

MINUTES
BOARD OF FUNERAL, CEMETERY AND CONSUMER SERVICES
TELECONFERENCE MEETING
May 9, 2013 - 10:00 A.M.

1. Call to Order, Preliminary Remarks and Roll Call

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

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

As a preliminary matter, let me state for the record that my name is Doug Shropshire. I am Director of the Division of Funeral, Cemetery, and Consumer Services. Today is Thursday, May 9, 2013. The time is approximately 10:00am. This is a public meeting of the Board of Funeral, Cemetery and Consumer Services. Notice of this meeting has been duly published in the Florida Administrative Weekly. An agenda for this meeting had been made available to interested persons. The meeting is occurring by Teleconference with some members of the Public here with the Division staff here in the Pepper Building, in Tallahassee, Florida. The call in number has also been made available to the public. Members of the Board are participating by phone. My Assistant, Ms LaTonya Bryant, will take minutes of the meeting, which is being recorded.

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

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

PRESENT (via phone):

Joseph "Jody" Brandenburg, Chairman
Gail Thomas-DeWitt, Vice-Chairman
Jean Anderson
Andrew Clark
Lewis "Lew" Hall
Powell Helm
Nancy Hubbell
Ken Jones

ABSENT:

Richard "Dick" Mueller
Col. Don Stiegman

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

Also noted as present:

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

2. Action on Minutes

A. April 4, 2013

The Chair confirmed that all Board members had read the draft of the minutes of the previous Board meetings held on April 4, 2013.

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

3. Old Business

A. Recommended for Approval with Conditions

(1) Application for Embalmer Apprentice

(a) Lynch, William J

This Board voted to deny Applicant at its February 7, 2013 Board meeting. The denial was based a criminal record and a revocation of appraiser license. The Board's Legal Advisor has subsequently opined to the effect that there is no statutory authority for the denial. The Board was provided a copy of the legal memo from Mr. Jennings, dated March 27, 2013.

The FCCS Division recommends that the Board approve the application with the following conditions/proviso:

- This Applicant has a criminal record. However, the statute pertaining to licensure of embalmer apprentices, section 497.371, Florida Statutes, provides no express qualification criteria regarding the character or trustworthiness of an embalmer apprentice license Applicant. Accordingly, the license applied for herein is granted, but Applicant is advised that the Board's decision herein shall not be deemed to include or reflect a determination by the Board concerning Applicant's character or trustworthiness.

The Chair questioned whether Mr. William Lynch was present on the conference call. There was a negative response.

The Chair stated that he wanted to advise Mr. Lynch that this consideration if for this application only and does not apply to any other applications he may make.

Ms. Jasmin Richardson stated that she would convey this information to Mr. Lynch.

MOTION: Mr. Jones moved to approve the application, but Applicant is advised that the Board's decision herein shall not be deemed to include or reflect a determination by the Board concerning Applicant's character or trustworthiness. Ms. Jean Anderson seconded the motion, which passed unanimously.

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 without Conditions (Criminal History)

(1) Nova, Michelle Marie (Appointing Entity: SCI Funeral Services of Florida, Inc.)

On April 10, 2013, the Department received an application from Ms. Nova. Ms. Nova answered "Yes" to Applicant Background Questions. During the review of his fingerprint results provided by FDLE it was confirmed, Ms. Nova did have one criminal infraction that required disclosing. The criminal history includes (1) offense relating to one incident of Driving Under the Influence in 2009, which occurred in Pinellas County, Florida. Upon request Ms. Nova disclosed all required information.

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

The Chair disclosed his affiliation with SCI Funeral Services of Florida, Inc. and advised it would not affect his ability to remain fair and impartial on any items presented to the Board today.

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

5. Application(s) for Continuing Education Course

A. Recommended for Approval without Conditions – Addendum B

- (1) *Crystal Pinkston (14408)*
- (2) *Florida Morticians Association, Inc (133)*
- (3) *FuneralCE (43)*
- (4) *Independent Funeral Directors of Florida Inc (135)*
- (5) *National Funeral Directors Association (136)*
- (6) *Practicum Strategies (65)*
- (7) *Stericycle, Inc. (8805)*

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

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

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

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

- (1) *Funeral Director – by Internship and Examination*
 - (a) *Spilmann, Steven A*
- (2) *Funeral Director and Embalmer – Endorsement*
 - (a) *Hargett, Christopher S*
 - (b) *Luyk, Shaun A*
- (3) *Funeral Director and Embalmer – by Internship and Exam*
 - (a) *Lee, Darnell L*
 - (b) *Lee, David B*
 - (c) *Malphurs, Mary Beth*
 - (d) *Mayo, Rachel M*

- (e) Parrish, Nicole R*
- (f) Schnur, Teresa M*
- (g) Trahan, Richard A*
- (h) Wade, Gordon E*

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

7. Application(s) for Internship

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

(1) Funeral Director and Embalmer

- (a) Hinton, Daryl M*
- (b) Maignan, Nadine I*
- (c) Patterson, Angela S*
- (d) Taylor, Ruby B*

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) Ashley, Darcell P*
- (2) Crawford, Michael D*
- (3) Ingram, Clarencia Q*
- (4) Leavell, Jacquelyn P*
- (5) Walguarnery, Jessica M*

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

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

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

(1) Funeral Directing and Embalming

- (a) Tri-County Funeral Services Inc (F040011) (Oakland Park)*

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 amount indicated on Addendum G entitled “Amount Recommended.”.

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

11. Notification(s) of Change of Location

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

- (1) Frank Donald Terry Jr. d/b/a Veterans Funeral Service and Cremation (Sarasota) (F072611)**
- (2) Gentry Morrison Funeral Home (Lakeland) (F041615)**
- (3) Richardson's Family Funeral Care Inc (Panama City) (F052127)**

This item is informational only and does not require Board action.

Ms. Thomas-Dewitt questioned whether there is a mileage factor in a change of location and questioned what would distinguish between change of location or new ownership.

Mr. Shropshire stated that there is no mileage limitation on change of location.

Ms. Thomas-Dewitt questioned whether there is a timeframe because this establishment had actually closed, so it was not a direct transfer from one location to another. The establishment was closed in Quincy FL for a period of time before it moved to Panama City.

Ms. Richardson stated there is no time limit and this has been done in the past. Even if the license is expired, the Licensee has on full license to renew their license. So even if the establishment is closed and they move their location, we do not have any prohibitions that state they have to apply. The Licensee could renew the license and change the location at the same time.

Ms. Thomas-Dewitt questioned whether the license could change location, even if the establishment is closed, as long as it is within the renewal period.

Ms. Richardson concurred. As long as it is within that timeframe and the license status is not "null and void" the location can be moved.

The Chair questioned whether this is all under the same ownership.

Ms. Richardson answered, "Yes."

Ms. Thomas-Dewitt stated it is the same ownership but her concern was that one location had been closed and they then reopened at a new location and it was still considered a change in location rather than a new establishment.

Mr. Hall questioned how long the establishment was closed.

Ms. Richardson stated that she was unsure about how long the establishment was closed.

Mr. Shropshire stated that this is not the first time the Division has seen this. It is not actually that uncommon for people to close and take some time to find a new location. This may be longer than usual but it is still within the statutory parameters. There is simply nothing in the statutes that would allow us to not treat this as a change in location.

Ms. Thomas-Dewitt questioned whether as long as you have an active license you can transfer to a new location without having to apply for a new establishment.

Mr. Shropshire stated the license could be delinquent, but would have to be made active by paying the required fee prior to filing a change in location.

12. Application(s) for Direct Disposal Establishment

A. Recommended for Approval with Conditions

(1) Carriage Florida Holdings Inc d/b/a All Cremation Options (Lakeland)

An application for a Direct Disposal Establishment was received on April 5, 2013. The application was incomplete when submitted. All deficient items were returned on April 16, 2013. The fingerprint cards for all principals were returned with no criminal history. The Funeral Director in Charge will be Marvin Owen (F045174). The establishment is recommended for approval with subject to the condition that the establishment passes an on-site inspection by a member of Division Staff.

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

B. Recommended for Approval without Conditions

(1) Integrity Removal Service LLC d/b/a Integrity Cremations (Jacksonville)

An application for a Direct Disposal Establishment was received on March 26, 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 Kerri Landress (F045268). The establishment passed its inspection on April 4, 2013 and is recommended for approval without conditions.

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

13. Application(s) for Funeral Establishment

A. Recommended for Approval without Conditions

(1) Heritage Funeral Home & Cremation Services LLC d/b/a Emerald Shores Cremation Centre (Panama City)

An application for a Funeral Establishment was received on April 11, 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 James Boyd (F043565). The establishment passed its inspection on April 24, 2013. The establishment is recommended for approval without conditions.

Mr. Helm questioned whether this is a new application or a change of ownership.

Mr. Shropshire stated that this is a new license application.

Ms. Richardson stated that this is not an application for change in ownership.

Mr. Helm stated that the Applicant answered "yes" to "Will cremation services be offered by this funeral establishment?" and selected "maintain on site."

Ms. Richardson stated that the Applicant was previously approved for a cinerator facility at that location.

Mr. Helm questioned how long ago the approval was.

Ms. Richardson stated that she was not sure of the exact date but it may have been this year.

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

(2) R W Stevens Funeral Services LLC (Riviera Beach)

An application for a Funeral Establishment was received on March 28, 2013. The application was incomplete when submitted. All deficient items were returned on April 15, 2013. The fingerprint cards for all principals were returned with no criminal history. The Funeral Director in Charge will be Leonardo Stubbs (F045211). The establishment passed its inspection on April 29, 2013.

One of the principals, Roderick Stevens (F029163), does have adverse licensing history. On October 20, 2000, it was ordered for Mr. Stevens' license to be reprimanded and he was ordered to pay \$2000 in administrative fines and \$309 in administrative costs for failure to provide proof of 12 continuing education hours. The establishment is recommended for approval without conditions.

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

B. Recommended for Approval with Conditions

(1) Bism Rabbik Foundation Inc d/b/a Riyadh Ul Jannah (Hialeah Gardens)

An application for a Funeral Establishment was received on March 22, 2013. The application was incomplete when submitted. All deficient items were returned on April 17, 2013. The fingerprint cards for all principals were returned with no criminal history. The Funeral Director in Charge will be Carlos Trappberger (F045285). The establishment is recommended for approval with subject to the condition 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. Ms. Anderson seconded the motion, which passed unanimously.

(2) Cedar Bay Enterprises LLC d/b/a Cedar Bay Funeral Home (Jacksonville)

The Funeral Establishment application was received by the Division on April 11, 2013. The application was complete when submitted. The fingerprint cards for all principals were returned with no criminal history. The FDIC for the establishment will be Jack Blackburn (F047208). This entity is the qualifying entity for any preneed license. The preneed Licensee name is Cedar Bay Enterprises LLC and the license number is F038700. The Applicant has also submitted an application for Transfer of a Preneed License. The Division is recommending approval subject to the condition(s) as follows:

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

Mr. John Rudolph representing the Applicant stated that the inspection was passed on May 2nd. It was my opinion that this client should not have had to file an application. He was the managing member of Cedar Bay Enterprises LLC, has owned it alone and the preneed license. Mr. Rudolph added that he sent in a request stating all his reasons and questioned whether the Attorney General has ever opined on that.

Mr. Clark Jennings stated that he has not had the opportunity to review that matter.

Mr. Rudolph stated that he has no problem with the Board approving this subject to what he hears from Mr. Jennings.

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

(3) Jacobs Funeral Home LLC (Brooksville)

An application for a Funeral Establishment was received on March 7, 2013. The application was incomplete when submitted. All deficient items were returned on March 20, 2013. The fingerprint cards for all principals were returned with no criminal history. The Funeral Director in Charge will be Joseph Jacobs (F063580). The establishment is recommended for approval with subject to the condition that the establishment passes an on-site inspection by a member of Division Staff.

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

Mr. Joseph Jacobs representing Jacobs Funeral Home LLC stated that the inspection was passed on April 26th.

Mr. Shropshire stated that Ms. Richardson would be in contact with Mr. Joseph. Ms. Richardson will confirm the inspection and send out the license thereafter.

14. Application(s) for Preneed Branch License

A. Recommended for Approval without Conditions – Addendum I

The Division recommends approval of the application(s).

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

15. Application(s) for Removal Facility

A. Recommended for Approval with Conditions

(1) Stacey A Burrows d/b/a Burrows Removal & Transport Service (Tallahassee)

Stacey A. Burrows d/b/a Burrows Removal & Transport Service (F062322) submits this request for approval of a change in location of the removal service, as required by s. 497.385(1)(g)2, Florida Statutes. A change of location requires a re-licensure of a removal service, pursuant to rule 69K-24.010(3).

497.385 Removal services; refrigeration facilities; centralized embalming facilities.—

(1) REMOVAL SERVICES AND REFRIGERATION SERVICES.—

(g) (2) A change in location shall be promptly reported to the licensing authority pursuant to procedures established by rule. Operations by the Licensee at a new location may not commence until an inspection by the licensing authority of the facilities, pursuant to rules of the licensing authority, has been conducted and passed at the new location.

Rule 69K-24.010 Application for Licensure of Removal Services, Refrigeration Facilities, and Centralized Embalming Facilities.

- (3) Any change in ownership or location of a removal service, refrigeration facility, or centralized embalming facility requires re-licensure. Such application for re-licensure must be made within ten (10) days of the change in ownership or location.

The application for a Removal Service was submitted on April 26, 2013. The application was complete when submitted. The fingerprint cards for all principals were submitted and returned without criminal history. The Division is recommending approval of the application subject to the condition that the establishment passes an on-site inspection by a member of Division Staff.

REFUND REQUEST. See Licensee letter dated April 26, 2013. Licensee objects to the requirement that he file a new application for licensure because he changed the location of the removal service. Licensee requests that his application fee be refunded. The Division recommends denial of the refund request.

Mr. Helm questioned whether a funeral establishment can change location without a fee but not a removal service.

Mr. Shropshire concurred.

Mr. Hall questioned whether the Board has ever issued a prorated refund for the time he paid on the last renewal and issue a credit.

Mr. Shropshire responded, "No Sir." Mr. Shropshire stated that his understanding is that the reason the Board enacted this Rule is related to its concern about the frequency of removal services changing their location. That is just my understanding and I do not have anything in writing to that effect.

Mr. Hall questioned whether Mr. Shropshire thinks that some of it was instituted as part of the inspection or on the Department's expense for re-inspection.

Mr. Shropshire reiterated that part of the basis at least for the Rule was to discourage the frequent moving about of removal service locations.

Mr. Rudolph stated that this goes back to the old days when we could move the funeral establishments. The Rule that is cited in the packet states "Such application for re-licensure must be made within ten (10) days of the change in ownership" and usually this is just a notification to the Board.

Mr. Helm questioned whether Mr. Rudolph is referring to a funeral establishment.

Mr. Rudolph stated that he is referring to a removal service. In the past, funeral homes and removal services just gave notice to the Board of Funeral Directors and Embalmers. There was an inspection and then the establishment was relicensed.

Mr. Shropshire questioned whether that is consistent with Ms. Richardson's understanding of practice in the past.

Ms. Richardson stated that is inconsistent. As long as I have been working with the Division and with the Department of Business and Professional Regulations, a change of location required a new application. Since at least 2005, it has been a reapplication.

Mr. Rudolph stated that Ms. Richardson came on right after the statute was changed, but before 2005, that is what they used to do.

Ms. Wendy Wiener concurred. Way back, like the late 90s and early 2000s, if a funeral establishment changed ownership or location you just sent a notice to DBPR, they sent out an inspector and sent you a new license in the mail. There was no formal application like there is now.

Mr. Helm questioned whether the Board could approve the license and look into the refund matter.

The Chair stated that the Board could take that into consideration. The Board could defer the refund request to the next meeting.

Mr. Jennings stated that essentially there are two (2) issues. One (1) is the approval of the license. The issue with the refund, the prorating of fees, is an issue that is not specific to this particular application. Mr. Jennings suggested that the Board rule on the application first. Then have a second motion to have the issue of the refund reviewed by the Staff and submit a report under Old Business at the next meeting.

MOTION: Mr. Helm 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.

MOTION: Mr. Helm moved to defer the request to the next meeting pending review of the refund by the Division. Mr. Hall seconded the motion, which passed unanimously.

16. Application(s) to Transfer Preneed Main License

A. Recommended for Approval *with* Conditions

(1) Cedar Bay Enterprises LLC d/b/a Cedar Bay Funeral Home (Jacksonville)

S. 497.453(4), Florida Statutes, provides in pertinent part as follows: “(4) *CHANGE IN CONTROL SUBSEQUENT TO LICENSURE.* -- (a) *Each [preneed main] Licensee under this section shall provide notice as required by rule prior to any change in control of the Licensee. Any such change is subject to disapproval or to reasonable conditions imposed by the licensing authority, for the protection of the public to ensure compliance with this chapter, based upon criteria established by rule, which criteria shall promote the purposes of this part in protecting the consumer.*”

The Department received the application on April 11, 2013 and completed as of April 25, 2013. This is an application for the transfer of the preneed license, Cedar Bay Enterprises d/b/a Cedar Bay Funeral Home (F038700). This application is being filed as a result of an internal change of control and change of the qualifying entity for the preneed license. Jack A. Blackburn, sole principal and managing member of the Applicant is assuming 100% ownership of the LLC. The former qualifying entity was previously licensed as a funeral establishment under license number F047208. Applicant is also applying for a new qualifying funeral establishment license and the application is being considered at this Board meeting.

The Applicant currently writes insurance-funded preneed contracts through Homesteaders Life Insurance and will continue to trust through Funeral Services, Inc. (FSI), First Florida Trust Agreement (Sabal Trust Company), and utilize the approved prearranged funeral agreements. A completed background check of all officers revealed no criminal history. The Applicant’s financial statements as of December 31, 2012 reflect the following:

Outstanding Preneed Contracts	=	\$ 370,398
Required Net Worth	=	\$ 40,000
Reported Net Worth	=	\$ 261,694

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

- 1) That the closing occur within 60 days of the date of this Board meeting.
- 2) Receipt by the Division within 75 days of this Board meeting, of a letter signed by Applicant or Applicant’s attorney, addressed to the Division, certifying that closing has occurred.
- 3) Receipt by the Division within 75 days of this Board meeting, of a copy of the Bill of Sale, executed by all parties, and any and all amendments thereto, also fully executed.
- 4) That the establishment passes an on-site inspection by a member of Division Staff.
- 5) That all preneed obligations of the preneed Licensee under its current controlling party shall continue as its obligations under its new controlling party.

Mr. Rudolph, representing Cedar Bay, with the same comments made about the funeral home.

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

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

A. Recommended for Approval with Conditions

(1) Preneed Funeral Agreements

(a) The Simplicity Plan, Inc. (Forms FL-Cemetery, FL-Direct Disposer, FL-Funeral) (Altamonte Springs)

The Simplicity Plan, Inc. (Simplicity) submits amendments to its preneed sales agreements for approval (Forms FL-Direct Disposer, FL-Cemetery, and FL-Funeral) along with page 1 addendums. If the forms are approved, they are to be used for the sale of trust-funded preneed contracts through its licensed various preneed establishments and branches.

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

MOTION: Mr. Helm moved to approve the agreements are recommended for approval subject to the condition that two full sized print-ready copies of each contract are received by the Department within 60 days of this Board meeting. Ms. Anderson seconded the motion, which passed unanimously.

B. Recommended for Approval without Conditions

(1) Pre-Construction Trust Agreement

(a) Fred Hunter Memorial Services, Inc. d/b/a Fred Hunter’s Hollywood Memorial Gardens (Hollywood) (F019312 and F039596)

Pursuant to 497.272, a pre-construction trust must be established for the trusting of funds as required for the sale of interment rights, entombment rights, and/or inurnment rights on a pre-construction basis under preneed cemetery contracts.

In accordance with ss. 497.272, Florida Statutes, Fred Hunter Memorial Services, Inc d/b/a Highland Fred Hunter’s Hollywood Memorial Gardens (License numbers F019312 and F039596), submits a request for approval of the mausoleum project as below summarized. The Fred Hunter Memorial Services, Inc., Master Pre-Construction Trust Agreement administered by SunTrust Bank, N.A. was previously approved at the March 10,

2011 Board teleconference and is to be utilized for the construction of a mausoleum to be located at Fred Hunter's Hollywood Memorial Gardens at 6301 Taft St, Hollywood, FL 33024.

The mausoleum project is summarized as follows:

Project: 448 crypt mausoleum

448 casket crypts

224 single crypts, 112 tandem crypts

280 Niches

Project Amount: \$333,464

MOTION: Mr. Clark moved to approve the agreements are recommended for approval subject to the condition that two full sized print-ready copies of each contract are received by the Department within 60 days of this Board meeting. Mr. Hall seconded the motion, which passed unanimously.

(2) *Preneed Cemetery Merchandise Trust Agreement/Cemetery Care and Maintenance Trust Agreement*

(a) *Flagler Palms Cemetery, LLC d/b/a Flagler Memorial Gardens (Flagler Beach) (F039430)*

In accordance with ss. 497.266 and 497.458, Florida Statutes, Flagler Palms Cemetery, LLC d/b/a Flagler Memorial Gardens hereby submits a preneed cemetery merchandise trust agreement for the trusting of preneed funds and a cemetery care and maintenance trust agreement through SunTrust Bank, N.A. (SunTrust). If approved, these agreements will replace the existing Prime Succession Preneed Cemetery Trust Agreement dated July 26, 1994 and the Future Care and Maintenance Fund Agreement dated May 30, 1980, respectively, and SunTrust will operate under the new trust agreements.

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

18. Trust Transfer Request(s)

A. *Recommended for Approval with Conditions*

(1) *Carriage Funeral Services, Inc (CFS) (Panama City) (F019491)/ Carriage Florida Holdings, Inc (Tamarac) (F058284), collectively "Carriage"*

(a) *Approval of Preneed Funeral and Cemetery Merchandise and Services Trust Amendment and Preneed Funeral and Cemetery Merchandise and Services Trust Agreement*

(b) *Transfer of The FSI 1993 Trust Agreement (70/30), Preneed Trust Funeral Trust Fund Agreement (1/31/1994) (70/30), The 1978 FSI Master Trust Agreement (70/30), The 88 Trust Agreement (70/30), The First Florida Trust (90/10), First Florida Trust, A Pre-Arranged Funeral Program Agreement (90/10), Ss. 639.149 Master Preneed Funeral Service Trust Agreement (90/10), Security Trust Master Fund Agreement (70/30) from Sabal Trust to Regions Bank, N.A.*

The above preneed Licensees are requesting the following: (1) approval of the above named Preneed Master Trust and Preneed Master Trust amendment, (2) transfer of the above preneed trust accounts, and (3) appointment of Regions Bank as successor trustee. Licensee is requesting transfer of all cemetery and funeral related preneed trust funds currently held at Sabal (administered by FSI) to Regions. (Please refer to attached letter dated March 11, 2013 from attorney Wendy Wiener).

If the CFS Funeral Services, Inc. Preneed Funeral and Cemetery Merchandise and Services Trust Agreement and Carriage Florida Holdings, Inc. Preneed Funeral and Cemetery Merchandise and Services Trust Agreement is

approved, the preneed trust accounts for The FSI 1993 Trust Agreement (70/30 trust) and Preneed Trust Funeral Trust Fund Agreement (dated 1/31/1994) (70/30), will be split upon transfer to Regions into the two separate master trusts, and operate under the new agreements. Additionally, as appointed successor trustee, Regions will continue to operate under the existing agreements: The 1978 FSI Master Trust Agreement (70/30), The 88 Trust Agreement (70/30), The First Florida Trust, A pre-arranged Funeral Program Agreement (90/10), ss. 639.149 Master Preneed Funeral Service Trust Agreement (90/10), and the Security Trust Master Fund Agreement (70/30), respectively.

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

- (1) That the Department receives trust agreements fully executed by all parties within 60 days of this Board meeting.
- (2) That Regions provides a certification statement that as trustee it meets the requirements of Rule 69K-7.015(1) or (2).
- (3) That the former trustee provides a certificate stating the dollar amount of trust assets being transferred.
- (4) That Regions, as new Trustee, provides acknowledgement of receipt of the amount of trust assets being transferred as specified by the former trustee.
- (5) 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 request subject to the condition(s) recommended by the Division. Ms. Hubbell seconded the motion, which passed unanimously.

19. Executive Director's Report

A. Proposed Rule 69K-33.007 (Action)

Mr. Shropshire stated that Section 497.386(4) provides as follows:

- (4) The licensing authority shall establish by rule the minimal standards for acceptable and prevailing practices for the handling and storing of dead human bodies, provided that all human remains transported or stored must be completely covered and at all times treated with dignity and respect.

This requirement has been in the statutes for several years. Because the Legislature used the phrase "shall establish by rule," it is required that the Board adopt a rule on the topic indicated. No rule has been adopted by the Board. Within the last several months a Committee of the Legislature has expressed to DFS and the FCCS Division the Committee's serious dissatisfaction that no rule has yet been adopted.

The proposed rule below was approved by this Board's Rules Subcommittee at a meeting on April 4, 2013. The Division now presents the proposed rule to the Board. The Division recommends that the Board approve the Rule and authorize the Division to move forward with all required rulemaking procedures and cause the rule to be adopted; and that the Board find that the rule will not have an adverse impact on small business and is not likely to directly or indirectly increase regulatory costs in excess of \$200,000 in the aggregate in this state within one (1) year after the implementation of the rule.

MOTION: The Chair moved to approve the Rule and authorize the Division to move forward with all required rulemaking procedures and cause the rule to be adopted; and that the Board find that the rule will not have an adverse impact on small business and is not likely to directly or indirectly increase regulatory costs in excess of \$200,000 in the aggregate in this state within one (1) year after the implementation of the rule. Mr. Helm seconded the motion, which passed unanimously.

The Chair commended everyone who worked on the Committee for their efforts in getting this rule done.

Mr. Shropshire thanked the Chair and the Committee members.

B. Request to Refer to Rules Subcommittee (Informational)

The FCCS Division has received the attached email memo from Board member Andrew Clark, asking that issues referred to in said memo, be referred for rulemaking. The issues relate primarily to the issue of "ID viewing." That is, what is an ID viewing and what differentiates it from a traditional viewing service, etc.

The FCCS Division recommends that the issues in the attached memo be referred to the Board's Rules Subcommittee on Handling and Storage of Human Remains because those issues have already come up in that Committee's meeting on April 4, 2013.

Mr. Rudolph questioned why this is being referred to the Subcommittee on Handling and Storage of Human Remains and not the Rules Committee.

Mr. Shropshire stated that this issue came up during the proceedings of that Subcommittee and relates somewhat more directly to that Subcommittee's proceedings and topics, so that is why the Division recommends it be referred back to that Subcommittee. There has already been some discussion of the issue at that Subcommittee.

The Chair referred the issue to the Rules Subcommittee on Handling and Storage of Human Remains.

C. Reelection of Gail Thomas-Dewitt to The Conference Board (Informational)

Mr. Shropshire congratulated Ms. Gail Thomas-Dewitt as she was re-elected for a second term on The Conference Board.



13 MAR 22 AM 3:03
FCCS DIVISION

DATE: MARCH 15, 2013
FROM: LAUREN THOMAS, REGULATORY SUPPORT COORDINATOR
TO: ICFSEB DISTRICT 3 MEMBERSHIP

The election for District 3 Director was held on Thursday, February 28, 2013 in conjunction with the 109th Annual Meeting of The Conference in Henderson, Nevada. We are pleased to announce that Gail Thomas-DeWitt, member of the Florida Division of Funeral, Cemetery, and Consumer Services Board since 2005, was re-elected for a second term. Ms. Thomas-DeWitt will continue to represent Alabama, Florida, Georgia, Mississippi, North Carolina and South Carolina.

Your membership is appreciated and helps to promote open dialogues and quick access to information within the funeral service regulatory community. Please feel free to contact either the office or Ms. Thomas-DeWitt if The Conference can be of assistance to you.

*Gail A. Thomas-DeWitt
Gail & Wynn's Mortuary, Inc.
1300 Bruton Blvd.
Orlando, FL 32805
Office: 407-522-4700
Fax: 407-522-4799
E-mail: gwynn555@aol.com*

For more information about The Conference and our services please visit www.theconferenceonline.org.

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

Mr. Shropshire asked if there were any questions or comments regarding the monthly report of fine and costs. There were none.

Monthly Report of Fine and Costs Assessed and Paid
 Division of Funeral, Cemetery and Consumer Services
 May 9, 2013 Board Meeting
 Report Updated as of April 30, 2013

Licensee	Board Meeting	Case No.	Total Fine & Cost Due	Date Due	Paid in Full?	Comments
Stanley Gunter-Butler	Jun-12	117958-11-FC	\$2,750	8/20/2012	NO; See Note A	Monthly payments are not current; Licensee failed to make February, March, and April payments.
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 See Note D See Note D	Board approved modification request at April Board meeting. \$500 due each month on the the following dates: April 15th, May 15th, and June 15th.
Nancy Lohman	Feb-13	126800-12-FC	\$1,000	3/14/2013	Yes	
David E. Leveck	Feb-13	126159-12-FC	\$1,000	3/15/2013	Yes	
Masters Funeral Home, PA	Feb-13	126160-12-FC	\$1,000	3/15/2013	Yes	
Edward W. Stone	Feb-13	128621-12-FC	\$2,750	3/15/2013	Yes	
Stone's Memorial Funeral Home	Feb-13	128622-12-FC	\$2,750	3/15/2013	Yes	
Doctor R. Choice	Feb-13	126172-12-FC	\$750	4/15/2013	No	See Note A
Farrell F. Speights	Feb-13	128345-12-FC	\$2,250	3/18/2013	Yes	
Young's Funeral Home, Inc.	Feb-13	128346-12-FC	\$2,250	3/18/2013	Yes	
Kevin Blackmon	Feb-13	126775-12-FC	\$2,750	3/27/2013	Yes	
Kate Mayberry dba Agape Funeral Home & Cremation Services, Gainesville	Apr-13	130350-12-FC	\$1,750	5/9/2013	See Note D	
Collison Family Funeral Home & Cremation Howell Branch Chapel	Apr-13	125720-12-FC	\$1,250	5/10/2013	Yes	
Patrick Fulton	Apr-13	125722-12-FC	\$1,250	5/10/2013	See Note D	
Sara Fredericks	Apr-13	125717-12-FC	\$1,250	5/10/2013	See Note D	
Gregory Collison	Apr-13	125716-12-FC	\$1,250	5/10/2013	Yes	
A. When payment in full becomes past due, the FCCS Division works with the DFS Legal Division to enforce payment. B. Once fines and costs are paid in full, licensee kept on this report 3 months, showing Paid in Full, and then dropped off report; also licensee dropped off report after disciplinary action filed due to nonpayment of the fine and costs. C. The Order re this case is still in process, so no Due date is yet established. D. Due date has not passed, as of the date of this report. E. As of the date of this report, monthly payments were current.						JMB May/2013 OAS Macey Brd

The Chair noted that the next meeting is the June 6th conference call followed by the June 27th in-person meeting in Tallahassee.

20. Adjournment

The meeting was adjourned at 10:39 a.m.