

Minutes of Meeting
VIRGINIA CEMETERY BOARD
INFORMAL FACT-FINDING CONFERENCES
DECEMBER 23, 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.

Mike Doherty, Cemetery 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

AT=Attorney

CA=Compliance Agent

GM=General Manager

I=Investigator

Participants

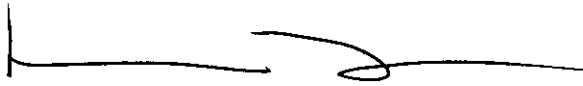
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|----|---|---|
| 1. | Stitham Inc. t/a Virginia Memorial Park
File Number 2003-01569 (Disc)
No Decision Made | Stitham Inc. – R
Deb Martz - GM
Henry Willett - R's AT
Herb Nichols – I |
| 2. | Wise Corporation t/a Greenwood
Memorial Gardens
File Number 2003-02339 (Disc) | Cynthia Stein - Wise GM
Rudy Cox - W
Herb Nichols – I |
| 3. | Tidewater Cemetery Corp
File Number 2003-02252 (Disc) | Mary Fanshaw – CA
Herb Nichols – I |
| 4. | University of Richmond
t/a Columbarium & Memorial Gardens
File Number 2004-00334 (Disc) | David Ronald Inlow – CA
Mary Barnett – Auditor/CPA
Andrea Patenaude – Auditor/W
Herb Nichols – I |

5. Holston View Cemetery Development
Company Incorporated
File Number 2004-00910 (Disc)

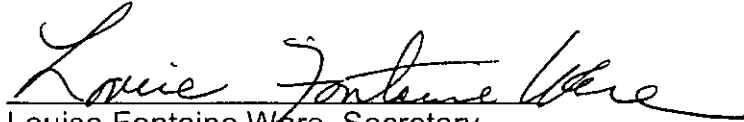
Vivian Farley – CA
Herb Nichols - I

The meeting adjourned at 12:30 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: WISE CORPORATION, T/A GREENWOOD MEMORIAL GARDENS
LICENSE NUMBER: 4901 000017**

FILE NUMBER: 2003-02339

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on December 23, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Wise Corporation, t/a Greenwood Memorial Gardens (Greenwood) on November 17, 2003. The following individuals participated at the conference: Cynthia

Stein, General Manager for Greenwood, Respondent; Rudy Cox, General Manager for Washington Memorial Gardens, Witness; Herbert Nichols, Investigator; Douglas W. Schroder, Staff Member; Mike Doherty, presiding Board Member.

Summation of Facts

1. On or about February 28, 2003, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complaint from Robert Mark (Mark) against Greenwood Memorial Gardens (Greenwood), 12609 Patterson Avenue, Richmond, Virginia.
2. Mark's complaint concerned his 75-year-old mother, Cecelia Mark's (C. Mark) going to Greenwood, entering into a contract for grave spaces, merchandise and services to bury his father, Robert C. Mark. Greenwood failed to honor this contract, which caused difficulty in completing funeral arrangements for his father. In addition, Mark complained that while he and his mother were at the cemetery making burial arrangements, Greenwood failed to provide them with a written general price list.
3. On or about February 6, 2003, Cecelia Mark (C. Mark) entered into a contract with Greenwood to purchase six interment rights, a memorial and the opening and closing of her husband's grave on February 10, 2003, which was completed by Harry Hamilton, III (Hamilton), Family Service Director for Greenwood. After making a \$2,757.00 down payment, C. Mark assumed that arrangements were complete for her husband's burial. C. Mark was not provided with a copy of Greenwood's written general price list.
4. On February 7, 2003, Hamilton notified C. Mark to inform her that he had made a mistake in pricing and that she must pay the cemetery an additional \$2,495.00 before her husband could be buried.
5. Hamilton completed the C. Mark contract for burial arrangements for her husband and due to his pricing mistake, the cemetery was unable to honor the contract.
6. This pricing mistake resulted in the funeral being delayed two days, while the family made arrangements for the burial at another location.
7. Hamilton discussed burial arrangements with C. Mark in person, and then wrote her a contract for burial services. By his own admission, Hamilton failed to provide C. Mark with a written general price list.

Conclusion and Recommendation

Count 1: Section 54.1-2327(A) of the Code of Virginia

Greenwood's failure to provide C. Mark with a written general price list, in connection with burial services provided by the cemetery company, is a violation of § 54.1-2327(A) of the Code of Virginia. Additionally, I recommend that no monetary penalty be imposed for a violation of this regulation.

By: _____

Mike Doherty
Presiding IFF Board Member
Cemetery Board

Date: _____

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

CEMETERY BOARD

RE: TIDEWATER CEMETERY CORPORATION,
T/A COLONIAL GROVE MEMORIAL PARK AND
CHESAPEAKE MEMORIAL GARDENS

LICENSE NUMBER: 4901 000024

FILE NUMBER: 2003-02252

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on December 23, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Tidewater Cemetery Corporation (Tidewater), t/a Colonial Grove Memorial Park (Colonial Grove) and Chesapeake Memorial Gardens (Chesapeake Memorial), on November 17, 2003. The following individuals participated at the conference:

Mary Fanshaw, Compliance Agent for Greenwood, Respondent; Herbert Nichols, Investigator; Douglas W. Schroder, Staff Member; Mike Doherty, presiding Board Member.

Summation of Facts

1. On February 13, 2003, the Enforcement Division of the Department of Professional and Occupational Regulation received a written request from Christine Martine (Martine), Cemetery Board Administrator, to investigate possible violations of Virginia Statutes and/or Cemetery Board regulations by Tidewater Cemetery Corporation (Tidewater), t/a Colonial Grove Memorial Park (Colonial Grove) and Chesapeake Memorial Gardens (Chesapeake Memorial), 1485 Kempsville Road, Virginia Beach, Virginia.
2. The annual report submitted by Tidewater indicated that both Colonial Grove and Chesapeake Memorial failed to deposit a minimum of ten percent of the receipts from the sale of graves, above ground crypts and niches in the perpetual care trust fund for the month of May 2001. In addition, both cemeteries failed to make the deposit into the perpetual care trust fund within thirty days after the close of the month for the month of March 2002.
3. The perpetual care trust fund financial report – schedule B, submitted by Tidewater for Colonial Grove revealed on line 2, column B, that the required deposit for May 2001 was \$1,671.00. Column C, on the same line, showed that the amount deposited was \$196.49, which resulted in a deposit shortage of \$1,474.51. On the same report, line 12, column D, revealed that a portion of the required deposit for the month of March 2002 was not made until May 16, 2002, which was 16 days late. The report further revealed that Colonial Grove deposited the correct amount in the perpetual care trust fund for fiscal year ending March 31, 2002.
4. The perpetual care trust fund financial report – schedule B, submitted by Tidewater for Chesapeake Memorial revealed on line 2, column B, that the required deposit for May 2001 was \$1,342.72. Column C, on the same line, showed that no deposit was made for May 2001, which resulted in a deposit shortage of \$1,342.72. On the same report, line 12, column D, revealed that a portion of the required deposit for the month of March 2002 was not made until May 16, 2002, which was 16 days late. The correct amount was deposited into the Chesapeake Memorial perpetual care trust fund for fiscal year March 31, 2002.
5. Tidewater estimated the amount of their deposits in the perpetual care trust fund for April 2001. In both Colonial Grove and Chesapeake Memorial, their April deposits exceeded the amount required to be deposited in the perpetual care trust fund. The deposits are estimated for the first month of the fiscal year because their computer system has to clear out the previous year before entering

data for the new year. Therefore, the cemetery does not know what the required deposit is until the second month of the fiscal year. They applied the excess April deposits to the required May deposits, which resulted in the May deposit shortage.

6. The annual report also revealed that Colonial Grove failed to deposit a minimum of forty percent of the receipts for the month of May 2001 in the preneed trust fund and Chesapeake Memorial failed to make the April 2001 preneed deposit within thirty days after the close of the month in which the receipts were paid to it.

7. The preneed trust fund financial report – schedule B, submitted by Tidewater for Colonial Grove revealed on line 2, column B, that the required deposit for May 2001 was \$688.23. Column C, on the same line, showed that the amount deposited was \$628.10, which resulted in a deposit shortage of \$60.13. The financial report revealed that the correct amount was deposited in the preneed trust fund for fiscal year ending March 31, 2002.

8. The preneed trust fund financial report – schedule B, submitted by Tidewater for Chesapeake Memorial revealed on line 1, column B, that the required deposit for April 2001 was \$396.63. Column C, on the same line, showed that no deposit was made for April, which resulted in a deposit shortage of \$396.63. On Line 2, of the same report, it reveals in column C, that the April deposit was included in the May 2001 deposit and column D reveals that deposit was made on June 21, 2001. The April 2001 deposit was 21 days late. No April deposit was made because April 2001 records were not complete and they did not know how much to deposit. The financial report revealed that the correct amount was deposited in the preneed trust fund for fiscal year ending March 31, 2002.

9. Tidewater estimated the amount of their deposit in the preneed trust fund for April 2001 for Colonial Grove and their deposit exceeded the amount required to be deposited in the preneed trust fund for that month. The deposit was estimated for the first month of the fiscal year because their computer system has to clear out the previous year before entering data for the new year. Therefore, the cemetery does not know what the required deposit is until the second month of the fiscal year. They applied the excess April deposit to the required May deposit, which resulted in the May deposit shortage for Colonial Grove.

Conclusion and Recommendation

The fiscal year for this cemetery company ends March, 31st. The regulant described their accounting system as such that they cannot start April's books until the previous year is completely closed out. This takes them more than a month. As a result, they over estimate the sales for April, and net it out in May.

This is not permitted under the law. However, this regulant does not seem to be able to come into compliance. Its own exhibit (Tidewater I) shows a similar situation for the following year.

Count 1: Section 54.1-2319 of the Code of Virginia (4 violations)

Tidewater's failure to deposit a minimum of ten percent in the perpetual care trust fund, for Colonial Grove and Chesapeake Memorial, for the month of May 2001 and the deposits were not made within thirty days after the close of the month in which the receipts were paid to it, for the month of March 2002, is a violation of § 54.1-2319 of the Code of Virginia (4 violations). Therefore, I recommend that a monetary penalty of \$500.00 be imposed for each violation of this regulation, for a total monetary penalty of \$2,000.00.

Count 2: Section 54.1-2325 of the Code of Virginia (2 violations)

Tidewater's failure to deposit a minimum of forty percent of the receipts for the month of May 2001 in the preneed trust fund for Colonial Grove and Tidewater's failure to make the April 2001 preneed deposit within thirty days after the close of the month in which the receipts were paid to it for Chesapeake Memorial, is a violation of § 54.1-2325 of the Code of Virginia (2 violations). Therefore, I recommend that a monetary penalty of \$500.00 be imposed for each violation of this regulation, for a total monetary penalty of \$1,000.00.

By: _____

Mike Doherty
Presiding IFF Board Member
Cemetery Board

Date: _____

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 000024 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION**

CEMETERY BOARD

**RE: UNIVERSITY OF RICHMOND T/A COLUMBARIUM AND
MEMORIAL GARDEN**

LICENSE NUMBER: 4901 000096

FILE NUMBER: 2004-00334

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on December 23, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to University of Richmond, t/a Columbarium and Memorial Garden (U of R Columbarium and Memorial Garden), on November 17, 2003. The following individuals participated at the conference: David Ronald Inlow, Compliance Agent for Columbarium and Memorial Garden, Respondent; Andrea Patenaude, Auxillary Services; Mary Barnett, CPA, and Director of Internal Audit; Herbert Nichols, Investigator; Douglas W. Schroder, Staff Member; Mike Doherty, presiding Board Member.

Summation of Facts

1. On or about June 28, 2003, the Enforcement Division of the Department of Professional and Occupational Regulation received a written request from Christine Martine (Martine), Cemetery Board Administrator, to investigate possible violations of Virginia Statutes and/or Cemetery Board regulations by the University of Richmond, t/a Columbarium and Memorial Garden (U of R Columbarium and Memorial Garden), 28 Westhampton Way, University of Richmond, Virginia.
2. The annual report for year ending June 30, 2002, submitted by U of R Columbarium and Memorial Garden indicated that they failed to make deposits to the perpetual care trust fund within thirty days after the close of the month for March, May and June 2002. In addition, the annual report revealed that trustee fees exceeded their income, which resulted in a reduction of trust fund principal.
3. The perpetual care trust fund financial report – schedule B, submitted by U of R Columbarium and Memorial Garden revealed on line 3, column D that the March 2002 deposit was made on May 24, 2002. That deposit was 24 days late.

4. An addendum to the perpetual care trust fund financial report – schedule B, submitted by U or R Columbarium and Memorial Garden revealed that \$335.00 of the required deposits for the month of May 2002 and \$935.00 of the required deposits for the month of June 2002 were not deposited until after the fiscal year. On August 6, 2002, \$1,340.00 was deposited into the perpetual care trust fund to cover those two deposits. The May deposit was 37 days late and the June deposit was 7 days late. The correct amount was deposited into the perpetual care trust fund for fiscal year ending June 30, 2002.

5. The perpetual care trust fund financial report – schedule A, submitted by U of R Columbarium and Memorial Garden revealed on line 14, column A, that deductions exceeded income by \$723.00, which resulted in the perpetual care trust fund principal being reduced by that amount on line 15, column B. The U of R Columbarium and Memorial Garden utilized perpetual care trust funds other than income for the administration of the Columbarium.

6. The annual report submitted by U of R Columbarium and Memorial Garden for fiscal year ending June 30, 2002, did not include an audit by an independent certified public accountant.

Conclusion and Recommendation

It appears that this regulant began operations in 2001. They have demonstrated an intent to comply with all regulations and statutes, and have put procedures in place to ensure compliance.

Count 1: Section 54.1-2319 of the Code of Virginia

U of R Columbarium and Memorial Garden's failure to make deposits in the perpetual care trust fund, within thirty days after the close of the month in which the receipts were paid to it, for the months of March, May and June 2002, is a violation of § 54.1-2319 of the Code of Virginia. Additionally, I recommend that no monetary penalty be imposed for violation of this regulation.

Count 2: Section 54.1-2322 of the Code of Virginia

U of R Columbarium and Memorial Garden use of perpetual care trust funds, other than income for the administration of the Columbarium, is a violation of § 54.1-2322 of the Code of Virginia. Additionally, I recommend that no monetary penalty be imposed for violation of this regulation.

The regulant has decided, for the time being, to pay all of its trustee fees from other funds (i.e., neither income nor principal), and has reimbursed the fund \$3,012.33.

Count 3: Section 54.1-2324(B) of the Code of Virginia

U of R Columbarium and Memorial Garden's failure to provide an audit by an independent certified public accountant is a violation of § 54.1-2324(B) of the Code of Virginia. Additionally, I recommend that no monetary penalty be imposed for violation of this regulation.

A CPA audit report has now been filed.

By: _____

Mike Doherty
Presiding IFF Board Member
Cemetery Board

Date: _____

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION
CEMETERY BOARD

RE: HOLSTON VIEW CEMETERY DEVELOPMENT COMPANY, INC.

LICENSE NUMBER: 4901 000040

FILE NUMBER: 2004-00910

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on December 23, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Holston View Cemetery Development Company, Inc., on November 17, 2003. The following individuals participated at the conference: Vivian Farley, Compliance Agent for Holston View Cemetery Development Company, Inc., Respondent by telephone; Herbert Nichols, Investigator; Douglas W. Schroder, Staff Member; Mike Doherty, presiding Board Member.

Summation of Facts

1. On or about August 28, 2003, the Enforcement Division of the Department of Professional and Occupational Regulation (DPOR) docketed a Board complaint to investigate possible violations of Virginia Statutes and/or Cemetery Board regulations by Holston View Cemetery Development Company, Inc. (Holston View), 171 US Highway 23 South, Weber City, Virginia, after review of the annual financial report submitted by that cemetery.
2. The perpetual care financial report - schedule B for fiscal year ending September 30, 2002, submitted by Holston View indicated that the cemetery failed to deposit ten percent of the receipts from the sale of graves and above ground crypts or niches in the perpetual care trust fund for the months of October 2001, March 2002, August 2002, and September 2002.
3. The perpetual care trust fund financial report – schedule B, submitted by Holston View revealed on line 1, column B that the required deposit for October 2001 was \$945.00. Column C on the same line revealed that the amount deposited was \$944.00, which resulted in a \$1.00 deposit shortage.
4. On line 6 of schedule B, column B showed that the required deposit for March 2002 was \$1,180.00. Column C on the same line shows that the amount deposited was \$1,105.00, which resulted in a \$75.00 deposit shortage.
5. On line 11 of the same schedule, column B revealed that the required deposit for August 2002 was \$1,245.00. Column C on the same line revealed that the amount deposited was \$1,240.00, which resulted in a \$5.00 deposit shortage.
6. On line 12 of schedule B, column B showed that the required deposit for September 2002 was \$700.00. Column C on the same line shows that the amount deposited was \$695.00, which resulted in a \$5.00 deposit shortage.
7. The total deposit shortage for fiscal year ending September 30, 2002 was \$86.00. A deposit was made to the perpetual care trust for that amount on July 28, 2003. With that deposit the correct amount was deposited in the perpetual care trust fund for fiscal year 2002.
8. The fiscal year for Holston View ended on September 30, 2002.
9. The annual financial report for Holston View was due by January 31, 2003. Their annual report was stamped as being received at the Department of Professional and Occupational Regulation (DPOR) on August 4, 2003.

10. The cemetery books were picked up by Doug Blackley, CPA, in November 2002 to complete the annual report. The books and the annual report were returned to the cemetery on August 1, 2003.

11. Holston View's annual report was mailed to DPOR on August 1, 2003.

12. Holston View failed to file their annual financial report with the Cemetery Board within four months after the close of their 2002 fiscal year.

13. During the IFF, Farley testified that the errors in the trust reports were due to a malfunctioning calculator (which has now been replaced).

Conclusion and Recommendation

Count 1: Section 54.1-2319 of the Code of Virginia

Holston View's failure to deposit ten percent in the perpetual care trust fund for the months of October 2001, March 2002, August 2002, and September 2002, is a violation of § 54.1-2319 of the Code of Virginia. Therefore, I recommend that a monetary penalty of \$500.00 be imposed for violation of this regulation.

Count 2: Section 54.1-2324 of the Code of Virginia

Holston View's failure to provide their annual financial report within four months after the close of their 2002 fiscal year, is a violation of § 54.1-2324 of the Code of Virginia. Therefore, I recommend that a monetary penalty of \$500.00 be imposed for violation of this regulation.

By: _____

Mike Doherty
Presiding IFF Board Member
Cemetery Board

Date: _____

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 000040 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: Mike Doherty
2. Title: Member
3. Agency: Cemetery Board
4. Transaction: Informal Fact-Finding Conferences on December 23, 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.

Signature

Date

Mike H Doherty

12-23-03