

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

In the Matter of the funeral establishment)	
License of TERRY FAMILY)	
FUNERAL HOME, LLC)	
)	CONSENT ORDER
and)	
)	CASE NOS. 10-1009A & B
In the Matter of the funeral service practitioner)	
and embalmer License of)	
DWIGHT A. TERRY,)	
LICENSEES)	

WHEREAS, the Oregon Mortuary and Cemetery Board (Board, OMCB) is prepared to issue Notices of Proposed Disciplinary Action, against the funeral establishment license of Terry Family Funeral Home, LLC in Case No. 10-1009A and against the combination funeral service practitioner and embalmer license of Dwight A. Terry in Case No.10-1009B upon the following bases:

1. At all times mentioned herein, Terry’s Family Funeral Home, LLC was licensed by the Board as a funeral establishment in Portland (OMCB License No. FE-8628, hereafter “Licensee A”) and at all times mentioned herein, Dwight A. Terry was licensed by the Board as a funeral service practitioner and embalmer (OMCB License No. CO-3644, hereafter “Licensee B”), and Licensee B was a corporate member and the manager of Licensee A funeral establishment.

2. OAR 830-030-0090(1)(d) provides that failure to implement or follow through with agreed upon arrangements as designated by the responsible party is cause for disciplinary action.

3. OAR 830-040-0000(6) provides that all licensees shall keep a detailed, accurate, and permanent record of all transactions that are performed for the care and preparation and final disposition of human remains. OAR 830-040-0000(7) provides that the licensee responsible for making the cremation arrangements shall require the person making the cremation arrangements to provide the licensee with a signed statement specifying the action taken regarding delivery of the cremated remains. A copy of this statement shall be retained by the responsible licensee and be made a part of the permanent record. OAR 830-030-0090(2)(b)(A) provides that inaccurate record keeping in client record as required in OAR 830-040-0000 is cause for disciplinary action.

4. ORS 97.150 provides, in part, that if the licensed funeral service practitioner has been authorized to cremate remains of a decedent pursuant to ORS 97.130, the

authorization shall also contain further instructions to the licensed funeral service practitioner as to the final disposition of the cremated remains.

5. On or about August 21, 2008, Licensees A and B (hereafter "Licensees") made final disposition arrangements for cremation of the remains of "ORR" with the persons with the right to control final disposition of the decedent pursuant to ORS 97.130, the decedent's children. The children requested Licensees to remove a portion of the cremated remains from the cremated remains container and divide and place small amounts into several vials purchased by the family from Licensees. However, Licensees failed to document on the cremation authorization the family's instructions regarding the specific disposition of the cremated remains. Licensees, therefore, failed to maintain accurate and complete records as required under OAR 830-040-0000(6), OAR 830-040-0000(7) and OAR 830-030-0090(2)(b)(A) which is cause for discipline under ORS 692.180(1)(g). Licensees also violated ORS 97.150 which is cause for discipline under ORS 692.180(1)(j).

6. On August 29, 2008 Licensees transported the cremated remains of "ORR" to Sunset Hills Memorial Park in Portland (OMCB License No. CE-0504) for a graveside interment service on that date. However, Licensees did not first remove a portion of cremated remains from the cremated remains container for placement into the vials, and the entire cremated remains were interred. Licensees, therefore, failed to properly implement or follow through with agreed upon arrangements as designated by the responsible party in violation of OAR 830-030-0090(1)(d) which is cause for discipline under ORS 692.180(1)(g).

7. On or about September 2, 2008, Sunset Hills Memorial Park disinterred the cremated remains of "ORR" without obtaining written consent of a person having the right to control the disposition of the cremated remains (a child of the decedent) as required under ORS 97.220. While at the cemetery, Licensee B removed a small amount of the cremated remains from the urn for placement into the vials. Licensee B then notified the family they could pick up the vials. The family picked up the vials on March 29, 2009.

WHEREAS, the Board and the Licensees are desirous of resolving and settling those matters regarding Case Nos. 10-1009A and 10-1009B 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. 10-1009A and 10-1009B and hereby freely and voluntarily waives those rights; and

WHEREAS, Licensees hereby acknowledges that Licensees have 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 A and B are reprimanded and each will pay a civil penalty of \$250 for violation of OAR 830-030-0090(1)(d), OAR 830-040-0000(6), OAR 830-040-0000(7), OAR 830-030-0090(2)(b)(A), ORS 692.180(1)(g), ORS 97.150 and ORS 692.180(1)(j).
2. This Consent Order shall become effective when signed by the Executive Director of the Board.

DATED this 21st day of July, 2011

OREGON STATE MORTUARY AND
CEMETERY BOARD

By: <s> Michelle Gaines
Michelle Gaines
Executive Director

It is so agreed.

7/21/11
Date

<s> Dwight A. Terry
Licensees, Dwight A. Terry