphonse responded no.

Mr. Chairman questioned whether the Board members would make a motion for reconsideration. Mr. Chairman stated that there was no motion for reconsideration.

Mr. Alphonse questioned whether there is an appeal process.

Ms. Tootle responded that Mr. Alphonse would receive a notice of intent to deny and that would in writing provide the appeal rights.

Mr. Chairman questioned whether Ms. Hubbell would serve on Probable Cause Panel A as a result of Col. Ballas' resignation.

Ms. Hubbell responded yes.

### **XXVIII. Adjournment**

At 11:43 a.m., the meeting was adjourned.