

OFFICE OF THE MISSISSIPPI SECRETARY OF STATE
REGULATION AND ENFORCEMENT

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|---------------------|---|--------------------|
| IN THE MATTER OF: |) | ADMINISTRATIVE |
| DELTA HEIGHTS |) | PROCEEDING NUMBER: |
| MEMORIAL GARDENS |) | PC-11-0032 |
| HIGHWAY 8 EAST |) | |
| CLEVELAND, MS 38732 |) | |
| MS-PCC-014 |) | |

CONSENT AGREEMENT

I. Jurisdiction

Finding it appropriate in the public interest, the Regulation and Enforcement Division of the Office of the Secretary of State of Mississippi (hereafter "Division"), on behalf of the Secretary of State, having the power to administer and to provide for the Cemetery Law, Miss. Code Ann. §§ 41-43-31 to 41-43-53 (hereafter "Law"), and Respondent do hereby enter into this Consent Agreement (hereafter "Agreement"). In lieu of the issuance of formal charges by the Division alleging a violation of Miss. Code Ann. § 41-43-37, this Agreement is entered into by the Division and the Respondent.

II. Agreement

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

1. Parties acknowledge and agree that the cemetery property, Delta Heights Memorial Gardens (hereafter "Delta"), Highway 8 East, Cleveland, MS 38732 is a perpetual care cemetery pursuant to Miss. Code Ann. §§ 41-43-31, *et seq.*
2. Pursuant to Miss. Code Ann. § 41-43-37, Fifteen Percent (15%) of the sales price of ground interments must be remitted to the perpetual care cemetery's trust. Parties

acknowledge and agree that the appropriate percentage of funds was not placed in the trust and that Delta owes Fourteen Thousand Nine Hundred Fifty-Five Dollars (\$14,995) to its perpetual care trust. This deficiency relates to interment sales from January 1, 2002, to December 2010.

3. As such, Delta Heights Memorial Gardens agrees to the following:
 - a. Delta agrees to deposit no less than Eight Hundred Thirty Dollars and Eighty-Three Cents (\$830.83) per month into perpetual care trust for eighteen (18) months by the last day of each month until the deficiency is resolved. The first deficiency payment is due April 30, 2011, with the final payment being made on September 30, 2012.
 - b. Delta acknowledges that these deposits are required to meet the obligations of Miss. Code Ann. § 41-43-37(1), for the trusting of fifteen percent (15%) of interment sales.
4. Nothing contained herein shall be construed as limiting Respondent's rights to contest any finding or determination made by the Division or by a court concerning an alleged failure by Respondent to comply with any of the terms and provisions of this Agreement.
5. Respondent is aware of the right to a hearing on this matter at which they 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 Agreement represents the settlement of an impending regulatory charge by the Division against Respondent as of the date of this Agreement.

7. Respondent understands that the Division retains jurisdiction over the matters addressed in this Consent Agreement until all obligations by Respondent are fulfilled, including but not limited to enforcement actions authorized by Miss. Code Ann. §§ 41-43-33 *et seq.*

III. Acknowledgement

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

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

So Agreed, this the 7 day of April, 2011.

DELTA HEIGHTS MEMORIAL GARDENS

BY: Victor G. Byas, Sr.
Victor G. Byas, Sr.
President

Date: 4-7-11

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

BY: Amy C. Foster
Amy C. Foster
Senior Attorney,
Regulation and Enforcement

Date: 3/23/11