

MINUTES
BOARD OF FUNERAL, CEMETERY AND CONSUMER SERVICES
TELECONFERENCE MEETING
September 6, 2012 - 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, September 6, 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 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 put 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
Ken Jones
Richard "Dick" Mueller
Col. Don Stiegman

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
Clark Jennings, Board Legal Advisor (via phone)
Anthony Miller, Assistant Director
LaTonya Bryant, Department Staff
Jasmin Richardson, Department Staff

2. Action on Minutes

A. August 2, 2012

The Chair confirmed that all Board members had read the draft of the minutes of the previous Board meeting held on August 2, 2012.

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

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.

B. Recommended for Approval without Conditions (Criminal History)

(1) Edwards, Thomas M (Appointing Entity: Daytona Memorial Park)

On July 20, 2012, the Department received an application from Mr. Edwards. Mr. Edwards answered “Yes” to Applicant Background Questions. During the review of his fingerprint results provided by FDLE it was confirmed Mr. Edwards had one criminal infraction that required disclosing.

The criminal history includes (1) offense relating to one incident of Reckless Driving in 2009, which occurred in Volusia County, Florida. Upon request Mr. Edwards disclosed all required information.

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

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

4. Application(s) for Preneed Main License

A. Recommended for Approval with Conditions

(1) C.E.J. South, Inc d/b/a Family-Funeral & Cremation (Pensacola)

C.E.J. South, Inc. d/b/a Family Funeral & Cremation through its principal, Chris Jensen, Jr., applies herein for a preneed main license.

The Department received the application on July 10, 2012 and deficiencies were noted on the application. A deficiency letter was sent to the Applicant on July 19, 2012 and all deficiencies were resolved as of August 9, 2012. A completed background check of all officers revealed no criminal history. Applicant will use the pre-approved Funeral Services, Inc. (FSI) First Florida Trust Agreement (Sabal Trust Company) and pre-arranged funeral agreement. An application for the qualifying funeral establishment license is also being presented before the Board at this meeting.

The Applicant’s financial statements as of June 30, 2012 reflect the following:

Acquired Preneed Contracts	= \$	0
Required Net Worth	= \$	10,000
Reported Net Worth	= \$	438,312

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

5. Application(s) for Preneed Branch License

A. Recommended for Approval with Conditions – Addendum B

The Division recommends approval of the application(s) with the conditions stated.

Mr. Clark disclosed his affiliation with Hiers-Baxley and stated it would affect his ability to render a fair and impartial decision on the matter before the Board. Mr. Clark decided not to participate in discussion or vote in this matter.

MOTION: Mr. Jones moved to approve the application(s) with the conditions stated. Mr. Lew Hall seconded the motion, which passed unanimously.

6. **Application(s) for Continuing Education Course**
 - A. *Recommended for Approval without Conditions – Addendum C*
 - (1) *American Academy McAllister Institute of Funeral Service (Provider #9808)*
 - (2) *The Dodge Institute for Advanced Mortuary Stu (Provider #81)*
 - (3) *Education Workers Group (Provider #11208)*
 - (4) *Florida Morticians Association, Inc. (Provider #133)*
 - (5) *FuneralCE (Provider #43)*
 - (6) *International Order of the Golden Rule (Provider #2201)*
 - (7) *M.K. Jones & Associates, Inc. (Provider #9605)*
 - (8) *National Funeral Directors and Morticians Association, Inc. (Provider #15608)*
 - (9) *National Funeral Directors Association (Provider #136)*
 - (10) *Pinellas County Funeral Home Association (Provider #58)*

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.

7. **Application(s) for Florida Law and Rules Examination**
 - A. *Recommended for Approval without Conditions – Addendum D*
 - (1) *Direct Disposer*
 - (a) *Erzak Jr, Alfred J*
 - (2) *Funeral Director and Embalmer – by Endorsement*
 - (a) *Baker, Joshua D*
 - (b) *Carpenter, Katharine W*
 - (c) *Mancil, Kenneth A*
 - (d) *Zink, Eric A*
 - (3) *Funeral Director and Embalmer – by Internship and Exam*
 - (a) *Gill, Christi A*
 - (b) *Lane, Evaughan*
 - (c) *Lee, Linda B*
 - (d) *Mulligan, Elaine D*
 - (e) *Rhea, Stephanie A*
 - (f) *Stevens, Darryl L*

The Division recommends approval of the application(s).

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

8. **Application(s) for Internship**
 - A. *Recommended for Approval without Conditions – Addendum E*
 - (1) *Embalmer*
 - (a) *Flynn, Erica N*
 - (2) *Funeral Director and Embalmer*
 - (a) *Anderson, Jarod D*
 - (b) *Burnett, George K*
 - (c) *Campbell, Donald R*
 - (d) *Lee, David B*

The Division recommends approval of the application(s).

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

9. Application(s) for Embalmer Apprentice

- A. *Recommended for Approval without Conditions – Addendum F*
 - (1) *Erzak Jr, Alfred J*
 - (2) *O'Connor, Tyler*
 - (3) *Simmons, Kelley*

The Division recommends approval of the application(s).

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

10. Application(s) for Registration as a Training Agency

- A. *Recommended for Approval without Conditions – Addendum G*
 - (1) *Funeral Directing*
 - (a) *Hodges-Josberger Funeral Home (F041012) (Marco Island)*
 - (b) *Star of David Funeral Chapel of the Palm Beaches (F041701) (West Palm Beach)*
 - (2) *Funeral Directing and Embalming*
 - (a) *Atlantic Mortuary & Cremation Service Inc (F054400) (Rockledge)*
 - (b) *Knauff Funeral Home (F041279) (Williston)*

The Division recommends approval of the application(s).

The Chair stated that the FDIC of Knauff Funeral Home is listed as Johnny Pons and questioned whether there has been any change since the information was submitted to the Board members.

Ms. Jasmin Richardson stated she was unaware of any changes.

The Chair questioned whether there was anyone on the line representing Knauff Funeral Home. There was a negative response.

Ms. Richardson stated that she could call the Applicant as she did not recall receiving a request for FDIC change.

Ms. Wendy Wiener stated that she has represented Knauff Funeral Home in the past and could try to reach the Licensee's representative to obtain clarification. Ms. Wiener questioned whether there is something that makes The Chair think the information is incorrect.

The Chair suggested moving forward.

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

11. Consumer Protection Trust Fund Claims

- A. *Recommended for Approval without Conditions – Addendum H*

The Division recommends approval of the claim(s).

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

12. Application(s) for Direct Disposal Establishment

- A. *Recommended for Approval with Conditions*

(1) Willis Chandler d/b/a Chandler Cremation Service (Lake Placid)

An application for a Direct Disposal Establishment was received on July 12, 2012. The application was incomplete when submitted. All deficient items were returned on August 1, 2012. The fingerprint cards for all principals were returned with no criminal history. The Funeral Director in Charge will be Willis Chandler, Jr (F050166). The establishment is recommended for approval pending a passed inspection.

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. Ms. Thomas-Dewitt seconded the motion, which passed unanimously.

13. Application(s) for Funeral Establishment

A. Recommended for Approval with Conditions

(1) C.E.J. South, Inc d/b/a Family-Funeral & Cremation (Pensacola)

An application for a Funeral Establishment was received on July 19, 2012. The application was incomplete when submitted. All deficient items were returned on August 8, 2012. The fingerprint cards for all principals were returned with no criminal history. The Funeral Director in Charge will be Jeffrey Watts (F047717). The establishment is recommended for approval pending a passed inspection.

Ms. Lisa Coney, SCI, requested an opportunity to speak to the Board.

The Chair granted the request.

Ms. Coney stated that she was unclear whether this is something that the Board could take action on. I felt compelled to inform the Board that we feel the name that is being filed for this infringes on a trademark that we have owned and consistently used around the United States and in Florida for 16 years. We are filing a Cease and Desist to Mr. Jensen on the name use that is in front of the Board today for approval and will be providing information to the Division, along with, if necessary, filing to the Patent and Trademark office. I did not feel that the Board should consider this application without having that information.

The Chair questioned which part of the name Ms. Coney is referring to.

Ms. Coney responded, "Family-Funeral and Cremation." We own Family Funeral Care, have for 16 years and it operates in Florida. It is my understanding from our attorneys who have reviewed this that it is close enough to be considered infringement.

Ms. Wiener stated that she has represented C.E.J. in the past and questioned whether Mr. Jensen is on the line.

Mr. Chris Jensen, owner of C.E.J. South, responded affirmatively.

Ms. Wiener stated that Mr. Jensen might want to either address this issue to the Board at this time. Or I could suggest that the license be approved and if in fact it appears that there is a problem with the name, we can simply file a change of name form with the Board so that the name can be adjusted as necessary.

The Chair questioned whether Mr. Jensen wishes to address the Board.

Mr. Jensen stated that the name "Family-Funeral and Cremation" is a legally owed d/b/a name in the State of Florida owned by C.E.J. South Inc. I have a letter from the State saying that I own that name. I think my former employment with SCI stirred this up but nevertheless, the name was available and I took it along with the website. I do not know what Ms. Coney is referring to. There are different variations as you can well imagine in our industry. My variation, "Family-Funeral and Cremation" was available in the State of Florida and that is what I chose to use. I have a legally owned d/b/a.

Ms. Coney stated that anyone can file a d/b/a for \$50 but it does not have the legal protection that we may think that infers. With this not having worked its way through a court system, I do not expect that the Board could take action today but I felt

compelled to let the Board know that I think you are approving a name that ultimately will have to be changed. Perhaps not material, there is also a billboard up in that area that says "Coming Soon". I do not know whether preneed was offered but I do know that this is something the Board has ruled against before. I am not sure that the actions of the Division have been consistent on whether or not it is acceptable to advertise a license that does not exist. I do have concerns with the use of the name and announcing that the name is coming when licensure was not yet pending. Again, it is just my responsibility to put it in front of the Board for your consideration.

The Chair disclosed his affiliation with SCI Funeral Services of Florida Inc. and stated it would not affect his ability to remain fair and impartial on the matter.

Mr. Clark Jennings stated that the last statement made by Counsel is absolutely correct. This debate over the name is not something that is pertinent to the Board's current decision. It may be later but is not applicable to today's decision.

MOTION: Mr. Jones 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.

(2) Gallaher Services Inc d/b/a Fort Myers Mortuary Services (Fort Myers)

The Funeral Establishment application was received by the Division on July 2, 2012. The application was incomplete when submitted. All deficient items were returned on July 26, 2012. The fingerprint cards for all principals were returned with no criminal history. The FDIC for the establishment will be John Gallaher (F042170). This entity is not the qualifying entity for any preneed license. 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 the reasoning behind the Division's remark, "This entity is not the qualifying entity for any preneed license."

Mr. Shropshire stated that Staff affirmatively addresses that issue so that if it is the qualifying entity, it reminds us in the Division office that we have to look at what is happening to the preneed business and make sure that the preneed licensee, if there was one and it does not have a qualifying entity anymore, it stops selling preneed.

Mr. Helm questioned whether there is an agreement for refrigeration.

Mr. Shropshire requested a minute while Ms. Richardson reviews the information for verification.

MOTION: Mr. Helm moved to approve the application subject to the condition(s) recommended by the Division staff along with receipt of the agreement for refrigeration services. Ms. Anderson seconded the motion, which passed unanimously.

14. Application(s) for Removal Service

A. Recommended for Approval without Conditions

(1) Reliable Recovery Services of South Florida, LLC (Delray Beach)

An application for a Removal Service was received on August 1, 2012. The application was incomplete when submitted. All deficient items were returned on August 15, 2012. The fingerprint cards for all principals were returned with no criminal history. The establishment passed its inspection on August 17, 2012. The Division is recommending approval without conditions.

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

15. **Application(s) for Change of Ownership (Foundation Partners of Florida LLC)**

A. **Recommended for Approval with Conditions**

(1) **Cinerator Facility**

(a) **Foundation Partners of Florida LLC d/b/a Ocala Crematory (Ocala)**

(2) **Funeral Establishment(s)**

(a) **Foundation Partners of Florida LLC d/b/a Hiers-Baxley Funeral Services (The Villages)**

(b) **Foundation Partners of Florida LLC d/b/a Hiers-Baxley Funeral Services – Belleview Funeral Home (Belleview)**

(c) **Foundation Partners of Florida LLC d/b/a Hiers-Baxley Funeral Services – Chiefland (Chiefland)**

(d) **Foundation Partners of Florida LLC d/b/a Hiers-Baxley Funeral Services – Ocala Chapel (Ocala)**

(e) **Foundation Partners of Florida LLC d/b/a Hiers-Baxley Funeral Services – Timber Ridge (Ocala)**

The enclosed packet of applications was received by the Division on August 9, 2012. The Applicant, Foundation Partners of Florida LLC, is applying for change of ownership of 6 chapter 497 establishments (1 cinerator; and 5 FEs) (1 cemetery is also being acquired but that will be presented under a separate cover sheet herein). The applications were accompanied by the attached letter from Foundation Partners Group LLC, dated 7-19-12, describing the transactions; Foundation Partners of Florida LLC will assume all existing preneed liabilities related to the entities it is acquiring. The representations are material to the Board's decision herein. The applications were incomplete when submitted. All completed items were returned on August 21, 2012. The fingerprint cards for all principals were returned with no criminal history.

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 each establishment passes an on-site inspection by a member of the Division staff.

Mr. Clark disclosed his affiliation with Hiers-Baxley and stated it would affect his ability to render a fair and impartial decision on the matter before the Board. Mr. Clark decided not to participate in discussion or vote in this matter.

MOTION: Ms. Thomas-Dewitt moved to approve the application subject to the condition(s) recommended by the Division staff. Ms. Hubbell seconded the motion, which passed unanimously.

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

(a) **Foundation Partners of Florida, LLC d/b/a Highland Memorial Park Association, Inc (Ocala)**

FPG Florida, LLC d/b/a Foundation Partners of Florida, LLC herein submits an Application for Change of Control of an Existing Cemetery Company for the above named cemetery property from the Highland Memorial Park Association, Inc. The cemetery company being acquired is licensed as Highland Memorial Park Association, Inc., located at: 1515 NE Third St, Ocala FL 34470, currently licensed under number F039463. 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 application was received by the Division on August 9, 2012 and no deficiencies were noted on the application. A completed background check of all officers revealed no criminal history. The change of control will be accomplished via an asset purchase agreement (please see attached), by which Foundation Partners of Florida, LLC will acquire all of the assets and liabilities for the cemetery and preneed from Highland Memorial Park Association, Inc. (Cemetery License number F039643 and Preneed license number F019225). Foundation Partners of Florida, LLC currently holds a preneed license (License number F060727), and has also submitted five (5) applications for preneed branch office locations in conjunction with applications for funeral establishment licenses for these locations, including for the above cemetery location, all of which are also being presented at this teleconference meeting (please refer to Addendum B). If this Application for a Change of Control is approved, the applicant will operate under the parent name of Foundation Partners of Florida LLC doing business under the currently listed cemetery and preneed branch name, as above noted.

The care and maintenance trustee reports (Regions Bank) for CY 2011 are attached. The cemetery reports appear to be in line with the reported gross sales for CY 2011 for the listed property being acquired.

The Applicant's financial statement as of June 30, 2012 reflects the following:

Required Net Worth	= \$ 50,000
Reported Net Worth	= \$983,914

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

- (1) The Board approval of change of control does not include approval of any development plans. If after approval of the change in control the new controlling person intends to develop the cemetery, the new controlling person shall cause development plans to be submitted to the Board for approval prior to implementing same.
- (2) 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.
- (3) 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.
- (4) Receipt by the Division within 75 days of this Board meeting, of a copy of the Asset Purchase Agreement, executed by all parties, and any and all amendments thereto, also fully executed.

Mr. Clark disclosed his affiliation with Hiers-Baxley and stated it would affect his ability to render a fair and impartial decision on the matter before the Board. Mr. Clark decided not to participate in discussion or vote in this matter.

MOTION: Ms. Thomas-Dewitt moved to approve the application subject to the condition(s) recommended by the Division staff. Ms. Hubbell seconded the motion, which passed unanimously.

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

A. Recommended for Approval with Conditions

(1) Preneed Sales Agreement

(a) National Guardian Life Insurance Company (Madison, WI)

National Guardian Life Insurance Company (NGLIC) submits an amended guaranteed services and non-guaranteed merchandise Funeral Agreement (PN-SGS-SER-FL07/12), and a non-guaranteed Prefunded Funeral Agreement (PN-REI-NGSGS-FL04/12) to be used for preneed sales exclusively for licensed preneed establishments. NGLIC is filing this as an amendment to its previously approved preneed funeral agreements. NGLIC is an approved life insurance company that holds a current certificate of authority with the Florida Office of Insurance Regulation (OIR). NGLIC received approval by OIR as of October 2, 1967. The Division is recommending approval with the condition that the Department receives within 60 days two full-sized print-ready copies.

The Chair requested having the Board's name changed from Board of Funeral and Cemetery Services to Board of Funeral, Cemetery and Consumer Services on the contract under "Cancellation."

MOTION: Mr. Jones moved to approve the contract with the condition that the Department receives within 60 days two full-sized print-ready copies along with the change to the Board's name. Mr. Hall seconded the motion, which passed unanimously.

Mr. Jennings questioned whether the Cancellation language is the result of some Rule or statutory provision. In other words, is that language specified somewhere currently that we need to engage in rulemaking. Mr. Jennings questioned whether this is the Division's form or the Licensee's language.

Mr. Shropshire stated that the requirement about refunds upon cancellation is a statutory requirement, but neither the Statute nor the Rule refers to the language about naming the Board. That is the Licensee's language and they have already indicated to the Division that they will change that to reflect the proper name of the Board.

(b) Neptune Management Corp d/b/a Neptune Society Management Corporation (F064863) (Plantation)

Neptune Management Corporation d/b/a Neptune Society (Neptune), has submitted a Preneed Funeral Agreement (NEP-FL-999-PN) to be used solely for the sale of preneed through its preneed licensed establishments and branches. Neptune is filing this as an amendment to its previously approved preneed funeral agreement due to revision. The Division recommends approval with the condition that the Department receives within 60 days two full-sized print-ready copies.

MOTION: Mr. Hall moved to approve the contract with the condition that the Department receives within 60 days two full-sized print-ready copies. Ms. Thomas-Dewitt seconded the motion, which passed unanimously.

17. Trust Agreement(s)

A. Recommended for Approval *without* Conditions

(1) Perpetual Care Master Trust Agreement

(a) Forethought Federal Savings Bank (FFSB) (Batesville, IN)

In accordance with ss. 497.266, Florida Statutes, FFSB submits a Perpetual Care Master Trust Agreement to be utilized by various licensed cemeteries for the trusting of funds as required for the care and maintenance of a cemetery.

MOTION: Mr. Mueller moved to approve the agreement. Mr. Clark seconded the motion, which passed unanimously.

18. Trust Transfer Request(s)

A. Recommended for Approval *with* Conditions

(1) Fisk Funeral Home Acquisition, Inc d/b/a Fisk Funeral Home & Crematory (Kissimmee) (F019437); Funeraria Porta Coeli, Inc. (Kissimmee) (F019206); Osceola Memory Gardens, Inc d/b/a Osceola Memorial Gardens Cemetery, Funeral Home & Crematory (Kissimmee) (F019229)

(a) Transfer of Fisk Funeral Home Acquisition, Inc Preneed Funeral Trust Agreement, Funeraria Porta Coeli, Inc. Preneed Funeral Trust Agreement and Osceola Memory Gardens, Inc Preneed Funeral and Security Trust Master Fund Agreement from US Bank, N.A. to Forethought Federal Savings Bank

The above Licensees, collectively doing business as identified, has appointed FFSB as successor trustee and requests transfer of the above trust accounts currently held by US Bank to FFSB. The transfer includes the accounts for the preneed trust funds for each of the above named and its affiliated preneed branches, which if approved, will operate under the FFSB Florida Preneed Master Trust Agreement.

The Division recommends approval with the condition(s):

- (1) That FFSB 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 FFSB, 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. Helm moved to approve the agreement with the conditions set forth by the Division. Col. Don Stiegman seconded the motion, which passed unanimously.

(2) Osceola Memory Gardens, Inc (Kissimmee) (F039522); Sea Pines Memorial Gardens, Inc d/b/a Sea Pines Memorial Gardens (Edgewater) (F039612); Ponte Vedra Valley, Inc (Ponte Vedra Beach) (F039646)

(a) Transfer of Cemetery Care & Maintenance Trusts from SunTrust Bank, N.A. to Forethought Federal Savings Bank

The above Licensees, collectively doing business as identified, has appointed FFSB as successor trustee and requests transfer of the above trust accounts currently held by SunTrust to FFSB. The transfer includes the accounts for the cemetery care and maintenance trust funds for each of the above named cemeteries that will be transferred to and operate under the FFSB Perpetual Care Master Trust Agreement.

The Division recommends approval with the condition(s):

- (1) That FFSB 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 FFSB, 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.

- (3) *Sea Pines Memorial Gardens, Inc d/b/a Sea Pines Memorial Gardens (Edgewater) (F039612); Ponte Vedra Valley, Inc (Ponte Vedra Beach) (F039646)*
 - (a) *Transfer of Sea Pines Memorial Gardens, Inc Merchandise Trust Agreement and Ponte Vedra Valley, Inc Merchandise and Preneed Trust Agreement from SunTrust Bank, N.A. to Forethought Federal Savings Bank*

The above Licensees, collectively as identified, has appointed FFSB as successor trustee and requests transfer of the above trust accounts currently held by SunTrust to FFSB. The transfer includes the accounts for the merchandise and preneed trust funds for each of the above named, which if approved, will operate under the FFSB Florida PreNeed Master Trust Agreement.

The Division recommends approval with the condition(s):

- (1) That FFSB 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 FFSB, 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. Clark moved to approve the agreement with the conditions set forth by the Division. Ms. Anderson seconded the motion, which passed unanimously.

Ms. Wiener stated that regarding the last three (3) items, all of the trust monies contemplated by the trust agreements are already at Forethought Federal Savings Bank, pursuant to successor trustee appointments, which were provided to the Division. There is a transfer from the old US Bank trust agreement form to the Forethought Federal Savings Bank agreement form. It is appropriate for the Board to approve the transfers, but I just wanted to make sure that the record was accurate as to the transfer of trust funds.

Mr. Shropshire stated that was understood by the Division.

19. Request(s) to Extend Embalmer Apprenticeship License
A. Recommended for Denial
(1) Curry, Jason S

This matter comes before the Board upon a request by Jason Curry for a one year extension of his embalmer apprentice license. The extension would be for a sixth year. This matter is placed upon the September 6, 2012 Board meeting agenda upon the request of Mr. Greg Brudnicki, whose firm employs Mr. Curry.

Jason Curry's application for embalmer apprentice license was received on July 12, 2006. His application appeared on the August 24, 2006 Board meeting agenda and was approved by the Board. Mr. Curry was issued license number F045236. His apprentice license was effective on August 28, 2006. Based on the date the embalmer apprentice license was granted (August 28, 2006), the longest the license could remain in force was five years from issuance, so that the license would and did expire on August 28, 2011.

Section 497.371, Florida Statutes, provides in pertinent part as follows:

An embalmer apprentice shall be eligible to serve in an apprentice capacity for a period not to exceed 3 years as may be determined by licensing authority rule or for a period not to exceed 5 years if the apprentice is enrolled in and attending a course in mortuary science or funeral service education at any mortuary college or funeral service education college or school.

The applicable Rule is 69K-27.001, and reads as follows:

69K-27.001 Embalmer Apprentice Program.

(1) Persons desiring to become an embalmer apprentice shall submit an application for registration to the Board together with a fifty dollar (\$50.00) fee. Such application shall demonstrate that the applicant is at least eighteen (18) years of age, and that he has received a high school diploma or equivalent degree.

(2) An embalmer apprentice may perform only those tasks, functions and duties relating to embalming which are performed at an approved training agency under the direct supervision of a Florida licensed embalmer in good standing who shall certify by quarterly reports the embalmer apprentice activities engaged in by the embalmer apprentice during the preceding calendar quarter.

(3) Funeral establishments which meet the requirements set forth in subsections 69K-18.004(1)-(4), F.A.C., pertaining to intern training agencies are eligible to serve as training agencies for the embalmer apprentice program. Such establishments shall submit applications for approval to the Board.

(4) An embalmer apprentice shall be eligible to serve in an apprentice capacity for a period not to exceed one year or for a period not to exceed three years if the apprentice is enrolled in and attending a course in mortuary science or funeral service education college or school. The time spent as an apprentice may not be applied toward internship training.

(5) If an embalmer apprentice is unable to complete the one-year apprenticeship due to illness or personal injury, he shall be permitted to reregister to complete his apprenticeship.

Specific Authority 497.103, 497.371 FS. Law Implemented 497.371 FS. History—New 8-18-82, Formerly 21J-27.01, Amended 11-15-92, Formerly 21J-27.001, Amended 7-14-99, Formerly 61G8-27.001.

Rule 69K-27.001(4) erroneously states that the embalmer apprenticeship cannot exceed 3 years if the apprentice is attending class; the rule should read five years in that scenario, and the Division reads the rule as if it allows the 5 years specified by s. 497.371.

On or about September 9, 2011, the FCCS Division received from Mr. Curry a new application for embalmer apprentice license. On or about September 26, 2011 the Division's Jasmin Richardson wrote Mr. Curry that his September 2011 application could not be processed, because he had already exceeded the maximum five years in which a person may serve as an embalmer apprentice.

The FCCS Division is very sympathetic to Mr. Curry's situation, and would like to extend his apprenticeship, but s. 497.371 specifies what the Division understands as an absolute 5 year maximum on embalmer apprenticeships, and so that neither the Division nor the Board has discretion to grant the extension.

The Division recommends that the Board deny the request based upon the five (5) year maximum specified in s. 497.371.

The Chair questioned whether there was anyone on the line representing Mr. Curry. There was a negative response.

Mr. Helm requested clarification on whether legally the Board or the Division could grant the request.

Mr. Shropshire stated s. 497.371 states "An embalmer apprentice shall be eligible to serve in an apprentice capacity for a period not to exceed 3 years as may be determined by licensing authority rule or for a period not to exceed 5 years if the apprentice is enrolled in and attending a course in mortuary science or funeral service education..." So, the five years appears to be an absolute maximum that you can serve in an apprentice capacity.

Mr. Helm questioned why the request was presented to the Board if there is nothing that could be done.

Mr. Shropshire stated that even though we are sympathetic, we cannot help him. Mr. Curry has a right to have the Board make a decision and then he has a right if he chooses to appeal that and try to persuade an ALJ or the Court that the Division is wrongly interpreting the statute.

Mr. Jennings concurred. It appears that the Board has absolutely no options. Mr. Curry did have the right to make this request and the Board is obligated to review it and rule accordingly.

MOTION: Mr. Jones moved to deny the request based upon the 5 year maximum specified in s. 497.371. Mr. Hall seconded the motion, which passed unanimously.

20. Request(s) to Renew Temporary Preneed License

A. Recommended for Approval without Conditions

(1) StoneMor Florida Subsidiary, LLC d/b/a Daytona Memorial Park (Daytona Beach)

The Department received a completed application from StoneMor Florida Subsidiary, LLC (hereinafter "StoneMor") for the transfer of an existing preneed license (F038725) from Daytona Memorial Park, Inc. to StoneMor. At the July 2012 Board meeting the Board approved StoneMor to acquire control of Daytona Memorial Park, Inc. cemetery, and said cemetery will be StoneMor's qualifying entity for the preneed license to be transferred to StoneMor.

Section 497.453(4)(b), Florida Statutes, provides in pertinent part as follows: *"The licensing authority may authorize the transfer of a preneed license and establish by rule a fee for the transfer in an amount not to exceed \$500. Upon receipt of an application for transfer, the executive director may grant a temporary preneed license to the proposed transferee, based upon criteria established by the licensing authority by rule, which criteria shall promote the purposes of this chapter in protecting the consumer. Such a temporary preneed license shall expire at the conclusion of the next regular meeting of the board unless renewed by the board."*

In the transfer application, StoneMor requested that it be granted a temporary preneed license. The Board's Executive Director granted the temporary license.

The matter is now before the Board seeking "renewal" of the temporary preneed license through the remainder of the normal licensure period for preneed licenses (that is, through 6-30-2013). In other words, this is the Board's opportunity to review the character and finances of the applicant, StoneMor, to determine if the Board believes that the applicant meets the criteria to hold a preneed license. If the Board answers that question in the affirmative, the Board should "renew" the temporary license. If the Board finds that StoneMor does not meet the requirements to hold a preneed license, the Board should vote to not renew the temporary license.

StoneMor holds another preneed license in its own name, license number F050433. StoneMor has twice been late in filing required papers related to the renewal of that license, and in connection therewith was fined \$1,000 in 2009, and paid \$2,500 in 2010 in relation to the same issue.

The FCCS Division finds that the Applicant qualifies to hold a preneed license, and recommends that the Board renew the temporary license.

If the renewal is approved, the Applicant will continue to operate under the existing approved trust(s) and pre-arranged agreements for the preneed license being transferred to it.

The Division recommends approval of the renewal of the temporary preneed license.

MOTION: Mr. Hall moved to approve the request. Ms. Hubbell seconded the motion, which passed with one (1) vote.

21. Executive Director's Report

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

Monthly Report of Fine and Costs Assessed and Paid
 Division of Funeral, Cemetery and Consumere Services
 September 6, 2012 Board Meeting
 Report Updated as of August 28, 2012

Licensee	Board Meeting	Case No.	Total Fine & Cost Due	Date Due	Paid in Full?	Comments
			\$2,500	2/2/2012	YES	
Deliria Holmes	Dec-11	105280-09-FC	\$2,500	7/3/2012	YES	
Alliance Monument & Marble Co.	Apr-12	122927-12-FC	\$2,750	6/22/2012	NO; See Note A	
Wilson-Wolfe, Inc. dba Sweet Dreams Memorials	Apr-12	118247-11-FC	\$500	6/17/2012	YES	
David Comoletti	Jun-12	114204-11-FC	\$2,500	8/13/2012	YES	
Barbara Ann Falowski	Jun-12	114204-12-FC	\$1,000	8/20/2012	YES	
Barbara Falowski Funeral & Cremation	Jun-12	122487-12-FC	\$1,000	8/20/2012	YES	
Stanley Gunter-Butler	Jun-12	117958-11-FC	\$2,750	8/20/2012	NO; See Note A	\$500 partial pymnt
Kimberly White	Jun-12	120943-11-FC	\$5,250	8/20/2012	NO; See Note A	
Wright & Young Funeral Home, Inc.	Jun-12	120941-11-FC	\$5,250	8/20/2012	YES	
Wright & Young Funeral Home, Inc.	Jun-12	120944-11-FC	\$2,750	8/20/2012	YES	
Cemetery Professionals, LLC dba Beaches Memorial Gardens and Cemetery Professionals, LLC fba Beaches Memorial Park	Jun-12	110156-10-FC & 110157-10-FC	\$5,250 \$5,000 38,859.57	9/6/2012 11/7/2012 35 mo pymts	YES See Note D See Comments	First restitution payment made but incorrectly made payable to Dept Riverview; returned to licensee to make payment directly to Riverview per order.
NOTES:						
A. When payment becomes past due, the FCCS Division works with the DFS Legal Division to enforce payment.						<i>afm</i> 8-28-12 Sept Bd Mtg
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 has not passed, as of the date of this report.						

Mr. Hall questioned whether the Department automatically starts action against the license for the ones with "No, See Note A."

Mr. Anthony Miller responded, "Yes." It does become an open investigation so we cannot give any details.

The Chair stated that the Board members should have received information from LaTonya Bryant regarding scheduling for next year's meetings. We have already begun to work on those, so if you have any preferences on where we are to meet, please let LaTonya know.

22. Adjournment

The meeting was adjourned at 10:43 a.m.