BEFORE THE MORTUARY AND CEMETERY BOARD
OF THE STATE OF OREGON

In the Matter of the combination funeral service practitioner and embalmer license of Shanna McCrary (CO-3795),

RESPONDENT

Notice of Proposed Disciplinary Action And Opportunity for a Hearing

CASE NO. 06-1016F

Pursuant to ORS 692.180, the Oregon Mortuary & Cemetery Board ("OMCB" and "Board") proposes to take disciplinary action against you on the grounds noted below. For statutory and rule violations the Board may impose one or more of the following sanctions: Reprimand; license suspension or revocation; civil penalty of up to $1000 for each violation; or other sanctions as authorized by law.

Grounds for Disciplinary Action:

1.  
   1a. At all times mentioned herein, Shanna McCrary (Respondent) was licensed by the OMCB as a funeral service practitioner and embalmer (OMCB License No. CO-3795).
   
   1b. At all times mentioned herein, Respondent was employed by and working at Alderwoods (Oregon), Inc. doing business as (dba) Buell Funeral Chapel (OMCB License No. FE-8458). Alderwoods (Oregon), Inc. dba Buell Crematory (OMCB License No. CR-0634), and Alderwoods (Oregon), Inc. dba American Burial & Cremation of Oregon, Springfield (OMCB License No. FE-8459).
2.

2a. It shall be the responsibility of the funeral establishment licensee and crematory authority to assign a manager for each funeral establishment or crematory. In the case of funeral establishments, the manager shall be an Oregon licensed funeral service practitioner. All licensed funeral establishments shall be operated/managed by an Oregon Licensee. OAR 830-030-0000(8) and ORS 692.025(3)(b)

2b. Funeral establishment managers and crematory managers have decision-making authority and a manager’s primary duties include control over the operation of the facility. OAR 830-011-0000(32)

2c. Every licensee or agent of a licensed facility of the Oregon Mortuary and Cemetery Board (Board) shall abide by the accepted standards of the death care industry and the minimum standards, including reporting through proper channels facts known regarding the incompetent, unethical, unsafe or illegal practices of any death care industry licensee. OAR 830-030-0090(1)(g)

2d. On February 21, 2006, the Board received Respondent's completed Principal Application forms naming herself as the manager of three Alderwoods (Oregon), Incorporated’s licensed facilities as mentioned in the foregoing section of this notice: Buell Funeral Chapel, Buell Crematory and American Burial & Cremation of Oregon, Springfield.

2e. From February 23, 2006 through May 1, 2006, Respondent was the manager of the three aforementioned licensed facilities ‘in-name-only.’ Specifically, Respondent had no decision-making authority, and Respondent’s primary duties did not include control over the operations of the facilities pursuant to OAR 830-030-0000(8), ORS 692.025(3)(b) and OAR 830-011-0000(32).

2f. Respondent failed to report to the Board the foregoing facts regarding the unethical and illegal practices of death care industry licensee(s) when Respondent failed to inform the
Board that she was a manager 'in-name-only' in violation of OAR 830-030-0090(1)(g) which is cause for disciplinary action under ORS 692.180(1)(g).

3.

3a. Aiding or abetting a person who is not a licensee or an apprentice in any act involving the disposition of dead human bodies before the bodies undergo cremation, entombment or burial or before the bodies are transported out of the State of Oregon is cause for disciplinary action. ORS 692.180(1)(e)

3b. While Respondent was employed at Buell Funeral Chapel and American Burial & Cremation of Oregon, Springfield, an unlicensed individual, Dennis Baker, violated OAR 830-030-0004(1) and ORS 692.025(1) when he worked directly with families to arrange for the at-need disposition of at least four (4) decedents who died in Oregon. Baker met with the families of the four decedents, prepared documents and made arrangements for the transportation, care, preparation, processing or handling of the remains before the bodies underwent cremation, entombment or burial. The decedents are identified by the following Oregon State identification numbers, partial names and dates of death (DOD):

I. # H68622; Anna M.; DOD January 8, 2006
II. #426965; Margaret O.; DOD February 14, 2006
III. #H68641; John J.; DOD March 1, 2006
III. #H68653; Donald D.; DOD March 26, 2006

3c. Further, while Respondent was employed at Buell Funeral Chapel, an unlicensed person, Dennis Baker, violated OAR 830-030-0004(4) when he prepared the remains of decedent Doris K., Oregon State ID #426955, by setting features; specifically, (1) placing eye caps and (2) suturing the mouth of the decedent.

3d. Respondent knew that Baker engaged in the foregoing unlicensed activities, and Respondent signed final arrangement documents on behalf of Baker and the funeral establishment licensee, however, from about January 8, 2006 through May 2, 2006, Respondent did not report the foregoing violations of unlicensed activity to the Board.
3e. Respondent, therefore, aided or abetted Dennis Baker, who was not a licensee or an apprentice, in acts involving the disposition of dead human bodies before the bodies undergo cremation, entombment or burial or before the bodies are transported out of the State of Oregon in violation of ORS 692.180(1)(e).

4.

4a. In addition, Respondent’s employer, licensee Alderwoods (Oregon), Inc. allowed Baker, an unlicensed individual, to perform the duties of a licensed funeral service practitioner and embalmer, as described in section 3 above, in violation of OAR 830-050-0050(8).

4b. From about January 8, 2006 through May 2, 2006, Respondent did not report to the Board facts known regarding the foregoing unethical and illegal practices of licensee Alderwoods (Oregon), Inc. The foregoing is a violation of OAR 830-030-0090(1)(g) which is cause for disciplinary action under ORS 692.180(1)(g).

5.

Definitions that may be relevant to this notice are contained in: OAR 830-011-0000 and ORS 692.010.

Rights and Procedures

You are entitled to a hearing as provided by the Administrative Procedures Act (ORS Chapter 183) and ORS 692.265(1). If you want a hearing, you must file a written request for hearing with the State Mortuary & Cemetery Board (the “Board”) within 21 days from the date this notice was mailed. If a request for hearing is not received within this 21-day period, your right to a hearing shall be considered waived. Hearing requests may be mailed to State Office Building, 800 NE Oregon St., Suite 430, Portland, Oregon 97232-2195.

If you request a hearing, you will be notified of the time and place of the hearing. You are required to be represented by legal counsel at a hearing. A Notice of Contested Case Rights and Procedures is enclosed with this Notice of Proposed
Disciplinary Action. If you do not request a hearing within 21 days, or if you withdraw a hearing request, notify the Board or hearing officer that you will not appear or fail to appear at a scheduled hearing, the Board may issue a final order by default imposing a civil penalty as determined by the Board. If the Board issues a final order by default, it designates its file on this matter as the record for purposes of establishing a prima facie case.

DATED this __14th__ day of June, 2007

STATE MORTUARY AND CEMETERY BOARD

___<s> Lynne Nelson____________________________
Designee: Lynne Nelson, Compliance Manager