

BEFORE THE DIRECTOR  
DEPARTMENT OF CONSUMER AFFAIRS  
CEMETERY AND FUNERAL BUREAU  
STATE OF CALIFORNIA

In the Matter of the First Amended Accusation  
Against:

CAREN LEE HARVILLE  
13791 Simshaw Avenue  
Sylmar, CA 91342

Cemetery Manager License No. CEM 109,  
Respondent.

Case No. A1 2007 292

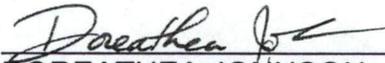
OAH No. 2009040268

**DECISION**

The attached Stipulated Settlement and Disciplinary Order is hereby accepted and adopted as the Decision of the Director of the Department of Consumer Affairs as to Respondent Harville in the above-entitled matter.

This Decision shall become effective MAY 7, 2010.

IT IS SO ORDERED this 07th day of April, 2010.

  
\_\_\_\_\_  
DOREATHEA JOHNSON  
Deputy Director, Legal Affairs Division  
Department of Consumer Affairs

1 EDMUND G. BROWN JR.  
Attorney General of California  
2 GREGORY J. SALUTE  
Supervising Deputy Attorney General  
3 NANCY A. KAISER  
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*Attorneys for Complainant*  
7

8 **BEFORE THE**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**FOR THE CEMETERY AND FUNERAL BUREAU**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the First Amended Accusation  
12 Against:

Case No. A1 2007 292

13 **GLEN HAVEN MEMORIAL GARDENS, INC.**  
14 **d.b.a. GLEN HAVEN MEMORIAL PARK**

OAH No. 2009040268

15 Samuel Chmelnicki, President  
16 Ira M. Harrow, Vice President  
17 Caren Lee Harville, RMO  
18 13017 North Lopez Canyon Road  
19 Sylmar, CA 91342  
20 Certificate of Authority - Cemetery License No.  
21 COA 18,

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER  
re Caren Lee Harville Only**

22 **SHOLOM MEMORIAL PARK d.b.a.**  
23 **SHOLOM MEMORIAL GARDEN**  
24 Samuel Chmelnicki, President  
25 Ira M. Harrow, Vice President  
26 Caren Lee Harville, RMO  
27 13017 North Lopez Canyon Road  
28 Sylmar, CA 91342  
Certificate of Authority - Cemetery License No.  
COA 122,

and

29 **CAREN LEE HARVILLE**  
30 13791 Simshaw Avenue  
31 Sylmar, CA 91342  
32 Cemetery Manager License No. CEM 109

Respondents.

1 In the interest of a prompt and speedy settlement of this matter, consistent with the public  
2 interest and the responsibilities of the Director of Consumer Affairs and the Cemetery and  
3 Funeral Bureau, the parties hereby agree to the following Stipulated Settlement and Disciplinary  
4 Order, which will be submitted to the Director for his approval and adoption as the final  
5 disposition of the First Amended Accusation (hereinafter referred to as "Accusation") solely with  
6 respect to Caren Lee Harville. It does not apply to Glen Haven Memorial Gardens, Inc. d.b.a.  
7 Glen Haven Memorial Park or Sholom Memorial Park d.b.a. Sholom Memorial Garden.

8 PARTIES

9 1. Richard L. Wallinder, Jr. (Complainant) is the Bureau Chief of the Cemetery and  
10 Funeral Bureau, Department of Consumer Affairs, State of California. Sherrie Moffet-Bell,  
11 Complainant's predecessor, brought this action solely in her official capacity. Complainant is  
12 represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California,  
13 by Nancy A. Kaiser, Deputy Attorney General.

14 2. Caren Lee Harville (Respondent) is represented in this proceeding by attorney David  
15 M. Baum, 1925 Century Park East, Ste 2140, Los Angeles, CA 90067.

16 3. On or about June 4, 2004, the Cemetery and Funeral Bureau (Bureau) issued  
17 Cemetery Manager License Number CEM 109 to Caren Lee Harville (Respondent). The  
18 Cemetery Manager License was in full force and effect at all times relevant to the charges  
19 brought herein and will expire on June 30, 2010, unless renewed.

20 JURISDICTION

21 4. Accusation No. A1 2007 292 was filed before the Director of the Department of  
22 Consumer Affairs (Director), which was subsequently amended, and is currently pending against  
23 Respondent. The Accusation and all other statutorily required documents were properly served  
24 on Respondent on February 15, 2008. Respondent timely filed her Notice of Defense contesting  
25 the Accusation. A copy of the Accusation No. A1 2007 292 is attached as **Exhibit A** and  
26 incorporated herein by reference.

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1 ADVISEMENT AND WAIVERS

2 5. Respondent has carefully read, fully discussed with counsel, and understands the  
3 charges and allegations in Accusation No. A1 2007 292. Respondent has also carefully read,  
4 fully discussed with counsel, and understands the effects of this Stipulated Settlement and  
5 Disciplinary Order.

6 6. Respondent is fully aware of her legal rights in this matter, including the right to a  
7 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at  
8 her own expense; the right to confront and cross-examine the witnesses against her; the right to  
9 present evidence and to testify on her own behalf; the right to the issuance of subpoenas to  
10 compel the attendance of witnesses and the production of documents; the right to reconsideration  
11 and court review of an adverse decision; and all other rights accorded by the California  
12 Administrative Procedure Act and other applicable laws.

13 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and  
14 every right set forth above.

15 CULPABILITY

16 8. Respondent understands that the charges and allegations in the Accusation No. A1  
17 2007 292, if proven at a hearing, would constitute cause for imposing discipline on her license.

18 9. For the purpose of resolving the Accusation without the expense and uncertainty of  
19 further proceedings, Respondent gives up her right to contest the Accusation. Respondent  
20 understands and agrees that in any future proceeding involving the Bureau or the Department of  
21 Consumer Affairs, Respondent will be deemed to have admitted these allegations.

22 10. Respondent agrees that her Cemetery Manager License is subject to discipline and  
23 she agrees to be bound by the Director's imposition of discipline as set forth in the Disciplinary  
24 Order below.

25 CIRCUMSTANCES IN MITIGATION

26 11. Respondent has never been the subject of any disciplinary action. She is admitting  
27 responsibility at an early stage in the proceedings. Respondent has been cooperative in these  
28 proceedings. Respondent has had numerous improvements made to Glen Haven Memorial Park

1 and Sholom Memorial Garden to address violations alleged in the Accusation, as set forth in  
2 **Exhibit B**, which is incorporated herein by reference.

3 CONTINGENCY

4 12. This stipulation shall be subject to approval by the Director. Respondent understands  
5 and agrees that counsel for Complainant and the staff of the Director or Bureau may communicate  
6 directly with the Director regarding this stipulation and settlement, without notice to or  
7 participation by Respondent. By signing the stipulation, Respondent understands and agrees that  
8 she may not withdraw her agreement or seek to rescind the stipulation prior to the time the  
9 Director considers and acts upon it. If the Director fails to adopt this stipulation as its Decision  
10 and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except  
11 for this paragraph, it shall be inadmissible in any legal action between the parties, and the  
12 Director shall not be disqualified from further action by having considered this matter.

13 OTHER MATTERS

14 13. The parties understand and agree that facsimile copies of this Stipulated Settlement  
15 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and  
16 effect as the originals.

17 14. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an  
18 integrated writing representing the complete, final, and exclusive embodiment of their agreement.  
19 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,  
20 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary  
21 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a  
22 writing executed by an authorized representative of each of the parties.

23 15. In consideration of the foregoing admissions and stipulations, the parties agree that  
24 the Director may, without further notice or formal proceeding, issue and enter the following  
25 Disciplinary Order:

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**DISCIPLINARY ORDER**

IT IS HEREBY ORDERED that Cemetery Manager License Number CEM 109 issued to Caren Lee Harville (Respondent) is revoked. However, the revocation is stayed and Respondent is placed on probation for **three (3) years** on the following terms and conditions.

1. **Obey All Laws.** Respondent shall comply with all conditions of probation and obey all federal, state and local laws, and all rules and regulations governing the programs regulated by the Bureau.

2. **Quarterly Reports.** Respondent shall submit quarterly declarations under penalty of perjury, in a format designated by the Bureau, stating whether or not Respondent has been in compliance with all the conditions of probation. Respondent shall also submit such additional written reports and verifications of actions requested by the Bureau. Should the final probation report not be made as directed, the period of probation shall be extended until such time as the final report is made.

3. **Interview with Bureau Representative.** As necessary, Respondent shall appear in person for scheduled interviews with the Bureau Chief or other designated representative for the purpose of monitoring compliance with the terms of this decision.

4. **Out-of-State Residence or Operation.** Should Respondent leave California to reside or operate outside this state, Respondent must notify the Bureau in writing of the dates of departure and return. Reporting in person may be waived if the Respondent moves out of the state. However, Respondent shall continue compliance with other terms of probation to retain California licensure. Periods of residency, business operation or employment outside California shall not reduce the probationary period.

5. **Completion of Probation.** Upon successful completion of probation, Respondent's license will be fully restored.

6. **Violation of Probation.** Should Respondent violate probation in any respect, the Director of the Department of Consumer Affairs (Director), after giving Respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order which was stayed. If an Accusation or Petition to Revoke Probation is filed against Respondent during

1 probation, the Director shall have continuing jurisdiction until the matter is final, and the  
2 probation shall be extended until the matter is final.

3       7.     **License Issued During Probation.** Any license or registration issued to Respondent  
4 by the Bureau during the period of probation shall be issued as a probationary license or  
5 registration and is subject to all the terms and conditions set forth herein. Respondent must  
6 comply with terms and conditions herein and demonstrate no cause for disciplinary action or  
7 denial of an application.

8       8.     **Cost Recovery.** Respondent shall pay the Bureau's actual and reasonable costs of  
9 investigation and enforcement of this matter in the amount of **two thousand dollars (\$2,000)**.  
10 Respondent shall be permitted to pay these costs in a payment plan approved by the Bureau, with  
11 payments to be completed no later than six months prior to the end of the probation term.  
12 Probation shall not terminate until full payment has been made. Respondent's license shall not be  
13 renewed until the cost recovery has been paid in full or Respondent is otherwise in compliance  
14 with a payment plan approved by the Bureau.

15       9.     **Provision of Records.** Respondent shall provide specific records for Bureau  
16 inspection as required. Respondent shall maintain a daily log of maintenance and repair tasks  
17 performed by staff, which shall be provided to the Bureau upon request and made available for  
18 review during Bureau inspections.

19       10.    **Remedial Education.** Within 30 days of the effective date of this decision,  
20 Respondent shall submit to the Bureau for its prior approval, an appropriate program of remedial  
21 education related to effective management of employees with regard to directing employees' day-  
22 to-day duties, in an educational facility or program which must also be approved by the Bureau.  
23 It shall consist of **at least thirty (30) hours**, which shall be completed within the first year of  
24 probation at Respondent's expense. The period of probation will be extended, if necessary, until  
25 such remedial education is completed.

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, David Baum. I understand the stipulation and the effect it will have on my Cemetery Manager License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Director.

DATED: \_\_\_\_\_  
CAREN LEE HARVILLE

I have read and fully discussed with Respondent Caren Lee Harville the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: \_\_\_\_\_  
David Baum  
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Director.

Dated: \_\_\_\_\_

Respectfully Submitted,  
EDMUND G. BROWN JR.  
Attorney General of California  
GREGORY J. SALUTE  
Supervising Deputy Attorney General

NANCY A. KAISER  
Deputy Attorney General  
*Attorneys for Complainant*

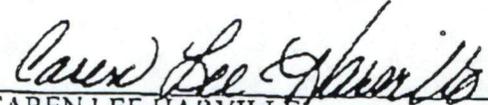
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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, David Baum. I understand the stipulation and the effect it will have on my Cemetery Manager License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Director.

DATED: 2-25-2010

  
CAREN LEE HARVILLE

I have read and fully discussed with Respondent Caren Lec Harville the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 2-25-2010

  
David Baum  
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Director.

Dated: 2/26/2010

Respectfully Submitted,  
EDMUND G. BROWN JR.  
Attorney General of California  
GREGORY J. SALUTE  
Supervising Deputy Attorney General

  
NANCY A. KAISER  
Deputy Attorney General  
Attorneys for Complainant

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**Exhibit A**

**Accusation No. A1 2007 292**

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 GREGORY J. SALUTE  
Supervising Deputy Attorney General  
3 NANCY A. KAISER, State Bar No. 192083  
Deputy Attorney General  
4 California Department of Justice  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-5794  
6 Facsimile: (213) 897-2804

7 Attorneys for Complainant

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**BEFORE THE DIRECTOR  
DEPARTMENT OF CONSUMER AFFAIRS  
FOR THE CEMETERY AND FUNERAL BUREAU  
STATE OF CALIFORNIA**

10

11

12 In the Matter of the First Amended Accusation  
Against:

Case No. A1 2007 292

13

**GLEN HAVEN MEMORIAL GARDENS, INC.  
d.b.a. GLEN HAVEN MEMORIAL PARK**

**FIRST AMENDED  
ACCUSATION**

14 Samuel Chmelnicki, President  
15 Ira M. Harrow, Vice President  
Caren Lee Harville, RMO  
16 13017 North Lopez Canyon Road  
Sylmar, CA 91342

17

Certificate of Authority - Cemetery Lic. No. COA 18,

18

**SHOLOM MEMORIAL PARK d.b.a. SHOLOM  
MEMORIAL GARDEN**

19 Samuel Chmelnicki, President  
20 Ira M. Harrow, Vice President  
Caren Lee Harville, RMO  
21 13017 North Lopez Canyon Road  
Sylmar, CA 91342

22

Certificate of Authority - Cemetery Lic. No. COA 122,

23

and

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**CAREN LEE HARVILLE**

25 13791 Simshaw Avenue  
Sylmar, CA 91342

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Cemetery Manager License No. CEM 109

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Respondents.

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Complainant alleges:

PARTIES

1. Richard L. Wallinder, Jr. (Complainant) brings this First Amended Accusation solely in his official capacity as the Bureau Chief of the Cemetery and Funeral Bureau, Department of Consumer Affairs.<sup>1</sup>

Glen Haven Memorial Park

2. On or about May 1, 1950, the Bureau issued Certificate of Authority - Cemetery License Number COA 18 to Glen Haven Memorial Gardens, Inc. d.b.a. Glen Haven Memorial Park (Respondent Glen Haven Memorial Park). The Certificate of Authority - Cemetery License, which lists Samuel Chmelnicki as President, Dr. Ira M. Harrow as Vice President, and Caren Lee Harville as Responsible Managing Officer (RMO), was in full force and effect at all times relevant to the charges brought herein and will expire on January 1, 2010, unless renewed.

Sholom Memorial Park

3. On or about May 1, 1950, the Bureau issued Certificate of Authority - Cemetery License Number COA 122 to Sholom Memorial Park d.b.a. Sholom Memorial Garden (Respondent Sholom Memorial Park). The Certificate of Authority - Cemetery License, which lists Samuel Chmelnicki as President, Dr. Ira M. Harrow as Vice President, and Caren Lee Harville as RMO, was in full force and effect at all times relevant to the charges brought herein will expire on January 1, 2010, unless renewed.

Harville

4. On or about June 4, 2004, the Bureau issued Cemetery Manager License Number CEM 109 to Caren Lee Harville (Respondent Harville). The Cemetery Manager License

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1. Effective January 1, 1996, the Department of Consumer Affairs succeeded to, and was vested with, all the duties, powers, purpose, responsibilities and jurisdiction of the Cemetery Board and the Board of Funeral Directors and Embalmers, and consolidated the functions into the Cemetery and Funeral Programs. Effective January 1, 2001, the regulatory agency is designated as the Cemetery and Funeral Bureau.

1 was in full force and effect at all times relevant to the charges brought herein and will expire on  
2 June 30, 2009, unless renewed.

3 JURISDICTION

4 5. This First Amended Accusation is brought before the Director of  
5 Consumer Affairs for the Cemetery and Funeral Bureau, under the authority of the following  
6 laws. All section references are to the Business and Professions Code unless otherwise stated.

7 6. Pursuant to Section 9725, a license may be suspended or revoked for  
8 violations of the Cemetery Act.<sup>2</sup>

9 7. Section 118, subdivision (b), provides that the expiration of a license shall  
10 not deprive the Director of jurisdiction to proceed with a disciplinary action during the period  
11 within which the license may be renewed, restored, reissued or reinstated.

12 8. Section 9725.1 states:

13 Unprofessional conduct by any licensee or registrant or by any agent or  
14 employee of a licensee or registrant constitutes grounds for disciplinary action.  
Unprofessional conduct includes, but is not limited to, the following:

15 (a) Violating or attempting to violate, directly or indirectly, or assisting in  
16 or abetting the violation of this chapter and any regulation adopted thereunder, or  
17 of any federal or state law or regulation governing the disposition of human  
remains, operation of cemeteries or crematories, the sale of cemetery property, or  
the sale of crematory services or commodities.

18 (b) Negligence in performing any act related to the operation of a cemetery  
19 or crematory.

20 9. Section 9723 states, in part:

21 A cemetery licensed under this chapter shall at all times employ a licensed  
22 cemetery manager to manage, supervise, and direct its operations.  
23 Notwithstanding any other provision of this chapter, licensed cemeteries within  
24 close geographical proximity of each other may request the bureau to allow a  
licensed cemetery manager to manage, supervise, and direct the business or  
profession of more than one facility.

25 ...

26 (b) The designated cemetery manager shall be responsible for exercising  
27 direct supervision and control over the operations, employees, and agents of the  
cemetery as is necessary to ensure full compliance with the applicable provisions

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28 2. Section 9600, et seq.

1 of the Business and Professions Code, the Health and Safety Code, and any  
2 regulations adopted thereto. Failure of the designated cemetery manager or the  
3 licensed cemetery to exercise that supervision or control shall constitute a ground  
4 for disciplinary action.

5 10. Health and Safety Code Section 8331 states:

6 A record shall be kept of the ownership of all plots in the cemetery which  
7 have been conveyed by the cemetery authority and of all transfers of plots in the  
8 cemetery. Transfer of any plot, heretofore or hereafter made, or any right of  
9 interment, shall be complete and effective when recorded on the books of the  
10 cemetery authority.

11 11. Pursuant to Health and Safety Code section 8785, violation of the laws  
12 relating to the collection, investment, or use of endowment care funds<sup>3</sup> is grounds for disciplinary  
13 action.

14 12. Health and Safety Code Section 8726 states that:

15 The principal of all funds for endowment care shall be invested and the  
16 income only may be used for the care, maintenance, and embellishment of the  
17 cemetery in accordance with the provisions of law and the resolutions, bylaws,  
18 rules and regulations or other actions or instruments of the cemetery authority and  
19 for no other purpose. Endowment and special care funds shall be maintained  
20 separate and distinct from all other funds and the trustees shall keep separate  
21 records thereof.

22 13. Health and Safety Code Section 8750 states that:

23 Endowment care funds shall not be used for any purpose other than to  
24 provide through income only for the reserves authorized by law and for the  
25 endowment care of the cemetery in accordance with the resolutions, by-laws, rules  
26 and regulations or other actions or instruments of the cemetery authority.

### 27 COST RECOVERY

28 14. Section 125.3 of the Code provides, in pertinent part, that the Director may  
request the administrative law judge to direct a licentiate found to have committed a violation or  
violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
and enforcement of the case.

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3. The Endowment Care Fund ("ECF") is a trust fund required by law with the  
purpose of providing for the perpetual maintenance of the cemetery. A portion of every sale  
must be placed in trust. While income earned by the ECF may be spent for the maintenance of  
the cemetery, the corpus of the ECF may not be touched.

1 FACTUAL SUMMARY

2 15. Glen Haven Memorial Park and Sholom Memorial Garden are both  
3 corporately owned, private cemeteries, located directly adjacent to each other, in Sylmar,  
4 California. The cemeteries have the same officers. Respondent Harville is the licensed manager  
5 of both cemeteries and is responsible for the day-to-day operation of both.

6 Bureau Inspection - June 13, 2007

7 16. On or about June 13, 2007, the Bureau conducted an inspection of Glen  
8 Haven Memorial Park and Sholom Memorial Garden, which revealed that both cemeteries are in  
9 poor condition and are not being properly maintained. Both cemeteries are infested with rodents  
10 that have tunneled and dug holes throughout the parks. The roadways are in terrible condition  
11 and present a public safety hazard to anyone walking or driving on them. Likewise, the exteriors  
12 of the buildings on the grounds are in need of repair and paint. Significant parts of the lawns are  
13 dried and brown and either are not being watered or do not receive enough water. There are  
14 broken crypt fronts in both parks. Grave markers in both parks have not been leveled and some  
15 appear to be merely lying on the surface of the ground. Graffiti has caused damage to some of  
16 the crypt fronts in the Glen Haven Memorial Park.

17 Complaint of Richard W. Mathias

18 17. On or about October 22, 2007, Richard W. Mathias (Mathias) submitted a  
19 complaint with photographs, alleging that Respondents Glen Haven Memorial Park and Harville  
20 failed to adequately maintain the appearance of the graves of his deceased parents, Ralph V.  
21 Mathias (RV Mathias) and Lillian A. Mathias (LA Mathias), located at the Glen Haven  
22 Memorial Park cemetery in Sylmar, California.

23 18. On or about November 14, 2007, the Bureau inspected the graves of RV  
24 Mathias and LA Mathias at Glen Haven Memorial Park cemetery and found that the grave sites  
25 were largely dirt and virtually no grass. Other grave sites in the cemetery had been compromised  
26 by rodents borrowing under and around their foundations. On or about November 14, 2007,  
27 Harville submitted a written and signed statement acknowledging that Glen Haven Memorial  
28 Park is in poor condition.

1 **Bureau Inspection – February 13, 2008**

2           19.     On or about February 13, 2008, the Bureau Field Representative John  
3 Gettys (Field Representative Gettys) conducted an inspection of Glen Haven Memorial Park and  
4 Sholom Memorial Garden, which revealed that both cemeteries' lawns, roadways, and buildings  
5 were still in poor condition and are not being properly maintained. Specifically, Field  
6 Representative Gettys observed problem areas at the cemeteries, which included but were not  
7 limited to the following: the lawns were barren, there were dirt piles and numerous rodent holes  
8 throughout the cemetery grounds, dirt was covering markers that should be flush or level to the  
9 ground so that a mower can drive over them, a trash receptacle and a broken chair were found in  
10 a corner by a fence, family gardens were made up of bare dirt, one family garden had a statue  
11 with both hands broken off, the roadways were broken and had cracked surfaces, the sidewalks  
12 were also cracked and uneven, the crypt structures had visible cracks and graffiti on them, the  
13 mausoleum showed evidence of water leakage and dry rot, casket racks were stored in a corner of  
14 the mausoleum, marble was missing from the side of a building, a large wooden utility closet was  
15 leaning against a building, the mortuary building's columns were cracked, stairs were broken and  
16 crumbling, and the mortuary's rain gutter was bent in half and drooping toward the ground.

17 **Additional Bureau Site Visits**

18           20.     On or about May 31, 2006, Bureau consultant John Resich and Field  
19 Representative Redmond, conducted a site visit of Respondents' two cemeteries. When  
20 observing Respondents' maintenance personnel, the workers did not appear to be performing  
21 any reasonable function. When first observed, they were all sitting around in the maintenance  
22 area. When they determined who the visitors were and that they were observing the property, the  
23 workers immediately went out to the grounds with weed wackers and a blower to perform some  
24 type of function. It appeared that when the maintenance men were working, they were not doing  
25 any reasonable type of maintenance and only making sure that they looked busy. In fact, what  
26 they were doing was having no effect on the maintenance of the overall park.

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1                   21.       On or about June 27, 2008, Bureau consultant Gerald Nash and Bureau  
2 Field Representative John Gettys conducted a site visit of the two cemeteries. During the  
3 approximately three hours at the cemeteries, Gettys and Nash observed almost no maintenance  
4 activity, although there were approximately six staff members observed sitting in the shade and  
5 later riding around in a utility vehicle.

6 **Complaint of Wendy Hall**

7                   22.       On or about November 1, 2007, Wendy Hall (Hall) submitted a complaint  
8 to the Bureau, stating that the Respondents Glen Haven Memorial Park and Harville interred two  
9 decedents into two of four grave spaces she owns without her permission. The Bureau's  
10 investigation revealed that Respondent Glen Haven Memorial Park and Harville issued a deed to  
11 Hall for interment property previously sold and deeded to other clients, as follows:

12                   23.       Pursuant to a Glen Haven Memorial Park purchase contract, on or about  
13 February 10, 1952, Hall's parents, Robert D. Hall and Dorothy M. Hall purchased Graves E, F,  
14 G, and H, Plot 5, Section Garden of Memory, and subsequently, gifted them to Hall.

15                   24.       Pursuant to a Glen Haven Memorial Park purchase contract, on or about  
16 April 16, 1969, Gustave W. And Agnes D. Thun purchased Graves A and B, Plot 363, Section  
17 Laurel.

18                   25.       Pursuant to a Glen Haven Memorial Park purchase contract, on or about  
19 April 17, 1970, John Elias Ramsey and Dorothy B. Ramsey purchased Graves C and D, Plot 363,  
20 Section Laurel.

21                   26.       On or about November 12, 1993, Hall exchanged Graves E, F, G, and H,  
22 Plot 5, Section Garden of Memory, for Graves A, B, C, and D, Plot 363, Section Laurel. Glen  
23 Haven Memorial Park issued a property deed to Hall, signed by Harville, dated November 12,  
24 1993, which attests to Hall's ownership of Graves A, B, C, and D, Plot 363, Section Laurel at the  
25 Glen Haven Memorial Park cemetery.

26                   27.       Pursuant to a Glen Haven purchase contract, on or about May 31, 1999,  
27 Gustave W. Thun purchased the right of second interment for Grave B, Plot 363, Section Laurel  
28 and authorized the interment of Agnes D. Thun there.



1 Glen Haven Memorial Park cemetery, which resulted in the transfer and issuance of a deed of  
2 previously sold grave sites, as set forth in paragraphs 22 through 30, above.

3 **THIRD CAUSE FOR DISCIPLINE**

4 **(Failure to Ensure Compliance)**

5 34. Respondents Glen Haven Memorial Park and Harville are subject to  
6 disciplinary action under section 9723, subdivision (b), in that Respondent Harville, the  
7 designated cemetery manager, failed to ensure full compliance with the to ensure full compliance  
8 with the applicable provisions of the Business and Professions Code and the Health and Safety  
9 Code, as set forth in paragraphs 16 through 31, and 33, above.

10 35. Respondent Sholom Memorial Park and Harville are subject to  
11 disciplinary action under section 9723, subdivision (b), in that Respondent Harville, the  
12 designated cemetery manager, failed to ensure full compliance with the applicable provisions of  
13 the Business and Professions Code and the Health and Safety Code, as set forth in paragraphs 16,  
14 19, 20, 21, and 32, above.

15 **FOURTH CAUSE FOR DISCIPLINE**

16 **(Violation of the Cemetery Act)**

17 36. Respondents Glen Haven Memorial Park and Harville are subject to  
18 disciplinary action under section 9725.1, subdivision (a), on the grounds of unprofessional  
19 conduct, in that Respondents committed acts or omissions that violated the provisions of the  
20 Cemetery Act, as set forth in paragraphs 16 through 31, 33, and 34, above.

21 37. Respondent Sholom Memorial Park and Harville are subject to  
22 disciplinary action under section 9725.1, subdivision (a), on the grounds of unprofessional  
23 conduct, in that Respondents Sholom Memorial Park and Harville committed acts or omissions  
24 that violated the provisions of the Cemetery Act, as set forth in paragraphs 16, 19, 20, and 21, 32,  
25 and 35, above.

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1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct)**

3 38. Respondents Glen Haven Memorial Park and Harville are subject to  
4 disciplinary action under section 9725.1, subdivision (a), in that Respondent Glen Haven  
5 Memorial Park and Harville committed unprofessional conduct in the operations of a cemetery as  
6 set forth in paragraphs 16 through 31, 33, 34, and 36, above.

7 39. Respondents Sholom Memorial Park and Harville are subject to  
8 disciplinary action under section 9725.1, subdivision (a), in that Respondents Sholom Memorial  
9 Park and Harville committed unprofessional conduct in the operations of a cemetery as set forth  
10 in paragraphs 16, 19, 20, 21, 32, 35, and 37, above.

11 **DISCIPLINE CONSIDERATIONS**

12 40. To determine the degree of discipline, if any, to be imposed on  
13 Respondents Glen Haven Memorial Park, Sholom Memorial Garden, and Harville, Complainant  
14 alleges the following:

15 **Glen Haven Memorial Park**

16 41. The Bureau's electronic licensing records indicate that Certificate of  
17 Authority - Cemetery License No. COA 18 issued to Glen Haven Memorial Park held a  
18 delinquent status during the following periods:

19 a. January 1, 1995 to July 19, 1995 (failed to pay renewal payment by the  
20 date of expiration).

21 b. January 1, 1997 to January 29, 1997 (failed to pay renewal payment by the  
22 date of expiration).

23 42. The Bureau has issued the following Warning Letters and Citations to  
24 Respondent Glen Haven Memorial Park (Samuel Chmelnicki, President, Ira M. Harrow, Vice  
25 President, and Caren Lee Harville, RMO):

26 a. A Warning Letter was issued by the Bureau on October 26, 2007, for  
27 violating Code section 9725.1, in that Respondent Glen Haven Memorial Park committed

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1 negligence by failing to properly care for the cemetery by not adequately watering the grass and  
2 allowing destructive rodent activity on the grounds.

3           b.       A Warning Letter was issued by the Bureau on December 15, 2006, for  
4 violating Business and Professions Code Section 9725.1, in that Respondent Glen Haven  
5 Memorial Park committed negligence by failing to properly care for the cemetery by not  
6 adequately watering and/or cutting the grass, allowing destructive rodent activity, and failing to  
7 maintain roadways and buildings on the grounds.

8           c.       Citation I 2006 317 with a \$1,600 fine was issued by the Bureau on  
9 November 3, 2006, for violating Business and Professions Code section 9650(4)(a), by failing to  
10 timely file its 2005 Annual Endowment Care Fund Report. The fine was paid on July 26, 2007.

11           d.       Citation I 2005 17 with a \$2,000 fine was issued by the Bureau on January  
12 28, 2005, for violating Business and Professions Code section 9650(4)(a), failure to timely file its  
13 2003 Annual Endowment Care Fund Report. The fine was paid on February 14, 2005.

14 **Sholom Memorial Garden**

15           43.       The Bureau has issued the following Warning Letters and Citations to  
16 Sholom Memorial Garden (Samuel Chmelnicki, President, Ira M. Harrow, Vice President, and  
17 Caren Lee Harville, RMO.):

18           a.       A Warning Letter was issued by the Bureau on October 26, 2007, for  
19 violating Code section 9725.1, in that Sholom Memorial Garden committed negligence by failing  
20 to properly care for the cemetery by not adequately watering and/or cutting the grass, allowing  
21 destructive rodent activity, and failing to maintain roadways and buildings on the grounds.

22           b.       A Warning Letter was issued by the Bureau on August 10, 2007, for the  
23 following violations:

24           i.       Sholom Memorial Park violated Health and Safety Code Section 8585, by  
25 failing to post and maintain the required signage with the current Bureau address information at  
26 each public entrance to the cemetery.

27           ii.       Sholom Memorial Park violated Code section 164, by failing to post the  
28 current license renewal for cemetery manager Caren Harville (CEM 109).

1 c. A Warning Letter was issued by the Bureau on December 15, 2006, for  
2 violating Business and Professions Code Section 9725.1, in that Sholom Memorial Park  
3 committed negligence by failing to properly care for the cemetery by not adequately watering  
4 and/or cutting the grass, allowing destructive rodent activity, and failing to maintain roadways  
5 and buildings on the grounds.

6 d. Citation I 2006 316 with a \$1,600 fine was issued by the Bureau on  
7 November 3, 2006, for violating Business and Professions Code section 9650(4)(a), failure to  
8 timely file its 2005 Annual Endowment Care Fund Report. The fine was paid on July 26, 2007.

9 e. Citation I 2005 18 with a \$2,000 fine was issued by the Bureau on January  
10 28, 2005, for violating Business and Professions Code section 9650(4)(a), failure to timely file its  
11 2003 Annual Endowment Care Fund Report. The fine was paid on February 14, 2005.

12 f. Citation I 2003 23 with a \$50 fine was issued by the Bureau on June 27,  
13 2003, for violating Health and Safety Code Section 8741, by failing to post the required  
14 endowment care sign at its main entrance. The fine was paid on July 17, 2003.

15 g. A Warning Letter was issued by the Bureau on June 27, 2003, for violating  
16 Code section 9713, by failing to post the required cemetery broker sign on the premises.

17 **Harville**

18 44. The Bureau has issued the following Notices of Warning to Respondent  
19 Harville:

20 a. Notice of Warning I 2007 285 was issued by the Bureau on October 26,  
21 2007, for violating Business and Professions Code Section 9725.1, in that Respondent Harville,  
22 in her capacity as manager of the Glen Haven Memorial Park cemetery, committed negligence by  
23 failing to properly care for the cemetery by not adequately watering the grass and allowing  
24 destructive rodent activity on the grounds.

25 b. Notice of Warning I 2007 286 was issued by the Bureau on October 26,  
26 2007, for violating Business and Professions Code Section 9725.1, in that Respondent Harville,  
27 in her capacity as manager of the Sholom Memorial Park cemetery, committed negligence by  
28 failing to properly care for the cemetery by not adequately watering and/or cutting the grass.

1 allowing destructive rodent activity, and failing to maintain roadways and buildings on the  
2 grounds.

3 **PRAYER**

4 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
5 alleged, and that following the hearing, the Director of Consumer Affairs issue a decision:

6 1. Revoking or suspending Certificate of Authority - Cemetery License  
7 Number COA 18, issued to Glen Haven Memorial Gardens, Inc. d.b.a. Glen Haven Memorial  
8 Park;

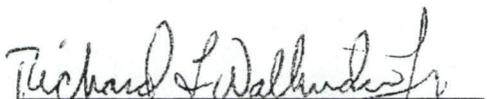
9 2. Revoking or suspending Certificate of Authority - Cemetery License  
10 Number COA 122, issued to Sholom Memorial Park d.b.a. Sholom Memorial Garden;

11 3. Revoking or suspending Cemetery Manager License Number CEM 109,  
12 Issued to Caren Lee Harville Caren Lee Harville;

13 4. Ordering Glen Haven Memorial Park, Sholom Memorial Garden, and  
14 Caren Lee Harville to pay the Bureau the reasonable costs of the investigation and enforcement  
15 of this case, pursuant to Business and Professions Code section 125.3; and

16 5. Taking such other and further action as deemed necessary and proper.

17  
18 DATED: 4/2/09

19  
20   
21 RICHARD L. WALLINDER, JR.  
22 Bureau Chief  
23 Cemetery and Funeral Bureau  
24 Department of Consumer Affairs  
25 State of California  
26 Complainant  
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