

Minutes of Meeting

VIRGINIA CEMETERY BOARD INFORMAL FACT-FINDING CONFERENCES AUGUST 12, 2003 (9:00 A.M.)

The Virginia Cemetery Board convened in Richmond, Virginia, for the purpose of holding Informal Fact-Finding Conferences pursuant to the Administrative Process Act.

David Mark Farris, II, Board Member, Presided. No other Board members were present.

Douglas W. Schroder appeared for the Department of Professional and Occupational Regulation.

The conferences were recorded by Inge Snead & Associates, LTD and the Summaries or Consent Orders are attached unless no decision was made (or Consent Order was not completed and signed at the IFF).

Disc=Disciplinary Case

C - Complainant/Claimant
R - Respondent/Regulant
CA- Compliance Agent
M - Cemetery Manager
AT- Attorney
W - Witness
I - Investigator

Participants

- | | |
|--|---|
| 1. Phillip Helmbright
File Number 2003-02962 | Angela R. Crowell – C
Herb Nichols - I |
| 2. Rockbridge Memorial Gardens
File Number 2003-01251 | Frank Milles – CA
Henry Willet - AT
Angela R. Crowell – C
Herb Nichols - I |
| 3. Carver Park Memorial Cemetery
File Number 2003-00908 | Irene F. Applewhite- CA
Abraham Applewhite, Sr.
Abraham Applewhite, Jr.
Herb Nichols – I |
| 4. Carver Park Memorial Cemetery
File Number 2003-03440
(no decision made) | Irene F. Applewhite – CA
Abraham Applewhite, Sr.
Abraham Applewhite, Jr. |

5. National Memorial Park/King David
Memorial Gardens (SCI)
File Number 2003-00177

Maddie Vann – C
James Vacalis – W
David Freeman - W
Jeff Van Hosen - W
Leroy Bennett - W
Herb Nichols - I

Jeff Hodes - M
Jack Wilson - AT
Herb Nichols - I

6. National Memorial Park/King David
Memorial Gardens (SCI)
File Number 2003-00723

Jeff Hodes - M
Jack Wilson - AT
H. Nichols - I

7. National Memorial Park/ King David
Memorial Gardens (SCI)
File Number 2003-01819
(No decision made)

Jeff Hodes – M
Jack Wilson - AT
Belle N. Davis – C
H. Nichols - Invest

8. Parklawn (SCI)
File Number 2003-00496
(No decision made)

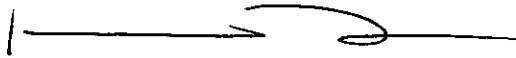
James Stewart - CA
Jack Wilson – AT
H. Nichols - I

9. Rosewood (SCI)
File Number 2003-01305
(No decision made)

James Stewart - CA
Jack Wilson – AT
H. Nichols - I

The meeting adjourned at 5:45 p.m.

Virginia Cemetery Board



Kenneth R. Bell, Chairman



Louise Fontaine Ware, Secretary

COPY TESTE:

Custodian of Records

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

CEMETERY BOARD

RE: PHILLIP B. HELMBRIGHT
LICENSE NUMBER: 4903 000690

FILE NUMBER: 2003-02962

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on August 12, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Phillip B. Helmbright on June 24, 2003. The following individuals participated at the conference: Angela R. Crowell, Complainant; Douglas W. Schroder, Staff Member; Herbert Nichols, Investigator; and David Mark Farris, II, presiding Board Member. Phillip B. Helmbright, the Respondent, nor anyone on his behalf, attended the IFF.

Background

On October 31, 2002, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complaint from Angela R. Crowell (Crowell) regarding the sale of graves to her mother and father, Romelda and Elmer Roberts (Roberts), by Rockbridge Memorial Gardens (Rockbridge), 116 Peaceful Lane, Lexington, Virginia.

Phillip B. Helmbright (Helmbright), family counselor at Rockbridge, showed the Roberts grave sites in section II, lot 20B, spaces 1 and 2, which are under a tree. Helmbright then wrote the Roberts a contract to purchase two grave spaces in section II, lot 20A, spaces 1 and 2. The spaces on the contract are not under the tree. At Elmer Roberts's death, Helmbright completed the interment order for Roberts to be buried in section II, lot 20D, space 1 and that is where he is buried.

All grave sites in section II, lot 20A and lot 20B were sold in 1958 and 1959. There were no grave spaces available for sale in either of those lots.

Summation of Facts

1. On April 28, 2002, Helmbright showed Romelda and Elmer Roberts grave spaces under a tree in section II, lot 20B and told them that spaces 1 and 2 were available and they would have privacy, as roots from the tree would not allow anyone to be buried in spaces 3 and 4. They entered into a contract to buy those two spaces. The contract written by Helmbright shows that the Roberts purchased two graves in section II, lot 20A, spaces 1 & 2. The grave spaces listed on the contract are not under the tree. All four grave spaces under the tree, in lot 20B, had previously been sold to Lewis and Mamie Hartless on January 2, 1959 and they were not available for sale.
2. The grave spaces shown on the Roberts' contract, section II, lot 20A, spaces 1 & 2 had previously been sold to John and Nettie Carter on a contract dated December 8, 1958. John Carter was buried in space 1 on November 9, 1983. These spaces were not available for sale.
3. On or about May 13, 2002, Elmer Roberts passed away and was buried in section II, lot 20D, space 1, which is not under a tree, as requested when purchasing the grave spaces. He is buried beside the road, which Roberts designated as being an undesirable location during contract negotiations. Helmbright completed the interment order which shows Roberts being buried in section II, lot 20D, space 1.
4. Neither Helmbright nor cemetery personnel could explain the change from lot 20A to lot 20D on the cemetery's copy of the Roberts contract.
5. Crowell testified that she was not taken to the grave site, when she came to Rockbridge, prior to the funeral. She further testified that she met with Helmbright in his office and paid \$1,173.96, when signing the interment order. Crowell testified that she was never notified of the change in location of the grave site.

Conclusion and Recommendation

Count I: Section 54.1-2314(3) of the Code of Virginia

I recommend this count of the file be closed with a finding of no violation, as I do not feel the evidence supports a finding of misrepresentation.

Count II: 18 VAC 47-20-190(13) (Effective Date July 1, 2000)

Helmbright's showing of a grave site that was already sold, writing a contract for a different grave site, which was not selected by the purchaser, nor was it available for sale because it had previously been sold, as well as the burial

of the purchaser in a grave site, which the purchaser was not shown, did not purchase and had previously specified as being an undesirable location to be buried, is negligent and/or improper, in violation of the Board's Regulation 18 VAC 47-20-190(13).

As the presiding IFF Board member, I find Crowell's testimony credible. I believe that Helmbright did not disclose to the family the change in the location of the grave site, either upon processing the contract prior to Roberts death, nor at the time he met with Crowell when the interment order was signed.

I further recommend that a monetary penalty of \$750.00 be imposed for a violation of this regulation.

By: _____

David Mark Farris, II
Presiding IFF Board Member
Cemetery Board

Date: August 12, 2003

FINAL ORDER RECOMMENDATION

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER 4903 000690 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

CEMETERY BOARD

RE: ROCKBRIDGE MEMORIAL GARDENS COMPANY
LICENSE NUMBER: 4901 000076

FILE NUMBER: 2003-01251

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on August 12, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Rockbridge Memorial Gardens Company on June 24, 2003. The following individuals participated at the conference: Frank Milles, Compliance Agent for Rockbridge Memorial Gardens Company, Respondent and Henry Willet, their Attorney; Angela R. Crowell, Complainant; Douglas W. Schroder, Staff Member; Herbert Nichols, Investigator; and David Mark Farris, II, presiding Board Member.

Background

On October 31, 2002, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complaint from Angela R. Crowell (Crowell) regarding the sale of graves to her mother and father, Romelda and Elmer Roberts (Roberts), by Rockbridge Memorial Gardens (Rockbridge), 116 Peaceful Lane, Lexington, Virginia.

Phillip B. Helmbright (Helmbright), family counselor at Rockbridge, showed the Roberts grave sites in section II, lot 20B, spaces 1 and 2, which are under a tree. Helmbright then wrote the Roberts a contract to purchase two grave spaces in section II, lot 20A, spaces 1 and 2. The spaces on the contract are not under the tree. At Elmer Roberts's death, Helmbright completed the interment order for Roberts to be buried in section II, lot 20D, space 1 and that is where he is buried.

All grave sites in section II, lot 20A and lot 20B were sold in 1958 and 1959. There were no grave spaces available for sale in either of those lots.

Summation of Facts

1. On April 28, 2002, Helmbright showed Romelda and Elmer Roberts grave spaces under a tree in section II, lot 20B and told them that spaces 1 and 2 were available and they would have privacy, as roots from the tree would not allow anyone to be buried in spaces 3 and 4. They entered into a contract to buy those two spaces. The contract written by Helmbright shows that the Roberts purchased two graves in section II, lot 20A, spaces 1 & 2. The grave spaces listed on the contract are not under the tree. All four grave spaces under the tree, in lot 20B, had previously been sold to Lewis and Mamie Hartless on January 2, 1959 and they were not available for sale.

2. The grave spaces shown on the Roberts' contract, section II, lot 20A, spaces 1 & 2 had previously been sold to John and Nettie Carter on a contract dated December 8, 1958. John Carter was buried in space 1 on November 9, 1983. These spaces were not available for sale.
3. On or about May 13, 2002, Elmer Roberts passed away and was buried in section II, lot 20D, space 1, which is not under a tree, as requested when purchasing the grave spaces. He is buried beside the road, which Roberts designated as being an undesirable location during contract negotiations. Helmbright completed the interment order which shows Roberts being buried in section II, lot 20D, space 1.
4. Neither Helmbright nor cemetery personnel could explain the change from lot 20A to lot 20D on the cemetery's copy of the Roberts contract.
5. Mr. Milles testified during the IFF that it is Rockbridge's normal procedure to take a family representative to the grave site prior to signing the interment order.
6. Crowell testified that she was not taken to the grave site, when she came to Rockbridge, prior to the funeral. She further testified that she met with Helmbright in his office and paid \$1,173.96, when signing the interment order. Crowell testified that she was never notified of the change in location of the grave site.

Conclusion and Recommendation

Count I: Section 54.1-2314(3) of the Code of Virginia

I recommend this count of the file be closed with a finding of no violation. Although Rockbridge made some serious mistakes, I do not believe they had a willful intent to deceive the family. Therefore, I do not find a violation of misrepresentation.

Count II: 18 VAC 47-20-190(13) (Effective Date July 1, 2000)

Rockbridge's showing of a grave site that was already sold, writing a contract for a different grave site, which was not selected by the purchaser, nor was it available for sale because it had previously been sold, as well as the burial of the purchaser in a grave site, which the purchaser was not shown, did not purchase and had previously specified as being an undesirable location to be buried, is improper, in violation of the Board's Regulation 18 VAC 47-20-190(13).

Milles testified that, under their checks and balances procedures, Rockbridge should have discovered the mistake, regarding the grave site

location, within three business days of processing the contract. This would have left them approximately seven days to notify the family and correct the mistake.

I further recommend that a monetary penalty of \$500.00 be imposed for a violation of this regulation.

By: _____

David Mark Farris, II
Presiding IFF Board Member
Cemetery Board

Date: August 12, 2003

FINAL ORDER RECOMMENDATION

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER 4901 000076 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

CEMETERY BOARD

RE: CARVER MEMORIAL PARK CEMETERY, INC.
LICENSE NUMBER: 4901 000100

FILE NUMBER: 2003-00908

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on August 12, 2003, at the Department of Professional and Occupational Regulation, pursuant

to a Notice of Informal Fact-Finding Conference sent by certified mail to Carver Memorial Park Cemetery, Inc. on June 19, 2003. The following individuals participated at the conference: Irene F. Applewhite, Compliance Agent for Carver Memorial Park Cemetery, Inc., Respondent; Abraham Applewhite, Sr. and Abraham Applewhite, Jr., Witnesses for the Respondent; Douglas W. Schroder, Staff Member; Herbert Nichols, Investigator; and David Mark Farris, II, presiding Board Member.

Background

On September 27, 2002, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complaint from Cora Overton (Overton), which was filed on behalf of T.E. Cooke – Overton Funeral Home, 405 Johnson Avenue, Suffolk, Virginia, against Carver Memorial Park Cemetery, Inc. (Carver), 2320 East Washington Street, Suffolk, Virginia.

The Board's Agent, Investigator Herbert W. Nichols (Nichols) reviewed records at Carver that showed Lizzie Boone was buried in Lot 44, Block 5, on September 5, 2002. Nichols obtained a copy of the death certificate from T. E. Cooke – Overton Funeral Home and the certificate revealed that Wendy Scott Franklin was interred at Carver on September 5, 2002.

Summation of Facts

1. On or about September 3, 2002, Overton telephoned Applewhite in North Carolina and requested that he open and close a grave at Carver for a member of the Scott family for a funeral on September 5, 2002. Applewhite requested that the family meet him at the cemetery and show him where they wanted the grave opened. An appointment was made for 11:00 a.m. on September 4, 2002 to meet at Carver.
2. Overton and the family were at the cemetery at the appointed time and waited approximately 1 hour. When Applewhite did not show up, Overton telephoned him at his North Carolina funeral home and Applewhite placed her on hold and did not return to the phone. Overton tried Applewhite again in 15 and 30 minutes, but the phone was busy.
3. The Scott family requested another grave digger, but he would not open the grave without a court order. Overton contacted the Commonwealth Attorney's Office, in an effort to obtain a court order, and was directed to the Cemetery Board.

4. On or about October 24, 2002, Applewhite told Nichols that the last time that he had spoken with Overton was during the summer, when they had a conflict over payment for the opening and closing of a grave. Applewhite said that he did not talk to Overton on September 3, 2002. Applewhite further stated that he had no knowledge of an 11:00 a.m. meeting on September 4, 2002, until A.D. White (White) contacted him at approximately 3:00 p.m. on September 4, 2002, and told him that Overton had been trying to contact him.

5. Irene F. Applewhite, compliance agent for Carver, and Abraham Applewhite, Jr., salesman for Carver, told Nichols that they had no knowledge of the 11:00 a.m. meeting on September 4, 2002.

6. Nichols obtained a copy of Overton's telephone bill for September 2002, which revealed a call on September 3, 2002, at 4:51 p.m., to Gatesville, NC telephone number (252) 357-2457 for 6 minutes, which is when the appointment was made for the cemetery meeting on September 4, 2002.

The bill showed another call to the same number on September 4, 2002, at 12:06 p.m., for 2 minutes, when Applewhite put Overton on hold and did not return to the phone. This phone call was to determine why Applewhite did not meet with the family at the cemetery and another phone call at 2:05 p.m., for 1 minute, when Overton received the answering machine.

7. On or about December 19, 2002, Nichols asked Abraham Applewhite if the telephone number (252) 357-2457 was his number, to which he stated yes. Nichols informed him that Overton's phone bill shows calls to that number and one of them for 6 minutes. He was asked again if he spoke to Overton on September 3, 2002 and he stated, no.

8. On or about October 24, 2002, Abraham Applewhite, Jr., showed Nichols the interment order for September 5, 2002, which revealed that Lizzie Boone was buried in Lot 44, Block 5, on that date.

9. Nichols obtained a copy of the death certificate from T.E. Cooke – Overton Funeral Home for the person buried at Carver on September 5, 2002 and it revealed that Wendy Scott Franklin was buried there.

10. A copy of the deed for Lot 44, Block 5, which was provided by the complainant, revealed that Lizzie Boone is the owner of the lot.

11. Carver recorded, in their records, the name of the wrong person buried in Lot 44, Block 5, on September 5, 2002. The person that they recorded as buried, is the owner of the lot.

Conclusion and Recommendation

Count I: 18 VAC 47-20-190(13) (Effective Date July 1, 2000)

I recommend this count of the file be closed with a finding of no violation. I do not feel the evidence presented at the IFF supports a violation of improper conduct. In addition, the complainant failed to appear and provide testimony at the IFF.

Count II: 18 VAC 47-20-180 (Effective Date July 1, 2000)

Carver's failure keep an accurate permanent record of every interment in the cemetery and the name of the person interred is in violation of the Board's Regulation 18 VAC 47-20-180.

Since it appears that no one suffered any harm from what appears to be a clerical oversight, I recommend that no monetary penalty be imposed for the violation of this regulation.

By: _____

David Mark Farris, II
Presiding IFF Board Member
Cemetery Board

Date: August 12, 2003

FINAL ORDER RECOMMENDATION

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER 4901 000100 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

CEMETERY BOARD

**RE: NATIONAL MEMORIAL PARK / KING DAVID MEMORIAL GARDENS
LICENSE NUMBER: 4901 000031**

FILE NUMBER: 2003-00177

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on August 12, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to National Memorial Park / King David Memorial Gardens on June 19, 2003.. The following individuals participated at the conference: Jeff Hodes, representative for National Memorial Park / King David Gardens, Respondent and Jack Wilson, their Attorney; Douglas W. Schroder, Staff Member; Herbert Nichols, Investigator; and David Mark Farris, II, presiding Board Member.

Background

In a complaint that was docketed on July 24, 2002, against National Memorial Park / King David Memorial Gardens (National Memorial / King David), 7482 Lee Highway, Falls Church, Virginia, Stanley and Janet Kieffer (the Kieffers), stated that they purchased two cemetery lots after being provided erroneous information by cemetery personnel and that the cemetery originally refused to cancel their contract and refund their deposit.

Summation of Facts

1. On or about May 7, 2002, the Kieffers visited National Memorial / King David to see the cemetery lots that Lloyd Kieffer had transferred to them in 1998. They went to the office to obtain the lot numbers and the location of the lots in the cemetery. After an extended period of time, the Kieffers were informed by Family Service Counselor, Claire Weinberger, that there was no record of Stanley or Lloyd Kieffer owning any lots at the cemetery. After being informed that they did not own any lots, the Kieffers entered into a contract to purchase two interment rights and pay the opening and closing costs.
2. On or about May 8, 2002, the Kieffers located their certificate of interment rights from National Memorial / King David, which revealed that they owned, Sites 3 & 4, in Rose Garden, Lot 2. The certificate was dated December 10, 1998.

3. In a certified letter, dated May 8, 2002, and signed for by Pamela Green at National Memorial / King David on May 10, 2002, the Kieffers requested cancellation of the contract written on May 7, 2002, and a refund of their \$600.00 deposit.

4. The Kieffers faxed the same letter to National Memorial / King David on May 9, 2002 at 10:33 a.m. and a copy of the fax result sheet showed that the fax was received.

5. Approximately two weeks after the request to cancel the contract was forwarded to National Memorial / King David, Stanley Kieffer telephoned the cemetery and spoke with Richard Perkins. Perkins told Kieffer that the right to cancellation did not apply, because they came to the cemetery and the contract was written in the office.

6. In a letter dated July 9, 2002, and addressed to National Memorial / King David, the Kieffers stated that due to the cemetery not responding to their written correspondence and not returning messages left on their answering machine, they were getting in touch with the Cemetery Board.

7. On or about July 15, 2002, the Kieffers telephoned National Memorial / King David and spoke with David Cole. Cole told the Kieffers that the cemetery had "screwed up" and National Memorial was sending them a refund check and canceling their contract.

8. The Kieffers received a refund check for \$600.00 on July 29, 2002.

9. On or about July 29, 2002, the Board's Agent, Investigator Herbert W. Nichols (Nichols) interviewed Jeff Hodes (Hodes), General Manager of National Memorial / King David. Hodes told Nichols that he recently transferred from Maryland to Virginia and he was not aware that Virginia Statutes allowed a three day contract cancellation period, regardless of where the contract is written. Hodes said that he would make sure that all cemetery personnel are aware of this statute.

10. Hodes further stated that he was unsure why the Kieffer's records were not located on May 7, 2002. He said that sometimes records fail to get into the computer system and some of the old records are on microfilm, but the record of deeds and transfers showed that Lloyd and Mabel Kieffer's deed for sites 3 and 4, in Rose Garden, Lot 2, was recorded on August 15, 1967. These records further revealed that on December 10, 1998, sites 3 and 4 were transferred to Stanley and Janet Kieffer. The card file on record of sales showed that Lloyd and Mabel Kieffer purchased these lots on May 24, 1967.

11. Hodes provided a copy of a contract, that he had pulled from microfilm, that revealed that Lloyd and Mabel Kieffer purchased two interment rights in West Cloister, North Wall, Patio B, E-83, on February 9, 1991.

Conclusion and Recommendation

Count I: 18 VAC 47-20-190(13) (Effective Date July 1, 2000)

National Memorial / King David's failure to retrieve and provide the correct information to the Kieffers, concerning their interment rights, selling them additional interment rights based on the erroneous information, then originally refusing to cancel the contract written (within the 3-day right of cancellation), is engaging in improper conduct, in violation of the Board's Regulation 18 VAC 47-20-190(13). I recommend that a monetary penalty of \$250.00 be imposed for a violation of this regulation.

The Kieffer's received the refund of their deposit within three months of cancellation of the contract and the issue of lot ownership has been resolved.

By: _____

David Mark Farris, II
Presiding IFF Board Member
Cemetery Board

Date: August 12, 2003

FINAL ORDER RECOMMENDATION

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER 4901 00031 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

CEMETERY BOARD

**RE: NATIONAL MEMORIAL PARK / KING DAVID MEMORIAL GARDENS
LICENSE NUMBER: 4901 000031**

FILE NUMBER: 2003-00723

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on August 12, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to National Memorial Park / King David Memorial Gardens on June 19, 2003.. The following individuals participated at the conference: Jeff Hodes, representative for National Memorial Park / King David Gardens, Respondent and Jack Wilson, their Attorney; Douglas W. Schroder, Staff Member; Herbert Nichols, Investigator; and David Mark Farris, II, presiding Board Member.

Background

On September 12, 2002, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complaint from Lloyd and Mabel Kieffer against National Memorial Park (National Memorial / King David), 7482 Lee Highway, Falls Church, Virginia. On or about May 7, 2002, they learned that National Memorial did not have any record of them owning burial rights at that cemetery.

The Kieffers mailed proof of ownership of two burial rights at National Memorial / King David and they made two written requests to the cemetery for evidence that their records have been corrected.

As of September 27, 2002, Lloyd Kieffer had not received a response from National Memorial.

Summation of Facts

1. On or about May 7, 2002, Stanley and Janet Kieffer, son and daughter-in-law of Lloyd and Mabel Kieffer, visited National Memorial / King David to see the cemetery lots that Lloyd Kieffer transferred to them in 1998. They went to the office to obtain the lot numbers and the location of the lots in the cemetery. After an extended period of time, Stanley and Janet Kieffer were informed by Family

Service Counselor, Claire Weinberger, that there was no record of them or Lloyd Kieffer owning any lots at the cemetery.

2. Stanley Kieffer informed Lloyd and Mabel Kieffer that National Memorial / King David had no record of them owning any lots at the cemetery.

3. Mabel Kieffer located a copy of a contract with National Memorial / King David, dated February 9, 1991, showing that she and her husband, Lloyd, purchased two burial rights in West Cloister, North Wall, Patio B, E-83. In addition, Mabel Kieffer produced a certificate of interment rights for the above spaces for her and her husband, which was dated April 10, 1992.

4. Lloyd and Mabel Kieffer forwarded these documents to National Memorial / King David in June 2002 and requested a written response showing that their records had been corrected.

5. When they did not receive a response, on July 23, 2002, Mabel Kieffer mailed a second letter requesting a response showing that the corrections had been made. This letter was sent by certified mail and it was signed for at National Memorial / King David by M. Barry on July 27, 2002.

6. As of September 27, 2002, Lloyd and Mabel Kieffer had not received a response from National Memorial / King David.

7. On or about October 29, 2002, Nichols interviewed Jeff Hodes (Hodes), General Manager of National Memorial / King David. Hodes told Nichols that he was unsure why the Kieffer's records were not located on May 7, 2002. He said that sometimes records fail to get into the computer system and some of the old records are on microfilm, but the record of certificates and transfers showed that Lloyd and Mabel Kieffer's certificate for Unit E-83, in West Cloister – North Wall, Patio B, was recorded on March 25, 1992. The card file on record of sales showed that Lloyd and Mabel Kieffer purchased this unit on February 9, 1991.

8. Hodes provided a copy of records that revealed that Lloyd and Mabel Kieffer had purchased two interment rights in Rose Garden, Lot 2, on May 24, 1967 and they transferred these two lots to Stanley and Janet Kieffer on December 10, 1998.

Conclusion and Recommendation

Count I: 18 VAC 47-20-190(13) (Effective Date July 1, 2000)

National Memorial / King David's actions of providing erroneous information concerning the ownership of burial rights and their failure to respond

to a request for evidence that the cemetery records had been corrected is improper conduct and therefore, I find a violation of 18 VAC 47-20-190(13).

I will not recommend that a monetary penalty be imposed for a violation of this regulation due to the recommended sanction I have imposed in file number 2003-00177, which involves the same licensee.

By: _____

David Mark Farris, II
Presiding IFF Board Member
Cemetery Board

Date: August 12, 2003

FINAL ORDER RECOMMENDATION

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER 4901.000031 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

STATE AND LOCAL GOVERNMENT
CONFLICT OF INTEREST ACT

TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government

1. Name: David Mark Farris, II
2. Title: Member
3. Agency: Cemetery Board
4. Transaction: Informal Fact-Finding Conferences on August 12, 2003
5. Nature of Personal Interest Affected by Transaction: _____

6. I declare that:

(a) I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

(b) I am able to participate in this transaction fairly, objectively, and in the public interest.

David Mark Farris, II
Signature

8-12-03
Date

RE LIC
AUG 15 2003