

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

IN THE MATTER OF:)	ADMINISTRATIVE
CHOCTAW COUNTY RECYCLING LLC)	PROCEEDING NUMBER:
6916 MCGEE THOMPSON ROAD)	
ACKERMAN, MS 39735)	LM-18-3197
)	
<i>Respondent</i>)	

CONSENT ORDER

I. Jurisdiction

Finding it appropriate and in the public interest, the Regulation and Enforcement Division of the Office of the Secretary of State of Mississippi (“Division”), on behalf of the Secretary of State, having the power to administer and provide for the Mississippi Scrap Metal Act, Mississippi Code Annotated Section 97-17-71 (“Act”), and Respondent do hereby enter into this Consent Order (“Order”). This Order is entered into by the Division and the Respondent in lieu of the issuance of formal charges by the division alleging a violation of the Act.

II. Agreement

Respondent admits the jurisdiction of the Division as to all parties and matters herein under the authority of the Act. In consideration of a final resolution of the matters set forth herein, the Division and Respondent hereby agree, stipulate, and undertake as follows:

1. Choctaw County Recycling LLC (“Choctaw Recycling”) is a scrap metal dealer registered with the Secretary of State’s Office. An on-site examination of Choctaw Recycling was conducted by the Division on June 14, 2018.
2. Respondent hereby admits to the following violations of the Act:
 - a. Choctaw Recycling, in violation of Mississippi Code Annotated Section 97-17-71(8), purchased regulated metal property with cash. Specifically, the Division’s

examination of Choctaw Recycling revealed that Choctaw Recycling, from December 30, 2017-May 31, 2018, was unable to provide any check stubs, check copies, or other documentation as proof that metal payments were made by check rather than by cash payments. The aforementioned Section of the Act specifically requires payment for regulated metal property must be made by check issued to the seller of the metal, made payable to the name and address of the seller and mailed to the recorded address of the seller. Cash payments on the spot are strictly prohibited. Payment must not be made for a period of three (3) days after the purchase transaction.

- b. Choctaw Recycling, in violation of Mississippi Code Annotated Sections 97-17-71(2)(a) through 97-17-71(2)(i), failed to keep an accurate and legible record for purchases of regulated metal property. Further, Choctaw Recycling, in violation of the same provisions of the Act, failed to upload Customer Transaction Reports to www.LeadsOnline.com by five o'clock p.m. (5:00 p.m.) on the next business day following each transaction. Examples of information that Choctaw Recycling failed to record include, but are not limited to, the name, address and age of the customer from whom the metal property is purchased, the vehicle license tag number, state of issue and the make and type of the vehicle used to deliver the metal property, photographs of the customer and the metal property purchased from the customer, signed scanned copies or photocopies of the personal identification card of the customer in the purchase transaction, etc. Specifically, the Division's examination of Choctaw Recycling revealed that, between January 2, 2018 and June 28, 2018, Choctaw Recycling only uploaded and reported the

requisite information on eight (8) occasions. This lack of reporting, along with other transaction evidence accumulated by the Division during the examination, indicates that Choctaw Recycling failed to upload the majority of the requisite Consumer Transaction Reports to www.LeadsOnline.com in direct violation of Mississippi Code Annotated Sections 97-17-71(2)(a) through 97-17-71(2)(i).

- c. Choctaw Recycling, in violation of Mississippi Scrap Metal Rule 4.2, failed to register as a Level Two Dealer. Specifically, the Division's examination revealed that on February 2, 2018, Choctaw Recycling registered as a Level One dealer, paying a One Hundred Dollar (\$100.00) licensing fee, and thus represented that Choctaw Recycling generated Twelve Thousand Dollars (\$12,000.00) or less in regulated scrap metal purchases for the prior calendar year. The Division's review of Choctaw Recycling's bank statement from December 31, 2017 through May 31, 2018 revealed that Choctaw Recycling, in fact, generated in excess of Twelve Thousand Dollars (\$12,000.00) in regulated scrap metal purchases for the prior calendar year. Therefore, Choctaw Recycling should have registered as a Level Two Dealer and paid the Five Hundred Dollar (\$500.00) registration fee. Failing to do so is a direct violation of Mississippi Scrap Metal Rule 4.2.
- d. Choctaw Recycling, in violation of Mississippi Code Annotated Section 97-17-71(2)(g), failed to obtain and maintain for at least two (2) years a signed statement from the customer in the purchase transaction for regulated metal property stating that he is the rightful owner of the metal property or is entitled to sell the metal property being sold. Specifically, the Division's examination of Choctaw Recycling revealed that Choctaw Recycling was unable to provide, nor otherwise

evidence, such records for all but two tickets between January 1, 2018 and June 20, 2018.

3. Choctaw recycling agrees to follow the laws contained in the Act and the regulations promulgated thereunder.
4. Choctaw Recycling will remit upon execution of this Order an administrative fine to the Secretary of State in the amount of Two Thousand and Five Hundred Dollars (\$2,500.00), made payable to the Secretary of State's Office. This fine is for violations of the Act as authorized in Mississippi Code Annotated Section 97-17-71(16) and is due to the Secretary of State's Office no later than the close of business on Friday, August 31, 2018.
5. Respondent is aware of the right to a hearing on this matter at which Respondent may be represented by counsel, present evidence, and cross-examine witnesses. Respondent hereby irrevocably waives the right to such a hearing.
6. Respondent understands that the entry of this Order represents the settlement of an impending regulatory charge by the Division and Respondent as of the date of this Order.
7. Respondent understands that the Division retains jurisdiction over the matters addressed in this Consent Order until all obligations by Respondent are fulfilled.

III. Acknowledgement

The parties acknowledge that they have read this Order in its entirety and fully understand the rights, terms, and obligations of each contained herein. The parties also acknowledge that they have been vested with the express authority to enter into this Order. The parties further acknowledge that they have not been threatened or otherwise coerced into entering into this Order.

The undersigned hereby acknowledge and agree to the terms and conditions of the foregoing Order by written consent.

So Agreed, this the 28 day of August 2018.

CHOCTAW COUNTY RECYCLING LLC

BY: Wilbert Maness
Wilbert Maness
Member

Date: 8-28-18

C. DELBERT HOSEMANN, JR.
SECRETARY OF STATE
In his Official Capacity

BY: Dave Scott
Dave Scott
Assistant Secretary of State,
Regulation and Enforcement

Date: 7-31-18