

**MINUTES**  
**BOARD OF FUNERAL, CEMETERY AND CONSUMER SERVICES**  
**October 5, 2017 - 10:00 A.M.**  
**Auditor General's Conference Room**  
**Claude Denson Pepper Bldg., Room G-01**  
**111 W Madison Street**  
**Tallahassee FL 32399**

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

Mr. Jody Brandenburg, Chair –Welcome to the Board of Funeral, Cemetery, and Consumer Services', October 5<sup>th</sup> meeting. We're in the Claude Denson Pepper Building, Room G-01. Maybe, off the record, I'll tell you my Claude Pepper story, having grown up with him in South Florida. I have a couple of Claude Pepper stories, but it must be off the record. So, I want to call the meeting to order. Ms. Simon, would you give the preliminary remarks and roll call, please?

Ms. Ellen Simon – Yes, Mr. Chairman. My name is Ellen Simon. I am Assistant Director for the Division of Funeral, Cemetery, and Consumer Services. It's 10:01, a.m. 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 all interested persons and extra copies are available. This meeting is occurring in **the Claude Denson Pepper Building** in Tallahassee FL. Ms. LaTonya Bryant is recording the meeting and minutes will be prepared. Persons speaking are requested to identify themselves for the record each time they speak. Participants are respectfully reminded that the Board's Chair, Mr. Brandenburg, runs the meeting. Persons desiring to speak should initially ask the Chair for permission. At this time, Mr. Chairman, I will take the roll:

Joseph "Jody" Brandenburg, Chair  
Keenan Knopke, Vice Chair  
Jean Anderson  
Francisco "Frank" Bango  
Andrew Clark  
James "Jim" Davis **{ABSENT}**  
Lewis "Lew" Hall  
Powell Helm  
Ken Jones  
Vanessa Oliver **{ABSENT}**

**Also noted as present:**

Mary Schwantes, Director  
Tom Barnhart, Board Legal Advisor  
James "Jim" Bossart, Department Counsel  
LaTonya Bryant, Department Staff  
Jasmin Richardson, Department Staff  
Christine Moore, Department Staff

Ms. Simon – Mr. Chairman, I've already been told that Ms. Oliver and Mr. Davis would not be able to make it to this meeting and we have a quorum for the business of the Board.

Chair – Thank you.

Mr. Keenan Knopke – Mr. Chairman?

Chair – Yes?

Mr. Knopke – May I ask Ms. Simon what time zone she's in because she said 2:01 a.m.?

Ms. Simon – I'm sorry. I meant to say 10:01 a.m.

Mr. Knopke – I thought you did. You were concentrating big time on that.

Ms. Simon – I wanted to see if everyone was paying attention.

**2. Action on the Minutes**

**A. September 7, 2017**

Chair – The first item on the agenda is the action on the minutes from September 7, 2017.

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

**3. Old Business**

**A. Licensure Reinstatement**

**(1) Noble, Ron: Case No. 134081-13-FC; Division No. ATN-17635 (F046246)**

Ms. Simon – The case of Ronald Noble has been taken off the agenda.

**4. Disciplinary Proceedings:**

**A. Settlement Stipulation(s)**

**(1) Waiver of Probable Cause/Related Cases – Case Nos. 190595-16-FC & 190577-16-FC**

**(a) Felton, Darin E.: Case Nos. 190595-16-FC & 190577-16-FC; Division No. ATN-26646 (F044944 – Funeral Director and Embalmer)**

Ms. Simon – Mr. Bossart will be presenting for the Office of the General Counsel.

Mr. Jim Bossart – May I, Mr. Chairman?

Chair – Please.

Mr. Bossart – My name is James Bossart, and I represent the Department of Financial Services in this matter. This is the case of Darin E. Felton. These investigations and inspections support allegations that Darin E. Felton is liable for the following violations. Mr. Felton is a Florida licensed funeral director and embalmer under Chapter 497, having been issued license number F044944. Mr. Felton was the funeral director in charge (FDIC) of Heritage Funeral & Cremation Service, LLC, a Florida licensed funeral establishment, operating under license number F076188, and doing business in Bunnell, Florida

A routine inspection was performed at the funeral establishment on March 1, 2016. The inspection found that while Mr. Felton was FDIC, the funeral establishment failed to maintain Bodies Handled Reports as required by rule, in violation of section 497.382, Florida Statutes; and the cremation process was not being performed within the time frame listed on the cremation authorizations, in violation of section 497.607(1), Florida Statutes. Section 497.382, Florida Statutes, provides that each funeral establishment shall record monthly on the form prescribed and furnished by the licensing authority the name of the deceased and such other information as may be required by rule with respect to each dead human body embalmed or otherwise handled by the establishment or facility. Section 497.607, Florida Statutes, requires the cremation be performed within 48 hours of a specified time which has been agreed to in writing by the person authorizing the cremation.

The Respondent has entered into a proposed stipulation whereby he has agreed to relinquish his license as a funeral director and embalmer and has agreed not to reapply at any future date for individual licensure under Chapter 497, or to be a principal in any business that may apply at any future date for licensure under Chapter 497. Respondent has waived any potential conflict for the Board to consider the proposed settlement stipulation. The Department recommends the Board approve the Settlement Stipulation.

Chair – Thank you. Ms. Wiener?

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

Chair – Thank you. Board?

**MOTION:** Mr. Lew Hall moved to approve the Settlement Stipulation, requiring the Respondent to relinquish his license as a funeral director and embalmer and has agreed not to reapply at any future date for individual licensure under Chapter 497, or to be a principal in any business that may apply at any future date for licensure under Chapter 497. Mr. Knopke seconded the motion, which passed unanimously.

Ms. Simon – Mr. Chairman, as that was a joint Settlement Stipulation, would that sufficiently take care of items 4.A.(1)(a) and (b)?

Chair – I will defer to Mr. Barnhart on that.

Mr. Tom Barnhart – Yes, we can apply that to the other case since there's stipulations. We don't need to go through each one.

Chair – Thank you.

Mr. Helm – Do we need to vote on it?

Mr. Barnhart – Well, you might vote to include the other case in the stipulation.

Mr. Bossart – That was our intention to include both cases in the stipulation.

*(b) Felton, Darin E.: Case Nos. 190595-16-FC & 190577-16-FC; Division No. ATN-26647 (F044944 – Funeral Director and Embalmer)*

**MOTION:** The Chair moved to approve the Settlement Stipulation, requiring the Respondent to relinquish his license as a funeral director and embalmer and has agreed not to reapply at any future date for individual licensure under Chapter 497, or to be a principal in any business that may apply at any future date for licensure under Chapter 497. Mr. Andrew Clark seconded the motion, which passed unanimously.

*(2) Waiver of Probable Cause*

*(a) George H. Hewell and Son Funeral Home, Inc.: Case No. 210017-17-FC; Division No. ATN-28496 (F040211 – Funeral Establishment)*

Ms. Simon – Mr. Bossart will be presenting from the Office of the General Counsel.

Mr. Jim Bossart – Mr. Chairman?

Chair – Please.

Mr. Bossart – Again, my name is James Bossart, representing the Department of Financial Services. This is the case of George H. Hewell and Son Funeral Home, Inc. This inspection and investigation support allegations that George H. Hewell and Son Funeral Home, is liable for the following violations. George H. Hewell and Son Funeral Home is a Florida licensed funeral establishment operating under license number F040211, and doing business in Jacksonville, Florida. A routine inspection was performed at the funeral establishment on February 8, 2017, where it was observed that the refrigeration unit was above 40 degrees. There were no human remains in the unit at that time. On March 13, 2017, the Division received a Certificate of Correction from Respondent asserting that the refrigeration unit was repaired. A routine re-inspection was performed at the funeral establishment on April 28, 2017, where it was observed that the temperature of the refrigeration unit was again above 40 degrees, but at this time the refrigeration unit contained human remains.

These activities constitute a violation of section 497.386(2), Florida Statutes, which provides that a dead human body may not be held in any place or in transit for over 24 hours after death or pending final disposition unless the body is maintained under refrigeration at a temperature of 40 degrees Fahrenheit or below or is embalmed or otherwise preserved in a manner approved by the licensing authority in accordance with the provisions of Chapter 497, Florida Statutes. The Respondent has

entered into a proposed stipulation for a fine of \$1500 and \$250 in investigation costs. The Department recommends that the Board approve this settlement stipulation.

**MOTION:** Mr. Knopke moved to approve the Settlement Stipulation, requiring the Respondent to pay a fine of \$1500 and \$250 in investigation costs. Mr. Frank Bango seconded the motion, which passed unanimously.

***(b) Kotrady-Hudgins Funeral Services LLC d/b/a St. Johns Family Funeral Home & Crematory:  
Case No. 201152-17-FC; Division No. ATN-28360 (F050418 – Funeral Establishment)***

Ms. Simon – Mr. Bossart will be presenting from the Office of the General Counsel.

Mr. Jim Bossart – Mr. Chairman?

Chair – Please.

Mr. Bossart – Again, members of the Board, I’m James A. Bossart, representing the Department of Financial Services. This is the case of Kotrady-Hudgins Funeral Service, LLC d/b/a St. Johns Family Funeral Home and Crematory. The inspection and investigation support allegations that Kotrady-Hudgins Funeral Service, LLC d/b/a St. Johns Family Funeral Home and Crematory is liable for the following violations. Kotrady-Hudgins Funeral Service, LLC d/b/a St. Johns Family Funeral Home and Crematory is a Florida licensed funeral establishment operating under license number F050418, and doing business in St. Augustine, Florida. A routine inspection was performed at the funeral establishment on January 26, 2017, where it was observed the temperature of the refrigeration unit was above 40 degrees Fahrenheit. A certificate of correction was executed by the funeral establishment, on February 11, 2017, certifying that the problem had been corrected. A routine follow-up re-inspection was performed at the funeral establishment on May 10, 2017, where it was observed that the temperature of the refrigeration unit, which was holding human remains, was again above 40 degrees Fahrenheit.

These activities constitute a violation of section 497.386(2), Florida Statutes, which provides that a dead human body may not be held in any place or in transit for over 24 hours after death or pending final disposition unless the body is maintained under refrigeration at a temperature of 40 degrees Fahrenheit or below or is embalmed or otherwise preserved in a manner approved by the licensing authority in accordance with the provisions of chapter 497, Florida Statutes. The Respondent has entered into a proposed stipulation for a fine of \$1500 and \$250 in investigative costs. The Department recommends that the Board approve this settlement stipulation.

**MOTION:** Mr. Knopke moved to approve the Settlement Stipulation, requiring the Respondent to pay a \$1500 and \$250 in investigative costs. Mr. Hall seconded the motion, which passed unanimously.

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

***(1) Probable Cause Panel B***

***(a) Bain’s Funeral Home, Inc.: Case No. 201965-17-FC; Division No. ATN-27953 (F040765 – Funeral Establishment)***

Ms. Simon – Mr. Bossart will be presenting from the Office of the General Counsel.

Mr. Bossart – Mr. Chairman?

Chair – Please go ahead.

Mr. Bossart – This is James Bossart, and again I represent the Department of Financial Services. This is the case of Bain’s Funeral Home, Inc. The above referenced matter has been scheduled for an informal hearing to consider the attached Motion for Determination of Waiver and for Final Order by Hearing Not Involving Disputed Issue of Material Fact. Bain’s Funeral Home, Inc., at all times relevant to this proceeding, was a Florida corporation doing business licensed under Chapter 497, F.S. and doing business under the same name as the funeral establishment, under license number F040765, doing business in Florida City, Florida. An Administrative Complaint was filed on May 31, 2017 against Respondent, Bain’s Funeral Home, Inc., alleging Respondent failed to have a full-time funeral director in charge, failed to adopt and implement standards for the

proper investigation and resolution of claims and complaints relating to the Respondent's practice as a funeral establishment and failed to report the name of the deceased with respect to each dead human body handled by the funeral establishment.

Service of the Administrative Complaint was first attempted by certified mail. This attempt was unsuccessful. Service was then attempted by personal service. This was also unsuccessful. The Affidavit of Non-Service is contained in your packet. The process server observed that the business had apparently been closed and the telephone had been disconnected. The Respondent was then served with an Administrative Complaint by publication, which was perfected on August 14, 2017. Included with the Administrative Complaint was a Notice of Rights informing Respondent that the failure to respond in writing within twenty-one (21) days of receipt of the Administrative Complaint would constitute a waiver of the right to request a proceeding on the matters alleged in the Administrative Complaint, and an Order of Suspension or Revocation by the Board would be entered against Respondent. The Affidavit of Publication is contained in the file.

The Department did not receive an Election of Proceeding form or any other response from Respondent within the twenty-one (21) day period following the last date of publication, i.e. September 5, 2017, or at anytime thereafter. This fact is attested to by both the agency's clerk affidavit and the Executive Director's affidavit, which is also contained in your packet. Respondent's failure to file a response to the Administrative Complaint constitutes a waiver of the right to request a proceeding on the matters alleged in the Administrative Complaint. Therefore, the Department requests the Chairman of the Board to entertain a motion finding that the Respondent, Bain's Funeral Home, Inc., was served with the Administrative Complaint by publication, containing a Notice of Rights and an Election of Proceedings form that Respondent failed to respond within the allotted twenty-one (21) day period, and has therefore waived the right to request a proceeding involving disputed issues of material fact in this matter.

Chair – Thank you. Ms. Anderson?

Ms. Jean Anderson – Mr. Chairman, I served on Probable Cause Panel B, so I would like to recuse myself.

Chair – Thank you.

**MOTION:** Mr. Keenan Knopke moved to find that the Respondent waived its right to request a proceeding in the matters alleged in the Administrative Complaint. Mr. Clark seconded the motion, which passed unanimously.

Mr. Bossart – At this time it would be appropriate for the Chair to entertain a motion adopting the allegations of the facts as set forth in the Administrative Complaint.

**MOTION:** Mr. Knopke moved to adopt the Findings of Fact as set forth in the Administrative Complaint. Mr. Helm seconded the motion, which passed unanimously.

Ms. Simon – Before Mr. Bossart goes on, I'd like to inform the Board members that on September 29<sup>th</sup>, the Division received notification from a Kelly Hunter Shepard saying that she was the executor of the estate of Mercedes Davis Hunter and that she was relinquishing the license to Bain's Funeral Home. However, while we do have a document indicating that she is indeed the executor, we do not have any documents stating that Ms. Hunter owns the entirety of the funeral home or that Ms. Shepard has the ability to relinquish the license on the funeral home's behalf, which is why we are continuing forth with this discipline proceeding.

Mr. Jones – Mr. Chair, do they have a valid license currently?

Ms. Simon – Yes.

Mr. Jones – Thank you.

Mr. Clark – I'm sorry.

Chair – Yes?

Mr. Clark – Question of the Division. Do we know if they renewed their licenses? Mr. Bain and Ms. Hunter?

Ms. Simon – We can check and see.

Mr. Clark – Just curious.

Ms. Simon – The expiration of their license was on November 30, 2016. They have not renewed.

Chair – Thank you.

Ms. Simon – Mr. Bossart?

Mr. Bossart – Thank you. Now that the Board's Findings of Fact support a finding of violations of Chapter 497, Florida Statutes, as charged in the Administrative Complaint, it is appropriate for the Chairman to entertain a motion finding the Respondent in violation of the Florida Statutes as charged in the Administrative Complaint.

**MOTION:** Mr. Knopke moved to adopt the Conclusions of Law as set forth in the Administrative Complaint. Mr. Hall seconded the motion, which passed unanimously.

Mr. Bossart – The Department also offers into evidence the investigative report with exhibits, a copy of which has been previously furnished to the Board, to establish a prima facie case for the violations as alleged in the Administrative Complaint and I would ask that they be moved into evidence.

**MOTION:** Mr. Hall moved to accept the investigative report with exhibits to establish a prima facie case for the violations as alleged in the Administrative Complaint. Mr. Jones seconded the motion, which passed unanimously.

Mr. Bossart – As to the penalty, the Department recommends that the Respondent's license be suspended for such a time until the Respondent comes into compliance and that the Respondent is required to appear before the Board prior to the suspension being lifted, which under the circumstance, in addition, the Respondent should be assessed a \$2500 fine.

Mr. Jones – Mr. Chair, can I ask a question?

Chair – Please do.

Mr. Jones – Ellen, you said you had a letter...can you go over that one more time?

Ms. Simon – Yes, sir.

Mr. Jones – Who was this individual, before we move on with Mr. Bossart's recommendation?

Ms. Simon – The individual who sent the letter is the executor of the estate of Mercedes Davis Hunter and she was attempting to relinquish the license on her behalf. However, as I said, we did not have corroboration that Ms. Hunter had 100% interest in Bain's Funeral Home. Therefore, we do not have information of substance to say that Ms. Kelly Hunter Shepard has the ability to do that, on her behalf.

Mr. Jones – Thank you.

Chair – Mr. Hall?

Mr. Hall – A question for the Division. This action now is just for the establishment license, not these individuals?

Mr. Bossart – That's correct.

Ms. Simon – Yes sir.

Mr. Hall – Is there any reason the Division would foresee us not just moving for revocation?

Chair – Is that a motion?

Ms. Simon – The only thing I would request is that if you are moving for revocation, I'm not sure that's within the disciplinary guidelines, so I would simply ask that you put aggravating factors on the record. I believe that those factors have previously been mentioned by Mr. Bossart, if you would.

Mr. Bossart – Simply that they haven't appeared in front of the Board.

Mr. Hall – Or any response.

Mr. Barnhart – It's within the guidelines, too, so you don't have to worry about aggravating circumstances.

Mr. Jones – I'll second that.

Chair – There's a motion and it's seconded for revocation because of aggravating factors. All those in favor, aye?

Board members – Aye.

Chair – And any opposed? And that motion carries. Thank you, Mr. Bossart.

Mr. Bossart – Thank you, sir.

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

Ms. Simon – This item is informational only. Pursuant to s. 497.466, F.S., the applicants have been issued their licenses and appointments as preneed sales agents.

**6. Application(s) for Continuing Education Course Approval**  
**A. Recommended for Approval without Conditions – Addendum B**  
**(1) Elite CME, Inc. (113)**  
**(2) National Funeral Directors Association, Inc. (136)**

Ms. Simon – Pursuant to s. 497.147, F.S., and Board Rule 69K-17.0041, F.A.C., the courses presented have been reviewed by the CE Committee and the Committee, as well as the Division, recommends approval of the applications for the number of hours indicated.

**MOTION:** Mr. Hall moved to approve the applications. Mr. Knopke 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) Carnes, Michelle K**  
**(2) Funeral Director– by Internship and Exam**  
**(a) Gendron, Amanda L**  
**(b) Giagnorio, Renee M**  
**(c) Moore, Jamarie P**  
**(d) Parrish, Robert**  
**(e) Wieber II, John P**  
**(3) Funeral Director and Embalmer – by Endorsement**  
**(a) Byrd, Andrew R**  
**(4) Funeral Director and Embalmer – by Internship and Exam**

- (a) *Bijou, Marie F*
- (b) *Schauss, Neil K*
- (c) *Stephens, Michael J*

Ms. Simon – This is an informational item. Pursuant to Rule 69K-1.005, F. A. C., the Division has previously approved these applications.

- B. *Recommended for Approval without Conditions (Criminal History)***
  - (1) *Funeral Director and Embalmer (Endorsement)***
    - (a) *Stout, Bruce*

Ms. Simon – An application, for a Funeral Director and Embalmer license, was received by the Division, on August 3, 2017. The application was incomplete when submitted. All deficient items were received on August 22, 2017. A background check revealed relevant criminal history that in May 2014, Mr. Stout pled guilty to misdemeanor battery. He was ordered to pay \$692 in fines. The Division is recommending approval without conditions.

Chair – Ms. Wiener, do you represent Mr. Stout?

Ms. Wiener – I do and I'm simply here to answer any questions.

Chair – Is Mr. Stout here?

Ms. Wiener – No. He was unable to get away from work today.

Chair – Thank you.

Mr. Helm – May I ask a question?

Chair – Please, Mr. Helm.

Mr. Helm – Who's leg was it he hit?

Ms. Wiener – Another person riding in the car with him, which was another gentleman, and apparently there was a misunderstanding and it's described in the letter.

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

- 8. *Application(s) for Internship***
  - A. *Informational Item (Licenses Issued without Conditions) – Addendum D***
    - (1) *Embalmer*
      - (a) *Frenier, Lizbeth E F063375*
    - (2) *Funeral Director and Embalmer*
      - (a) *Garcia, Keri L F086237*

Ms. Simon – This is an informational item. Pursuant to Rule 69K-1.005, F. A. C., the Division has previously approved these applications.

- 9. *Application(s) for Embalmer Apprenticeship***
  - A. *Informational Item (Licenses Issued without Conditions) – Addendum E***
    - (1) *Begley, Matthew N F090498*
    - (2) *Long, Caitlynn Ann F199173*

Ms. Simon – This is an informational item. Pursuant to Rule 69K-1.005, F. A. C., the Division has previously approved these applications.



**10. Notification(s) of Change in Location**

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

- (1) *American Veritas Group Inc. d/b/a American Heritage Cremation Society (Holiday) (F040691)*
- (2) *Bevis Colonial Funeral Home Inc. (Tallahassee) (F041282)*

Ms. Simon – This is an informational item. Pursuant to ss. 497.380(12)(b), 497.604(7), 497.606(7), F.S., the establishments have applied for a change of location. The Board has requested that it be notified of these changes in location. Accordingly, the addendum has been provided to the Board. The requisite inspections have not yet been conducted.

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

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

- (1) *Aable Development Inc. d/b/a Aaron and Burney Bivens Funeral Home (F057221) (Orange Park)*
- (2) *Marion Nelson Funeral Home (F041420) (Lake Wales)*
- (3) *Sarah L Carter’s Funeral Home Inc. (F148402) (Jacksonville)*

Ms. Simon – This item is informational only. Pursuant to Rule 69K-1.005(12)(b), F. A. C., the Division has previously approved these items.

**12. Consumer Protection Trust Fund Claims**

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

Ms. Simon – The CPTF claims presented on the Addendum have been reviewed by the Division and the Division recommends approval for the monetary amounts so indicated.

**MOTION:** Mr. Clark moved to approve all the claim(s), for the monetary amounts indicated. Mr. Knopke seconded the motion, which passed unanimously.

**13. Application(s) Cinerator Facility**

**A. Recommended for Approval with Conditions**

- (1) *M Alan Moore Crematory Services LLC d/b/a Our Crematory (Palmetto)*

Ms. Simon – An application for a Cinerator Facility was received on September 1, 2017. The application was incomplete when submitted. All deficient items were returned on September 20, 2017. The Funeral Director in Charge will be James Vaught (F043964). A background check of the principals revealed no relevant 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. Jones moved to approve the application subject to the condition that the facility passes an onsite inspection by a member of Division Staff. Ms. Anderson seconded the motion, which passed unanimously.

**14. Application(s) for Direct Disposal Establishment**

**A. Recommended for Approval with Conditions**

- (1) *M Alan Moore Crematory Services LLC d/b/a Alan Moore Cremation Care Center (Ellenton)*

Ms. Simon – An application for a Direct Disposal Establishment was received on September 1, 2017. The application was incomplete when submitted. All deficient items were returned on September 20, 2017. The Funeral Director in Charge will be James Vaught (F043964). A background check of the principals revealed no relevant criminal history. The Division is recommending approval subject to the condition that the establishment passes an onsite inspection by a member of Division Staff.

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

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

**A. Recommended for Approval with Conditions**

*(1) Affordable Burial and Cremation LLC d/b/a Aden Funeral Home (Tampa)*

Ms. Simon – An application for a Funeral Establishment license, due to a change of ownership, was received by the Division on September 5, 2017. The application was incomplete when received. All deficient items were received on September 20, 2017. The Funeral Director in Charge will be David Chambers (F044982). A background check of the principals revealed no relevant criminal history. The Division is recommending approval subject to the condition(s) as follows:

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

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

*(2) Dignity Funeral Services Inc. d/b/a International Cremation Services (New Port Richey)*

Ms. Simon – An application for a Funeral Establishment was received on August 22, 2017. The application was complete when submitted. There is a current Direct Disposal Establishment (Trinity Cremation Services Inc., F063614) at proposed location of the applicant: however, as indicated in the letter from Wendy Wiener, the proposed new owner wishes to operate the location as a funeral establishment. The letter also indicates the new owner intends to fulfill preneed contracts previously sold at this location. The Funeral Director in Charge will be Greitcha Quinones (F081461). A background check of the principals revealed no relevant criminal history. To inform the Board, there has been an objection that has been received by the Division regarding this establishment, only to the name of the establishment that it is too much akin to the name of another establishment currently in existence. The establishment is recommended for approval subject to the condition(s) as follows:

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

Mr. Helm – Mr. Chair?

Chair – Yes?

Mr. Helm – Do you mind repeating what you said about the name?

Ms. Simon – Yes sir. The name of the applicant is Dignity Funeral Services, Inc. d/b/a International Cremation Services. This is an entity located in New Port Richey. The Division received an objection for licensure of the establishment from SCI. The objection stated, which was received within the last several days, after the Board package had already been prepared, stating that the name is too similar to the name of their corporation.

Chair – Similar to what name?

Ms. Simon – Dignity.

Ms. Wiener – Mr. Chair, I'm happy to address this issue if you would care for me to elaborate.

Chair – We're still working on Mr. Helm's question here. Thank you.

Mr. Helm – Alright, they're Dignity Funeral Services, Inc. and the other name is Dignity Memorial, right?

Ms. Simon – Yes sir, and if I may also state that there are currently six (6) or seven (7) licenses owned by this same entity.

Mr. Helm – Thank you.

Mr. Knopke – Mr. Chairman?

Chair – Yes?

Mr. Knopke – A question. Ms. Simon said that the current direct disposal, they wanted it to be a licensed funeral home. I assume the current direct disposal is going away.

Ms. Simon – Yes sir.

Mr. Knopke – Okay.

Chair – Yes ma'am?

Ms. Wiener – Just simply to address Mr. Helm's question. This issue has been raised before the Board previously. Dignity Funeral Services, Inc. is the corporate name of an entity operating here in Florida and actually Dignity Funeral Services operates across the country. The question has been raised in the past with regard to the similarity between the trademarked name, Dignity Memorial, which is owned by SCI, however, most important for this Board's consideration, is that in Florida, though the corporate entity that owns the licenses is Dignity Funeral Services, Inc., it operates under fictitious names and intends to do so here. So there is virtually no capacity for there to be consumer confusion between Dignity Funeral Services and Dignity Memorial, because Dignity Funeral Services simply doesn't use the word dignity in its operations here in Florida. So, we would ask that you grant this license, as you have done with the several in the past.

Chair – Thank you.

**MOTION:** Mr. Knopke moved to approve the application subject to the conditions recommended by the Division. Mr. Helm seconded the motion.

Chair – I think I should declare my affiliation with SCI Funeral Services of Florida, Inc., and that affiliation in no way will affect my ability to make a fair and impartial decision on this matter before the Board today or any other matter coming before the Board today.

Ms. Simon – Before that’s ruled on, I assume that the motion included the conditions.

Mr. Knopke – Yes it did.

Ms. Simon – Thank you.

Chair – There’s a motion made for approval with conditions and it’s been seconded. All those in favor, aye?

Board members – Aye.

Chair – And any opposed? And that motion carries.

***(3) Gracefully Southern LLC d/b/a Gracefully Southern Funerals & Cremation (Alachua) (Adverse Licensing History for William Johnson)***

Ms. Simon – An application for a Funeral Establishment was received on August 22, 2017. The application was complete when submitted. The Funeral Director in Charge will be William Johnson (F049504). A background check of the principals revealed no relevant criminal history; however, William Johnson does have an adverse licensing history:

- William Johnson, F049504, license was suspended April 27, 2011 – April 27, 2012 and ordered to pay \$5000.

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

Mr. Helm – Mr. Chair?

Chair – Yes sir, Mr. Helm?

Mr. Helm – Are you counsel for them?

Ms. Wiener – I am.

Chair – And you are?

Ms. Wiener – Wendy Wiener.

Chair – Thank you. Just for the record.

Mr. Helm – I realize it’s been five (5) years, but that was a pretty serious charge. Would you not want to put probation with this one?

Ms. Simon – That would be up to the Board. The Division would certainly have no objection to that.

Chair – Any other Board member comments?

Mr. Knopke – I just had a question. I assume the fine was paid and everything, as was required during the timeframe requirement.

Ms. Wiener – It was.

Mr. Knopke – Okay.

Ms. Wiener – It was. Mr. Chair, if I might address Mr. Helm’s concern.

Chair – Please do.

Ms. Wiener – It would be the preference of this licensee, of course, to start its licensure with a clean record and with no impediments upon its licensure. Mr. Johnson is a principal of the licensee. The actual licensee that is under consideration has no criminal history or adverse licensing history because it's a brand new entity. Mr. Johnson did enter into a stipulation. There were lots of facts about that matter that were disputed. The matter came before the Board. He suffered a very significant consequence, which was that his license suspended for a period of time and he paid a significant fine of \$5000. So, we would ask that consistent with the Division's recommendation that the license be issued without any probationary status attached.

Ms. Simon – And for further edification of the Board, there are four (4) principals involved in this matter.

Mr. Helm – But he's the first one listed.

Ms. Simon – Yes sir.

Chair – And the funeral director in charge.

Mr. Helm – Yes.

Mr. Knopke – Is there a crematory associated with this firm?

Ms. Wiener – Not at this time.

**MOTION:** Mr. Knopke moved to approve the application subject to the condition that the establishment passes an onsite inspection by a member of Division Staff. Mr. Clark seconded the motion, which passed with two (2) dissenting votes.

**(4) *Riverside Florida Funeral Homes LLC (Sunrise)***

Ms. Simon – An application for a Funeral Establishment was received on August 17, 2017. The application was incomplete when submitted. All deficient information was received on September 5, 2017. The Funeral Director in Charge will be Rene Alonso (F043666). A background check of the principals revealed no relevant criminal history. The establishment is recommended for approval subject to the condition that the establishment passes an onsite inspection by a member of Division Staff. Before this matter is given to the Board for deliberation, there was an objection received as to this manner too, regarding the name of the proposed establishment. This is an objection that was submitted by SCI regarding the fact that the name is too similar to the name of a current entity that they own and this objection was received within the last couple of days after the Board agenda had been sent out.

Chair – Can you read the objection part into the record?

Ms. Simon – Yes sir. The objection part of the letter?

Chair – Yes.

Ms. Simon – Okay. *"If the Board approves this application for a new license, Riverside Florida Funeral Homes, LLC will be using the same "Riverside" name that is currently the name of a number of SCI's locations in Florida. The use of the same name will likely cause confusion among the public and/or create a false impression that tends to lead consumers and other individuals within the funeral and cemetery industry to believe that there is a relationship between SCI and Riverside Florida Funeral Homes, LLC. Such confusion would pose a threat of damage and impact the goodwill created by the trademark used by SCI and its affiliates."* And I don't know if the applicant is here.

Chair – I'll ask that in a minute.

Ms. Simon – Ms. Richardson?

Chair – Did the letter list the locations that may be of conflict with the name?

Ms. Simon – Yes. The locations are listed to be in N Miami Beach, Delray Beach, Jacksonville, Jupiter, and Tequesta.

Mr. Helm – And where is Pompano Beach compared to these locations?

Ms. Simon – Pompano Beach is in S Florida around the Ft Lauderdale area.

Chair – Broward County.

Mr. Helm – I didn't say that question right. I knew where Pompano Beach was. The distance?

Ms. Simon – Between the location and N Miami Beach and Delray Beach, I would say it's about thirty (30) minutes to forty-five (45) minutes. Is that fair?

Chair – Same market.

Ms. Simon – Mr. Chairman?

Chair – Please do.

Ms. Simon – I had spoken with the applicant, along with Ms. Richardson and we had discussed the matter with her. The question was raised as to whether it would be acceptable to the Board if the Board was going to take in mind the objection, whether a DBA could be used to the name. The applicant had spoken with her lawyer and said that "the name is not a trademark or branded. We can still use it. Please tell me what I can do." That was a communication that we received yesterday.

Chair – Mr. Hall?

Mr. Hall – I've got two (2) parts. When it goes to the Division of Corporations, they will kick it back if it's an identical name. Is that correct when they apply for a corporate name?

Ms. Simon – That is a good question.

Mr. Knopke – This is the same name that the firms operate under.

Mr. Hall – Okay. If it goes in and it's the same, they will kick it back to them and require them to select another name.

Mr. Barnhart – If it's the same exact name.

Mr. Hall – What you're saying though is we can approve this application subject to them changing this name if it conflicts with the other locations, correct?

Ms. Simon – I believe that those actions are independent of each other. You can, as a Board, approve this application and if something happens subsequent to that with another division or another department and this applicant is no longer able to practice under that name, it would come back before the Division.

Chair – I think page 16 somewhat answers that. The Florida LLC and the acceptance of that name.

Ms. Simon – Mr. Hall, so that's already taken place.

Mr. Knopke – Mr. Chair?

Chair – Yes?

Mr. Knopke – Just a comment. Having worked in that market for years, years ago, Riverside Memorial is a very recognized name in the community. Whether you're in Miami Beach or Miami or N Miami or all the way up the coast to West Palm Beach, and to establish another name, whether it's Riverside Florida Funeral Homes Inc., or Riverside Florida or whatever it's going to be called, clearly in that market will apply relationship between the two (2) firms. There's no other name like it. Riverside Memorial goes back forty (40) or (50) years in the Miami, Miami Beach, even Broward County market.

Chair – What was it commonly called, rather than Riverside Memorial? Was it commonly called Riverside?

Mr. Knopke – Riverside was really the name. Everybody recognizes it. Riverside Memorial is what you saw on the sign, but it was referred to as Riverside and it was the premier firm for years and years, especially in Dade County.

Ms. Simon – Mr. Chairman?

Chair – Yes?

Ms. Simon – I'm not sure which way the Board will head on this issue. However, upon speaking with the applicant, she did seem very amenable to doing what is necessary in order to get her funeral establishment license. In that vein, if the Board is not leaning towards approving licensure today, perhaps we can table this matter until.... Just one moment.

Mr. Barnhart – What about the deemer?

Ms. Simon – We can always, and another alternative is, you can as a Board approve the application for licensure subject to the fact that the applicant submits a name change, within the next thirty (30) days, to something...

Chair – That does not include Riverside?

Ms. Simon – Correct.

Mr. Helm – If she changes the name, but leaves Riverside in it somewhere, I think we're right back in the same boat, so how are we going to do that?

Chair – That's what she just said. As long as she changes the name and doesn't use the word Riverside in it.

Mr. Helm – Well if they use the name in front of it that's what I'm thinking about so that's why I was wondering.

Ms. Simon – At all. I mean, if that's what the Board wishes to do, make that as a condition.

**MOTION:** Mr. Knopke moved to approve the application subject to the condition that the applicant removes the name Riverside from the application or any new name in the future within the next fifteen (15) days of notification from the Department. Mr. Hall seconded the motion.

Chair – Mr. Barnhart?

Mr. Barnhart – I don't know that you can force a name change because they've been approved by the Division of Corporations in the current LLC form. You can make that suggestion but if Riverside is not a trademarked name, it seems to me that this Board does not have the expertise to determine whether the names are substantially similar to cause confusion. I don't think we have that expertise here.

Mr. Knopke – If we don't, who does?

Ms. Simon – The Division of Corporations.

Mr. Barnhart – The Division of Corporations, but if the parties can't resolve this then I would think the new party would want to come up with a DBA name. I don't we can force them to change the name of the LLC, because that's been approved by the Division of Corporations.

Mr. Knopke – Let me amend my motion then. I move for approval subject to the condition that the applicant files a DBA name with the Department and other authorities that they operate under a different name, not using the name Riverside or Riverside Funeral Care. Similar to what we talked about a minute ago with Dignity vs. Dignity Memorial. Dignity Funeral Services operates under a bunch of independent names, DBAs, yet the corporate names are the same or very similar. I'm trying to create that scenario there.

Chair – So your motion again is?

**AMENDED MOTION:** Mr. Knopke moved to approve the application subject to the condition that the applicant files a DBA and operates under that DBA for licensure going forward.

Chair – Doesn't that contain the name Riverside?

Mr. Knopke – Only in their LLC name, not in their public name.

Chair – Mr. Hall?

Mr. Hall – If they have the legal name remain the same and they're operating under the DBA, do they have the legal right to use advertisements or anything else with Riverside in the name, since that is their legal name? And, since they just requested this license LLC a month or two (2) ago, what would be involved in them canceling this and starting over?

Mr. Barnhart – I don't think they'd have to cancel this. It would be just coming up with a DBA name and then registering the DBA name in the areas that they want to do business.

Mr. Hall – Would there be a legal issue allowing them to use Riverside?

Mr. Barnhart – There could be from the other people that have been using Riverside as part of their name, but I don't know that this Board should get involved with that type of dispute. I'm not sure we can even require them to do a DBA name under the scenario where they don't use the word Riverside, but they should certainly be aware of the other name and the potential litigation which might come from the Riverside people that have been in business for a while.

Mr. Knopke – To further amend my motion, within thirty (30) days, not fifteen (15) days that they notify the Department.

Chair – Okay. Mr. Jones?

Mr. Jones – Quick question. Mr. Barnhart, if we move forward with the motion, is it enforceable with the DBA? What if they choose not to do a DBA?

Mr. Barnhart – I really don't think we can enforce it. If they requested, for example, a DOAH hearing we could go to hearing and put forth our reasons. They could take issue with that requirement and just see where we go from there.

Mr. Jones – Thank you.

Chair – Ms. Wiener?

Ms. Wiener – Thank you, Mr. Brandenburg. Now wearing the other shoe, if you will, as regulatory counsel for SCI, I think the issue for your consideration is that, as Mr. Barnhart says, you can't really require them to change their corporate name, but if you, as a licensing authority, find that the names would be misleading to funeral buying public or confusing then I believe that you could enter an enforceable requirement that operate using a fictitious name that would not generate confusion in the community, particularly because of the proximity of the businesses.



Chair – Thank you.

Mr. Clark – Mr. Chairman, I know that the most significant function of this Board is to protect the public.

Chair – Right.

Mr. Clark – And I've been here seven (7) years, but maybe I'm missing something in 497. Is there anything in 497 that speaks to this specifically for this Board?

Ms. Simon – No sir.

Mr. Clark – Thank you.

Mr. Barnhart – The only thing I could think of would be advertising which is misleading or deceptive and I don't really know how that would work out in this area, but I don't think we can require them to use a different name. I think we can suggest and try to work with them to come up with a DBA name that would not cause confusion. I think it would be important to, if everything else is in line here, the application should be approved but for this reason, I think we should go ahead and approve this application and try and work with them to come up with a name which would be acceptable to all parties involved and especially the people that have been using the word Riverside, although it has not been trademarked. They don't have an exclusive right to use Riverside, as far as I can determine, but we just want to make sure that the public is not confused and misled by them using any kind of word that would make people think that they're dealing with the long-term use of the name Riverside.

Chair – Ms. Simon?

Ms. Simon – I have a concern that the Board have an order out there requiring a DBA. I don't know that that concern's a valid one, but it is a concern that wouldn't be in the purview of the Board.

Ms. Wiener – Can somebody reach this applicant?

Chair – Excuse me. Just a moment. Do what?

Ms. Wiener – I was just saying if someone could reach the applicant and simply ask them if they would have a fictitious name, then maybe they could agree to it.

Chair – Thank you. Mr. Jones?

Mr. Jones – That was going to be mine. Basically reach out to the applicant or table this.

Chair – Let's table this.

Mr. Barnhart – Can we check the deemer date on that?

Mr. Jones – That was my next question. What is the deemer and are we able to do it?

Ms. Jasmin Richardson – Well, before that, I do have concerns about tabling because the applicant has expressed concerns to me about the money. She is not a big conglomerate, so tabling it to another month would possibly cause her financial harm. So let me try to contact her.

Mr. Jones – Can we table it for right now?

Chair – Yes, we're tabling it until later in the meeting. Good suggestion.

Mr. Barnhart – Can we ask staff to check the deemer date on it in the meantime?

Mr. Jones – Thank you, Mr. Chair.

Ms. Simon – We'll look at it when we call it back up.

Mr. Barnhart – Okay.

**16. Application(s) for Preneed Main License**

**A. Recommended for Approval with Conditions**

**(1) Shuler & Shuler LLC d/b/a Shuler's Memorial Chapel (West Palm Beach)**

Ms. Simon – The Department received the application on August 30, 2017, and all issues associated with the application were resolved as of September 22, 2017. This application is being filed due to the closure of the former qualifying entity of the preneed main license: Shuler's Memorial Chapel Inc. (F021774). The Applicant obtained the current qualifying funeral establishment license (License #F047891) in August 2007. The officer and principal of the limited liability company is Barbara C. Shuler. If this application for the preneed license is approved, Applicant agrees to assume all preneed assets and liabilities of the former preneed license and will continue to honor any existing preneed contracts written under the former preneed main license, Shuler's Memorial Chapel Inc. (License #F021774)

Additionally, Applicant will sell trust-funded preneed through Funeral Services Inc. (Live Oak Banking Company), and utilize its approved pre-arranged funeral agreement. A background check for Ms. Shuler is pending receipt by the Division. The Applicant's financial statements as of June 30, 2017 reflects the following:

Outstanding Preneed Contracts	= \$	0
Required Net Worth	= \$	10,000
Reported Net Worth	= \$	17,395

The Division is recommending approval subject to the condition that the completed background check for sole principal and owner, Barbara C. Shuler is returned to the Division without criminal history.

**MOTION:** Mr. Jones moved to approve the application subject to the condition that the completed background check for sole principal and owner, Barbara C. Shuler is returned to the Division without criminal history. Mr. Knopke seconded the motion, which passed unanimously.

**17. Application(s) for Removal Service**

**A. Recommended for Approval with Conditions**

**(1) Dignity Transport Service LLC (Spring Hill)**

Ms. Simon – An application for a Removal Facility was received on August 1, 2017. The application was incomplete when submitted. All deficient information was received on September 5, 2017. A background check of the principals revealed no relevant criminal history. The facility is recommended for approval subject to the condition that the facility passes an onsite inspection by a member of Division Staff.

Mr. Knopke – Mr. Chairman?

Chair – Yes?

Mr. Knopke – Is this related to Dignity Memorial or Dignity Funeral Services or is this a third Dignity?

Chair – Is there confusion?

Mr. Knopke – A little bit.

Ms. Wiener – There is no relation to the previous parties.

Mr. Knopke – Okay.

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

**(2) First Call Removal LLC (Port Orange)**

Ms. Simon – An application for a Removal Service was received on August 17, 2017. The application was complete when submitted. A background check of the principals revealed no relevant criminal history. The facility is recommended for 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. Ms. Anderson seconded the motion, which passed unanimously.

**(3) Marvin Graham d/b/a Marvin Graham Transport and Removal Service (Brooker)**

Ms. Simon – An application for a Removal Facility was received on August 23, 2017. The application was complete when submitted. A background check of the principals revealed no relevant criminal history. The facility is recommended for approval subject to the condition that the facility passes an onsite inspection by a member of Division Staff.

Mr. Knopke – Mr. Chairman?

Chair – Yes sir?

Mr. Knopke – Where is Brooker FL?

Chair – In Bradford County.

Mr. Helm – It's between the little town of Hampton and Starke. It's a little spot that goes back west of 301.

Mr. Knopke – Okay. North Florida.

Mr. Helm – Yes.

Chair – We're Brooker specialists.

Mr. Knopke – Thank you.

Chair – We wrote MapQuest directions for Brooker. It is very rural.

**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. Hall seconded the motion, which passed unanimously.

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

**A. Recommended for Approval with Conditions**

**(1) Request to Transfer Trust**

**(a) Family Owned Service Company, Inc. d/b/a Brewer & Sons Funeral Homes and Cremation Service (F019425) (Brooksville) and d/b/a Parklawn Memorial Cemetery (F085893) (Dunedin)**

Ms. Simon – On June 25, 2015, the Board approved the acquisitions by Family Owned Company, Inc. of Eternal Rest Memory Park, a licensed cemetery company (F039351), and Eternal Rest Memories Park and Funeral Home, a licensed funeral establishment (F040723), formerly owned by Charles Scalisi. The Board also approved a preneed licensee (F019425). The cemetery is now operated under the name Parklawn Memorial Cemetery by Family Owned. Family Owned also acquired all the assets and liabilities for both the cemetery and preneed locations.

Family Owned therefore seeks approval to transfer its cemetery care and maintenance and preneed trust accounts from Regions Bank, N.A. to Live Oak Banking Company (Live Oak) as more specifically set forth in the attached letter from representative, Justin D. Wilson dated September 5, 2017, and attachments to that letter. Live Oak is or will be the successor trustee and will continue to operate under the existing trust agreements for these trust accounts. The Division is recommending approval subject to conditions as follows:

- 1) That the representations of Family Owned, through representative, Justin D. Wilson, as set forth in the letter dated September 5, 2017 be deemed material to the Board's decisions herein.
- 2) That within 90 days of this Board meeting, Live Oak provide the FCCS Division (ATTN: LaShonda Morris), the effective date of the transfer and certifications, which includes the following:
  - a) A letter signed and dated by one of Live Oak's officers, certifying that it meets one or more of the applicable criteria in s. 497.266(1), and s. 497.458(1(b), Florida Statutes, to act as trustee of the trusts to be transferred to Live Oak pursuant to Mr. Wilson's letter dated September 5, 2017.
  - b) A letter from Live Oak, signed and dated by one of its officers, stating:
    - That Live Oak provides a certificate stating the dollar amount of trust assets being transferred as identified in Mr. Wilson's letter dated September 5, 2017.
    - That Live Oak provides acknowledgement of receipt of the amount of trust assets being transferred as specified under the former trust, stating separately for each trust, the dollar amount of the trust assets received, as referenced in Mrs. Wilson's letter dated September 5, 2017.
- 3) That the Board's Executive Director, for good cause shown, may extend the compliance time for the above specified conditions an additional 90 days, with a report to the Board regarding any extension granted.

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

*(2) Preneed Sales Agreement  
(a) Kronish Sunshine & Company Inc. (Boca Raton)*

Ms. Simon – Kronish, Sunshine & Company, Inc. (Kronish) submits a Prearranged Funeral Contract for approval. Kronish was recently approved for a funeral establishment license at the August 3rd Board meeting, and for a preneed license at the September 7th Board teleconference meeting (which was subject to passing inspection of its funeral establishment.) If the form is approved, it is to be used for the sale of trust-funded preneed contracts by this preneed licensee. The Division is recommending approval subject to the condition that two (2) full sized print-ready copies, of each contract, are received by the Department within 60 days of this Board meeting.

Chair – Mr. Rudolph?

Mr. John Rudolph – May I address something?

Chair – Please.

Mr. Rudolph – At the bottom it says FSI and I'm going to be removing that and we'll have that redone, but everything else {inaudible} substantially changed.

Chair – At the bottom of what, Mr. Rudolph?

Mr. Rudolph – Of the contract.

Chair – Okay.

Mr. Rudolph – It says FSI, but I will have that removed. We made substantial changes to this contract.

Ms. Simon – Where is that, Mr. Rudolph?

Ms. Wiener – Page 2, in the shaded grey area, it says FSI.

Mr. Rudolph – We can take that off. I want the Board to know that Keith Kronish’s wife has cancer, and I’ve been praying for her and she is right now up in Philadelphia getting treatment. Keith’s a good friend of mine. We go way back and he’s a good friend of yours. So, they were impacted by Hurricane Irma, but they’re getting that through right now.

Ms. Simon – Mr. Chairman, the Division would recommend approval subject to the conditions already stated as well as the condition that FSI is removed from the contract.

**MOTION:** Mr. Jones moved to approve the agreement subject to the conditions that two (2) full sized print-ready copies, of each contract, are received by the Department within 60 days of this Board meeting and that FSI is removed from the contract. Mr. Knopke seconded the motion, which passed unanimously.

**19. Request(s) to Renew License (Criminal History)**  
**A. Recommended for Approval without Conditions**  
**(1) McComb, Kindra C F083574**

Ms. Simon – Ms. McComb has applied to renew her Funeral Director and Embalmer license (F083574). Ms. McComb has relevant criminal history which is as follows:

- In July 2016, Ms. McComb pled no contest to DUI. She was sentenced to 12 months of probation, 50 hours of community service, 10-day vehicle immobilization, 6-month suspension of license, attendance at a victim impact panel meeting, and fines & costs totaling approximately \$1600.

The Division is recommending approval without conditions.

Mr. Knopke – Mr. Chairman, question?

Chair – Mr. Knopke?

Mr. Knopke – Question to Ms. Simon on this one and on the next one, just because it’s the same thing. Did they complete their probation, as required? Do we know?

Ms. Simon – We have not received any word that there was a violation of probation and the court has jurisdiction for a year, unless there is a violation of probation. On this one, and on the next one, this was July 2016 and the next was August 2016, so that year has passed.

Chair – Mr. Rudolph?

Mr. Rudolph – She has completed everything.

Mr. Knopke – Pardon?

Mr. Rudolph – She did complete everything.

Mr. Knopke – On this one?

Ms. Simon – No, that’s Ms. Parrish. Not this licensee we have.

Chair – Okay. Thank you.

Mr. Knopke – Thank you.

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

**(2) Parrish, Debra L F045381**

Ms. Simon – Ms. Parrish has applied to renew her Funeral Director and Embalmer license (F045381). Ms. Parrish has relevant criminal history, which is as follows:

- In August 2016, Ms. Parrish pled no contest to DUI with property damage. She was sentenced to a 12-month probation, 5-years suspension of license, 10-days incarceration, attendance at DUI school and fines & costs totaling approximately \$2540.

The Division is recommending approval without conditions.

Chair – Mr. Rudolph? Just here to answer questions if there are any?

Mr. Rudolph – Yes.

Chair – Mr. Hall?

Mr. Hall – Do we know, since there was property damage on this one, whether restitution was made?

Mr. Rudolph – Yes. Everything has been resolved. She resolved everything.

Mr. Helm – She still doesn't have a driver's license.

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

Chair – Are we able to go back and revisit the tabled item?

**15. Application(s) for Funeral Establishment**  
**A. Recommended for Approval with Conditions**  
**(4) Riverside Florida Funeral Homes LLC (Sunrise)**

Ms. Richardson – I spoke with Ms. Pack and she amenable to establishing a DBA. She is just ready to get to work, from what I understand. She said that she would do it within two (2) minutes of hanging up the phone with me, so if that is the Board's pleasure.

Mr. Hall – And the DBA will exclude the word Riverside?

Ms. Richardson – Correct.

Mr. Knopke – Do I need to restate my motion?

Chair – I believe you need to withdraw your motion.

Mr. Knopke – I'll withdraw my motion.

Chair – Thank you. Is there a motion?

**MOTION:** Mr. Knopke moved to approve the application, as she has agreed to filing a DBA that does not include the word Riverside in any way, shape or form, subject to the condition of passing an onsite inspection by a member of Division staff, within thirty (30) days. Mr. Hall seconded the motion.

Chair – Ms. Coney?

Ms. Lisa Coney – Lisa Coney, Dignity Memorial. I'm associated with Riverside. I just wanted to make sure that the DBA means that it's our understanding that that's actually how business would be conducted. So that would prohibit advertising under the LLC name.

Mr. Barnhart – I don't think you can prohibit that.

Ms. Coney – But that's our understanding by requiring or requesting or having approval of the use of a DBA in place of Riverside.

Mr. Barnhart – I don't think that's the Board's understanding. It's a corporate name that's been accepted by the Division of Corporations. I don't know any provision of the law that would prevent them from advertising as such.

Chair – So we have a motion and a second.

Mr. Clark – I'm sorry, Mr. Chairman. I apologize.

Chair – No, that's alright.

Mr. Clark – Can we clarify the motion? I just want to make sure I understand it.

Mr. Knopke – The intent of the motion is that the name Riverside not be used going forward in their public business.

Mr. Barnhart – I think that's overreaching.

Chair – You mean in their DBA?

Mr. Knopke – If the motion says that we want them to have a DBA, and we approve the motion, then doing business as generally means that's what you're going to operate under. If we say we don't want them to use the name Riverside, then they're in essence violating the approval. That's my intent. I want to make it clear that Riverside is not a part of this company's name, doing business as, going forward, because there is harm to the consumers. Who is who and who is not. And if we can't do that then we can't do that.

Chair – I think Ms. Richardson got an agreement from the owner that she would use a DBA that did not contain Riverside in the DBA. Am I stating that correctly?

Ms. Richardson – That is correct.

Chair – Okay.

Mr. Knopke – Okay, then what is wrong with making the motion what the agreement is?

Chair – That's fine, but we have to be careful not to be overreaching and unenforceable.

Mr. Knopke – I don't want to be overreaching and I don't want to do anything that we can't enforce, because then we're just spending our wheels wasting everybody's time.

Ms. Simon – If I may? The first time that you stated this motion it was as a result of the applicant providing that she would include a DBA that did not have the name Riverside in it. You were motioning to approve the application subject to the conditions provided.

Mr. Knopke – Correct. I think that's what I tried to say.

Chair – Mr. Hall?

Mr. Hall – Mr. Barnhart, in hearing testimony from people that have worked in that area and want to protect the consumer so they understand who they're doing business with, since she's agreed to that with Jasmin, is it too far reaching if we say she's using the DBA for her name and excluding and using only that for advertising purposes?

Mr. Barnhart – I think that’s an additional step to what we have the understanding for right now. I think the best the Division could do would be to determine whether if it did advertise with the word Riverside LLC that that might be misleading or deceptive to the public and they’d have to make that determination then. If they thought it was then they could bring it to a probable cause panel.

Mr. Hall – Or it could open them up to litigation.

Mr. Barnhart – Right. And they could be opening themselves up to litigation anyway if they do anything to advertise the word Riverside. That’s separate and apart from what we can do, I think.

Chair – So we have a motion and we have some discussions and to restate the motion. Ms. Simon, would you restate please.

Ms. Simon – If I understand Mr. Knopke correctly, his motion was that, based upon the applicant’s statement that she is going to change the DBA of her business to a name that does not include Riverside, the motion is that the Board approve the application for licensure subject to the conditions previously provided.

Chair – Is that your motion, Mr. Knopke?

Mr. Knopke – Yes.

Chair – And is there a second?

Mr. Jones – Second.

Chair – And all those in favor, aye?

Board members – Aye.

Chair – And any opposed? The motion carries. Thank you. Good work. It’s good work.

Mr. Knopke – The thing about it is Riverside (the name of businesses in the death care industry) is pretty common in some areas. It’s not in other areas. All of us that operate businesses have a name that’s pretty common where you operate. You’re in business and you want to protect it.

**20. Executive Director’s Report**  
**A. Operational Report (Informational)**

Ms. Simon – Ms. Schwantes?

Ms. Mary Schwantes – Thank you and good morning. A couple of things to talk about today. I just want to express our appreciation to the Board members and attendees for their patience and cooperation regarding the change of location from Tampa to Tallahassee for this Board meeting. As some of you know, we learned last week that the Tampa hotel in which the meeting was scheduled was unable to complete its hurricane repairs in time for the meeting, so the hotel cancelled all reservations. With the limited amount of time between the notice of cancellation and this meeting, we were unable to find a conference room and hotel rooms in Tampa for a reasonable rate. I think one of the lowest rates we received was like \$250 per room, which is not reasonable for our purposes. It was even difficult finding an available conference room in Tallahassee. We know many of you had to adjust your Tampa based plans to attend this meeting and appreciate your attendance.

The Board application process is ongoing. Following coordination with the Governor’s Office regarding the applications received, the Division submitted its summary of the applications to the CFO last month. The CFO’s recommendations regarding the applications have been sent to the Governor’s Office. As before stated, we cannot provide any estimate as to when the Governor will make his decision but certainly expect to have his decision prior to our next in-person Board meeting. Again, we very much appreciate the current Board members and officers agreeing to continue to serve on the Board pending the new appointments. We will get that information out as soon as we receive it.



A couple of changes that we are making, well we're making a number of changes regarding processes throughout the Division, but this one I think that you all may be interested in as it impacts applicants for licensure. In the past, the Division has charged applicants \$10 for a hard copy study guide and we have mailed it to the applicants in order to assist them in taking the Florida Law and Rules Exam. Beginning next week, the Division will post links to the relevant materials on its website and the information will be available free of charge online. If a hard copy is still requested from our office, there will still be a small charge for copying and shipping, etc. (probably still \$10). However, we want to encourage the use of the online links and are looking for other ideas for improvements along those lines that will assist industry members.

Hurricane Irma was the big story at our last Board meeting, and I want to give you an update on Division operations during the days before and after the storm – and the incredible response from the death care industry in offering assistance to other licensees during the aftermath. Irma hit almost the entire state over the weekend of September 8<sup>th</sup>. Immediately prior to leaving the office on Thursday, Division staff sent an email to licensees containing information on what to do in the event of power outages impacting refrigeration facilities. This was one of the biggest concerns we heard from the industry, and we actually received a lot of questions from industry members, in the days leading up to that. The Department of Health and the Division also sent information on e-filing of death certificates during the declared state of emergency. We are also aware that similar information was also provided to the licensees by at least one of the industry associations, and very much appreciate that association sharing with us the information they sent their members so that we were all on the same page in the information that was being provided to the licensees, including information regarding the County telephone numbers and contact information for licensees to call if they were having refrigeration issues that they could not get assistance with from the other industry members. Ellen Simon and I received several calls over that storm weekend from Board members and others with specific concerns about refrigeration issues – all of which were fortunately resolved at a local level without the need for escalating the matter to the state's emergency coordination team, but that was an option and we were prepared to go to that level if we needed to. So we were very glad to see that things were able to be worked out.

State offices in Tallahassee were closed from the Friday the 8<sup>th</sup> until the following Wednesday. Offices in other locations were closed longer than that. Upon our return to the Tallahassee office on Wednesday, Division staff began making calls to certain industry members. Over 1200 licensees in the following professions were contacted: funeral establishments, direct disposer, centralized refrigeration facilities, centralized embalming facilities, and cinerator facilities. A team of about 13 Division staff made the calls asking each licensee essentially the following questions:

1. How did you fair from the storm?
2. Do you have power and are you operational?
3. If you do not have power, are you storing any human remains?
4. What do you intend to do with the remains? What are your plans for appropriate storage or disposition?

We learned that many power or refrigeration issues had been resolved earlier in the week, prior to our ability to make the calls. As the calls were made, funeral homes and other establishments with power were quick to offer assistance to those still needing urgent storage for remains. Each time an establishment volunteered such assistance, their contact information was added to a master list that was shared with all of the staff making phone calls so that as the calls were made, if staff learned of needs in a particular area, the information was shared with the licensees. I think there were around 15-20 licensees on that list, so that's pretty good, all things considered given the significant impact on the entire state from that storm.

The feedback we received on these calls has been positive. We certainly hope that our efforts assisted in matching up a few entities and thereby resolving some of the remaining storage needs caused by lack of power or other storm damage. Of course, we all saw or heard problematic stories. An uprooted tree lifted a casket from the ground (fortunately not a licensed cemetery). Flooding moved some caskets in one of our licensee's cemetery in the Keys, and that hit the media. The worst refrigeration story we heard involved a cinerator establishment in the southwest Florida area which was storing 30 bodies "on ice" pending the receipt and installation of 2 generators. They were consistently having to check to make sure that the bodies were stored at under 40 degrees, regular ice not dry ice, although I understand that dry ice was also used, by a number of establishments, in these circumstances. Fortunately, as with so many situations, this was timely resolved and did not need to be escalated to another level. I know there is not time to discuss this during this meeting, but if any of you have suggestions regarding additional information (or action) that you would like to see this Division provide during such events, please let me know after the meeting or contact me later. Since it appears we are facing another possible storm this weekend, your input may be timely. I was going to suggest that you catch me after the meeting, because I don't want to take up meeting time.

Ms. Karen Howe – I just wanted to thank the Department for your efforts for our funeral directors, number one. Also, we have reached out to the trade association for the electrical companies across the state and our funeral homes are Level 3 of importance to them, right along with residential customers. In other words, they're not up there at the top like hospitals and other type facilities. They have agreed to work with us, once hurricane season is over, to educate the leadership at the electrical companies on why this is important to make them a Level 1.

Ms. Schwantes – That's great news. Thank you, Karen. So, if you do have input, let us know.

Mr. Jones – Good job!

Ms. Schwantes – Thank you, Ken.

Chair – Very good. Proactive outreach. Heard a lot of comments from the industry. Positive comments.

Ms. Schwantes – Thank you. Well, I will tell you too, it was just as much of a good experience on our behalf too, because we were actually able to hear how the industry works together and such, and I think it was rewarding from that point for us. So, we were hoping not to have to do this again anytime soon, but we are watching the storm. On to other matters, and this also involves the storm a little bit. The Rules Committee Meeting, which was scheduled for Friday, September 8, 2017, in Jacksonville was cancelled, because of the storm. The next Rules Committee meeting will take place on Tuesday, October 10<sup>th</sup> in Tallahassee. The meeting will be from 10 – 3 and will take place in the 3<sup>rd</sup> floor conference room of this building, the Claude Pepper Building. We look forward to seeing many of you there for that. Unfortunately, we are closely watching a potential storm again, so please keep an eye out on that. If the storm approaches Tallahassee or potentially has damage from that, Tallahassee loses power fairly frequently. It is possible that if the storm comes this way, we may have issues with office closures on Monday making it difficult for us to get word out about Tuesday's meeting, but we will do the best that we can if that happens, and we all have our fingers crossed that it just completely dissipates and doesn't bother anybody.

The next Board meeting is a telephonic meeting and is scheduled for Thursday, November 2<sup>nd</sup>. Following that, we are scheduled for an in-person meeting on Thursday, December 7<sup>th</sup> in Tallahassee. The conference room location that the Board had traditionally used here, over in the Alexander Building, is no longer available for our use. They've done some renovations and such, so we will not be able to use that room. The meeting room location will be announced. That ends my operation report, unless there are questions.

Mr. Helm – Does that mean from now on?

Ms. Schwantes – From now on, it is no longer available for our use. Yes sir. Any questions? Thank you, Mr. Chair.

Mr. Knopke – Mr. Chair, may I offer a comment?

Chair – Please.

Mr. Knopke – This comment is for the Department, and Mary and I have talked about it already. Last week, I had the pleasure of having Elena Rodriguez in our office to do our annual inspection and she did our funeral home, crematory and our cemetery. She was there for about three (3) hours. The inspection went well, but I couldn't have asked for a nicer person. It was my first experience with her. She's relatively new with the Department, about three (3) years, from what she told me. Just a very, very nice experience, and if you get fortunate enough to have her, you'll enjoy her. She was pleasant and matter of fact, but then again, as I've said over the years, for the most part, every one of the Department's inspectors have been always very good, but again, a very nice experience and compliments to everybody.

Ms. Schwantes – Thank you, Mr. Knopke, and I'll forward that on to her and very much appreciate any feedback.

Chair – Good.

Mr. Jones – Mr. Chair, can I ask one question?

Chair – Please.

Mr. Jones – Thank you. Based on your report, looking at the funeral homes where one didn't have power or generator back up that stores bodies, do y'all or is that something we would want to look at to determine, for a future date, for storms, which funeral homes would be the ones right off that we would need to address? I'm just kind of thinking out loud as far as preventive for the future.

Ms. Schwantes – Right. And I appreciate that question. It is actually one of the outcomes that we hope to take from the calls that were made in planning for future such events. What can we do to help this? There were a few funeral homes that indicated, for example, that they had ordered generators from a company and expected the generators to come in. The problem is with the storms in Texas, the generators were all over there. These are the companies that lease the generators out that you make arrangements with for the generators to come. There were still generators in Texas and they just weren't available for some of the commercial use here, in Florida, so that was a problem. There were a few we heard that dry ice was used. Most that we talked to, they made arrangements with other funeral homes that had electricity, but I know the further south you went the more of a problem that was. Like I said, the worst case that we heard was, just because in volume, was the cinerator with thirty (30) bodies that were all on regular ice until they could get the generators there. The generators were in route, but stuck in traffic. I would certainly hope that we don't ever have a statewide event like this again, but I do think that there are some lessons. We still have some culling through the records from the phone calls and such to make but I do think there probably are some more take away lessons from that.

Mr. Jones – I know we were getting calls from funeral directors that were working with medical examiners wanting to get cases cleared because they did have thirty (30) bodies and they were wanting to move the bodies. On those calls, we were jumping in calling the medical examiners and trying to get things taken care of. To offer up, from the Department of Health, as we move forward and part of your plan and our plan is ow together we can work to make sure, as a unit, as we know a storm's coming. If we can help, we can get with the medical examiners and we can do other things to help with that. So thank you and good job.

Ms. Schwantes – Same to you all, as well. And again, too, the associations here in Florida for the death care industry were very involved in cooperating and coordinating information, so I really do think that, all tolled, given the size of the situation and the urgency that it hit, plus the panic that was involved to a great degree, I think everyone deserves kudos for this. I think it came off as smoothly as it possibly could all the way around.

Chair – Very good.

Mr. Howe – We also reached out to the head of the Florida Department of Health and Human Services and she agrees with us that this is an issue that affects life and we're going to be taking it up. Her recommendation was that we take it up legislatively because each county's Office of Emergency Management, they are not required. Funeral homes are not even on their radar. They're not even thinking like that. And I spoke to the local person of Leon County and she said yes and she gave me Ms. Lucy's name and I talked to her and so that's what we have charged our lobbyist with doing is having this mandated so that our funeral homes get on the local level and it becomes a priority. We'll see how that goes. Thank you.

Chair – Thank you. Mr. Hall?

Mr. Hall – Mr. Chair, if I can just say thank you to the Division, too. Right prior to the storm, I received three (3) calls around the State from associates and as Mary says, it's a panic. At that time, you can't do anything but buckle down and hold on. Within probably thirty (30) minutes, all three (3) called and spoke with Mary and it just brings a calm to know somebody's there with you and is going to help you. When I was in the insurance business for twenty (20) years, sometimes at that time, there's nothing you can do for people then, but they just want to know that you're there and are going to take care of them and it just brought an instant calm. They called me back and said, we heard from them and we're good. So, I think you saw a tremendous support in the industry, by people who were normally competitors, reaching out to each other, loaning machines, loaning equipment, cooler space, etc. It was good to see that. Industry wide I think there's no boundaries. Everyone just stepped in to help, which is the way it should be. The Division helped a lot for those individuals, so thank you.

Chair – All good comments.

Ms. Schwantes – Thank you.

Chair – Very good. Thank you.

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

Ms. Simon – This item is informational only. Are there any questions?

Monthly Report of Fines and Costs Assessed and Paid  
 Division of Funeral, Cemetery and Consumer Services  
 October 5, 2017 Board Meeting  
 Date of Report: September 25, 2017

Licensee	Board Meeting	Case No.	Total Fine & Cost Due	Date Due	Paid in Full?	Comments
Fred Hunter Memorial Services, Inc.	3-Aug-17	206109-17-FC	\$1,000	9-Sep-17	Paid in Full	
Hunter James West	Apr-17	197862-16-FC	\$1,000	6/9/2017	Paid in Full	
Affordable Monument Company	Jun-16	184198-15-FC	\$1,000	Monthly payments of \$83	Paid in Full	
Patricia Narciso	Jun-16	184202-15-FC	\$1,000	Monthly payments of \$83	Paid in Full	
Gregory Dunphy	Dec-16	196606-16-F	\$2,500	Monthly payments of \$208.37	Paid in Full	
Jeannette Royal	Jun-16	164613-14-FC	\$5,000	12-Jan-16	Note A	
Ronald Noble	Aug-15	134801-13-FC	\$2,500	8/1/2017	Paid in Full	
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.						

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

Chair – A few weeks back, Ken Jones mentioned that in his position as a member of the Medical Examiner’s Commission, a Board not unlike ours but different, and he’s been a long-time member, they do recognize outgoing Board members and shared with me a nice parchment paper with a gold seal of the State of Florida on it for outgoing members. So, moving that thought along, this is a draft with the verbiage put together by the Division, and it’s no more than a draft and we can change it any way we want, but I’d like to have a resolution and present the certification to Vanessa Oliver. I had asked Ellen to read this into the record, but everybody has it before them so this draft is the record, if you will. Is that okay? Any comments, suggestions? I know you have only had it for a few minutes before the meeting, but I would like to see us accept this resolution.

**MOTION:** The Chair moved to accept the resolution. Mr. Hall seconded the motion, which passed unanimously.

Chair – It will be read into the record, by Ms. Simon.

**RESOLUTION  
IN RECOGNITION AND APPRECIATION OF  
DISTINGUISHED SERVICE  
BY  
VANESSA OLIVER**

**WHEREAS**, Sections 497.101 and 497.102, Florida Statutes effectively establish the composition and authority of the Board of Funeral, Cemetery, and Consumer Services (the “Board”), which is comprised of ten members who serve 4 year staggered terms for the general purpose of overseeing the licensing and regulation of Florida’s death care industry;

**WHEREAS**, **Vanessa Oliver** was appointed as a Board member in 2013 and graciously volunteered her time and expertise to the Board, providing invaluable insights, perspective, and guidance throughout her term with the Board;

**WHEREAS**, **Vanessa Oliver** has served on the Board with great professionalism, dedication, and distinction;

**WHEREAS**, **Vanessa Oliver’s** participation in Board activities and recommendations throughout the years have greatly assisted the Board in fulfilling its mission;

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Funeral, Cemetery, and Consumer Services acknowledges and extends its gratitude to **Vanessa Oliver** for her dedicated service to the Board, her notable contribution to the Board’s mission, and her dedicated service thereby to Florida’s death care industry and consumers.

**Adopted by the Board of Funeral, Cemetery,  
and Consumer Services  
On October 5, 2017**

\_\_\_\_\_  
Joseph Brandenburg, Chair  
Board of Funeral, Cemetery, and Consumer Services

\_\_\_\_\_  
Keenan Knopke, Vice-Chair  
Board of Funeral, Cemetery, and Consumer Services

Chair – Thank you. I do see one thing in the second paragraph, “Whereas Vanessa Oliver was appointed”, I’d like to see “by the Governor of Florida” added. Any other comments?

Mr. Helm – Do you think the Division Director should sign it, too?

Chair – I didn’t do the draft, but we can have it either way. Sure.

Mr. Helm – That would be the connection to the State.

Mr. Knopke – Mary, does that put you in any awkward position?

Ms. Schwantes – If I signed, I would sign as Executive Director for the Board, not as Division Director, but we certainly can do what the Board wishes. I didn’t see a necessity for it.

Chair – Is that what you’d like to see?

Mr. Helm – I’d like to see it.

Chair – Good.

Ms. Schwantes – Okay, we will clean this up and put it on some nice paper and send it over to you all for signature. Hopefully within the week.

Chair – Perfect.

## 22. Office of Attorney General’s Report

### A. Attorney General’s Rules Report

Chair – Mr. Barnhart?

Mr. Barnhart – If you look at your Rules Report. Currently, if you look at 69K-21.003, F.A.C., the status of that rule change, in about one week we’ll send JAPC what’s known as a seven-day letter and we’ll ask them if they have any additional remarks that they would like to make. Hopefully not. Then, from that point, twenty (20) days after the adoption date will be the effective date of that amendment. I should just let you know that it seems like JAPC is also looking at just kind of jumping around to different Boards and Commissions looking at rules to review, even if you have no current activity with those rules, so you don’t know what’s going to happen from time to time. I’ve experienced that recently from some of the other Boards I do work with.

### B. 69K-33.001 Requirements Regarding Handling and Storing of Human Remains -SERC Checklist

Mr. Barnhart – As you see in the material, the current language there for subsection (2)(c) of 69K-33.001, and then the proposed new language is right below that. The proposed language would entirely take the place of the old language in (2)(c). I don’t know if there’s any discussion you’d like to have. Are there any questions about the proposed language? Anybody have any problems with it?

Chair – I think we were exposed to it before, also, so what do we need a motion?

Mr. Barnhart – Preferably a motion to approve the proposed new language for 69K-33.001(2)(c), F. A. C.

**MOTION:** Mr. Knopke moved to approve the proposed new language for 69K-33.001(2)(c), F. A. C. Mr. Helm seconded the motion, which passed unanimously.

Chair – What about the SERC?

Mr. Barnhart – Going to the next page, and I’m going to ask you these questions and then guide you through the SERC questions. The question we have to ask ourselves is will the proposed rule amendments have an adverse impact on small business or will the proposed rule amendments be likely to directly or indirectly increase regulatory cost in excess of \$200k in the aggregate in Florida within one (1) year after the implementation of the rule? There’s also a \$1 million figure for the first five (5) years. If you look at the SERC checklist, you have a proposed SERC checklist provided to you by Ms. Simon. If you agree that the answer to those two (2) questions I just posed to you would be no, then what would be proper would be a motion to adopt the SERC checklist in your materials indicating that no SERC is required for this rule amendment.

**MOTION:** The Chair moved to adopt the SERC checklist in your materials indicating that no SERC is required for this rule amendment. Mr. Helm seconded the motion, which passed unanimously.

Mr. Barnhart – There’s a new question that I have to ask everybody and that is should a violation of this rule or any part of this rule be designated a minor violation and I don’t even know if this rule is on the list that we’re going to be talking about

next week, but if it is would you want to consider a first violation of this rule to be a notice of noncompliance? You don't have to answer for sure right now, but you could say that you want to consider this to be a notice of noncompliance at a later date.

Chair – Can we take that up at the Rules Committee?

Mr. Barnhart – Well we can, but we need to answer this question now so I can submit the rule amendment, as part of the package that they're requiring now.

Mr. Knopke – I would think if you're transporting the remains from the place of death, the remains should be covered, as the rule states, and it should be a violation of some nature.

Chair – The question is should it be designated as a minor violation and I'll answer yes. Feel free to disagree.

Ms. Simon – Mr. Barnhart, when this came up last time, after we said that we were going to talk about it at the next Rules Committee meeting and that was sufficient and that was where the subject ended and that was okay. Would that be acceptable in this case?

Mr. Barnhart – I think we should make a vote that we will consider this at a subsequent Rules Committee meeting and consider what the outcome of this violation would be that we would consider it as possibly a notice of noncompliance, but we will consider others.

Chair – What is the existing rule?

Mr. Barnhart – I do believe we have a violation now for the existing rule.

Ms. Schwantes – We do not.

Mr. Barnhart – So this would be a new violation.

Chair – At this point we can designate it as a minor violation, to keep everything going.

**MOTION:** Mr. Knopke moved to consider a first violation of this rule to be a notice of noncompliance. Mr. Bango seconded the motion, which passed unanimously.

### **23. Administrative Report**

The information was provided on the Agenda.

### **24. Disciplinary Report**

The information was provided on the Agenda.

### **25. Upcoming Meeting(s)**

- A.** November 2<sup>nd</sup> (Teleconference)
- B.** December 7<sup>th</sup> (Tallahassee)

### **26. Adjournment**

Chair – Good of the cause? Anything good to report? Anything we need to hear? Thank you all for being here. Thank you so much staff, as always. Thank you.

The meeting was adjourned at 11:43 a.m.