

Minutes of Meeting
VIRGINIA CEMETERY BOARD
INFORMAL FACT-FINDING CONFERENCES
JUNE 14, 2004 (1:00 P.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.

Disc=Disciplinary Case

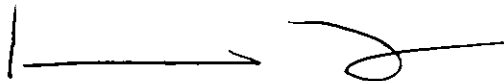
C=Complainant/Claimant
R=Respondent/Regulant
CA=Compliance Agent
Atty=Attorney
I=Investigator

Participants

- | | | |
|----|---|---|
| 1. | Heritage Family Cemetery, Inc.
File Number 2004-03333 (Disc) | Renee Lockhard –
representing R
Herb Nichols – I |
| 2. | The Chancellorsville Memorial Garden, LLC
File Number 2003-02425 (Disc) | Mary P. Hawthorne - CA
Akira Mendoza, VP
Herb Nichols – I |
| 3. | Temple Hill Corporation
t/a Temple Hill Memorial Park
File Number 2004-01749 (Disc) | Deb Martz – representing R
Henry Willet – R's Atty
Leon & Shirley Selfe – C
Herb Nichols – I |
| 4. | Southern Memorial Sales, Inc.
t/a Oaklawn Mausoleum &
Memory Gardens
File Number 2004-00261 (Disc) | Frank Milles - CA
Henry Willet – R's Atty
Herb Nichols – I |
- No Decision Made**

The meeting adjourned at 5:30 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: HERITAGE FAMILY CEMETERY, INC.
LICENSE NUMBER: 4901 000099**

FILE NUMBER: 2004-03333

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on June 14, 2004, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Heritage Family Cemetery on May 20, 2004. The following individuals participated at the conference: Catherine Renee Lockhard (Lockhard), on the Board of Directors for Heritage Family Cemetery; Herb Nichols, Investigator; Douglas W. Schroder, Staff Member; and David Mark Farris, II, presiding Board Member.

Background

On or about February 23, 2004, 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 Heritage Family Cemetery, Inc. (Heritage), 113 Memory Gardens Drive, Johnson City, Tennessee.

The combined annual report submitted by Heritage for Knollkreg Memorial Park, Mountain View Cemetery and Sunset Memorial Park indicated that they 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 within 30 days after the close of the month for the months of February, March, April, May, June, and August of 2002.

In addition, the annual report revealed that Heritage failed to deposit a minimum of forty percent of the receipts in the preneed trust fund within 30 days after the close of the month for the months of January, February, March, April, May, and June of 2002.

Summation of Facts

1. The perpetual care trust fund financial report – schedule B, submitted by Heritage revealed on line 3, column D that the February 2002 deposit was made on August 19, 2002, which was 132 days late. Line 4, column D, revealed that the March 2002 deposit was made on August 19, 2002, which was 111 days late. Line 5, column D, revealed that the April 2002 deposit was made on August 19, 2002, which was 81 days late. Line 6, column D, revealed that the May 2002 deposit was made on August 19, 2002, which was 50 days late. Line 7, column D, revealed that June 2002 deposit was made on August 26, 2002, which was 27 days late. Line 9, column D, revealed that the August 2002 deposit was made on October 9, 2002, which was 9 days late.
2. This financial report further revealed that the correct amount was deposited in the perpetual care trust fund for fiscal year ending December 31, 2002.
3. The preneed trust fund financial report – schedule B, submitted by Heritage revealed on line 2, column D, that the January 2002 deposit was made on August 19, 2002, which was 170 days late. Line 3, column D, revealed that the February 2002 deposit was made on August 19, 2002, which was 142 days late. Line 4, column D, revealed that the March 2002 deposit was made on August 19, 2002, which was 111 days late. Line 5, column D, revealed that the April 2002 deposit was made on August 19, 2002, which was 81 days late. Line

6, column D, revealed that the June 2002 deposit was made on August 19, 2002, which was 20 days late.

4. This financial report revealed that the correct amount was deposited in the preneed trust fund for fiscal year ending December 31, 2002.

5. Lockhard testified that they purchased the cemetery from SCI on December 21, 2001 and did not have the contracts numbers needed to make the necessary deposits. Lockhard stated that they should have made those deposits but waited until they had all the documentation to do so. Lockhard also testified that they contacted DPOR to keep them abreast of why they were late on the required deposits. Additionally, Lockhard testified that all deposits since September have been made on time. Lockhard stated that they were attempting to install a new computer system because some of the SCI properties had not computerized their records.

6. Lockhard also testified that during the time that no deposits were being made to the trusts, they also did not make any withdraws from the preneed trust.

Conclusion and Recommendation

Count 1: Section 54.1-2319 of the Code of Virginia (6 violations)

Heritage's failure to deposit a minimum of ten percent 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 February, March, April, May, June, and August of 2002, is in violation of § 54.1-2319 of the Code of Virginia (6 violations).

The January 2002 deposit, for the perpetual care trust fund, was made on time because Lockhard and her associate computed the required amount by hand. After this time, the company installed Nexus computer software to calculate future deposits, which took several months. Therefore, I recommend that no monetary penalties be imposed.

Count 2 Section 54.1-2325 of the Code of Virginia (6 violations)

Heritage's failure to deposit a minimum of forty percent of the receipts in the preneed trust fund within 30 days after the close of the month for the months of January, February, March, April, May and June of 2002, is in violation of § 54.1-2325 of the Code of Virginia (6 violations).

All deposits since August have been made on time. Therefore, I recommend that no monetary penalties be imposed.

By: _____
David Mark Farris, II
Presiding 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 000099 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

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

**RE: CHANCELLORSVILLE MEMORIAL GARDENS, LLC
LICENSE NUMBER: 4901 000091**

FILE NUMBER: 2003-02425

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on June 14, 2004, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Chancellorsville Memorial Gardens, LLC on May 20, 2004. The following individuals participated at the conference: Mary Hawthorne, Compliance Agent; Akira Mendoza, Vice President of Special Projects for Chancellorsville Memorial Gardens, LLC; Herb Nichols, Investigator; Douglas W. Schroder, Staff Member; and David Mark Farris, II, presiding Board Member.

Background

On March 12, 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 Chancellorsville Memorial Garden, LLC (Chancellorsville), 4343 Plank Road, Suite 230, Fredericksburg, Virginia.

Chancellorsville failed to provide a financial report and written assurance to the Board within four months after the close of its fiscal year ending December 31, 2001.

Summation of Facts

1. On or about April 14, 2003, Akira Mendoza (Mendoza), Vice President of Chancellorsville, told the Board's Agent, Investigator Herbert W. Nichols (Nichols) that he would renew the cemetery license. It was renewed on May 15, 2003.
2. Mendoza further stated that Walt Darrow (Darrow), CPA, was working on the 2001 annual report.
3. On or about April 24, 2003, Darrow told Nichols that he would have the 2001 annual report completed in a few days. He was waiting on deposit information to complete the report.
4. On June 10, 2003, Darrow was contacted and he said that he had laid the report aside. He said all it needs is typing and he would mail it in the next couple of days.
5. On or about July 9, 2003, Darrow told Nichols that the annual report was mailed yesterday. He had to wait for the owners to sign it.
6. Annual report for fiscal year ending December 31, 2001 was received on July 10, 2003. The financial report submitted for the perpetual care trust fund was incomplete, had incorrect addition, failed to provide required documentation, deductions exceeded income, schedule D, column C did not agree with schedule A, line 15, and the only audit report was for the preneed trust fund, for which no reports were provided.
7. On or about July 29, 2003, Nichols met with Darrow and explained the problems with the annual report. Darrow stated that he would obtain the necessary information from the cemetery and resubmit the annual report.

8. On December 17, 2003, Nichols telephoned Darrow and he stated that he had not been able to get the information from the cemetery to complete the annual report. Darrow stated that he called the cemetery and requested the information, but has not received anything. He said that he has called back several times, but no response.

9. On the same date, Nichols telephoned Akira Mendoza at the cemetery office and told him that the CPA said that he could not get the information to complete the 2001 annual report. Mendoza said that if he had it he would get it to the CPA that day.

10. As of January 27, 2004, the revised annual report has not been received. The annual report for fiscal year ending December 31, 2001, was due by April 30, 2002.

11. At the IFF, Mendoza submitted a copy of the 2001 annual report for Chancellorsville, completed on Friday, June 11, 2004, which is incomplete and shows no deposits to the perpetual care trust fund and an overall loss in principal in column B. During the IFF, Mendoza stated that between 2000 and 2003 the cemetery has "gone through" three bookkeepers and are currently looking for a new CPA. Mendoza testified that this has created accounting problems for the cemetery. Mendoza also stated that there have been no sales made at the cemetery since 2002.

12. Mary Hawthorne, the current Compliance Agent for Chancellorsville, testified that she has recently taken this position with the cemetery and believes the cemetery will begin making sales and be a profitable business in the near future. Hawthorne stated that they have some part-time salespersons registered with the Board but they are not currently working.

Conclusion and Recommendation

Count 1: Section 54.1-2324 of the Code of Virginia

Chancellorsville's failure to provide a financial report and written assurance to the Board within four months after the close of its fiscal year ending December 31, 2001, is in violation of § 54.1-2324 of the Code of Virginia. Therefore, I recommend that a monetary penalty of \$1,000.00 be imposed and that their license be suspended until which time they have filed their 2001, 2002 and 2003 annual reports correctly with the Board.

By: _____
David Mark Farris, II

**Presiding 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 000091 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

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

**RE: TEMPLE HILL CORPORATION
T/A TEMPLE HILL MEMORIAL PARK
LICENSE NUMBER: 4901 000062**

FILE NUMBER: 2004-01749

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on June 14, 2004, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Temple Hill Corporation on May 20, 2004. The following individuals participated at the conference: Deb Martz, Regional Administrator, on behalf of Temple Hill Corporation, the Respondent; Henry Willett, Attorney for the Respondent; Lincoln Leon and Shirley Selfe, the Complainants by telephone; Herb Nichols, Investigator; Douglas W. Schroder, Staff Member; and David Mark Farris, II, presiding Board Member.

Background

On October 21, 2003, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complaint from Leon and Shirley Selfe (Mr. and Mrs. Selfe), P.O. Box 271, St. Paul, Virginia, concerning the lack of maintenance at Temple Hill Memorial Park (Temple Hill), Route 3, Box 76, Castlewood, Virginia.

The complainant provided a video tape and photographs, which were taken by the complainant the last week of September 2003. The video and photographs reveal the condition of the cemetery at that time.

Summation of Facts

1. On or about November 19, 2003, the Board's Agent, Investigator Herbert W. Nichols (Nichols), interviewed Linda Smith (Smith), Administrator of Temple Hill, in her office.
2. The video and photographs provided by the complainant were reviewed with Smith, her office staff and maintenance personnel.
3. After reviewing the video and photographs and seeing the tall grass around markers, grass clippings laying on markers, markers that had sunken in the ground, markers and flower vases that were chipped or broken and the overall condition of the cemetery at the time of the video, Smith offered the following explanation. She stated that they have 38.17 developed acres in the cemetery and they have four (4) full time maintenance persons and one (1) additional person during the summer. She said that there is a high turnover in personnel, which presented shortages of persons to maintain the grounds. In addition, the full time personnel took vacation in the summer, which reduced maintenance further.
4. Smith advised that it takes ten (10) days to mow and weed eat the entire cemetery. She said sometimes they do not blow the grass clippings off the tomb stones, due to time constraints.
5. In addition to mowing and weed eating, Smith said the same persons open and close graves. Between January and October of 2003, the cemetery had 145 burials. Smith stated that the amount of time required to open and close a grave varied according to the location in the cemetery where the burial occurred. She said that it could take between one and two hours or if it was in rock, it could take as long as two days.
6. Smith took Nichols on a tour of the cemetery and he observed some chipped stones and sunken markers, but the grass was cut and weed eating had

been done around all markers. In addition, there were no grass clippings on the markers.

7. Temple Hill Corporation t/a Temple Hill Memorial Park, is owned by Cornerstone Family Services.

8. During the IFF, Mr. Selfe testified as of Sunday June 12, 2004, the cemetery appeared to have not been mowed recently and there are markers that are still tilted and sticking up out of the ground.

9. During the IFF, Martz testified that Temple Hill has experienced problems keeping reliable maintenance personnel. The cemetery has hired new maintenance personnel to take care of the grounds. Martz also supplied recent photos of the cemetery grounds.

Conclusion and Recommendation

Count 1: 18 VAC 47-20-190(11) (Effective July 2000)

Temple's failure, in late September of 2003, to reasonably maintain the grounds of Temple Hill Memorial Park, is in violation of Board Regulation 18 VAC 47-20-190(11). Therefore, I recommend that a monetary penalty of \$300.00 be imposed for violation of this regulation.

By: _____
David Mark Farris, II
Presiding 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 000062 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.