

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

In the Matter of the funeral establishment license of Alderwoods (Oregon), Inc. dba Buell Funeral Chapel (FE-8458), <p style="text-align: center;">RESPONDENT</p>		Notice of Proposed Disciplinary Action And Opportunity for a Hearing <p style="text-align: center;">CASE NO. 06-1016A</p>
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Pursuant to ORS 692.180, the Oregon Mortuary & Cemetery Board (“OMCB” and “Board”) proposes to take disciplinary action against you on the grounds noted below. For statutory and rule violations the Board may impose one or more of the following sanctions: Reprimand; license suspension or 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, Alderwoods (Oregon), Inc. dba Buell Funeral Chapel (hereinafter “Respondent”) was licensed as a funeral establishment (OMCB License No. FE-8458).

1b. At all times mentioned herein, Dennis Baker (Baker) was employed by Respondent funeral establishment.

2.

2a. It is the responsibility of the funeral establishment to assign an Oregon licensed funeral service practitioner as a manager for each funeral establishment. OAR 830-030-0000(8); ORS 692.025(3)(b)

2b. During the following approximate time periods, Respondent operated a funeral establishment without an assigned manager:

- I. March 17, 2005 through June 9, 2005,
- II. June 30, 2005 through November 3, 2005.
- III. December 9, 2005 through February 23, 2006.
- IV. May 1, 2006 through at least June 14, 2006.

2c. On October 13, 2005 the Board verbally warned Respondent they must have a manager. On February 17, 2006 the Board sent a Letter of Concern to Respondent regarding this issue.

2d. The foregoing four instances of failing to assign a licensed funeral service practitioner as a funeral establishment manager are four specifications of violations of OAR 830-030-0000(8) which are cause for disciplinary action under ORS 692.180(1)(g) and ORS 692.025(3)(b).

3.

3a. ORS 692.025(1) provides that an individual may not practice as a funeral service practitioner unless the individual is licensed as a funeral service practitioner under ORS 692.045. An individual practices as a funeral service practitioner if the individual, for payment, is engaged directly or indirectly in supervising or otherwise controlling the transportation, care, preparation, processing and handling of dead human bodies before the bodies undergo cremation, entombment or burial, or before the bodies are transported out of the State of Oregon.

3b. Further, OAR 830-030-0004(1) provides that only a funeral service practitioner or funeral service practitioner apprentice shall: (a) Work directly with at need persons to arrange for the disposition of human remains; and (b) Coordinate and direct the various tasks associated with performing funeral services for at need persons including but not limited to: taking all vital information on the deceased for the purpose of filing the death certificate; arranging for transportation of the remains; coordinating the services for final disposition;

supervising or otherwise controlling the care, preparation, processing and handling of human remains.

3c. From approximately January 1, 2006 through March 28, 2006 Dennis Baker (Baker) worked directly with at need persons to arrange for the disposition of at least four (4) decedents who died in Oregon. Baker met with the families of the decedents, prepared documents, and arranged for the transportation, care, preparation, processing or handling of the remains before the bodies underwent cremation, entombment or burial for the following four (4) decedents, as identified by the following Oregon State identification numbers, partial names and dates of death:

3d. The Oregon State ID numbers, partial names and dates of death are:

- I. #H68622; Anna M.; DOD January 8, 2006
- II. #426965; Margaret O.; DOD February 14, 2006
- II. #H68641; John J.; DOD March 1, 2006
- III. #H68653; Donald D.; DOD March 26, 2006

3e. Baker violated OAR 830-030-0004(1) and ORS 692.025(1) by performing the duties of a licensed funeral service practitioner when not licensed to do so.

4.

4a. OAR 830-030-0004(4)(a) provides that only a licensed embalmer or certificated embalmer apprentice shall provide the necessary handling and preparation of human remains, e.g. washing, disinfecting, setting features, embalming and supervising dressing.

4b. On or about January 2 or 3, 2006, Dennis Baker prepared the remains of decedent Doris K., State ID #426955, by setting features, specifically, (1) placing eye caps and (2) suturing the mouth of the decedent.

4c. Baker violated OAR 830-030-0004(1) by performing the duties of a licensed embalmer when not licensed to do so.

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5.

5a. Respondent allowed Baker, an unlicensed individual, to perform the duties of a licensed funeral service practitioner and embalmer, as described in paragraphs 3 and 4 above.

5c. Allowing an unlicensed individual to perform the duties of a licensed individual are violations of OAR 830-050-0050(8) which is cause for disciplinary action under ORS 692.180(1)(g).

6.

6a. OAR 830-030-0090(1)(f) provides that every licensee of the Board shall abide by the accepted standards of the Death Care Industry and the minimum standards, including but not limited to maintaining supervision of apprentices and unlicensed persons to whom tasks are assigned.

6b. Baker acted outside the scope of his licensure over a period of approximately three months when he met with families to make at-need final disposition arrangements and when he prepared remains by setting features.

6c. Therefore, Respondent failed to properly supervise Dennis Baker when he performed duties of a funeral service practitioner and embalmer when he was not licensed to do so.

6d. The foregoing is a violation of OAR 830-030-0090(1)(f) which is cause for disciplinary action under ORS 692.180(1)(g).

7.

Definitions that may be relevant to this notice are contained in: OAR 830-011-0000 and ORS 692.010.

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 21 days from the date this notice was mailed. If a request for hearing is not received within this 21-day period, your right to a hearing shall be considered waived. Hearing requests may be mailed to State Office Building, 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 are required to be represented by legal counsel at a hearing. 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 21 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 a civil penalty 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 ____4th____ day of June, 2007

STATE MORTUARY AND CEMETERY BOARD

____<s> Lynne Nelson_____
Designee: Lynne Nelson, Compliance Manager