

STATE MORTUARY AND CEMETERY BOARD

STATE OF OREGON

<p>In the Matter of the Preneed Salesperson Registration of DAVID A. MCJANNET, LICENSEE</p>	<p>Notice of Proposed Disciplinary Action And Opportunity for a Hearing CASE NO. 08-1019A</p>
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Pursuant to ORS 692.180 and ORS 97.931, the Oregon Mortuary & Cemetery Board proposes to take disciplinary action against your license (OMCB License No. PN-8516) on the grounds noted below.

Grounds for Discipline:

1.

1a. On May 1, 2008, the Oregon Mortuary & Cemetery Board (the "Board") received Applications for Change of Principal from Stonemor Oregon, LLC. The Applications proposed Licensee as manager of five licensed cemeteries: Memory Gardens Memorial Park, OMCB License No. CE-0734; Hillcrest Memorial Park, No. CE-0732; Roseburg Memorial Gardens, No. CE-0737; Valley View Cemetery, No. CE-0738; and Restlawn Memory Gardens & Mausoleum, No. CE-0735.

1b. The Applications' Background Information section, Question #3, asks Licensee, "*Have you ever been arrested, charged or cited for anything other than traffic violations?*" Licensee wrote "*No.*"

1c. On January 3, 2006, Licensee was arrested in Clackamas County Oregon for Assault 4th Degree-Domestic Violence Abuse.

1d. Therefore, in the Applications to the Board, Licensee failed to disclose the 2006 arrest for the Class A misdemeanor crime of Assault 4th Degree-Domestic Violence Abuse.

1e. The foregoing misrepresentation is cause for disciplinary action under ORS 692.180(1)(a), ORS 692.180(1)(g), OAR 830-050-0050(2), (9).

2.

The West Linn Police Department Custody Report for the arrest of Licensee on January 3, 2006 provided the following account:

- i. On or about January 3, 2006, two West Linn police officers responded to Licensee's home because of a 911 emergency call from Licensee's home.
- ii. Licensee was arrested on a charge of assault, handcuffed, placed in a police car, and advised of his Miranda rights.
- iii. Or or about January 4, 2006, Clackamas County Jail (CCJ) staff booked and lodged Licensee for an Assault IV APA (Abuse Prevention Act) charge, with bail set at \$7500.00.
- iv. The case was referred to Clackamas County District Attorney.

3.

3a. On or about May 1, 2008, during the Board's background investigation, Licensee provided the following account of the Assault IV Domestic Violence arrest on January 3, 2006:

- i. Licensee came home from an out-of-town trip to find the house doors locked. Not having his key, he banged on the doors of the house to wake his wife.
- ii. The noise caused a neighbor, who heard the commotion, to call the police because of recent burglaries in the area.
- iii. The police responded, and after going to the police station to explain what happened, he was released.
- iv. Licensee was not arrested, cited or booked.

3b. On or about May 7, 2008, during the background investigation, Licensee provided the following account of the Assault IV Domestic Violence arrest on January 3, 2006:

- i. Licensee came home to find the doors locked and banged on the door, unaware his wife and two children were not at home.
- ii. Because there had been quite a few break-ins at the time, Licensee's elderly next-door neighbor thought someone was breaking into the house so he called 911 and the police responded.
- iii. The police asked Licensee to escort them down to the station where he had to give statements and show proper ID. Because he did not have his "green card," they took his picture to make sure he was in the country legally.

iv. Licensee then went home.

3c. Therefore, Licensee repeatedly misrepresented the facts and circumstances of the arrest, made false and misleading statements, and failed to answer the Board's inquiries about the arrest truthfully and completely during the application process.

3d. The foregoing are violations of and cause for disciplinary action under ORS 692.180(1)(a), ORS 692.180(1)(b), ORS 692.180(1)(g), OAR 830-030-0090(2)(c)(D), (2)(d)(B), and OAR 830-050-0050(2), (9).

4.

On or about May 15, 2008, Licensee admitted that he failed to be truthful when describing the facts and circumstances of the arrest because he did not know the Board had the Police Report, and therefore, he did not think the Board knew the facts and circumstances. Licensee also admitted that he failed to disclose the arrest on the Application because he did not know there was a police record that the Board could find or the Board would bother looking.

5.

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

Opportunity for Hearing

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 Oregon Mortuary & Cemetery Board (the "Board") at 800 NE Oregon Street, Suite 430, Portland, OR 97232, 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.

If you request a hearing, you will be notified of the time and place of the 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 discipline. If the Board issues a final order by default, it designates its file on this matter as the record.

DATED this 3rd day of October, 2008

STATE MORTUARY AND CEMETERY BOARD

 <s> Lynne Nelson _____
Designee: Lynne Nelson, Compliance Manager