

IN THE CHANCERY COURT OF BRADLEY COUNTY, TENNESSEE

COPY

STATE OF TENNESSEE, BY AND THROUGH
STEPHEN D. CRUMP, DISTRICT ATTORNEY
GENERAL FOR THE 10TH JUDICIAL DISTRICT,
Petitioner,

V.

No. 2013-CV-84

CECIL LAWRENCE, INC d/b/a
SUNSET MEMORIAL GARDENS,
Respondent.

2015 AUG 25 AM 8:37

SARAH E. COLEMAN
CLERK & MASTER
FILED CHANCERY COURT

PETITION FOR CONTEMPT TO ENFORCE CONSENT DECREE

COMES now Stephen D. Crump, District Attorney General in the 10th Judicial District and would state as follows:

1. By Consent Order entered January 5, 2015 the parties agreed that this Honorable Court shall maintain jurisdiction over the original case and complaint filed in case No. 2013-CV-84 regarding the operations of Sunset Memorial Gardens by Cecil Lawrence, Inc.
2. The Respondent, Cecil Lawrence Inc., pursuant to the above agreed Consent Order, agreed to maintain certain standards and procedures based on citizen complaints related to the maintenance and upkeep of the cemetery grounds and mausoleum at Sunset Memorial Gardens.
3. Petitioner would state that Respondent has not complied with the mandates of the Consent Order in the following manner:
 - a. The Respondent has failed to maintain a complaint procedure for identifying written or telephonic complaints as required.
 - b. The Respondent has failed to respond and correct identified and verified problems on the cemetery grounds or in the mausoleum facility within a reasonable time as set out in the Consent Order. At a

hearing in this cause, the Petitioner will present proof of incidents occurring after the entry of the January 5, 2015 Consent Order, all of which the Respondent failed to cure after notice of the incidents.

c. In addition to the violations contained in Paragraph 4 of this Petition, Petitioner would state that the mausoleum has crypts where the front plates have fallen off, noxious odors are emanating from the crypts, and fluids are leaking from crypts at various times.

4. In support of this Petition, Petitioner would also show that the Respondent has been civilly penalized by the Tennessee Department of Commerce and Insurance since the entry of the Consent Order for:

“failing to maintain its cemetery so as to reflect respect for the memory of the dead in keeping with the reasonable sensibilities of survivors of those whose remains are interred in the cemetery (unmarked graves and damaged markers, marker bases strewn with one laying in what appeared to be a ditch and broken pieces of lawn crypts on the cemetery grounds) and failed to provide continual maintenance of the cemetery grounds and graves.”

5. The Consent Order entered by the Commissioner of Commerce and Insurance contains stipulated facts and further states that the Consent Order in no way precludes proceedings by state government representatives. District Attorney General Stephen D. Crump is such a state government representative. A copy of the Consent Order is attached as Exhibit 1. to this Petition.
6. The Respondent's corporate authorization and domestic Tennessee charter was revoked by the Tennessee Secretary of State on August 8, 2015. The revocation was administrative in nature.


Wherefore petitioner prays:

1. The Respondent be served with a copy of this Petition and be required to answer within the time permitted by law.
2. That this matter be set on the Chancery docket for hearing.

3. That at a hearing that the Court find Respondent in contempt of the consent order entered in this cause.
4. That the Respondent be required to furnish the names of all stockholders, officers and directors of the company.
5. That the Court require Cecil Lawrence Inc. to provide the Court and Petitioner with a forensically audited copy of their corporate financial records including but not limited to the improvement and perpetual care trust fund.
6. That Cecil Lawrence Inc. and its officers, directors and shareholders be held in contempt personally for their repeated failures to abide by the Consent Decree and be held personally responsible for any and all costs to correct the deficiencies and maintain Sunset Memorial Gardens in an acceptable manner.
7. That this Honorable Court appoint a receiver or special master to oversee the affairs of Sunset Memorial Gardens. That the costs of the receiver or special master be assigned to the Respondent and personally to the officers and/or directors of Cecil Lawrence Inc.
8. That Petitioner, on behalf of the citizens of Bradley County, have such further and equitable relief to which it may be entitled to.

Respectfully submitted,

STEPHEN D. CRUMP
DISTRICT ATTORNEY GENERAL

By: 

M. Drew Robinson
Assistant District Attorney General



EXHIBIT 1

STATE OF TENNESSEE
BEFORE THE COMMISSIONER OF COMMERCE AND INSURANCE

IN THE MATTER OF:

Sunset Memorial Gardens
7180 North Lee Highway
Cleveland, TN 37312-7350

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P3601
F127

L15-CEM-RBS-2015009981

2015 AUG 25 AM 8:37
SARAH E. COLEMAN
CLERK & MASTER
FILED CHANCERY COURT

CONSENT ORDER

THIS MATTER comes before the Commissioner of the Department of Commerce and Insurance, based upon violations alleged following a routine examination. Sunset Memorial Gardens (hereinafter referred to as "Respondent") voluntarily enters into this Consent Order to avoid formal charges and a contested case proceeding with respect to the matters described herein.

GENERAL STIPULATIONS

1. It is expressly understood that this Consent Order is subject to the Commissioner's acceptance and has no force and effect until such acceptance is evidenced by the entry of the Commissioner's signature.
2. This Consent Order is executed by the Respondent for the purpose of avoiding further administrative action with respect to this cause. Furthermore, should this Consent Order not be accepted by the Commissioner, it is agreed that presentation to and consideration of this

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Consent Order by the Commissioner shall not unfairly or illegally prejudice the Commissioner from further participation or resolution of these proceedings.

3. Respondent fully understands that this Consent Order will in no way preclude additional proceedings by the Commissioner against Respondent for acts or omissions not specifically addressed in this Consent Order or for facts and/or omissions that do not arise from the facts or transactions herein addressed.

4. Respondent fully understands that this Consent Order will in no way preclude proceedings by state government representatives, other than the Commissioner for violations of the Cemetery Act of 2006 (hereinafter “the Act”) addressed specifically in this Consent Order, against the Respondent for violations of law under statutes, rules, or regulations of the State of Tennessee, which may arise out of the facts, acts, or omissions contained in the Findings of Fact and Conclusions of Law stated herein, or which may arise as a result of the execution of this Consent Order by the Respondents.

5. Respondent expressly waives all further procedural steps, and expressly waives all rights to seek judicial review of or to otherwise challenge or contest the validity of this Consent Order, the stipulations and imposition of discipline contained herein, and the consideration and entry of said Consent Order by the Commissioner.

AUTHORITY AND JURISDICTION

Tenn. Code Ann. §§ 62-5-413 and 56-1-308 and Rule 0780-5-9-.25 of the Rules of the Department of Commerce and Insurance, Division of Regulatory Boards, Burial Services Section, authorize the Commissioner to take disciplinary action and/or assess civil penalties as consequences of any violation of Tenn. Code Ann., Title 62 and 46 and/or any rules promulgated thereunder.

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PARTIES

1. The Commissioner is the lawful agent through which the Act and its rules are administered and is authorized to bring this action.
2. Respondent is a properly licensed cemetery with a last known mailing address of: 7180 North Lee Highway, Cleveland, TN 37312-7350.

FINDINGS OF FACT

1. On April 15, 2015 Andrew F. Bennett III (Complainant) filed a complaint with Burial Services against Respondent.
2. Complainant's father was buried at Respondent cemetery in December of 2014.
3. When Complainant and his sister went to visit the grave in April of 2015, they could not find their father's grave because it was not marked.
4. Complainant observed many unmarked graves along with many damaged markers.
5. There were marker bases strewn around; one was found lying in what appeared to be a ditch.
6. Additionally, there were many broken pieces of lawn crypts on the grounds.
7. Respondent hereby admits to the foregoing findings of fact.

CONCLUSIONS OF LAW

1. Respondent's acts and conduct constitute a violation of **Tenn. Code Ann. § 46-1-304(a)**, which states in pertinent part the following:

As to matters within its reasonable control, a cemetery company shall maintain its cemeteries so as to reflect respect for the memory of the dead in keeping with the reasonable sensibilities of survivors of those whose remains are interred in the cemeteries.

2. Respondent's acts and conduct constitute a violation of **Tenn. Comp. R. & Reg. 0780-5-9-.12(1)**, which states in pertinent part the following:

Any of the following conditions constitutes failure to maintain cemetery grounds:

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(a) an accumulation of weeds, trash, junk, or filth; (b) any unsafe or unsanitary condition(s); (c) failure to perform any other maintenance obligation created by contract.

3. Respondent's acts and conduct constitute a violation of Tenn. Code Ann. § 46-1-102(12), which states in pertinent part the following:

"Improvement care" means the continual maintenance of the cemetery grounds and graves in keeping with a properly maintained cemetery, including cutting of grass, raking and cleaning of cemetery plots at reasonable intervals, and pruning of shrubs and trees; memorial care of commodities; procuring, maintaining and keeping in workable condition the machinery, tools and equipment needed for the shop and replacing the machinery, tools and equipment when necessary; keeping in repair and preserving the drains, water lines, roads, buildings, fences and other structures, including cemetery-owned statues and embellishments of general character applicable to the cemetery as a whole or a particular area; and paying of insurance premiums and maintaining necessary records of lot ownership, burials and other necessary information and making the records available to public authorities and interested persons;

ORDER

NOW, THEREFORE, on the basis of the foregoing, and Respondent's waiver of the right to a hearing and appeal under the Act and the Uniform Administrative Procedures Act, TENN. CODE ANN. §§ 4-5-101 to 4-5-404 (2011), and Respondent's admission of jurisdiction of the Commissioner, the Commissioner finds that Respondent, for the purpose of settling this matter, admits the Findings of Fact and Conclusions of Law, agrees to the entry of this Order and agrees that this Order is in the public interest, necessary for the protection of the public and consistent with the purposes fairly intended by the policy and provisions of the Act.

IT IS ORDERED, pursuant to Tenn. Code Ann. § 46-1-301 and Rule 0780-5-9-.25 of the Act that Respondent:

1. Pay **CIVIL PENALTIES** in the amount of **FIVE HUNDRED DOLLARS** (\$500.00). Payment shall be made immediately on the date this agreement is executed by the Commissioner, and payment shall be mailed to:

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TENNESSEE DEPARTMENT OF COMMERCE AND INSURANCE
OFFICE OF LEGAL COUNSEL
ATTN: ELLERY RICHARDSON
500 JAMES ROBERTSON PARKWAY
FIFTH FLOOR, DAVY CROCKETT TOWER
NASHVILLE, TENNESSEE 37243

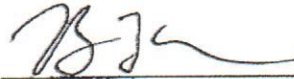
2. It is further **ORDERED** that all persons in any way assisting, aiding, or helping Respondent in any of the aforementioned violations of the Act, shall **CEASE AND DESIST** from all such activities.

IT IS ORDERED that this Consent Order represents the complete and final resolution of, and discharge with respect to all administrative and civil, claims, demands, actions and causes of action by the Commissioner against Respondent for violations of the Act alleged by the Burial Services Section to have occurred with respect to the transactions involving the above referenced parties and the facts contained herein.

This Consent Order is in the public interest and in the best interests of the parties, and represents a compromise and settlement of the controversy between the parties and is for settlement purposes only. By the signatures affixed below, Respondent affirmatively states they have freely agreed to the entry of this Consent Order, that they waive the right to a hearing on the matters underlying this Consent Order and to a review of the Findings of Fact and Conclusions of Law contained herein, and that no threats or promises of any kind have been made to them by the Commissioner, the Burial Services Section, or any agent or representative thereof. The parties, by signing this Consent Order, affirmatively state their agreement to be bound by the terms of this Consent Order and aver that no promises or offers relating to the circumstances described herein, other than the terms of settlement as set forth in this Consent Order, are binding upon them.

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ENTERED this 29th day of June, 2015



Brian T. McCormack
Assistant Commissioner
Department of Commerce and Insurance

APPROVED FOR ENTRY:



Sunset Memorial Gardens

Authorized Agent (Print): Cecil Lawrence

Title: President



Ellery Richardson
Assistant General Counsel
500 James Robertson Pkwy
Davy Crockett Tower
Nashville, TN 37243
(615) 741-3072