

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

IN THE MATTER OF:)	ADMINISTRATIVE
CHRISTOPHER JARRELL)	PROCEEDING NUMBER:
HATTIESBURG RECYCLING, LLC)	LM-16-1665
427 Roy Tucker Road)	SOS REGISTRATION
Hattiesburg, MS 39401)	150614406
<i>Respondent</i>)	

FINAL ORDER

This cause came before a hearing officer on March 17, 2016. On or about March 28, 2016, the Hearing Officer submitted his proposed Findings of Fact and Conclusions of Law, attached as Exhibit A to this Final Order. By letter dated March 31, 2016, Respondent, Hattiesburg Recycling, LLC, was afforded an opportunity to submit any written comment or input to the Secretary of State before issuance of a Final Order in this cause. The Respondent failed to submit a response prior to the stated deadline of April 15, 2016. Therefore, the above-styled cause stands ready for final adjudication via this Final Order.

Upon reviewing the recommendation of the hearing officer, the Undersigned accepts and adopts, in total, the hearing officer's proposed findings of fact. The same, which are attached as Exhibit A, are fully incorporated into the content of this Final Order. However, as to the proposed conclusions of law, the Undersigned makes the following amendments for the following reasons.

The hearing officer determined that the Respondent committed the following violations:

1. Paying cash on the spot for metal property, a violation of Mississippi Code Annotated Section 97-17-71(8);

2. Failing to capture any of the identifying information from a customer as required by Mississippi Code Annotated Section 97-17-71(2);
3. Failing to upload customer information to the electronic database where it can be accessed by law enforcement for investigative purposes in violation of 1 Miss. Code R. Section 1-000-130(5.1).
4. Failing to tag and hold separately metal purchases from other metal purchases for a period of 3 business days as required by Mississippi Code Annotated Section 97-17-71(3); and,

These violations are among the most egregious and severe violations that can be committed by a business subject to the Mississippi Scrap Metal Dealer Act of 2008. For this reason, the Division sought a penalty in the amount of four thousand dollars (\$4,000.00).

Mississippi Code Annotated Section 97-17-71.1(5)(1)(c)(i) provides the penalties for civil enforcement that can be imposed by the Secretary of State's Office for violations of the 2008 Scrap Metal Dealer Act. This section sets a cap at \$1000.00 for each offense. In the hearing officer's recommendation, the recommended penalty of \$750.00 is made pursuant to Mississippi Code Annotated Section 97-17-71.1(2). However, Section 97-17-71.1(2) provides the fining authority that results from criminal prosecutions under the Act—not civil enforcement penalties. Therefore, given the severity of the violations as determined by the hearing officer and our interest to achieve parity for similarly situated businesses found liable for committing comparable violations under the Act, the recommended penalty of \$750.00 is increased. In its stead, this Office is imposing a higher penalty in the amount of Two Thousand Dollars (\$2000.00) for the violations stated in this Final Order and Exhibit A.

IT IS HEREBY ORDERED, that Christopher Jarrell shall pay an administrative penalty in the amount of Two Thousand Dollars (\$2,000.00), to be paid to the Secretary of State on or before May 31, 2016.

SO ORDERED and ADJUDGED.

This, the 26th day of April, 2016.

C. Delbert Hosemann, Jr.

C. DELBERT HOSEMANN, JR.

*In his official capacity as Secretary of
State of the State of Mississippi*



DELBERT HOSEMAN, SECRETARY OF STATE
OFFICE OF THE MISSISSIPPI SECRETARY OF STATE
REGULATION AND ENFORCEMENT DIVISION

IN THE MATTER OF:

CHRISTOPHER JARRELL
HATTIESBURG RECYCLING, LLC
427 ROY TUCKER ROAD
HATTIESBURG, MS 39401

SOS PROCEEDING NUMBER: LM-16-1665
SOS REGISTRATION NO. 150614406 (Exp. 6/04/2017)

FINAL ORDER, FINDINGS OF FACT AND CONCLUSIONS OF LAW

The undersigned was appointed by the Secretary of State of the State of Mississippi to conduct a hearing and issue a Findings of Fact and Conclusions of Law in the referenced matter. A hearing was held before the undersigned on March 17, 2016, at the office of the undersigned located at 309 South 40th Avenue, Hattiesburg, MS 39402, at which David Penson, examiner and Regulation and Enforcement Officer for the Mississippi Secretary of State, appeared and at which Christopher Jarrell ("Jarrell") appeared individually on behalf of himself. The said David Penson was sworn in, testified and was represented by counsel for the Mississippi Secretary of State. Dave Scott, Assistant Secretary of State, Regulation and Enforcement, presented exhibits along with his testimony. Christopher Jarrell presented testimony only.

FINDINGS OF FACT

The Secretary of State made allegations of violations of the Mississippi Code Annotated (the "Code") and/or the Secretary of State Regulations. They are:

1. In violation of §97-17-71(8), Jarrell entered into cash transactions in payment for the purpose of metal property. Said statute requires that all



purchases be made by check. David Penson testified that on November 12, 2015, he sold thirty-two (32) pounds of regulated copper to Hattiesburg Recycling. Mr. Penson testified that he was paid cash on the spot for these items in the total amount of \$9.60. The cash was attached as an exhibit.

2. §97-17-71(2) provides that a purchaser must get the following information:
 - a. The name, address and age of the person from whom the metal property is purchased as obtained from the seller's personal identification card;
 - b. The date and place of each acquisition of the metal property;
 - c. The weight, quantity or volume and a general physical description of the type of metal property, such as wire, tubing, extrusions or casing, purchased in a purchase transaction;
 - d. The amount of consideration given in a purchase transaction for the metal property;
 - e. The vehicle license tag number, state of issue and the make and type of the vehicle used to deliver the metal property to the purchaser;
 - f. If a person other than the seller delivers the metal property to the purchaser, the name, address and age of the person who delivers the metal property;
 - g. A signed statement from the person receiving consideration in the purchase transaction stating that he is the rightful owner of the metal property or is entitled to sell the metal property being sold;
 - h. A scanned copy or a photocopy of the personal identification card of the person receiving consideration in the purchase transaction.

Mr. Penson testified that on November 12, 2015, Jarrell purchased regulated metal materials from him, and that Jarrell failed to get his address, vehicle license tag number, state of issue, make and type of vehicle used in delivery of the material, a picture of the regulated materials purchased, a picture of customer's facial features, and a picture of the customer's government issued I.D. In addition, Mr. Penson testified that none of said information required above was obtained from him or uploaded to LeadsOnLine. Furthermore, Mr. Penson testified that in a five and a half month period from September 1, 2015, to February 16, 2016, the business only uploaded seven days of customer transactions to LeadsOnLine.

3. Miss. Code R. §1-000-130(5.1) provides that customer transaction records of all regulated metal purchases must be uploaded with the Secretary of State's agent, LeadsOnLine, by 5:00 p.m. the day following the date of purchase. Mr. Penson testified that Jarrell failed to capture the required information.
4. Mr. Penson testified that on November 2, 2015, while conducting a sale of regulated materials to Hattiesburg, Mr. Penson notified several bins of copper material. He testified that he did not observe any identifying labels or tags that would identify the seller of the copper material. Mr. Penson further testified that after the material was purchased and weighed, it was added to the other copper material without any identifying tags or markings, nor were the materials photographed as required by law.
6. Miss. Code Ann. §97-17-71.1 provides that it is unlawful for any scrap dealer or any person who purchases scrap metal, deals with scrap metal, or otherwise engages in the scrap metal business to fail to register with the Secretary of State.

CONCLUSIONS OF LAW

1. Miss. Code §97-17-71 (16) states basically that any person who willfully or unknowingly violates the provisions of this section shall, upon conviction thereof, be deemed guilty of a misdemeanor, shall be punished by a fine not to exceed One Thousand Dollars (\$1,000.00) per offense. The section further provides that if the purchases were in the aggregate more than Five Hundred Dollars (\$500.00), the person would be deemed guilty of a felony and shall be imprisoned

in the custody of the Department of Corrections for a term not to exceed ten (10) years and fined no more than Ten Thousand Dollars (\$10,000.00), or both.

2. Miss. Code §97-17-71.1 (2) provides that a violation of this section is a misdemeanor punishable by a fine of not less than Five Hundred Dollars (\$500.00), but not to exceed One Thousand Dollars (\$1,000.00) for the first offense. Any person guilty of subsequent violations would be guilty of a felony and could be imprisoned in the custody of the Department of Corrections for a term not to exceed three (3) years and fined not more than Five Thousand Dollars (\$5,000.00), or both.

CONCLUSION AND AWARD

The Hearing Officer finds that Christopher Jarrell and Hattiesburg Recycling have violated Mississippi laws and regulations of the Secretary of State relating to the regulation of scrap metal sales in the manner as found above, and the penalties applicable to those violations as set forth above.

The Hearing Officer finds that Christopher Jarrell is guilty of a misdemeanor and is hereby fined the sum and amount of Seven Hundred Fifty Dollars (\$750.00).

WITNESS MY SIGNATURE on this, the 28th day of MARCH, 2016.



ROBERT T. JACKSON, SR.
Hearing Officer