

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

In the Matter of the Accusation Against:

Case No. A1 2014 104

**EVERGREEN CEMETERY
ASSOCIATION, aka EVERGREEN
CEMETERY
Buck Kamphausen, RMO
Edward Wilkes, Vice President
Joshua Voss, Vice President/Secretary
Kathryn Elfstrom, Secretary
6450 Camden Street
Oakland, CA 94605**

Certificate of Authority No. COA 103

And

**BUCK KAMPHAUSEN
200 Rollingwood Dr.
Vallejo, CA 94591**

Cemetery Manager License No. CEM 259,

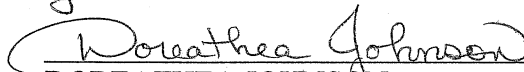
Respondents.

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order for Public Reproval is hereby adopted by the Director of the Department of Consumer Affairs as the Decision and Order in the above entitled matter.

This Decision shall become effective on JUNE 8, 2017.

It is so ORDERED May 8, 2017.



DOREATHEA JOHNSON
Deputy Director, Legal Affairs
Department of Consumer Affairs

1 XAVIER BECERRA
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
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8 **BEFORE THE**
DEPARTMENT OF CONSUMER AFFAIRS
9 **FOR THE CEMETERY AND FUNERAL BUREAU**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. A1 2014 104

12 **EVERGREEN CEMETERY**
13 **ASSOCIATION, aka EVERGREEN**
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14 **Buck Kamphausen, RMO**
15 **Edward Wilkes, Vice President**
Joshua Voss, Vice President/Secretary
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6450 Camden Street
Oakland, CA 94605

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER FOR PUBLIC
REPROVAL

[Bus. & Prof. Code § 495]

17 **Certificate of Authority No. COA 103**

18 **And**

19 **BUCK KAMPHAUSEN**
20 **200 Rollingwood Dr.**
Vallejo, CA 94591

21 **Cemetery Manager License No. CEM 259**

22 Respondents.

23
24 **IT IS HEREBY STIPULATED AND AGREED** by and between the parties to the above-
25 entitled proceedings that the following matters are true:

26 **PARTIES**

27 1. Lisa M. Moore (Complainant) is the Bureau Chief of the Cemetery and Funeral
28 Bureau (Bureau). She brought this action solely in her official capacity and is represented in this

1 matter by Xavier Becerra, Attorney General of the State of California, by Jonathan D. Cooper,
2 Deputy Attorney General.

3 2. Respondent Evergreen Cemetery Association and Buck Kamphausen are represented
4 in this proceeding by attorney Steven H. Gurnee of Gurnee Mason & Forestiere, whose address
5 is: 2240 Douglas Blvd., Suite 150, Roseville, CA, 95661.

6 3. On or about May 1, 1950, the Cemetery and Funeral Bureau issued Certificate of
7 Authority License Number COA 103 to Evergreen Cemetery Association, aka Evergreen
8 Cemetery (hereinafter "Respondent Evergreen"), Buck Kamphausen, RMO, Edward Wilkes, Vice
9 President, Joshua Voss, Vice President/Secretary, Kathryn Elfstrom, Secretary. The Certificate
10 of Authority License was in full force and effect at all times relevant to the charges brought
11 herein and will expire on January 1, 2018, unless renewed.

12 4. On or about January 20, 2005, the Cemetery and Funeral Bureau issued Cemetery
13 Manager License Number CEM 259 to Buck Kamphausen (hereinafter "Respondent
14 Kamphausen"). The Cemetery Manager License was in full force and effect at all times relevant
15 to the charges brought herein and will expire on January 31, 2018, unless renewed.

16 JURISDICTION

17 5. Accusation No. A1 2014 104 was filed before the Director of the Department of
18 Consumer Affairs (Director), for the Cemetery and Funeral Bureau (Bureau), and is currently
19 pending against Respondents. The Accusation and all other statutorily required documents were
20 properly served on Respondents on May 4, 2016. Respondents timely filed their Notices of
21 Defense contesting the Accusation. A copy of Accusation No. A1 2014 104 is attached as exhibit
22 A and incorporated herein by reference. This matter proceeded to an administrated hearing. On
23 or about March 18, 2016, the Director issued a Decision and Order. On or about February 28,
24 2017, the Sacramento County Superior Court issued a writ remanding the matter back to the
25 Director for further proceedings and commanding the Director to set aside the decision.

26 ADVISEMENT AND WAIVERS

27 6. Respondents have carefully read, fully discussed with counsel, and understand the
28 charges and allegations in Accusation No. A1 2014 104. Respondents have also carefully read,

1 fully discussed with counsel, and understand the effects of this Stipulated Settlement and
2 Disciplinary Order for Public Reproval.

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

10 8. Respondents voluntarily, knowingly, and intelligently waive and give up each and
11 every right set forth above with regard to further resolution of this matter.

12 CULPABILITY

13 9. Respondents admit that they failed to timely comply with abatement orders as alleged
14 in the Third and Fourth Causes for Discipline in Accusation No. A1 2014 104, but did comply
15 before the administrative hearing, which proceeded on December 16, 2015. Respondents deny
16 the charges and allegations set forth in the First and Second Cause for Discipline.

17 10. Respondents agree that their Certificate of Authority and Cemetery Manager License
18 are subject to discipline and they agree to be bound by the Disciplinary Order below.

19 11. Respondents agree and stipulate that the Disciplinary Order in this matter, set forth
20 below, fully and completely resolves the writ petition in Sacramento Superior Court case number
21 34-2016-80002329, and agree to so notify the Court.

22 CONTINGENCY

23 12. This stipulation shall be subject to approval by the Director of Consumer Affairs or
24 the Director's designee. Respondents understand and agree that counsel for Complainant and the
25 staff of the Cemetery and Funeral Bureau may communicate directly with the Director and staff
26 of the Department of Consumer Affairs regarding this stipulation and settlement, without notice
27 to or participation by Respondents or their counsel. By signing the stipulation, Respondents
28 understand and agree that they may not withdraw their agreement or seek to rescind the

1 stipulation prior to the time the Director considers and acts upon it. If the Director fails to adopt
2 this stipulation as the Decision and Order, the Stipulated Settlement and Disciplinary Order for
3 Public Reproval shall be of no force or effect, except for this paragraph, it shall be inadmissible in
4 any legal action between the parties, and the Director shall not be disqualified from further action
5 by having considered this matter.

6 13. The parties understand and agree that Portable Document Format (PDF) and facsimile
7 copies of this Stipulated Settlement and Disciplinary Order for Public Reproval, including
8 Portable Document Format (PDF) and facsimile signatures thereto, shall have the same force and
9 effect as the originals.

10 14. This Stipulated Settlement and Disciplinary Order for Public Reproval is intended by
11 the parties to be an integrated writing representing the complete, final, and exclusive embodiment
12 of their agreement. It supersedes any and all prior or contemporaneous agreements,
13 understandings, discussions, negotiations, and commitments (written or oral). This Stipulated
14 Settlement and Disciplinary Order for Public Reproval may not be altered, amended, modified,
15 supplemented, or otherwise changed except by a writing executed by an authorized representative
16 of each of the parties.

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

20 **DISCIPLINARY ORDER**

21 IT IS HEREBY ORDERED that the prior Decision and Order in this matter, issued on
22 March 18, 2016, is hereby set aside and vacated, and the Director instead issues this Public
23 Reproval.

24 IT IS HEREBY FURTHER ORDERED that Certificate of Authority License Number COA
25 103, issued to Evergreen Cemetery Association, aka Evergreen Cemetery, Buck Kamphausen,
26 RMO, Edward Wilkes, Vice President, Joshua Voss, Vice President/Secretary, Kathryn Elfstrom,
27 Secretary, and Cemetery Manager License Number CEM 259, issued to Buck Kamphausen, shall
28 be publicly reproved by the Cemetery and Funeral Bureau under Business and Professions Code

1 section 495 in resolution of Accusation No. A1 2014 104, attached as exhibit A. Pursuant to this
2 disciplinary order, Respondents shall comply with all of the following terms and conditions. Any
3 violation of the terms and conditions shall constitute unprofessional conduct and such violation
4 shall constitute grounds for further disciplinary action under Business and Professions Code
5 section 7711.1.

6 1. **Posting.** Respondents shall post a sign in a prominent location in the cemetery office
7 of Evergreen Cemetery. The sign shall state: "This cemetery will be maintained in accordance
8 with the cemetery's maintenance standards, including any watering provisions set forth in the
9 maintenance standards, if any. The cemetery's maintenance standards are available for inspection
10 in the cemetery office."

11 2. **Full Compliance.** This Stipulated Settlement and Order for Public Reprimand as a
12 resolution of the charges in the Accusation is contingent upon Respondents' full compliance with
13 all conditions of this Order. In the event that one or both of the Respondents fail to fully satisfy
14 the above conditions, Respondents understand and agree that the original Accusation shall be
15 reinstated, and Respondents hereby waive any challenge based on a statute of limitations or
16 laches as to the Accusation. Respondents further agree that should one or both of them fail to
17 comply with all conditions of this Order, the Bureau will be entitled to proceed on both the
18 original Accusation and on a supplemental Accusation based on the failure to comply with the
19 above conditions, and Respondents specifically agree and stipulate that failure to fully comply
20 with the above conditions shall constitute unprofessional conduct and shall constitute cause for
21 revocation of licensure.

22 ACCEPTANCE

23 I am authorized to sign this document on behalf of Evergreen Cemetery Association, aka
24 Evergreen Cemetery. I have carefully read the above Stipulated Settlement and Disciplinary
25 Order for Public Reprimand and have fully discussed it with my attorney, Steven H. Gurnee, Esq. I
26 understand the stipulation and the effect it will have on Evergreen's Certificate of Authority and
27 on my Cemetery Manager License. On behalf of Evergreen Cemetery Association and on my
28 own behalf, I enter into this Stipulated Settlement and Disciplinary Order for Public Reprimand

1 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the
2 Director of Consumer Affairs.

3 DATED: May 1, 2017

Buck Kamphausen
BUCK KAMPHAUSEN

Respondent

5 I have read and fully discussed with Buck Kamphausen the terms and conditions and other
6 matters contained in the above Stipulated Settlement and Disciplinary Order for Public Repeval.
7 I approve its form and content.

8 DATED: May 2, 2017

Steven H. Gurnee, Esq.
STEVEN H. GURNEE, ESQ.

Attorney for Respondent

11 ENDORSEMENT

12 The foregoing Stipulated Settlement and Disciplinary Order for Public Repeval is hereby
13 respectfully submitted for consideration by the Director of Consumer Affairs.

14 Dated: 5/2/17

Respectfully submitted,

XAVIER BECERRA

Attorney General of California

FRANK H. PACOE

Supervising Deputy Attorney General

Jonathan D. Cooper
JONATHAN D. COOPER

Deputy Attorney General

Attorneys for Complainant