

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
CORPORATIONS, SECURITIES & COMMERCIAL LICENSING BUREAU

In the matter of:

KNOLLWOOD MEMORIAL PARK CEMETERY
SAM TOCCO, OWNER
Cemetery Registration No. 22-01-000375

Complaint No. 338664

and

KNOLLWOOD MEMORIAL PARK CEMETERY
SAM TOCCO, OWNER
Crematory Registration No. 22-03-000085

Complaint No. 338673

Respondent.

NOTICE OF HEARING

AND

ORDER OF SUMMARY SUSPENSION

1. In addition to this Notice of Hearing and Order of Summary Suspension, the Michigan Cemetery Commissioner is issuing a Formal Complaint setting forth facts and alleged violations of the Cemetery Regulation Act ("Cemetery Act"), MCL 456.521 *et seq.* and article 18 of the Occupational Code, MCL 339.1801 *et seq.*, which, under MCL 456.538(1)(e), also constitute alleged violations of the Cemetery Act.

2. Section 92(2) of the Administrative Procedures Act of 1969, MCL 24.292(2), provides the Department the authority to summarily suspend a license or registration if it finds that the public health, safety, or welfare requires emergency action.

3. Based on Respondent's conduct, as alleged in the Formal Complaint, the Cemetery Commissioner finds that the public health, safety, or welfare requires emergency action.

4. Respondent's registrations under the Cemetery Act were in active status at all times relevant to this proceeding.

IT IS ORDERED THAT:

A. Respondent's registrations as a cemetery and crematory in the State of Michigan are summarily suspended beginning when this Order is hand delivered on **December 11, 2018**.

B. While its registrations are suspended, Respondent may not advertise its services or enter into any new contracts to sell at-need cemetery merchandise, burial space, or other cemetery services, including but not limited to, cremations and entombments.

C. While its registrations are suspended, Respondent shall not bury, cremate, or otherwise facilitate the final disposition of the fetuses and infants it has temporarily stored in its crypts on behalf of multiple mortuary science establishments, unless the Department directs it to do so.

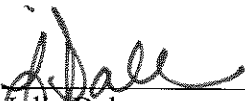
D. While its registrations are suspended, Respondent may fulfill the terms of its existing obligations to provide cemetery merchandise and services under the Cemetery Act.

E. The Department may modify, vacate, or extend the terms of this Order.

YOU ARE ALSO NOTIFIED THAT it is the present intention of the Cemetery Commissioner to conduct a contested case hearing in accordance with the Administrative Procedures Act of 1969, MCL 24.201 to 24.328, to determine compliance with the Cemetery Act, under MCL 456.538 and 456.539, and to determine whether this Order of Summary Suspension is warranted and should remain in effect. The formal hearing is scheduled to be held in Docket No. 18-022439 on **Wednesday, January 16, 2019, at 9:00 AM** before Administrative Law Judge Christopher Saunders at the Michigan Administrative Hearing System at **611 W. Ottawa St., Ottawa Building, 2nd Floor, Lansing, Michigan**. You have the right, at your own expense, to have an attorney represent you at the formal hearing.

This Order remains effective during any additional administrative proceedings associated with this matter.

AND REGULATORY AFFAIRS

BY:  _____
Julia Dale
Director
Corporations, Securities & Commercial Licensing Bureau
and Michigan Cemetery Commissioner

Date Signed: 12/11/18 _____

Responsive Pleadings Should Be Filed With:

Department of Licensing and Regulatory Affairs
Corporations, Securities & Commercial Licensing Bureau
Regulatory Compliance Division
P.O. Box 30018
Lansing, MI 48909

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Respondent.

FORMAL COMPLAINT

The Department of Licensing and Regulatory Affairs, Corporations, Securities & Commercial Licensing Bureau (Department) and the Michigan Cemetery Commissioner, Complainant, under the Michigan Cemetery Regulation Act, MCL 456.521 to 456.543 (Cemetery Act), alleges as follows:

1. Knollwood Memorial Park Cemetery, Sam Tocco, Owner (Respondent), has at all times relevant to this Complaint, been registered as a cemetery and a crematory under the Cemetery Act.
2. A Complaint against Respondent, alleging violations of the Cemetery Act, was filed with the Department.
3. On December 6, 2018, the Cemetery Commissioner issued a Notice and Order to Cease and Desist against Respondent alleging violations of the Cemetery Act in this matter.

4. The violations listed in the December 6, 2018, Notice and Order to Cease and Desist are also included in this Formal Complaint along with additional violations.

5. On December 5, 2018, the Department's investigators presented to Respondent Knollwood Memorial Park Cemetery, located at 1299 Ridge Road in Canton, Michigan based on a review of evidence obtained in another investigation indicating that a mortuary science establishment was temporarily storing the uncremated remains of fetuses and infants at the cemetery.

6. A violation of a state law or municipal or county ordinance or regulation affecting the handling, custody, care, or transportation of a dead human body is a violation of section 1810(1)(h) of the Michigan Occupational Code, MCL 339.1810(1)(h).

7. A violation of article 18 of the Occupational Code, MCL 339.1801 to 339.1812, is also a violation of the Cemetery Act when the person who committed the violation holds a registration or registrations under the Cemetery Act, under MCL 456.538(1)(e).

8. Section 160c of the Michigan Penal Code, MCL 750.160c, prohibits a person, after agreeing to provide for the final disposition of a dead human body, from failing or refusing to properly dispose of a dead human body for more than 60 days after the date it took possession of the dead human body.

9. Accompanied by personnel from the Michigan State Police, the Department's investigators discovered approximately 300 uncremated remains of fetuses and infants who died as far back as 2009 interred but not buried in four of five crypts found at Respondent Knollwood Memorial Park Cemetery.

10. The crypts were not purchased by the loved ones of the deceased but were being used as temporary storage until each crypt was full at which point final disposition would presumably occur.

11. The uncremated remains were stored in plastic containers inadequately sealed with duct or packaging tape and, in some instances, were leaking fluids.

12. Section 2850 of the Michigan Public Health Code, MCL 333.2850, prohibits an individual in charge of premises in which interments or other disposition of dead human bodies is made from interring or allowing interment or other disposition of a dead human body or fetus, unless it is accompanied by an authorization for final disposition.

13. 27 plastic containers containing the uncremated remains lacked the appropriate documentation, including, but not limited to, incomplete or missing burial transit permits (“Final Disposition of a Stillbirth” forms for fetuses and death certificates for born alive infants) which provide an authorization for final disposition, contrary to section 2850 of the Michigan Public Health Code, MCL 333.2850, section 1810(1)(h) of the Michigan Occupational Code, MCL 339.1810(1)(h), and section 18(1)(b) & (e) of the Cemetery Act, MCL 456.538(1)(b) & (e).

14. The infants and fetuses found interred at Respondent Knollwood Memorial Park Cemetery on December 5, 2018, for which an authorization for final disposition did accompany the infants or fetuses contained authorizations for final disposition indicating either “burial” or “cremation” and not “entombment” or “interment,” contrary to section 2850 of the Michigan Public Health Code, MCL 333.2850, section 1810(1)(h) of the Michigan Occupational Code, MCL 339.1810(1)(h), and section 18(1)(b) & (e) of the Cemetery Act, MCL 456.538(1)(b) & (e).

15. Most of the remains appeared to be stored on behalf of Perry Funeral Home, Mortuary Science Establishment License No. 45-02-000788, located at 5045 Trumbull in Detroit, Michigan. The Department summarily suspended Perry Funeral Home's mortuary science license and that of its manager, Gary Ecsedi Deak, on October 19, 2018, in part, because of its improper storage of the uncremated remains of 63 fetuses and infants found in the establishment that day, contrary to MCL 750.160c, various provisions of the Occupational Code, and other laws. Attached as Exhibit 1 is a copy of a verification of Perry Funeral Home's License status.

16. On October 19, 2018, the Department, accompanied by officers from the Detroit Police Department, took possession of the uncremated remains of the 63 fetuses and infants found in the establishment that day.

17. At no time since October 19, 2018, did anyone on behalf of Perry Funeral Home or Knollwood Memorial Park Cemetery notify the Department or the Detroit Police Department that additional remains were being stored at a location other than the mortuary science establishment.

18. In some cases, Respondent obtained possession of dead human bodies without first being expressly directed or authorized to do so by a relative of the deceased persons or a person entitled to custody, contrary to section 1810(1)(k) of the Occupational Code, MCL 339.1810(1)(k), and section 18(1)(b) & (e) of the Cemetery Act, MCL 456.538(1)(b) & (e).

19. In other cases, Respondent, after agreeing to provide for the final disposition of a dead human body, failed or refused to properly dispose of the dead human bodies for more than 60 or more than 180 days after the date it took possession of the dead human

bodies, contrary to section 160c of the Michigan Penal Code, MCL 750.160c, section 1810(1)(h) of the Michigan Occupational Code, MCL 339.1810(1)(h), and section 18(1)(b) & (e) of the Cemetery Act, MCL 456.538(1)(b) & (e).

20. By storing the uncremated remains on behalf of Perry Funeral Home, Respondent aided and abetted Perry Funeral Home, a person not licensed under article 18 of the Occupational Code, in the “practice of funeral directing,” as defined by MCL 339.1801(d), contrary to section 1810(1)(d) of the Occupational Code, MCL 339.1810(1)(d), and section 18(1)(b) & (e) of the Cemetery Act, MCL 456.538(1)(b) & (e).

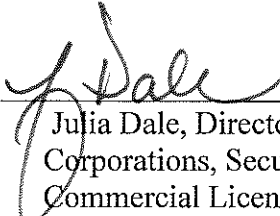
21. Based on the above conduct, the Cemetery Commissioner finds that Respondent is guilty of conduct which constitutes dishonest and unfair dealing or a demonstration of a lack of good moral character, contrary to section 18(1)(d) of the Cemetery Act, MCL 456.538(1)(d).

Based on the above conduct, Respondent acted contrary to MCL 456.538(1)(b), (d), & (e), constituting grounds for the assessment of a penalty, as defined in MCL 456.529(5), 456.538, and 456.539. As indicated in their Notice of Hearing and Order of Summary Suspension, the Department and the Michigan Cemetery Commissioner commenced proceedings before a designated hearing officer under MCL 456.539, and the Administrative Procedures Act of 1969, MCL 24.201 *et seq.*, to determine if Respondent’s registrations should continue to be suspended, should be revoked, and/or whether any other disciplinary action should be taken as permitted by law. The Michigan Cemetery Commissioner is commencing additional proceedings under the Administrative

Procedures Act and the Prepaid Funeral and Cemetery Sales Act based on the allegations set forth in this Formal Complaint.

MICHIGAN DEPARTMENT OF LICENSING
AND REGULATORY AFFAIRS

BY:



Julia Dale, Director
Corporations, Securities &
Commercial Licensing Bureau
And Michigan Cemetery Commissioner

Dated:

12/11/18

Responsive Pleadings Should Be Filed With:

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Regulatory Compliance Division
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Lansing, MI 48909