

**BEFORE THE MORTUARY AND CEMETERY BOARD
OF THE STATE OF OREGON**

In the Matter of crematory operator,
EMILY J. ADAIR,

RESPONDENT

Notice of Proposed Disciplinary Action
(Civil Penalty)
And
Opportunity for a Hearing

OMCB CASE NO. 08-1050C

Pursuant to ORS 692.180, the Oregon Mortuary & Cemetery Board proposes to take disciplinary action in the form of a civil penalty 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 revocation; civil penalty of up to \$1000 for each violation; or other sanctions as authorized by law.

Grounds for Disciplinary Action:

1. At all times mentioned herein, Portland Cremation Center, LLC. (hereafter "PCC") was licensed by the Oregon Mortuary and Cemetery Board as a crematory (OMCB License No. CR-0694).
2. At all times mentioned herein, Emily J. Adair (hereafter "Respondent") and Michael B. Domangue (hereafter "Domangue") were employed by PCC as crematory operators.
3. Prior to June 2, 2008 Domangue used his cellular camera-phone at PCC to photograph human remains in a cremation chamber during the cremation process.
4. Domangue showed this photograph to persons outside the death care industry, and electronically transmitted the photograph to Respondent, who, on or about June 2, 2008, sent the photograph to a minor via email.
5. Neither Respondent nor Domangue nor PCC had received, from a person with the right to control final disposition of the remains pursuant to ORS 97.130(1) and (2), an authorization to take, show or electronically transmit a photograph of the decedent.

6. Therefore, by showing and transmitting the photograph, Respondent failed to abide by the accepted minimum standards of the Death Care Industry in violation of OAR 830-030-0090(1) and failed to respect the dignity of remains in violation of OAR 830-030-0090(1)(i) which is cause for disciplinary action under ORS 692.180(1)(g).

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 by the Board within this 21-day period, your right to a hearing shall be considered waived. Hearing requests may be mailed to the Oregon Mortuary and Cemetery Board, 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 may be represented by an attorney at the hearing. Parties are ordinarily and customarily represented by counsel. You are not required to be represented by counsel, unless you are an agency, trust, corporation or association. 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 the discipline 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 __28th__ day of April, 2009

STATE MORTUARY AND CEMETERY BOARD

____<s> Lynne Nelson_____
Designee: Lynne Nelson, Compliance Manager