KAMALA D. HARRIS
Attorney General of California
MARC D. GREENBAUM
Supervising Deputy Attorney General
ZACHARY T. FANSELOW
Deputy Attorney General
State Bar No. 274129
300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 897-2562
Facsimile: (213) 897-2804
Attorneys for Complainant

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

In the Matter of the Accusation and Petition to Revoke Probation Against: **EVERGREEN MEMORIAL CARE, INC. DBA EVERGREEN CEMETERY; GLENN WONG, PRESIDENT; TONY SOO HOO, RMO** 204 North Evergreen Avenue Los Angeles, CA 90033 **Certificate of Authority License No. COA 524** and **TONY SOO HOO** 204 North Evergreen Avenue Los Angeles, CA 90033 **Cemetery Manager License No. CEM 251** Respondents.	Case No. A1 2016 223 **ACCUSATION AND PETITION TO REVOKE PROBATION**

Complainant alleges:

PARTIES

1. Lisa M. Moore ("Complainant") brings this Accusation and Petition to Revoke Probation solely in her official capacity as the Bureau Chief of the Cemetery and Funeral Bureau, Department of Consumer Affairs ("Bureau").[1]

[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 (continued...)

2. On or about September 1, 1994, the Bureau issued Certificate of Authority License Number COA 524 to Evergreen Memorial Care, Inc. dba Evergreen Cemetery; Glenn Wong, President; Tony Soo Hoo, RMO ("Respondent Evergreen"), for operation of Evergreen Cemetery, an existing cemetery located at 204 North Evergreen Avenue, Los Angeles, California ("Evergreen Cemetery"). The Certificate of Authority License was in full force and effect at all times relevant to the charges brought herein and will expire on January 1, 2017, unless renewed.

3. On or about December 27, 2004, the Bureau issued Cemetery Manager License Number CEM 251 to Tony Soo Hoo ("Respondent Soo Hoo"). The Cemetery Manager License was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2016, unless renewed.

4. In a disciplinary action entitled "*In the Mater of the Accusation and Petition to Revoke Probation Against: Evergreen Memorial Care, Inc. dba Evergreen Cemetery; Glenn Wong, President; Tony Soo Hoo, RMO and Tony Soo Hoo*," Case No. A1 2013 229, the Cemetery and Funeral Bureau issued a Decision and Order effective November 17, 2014, in which Respondent Evergreen's Certificate of Authority License and Respondent Soo Hoo's Cemetery Manager License were revoked. However, the revocations were stayed and Respondent Evergreen's Certificate of Authority License and Respondent Soo Hoo's Cemetery Manager License were placed on probation for two (2) years with certain terms and conditions. A copy of that Decision and Order is attached as Exhibit A and is incorporated by reference.

JURISDICTION FOR ACCUSATION

5. This Accusation is brought before the Director of the Department of Consumer Affairs ("Director") for the Bureau, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

(...continued)
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.

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

7. Section 477 states, in pertinent part:

"(a) "Board" includes "bureau," "commission," "committee," "department," "division," "examining committee," "program," and "agency."

"(b) "License" includes certificate, registration or other means to engage in a business or profession regulated by this code."

8. Section 7686 states:

"The bureau may suspend or revoke licenses, after proper notice and hearing to the licensee, if the licensee has been found guilty by the bureau of any of the acts or omissions constituting grounds for disciplinary action. The proceedings under this article shall be conducted in accordance with Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code, and the bureau shall have all the powers granted therein."

STATUTORY PROVISIONS FOR ACCUSATION

9. Section 7653.6, subdivision (a), states, in pertinent part:

"A cemetery licensed under this chapter shall at all times employ a licensed cemetery manager to manage, supervise, and direct its operations. Notwithstanding any other provision of this chapter, licensed cemeteries within 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.

....

"(b) The designated cemetery manager shall be responsible for exercising direct supervision and control over the operations, employees, and agents of the cemetery as is necessary to ensure full compliance with the applicable provisions of this code, the Health and Safety Code, and any regulations adopted thereto. Failure of the designated cemetery manager or the licensed cemetery to exercise that supervision or control shall constitute a ground for disciplinary action."

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10. Section 7711.1 states:

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

"(a) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of this chapter and any regulation adopted thereunder, or 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.

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

11. Health and Safety Code section 7052, subdivision (a), states: "Every person who willfully mutilates, disinters, removes from the place of interment, or commits an act of sexual penetration on, or has sexual contact with, any remains known to be human, without authority of law, is guilty of a felony. This section does not apply to any person who, under authority of law, removes the remains for reinterment, or performs a cremation."

12. Health and Safety Code section 7054.7, states, in pertinent part:

"(a) Except with the express written permission of the person entitled to control the disposition of the remains, no person shall:

....

"(3) Place cremated or uncremated remains of more than one person in the same container or the same interment space. This paragraph shall not apply to the following:

"(A) Interment of members of the same family in a common container designed for the cremated remains of more than one person.

"(B) Interment in a space or container that has been previously designated at the time of sale as being intended for the interment of remains of more than one person."

COST RECOVERY

13. Section 125.3, subdivision (a), states, in pertinent part: "Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before any board within the department . . . . upon request of the entity bringing the proceeding, the administrative law judge

may 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."

PROCEDURAL HISTORY: DISCIPLINARY ACTIONS

14. On or about March 22, 2001, in the disciplinary action entitled *In the Matter of the Accusation Against Evergreen Memorial Care, Inc. dba Woodlawn Cemetery, Certificate of Authority No. 525, and Evergreen Memorial Care, Inc. dba Evergreen Cemetery, Certificate of Authority No. 524*, Cemetery and Funeral Bureau Case No. I-2017, Evergreen Memorial Care Inc.'s Certificate of Authority to operate Woodlawn Cemetery No. 525 was revoked and its Certificate of Authority to operate Evergreen Cemetery No. 524 was revoked. However, the revocation of Respondent Evergreen's Certificate of Authority No. 524 was stayed and Respondent Evergreen was placed on probation for five (5) years.

15. The Discipline in Case No. I-2017 was based on grave desecration, unlawful interment of more than one body in a single grave, failure to properly dispose of human remains, failure to inter cremated remains, failure to keep adequate records of ownership of transfer of plots, and unlawful expenditures of Woodlawn Cemetery's and Evergreen Cemetery's Endowment Care Fund.

16. On March 17, 2006, a Petition to Revoke Probation was filed against Respondent Evergreen's Certificate of Authority No. 524. As a result, the probationary period was automatically extended until the completion of the disciplinary proceedings.

17. On or about March 11, 2010, in the disciplinary action entitled *In the Matter of the Accusation Against Evergreen Memorial Care, Inc. dba Evergreen Cemetery and Tony Soo Hoo*, Cemetery and Funeral Bureau Case No. I-2017, Respondent Evergreen's Certificate of Authority No. 524 and Respondent Soo Hoo's Cemetery Manager License No. CEM 251 were revoked. However, the revocations were stayed and Respondent Evergreen and Respondent Soo Hoo's licenses were placed on probation for four (4) years.

18. On March 5, 2014, an Accusation and Petition to Revoke Probation was filed against Respondent Evergreen's Certificate of Authority No. 524 and Respondent Soo Hoo's Cemetery

Manager License No. CEM 251. As a result, the probationary period was automatically extended until the completion of the disciplinary proceedings.

19. On or about November 17, 2014, in the disciplinary action entitled *In the Matter of the Accusation Against Evergreen Memorial Care, Inc. dba Evergreen Cemetery; Glenn Wong, President; Tony Soo Hoo, RMO and Tony Soo Hoo*, Cemetery and Funeral Bureau Case No. A1 2013 229, Respondent Evergreen's Certificate of Authority No. 524 and Respondent Soo Hoo's Cemetery Manager License No. CEM 251 were revoked. However, the revocations were stayed and Respondent Evergreen and Respondent Soo Hoo's licenses were placed on probation for two (2) years.

PROCEDURAL HISTORY: CRIMINAL MATTER

20. On or about November 1, 2001, in a criminal proceeding entitled *The People of the State of California v. Evergreen Memorial Care, Inc., aka Woodlawn Cemetery*, in the Superior Court of California, Los Angeles County, Case No. TA059473, Evergreen Memorial Care, Inc., was convicted on its plea of nolo contendere of violating Penal Code section 182(a)(1) (criminal conspiracy), a felony, Health and Safety Code section 8113.5(a) (unlawful burial of multiple bodies in single plot), a misdemeanor, and Health and Safety Code section 7103 (failure to inter within reasonable time), a misdemeanor. Respondent Evergreen was sentenced to two years summary probation and ordered to pay fines and penalties of $3,240, to pay restitution to the Woodlawn Cemetery's endowment trust fund in the amount of $96,760, and to transfer ownership of Woodlawn Cemetery to an approved third party.

PROCEDURAL HISTORY: CITATIONS

21. On or about September 23, 2011, in a prior action, the Bureau issued Citation Number IC 2011 164 to Respondent Evergreen and its Certificate of Authority No. 524, for violating Business and Professions Code section 9650 and California Code of Regulations, Title 16, Section 2388, subdivision (a) (failure to file annual endowment care fund report). That Citation is now final and is incorporated by reference as if fully set forth.

22. On or about October 15, 2004, in prior actions, the Bureau issued Citation Numbers I 2004 194, I 2004 195, I 2004 196, and I 2004 197 to Respondent Evergreen and its Certificate of

Authority No. 524, for violating Business and Professions Code section 9650 and California Code of Regulations, Title 16, Section 2388, subdivision (a) (failure to file annual endowment care fund report). Those Citations are now final and are incorporated by reference as if fully set forth.

23. On or about November 21, 2003, in a prior action, the Bureau issued Citation Number I 2003 189 to Respondent Evergreen and its Certificate of Authority No. 524, for violating Health and Safety Code section 7054.7 (cremating the remains of more than one person at the same time). That Citation is now final and is incorporated by reference as if fully set forth.

24. On or about December 5, 2003, in a prior action, the Bureau issued Citation Number I 2003 195 to Respondent Evergreen and its Certificate of Authority No. 524, for violating Business and Professions Code section 9650 and California Code of Regulations, Title 16, Section 2388, subdivision (a) (failure to file annual endowment care fund report). That Citation is now final and is incorporated by reference as if fully set forth.

FACTUAL SUMMARY

25. Respondent Evergreen is a corporate owned, private cemetery, located in Los Angeles, California. Respondent Evergreen's Responsible Managing Officer is Respondent Soo Hoo.

26. On or about July 28, 2016, during a probation inspection at Evergreen Cemetery, a Bureau Investigator inspected a portion of Evergreen Cemetery where excess grave dirt was placed following grave preparations. The Bureau Investigator climbed onto the dirt pile and discovered bones in two places on the surface of the excess grave dirt pile. The Bureau Investigator also observed what appeared to be old casket parts mixed in the dirt.

27. A Coroner Investigator and Forensic Anthropologist from the Los Angeles County Coroner's Office met with the Bureau Investigator at Evergreen Cemetery. The Forensic Anthropologist identified the remains as human and the coroner investigator took custody of the bones for further analysis. Respondent Evergreen personnel were instructed to do nothing with the excess grave dirt pile until they received further instructions.

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28. On or about August 8, 2016, the Bureau Investigator returned to Evergreen Cemetery to continue the investigation and was given a bag of additional bones discovered by an employee of Respondent Evergreen.

29. On or about August 9, 2016, the Bureau Investigator returned to Evergreen Cemetery and observed Respondent Evergreen's employees as they sifted dirt from the excess grave dirt pile. The Bureau Investigator also found an additional bone fragment on this visit.

30. On or about August 16, 2016, the Bureau Investigator returned to Evergreen Cemetery and observed Respondent Evergreen's employees as they sifted dirt from the excess grave dirt pile. All bones found this day were stored in a locked container.

31. On or about August 17, 2016, the Bureau Investigator returned to Evergreen Cemetery and observed Respondent Evergreen's employees as they sifted dirt from the excess grave dirt pile. All bones found this day were stored in a locked container. In total, thirty-eight (38) bone fragments were collected on August 16 and 17, 2016.

32. The Bureau Investigator returned to Evergreen Cemetery and observed Respondent Evergreen's employees as they sifted dirt from the excess grave dirt pile again from August 22 to August 26, 2016. Twenty-two (22) bone fragments were removed on August 22, 2016. Twenty-four (24) bone fragments were removed on August 23, 2016. Thirty-four (34) bone fragments were removed on August 24, 2016. One hundred and eleven (111) bone fragments were removed on August 25, 2016. Six (6) bone fragments were removed on August 26, 2016.

33. On or about September 27, 2016, the forensic anthropologist from the Los Angeles County Coroner's Office finished analyzing the bone fragments. The forensic anthropologist determined that the over two-hundred (200) bone fragments came from a minimum of six (6) different individuals and that the bones had been in soil for at least twenty-five (25) years.

FIRST CAUSE FOR DISCIPLINE

(Unauthorized Disinterment of Human Remains)

34. Respondent Evergreen and Respondent Soo Hoo (collectively, "Respondents") are subject to disciplinary action under Health and Safety Code section 7052, subdivision (a), in conjunction with Section 7711.1, subdivision (a), in that Respondents disinterred or removed from

the place of interment human remains without legal authorization. The circumstances include that, during its investigation, the Bureau found over two hundred bone fragments from at least six different individuals that Respondents had removed from their place of interment to an excess grave dirt pile without authorization of law. The circumstances are described in additional detail in paragraphs 26 through 33, inclusive, which are hereby incorporated by reference as though set forth fully.

SECOND CAUSE FOR DISCIPLINE

(Unauthorized Placement of Multiple Remains in the Same Interment Space)

35. Respondents are subject to disciplinary action under Health and Safety Code section 7054.7, subdivision (a)(3), in conjunction with Section 7711.1, subdivision (a), in that the Bureau found over two hundred bone fragments from at least six different individuals placed in an excess grave dirt pile without express written permission from the person entitled to control the disposition of the remains. Furthermore, in the process of digging new grave spaces, bones were discovered and placed in the bottom of existing graves before Respondents interred new human remains on top of the old bones without express written permission from the person entitled to control disposition. The circumstances are described in additional detail in paragraphs 26 through 33, inclusive, which are hereby incorporated by reference as though set forth fully.

THIRD CAUSE FOR DISCIPLINE

(Failure of Cemetery Manager to Properly Supervise)

36. Respondents are subject to disciplinary action under Section 7653.6 in that Respondent Evergreen's licensed cemetery manager Respondent Soo Hoo failed to exercise direct supervision and control of Respondent Evergreen's operations to ensure full compliance with the Business and Professions Code and Health and Safety Code. The circumstances of this violation include that Respondent Soo Hoo failed to properly manage Respondent Evergreen's operations, which resulted in the improper removal of over two hundred bone fragments from at least six different individuals from their gravesites. The circumstances are described in additional detail in paragraphs 26 through 33, inclusive, which are hereby incorporated by reference as though set forth fully.

FOURTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

37. Respondents are subject to disciplinary action under Section 7711.1, on the grounds of unprofessional conduct, in that Respondents removed human remains from graves within Evergreen Cemetery and moved them to an excess grave dirt pile without proper authorization. Additionally, in the process of digging new grave spaces human remains were discovered and placed in the bottom of existing graves before Respondents interred new human remains on top of the old bones without proper authorization. The circumstances are described in additional detail in paragraphs 26 through 36, inclusive, which are hereby incorporated by reference as though set forth fully.

JURISDICTION FOR PETITION TO REVOKE PROBATION

38. This Petition to Revoke Probation is brought before the Director of Consumer Affairs (Director) for the Cemetery and Funeral Bureau under Probation Term and Condition Number 6 of the Decision and Order *In the Mater of the Accusation and Petition to Revoke Probation Against: Evergreen Memorial Care, Inc. dba Evergreen Cemetery; Glenn Wong, President; Tony Soo Hoo, RMO and Tony Soo Hoo*, That term and condition states:

Violation of Probation. Should Respondents violate probation in any respect, the Director, after giving Respondents notice, an opportunity to be heard and the opportunity to correct any specific conduct asserted as a violation of the terms of this Order, which if remains uncorrected for a period exceeding thirty (30) days, may revoke probation and carry out the disciplinary order which was stayed. If an Accusation or Petition to Revoke Probation is filed against Respondents during probation, the Director and Bureau shall have continuing jurisdiction until the matter is final, and the probation shall be extended until the matter is final.

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CAUSE TO REVOKE PROBATION

(Failure Obey All Laws)

39. At all times after the effective date of Respondents' probation, Condition 1 stated:

Obey All Laws. Respondents 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.

40. Respondent Evergreen's probation and Respondent Soo Hoo's probation are subject to revocation because Respondents failed to comply with Probation Condition 1, referenced above. The facts and circumstances regarding this violation include that Respondents violated Health and Safety Code section 7052, subdivision (a), Health and Safety Code section 7054.7, subdivision (a)(3), Business and Professions Code section 7653.6, and Business and Professions Code section 7711.1 by improperly removing human remains from graves to an excess grave dirt pile and improperly placing bones in the bottom of existing graves before interring new human remains on top of the old bones without proper authorization. The circumstances are described in additional detail in paragraphs 26 through 37, inclusive, which are hereby incorporated by reference as though set forth fully

DISCIPLINARY CONSIDERATIONS

41. To determine the degree of discipline, if any, to be imposed on Respondents, Complainant alleges the following:

a. Effective March 22, 2001, in the disciplinary action entitled *In the Matter of the Accusation Against Evergreen Memorial Care, Inc. dba Woodlawn Cemetery, Certificate of Authority No. 525, and Evergreen memorial Care, Inc. dba Evergreen Cemetery, Certificate of Authority No. 524*. Respondent Evergreen's Certificate of Authority was stayed and Respondent Evergreen was placed on probation for five (5) years. The circumstances are described in additional detail in paragraphs 14 through 15, which are hereby incorporated by reference as though set forth fully.

b. Effective March 11, 2010, in the disciplinary action entitled *In the Matter of the Accusation Against Evergreen Memorial Care, Inc. dba Evergreen Cemetery and Tony Soo Hoo.*

Respondent Evergreen's and Respondent Soo Hoo's licenses were placed on probation for four (4) years. The circumstances are described in additional detail in paragraph 17, which is hereby incorporated by reference as though set forth fully.

c. Effective November 17, 2014, in the disciplinary action entitled *In the Matter of the Accusation Against Evergreen Memorial Care, Inc. dba Evergreen Cemetery; Glenn Wong, President; Tony Soo Hoo, RMO and Tony Soo Hoo*. Respondent Evergreen's and Respondent Soo Hoo's licenses were placed on probation for two (2) years. The circumstances are described in additional detail in paragraph 19, which is hereby incorporated by reference as though set forth fully.

d. On or about November 1, 2001, in a criminal proceeding entitled *The People of the State of California v. Evergreen Memorial Care, Inc., aka Woodlawn Cemetery*, in the Superior Court of California, Los Angeles County, Case No. TA059473, Respondent Evergreen was convicted on its plea of nolo contendere of violating Penal Code section 182(a)(1), Health and Safety Code section 8113.5(a), and Health and Safety Code section 7103. Respondent Evergreen was sentenced to two years summary probation and ordered to pay fines, penalties and restitution. The circumstances are described in additional detail in paragraph 20, which is hereby incorporated by reference as though set forth fully.

e. On or about September 23, 2011, the Bureau issued Citation Number IC 2011 164 to Respondent Evergreen for violating Business and Professions Code section 9650 and California Code of Regulations, Title 16, Section 2388, subdivision (a). The circumstances are described in additional detail in paragraph 21, which is hereby incorporated by reference as though set forth fully.

f. On or about October 15, 2004, the Bureau issued Citation Numbers I 2004 194, I 2004 195, I 2004 196, and I 2004 197 to Respondent Evergreen for violating Business and Professions Code section 9650 and California Code of Regulations, Title 16, Section 2388, subdivision (a). The circumstances are described in additional detail in paragraph 22, which is hereby incorporated by reference as though set forth fully.

g. On or about November 21, 2003, the Bureau issued Citation Number I 2003 189 to Respondent Evergreen for violating Health and Safety Code section 7054.7. The circumstances are described in additional detail in paragraph 23, which is hereby incorporated by reference as though set forth fully.

h. On or about December 5, 2003, the Bureau issued Citation Number I 2003 195 to Respondent Evergreen for violating Business and Professions Code section 9650 and California Code of Regulations, Title 16, Section 2388, subdivision (a). The circumstances are described in additional detail in paragraph 24, which is hereby incorporated by reference as though set forth fully.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this Accusation and Petition to Revoke Probation, and that following the hearing, the Director of Consumer Affairs issue a decision:

1. Revoking the probation that was granted by the Cemetery and Funeral Bureau in Case No. A1 2013 229 and imposing the disciplinary order that was stayed thereby revoking Certificate of Authority License No. COA 524 issued to Evergreen Memorial Care, Inc. dba Evergreen Cemetery, Glenn Wong, President; Tony Soo Hoo, RMO;

2. Revoking the probation that was granted by the Cemetery and Funeral Bureau in Case No. A1 2013 229 and imposing the disciplinary order that was stayed thereby revoking Cemetery Manager License No. CEM 251 issued to Tony Soo Hoo;

3. Revoking or suspending Certificate of Authority License No. COA 524, issued to Evergreen Memorial Care, Inc. dba Evergreen Cemetery, Glenn Wong, President; Tony Soo Hoo, RMO;

4. Revoking or suspending Cemetery Manager License No. CEM 251 issued to Tony Soo Hoo;

5. Ordering Evergreen Memorial Care, Inc. dba Evergreen Cemetery, Glenn Wong, President; Tony Soo Hoo, RMO, and Tony Soo Hoo in his personal capacity to pay the Cemetery

and Funeral Bureau the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

6. Taking such other and further action as deemed necessary and proper.

DATED: October 28, 2016

LISA M. MOORE
Bureau Chief
Cemetery and Funeral Bureau
Department of Consumer Affairs
State of California
Complainant

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