

**OFFICE OF THE MISSISSIPPI SECRETARY OF STATE
REGULATION AND ENFORCEMENT DIVISION**

IN THE MATTER OF:

**ROBINSON & SONS
FUNERAL HOME
1196 SOUTH MOUND STREET
GRENADA, MS 38901**

**Administrative Proceeding
Number: LPR-13-0751**

Respondent

FINAL ORDER

This cause came before the hearing officer on September 26, 2013. On October 24, 2013, the appointed hearing officer submitted his Recommendations as Finding of Facts and Conclusions of Law, attached as Exhibit A. The Respondent was given fourteen (14) days to respond to the hearing officer's recommendation. No response has been received by the Secretary of State's Office as of the date of this Order. The above styled cause stands ready for final adjudication via this Final Order.

Findings of Fact

1. The Secretary of State has the authority to administer and to provide for the enforcement of all provisions of the Preneed Cemetery and Funeral Registration Act ("Act"), Mississippi Code Annotated § 75-63-51 *et. seq.* ("Code") which governs persons operating in the preneed funeral business in the State of Mississippi.
2. As a provider of preneed funeral services, Robinson & Sons Funeral Home ("Robinson") is subject to the requirements of the Act and regulations promulgated thereunder.

3. On October 16, 2009, the Secretary of State's Office, Division of Regulation and Enforcement ("Division") entered into a Consent Agreement with Robinson. In the Consent Agreement, Robinson agreed that he had violated the law and paid a penalty in the amount of Fifteen Hundred Dollars (\$1,500.00) for selling preneed while not registered with the Division. See Exhibit B.
4. Since entering into the Consent Agreement in 2009, Robinson has continued to sell preneed while not being registered with the Division. Further, there were several preneed contracts written prior to the 2009 Consent Agreement that Robinson did not present to the Division prior to said Agreement.
5. In total, Robinson has sold at least Ninety-Nine (99) preneed contracts while not being registered with the Division. Of those contracts, Twenty-Six (26) of them were sold after Robinson entered into the Consent Agreement with the Division in October 2009. See Exhibit C.
6. Thirty-Six (36) of those preneed contracts remain active and must be serviced at the time of death. These contracts are not funded by trust, insurance, or warehouse receipt as required by Mississippi Code Annotated Section 75-63-55(3). This has created a deficit in consumer trust funds in the amount of Sixty-Two Thousand Three Hundred Ninety-Six Dollars and Fifty Cents (\$62,396.50). See Exhibit D.
7. A hearing was held on this matter on September 26, 2013, with Hon. J. Mack Varner serving as hearing officer.

8. The hearing officer's recommendation is attached to this Final Order as Exhibit A.

CONCLUSIONS OF LAW

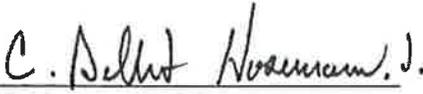
9. Ninety-Nine (99) preneed contracts were sold by Robinson while not being registered with the Secretary of State's Office. These actions represent Ninety-Nine (99) separate violations of Mississippi Code Annotated Section 75-63-65.
10. Thirty-Six (36) of those preneed contracts remain active and must be serviced at time of death. These thirty-six (36) contracts are not funded by trust, insurance, or warehouse receipt in violation of Mississippi Code Annotated Section 75-63-55(3). These actions represent Thirty-Six (36) separate violations.

Pursuant to the authority granted by Mississippi Code Annotated Section 75-63-69(1)(a), Robinson & Sons Funeral Home is hereby **ORDERED to CEASE AND DESIST** from selling preneed contracts in the State of Mississippi.

Pursuant to the authority granted by Mississippi Code Annotated Section 75-63-69(1)(b)(i), it is **ORDERED** that an administrative penalty in the amount of Ten Thousand Dollars (\$10,000.00) shall be paid to the Secretary of State for the above described violations against Robinson & Sons Funeral Home.

SO ORDERED AND ADJUDGED.

This, the 25 day of November, 2013.


C. DELBERT HOSEMANN, JR.
Secretary of State
State of Mississippi

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REGULATION AND ENFORCEMENT DIVISION

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ROBINSON & SONS
FUNERAL HOME
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FINDINGS OF FACTS AND CONCLUSION OF LAW

CAME ON FOR HEARING, on September 26, 2013, the request of Secretary of State of Mississippi to issue a Cease and Desist Order and for Consideration of Administrative Penalties against Robinson & Sons Funeral Home (hereinafter "Robinson") and at said Administrative Proceeding the Hearing Officer having considered the testimony of the witnesses, the evidence submitted, and the law applicable thereto, now enters the following Findings of Facts and Conclusions of Law:

1. The Hearing Officer finds that the Secretary of State is vested with the regulation of establishments that sell pre-need merchandise and/or services in the State of Mississippi, pursuant to Mississippi Code Annotated §75-63-51, *et seq.*
2. The Court finds that Robinson was a pre-need "contract provider" as defined by Miss. Code Ann. §75-63-53(e).
3. That the Hearing Officer and the Court has jurisdiction of the parties and the subject matter hereof.
4. That Robinson testified that on or about June 29, 2009, he executed an Agreed Order for Voluntary Surrender of License with the Commissioner of Insurance for the State of Mississippi, voluntarily surrendering his Mississippi Privilege License to act as an insurance producer in the State of Mississippi, and he further agreed to cease selling, soliciting or negotiating insurance and to have no involvement directly or indirectly in the business of insurance in the State of Mississippi.



5. That Robinson testified that on or about October 16, 2009, he executed a Consent Agreement with the Mississippi Secretary of State, admitting to violations of the Mississippi Pre-Need Cemetery and Funeral Registration Act, Mississippi Code §75-63-51 and §75-63-75, as follows:

a. That he sold pre-need contracts while not being registered with the Secretary of State as required by §75-63-55;

b. That he never submitted pre-need contract forms for approval by the Secretary of State as required by §75-63-65.

6. That at the hearing of this case, Robinson admitted that even after the Consent Agreement was entered on October 16, 2009, his establishment, Robinson Funeral Home, did not register, nor did he individually register, as an agent with the Secretary of State to sell pre-need services. He further testified that he has never submitted a pre-need contract form for approval by the Secretary of State.

7. The undersigned finds that after the Consent Agreement was entered on October 16, 2009, Robinson and/or employees or agents of Robinson clearly continued to sell pre-need services and further, Robinson testified that he had no trust account in which to deposit the pre-need funds that he collected and therefore, Robinson is in violation of Mississippi Code Annotated §75-63-55(3).

8. The undersigned finds that after the Consent Agreement was entered on October 16, 2009, Robinson did not, at anytime, register with the Secretary of State to sell pre-need services as required by Mississippi Code Annotated §75-63-65.

9. The undersigned finds that after the Consent Agreement was entered on October 16, 2009, Robinson did not submit contracts for pre-need services for approval with the Secretary of State as required by section §75-63-65.

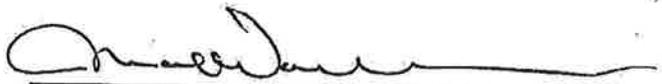
10. That after the Consent Agreement was entered on October 16, 2009, and without being registered with the Secretary of State and without having pre-need contracts approved by the Secretary of State, Robinson, in clear violation of the Consent Agreement dated October 16, 2009, and also in violation of Mississippi Code Annotated §75-63-65, continued to sell pre-need services.

11. That the pre-need contracts that Robinson sold were not funded by trust, or insurance, or evidenced by a warehouse receipt, as required by Mississippi Code Annotated §75-65-55(3) and Robinson is in clear violation of said statute.

IT IS THEREFORE, ORDERED, that this Cease and Desist Order is hereby immediately entered, prohibiting Robinson and Son Funeral Home, and/or employees or agents of Robinson Funeral Home from selling any pre-need merchandise and/or services.

THE HEARING OFFICER FURTHER FINDS, that Robinson knowingly, willingly, and intentionally violated the Consent Agreement entered into by and between Robinson and the Secretary of State dated October 16, 2009, and continued to sell pre-need services in violation of the Consent Agreement and of Mississippi Code §75-63-5 and §75-63-75 of the State of Mississippi, and it is therefore ordered that an administrative penalty in the sum of \$10,000.00, be and the same is hereby imposed upon Robinson Funeral Home for the aforementioned violations, said penalty to be paid within 90 days of the entry of this Order together with any and all costs plus interest as provided by law.

SO ORDERED, this the 24TH day of October, 2013.



J. MACK VARNER
Hearing Officer