

MINUTES
BOARD OF FUNERAL, CEMETERY AND CONSUMER SERVICES
February 6, 2014 - 10:00 A.M.

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 February 6, 2014; 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 in the Alexander Building in Tallahassee 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
Keenan Knopke, Vice Chair
Jean Anderson
Andrew Clark
James "Jim" Davis
Lewis "Lew" Hall
Powell Helm
Ken Jones
Richard "Dick" Mueller

ABSENT:

Vanessa Oliver

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:

Larry Harris, Board Legal Advisor
Anthony Miller, Assistant Director
LaTonya Bryant, Department Staff
Linje Rivers, Department Counsel
Jasmin Richardson, Department Staff
LaShonda Morris, Department Staff
Christine Moore, Department Staff
Jim Deason, Department Staff
James Folker, Department Staff
Kawanzasis Henderson, Department Staff

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

2. Action on the Minutes

A. December 4, 2013

MOTION: Mr. Dick Mueller moved to adopt the minutes of the meeting. Mr. Keenan Knopke seconded the motion, which passed unanimously.

B. January 2, 2014

Mr. Keenan Knopke stated that on page 11, he had asked the Department if the extension was granted would the Board be notified after the extension had been granted just so that we were aware of it. The Department agreed to that but the motion stated that "Mr. Mueller moved to approve the request subject to the conditions recommended by the Division." However, those were not conditions that were recommended by the Division. They were part of the discussion. Mr. Knopke stated that he wanted to confirm that Mr. Mueller included his request in the motion as well as Mr. Hall with his second.

Mr. Dick Mueller stated that he gave it some thought and was certain it was included in the motion and Mr. Lew Hall stated it was included in his second.

Mr. Shropshire stated that the Division understands that to be a standing request by the Board and fully intends to comply that any time we grant an extension to a closing, for instance, on a transfer, etc., we will include a report as an informational item to the Board. It may just be by a copy of the email by which the extension is granted but it will alert the Board and the Board can question the Division if they need to.

MOTION: Mr. Knopke moved to adopt the minutes of the meeting with the amendment. Mr. Mueller seconded the motion, which passed unanimously.

3. Disciplinary Proceedings

A. Disciplinary Proceedings - Material Facts Not Disputed (Section 120.57(2) Hearings)

(1) Affiliated Funeral Service (F040934); Case No. 137272-13-FC; Division No. ATN-19925 (Probable Cause Panel A)

Mr. Knopke recused himself as he served on Probable Cause Panel A in this matter.

Mr. Linje Rivers stated that the Administrative Complaint in this case alleges that the Licensee violated Chapter 497, F.S., which includes practicing with an inactive license. The circumstances of this case are that the Licensee failed to report a change in location and apply for re-licensure of its removal service license per statute and rule. The Department filed an Administrative Complaint on October 3, 2013, which was served on the Respondent by certified mail on October 24, 2013. The Licensee failed to respond to the Administrative Complaint within the 21 days.

Based on the information, the Department filed a Motion for Determination of Waiver and for Final Order by hearing not involving disputed issues of material facts as well as a Notice of Supporting Documentation. At this time, The Department feels it would be appropriate for the Board to determine whether the Respondent has waived its right to request a proceeding in this matter as alleged in the Administrative Complaint.

MOTION: Mr. Ken Jones moved to find that the Respondent waived its rights to request a proceeding in this matter. Mr. Jim Davis seconded the motion, which passed unanimously.

Now that the Board has determined that the Respondent has waived its right to request a proceeding, the Department believes it is appropriate at this time for the Chair to entertain a motion adopting the Allegations of Fact as set forth in the Administrative Complaint.

MOTION: Mr. Powell Helm moved to adopt the Findings of Fact. Mr. Lew Hall seconded the motion, which passed unanimously.

Now the Department contends that the Board's Findings of Fact support a finding of the violations of the alleged sections of Chapter 497, F.S. as charged in the Administrative Complaint. The Agency offers the investigative report with exhibits into evidence to support a prima facie case for the violations as alleged in the Administrative Complaint. The Department requests that the Board entertain a motion adopting the Conclusions of Law as alleged in the Administrative Complaint.

MOTION: Mr. Helm moved to adopt the Conclusions of Law. Mr. Hall seconded the motion, which passed unanimously.

As to penalty, the Department recommends that the following penalty in this case be imposed: administrative fine of \$1500 to be implemented upon the execution of the Final Order.

The Chair questioned whether there was anyone present representing the Respondent. There was no response.

Mr. Helm questioned whether the Respondent is a removal service.

Mr. Rivers concurred.

The Chair stated that in the material presented to the Board, it was incorrectly stated that it was a funeral director and embalmer's license.

Mr. Shropshire stated that the Administrative Complaint filed in this matter on October 3, 2013, at its paragraph 1 refers to Respondent as being licensed as a funeral director and embalmer. Mr. Shropshire questioned whether that was in fact in error.

Mr. Rivers concurred.

Mr. Shropshire questioned what the Respondent was licensed as.

Mr. Rivers responded that the Respondent was licensed as a removal service.

Mr. Shropshire questioned whether the Respondent has been notified of the error and is in agreement to the correction of the Administrative Complaint in that regard.

Mr. Rivers stated that the Respondent has failed to respond to any correspondence sent out by the Department.

Mr. Jones questioned the number of correspondence sent out to the Respondent by the Department.

Mr. Rivers stated that the Department sent out the Administrative Complaint as well as the Motion for Determination of Waiver for the Final Order and the Notice of Supporting Documentation. The Respondent has not responded to any of the correspondence.

Mr. Jones questioned whether all the documents were sent via certified mail.

Mr. Rivers answered yes.

Mr. Hall stated that it is his understanding that the Respondent could not just submit a change of address but had to apply for a new license.

Mr. Rivers concurred.

Mr. Hall added that the inspector advised the Respondent of that and his response was receipt of a fee in the amount of \$25.

Mr. Rivers stated that there has been a supplemental inspection at the facility and the Respondent is currently in compliance with the Statute.

Mr. Hall stated that the inspector made the Respondent aware of the problem.

Mr. Rivers concurred.

Mr. Helm questioned whether Mr. Shropshire had any concerns.

Mr. Shropshire stated that he was just wondering whether the Respondent chose not to respond because he saw that the allegations regarding a funeral director and embalmer were wrong so he is just saving up for an appeal. When I thought about it further, the Respondent's proper course of action would have been to deny the allegation because it was a factual allegation that he was licensed as a funeral director and embalmer and he has not contested it.

MOTION: Mr. Jones moved for a penalty of a \$1500 administrative fine to be paid within 30 days of the execution of the Final Order. Mr. Hall seconded the motion, which passed unanimously.

***(2) Sutton Monuments Cemetery Services, Inc. (F050086): Case No. 139629-13-FC, Division #ATN-20454
(Probable Cause Panel B)***

Ms. Jean Anderson recused herself as she served on Probable Cause Panel B in this matter.

Mr. Helm recused himself.

Mr. Rivers stated that the circumstances of this case are that the Licensee operated a monument establishment on an expired license, engaged in the sale of markers and monuments without a valid license and failed to deliver and install a purchased monument by the date agreed to in the sales agreement. Additionally the Licensee failed to honor a refund request from a consumer. The Department filed an Administrative Complaint on October 21, 2013, which was served on the Respondent by certified mail on October 31, 2013. The Licensee submitted an election of proceedings to the Administrative Complaint and elected a hearing not involving material facts in dispute. Based on the answer to the Administrative Complaint, it appears that the Licensee did indeed have material facts in dispute. That information was submitted to the Board for review. However, on or about January 30, 2014, the Licensee submitted a supplemental letter clarifying that the Licensee was electing an "informal" 120.57 hearing, not involving any material facts in dispute.

The Chair confirmed that the Board members received the supplemental letter.

At this time, The Department feels it would be appropriate that the Board move to proceed as an informal hearing not involving disputed facts.

MOTION: Mr. Hall moved to proceed as an informal hearing not involving disputed facts. Mr. Knopke seconded the motion, which passed unanimously.

Now the Department believes it is appropriate at this time for the Chair to entertain a motion adopting the Allegations of Fact as set forth in the Administrative Complaint.

MOTION: Mr. Hall moved to adopt the Findings of Fact. Mr. Andrew Clark seconded the motion, which passed unanimously.

Now the Department contends that the Board's Findings of Fact support a finding of the violations of the alleged sections of Chapter 497, F.S. as charged in the Administrative Complaint. The Agency also offers the investigative report with exhibits into evidence to support a prima facie case for the violations as alleged in the Administrative Complaint. The Department requests that the Board entertain a motion adopting the Conclusions of Law as alleged in the Administrative Complaint.

The Chair questioned whether there was anyone present representing the Respondent. There was no response.

MOTION: Mr. Hall moved to adopt the Conclusions of Law. Mr. Knopke seconded the motion, which passed unanimously.

Mr. Rivers stated that in line with the penalty guidelines, the Department recommends the following penalty in this case: six (6) month suspension of the monument establishment retailer license.

Mr. Knopke questioned whether the Respondent has reapplied for a license at this time or if they are continuing to operate without a license.

Mr. Anthony Miller stated that he could not answer whether the Respondent is operating without a license. The Respondent does not have a valid license nor have they renewed their license.

Mr. Hall questioned how the Board would suspend the license if the Respondent does not have a license.

Mr. Miller stated that pursuant to statute, having an inactive or suspended license does not exempt the Licensee from prosecution of that license to establish a record of discipline against the license.

Mr. Shropshire stated that the license is in a delinquent status, so they are still licensed.

Mr. Rivers stated if the Respondent could retain licensure once the fee is paid.

Mr. Hall stated that in reference to the information provided regarding small claims court, the Board does not have jurisdiction over that. The Board can only address the license issue. The small claims court decision would override any decision the Board made for the family.

Mr. Shropshire responded, "As to restitution, yes." Mr. Shropshire added that if a judgment were obtained against the company and the company did not honor it, it could become a disciplinary matter.

The Chair stated that if the company is delinquent in their licensure and the Board suspends the delinquent license for six (6) months and in the past they have clearly indicated that they are willing to operate with a delinquent license why do we think the six (6) months suspension would be a deterrent.

Mr. Rivers stated that the Department could suggest that the Licensee appear before the Board to demonstrate compliance with the Final Order as well as making the consumers whole before renewing their licensure.

The Chair stated that he has a bit of discomfort with a six (6) month suspension when the Licensee is clearly demonstrating that they are willing to continue activity that was normally for a licensed company.

Mr. Knopke stated that he would be inclined to recommend revoking the license.

Mr. Jones questioned the Division's position on corrective action.

Mr. Shropshire responded that the Division's position on corrective action ultimately is to issue a Cease and Desist Order and the ultimate is to seek a circuit court order directing the stop action. Mr. Shropshire questioned whether revocation of the license would have an adverse affect on restitution, their ability to make a consumer whole.

Mr. Miller stated that ultimately the Licensee could claim that they do not have the capacity to do business. They could make that assertion. If the license is suspended, they could make the same assertion. Mr. Miller added that he would submit that if the Board does decide to revoke the license that the aggravating factors are cited.

Mr. Shropshire stated that he shares Mr. Miller's concern. Also, if the license is revoked we eliminate any incentive or leverage for them to make the consumer whole. Mr. Shropshire questioned whether it would be appropriate for the Board to consider suspension for six (6) months and thereafter indefinitely until such time as they appear before the Board to convince the Board that they are in good standing and should be reinstated.

The Chair reiterated Mr. Jones question on what vehicle is in place to assure that during this six (6) month suspension the Licensee is not continuing to operate illegally.

Mr. Larry Harris stated that there is a specific statute regarding unlicensed practice. S. 497.157(2)(a), F.S., specifically states that "when the Department has reasonable cause to believe that any person or entity not licensed under this chapter..." The Department then could make the allegation that if the license is inactive at this point then that constitutes not being licensed currently and therefore that is unlicensed activity. Then it directs that they can essentially file a complaint and the matter would be heard either before DOAH, if it is contested, or if it is uncontested or informal like this or not involving disputed

facts, it would go before the CFO or his designee for action. So, the Department has the ability to proceed against this current inactive Licensee as an unlicensed practice act. So any complaints that come in, if the Department were to investigate today and find out that this person is still selling services on an inactive license, the Department could proceed with this unlicensed activity and that would be a fairly significantly proceeding. Maybe it would not be this Board, but the Department clearly has the ability to stop this action if the investigator goes down there today and looks and sees that the Licensee in fact has its open for business sign up and is selling services. That would be a strong case to proceed and there is a good faith argument that that would constitute unlicensed practice. Looking at s. 497.157, F.S., it seems to layout the ability to take discipline the way they would normally before the Board if it was licensed, but this is unlicensed and it looks like they can do the same type of thing including the same guidelines, which are fines, administrative fines of up to \$5000 and suspension or revocation of license. With respect to the issue about the restitution, unless the Board is planning to order restitution today, there is a Circuit Court Order that presumably the Licensee is in default on. As an attorney, I would be going after the Licensee for judgment advising the circuit judge that he is in default on this Order. That would become a circuit court judgment. It is not "restitution" but a legal judgment in court that is filed in the property records is going to be better than restitution because that is with statutory interest. This particular complainant would be made whole. Unfortunately, they have to go through the circuit court process to get there, but Sutton Monuments with a valid circuit court order against them will in fact make this right.

Mr. Miller added whether a suspension or revocation, the possible violation of unlicensed activity would exist in both cases.

The Chair stated that he certainly feels for the parties that were harmed in that, but the Licensee's ability to make restitution through illegal and unlicensed activities is not appealing. The Licensee's ability to make restitution is a separate issue all together.

Mr. Mueller agreed and stated that the Board's more important function is to ensure that the Licensee stops what he is doing. The Board has received two (2) opinions. One where the Department indicates the Licensee is licensed and the Board attorney indicates that he is not licensed. That needs to be resolved before we move forward.

Mr. Harris stated that he does not understand the license to be null and void. That is that he is totally unlicensed. This is not like a member of the public who just starts doing this. This is a Licensee whose license is currently delinquent. The Respondent is still a Licensee before you and the Board can still take action against that license, including revoking it. If the Board revokes the license, there is no license and then the Board is clearly impede from the day the license if revoked and the Final Order is issued. In addition to that, where the Board has jurisdiction against this Licensee today because it is an invalid license, the Department could make the argument that while the Licensee was out selling services over the past six (6) months, a year or whatever that that could also perhaps constitute unlicensed practice. Mr. Harris added that he is not sure that it could be that would be a legal argument that the Respondent's attorney could defend, but the Department could in good faith proceed that way also. Or they could come back and make a number of complaints at this point that during the time the license was out there but invalid, the Respondent was engaging in multiple sales. Again, those would all be disciplinary offenses that the Board could handle. Mr. Harris stated that he does not see this as an "either/or," but it is almost sort of a mixture of both given that the Respondent is not present to explain exactly what he has been doing. The Department has a couple of various options either through the Board or through the unlicensed practice or a combination to take action against this Licensee to make sure the Licensee stops doing what they are doing and make sure that they make whole any customers that have been harmed in this complaint or in any other situations. Mr. Harris stated that he is comfortable that the Board has the authority today, that the Department has authority either through the Board or through unlicensed practice.

Mr. Mueller questioned whether a revocation is the only way to get the Cease and Desist Order or if it could be issued with a suspension.

Mr. Shropshire stated that if the license is suspended today and thereafter the Licensee continues to practice, the Department would issue a Cease and Desist Order.

Mr. Mueller questioned how the Department would know whether the Licensee continues to practice.

The Department would send out an investigator to go by the business premises to determine whether the establishment is open. However, that is not always definitive as you well know. Some of them operate out of the trunk of their vehicle, so in

many cases it takes the Division receiving a complaint before we could actually nail them because they do not have business premises, they should but they do not actually.

Mr. Hall stated that the Board's responsibility today is to the public and consumers, not to have this happen to anyone else. When you look at the pictures, their workmanship and what had to be corrected on this, it could be a lot worse than what it is. Mr. Hall added that he agrees with Board counsel that unfortunately I would like to do something to correct it for the consumer, but the courts are the best avenue for them to go back for correction. It is not like the Licensee has not known as it has been a couple of years going. The Licensee was advised and could have been here to address the Board today but chose not to. The business transactions have to stop.

Mr. Shropshire questioned whether Mr. Hall could offer those as aggravating factors in support of revocation.

The Chair responded affirmatively.

Mr. Knopke stated that the revocation may be the only way to get the Respondent to appear before the Board and give his side or offer up anything.

Mr. Harris stated that there are five (5) aggravating factors in the disciplinary rules: (1) the severity of the violation; (2) the degree of harm to the consumer or public; (3) the number of times the violation has previously been committed; (4) the disciplinary history; (5) provide the status of the Licensee at the time the violation was committed. So I would think that the first, second and fifth would constitute fairly significant aggravating circumstances.

MOTION: Mr. Knopke moved to revoke the license based upon the aggravating factors. Mr. Hall seconded the motion, which passed unanimously.

(3) Sutton, Paul (F048479): Case No. 139361-13-FC, Division #ATN-20454 (Probable Cause Panel B)

Ms. Jean Anderson recused herself as she served on Probable Cause Panel B in this matter.

Mr. Helm recused himself.

Mr. Rivers stated that the Respondent is the monument sales agent at Sutton Monuments Cemetery Services. The Department filed the Administrative Complaint on October 21, 2013, which was served upon Mr. Paul Sutton by certified mail on October 31, 2013. The Licensee submitted an Election of Proceeding form to the Administrative Complaint, electing a hearing not involving material facts in dispute, but based on the answer to the Administrative Complaint it appeared that the Licensee did have material facts in dispute. However, on January 30, 2014, the Licensee submitted a supplemental letter electing an informal hearing not based on material facts in dispute.

At this time, The Department feels it would be appropriate for the Board to determine whether the Respondent has waived its right to request a formal proceeding in this matter as alleged in the Administrative Complaint.

MOTION: Mr. Knopke moved to find that the Respondent waived its rights to request a proceeding in this matter. Mr. Hall seconded the motion, which passed unanimously.

Now that the Board has determined that the Respondent has waived its right to request a proceeding, the Department believes it is appropriate at this time for the Chair to entertain a motion adopting the Allegations of Fact as set forth in the Administrative Complaint.

MOTION: Mr. Davis moved to adopt the Findings of Fact. Mr. Hall seconded the motion, which passed unanimously.

The Chair questioned whether there was anyone present representing the Respondent. There was no response.

Now the Department contends that the Board's Findings of Fact support a finding of the violations of the alleged sections of Chapter 497, F.S. as charged in the Administrative Complaint. The Department requests that the Board entertain a motion adopting the Conclusions of Law as alleged in the Administrative Complaint.

MOTION: Mr. Mueller moved to adopt the Conclusions of Law. Mr. Knopke seconded the motion, which passed unanimously.

Mr. Rivers stated that the Department recommends the following penalty in this case: three (3) month suspension to commence upon the execution of the Final Order and the Respondent would have to come before the Board to demonstrate compliance with all the violations as listed in the Administrative Complaint.

MOTION: Mr. Knopke moved to revoke the license based on the aggravating factors previously cited in the preceding companion case. Mr. Hall 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 with Conditions (Criminal History)
(1) Laskowski, Michael (Appointing Entity: Neptune Management)

On December 12, 2013, the Department received an application from Mr. Laskowski. Mr. Laskowski answered "No" to Applicant Background Questions. During the review of his fingerprint results provided by FDLE it was confirmed, Mr. Laskowski did have one criminal infraction that required disclosing. Mr. Laskowski was asked to provide an explanation for the inaccuracy on his application.

Mr. Laskowski's explanation "*I was confused and thought this had to do with cremation.*"

Mr. Laskowski pled nolo contendere to Reckless Driving and Use or Possession of Drug Paraphernalia in October 2010, and his sentence included probation, community service, court cost and fines, which occurred in Brevard County, Florida. Upon request he disclosed all required information.

Applicant has several strong references. His references include one from his employer, Neptune Society, who would employ him if he gets his PSA license; Neptune indicate they know of his past record but feel he is rehabilitated.

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

The Division is recommending approval subject to the terms & conditions of the attached stipulation for licensure, which calls for 12 full months of probation.

The Chair questioned whether the Applicant would like to address the Board or answer any questions.

Mr. Michael Laskowski stated that he would answer any questions that the Board may have.

Mr. Hall questioned what happens if there is an arrest during the probation period.

Mr. Shropshire stated it would be a violation of probation and the Division would have to initiate administrative proceedings on that violation. It is not an automatic suspension but it would bring the matter back before the Board.

MOTION: Mr. Powell Helm moved to approve the application subject to the terms and conditions of the stipulation for licensure which calls for 12 months probation. Ms. Anderson seconded the motion, which passed with one (1) dissenting vote.

Mr. Shropshire stated that he needed to amend his prior answer. Paragraph 12 of the stipulation provides that Mr. Laskowski has stipulated that if he violates the probation that is cause for the Division, without further notice to him, to summarily suspend his licensure, notify his employer and then initiate administrative action.

- 5. Application(s) for Continuing Education Course Approval**
- A. Recommended for Approval without Conditions – Addendum B**
- (1) *American Academy McAllister Institute of Funeral Service #9808*
 - (2) *APEX Continuing Education Solutions #4201*
 - (3) *National Funeral Directors Association #136*
 - (4) *New Jersey Funeral Service Education Corp #7002*

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: Mr. Andrew Clark moved to approve the application(s). Mr. Hall 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) *Hart, Anna G*
 - (b) *Strange, Stephen B*
 - (2) *Funeral Director – by Internship and Exam*
 - (a) *Fresonke, Amy L*
 - (3) *Funeral Director and Embalmer – by Endorsement*
 - (a) *Ingram, Clint E*
 - (4) *Funeral Director and Embalmer – by Internship and Exam*
 - (a) *Adams, Mariah E*
 - (b) *Hatton, Robert C*
 - (c) *Monroe, Ashlee C*
 - (d) *Norwood, Lisa 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.

- B. Recommended for Approval with Conditions (Criminal History)**
- (1) *Funeral Director and Embalmer by Internship and Exam*
 - (a) *Bell, Ruben D*

On December 31, 2013, Mr. Bell submitted an application to become a Funeral Director and Embalmer by Internship and Examination.

Mr. Bell has previous criminal history that has been reviewed by the Board. At the October 4, 2012 Board meeting, the Board voted to deny the Rueben Bell's ("Applicant") Application for Concurrent Internship. On 11/14/12, the Notice of Intent to Deny Licensure was issued, setting forth the basis for the Board's denial. Through representative counsel, John Rudolph, Esq., Applicant filed a petition on 12/21/12, requesting a hearing before the Board regarding the licensure denial. At the February 7, 2013 Board meeting, the Board voted to approve the Applicant's application with a condition of probation during the internship. For the Board's reference, copies of the following have been included regarding this matter: February 2012 Board meeting packet, which includes the original internship application and applicable minutes.

The Division is recommending approval subject to the terms & conditions of the attached stipulation for licensure, which calls for a 24 month probation.

The Chair questioned whether there was anyone present representing the Applicant.

Mr. John Rudolph stated that he would be happy to answer any questions about Mr. Bell as he has represented the Applicant in the past.

MOTION: Mr. Knopke moved to approve the application subject to the terms and conditions of the stipulation for licensure which calls for 24 months probation. Mr. Jones seconded the motion, which passed unanimously.

(b) Combs, Jessica R

The Applicant submitted an application to become a Funeral Director and Embalmer on January 17, 2014. The application was complete when submitted. The Applicant previously submitted an application for a Concurrent Internship that was presented to the Board at the February 7, 2013 Board meeting. The Board approved the application with the condition of one year probation. The minutes from the February 7, 2013 are enclosed.

- Ms. Jessica Combs pled Guilty to Driving Under the Influence in August 2010.
- Ms. Combs was placed on twelve months probation, six months revocation of license, and fined a total of \$925.

The Division is recommending approval subject to the terms & conditions of the attached stipulation for licensure, which calls for a 12 month probation.

The Chair questioned whether there was anyone present representing the Applicant. There was no response.

MOTION: Mr. Mueller moved to approve the application subject to the terms and conditions of the stipulation for licensure which calls for 12 months probation. Mr. Clark seconded the motion, which passed unanimously.

(c) Martin Jr, Robert D

An application to become a Funeral Director and Embalmer was submitted on December 6, 2013. The application was incomplete when submitted. All deficiency items were returned on December 20, 2013. The Applicant has criminal history. The criminal record was disclosed to the Board when the Board considered and approved this Applicant's application for Concurrent Internship application at the December 6, 2012 Board Meeting. The criminal record is as follows:

- Mr. Martin pled guilty to Larceny in 1996. Mr. Martin explains that while he was working security someone gave him a laptop in a bag without his knowledge and he was arrested for theft after taking the person's belongings to his car. He was sentenced to two years probation.

The Division is recommending approval subject to the terms & conditions of the attached stipulation for licensure, which calls for a 12 month probation.

The Chair questioned whether there was anyone present representing the Applicant. There was no response.

MOTION: Mr. Helm moved to approve the application subject to the terms and conditions of the stipulation for licensure which calls for 12 months probation. Mr. Jim Davis seconded the motion, which passed unanimously.

C. Recommended for Approval without Conditions (Criminal History)

(1) Funeral Director and Embalmer by Internship and Exam

(a) Glisson, James E

The Applicant submitted an application to become a Funeral Director and Embalmer on November 13, 2013. The application was complete when submitted. The Applicant submitted a fingerprint card, the processing of which returned a criminal history, to wit:

- Mr. James Glisson pled No Contest to Driving Under the Influence in January 2009. Mr. Glisson was placed on twelve months probation, six months suspended license, and fined a total of \$1630.29. Mr. Glisson's probation was terminated early due to complying with all conditions in a timely and responsible manner.

Mr. Glisson is the owner of Central Florida Removal Service (F041140) which has been licensed since January 22, 1997 with no adverse licensing history. Mr. Glisson also applied was approved to sit for the Florida Law and Rules examination on October 7, 2010 and was approved for an Embalmer Apprentice License on February 9, 2012 and approved for a Concurrent Intern License on December 6, 2012 without conditions.

The Division is recommending approval without conditions.

The Chair questioned whether there was anyone present representing the Applicant. There was no response.

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

7. Application(s) for Internship

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

- (1) *Embalmer Intern*
 - (a) *Grossman, Robert A (F045578)*
- (2) *Funeral Director*
 - (a) *Espejo, Lizbeth (F063375)*
 - (b) *Strange, Stephen B (F061570)*
- (3) *Funeral Director and Embalmer*
 - (a) *Gumbs, Leona (F077457)*

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) *Noble, Sarah L (F077625)*

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.

The Chair stated that he was remised at the beginning of the meeting for not recognizing the President of the Florida Cemetery, Cremation and Funeral Association, Robin Giddens-Sheppard.

9. Application(s) for Training Facility

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

- (1) *Faith Chapel Funeral Services LLC d/b/a Faith Chapel North Funeral Home (F072631) (Cantonment)*
- (2) *Gallaher Services Inc d/b/a Fort Myers Mortuary Services (F071575) (Fort Myers)*
- (3) *Henry M Forbes Jr d/b/a Forbes Funeral Home (F060873) (Macclenny)*
- (4) *Pincrest Mariner Boulevard Inc d/b/a Pincrest Funeral Chapel (F073184) (Spring Hill)*

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. Notification(s) of Change of Location

A. Informational Item – Addendum G

- (1) *SCI Funeral Services of Florida Inc d/b/a Dignity Memorial Funeral & Cremation Services (F073787) Tampa)*

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

11. Consumer Protection Trust Fund Claims

A. Recommended for Approval without Conditions – Addendum H

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.

Mr. Helm questioned whether ICS Cremations is performing all of these services or if they are going through getting their records straight, as they have been the majority of the Claimants for the past several meetings.

Mr. Shropshire stated when American Family Cremations defaulted on their contracts and went out of business, there were 3500 contracts outstanding. Last time I checked there were 1500 left. When American Family Cremations went out of business, the contracts were assigned to another firm that in turn assigned them to ICS Cremations to be honored. If you look in these claims packages, in virtually every one you will see the proof of cremation and death certificate.

Mr. Helm questioned whether all of the beneficiaries have passed away.

Mr. Shropshire stated that that is the case in probably 99% of them. There are a few where they seek cancellation and refund.

Mr. Helm stated those would be in the beneficiaries' name, not ICS.

Mr. Shropshire concurred. So in these where the claimant is ICS, they have performed the service.

12. Application(s) for Monument Establishment Sales Agents
A. Informational Item (Licenses issued without Conditions) – Addendum I

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.

13. Application for Preneed Main License
A. Recommended for Approval without Conditions
(1) Plenitud Funeral Homes, Inc. (Pembroke Pines)

The Department received the application on October 29, 2013 and a deficiency letter was sent to the Applicant as of November 6, 2013. Applicant responded to all deficiencies and the application was completed as of December 20, 2013. A completed background check of all officers revealed no criminal history. Applicant obtained its current qualifying funeral establishment license (#F076317) as of October 4, 2013 and will use the pre-approved Funeral Services, Inc. (FSI) First Florida Trust Agreement (Sabal Trust Company) and pre-arranged funeral agreement.

The Applicant's financial statements as of October 31, 2013 reflect the following:

Outstanding Preneed Contracts	= \$	0
Required Net Worth	= \$	10,000
Reported Net Worth	=	\$240,326

MOTION: Mr. Knopke moved to approve the application. Mr. Davis seconded the motion, which passed unanimously.

(2) RWS Funeral Services LLC (Riviera Beach)

The Department received the application on July 12, 2013 and all items were resolved as of January 28, 2014. A completed background check of all officers revealed no criminal history. Applicant was approved for its qualifying funeral establishment license (F074100) as of May 9, 2013. Applicant will sell insurance-funded preneed through Homesteaders Life Company and utilize its approved preneed funeral agreement.

The Applicant's financial statements as of October 10, 2013 reflect the following:

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

Reported Net Worth = \$ 27,606

Documentation establishes that Alterraon Phillips (a principal of Applicant herein with a minority 10% interest in proposed Licensee) filed for Ch. 13 bankruptcy in 2006. This was a personal bankruptcy action pending discharge upon completion of the process in approximately 1 year and 6 months. Mr. Phillips holds a minority controlling interest in the Applicant, and has provided a notarized statement and court documentation evidencing the disclosed bankruptcy. Ronald E. Warnecke, (also a principal of Applicant herein with 90% interest in proposed Licensee) currently holds the majority controlling interest in the Applicant.

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

14. Application for Preneed Branch License
A. Recommended for Approval without Conditions – Addendum J

The Division recommends approval of the application(s).

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

15. Application(s) for Removal Service
A. Recommended for Approval with conditions
(1) Central Florida Funeral Resources LLC (Tampa)

An application for a Removal Service was received on December 26, 2013. The application was incomplete when submitted. All deficient items were received on January 9, 2014. The fingerprint cards for all principals were returned without criminal history.

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

MOTION: Mr. 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. Knopke seconded the motion, which passed unanimously.

16. Contract(s) or Other Related Form(s)
A. Recommended for Approval with Conditions
(1) Trust Transfer Request
(a) Carriage Florida Holdings, Inc (F058284) (Includes Related Preneed Funeral and Cemetery Locations)

Carriage Florida Holdings, Inc. seeks approval of certain proposed trust asset transfers, all as more specifically set forth in Justin Wilson of Regions Bank letter dated January 3, 2014.

Background

On June 27, 2013, this Board approved the acquisition by Carriage Florida Holdings, Inc. (Carriage) of 13 various licensed preneed branch locations under the former preneed Licensee, CFS Funeral Services, Inc. (F019491). Carriage acquired all of the assets and liabilities for the cemetery and preneed for these locations. (See **Attachment 1** hereto, minutes from the 6-27-13 Board meeting). The funeral establishments and cemeteries had been selling preneed and operating prior to that acquisition, most recently as branches under CFS Funeral Services, Inc. preneed main license (F019491) and Carriage assumed liability for the outstanding preneed liability. In an effort to consolidate all of its accounts, Carriage is requesting transfer of all the trust accounts listed on the attached Exhibits A and B as below outlined (please see attached letter dated January 3, 2014 from Justin Wilson of Regions Bank).

Item 1) Proposed Trust Transfers (Exhibit "A")

Carriage seeks approval of transfer of trust assets as listed on the attached Exhibit 'A' of certain existing trusts from SunTrust Bank to Regions Bank, as successor trustee. (that is, the trusts that is **Attachment 2**, and included in **Exhibit A** hereto wherein

Regions Bank is or will be trustee, and will operate under the existing trust agreements, as more specifically set out in the letter from Justin Wilson, Regions Bank dated January 3, 2014.

Item 2) Proposed Trust Transfers (Exhibit "B")

Carriage recently consolidated its preneed license for all of its funeral and cemetery locations, and seeks approval of transfer of trust assets as listed on the attached Exhibit 'B' of certain existing trusts for which Regions is the current trustee, to operate under the approved Carriage Florida Holdings, Inc. Preneed Funeral and Cemetery Merchandise and Services Trust Agreement dated March 6, 2013. (that is, the trusts that is **Attachment 3**, and included in **Exhibit B** hereto wherein Regions Bank is trustee, and will operate under the Board approved trust agreement dated March 6, 2013, as more specifically set out in the letter from Justin Wilson, Regions Bank dated January 3, 2014 (copy attached hereto).

Subject to the conditions set forth below, the FCCS Division recommends:

- A) Approval of the proposed trust transfers from SunTrust Bank to adopt Regions as successor trustee, as identified in Item 1 above; and
- B) Approval of the proposed trust transfers to operate under the approved Carriage Florida Holdings, Inc. Preneed Funeral and Cemetery Merchandise Trust Agreement dated March 6, 2013, as identified in Item 2 above.

Conditions recommended by FCCS Division:

- 1) That the representations of Carriage, through Justin Wilson of Regions Bank, as set forth in Mr. Wilson's letter dated 1-3-14, copy attached hereto, be deemed material to the Board's decisions herein.
- 2) That within 90 days of this Board meeting Regions provide the FCCS Division (ATTN: LaShonda Morris), the effective date of the transfer and certifications, stated as following:
 - a) That Regions provides a letter signed and dated by one of its officers, certifying that it meets one or more of the applicable criteria in s. 497.266(1), and s. 497.458(1)(b), to act as trustee of the trusts to be transferred to Regions pursuant to Mr. Wilson's letter dated 1-3-14
 - b) A letter from Regions, signed and dated by one of its officers, stating:
 - That Regions provides a certificate stating the dollar amount of trust assets being transferred as identified in "Exhibits A and B" under Attachments 2 and 3, respectively, as referenced in Mr. Wilson's attached letter dated 1-3-14.
 - That Regions provides acknowledgement of receipt of the amount of trust assets being transferred as specified under the former trust, as identified in "Exhibits A and B," under Attachments 2 and 3, respectively, as referenced in Mr. Wilson's attached letter dated January 3, 2014.
- 3) That the Board's executive director, for good cause shown, may extend the compliance time for the above specified conditions, an additional 90 days.

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

17. Executive Director's Report

A. Appointment of Nancy Hubbell to Serve as Member of Probable Cause Panel A (Informational)



MEMORANDUM

TO: Board of Funeral, Cemetery and Consumers Services

FROM: Jody Brandenburg, Chairman
Division of Funeral, Cemetery and Consumer Services

RE: Appointment of Nancy Hubbell to serve as member of Probable Cause Panel A

DATE: January 22, 2014

Nancy Hubbell, is hereby, appointed to served as a member of Probable Cause Panel A, effective immediately.

Jody Brandenburg
Jody Brandenburg, Chairman
Board of Funeral, Cemetery and
Consumer Services

1/22/14
Date

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
 February 6, 2014 Board Meeting
 January 27, 2014

Licensesee	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 late. \$500 was rec'd 9/13/13 and two recent payments of \$200 each were rec'd 9/20/13 and 9/28/13, respectively. The remaining balance to pay in full is \$250. The Notice of Intent to enter Emergency Order of Suspension was issued in DFS Case No. 136325-13-FC, against the licensee on 8/27/13 for failure to make the required 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 \$8,859.57	9/6/2012 12/7/2012 35 mo pymts	YES YES See Note E	Monthly restitution payments are current.
Global Mortuary	Aug-13	122746-11-FC	\$800 \$7,200	9/19/2012 9 mo pymts	Yes No; See Note A	Monthly payments are late. October and November monthly payments are past due. Division sent file to Legal on 11/19/13 for failure to make payments.
Flagler Palms Cemetery LLC	Oct-13	133742-13-FC	\$2,750	11/15/2013	Yes	
Work & Son	Dec-13	Multiple cases	\$2,500	See Note C	See Note C	The Order regarding this cases is still in process, so no due date is established.
CFS Funeral Services, Inc. dba Fountains Memorial Park	Dec-13	126252-12-FC	\$3,500	1/17/2014	Yes	
James Moore	Dec-13	130463-12-FC	\$750	1/17/2014	Yes	
Smoore Enterprises, Inc. d/b/a Superior Design Monument Company	Dec-13	130462-12-FC	\$750	1/17/2014	Yes	
Woodlawn Park Cemetery Company dba Woodlawn Park Cemetery South	Dec-13	136638-13-FC	\$500	1/17/2014	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 or license is otherwise suspended or acted upon. 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.						JPM Rbbdmtj DAT Feb 6

The Chair mentioned that this report is being presented at each meeting at Mr. Hall's request. The Chair thanked Mr. Hall for the suggestion and he also thanked the Division staff for putting the report together for the Board.

Mr. Hall questioned whether the cases are forwarded to the Legal Division for Final Orders when the Respondent's payment is delinquent.

Mr. Shropshire stated that in effect yes. The Legal Division monitors payment of the fines and if they are not paid they usually institute action although Mr. Miller often has to remind them.

Mr. Hall questioned the timeframe as some of the fines are getting a little older, specifically Stanley Gunter-Butler, Work & Son and Global Mortuary.

Mr. Miller stated that it does depend on a case by case analysis by Legal. For example, with the Stanley Gunter-Butler case, Legal has weighed the cost of litigation in moving forward with the fact that they only owe \$250. The Division has engaged their counsel and encouraged him to encourage his client to do the right thing because the order of suspension is eminent in that case. The Work & Son case is in process, as far as the Order being issued. There we had to get the transcript from the Court Reporter. That case is being handled by our Attorney General. Regarding Global Mortuary, after this report was issued, a Notice of Intent to Issue and Order of Suspension was issued last week.

Mr. Davis questioned whether there is any provision for late fees on late payments.

Mr. Miller stated that normally it depends on whether the actual Order allows for it. In some cases the Legal Division may assert certain statutory fees in their order of suspension that should be indicated in the actual emergency order.

Mr. Shropshire added that the answer generally is no. There are not any additional fees.

Mr. Davis stated that there is really no incentive.

Mr. Miller stated that the incentive is their license would be suspended. That is pretty significant.

18. Chairman's Report (Oral)

The Chair stated that the next meeting would be a Teleconference on March 6th and the April 3rd meeting will be held in Jacksonville.

Ms. LaTonya Bryant added that the Jacksonville meeting will be held at the Aloft Tapestry Park.

Mr. Helm questioned whether Mr. Shropshire would be commenting on the email regarding religious cemeteries.

Mr. Shropshire stated that he would not, but added that Mr. Helm is referring to the email he sent out to the Board members yesterday distributing the Senate Fiscal Analysis that the Division provided to our legislative people who in turn provided it to the Senate staff on SB512, the Expansion of the Religious Institution Exemption. Mr. Shropshire added that anyone who wants a copy can contact the Division to receive same.

Mr. Davis stated that being new on the Board, he does appreciate the staff for the information provided and the timeliness. It is very helpful. Also, the information that the Board members possess is very impressive.

19. Office of Attorney General's Report (Oral)

None

20. Administrative Report

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

21. Disciplinary Report

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

22. Adjournment

The meeting was adjourned at 11:00 a.m.