

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

<p>In the Matter of the funeral service practitioner and embalmer license of Michael Y. Kimoto (CO-3756), and the funeral establishment licenses of NMZK Family Holdings, LLC dba Aftercare Cremation & Burial (FE-8581) and NMZK Family Holdings, LLC dba Family Memorial Mortuary (FE-8580)</p> <p style="text-align: center;">RESPONDENTS</p>	<p>Notice of Proposed Disciplinary Action And Opportunity for a Hearing</p> <p style="text-align: center;">CASE NOS. 09-1002AB & C</p>
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Pursuant to ORS 692.180, the Oregon Mortuary & Cemetery Board (“OMCB,” “Board”). proposes to take disciplinary action against the combination funeral service practitioner and embalmer license of Michael Y. Kimoto and the funeral establishment licenses of NMZK Family Holdings, LLC dba Aftercare Cremation & Burial (FE-8581) and NMZK Family Holdings, LLC dba Family Memorial Mortuary (FE-8580) 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.

1a. At all times mentioned herein, Michael Y. Kimoto (hereafter “Respondent”) was licensed by the Board as a funeral service practitioner and embalmer (OMCB License No. CO-3756).

1b. At all times mentioned herein, Respondent was a corporate member and the manager of the following two co-located facilities licensed by the Oregon Mortuary & Cemetery Board:

i. NZMK Family Holdings, LLC dba Family Memorial Mortuary (OMCB License No. FE-8580, hereafter "Family Memorial"); and

ii. NZMK Family Holdings, LLC dba Aftercare Cremation & Burial Service (OMCB License No. CE-8581, hereafter "Aftercare").

2.

2a. It is the responsibility of the funeral establishment licensee or person acting as such handling the disposition of human remains, to pay the death certificate filing fee to the Department of Human Services (hereafter "DHS") as required in ORS 432.307(2) and ORS 432.312(1).

2b. OAR 830-030-0000(7) provides that the fee shall be paid within thirty (30) days after the billing, and in no case, longer than ninety (90) days after the billing. Failure to pay death certificate filing fees is cause for disciplinary action by the Board.

3.

3a. As of July 31, 2009, Respondent owed a combined total of approximately \$1,561.00 in delinquent filing fees which were due payable in full within ninety (90) days after the billing. Specifically:

i. As of July 31, 2009, Respondent owed DHS for 143 death certificate filing fees for final disposition arrangements made by Family Memorial, which amounts to \$1001.00 that is over 90 days past due.

i. As of July 31, 2009, Respondent owed DHS for 80 death certificate filing fees for final disposition arrangements made by Aftercare, which amounts to \$560.00 that is over 90 days past due.

3b. Licensee failed to pay the foregoing death certificate filing fees within 90 days in at least 223 instances, each of which is a violation of OAR 830-030-0000(7) and cause for disciplinary action under ORS 692.180(1)(g).

4.

In addition to making several phone calls warning Respondent to pay the delinquent fees, the Board sent Respondent the following warning letters due to delinquent death filing fees at both funeral establishments:

i. On November 28, 2007 the Board sent a letter to Respondent Kimoto advising he was delinquent in paying a combined total of \$987.00 in filing fees for Family Memorial and Aftercare.

ii. On April 21, 2008 the Board sent a letter to Respondent Kimoto advising he was delinquent in paying a combined total of \$439.00 in filing fees for Family Memorial and Aftercare.

iii. On January 9, 2009 the Board sent a letter to Respondent Kimoto advising he was delinquent in paying a combined total of \$882.00 in filing fees for Family Memorial and Aftercare.

5.

Definitions that may be relevant to this Notice are contained in ORS 692.010, ORS 432.005 and OAR 830-011-0000.

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 60 days from the date this notice was mailed. If a request for hearing is not received by the Board within this 60-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 60 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 31st day of July, 2009

STATE MORTUARY AND CEMETERY BOARD

Designee: Lynne Nelson, Compliance Manager