

MINUTES
BOARD OF FUNERAL, CEMETERY AND CONSUMER SERVICES
February 4, 2016 - 10:00 A.M.
Department of Financial Services
2020 Capital Circle SE, Alexander Bldg #230
Tallahassee, FL 32301

1. Call to Order, Preliminary Remarks and Roll Call

Mr. Jody Brandenburg, Chair called the meeting to order at 10:02 am. Mr. Shropshire, will you make your opening remarks and do the roll call, please?

Mr. Doug Shropshire – Yes sir. My name is Doug Shropshire. I am Director of the Division of Funeral, Cemetery, and Consumer Services. Today is February 4, 2016; 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 Alexander Building here 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. Please do not speak over one another.

At this time I will take the roll and Board members will please respond clearly with “present”, as preferred, when I call their name:

Joseph “Jody” Brandenburg, Chairman
Keenan Knopke, Vice Chair
Jean Anderson
Lewis “Lew” Hall
Powell Helm
Ken Jones
Richard “Dick” Mueller

ABSENT:

Andrew Clark
James “Jim” Davis
Vanessa Oliver

Mr. Shropshire – Mr. Chairman there is a quorum for the business of the Board.

Also noted as present:

Tom Barnhart, Board Legal Advisor
Ellen Simon, Assistant Director
LaTonya Bryant, Department Staff
Deirdre Farrington, Department Counsel
James “Jim” Bossart, Department Counsel
Jasmin Richardson, Department Staff
LaShonda Morris, Department Staff

2. Action on the Minutes

A. January 7, 2016

The Chair – The first agenda item is the January 7, 2016 minutes.

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

3. Old Business

A. Application for Direct Disposal Establishment

(1) Recommended for Denial

(a) Sunshine Cremation Inc. (Cocoa)

Mr. Shropshire – The Applicant does not have a disciplinary history but does have a criminal history. This application was presented at the December 2015 Board meeting and the Board requested more information regarding the criminal history and certain medical records of the principal of the Applicant, who did appear that meeting, Mr. Condor Stone and indicated that he would provide the requested records and in fact he has provided them and they are included in the packet before the Board. After reviewing the materials provided by Mr. Stone, the Division finds that the medical records and police reports provided taken in context indicate that his criminal record is not such as should warrant denial of his application or the establishment's application. However, the application indicates that Mr. Stone would be the FDIC if the establishment application is approved. The Division believes at this point that the major question is given Mr. Condor Stone's serious memory problems as outlined by him at the December 2015 Board meeting, given those problems, can he provide effective supervision as an FDIC if the application is granted. The Division at this time does not think so and recommends that the application be approved subject to the condition that someone other than Mr. Condor Stone be appointed as FDIC at the establishment.

Mr. Powell Helm – Is Mr. Stone going to come forward?

Chair – Mr. Stone, can you please be sworn in?

Mr. Shropshire – Mr. Stone, do you solemnly 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?

Mr. Condor Stone – I do.

Mr. Shropshire – Please state your full name.

Mr. Stone – Condor Emerson Stone.

Mr. Shropshire – Thank you sir.

Mr. Stone. Thank you.

Mr. Helm – I am sorry. The last time we met I kind of started the question off and I did not support the Division. I should have told you that given what the Division had they should have denied your license, which is what they did and I want you to understand that we were not overriding the Division. They didn't hear what you said until you got here. Do you understand what I am saying?

Mr. Stone – Right, right.

Mr. Helm – Do you understand what the Division has recommended?

Mr. Stone – If you'll explain it to me fully so I'll just hear it in your terminology.

Mr. Shropshire – The Division recommends that your application for direct disposal establishment license be approved subject to the condition that someone other than Mr. Condor Stone be appointed as FDIC.

Mr. Stone – Ok. May I ask questions in return?

Chair – Yes.

Mr. Stone – I'm not sure I fully understand that. Am I not to be the licensed person?

Mr. Shropshire – You could be employed at the establishment, you could own the establishment but you would have to have someone else acting as FDIC at the establishment.

Chair – Funeral Director in Charge

Mr. Stone – No, no I understand that. I'm just trying to follow the ideology if I am a sole proprietor. What's my option? Are you saying I cannot be the funeral director in charge at the facility?

Mr. Shropshire – That's the Division's position, yes sir.

Mr. Stone – Ok. And I have to employ someone else as the FDIC?

Mr. Shropshire – Yes sir.

Mr. Stone – Ok. The purpose of my doing this was because I had no other income other than disability and I trying to once again get on my feet. I appreciate what has been approved but am I going to have to go hire funeral director to fill this position? Is that what's being recommended?

Mr. Shropshire – That's what's being recommended if the Board were to go that route. There's been no vote on anything yet. That's just the Division's recommendation.

Chair – There's been no determination. That's the Division's recommendation to this Board.

Mr. Stone – Ok, I see.

Chair – Then this Board has to decide what it wants to do in regards to your application.

Mr. Stone – I've never stood here, so I thoroughly understand now. This is my sister and she's been assisting me. Do you mind if she stands or should she stand?

Chair – She was with you last time?

Mr. Stone – Yes sir.

Chair – And she counseled with you last time? I think it would appropriate if she be sworn in, please.

Mr. Shropshire – Ma'am would you raise your right hand? Do you solemnly 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. Trudy Stone – Yes sir.

Mr. Shropshire – Please state your full name.

Ms. Stone – Trudy Yvonne Stone.

Mr. Shropshire – Thank you ma'am.

Ms. Stone – And my question was how long would he have to secure a licensed funeral director?

Chair – If the Division’s recommendation is approved by the Board, you would have to have a funeral director in charge before you could open the business.

Ms. Stone – Okay.

Chair – That would be part of the inspection process and you would have to have a FDIC other than Mr. Stone if the Board acts upon the Division’s recommendation.

Mr. Stone – Now is this indefinite or is this...

Chair – There is not a time limit on it for a funeral director in charge. Before you could open the business you would have to have a funeral director in charge.

Mr. Stone – Okay.

Mr. Shropshire – Mr. Chairman, may I also respond?

Chair – Please.

Mr. Shropshire – And the Division would recommend that you would be free at any time to re-approach the Board and ask to have this condition eliminated but we would want to see medical opinion that your memory has substantially improved, your short term memory, so as to justify that removal of the condition, but again this is subject to the Board’s decision and you are here to argue to the Board, if you want to, that the Division’s recommendations are out of line and make your best argument if that’s what you want to do.

Mr. Stone – Okay and what I’d like to say is at one point during my recovery I would have welcomed your suggestion of assistance. At this point, I don’t feel like due to the fact that it’s been narrowed down to one (1) or two (2) forms that I am filling out to ok a cremation that all of the funeral directing and cemetery and casket, none of that is involved. It’s not as detailed. Yes, its funeral arrangement or cremation arrangement but it’s not what I used to have to go through for funeral arrangements. This is probably a fifteen (15) or thirteen (30) minute arrangement conference where I don’t make any removals, I have a removal service. I don’t house or refrigerate. I don’t do the actual cremation. So I’m simply facilitating the process with a hands-on only on the paperwork, which is minimal. Not even obituaries. So what we have is a template online for me to fill out a death certificate and a burial, well minimal paperwork. Well, I guess what I’m asking is I’d like the opportunity to prove that I’m capable of handling that.

Chair – Ms. Stone, what will your role be in Sunshine Cremation?

Mr. Stone – She assists me with everything. She’s my assistant with everything. She’ll be there to look over my shoulder and actually I’ll be there to look over her shoulder. We’re watching each other.

Ms. Stone – I’m double-checking him and he’s double-checking me.

Chair – Do you have any experience in funeral service?

Ms. Stone – I do, but no license.

Mr. Stone – She’s grown up in it. We’re third generation funeral, well I’m a third generation funeral director and this is my sister.

Ms. Stone – And I grew up in it. I know everything but the embalming.

Chair – Would you be meeting with families to make the cremation arrangement?

Mr. Stone – Along with me.

Ms. Stone – Yes sir. I will be sitting in on the arrangements.

Mr. Stone – She would not be as you go in and meet with this family.

Chair – But you have to understand the lines of demarcation between licensed activity...

Ms. Stone – And unlicensed.

Chair – Yes ma'am.

Ms. Stone – Yes sir. And I do. That's why I came forward because I know where that line, that fine line is and I'm not willing to cross that line.

Chair – Thank you.

Mr. Keenan Knopke – Understanding more about what Mr. Stone's business is made up to do, how it's operated and that he would not be in control of the cremation, or refrigeration or the removal other than, as he says, processing it through, I would make a motion to approve the application with him as the FDIC as long as the business doesn't expand any further than what it's been described as here today.

Ms. Stone – And this is far as it goes.

Mr. Knopke – I don't see...the crematory is not going to do anything until they've got the right paperwork. The removal company and the storage will have control of the remains and so forth so his ability to make a serious mistake and cause the consumer harm is extremely limited. It's about as limited as you can get. At the same time it gives him the opportunity to prove to us that he can do it.

Mr. Helm – Would you add a year's probation to that?

Mr. Knopke – Sure. Mr. Helm, rather than probation why don't we require quarterly reports from him on how things are going with reports to the Board or probation? Either way...

Mr. Helm – Well the reason why I said that is if they're under probation and then something goes wrong then we don't have as much difficulty. Is that correct Mr. Shropshire?

Mr. Shropshire – Yes sir.

Mr. Knopke – I'm fine with that.

Chair – Do you have any terms of the probation other than one (1) year?

Mr. Knopke – Why not one (1) year and quarterly reports as well? That way they're presenting to us a written synopsis of what's going on in the business and any difficulties that they're having on a quarterly basis and submit it to the Department. If the Department sees that there's an issue there then they bring it back to the Board and the Board acts on the probation and so forth.

Mr. Tom Barnhart – What does the quarterly report need to include? Is it just "I'm so and so and I'm still in business" or are there certain things?

Mr. Knopke – How many calls they've done? Have there been any issues with families? And it's going to be something that they're going to attest to. Have there been any problems with the business? Has the business closed? Anything that goes on in the business other than the day to day operations so you can get a picture.

Chair – I can see including the complaint log. You’re required to have a complaint log and include any contents of the complaint log. So this is a very, very convoluted motion.

Mr. Jones – Ms. Stone you’ve indicated you understand the role that you can and cannot play and you’re very clear on that?

Ms. Stone – Yes sir I am.

Mr. Knopke – Mr. Chairman, can I add one (1) more thing?

Chair – Yes.

Mr. Knopke – Why doesn’t he just send a copy of the month bodies handled reports? As a quarterly report send the three (3) monthly reports, bodies handled reports.

MOTION: Mr. Knopke moved to approve the application with Mr. Stone as the FDIC, one (1) year of probation, quarterly reports and monthly bodies handled reports. Mr. Jones seconded the motion, which passed with one (1) dissenting vote.

Chair – Congratulations. Let us hear from you. This Board wants to hear from you.

Mr. Stone – Thank you very much. I will not let you down. I will not let you down, guaranteed.

Mr. Knopke – Good luck.

Mr. Barnhart – The report that we’re looking for is it any kind of Department form or is it more informal?

Mr. Shropshire – It would be a letter of report on their letterhead signed by Mr. Stone and Ms. Stone. We will be sending you an Order incorporating these terms. In the next week we’ll get with you to hammer out the details.

Ms. Stone – Ok. Thank you.

Mr. Helm – Good luck.

***B. Proposed Settlement of Denial of Application
(1) Gallaher Services Inc. d/b/a Mortuary Services of Florida (Georgina Ronick) (Ft Myers)***

Mr. Shropshire – This matter came to the Board previously by application dated April 16, 2015, signed by Georgina G. Ronick (hereinafter "Ronick"), which application was received by the FCCS Division on or about May 21, 2015, Ronick applied for approval by this Board of her acquisition of ownership of a funeral establishment located at 13720 JetPort Commerce Parkway, Suite 1, Fort Myers, FL 33913. At the time of said application, and currently, the said funeral establishment was licensed to Gallaher Services Inc., license number F071575. The said application came before the Board at the Board's meeting on August 6, 2015. The materials presented to the Board at the August 6, 2015 Board meeting, regarding this matter, were including in the materials provided today. The Board voted to deny said application. The minutes of said Board meeting as relates to this matter, were also including in the materials provided today.

In accordance with Chapter 120, Florida Statutes (Administrative Procedures Act), a Notice of Intent to Deny the application was prepared and filed by the FCCS Division on August 18, 2015, and sent to Ronick and Ronick's attorney. At the time Ronick was represented by attorney Wendy Wiener, Broad & Cassel, 215 S. Monroe St., Tallahassee FL 32301, but is now represented by attorney John Rudolph.

On September 10, 2015 the FCCS Division received from Ronick a timely Request for Formal Hearing, regarding said Notice of Intent to Deny. By Referral for Hearing dated October 6, 2015, signed by attorney Tom Barnhart, the matter was referred to the Division of Administrative Hearings. As is customary regarding license application denials, any litigation regarding the denial of the application was to be handled by the Dept. of Legal Affairs (Mr. Barnhart's employer). Subsequently, Mr. Rudolph proposed a Settlement to Mr. Barnhart. It was coordinated with the Division. A written Settlement was prepared. It

is before you today. The Division signed the Settlement on November 23, 2015. The matter is in abeyance at DOAH or in fact they may have closed their file pending a resolution of this proposed Settlement. So the proposed Settlement, if approved by the Board, will approve Ronick's underlying application for approval to acquire the ownership of the funeral establishment and will also impose discipline on Ronick for operating the funeral establishment prior to approval by the Board. Mr. Rudolph has submitted material in support of the proposed Settlement. It's included in the materials provided today. A large part of it is in regards to his application on behalf of his client for a formal hearing at DOAH, which has a lot of the exculpatory and mitigating materials he wishes to present. The Division has indicated to the Board and reserves its recommendation in order to hear and evaluate Ms. Ronick today and her presentation today.

Mr. John Rudolph – John Rudolph on behalf of the Applicant. I must move for a continuance. My client tried to fly in last night and because of the storms, could not make it. If she got there early enough to catch the flight she cannot drive at night and she cannot be here. I would need her testimony in order to present her case. I found that out last night.

Chair – Do you propose a continuance to our April meeting in Jacksonville?

Mr. Rudolph – Yes sir.

Chair – Do we need a motion?

Mr. Shropshire – No the Division, uh... This is an um...what was the term? There's no deadline on presenting a proposed Settlement so the matter is simply tabled, I believe. The Division recommends that in view of Ms. Ronick not being here today.

Chair – So we'll table this until the April meeting in Jacksonville. Thank you, Mr. Rudolph. By the way, I should have stated earlier, I want to disclose my affiliation with SCI Funeral Services of Florida. That affiliation will in no way affect my ability to make and partial decisions on any cases coming before the Board today or in the future.

4. Disciplinary Proceedings:

A. Settlement Stipulation(s)

(1) Waiver of Probable Cause

(a) Carriage Florida Holdings Inc., d/b/a Baird-Case Funeral Home & Cremation Service: Case No. 166408-15-FC; Division No. ATN-23059 (F058284)

Mr. Shropshire – The allegations include but are not necessarily limited to an examination having revealed that the Licensee failed to support trust fund withdrawals and did not make deposits sufficient to offset preneed trust fund liabilities. This is a proposed Settlement and the proposed penalty in the Settlement is a \$2,250 fine. The deficits have been corrected. The Division recommends the approval of this Settlement.

Chair – Ms. Farrington?

Ms. Deirdre Farrington – The one (1) thing I would add to Mr. Shropshire's presentation is that this is the Carriage Florida establishment doing business as Baird-Case Funeral Home & Cremation Services. The Department feels that the terms of the Settlement are reasonable under the facts and circumstances and we would offer it for your approval.

Chair – Ms. Wiener?

Ms. Wendy Wiener – Just here to answer any questions.

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

(b) Related Cases – Division No. ATN-25673

Mr. Shropshire – These are two (2) related cases.

1. Manker, William: Case No. 182006-15-FC; Division No. ATN-25673 (F043671)

Mr. Shropshire – The allegations include but are not necessarily limited to an investigation finding that the Licensee’s funeral establishment failed to comply with regulations regarding storage and containment of biomedical waste storage. This is a proposed Settlement. The Settlement calls for a \$1000 fine and a one (1) year probation. The Department is represented by its attorney Deirdre Farrington. The Department and the Division recommend approval of this Settlement.

Ms. Farrington – Yes sir, just to clarify, I don’t believe I heard the Respondent’s name, William Manker and the Case No. 182006-15-FC.

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

Mr. Jones – Mr. Chair, I just want to make a comment. The disciplinary cover sheet that Mr. Shropshire added is nice. This really helps to open the case and then look at it. Thank you. I appreciate that. I like the format.

Mr. Shropshire – Thank you sir.

2. Manker Funeral Home: Case No. 182008-15-FC; Division No. ATN-25673 (F041821)

Mr. Shropshire – The allegations include but are not necessarily limited to the investigation having found that the Licensee failed to comply with regulations regarding and containment of biomedical waste storage. The proceeding is a proposed Settlement. It calls for a \$1000 fine and one (1) year probation. The Department is represented by its attorney Deirdre Farrington. The Department and the Division recommend approval of this Settlement.

Ms. Farrington – I would add the Licensee’s funeral establishment license number is F041821.

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

(c) Related Cases – Division No. ATN-25284

Mr. Shropshire – These are two (2) related cases.

1. Moore, James S.: Case No. 181961-15-FC; Division No. ATN-25284 (F048319)

Mr. Shropshire – The allegations include but are not necessarily limited to that an investigation revealed that the Licensee practiced as a monument establishment sales agent without the requisite licensure and additionally it was discovered that the Licensee enabled his unlicensed monument establishment to operate without the required licensure. This is a proposed Settlement of these allegations. The proposed Settlement calls for a \$3000 fine and two (2) years probation concerning this subject. The Department is represented by its attorney Deirdre Farrington. The Department and the Division recommend approval of this Settlement. The license of the establishment has been renewed effective October 2015.

Mr. Helm – I want to make sure, clear up something. Our business name is in this with evidence that was sent. All it was is something was sent to me and I sent it to Ellen. That’s all it was. I have no involvement whatsoever in this case.

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

2. Smoore Enterprises, d/b/a Superior Design Monument Company: Case No. 181954-15-FC; Division No. ATN-25284 (F037835)

Mr. Shropshire – The allegations include but are not necessarily limited to an investigation having revealed that the Licensee practiced as a monument establishment with a delinquent license and employed a person as a monument establishment sales

agent without the requisite licensure. This is a proposed Settlement. The proposed Settlement calls for a \$2000 fine and a two (2) year probation. The Department is represented by its counsel Deirdre Farrington. The Department and the Division recommend approval of this Settlement.

Ms. Farrington – The only thing I would add is that Smoore Enterprises has, since this case was opened, changed their d/b/a to Granite Monument.

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

(d) Related Cases – Division No. ATN-25935

Mr. Shropshire – These are two (2) related cases.

1. Coffelt, Jeffery: Case No. 182017-15-FC; Division No. ATN-25935 (F045453)

Mr. Shropshire – The allegations include but are not necessarily limited to that the Licensee held a body over 24 hours pending disposition without maintaining the body either by embalming or refrigeration; that the family of the decedent was contacted when the incident occurred and an apology was made. The family of the decedent did not bring the complaint against the subject here. The family members appear satisfied with the corrective action taken by the subject and the subject's funeral home. This is a proposed Settlement calling for a \$1000 fine. The Department is represented by its attorney Deirdre Farrington. The Department and the Division recommend approval of this Settlement.

Ms. Farrington – The Respondent is represented by Ms. Wiener.

Mr. Knopke – Mr. Chairman, just for the record, in my Board package, I was unable to clearly read the complaint filed by the former employee. It looks like it could be multiple different languages. Ms. Coney's response was clear. I'm getting to the page, for the record, but it may be all the way to the bottom. It starts on the electronic page 41 of 44. Since the party admitted what he did and apologized for it, I'm fine with it, but I just wanted the record to reflect that it wasn't clear so I was unable to read exactly what the complainant said.

Ms. Farrington – That appears to be an issue with the quality of the facsimile. The scan seems to be particularly poor. I'm afraid that sometimes these scans are transmitted multiple times. I'll talk to our IT people and see if there is any way that we can improve the quality. Certainly when I reviewed the file the quality was not that degraded but it may just be that as it passes through so many servers before it reaches you that it loses some clarity and we'll try to improve that in the future.

Chair – Just as a note and completely unrelated to this instance, when we are electronically sent photographs the quality often times leaves a lot to be desired and we can't determine what we should determine from photographs.

Mr. Shropshire – We'll look into that Mr. Chairman.

Chair – Thank you.

MOTION: Mr. Jones moved to approve the Settlement Stipulation as presented by the Department. Ms. Jean Anderson seconded the motion.

Ms. Lisa Coney – I didn't say anything, but I'm Lisa Coney. I'm here for Jeff Coffelt, as he is traveling for Dignity Memorial Funeral Services, if you have any questions about this. Jeff has an exceptional reputation in our industry and was distraught that a now separated employee would have brought any sort of malicious claim against him, our character or anyone that's in our custody. So I don't know if there were any other questions about it but I'm here.

Mr. Hall – Can you just give me an explanation on the FDIC? It's got two (2) different people on the report, Scott and then Jeff. Can you clarify that?

Ms. Coney – Jacksonville has several funeral homes and Mr. Coffelt is responsible for an embalming center that serves all those funeral homes. So the original complaint was brought against Scott Countryman because he was the funeral home that was sitting with the family and taking care of their arrangements. The complaint was specific to condition of the remains in our care and the care and custody happens under Mr. Coffelt's supervision at that embalming center. So the Division attorney removed Mr. Countryman from the equation because he had no responsibility other than very positive communications with the family. At the time this happened, which was eight (8) months before this now former employee brought a complaint, immediately when it happened we went to the family and told them what had happened and that for forty-three (43) hours she was in an air conditioned room after visitation instead of placed back in refrigeration as they desired. They had not at that point wanted any services or visitation or viewing, but we offered that to them so that they had comfort before the cremation was carried out. Her sons and minister came back to visit with her after all these allegations. There was absolutely no harm done to Ms. Burt while she was in our care, the son was very satisfied and her cremation went forward as they desired.

Mr. Hall – So Jeff is FDIC at the embalming service?

Ms. Coney – Yes.

Mr. Hall – Countryman is at the funeral home itself.

Ms. Coney – Yes. Jeff is the manager.

Mr. Hall – Is it two (2) separate locations?

Ms. Coney – Yes sir. Jeff's been the manager of our embalming center for more than twelve (12) years handling quite literally thousands of families' care every year. He's been with us for seventeen (17) plus years and licensed a little longer than that. Not only with not having any blemish on his record, but being recognized in our industry including by this Board as an expert in care and custody and handling people's loved ones. I actually have to talk him out of filing an FDIC change when he leaves for the weekend now because he is distraught that this happened in his room when he wasn't there and that his reputation will now carry this mark forever when he had no personal control. I don't think I'll be able to talk him out of that one. He's sick or on vacation. I think you'll see FDIC changes if we expect him out of the building for more than a couple days. I feel sad for him because I know how seriously he takes this and it's something that could happen to any one of you that has a funeral director's license.

Mr. Hall – May I ask the Division just for clarity for me? I'm trying to understand. It was a mistake, it seems like oversight, but where does it fall? Does it fall at the funeral home where the body was, if I'm understanding that right, or does it fall with the embalming center? How do we determine, in a case like that, where the responsibility is?

Ms. Coney – The identification was being made at the embalming center but as a funeral home the family came over there for identification so she was at Mr. Coffelt's funeral home at the time, not at the servicing funeral home that was making arrangements.

Chair – Mr. Mueller?

Mr. Mueller – That was my question. Where was the body when this all happened?

Mr. Knopke – Mr. Chairman, a couple questions to make sure I understand the timeline. The remains were placed in a visitation area or chapel Saturday morning. The family came in reviewing. The remains were then left there until Monday morning when they went to look for it. The complaint was received. The family was contacted at that point and said here's what's occurred. Would you like to come and look? The complaint was filed eight (8) months later.

Ms. Wiener – By a disgruntle, former employee.

Mr. Knopke – During that eight (8) month period of time, was there any communication with the family? Did they hire counsel for a complaint or anything else?

Ms. Coney – The family was gracious. We were actually, um, our funeral homes were both shocked when this came up because our communications with the family were they were thrilled with us. They were raving fans. They were surprised that we brought it to them because I believe the comment was made that we would have never had to, but we did because that's what we do. Tell the truth and do the right thing every time even when it's not easy. We met with both her minister son and her husband who chose not to have a visitation at any point. They were, they're happy with our services today. I feel confident that we would get a referral from them to do services again in the future.

Mr. Knopke – During the eight (8) month period or since then, has the former employee, or prior to the complaint being filed, did the former employee offer not to file the complaint in payment of any fee or anything like that? Was there a ransom demand since they went eight (8) months then all of a sudden decided to file a complaint? I assume that was about the time they were let go or left, but I didn't know if they made any demands to keep quiet.

Ms. Coney – There was never any discussion about any concern with how Mr. Coffelt, Dignity Memorial Funeral and Cremation Services or anyone in our employ there cared for remains while that person was in our employ. After that employment separated more than eight (8) months after this incident was when this claim was brought against us and at no point prior to that am I aware of anyone saying that what happened to Ms. Burt is terrible. The person who brought the complaint, we had had discussions about you cosmetize when a family authorizes that you, these are the actions you take based on what a family has told you to do, but it was never brought in the other direction.

Mr. Knopke – So he left some time after this; or he left eight (8) months later?

Ms. Coney – Eight (8) months later and then this came.

Ms. Farrington – I know that you were not able to read clearly the email from the complaint. It did mention that he had spoken with an employee at another facility about what he called a similar incident and that evidently is what prompted him per his fairly brief email. There was not a lot of detail in the email but he did mention another incident prompting him to contact the Division.

Mr. Knopke – No one else has contacted the Division about that?

Ms. Farrington – No and he did not identify the other individual with whom he had spoken or the other facility. He did not say if it was at the same facility.

Ms. Coney – And make no mistake, immediately upon receipt of this a huge investigation happens about retraining and open door policies and our responsibilities to deliver exactly what a family wants from us and if there's any concerns among our ranks and how any of those functions are done they can come to their manager, they can come to Human Resources, they can come to me, they can come to a market director. Our first priority like yours is taking care of these families and we don't want any malicious claims to any negative impact on our ability to do that.

Mr. Mueller – Has the family been notified of this disciplinary action?

Ms. Coney – I believe it was. Dianna Patterson was the investigator assigned. Early on she asked about contacting the family and my opinion in conversation with her was the family is happy so if you want to drag a family in that just lost their wife and mother over a disgruntle former employee's complaint. That decision will be yours but I don't support it and she didn't want to and didn't feel it was necessary and we had no reason to believe that they were upset so I don't know if the Division ever did that independently but it was not the decision at the time that I was approached.

Ms. Farrington – I can confirm that the family was not contacted by our investigator.

Chair – During the course of discussion of the proposed Settlement, was there any consideration given to perhaps a letter of non-compliance to the Licensee?

Ms. Farrington – I don't think it's appropriate to discuss Settlement negotiations.

Ms. Wiener – We did negotiate regarding Settlement but the nature of Settlement talks is such that they're confidential. I'm not sure how that impacts us here.

Chair – I didn't know that; just a question.

Mr. Mueller – Did the Department interview the complainant?

Ms. Farrington – I did ask again for the investigator to get specifically an affidavit from the complainant and apparently attempts to follow up on that received no response. The investigator, in addition to the email that was initially received, had spoken with the complainant and I did ask the investigator to obtain an affidavit so that we had more detail but the complainant evidently did not follow up; email messages and phone calls.

Mr. Hall – Was Mr. Coffelt on this weekend when this happened?

Ms. Coney – No sir.

Mr. Hall – So he's brought in because he's the FDIC?

Ms. Wiener – Correct.

Ms. Coney – Yes sir.

Mr. Hall – Just to address Keenan earlier, on my report, I got two (2) copies of that letter. The first one you can't read anything. The second one is better but the person the filed the complaint, the thing that bothers me about that is the fact that they waited eight (8) months. Secondly, then they allude to the fact that there was another problem in North Carolina. Well I don't know. I watch Judge Judy. I don't think that they can tell you what they said. Can they? Can they allude to the fact that another employee somewhere else told them that it happened in North Carolina?

Ms. Farrington – That certainly was not a factor in the Department's consideration of this situation.

Mr. Hall – For somebody to wait eight (8) months, but I guess my concern on it is and maybe the question for the Department is what I'm reading into it is, we've got a person that's concerned about I'm the FDIC, I wasn't there but because I'm in charge it's going on my record and blemishing my record. That would concern me too. I'll take responsibility for what I did but I hate to do it with what somebody else lacks. We all are human. We're going to make mistakes whether it's us, the Department or whatever but is it possible to do the fines and stuff towards the establishment and not this? Do we ever do it where we fine the establishment Mr. Shropshire and not this individual just because he was the FDIC and this blemish?

Chair – That's the next case. That's the companion case.

Mr. Hall – Right, but I'm just saying is it possible if that fine was going towards the establishment for doing it where they did it and this guy wasn't there? I know a lot of times we bring in both the FDIC and the establishment but on someone like this who's saying hey I've been in the business all these years and I've never had a blemish and I wasn't even there because she's saying he's going to start coming in and signing off as FDIC every weekend when he's gone and I kind of see his point. I'm gone and I don't want to be responsible for Ken over here because I don't know what he's going to do.

Ms. Coney – And he has taken responsibility. He loves this embalming room and every family that it's served. He's not somebody that moves around. He's engrained in the Jacksonville community. He's served his own members out of that embalming room. I'm not in any way saying that he's not taking responsibility for this. Just that it's disheartening that he did the right thing.

Mr. Shropshire – May I respond to Mr. Hall?

Chair – Yes respond in response to Mr. Hall.

Mr. Shropshire – Certainly if the Board felt that this FDIC had reasonably exercised his duties and this happened notwithstanding his efforts then the Board could reject the Settlement and indicate to the Division here on the record that they'd prefer this particular case against this individual be returned perhaps to Probable Cause for a rescinding of the probable cause and then you can address the issue with the establishment case that follows immediately after.

Mr. Knopke – Was there probable cause or not?

Mr. Shropshire – Was this a waiver of probable cause?

Ms. Farrington – This is a waiver.

Mr. Knopke – I'd make a motion to deny the Settlement based on the fact that we do not have an affidavit from the complainant. We have an email that could have been written by anybody. I'll make that then I'll make another motion.

Mr. Hall – I will second it but I'd like to say I think we have cases that come here and mistakes are going to happen because everybody's human but it's how we deal with them afterwards I think is what's important. It appears the firm stepped in. The family's happy. They did what they could to try to correct the problem. It happened, it's unfortunate and they've admitted to the problem but they're saying this is what we did to correct the problem. That's all you can do once it's happened.

Ms. Coney – Please let me state that the problem is the violation of law that we didn't have her in refrigeration for that twenty-four (24) hour period. The allegations in that complaint were that this somehow damaged Mrs. Burt and that's not factual. That is not correct. So our violation is a forty-three (43) hour air conditioning instead of refrigeration. She was never in any disrepair as a result of our error and her family will tell you that.

Mr. Jones – I'll retract my original motion, which wasn't voted on so I'm retracting the original. I just wanted the record to be clear.

2nd MOTION: Mr. Knopke moved to deny the Settlement Stipulation as presented by the Department based on the fact that we do not have an affidavit from the complainant. Mr. Hall seconded the motion, which passed unanimously.

Mr. Knopke – Mr. Chairman, as a follow up, I'd like to issue a letter of reprimand to the Licensee.

Chair – Letter of non-compliance?

Mr. Knopke – Whatever it's called.

Chair – There a two (2) different types.

Mr. Knopke – A letter of some type.

Mr. Shropshire – Well, may I Mr. Chairman?

Chair – Please.

Mr. Shropshire – If you don't want this to be a disciplinary matter then you would issue a letter of guidance because a letter of non-compliance is a disciplinary proceeding.

3rd MOTION: Mr. Knopke moved to ask the Department to issue a letter of guidance to the Licensee in this matter. Mr. Mueller seconded the motion, which passed unanimously.

2. *SCI Funeral Services of Florida, L.L.C., d/b/a Dignity Memorial Funeral & Cremation Services: Case No. 182011-15-FC; Division No. ATN-25935 (F040273)*

Mr. Shropshire – The allegations include but are not necessarily limited to a Licensee held a body over twenty-four (24) hours pending disposition without maintaining the body either by embalming or refrigeration. Further that the investigation indicates that the family of the decedent was contacted when the incident occurred or shortly thereafter and an apology was made by the Licensee. The family of the decedent did not bring the complaint against SCI, the subject herein, and the family members appear satisfied with the corrective action taken by the funeral home. This is a proposed Settlement proceeding in which the Settlement would call for payment of a \$1000 fine. The Department is represented by its counsel, Deirdre Farrington. The Department and the Division recommend approval of this Settlement.

Chair – Ms. Farrington, anything?

Ms. Farrington – I have nothing to add.

Chair – Thank you.

MOTION: Mr. Knopke moved to deny the Settlement Stipulation as presented by the Department.

Mr. Barnhart – Can you state the grounds for the motion?

Mr. Knopke – That there's no affidavit in the file by the complainant as well as the firm did respond immediately to the situation by contacting the family to bring them in to let them know what they had done. The matter appeared to be corrected until a former employee filed a complaint eight (8) months later, well allegedly filed a complaint eight (8) months later since there's no affidavit.

Mr. Barnhart – I don't know if the fact that there's no affidavit. I think the Department gets a lot of complaints that are not supported by affidavits and this has reached the posture where there is a Settlement Stipulation that's been agreed to. I don't know if you want to make it based on the fact that there is no affidavit in the file. Do we require that generally, an affidavit?

Mr. Shropshire – No sir.

Ms. Farrington – Mr. Barnhart is correct. In the majority of our files there is not an affidavit unless we are in a posture to go to litigation.

Ms. Coney – This happened in our building and I fully anticipated approval of both of these. Jeff Coffelt, on his behalf, we're humbled that this is the approach that's being taken but we approved the Settlement Stipulation. There were tons of mitigating circumstances that may have not been given the weight that you're given them now and I am incredibly grateful but however you choose to proceed, we are here to accept that.

Mr. Barnhart – I don't think there's any dispute as to what happened. That's what the main thing is that I'm concerned about and that most of our cases are not going to come from affidavits but just from complaints that are sent in to the Department.

Mr. Knopke – I'll withdraw my motion.

MOTION: Mr. Mueller moved to approve the Settlement Stipulation as presented by the Department. Mr. Hall seconded the motion.

Ms. Coney – Not saying you don't have to you could lower it, you could whip me with a noodle if you like. That'd be okay.

Ms. Wiener – I think there has been a lot more discussion today of the mitigating circumstance. While we did discuss that with Department's counsel, I think the Board is now very aware of the situation with the family and that they were pleased and so of course we would be happy to back away from this Settlement in favor of a lesser or no penalty.

Chair – There's been a motion made by Mr. Mueller and seconded by Mr. Hall. Mr. Hall?

Mr. Hall – I just want to say that I feel like that there was an issue, there was a problem and the company owned it and I appreciate that. So I think it's in line, the penalty I think is in line. My concern early was with the FDIC that he wasn't even there and it's on his record and flaws his record. I think that was an issue but I appreciated the way they went back to the family and took care of the problem. They've admitted to the issue and owned the problem so I think it's in line.

Chair – Any other comments or questions? The motion passed unanimously.

(e) Rolling Oaks Cemetery: Case No. 165096-15-FC; Division No. ATN-22275 (F066604)

Mr. Shropshire – The allegations include but are not necessarily limited to that an examination of the Licensee revealed numerous violations of the Licensee's contracts. Additionally it was discovered that the Licensee used a preneed sales agent without proper appointment, failed to make trust deposits sufficient to offset preneed trust fund liabilities and failed to make timely deposits to the trust. The violations uncovered have been corrected. This is a proposed Settlement in which the proposed penalty is a \$2250 fine. The Department is represented by its attorney, Deirdre Farrington. The Department and the Division recommend approval of this Settlement.

Chair – Ms. Farrington?

Ms. Farrington – Of course Wendy Wiener is present on behalf of the Respondent. I have nothing further to add other than Ms. Wiener is present.

Chair – Thank you. Mr. Helm?

Mr. Helm – When did StoneMor purchase this property?

Ms. Wiener – This is Rolling Oaks Cemetery. This is not StoneMor.

Mr. Hall – The one above it.

Mr. Helm – I'm sorry.

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

(f) StoneMor Florida, LLC, d/b/a Deland Memorial Gardens: Case No. 164658-14-FC; Division No. ATN-22262 (F071131)

Mr. Shropshire – The allegations include but are not necessarily limited to that an examination revealed numerous violations concerning various contracts entered into by the Licensee. Additionally, it was discovered that the Licensee failed to make deposits to the care and maintenance trust fund in a timely manner, used preneed sales agents who were neither licensed or appointed and presented examination work papers that were not in compliance with rule or statute. This is a proposed Settlement in which the proposed penalty is a \$7500 fine and one (1) year probation. The Department is represented by its attorney, Deirdre Farrington. The Department and the Division recommend approval of this Settlement. The Licensee is represented by attorney Wendy Wiener.

Chair – Ms. Farrington?

Ms. Farrington – I have nothing further to add but I'll answer any questions.

Chair – Thank you.

Mr. Knopke – Mr. Chairman?

Chair – Yes, Mr. Knopke?

Mr. Knopke – This is just for this particular cemetery, Deland Memorial and not for other StoneMor properties or anything other than just this one?

Ms. Farrington – No just this Licensee.

Mr. Knopke – Thank you.

Mr. Helm – Now, I'm sorry I got ahead of myself. When did StoneMor buy this property?

Ms. Wiener – We believe that it was around 2012. I don't remember exactly the date of the acquisition.

Mr. Helm – So they owned it during part of this examination period?

Ms. Wiener – That is correct. An important thing to note about this and some people have asked about this and it was part of what we contemplated is that the violations result from some computer programming that had certain things happening in their preneed administration that once set continued to happen again and again and again and of course this Board is able to discipline for every single violation but of course that would be, uh, it's not typically what is done to make the point to the Licensee to correct these. So yes they did own it during a portion of the examination.

Chair – Thank you. Mr. Mueller?

Mr. Mueller – What's involved in the probation?

Ms. Farrington – The terms of probation are set out in 69K-30, F.S. The Division doesn't have what you would call a probation officer. Typically reports are required only if they are imposed by the Board. Probation does not have a great deal of specific requirements for the Licensee to meet. I think it's a red flag essentially for the Board so that if during that period of probation there are additional violations it would be considered an aggravation of the penalty.

Mr. Mueller – Thank you.

Ms. Farrington – In this case the penalty is set at this level due to the number of violations. As Ms. Wiener mentioned, the contracts are form generated but in this case there are over 200 contracts involved.

MOTION: Mr. Mueller moved to approve the Settlement Stipulation as presented by the Department. Mr. Knopke seconded the motion, which passed unanimously.

(g) StoneMor Florida, LLC, d/b/a Edgewater-New Smyrna Cemetery; Case No. 166455-15-FC; Division No. ATN-22264 (F071129)

Mr. Shropshire – The allegations include but are not necessarily limited to that examination revealed numerous violations concerning contracts used by the Licensee. Additionally, it was discovered that the Licensee failed to make deposits to the care and maintenance trust fund to offset liabilities, exceeded the maximum limit for the transfer of burial rights and used preneed sales agents who were neither licensed nor appointed. This is a proposed Settlement proceeding in which the proposed penalty is a \$5000 fine. The Department is represented by its attorney, Deirdre Farrington, and the Licensee is represented by attorney Wendy Wiener. The Department and the Division recommend approval of this Settlement.

Ms. Farrington – I don't think I heard Mr. Shropshire mention that the license number is F071129. If he did, I'm sorry for the duplicate. In your electronic materials you might have noticed two (2) files. One (1) consisting of only three (3) pages another consisted of 311. I think you need to look at both of them to get the full picture. One (1) has the summary. The other has the investigative file.

Chair – Good point. Thank you.

Ms. Farrington – We feel the terms of the Settlement are reasonable and we ask you to accept it.

Chair – Mr. Mueller?

Mr. Mueller – What is the limit for the transfer of burial rights and how does one exceed it?

Ms. Farrington – I believe it's \$50.

Mr. Mueller – Oh, paid for between individuals. Thank you.

Ms. Farrington – We're not talking about the number of bodies.

Mr. Knopke – How many contracts were involved in this one?

Ms. Farrington – Is this case I believe there was approximately seventy (70).

Mr. Knopke – Thank you.

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

(2) Probable Cause Panel A

(a) Related Cases – Division No. ATN-24968

Mr. Shropshire – These are two (2) related cases.

1. Culley's Meadow Wood Funeral Home: Case No. 177497-15-FC; Division No. ATN-24968 (F040240)

Mr. Shropshire – The allegations include but are not necessarily limited to that an investigation found that the funeral director incorrectly stated to a family that their loved one had been embalmed when in fact they had not. When the decedent's body was discovered it was unknown how long it had been since she had passed. When found, post-mortem staining was visible, which would apparently be difficult to resolve through embalming. The funeral establishment had possession of the body for approximately thirty-six (36) hours before it was transported to another funeral establishment chosen by the family. While in its possession the body was kept in the funeral establishment's cooler. When the funeral director spoke with the family he was under the impression that the embalming had in fact occurred. It does not appear that his statements were made with any intent to deceive. This is a proposed Settlement in which the proposed penalty is a \$1000 fine. The Department is represented by its attorney, Deirdre Farrington and the Licensee is represented by attorney Wendy Wiener. The Department and the Division recommend approval of this Settlement.

Mr. Knopke – Mr. Chairman, I am recusing myself because I sat on Probable Cause Panel A for this one, 2a, 2b and 2c.

Chair – So noted. Thank you. Ms. Farrington?

Ms. Farrington – I have nothing further to add but I would be happy to answer any questions.

Chair – Mr. Helm?

Mr. Helm – I do have a question. I'm not really sure where I'm supposed to ask it at so I'll ask it and if it's supposed to be on the next one coming up I'll wait until then. How, or I couldn't find, did they get a cal to pick up this body?

Chair – They who? Please say who?

Mr. Helm – The Respondent.

Ms. Farrington – Yes. The decedent passed in the state of Georgia. Her body was initially transported to a funeral home in the state of Georgia and examined by a Georgia coroner. It was then transported to the local funeral home. I don't know whether that was done by an agent of the funeral home or by a removal service from Georgia.

Ms. Coney – Yes, we received the call and performed the removal at the family's request from Georgia to Culley's and later the family made a decision for, I'm sorry. I'm Lisa Coney on behalf of Culley's and William Welborn with Wendy. We were notified the day after the scheduled arrangements that the family chose another funeral home.

Mr. Helm – I'm a little bit confused I think I should say with the Department counsel. Would you please explain to me how, in our previous case we just had we had a \$5000 fine and this case we have a \$1000 fine. There was much more damage done in this case than the other case so I'm a little, if you understand what I'm saying.

Ms. Farrington – I believe I see where you're going. The initial and primary concern of the complainant in this case was the condition of the body. You do not get to see the proposed Administrative Complaint I don't think, in your Board packet, but the proposed Administrative Complaint actually that was filed in this case was a single count Administrative Complaint for violation of s. 497.152(1)(b), F. S., which is negligence. This situation was that the family spoke with the funeral director early on the morning after the lady's passing, quite early in the morning. The funeral director assured the family that she was being embalmed at that time and they scheduled to meet later in the day. They met late in the afternoon of the same day. He again told the family that she had been embalmed. Later that evening the family made the decision to use another funeral home's services and the decedent was transported to the second funeral home. The next morning, the family contends that that is when they first learned that she had not been embalmed. The funeral director in the case spoke to a family member the evening before she was taken to the second home and that they were told then. The complainant's main concern about the condition of the body was not a complaint. Those allegations couldn't be supported by the evidence that was available to us. We don't have any information, for instance, on how long the decedent had been deceased when the body was discovered. The Georgia coroner indicated to our investigator that there was significant staining of the tissue. Evidently the woman had passed while lying on her side so there was significant staining.

Mr. Helm – Excuse me. You said that the Georgia people said that she was already decomposing?

Ms. Farrington – Not decomposing sir, but post-mortem lividity, staining of the tissue and because she was lying on her side there was significant staining on one side of her face and not on the other side.

Mr. Helm – Well I didn't read that nowhere.

Ms. Farrington – It is in the investigative report but I did confirm, I spoke personally with the investigator to see whether we needed to get any additional information from the Georgia coroner but our investigator indicated to me that he had specifically asked the Georgia coroner about the condition of the body because that was the first professional to lay eyes on the body and that that man indicated there was significant staining. When asked if that could be resolved in the embalming, the Georgia coroner indicated that it was difficult to tell. Sometimes you can and sometimes you can't essentially was his statement. I do not know what his professional status is but Georgia coroners are elected and I suspect his is a local funeral director. He is not medical examiner and the Georgia coroner would not have been able to provide us with an estimated time of death.

Ms. Wiener – And Mr. Helm, if I can also address that. The only allegation against the Licensee, the two (2) Licensees in these two (2) related cases is that there was negligence on the part of the funeral director for failing to tell the family correct information about the embalming status. There are no other allegations against these Licensees and so this penalty does fall within the penalty guidelines for, it is at the upper range of the penalty guidelines, for this particular allegation.

Ms. Farrington – Ms. Wiener is correct and the case was filed primarily because it wasn't simply one (1) misstatement, which as was noted in some discussion about a previous case. One (1) misstatement could be a mistake. People make mistakes but because the funeral director made the statement twice, once at the very beginning of the day and once towards the end of the day when he certainly had had the opportunity to prepare for the meeting with the family and reasonably should have been expected to know whether or not the decedent had been embalmed and so it's the fact that there were two (2) statements separated by a significant amount of time that cause us to consider the charge of negligence for the misstatement. We're not

saying there was any fraud or deception involved, simply negligence, but with regard to the complainant's primary concern about the condition of the body, we simply did not have any evidence to support that any action by this establishment caused deterioration in the appearance of the decedent.

Chair – Any other questions or comments? Mr. Mueller?

Mr. Mueller – I thought I heard you say before that in Georgia the body was originally picked up by a funeral home then when to the coroner's office then back to another funeral home?

Ms. Farrington – I don't believe the body was transported from a funeral home to the coroner. I believe the Georgia coroner was the funeral director of that funeral home. It's very common in Georgia. Coroners are elected. They don't have to have any medical...

Ms. Wiener – SCI picked it up from the coroner.

Mr. Mueller – I just wanted to confirm that the body had been at a funeral home in Georgia. Seems to me that there may be some reason to believe that the funeral home in Georgia asserted to the guy in Florida that they had indeed embalmed the body. Is that?

Ms. Coney – No we didn't understand that.

Ms. Farrington – There was no indication that the Georgia coroner would have had any responsibility for embalming the body. I don't know specifically what Georgia law is with regard to how long they can hold a body but I don't believe it was in Georgia for more than six (6) or eight (8) hours.

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

2. Welborn, William E: Case No. 177485-15-FC; Division No. ATN-24968 (F043463)

Mr. Shropshire – The allegations include but are not necessarily limited to that an investigation found that the Respondent incorrectly stated to a family that their loved one had been embalmed when in fact they had not been embalmed. When the decedent's body was discovered it was unknown how long it had been since she had passed. When found, post-mortem staining was visible, which would apparently be difficult to resolve through embalming. The funeral establishment had possession of the body for approximately thirty-six (36) hours before it was transported to another funeral establishment chosen by the family. While in its possession the body was kept in the funeral establishment's cooler. When the Licensee spoke with the family he was under the impression that the embalming had in fact occurred. It does not appear that his statements were made with any intent to deceive. This is a proposed Settlement in which the proposed penalty is a \$1000 fine. The Licensee is represented by attorney Wendy Wiener and the Department is represented by its attorney, Deirdre Farrington. The Department and the Division recommend approval of this Settlement.

Ms. Farrington – I would just add I'm not sure I heard Mr. Shropshire mention that Mr. Welborn is the funeral director and embalmer.

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

(b) Related Cases – Division No. ATN-22816

Mr. Shropshire – These are two (2) related cases.

1. Edgley, John: Case No. 161118-14-FC; Division No. ATN-22816 (F042261)

Mr. Shropshire – The allegations include but are not necessarily limited to that an investigation revealed that the Licensee advertised the name of his establishment outside the scope of his license. This is a proposed Settlement calling for a \$2000 fine. The Department is represented by its attorney, James Bossart. The Licensee is represented by its attorney, H. Richard Bisbee. The Department and the Division recommend approval of this Settlement.

Chair –Yes sir.

Mr. H. Richard Bisbee – Just a few comments. My name is Rick Bisbee. I represent the two (2) entities, Mr. Edgley and Edgley Cremation Services. This was an inadvertent mistake and just three (3) publications occurred in the Palm Beach Post I believe. What happened was the owner’s daughter went on maternity leave, taught this new employee how to send these obituaries into the publisher but neglected to mention not including the name of the direct disposer so it was an inadvertent mistake not intentional and it’s not going to happen again. Nevertheless, they are taking responsibility for it. Thank you.

Chair – Thank you, Mr. Bisbee. Mr. Helm?

Mr. Helm – Sir you just stated that someone else sent them?

Mr. Bisbee – Right.

Mr. Helm – Well how did Mr. Edgley’s name get on them?

Mr. Bisbee – The daughter apparently, Mr. Edgley is the one who handles those matters in terms of sending those out. She went on maternity leave and apparently it was delegated to this newer employee. I assume there is a template of some sort that she was using and it went out that way. It was totally inadvertent.

Chair – A note, she was an employee, as I understand your explanation?

Mr. Bisbee – Right.

Chair – Anything else?

Mr. Helm – Well he’s standing there telling me that they just send it out with his name on it. I don’t quite get that myself, with his signature on it. A template?

Mr. James Bossart – It was the obituary, sir. There’s no signature.

Chair – Mr. Hall?

Mr. Hall – For the Division, have we dealt with this firm before on issues of advertising in areas that they shouldn’t have? Have they been disciplined before, this same firm?

Mr. Shropshire – I believe they do have a disciplinary record. May I respond briefly to Mr. Helm?

Chair – Sure.

Mr. Shropshire – In case it’s not clear, the violation is that a direct disposal is not allowed to indicate that there is a memorial service in an obituary.

Mr. Helm – I understand but if I remember correctly in my reading, Mr. Edgley said he didn’t have anything to do with it but his name is on the thing that was sent. Is that correct?

Mr. Shropshire – It was sent by his firm, by an employee of his firm.

Mr. Bossart – His business name was on it.

Mr. Bisbee – Right, the business name. It says, “Please sign the guestbook at EdgleyCremationServices.com.” They don’t even do services so that was just purely an oversight.

Mr. Helm – Y’all just talk and I’ll see if I can find it.

Mr. Barnhart – I think Mr. Helm is talking about what was sent into the paper aren’t you Mr. Helm?

Mr. Helm – Say it again.

Mr. Barnhart – What was sent into the paper?

Mr. Helm – Yes I am.

Mr. Barnhart – Was it on the business letterhead or was it by an employee of the business and Mr. Edgley’s name was not signed?

Chair – It would not be unusual for a direct disposer to have an obituary in the newspaper with the name of the firm in the obituary in the newspaper.

Mr. Bisbee – It seems that the rule is if there is a service to be performed, gravesite or in the funeral home, that’s when the name should not be included. That’s my understanding.

Chair – That’s correct. Any other questions or comments?

MOTION: Mr. Jones moved to approve the Settlement Stipulation as presented by the Department. Mr. Mueller seconded the motion.

Chair – I’m intentionally delaying calling a vote for Mr. Helm. The pressure is on you Mr. Helm.

Mr. Helm – I know. Well it could have been their contracts is what he had his name signed on. Maybe it was not the obituary it was his contracts.

The motion passed unanimously.

2. Edgley Crematory, Inc. d/b/a Edgley Cremation Services: Case No. 161120-14-FC; Division No. ATN-22816 (F052579)

Mr. Shropshire – The allegations include but are not necessarily limited to that an investigation revealed that the Licensee advertised the name of his establishment outside the scope of his license. This is a proposed Settlement in which the proposed penalty is a \$2000 fine. The Department is represented by its attorney, James Bossart and the Licensee is represented by its attorney, H. Richard Bisbee. The Department and the Division recommend approval of this Settlement.

Chair – Mr. Bossart?

Mr. Bossart – I have nothing to add, sir.

Chair – Thank you.

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

Mr. Bisbee – Thank you.

Chair – Thank you, gentlemen.

(c) Scalisi, Charles: Case Nos. 158702-14-FC, 150329-14-FC, 162856-14-FC, 169200-15-FC, 169679-15-FC, 171419-15-FC and 171464-15-FC; Division Nos. ATN-18976, ATN-21731, ATN-21735, ATN-21792, ATN-21946, ATN-23052, ATN-24349, ATN-24385, ATN-24470, ATN-24475, ATN-24522, ATN-24524, ATN-23690, ATN-24592, ATN-25027 and ATN-23545 (F042277)

Mr. Shropshire – This is a global settlement which includes a number of cases. The allegations include but are not necessarily limited to that the Licensee failed to do the following: file death certificates within five (5) days of the date of death; be reasonably available to the public during normal business hours; license a funeral establishment who is operating; use clear, unambiguous terms in a contract; honor specific preneed contracts; affixes a photograph that was less than six (6) years old to his license; have a hand sink with hot water in embalming room; abide by responsibilities attributable to a funeral director; produce records requested pertaining to the investigation of a complaint; and abide by a preneed in which both a death certificate, processing fee and alternative container had been paid for in that the Licensee charged the consumer twice; and finally additionally the Licensee is alleged to have committed fraud, deceit, negligence, incompetency and misconduct. This is a proposed Settlement in which the proposed penalty consists of a \$10,000 fine, a three (3) year suspension, drug and alcohol counseling, a year of random drug screening and before his license can be reinstated he must appear before this Board to demonstrate the requisite character and fitness to be a licensed funeral director and embalmer. The Department is represented by Melissa Dembicer who cannot make it today, so Deirdre will be representing the Department. The Licensee is represented by attorney Wendy Wiener. The Department and the Division recommend approval of this proposed Settlement.

Chair – Ms. Farrington?

Ms. Farrington – I would just mention that Mr. Scalisi’s funeral director and embalmer license is No. F042277. I think with all the many numbers for the case numbers that one was overlooked. I have nothing additional but I’ll be happy to answer any questions.

Chair – Thank you. Ms. Wiener?

Ms. Wiener – Here to answer questions.

Chair – Board?

Mr. Hall – Two (2) questions. What is the timeframe on the fine to be paid and if any of these conditions are not met, automatic suspension? Is that right, Mr. Shropshire?

Ms. Wiener – He is being suspended for a period of three (3) years and the fine has to be paid before he applies for reinstatement.

Mr. Hall – So he’s got three (3) years to pay that? That’s what you’re saying after the suspension?

Ms. Wiener – I suspect there is a likelihood that he will not apply for reinstatement given the current status of his business so he may or may not reapply but if he does reapply then all of the terms and conditions of this Consent Order will have been met at the time that he is relicensed.

Mr. Hall – Well during that period, if he doesn’t meet these drug and alcohol counseling sessions will it go towards revoked instead of suspended during that three (3) years?

Mr. Shropshire – As a practical matter, I don’t think so. It would be a factor though if he tried to reapply. He would be asked have you completed them, show us the evidence. If he hadn’t I don’t think it’ll be processed.

Ms. Farrington – Specifically under the terms of the agreement, the license will remain suspended until all of the terms and conditions have been completed and the Department provides a written notice to Mr. Scalisi that the license has been reinstated. So there’s no issue that he could slip past this in any way. In addition, as Mr. Shropshire said, he has to appear before the Board for a determination of fitness of character.

Chair – So if he pays no part of the \$10,000 fine, there's no immediate consequence unless he comes back before the Board requesting licensing?

Ms. Wiener – Right. So he will not be a Licensee during any time up until he has completed all of these terms and conditions and has come before the Board for a finding of his appropriateness to be reinstated.

Chair – Thank you. Mr. Jones?

Mr. Jones – I just want to state my affiliation with the Department of Health, Bureau of Vital Statistics and it won't impact my voting. They were talking about death certificates and filing times.

Chair – Thank you. Mr. Mueller?

Mr. Mueller – My understanding is that there are some extenuating circumstances about the photograph in that Mr. Scalisi did not know before age six (6) that he might someday become a funeral director.

Chair – Thank you. I'm glad you got that on the record. Board members?

Mr. Barnhart – Mr. Chairman, I just noticed in this stipulation that the drug screening and counseling is not very tight. There seems to be a lot of questions or could be a lot of questions on that part of the enforcement. Does he go for random drug screens during the first year, second year or third year? How often? And when it's random, it implies that someone else is telling him when to go not him deciding when he feels like going. That sort of thing, I felt, was not very tight in the Stipulation.

Chair – It merely states, uh yeah, you're correct. The synopsis...

Ms. Wiener – Well I would read that, Mr. Chairman excuse me, I would read that to be he has to submit documentation that he submitted to random drug screens for a period of one (1) year and that the drug screens show negative results. I read that and I believe Mr. Scalisi understands that to mean for the year period leading up to his reinstatement.

Mr. Barnhart – That's not clear from this stip.

Ms. Wiener – I mean if he did it for this first year but didn't do it for those other two (2) years that would seem less material to me. If I were looking at relicensing him I would want to know that at that point in time he was clean.

Chair – Do you agree that there's some ambiguity in that?

Ms. Wiener – I agree that it doesn't say which of the one (1) years, but we read it to mean the year leading up to his reinstatement.

Mr. Barnhart – It could be two (2) screens, it could be twelve (12). It could be first year, second year, third year or it could be somewhere in the middle. What's the randomness of it? Is it him saying, "Oh I feel like I'm clean I'll go in and get tested now because I have had anything?"

Mr. Shropshire – There's precedent for that Mr. Barnhart. Jasmin Richardson calls him at random and tells him we need a screen report within 48 hours typically I believe it is.

Mr. Barnhart – Well what my concern is it's not in the Stipulation that that's what would be required. If it's something you normally do that's fine but it's not in the Stipulation as such. I think he'd be in compliance with the Stipulation for a lot less than what we're talking about here.

Ms. Wiener – We would agree on the record that, um, I mean I guess we'd have to agree to a procedure because he may never come back and request reinstatement so the terms of this one year period if we run it from the attempted point of reinstatement backward one year, I mean that may never come to be. I guess we could agree on the record that if he were to

decide to attempt reinstatement that he would notify the Division a year prior to that time and that would trigger Jasmin's process of random drug screenings. He certainly intended for this to be a traditional random drug screening and in fact reached out to me when signing this to find out what drug and alcohol the Division would want him to attend and so on and so forth so my anticipation is that if he decides to come back and try and be reinstated that we would be communicating closely with the Division about how to make sure that all of these things are done so that he can be recommended for approval.

Mr. Barnhart – So your client would not object to those things being added to the Stipulation?

Chair – Question?

Ms. Wiener – I'm sorry. Go ahead.

Mr. Barnhart – So you're saying your client would not object to those clarifications be added to the Stipulation to provide for that?

Ms. Wiener – They're not clarifications that we have discussed per say. I have talked to him at great length about this and know very much what his intention was with regard to these and I think they are consistent with my understanding. I can try to reach him. That might not be the easiest thing that's ever been done but if you want to go on break I can try and reach him. Or Deidre just had a great idea. You could counter-propose the Stipulation and include these terms in it if that was the Board's pleasure to include those terms in it. You could counter-propose and then I think you could approve it today and then all that would be necessary would be his signature and returning it to the Division.

Chair – Mr. Jones?

Mr. Jones – That's what I was fixing to asking. I mean, Ms. Wiener you just made the comment based on if he notifies the Division a year before, as part of the Stipulation, and at that point the Division can determine what random testing will be and how many. You made the offer. Would you put that on the table now as a modification or would you need to talk to your client?

Ms. Wiener – Well because it is different than what he has signed all I can say is we're going to have to get a new document signed anyways because of the nature of this proceeding.

Mr. Jones – I was just wondering if you were able to do that. If not I'll make the motion.

MOTION: Mr. Jones moved to counter the Settlement Stipulation as presented by the Department to add the option that if Mr. Scalisi comes back for reinstatement he has to notify the Division one year prior and then the Division makes the determination on how many and when the drug screenings will be performed. Mr. Hall seconded the motion.

Ms. Farrington – And it's my understanding per Mr. Shropshire's comments that the Division will then direct when the UAs are to be performed and upon a call he would have to submit within 24 hours of the call.

Chair – Mr. Mueller?

Mr. Mueller – Mr. Barnhart, does that solve all of your problems or issues?

Mr. Barnhart – Well there's a lot of different things that we'd want to add. Is there any reason why we couldn't bring this back at the next meeting, which is by telephone and try to have something in writing approved? Is there any reason why that couldn't be done? Is it more time sensitive than that?

Mr. Shropshire – May I Mr. Chairman?

Chair – Please.

Mr. Shropshire – Given Mr. Scalisi’s condition I would urge the Board to do as much as they can here today. I think this gets him off the streets and probably permanently, but at least for three (3) years and as counsel for him has indicated, he’s hard to get a hold of. It’s hard to get a resolution. It depends on what day you’re trying to talk to him. I strongly urge that we go the counter-offer route. Hopefully he’ll sign it and it’ll be done.

Ms. Wiener – Either way works for me. I will say he is, now that this has come to be in writing and signed, he is very responsive on this particular topic. We actually revised the document to include all of the ATN numbers related to the investigations. He signed it and turned it around within a couple of hours of receiving it, but I’m fine with either proposal. I think either way works for me.

Mr. Barnhart – But we’d have to give him something like fifteen (15) days or more to have him review the conditions and agree to them. We’d have to get an Order entered evidencing the Board’s vote. I mean we could do that quicker than normal but there would be some delay if we do a counter.

Ms. Wiener – He is not licensed currently so to the extent that that is a comfort to people who are about to impose a suspension, he does not have an active funeral director and embalmer’s license. His license hasn’t been renewed. He has not been practicing. He’s on, as is public record and the Board knows when he sold his business, he’s in a non-compete situation. He still lives in the area that he was living in so he’s not able to compete. He’s not really able to use his license for it’s a shorter period than the three (3) years.

Chair – He doesn’t have a license.

Ms. Wiener – He doesn’t have a license right now.

Mr. Barnhart – So is there any reason why we couldn’t get something in writing and submit it at the next telephone meeting, which is about a month away? If he’s not practicing, if he’s not licensed, is there any urgency?

Chair – I don’t want to speak for either of you or anyone, but it may be difficult to get in touch with Mr. Scalisi and have him respond.

Ms. Wiener – On super, short notice I’m not sure I could get him on the phone. My paralegal, Kellie Hoover, is able to track him down. As I said, he’s very responsive on this particular issue and he was not planning to, sometimes I have my clients like standby by cell phone, but we did not make that arrangement.

Chair – Why don’t we continue this and you try to contact him then, today?

Ms. Wiener – Okay.

Chair – So we can get it resolved today. I know that we have a motion and I know that we have a second.

Ms. Wiener – Let me make sure I understand the terms that I’m going to ask him. One year prior to his attempted reinstatement we will notify the Division. The Division will then direct the number of and the process for the random drug screens that will occur over the course of that year.

Chair – Yes.

Mr. Barnhart – What about the counseling? Just let that go the way it is now?

Ms. Wiener – I mean we thought that one was easy because he’ll have to submit evidence of it when he’s trying to get reinstatement.

Mr. Barnhart – Okay.

Mr. Shropshire – Under the current procedure, which the Board sees in stipulations, we have to get the report back in 48 hours. You have to get tested sooner than that so they can't just wait and let the drugs wear off.

Ms. Wiener – Okay.

Chair = Thank you both. Thank you.

(3) Probable Cause Panel B

(a) West, James R.: Case Nos. 165110-14-FC & 165112-14-FC; Division Nos. ATN- 23773 & ATN-23861 (F044774)

Mr. Shropshire – The allegations include but are not necessarily limited to an investigation revealed that the Licensee presented incorrect cremated remains to customers; aided and assisted in failing to report unlicensed activity; making deceptive, misleading and untrue representations to customers; and violations found within his funeral establishment during an inspection. This is a proposed Settlement, which provides for a penalty of a sixty (60) day suspension and a \$2500 fine. Furthermore, he is to have no further business relationship with any funeral establishment owned and operated by Stinson Industries, Inc., or any of its owners or officers. Additionally, the Licensee is to have no further employment relationship of any kind, including, but not limited to, working as an independent contractor with Stinson Industries, Inc., or any funeral establishment owned or operated by Stinson Industries, Inc., or any of its owners or officers. The Department is represented by attorney Dustin Metz. The Licensee is represented by attorney Thomas Montgomery. The Department and the Division recommend approval of this Settlement.

Ms. Jean Anderson – Mr. Chairman, I'm recusing myself. I served on Probable Cause Panel B in this case.

Chair – Thank you. Do we have a quorum?

Mr. Helm – We have six (6).

Chair – Okay. Thank you. Good morning, sir. You are?

Mr. Dustin Metz – Dustin Metz for the Department. I just have two (2) things I'd like to add. One is that the funeral establishment's license has already been revoked and second, the Settlement Stipulation calls for Mr. West to testify truthfully either in deposition or at trial, if we get to that point, against the unlicensed employee who is basically the nexus of what all happened here. That's all I have to add.

Chair – Thank you Mr. Metz.

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

*****BREAK*****

(c) Scalisi, Charles: Case Nos. 158702-14-FC, 150329-14-FC, 162856-14-FC, 169200-15-FC, 169679-15-FC, 171419-15-FC and 171464-15-FC; Division Nos. ATN-18976, ATN-21731, ATN-21735, ATN-21792, ATN-21946, ATN-23052, ATN-24349, ATN-24385, ATN-24470, ATN-24475, ATN-24522, ATN-24524, ATN-23690, ATN-24592, ATN-25027 and ATN-23545 (F042277)

Chair – Ms. Wiener, would you please come back up to the podium? Ms. Farrington, please? Were you able to contact your client?

Ms. Wiener – I was not. My paralegal is trying to get him on the phone now, which is why I'm holding my phone in my hand.

Chair – Having a strong desire to settle this case and execute an equitable Stipulation today, I know that we have a motion and a second on the floor and not being able to contact Mr. Scalisi by counsel. Is there a compromise where counsel could assure us that she will communicate in writing to her client what the intent of the terms of the Stipulation are? Having no legal

standing, but just a communication, I understand that's highly unusual, so I'm throwing that out trying to demonstrate the Wisdom of Solomon.

Ms. Wiener – Absolutely, and I believe that if it pleases the Board, I could write up, I'll get with Mr. Barnhart and make sure I understand the terms as they should be and with Ms. Farrington. I can send a letter to him, "the Board is requiring these things or wants to see these things. Will you agree?" and have him sign off on it and then we can file that with the Division as part of the record in this matter.

Chair – That would be keeping with my desire to have this case handled today.

Mr. Hall – For Mr. Barnhart or Mr. Shropshire, either one, if we agree to the stip the way it's written now and we ended this today, since we have the testimony that he doesn't have a license anyway, he's got to come to us anyway. His funeral director's license is gone, correct?

Mr. Shropshire – No.

Mr. Hall – Oh, they're not?

Mr. Shropshire – He has a delinquent license I believe. He didn't renew it. He can renew it at any time by paying a \$50 late fee.

Mr. Hall – Oh okay.

Ms. Wiener – You could order that any reinstatement attempt be rejected. If you do this now then he's suspended so that's not an issue. If you were to postpone it I think the Board could order that any attempt to resolve the delinquency to reinstate his license pending the outcome of his Settlement be rejected.

Mr. Barnhart – I don't think they could for a stipulation. I mean this is just for the stipulation. It's not an informal hearing that we could order such a thing I don't think. This is just going to be a stipulation whether you want accept it as it is or, and I understand the Board's reluctance to send it back not knowing if it's going to be accepted because today you could take care of it right now by accepting what's been written and then try to get some assurance from counsel and Mr. Scalisi through the form of a letter that he agrees that will be done in this manner or something. It would be better than nothing. It wouldn't be really enforceable I don't think.

Chair – Mr. Jones?

Mr. Jones – My motion was that they have to come back to us with Ms. Wiener. If I modify my motion that she also does the letter, puts it in the file and go with the motion that's been seconded, I think we're covered.

Chair – Who seconded that motion?

Mr. Jones – Mr. Hall.

Chair – Are you okay with that Mr. Hall?

Mr. Hall – Yes. Are you good with it Mr. Barnhart?

Mr. Barnhart – I think so. Maybe we can do something a little bit stronger in the future and try to get a little bit more teeth in stipulations regarding that type of matter but I think with the fact that you got a long term suspension and you got a written statement that's got to be approved by the Board and if Ms. Wiener could put those additional conditions in the letter that he can hopefully sign and return back and say yes I agree to this, I think this is something we could put to rest this morning.

Mr. Hall – What type timeframe do you think for him to get this back to us?

Mr. Barnhart – Fifteen (15) to twenty (20) days.

Ms. Wiener – Yes, certainly before the next Board meeting.

Chair – Perhaps you could give us some assurance the next Board meeting.

Ms. Wiener – Yes. Oh absolutely. We probably got another half hour or so to go. It's possible that I'll hear back from him so that we can undo all of this and put an official settlement in place with those terms.

Chair – Ms. Simon, did you wish to speak?

Ms. Ellen Simon – I was only going to add that in terms of suspension, I believe that it's suspension of licensure or the eligibility for licensure. So the fact that he is, his license would be suspended even if he doesn't have one. It isn't as if he could reapply right now and get his license back.

Chair – For renewal.

Ms. Simon – Right. He would still have to wait at least three (3) years and then go through this process.

Mr. Barnhart – There'd be a gap, until we get this in writing and signed by Mr. Shropshire, to be official. There would a gap of at least a few days or a week before that could be done properly a few days at least.

Ms. Wiener – So it stills suspends him. That part goes effective as soon as it's...

Mr. Barnhart – Right, but not until it's signed. Not until the Order is signed.

Ms. Wiener – That's true.

Mr. Jones – Well Ms. Wiener assures that he won't apply within the next two (2) weeks.

Ms. Wiener – He said that. Reinstating his license to my understanding is at the very bottom of his list.

Mr. Shropshire – Mr. Chairman can I...

Chair – Mr. Shropshire?

Mr. Shropshire – For clarification then what I understand we're doing is in effect. You'll get this letter and you'll give it but the Settlement is being adopted though today under this motion. We might give the letter back to the Board but the Settlement is getting adopted today and an Order will go out later today or tomorrow.

Chair – That's what the motion is and that's what the second is. Sensing that we're ready to vote on this, all those in favor aye and any oppose? No opposes. The motion passed unanimously.

Ms. Jasmin Richardson – For clarification for my notes, can someone clarify the exact motion so that I can have it for my notes please?

Mr. Shropshire – I'll get with you after the meeting Jasmin.

Ms. Richardson – Okay.

Chair – Thank you very much.

5. Application(s) for Preneed Sales Agent
A. Informational Item (Licenses Issued without Conditions) – Addendum A

Mr. Shropshire – The applications 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) *APEX Continuing Education Solutions #4201*
 - (2) *Ellis, Ged & Bodden P. A. #17408*
 - (3) *Funeral Service Academy #23408*
 - (4) *International Order of the Golden Rule #2201*
 - (5) *M.K. Jones & Associates, Inc. #9605*
 - (6) *National Funeral Directors Association #136*
 - (7) *New Jersey Funeral Service Education Corp. #7002*
 - (8) *The Dodge Institute for Advanced Mortuary Stu #81*

Mr. Shropshire – The majority of the Continuing Education Committee and the Division recommends approval of the applications for the number of hours indicated on Addendum B in the right hand corner.

MOTION: Mr. Mueller moved to approve the applications. Mr. Jones 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) *Pemberton, Timothy W*
 - (2) *Funeral Director – by Internship and Exam*
 - (a) *Holland, Laura A*
 - (3) *Funeral Director and Embalmer – by Endorsement*
 - (a) *Webb, William F*
 - (4) *Funeral Director and Embalmer – by Internship and Exam*
 - (a) *Bakey, Paige N*
 - (b) *Conlon, Stephen J*
 - (c) *Currier, Lisa E*
 - (d) *Eason, Danny*
 - (e) *Guevara, Genesis*
 - (f) *Pericles, Marc*

Mr. Shropshire – The applications 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 Internship**
 - A. *Informational Item (Licenses Issued without Conditions) – Addendum D*
 - (1) *Funeral Director*
 - (a) *Eggert, Trina (F076577)*
 - (b) *Gross, Steven E (F055670)*
 - (c) *Koma, Justine L (F059642)*
 - (2) *Funeral Director and Embalmer*
 - (a) *Byrne, Kelsey B (F088629)*
 - (b) *Goins, Tabitha A (F088464)*
 - (c) *Lewis, Trent A (F053539)*
 - (d) *Tero, Jami R (F088170)*
 - (e) *Torrence Jr, Harold C (F088499)*

Mr. Shropshire – The applications 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) Matthews, Ryan N (F088498)

(2) Wilson, Trevor J (F041994)

Mr. Shropshire – The applications 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) Miami Memorial LLC d/b/a Funeraria Memorial Plan San Jose Palm Ave (F081149) (Hialeah)

Mr. Shropshire – The applications 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. Notification(s) of Change in Location

A. Informational Item – Addendum G

(1) StoneMor Florida Subsidiary LLC d/b/a Atlantis Cremation (F071082)

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

12. Consumer Protection Trust Fund Claims

A. Recommended for Approval without Conditions – Addendum H

Mr. Shropshire – The Division recommends that these claims be approved for the amounts indicated in the column titled “Amount Recommended.”

MOTION: Mr. Hall moved to approve the claim(s) for the amount indicated on the Addendum entitled “Amount Recommended.” Mr. Mueller seconded the motion, which passed unanimously.

13. Application(s) for Cinerator Facility

A. Recommended for Approval with Conditions

(1) Clary – Glenn Funeral Homes Inc d/b/a Clary – Glenn Crematory (Freeport)

Mr. Shropshire – An application for a Cinerator Facility was received on January 6, 2016. The application was complete when submitted. The fingerprint cards for all principals were returned with no criminal history. The Funeral Director in Charge will be Gregory Luka (F026466). The Division is recommending approval subject to the condition that the facility passes an onsite inspection by a member of Division Staff.

Mr. Knopke – Where in the devil is Freeport, FL.

Chair – It’s in the panhandle I believe.

Mr. Barnhart – It’s out near Niceville.

Mr. Knopke – Thank you very much. Never heard of it.

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

14. Application(s) for Funeral Establishment

A. Recommended for Approval *with* Conditions

(1) *Compass Pointe Cremation Services LLC (Orlando)*

Mr. Shropshire – An application for a Funeral Establishment was received on January 11, 2016. The application was complete when submitted. The fingerprint cards for all principals were returned with no criminal history. The Funeral Director in Charge will be Heather Norton (F049905). The Division is recommending 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. Hall seconded the motion, which passed unanimously.

(2) *Remembrance Services of Florida LLC d/b/a Sound Choice Cremation & Burial (Sarasota)*

Mr. Shropshire – An application for a Funeral Establishment was received on December 23, 2015. The application was complete when submitted. The fingerprint cards for all principals were returned with no criminal history. The Funeral Director in Charge will be Kay Waites (F049905). The Division is recommending 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. Mueller seconded the motion.

Chair – I recognize Mr. Uselton. Come forward, please. Do you want to talk about this?

Mike Uselton – Yes.

Chair – Please be sworn in.

Mr. Shropshire – Do you solemnly swear the testimony you are about to give in this matter will be the truth, the whole truth and nothing but the truth so help you God?

Mr. Uselton – Yes.

Mr. Shropshire – Please state your full name.

Mr. Uselton – Michael Uselton.

Mr. Shropshire – Yes sir.

Mr. Uselton – The inspection was completed on February 1st on Chris McMurray and I did bring a signed copy of that inspection. I guess for notification because the conditions were pending that so that is completed.

Chair – Thank you Mr. Uselton.

Mr. Uselton – Do you have this?

Chair – We didn't have that.

Mr. Shropshire – Jasmin can you confirm that the inspection has been completed.

Ms. Richardson – Possibly. I'd have to go back and make a call.

Chair – We did not have it in our packet.

Mr. Uselton – It was February 1st.

Chair – Since you have come to the podium, there are questions. Mr. Helm?

Mr. Helm – Is this the old Robert funeral home by any chance?

Mr. Uselton – No.

Mr. Helm – Close to it? I don't know these numbers down in Sarasota.

Mr. Uselton – 4609 is about a mile west of I-75.

Chair – Mr. Knopke, did you have a question?

Mr. Knopke – The fact that Mr. Uselton states the inspection has been completed and the Department hasn't received a copy from the field, does he have to wait to open until you get it?

Ms. Richardson – Until I process the license once I get back. Everything will be processed after the Board meeting, so yes he will have to wait until after the Board has completed it before I can issue licenses.

Chair – If it's already been inspected our condition has no affect upon when they may be able to open.

Mr. Knopke – I understand but I'm just following up. Can he open later today? Could he open tomorrow?

Ms. Richardson – It generally takes one (1) to (2) business days after the Board meeting to process the information from the Board meeting.

Mr. Shropshire – Mr. Uselton, could you give Ms. Simon a copy of that. She'll confirm it by phone with our inspector and then we'll call you later today to let you know.

Mr. Uselton – That's fine and they've got my email address too. That's why I wanted to point out so there wasn't a delay based on conditions.

Chair – Thank you. There's a motion made to approve with condition and it's been seconded. Would we want to modify that, withdraw the motion, change the motion? If not, we'll vote on that motion. The motion passed unanimously.

B. Recommended for Approval without Conditions
(1) Mary G Cason d/b/a Cason Funeral & Cremation Service (Brooksville)

Mr. Shropshire – Luther Cason, owner of Cason Funeral & Cremation Services (F040458), passed away in November of 2015. Mary Cason, his wife, has submitted a change of ownership application for the establishment. The Funeral Director in Charge will be Jarrod Campbell (F043133). All fingerprint information was returned without criminal history. The establishment is not the qualifying entity of any preneed license. The establishment passed its inspection on January 18, 2016. The Division is recommending approval without conditions.

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

C. Recommended for Denial
(1) Auguste Funeral Home and Crematory LLC (Miami)

Mr. Shropshire – This has been pulled off the agenda for further interaction between the Department and the Applicant.

Mr. Barnhart – Excuse me Mr. Shropshire. Was the deemer waived on this?

Mr. Shropshire – Yes it was.

- 15. **Application(s) for Preneed Branch License**
 - A. **Recommended for Approval without Conditions – Addendum I**

Mr. Shropshire – The Division recommends that this Applicant be approved for branch licensure.

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

- 16. **Application(s) for Transfer of Preneed Main License**
 - A. **Recommended for Approval with Conditions**
 - (1) **Joe Morris & Son Funeral Home, Inc. (F019378) (Pensacola)**

Mr. Shropshire – The Department received the application on November 18, 2015, and all deficiencies were resolved as of January 8, 2016. This is an application for the transfer of a preneed license from Joe Morris & Son Funeral Home, Inc. under Gladys Morris, former owner, to Joe Morris & Son Funeral Home, Inc. under David R. Hawkins, current owner. This application is being filed as a result of a proposed change of ownership of Joe Morris & Son Funeral Home, Inc. whereas Gladys Morris, now retired, relinquished and sold 100% of her shares to David R. Hawkins, current sole owner and manager of the corporation. A completed background check of officers has revealed no criminal history.

Applicant has agreed to assume responsibility of all preneed contracts written under the preneed Licensee (F019378), if approved. Applicant will continue to sell trust and insurance-funded preneed contracts through Funeral Services Inc (FSI) under First Florida Trust (Sabal Trust Company) and Forethought Life Insurance Company (FLIC), and utilize their approved pre-arranged funeral agreements.

An application for a change of ownership of the qualifying entity (License # F041285) was approved subject to conditions at the January 7, 2016 Board teleconference meeting; the new license number is pending.

The Applicant’s financial statements as of September 30, 2015 reflect the following:

Outstanding Preneed Contracts	=	\$	33,609
Required Net Worth	=	\$	10,000
Reported Net Worth	=	\$	995,864

The Division is recommending approval subject to the condition that all preneed obligations of the preneed Licensee under its current controlling party shall continue as its obligations under its new controlling party.

MOTION: Mr. Mueller moved to approve the application subject to the condition that all preneed obligations of the preneed Licensee under its current controlling party shall continue as its obligations under its new controlling party. Mr. Knopke seconded the motion, which passed unanimously.

- 17. **Application(s) for Removal Service**
 - A. **Recommended for Approval with Conditions**
 - (1) **5 Star Removals Inc. (Wilton Manors)**

Mr. Shropshire – An application for a Removal Facility was received on December 23, 2015. The application was incomplete when submitted. All deficient items were returned on January 13, 2016. The fingerprint cards for all principals were returned with no criminal history. The Division is recommending approval subject to the condition that the facility passes an onsite inspection by a member of Division Staff.

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

- B. **Recommended for Approval without Conditions**

(1) Tri County First Call LLC (Orlando)

Mr. Shropshire – An application for a Removal Service was received on December 21, 2015. The application was incomplete when submitted. All deficient items were returned on January 12, 2016. Fingerprints for all principals have been returned with no criminal history. The facility passed its inspection on January 21, 2016. The Division is recommending approval without conditions.

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

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

A. Recommended for Approval without Conditions

(1) Preconstruction Performance Bond(s)

(a) S.E. Cemeteries of Florida LLC d/b/a Chapel Hill Cemetery (F077493) (Orlando)

Mr. Shropshire – The Licensee has submitted for approval a performance bond, in lieu of a pre-construction trust. The mausoleum project, and the bond, is summarized as follows:

Project: 210 Crypt Mausoleum – 96 single crypts, 114 tandem crypts

Bond Amount: \$251,103

Bond Number: K09303571

Surety Company: Westchester Fire Insurance Company

Cemetery agrees to complete said construction approximately 210 calendar days from commencement date and in accordance with the attached construction agreement dated November 18, 2015, with Mausoleum Contractors of America, Inc. The Division is recommending approval without conditions.

MOTION: Mr. Knopke moved to approve the agreement. Mr. Hall seconded the motion, which passed unanimously.

(b) SCI Funeral Services of Florida Inc d/b/a Riverside Memorial Park (F039566) (Tequesta)

Mr. Shropshire – The Licensee has submitted for approval a performance bond, in lieu of a pre-construction trust. The mausoleum project, and the bond, is summarized as follows:

Project: 340 Crypt Mausoleum – 100 single crypts, 240 tandem crypts

Bond Amount: \$708,306

Bond Number: K09303546

Surety Company: Westchester Fire Insurance Company

Cemetery agrees to complete said construction approximately 270 calendar days from commencement date and in accordance with the attached construction agreement dated December 1, 2015, with Mausoleum Contractors of America, Inc. The Division is recommending approval without conditions.

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

B. Recommended for Approval with Conditions

(1) Preneed Sales Agreement(s)

(a) Funeral Directors Life Insurance Company (Abilene, TX)

Mr. Shropshire – Funeral Directors Life Insurance Company (FDLIC) submits the attached preneed sales agreement forms for approval: Prepaid Funeral DME-9/2015-GS Item #6014, DME-9/2015-Guar Item #6014, and DME-9/2015-NG Item #6014. FDLIC received approval to offer insurance products from the Florida Office of Insurance Regulation as of July 2015. If these preneed sales agreement forms are approved, it is to be used for the sale of insurance-funded preneed contracts by various licensed preneed main establishments and its related preneed 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.

MOTION: Mr. Hall moved to approve the agreements 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. Mueller seconded the motion, which passed unanimously.

19. **Executive Director's Report**

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



SUN TRUST BANK BLDG.
215 SOUTH MONROE STREET
SUITE 400
TALLAHASSEE, FL 32301
TELEPHONE: 850.681.6810
FAX: 850.681.9792
WWW.BROADANDCASPEL.COM

January 4, 2016

Doug Shropshire, Director
Division of Funeral, Cemetery and Consumer Services
111 West Madison Street
Tallahassee, Florida 32301

**RE: StoneMor Florida LLC / StoneMor Florida Subsidiary LLC
Appointment of Successor Trustee and Transfer of Trust Assets
Request for Extension**

Dear Doug:

As you know, I represent StoneMor Florida LLC and StoneMor Florida Subsidiary LLC (StoneMor).

On November 5, 2015, the Board approved the above-referenced requests by StoneMor, upon the condition that the transactions be completed by January 4, 2016 (with an extension of up to 60 days). We heard from our client today that the transactions are not yet completed.

Therefore, we would like to request an extension to complete the transactions until March 4, 2016.

Do not hesitate to contact me directly if you have any questions.

Sincerely,
wrueller
Wendy Russell Wiener

cc: LaShonda Morris

*Extension to 3-4-2016 approval.
DJR 1-4-16*

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

Mr. Knopke – Mr. Shropshire, for which transfer or whatever? I know its StoneMor. Is it for a particular cemetery or funeral home? I didn't see one mentioned in the exhibit.

Chair – I wondered the same thing. Ms. Wiener?

Ms. Wiener – It's for all of the trust funds related to StoneMor in the State of Florida. They are changing trustees and this was an application for approval to change trustees that was submitted but the coming from trustee has not quite finished their reconciliation so it hasn't happened.

Chair – Thank you.

Mr. Knopke – Ok. I wasn't sure if it was for a particular group of firms or whatever.

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

Monthly Report of Fines and Costs Assessed and Paid
 Division of Funeral, Cemetery and Consumer Services
 February 4, 2016 Board Meeting
 Date of Report: January 25, 2016

Licensee	Board Meeting	Case No.	Total Fine & Cost Due	Date Due	Paid in Full?	Comments
Roy Vance Prestwood Jr.	Jun-15	139087-13-FC and 139091-13-FC	\$750 & \$2,000 respectively	10/10/2015	Note B	Paid in full.
Prestwood Funeral Home	Jun-15	139085-13-FC & 139093-13-FC	\$750 & \$2,000, respectively & Restitution of \$252.34	10/10/2015	Note B	Paid in full.
Buy and Sell Cemetery	Dec-14	154941-14-FC	\$62.50 \$62.50 \$62.50 \$62.50 \$62.50 \$62.50 \$62.50 \$62.50 \$62.50	\$62.50 Initial payment/ First installment payment (paid)	Paid in full	
John Gallaher	Apr-15	157224-14-FC	\$3,166	7/8/2015	Note A	The Division is reviewing the matter and expects closure within the next two months. The licensee has paid \$250
Ronald Noble	Aug-15	134801-13-FC	\$2,500	8/1/2017	Note D	
Patrick Fulton	Oct-15	159818-14-FC	\$1,500	11/14/2015	Paid in full	
Carol Y. Washington d/b/a Washington Funeral Home	Dec-15	162139-14-FC	\$600	1/14/2016	Paid in Full	
Mullins Memorial Funeral Home & Cremation Service, LLC	Dec-15	179182-15-FC	\$1,500		Paid in full	
Shannon David Mullins	Dec-15	179184-15-FC	\$1,500		Paid in full	
Omega Discount Funeral & Cremation Services, Inc.	Dec-15	179191-15-FC	\$1,000		Paid in Full	
Funeraria Latina Emanuel		150334-14-FC	\$3,000	2/11/2017	Note D	
Dwayne Matt	Dec-15	128718-14-FC	\$500	1/15/2016	Paid in full	
Zion Hill Mortuary, Inc.	Dec-15	158720-14-FC	\$500	1/15/2016	Note A	Under review
Mullins Memorial Funeral Home & Cremation Services LLC	Dec-15	179182-15-FC	\$1,500	1/15/2016	Paid in Full	
James Stewart	Dec-15	162138-14-FC	\$600	1/22/2016	Paid in Full	
Fritz Duvigneaud	Dec-15	150332-14-FC	\$1,500	2/11/2016	Note D	
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.						

20. Chairman's Report (Oral)

Chair – Board members, any questions, comments, good of the cause?

Mr. Knopke – Does Mr. Barnhart have a report today?

Mr. Barnhart – No report.

Mr. Jones – I have one thing if I may. I just wanted to let you know we've been working, the Department of Health Vital Statistics, with the Veterans Administration. I had mentioned one time before we're working with them on a service related disability program and we will be sometime in February adding to your EDRS system where it says was this a veteran there will be, if you check yes, a box below that indicates if the family tells you this is a service related disability, you can indicate that on that and if it's an online physician it will send a letter to the physician stating the family has stated this is a potential service related disability so that the physician can look at their medical charts. We're asking the family if it is a service related disability and it's not a VA facility to make sure they get their service related disability letter to the physician so that he can include that in the manner and cause of death. So it's our way of making sure benefactors, if they're entitled to service related disabilities from the VA that we try to help them on the death certificate. So, I just wanted to bring that back up. I had mentioned it before. Florida is the first state working with the VA to do this and we're hoping to help that program and maybe set up something that can be used nationally. So I just wanted to bring it up and make you aware. You'll be seeing an email probably in the next couple of days on your email for all the emails I have for funeral directors on this program.

Mr. Hall – Do you have a copy of that letter?

Mr. Jones – There is a copy of the letter and if it's a fax attestation physician then we ask that you just send the letter along with the fax and its fine. Any questions?

Chair – I want to again and continue to commend your group on knowing who your customer is and being customer focused and doing the best things for the citizens of Florida. When you visit with your group and your innovative ideas that you come up with, it's quite remarkable.

Mr. Jones – Thank you.

Chair – Mr. Helm?

Mr. Helm – Mr. Shropshire, I'm not being nitpicky, but on your Administrative Report you've got cemetery acquisitions (1), but I don't see anything on that. Is that just a misprint? Well it's not pending or anything.

Mr. Shropshire – I think that's probably a typo. We haven't received any applications for cemeteries since the last meeting.

Chair – Thank you Board members. I appreciate everybody. Thank you, Mr. Barnhart. Staff, again, very good. Ms. Simon, thank you for continuing to take the initiative to communicate with the Board members.

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

None

22. Administrative Report

The information was provided on the Agenda.

23. Disciplinary Report

The information was provided on the Agenda.

24. Upcoming Meeting(s)

- A. March 3rd (*Teleconference*)
- B. April 7th (*Jacksonville – DoubleTree by Hilton-Jacksonville Airport*)
- C. May 19th (*Teleconference*)
- D. June 30th (*Tallahassee*)
- E. July 7th (*Teleconference*)
- F. August 4th (*Altamonte Springs – Embassy Suites Hotel Orlando-North*)
- G. September 1st (*Teleconference*)
- H. October 6th (*Tampa – DoubleTree by Hilton-Tampa Airport-Westshore*)
- I. November 3rd (*Teleconference*)
- J. December 1st (*Tallahassee*)

25. Adjournment

The meeting was adjourned at 12:22 p.m.