

MINUTES
BOARD OF FUNERAL, CEMETERY AND CONSUMER SERVICES
August 7, 2014 - 10:00 A.M.
Hilton Orlando/Altamonte Springs
350 S Northlake Blvd
Altamonte Springs FL 32701

THIS MEETING IS OPEN TO THE PUBLIC

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 August 7, 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 at the Hilton Orlando/Altamonte Springs in Altamonte Springs 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
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
Thurman Lowe, Department Field Staff
Miriam Del Valle, Department Field Staff

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

2. Action on the Minutes

A. June 26, 2014

The Chair confirmed that all Board members had read the draft of the minutes of the previous Board meetings held on June 5, 2014.

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

B. July 10, 2014

The Chair confirmed that all Board members had read the draft of the minutes of the previous Board meetings held on June 5, 2014.

MOTION: Mr. Andrew Clark moved to adopt the minutes of the meeting. Mr. Jim Davis seconded the motion, which passed unanimously.

3. Old Business

A. Recommended for Approval with Conditions

(1) Application(s) for Preneed License Renewals

(a) Cemetery Professionals, LLC (F019496) (Atlantic Beach)

This application for renewal of a preneed license below was presented at the June 26, 2014 Board meeting and was denied based on failure of the Licensee to have provided financial statements (see minutes of June 26, 2014 Board meeting). The Applicant has now provided the financial statements and requests re-consideration.

The above identified Licensee seeks renewal of their preneed license pursuant to s. 497.453, FS, effective July 1, 2014

2011 RENEWAL (7-1-2011): Licensee reported net worth of \$134,218, against a minimum required net worth of \$20,000. Licensee was renewed with conditions per Consent Order filed March 10, 2011 to trust at 100%.

2012 RENEWAL (7-1-2012): Licensee reported net worth of \$271,458, against a minimum required net worth of \$100,000. Licensee was renewed with conditions per Consent Order filed March 10, 2011 to trust at 100%.

2013 RENEWAL (7-1-2013): Licensee reported net worth of \$ 295,964, against a minimum required net worth of \$100,000. Licensee was renewed with conditions per Consent Order filed March 10, 2011 to trust at 100%.

2014 RENEWAL (7-1-2014). Licensee reports a net worth of \$275,294 against a minimum required net worth of \$100,000, therefore demonstrating that it meets the required net worth.

Pursuant to Board Rule 69K-5.0026, the Licensee was required to submit an annual financial statement within 3 months of the end of the Licensee's most recent fiscal year. Licensee's fiscal year ended on December 31, 2013, and accordingly the financial statement was due on or before April 1, 2014. The financial statement was not submitted until approximately June 24, 2014. Accordingly, under said rule a late fee in the amount of not more than \$50 per day late is due.

The Division recommends that Licensee be approved subject to the following conditions:

- 1) That if approved, Licensee continues to comply with terms of probation, and
- 2) That Licensee continues trusting at 100%, as per Consent Order filed March 10, 2011 with the Division.
- 3) A late fee of \$1000 regarding the financial statements is imposed.

MOTION: Mr. Knopke moved for reconsideration. Mr. Ken Jones seconded the motion, which passed unanimously.

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

The Chair questioned whether there has been any prohibited activity on the preneed license during the time that the Licensee did not have a license.

Mr. Shropshire stated that the Division would inquire into that and report back to the Board, but is unable to provide an answer at this point. If it is found that that is the case, the Division could initiate disciplinary actions.

Mr. Dick Mueller questioned how the Division would conduct such an inquiry.

Mr. Shropshire stated that the Division would first make an inquiry of the Licensee to see whether they would admit or acknowledge that they had. If they denied it the Division would send an examiner to the location to review their records to see if we found any evidence that they had written any contracts.

Mr. Mueller questioned whether there would be an examination if the Licensee indicated that they had not conducted any business during that time.

Mr. Shropshire stated that an examination is a technical term. There would be an investigation.

MOTION: Mr. Mueller moved to approve the application subject to the condition(s) recommended by the Division in addition to confirmation that the Licensee has not conducted any preneed business since the license expired. Mr. Helm seconded the motion, which passed unanimously.

B. Recommended for Approval without Conditions
(1) Application(s) for Preneed Main License
(a) Crevasse's Simple Cremation, Inc. (Gainesville)

This application for a preneed license below was presented at the June 26, 2014 Board meeting and was tabled as set forth in the attached Board minutes from the June 26th meeting. In response to the stated conditions and reservations by the Board for approval, the Applicant has provided revised financial statements and is present to appear before the Board to address any further concerns by the Board (please see attached financial statements dated July 18, 2014). The Applicant reports a net worth of \$59,837 against a required minimum net worth of \$10,000.

The Department received the application on March 7, 2014 and a deficiency letter was sent to the Applicant as of March 14, 2014. Applicant responded to all deficiencies and the application was completed as of April 21, 2014. A completed background check of all officers revealed no criminal history. Applicant obtained its current qualifying direct disposal establishment license (#F076160) as of September 19, 2013 and will sell insurance-funded preneed through Homesteaders Life and utilize Homesteader's approved pre-arranged funeral agreement.

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

Outstanding Preneed Contracts	= \$	0
Required Net Worth	= \$	10,000
Reported Net Worth	= \$	34,312

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

Mr. Shropshire requested that the representatives raise their right hands to be sworn in. "Do you swear that the testimony you are about to give in this proceeding will be the truth, the whole truth and nothing but the truth so help you God?"

Ms. Julie Bishop answered, "Yes."

Ms. Catherine Williamson, a representative of Homesteaders Life answered "Yes."

Ms. Bishop stated that the Licensee initially submitted financials through 2013, but had only been in business for three (3) months at the time. That was one of the concerns during the previous meetings, so we submitted updated financial statements that show that we have the financials to cover the preneed.

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

- (2) *Monument Establishment Retail Sales Agreement(s)*
 - (a) *Bronze Memorials Monuments and Markers, LLC (Port St Lucie)*

Mr. Shropshire stated that the item was withdrawn from the Agenda to allow the owner an opportunity to appear before the Board at the next in person meeting in Tampa.

4. Disciplinary Proceedings:

A. Settlement Stipulation(s)

- (1) *Collisons Holding Company d/b/a Collison Family Funeral Home and Crematory-Howell Branch Chapel: Case No. 143103-13-FC; Division #ATN-18102 (F019369)*

Mr. Linje Rivers stated that he was unsure whether the Waiver of Probable Cause was included in the packet, but Mr. Collison's attorney, Mr. John Rudolph, has stipulated that his client would like to waive probable cause in this matter.

Mr. John Rudolph stated that a Waiver of Probable Cause was not signed but the Respondent is waiving probable cause.

Mr. Rivers stated that the Division alleges that the Respondent failed to provide accurate and complete financial records to Division examiners during the course of a financial examination. Subsequently, the Respondent provided the requested records. Based on a review of those records, the Department determined that the alleged violation of unauthorized withdrawals was resolved and there were no deficits in trust based.

Collisons Holding Company has agreed to pay an administrative fine of \$1500. The terms of the settlement stipulation are reasonable under the facts and circumstances of this case. The Department requests that the Board approve the settlement and issue the Consent Order to conclude this matter.

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

B. Material Facts Not Disputed (Section 120.57(2) Hearings) (Probable Cause Panel B)

Ms. Jean Anderson recused herself from the following cases as she served on the Probable Cause Panel for each.

- (1) *Alford, Richard: Case No(s). 143499-13-FC, 143491-13-FC, 143497-13-FC, 143495-13-FC, 145835-13-FC; Division #s ATN-20650, ATN-21022, ATN-20679, ATN-20749, ATN-21100 (F052941)*

Mr. Rivers stated that the Division alleges that the Licensee operated a monument establishment on an expired license, engaged in the sale of markers and monuments without a valid license, failed to deliver and install purchased monuments by the date agreed in the sale agreement and additionally the Licensee failed to honor multiple refund requests from consumers. An Administrative Complaint was filed against Respondent on March 19, 2014. A copy of the Administrative Complaint, including a copy of the Election of Proceeding form, was sent to the Respondent by certified mail. However, an answer or other response to the Administrative Complaint was not obtained from the Licensee.

On April 21, 2014, personal service of the Administrative Complaint was attempted by Peter Albano of Nolan Process Servers. Mr. Albano was unable to obtain service from the Respondent. Notice of the Administrative Complaint was then published in the Tampa Bay Times from May 28, 2014 through June 18, 2014, in accordance with ss. 120.60(5) and 497.153(4)(a), F.S. The Respondent failed to file an Election of Proceeding form in this case that contained material facts to dispute the allegations in the Administrative Complaint. Based on this information, the Department filed a Motion for Determination of Waiver and for Final Order by Hearing Not Involving Material Facts in dispute. At this time it would be appropriate for the Board to determine whether the Respondent has waived its right to request a proceeding in this matter.

Mr. Larry Harris stated that the appropriate motion may be to determine that the Respondent was properly served through publication after attempts to personally serve by certified mail and then the Board would make the motion for determination of waiver.

MOTION: Mr. Jones moved to find that the Respondent was properly served through publication after attempts to personally serve by certified mail and that the Respondent waived its rights to request a proceeding in this matter. Mr. 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. Helm moved to adopt the Findings of Fact. Mr. Mueller seconded the motion, which passed unanimously.

Mr. Rivers stated that the Department contends that the Board's Findings of Fact support a finding of the violations of Chapter 497, F.S. and Rule 69K, F.A.C. as charged in the Administrative Complaint and that the Respondent is in violation of those statutes and codes as set forth in the Administrative Complaint. The Department feels it is appropriate at this time for the Board to entertain a motion adopting the Conclusions of Law as alleged in the Administrative Complaint.

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

Mr. Rivers stated that at this time it is appropriate for the Respondent to address the Board.

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

Mr. Rivers stated that the Department recommends revocation of the Licensee's license in that the Department would cite Rule 69K-30.002, F.A.C., in citing aggravating factors in that there was danger to the public; a number of complaints filed against the Licensee; the actual damage caused by the violations in that consumers were deprived of monuments and markers; the deterrent effect of the penalty that the Licensee did not even think it necessary to respond to any of the Administrative Complaint, the publications or the service provided; there have been no efforts towards rehabilitation in that the Licensee has entered into multiple contracts under the same guise that he would provide the bargain for markers. At this it would be appropriate for the Board to deliberate and determine a penalty in this matter.

Mr. Helm stated that on Count Two, it indicates the refund request was made on July 3, 2012, but the contract was entered into in March of 2013.

Mr. Rivers stated that that was a misprint.

Mr. Helm questioned whether the issue with the contract that was entered into in 2005 just surfaced.

Mr. Rivers stated that it was a preneed contract where the purchaser believed that their relative was going to pass away within a number of months but the relative ended up living for a number of years after that, so that is why the family requested a refund in that case.

Mr. Helm questioned when the Division received the complaint.

Mr. Rivers stated he would have to review the investigation file.

Mr. Thurman Lowe stated that all of the complaints were received in a cluster at approximately the same time towards the end of 2013 into early 2014.

The Chair stated that he would certainly support any motion for revocation but the Board should try and find a way for Mr. Alford to return the photograph of the complainant's deceased mother and father as that is an important part of this case. The Chair added that he did not know what type of effect it would have, but if the Board did revoke the license and also have a dollar amount penalty, which could be waived upon the return of the photograph of the complainant's deceased mother and father.

Mr. Knopke questioned whether the Respondent is still in business.

Mr. Lowe stated that to the Division's knowledge, they are no longer in business and their whereabouts are unknown. These cases have been presented to law enforcement for prosecution in the City of St Petersburg as well as Pinellas County Sheriff's Office. Mr. Lowe stated that he was unable to provide an update at this time on whether they will decide to prosecute.

Mr. Knopke stated that the facility that the Respondent has operated out of for years still looks like they are there. The grass is mowed out front.

Mr. Lowe concurred but added that the whereabouts of the Respondent are unknown.

The Chair reiterated that it would serve the Board and this complainant well if something was included in the motion as an attempt to recover the photograph as they are probably precious and irreplaceable to that family.

Mr. Knopke questioned whether the statute or rules provide authority for the Department to go into the facility, as the photograph is probably there.

Mr. Shropshire stated that Chapter 497 does not give the Department that authority without the consent. The police could only do so with a search warrant. Our inspections are done with the consent of the Licensee and if they do not consent then it becomes a disciplinary matter. The Department could ask the police to go in but I am not optimistic that they would comply.

Mr. Lowe stated that he does not know whether there is a landlord or if the Respondent owns the building but he would look into it. If there is a landlord, Mr. Lowe will contact him for access as this has been done in previous cases.

Mr. Knopke stated that his guess from personal knowledge is that the Alford family owns that property. Al Alford, who was around for years, it was his wife's family who actually started the business.

Mr. Helm questioned whether Mr. Lowe indicated that he would make the request to the Sheriff's Office.

Mr. Lowe stated that the cases have already been presented to law enforcement for consideration of prosecution. If so directed by the Board, the Division could request that law enforcement allow us access to the building but as Mr. Shropshire stated, it is not likely that they would be cooperative in that request.

Mr. Helm stated that every option should be explored to help the complainant.

Mr. Shropshire requested that Mr. Lowe contact the St Pete Police, explain the situation and see if they could either with or without us obtain entry to the building and allow us to look for that picture.

Mr. Lowe stated that he would do so.

Mr. Mueller questioned whether the Chair suggested suspension and a fine.

The Chair stated that he would report revocation of the license. I do not know what effect the fine would have but it would be suspended upon the return of the photograph.

Mr. Mueller questioned what authority the Department would have to enforce a fine once the license has been revoked.

Mr. Shropshire stated that the law would allow the Department to go to circuit court to seek to enforce a fine. As a practical matter, it is not something that would be high on our priority list with our limited resources.

MOTION: Mr. Jones moved for a penalty of revocation and a \$2000 administrative fine; the fine would be cancelled once the photograph is returned to the complainant. Mr. Knopke seconded the motion, which passed unanimously.

(2) Summer Granite & Bronze, Inc.: Case No(s). 141975-13-FC, 141977-13-FC, 143492-13-FC, 145832-13-FC, 141973-13-FC; Division #s ATN-20650, ATN-21022, ATN-20679, ATN-20749, ATN-21100 (F058798)

Mr. Rivers stated that the Division alleges that the Licensee operated a monument establishment on an expired license, engaged in the sale of markers and monuments without a valid license, failed to deliver and install purchased monuments by the date agreed in the sale agreement and additionally the Licensee failed to honor multiple refund requests from consumers. An Administrative Complaint was filed against Respondent on March 19, 2014. A copy of the Administrative Complaint, including a copy of the Election of Proceeding form, was sent to the Respondent by certified mail. However, an answer or other response to the Administrative Complaint was not obtained from the Licensee.

On April 21, 2014, personal service of the Administrative Complaint was attempted by Peter Albano of Nolan Process Servers. Mr. Albano was unable to obtain service from the Respondent. Notice of the Administrative Complaint was then published in the Tampa Bay Times from May 28, 2014 through June 18, 2014, in accordance with ss. 120.60(5) and 497.153(4)(a), F.S. The Respondent failed to file an Election of Proceeding form in this case that contained material facts to dispute the allegations in the Administrative Complaint. Based on this information, the Department filed a Motion for Determination of Waiver and for Final Order by Hearing Not Involving Material Facts in dispute. At this time it would be appropriate for the Board to determine whether the Respondent has waived its right to request a proceeding in this matter.

MOTION: Mr. Mueller moved to find that the Respondent was properly served through publication after attempts to personally serve by certified mail and that the Respondent waived its rights to request a proceeding in this matter. Mr. Clark 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. Ms. Oliver seconded the motion, which passed unanimously.

Mr. Rivers stated that the Department contends that the Board's Findings of Fact support a finding of the violations of Chapter 497, F.S. and Rule 69K, F.A.C. as charged in the Administrative Complaint and that the Respondent is in violation of those statutes and codes as set forth in the Administrative Complaint. The Department feels it is appropriate at this time for the Board to 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. Knopke seconded the motion, which passed unanimously.

Mr. Rivers stated that at this time it is appropriate for the Respondent to address the Board.

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

Mr. Rivers stated that the Department recommends revocation of the Licensee's license in that the Department would cite Rule 69K-30.002, F.A.C., in citing aggravating factors in that there was danger to the public; a number of complaints filed against the Licensee; the actual damage caused by the violations in that consumers were deprived of monuments and markers; the deterrent effect of the penalty that the Licensee did not even think it necessary to respond to any of the Administrative Complaint, the publications or the service provided; there have been no efforts towards rehabilitation in that the Licensee has entered into multiple contracts under the same guise that he would provide the bargain for markers. At this it would be appropriate for the Board to deliberate and determine a penalty in this matter.

MOTION: Mr. Helm moved for a penalty of revocation and a \$2000 administrative fine; the fine would be cancelled once the photograph is returned to the complainant. Mr. Hall seconded the motion, which passed unanimously.

(3) Kuzniar, Stephen J; Case No. 146373-14-FC; Division #ATN-21585 (F020193)

Mr. Rivers stated that Stephen J. Kuzniar is a licensed pre-need sales agent in this state. On or about May 23, 2013, the Respondent did enter a plea of guilty in the Circuit Court of Brevard County, Florida to the charge of Grand Theft, a felony in the second degree in violation of Section 812.014(b), Florida Statutes which is a crime relating to the Respondent's ability to practice his profession. The Respondent was placed on fifteen years probation and ordered to pay restitution in the amount of \$38,000.00. As a result of this activity, Mr. Kuzniar is in violation of sections 497.152(1)(a) and (b), and 497.152(2), Florida Statutes.

The Department filed an Administrative Complaint on April 2, 2014. A copy of the Administrative Complaint, including an Election of Proceedings form, was sent to the Respondent by certified mail. However, an Answer or other response to the administrative complaint was not obtained from the Licensee. Personal Service of the Administrative Complaint was then attempted by Cynthia Brown-Rexrode of Nolan Process Servers. Ms. Brown-Rexrode was unable to obtain service upon the Respondent. The affidavit of non-service executed is attached to the Motion for Determination of Waiver. Service was then obtained by publication of notice in the Daily Record, a newspaper located in Duval County, Florida on May 30 and June 6, 13, 20, 2014. The notice stated that the Respondent must file his answer on or before July 11, 2014. The Department has not received any response as of this date. At this time it would be appropriate for the Board to determine that the Respondent was properly served through publication after attempts to personally serve by certified mail and then the Board would make the motion for determination of waiver.

MOTION: Mr. Davis moved to find that the Respondent was properly served through publication after attempts to personally serve by certified mail and that the Respondent waived its rights to request a proceeding in this matter. Mr. Knopke 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. Helm moved to adopt the Findings of Fact. Mr. Jones seconded the motion, which passed unanimously.

Mr. Rivers stated that the Department contends that the Board's Findings of Fact support a finding of the violations of Chapter 497, F.S. and Rule 69K, F.A.C. as charged in the Administrative Complaint and that the Respondent is in violation of those statutes and codes as set forth in the Administrative Complaint. The Department feels it is appropriate at this time for the Board to 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 at this time it is appropriate for the Respondent to address the Board.

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

Mr. Rivers stated that the Department recommends revocation of the Licensee's license. The Department would cite to Rule 69K-31.001(2), F.A.C., aggravating factors in determining that revocation is appropriate in this case given that the Licensee misappropriated and essentially stole \$3800 worth of consumer money and has failed to provide any type of restitution to the consumer. It can be determined that there was actual damage to the public and the Respondent has not made any steps towards rehabilitation or restitution.

Mr. Helm questioned whether the Respondent has any other license pertaining to the funeral industry.

Mr. Rivers stated that the Department is not aware of any such licenses.

MOTION: Mr. Helm moved for a penalty of revocation based on the aggravating circumstances stated by the Department. Mr. Hall seconded the motion, which passed unanimously.

5. 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.

6. Application(s) for Continuing Education Course Approval

A. Recommended for Approval without Conditions – Addendum B

- (1) *Independent Funeral Directors of Florida Inc #135*
- (2) *International Cemetery & Funeral Association #74*
- (3) *International Order of the Golden Rule #2201*
- (4) *National Funeral Directors Association #136*
- (5) *Vernie Fountain #20008*

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.

The Chair recognized Ms. Tracy Huggins and Lew Hall and thanked them for their service on the Committee.

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

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

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

- (1) *Direct Disposer*
 - (a) *Murphy Louise D*
- (2) *Funeral Director - by Endorsement*
 - (a) *Dailey Jr, Herbert W*
- (3) *Funeral Director – by Internship*
 - (a) *Stephens, Sarah N*
- (4) *Funeral Director and Embalmer - by Internship*
 - (a) *Box, Bryan W*
 - (b) *Oliveira, Ludmila*
- (5) *Funeral Director and Embalmer – by Endorsement*
 - (a) *Campanaro, Dennis*
 - (b) *Martens, Lisa R*
 - (c) *Udell, Douglas*

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

- (1) *Funeral Director and Embalmer – by Endorsement*
 - (a) *Mattei, Keith P*

The Applicant submitted an application for a Funeral Director and Embalmer by Endorsement on July 9, 2014. The application was incomplete when submitted. The Applicant is missing official exam scores from The International Conference of Funeral Service Examining Boards (ICFSEB).

The Applicant attended the McAllister Institute in New York. In October 2013 the Conference Board initiated litigation against McAllister Institute for alleged Conference exam question harvesting and sharing among students.

The Division has requested the Conference Board to provide the Division with Applicant's official scores on the Conference exam. The Conference has not yet provided the official exam scores. Mr. Mattei did submit student copies showing he passed the examinations, but as you will note, the scores he submitted are marked "Student Copy," and "not certified," which indicates to the Division that the Conference did not necessarily view the scores as final.

The Conference has not provided the Division any specific reason for not providing official scores for Applicant. Presumably the reason is that the Conference has grounds to believe that McAllister Institute students' scores may not fairly measure the students knowledge of the overall subject matters tested on, because the students had, in effect, access to Conference exam question banks.

The Division is recommending approval subject to the condition that the license will be issued only when the Division receives official Conference Exam scores direct from the Conference. The Division is sympathetic to this Applicant but our problem is whether any relief could be structured in which we are not setting a precedent that we accept nonofficial Conference exam scores, which is a big point for us. We receive them directly from the Conference so that there is no ability to alter them.

Mr. Knopke questioned when the Applicant attended and graduated from McAllister.

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

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

Ms. Lisa Coney answered, "I do." Ms. Coney, SCI-Dignity Memorial, stated that the Applicant requested that she provide the Board with a sworn statement with regards to his not being involved with this concern of the Conference. The Applicant's scores from the National Board and the length of time that he has been working in funeral service are a part of this sworn statement. We made an offer of employment to this Applicant not expecting his transfer to Florida from Connecticut to be problematic.

Mr. Knopke stated that based upon the information provided by Ms. Coney, it appears the Applicant started in August 2011.

Ms. Coney stated that the Applicant graduated in August 2011. Connecticut's Department of Public Health, according to their website, has a similar screening process to Florida at the point that they issued his license for first internship and then for a full funeral director and embalmer. They had to receive sealed transcripts for their approval process. There were sealed transcripts submitted to a State body at one point. The Applicant cannot access those right now. My understanding is that the attorney for the Conference has invited the Applicant to make an appearance in front of the Conference. There is no reason to believe that after he makes a statement regarding not being involved that those transcripts would not be released. Their issue is against the school and Mr. Mattei was not personally named.

Mr. Knopke questioned whether the statute or the rules require a certified copy from the Conference or whether this is just the Board's policy and procedure.

Mr. Shropshire questioned whether Ms. Richardson knew the answer offhand.

Ms. Jasmin Richardson stated that she did not know the answer offhand.

Mr. Hall questioned whether it is possible that Connecticut would release the information to the Division.

Ms. Coney stated that they made that request but it was her understanding that that would also not be a sealed transcript from the Conference so that would not be acceptable.

Ms. Richardson stated that she did not think that it was an issue about the transcript being official from the other state but from the Conference, at the time that Mr. Mattei took the examination, the Conference is questioning whether or not these scores are official. The Conference is not willing to release the scores to the Division because they are questioning the validity of the scores at the time the Applicant took the exam. This impacts all of the students who took the exam at that time.

Mr. Hall questioned whether there is a timeframe that the Conference expects to have the issue resolved.

Ms. Richardson stated that a timeframe has not been given but the Conference is hoping that the people impacted by this are going to be able to take the test again, as indicated in the letter presented in the Board packets.

Ms. Coney stated that she had not heard that the Conference was going to ask anyone to retake the exam. It is not all that unusual for the Conference to have litigation against an individual educational institution. The conversation that the Applicant had with the counsel for the Conference was that he would make an appearance. I believe they meet quarterly so that would occur whenever their next meeting is. It was the Applicant's expectation that after that appearance his individual scores would be released.

Mr. Hall stated that his firm is not the hiring entity for this Applicant but they did interview Mr. Mattei and his understanding was that the Applicant got a study guide type material from the state. Mr. Hall questioned whether it would be possible for the Division to issue a temporary license with the condition that the Applicant provides the required documentation within an allotted time.

Mr. Shropshire stated that the Division accepts that the Applicant is licensed in Connecticut but he still has to produce the scores to the Division. It really begs the question because if the exam scores were not legitimate then they were not legitimate for Connecticut so Connecticut also was arguably bamboozled. That is the dilemma we are in. The Division urges that any resolution protects the precedent that we receive the scores directly from the Conference. Normally, it is not a matter of delay because the Conference is very quick in getting the scores out.

Ms. Coney stated that the Applicant was not aware that there was a problem between the Conference and his school until he sold his belongings in Connecticut, accepted a job in Florida, made the application for his scores and called Ms. Richardson a few weeks later to find out that she had not received them. Mr. Mattei then calls the Conference to find out why and they advised that they were not sending the scores. By the Applicant's statement, he was not involved in any of this.

The Chair questioned whether the affidavit states that.

Ms. Coney stated that it does. Ms. Coney added that the industry needs good funeral directors and the Applicant interviewed very well. I am not involved in whatever is going on between the Conference and the school. I just wanted to make this information available because the Applicant requested that I do so. I do believe from the conversation with the counsel for the Conference that there may be individual remedy and that we will not be waiting for whatever they are doing against this school or any other schools to go through its course of litigation. I just feel bad because the Applicant interviewed well, he wants to bring his family here, he sold all his stuff in Connecticut, took a job in sunny Florida and found out this was happening. I have a natural empathy for his situation.

Ms. Anderson questioned whether it is possible for the Board to approve the application with the condition that the approval would be revoked if the Division receives adverse information that he Applicant was involved in the harvesting.

Mr. Clark questioned when the Applicant would appear before the Conference.

Ms. Coney stated that she did not know when the Conference would meet again. The Conference advised that they meet quarterly. Ms. Wendy Wiener is representing us on this matter but she is on vacation. Ms. Coney apologized for not having that information. If they meet quarterly it would be three (3) months at the outside before he is able to make an appearance is reasonable. The Applicant is out with a big funeral this morning as he is a licensed funeral director and embalmer serving families today in Connecticut and has been for years.

Mr. Harris stated that in his experience the Board would either approve, deny or approval with conditions. It appears that Ms. Anderson is recommending approval of the license subject to the condition that the Applicant produces the original examination scores from the Conference Board. Mr. Harris suggested that the Board put a time limit on that condition. If the Applicant is unable to produce that original report from the Conference Board within the allotted time then the appropriate thing would be for the application to come back before the Board to be reevaluated for determination. If the information is received directly from the Conference Board then the condition is satisfied and it becomes a permanent license. If it is not received then the Board is essentially retaining jurisdiction to reevaluate that license at that point.

Ms. Coney stated that the Board does approve licenses with conditions all the time all the time. I understand that this is an unusual circumstance. Ms. Coney requested that the Board consider that and appreciate Ms. Anderson's recommendation.

Mr. Jones questioned whether there is a difference in an approval and probation.

Mr. Harris stated that there is absolutely a difference. An approval with a condition of producing the official record means that the Applicant is acting under that license as a funeral director in Florida for that period and if the records come in, the Division would then process that and it would become a permanent license. If the Applicant is placed on probation, the Applicant has to do whatever the probation is and that would be a disciplinary record that would have to be reported.

Mr. Clark questioned whether there could be a condition added that another director would have to sign off on the Applicant's paperwork.

Mr. Harris stated that could be added as a condition but the Board would want to make a finding on the record as to what supports that condition. The discussion is very clear of what is the basis for the issue of producing the original record. If the Board wants to add the condition subject to review of someone else that would be fine too but the Board would want to have discussion as to why this is important in order to license and ensure he was able to safely serve the public.

Mr. Clark stated that the Division's concern was creating an exception to the rule. Mr. Clark questioned whether Mr. Shropshire is comfortable with the Board deviating from the Division's recommendation as this is a unique situation but it could be creating a standard that could be referenced in the future.

Mr. Shropshire questioned whether this is sufficient based on the unusual factual circumstances that this precedent could not be expandable. We are establishing a precedent that if your school is being investigated for license harvesting we will accept your examination results nevertheless pending you provide official results from the school. In this case, the Applicant could either get the official results by being cleared by the school or he may have to take the exam again and then the school would send us the official results. Mr. Shropshire questioned whether that is a small enough exception to the requirement that we are not worried. As long as we keep the timeframe fairly short and we receive official scores, it is a fairly small breach in precedent.

Mr. Harris concurred.

Mr. Jones stated that the condition that the Applicant is licensed in another state is his reason for considering this application.

Mr. Harris added that the Applicant also has an offer of employment that is starting today with an employer who is actually willing to take responsibility for him as it is their license too if Mr. Mattei messes up. There are a lot of very specific factual circumstances that would difficult from someone else to come in mimic these circumstances. Mr. Harris stated that he is not concerned that the Board is opening up too big of a precedent. This is not a rule waiver, but in the context of waivers and variances, they are always evaluated individually.

Ms. Coney stated that they became aware of the circumstances once the Applicant became aware, but they still want for him to be in a position to accept employment with them.

Mr. Shropshire stated that if the motion requires that the Division is provided within a stated period of time, official scores from the Conference, one way or another, then the Division would be comfortable with this limited exception.

Mr. Helm stated that he was not comfortable with hearing that the Applicant may be required to take the test again. That is a different set of circumstances.

Ms. Richardson stated that in the letter provided by the Conference, which was submitted to the Board, it states that they may be allowing the students to take the exam again. They did not say anything about releasing scores. That was just one of the options stated.

Mr. Helm questioned what the Board would do if that happens.

Ms. Coney stated that if the Applicant still has a requirement to produce the scores then he would be testing and producing the scores from the retesting.

Mr. Helm questioned whether we are talking a year or two (2).

Mr. Hall stated that the recommendation indicates the Applicant has six (6) months.

Mr. Helm stated if the Applicant has to be retested he cannot speed up the Conference's progress.

Mr. Shropshire stated that the Applicant could reappear before the Board to request an extension if things are moving slowly and he has not been able to retake the exam.

Mr. Knopke stated that the Board is setting this precedent, setting a time period, counsel has narrowed it down but what will the Board do with the next one that comes up with something totally different. Mr. Knopke questioned where does the deviation stop. There has been a lot of history of this Board and prior Boards about making sure that Applicant pass the exam, complete their internships and so on.

The Chair stated that the wisdom of the ten (10) Board members is used with the Division's input to make a decision on each individual case that comes before the Board.

Mr. Knopke questioned what effect would it have on the Applicant's current license in Connecticut if he retakes the exam and fails it.

The Chair stated that would be between the Applicant and the Connecticut Board.

Mr. Knopke questioned whether that would change the Board's consideration.

MOTION: Ms. Anderson moved to approve the application subject to the Applicant produces the original examination scores from the Conference Board within six (6) month. If the Applicant is unable to produce that original report from the Conference Board within the allotted time then the appropriate thing would be for the application to come back before the Board to be reevaluated for determination. If the information is received directly from the Conference Board then the condition is satisfied and it becomes a permanent license. Mr. Jones seconded the motion, which passed with two (2) dissenting votes.

Ms. Coney questioned whether the motion means that the Applicant has a license effective now and he has 180 days to produce the official scores or reappear before the Board.

Mr. Rudolph stated the license would be effective once the license is issued.

8. Application(s) for Internship

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

(1) Funeral Director

(a) Barbone, Laura R (F079732)

(2) Funeral Director and Embalmer

(a) Blanks, Suzanne M (F070922)

(b) Ercilla, Emily M (F079910)

(c) Fenchel, Tressa L (F079734)

(d) Harris, Terrance L (F079621)

(e) Lee, Sarah K (F079736)

(f) Madeiros, Tina L (F079735)

(g) Mayfield, John (F058015)

(h) Martinez, Jessica (F079909)

(i) Moody, Melissa D (F079812)

(j) Teel, James G (F071613)

(k) Vinci, Laura M (F045476)

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 Embalmer Apprenticeship

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

(1) Brewer, Christopher L (F059019)

(2) Espejo, Lizbeth (F063375)

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. Application(s) for Registration as a Training Agency

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

(1) Clymer Cremations & Funeral Home (F040142) (Palm Coast)

(2) Nature Coast Services LLC d/b/a Joe P Burns Funeral Home (F048578) (Perry)

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.

11. Consumer Protection Trust Fund Claims

A. Recommended for Approval without Conditions – Addendum G

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

Mr. Mueller stated that he always thought that “Reduction Code #4” represented the amount in trust.

Mr. Shropshire stated was correct.

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

12. Application(s) for Monument Establishment Sales Agent

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

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

13. Notification(s) of Change of Location

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

(1) Amaryllis Cremation LLC (F060088) (Orlando)

(2) Neptune Management Corp d/b/a Neptune Society Management Corporation (F064808) (Jacksonville)

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

14. Application(s) for Funeral Establishment

A. Recommended for Approval with Conditions

(1) Anthony M White d/b/a A M White Mortuary (Macclenny)

An application for a Funeral Establishment was received on June 16, 2014. The application was incomplete when submitted. All deficient items were returned on July 23, 2014. The fingerprint cards for all principals were returned without criminal history. The Funeral Director in Charge will be Anthony White (F058190).

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

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

(2) Hadley – Brown, Flanders & Phillips Mortuary LLC (Gainesville)

An application for a Funeral Establishment was received on June 23, 2014. The application was incomplete when submitted. All deficient items were returned on July 16, 2014. The fingerprint cards for all principals were returned without criminal history. The Funeral Director in Charge will be Doctor Choice (F046148).

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

MOTION: Mr. Knopke moved to approve the application subject to the condition that the establishment passes an onsite inspection by a member of Division Staff. Ms. Oliver seconded the motion, which passed unanimously.

(3) Lee V Evans d/b/a Evans Funeral Home (Quincy)

An application for a Funeral Establishment was submitted on July 3, 2014. The application was complete when submitted.

The Funeral Director in Charge will be Lee Evans (F036346).

This funeral establishment that was previously located at this address was the qualifying entity for a preneed Licensee; however the current Applicant has not submitted a new preneed application. The preneed Licensee name and license number were Gertrude L Betsey d/b/a Betsey Funeral Home (F060614). That preneed license was not renewed and expired 7-1-2014.

Betsey Funeral Home reported 19 outstanding preneed contracts in force as of 12-31-2013, and on 7-29-14 Funeral Services Incorporated, the preneed servicing agent for Betsey Funeral Home, reported to the Division 15 outstanding preneed contracts according to their records. Attorney John Rudolph is currently working with Ms. Betsey to assign the existing contracts to licensed establishments.

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

MOTION: Mr. Knopke moved to approve the application subject to the condition that the establishment passes an onsite inspection by a member of Division Staff. Mr. Jones seconded the motion, which passed unanimously.

(4) Warren Family Funeral Homes Inc d/b/a Newcomer Funeral Home (Longwood)

An application for a Funeral Establishment was submitted on July 7, 2014. The application was complete when submitted. The Funeral Director in Charge will be Benjamin Raymond (F044886). This funeral establishment is not the qualifying entity for a preneed Licensee.

The enclosed application asks if the establishment will offer cremation services and the Applicant checked “yes” and maintains onsite. A change of ownership application for the Cinerator Facility at this location (Seminole Crematory Inc, F068553) is being submitted.

The application lists two adverse licensing history actions:

- 1) Ohio: in April 2008 Newcomer Funeral Home, Warren Newcomer and Teresa Hailey were fined collectively \$1500 and recommended to take a two hour sensitivity training in reference to a violation for unprofessional conduct. The Ohio records do not provide much detail regarding this matter. The Applicant explained that one of the

establishment's embalmers shaved what she believed to be stubble from a decedent's face, but the family subsequently stated it was the decedent's beard and was apparently very upset.

- 2) Kentucky: In June of 2013 Warren Newcomer was issued a fine of \$5000 for not covering a sign at a proposed location prior to licensure.

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

- 1) That the closing on the transaction to acquire ownership shall occur within 60 days of the date of this Board meeting.
- 2) That the closing on the transaction shall be on terms and conditions as represented to the Board at this Board meeting.
- 3) That Applicant shall assure receipt by the Division within 75 days of the Board meeting, of a letter signed by Applicant or Applicant's attorney, addressed to the Division, certifying that closing has occurred and stating the date of closing, and stating that closing occurred on terms and conditions not inconsistent with those as represented to the Board at this Board meeting, and providing a copy of the fully Bill of Sale, Asset Purchase Agreement, or other document by which the acquisition transaction is consummated, executed by all parties, and any and all amendments, schedules, and other attachments thereto, also fully executed.
- 4) That the Director of the Division of Funeral, Cemetery, and Consumer Services may extend any deadline set out in these conditions, by up to 90 days, for good cause shown. The Director shall report any such extensions to the Board as an informational item.
- 5) That all representations by the Applicant in the application and related materials provided to the Board or FCCS Division by the Applicant, in support of the application(s), are deemed material to the Board's action herein.
- 6) That the establishment under the application herein passes an onsite inspection by a member of Division Staff.

Mr. Helm questioned whether Teresa Hailey and Teresa Newcomer is the same person.

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

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

Mr. Warren Newcomer Jr stated that Teresa Hailey and Teresa Newcomer is not the same person.

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

15. Related Items – Holloway Funeral Home Inc.

A. Recommended for Approval with Conditions

(1) Funeral Establishment(s)

(a) Holloway Funeral Home Inc (Oldsmar) and Holloway Funeral Home Inc d/b/a Ambassador Mortuary Service (Oldsmar)

This is a collective application for approval of change of ownership of two funeral establishment licenses at the same address. When the Division received these license files from the Department of Business and Professional in 2005, these two licenses, Holloway Funeral Home Inc. (F040589), and Ambassador Mortuary Service (F040590), were in force at the same address, indicating they had the grandfathering exemption at 497.380(9), for funeral establishments co-located as of 10-1-93 (see attached copy of 497.380). The current ultimate owners of the two licenses, per Division records, are Arthur and Jeanette Holloway.

In or about November 2013, David Meyer and Scott Hickey purchased all the stock of Holloway Funeral Home Inc. This matter is before the Board for approval of this change of ownership. It appears to the Division that the proposed new owners should be approved, and the only issue is whether the grandfathering provision remains in effect so that both licenses can continue in force. The proposed new owners indicate to the Division that they want to keep the two licenses. They can only do so if the grandfathering provision remains in effect.

Arthur Holloway asserts, via the attached fictitious name filing, that the "Ambassador Mortuary Service" fictitious name is owned by Holloway Funeral Home Inc. The Division's records do not show Ambassador Mortuary Service (F040590) as owned by Holloway Funeral Home Inc. , and in the Division's records Ambassador Mortuary Service appears to be an unincorporated proprietorship, owned by Arthur and Jeanette Holloway. However, because the Division received these license files from DBPR, we cannot be sure that there was not some understanding in DBPR that in fact Ambassador Mortuary Service (F040590) was owned by Holloway Funeral Home Inc. Consequently the Division recommends finding that Ambassador Mortuary Service (F040590) was/is owned by Holloway Funeral Home Inc.

Since this was a stock purchase, the immediate owner of the two licenses, Holloway Funeral Home Inc. , has not changed, leading the Division to recommend that the grandfathering provision remains in effect, and that both licenses may remain in effect at the same location..

The Funeral Director in Charge will be Scott Hickey (F044604). This funeral establishment has a qualifying entity for a preneed Licensee and an application for a Preneed License has already been submitted and will be presented at this meeting. The preneed Licensee name and license number are Holloway Funeral Home Inc (F019352). The Bill of Sale is enclosed in the packet.

The Division is recommending that the Board approves the change of ownership of the corporation and allows both licenses to remain in effect, subject to the condition that the establishments' location under the application herein passes an onsite inspection by a member of Division Staff.

Mr. Helm questioned the purpose of having two licenses at the same location if they are both have the same owner.

Mr. Bruce Lamb, representing the Applicant, stated that Scott T Hickey (Vice President) could answer questions as well as David G Meyers (President).

Mr. Shropshire requested that the representatives raise their right hands to be sworn in. "Do you swear that the information you are about to give in this matter will be the truth, the whole truth and nothing but the truth so help you God?"

Mr. Scott Thomas Hickey answered, "Yes sir."

Mr. David G Meyers answered, "Yes sir."

Mr. Helm questioned the purpose of having two licenses at the same location if they are both have the same owner.

Mr. Hickey stated that they do a lot of work with out of state funeral homes. That is how they operate Ambassador. Local calls we do not do anything. It is more or less just for transfer of out of state funeral homes.

Mr. Helm questioned what happens if they decide to sell one of them.

Mr. Lamb stated there are two (2) licenses but there is really only one (1) legal entity, so you could not separate the two (2) because it is a fictitious name. The two (2) licenses are being held but they are both being held by Holloway Inc. and there is also a preneed license as well.

Mr. Knopke questioned the difference in this transaction and the SCI/Stewart transaction.

Mr. Shropshire stated that the Division's position is that the safe way to do it is to seek approval beforehand but there is no prohibition in the statute on closing the deal beforehand, but the new owner does not have an effective license until the Board says so. So the new owner takes the risk and does not have a license to operate. The safer way to do it is to get approval from the Board prior to closing.

Mr. Knopke questioned whether the Applicant has operated since closing without a license.

Mr. Shropshire stated that is possible. As much as the Division looked at them and was satisfied that they were being diligent and were not thumbing their nose at the law, we chose not to inquire into that matter more closely.

Mr. Knopke stated that this Applicant came forward as they should but questioned what the Board would do when someone waits two (2) or three (3) years before coming forward.

The Chair stated that those type issues have come before the Board and each case was handled individually.

Mr. Shropshire stated that Mr. Knopke's point is well taken. This is not the optimum way to do it.

Mr. Clark questioned whether the new owners would be held responsible if someone files a complaint about something that happened two (2) months ago.

Mr. Knopke concurred.

The Applicant stated that they understood this.

MOTION: Mr. Knopke moved to approve the change of ownership of the corporation and allows both licenses to remain in effect, subject to the condition that the establishments' location under the application herein passes an onsite inspection by a member of Division Staff, to include the retro date back to the closing of the transaction so that they are not subject to any unlicensed activity. Mr. Clark seconded the motion, which passed unanimously.

(2) Preneed Main License(s)
(a) Holloway Funeral Home, Inc. (Oldsmar)

The Department received the application on June 13, 2014 and no deficiencies were noted on the application. A completed background check of all officers revealed no criminal history.

This application is being filed as a result of a change in ownership of the funeral establishment, Holloway Funeral Home Inc., d/b/a Ambassador Mortuary Service, located at 112 Bayview Blvd, Oldsmar, FL, license #F040590, due to the retirement of Arthur Holloway, owner. Mr. Holloway sold said funeral establishment to employees David G. Meyer and Scott T. Hickey, current owners (please see attached letter dated April 24, 2014 from Scott D. Hickey, Vice President).

The prior owner of the funeral establishments at 112 Bayview Blvd, Oldsmar sold preneed contracts under preneed license # F019352, Holloway Funeral Home Inc., d/b/a Ambassador Mortuary Service, from approximately July 1994 until sometime in the first half of 2014. Said preneed license was not renewed and expired June 30, 2014.

The application for change of ownership of the qualifying funeral establishments at 112 Bayview Blvd, Oldsmar, is being presented at this Board meeting.

Applicant has indicated it will honor the preneed contracts issued under preneed license F019352. Applicant will continue to utilize the pre-approved Funeral Services, Inc. (FSI) First Florida Trust Agreement (Sabal Trust Company) and pre-arranged funeral agreements.

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

Outstanding Preneed Contracts	= \$	404,001
Required Net Worth	= \$	60,000
Reported Net Worth	= \$	339,257

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

- 1) That the Board approves the application for change of ownership of the qualifying funeral establishment for this preneed Licensee.
- 2) Upon issuance of the preneed license applied for, the Licensee under that license will be responsible for honoring all outstanding preneed contracts issued under former preneed license F019352.

MOTION: Mr. Helm moved to approve the application subject to the condition(s) recommended by the Division to include the retro date back to the closing of the transaction so that they are not subject to any unlicensed activity. Mr. Hall seconded the motion, which passed unanimously.

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

A. Recommended for Approval with Conditions

(1) Preneed Sales Agreement

(a) Curlew Hills Memory Gardens Inc d/b/a The Unity Funeral Trust (F019277) (Palm Harbor)

Curlew Hills Memory Gardens Inc (Curlew) submits the attached preneed sales agreement forms for approval: Preneed Funeral Services and Merchandise Agreement and Interment Rights, Services and Merchandise Agreement. If the forms are approved, they are to be used for the sale of trust funded preneed contracts through Curlew’s licensed preneed establishment and branches.

The Division is recommending 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. Knopke recused himself as he is an employee of Curlew Hills.

MOTION: Mr. Mueller moved to approve the agreement 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.

17. Executive Director’s Report

A. Extension(s) Granted – StoneMor Florida LLC/StoneMor Florida Subsidiary LLC (Informational)

GARDNER, BIST, WIENER, WADSWORTH, BOWDEN,

BUSH, DEE, LAVIA & WRIGHT, P.A.

ATTORNEYS AT LAW

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OF COUNSEL:
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*BOARD CERTIFIED REAL ESTATE ATTORNEY

July 3, 2014

Doug Shropshire, Director
Division of Funeral, Cemetery and Consumer Services
Doug.Shropshire@myfloridacfo.com

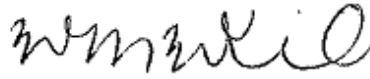
**Re: StoneMor Florida LLC/StoneMor Florida Subsidiary LLC
Transfer of Trust Assets**

Dear Doug:

All aspects of the transfer have not yet been completed. Therefore we are requesting an extension of an additional ninety (90) days to complete the transfers, i.e., until September 1, 2014.

Please do not hesitate to contact me directly for further information.

Sincerely,



Wendy Russell Wiener

Approved.
DAS 7-9-14

Doug Shropshire, Director
Funeral & Cemetery Division
850-413-4096

Shropshire, Doug

From: Shropshire, Doug
Sent: Thursday, July 24, 2014 11:39 AM
To: Morris, Lashonda A
Subject: RE: Riverview Memorial Trust X-fr

Approved.

Doug Shropshire
Director, Division of Funeral, Cemetery and Consumer Services

From: Morris, Lashonda A
Sent: Thursday, July 24, 2014 11:32 AM
To: Shropshire, Doug
Subject: FW: Riverview Memorial Trust X-fr

Doug,

This trust transfer request was initially approved by the Board on 5-1-14, but the trustee needs more time to complete processing. FSI (Sabal Trust) is requesting a 60-day extension to complete transfer of the trust funds.

If you concur, I recommend approval of this request for an extension.

LaShonda Morris

LaShonda Morris
Financial Specialist
Funeral, Cemetery & Consumer Services
111 W Madison St
Suite 336-F
Mailing: 200 E Gaines St
Tallahassee, FL 32399-0361
(850) 413-3039 (ph)
(850) 413-4958 (fx)
lashonda.morris@myfloridacfo.com

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*****PLEASE NOTE THAT OUR WEB ADDRESS HAS CHANGED:

<http://www.myfloridacfo.com/Division/funeralcemetery/>*****

From: Meiko H. Whitfield [<mailto:Meiko.Whitfield@fsitrust.com>]
Sent: Wednesday, July 23, 2014 2:20 PM
To: Morris, Lashonda A
Cc: Lewin.Jerry; Wendy M. Bruner; Susan Mittermayr (SMittermayr@sabaltrust.com); Chi.Ramona
Subject: RE: Riverview Memorial Trust X-fr

LaShonda,

The current trustee needs more time to complete the process of closing out the existing accounts and transferring the funds for the above referenced licensee. Please accept this e-mail as our request for a 60 day extension to complete the transfer of trust funds.

Thank you,
Meiko

Meiko H. Whitfield

Vice President of PreNeed
Meiko.Whitfield@fsitrust.com

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B. Inquiry by Cheryl Jonson re: Internships (Informational)

MEMORANDUM
Department of Financial Services
Division of Funeral, Cemetery, and Consumer Services

TO: Board Members (Board of Funeral, Cemetery, and Consumer Services)
FROM: Douglas Shropshire, Division Director *DS*
DATE: 8-7-2014
RE: Inquiry by Cheryl Johnson re Internships

The attached email inquiry by Ms. Johnson is provided for any comment the Board may have.

Shropshire, Doug

From: Shropshire, Doug
Sent: Monday, July 28, 2014 11:44 AM
To: 'cljohnson2010@live.com'
Cc: Richardson, Jasmin
Subject: Your inquiry re internships

Ms. Johnson:

The current statutes require a one year internship, see s. 497.373(2)(c), and also provide that except under specified conditions the internship must be completed within one year, see 497.375(4).

The state licensing Board has long understood the above statutes to require a one year full-time internship, and the Board's rule so provides, see rule 69K-18.002(5). Under the said rule, an internship must be for 50 weeks (within a contiguous 12 month period), at 40 hours per week, so that the internship is 2,000 hours total.

If your suggestion is that an internship be reduced to 50 weeks at 15 hours a week, the total hours would be 50 weeks times 15 hours per week = 750 hours. That would be a sharp reduction on the extent of the internship. I question whether a 750 hour internship would be adequate to expose a student to all that they should see and learn.

If your suggestion is that the present 2000 hour internship be allowed to be served at the rate of 15 hours per week, that would require an internship of approximately 133 weeks (approximately 2.6 years), whereas the statute limits the internship to 1 year. That would require the legislature to amend the statute.

In any event, I will present your email to the Board for any comment it may wish to provide.

Sincerely,

Doug Shropshire
Director, Division of Funeral, Cemetery and Consumer Services
[Subscribe](#) to Dollars and Sense, a weekly newsletter

> -----Original Message-----

> From: Bryant, LaTonya

> Sent: Monday, July 21, 2014 3:32 PM

> To: Richardson, Jasmin

> Subject: FW: CHANGE IN ONE YEAR INTERNSHIP REQUIREMENTS

>

>

>

> LaTonya Bryant

>

>

> -----Original Message-----

> From: cljohnson2010@live.com [<mailto:cljohnson2010@live.com>]

> Sent: Wednesday, July 16, 2014 8:40 AM

> To: F&C

> Subject: CHANGE IN ONE YEAR INTERNSHIP REQUIREMENTS

> First Name: Ms. C. L.
 > Last Name: Johnaon
 > Email: cljohnson2010@live.com
 > Date Requested: 7/16/2014 8:39:14 AM
 > State: FL
 > ZipCode: 33167
 > Phone: (305)343-9190
 >
 >
 > I am a current funeral services student and will be taking reviews in the Fall 2014. I would like for there to be a change in the one year internship requirement at forty hours per week, to internships of fifteen hours per week.
 > There are several non traditional students in the program and students with families that are currently working and earning fairly decent salaries, to impose upon us to have to leave these positions for earnings that will cause extreme financial hardships and their are many single parent families with school aged children and cannot make this kind of commitment.
 > I very much am looking to learning and working in the funeral home environment with hands on experience, but, I have not been able to find a funeral home that is interested in paying me anything at all and it will cost me to travel back and forth. At best, to volunteer I have received an interest, but, to utilize my skill set without compensation of any kind and I still have the expense of classes, I cannot do that. There is nothing to lead me to believe that funeral homes will be able to absorb the cost of an intern, when I reach that point in the program and I am at the threshold of doing so.
 >
 > I am of the opinion, that this may be a win win situation for interns that do not have the luxury of working in environments with 3 shifts and can maintain our households with current salaries and also an internship with drastic financial disparities and for the funeral home as well without incurring additional payroll and payroll tax expenses.
 >
 > I am not singular in my view of asking for a change, as there are several other students that would like to see this. Please change the requirement of 40 hours work week with 12 month time frame for internships as a requirement for licensure.
 >
 > If I am not in the right area to ask for the consideration of change, please advise as to the appropriate area with contact name, address and telephone number.
 >
 > Thank you for your time.
 >
 > Kind Regards

C. Procedures Regarding Presenting Applicants with Criminal Records to the Board (Informational)

MEMORANDUM

Department of Financial Services

Division of Funeral, Cemetery, and Consumer Services

TO: Board Members (Board of Funeral, Cemetery, and Consumer Services)
 FROM: Douglas Shropshire, Division Director *DS*
 DATE: 8-7-2014
 RE: Procedures regarding presenting applicants with criminal records to the Board

(1) At the 6-26-2014 Board meeting there was discussion of the issue of whether there are any categories of license applicants with criminal records, whose license applications may be presented to the Board at a teleconference Board meeting (see attached materials). The Division Director was asked to prepare and present the Board a memo summarizing the procedural change resulting from the discussion at the 6-26-14 Board meeting.

(2) The background for this issue is that as a matter of procedure the Board has not wanted to hear applications at Board meetings conducted by teleconference, where it was foreseeable that the Board would want to ask the applicant questions and evaluate the applicant's demeanor in responding. Moreover, the Board on occasion has found it difficult to be sure who actually is talking at the other end of the phone line, during teleconference meetings.

(3) However, it was noted at the 6-26-14 Board meeting that there may be some types of crimes related to driving which do not typically involve dishonesty, and which the Board usually does not view as a bar to licensure.

(4) The label "traffic crimes" includes a wide variety of actions, some of which are misdemeanors, and some are felonies. The list below are all crimes under Florida law, and all do or may involve a car (or boat):

- (a) Driving under the influence of alcohol or controlled or chemical substances (DUI). Most DUIs are misdemeanors, but under certain conditions DUIs are a felony
 - (b) If you receive 3 DUIs in 10 years, or receive a 4th conviction at any time, you'll be committing a 3rd degree felony. You'll also have a felony conviction if you cause serious bodily injury to someone else. Fines can reach \$5,000 and jail time can last 5 years
 - (c) DUI/Manslaughter: Second Degree Felony (not more than \$10,000 fine and/or 15 years imprisonment)
 - (d) DUI Manslaughter/Leaving the Scene: A driver convicted of DUI Manslaughter who knew/should have known accident occurred; and failed to give information or render aid is guilty of a First Degree Felony (not more than \$10,000 fine and/or 30 years imprisonment)
- (e) Vehicular Homicide: Second Degree Felony (not more than \$10,000 fine and/or 15 years imprisonment)
- (f) Vehicular Homicide/Leaving the Scene: A driver convicted of vehicular homicide who left the scene of an accident is guilty of a First Degree Felony (nor more than \$10,000 fine and/or 30 years imprisonment)
- (g) Driving on a Suspended License, 1st or 2nd degree misdemeanor, depending on circumstances)
- (j) Driving on a canceled or revoked driver's license
- (k) Driving without a valid license
- (l) Reckless driving
- (m) Racing on the highway
- (n) Leaving the scene of a crash with property damage or injury
- (o) Fleeing or attempting to elude
- (p) Unlawful temporary tag violation¹
- (q) Unlawful use of drivers license²

¹ Typically, altering the temp tag, to extend its apparent duration

- (r) Permitting unauthorized person to drive
- (s) Expired Tag More Than 6 Months (second offense)
- (t) No motorcycle endorsement
- (u) Disorderly conduct
- (v) Boating under the influence of alcohol or controlled or chemical substances

(6) Under Florida statutes, civil (noncriminal) traffic violations typically include the following:

- Expired registration
- Driver's license expired less than six months
- Simple speeding
- Driving on the sidewalk
- Following too closely
- Failing to heed traffic control signals
- Careless driving

You can usually just pay a fine for these violations. You may also get points against your license, which can result in higher insurance costs or license suspension. But these civil infractions are not grounds for denial of license, and are not even reportable on a license application.

(7) Board Direction at 6-26-14 Board meeting.

At the 6-26-14 Board meeting, the Board advised the Division, that where the criminal record consisted solely of misdemeanor first time driving or boating DUI, with no injury to persons or property, and the Division is recommending approval of the application, the application may be presented to the Board at a teleconference meeting. All other applications involving a criminal record, should be presented to the Board at an in-person meeting, unless deemer issues require a ruling by the Board before the next in-person Board meeting.

The Division will act in accordance with the above stated directions unless and until the Board directs otherwise.

(dni729333)

² Under Florida Statute 322.32, the crime of Unlawful Use of Driver's License occurs when a person:

1. Displays or possesses any canceled, suspended, revoked, or disqualified driver's license knowing that such driver's license has been canceled, suspended, revoked, or disqualified;
2. Lends their driver's license to any other person or knowingly permit another to use the license;
3. Displays or represents a license belonging to another person as being their own;
4. Refuses to surrender to the DHSMV or a law enforcement officer, upon lawful demand, any driver's license that has been suspended, revoked, disqualified, or canceled;
5. Permits any unlawful use of a driver's license; or
6. Applies for, obtains, or causes to be issued, two or more photographic driver's licenses of the same person which are in different names.

D. Update re Pershing Industries, Inc. (F019231) and Vista Funeral Home, Inc. (F019284) (Informational)

This is to update the Board regarding the status of the proposed Settlement Stipulation re the preneed trust deficits of Pershing and Vista, initially presented at the 6-26-14 Board meeting.

The Division and the Licensees are working diligently to address the changes suggested as a result of the presentation at the 6-26-14 Board meeting. The changes are very substantial, and include having to draft papers to create a trust to hold title to the seven North Carolina investment properties, and security interests in the Administration Building, until sold, and a mortgage loan obtained and proceeds paid to the preneed trusts. There are many aspects and practical details that must be thought-through and set forth in the various papers, to make the proposal viable. The preparation of those items is not complete.

We had to ask for additional real estate title records relating to the Administration Building, and those records date to 1958, and the Pershing interests had to engage a real estate attorney to search the archives of real estate records in Miami-Dade County; the records were found and provided to us, but only last week.

We have had to make inquiry of the preneed trustee regarding rate of return on trust assets, for possible use regarding lost earnings computations. The trustee is working on the matter but we have not yet received a response.

In summary, there has simply not been time to complete the revisions and have a solid, reliable product to present to the Board at the August meeting.

E. Work & Son, Status Report (Informational)

MEMORANDUM
Department of Financial Services
Division of Funeral, Cemetery, and Consumer Services

TO: Board Members (Board of Funeral, Cemetery, and Consumer Services)
 FROM: Douglas Shropshire, Division Director *DAS*
 DATE: 7-22-2014
 RE: Work & Son Updates

Attached please find four items:

- June 2014 status report
- July 2014 status report
- Receipts supplementing status reports
- Materials relating to roofing contractor's failure to pay materials supplier

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

Monthly Report of Fine and Costs Assessed and Paid
 Division of Funeral, Cemetery and Consumer Services
 August 7, 2014 Board Meeting
 Date of Report: July 28, 2014

Licensee	Board Meeting	Case No.	Total Fine & Cost Due	Date Due	Paid in Full?	Comments
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 Current	Licensee monthly restitution payments are current. On 6/30/14, Division received confirmation from Riverview that restitution payment for April, May, and June was received. Therefore, monthly restitution payments are now current.
Affiliated Funeral Service	Feb-14	137272-13-FC	\$1,500	6/2/2014	No	See Note A; when payment in full becomes past due, Division will coordinate with the DFS Legal to enforce payment. On 6/24/14, Division sent file to DFS Legal requesting appropriate action be taken for alleged failure to comply with the Board's order.
Deliria Holmes	Apr-14	133746-01-FC	\$1,666.66 \$250 \$1,666.67 \$1,666.67	4/20/2014 5/15/2014 6/20/2014 8/20/2014	Yes Yes Yes See Note D	
Holmes Funeral Directors	Apr-14	133745-13-FC	\$1,666.66 \$250 \$1,666.67 \$1,666.67	4/20/2014 5/15/2014 6/20/2014 8/20/2014	Yes Yes Yes See Note D	
Baldwin Brothers Memorial Care Services, Inc.	Apr-14	141482-13-FC	\$500	6/2/2014	Yes	
James Baldwin	Apr-14	141490-13-FC	\$500	6/2/2014	Yes	
Barry Meyers	Apr-14	141496-13-FC	\$1,000	6/2/2014	Yes	
Tri-City Diversified Services, Inc.	Apr-14	141495-13-FC	\$750	6/2/2014	Yes	

David Woodward	Apr-14	141498-13-FC	\$500	6/2/2014	Yes	
Ruth Yeats	Apr-14	141487-13-FC	\$1,000	6/2/2014	Yes	
David-Russell Funeral Home	Jun-14	149527-14-FC	\$500	8/1/2014	See Note D	
Alphonso West Mortuary, Inc.	Jun-14	144438-13-FC	\$2,500	8/18/2014	See Note D	
Debra Daniels	Jun-14	144434-13-FC	\$2,500	8/18/2014	See Note D	
Hickson Funeral Home	Jun-14	146249-12-FC	\$2,000	8/6/2014	Yes	
Eugene Hickson	Jun-14	146247-12-FC	\$2,000	8/6/2014	Yes	
Guerry Funeral Home of Macclenny, LLC	Jun-14	143487-13-FC	\$1,500	8/20/2014	See Note D	
William Guerry	Jun-14	143486-14-FC	\$500	8/20/2014	See Note D	
<p>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 not 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.</p>						<p><i>Open Aug 22/14</i></p>

Mr. Shropshire recognized Thurman Lowe and Miriam Del Valle. Ms. Del Valle is with the Orlando office and is doing outstanding work for the Division. Mr. Lowe is in charge of all the field staff. His office is in Tampa, but he spends most of his time, probably three (3) out of every four (4) weeks out of the month, out in the field spending time with the examiners. Mr. Lowe has done a fabulous job for the Division.

Mr. Shropshire stated that it is with great sadness personally, but with great joy for him, that my strong right arm and dear friend Anthony Miller has been offered a position in a different agency with a big fat pay raise that we could not match and I am so proud of him. I have been dreading this day because I knew we could not keep him for much longer. Mr. Miller has such a solid resume' and he has wanted to get back in the legal side of things for a while and as his friend I have to agree with him that that is a good career move for him, but man oh man are we going to miss him. This is not at all what Mr. Miller deserves but the timing of it is just such that here we are. Mr. Miller's last day is August 22nd.

The Chair stated that the Board really appreciates Mr. Miller's contributions to the Division. Mr. Miller has been a supportive resource for the Board and the Board thanks him.

Mr. Miller thanked the Board for the opportunity to serve them and the Division. Mr. Miller stated that he owes a debt of gratitude to Mr. Shropshire. Mr. Shropshire was my first supervisor when I started with the Department of Insurance as a young staff attorney and we were reunited in the management of this Division. I have learned so much from the Board, individually and collectively. I am so thankful for Doug, my cohorts, LaTonya, Jasmin, Thurman, Miriam and so many people in the Industry as well that I have learned and grown from in the six (6) years and three (3) months that I have been here. It was a huge investment. Thank you and I will stay in touch. I will send out an email with my contact information as I am sure Powell will follow up with a question and Lew will complain about the disciplinary process. We will stay connected and again I appreciate the opportunity.

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

None

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. Upcoming Meeting(s)

- A. *September 4th (Teleconference)*
- B. *October 2nd (Embassy Suites – Tampa/Brandon)*
- C. *November 6th (Teleconference)*
- D. *December 4th (Tallahassee)*

23. Adjournment

The meeting was adjourned at 1:56 p.m.