

ANNE MILGRAM  
ATTORNEY GENERAL OF NEW JERSEY  
P.O. Box 45029  
124 Halsey Street, Fifth Floor  
Newark, NJ 07101

*May 27, 2009*

By: Ginger R. Provost  
Deputy Attorney General  
(973)648-4447

**FILED** *Shane L. Lanning*

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

IN THE MATTER OF

**DECKERTOWN UNION  
MEMORIAL PARK CEMETERY**

Certificate of Authority  
Number 155

Administrative Action

**FINAL ORDER  
OF DISCIPLINE**

This matter was opened to the New Jersey Cemetery Board upon receipt of information which the Board has reviewed and on which the following findings of fact and conclusions of law are made:

**FINDINGS OF FACT**

1. Deckertown Union Cemetery Association, has held Certificate of Authority Number 155 issued by the Cemetery Board on August 23, 1972 pursuant to N.J.S.A. 8A:3-9; now recodified at N.J.S.A. 45:27-7. 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. 45:27-12, 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 deposited based on resales of lots or graves (if other than transfers between heirs or next of kin), number of interments and size of foundations installed.

3. Pursuant to N.J.S.A. 45:27-15, each cemetery company that is not a municipality must file an annual report with the Board showing the extent and augmentation of the Maintenance 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 the last annual Maintenance and Preservation Fund report was filed on August 7, 1989 for fiscal year 1989.

5. Based on the above facts, the Board issued a Provisional Order of Discipline on June 10, 1999 which was served by certified mail upon the President and signed for on June 18, 1999.

6. On January 8, 2009, the Board received annual reports for fiscal years ending March 31, 2007 and March 31, 2008 for Deckertown Union Cemetery Association which indicate that the funds contained in its Maintenance and Preservation Fund were enhanced by the interest received of \$16.15 and \$27.17 respectively and, as of the last report, totaled \$7,772.77. The reports further indicate that there were only a total of 5 grave sales and/or interments for both years.

## CONCLUSIONS OF LAW

1. The failure to file an annual report with the New Jersey Cemetery Board and/or 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).

## DISCUSSION

The Board considered the submissions of respondent and determined that no further proceedings were necessary as they do not dispute the facts alleged. Based upon the limited funds available to the cemetery for the maintenance and upkeep of the cemetery from the interest earned on its Maintenance and Preservation Fund, and the fact that the Cemetery's annual reports are now current, the Board was persuaded that the imposition of a civil penalty was not warranted. The Board expressed its general concern that it understands the difficulty in locating individuals willing to assume the maintenance of a cemetery which has limited funds and little or no plots available for sale, and is of the opinion that it is in the public interest to do everything possible to avoid having such a cemetery fall into the category of so many others in this state that have been abandoned. These abandoned cemeteries are a nuisance to any community which does not have the funds to assume the responsibility for maintenance and turns what used to be a park-like setting, where individuals desired to be buried so that their loved ones could pay their respects and visit after their demise, into magnets for mischief and illegal activities. Therefore, imposition of a fine in this matter would not serve a valid purpose and would hamper respondent's ability to maintain the cemetery, but respondent should be cautioned about its delinquent behavior.

IT IS, THEREFOR ON THIS 22<sup>nd</sup> day of May, 2009,

ORDERED that:

1. Respondent shall cease and desist from violating the provision of N.J.S.A. 45:27-15 which require each cemetery company to file an annual report with the Board within 120 days after the close of the cemetery company's fiscal year.

2. Should respondent violate any provisions of the New Jersey Cemetery Act, N.J.S.A. 45:27-1 et seq., or the regulations, N.J.A.C. 13:44J-1.1 et seq., it may be subject to enhanced penalties as a second violation, as well as such other proceedings as authorized by law without prejudice to respondents' right to present evidence in mitigation and affirmative defenses.

NEW JERSEY STATE CEMETERY BOARD

By: [Signature]  
William Nichols, Chairman

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Deckerstown Lawn Cemetery  
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