

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN  
BEFORE THE CEMETERY BOARD

IN RE DISCIPLINARY PROCEEDINGS	:	
AGAINST	:	
	:	FINAL DECISION AND ORDER
ROBERT E. WAINSCOTT,	:	
	:	LS0805211RLC
	:	
RESPONDENT.	:	

Division of Enforcement Case No. 05 RLC 007

The parties to this action for the purposes of Wis. Stats. Sec. 227.53 are:

Robert E. Wainscott  
2797 Mount Pleasant Trail  
Duluth, GA 30097

Cemetery Board  
P.O. Box 8935  
Madison, WI 53708-8935

Department of Regulation and Licensing  
Division of Enforcement  
P.O. Box 8935  
Madison, WI 53708 8935

PROCEDURAL HISTORY

A formal complaint has been filed in this matter. The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of the matter, subject to the approval of the Cemetery Board. The Board has reviewed the Stipulation agreement annexed to this Final Decision and Order, and considers it acceptable. Accordingly, the Board adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

- Respondent Robert E. Wainscott (“Wainscott”), whose last known address of record with the Department of Regulation and Licensing (“Department”) is 2797 Mount Pleasant Trail, Duluth GA, 30097, and whose date of birth is September 16, 1954, holds a license as a Cemetery Salesperson (#96-1049) issued by the Department. The license was first granted on April 27, 1995, and expired on December 31, 2006. Mr. Wainscott retains a right to renew the license until December 31, 2011.
- On March 1, 2007, Mr. Wainscott sold his interest in Valhalla Memorial Gardens to another entity (“Purchaser”).
- On April 18, 2007, the Department conducted an audit of Valhalla Memorial Gardens’ trust account. The auditor reviewed trust account records from August 1, 1999 to December 31, 2005. The auditor concluded that the trust account was short by approximately \$33,500. Mr. Wainscott was responsible for, and had access to, the trust account during the period of time noted above.
- The Purchaser reports that since the date of sale several persons have come forward with bills of sale for goods such as headstones. The Purchaser could find no corresponding records of such sales or deposits. The Purchaser further reports that no goods were ordered in fulfillment of such agreements entered into by Mr. Wainscott.
- Per Wis. Stat. § 440.85 (2) “...the department may reprimand an individual registered under this subchapter or deny, limit, suspend, or revoke a registration under this subchapter if the department finds that the applicant or individual

has done any of the following: (b) Engaged in conduct while practicing as a crematory authority that evidences a lack of knowledge or ability to apply professional principles or skills.”

CONCLUSIONS OF LAW

1. The Wisconsin Cemetery Board has jurisdiction to act in these matters pursuant to Wis. Stat. § 440.905.
2. The Wisconsin Cemetery Board has authority to enter into this stipulated resolution of this matter pursuant to Wis. Stat. § 227.44 (5).
3. By causing the trust fund of Valhalla Memorial Gardens to be short by approximately \$33,500, and by negligently or intentionally taking funds from members of the public without depositing the funds, or ordering goods paid for Mr. Wainscott has demonstrated incompetency to act as a Cemetery Salesperson, contrary to Wis. Stat. § 440.85 (2), thereby subjecting himself to discipline.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The license of **Robert E. Wainscott** as a Cemetery Salesperson (#96-1049) shall be, and hereby is, **REVOKED** to include any right to renew said license. All indicia of licensure shall be surrendered within thirty (30) days of the date of signing this Order.

IT IS FURTHER ORDERED that:

2. **Robert E. Wainscott** shall pay costs of these investigations in the amount of SEVEN HUNDRED AND FIFTY DOLLARS (\$750.00). Costs shall be immediately due and owing, including any interest accrued since the date of this Order, upon receipt of any application for any license administered by the Department of Regulation and Licensing submitted by the Respondent.
3. Payment of costs and other submissions required by this Order shall be mailed, delivered or otherwise transmitted to:  

Department Monitor  
Division of Enforcement  
Department of Regulation and Licensing  
P.O. Box 8935, Madison, WI 53708-8935  
Telephone (608) 261-7904, Fax (608) 266-2264
4. Case number 05 RLC 007 is hereby closed.
5. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondent’s license. The Cemetery Board in its discretion may in the alternative impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order. In the event that Respondent fails to timely submit any payments set forth above, Respondent’s license (#96-1049) SHALL BE SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order.
6. This Order is effective on the date of its signing.

CEMETERY BOARD

A Member of the Board

Date

STATE OF WISCONSIN  
BEFORE THE CEMETERY BOARD

IN RE DISCIPLINARY PROCEEDINGS	:	
AGAINST	:	
	:	STIPULATION
ROBERT E. WAINSCOTT,	:	
	:	LS _____
	:	
RESPONDENT.	:	

Division of Enforcement Case No. 05 RLC 007

It is hereby stipulated and agreed, by and between Robert E. Wainscott, Respondent; and Mark A. Herman, attorney for Complainant, State of Wisconsin, Department of Regulation and Licensing, Division of Enforcement, as follows:

1. This Stipulation resolves a pending investigation against Respondent’s licensure by the Division of Enforcement (05 RLC 007). A formal complaint has been filed. Respondents consent to the resolution of this investigation by stipulation and without proceeding to hearing.
2. Respondent understands that by signing this Stipulation he voluntarily and knowingly waives his rights, including: the right to a hearing on the allegations against him, at which time the state has the burden of proving those allegations preponderance of the evidence; the right to confront and cross-examine the witnesses against him; the right to call witnesses on his behalf and to compel their attendance by subpoena; the right to testify himself; the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision; the right to petition for rehearing; and all other applicable rights afforded to him under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and any other provisions of state or federal law. Respondent neither admits nor denies the allegations found findings of fact and conclusions of law as set forth in the attached Final Decision and Order. However, Respondent admits that there is evidence from which Respondent can make the findings of fact and reached the conclusions of law contained therein.
3. Respondent has been provided with the opportunity to obtain legal counsel prior to signing this Stipulation.
4. Respondent agrees to the adoption of the attached Final Decision and Order by the Cemetery Board (Board). The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Board’s order, if adopted in the form as attached.
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division of Enforcement for further proceedings. In the event that this Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.
6. The parties to this Stipulation agree that the attorney or other agent for the Division of Enforcement and any member of the Cemetery Board ever assigned as an advisor in this investigation may appear before the Board, without the presence of Respondent or his attorney, for purposes of speaking in support of this agreement and answering questions that any person may have in connection with the Board’s deliberations on the Stipulation. Additionally, any such Board advisor may vote on whether the Board should accept this Stipulation and issue the attached Final Decision and Order.
7. Respondent is informed that should the Board adopt this Stipulation, the Board’s final decision and order is a public record and will be published in accordance with standard Department procedure.
8. The Division of Enforcement joins Respondents in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.

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**ROBERT E. WAINSCOTT,**

Respondent

2797 Mount Pleasant Trail

Duluth, GA 30097

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Date

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**MARK A. HERMAN**

Attorney, Division of Enforcement

1400 East Washington Avenue

Madison, WI 53708-8935

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Date