

5. On or about January 10, 2009, Patstone permitted the girlfriend of Ron D, "Karen A" to authorize the cremation by having her initialize various statements on the cremation authorization, and sign the authorization as an authorizing agent. Karen A did not have the right to control final disposition of the remains of Barbara D and was therefore not an authorizing agent. Licensee A, therefore, through the actions of employee Patstone, violated ORS 97.130(2) which is cause for disciplinary action under ORS 692.180(1)(j), OAR 830-030-0090(1)(a) and ORS 692.180(1)(g).

6. On or about January 16, 2009, Patstone obtained the signature of Ron D on the cremation authorization. However, Licensee A, through the actions of employee Patstone, failed to obtain a statement of final disposition of cremated remains on the cremation authorization in violation of ORS 97.150(1) and OAR 830-040-0000(7). The foregoing is cause for disciplinary action under ORS 692.180(1)(j) and ORS 692.180(1)(g).

7. When the family advised Licensee C and Patstone they did not have the funds to pay for the cremation, Licensee C and Patstone told them they could not claim the cremated remains unless the bill was paid in full and, if not paid in full within 180 days, the facility would dispose of the cremated remains. Licensees, therefore, attached, detained or claimed to detain human remains for a debt or demand or upon a pretended lien or charge as a debt in violation of ORS 97.110 and cause for disciplinary action under ORS 692.180(1)(j), OAR 830-030-0090(1)(a) and ORS 692.180(1)(g).

8. On January 20, 2009 the remains of Barbara D were cremated pursuant to the authorization signed by Ron D. On or about January 26, 2009, Licensees released a small portion of the cremated remains to the assisted living facility after that facility paid Licensee funeral establishment a partial payment of the facility's cremation charges. Licensees did not obtain a statement of delivery authorizing the release of a portion of the cremated remains from the person with the right to control final disposition in violation of ORS 97.150(1) which is cause for disciplinary action under ORS 692.180(1)(j), and a violation of OAR 830-030-0090 which is cause for disciplinary action under ORS 692.180(1)(g). Further, Licensees did not obtain a signed receipt for cremated remains from the assisted living facility representative which is a violation of OAR 830-040-0000(8) and cause for disciplinary action under ORS 692.180(1)(g).

9. During the investigation of this complaint, the Board requested, from Licensees A and C, a copy of the permanent record for the decedent. Licensees provided the Board copies of only a portion of the permanent record. Licensees, therefore, violated OAR 830-050-0050(6), OAR 830-030-0090(2)(d)(A) and OAR 830-030-0090(2)(d)(B) which are cause for disciplinary action under ORS 692.180(1)(g).

WHEREAS, the Board and the Licensees are desirous of resolving and settling those matters regarding Case Nos. 09-1006A & C without further proceedings thereon; and

WHEREAS, Licensees are 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 Nos. 09-1006A & C and hereby freely and voluntarily waives those rights; and

WHEREAS, Licensees hereby acknowledges that Licensee has read, understands, and agrees to the terms of this combined 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. Licensees are reprimanded for violating ORS 97.130(2), ORS 97.150(1), ORS 692.180(1)(j), OAR 830-030-0090(1), OAR 830-030-0090(1)(a), OAR 830-040-0000(6)(g), OAR 830-040-0000(7), OAR 830-040-0000(8), OAR 830-050-0050(6), OAR 830-030-0090(2)(d)(A) and OAR 830-030-0090(2)(d)(B), and ORS 692.180(1)(g).
2. This Consent Order shall become effective when signed by the Executive Director.

DATED this 16th day of May, 2011

OREGON STATE MORTUARY AND CEMETERY
BOARD

By: <s> Michelle Gaines
Michelle Gaines, Executive Director

It is so agreed.

5-11-2011
Date

<s> Nicholas Preboski
Licensee, Nicholas Preboski, Manager

5-11-2011
Date

<s> Nicholas Preboski
Representative signature, Chapel of the Valley Funeral Home, Inc.
dba Rogue Valley Funeral Alternatives

<s> Nicholas Preboski
Printed name of Chapel of the Valley Funeral Home, Inc.
representative