

**CONSENT ORDER**

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**State Mortuary and Cemetery Board  
State of Oregon**

In the Matter of the Funeral Establishment License of Wilhelm Mortuary, Inc. dba <b>NEPTUNE CREMATION SERVICE,</b>  <b>LICENSEE</b>	<b>Case No. 09-1064</b>  <b>CONSENT ORDER</b>
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WHEREAS, the Oregon State Mortuary and Cemetery Board (“Board”) is prepared to issue a Notice of Proposed Disciplinary Action against Wilhelm Mortuary, Inc. dba Neptune Cremation Service in Case No. 09-1064 upon the following bases:

1. At all times mentioned herein, Wilhelm Mortuary, Inc. dba Neptune Cremation Service (hereafter “Neptune”) was licensed by the Board as a funeral establishment (OMCB License No. FE-8640).
2. ORS 692.180(1)(h) and OAR 830-030-0090(1)(c) and provides that violations of regulations adopted by the Federal Trade Commission regulating funeral industry practices are cause for disciplinary action by the Board. See also ORS 692.180(1)(g)
3. OAR 830-030-0090 provides that failing to abide by the accepted minimum standards of the death care industry is cause for disciplinary action under ORS 692.180(1)(g).
4. 16 CFR 453.2(b)(4)(iv) provides that the basic services fee as described in 16 CFR 453.2(b)(4)(C)(1) and (2) is the only non-declinable fee for services, facilities or unallocated overhead that a funeral provider may charge a consumer unless otherwise required by law. 16 CFR 453.4(b)(1) further provides that it is an unfair or deceptive act or practice to condition the furnishing of any funeral good or service on the purchase of any other funeral good or services to a person arranging a funeral other than the fees for:
  - i. Services of funeral director and staff, permitted by CFR 453.2(b)(4)(iii)(C);
  - ii. Funeral goods or services selected by the purchaser; and
  - iii. Other funeral goods or services required to be purchased as explained on the itemized statement in accordance with 16 CFR 453.3(d)(2).

5. In July, 2007, the Board advised Neptune that, pursuant to the FTC Funeral Rule, Neptune could not charge consumers an 'administrative fee' in addition to the basic services fee for final disposition prearrangements.
6. At least between July 2007 and December 2009, Licensee charged a consumer both the administrative fee and the basic services fee to at least one preneed consumer.

WHEREAS, the Board and the Applicant are desirous of resolving and settling the foregoing matters in Case No. 09-1064 without further proceedings thereon and this Consent Order constitutes the entire agreement of the parties and is a final order of the Board; and

WHEREAS, Licensee is aware of the right to a hearing with the assistance of counsel and the right to judicial review of the Board's decision in Case No 09-1064 and hereby freely and voluntarily waives those rights; and

WHEREAS, Licensee hereby acknowledges that Licensee has read, understands, and agrees to the terms of this Consent Order and that this Consent Order constitutes the entire agreement of the parties and is a final order of the Board; and

WHEREAS, the Licensees agree that the Board enter the following order:

NOW THEREFORE IT IS HEREBY ORDERED:

1. Licensee is reprimanded for violating ORS 692.180(1)(h), OAR 830-030-0090(1)(c), OAR 830-030-0090 and ORS 692.180(1)(g).
2. This Consent Order shall become effective when signed by the Executive Director of the Board.

DATED this \_\_\_\_6th\_\_ day of \_\_\_\_July\_\_\_\_\_, 2011.

MORTUARY AND CEMETERY BOARD OF THE  
STATE OF OREGON

By: \_\_<s> Michelle Gaines\_\_\_\_\_(LN)\_\_\_\_\_  
Michelle Gaines, Executive Director

**It is so agreed.**

\_\_6-27-11\_\_  
Date

\_\_<s> Tim Nicholson\_\_\_\_\_  
Corporate Representative Signature

\_\_Tim J. Nicholson\_\_\_\_\_  
Corporate Representative Printed Name