

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

IN THE MATTER OF:)	
)	Administrative Proceeding
COASTAL CREMATION)	
& CEMETERIES, INC.)	Number: <u>LPR-13-0678</u>
12800 HIGHWAY 613)	
MOSS POINT, MS 39562)	
<i>Respondent</i>)	

FINAL ORDER

This Cause came before the hearing officer for a hearing on July 2, 2013. On July 19, 2013, the appointed hearing officer submitted his Report and Recommendation, attached as Exhibit A. Respondent was given the appropriate period of time to respond to the Report and Recommendation and did not respond. 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 (hereinafter "Act), Mississippi Code Annotated Section 75-63-51, *et seq.*, which governs persons operating in the Preneed funeral business and the administration of the Preneed Contracts Loss Recovery Fund in the State of Mississippi.
2. As a provider of Preneed funeral services and funeral merchandise, Coastal Cremation and Cemeteries, Inc. (Coastal Cremation), is subject to the requirements of the Act and regulations promulgated thereunder, including the requirements of Mississippi Code Annotated Section 75-63-81 regarding the Preneed Contracts Loss Recovery Fund.

3. On April 15, 2013, Coastal Cremation failed to file their Loss Recovery Quarterly Contract Fee Report Form (quarterly report) as required by Mississippi Code Annotated Section 75-63-81 (2). In due time, it came to the attention of the legal staff of the Division that the Division had not received seven (7) of the fifteen (15) quarterly reports that had been due since the enactment of this section of the Act July of 2009. A chart including information about all of the required quarterly reports and whether Coastal Cremation had filed these reports at the time of the aforementioned hearing is attached as Exhibit B.
4. A Notice of Hearing for Consideration of Administrative Penalties and Suspension of Preneed License was sent to Coastal Cremation on May 31, 2013 with supporting documentation sent on June 4, 2013. Coastal Cremation's representative, Ms. Valerie Parsons, attended the hearing which was held on July 2, 2013 in the Mississippi Secretary of State's Gulfport Office. At the conclusion of the hearing, the hearing officer requested that Ms. Parsons complete all of the quarterly reports that had not been filed and send them to the Division by close of business on Monday, July 8, 2013.
5. On July 8, 2013, Ms. Parsons faxed over partially completed quarterly reports and stated that she would send the completed reports via Federal Express the next day. The Division informed the hearing officer of this as requested.
6. On July 9, 2013, the Division did receive the completed quarterly reports as stated by Ms. Parsons and informed the hearing officer of this as requested.
7. On July 19, 2013, the appointed hearing officer submitted his Report and Recommendation which recommended an administrative penalty in the amount of Three Thousand Dollars (\$3,000.00) and no suspension of Coastal Cremation's preneed license.

8. On July 23, 2013, the Division sent the Report and Recommendation to Ms. Parsons who was given fourteen days (14) to respond. She did not respond within that time period or by the date of this Order.

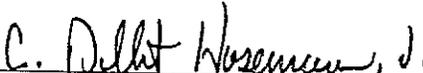
CONCLUSIONS OF LAW

9. Seven quarterly reports were not filed with the Division in violation of Mississippi Code Annotated Section 75-63-81 (2). These inactions represent seven (7) separate violations.

Pursuant to the authority granted by Mississippi Code Annotated Section 75-63-69(1)(b)(i) and in accordance with the recommendation of the hearing officer, it is ORDERED that an administrative penalty in the amount of Three Thousand Dollars (\$3,000.00) shall be paid to the Secretary of State for the above described violations against Coastal Cremation & Cemeteries, Inc.

SO ORDERED AND ADJUDGED.

This, the 15 day of August, 2013.


C. DELBERT HOSEMANN, JR.
Secretary of State
In his Official Capacity

the Loss Recovery Quarterly Reports were violations of the Statute. It was noted that the imposition of administrative penalties of up to \$1,000.00 for each of the seven violations could be imposed totaling seven thousand (\$7,000.00) dollars. Additionally, the Secretary of States Office was seeking a suspension of Coastal's license to sell pre-need merchandise and services.

The hearing officer explained the details of an administrative hearing and the rules of evidence that applies to such a hearing and after receiving a preliminary statement with regard to positions, the Secretary of State was called upon to proceed as the Secretary of State has the burden of proof in said proceedings.

The Secretary of State in this matter, called Mr. Dave Scott, Assistant Secretary of State, who was sworn and duly qualified and testified as to the statutory requirements and regulations with regards to the pre-need funeral service and merchandise and Loss Recovery Association rules. He further testified with regard to the implementation and consequences of governing the Loss Recovery Association and Fund, with specific reference to Miss. Code Ann. §75-63-81.

The next witness called was Ms. Jodie Wright, Special Projects Officer, Office of Secretary of State, who testified with regard to the Loss Recovery Fund records received and kept at the Secretary of States Office. Ms. Wright submitted four exhibits into the record, consisting of the following:

1. Exhibit "A" consisting of nine pages reflecting the Quarterly Contract Fee Report Forms filed by Coastal Cremation & Cemeteries.
2. Exhibit "B" consisting of ten pages the Notice of Hearing for Consideration of Administrative Penalties and Suspension of Pre-Need License.
3. Exhibit "C" notes from the Loss Recovery database, consisting of one page.

4. Exhibit "D" consisting of eight pages, Notice to Coastal Cremation & Cemeteries of the requirement of filing their Quarterly Report. The first being dated December 14, 2012 and the second being March 15, 2013. Confirmation of those Notices being received was a part of Exhibit "D."

Ms. Wright further testified from a form on Exhibit "B" showing the Quarterly Loss Recovery Report data as of June 4, 2013, reflecting five of the violations, and further testimony with regard to the two (2) subsequent Notices establishing seven (7) violations as alleged in Exhibit "B" Notice of Hearing and Consideration of Administrative Penalties and Suspension of Pre-Need License.

Ms. Valerie Parsons on behalf of Coast Cremation & Cemeteries did not deny or contradict any of the testimony and documentation and Exhibits given and filed at the hearing, therefore, the same may be and is considered "findings of fact."

Ms. Valerie Parsons in her statement and testimony indicated that her father was the owner and operator of Coastal Cremation & Cemeteries and he passed away suddenly and as a result of his unexpected death, she was required to take over and run the business. She readily admitted her lack of knowledge and understanding of the business itself when she first got involved. She readily admitted that it was a daunting requirement for her to execute the documents involved as they required her to swear under penalty of perjury the information was given. She indicated that certain employees with her company had left on two different occasions, which made it considerably difficult for her to have these reports filed. On the record she assured the Hearing Officer that she would respond immediately to these reports and do so by the end of the week.

Her statement and testimony further indicated that Coastal Cremation & Cemeteries did not seek Pre-Need Contracts and only got involved with them when people would request such a

contract. She further indicated that her company did not have any insurance agents to sell insurance and the only way that they would get involved is by someone requesting it and it being handled under the trust requirements of the Statute. It was noted in the record that in some of the reports that her company filed there were no Pre-Need Contracts, and she suggested that that might be true in some of the seven reports that are missing. She requested consideration for failure to file and particularly with regard to the suspension of her Pre-Need License as it would cause a hardship on people who wanted to Pre-Need Contract and wanted to be interred in their cemetery. Ms. Parker was advised of the Statutory requirements and of her need to comply. She was further instructed as to the need to protect her own clients with regard to these filings and payment of fees. Ms. Parker noted her need to comply as soon as possible and was very sorry that it had not been done up too now. Her explanation of difficulties she's had in running the business was noted by the Hearing Officer and of her assurance of compliance.

It was the Hearing Officer's position that the matter was held in abeyance and Honorable Amy Foster was instructed to advise the Hearing Officer by the following Monday, July 8, 2013 as to whether or not the Quarterly Contract Fee Reports had been filed.

Having been advised that the quarterly payments were filed, on July 9, 2013, the same is noted for the record.

Conclusions of Law.

1. The Secretary of State of Mississippi is vested with the regulation of the establishments that sells pre-need merchandise and / or services in the State of Mississippi pursuant to Miss. Code Ann. §75-63-51, et seq. ("Act").
2. That Coastal Cremination & Cemeteries, Inc., at the time of the violation

alleged herein, was a pre-need contract provider as defined by the Miss. Code Ann. §75-63-5 (e).

3. That pursuant to Miss. Code Ann. §75-63-81, Loss Recovery "fees shall be remitted quarterly to the association for each quarter of a calendar year with a quarterly fee form as prescribed by the Secretary of State." The Statute further states "the fees shall be remitted to the association no later than (15) days after each quarter."
4. Miss. Code Ann. §75-63-69 (1) (b) (1) et seq., allows the imposition of administrative penalties of up to one thousand dollars (\$1,000.00) for each of the seven (7) violations of the aforesaid Statute.
5. Deficient filings include those that are not in proper form, not in compliance with the act or the rules, incomplete and are submitted without an associated fee.
6. Miss. Code Ann. §75-63-69 (2) allows the Secretary of State to respond or revoke any pre-need establishment or salesperson or salesperson's registration for violation of Statute, regulations or order issued under the article.

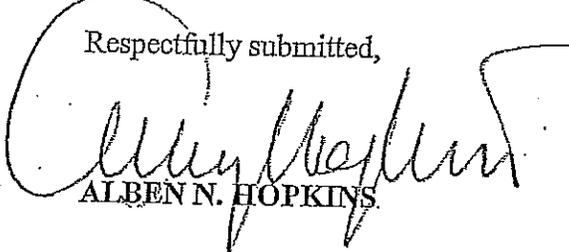
Recommendations.

It is recommended that Coastal Cremation & Cemeteries, Inc., have the imposition of an administrative penalty of seven thousand (\$7,000.00) dollars for the seven (7) violations of the statutory requirements. However, due to the fact that there was a reasonable explanation to the problems, with regard to filing, the hearing officer would recommend that four thousand (\$4,000.00)

of that administrative penalty be rescinded, due to the fact that all quarterly reports were filed within a reasonable period of time following the hearing and that Coastal Cremation & Cemeteries, Inc., is now in compliance. The recommendation of an administrative penalty of three thousand (\$3,000.00) dollars is reasonable.

Additionally, due to the promptness of compliance and with the explanations given and accepted the suspension of Coastal's licensure to sell pre-need merchandise and services should not be suspended or revoked because of the hardship that would be visited upon clients who want a pre-need contract and be buried in Coastal's cemetery. Therefore, due to compliance, although belatedly, and due to the reason that the representative of Coastal is now fully aware of the sanctions that can be visited upon Coastal for failure to comply completely and strictly with the requirements of the Statutes and Rules, this matter has been concluded by the Hearing Officer and this Report and Recommendation is here filed with the office of Secretary of State, with the request of the Secretary of State's Office formally send a copy to Coastal Cremation & Cemeteries, Inc. The Hearing Officer also, attaches hereto the original of all Exhibits at this hearing with this Report and Recommendation.

Respectfully submitted,



ALBEN N. HOPKINS

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Coastal Cremations & Cemeteries, Inc. – Quarterly Loss Recovery Report Data as of June 4, 2013

Date Due	Quarter	Received?	Late?
10/15/2009	1st	Yes	No
01/15/2010	2nd	Yes	No
4/15/2010	3rd	Yes	Yes – approx. 5 months
7/15/2010	4th	Yes	Yes – approx. 2 months
10/15/2010	1st	No	N/A
01/15/2011	2nd	No	N/A
04/15/2011	3rd	No	N/A
07/15/2011	4th	No	N/A
10/15/2011	1st	Yes	Yes – approx. 4 months
01/15/2012	2nd	Yes	Yes – approx. 1 month
04/15/2012	3rd	Yes	No
07/15/2012	4th	Yes	Yes – approx. 4 months
10/15/2012	1st	No	N/A
01/15/2013	2nd	No	N/A
04/15/2013	3rd	No	N/A



CERTIFICATE OF SERVICE

I, Amy C. Foster, do hereby certify that I have this day, mailed via United States Certified

Mail, a true and correct copy of the Final Order to the following:

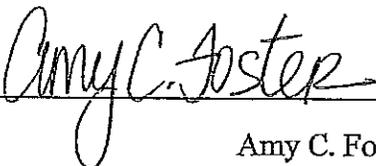
Certified Mail, Return Receipt Requested:

Coastal Cremation & Cemeteries, Inc.
12800 Highway 613
Moss Point, MS 39562

First Class Mail:

Honorable Alben N. Hopkins, Hearing Officer
P.O. Box 1510
Gulfport, MS 39502-1510

This the 10th day of August, 2013.



Amy C. Foster
Senior Attorney,
Regulation and Enforcement

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