

THE STATE OF OREGON MORTUARY AND CEMETERY BOARD

<p>In the Matter of the Funeral Establishment License of</p> <p>BURNS’S RIVERSIDE CHAPEL & FLORENCE FUNERAL HOME, Inc.,</p> <p>LICENSEE</p> <p>And</p> <p>In the Matter of the Combined Funeral Services Practitioner and Embalmer License of</p> <p>ALAN BURNS,</p> <p>LICENSEE</p> <p>And</p> <p>In the Matter of the Cemetery License of</p> <p>ALAN BURNS dba PACIFIC SUNSET CEMETERY,</p> <p>LICENSEE</p>	<p>CONSENT ORDER</p> <p>CASE NO. 13-1022A</p> <p>CASE NO. 13-1022B</p> <p>CASE NO. 13-1022C</p>
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The Oregon Mortuary and Cemetery Board (Board) initiated an investigation of Burns's Riverside Chapel and Florence Funeral Home, Inc. (Funeral Home), OMCB License No. FE-8268, and Alan Burns (Burns), CO-3065, after violations were discovered during a routine facility inspection. Burns is also the manager of the Pacific Sunset Cemetery (Cemetery).

The Board finds it has grounds to issue a Notice of Proposed Disciplinary Action, upon which Burns and Funeral Home would be provided with the opportunity to request a hearing. In lieu thereof, the parties wish to resolve this matter informally by entering into this Consent Order on the terms set forth below, pursuant to ORS 183.417(3).

The Board and Burns and Funeral Home agree to the following:

1. During a routine inspection of Burns and Funeral Home, approximately 249 violations by each were discovered during a review of records for 2012. There were at least 77 instances where consumers were overcharged for funeral or cemetery goods or services for a total of approximately \$11,446.20. There were a total of at least 7 instances where consumers were undercharged a total of approximately \$578.00.
2. Burns and Funeral Home inaccurately charged on contracts for basic services fees in 20 instances in violation of OAR 830-030-0100(1), ORS 692.180(1)(a), ORS 692.180(1)(b), OAR 830-040-0000(7), Federal Trade Commission Funeral Rule 16 CFR 453.2(a), and Federal Trade Commission Funeral Rule 16 CFR 453.2(b)(5).
3. Burns and Funeral Home inaccurately charged on contracts for embalming in 8 instances in violation of OAR 830-030-0100(1), ORS 692.180(1)(a), ORS 692.180(1)(b), OAR 830-040-0000(7), Federal Trade Commission Funeral Rule 16 CFR 453.2(a), and Federal Trade Commission Funeral Rule 16 CFR 453.2(b)(5).
4. Burns and Funeral Home inaccurately charged on contracts for transferring remains from place of death to Funeral Home in 12 instances in violation of in violation of OAR 830-030-0100(1), ORS 692.180(1)(a), ORS 692.180(1)(b), OAR 830-040-0000(7), Federal Trade Commission Funeral Rule 16 CFR 453.2(a), and Federal Trade Commission Funeral Rule 16 CFR 453.2(b)(5).
5. Burns and Funeral Home inaccurately charged on contracts for transportation of remains per loaded mile or failed to accurately describe transportation charges on contracts in 9 instances in violation of OAR 830-030-0100(1), ORS 692.180(1)(a), ORS 692.180(1)(b), OAR 830-040-0000(7), Federal Trade Commission Funeral Rule 16 CFR 453.2(a), and Federal Trade Commission Funeral Rule 16 CFR 453.2(b)(5).
6. Burns and Funeral Home charged consumers a fee for obtaining cash advance items without disclosing that fact on contracts and/or inaccurately charged for death certificates on contracts when compared with the effective general price list in 72 instances in violation of OAR 830-030-0100(1), ORS 692.180(1)(a), ORS 692.180(1)(b), OAR 830-040-0000(7), Federal Trade Commission Funeral Rule 16 CFR 453.2(a), and Federal Trade Commission Funeral Rule 16 CFR 453.2(b)(5).
7. Burns and Funeral Home charged consumers a fee for obtaining cemetery cash advance items without disclosing that fact on Funeral Home contracts in 2 instances in violation of OAR 830-030-0100(1), ORS 692.180(1)(a), ORS 692.180(1)(b), OAR 830-040-0000(7), Federal Trade Commission Funeral Rule 16 CFR 453.2(a), and Federal Trade Commission Funeral Rule 16 CFR 453.2(b)(5).
8. Burns and Funeral Home inaccurately charged or provided incomplete descriptions on contracts for caskets in 18 instances in violation of OAR 830-030-0100(1), ORS 692.180(1)(a), ORS 692.180(1)(b), OAR 830-040-0000(7), Federal Trade Commission Funeral Rule 16 CFR 453.2(a), and Federal Trade Commission Funeral Rule 16 CFR 453.2(b)(5).
9. Burns and Funeral Home inaccurately charged on contracts for the use of facilities and staff in 5 instances in violation of OAR 830-030-0100(1), ORS 692.180(1)(a), ORS 692.180(1)(b), OAR 830-040-0000(7), Federal Trade Commission Funeral Rule 16 CFR 453.2(a), and Federal Trade Commission Funeral Rule 16 CFR 453.2(b)(5).

10. Burns and Funeral Home inaccurately charged on contracts for cremations in 3 instances in violation of OAR 830-030-0100(1), ORS 692.180(1)(a), ORS 692.180(1)(b), OAR 830-040-0000(7), Federal Trade Commission Funeral Rule 16 CFR 453.2(a), and Federal Trade Commission Funeral Rule 16 CFR 453.2(b)(5).
11. Burns and Funeral Home provided inaccurate summaries or total charges on contracts in 7 instances in violation of OAR 830-030-0100(1), ORS 692.180(1)(a), ORS 692.180(1)(b), OAR 830-040-0000(7), Federal Trade Commission Funeral Rule 16 CFR 453.2(a), and Federal Trade Commission Funeral Rule 16 CFR 453.2(b)(5).
12. Burns and Funeral Home provided inaccurate itemizations and descriptions of charges for Pacific Sunset Cemetery on funeral contracts in 13 instances in violation of OAR 830-030-0100(1), ORS 692.180(1)(a), ORS 692.180(1)(b), OAR 830-040-0000(7), Federal Trade Commission Funeral Rule 16 CFR 453.2(a), Federal Trade Commission Funeral Rule 16 CFR 453.2 (b), and Federal Trade Commission Funeral Rule 16 CFR 453.2(b)(5).
13. Burns and Funeral Home failed to accurately describe and/or itemize the goods and services selected by the consumer in 10 instances in violation of OAR 830-030-0100(1), ORS 692.180(1)(a), ORS 692.180(1)(b), OAR 830-040-0000(7), Federal Trade Commission Funeral Rule 16 CFR 453.2(a), and Federal Trade Commission Funeral Rule 16 CFR 453.2(b)(5).
14. Burns and Funeral Home failed to provide or to maintain an at need SFGSS in 14 instances in violation of OAR 830-030-0100(1), ORS 692.180(1)(a), ORS 692.180(1)(b), OAR 830-040-0000(7), Federal Trade Commission Funeral Rule 16 CFR 453.2(a), and Federal Trade Commission Funeral Rule 16 CFR 453.2(b)(5).
15. Burns and Funeral Home failed to trust monies received for preneed funeral arrangements and/or the sale of services for future delivery without adequate reserves or trust funds to guarantee such dealing when required in 16 instances in violation of OAR 830-030-0100(1), ORS 692.180(1)(a), ORS 692.180(1)(b), OAR 830-040-0000(7), OAR 830-030-0090(1), OAR 830-030-0100(4), ORS 97.933(1), and ORS 97.941.
16. Burns and Funeral Home failed to include the OMCB licensing disclosure on contracts in 13 instances in violation of OAR 830-040-0005(1).
17. Burns and Funeral Home failed to include the required embalming disclosure on contracts in 12 instances in violation of Federal Trade Commission Funeral Rule 16 CFR 453.5(b).
18. Burns and Funeral Home failed to include the legal requirement disclosure on contracts in 12 instances in violation of Federal Trade Commission Funeral Rule 16 CFR 453.4(b)(2)(j)(B).
19. Burns and Funeral Home embalmed human remains without obtaining written or oral permission of a person who has the right to control the disposition of the remains in 2 instances in violation of OAR 830-040-0000(7)(g).
20. Burns and Funeral Home failed to provide the Board with requested documents and/or failed to cooperate or answer truthfully and completely inquiries regarding matters within the Board's

jurisdiction in at least one instance in violation of OAR 830-040-0010(4), OAR 830-030-0090(5)(f), OAR 830-030-0090(5)(g), and OAR 830-050-0050(4).

21. Burns and Funeral Home agree that they have violated OAR 830-030-0100(1), ORS 692.180(1)(a), ORS 692.180(1)(b), OAR 830-040-0000(7), Federal Trade Commission Funeral Rule 16 CFR 453.2(a), Federal Trade Commission Funeral Rule 16 CFR 453.2(b)(5), OAR 830-030-0090(1), OAR 830-030-0100(4), ORS 97.933(1), ORS 97.941, OAR 830-040-0005(1), Federal Trade Commission Funeral Rule 16 CFR 453.5(b), Federal Trade Commission Funeral Rule 16 CFR 453.4(b)(2)(j)(B), OAR 830-040-0000(7)(g), OAR 830-040-0010(4), OAR 830-030-0090(5)(f), OAR 830-030-0090(5)(g), and OAR 830-050-0050(4), which is cause for disciplinary action by the Board.
22. Burns and Funeral Home acknowledge that they have read, understand, and agree to the terms of this Consent Order.
23. Burns and Funeral Home understand that they have the right to a contested case hearing under the Administrative Procedures Act (ORS Chapter 183), and hereby fully and finally waive any and all right to a hearing and any rights to appeal or otherwise challenge this Consent Order.
24. Burns and Funeral Home agree the Board may issue the Order set forth below.
25. This Consent Order is a public document.
26. This Consent Order shall be effective when signed by the Executive Director of the Board.

ORDER

The Board issues the following final order:

- 1. Burns and Funeral Home are reprimanded and shall pay a civil penalty of \$25,500.00 for violating OAR 830-030-0100(1), ORS 692.180(1)(a), ORS 692.180(1)(b), OAR 830-040-0000(7), Federal Trade Commission Funeral Rule 16 CFR 453.2(a), Federal Trade Commission Funeral Rule 16 CFR 453.2(b)(5), OAR 830-030-0090(1), OAR 830-030-0100(4), ORS 97.933(1), ORS 97.941, OAR 830-040-0005(1), Federal Trade Commission Funeral Rule 16 CFR 453.5(b), Federal Trade Commission Funeral Rule 16 CFR 453.4(b)(2)(j)(B), OAR 830-040-0000(7)(g), OAR 830-040-0010(4), OAR 830-030-0090(5)(f), OAR 830-030-0090(5)(g), and OAR 830-050-0050(4).**
- 2. The civil penalty shall be paid in 5 monthly installments of \$5,100.00 each, with the first payment due on September 1, 2014 and each subsequent payment due on the first date of each following month through January 1, 2015.**
- 3. The individual license of Burns, CO-3065, is suspended for a period of 120 days. During the suspension, Burns shall designate an alternate manager for the Funeral Home and an alternate manager for the Cemetery. The suspension shall become effective 30 days after the effective date of this Consent Order or upon approval by the Board of the alternative managers, whichever is earlier.**

4. The individual license of Burns, CO-3065, is on probation for a period of 24 months, beginning on the effective date of the suspension of the license. Further violations during the probationary period will be immediate cause for additional disciplinary action including civil penalties, refusal to renew a license, and/or suspension or revocation of a license.

DATED this 2 day of September 2014.

OREGON MORTUARY AND CEMETERY BOARD

By: <signature on file>
Michelle Gaines
Executive Director

It is so agreed.

August 26 2014

By: <signature on file>
Alan Burns for
Burns's Riverside Chapel & Florence Funeral
Home, Inc.

August 26 2014

By: <signature on file>
Alan Burns