

# MEMORANDUM

## NEW YORK STATE - DEPARTMENT OF STATE

**DATE:** 11/22/2021  
**TO:** Lewis Polishook, Director  
**FROM:** Kathleen Richardson, Senior Accountant  
**SUBJECT:** Niagara Falls Memorial Park Cemetery Association #32-014  
**RE:** Field Examination and Trust Fund Verification  
Audit Period: 1/1/2016-12/31/2020

**Officers Contacted:** **Mr. Michael Benden; President**  
Niagara Falls Memorial Park Cemetery Association  
45 Ransom St.  
North Tonawanda, NY 14120  
716-533-2372

**Ms. Sarah Hedden; Treasurer**  
Niagara Falls Memorial Park Cemetery Association  
6583 S. Transit Rd.  
Lockport, NY 14094  
716-348-2954

**Mr. Christian Lasher; Vice President**  
Niagara Falls Memorial Park Cemetery Association  
6583 S. Transit Rd.  
Lockport, NY 14094  
716-531-0982

**Ms. Paula Hall; Secretary**  
Niagara Falls Memorial Park Cemetery Association  
650 72nd St.  
Niagara Falls, NY 14304  
716-545-5020

**Mr. Raymond Norwich; Board Member**  
Niagara Falls Memorial Park Cemetery Association  
451 76<sup>th</sup> St.  
Niagara Falls, NY 14304  
716-348-2954

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Niagara Falls Memorial Park (NFMP) was audited on 11/16/2021-11/17/2021 for the period 1/1/2016-12/31/2020. The audit was conducted with President Michael Benden, Treasurer Sarah Hedden, and Bookkeeper Dana Berenet.

This is a limited scope audit that included a review of the Permanent Maintenance (PM) assets and the Vandalism and Assessment fees. The audit will also highlight certain aspects of the Pre-Need Services Fund and Certificates of Indebtedness that NFMP should be cognizant of.

NFMP submitted an application to replace a retort and is requesting the use of restricted Permanent Maintenance assets to fund the project. Due to a near decade long history of embezzlement, gross mismanagement of funds and cemetery operations prior to the newly formed board in March 2020, the primary purpose of this audit was to verify the amount of PM assets and determine how the PM assets have been and are currently being managed.

### **PERMANENT MAINTENANCE**

Division records indicate that through the year 2000, the PM fund received allocations of 20% of lot sales and \$35 per internment. An audit report from 2010 (attached) states that the PM fund receives allocations of the statutory 10% of lot sales and \$35 per internment. There is no record of a vote to decrease the PM allocations from 20% to the statutory 10%. Going forward, the statutory 10% and \$35 per internment will be used as the basis of how much NFMP will allocate to the PM fund. If NFMP would like to increase the 10% allocation, their board must vote and then inform the Division of said vote.

As of 12/31/2020, PM fund assets total **\$266,423.61**. The PM liability is **\$293,033.16**, resulting in a deficit of **-\$26,609.55** (*WP-1*). Per *WP-1*, it should be noted that the cost basis of investments is used to determine the PM liability. From 1/1/2016 to mid-March 2020, the PM assets were held in seven accounts: 2 CDs, 4 savings accounts and 1 investment account (*WP-2*). Beginning mid-March 2020, the seven accounts were closed, and the PM assets were transferred to two investment accounts with M&T Bank (*WP-2*).

From 2016-2020, the review of records indicates that the required statutory PM fund allocations of 10% of lot sales and \$35 per interment were never made, which has resulted in a recurring PM deficit each year from 2016-2020, summarized in the following table:

Year	PM Beginning Balance	Statutory Transfers	Realized Gains/Losses	2/3 <sup>rd</sup> Investment Fee Deduction	PM Ending Liability	PM Ending Balance	Surplus/Deficit
2016	\$257,036.00	\$6,107.00	\$0	\$0	\$263,143.00	\$240,575.49	<b>-\$22,567.51</b>
2017	\$263,143.00	\$4,712.30	\$0	\$0	\$267,855.30	\$250,064.70	<b>-\$17,790.60</b>
2018	\$267,855.30	\$8,196.60	\$0	\$0	\$276,050.90	\$254,762.93	<b>-\$21,288.97</b>
2019	\$276,050.90	\$7,129.45	\$0	\$0	\$283,181.35	\$264,358.65	<b>-\$18,822.70</b>
2020	\$283,181.35	\$9,851.81	\$2,059.23	\$1,863.92	\$293,033.16	\$266,423.61	<b>-\$26,609.55</b>

The PM ending liability shows what should have been in the in PM account after all statutory transfers, realized gains or losses and investment fees have been accounted for. The PM ending balance shows what was actually in the PM account, resulting in either a zero balance, a surplus or a deficit. At the very least, quarterly deposits of 10% of lot sales and \$35 per interment must be transferred to the PM account. Any realized gains must be reinvested into the PM account, increasing the cost basis. Any realized losses reduce the cost basis. Two-thirds of yearly investment fees can be deducted, reducing the PM cost basis. Because there is a deficit, upon receipt of this report, **\$26,609.55** must be transferred to the PM account to reduce the deficit to zero.

### **SPECIAL TRUST/PRE-NEED SERVICES FUND**

The Special Trust account totals **\$51,281.99** per *WP-1*. This Special Trust encompasses a Pre-Need Services savings account. Per the 2002 Division audit report (attached), there were two accounts identified as Special Trust. They are listed as a Bronze Marker Escrow Fund and a Prepaid Burial Escrow Fund. However, the 2014 Division audit report (attached) lists these two accounts as one, identified as “Prepaid Internment & Cremation Fund”.

If a cemetery has Pre-Need/Pre-Paid Services, one bank account can be established, but individual account records are required. These records must detail initial deposits, interest earned, any withdrawals, and an ending balance for each individual. It has not been verified if NFMP has maintained the detailed records for these pre-need services. Additionally, there is no record of why the Bronze Marker Escrow account no longer exists.

Historically, the Division does not encourage cemeteries to offer Pre-Need due to the financial losses cemeteries who offer these services typically experience. NFMP must decide if it will continue to engage in pre-need services and if it does, how it will maintain the required adequate records going forward and recreate the detailed account statuses required of the individual pre-need services already in existence.

### **GENERAL FUND**

The General Fund totals **\$120,718.73** per *WP-1*. Assets are held in an Investment account with M&T Bank, two checking accounts and a petty cash account.

### **VANDALISM AND ASSESSMENT FEE**

In addition to the cemetery, NFMP also operates a crematory. Per *WP-3*, NFMP has overpaid the Vandalism and Assessment fees by **\$452.00**. The total due from the cemetery and crematory totals \$15,300 and \$15,752 has been paid. The **\$452.00** credit can be used to offset the Vandalism and Assessment fees due in 2022.

### **CERTIFICATES OF INDEBTEDNESS**

NFMP should make note of the existence of certificates of indebtedness and a \$9,000 equity fund that was established to account for remaining certificates. The 2017 Division audit report (attached) explains that there was a total of 257 certificates of indebtedness. 126 certificates were acquired by former officers and there are 131 remaining.

### **Additional Information:**

#### **Town of Lewiston**

	Acres:	57
\$1,095.00 adult interment lbo 01/05/21	Sold:	35
\$540.00 cremated remain lbo 01/05/21	Unsold:	22

GF as of 12/31/20:	\$	120,718.73
PM as of 12/31/20:	\$	266,423.61
ST as of 12/31/20:	\$	51,281.99

### **Enclosures:**

WP-1  
WP-2

WP-3

2002 Division Audit Report

2010 Division Audit Report

2014 Division Audit Report

2017 Division Audit Report

**32-014**  
**Niagara Falls Memorial Park**  
**Niagara County**  
**Audit Period: 1/1/2016-12/31/2020**

**TRUST FUND LIABILITY (Restricted)**

YEAR	LOT SALES	P/M ALLOC 10% per LOT SOLD 10.00%	TOTAL BURIALS per Financial Report	P/M ALLOC. \$35 per burial 35.00	REALIZED CAPITAL GAINS (LOSS)	2/3 Brokerage Fees	P/M BALANCE
<b>Prior audit balance carried forward</b>							\$ 257,036.00
12/31/2016	\$27,470.00	\$2,747.00	96	\$3,360.00			\$ 253,143.00
12/31/17	\$20,873.00	\$2,087.30	75	\$2,625.00			\$ 267,855.30
12/31/18	\$32,966.00	\$3,296.60	140	\$4,900.00			\$ 276,051.90
12/31/19	\$38,744.50	\$3,874.45	93	\$3,255.00			\$ 283,181.35
12/31/20	\$60,515.00	\$6,051.50	103	\$3,605.00	\$2,059.23	\$1,863.92	\$ 293,033.16
<b>TOTAL</b>	<b>\$ 180,568.50</b>	<b>\$ 18,056.85</b>	<b>507</b>	<b>\$ 17,745.00</b>	<b>\$ 2,059.23</b>	<b>\$ 1,863.92</b>	<b>\$ 293,033.16</b>

**PERMANENT MAINTENANCE**

Bank Name	Instrument: CD Svs	Account Number	Maturity Etc	Balance @ Cost	Balance @ Market	
M&T Bank	Investment	8311		98,248.55	132,788.71	
M&T Bank	Investment	8329		168,175.06	204,181.45	
				<u>266,423.61</u>	<u>\$336,970.16</u>	PM Subtotal <b>\$266,423.61</b> ✓
						Trust Liability <b>\$293,033.16</b> ✓
						Surplus (Deficit) <b>(\$26,609.55)</b> ✓

**GENERAL FUND**

Bank Name	Instrument: CD Svs	Account Number	Maturity Etc	Balance @ Cost	Balance @ Market	
M&T Bank	Checking	4019		\$51,276.41		
M&T Bank	Checking/Payroll	0531		\$135.39		
M&T Bank	Investment	8337		\$68,761.93	\$80,288.86	
Petty Cash	Other	Cash		545.00		
				<u>\$120,718.73</u>	<u>\$132,245.66</u>	G/F Subtotal <b>\$120,718.73</b> ✓

**SPECIAL TRUST**

Bank Name	Instrument: CD Svs	Account Number	Maturity Etc	Balance	
M&T Bank	Checking	4483		\$51,281.99	S/T Subtotal <b>\$51,281.99</b> ✓
					<b>Total Assets: \$438,424.33</b>

Lot Price	\$825.00	Town of Lewiston
Adult Interment	\$1,095.00	
Cremated Remains	\$540.00	
Total Acres	57	
Acres Sold	35	
Acres Available	22	

Total Assets this Audit	\$ 438,424.33
Total Assets last Audit	\$ 345,726.00
% Change	26.81%
\$ Change	\$ 92,698.33
Total Surplus & General Fund Assets this Audit	\$ 120,718.73
Total Surplus & General Fund Assets last Audit	\$ 78,559.00
% Change	53.67%
\$ Change	\$ 42,159.73

<b>WP-2</b>			
<b>Permanent Maintenance Account Summary</b>			
<b>Account Number</b>	<b>Type</b>	<b>Institution</b>	<b>Year</b>
9901	CD	M&T Bank	2016-2020
5279	CD	M&T Bank	2016-2020
9270	Savings	M&T Bank	2016-2020
5394	Savings	M&T Bank	2016-2020
5401	Savings	M&T Bank	2016-2020
8129	Savings	M&T Bank	2016-2020
2128	Investment	Scottrade/TD Ameritrade	2016-2020
8311	Investment	M&T Bank	2020
8329	Investment	M&T Bank	2020

32-014  
 Niagara Falls Memorial Park  
 Niagara County  
 Audit Period: 1/1/2016-12/31/2020

WP-3  
 VANDALISM and ASSESSMENT RECONCILIATION

YEAR	# of Interments		# of Cremations		# of Interments		Vandalism Due		Assessment Due		Paid to NYS Division of Cemeteries			Variance by Year
	Vandalism		Vandalism		Assessments		5	3	Assessments		Vandalism Paid	Assessments Paid	Total Amount Paid to NYS	
2016	60	472	517	2,660.00	15	1,551.00	5	3	3	4,211.00	2,695.00	1,527.00	4,222.00	(\$11.00)
2017	44	547	576	2,955.00	576	1,728.00	5	3	3	4,683.00	3,325.00	1,905.00	5,230.00	(\$547.00)
2018	99	461	545	2,800.00	545	1,635.00	5	3	3	4,435.00	2,760.00	1,566.00	4,326.00	\$109.00
2019	50	341	376	1,955.00	376	1,128.00	5	3	3	3,083.00	1,985.00	1,101.00	3,086.00	(\$3.00)
2020	76	317	378	1,965.00	378	1,134.00	5	3	3	3,099.00	2,000.00	1,110.00	3,110.00	(\$11.00)
<b>TOTAL</b>	<b>329</b>	<b>2138</b>	<b>2392</b>	<b>9,675.00</b>	<b>2392</b>	<b>5,625.00</b>	<b>5</b>	<b>3</b>	<b>3</b>	<b>15,300.00</b>	<b>10,070.00</b>	<b>5,682.00</b>	<b>15,752.00</b>	<b>-\$452.00</b>

Total Due \$15,300.00  
 Amount Paid \$15,752.00  
 Difference (\$452.00)



**DEPARTMENT OF STATE  
DIVISION OF CEMETERIES  
MEMORANDUM**

**TO:** Richard Fishman, Director  
**FROM:** Samuel M. Sciria, Senior Accountant  
**SUBJECT:** **Niagara Falls Memorial Park Cemetery  
Niagara County #32-014**  
**DATE:** 5/15/02  
**RE:** Field Audit & Trust Fund Verification

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The subject cemetery was audited 11/5/01. Michael Ellman, president, Keith Kuehlewind, vice president, (716) 297-0811 and Jerry Parenti, accountant, were contacted on that date.

**New Owners of Certificates of Indebtedness:**

The former officers of the cemetery, the Lane family members, had sold their certificates of indebtedness to the current president and vice president listed above in 8/01. There were 257 certificates and the current officers had agreed to pay \$250,000 for them at the rate of \$25,000 per year for ten years. To date, the officers have paid 9 payments totaling \$18,000. They pay the Lane's attorney and the attorney gives them the certificates. The current officers stated they need to know if it's agreeable with the Cemetery Board to retire their ownership of these certificates by way of 20% of lot sale repayments. This matter has been forwarded by their attorney to the Albany office. (See correspondence and memorandum in the file)

Necessary audit confirmations and other information were received 5/02. Receipts and expenses were test checked and found in order. The results of the audit are as follows (verified by physical inspection or other confirmation):

**AUDIT FINDINGS - BALANCES 12/31/00:**

**PERPETUAL CARE:**

None.

**PERMANENT MAINTENANCE:**

Permanent maintenance receives allocations at 20% of lot sale revenue; along with capital gains properly reflected in principal. Fund assets, per the worksheet, totaled \$227,051.63 Fund principal, per the worksheet, totaled \$215,229.74 The surplus of \$11,821.89 consists of accumulated interest in the fund. It should be noted that the P/M Loan was fully repaid as of 12/31/99. (See worksheet for further detail)

**GENERAL FUND:**

Fund assets, per the worksheet, totaled \$4,986.74

**SPECIAL TRUSTS:**

1. Bronze Marker Escrow Fund:  
Fund assets, per the worksheet, totaled \$4,364.53
2. Prepaid Burial Escrow Fund:  
Fund assets, per the worksheet, totaled \$17,879.33

**TRUST FUND PROJECTION:**

Present trust funds	\$ 227,051
Future trust funds (unsold acres - 15)	<u>1,113,750</u>
Future Trust Fund Total	<u>\$1,340,801</u>
Present trust funds per sold acre (35)	<u>\$ 6,487</u>
Future trust funds per sold acre (50)	<u>\$ 26,816</u>

**NIAGARA FALLS MEMORIAL PARK, INC.  
NIAGARA COUNTY #32-014**

BALANCE PER AUDIT	DATE	LOT SALES	PERMANENT MAINTENANCE		
			20% ALLOCATION	CAPITAL GAIN (LOSS)	PRINCIPAL
	12/31/97	—	—	—	\$192,581.05
	12/31/98	\$24,623.00	\$4,925.00	\$4,777.81	\$202,283.86
	12/31/99	\$31,133.00	\$6,227.00	\$1,704.95	\$210,215.81
	12/31/00	\$25,069.65	\$5,014.00	Adj.<.07>	<u>\$215,229.74</u>

**PERMANENT MAINTENANCE FUND LOAN:**

	DATE	REPAYMENTS ON LOAN	LOAN BALANCE
Balance	12/31/97	—	\$15,001.48
	12/31/98	<6,031.21>	\$8,970.27
Fully Repaid	12/31/99	<8,970.27>	-0-
	12/31/00	—	<u>-0-</u>

**ASSETS AT 12/31/00:**

NONE

**PERPETUAL CARE FUND:**

**PERMANENT MAINTENANCE FUND:**

Fidelity Investments Account T071419470  
High Income Fund (18,758.802 shares)

\$227,051.63

**SPECIAL TRUST FUNDS:**

1. Bronze Marker Escrow Fund  
HSBC Bank  
Account 834-77294-9

\$4,364.53

2. Prepaid Burial Escrow Fund  
HSBC Bank  
Account 834-61404-9  
CD 834-45070-4

\$ 7,511.35  
10,367.98  
\$17,879.33

**GENERAL FUND:**

HSBC Bank  
Checking Account 834-77205-1

\$4,986.74

**DEPARTMENT OF STATE  
DIVISION OF CEMETERIES  
MEMORANDUM**

**TO:** Richard Fishman, Director  
**FROM:** Samuel M. Sciria, Senior Accountant  
**SUBJECT:** Niagara Falls Memorial Park Cemetery  
Niagara County #32-014  
**DATE:** 2/9/10  
**RE:** Field Audit & Trust Fund Verification

FILE

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The subject cemetery was audited 9/17, 11/25/08. Connie Carhart, C.P.A., (585) 344-1967, was contacted on those dates. Michael Ellman, president, Keith Kuehlewind, vice president, & Donna Mountain, treasurer, (716) 297-0811, were contacted on 2/3/10 to discuss audit matters. Receipts and expenses were reviewed & found in order. All assets were verified in accordance with the audit manual. The results of the audit are as follows:

**AUDIT FINDINGS - BALANCES 12/31/08:**

**PERMANENT MAINTENANCE FUND:**

The fund receives allocations at 10% of lot sale revenue & \$35 per interment. This reduction in the allocation resulted from fund assets market declines in 2001. Management reverted to statutory allocations of 10% due to reduced P/M income & cash flow operating deficits without realizing a resolution was needed. Management is working hard & putting forth the effort to keep the cemetery operating. Per discussions with Mr. Butkiewicz, Asst. Director, he agreed this was the only way to enable the cemetery to operate. Fund assets totaled \$173,387 per the attached schedule. Fund principal totaled \$222,120 per the attached schedule. The deficit of \$48,733 resulted from inadequate cash flow described above. Cemetery management wants to reduce the deficit by way of future repayments. The writer instructed cemetery management to send a letter outlining a deficit repayment schedule to Mr. Butkiewicz, Asst. Director, as required, for approval.

**SPECIAL TRUST FUNDS:**

**1. Bronze Marker Escrow Fund:**

Fund assets totaled \$149.37 per the attached schedule.

**2. Prepaid Interment Fund:**

Fund assets totaled \$168.11 per the attached schedule.

**GENERAL FUND:**

Fund assets, per the worksheet, totaled \$9,015.61

MA 3-10-10

**NIAGARA FALLS MEMORIAL PARK CEMETERY  
TRUST FUND EXAM  
NIAGARA COUNTY #32-014**

YEAR	GROSS LOT SALES	PERMANENT MAINTENANCE FUND			
		10% ALLOCATION	CAP. GAIN (LOSS)	INTERMENT ALLOCATION	PRINCIPAL
Bal.12/31/00	---	---	---	---	\$215,230
12/31/01	\$20,961	\$2,096	(2,263)	\$6,300	\$221,363
12/31/02	\$30,877	\$3,089	(69,464)	\$5,600	\$160,588
12/31/03	\$43,270	\$4,327	---	\$5,705	\$170,620
12/31/04	\$41,720	\$4,172	\$349	\$5,145	\$180,286
12/31/05	\$31,980	\$3,198	\$666	\$6,020	\$190,170
12/31/06	\$50,701	\$5,070	---	\$5,355	\$200,595
12/31/07	\$33,466	\$3,347	---	\$5,250	\$209,192
12/31/08	\$31,927	\$3,193	\$5,115	\$4,620	<u>\$222,120</u>

**VANDALISM & ASSESSMENT RECONCILIATION:**

Cemetery Records			Audit Calculation - Cemetery Records			
Year	Amount Paid	Date Paid	Total Interments	Assessment Interments	Vandalism Interments	Calculation

Note: The cemetery has been on a payment schedule for prior years since it had severe cash flow problems. Up until 10/09 the payments were being received & recorded by Colleen Kelly. Currently the payments are being handled by Mary Lee Hedrick & Mr. Butkiewicz. The cemetery is paying \$500 per month until its payments are up to date.

**Assets at 12/31/08:**

**PERMANENT MAINTENANCE FUND:**

M & T Securities	Acct. AZD206498	\$ 60,677.00
M & T Bank	Acct. 31003912309901	17,280.00
	Acct. 15004205719270	8,619.00
Scottrade Securities	Acct. 58472128	32,881.00
First Niagara Bank	Acct. 9970065044	<u>53,930.00</u>
		\$173,387.00
Add: P/M Deficit Due		<u>48,733.00</u>
		<u>\$222,120.00</u>

**SPECIAL TRUST FUND:**

**1. Bronze Marker Escrow Fund:**

M & T Securities Vision Fund	Acct. 8370005	\$ 149.37
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**2. Prepaid Interment Fund:**

M & T Securities Vision Fund	Acct. 8372243	<u>\$ 168.11</u>
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**DEPARTMENT OF STATE  
DIVISION OF CEMETERIES  
MEMORANDUM**

**TO:** Lewis A. Polishook, Director  
**FROM:** Samuel M. Sciria, Senior Accountant

**SUBJECT: Niagara Falls Memorial Park Cemetery  
Niagara County #32-014**

**DATE:** 5/12/14  
**RE:** Field Audit & Trust Fund Verification

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The subject cemetery was audited 2/26/14. Michael Ellman, current president and Donna Mountain, accountant, (716) 297-0811, were contacted. This cemetery has gone through a complete reorganization from officers to accounting methods including responsible continuation of all aspects of cemetery operations (See attached letter from Mr. Ellman, president dated 12/5/13.

This is the culmination of many hours of accounting assistance given by the writer and Cynthia Craig, investigator, to help the cemetery recover from the misappropriations of its former president, Keith Kuehlewind, who was removed from office at the direction of this division in 2010. A joint report on this matter detailing this situation dated 3/14/11, showing some \$317,128.67 misappropriated by Keith Kuehlewind and his brother Scott Kuehlewind, in the audit period 2008 – 2010 is attached. In 2011, to add insult to injury, Mr. Kuehlewind had filed a claim for unemployment, which was denied when Mr. Ellman had protested the claim.

Since this was considered a type of partnership situation, the Niagara County District Attorney and the NYS Attorney General stated Mr. Ellman's only recourse was to pursue the matter in civil court. Additionally, Mr. Kuehlewind owned a payroll tax business which he had swindled clients and misappropriated their money for payroll taxes. He was sentenced to Federal Prison. Therefore, Mr. Ellman concluded that he would have no success in a lawsuit since Mr. Kuehlewind has and probably never will have any property or money to be recovered.

Historically, Michael Ellman, previously vice president and Keith Kuehlewind, former president, took over the operation through a contract agreement giving them ownership in the cemetery corporation through the purchase of certificates of indebtedness transferred by the Lane family, the owners of these certificates. The Lane family had to divest themselves of the cemetery because as funeral directors they could not have this type of arrangement under NYS Cemetery Law. On 11/4/11, Cynthia Craig and the writer met with Mr. Ellman, Donna Mountain, and William Maldovan, of the Buffalo office of the Attorney General to discuss the future of these certificates (Copy of the memorandum attached).

All assets were verified in accordance with the audit manual. The results of the audit are as follows:

**AUDIT FINDINGS - BALANCES 12/31/12:**

**PERMANENT MAINTENANCE FUND:** The fund receives allocations at 10% of lot sale revenue & \$35 per interment. Fund assets totaled \$201,834, per the attached schedule. Fund principal totaled \$241,333, per the attached schedule. The deficit of \$39,499 resulted from the misappropriations of the former president described above. Cemetery management is reducing the deficit by way of depositing \$95 per week since 4/10 per agreement submitted to Mr. Butkiewicz, Asst. Director.

**SPECIAL TRUST FUNDS:**

**1. Prepaid Interment & Cremation Fund:** A review of the fund by the writer, found the previous owners and former officer (Mr. Kuehlewind) had not provided the necessary funding for these items. Instead, monies were deposited to the general fund. To correct this situation, current management created a new account established in 2/13 to cover its liability of \$28,885 for this fund. It now deposits \$200 per month from the general fund to this account until this liability is repaid.

**GENERAL FUND:**

Fund assets, per the worksheet, totaled \$23,900.

**FINANCIAL POSITION:**

**1. Liabilities:**

A. Lines of credit for operating expenses (due to cash flow) & equipment up until 9/09 has a remaining balance of \$12,044. The cemetery has been paying \$200 per month to payoff this debt.

B. Tractor Loan was fully repaid in 2010.

**2. Certificates of Indebtedness:** 126 certificates of indebtedness have been acquired by the officers (Mr. Kuehlewind and Mr. Ellman jointly) to date valued at \$126,708.14 131 certificates remain to be acquired valued at \$130,291.86. No additional certificates have been acquired since 2008. Please refer to the Memorandum of 11/15/11 from Cynthia Craig and the writer (attached) for details.

**3. Cash flow:** Management was advised to review its lot prices & service charges for increase to help increase its funding & operating figures. Expenses are fair and reasonable. Current management is doing well to reorganize and recover from its past problems.

**STATISTICAL DATA:**

Lot Price Per Grave	\$795	Acreage	50 (35 sold)
Adult Interment Charge	\$835	Incorporated	1928
Interments 2012	105		

**FURTHER DATA:**

Rates & charges were reviewed & found in order. The cemetery carries the necessary bonding insurance. Annual meetings are held as required.

SMS

**NIAGARA FALLS MEMORIAL PARK CEMETERY  
TRUST FUND EXAM  
NIAGARA COUNTY #32-014**

YEAR	GROSS LOT SALES	<u>PERMANENT MAINTENANCE FUND</u>			
		10% ALLOCATION	MISCELLANEOUS	INTERMENT ALLOCATION	PRINCIPAL
Bal.12/31/08	---	---	---	---	\$222,120
12/31/09	\$25,150	\$2,515	(6,896)* (751)**	\$5,740	\$222,728
12/31/10	\$11,470	\$1,147	(390)**	\$4,480	\$227,965
12/31/11	\$31,690	\$3,169	(73)**	\$4,130	\$235,191
12/31/12	\$26,210	\$2,621	(469)**	\$3,990	<u>\$241,333</u>

\*Prior period adj. for Accts.Rec. 2000-2008

\*\*Accounting adj. for Accts. Rec. Lot Sales

<u>VANDALISM &amp; ASSESSMENT RECONCILIATION:</u>						
<u>Cemetery Records</u>			<u>Audit Calculation - Cemetery Records</u>			
Year	Amount Paid	Date Paid	Total Interments	Assessment Interments	Vandalism Interments	Calculation

Note: The cemetery has been on a payment schedule for prior years since it had severe cash flow problems. Prior years have been paid in full. Currently the 2013 payments are being made at \$431 per month until paid in full as agreed with the Division.

Assets at 12/31/12:

**PERMANENT MAINTENANCE FUND:**

M & T Bank	Acct. 31003912309901	\$ 17,627
	Acct. 15004205719270	45,312
	Acct. 15004220975394	13,558
	Acct. 15004220975401	27,929
	Acct. 31003920755279	61,271
Scottrade Securities	Acct. 58472128	<u>36,137</u>
		\$ 201,834
Add: P/M Deficit Due		<u>39,499</u>
		<u>\$ 241,333</u>

**SPECIAL TRUST FUND:**

**1. Prepaid Interment & Cremation Fund:**

After careful review of this fund, the previous and former officers of this cemetery had not provided necessary funding for these items. Instead, monies for this fund were deposited in the general fund. To correct this situation, present management created a new account, established subsequent to this audit period, for the cemetery's liability for these prepaid items which amounted to \$28,885. In 2/13 this new account was established for this liability with \$200 per month deposited as a transfer from the general fund to this fund until the liability of \$28,885 is satisfied.

**GENERAL FUND:**

M & T Bank	Checking Acct. 9831154019	\$ 6,867
	Acct. 9850590531	16,933
	Petty Cash	100
		<u>\$23,900</u>

**LIABILITIES:**

**1. Lines of Credit due for cemetery operations:**

After 9/09 no additional amount were added. The cemetery is paying \$200 per month to pay down this debt of \$12,044 outstanding.

**2. Loan Payable for Tractor:** This loan was paid off in 2010.

**3. Prepaid Interment & Cremation Fund:** As previously noted, the cemetery has a liability of \$28,885.

**CERTIFICATES OF INDEBTEDNESS:**

The former officers of the cemetery, the Lane family members, had sold their certificates of indebtedness to Michael Ellman, current president & Keith Kuehlewind, former president in 2001. There are 257 certificates and Mr. Ellman and Mr. Kuehlewind agreed to personally pay \$1,000 for each certificate. The officers have paid \$126,708.14 to date & receive the certificates as each one is paid (they now hold 126 certificates). The remaining 131 certificates to be acquired are valued at \$130,291.86 It should be noted that no additional certificates have been acquired since 2008.



**DEPARTMENT OF STATE  
DIVISION OF CEMETERIES  
MEMORANDUM**

**TO:** Lewis A. Polishook, Director  
**FROM:** Samuel M. Sciria, Senior Accountant  
**SUBJECT:** Niagara Falls Memorial Park Cemetery  
Niagara County #32-014  
**DATE:** 6/7/17  
**RE:** Field Audit & Trust Fund Verification

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The subject cemetery was audited 12/2/16. Michael Ellman, president and Donna Mountain, accountant, (716) 297-0811, were contacted. Receipts and expenses were reviewed and found in order. All assets were verified in accordance with the audit manual. The results of the audit are as follows:

**AUDIT FINDINGS - BALANCES 12/31/15:**

**PERMANENT MAINTENANCE FUND:**

The fund receives allocations at 10% of lot & niche sale revenue & \$35 per interment. Fund assets totaled \$258,464 per the attached schedule. Fund principal totaled \$257,036 per the attached schedule. The surplus of \$1,428 is accumulated income. It should be noted the cemetery has successfully repaid & eliminated the deficit of \$39,499 reported on the previous audit.

**SPECIAL TRUST FUNDS:**

**1. Prepaid Interment & Cremation Fund:**

A review of the fund by the writer, found the previous owners and former officer (Mr. Kuchlewind) had not provided the necessary funding for these items. Instead, monies were deposited to the general fund. To correct this situation, current management created a new account established in 2/13 to cover its liability of \$41,970 for this fund. Fund assets totaled \$31,839 and \$10,131 is due from future deposits from the general fund. It now deposits \$320 per month from the general fund to this account until this liability is repaid (See worksheet for further detail).

**GENERAL FUND:**

Fund assets, per the worksheet, totaled \$45,292.

**FINANCIAL POSITION:**

**Liabilities:**

Lines of credit for operating expenses (due to cash flow) has a remaining balance of \$5,588. The cemetery has been paying \$225 per month to payoff this debt.

**Certificates of Indebtedness:**

257 certificates of indebtedness from the previous officers of the cemetery, the Lane Family, agreed to be sold to Mr. Ellman & Mr. Kuehlewind jointly. 126 certificates of indebtedness have been acquired by the officers (Mr. Kuehlewind and Mr. Ellman jointly) to date valued at \$126,708.14 131 certificates remain to be acquired valued at \$130,291.86. No additional certificates have been acquired since 2008. The cemetery has repaid and retired 18 of the 126 certificates acquired by Mr. Ellman & Mr. Kuehlewind at \$1,000 each. An equity fund balance of \$9,000 has been established in the event of a future claim by Mr. Kuehlewind, former president who was removed from office at the direction of this division in 2010 (See worksheet for details on these certificates).

**Cash flow:** Management was advised to review its lot prices & service charges for increase to help increase its funding & operating figures. Expenses are fair and reasonable. Current management is doing well to reorganize and recover from its past problems.

**STATISTICAL DATA:**

Lot Price Per Grave	\$795	Acreage	50 (35 sold)
Adult Interment Charge	\$935	Cremated Remains	\$475
Incorporated	1928	Interments 2015	87

**FURTHER DATA:**

Rates & charges were reviewed & certain charges were found unauthorized. The writer processed these as required. The cemetery carries the necessary crime insurance. Annual meetings are held as required.

SMS

**32-014**  
**Niagara Falls Memorial Park**  
**Niagara County**  
**Audit Period: 1/1/2016-12/31/2020**

**TRUST FUND LIABILITY (Restricted)**

YEAR	LOT SALES	P/M ALLOC 10% per LOT SOLD 10.00%	TOTAL BURIALS per Financial Report	P/M ALLOC. \$35 per burial 35.00	REALIZED CAPITAL GAINS (LOSS)	2/3 Brokerage Fees	P/M BALANCE
<b>Prior audit balance carried forward</b>							\$ 257,036.00
12/31/2016	\$27,470.00	\$2,747.00	96	\$3,360.00			\$ 253,143.00
12/31/17	\$20,873.00	\$2,087.30	75	\$2,625.00			\$ 267,855.30
12/31/18	\$32,966.00	\$3,296.60	140	\$4,900.00			\$ 276,051.90
12/31/19	\$38,744.50	\$3,874.45	93	\$3,255.00			\$ 283,181.35
12/31/20	\$60,515.00	\$6,051.50	103	\$3,605.00	\$2,059.23	\$1,863.92	\$ 293,033.16
<b>TOTAL</b>	<b>\$ 180,568.50</b>	<b>\$ 18,056.85</b>	<b>507</b>	<b>\$ 17,745.00</b>	<b>\$ 2,059.23</b>	<b>\$ 1,863.92</b>	<b>\$ 293,033.16</b>

**PERMANENT MAINTENANCE**

Bank Name	Instrument: CD Svs	Account Number	Maturity Etc	Balance @ Cost	Balance @ Market	
M&T Bank	Investment	8311		98,248.55	132,788.71	
M&T Bank	Investment	8329		168,175.06	204,181.45	
				<u>266,423.61</u>	<u>\$336,970.16</u>	PM Subtotal <b>\$266,423.61</b> ✓
						Trust Liability <b>\$293,033.16</b> ✓
						Surplus (Deficit) <b>(\$26,609.55)</b> ✓

**GENERAL FUND**

Bank Name	Instrument: CD Svs	Account Number	Maturity Etc	Balance @ Cost	Balance @ Market	
M&T Bank	Checking	4019		\$51,276.41		
M&T Bank	Checking/Payroll	0531		\$135.39		
M&T Bank	Investment	8337		\$68,761.93	\$80,288.86	
Petty Cash	Other	Cash		545.00		
				<u>\$120,718.73</u>	<u>\$132,245.66</u>	G/F Subtotal <b>\$120,718.73</b> ✓

**SPECIAL TRUST**

Bank Name	Instrument: CD Svs	Account Number	Maturity Etc	Balance	
M&T Bank	Checking	4483		\$51,281.99	S/T Subtotal <b>\$51,281.99</b> ✓
					<b>Total Assets: \$438,424.33</b>

Lot Price	\$825.00	Town of Lewiston
Adult Interment	\$1,095.00	
Cremated Remains	\$540.00	
Total Acres	57	
Acres Sold	35	
Acres Available	22	

Total Assets this Audit	\$ 438,424.33
Total Assets last Audit	\$ 345,726.00
% Change	26.81%
\$ Change	\$ 92,698.33
Total Surplus & General Fund Assets this Audit	\$ 120,718.73
Total Surplus & General Fund Assets last Audit	\$ 78,559.00
% Change	53.67%
\$ Change	\$ 42,159.73

<b>WP-2</b>			
<b>Permanent Maintenance Account Summary</b>			
<b>Account Number</b>	<b>Type</b>	<b>Institution</b>	<b>Year</b>
9901	CD	M&T Bank	2016-2020
5279	CD	M&T Bank	2016-2020
9270	Savings	M&T Bank	2016-2020
5394	Savings	M&T Bank	2016-2020
5401	Savings	M&T Bank	2016-2020
8129	Savings	M&T Bank	2016-2020
2128	Investment	Scottrade/TD Ameritrade	2016-2020
8311	Investment	M&T Bank	2020
8329	Investment	M&T Bank	2020

32-014  
 Niagara Falls Memorial Park  
 Niagara County  
 Audit Period: 1/1/2016-12/31/2020

WP-3  
 VANDALISM and ASSESSMENT RECONCILIATION

YEAR	# of Interments		# of Cremations		# of Interments		Vandalism Due		Assessment Due		Paid to NYS Division of Cemeteries			Variance by Year
	Vandalism		Vandalism		Assessments		5	3	Assessments		Total Amount Paid to NYS	Assessments Paid	Vandalism Paid	
2016	60	472	517	2,660.00	15	1,551.00	5	3	3	4,211.00	4,222.00	1,527.00	2,695.00	(\$11.00)
2017	44	547	576	2,955.00	576	1,728.00	5	3	3	4,683.00	5,230.00	1,905.00	3,325.00	(\$547.00)
2018	99	461	545	2,800.00	545	1,635.00	5	3	3	4,435.00	4,325.00	1,566.00	2,760.00	\$109.00
2019	50	341	376	1,955.00	376	1,128.00	5	3	3	3,083.00	3,085.00	1,101.00	1,985.00	(\$3.00)
2020	76	317	378	1,965.00	378	1,134.00	5	3	3	3,099.00	3,110.00	1,110.00	2,000.00	(\$11.00)
<b>TOTAL</b>	<b>329</b>	<b>2138</b>	<b>2392</b>	<b>9,675.00</b>	<b>2392</b>	<b>5,625.00</b>	<b>5</b>	<b>3</b>	<b>3</b>	<b>15,300.00</b>	<b>15,752.00</b>	<b>5,682.00</b>	<b>10,070.00</b>	<b>-\$452.00</b>

Total Due \$15,300.00  
 Amount Paid \$15,752.00  
 Difference (\$452.00)

**DEPARTMENT OF STATE  
DIVISION OF CEMETERIES  
MEMORANDUM**

**TO:** Richard Fishman, Director  
**FROM:** Samuel M. Sciria, Senior Accountant  
**SUBJECT:** **Niagara Falls Memorial Park Cemetery  
Niagara County #32-014**  
**DATE:** 5/15/02  
**RE:** Field Audit & Trust Fund Verification

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The subject cemetery was audited 11/5/01. Michael Ellman, president, Keith Kuehlewind, vice president, (716) 297-0811 and Jerry Parenti, accountant, were contacted on that date.

**New Owners of Certificates of Indebtedness:**

The former officers of the cemetery, the Lane family members, had sold their certificates of indebtedness to the current president and vice president listed above in 8/01. There were 257 certificates and the current officers had agreed to pay \$250,000 for them at the rate of \$25,000 per year for ten years. To date, the officers have paid 9 payments totaling \$18,000. They pay the Lane's attorney and the attorney gives them the certificates. The current officers stated they need to know if it's agreeable with the Cemetery Board to retire their ownership of these certificates by way of 20% of lot sale repayments. This matter has been forwarded by their attorney to the Albany office. (See correspondence and memorandum in the file)

Necessary audit confirmations and other information were received 5/02. Receipts and expenses were test checked and found in order. The results of the audit are as follows (verified by physical inspection or other confirmation):

**AUDIT FINDINGS - BALANCES 12/31/00:**

**PERPETUAL CARE:**

None.

**PERMANENT MAINTENANCE:**

Permanent maintenance receives allocations at 20% of lot sale revenue; along with capital gains properly reflected in principal. Fund assets, per the worksheet, totaled \$227,051.63 Fund principal, per the worksheet, totaled \$215,229.74 The surplus of \$11,821.89 consists of accumulated interest in the fund. It should be noted that the P/M Loan was fully repaid as of 12/31/99. (See worksheet for further detail)

**GENERAL FUND:**

Fund assets, per the worksheet, totaled \$4,986.74

**SPECIAL TRUSTS:**

1. Bronze Marker Escrow Fund:  
Fund assets, per the worksheet, totaled \$4,364.53
2. Prepaid Burial Escrow Fund:  
Fund assets, per the worksheet, totaled \$17,879.33

**TRUST FUND PROJECTION:**

Present trust funds	\$ 227,051
Future trust funds (unsold acres - 15)	<u>1,113,750</u>
Future Trust Fund Total	<u>\$1,340,801</u>
Present trust funds per sold acre (35)	<u>\$ 6,487</u>
Future trust funds per sold acre (50)	<u>\$ 26,816</u>

**NIAGARA FALLS MEMORIAL PARK, INC.  
NIAGARA COUNTY #32-014**

BALANCE PER AUDIT	DATE	LOT SALES	PERMANENT MAINTENANCE		
			20% ALLOCATION	CAPITAL GAIN (LOSS)	PRINCIPAL
	12/31/97	—	—	—	\$192,581.05
	12/31/98	\$24,623.00	\$4,925.00	\$4,777.81	\$202,283.86
	12/31/99	\$31,133.00	\$6,227.00	\$1,704.95	\$210,215.81
	12/31/00	\$25,069.65	\$5,014.00	Adj.<.07>	<u>\$215,229.74</u>

**PERMANENT MAINTENANCE FUND LOAN:**

	DATE	REPAYMENTS ON LOAN	LOAN BALANCE
Balance	12/31/97	—	\$15,001.48
	12/31/98	<6,031.21>	\$8,970.27
Fully Repaid	12/31/99	<8,970.27>	-0-
	12/31/00	—	<u>-0-</u>

**ASSETS AT 12/31/00:**

NONE

**PERPETUAL CARE FUND:**

**PERMANENT MAINTENANCE FUND:**

Fidelity Investments Account T071419470  
High Income Fund (18,758.802 shares)

\$227,051.63

**SPECIAL TRUST FUNDS:**

1. Bronze Marker Escrow Fund  
HSBC Bank  
Account 834-77294-9

\$4,364.53

2. Prepaid Burial Escrow Fund  
HSBC Bank  
Account 834-61404-9  
CD 834-45070-4

\$ 7,511.35  
10,367.98  
\$17,879.33

**GENERAL FUND:**

HSBC Bank  
Checking Account 834-77205-1

\$4,986.74

**DEPARTMENT OF STATE  
DIVISION OF CEMETERIES  
MEMORANDUM**

**TO:** Richard Fishman, Director  
**FROM:** Samuel M. Sciria, Senior Accountant  
**SUBJECT:** Niagara Falls Memorial Park Cemetery  
Niagara County #32-014  
**DATE:** 2/9/10  
**RE:** Field Audit & Trust Fund Verification

FILE

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The subject cemetery was audited 9/17, 11/25/08. Connie Carhart, C.P.A., (585) 344-1967, was contacted on those dates. Michael Ellman, president, Keith Kuehlewind, vice president, & Donna Mountain, treasurer, (716) 297-0811, were contacted on 2/3/10 to discuss audit matters. Receipts and expenses were reviewed & found in order. All assets were verified in accordance with the audit manual. The results of the audit are as follows:

**AUDIT FINDINGS - BALANCES 12/31/08:**

**PERMANENT MAINTENANCE FUND:**

The fund receives allocations at 10% of lot sale revenue & \$35 per interment. This reduction in the allocation resulted from fund assets market declines in 2001. Management reverted to statutory allocations of 10% due to reduced P/M income & cash flow operating deficits without realizing a resolution was needed. Management is working hard & putting forth the effort to keep the cemetery operating. Per discussions with Mr. Butkiewicz, Asst. Director, he agreed this was the only way to enable the cemetery to operate. Fund assets totaled \$173,387 per the attached schedule. Fund principal totaled \$222,120 per the attached schedule. The deficit of \$48,733 resulted from inadequate cash flow described above. Cemetery management wants to reduce the deficit by way of future repayments. The writer instructed cemetery management to send a letter outlining a deficit repayment schedule to Mr. Butkiewicz, Asst. Director, as required, for approval.

**SPECIAL TRUST FUNDS:**

**1. Bronze Marker Escrow Fund:**

Fund assets totaled \$149.37 per the attached schedule.

**2. Prepaid Interment Fund:**

Fund assets totaled \$168.11 per the attached schedule.

**GENERAL FUND:**

Fund assets, per the worksheet, totaled \$9,015.61

MA 3-10-10

**NIAGARA FALLS MEMORIAL PARK CEMETERY  
TRUST FUND EXAM  
NIAGARA COUNTY #32-014**

YEAR	GROSS LOT SALES	PERMANENT MAINTENANCE FUND			
		10% ALLOCATION	CAP. GAIN (LOSS)	INTERMENT ALLOCATION	PRINCIPAL
Bal.12/31/00	---	---	---	---	\$215,230
12/31/01	\$20,961	\$2,096	(2,263)	\$6,300	\$221,363
12/31/02	\$30,877	\$3,089	(69,464)	\$5,600	\$160,588
12/31/03	\$43,270	\$4,327	---	\$5,705	\$170,620
12/31/04	\$41,720	\$4,172	\$349	\$5,145	\$180,286
12/31/05	\$31,980	\$3,198	\$666	\$6,020	\$190,170
12/31/06	\$50,701	\$5,070	---	\$5,355	\$200,595
12/31/07	\$33,466	\$3,347	---	\$5,250	\$209,192
12/31/08	\$31,927	\$3,193	\$5,115	\$4,620	<u>\$222,120</u>

**VANDALISM & ASSESSMENT RECONCILIATION:**

Cemetery Records			Audit Calculation - Cemetery Records			
Year	Amount Paid	Date Paid	Total Interments	Assessment Interments	Vandalism Interments	Calculation

Note: The cemetery has been on a payment schedule for prior years since it had severe cash flow problems. Up until 10/09 the payments were being received & recorded by Colleen Kelly. Currently the payments are being handled by Mary Lee Hedrick & Mr. Butkiewicz. The cemetery is paying \$500 per month until its payments are up to date.

**Assets at 12/31/08:**

**PERMANENT MAINTENANCE FUND:**

M & T Securities	Acct. AZD206498	\$ 60,677.00
M & T Bank	Acct. 31003912309901	17,280.00
	Acct. 15004205719270	8,619.00
Scottrade Securities	Acct. 58472128	32,881.00
First Niagara Bank	Acct. 9970065044	<u>53,930.00</u>
		\$173,387.00
Add: P/M Deficit Due		<u>48,733.00</u>
		<u>\$222,120.00</u>

**SPECIAL TRUST FUND:**

**1. Bronze Marker Escrow Fund:**

M & T Securities Vision Fund	Acct. 8370005	\$ 149.37
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**2. Prepaid Interment Fund:**

M & T Securities Vision Fund	Acct. 8372243	<u>\$ 168.11</u>
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**DEPARTMENT OF STATE  
DIVISION OF CEMETERIES  
MEMORANDUM**

**TO:** Lewis A. Polishook, Director  
**FROM:** Samuel M. Sciria, Senior Accountant

**SUBJECT: Niagara Falls Memorial Park Cemetery  
Niagara County #32-014**

**DATE:** 5/12/14  
**RE:** Field Audit & Trust Fund Verification

-----

The subject cemetery was audited 2/26/14. Michael Ellman, current president and Donna Mountain, accountant, (716) 297-0811, were contacted. This cemetery has gone through a complete reorganization from officers to accounting methods including responsible continuation of all aspects of cemetery operations (See attached letter from Mr. Ellman, president dated 12/5/13.

This is the culmination of many hours of accounting assistance given by the writer and Cynthia Craig, investigator, to help the cemetery recover from the misappropriations of its former president, Keith Kuehlewind, who was removed from office at the direction of this division in 2010. A joint report on this matter detailing this situation dated 3/14/11, showing some \$317,128.67 misappropriated by Keith Kuehlewind and his brother Scott Kuehlewind, in the audit period 2008 – 2010 is attached. In 2011, to add insult to injury, Mr. Kuehlewind had filed a claim for unemployment, which was denied when Mr. Ellman had protested the claim.

Since this was considered a type of partnership situation, the Niagara County District Attorney and the NYS Attorney General stated Mr. Ellman's only recourse was to pursue the matter in civil court. Additionally, Mr. Kuehlewind owned a payroll tax business which he had swindled clients and misappropriated their money for payroll taxes. He was sentenced to Federal Prison. Therefore, Mr. Ellman concluded that he would have no success in a lawsuit since Mr. Kuehlewind has and probably never will have any property or money to be recovered.

Historically, Michael Ellman, previously vice president and Keith Kuehlewind, former president, took over the operation through a contract agreement giving them ownership in the cemetery corporation through the purchase of certificates of indebtedness transferred by the Lane family, the owners of these certificates. The Lane family had to divest themselves of the cemetery because as funeral directors they could not have this type of arrangement under NYS Cemetery Law. On 11/4/11, Cynthia Craig and the writer met with Mr. Ellman, Donna Mountain, and William Maldovan, of the Buffalo office of the Attorney General to discuss the future of these certificates (Copy of the memorandum attached).

All assets were verified in accordance with the audit manual. The results of the audit are as follows:

**AUDIT FINDINGS - BALANCES 12/31/12:**

**PERMANENT MAINTENANCE FUND:** The fund receives allocations at 10% of lot sale revenue & \$35 per interment. Fund assets totaled \$201,834, per the attached schedule. Fund principal totaled \$241,333, per the attached schedule. The deficit of \$39,499 resulted from the misappropriations of the former president described above. Cemetery management is reducing the deficit by way of depositing \$95 per week since 4/10 per agreement submitted to Mr. Butkiewicz, Asst. Director.

**SPECIAL TRUST FUNDS:**

**1. Prepaid Interment & Cremation Fund:** A review of the fund by the writer, found the previous owners and former officer (Mr. Kuehlewind) had not provided the necessary funding for these items. Instead, monies were deposited to the general fund. To correct this situation, current management created a new account established in 2/13 to cover its liability of \$28,885 for this fund. It now deposits \$200 per month from the general fund to this account until this liability is repaid.

**GENERAL FUND:**

Fund assets, per the worksheet, totaled \$23,900.

**FINANCIAL POSITION:**

**1. Liabilities:**

A. Lines of credit for operating expenses (due to cash flow) & equipment up until 9/09 has a remaining balance of \$12,044. The cemetery has been paying \$200 per month to payoff this debt.

B. Tractor Loan was fully repaid in 2010.

**2. Certificates of Indebtedness:** 126 certificates of indebtedness have been acquired by the officers (Mr. Kuehlewind and Mr. Ellman jointly) to date valued at \$126,708.14 131 certificates remain to be acquired valued at \$130,291.86. No additional certificates have been acquired since 2008. Please refer to the Memorandum of 11/15/11 from Cynthia Craig and the writer (attached) for details.

**3. Cash flow:** Management was advised to review its lot prices & service charges for increase to help increase its funding & operating figures. Expenses are fair and reasonable. Current management is doing well to reorganize and recover from its past problems.

**STATISTICAL DATA:**

Lot Price Per Grave	\$795	Acreage	50 (35 sold)
Adult Interment Charge	\$835	Incorporated	1928
Interments 2012	105		

**FURTHER DATA:**

Rates & charges were reviewed & found in order. The cemetery carries the necessary bonding insurance. Annual meetings are held as required.

SMS

**NIAGARA FALLS MEMORIAL PARK CEMETERY  
TRUST FUND EXAM  
NIAGARA COUNTY #32-014**

YEAR	GROSS LOT SALES	<u>PERMANENT MAINTENANCE FUND</u>			
		10% ALLOCATION	MISCELLANEOUS	INTERMENT ALLOCATION	PRINCIPAL
Bal.12/31/08	---	---	---	---	\$222,120
12/31/09	\$25,150	\$2,515	(6,896)* (751)**	\$5,740	\$222,728
12/31/10	\$11,470	\$1,147	(390)**	\$4,480	\$227,965
12/31/11	\$31,690	\$3,169	(73)**	\$4,130	\$235,191
12/31/12	\$26,210	\$2,621	(469)**	\$3,990	<u>\$241,333</u>

\*Prior period adj. for Accts.Rec. 2000-2008

\*\*Accounting adj. for Accts. Rec. Lot Sales

<u>VANDALISM &amp; ASSESSMENT RECONCILIATION:</u>						
<u>Cemetery Records</u>			<u>Audit Calculation - Cemetery Records</u>			
Year	Amount Paid	Date Paid	Total Interments	Assessment Interments	Vandalism Interments	Calculation

Note: The cemetery has been on a payment schedule for prior years since it had severe cash flow problems. Prior years have been paid in full. Currently the 2013 payments are being made at \$431 per month until paid in full as agreed with the Division.

Assets at 12/31/12:

**PERMANENT MAINTENANCE FUND:**

M & T Bank	Acct. 31003912309901	\$ 17,627
	Acct. 15004205719270	45,312
	Acct. 15004220975394	13,558
	Acct. 15004220975401	27,929
	Acct. 31003920755279	61,271
Scottrade Securities	Acct. 58472128	<u>36,137</u>
		\$ 201,834
Add: P/M Deficit Due		<u>39,499</u>
		<u>\$ 241,333</u>

**SPECIAL TRUST FUND:**

**1. Prepaid Interment & Cremation Fund:**

After careful review of this fund, the previous and former officers of this cemetery had not provided necessary funding for these items. Instead, monies for this fund were deposited in the general fund. To correct this situation, present management created a new account, established subsequent to this audit period, for the cemetery's liability for these prepaid items which amounted to \$28,885. In 2/13 this new account was established for this liability with \$200 per month deposited as a transfer from the general fund to this fund until the liability of \$28,885 is satisfied.

**GENERAL FUND:**

M & T Bank	Checking Acct. 9831154019	\$ 6,867
	Acct. 9850590531	16,933
	Petty Cash	100
		<u>\$23,900</u>

**LIABILITIES:**

**1. Lines of Credit due for cemetery operations:**

After 9/09 no additional amount were added. The cemetery is paying \$200 per month to pay down this debt of \$12,044 outstanding.

**2. Loan Payable for Tractor:** This loan was paid off in 2010.

**3. Prepaid Interment & Cremation Fund:** As previously noted, the cemetery has a liability of \$28,885.

**CERTIFICATES OF INDEBTEDNESS:**

The former officers of the cemetery, the Lane family members, had sold their certificates of indebtedness to Michael Ellman, current president & Keith Kuehlewind, former president in 2001. There are 257 certificates and Mr. Ellman and Mr. Kuehlewind agreed to personally pay \$1,000 for each certificate. The officers have paid \$126,708.14 to date & receive the certificates as each one is paid (they now hold 126 certificates). The remaining 131 certificates to be acquired are valued at \$130,291.86 It should be noted that no additional certificates have been acquired since 2008.

**DEPARTMENT OF STATE  
DIVISION OF CEMETERIES  
MEMORANDUM**

**TO:** Lewis A. Polishook, Director  
**FROM:** Samuel M. Sciria, Senior Accountant  
**SUBJECT:** Niagara Falls Memorial Park Cemetery  
Niagara County #32-014  
**DATE:** 6/7/17  
**RE:** Field Audit & Trust Fund Verification

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The subject cemetery was audited 12/2/16. Michael Ellman, president and Donna Mountain, accountant, (716) 297-0811, were contacted. Receipts and expenses were reviewed and found in order. All assets were verified in accordance with the audit manual. The results of the audit are as follows:

**AUDIT FINDINGS - BALANCES 12/31/15:**

**PERMANENT MAINTENANCE FUND:**

The fund receives allocations at 10% of lot & niche sale revenue & \$35 per interment. Fund assets totaled \$258,464 per the attached schedule. Fund principal totaled \$257,036 per the attached schedule. The surplus of \$1,428 is accumulated income. It should be noted the cemetery has successfully repaid & eliminated the deficit of \$39,499 reported on the previous audit.

**SPECIAL TRUST FUNDS:**

**1. Prepaid Interment & Cremation Fund:**

A review of the fund by the writer, found the previous owners and former officer (Mr. Kuchlewind) had not provided the necessary funding for these items. Instead, monies were deposited to the general fund. To correct this situation, current management created a new account established in 2/13 to cover its liability of \$41,970 for this fund. Fund assets totaled \$31,839 and \$10,131 is due from future deposits from the general fund. It now deposits \$320 per month from the general fund to this account until this liability is repaid (See worksheet for further detail).

**GENERAL FUND:**

Fund assets, per the worksheet, totaled \$45,292.

**FINANCIAL POSITION:**

**Liabilities:**

Lines of credit for operating expenses (due to cash flow) has a remaining balance of \$5,588. The cemetery has been paying \$225 per month to payoff this debt.

**Certificates of Indebtedness:**

257 certificates of indebtedness from the previous officers of the cemetery, the Lane Family, agreed to be sold to Mr. Ellman & Mr. Kuehlewind jointly. 126 certificates of indebtedness have been acquired by the officers (Mr. Kuehlewind and Mr. Ellman jointly) to date valued at \$126,708.14 131 certificates remain to be acquired valued at \$130,291.86. No additional certificates have been acquired since 2008. The cemetery has repaid and retired 18 of the 126 certificates acquired by Mr. Ellman & Mr. Kuehlewind at \$1,000 each. An equity fund balance of \$9,000 has been established in the event of a future claim by Mr. Kuehlewind, former president who was removed from office at the direction of this division in 2010 (See worksheet for details on these certificates).

**Cash flow:** Management was advised to review its lot prices & service charges for increase to help increase its funding & operating figures. Expenses are fair and reasonable. Current management is doing well to reorganize and recover from its past problems.

**STATISTICAL DATA:**

Lot Price Per Grave	\$795	Acreage	50 (35 sold)
Adult Interment Charge	\$935	Cremated Remains	\$475
Incorporated	1928	Interments 2015	87

**FURTHER DATA:**

Rates & charges were reviewed & certain charges were found unauthorized. The writer processed these as required. The cemetery carries the necessary crime insurance. Annual meetings are held as required.

SMS