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

In the Matter of the First Amended Accusation Against:

GLEN HAVEN MEMORIAL GARDENS, INC.
DBA "Glen Haven Memorial Park"
Samuel Chmelnicki, President
Ira M. Harrow, Vice President
Caren Lee Harville, RMO
13017 North Lopez Canyon Road
Sylmar, CA 91342

Certificate of Authority – Cemetery License No. COA 18,

and,

SHOLOM MEMORIAL PARK
DBA "Sholom Memorial Garden"
Samuel Chmelnicki, President
Ira M. Harrow, Vice President
Caren Lee Harville, RMO
13017 North Lopez Canyon Road
Sylmar, CA 91342

Certificate of Authority – Cemetery License No. COA 122,

Respondents.

Case No. A1 2007 292

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 Respondents Glen Haven Memorial Gardens, Inc. and Sholom Memorial Park 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

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

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

Attorneys for Complainant

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

In the Matter of the First Amended Accusation Against: **GLEN HAVEN MEMORIAL GARDENS, INC. d.b.a. GLEN HAVEN MEMORIAL PARK** Samuel Chmelnicki, President Ira M. Harrow, Vice President Caren Lee Harville, RMO 13017 North Lopez Canyon Road Sylmar, CA 91342 Certificate of Authority - Cemetery License No. COA 18, **SHOLOM MEMORIAL PARK d.b.a. SHOLOM MEMORIAL GARDEN** Samuel Chmelnicki, President Ira M. Harrow, Vice President Caren Lee Harville, RMO 13017 North Lopez Canyon Road Sylmar, CA 91342 Certificate of Authority - Cemetery License No. COA 122, and **CAREN LEE HARVILLE** 13791 Simshaw Avenue Sylmar, CA 91342 Cemetery Manager License No. CEM 109 Respondents.	Case No. A1 2007 292 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER** **Re Glen Haven Memorial Gardens, Inc. d.b.a. Glen Haven Memorial Park and Sholom Memorial Park d.b.a. Sholom Memorial Garden Only**

In the interest of a prompt and speedy settlement of this matter, consistent with the public interest and the responsibilities of the Director of the Department of Consumer Affairs (Director) and the Cemetery and Funeral Bureau (Bureau), the parties hereby agree to the following Stipulated Settlement and Disciplinary Order, which will be submitted to the Director for his approval and adoption as the final disposition of the First Amended Accusation solely with respect to Glen Haven Memorial Park and Sholom Memorial Garden. It does not apply to Caren Lee Harville.

PARTIES

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

2. Respondent Glen Haven Memorial Gardens, Inc. d.b.a. Glen Haven Memorial Park and Respondent Sholom Memorial Park d.b.a. Sholom Memorial Garden (Respondents) are represented in this proceeding by attorney Edwin C. Schreiber, Schreiber & Schreiber, 16501 Ventura Blvd., #401, Encino, CA 91436.

Glen Haven Memorial Park

3. 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[1] 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, 2011, unless renewed.

Sholom Memorial Park

4. 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

[1]Dr. Ira M. Harrow is now deceased.

(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, 2011, unless renewed.

JURISDICTION

5. Accusation No. A1 2007 292 was filed before the Director, and is currently pending against Respondents. The Accusation and all other statutorily required documents were properly served on Respondents on February 15, 2008. Respondents timely filed their respective Notices of Defense contesting the Accusation. The Accusation was subsequently amended. A copy of First Amended Accusation No. A1 2007 292 is attached as **Exhibit A** and is incorporated by reference as if fully set forth herein.

ADVISEMENT AND WAIVERS

6. Respondents have carefully read, fully discussed with counsel, and understand the charges and allegations in First Amended Accusation No. A1 2007 292. Respondents have also carefully read, fully discussed with counsel, and understand the effects of this Stipulated Settlement and Disciplinary Order.

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

8. Respondents voluntarily, knowingly, and intelligently waive and give up each and every right set forth above.

///

///

///

CULPABILITY

9. Respondents understand that the charges and allegations in the First Amended Accusation No. A1 2007 292, if proven at a hearing, would constitute cause for imposing discipline on their respective Certificates of Authority - Cemetery Licenses.

10. For the purpose of resolving the First Amended Accusation without the expense and uncertainty of further proceedings, Respondents give up their rights to contest the First Amended Accusation. Respondents understand and agree that in any future proceeding involving the Bureau or the Department of Consumer Affairs, Respondents will be deemed to have admitted these allegations.

11. Respondents agree that their respective Certificates of Authority - Cemetery Licenses are subject to discipline and they agree to be bound by the Director's imposition of discipline as set forth in the Disciplinary Order below.

CONTINGENCY

12. This stipulation shall be subject to approval by the Director. Respondents understand and agree that counsel for Complainant and the staff of the Department of Consumer Affairs or the Bureau may communicate directly with the Director regarding this stipulation and settlement, without notice to or participation by Respondents. By signing the stipulation, Respondents understand and agree that they may not withdraw their agreement or seek to rescind the stipulation prior to the time the Director considers and acts upon it. If the Director fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Director shall not be disqualified from further action by having considered this matter.

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

///

///

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Certificate of Authority - Cemetery License No. COA 18 issued to Respondent Glen Haven Memorial Park and Certificate of Authority - Cemetery License No. COA 122 issued to Respondent Sholom Memorial Park are revoked. However, the revocations are stayed and both Respondents are placed on probation for **five (5) years** on the following terms and conditions.

1. **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 Cemetery and Funeral Bureau (Bureau).

2. **Quarterly Reports.** Respondents shall submit quarterly declarations under penalty of perjury, in a format designated by the Bureau, stating whether or not Respondents have been in compliance with all the conditions of probation. Respondents 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. **Interviews with Bureau Representative**. As necessary, Samuel Chmelnicki, Respondents' President, or his successor, shall appear in person for scheduled interviews with the director or other designated representative for the purpose of monitoring compliance with the terms of this decision.

4. **Out-of-State Residence or Operation**. Should Respondents leave California to reside or operate outside this state, Respondents must notify the Bureau in writing of the dates of departure and return. Reporting in person may be waived if the Respondents moves out of the state. However, Respondents 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, Respondents' Certificates of Authority will be fully restored.

6. **Violation of Probation**. Should Respondents violate probation in any respect, the Director, after giving Respondents 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 Respondents during probation, the Department of Consumer Affairs shall have continuing jurisdiction until the matter is final, and the probation shall be extended until the matter is final.

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

8. **Evidence of Knowledge**. Upon request, Respondents shall provide evidence satisfactory to the Bureau that all corporate officers, corporate directors, licensed employees and any personnel who perform any function related to the operation of Glen Haven Memorial Park or Sholom Memorial Garden (referred to together herein as "the Cemeteries"), or who deal with the public, are knowledgeable in the laws and regulations governing the cemetery industry.

9. **Cost Recovery**. Respondents shall pay the Bureau's actual and reasonable costs of investigation and enforcement of this matter in the amount of **$20,000**. Said amounts shall be paid pursuant to a payment plan determined by the Bureau and shall be paid in full no later than six months prior to the end of probation. Probation shall not terminate until full payment has been made. Respondents' Certificates of Authority shall not be renewed until the cost recovery has been paid in full or Respondents are otherwise in compliance with a payment plan approved by the Bureau.

10. **Restoration.** Respondents shall be responsible for reasonable and adequate restoration and maintenance of the Cemeteries, including, but not limited to, care of the lawn, fences, walkways, buildings, mausoleums, markers, watering of the grounds from its seven

working wells, and repair and building of wells and sprinkler and water systems, as needed, and any other task or duty that would be performed by a reasonable, similarly situated cemetery within the Bureau's jurisdiction. Respondents shall also restore and repair all cemetery roadways within five years to like-new conditions. The road work shall be performed by a contractor or contractors who are licensed by and in good standing with the California Contractors State License Board. The road work shall satisfy construction industry standards in California as to quality and workmanship. Respondents have divided the Cemeteries' roadways into 23 Work Sections. Respondents shall complete the road repair/restoration of at least three (3) Work Sections every six (6) months during Respondent's probation period until the repair/restoration of the 23 Work Sections and any portions of the Cemeteries' roadways not included in Respondent's 23 Work Sections are finished. Respondent's list of 23 Work Sections and related maps that depict the areas of the Work Sections within the Cemeteries are attached hereto as **Exhibit B** and incorporated by reference as if fully set forth herein. Prior to the commencement of work, Respondents shall provide the Bureau with a copy of the road repair contract(s). The period of probation will be extended, if necessary, until the road repair and restoration of all of the Cemeteries' roadways are completed.

11. **Advertising**. Respondents shall accurately depict the current appearance of the Cemeteries in their advertisements.

12. **Rules and Regulations**. Within thirty (30) days of the effective date of this Stipulated Settlement and Disciplinary Order, Respondents shall have revised the Cemeteries' Rules and Regulation to provide that the Cemeteries' grounds are not watered on a regular basis and that there is no charge for watering the grounds. A copy of the revisions to the Respondents' Rules and Regulations that addresses the Cemeteries' watering of the grounds and lack thereof is attached as **Exhibit C** and is incorporated by reference as if fully set forth herein.

13. **Licensed Cemetery Manager**. Respondents shall hire a Bureau-approved licensed cemetery manager(s) within thirty (30) days of the effective date of this Stipulated Settlement and Disciplinary Order.

///

304

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Edwin C. Schreiber. I understand the stipulation and the effect it will have on my Certificate of Authority - Cemetery 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: February 25, 2010

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

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

I have read and fully discussed with Respondent Glen Haven Memorial Park and Respondent Sholom Memorial Park the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: February 26, 2010

Edwin C. Schreiber
Attorney for Respondents

///
///
///
///
///
///
///

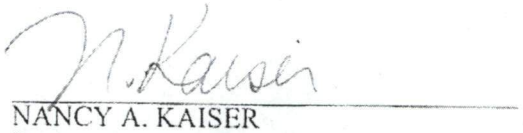
ENDORSEMENT

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

DATED: 2/26/2010

EDMUND G. BROWN JR., Attorney General
of the State of California

GREGORY J. SALUTE
Supervising Deputy Attorney General



NANCY A. KAISER
Deputy Attorney General
Attorneys for Complainant

50571911 5.wpd

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Edwin C. Schreiber. I understand the stipulation and the effect it will have on my Certificate of Authority - Cemetery 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: _____.

_____
GLEN HAVEN MEMORIAL GARDENS, INC. d.b.a.
GLEN HAVEN MEMORIAL PARK
Respondent

_____
SHOLOM MEMORIAL PARK d.b.a. SHOLOM
MEMORIAL GARDEN
Respondent

I have read and fully discussed with Respondent Glen Haven Memorial Park and Respondent Sholom Memorial Park the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: _____.

_____
Edwin C. Schreiber
Attorney for Respondents

///

///

///

///

///

///

///

ENDORSEMENT

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

DATED: _____

EDMUND G. BROWN JR., Attorney General
of the State of California

GREGORY J. SALUTE
Supervising Deputy Attorney General

_____
NANCY A. KAISER
Deputy Attorney General
Attorneys for Complainant

Exhibit A

First Amended Accusation No. A1 2007 292

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

Attorneys for Complainant

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

In the Matter of the First Amended Accusation Against: **GLEN HAVEN MEMORIAL GARDENS, INC. d.b.a. GLEN HAVEN MEMORIAL PARK** Samuel Chmelnicki, President Ira M. Harrow, Vice President Caren Lee Harville, RMO 13017 North Lopez Canyon Road Sylmar, CA 91342 Certificate of Authority - Cemetery Lic. No. COA 18, **SHOLOM MEMORIAL PARK d.b.a. SHOLOM MEMORIAL GARDEN** Samuel Chmelnicki, President Ira M. Harrow, Vice President Caren Lee Harville, RMO 13017 North Lopez Canyon Road Sylmar, CA 91342 Certificate of Authority - Cemetery Lic. No. COA 122, and **CAREN LEE HARVILLE** 13791 Simshaw Avenue Sylmar, CA 91342 Cemetery Manager License No. CEM 109 Respondents.	Case No. A1 2007 292 **FIRST AMENDED ACCUSATION**

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.[1]

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

///

---

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.

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

JURISDICTION

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

6. Pursuant to Section 9725, a license may be suspended or revoked for violations of the Cemetery Act.[2]

7. Section 118, subdivision (b), provides that the expiration 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.

8. Section 9725.1 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.

9. Section 9723 states, in 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

2. Section 9600, et seq.

of the Business and Professions 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.

10. Health and Safety Code Section 8331 states:

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

11. Pursuant to Health and Safety Code section 8785, violation of the laws relating to the collection, investment, or use of endowment care funds[3] is grounds for disciplinary action.

12. Health and Safety Code Section 8726 states that:

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

13. Health and Safety Code Section 8750 states that:

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

COST RECOVERY

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.

---

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.

FACTUAL SUMMARY

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

Bureau Inspection - June 13, 2007

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

Complaint of Richard W. Mathias

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

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

Bureau Inspection – February 13, 2008

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

Additional Bureau Site Visits

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

///

///

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

Complaint of Wendy Hall

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

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

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

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

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

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

28. A Glen Haven Memorial Park interment order shows that on or about September 3, 2004, Dorothy B. Ramsey authorized the interment of John Elias Ramsey into Grave C, Plot 363, Section Laurel.

29. On or about November 4, 2007, Hall took photographs showing a grave marker placed on Grave B, Plot 363, Section Laurel bearing the name Agnes D. Thun and the date of death as May 27, 1999, and a grave marker placed on Grave C, Plot 363, Section Laurel bearing the name John Elias Ramsey and the date of death as August 25, 2004.

30. On or about November 14, 2007, Harville submitted a written and signed statement acknowledging that Graves A, B, C and D, Plot 363, Section Laurel were previously sold and Glen Haven Memorial Park's staff erred in connection with the cemetery property exchange and issuance of the deed for these graves to Hall.

FIRST CAUSE FOR DISCIPLINE

(Negligence)

31. Respondents Glen Haven Memorial Park and Harville are subject to disciplinary action under section 9725.1, subdivision (b), on the grounds of unprofessional conduct, in that Respondents Glen Haven Memorial Park and Harville were negligent in performing acts related to the operation of a cemetery, as set forth in paragraphs 16 through 30, above.

32. Respondent Sholom Memorial Park is subject to disciplinary action under section 9725.1, subdivision (b), on the grounds of unprofessional conduct, in that Respondent Sholom Memorial Garden was negligent in performing acts related to the operation of a cemetery, as set forth in paragraphs 16, 19, 20, and 21, above.

SECOND CAUSE FOR DISCIPLINE

(Failure to Keep Adequate Records of Ownership and Transfer of Plots)

33. Respondents Glen Haven Memorial Park and Harville are subject to disciplinary action under Health and Safety Code section 8331, in that they failed to keep adequate records of ownership and transfer of plots. Specifically, Respondents failed to keep adequate records of the ownership of Graves A, B, C, and D, Plot 363, Section Laurel, at The

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

THIRD CAUSE FOR DISCIPLINE

(Failure to Ensure Compliance)

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

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

FOURTH CAUSE FOR DISCIPLINE

(Violation of the Cemetery Act)

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

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

///

///

///

FIFTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

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

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

DISCIPLINE CONSIDERATIONS

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

Glen Haven Memorial Park

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

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

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

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

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

///

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

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

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

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

Sholom Memorial Garden

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

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

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

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

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

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

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

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

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

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

Harville

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

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

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

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

PRAYER

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

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

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

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

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

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

DATED: 4/2/09

Richard L. Wallinder Jr.

RICHARD L. WALLINDER, JR.
Bureau Chief
Cemetery and Funeral Bureau
Department of Consumer Affairs
State of California
Complainant