

**MINUTES OF MEETING
VIRGINIA CEMETERY BOARD
INFORMAL FACT-FINDING CONFERENCES
OCTOBER 12, 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.

Kenneth Bell, Board Member, presided. No other Board members were present.

Doug 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
Lic=Licensing Application

C=Complainant/Claimant
A=Applicant
R=Respondent/Regulant
CA=Compliance Agent
Inv=Investigator

1:00 PM

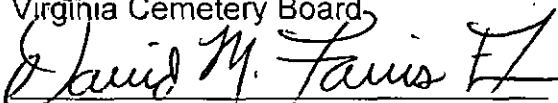
Participants

1. Virginia Memorial Gardens, Inc.
File Number 2003-00661 (Discp)

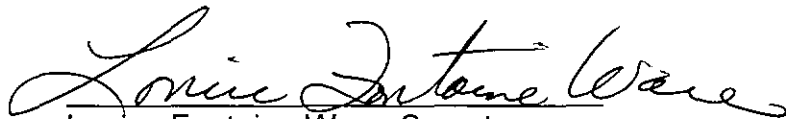
Louis S. Herrink – CA
Herb Nichols – Invest.

The meeting adjourned at 2:05 PM

Virginia Cemetery Board



David Mark Farris, II, Chairman



Louise Fontaine Ware, Secretary

COPY TESTE:

Custodian of Records

IN THE
COMMONWEALTH OF VIRGINIA
VIRGINIA CEMETERY BOARD

Re: Virginia Memorial Gardens, Inc.

File Number: 2003-00661
License Number: 4901000041

SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE

On June 24, 2003, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Virginia Memorial Gardens, Inc. and Mr. Louis Herrink, Compliance Agent to the address of record. The Notice included the Informal Fact-Finding Conference Memorandum, which contained the facts regarding the regulatory and/or statutory issues in this matter. The certified mailings were signed for and received.

On August 21, 2003, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the conference: Louis S. Herrink, Compliance Agent for Virginia Memorial Gardens, Inc., Respondent; Michael J. Gannon, Trust Officer; Douglas W. Schroder, Staff Member; Herbert Nichols, Investigator; Kenneth R. Bell, presiding Board Member.

The IFF was adjourned at 11:25 AM and went back to the investigator so he could obtain additional information from Virginia Memorial Gardens' CPA, Carolyn Sumner. She is to provide clarification regarding the annual trust fund reports for year ending December 31, 2001.

On August 23, 2004, a reconvened letter was mailed, via certified mail, to Virginia Memorial Gardens, Inc. and Mr. Louis Herrink, Compliance Agent to the address of record. The Notice included the Informal Fact-Finding Conference Memorandum, which contained the facts regarding the regulatory and/or statutory issues in this matter. Also enclosed was a copy of the minutes from the "IFF Conference" held on August 21, 2003, and supplemental information provided to Investigator Herb Nichols. The certified mailings were signed for and received.

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The following individuals participated at the conference: Louis S. Herrink, Compliance Agent for Virginia Memorial Gardens, Inc., Respondent; Douglas W. Schroder, Staff Member; Herbert Nichols, Investigator; Kenneth R. Bell, presiding Board Member.

RECOMMENDATION

Based upon the evidence and the IFF, the following is recommended regarding the Counts as outlined in the IFF Memorandum:

Count 1: Code of Virginia § 54.1-2322

Virginia Memorial's actions of deducting capital losses, trustee and tax preparation fees from principal in the Historyland Memorial Park and Stafford Memorial Park perpetual care trust funds is a violation of § 54.1-2322 of the Code of Virginia. According to the testimony of Investigator Herb Nichols, the perpetual care trust fund for Historyland Memorial Park is short \$2,252.00 and the perpetual care trust for Stafford Memorial Park is short \$616.00. Therefore, I recommend the shortage of \$2,252.00 and \$616.00 be put back into the perpetual care trust funds and a monetary penalty of \$1,000.00 be imposed. In addition, I recommend suspension of Virginia Memorial Gardens, Inc.'s license until the above monies are placed back into the accounts.

By: _____
Kenneth R. Bell
Presiding Board Member

VIRGINIA CEMETERY BOARD

Date: _____

MONETARY PENALTY TERMS

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 THE LICENSE, CERTIFICATE, OR REGISTRATION UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

VIRGINIA DEPARTMENT OF PROFESSIONAL
AND OCCUPATIONAL REGULATION
ENFORCEMENT DIVISION
3600 WEST BROAD STREET
RICHMOND, VIRGINIA 23230-4917

INFORMAL FACT FINDING CONFERENCE MEMORANDUM

TO: Adjudication Section
BOARD: Cemetery
DATE: December 30, 2002 – Revised 2/03/03
RE: 2003-00661 Board v Virginia Memorial Gardens, Inc

LICENSE, CERTIFICATION, OR REGISTRATION NUMBER:
4901-000041

EXPIRATION DATE OF LICENSE:
July 31, 2004

INVESTIGATOR: Herbert W. Nichols
ASSISTANT DIRECTOR: E. Wayne Mozingo

COMMENTS:

2003-00661 Board v Virginia Memorial Gardens, Inc

BACKGROUND:

On or about August 27, 2002, Christine Martine (Martine), Cemetery Board Administrator, requested an investigation into possible violations of Virginia Statutes and/or Cemetery Board regulations by Virginia Memorial Gardens, Inc. (Virginia Memorial), 11227 James Madison Parkway, King George, Virginia.

Virginia Memorial Gardens, Inc is the licensee for Historyland Memorial Park (Historyland) and Stafford Memorial Park (Stafford).

Martine stated that the annual report submitted by Virginia Memorial indicates a \$2,252.05 reduction in principal of the Historyland perpetual care trust fund.

1. Violation of Code of Virginia or Board Regulation (Effective July 2000)

§ 54.1-2322 of the Code of Virginia

FACTS:

The Historyland perpetual care trust fund financial report – schedule A, submitted by Virginia Memorial revealed on line 6, column B, that \$171,587.58 was added to principal. On Line 12, column B, of the same report, it reveals that \$173,839.63 was deducted from principal. This resulted in a reduction of principal of \$2,252.05.

Louis S. Herrink, compliance agent for Virginia Memorial, told Nichols that he could not explain the reduction in principal and he requested that Carolyn Sumner (Sumner), CPA for Virginia Memorial be contacted for an explanation.

Sumner advised Nichols that the bank trustee deducted capital losses and trustee fees from the principal. Sumner said that the \$171,587.58 reported additions to principal were from the sale of securities and the \$173,839.63 reported as deductions were from the purchase of securities, trustee and tax preparations fees. She advised that this resulted in a reduction in principal in the Historyland perpetual care trust fund in the amount of \$2,252.05. Sumner advised that this reduction of principal was the result of actions by the trustee, First Virginia Bank.

Virginia Memorial Gardens, Inc. did not deduct capital losses, trustee and tax preparation fees from the income, which resulted in a reduction of principal.

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1. Virginia Memorial Gardens, Inc.
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Louis S. Herrink – CA
Herb Nichols – Invest.

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Virginia Cemetery Board

Kenneth R. Bell, Chairman

Louise Fontaine Ware, Secretary

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**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTEREST ACT**


TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government

1. Name: Kenneth Bell
2. Title: Presiding Board Member
3. Agency: Cemetery Board
4. Transaction: Informal Fact-Finding Conference on October 12, 2004
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

10.12.04

Date