

JOHN J. FARMER, JR.
ATTORNEY GENERAL OF NEW JERSEY

By: Nancy Costello Miller
Deputy Attorney General
Division of Law
124 Halsey Street
P.O. Box 45029
Newark, New Jersey 07101

"CERTIFIED TRUE COPY"

NEW JERSEY
CEMETERY BOARD
JAN 10 2002

FILED

LSusan H. Gatt

State of New Jersey
Department of Law and Public Safety
Division of Consumer Affairs
Cemetery Board

IN THE MATTER OF

BRAINERD FIRST PRESBYTERIAN
CHURCH CEMETERY

Certificate of Authority
Number 311

Administrative Action

FINAL ORDER OF
DISCIPLINE

This matter was opened to the New Jersey Cemetery Board following review of information in the Board's files which resulted in the issuance of a Provisional Order of Discipline regarding the failure of Brainerd First Presbyterian Church Cemetery ("Cemetery") to file Maintenance and Preservation Fund reports and to make payments into the Maintenance and Preservation Fund for fiscal years 1990 through 1997. The Cemetery responded to the Provisional Order by submitting annual reports for fiscal years 1990 through 1998 and submitting the penalty sought by the Provisional Order of

Discipline. The Board has reviewed the Cemetery's submission and now makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. Respondent, Brainerd First Presbyterian Church Cemetery, has held Certificate of Authority Number 311 issued by the Cemetery Board on January 10, 1974 pursuant to N.J.S.A. 8A:3-9. Respondent has been a New Jersey Cemetery Company at all times relevant to this matter and is not a municipality.
2. Pursuant to N.J.S.A. 8A: 4-5, cemetery companies must make certain deposits into the Cemetery's Maintenance and Preservation Fund based on income generated by sales of lots or graves, and deposits based on resales of lots or graves, number of interments, and size of foundations installed.
3. Pursuant to N.J.S.A. 8A:4-12, each cemetery company that is not a municipality must file an annual report with the Board showing the extent and augmentation of the Maintenance and Preservation Fund for its fiscal year not later than 120 days after the close of its fiscal year.
4. A review of the Board's files demonstrates that as of the filing of the Provisional Order of Discipline, the last annual Maintenance and Preservation Fund report was filed on September 28, 1992 for fiscal year 1989.

5. On July 28, 1999, the Cemetery filed Maintenance and Preservation reports for fiscal years 1990 through 1998 and paid required fees.

CONCLUSIONS OF LAW

The failure to file an annual reports with the New Jersey Cemetery Board and/or the failure to deposit statutorily required sums into the Maintenance and Preservation Fund provide grounds for discipline pursuant to N.J.S.A. 45:1-21 (h). Respondent has now filed the required reports and has paid the penalty provisionally ordered by the Board. The Board has accepted payment of the penalty. The Board notes that the filed reports do not show that the Maintenance and Preservation Fund is in a custodial trust fund as required by the Cemetery Act. The Cemetery must place its Maintenance and Preservation Fund in such an account within 90 days of this order or the Cemetery shall face further disciplinary action by the Board.

ACCORDINGLY, IT IS ON THIS 10th DAY OF JANUARY, 2002,

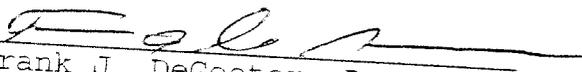
ORDERED that:

1. Brainerd First Presbyterian Church Cemetery shall cease and desist from failing to file its annual Maintenance and Preservation Fund report within 120 days of the close of its fiscal year and from failing to make all statutorily required deposits into the Maintenance and Preservation Fund.

2. Brainerd First Presbyterian Church Cemetery shall take appropriate steps to place its Maintenance and Preservation Trust Fund in a custodial account in a New Jersey banking institution as required by N.J.S.A. 8A:4-7 not later than 90 days from the entry of this order.

3. Brainerd First Presbyterian Church Cemetery shall be assessed a civil penalty of \$500.00, which penalty has been paid.

NEW JERSEY STATE CEMETERY BOARD

By: 
Frank J. DeGeeter, President

the



H. Craig Gilbert
Deverly S. Gilbert
69 North Main Street
Cranbury, NJ 08512

Pay to the order of

New Jersey Cemetery Board

Five hundred

1st Constitution Bank
74 N. Main Street • Cranbury, NJ 08512

Brinerd-Westminster Cemetery

⑆02⑆207⑆54⑆

2000

97⑈0⑆2434

CERTIFIED

2434

Payable ⁵⁵⁻⁷¹⁵⁷²¹² ~~on~~ originally drawn
and when properly endorsed for
July 26, 1999

\$ ~~Five~~

1st CONSTITUTION BANK \$ 500.00

7/26/99

Deverly S. Gilbert
H. Craig Gilbert

Security features
#CALC
#EMARK ON BACK

MP