

**FINAL ORDER by DEFAULT**

**BEFORE THE MORTUARY AND CEMETERY BOARD**

**OF THE STATE OF OREGON**

In the Matter of: <b>Sheila Larson</b> (Preneed Salesperson License PN-8551, Expired)  <b>RESPONDENT</b>	<b>FINAL ORDER by DEFAULT</b>  <b>CASE NO. 05-1014</b>
--	--

On July 11, 2007, the Oregon Mortuary and Cemetery Board (Board, OMCB) properly served notice on Sheila Larson (Respondent) that it intended to discipline Respondent for violations of ORS 692.180(1)(b), OAR 830-030-0090(2)(d), OAR 830-050-0050(6), and ORS 692.180(1)(g). The Notice was sent via certified mail to the address provided by the Respondent: *611 Startouch Dr. Eugene, OR 97405*, but was returned to the Board marked as "Unclaimed" on August 1, 2007. The Notice offered Respondent an opportunity for hearing if requested within 20 days from the date the notice was mailed. Respondent did not request a hearing within this 20-day period. 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. At all relevant times herein, DKN Properties, Inc. dba Rest Lawn Memorial Park (Rest Lawn) was licensed by the Board as a cemetery (OMCB License No. CE-0655).
2. From at least November 1, 2004 through approximately December 20, 2004, Respondent was employed at Rest Lawn. From January 3, 2005 through February 28, 2006 Respondent was licensed by the OMCB as a Preneed Salesperson (OMCB License No. PN 8551). Previously, Respondent was licensed as a Preneed Salesperson from March 1, 2002 through February 29, 2004.
3. On or about November 22, 2004, Respondent, while representing Rest Lawn, met with a consumer, Debra A., who ordered a granite grave marker for placement on a grave space at Rest Lawn. Debra A. gave Respondent \$226.00 cash for the marker, and an additional \$40.00 cash to expedite placement of the marker before December 25, 2004.

4. The Respondent completed, and both Respondent and Debra A. signed, a document titled, "Cemetery Interment Rights, Merchandise and Services Purchase Agreement." The document contained the \$226.00 charge for the marker, but did not include the \$40.00 fee paid by Debra A. to expedite the marker placement.
5. On or about December 30, 2004, Rest Lawn Memorial Park terminated Respondent from employment at Rest Lawn. When Respondent left the facility, she took with her the file containing the aforementioned Agreement, the \$226.00 cash payment for the marker, and the \$40.00 cash payment to expedite the placement of the marker.
6. Upon the request of the cemetery principal owner, David Noble, Respondent returned the file containing the Agreement and \$226.00 cash, but Respondent did not return the \$40.00 cash payment made by Debra A. to expedite the placement of the marker.
7. During the time Respondent was licensed as a Preneed Salesperson, the OMCB instructed Respondent, on at least two occasions, to provide a written response to allegations of fraudulent or dishonest conduct at Rest Lawn, in the following manner:
  - i. On July 22, 2005, the OMCB sent Respondent a written request for a written response by August 5, 2005 to certain allegations of dishonest conduct via regular US mail to the address provided by Respondent.
  - ii. On August 8, 2005, the OMCB sent Respondent a written request for a written response by August 19, 2005 to certain allegations of dishonest conduct via certified mail #7003 2260 0001 3347 0480. On August 12, 2005 the OMCB received a signed receipt for the Board's letter, indicating Respondent received the OMCB letter.
8. Respondent did not provide the OMCB with a written response to the allegations as requested above.

#### **ULTIMATE FINDINGS OF FACT**

Respondent was employed at and represented Rest Lawn Memorial Park when a client gave Respondent a \$40.00 cash payment for the expedition of a grave marker installation. Respondent did not expedite the installation of the grave marker and did not return the \$40.00 cash payment.

Respondent failed to comply with the Board's requests to provide a written response to allegations of fraudulent and dishonest conduct.

#### **CONCLUSIONS OF LAW**

1. Fraudulent or dishonest conduct by any person, when the conduct bears a demonstrable relationship to the operation of cemeteries, is cause for the Board to impose discipline. ORS 692.180(1)(b)
2. Therefore, the foregoing instance in which Respondent failed to return \$40.00 cash to the client or expedite the installation of the grave marker is fraudulent and dishonest conduct is cause for disciplinary action under ORS 692.180(1)(b).

3. Every licensee or agent of a licensed facility of the OMCB shall abide by the accepted standards of the Death Care Industry and the minimum standards including providing the Board with requested documents within the Board's jurisdiction; and cooperating or answering truthfully and completely inquiries regarding matters within the Board's jurisdiction. OAR 830-030-0090(2)(d)
4. Failing to comply with a Board request may be considered grounds for disciplinary action. OAR 830-050-0050(6)
5. Therefore, the foregoing two instances in which Respondent, while registered by the Board as a Preneed Salesperson, failed to comply with a Board request to provide a written response to certain allegations of fraudulent and dishonest conduct are two violations of OAR 830-030-0090(2)(d) and OAR 830-050-0050(6) which is cause for disciplinary action under ORS 692.180(1)(g).

**ORDER**

1. Respondent is hereby reprimanded.
2. This Final Order is effective when issued by the Board.

DATED and ENTERED this 3rd day of August, 2007.

Oregon Mortuary & Cemetery Board

\_\_\_\_<s> David J. Koach\_\_\_\_\_  
David J. Koach, Executive Director

Date of Mailing: \_\_\_\_\_August 6, 2007\_\_\_\_\_

**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 with the Court of Appeals in Salem, Oregon within 60 days from the date this order was mailed.