

STATE MORTUARY AND CEMETERY BOARD

STATE OF OREGON

In the Matter of: HILLTOP MEMORIAL CEMETERY DISTRICT dba HILLTOP MEMORIAL CEMETERY, Respondent.	FINAL ORDER BY DEFAULT CASE NO. 10-1060
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On April 21, 2011, the Oregon Mortuary & Cemetery Board (Board) properly served a Notice of Proposed Disciplinary Action and Opportunity for Hearing (Notice) on Hilltop Memorial Cemetery District (Respondent) that it intended to take disciplinary action in the form of civil penalties for operating a cemetery without a license and for failing to cooperate with the Board, in violation of ORS 692.025(6) and ORS 692.275(1) and rules of the Board.

The Notice offered Respondent an opportunity for a hearing if requested within 21 days from the date the Notice was mailed. Respondent did not request a hearing within this 21-day period or otherwise. The Notice designated the Board's file on this matter as the record for purposes of default.

NOW THEREFORE, after considering the Board's file relating to this matter, the Board enters the following Final Order by Default:

FINDINGS OF FACT

1. Respondent has operated Hilltop Memorial Cemetery (Hilltop) in Nyssa, Oregon at all times relevant to this order.
2. In March 2007, the Board issued a certificate of authority to Respondent for the operation of Hilltop during the 2007/2008 biennial licensing period.
3. The Board sent to Respondent a renewal application for the Hilltop certificate of authority for the 2009/2010 biennial licensing period on June 16, 2008 at Respondent's

mailing address in Nyssa, Oregon. Respondent did not submit a renewal application for the Hilltop certificate of authority.

4. As a result, on January 1, 2009, the Hilltop certificate of authority lapsed.
5. On March 31, 2009, the Hilltop certificate of authority permanently lapsed and could no longer be renewed.
6. The Board's staff contacted Respondent or its staff, including manager Dean Peterson, regarding the lapsed license approximately five times between February 2009 and November 2010.
7. Respondent did not submit a new application for a certificate of authority until June 7, 2011.
8. In the past, Respondent failed to renew its certificate of authority in a timely manner for the 1999/2000 license period and for the 2005/2006 license period.
9. On October 15, 2010, the Board sent a letter to Respondent advising that Hilltop had been operating without a valid license. In this letter, the Board requested copies of documents used by the cemetery facility, copies of five interment records, and copies of five ownership records for inspection.
10. On November 19, 2010, the Board received from Respondent an incomplete application. The Board did not receive any of the facility documents or cemetery records that had been requested on October 15, 2010. The Board returned the incomplete application with an explanation and requested a complete response.
11. The Board has received none of the facility documents or cemetery records for inspection that were requested in the Board's October 15, 2010 letter.

ULTIMATE FINDINGS OF FACT

12. Respondent operated Hilltop without a valid certificate of authority after the last certificate of authority issued by the Board lapsed on January 1, 2009 through June 2011.

13. Respondent did not respond to the Board's October 15, 2010 request for facility documents and cemetery records.

CONCLUSIONS OF LAW

14. Respondent violated ORS 692.025(6), ORS 692.275(1) and *former* OAR 830-030-0090(2)(c)(A) (2009) by operating a cemetery without a valid certificate of authority after January 2009.

15. Respondent violated *former* OAR 830-030-0090(2)(d)(A) (2010) by failing to respond to the Board's October 15, 2010 request for records, which is also a failure to cooperate, in violation of *former* OAR 830-030-0090(2)(d)(B) (2010). Violation of Board rules is unprofessional conduct, in violation of OAR 830-050-0000(1).

16. The Board may impose a civil penalty up to \$1,000 per violation for violation of a Board statute or rule. ORS 692.180(1). Imposition of \$2,000 in civil penalties is appropriate in this matter, particularly given Respondent's history of noncompliance with the renewal process and the length of time during which these violations persisted.

ORDER

1. Respondent shall pay civil penalties of \$2,000.
2. This Final Order shall become effective when signed by the Executive Director of the Board.

DATED and ENTERED this __1st__ day of __August, 2012__.

_<s> Michelle Gaines _____
Michelle Gaines
Executive Director
Oregon Mortuary & Cemetery Board

Date of Service: __8/1/2012_____

Appeal Rights: You are entitled to judicial review of this order in accordance with ORS Chapter 183.482. You may request judicial review by filing a petition for review with the Court of Appeals in Salem, Oregon within 60 days from the date of service of this order. If this order was mailed to you, the date of service is the date of mailing, not the day you received it.