

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

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IN THE MATTER OF:	)	
	)	
Clark's Memorial Funeral Home	)	Administrative Proceeding Numbers:
621 30 <sup>th</sup> Avenue	)	Number : <u>P-08-0111</u>
Meridian, Mississippi 39301	)	
	)	
<i>Respondent</i>	)	

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CONSENT AGREEMENT

I.

This agreement is hereby entered into between the State of Mississippi, Secretary of State's Office, Business Regulation and Enforcement Division ("Division"), by and through Tanya G. Webber, Senior Attorney, and Clark's Memorial Funeral Home ("Respondent"), by and through its agent, Melba B. Clark, Owner.

The Division, having the power to administer and to provide for the enforcement of all provisions of the Pre-Need Cemetery and Funeral Registration Act (the "Act"), and Respondent does hereby enter into this Consent Agreement in resolution of the following allegations by the Division of violations of certain provisions of the Act:

1. Respondent is a "contract provider" engaged in the business of selling pre-need merchandise and/or services as defined in the Act. Miss. Code Ann. § 75-63-53(e) (Rev. 2001);
2. The Act requires each establishment selling pre-need merchandise and/or services to register with the Division, and to file an annual report each year within ninety (90) days of the calendar year or the establishment's fiscal year end.
3. According to Respondent's initial registration, Respondent elected to file an annual report within (90) days of the calendar year end, which was December 31, 2007. Therefore, the annual report was to be filed with the Division by March 31, 2008.

4. Respondent failed to file the annual report in the time frame established by the Act despite the reminder letter that was sent out in January 2008.
5. As a result of not receiving the annual report by the time frame established by the Act, a courtesy letter was sent out in April 2008 reminding Respondent once again to submit the report.
6. At the end of April, 2008, the annual report still had not been submitted to the Division. As a result, a *Notice of Intent* was issued to Respondent.
7. In response to the Notice of Intent, Respondent submitted its 2007 pre-need annual report. The report was received by the Division on May 12, 2008.

## II.

Respondent, under the terms of this Consent Agreement and solely for the purpose of resolving the foregoing allegations, stipulate without a hearing to the matters set forth above in Paragraph I and hereby consent to the issuance of this Consent Agreement, and further consent to and agree to the undertakings contained herein. Furthermore, the undersigned agent for Respondent acknowledges that he has been lawfully vested with the authority to enter into this Consent Agreement on behalf of the Respondent.

## III.

THEREFORE, in consideration of a final resolution of the matters set forth above in Paragraph I, the Division and Respondent hereby agree and stipulate as follows:

1. Respondent stipulate to the jurisdiction of the Division as to all matters contained herein under the authority of the Act and acknowledge that the issuance of this Consent Agreement is solely for the purpose of resolving the matters set forth above in Paragraph I.
2. Respondent agree to comply with the provisions of the *Mississippi Pre-Need Cemetery and Funeral Registration Act* codified at Miss. Code Ann. 75-63-51 as currently enacted and any future amendments thereto. Specifically, Respondent agrees to file an annual report each year within the time frame indicated in the Act.

3. The Division shall impose a penalty upon Respondent in the amount of Fifteen Hundred Dollars (\$1,500.00) for violating the Act, with \$750.00 of the penalty suspended, conditioned on the following:

In the event Respondent or its agents, employees, successors or affiliates violates any term of this agreement or the Act or submit a late annual report for its 2008 pre-need sales and performances, Respondent will be required to pay the suspended amount of the penalty within thirty (30) days of the violation.

Respondent shall remit payment in the amount of Seven Hundred and Fifty Dollars (\$750.00) to the Division, payable to the "Mississippi Secretary of State". The penalty along with a copy of the signed Consent Agreement should be delivered to the Division **within thirty (30) days of receipt** of this Consent Agreement.

4. Respondent agrees that if it fails to abide by this Consent Agreement, and any of the agreements, stipulations or undertakings set forth herein, Respondent shall thereby knowingly and voluntarily waive any right to notice and to an administrative hearing and also waive any right to separately stated findings of fact and conclusions of law to which it may have otherwise had a right regarding the matters contained herein. A Cease and Desist Order and an Order Revoking Registration and Imposing Administrative Penalty will be issued and automatically become final and enforceable.
5. This Consent Agreement is in resolution of the matters contained in Paragraph I. As a result of this Consent Agreement, the matters contained in Paragraph I cannot be used as a basis for action by the Division except as set forth in Paragraph IV below.

#### IV.

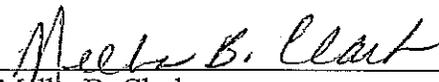
In the event Respondent fail or neglect to comply with any of the agreements, stipulations or undertakings set forth in this Consent Agreement, the Division may, without notice to the Respondent, unilaterally rescind this Agreement and institute any legal or administrative proceedings it deems appropriate including, but not limited to, proceedings to address the matters set forth in Paragraph I above.

DELBERT HOSEMANN  
Secretary of State

By:   
TANYA G. WEBBER  
Senior Attorney

Date: 6/17/08

CLARK'S MEMORIAL FUNERAL HOME  
Respondent

By:   
Melba B. Clark  
Owner

Date: July 7, 2008

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