

NEW JERSEY  
CEMETERY BOARD

March 24, 2008

**FILED**

*Deanne K. Tammaglio*

STATE OF NEW JERSEY  
DEPARTMENT OF LAW AND PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
NEW JERSEY CEMETERY BOARD

IN THE MATTER OF :

WEEHAWKEN CEMETERY :

Certificate of Authority :  
Number 70 :

Administrative Action

**FINAL ORDER OF  
DISCIPLINE**

This matter was opened to the New Jersey Cemetery Board (hereinafter "the Board") following review of information received by the Board on or about August 9, 2006, concerning an action which had been filed against Weehawken Cemetery (hereinafter "Respondent") in Superior Court on or about June 29, 2006. The Board makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. Respondent holds Certificate of Authority Number 70; issued by the Cemetery Board on August 11, 1972, 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. On or about August 9, 2006, the Board received a copy of a Summons and Verified Complaint stamped filed with the Court on June 29, 2006, along with a copy of a proposed Final Judgment By Consent, from Mario M. Blanch, Esq., attorney for Plaintiffs, in

the matter of Torres v. Weehawken Cemetery, Docket # HUD-C-115-06.

3. On or about September 27, 2006, the Board received from Mr. Blanch a copy of a Final Judgment By Consent ("Final Judgment") which was executed by the Court on September 15, 2006. It ordered *inter alia* that property which was owned by Weehawken Cemetery, and which was specifically defined in the exhibit to the Final Judgment, be "deemed to be owned by [Plaintiffs]... by way of adverse possession."

4. On or about October 27, 2006, the Board sent a letter to Weehawken Cemetery, advising that the Board required a copy of the survey of the cemetery.

5. On or about November 13, 2006, the Board received a letter from Alan Molina, Esq., an attorney practicing at the law offices of Armando C. Hernandez, Esq., responding to the Board's letter to Weehawken Cemetery and enclosing a copy of the survey highlighting the area which was taken by adverse possession. The letter explained that the area was subject to a sewer easement, had been fenced and used by the adjoining property owner for decades, and that the cemetery "could not justify the costs associated with protracted adverse possession litigation and agreed to execute the Consent Judgment."

6. On or about December 29, 2006, the Board sent a letter to Mr. Molina advising that N.J.S.A. 45:27-34a(3) requires Board approval for any transfer of land by a cemetery company prior to transfer, and requires that the transaction be made in good faith and for fair consideration. Therefore, the Board required that an

appraisal of the parcel of property taken by adverse possession be submitted to the Board. No response was received.

7. On or about February 20, 2007, the Board again sent a letter to Mr. Molina, advising that it had not yet received an appraisal as requested in its letter dated December 29, 2006.

8. On or about February 23, 2007, the Board received a letter from Mr. Molina advising that he had not received the December 29, 2006 letter. He further advised that an appraisal had not previously been obtained; but if the Board wanted an appraisal, "the terms of the Judgment require that the Plaintiff absorb the costs associated with any such request. As such, by copy of this letter, I am requesting that counsel for the Plaintiff obtain the requisite appraisal." Mr. Molina advised that he would forward the appraisal to the Board as soon as it was received.

9. On or about May 15, 2007, the Board again wrote to the law offices of Armando C. Hernandez, Esq., advising that the Board had not received an appraisal.

#### CONCLUSIONS OF LAW

1. Respondent has an obligation pursuant to N.J.S.A. 45:27-5 and N.J.A.C. 13-44J-5.5 to timely notify the Board of any action or proceeding by or against it. Respondent's failure to timely notify the Board of the lawsuit filed against it is a violation of N.J.S.A. 45:27-5 and N.J.A.C. 13-44J-5.5 subjecting Respondent to sanctions pursuant to N.J.S.A. 45:1-21h.

2. The above facts provide grounds for discipline pursuant to N.J.S.A. 45:1-21h in that Respondent is required to obtain approval from the Cemetery Board prior to the transfer of cemetery land, pursuant to N.J.S.A. 45:27-34 and N.J.A.C. 13:44J-13.4.

3. Respondent's failure to timely reply to the Board's communications constitutes a failure to cooperate with a Board investigation, in violation of N.J.A.C. 13:45C-1.3, subjecting Respondent to sanctions pursuant to N.J.S.A. 45:1-21h.

Based on the foregoing findings and conclusions, a Provisional Order of Discipline was issued on November 9, 2007, and a copy was served on Respondent. The Provisional Order was subject to finalization by the Board at 5:00 p.m. on the 30th business day following entry unless Respondent requested a modification or dismissal of the stated Findings of Fact or Conclusions of Law by submitting a written request for modification or dismissal, setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed and submitting any and all documents or other written evidence supporting Respondent's request for consideration and reasons therefor.

Under cover of a letter dated December 4, 2007, Respondent submitted for Board consideration two Land Appraisal Reports from Precise Appraisal, Inc., reflecting the September 2006 and the then current values of the subject area of land. While admitting that the appraisal had not previously been provided, the letter requested that the proposed sanction be dismissed because notice of

the action had been provided and the appraisal had, at that point, been provided.

Respondent's submissions were reviewed by the Board, and the Board determined that further proceedings were not necessary and that no material discrepancies had been raised. The Board was not persuaded that the submitted materials merited further consideration, as Respondent did not dispute the Findings of Fact or Conclusions of Law. The Board has determined that Respondent's submissions on dates that are not in dispute were not timely, and that Respondent at no time sought the prior approval of the Board for Respondent's consent to the transfer of an interest in cemetery land, as required by statute.

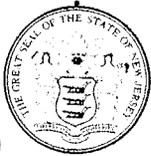
ACCORDINGLY, IT IS on this 19<sup>th</sup> day of March, 2008,

ORDERED that:

1. Respondent is hereby assessed a civil penalty, pursuant to N.J.S.A. 45:1-22 in the total amount of \$250.00 for its violations of N.J.S.A. 45:27-5, N.J.S.A. 45:27-34, and of N.J.A.C. 13:45C-1.3. Payment shall be by certified check or money order made payable to the State of New Jersey, and shall be sent to: Dianne Tamaroglio, Executive Director, New Jersey Cemetery Board at 124 Halsey Street, Sixth Floor, Newark, New Jersey 07101, no later than ten (10) days from the receipt of this Order.

NEW JERSEY STATE CEMETERY BOARD

By: Marion Brozowski  
Marion Brozowski, President



JON S. CORZINE  
Governor

## New Jersey Office of the Attorney General

Division of Consumer Affairs  
New Jersey Cemetery Board  
124 Halsey Street, 6th Floor, Newark, NJ 07102



ANNE MILGRAM  
Attorney General

LAWRENCE DEMARZO  
Acting Director

**Mailing Address:**  
P.O. Box 45036  
Newark, NJ 07101  
(973) 504-6553

March 26, 2008

Alan Molina, Esquire  
Law Offices of Alan Molina, LLC  
5600 Kennedy Boulevard  
West New York, New Jersey 07093

Re: Weehawken Cemetery

Dear Mr. Molina:

Enclosed, please find a Final Order of Discipline entered by the New Jersey Cemetery Board finalizing the provisions of the Provisional Order entered by the Board in November, 2007.

The Final Order is being entered with no modifications to the Provisional Order.

Thank you for your cooperation in this matter.

Sincerely,

  
Dianne L. Tamaroglio  
Executive Director

enclosure  
certified and regular mail

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<ul style="list-style-type: none"> <li>Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li> <li>Print your name and address on the reverse so that we can return the card to you.</li> <li>Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>	A. Signature <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee	
	B. Received by (Printed Name)	C. Date of Delivery APR 01 2008
1. Article Addressed to: <i>Alan Molina, Esquire            Law Offices of Alan Molina            5600 Kennedy Boulevard            Wood New York, NY 10709-3</i>	D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No	
2. Article Number (Transfer from service label)	7003 0500 0000 7134 8323	
	3. Service Type <input type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.	
4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes		
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Sent To *Alan Molina*  
 Street, Apt. No.,  
 or PO Box No. *Westchester*  
 City, State, ZIP+4

PS Form 3800, June 2002      See Reverse for Instructions

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