

**MINUTES**  
**BOARD OF FUNERAL, CEMETERY AND CONSUMER SERVICES**  
**October 3, 2013 - 10:00 A.M.**  
**DoubleTree by Hilton Tampa Airport Westshore**  
**4500 West Cypress Street**  
**Tampa, FL 33607**

**1. Call to Order, Preliminary Remarks and Roll Call**

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

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

My name is Doug Shropshire. I am Director of the Division of Funeral, Cemetery, and Consumer Services. Today is October 3, 2013; the time is approximately 10:00am. This is a public meeting of the Board of Funeral, Cemetery and Consumer Services. Notice of this meeting has been duly published in the Florida Administrative Register. An agenda for this meeting has been made available to interested persons. The meeting is occurring at the DoubleTree by Hilton Hotel in Tampa FL. My Assistant, Ms LaTonya Bryant, is recording the meeting and will be preparing minutes of the meeting.

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

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

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

Mr. Shropshire advised the Chair that there was a quorum present and the Board may proceed to address the matters on the agenda.

**Also noted as present:**

Clark Jennings, Board Legal Advisor  
Anthony Miller, Assistant Director  
LaTonya Bryant, Department Staff  
Linje Rivers, Department Counsel  
Jasmin Richardson, Department Staff  
Thurman Lowe, Department Field Staff  
Kurt Schuller, Department Field Staff  
Chris McMurray, Department Field Staff  
Suzie Helms, Department Field Staff  
Tim Wheaton, Department Field Staff

The Chair confirmed that the Board members had received their packets in a timely manner.

**2. Action on the Minutes**  
**A. September 5, 2013**

The Chair confirmed that all Board members had read the draft of the minutes of the previous Board meetings held on September 5, 2013.

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

**3. Disciplinary Proceedings**

**A. Settlement Stipulation(s)**

**(1) *Flagler Palms Cemetery, LLC (F019207): Case No. 133742-13-FC, Division #ATN-17862 (Waiver of Probable Cause)***

Mr. Rivers stated that on April 10, 2013, the Department conducted a preneed examination of Respondent's preneed records and found that Respondent failed to make timely deposits sufficient to offset its Preneed Trust Fund liabilities pursuant to s. 497.458, F.S. and Rules 69K-7.007 and 69K-7.017, FAC.

On September 10, 2013, Patricia Babione notarized the signature of Brian Veccia on the Waiver of Finding Probable Cause and Waiver of Confidentiality. Pursuant to the executed Waiver of Finding Probable Cause and Waiver of Confidentiality, Respondent has voluntarily waived a finding of probable cause to formally charge a violation of Chapter 497, F.S., in this matter and admits probable cause exists for the Department to formally allege that Respondent failed to make timely deposits to sufficiently offset the Preneed Trust Fund liabilities in violation of Section 497.458, F.S. and Rules 69K-7.007 and 69K-7.017, FAC., as alleged in the Division's investigation file and maintained in Division record ATN-17862, for resolution at the time the Consent Order is accepted in this case, pursuant to Section 497.153(4)(c), F.S.

On September 11, 2013, the Respondent and the Department entered into a Settlement Stipulation for resolution of this matter. The terms of the Settlement Stipulation require the Respondent to pay an administrative fine of \$2,500, costs of \$250 and the Respondent's Preneed Main License (37-00) will be placed on probation for a period of two (2) years with the specific condition that Respondent shall timely deposit sufficient funds into the preneed trust accounts for Respondent to offset preneed trust fund liabilities. Respondent's failure to timely comply with the terms and conditions of the Board's Final Order shall be grounds for emergency suspension of all licensure held by the Respondent.

Mr. Shropshire stated it was his understanding that the exam report initially indicated a deficit of \$240,251, but that upon presentation of that exam report to the Licensee, the Licensee provided supplemental materials and subsequently satisfied the Examiner that the deficit was in fact in the range of \$17,000 and that deficit has been corrected. Mr. Shropshire questioned whether that was Mr. Rivers' understanding as well.

Mr. Rivers concurred. The Division staff, as well as the Division of Legal Services, worked with the Licensee to determine the actual liability and Respondent has in fact paid the liability.

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

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

**(2) *Tony Tanner Funeral Services, Inc. (F054862): Case No. 128096-12-FC, Division # ATN-18890 (Probable Cause Panel B)***

Ms. Jean Anderson recused herself, as she served on Probable Cause Panel B.

Mr. Rivers stated that the Department conducted an investigation of Respondent's activities in the death care industry. As a result of the investigation, it was determined that the Respondent funeral establishment stored a decomposing human body on the funeral home premises for a period of at least two months. These allegations constitute a violation of Sections 497.152(1)(a) and (b); and 497.386, Florida Statutes. The FDIC of the Respondent funeral establishment, Jesse Burns, has already surrendered his licenses in a previous action unrelated to the instant case.

The Department recommends approval of the Settlement Stipulation suspending Respondent's licenses for one (1) year and requiring payment of a \$2,750.00 administrative fine.

The Chair added that a part of the Settlement Stipulation calls for an appearance before the Board, inspection and approval.

Mr. Rivers concurred.

**MOTION:** Ms. Thomas-Dewitt moved to approve the Settlement Stipulation as recommended by the Department. Mr. Andrew Clark seconded the motion, which passed unanimously.

***B. Material Facts Not Disputed (Section 120.57(2) Hearings)***

***(1) Collins, Jenifer (F059726): Case No. 134397-13-FC, Division #ATN-20490 (Probable Cause Panel A)***

Mr. Shropshire questioned whether the Respondent was incarcerated.

Mr. Linje Rivers concurred. Jenifer Collins' license as a Preneed Sales Agent in the State of Florida is currently under suspension pursuant to an Immediate Final Order filed by the Department on May 15, 2013. The Immediate Final Order was based on a criminal conviction of Jenifer Collins.

On or about April 5, 2013, the Department received notification from the Comprehensive Case Information System of the Florida Association of Court Clerks and Comptrollers, Inc., that Jennifer Ann Collins was adjudicated guilty in Hillsborough County, Florida, of the crime of Trafficking in Illegal Drugs, a first-degree felony, in violation of Section 893.135(1)(c)1.a., Florida Statutes, in Case Number 10-CF-007735. Ms. Collins is currently serving her sentence of 21.6 months of imprisonment. Based on comparison of Social Security Numbers, the Department determined that Licensee Jenifer Collins and Jennifer Ann Collins, who was convicted in the above referenced case is the same person.

Section 893.11, F.S., requires state agencies that issue licenses to immediately suspend the license of any person who is convicted of drug trafficking. The Department did so by way of the Immediate Final Order filed May 15, 2013. It is a violation of s. 497.152(2), F.S., when any Licensee under Chapter 497, F.S., the "Florida Funeral, Cemetery and Consumer Services Act," is convicted of a crime that relates to the practice of, or the ability to practice, a Licensee's profession or occupation under this chapter. On May 22, 2013, a Probable Cause Panel of the Board found that there was probable cause for the Department to file an Administrative Complaint against the Licensee based on her conviction. The Administrative Complaint was served on the Licensee on June 10, 2013.

Jenifer Collins timely filed an Election of Proceeding form on June 26, 2013. Ms. Collins checked the box that states: "I do not dispute any of the Department's factual allegations and I do not desire a hearing." Therefore it is appropriate at this time for time for the Board to make a motion adopting the allegations of the material facts as set forth in the Administrative Complaint.

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

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

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

Mr. Rivers stated, as to penalty, the Department respectfully requests revocation of the Licensee's license.

**MOTION:** Mr. Hall moved for a penalty of revocation. Ms. Thomas-Dewitt seconded the motion, which passed unanimously.

***(2) Work & Son Related Cases (Probable Cause Panel B)***

- (a) *Work & Son-Sarasota Memorial, Inc. d/b/a Sarasota Memorial Park (F039746): Case Nos. 123568-12-FC, 124590-12-FC, 129488-12-FC, 129904-12-FC, 130906-12-FC; Division Nos. ATN-17270, ATN-17015, ATN-17049, ATN-17065, ATN-17090, ATN-17091, ATN-18883, ATN-19301, ATN-19638*
- (b) *Work & Son-Royal Palm Acquisition, Inc. d/b/a Royal Palm Cemetery (South) (F039669): Case Nos. 124589-12-FC, 129910-12-FC, 130918-12-FC; Division Nos. ATN-17795, ATN-17796, ATN-19417, ATN-19610*
- (c) *Work & Son-Osiris, Inc. d/b/a Royal Palm Cemetery (North) (F039668): Case Nos. 124486-12-FC, 129489-12-FC, 130917-12-FC; Division Nos. ATN-18944, ATN-18945, ATN-19609*
- (d) *Bradenton Funeral Home (F041688): Case Nos. 129510-12-FC, 129906-12-FC, 130912-12-FC, 130915-12-FC; Division Nos. ATN-18492, ATN-18948, ATN-19738, ATN-19568*

Mr. Shropshire stated that this is Part 1 of a disciplinary case against three (3) cemeteries and one (1) funeral home owned by the Work & Son Group, specifically Sarasota Memorial Park Cemetery, Royal Palm North Cemetery, Royal Palm South Cemetery and Bradenton Funeral Home. The case is coming before the Board as a Section 120.57(2) Hearing. The facts alleged have been admitted. The Respondents were charged with not correcting certain problems, mostly concerning the appearance of the cemeteries, within sixty (60) days of a prior Order of the Board. Mr. Shropshire stated that as he understands the matter, the Respondents acknowledged that they did not correct the problems within sixty (60) days and so they admit the charges but they assert that they have subsequent to the sixty (60) days substantially corrected the problems. The case will be presented in two (2) parts: Part 1 will occur today at this meeting; Part 2 is being scheduled to occur at the December Board meeting. The Board will not vote on an outcome today. The reason the matter has been divided into two (2) parts is to facilitate the consumer complainants in addressing the Board. The complainants live in the Greater Tampa Bay area and here we are meeting as we do once a year in the Greater Tampa Bay area, so for the convenience of the complainants, we wanted to at least present Part 1 of the case before the Board today so that the consumers could address the Board without having to incur the expense and inconvenience of traveling to a Board meeting in Tallahassee or some other city. However, the Division has several care and maintenance and preneed examinations of these same cemeteries underway and almost finished. We expect to have them in a posture to present to the Board at the December meeting. We do not want the Board to make decisions piecemeal knowing only part of the picture. We want to get all of the facts before the Board before it makes its decision. The examinations will likely provide significant additional information that the Board should have before it makes a decision in this matter. This matter has thus been divided into two (2) sessions and today we will hear from the consumers. Counsel for the Department and Respondents will also address the Board to some extent today. Mr. Shropshire asked the Department's Attorney, Mr. Linje Rivers, to introduce the case for this Department and to bring forth the consumers to address the Board.

Mr. Rivers stated that the consumers that have complained against one of the Licensee's establishments, the cemetery license for Sarasota Memorial, are indeed here and they would like to speak to give the Board a little background of what their grievances are and what their complaint is and how it has not been answered.

The Chair confirmed that counsel for the Respondent and the Respondent was present.

Mr. Rivers added that the complainants have provided demonstrative exhibits for the Board to review in a 3-ring binder.

Mr. Shropshire requested that the exhibits first be given to Counsel for the Board for review.

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

Ms. Sue Norris responded, "Yes I do."

Mr. Shropshire questioned of the Legal Advisor whether it was appropriate for the Board to review the demonstrative exhibits.

Mr. Clark Jennings responded, "It is." For the record, Mr. Jennings questioned the genesis of these exhibits that have just been submitted.

Mr. Rivers stated that the pictures were taken over the course of two (2) years, as to the conditions of Sarasota Memorial.

Mr. Jennings questioned who took the photos.

Mr. Rivers responded that Ms. Norris took the photos.

Ms. Norris concurred.

Mr. Jennings questioned whether Counsel for Mr. Work was provided copies of the exhibits.

Mr. Rivers responded "Yes."

Mr. Jennings requested that Counsel for Mr. Work identify herself for the record.

Ms. Wendy Wiener stated that she represents Mr. Work, principal of the four (4) Licensees that are the subject of this informal administrative hearing.

Mr. Jennings questioned whether Ms. Wiener has any objections to the submission of the items.

Ms. Wiener responded, "No, only to the extent that they may contain duplicative material to other material the Board already has in its possession."

Mr. Shropshire questioned whether it would be appropriate to wait briefly to allow the Board members time to review the material before the witness speaks.

The Chair stated that he would like for the Board to have the opportunity to review the material first.

Ms. Norris questioned whether she could explain what the Board is looking at in the photos.

Mr. Shropshire stated that Ms. Norris could do that now or she could wait until all of the Board members have briefly reviewed them.

A brief delay occurred to allow the Board to review the materials.

Ms. Norris stated that in the beginning of the 3-ring binder, the Board will see pictures of two (2) different years, the dates of each picture. Then in the very back are pictures that were just taken this past Tuesday.

Mr. Rivers stated that the complaints are limited to Sarasota Memorial cemetery.

Mr. Shropshire indicated that the Board members had completed their review of the material.

Ms. Norris stated that when her family was choosing a place for their deceased loved ones, it was based on location, condition and appearance. "I also know that my mother, who is seventy-five (75) years old now, knows that this is a place where her remains are going to be placed. When we started actually mentioning to the cemetery, in 2010, our concerns about the conditions, we did not feel that they were taken seriously. So that is why in 2011 our family sent in written complaints to the Division of Funeral, Cemetery and Consumer Services. It was shortly after that we got acknowledgement that our complaint had been received and would be addressed. It has taken two (2) years to get to this point. I have documented, in those photographs, whatever improvements or possible deterioration in the cemetery that has occurred. After our deposition on August 27<sup>th</sup>, we noticed an effort to improve the conditions at the cemetery. If you also look at the pictures from October 1, 2013, just two (2) days ago, yes, there has been sod placed but only in the area of my loved ones. We are not the only ones there. There are thousands of people there and conditions throughout the cemetery in other areas have not improved. I think that he is not taking this seriously. I mean, I just think that it is too little too late. I also know that it was the grounds crew of the cemetery that had placed some plants next to my father's memorial bench. It was also that grounds crew that placed some stepping stones. After the complaint was brought to light, they took the plants out. I feel that was in retaliation. Plants in

other areas next to other benches are still there. Their attempt at sod the first time did not work. They placed, I would say, a strip of sod around the bench. That sod had died. In one of the pictures, in the very back of the book, you will see where they have placed some around a tree. Today that dead sod still lays there. It hasn't moved and if I was to sit on my father's memorial bench overlooking my grandparent's grave, yes, I would see a nicely sodded area, if I only look ten (10) feet. If I look beyond that it is a disgrace. There are three (3) generations that visit my father's and my grandparent's gravesites. I know those other people in the cemetery, if they are lucky, have someone in the city or in Sarasota that can visit, or even if they are lucky, have family members still alive that can visit. But I guess I take after my father and when I feel passionate about something I continue to press forward and try to find the answers to get things resolved. I just ask that you really examine those pictures and see that it is not that what they did was just for us and that is not what I am asking. Thank you."

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

Ms. Michelle Hart, daughter of Sue Norris and granddaughter, responded, "I do. I just wanted to kind of get up here and say a couple of things as well. I have not been following it along quite as closely as like my mother has but I did put in a complaint back when they all did. I have been out there numerous times to see the improvements that they are calling improvements. The improvements are just temporary. Like my mother had said, they had put sod out there, it died; it formed ant piles. Just sod thrown here and there is not going to grow. It is temporary. It is a temporary fix. That is not fair for the people that are buried there. It is not peaceful to go to. It is not beautiful. It is not enjoyable to go out there to. The one time I had went out there and my mom had gone out there two (2) days ago and she said that there was bug pellets out and stuff. But the one time I had went out there, I stepped out of my car about five (5) feet and had ants covering my feet. How can you go out there and visit a loved one when that is happening? I did not go out there the past couple of days but I had seen pictures of what they had done and like I said, that is a temporary fix. That sod is not going to grow. It is going to die just like the other sod has. It is going to form ant piles as well. So I just feel like their fixes are temporary. It is not for the long run and it is only for us, not for the others that are out there."

The Chair questioned whether there were any other consumers present who would like to address the Board. There was a negative response.

Ms. Wiener, representing the Respondents in the subject Administrative Complaint, stated that for clarification of the record, she would like to make a couple of statements and then she would present some testimony of Mr. Work. The testimony that we will present this morning will be limited to responding to these particular consumers' allegations and statements. We would reserve the right, because this process has not been concluded, to present additional material prior to or at the December Board meeting, as would be appropriate in a 120.57(2) Hearing. In addition, I just also wanted to state an objection to some of the photographs that are in the exhibit that is provided because they do not speak in a representative way to the entirety of the cemetery. Mr. Work is going to address not only what he has done to address the concerns of these complainants but also what he has done to address the overall appearance of the cemetery.

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

Mr. Clifford Frank Work responded, "I do."

Ms. Wiener requested that Mr. Work address for the Board the efforts he has made to address the particular area in which the complainants' loved ones are interred.

Mr. Work stated that Devotion M and Peace L3 are the sections to where the grass is patchy. When I took over the cemeteries in 2002 out of the Loewen bankruptcy, it was really bad and all browned out. We fixed the irrigation. Mr. Work displayed a photo showing what it looked like in 2001, 2002.

Ms. Wiener stated that she had the photos on a CD and also on a flash drive if anyone would like to view them on their computer and then we will also leave these with the Board.

Ms. Wiener asked Mr. Work, while pointing at a photo, whether that was particular area where the complainants' loved ones were interred.

Mr. Shropshire questioned whether the exhibits being presented by the Respondent should be marked for the record.

Mr. Jennings concurred and questioned whether Ms. Wiener would like the exhibits marked as a composite exhibit or individually.

Ms. Wiener stated that she would just mark them as a composite exhibit at the conclusion of Mr. Work's testimony unless the Board would rather they be marked individually.

Mr. Shropshire stated that the exhibits should probably be marked now so that the record is clear, as Mr. Work would probably be commenting on some of them.

Mr. Jennings questioned whether Mr. Rivers has seen these photographs.

Ms. Wiener stated that they are among the ones selected from the ones that were provided to Mr. Rivers in December. Ms. Wiener invited Mr. Rivers to come over to verify this. Ms. Wiener suggested marking the photographs from 2001 as Respondent's Composite Exhibit A; two (2) photographs from this past summer as Respondent's Composite Exhibit B; and two (2) photographs from Monday as Respondent's Composite Exhibit C.

Mr. Shropshire requested a brief break to allow the Court Reporter time to mark the exhibits. The Court Reporter marked the exhibits.

Ms. Wiener questioned whether the Board would like for her to pass the exhibits around before Mr. Work continues.

Mr. Shropshire stated that was Ms. Wiener's call.

The Chair concurred but stated that perhaps so that there is no confusion Ms. Wiener could speak to each exhibit as she holds them before the Board for viewing then pass them around.

Ms. Wiener agreed.

Mr. Jennings questioned whether Mr. Rivers had any objection to the submission of the items been marked.

Mr. Rivers responded that the Department has no objection to Respondent's Composite Exhibits A, B and C. The witnesses were also given the opportunity to review the exhibits. Ms. Norris came forward and reviewed the exhibits.

Mr. Helm questioned whether Ms. Norris' deposition was taken August 27<sup>th</sup> of this year.

Ms. Norris responded that it was.

Ms. Wiener requested that Mr. Work address each of the photographs for the Board members and also identify for the Board members whether these photographs have been, to your knowledge, touched up or changed in any way to make this cemetery appear different than it would otherwise have appeared via the photograph.

Mr. Work stated there was no digital artwork on the photographs and advised that he has the negatives if the Board would like to have them to print their own pictures. This is how the cemetery looked in 2001 (Respondent's Composite Exhibit A). This is the section where the complainants' property lies. That is her bench back there between the trees. You can see where the grass is very sparse and brown.

The Chair questioned the date of the photograph.

Mr. Work stated that would have been the same time. They were taken May 22, 2001.

Ms. Wiener stated that Mr. Work's testimony right now is regarding efforts that have been made to get the grass to grow in this particular area of the cemetery and then later we will talk about other areas of the cemetery. Ms. Wiener requested that Mr. Work show the Board these two (2) photographs (Referring to Respondent's Composite Exhibit B) and talk about the efforts that were being made and why you were making these particular efforts to have grass in this particular cemetery.

Mr. Work stated that this is the result of lots of sowing of the ground with seeding and sowing of the ground. This is the same area.

The Chair questioned the date of the photograph.

Mr. Work stated that this would have been right prior to the deposition.

Ms. Wiener responded, "We would represent to you that it was from July or August 2013, summer. Ms. Wiener questioned why Mr. Work made a determination to sow and seed the ground and whether he was given that instruction by someone.

Mr. Work stated that there was a telephone meeting with the Division on his progress of getting the grass to grow to satisfy the complainants. They requested me to hire a landscape company to get a soil analysis, basically to get a game plan from a professional. We did and this is the result of following their recommendations. They said it would take anywhere from two (2) to (3) years to get the soil back the way it should look because it is very sandy and under a lot of shade trees. This was approximately eighteen (18) months, with 200 pounds of grass seed and watering, the grass is starting to pop back up.

Ms. Wiener questioned why the grass in this photograph is so high.

Mr. Work stated that the grass is high because they also recommended that to promote the root growth, let the grass grow even higher before we cut it and to raise our mowing up higher than where we were cutting so that we would not damage the grass so much; do not mow so low, mow a little higher and mow in different directions.

Ms. Wiener requested that Mr. Work address the second portion of Respondent's Composite Exhibit B.

Mr. Work stated that this photograph was taken at the same time. This is the complainants' bench.

Ms. Wiener stated that she noticed there are rocks around the bench, but there are no pavers and plants around the bench. Ms. Wiener requested that Mr. Work address why those were removed.

Mr. Work stated that when he came down to Sarasota to look at the progress of the grass, he noticed that there were pavers and plants down. Mr. Work stated that he asked Mr. Ben Nelson, his supervisor, who put those down. Mr. Nelson stated that they had put the pavers and plants down. Mr. Work advised that this was against the bylaws so they would need to be removed and Mr. Nelson did. Mr. Work added that it is not just the complainant's property. Staff was advised that all pavers had to be removed because it is dangerous and against the bylaws. After the pavers were removed, the family put down rock chips.

Ms. Wiener questioned why the rock chips were removed.

Mr. Work stated that it was against the bylaws and a hazard to the employees, the consumers and people visiting. This photo shows that the grass is taking around this area.

Ms. Wiener handed Mr. Work Respondent's Composite Exhibit C and provided Respondent's Composite Exhibit B to the Board members.

Mr. Work stated that these photos were taken Monday. He also noted that, "about a month ago I went down to Sarasota again and looked at how the grass was coming up. There were still some patchy areas, so I told Ben Nelson to go ahead and order in a bunch of sod and sod the sections and any patchy areas, since we were getting so much publicity and complaints about this



one little area. We put about five (5) pallets of sod down in front of the mausoleum around the complainants' area well into Peace L3."

Ms. Wiener questioned whether Mr. Work applied sod to any other areas of the cemetery and about how much sod was purchased in total.

Mr. Work answered, "Yes." We did two (2) pallets before this in patching to try and transplant to get the grass to start taking St Augustine sod and then we had ten (10) in total. This was five (5) on her sections and we did five (5) additional in other sections where there was some patchiness, to get the grass to transplant a little faster than the seed does. Mr. Work stated that he went down on Monday and took these pictures (Respondent's Composite Exhibit C). This is her bench.

Ms. Wiener questioned whether the grass continues to appear to be thriving at this time.

Mr. Work answered, "Yes." The sod is nice. It has been down for about a month. I noticed that the grass seed of all of the hundreds of pounds that we did put down is finally starting to take because we I was down there and I noticed some patchiness, there is no more patchiness. The whole section is starting to fill in really nice.

Mr. Shropshire questioned what species of grass Mr. Work was putting down.

Mr. Work responded it was St. Augustine. Mr. Work added that before that they tried some Bahia but the St. Augustine seems to work a little better, especially in that shady area. It is really starting to take off now and just as the landscaper said, two (2) to three (3) years and we are pretty much at the two (2) year mark of after all the sowing as he recommended, plus heavy watering, although we have not needed the water, we do have fully functioning irrigation there and then every two (2) to (3) months we go back and repeat the process.

Ms. Wiener questioned whether Mr. Work has made an effort to keep down the ant population on the property.

Mr. Work responded, "Yes." Everyone knows about fire ants, but when our guys are out weed eating on the ATVs, they always have the Ortho fire ant killer, which is the granules because there is nothing you can immediately kill fire ants with. You have to use the granules to kill the mounds. That is an everyday occurrence. Whenever they are out weed eating and they see a mound, they put granules out. Half of them die out, but some of them live and they go somewhere else and build another mound.

Ms. Wiener questioned whether the grounds crew is on property when the cemetery is open.

Mr. Work responded that they are, except on Saturdays and Sundays, depending on the burials.

Ms. Wiener questioned whether the office manager at Sarasota Memorial carries with her ant killer to make sure that if she sees any ant mounds she can treat them.

Mr. Work stated that the office manager has a bottle of ant killer on her golf cart so whenever she is out showing the property, she squirts a little on there.

Ms. Thomas-Dewitt questioned the reason Mr. Work initially sowed seed versus sod.

Mr. Work stated that when he had the telephone meeting with the Division, the Division requested he get a professional landscaper. The landscaper took pictures, did a soil analysis and made the recommendation to get the section to start thriving again, even though it was a hundred times better than what I had in 2001 but try and get it up to try to satisfy the complainants.

Ms. Thomas-Dewitt questioned whether the landscaper advised the process would take two (2) years.

Mr. Work stated that two (2) to three (3) years is what was stated in the report and we are at the two (2) year mark right now.

Ms. Thomas-Dewitt questioned whether Mr. Work gave any consideration to putting sod down initially.

Mr. Work responded, "No, we had always just seeded."

Ms. Wiener stated that included in the Board packet was a memorandum from her and the turf report from the turf specialist is included there.

Mr. Work stated that they put the sod down over the seed which was already starting to take to try to satisfy the complainants.

Ms. Thomas-Dewitt questioned whether it was the landscaper's recommendation that Mr. Work use St. Augustine versus Zoysia, Bahia or some other type of grass.

Mr. Work responded that he was unsure, but he does believe the recommendation was for St. Augustine.

Ms. Wiener stated that she had no other additional testimony to present relevant to the complainants' comments at this time. As I said, we do reserve the right to provide additional testimony or other evidence as to mitigating factors at or before the December Board meeting.

Mr. Helm questioned the type of seed that was sowed.

Mr. Work stated that he believes it was St. Augustine also.

Mr. Hall stated that the sodding would have fixed the problem quicker than the seeding and questioned whether that is relevant to the fact of the funds from the Care and Maintenance that were available that was addressed in the packet.

Mr. Work stated that seed is cheaper than sod. We do have a trust fund that is tied up, \$1.3 million is tied up in life insurance and the perpetual care fund of which it costs me money and I get no money on it. So, pretty much everything we have done is out of pocket.

Ms. Wiener questioned whether Mr. Work has an idea of what it costs to maintain Sarasota Memorial Park on an annual basis.

Mr. Work stated that it costs anywhere from \$350,000 to \$400,000 a year.

Ms. Wiener questioned whether Mr. Work receives any care and maintenance trust funds for that.

Mr. Work stated that it is probably less than \$5000.

Ms. Wiener stated that to the extent that there are Care and Maintenance Trust Funds that are held in cash and not in life insurance assets, any earnings from those are actually eaten up by the fees and expenses associated with maintaining the life insurance related assets. We have, just since this morning actually received some additional information on the trust funds and will provide some supplemental material to the Board on that before the December meeting. Suffice it to say, Mr. Work stands by his statement that he receives little or no care and maintenance earnings which is how cemeteries generally maintain themselves.

Mr. Hall stated that Mr. Work's family purchased the cemeteries through a bankruptcy but in the minutes of a previous meeting, Counsel stated that the Respondent did not request final audit from the Division to check the cemetery. Obviously there was not a due diligence done on those trust funds to make sure you had money to care for this and that it was in an insurance format. Mr. Hall stated that in that format of that insurance that Mr. Work advises he cannot draw money from and questioned whether Mr. Work has done anything with a company to try and access those clients and find them to either file a cash surrender value on the policies or a death claim.

Ms. Wiener stated that Mr. Work will speak to the due diligence. The due diligence was conducted. In fact, Mr. Work recalls that the representation regarding the Care and Maintenance Trust Funds was that they were invested in something called a "Heritage Fund." The perspective owners at the time, Work & Son, intended to transfer the trust funds from the existing

trustee to a new trustee so they really were not focused on what those investments were because as the Board members that are in the Industry know assets, when they are transferred from a trustee to a trustee generally go in cash. So they expected whatever investments were held in the Care and Maintenance Trust Fund to be cashed to be transferred to their new trustee. It was discovered post-closing that the Heritage Fund was a reference to Heritage Life Insurance Company life insurance policies. Mr. Work will speak to the inability to actually obtain records regarding those and what he has learned about that. The trouble with the cash surrender value is that, as Mr. Hall certainly knows as an insurance professional and some of you probably know, \$1.3 million of life insurance policies has a cash surrender value of but a small percentage of that death benefit face value. It has been a choice that the Licensee has not been willing to make at this point to go from the potential of an ability to find the death benefit on the \$1.3 million so as to have the benefit of those trust funds to instead cash that and start with maybe a Care and Maintenance Fund of about \$300,000 which would be the cash there. You might say to yourself well at least that would spin off some earnings versus spinning off no earnings. Perhaps in the future Mr. Work will make that choice but for now we have been continuing to try and chase down the life insurance policies.

Mr. Work stated that it is a bitter pill to swallow. We have talked with FSI about possibly cashing those out too.

Ms. Wiener requested that Mr. Work talk about why he has not been able to find the insureds to claim death benefits from.

Mr. Work stated that he believes it was Starr Walbridge who did this whole investment back prior to the Alderwoods acquisition from Walbridge. He would write one (1) life insurance policy and he would take five (5) individuals of \$1000 on each and get one (1) life insurance policy and invest that into the Perpetual Care. Those five (5) individuals are not lot owners. Some were, the majority are not lot owners. We do not know who they are. We have tried with Heritage. My attorney in St Louis who helped me with the acquisition, Meiko with FSI and Ms. Wiener have talked with the insurance requesting a listing and other stuff. The last thing we got was "Well, all the records were destroyed when the World Trade Center collapsed on 9/11." We are still trying to dig deeper and deeper to get a master list with social security numbers to find out who these people are before we arbitrarily swallow that pill of a \$1 million loss for the Perpetual Care. So I am just fighting along and hoping but one day we may have to.

Mr. Hall questioned whether Mr. Work received a list at closing in reference to who the people were.

Mr. Work responded, "No." It took us five (5) –six (6) years to get almost any information. The Alderwoods Group purged all of the computers the day I came in. They wiped out all of the preneed information. We ended up going into a binding arbitration agreement that lasted about five (5) or six (6) years to even get that data back, so we have been operating with our hands behind our back.

Mr. Clark stated that in part of the Turf Report, the company recommended completing soil analysis prior to fertilization. Mr. Clark questioned whether that was completed.

Mr. Work stated that the soil analysis was completed by the owner of the company.

Mr. Rivers cross-examined Mr. Work.

Mr. Rivers questioned whether Mr. Work was the one who entered into the settlement agreement.

Mr. Work concurred.

Mr. Rivers questioned whether Mr. Work agreed to place grass within sixty (60) days of the execution of that Consent Order.

Mr. Work concurred.

Mr. Rivers questioned whether Mr. Work's attorney reviewed the Settlement Stipulation with him.

Mr. Work concurred.

Mr. Rivers questioned whether Mr. Work's attorney confirmed that Mr. Work would have no problem placing grass within sixty (60) days.

Mr. Work concurred.

Mr. Rivers questioned when the pictures were taken (Respondent's Composite Exhibit C).

Mr. Work responded, "Monday."

Mr. Rivers questioned when the grass was placed.

Ms. Wiener objected. Placing grass and placing sod are not necessarily one in the same. To the extent that the argument is that Mr. Work was supposed to sod the entire acreage of cemetery within sixty (60) days. We would dispute that that was the agreement that was entered into.

Mr. Rivers stated that there is a difference between grass and seed. Grass is grass, seed is a seed. Mr. Work failed to place the grass within the sixty (60) days.

Mr. Work stated that after the sixty (60) days he had the teleconference with the Division and they raised no concerns about the grass growing.

Mr. Rivers questioned the acreage of the cemetery.

Mr. Work responded that the cemetery is thirty-six (36) acres.

Mr. Rivers questioned whether the section in the photo was less than one (1) acre of the cemetery.

Mr. Work stated that Mr. Rivers' assumption of the section in question is probably fair. Mr. Work stated that sod was placed all in Peace L3 and Devotion M.

Mr. Rivers questioned whether Mr. Work had photos showing this.

Mr. Work responded that he did not as it was not in the complainants' section.

Mr. Rivers requested that Ms. Norris come forward to offer some supplemental testimony. Mr. Rivers questioned whether the photos (Respondent's Composite Exhibit C) were an accurate representation of the complainants' area.

Ms. Norris stated that both of the pictures are accurate at this time.

Mr. Rivers questioned when the grass was placed and how long it took.

Ms. Norris stated that it was after the deposition of August 27th, I would say within the last two (2) weeks. I do have other thoughts on other photographs here. In Respondent's Composite Exhibit A, the appearance of the one photograph seems to be in the darker tones of brown. When we started this complaint in 2011, their idea of grass cover was mulched leaves covering the sand. Grass will not grow if you suffocate it with leaves. The seed that was placed, we saw it, we observed it, we took photographs, it did not grow. If they had a soil analysis, where is it? Is it part of evidence today so we can see what that analysis told them? The placement of the sod that was just placed within the last couple of weeks, all they did was place it on top of the existing grass. It is much higher than the other areas around it. I think it should have been scraped down and placed at the same level as the other existing area and when I say grass, I am not really implying that that is what is growing there. It is weeds. Anything you see green in those photographs are weeds and a closer examination will show that. If you ride by the cemetery on 41 in Sarasota, you think nothing of it because you see green, but it is not grass. When you get out closer, you see the sand.

Mr. Rivers stated that the Department would like to offer this into evidence as testimony for the next hearing that will be held at the December meeting.

The Chair stated that these four (4) cases will be recessed until the December meeting.

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

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

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

**B. Recommended for Approval with Conditions (Criminal History)**

**(1) Jennings, Debra (Appointing Entity: Jennings Funeral Home & Crematory )**

On September 10, 2013, the Department received an application from Ms. Jennings and the application was complete when received.

Ms. Jennings has a misdemeanor criminal record, which was fully disclosed at June 27, 2013 Board meeting. The Board accepted the Division's recommendation of approval for licensure as a Direct Disposer with 12 months probation as outlined in the stipulation agreement signed June 19, 2013 by Ms. Debra Jennings. Ms. Jennings' probation with the Division will expire June 30, 2014. We are including the material provided to the Board at the June 27, 2013 Board meeting.

The Division has no complaints concerning Ms. Jennings as Direct Disposer or otherwise. The Department assessment is that if issued a preneed sales agent license, Ms. Jennings would not pose an unreasonable risk to the members of the public who might deal with her in preneed transactions.

The Division recommends approval subject to the terms & conditions of stipulation signed June 19, 2013, which imposes 12 months of probation.

**MOTION:** Mr. Helm moved to approve the application subject to the terms & conditions of stipulation signed June 19, 2013, which imposes 12 months of probation. Mr. Jones seconded the motion, which passed unanimously.

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

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

- (1) FL W Coast Funeral Professionals Assoc #18209
- (2) Florida Cemetery, Cremation & Funeral Association #75
- (3) International Order of the Golden Rule #2201
- (4) Kates-Boylston Publications #17208
- (5) National Funeral Directors Association #136
- (6) SCI Management - Dignity University #99
- (7) Selected Independent Funeral Homes #137

The majority of the Continuing Education Committee and the Division recommends approval of the course(s) for the number of hours indicated on the Addendum.

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

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

**A. Informational Item (License Issued without Conditions) – Addendum C**

- (1) Direct Disposer
  - (a) Banfield, Korey M
  - (b) McGovern, Thomas F
- (2) Embalmer

- (a) *Flynn, Erica N*
- (3) *Funeral Director and Embalmer – Endorsement*
  - (a) *Butler, John M*
  - (b) *Everett, Rae P*
  - (c) *Sanchez III, Irving*
- (4) *Funeral Director and Embalmer – by Internship and Exam*
  - (a) *Harrison, William H*
  - (b) *McKibbin, Ericka W*
  - (c) *Stinson, Katie M*
  - (d) *Tilley, Terry A*

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

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

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

- (1) *Funeral Director Intern*
  - (a) *Flagg, Karla N (F076141)*
- (2) *Funeral Director and Embalmer*
  - (a) *Garcia, Tabitha (F075937)*
  - (b) *Gibson, Travis B (F076145)*
  - (c) *Gomez, Daniela (F075999)*
  - (d) *Lanfair, Matthew D (F076140)*
  - (e) *Le Blanc, Josiah E (F076142)*
  - (f) *Russo, John D (F076138)*
  - (g) *Steele, Robin S (F066998)*
  - (h) *Williams, Renvy (F076139)*

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

**8. Application(s) for Embalmer Apprenticeship**

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

- (1) *Ford, Almonte' C (F076143)*
- (2) *Martin, Thomas C (F076000)*
- (3) *Robinson, Deborah E (F076144)*

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

**9. Application(s) for Registration as a Training Agency**

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

- (1) *Funeral Directing and Embalming*
  - (a) *Elijah Bell's Funeral Services LLC (Lauderdale Lakes) (F047494)*

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

**10. Consumer Protection Trust Fund Claims**

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

The Division recommends approval of the claim(s) for the amounts indicated on the Addendum.

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

**11. Application for Cemetery License and Application for Preneed License**

**A. Recommended for Approval with Conditions**

**(1) Application for Cemetery License (Restlawn) (Jacksonville)**

This is an application for a new cemetery license that would in effect convert the above-identified exempt cemetery to licensed status.

Restlawn Cemetery, the main offices of which are located at 2600 Ribault Scenic Drive, Jacksonville (hereinafter "Restlawn"), was a licensed cemetery from approximately 1959, until October 2006, when this Board accepted the surrender of the cemetery's license, as part of a transaction in which the cemetery was sold to Southside Christian Charities Inc., a non-profit religious organization. Southside Christian Charities continues to own Restlawn Cemetery at the current time.

Restlawn Cemetery has had a troubled regulatory history. Due to recurring regulatory problems, on August 16, 1980, an order was issued by Florida cemetery regulators, to the owner of the cemetery at that time, to make every effort to sell the cemetery within 180 days. Subsequently, in the 1980-81 timeframe, Restlawn Cemetery was sold to HIG Corporation, of 13300 Baltimore Washington Blvd. Laurel Maryland. HIG's officers at that time were:

Herbert Tenzer – 41 east 42nd St. New York, NY- Chairman  
Barry Tenzer – 41 east 42nd St. New York, NY – President  
Ira Greenblatt – 41 east 42nd St. New York, NY – V P., Sec.  
John D. Cohen – 41 east 42nd St. New York, NY – Treasurer

The principals of HIG (sometimes referred to as the "Tenzer group") continued to own Restlawn Cemetery until they sold the cemetery to Southside Christian Charities in 2006 (see below).

Regulatory problems continued under the new owners after the above referenced 1980-81 sale. The problems culminated in June 2004, when this Board entered an Order adopting a stipulation by Restlawn Cemetery's owners, wherein the owner agreed to sell the cemetery. This led to an Asset Purchase Agreement dated 10-10-06, by which Restlawn Cemetery, and a parcel referred to as Greenwood cemetery, was sold to Southside Christian Charities. The proposed sale to Southside Christian Charities, and the surrender of Restlawn Cemetery's license, was approved by the Board at its October 2006 Board meeting. For more details as to the history of Restlawn, see Attachment A hereto.

Since Southside Christian Charities took control of Restlawn Cemetery, the volume of complaints has increased significantly. Attachment B hereto is a 20 page list of complaints received by the FCCS Division since January 1, 2007. Attachment B is not a complete listing of complaints received, but will give the Board an understanding of the nature and volume of the complaints received during the ownership of Restlawn Cemetery by Southside Christian Charities.

Southside Christian Charities failed to make payments to the Seller (Tenzer group) as required by the 2006 Asset Purchase Agreement. In June 2011 the Seller (Tenzer group) filed an lawsuit in Duval County to foreclose upon the promissory note and mortgage Southside Christian Charities had given as part of the 2006 sale to Southside Christian Charities, and thus to re-take possession and ownership of the property. That litigation is still pending, but Southside Christian Charities and the Seller have reached a proposed settlement of that foreclosure lawsuit. Under the settlement, the properties will revert to the seller (see attached letter by Applicant's attorney, Ms. Wendy Weiner, for details re this aspect).

Assuming the application herein is approved, the cemetery property will then be conveyed by Seller, to the Applicant herein. Significantly, under the proposed application, the Tenzer group and its principals will have no control or interest in the cemetery or the license applied for herein. The sole principal will be Mr. Mark Riposta. Mr. Riposta is an experienced cemetarian. Pursuant to this Board's approval granted in Oct. 2012, Mr. Riposta currently controls Rolling Oaks Cemetery and Cremation Gardens, LLC, d/b/a Rolling Oaks Cemetery, F066604, 2200 SW Del Rio Blvd, Port St Lucie, FL 34953. Prior to that, in the period 2003-2008 Mr. Riposta controlled and operated Tallahassee memory gardens, a licensed cemetery in Tallahassee, FL.

As revealed to the Board in reference to the above mentioned Oct. 2012 approval of Mr. Riposta's acquisition of control of Rolling Oaks, Mr. Riposta has the following items in his record:

- In 2011 Mr. Riposta pled no contest in Charlotte County, Florida, to misdemeanor DUI. He has been released from the probation imposed by the court, and he has paid the fine imposed by the court. Mr. Riposta has no other criminal history.
- Mr. Riposta is a licensed funeral director in Florida. In December 2007 a Consent Order was entered against Mr. Riposta wherein he was reprimanded and fined \$1,000. The settlement indicates that in December 2006, Mr. Riposta was a principal of Abbey Riposta Funeral Home, in Tallahassee; while Mr. Riposta was out of town on urgent business, three at-need funeral contracts were entered into by his unlicensed staff at the said funeral home.

Applicant has indicated that it will accept responsibility for all existing preneed obligations at Restlawn Cemetery. The current application, if approved, would cover cemetery operations at the Restlawn main and annex site. Restlawn Cemetery has a current care and maintenance trust fund. If this application is approved, the said trust fund will be funded at the level required by s. 497.268(4), and the excess will be used to repair the extensive problems that have arisen in the cemetery during the Southside Christian Charities ownership, and to defray other costs associated with the transaction, all as more fully set forth in the attached letter of Applicant's counsel. Ms. Wendy Wiener.

In the opinion of the FCCS Division, the current application offers an outstanding opportunity to provide a very real and valuable service to the community that lives around, and uses, Restlawn Cemetery. The Applicant has committed itself to bringing Restlawn Cemetery back to a respectable level of appearance and operation.

The Division recommends approval subject to closing on the settlement in the foreclosure lawsuit as referenced above.

**MOTION:** Mr. Hall moved to approve the application subject to closing on the settlement in the foreclosure lawsuit as referenced above. Mr. Jones seconded the motion, which passed unanimously.

## *(2) Application for Preneed License (Restlawn) (Jacksonville)*

This application is related to a cemetery license application also being presented to the Board at the Oct. 20133 Board meeting.

The Department received the application on September 20, 2013 and no deficiencies were noted on the application. This application is being filed by principal and sole owner, Mark B. Riposta, for a new preneed license in conjunction with an application for a change of control of the cemetery, Restlawn Memorial Cemetery located at the above address. If this cemetery application is approved, Restlawn Cemeteries & Cremation Gardens will serve as the qualifying entity for this preneed main license. If approved, the new preneed main Licensee will operate under the name, Restlawn Cemeteries & Cremation Gardens, LLC.

Restlawn Memorial Cemetery previously held a preneed main license. All existing preneed contracts will be transferred to the new preneed main Licensee (please see letter from attorney Wendy Wiener dated September 25, 2013) and Applicant will use the pre-approved Funeral Services, Inc. (FSI) First Florida Trust Agreement (Sabal Trust Company) and pre-arranged funeral agreement.

The sole principal of the new preneed Licensee will be Mr. Mark Riposta. Mr. Riposta is an experienced cemetarian. Pursuant to this Board's approval granted in Oct. 2012, Mr. Riposta currently controls Rolling Oaks Cemetery and Cremation Gardens, LLC, d/b/a Rolling Oaks Cemetery, F066604, 2200 SW Del Rio Blvd, Port St Lucie, FL 34953. Prior to that, in the period 2003-2008 Mr. Riposta controlled and operated Tallahassee memory gardens, a licensed cemetery in Tallahassee, FL. As revealed to the Board in reference to the above mentioned Oct. 2012 approval of Mr. Riposta's acquisition of control of Rolling Oaks, Mr. Riposta has the following items in his record:

- In 2011 Mr. Riposta pled no contest in Charlotte County, Florida, to misdemeanor DUI. He has been released from the probation imposed by the court, and he has paid the fine imposed by the court. Mr. Riposta has no other criminal history.
- Mr. Riposta is a licensed funeral director in Florida. In December 2007 a Consent Order was entered against Mr. Riposta wherein he was reprimanded and fined \$1,000. The settlement indicates that in December 2006, Mr. Riposta was a principal of Abbey Riposta Funeral Home, in Tallahassee; while Mr. Riposta was out of town on urgent business, three at-need funeral contracts were entered into by his unlicensed staff at the said funeral home.



The Applicant's financial statements as of September 20, 2013 reflect the following:

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

The Division recommends approval subject to the conditions:

- 1) That the Board approves the related application for cemetery license, Restlawn Cemeteries & Cremation Gardens, LLC.
- 2) That the preneed license issued pursuant to this application shall be responsible for fulfillment of all valid outstanding preneed contracts at Restlawn Cemetery.

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

**12. Application(s) to Acquire Control of an Existing Cemetery and Transfer of Preneed License from Stewart Enterprise Inc to SCI Funeral Services of Florida, LLC**

**A. Recommended for Approval with Conditions**

**(1) SE Cemeteries of Florida, LLC**

- (a) *d/b/a All Faiths Memorial Park (Casselberry) (F039580)*
- (b) *d/b/a Chapel Hill Cemetery (Orlando) (F039543)*
- (c) *d/b/a Florida Hills Memorial Gardens (Brooksville) (F039565)*
- (d) *d/b/a Glen Haven Memorial Park (Winter Park) (F039555)*
- (e) *d/b/a Good Shepherd Memorial Gardens (Ocala) (F039548)*
- (f) *d/b/a Highland Memory Gardens (Apopka) (F039558)*
- (g) *d/b/a Woodlawn Memory Gardens Inc (St Petersburg) (F039453)*
- (h) *d/b/a Woodlawn Park Cemetery West (Miami) (F039712)*

**(2) SE Combined Services of Florida, LLC**

- (a) *d/b/a Arlington Park Cemetery (Jacksonville) (F039542)*
- (b) *d/b/a Forest Hills Fun Hms Mem Park & Crematory-Palm City Chapel (Palm City) (F039598)*
- (c) *d/b/a Garden of Memories Inc (Tampa) (F039441)*
- (d) *d/b/a Memorial Park Cemetery Inc (Petersburg) (F039632)*
- (e) *d/b/a Myrtle Hill Memorial Park (Tampa) (F039442)*
- (f) *d/b/a Oaklawn Memorial Park Cemetery & Funeral Home (Lake Mary) (F039628)*
- (g) *d/b/a Palms Woodlawn Funeral Home and Cemetery (Naranja) (F039465)*
- (h) *d/b/a Royal Palm Memorial Gardens Inc (West Palm Bch) (F039623)*
- (i) *d/b/a Sylvan Abbey Memorial Park Inc (Clearwater) (F039454)*
- (j) *d/b/a Woodlawn Park Cemetery North (Miami) (F039449)*
- (k) *d/b/a Woodlawn Park Cemetery South (Miami) (F039450)*

**(3) Simplicity Plan, Inc (Altamonte Springs) (F019307)**

The Chair disclosed his affiliation with SCI Funeral Services of Florida, Inc. and stated this would not affect his ability to make a fair and impartial decision on this or any other item to come before the Board today.

On May 29, 2013 SCI announced the signing of a definitive agreement with Stewart Enterprises Inc., to in effect acquire Stewart Enterprises Inc. The Division attaches hereto, to further explain the acquisition, a 12 page slide presentation SCI posted on its website to explain the transaction to investors.

SCI Funeral Services of Florida, LLC d/b/a S.E. Cemeteries of Florida LLC and S.E. Combined Services of Florida, LLC (SCI), respectively, herein submits 19 applications for Change of Control of an Existing Cemetery Company for the above named cemetery properties, and an Application for Transfer of a Preneed Main License, Simplicity Plan. The cemetery companies and preneed Licensee being acquired are licensed as named above under Stewart Enterprises, Inc, collectively, at the above specified locations.

The applications were received by the Division on August 20, 2013 and no deficiencies were noted on the applications. A completed background check of all officers revealed no criminal history.

It should be noted that Applicant answered Yes to Question 6(a) on the application, "Have you ever had any death care industry license revoked, suspended, fined, reprimanded, or otherwise disciplined, by any regulatory authority in Florida or any other state or jurisdiction?" Concerning all disciplinary actions and citations, Applicant has disclosed a listing of recent disciplinary actions and fines assessed by the Division and these have been resolved. As of to date, all citations have been paid, and currently, there are no noted issues in relation to Applicant's applications to acquire control of these entities.

The change of control will be accomplished via a stock purchase agreement (please see attached letter from attorney dated 8-20-2013), wherein SCI via subsidiaries, S.E. Cemeteries of Florida, LLC and S.E. Combined Services of Florida, LLC, will acquire all of the assets and liabilities for the above named cemetery and preneed locations from STEI d/b/a S.E. Cemeteries of Florida, LLC and Simplicity Plan, Inc (cemetery license numbers specified above and preneed license number F019307).

If these applications for change of control are approved, SCI through its subsidiary S.E. Cemeteries of Florida, LLC will operate the following 8 cemetery locations:

All Faiths Memorial Park (F039580), Chapel Hill Cemetery (F039543), Glen Haven Memorial Park (F039555), Highland Memory Gardens (F039558), Florida Hills Memorial Gardens (F039565), Good Shepherd Memorial Gardens (F039548), Woodlawn Memory Gardens (F039453) and Woodlawn Park Cemetery West (F039712).

Additionally, SCI through its subsidiary, S.E. Combined Services of Florida, LLC will operate the following 11 cemetery locations:

Arlington Park Cemetery (F039542), Oaklawn Park Cemetery (F039628), Forest Hills Memorial Park (F039598), Garden of Memories Cemetery (F039442), Memorial Park Cemetery (F039632), Myrtle Hill Memorial Park (F039442), Palms Woodlawn Cemetery (F039465), Royal Palm Memorial Gardens (F039623), Sylvan Abbey Memorial Park (F039454), Woodlawn Park Cemetery North & Crematory (F039449), and Woodlawn Park Cemetery South (F039450).

Preneed: If the application for transfer of the preneed license is approved, SCI will assume all preneed obligations of the preneed license being transferred (Simplicity Plan, Inc., License # F019307). We attach hereto Simplicity Plan, Inc.'s summary report of preneed obligations and assets as attached to Simplicity Plan, Inc.'s application for preneed license renewal effective July 1, 2013.

SCI will, subject to the requirements of Chapter 497, Florida Statutes, obtain control of the preneed trusts relating to preneed obligations SCI is assuming. SCI will continue to operate the preneed Licensee as Simplicity Plan, Inc., License # F019307. Carey- Hand- Cox-Parker Funeral Home (F040274) will serve as the qualifying establishment for the preneed main Licensee, as noted. Applicant will continue to utilize existing pre-approved trust and insurance funding as well as existing preneed funeral agreements.

Preneed surety bonds: A portion of the preneed obligations SCI is assuming are currently secured by SEI via surety bonds. The amount of said bonds was \$18,797,406, as of October 31, 2012. This surety bonding is the residue of a transaction that was approved by the Board in 2000, by which assets were removed from preneed trust and replaced by approximately \$41,061,000 in surety bond coverage. SCI has advised that it intends to move the remaining SEI surety bonding coverage, to coverage under existing SCI surety bonds.

Line of Credit issue: In addition, SCI has requested permission to discontinue a line of credit commitment which Stewart Enterprises Inc. (SEI) committed to in 2000, as part of SEI transferring from trusting to surety bonding, as above noted. The line of credit was apparently intended to provide funds to restore the trust if the surety bonds were cancelled or terminated. As of October 31, 2012 the line of credit was \$18,797,406.

- The Division has reviewed the line of credit commitment in the minutes of the Sept. 2000 meeting of the Board, where the line of credit was offered by SEI; see attached memo by the Division's Paul Rantuccio, dated September 9, 2013, and related materials. The Division has not been able to find in the minutes of the 2000 Board meeting, any particular concern by the Board that led to the line of credit being put in place. It appears that SEI voluntarily offered the line of credit commitment. There was no Board Order issued requiring the line of credit.
- Although SEI in good faith committed (and each year has renewed its commitment) regarding the line of credit, the Division has doubts as to the real meaningfulness and reliability of the line of credit as a protective device. No documentation has ever been received or seen by the Division by which any lender made a firm line of credit commitment for this purpose that was irrevocable for a specified period of time. Without such a formal lender

commitment, the line of credit is likely no better than the borrower's current credit rating, and if the borrower developed financial problems the first thing that likely would be withdrawn, would be the line of credit. And although SEI's is in fine financial health, if bankruptcy proceeding were ever initiated, it is doubtful that the line of credit could be used because it would be viewed as a preference.

- There is no requirement in Chapter 497 for the line of credit. It does not appear that the legislature intended us to rely on a line of credit.
- In view of the above, the Division **recommends** that any line of credit commitment be treated as terminated 90 days after closing of the transaction by which SCI will acquire control of Simplicity Plan, Inc.

The care and maintenance trustee reports for CY 2012 are attached. The cemetery reports appear to be in line with the reported gross sales for CY 2012 for the listed properties being acquired.

The Applicant's financial statement as of December 31, 2012 reflects the following:

Required Net Worth	= \$	950,000
Reported Net Worth	= \$	90,003,368

The Division recommends that the applications to acquire control of the listed cemeteries and for transfer of the above identified preneed license, and for termination of the line of credit requirement, be approved subject to conditions as follows:

- 1) That closing on the acquisition transaction occurs within 90 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; and receipt by the Division within 120 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. A requirement for divestiture of specified properties, as directed by the SEC or the FTC, for protection of competition, shall not be deemed a material change for purposes of these conditions. The Board's Executive Director may extend the above deadlines by up to 120 days for good cause shown. The line of credit commitment referred to above will be maintained in place until 90 days after closing of the transaction by which SCI will acquire control of SEI; upon said 90th day the requirement for the line of credit is terminated.

**MOTION:** Mr. Mueller moved to approve the application to acquire control of the nineteen (19) cemeteries subject to the terms and conditions indicated by the Division. Mr. Hall seconded the motion, which passed unanimously.

**MOTION:** Mr. Jones moved to approve the application to acquire the preneed main license of the Simplicity Plan subject to the terms and conditions indicated by the Division. Ms. Anderson seconded the motion, which passed unanimously.

13. **Application(s) for Cinerator Facility**  
A. **Recommended for Approval with Conditions**  
(1) **West Side Crematory LLC (Winter Garden)**

An application for a Cinerator Facility was received on August 23, 2013. The application was complete when submitted. The fingerprint cards for all principals were returned with no criminal history. The Funeral Director in Charge will be Lynn Arruda (F042107). As of September 19, 2013, Ms. Arruda's license is expired and we are awaiting payment of the renewal fee.

The removal service is recommended for approval subject to the condition(s) as follows:

- 1) That the establishment passes an on-site inspection by a member of Division Staff.
- 2) That the license for Lynn Arruda (F042107) be renewed and in good standing.

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

Ms. Lynn Marie Arruda answered, "I do." Ms. Arruda stated that the license has been renewed and is in good standing.

Ms. Jasmin Richardson confirmed that the license had been renewed.

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

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

**A. Recommended for Approval *with* Conditions**

**(1) *Dove Acquisitions LLC d/b/a Dove Funeral Home (Orlando)***

An application for a Funeral Establishment was received on September 9, 2013. The application was complete when submitted. The fingerprint cards for all principals were returned with criminal history for one of the principals, Evans P. Baldwin. The Funeral Director in Charge for the establishment will be Ruth Anne Yeats (F047012).

**Criminal History:**

Evans P Baldwin criminal history has been presented to the Board in 2010 when he was granted a preneed agent license, at the June 27, 2013 Board meeting when he applied for and was granted a Funeral Director Intern license and again at the July 11, 2013 Board meeting when he applied to be a principal of an Establishment. The preneed sales agent license was approved with conditions. He was ordered to be placed on two years' probation which was completed in May 2012. The Funeral Director Intern license was approved without conditions. The Funeral Establishment application was approved without conditions.

The criminal recorder Evans Baldwin consists of one incident, as follows:

- On Sept. 25, 2002 Applicant, then age 17, while driving a car at approximately 9 PM in Winter Park, struck a woman on a bicycle that he asserts he never saw, and caused her death. Applicant did not stop at the scene. Applicant asserts he pulled over at gas station a little way further on, and saw people apparently helping the victim, and heard emergency vehicles going to the scene, and decided to drive home. At home that same night he told his girlfriend that he had struck a bicyclist and he could hear her screaming. The next day, when his step-mother noticed the damage to the car Applicant had been driving, Applicant told her he had fallen out of a tree onto the car and damaged it. It was not until Oct. 5, 2002 that Applicant told his parents the truth. His father went to see an attorney to obtain advice and representation for Applicant. On October 14, 2002 the attorney for Applicant delivered a letter to the highway patrol, revealing Applicant's involvement, which the police were not previously aware of.
- Thereafter, on or about January 4, 2004 Applicant pled guilty to the felony charge of leaving the scene of an accident with death, in Florida Circuit Court, Orange County. His sentence included 5 years supervised probation, 150 hours of community service including 10 hours of speaking to groups in victim awareness programs using a photo of the victim, his driver's license was restricted to business driving for one year, he had to pay the victim's funeral costs, and court costs were imposed. He has successfully completed the court-ordered probation.

The establishment is recommended for approval subject to the condition(s) as follows:

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

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

**(2) *Heritage Funeral Home & Cremation Services LLC d/b/a Heritage Beach Funeral Home & Cremation Centre (Panama City Beach)***

An application for a Funeral Establishment was received on August 6, 2013. The application was incomplete when submitted. All deficient items were returned on September 6, 2013. The fingerprint cards for all principals were returned with no criminal history. The Funeral Director in Charge will be Charles Kent (F045367).

The establishment is recommended for approval subject to the condition(s) as follows:

- 1) That the establishment passes an on-site inspection by a member of Division Staff.

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

Mr. Shropshire recognized Staff from the Tampa office. We have with us Mr. Thurman Lowe, supervisor of all field staff throughout the state. Ms. Karen Duehring, who used to supervise some of the field staff, has retired. Some months ago, that was changed. Mr. Shropshire requested that Mr. Lowe introduce his staff.

Mr. Thurman Lowe stated that he serves as the Area Financial Manager for the State of Florida and is blessed to work with a great group of people. Many of you have met them. Sometimes in good circumstances and sometimes in less desirable circumstances, but I can assure you that they are professionals and are committed to what we are charged to do for the citizens of the State of Florida. I would like to take just a moment to introduce them: Ms. Suzie Helms, Mr. Kurt Schuller, Mr. Chris McMurray and a name that you probably recognize from Tallahassee but maybe you have never met the gentleman, but he has rejoined us in a capacity currently in the Tampa market, Mr. Tim Wheaton.

Mr. Shropshire stated that Mr. Wheaton has come back as an OPS employee so he is not full time equivalent, but we have engaged him to help us cover some things as he has a tremendous store of knowledge and experience. The Division is very happy to have Mr. Wheaton back.

**(3) Lakeside Funeral Home LLC d/b/a Lakeside Memorial Chapel (Greenacres)**

An application for a Funeral Establishment was received on August 7, 2013. The application was incomplete when submitted. All incomplete items were returned on August 30, 2013. The fingerprint cards for all principals were returned with no criminal history. The Funeral Director in Charge will be Mashama Rhoden (F045078).

The removal service is recommended for approval subject to the condition(s) as follows:

- 1) That the establishment passes an on-site inspection by a member of Division Staff.

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

**(4) Q L Douglas Funeral Home LLC (Jacksonville)**

An application for a Funeral Establishment was received on August 9, 2013. The application was incomplete when submitted. All deficient items were returned on August 28, 2013. The fingerprint cards for all principals were returned with no criminal history. The Funeral Director in Charge will be La Tarsha Armstrong (F042991).

The establishment is recommended for approval subject to the condition(s) as follows:

- 1) That the establishment passes an on-site inspection by a member of Division Staff.

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

**15. Application(s) for Monument Establishment Retailer License**

**A. Recommended for Approval with Conditions**

**(1) Imperial Monuments LLC (Wauchula)**

This application is being filed for a new monument establishment retailer license. The application was received on August 7, 2013 and deficiencies were noted. A deficiency letter was sent on August 13, 2013 and the Applicant resolved all deficiencies as of September 23, 2013.

Christopher W. Wolfe, officer and owner, answered Yes to Section 7, question 1(b) on the application concerning a felony committed within the past 20 years immediately preceding the date the application was submitted. Mr. Wolfe provided

further information and court documentation evidencing that he was charged with a felony of aggravated assault with a deadly weapon in August 2011. He pled no contest and was placed on 3 years probation during which he was required to complete the following: Attend a 26 week Batter's Intervention Class, attend marriage counseling, take prescribed medications, and ordered to forfeit firearms and not to purchase fire arms, in addition to payment of court costs and fees. Mr. Wolfe has satisfied all of these conditions, was released from probation as of October 9, 2012, and paid all court costs and fees. The Division is recommending approval of the application subject to the attached stipulation for licensure between the Division and Applicant for 2 years (24 months) probation. If approved, Applicant will utilize the attached monument retail sales agreement which is also being presented for approval at this meeting.

The application is recommended for approval subject to the terms & conditions of the signed stipulation for licensure.

**MOTION:** Mr. Helm moved to approve the application subject to the terms of the signed stipulation for licensure which calls for a 24 month probation. Ms. Anderson seconded the motion, which passed unanimously.

**16. Monument Retail Sales Agreement(s)**  
**A. Recommended for Approval without Conditions**  
**(1) Imperial Monuments LLC (Wauchula)**

Imperial Monuments, LLC, Applicant, submits a monument retail sales agreement for approval. If the form is approved, it is to be used for the sale of monuments through its licensed monument retailer establishment, which is also being presented at this Board meeting for approval.

The application is recommended for approval subject to the conditions:

- 1) That the Board approves Applicant's monument establishment retailer application subject to stated conditions.
- 2) That two full sized print-ready copies are received by the Department within 60 days of this Board meeting.

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

**17. Application(s) for Monument Establishment Sales Agents**  
**A. Informational Item (Licenses issued without Conditions) – Addendum H**

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

**18. Application for Preeved Branch Office License**  
**A. Recommended for Approval without Conditions – Addendum I**

The Division recommends approval of the application(s).

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

**19. Contract(s) or Other Related Form(s)**  
**A. Trust Transfer Request(s)**  
**(1) Recommended for Approval with Conditions**  
**(a) Funeral Options, Inc d/b/a Weiss Memorial Chapel (F019468) (Boynton Beach)**  
**1. Transfer of Independent Funeral Directors of Florida, Inc. (IFDF) Master Trust Fund from Regions Bank, N.A. to Sabal Trust Company**

The above Licensee is requesting a transfer of the above preneed trust account. Licensee is requesting transfer of the IFDF Master Trust Fund account, currently held by Regions, administered by IFDF, to Sabal Trust, administered by Funeral Services, Inc (FSI). If this transfer is approved, all funds governed by the IFDF Master Trust Fund will be transferred to the pre-approved 1993 FSI Master Trust.

The agreement is recommended for approval subject to the conditions:

- 1) That Sabal provides a certification statement that as trustee it meets the requirements of Rule 69K-7.015(1) or (2).
- 2) That the former trustee provides a certificate stating the dollar amount of trust assets being transferred.
- 3) That Sabal, as new Trustee, provides acknowledgment 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. Hall moved to approve the agreement subject to the conditions recommended by the Division. Mr. Jones seconded the motion, which passed unanimously.

***(b) Northstar Cemetery Services of Florida, LLC (F019194) (Ormond Beach) (Multiple DBAs)***

***1. Transfer of Preneed Funeral and Cemetery Trusts and Cemetery Care and Maintenance Trust Fund Agreements from Bank of Oklahoma, N.A. to SunTrust Bank, N.A.***

Northstar Funeral Services of Florida, LLC, Northstar Cemetery Services of Florida and Northstar Graceland, LLC (includes all related funeral and cemetery preneed branch Licensees, known collectively as “Northstar”) are trustors of 65 Florida funeral and cemetery trusts. The current trustee, BOKF is resigning and Northstar is requesting transfer of these accounts, currently held by BOKF to SunTrust. If approved, SunTrust will continue to operate under the existing trust agreements.

The agreement is recommended for approval subject to the conditions:

- 1) That SunTrust 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 SunTrust, as new Trustee, provides acknowledgment 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 subject to the conditions recommended by the Division. Mr. Hall seconded the motion, which passed unanimously.

**20. Executive Director’s Report**

***A. 2014 Board Meeting Schedule (Action)***

Thursday, January 2 <sup>nd</sup>	Conference Call
Thursday, February 6 <sup>th</sup>	Tallahassee
Thursday, March 6 <sup>th</sup>	Conference Call
Thursday, April 3 <sup>rd</sup>	Jacksonville
Thursday, May 1 <sup>st</sup>	Conference Call
Thursday, June 5 <sup>th</sup>	Conference Call
Thursday, June 26 <sup>th</sup>	Tallahassee
Thursday, July 10 <sup>th</sup>	Conference Call
Thursday, August 7 <sup>th</sup>	Orlando
Thursday, September 4 <sup>th</sup>	Conference Call
Thursday, October 2 <sup>nd</sup>	Tampa
Thursday, November 6 <sup>th</sup>	Conference Call
Thursday, December 4 <sup>th</sup>	Tallahassee

The Chair requested that the May 8<sup>th</sup> date be changed to May 1<sup>st</sup>. The Chair stated that some people in the Industry requested next year’s schedule so that they may schedule conferences and meetings around it. The Chair questioned whether the Board members had any input on locations of the Board meetings.

Ms. Anderson suggested St. Augustine in lieu of Jacksonville.

Mr. Helm concurred.

Mr. Jones stated that he did like the location of the last meeting in Orlando/Altamonte springs. It was nice and convenient for people coming north.

The Chair stated that the St. Augustine suggestion would definitely be kept in mind. Board members and others can certainly calendar these dates as we have every expectation of having Board meetings on those dates. We certainly reserved the right for change but at this point in time we are moving forward with it.

Mr. Shropshire stated that Ms. Bryant would revise the meeting schedule and add it to next month's packet.

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

Monthly Report of Fine and Costs Assessed and Paid  
 Division of Funeral, Cemetery and Consumer Services  
 October 3, 2013 Board Meeting  
 Report Updated as of September 24, 2013

Licensee	Board Meeting	Case No.	Total Fine & Cost Due	Date Due	Paid in Full?	Comments
Stanley Gunter-Butler	Jun-12	117958-11-FC	\$2,750	8/20/2012	NO; See Note A	Monthly payments are in arrears. Partial payments of \$100 each were rec'd on 5/6/13 and 5/14/13, respectively; also \$500 was rec'd 9/13/13 and \$200 was rec'd 9/20/13. The remaining balance to pay in full is \$450. The Notice of Intent to enter Emergency Order of Suspension was issued against the licensee on 8/27/13 for failure to make the required payments; DFS Case No. 136325-13-FC.
Cemetery Professionals, LLC dba Beaches Memorial Gardens and Cemetery Professionals, LLC dba Beaches Memorial Park	Jun-12	110156-10-FC & 110157-10-FC	\$5,250 \$5,000 38,859.57	9/6/2012 12/7/2012 35 mo pymts	YES YES See Note E	Monthly restitution payments are current.
New Serenity Memorial Funeral Home & Cremation Services	Dec-12	126168-12-FC	\$1,500	4/15/2013 5/15/2013 6/15/2013	Yes Yes Yes	Payment in full rec'd 8/9/13, after file was submitted to Legal.
Dove Funeral Home:	Jun-13	114224-11-FC & 114213-11-FC	\$1,000	8/9/2013	Yes	.
Lynn Arruda	Jun-13	114245-11-FC & 114211-11-FC	\$1,000	8/9/2013	Yes	
Gary Daughtery	Jun-13	114222-11-FC & 114212-11-FC	\$1,000	8/9/2013	Yes	



Alliance Monument & Marble Co, Inc.	Apr-13	129485-12-FC	\$1,000	9/2/2013	No; See Note A	Licensee currently suspended, based on Emergency Order of Suspension issued 11/8/12 for failure to comply with previous consent order in a different administrative action taken against licensee in Case No. 128348-12-FC; file sent to Legal on 9/20/13 for failure to pay fine and submit monument sales agreement as required by the final order issued in Case No. 129485-12-FC.
Flagler Palms Cemetery LLC dba Flagler Memorial Gardens	Aug-13	133741-13-FC	\$2,750	9/9/2013	Yes	
Global Mortuary	Aug-13	122746-11-FC	\$800 \$7,200	9/19/2012 9 mo pymts	Yes See Note D	After the initial \$800 payment, monthly payments due the 15th of each month. Within 6 months of the board order, licensee must reimburse the CPTF and also reimburse the preneed trust account, for the amounts as determined by the Division.
<p>A. When payment in full becomes past due, the FCCS Division works with the DFS Legal Division to enforce payment.</p> <p>B. Once fines and costs are paid in full, licensee kept on this report 3 months, showing Paid in Full, and then dropped off report; also licensee dropped off report after disciplinary action filed due to nonpayment of the fine and costs.</p> <p>C. The Order re this case is still in process, so no Due date is yet established.</p> <p>D. Due date has not passed, as of the date of this report.</p> <p>E. As of the date of this report, monthly payments were current.</p>						<i>OSM Oct 22 11/9</i>

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

The Chair asked that Mr. Jones advise the Board of a project.

Mr. Jones stated that in regards to the Department of Health Electronic Death Registration System (EDRS), we are currently filing 99% of all death records electronically. We are the only state reaching such a high percentage, so thank you. That is definitely the result of you and the medical community. To improve on that the Department of Health, Bureau of Vital Statistics was just awarded a grant from the National Center for Health Statistics CDC to help improve on our online physicians. Right now, about 18% of the physicians complete death certificates online. The others use the fax attestation. This grant gives us money to pursue the top forty (40) physicians and go after them to get them as online physicians. We will start that in January. There are forty (40) Hospice facilities that we have identified that signed the majority of the death records statewide that we will be pursuing to get them as online physicians. What that means to you is our goal is to increase the 18% to almost 48% of physicians who will be online users. When you start the record as you know with an online physician it goes to them, you are finished with the death certificate. You do not get the fax attestation back. We will also be looking to you for support as we will the Medical Examiner Commission and the medical examiners to also encourage physicians to participate as online physicians if they do death records. Part of that grant ~~also~~ will be working with physician to test a program called VIEWS to improve the manner of death coding within the ICD 10 platform, resulting in more accurate death coding. This is just to give you an update as to what we are doing with EDRS, some of the improvements we are making and how we are trying to move forward. If you are a funeral director or a funeral establishment and you start a record and the family decides to use another funeral facility, but you have already started the record and someone else is going to take that record over, please call the Bureau of Vital Statistics Help Desk and let them know that so that those changes are made. This will help you get your name off the record by turning it over to someone else and it will also eliminate duplicate records. If there are any questions, please see Mr. Jones or call the Help Desk.

The Chair questioned what the Board could do to support the efforts from the grant.

Mr. Jones stated as they start moving forward with the grant in January, we will probably request that the Board support the fact that this board as well as the Medical Examiners' Commission and the Industry supports working with physicians, talking and encouraging the physicians to work with the Department and to become online users instead of fax at a station users. With EDRS, we have reduced filing times for death certificates from ten (10) days to 5.8 days. We would be able to that to 4.5

days if they are online physicians. It approves the system and it is also less work for you and the physicians, as far as the funeral directors and funeral industry. So the Board's recognition and support of this would be appreciated.

The Chair requested that Mr. Jones prepare a proclamation or document and submit it at a future Board meeting for consideration and/or endorsement.

Mr. Jones stated that he would do so.

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

### A. Public Comment - Rulemaking (Action)

Mr. Jennings stated that he has mentioned SB50 in the past and had advised that the language of that Bill was most likely to be addressed through a Rule put in place in Chapter 28, FAC Uniform Rules. It was the hope that one (1) single rule would cover all the agencies. That concept has been rejected; consequently, it is now up to each and every regulatory Board to determine whether or not they wish to promulgate a rule to address SB50. Initially it should be noted that the bill reaffirmed the case law that has been discussed previously noting that individuals from the public do not have the right to speak during a quasi-judicial proceeding such as disciplinary matter or a licensure case. The bill does state however, that the public has a right to speak during matters such as rulemaking, general discussion of issues and the like. To ensure these rights are protected, the new language provides that if the public is denied the right to participate as spelled out in the statute they can take the Agency to court and, if they prevail, obtain attorney's fees. However, if the regulatory body has in place a rule that spells out the terms and conditions for public participation, they are essentially granted a safe harbor. So if you follow those rules as promulgated and you are sued, attorney's fees will not apply. So, it is highly recommended that each and every regulatory Board have a rule dealing with this issue and to that end, if you look in your materials at the end of the section there is a proposed ruled entitled "Public Comment." I and my coworkers are floating this to our client boards with the Department of Health, Business and Professional Regulation, Financial Services, Management Services and the like. We would like to have a fairly consistent set of rules. This is what we have come up with. We leave blanks of course for you to populate them with whatever information you feel appropriate. At this time, I would like to offer this up to the Board for consideration. If you feel that it is appropriate to proceed further and promulgate a rule then a motion to initiate rule development would be appropriate. Then I would suggest have the Board as a whole to look at this, fill in the blanks if you like the language and then we can proceed subsequently with rule making.

The Chair stated that he would like to see the Board approve this format, go ahead today with filling in the blanks and move forward with the rule unless there are any objections from the Board members.

XXXXXX-XXX Public Comment.

The Board of [Funeral, Cemetery and Consumer Services](#) invites and encourages all members of the public to provide comment on matters or propositions before the Board or a committee of the Board. The opportunity to provide comment shall be subject to the following:

(1) Members of the public will be given an opportunity to provide comment on subject matters before the Board after an agenda item is introduced at a properly noticed board meeting.

(2) Members of the public shall be limited to [five \(5\)](#) minutes to provide comment. This time shall not include time spent by the presenter responding to questions posed by Board members, staff or board counsel. The chair of the Board may extend the time to provide comment if time permits.

(3) Members of the public shall notify board staff in writing of his or her interest to be heard on a proposition or matter before the Board. The notification shall identify the person or entity, indicate support, opposition, or neutrality, and identify who will speak on behalf of a group or faction of persons consisting of [three \(3\)](#) or more persons. ~~Any person or entity appearing before the Board may use a pseudonym if he or she do not wish to be identified.~~

Mr. John Rudolph questioned whether "(3) Members of the public shall notify board staff in writing of his or her interest" is to be done before the meeting or at the meeting.

Ms. Jennings stated as long as the Board is notified. It could conceivably be done as you are walking through the door you notify staff so that they can be aware of it. Unless it is something that needs to be discussed and duly noticed on the agenda in which case it may have to wait until the next Board meeting because the provisions of the Sunshine Law require that certain things have to be noticed on the agenda.

Mr. Rudolph stated that in a number of instances where he has gone before a public committee, you had to fill out a form if you wanted to speak and that was given to the Chairman and it identifies the item. It would save a lot of time if you had people do that ahead of time and submit it to the Chairman because then you would have those people indicating their intent on what they wanted to talk about on what item and then you would have that before you.

The Chair stated that ahead of time could be the day of the meeting.

Mr. Rudolph concurred.

Mr. Jennings stated for what it is worth those who crafted the proposed language tend to also work quite often on the hill and are used to filling out the comment cards when appearing before a committee and used that experience as a basis for the proposal.

Mr. Mueller questioned how this would work on telephone meetings.

Mr. Jennings stated that staff would have to be notified in advance and staff would have to let the Board know.

The Chair added that at the beginning of the call, we could make it standard by asking if there is anyone on the call that would like to make comments on issues coming before the Board today. That would be a part of Mr. Shropshire's protocol.

Mr. Shropshire concurred.

Mr. Mueller stated that he could see that working if it was just one (1) or two (2) people but it probably would not come up that many times.

Mr. Jennings stated that from what he has seen with this Board, practically speaking, nothing of controversy ever seems to appear on conference calls and that is intentional.

The Chair stated that the comment will be made at the beginning of conference calls to cover that base just in case.

Mr. Mueller concurred and stated it should be a part of Mr. Shropshire's prefatory marks at telephonic and in-person meetings.

Mr. Shropshire questioned if this rule was enforced, you could come to this meeting and provide written notice that you wanted to speak to an agenda item but you cannot raise a new agenda item. If you wanted to raise a whole new topic you would not be allowed to speak at that meeting. It has to be on an agenda.

Mr. Jennings concurred.

Mr. Shropshire questioned why the last sentence is advisable, "Any person or entity appearing before the Board may use a pseudonym if he or she does not wish to be identified." Mr. Shropshire questioned why it would be a good idea to have a person testify anonymously without having to identify themselves.

Mr. Jennings stated that he did not say it was a good idea but when you start looking at the provisions of Chapters 119 and 286 there is nothing that says an individual has to identify themselves.

Mr. Helm questioned whether this Board could require that with this rule.

Mr. Shropshire questioned how the individual would be sworn in if they do not state their name. Just policy wise, Mr. Shropshire added that he does not think that is a good idea.

Mr. Jennings stated that he is not married to that language but that is the explanation that was given to him.

The Chair questioned the implications if that last sentence was omitted.

Mr. Jennings stated that he does not have a problem with that.

Mr. Shropshire stated that the motion would authorize him and Mr. Jennings to move forward with rulemaking. We will prepare the economic impact statement, file it as necessary, proceed forward and advise the Board when the process is completed.

**MOTION:** Mr. Hall moved to authorize Mr. Shropshire and Mr. Jennings to move forward with rulemaking. Ms. Thomas-Dewitt seconded the motion, which passed unanimously.

**23. Administrative Report**

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

**24. Disciplinary Report**

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

**25. Adjournment**

The meeting was adjourned at 11:45 a.m.