

CONSENT ORDER

State Mortuary and Cemetery Board State of Oregon

<p>In the Matter of the cemetery authority license of Twin Oaks Memorial Gardens & Mausoleum, LLC or Michael D. Terwilliger, sole proprietor; and In the Matter of the funeral service practitioner and embalmer licenses of Michael D. Terwilliger,</p> <p style="text-align: center;">Licensees</p>		<p style="text-align: center;">Case Nos. 08-1068A and 08-1068B</p> <p style="text-align: center;">Combined Consent Orders</p>
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WHEREAS, the Oregon State Mortuary and Cemetery Board (Board) is prepared to issue Notices of Proposed Disciplinary Action against the Licensees in Case Nos. 08-1068A and 08-1068B upon the following bases:

1. At all times mentioned herein, Michael D. Terwilliger was licensed by the Oregon Mortuary and Cemetery Board as a funeral service practitioner and embalmer (OMCB License No. CO-3650).
2. On or about August 20, 2001 Twin Oaks Memorial Park, Inc. was licensed as a cemetery (OMCB License No. CE-0620). Chantelle Hernandez was a corporate member.
3. ORS 692.025(5) provides that no person or city, county or other municipal corporation shall conduct the business of an operating cemetery without first receiving a certificate of authority to conduct the business of an operating cemetery under ORS 692.275.
4. On or about November 17, 2005, the Board received an application for a change of ownership (and change of name) for "Twin Oaks Memorial Gardens and Mausoleum" On the application, Licensee listed himself as the 100% sole proprietor.
5. At the January 26, 2006, Board Meeting, the Board voted to approve the cemetery license for Michael Dale Terwilliger (sole proprietor) dba Twin Oaks Memorial Gardens and Mausoleum (OMCB License No. CE-0713).

6. On January 11, 2007, Licensee Terwilliger submitted a renewal application that listed the current owner of the cemetery as Twin Oaks Memorial Gardens & Mausoleum, LLC, with William Clark Sr. and himself as 50% owners.

7. Therefore, Licensees either misrepresented the purchasing entity in the initial 2005 change of ownership application when Licensee Terwilliger claimed he was the 100% sole proprietor when he was not, or Licensees failed to obtain prior Board approval when the entity owning the cemetery changed from a sole proprietor to a limited liability company.

8. Misrepresentation on an application is a violation of ORS 692.180(1)(a). Failing to obtain approval prior to a change of ownership is a violation of OAR 830-040-0040 which is cause for discipline under ORS 692.180(1)(g). Operating a cemetery without a license is a violation of ORS 692.025(5).

WHEREAS, the Board and the Licensee are desirous of resolving and settling those matters regarding Case Nos. 08-1068A and B without further proceedings thereon; and

WHEREAS, the 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. 08-1068A and B 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 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 692.025(5) and ORS 692.180(1)(a) or OAR 830-040-0040 and ORS 692.180(1)(g).
2. This Consent Order shall become effective when signed by the Executive Director

DATED this 10th day of June, 2009.

MORTUARY AND CEMETERY BOARD
OF THE STATE OF OREGON

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

CONSENT

I hereby acknowledge that I have read and understand the terms of the Consent Order. I agree to the Board entering the Consent Order.

____ May 21, 2009 _____
Date

____ <s> Michael D. Terwilliger _____
Licensee Michael D. Terwilliger