

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

IN THE MATTER OF:)	ADMINISTRATIVE
HUDSON PARK CEMETERY)	PROCEEDING NUMBER:
2911 Highway 49 S.)	
GREENWOOD, MS 38930)	LPC-15-1411
)	
<i>Respondent</i>)	

FINAL ORDER

This cause came before a hearing officer on December 18, 2015. On January 20, 2016, the appointed hearing officer submitted his Report and Recommendations of Hearing Officer, attached as Exhibit A. The Respondent was sent the recommendation and given fourteen (14) days to respond. No response was received. 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 Cemetery Law (“Law”), Mississippi Code Annotated § 41-43-31, *et. seq.* which governs persons operating a perpetual care cemetery in the State of Mississippi.
2. As an operator of a perpetual care cemetery, Hudson Park Cemetery, LLC, (“Hudson Park”) is subject to the requirements of the Law and regulations promulgated thereunder.
3. The Secretary of State, Regulation and Enforcement Division (“Division”) has jurisdiction over the parties and subject matter herein.
4. Xavier T. Hudson (“Hudson”) obtained ownership of Hudson Park Cemetery in June 2013 through the Estate of Mary Hudson.
5. The Division conducted an examination of the perpetual care trust from June 2013 through April 2015 and found it deficient by Nine Thousand Seven Hundred Twenty-Three Dollars (\$9,723.00) from the beginning of Hudson’s ownership.

6. Hudson was presented with the findings of that examination and failed to respond by the date set by the examiner.
7. On July 8, 2015, at the insistence of this Office, Hudson opened a perpetual care fund as a certificate of deposit at Planter's Bank and deposited Three Thousand Dollars (\$3,000.00).
8. Hudson entered into a Consent Agreement with the Division on August 6, 2015 (Exhibit B). In said Consent Agreement, Hudson agreed to fund the remaining Six Thousand Seven Hundred Twenty-Three Dollars (\$6,723.00) due to perpetual care trust over the course of a year. Hudson also agreed to change the caption of the CD to comply with Mississippi Code Annotated § 41-43-37(3).
9. Hudson violated the terms of the Consent Agreement by not making the agreed-upon deposits into the perpetual care trust fund and also not changing the caption of the CD to comply with the Law by the deadline. This violation led the Division to issue a Notice of Hearing on November 18, 2015.
10. A hearing was held on December 18, 2015. On the day before the hearing, Hudson filed with the Secretary of State's Office, Business Services Division a Certificate of Formation of Hudson Park Cemetery, LLC, a preliminary step in the direction of changing the caption of the perpetual care trust fund CD. At said hearing, Hudson represented to the hearing officer that he would transfer ownership of the CD which he had established at Planter's Bank & Trust Company from his person name on behalf of Hudson Park to the name of his newly formed limited liability company.
11. Also at said hearing, Hudson agreed that in the week following the date of the hearing he would comply with the Consent Agreement by adding to the CD, an amount necessary to come into compliance with the payments required in the Consent Agreement.
12. In compliance with these verbal agreements and the Consent Agreement, Hudson delivered to the office of the hearing officer a copy of a certificate of deposit with an account title of

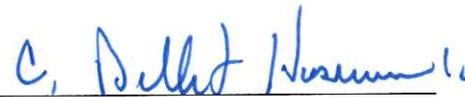
“Hudson Park Cemetery LLC for Perpetual Care Only” in the amount of Five Thousand Seven Hundred Fifty-Nine Dollars and Eighty-One Cents (\$5,759.81) (Exhibit C).

CONCLUSIONS OF LAW

13. Hudson’s failure to abide by the terms of the Consent Agreement constitutes a violation of the Law.

Pursuant to the authority granted by Mississippi Code Annotated § 41-43-7 and § 41-43-31, *et seq.*, it is hereby ORDERED that after the close of business on July 31, 2016, the Division will seek to verify that all payments required by the Consent Agreement have been made. Upon such findings that all of the payments have not been made, the Division shall, without additional notice, immediately revoke Hudson Park’s perpetual care license and impose a fine in the amount of One Thousand Dollars (\$1,000.00) due to the Secretary of State’s Office within thirty (30) days of notification.

SO ORDERED AND ADJUDGED.
This, the 7 day of March, 2016.



C. DELBERT HOSEMANN, JR.
Secretary of State
State of Mississippi

OFFICE OF THE MISSISSIPPI SECRETARY OF STATE
REGULATION AND ENFORCEMENT

IN THE MATTER OF:
HUDSON PARK CEMETERY
2911 HIGHWAY 49 S.
GREENWOOD, MS 38930

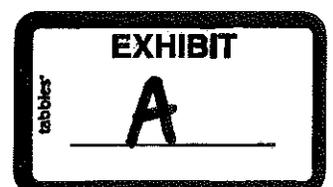
ADMINISTRATIVE
PROCEEDING NUMBER:

LPC-15-1411

Respondent

REPORT AND RECOMMENDATIONS OF HEARING OFFICER

On November 10, 2015, the undersigned Hearing Officer was appointed by the Mississippi Secretary of State for the purpose of conducting a hearing involving the alleged violations by the owner of Hudson Park Cemetery in Greenwood, Mississippi, of the Cemetery Law of the State of Mississippi as set forth in Miss. Code Ann. §41-43-33, *et seq.* Specifically, Hudson Park Cemetery had been cited for violation of Miss. Code Ann. §41-43-37(1)(a) requiring that fifteen percent (15%) of the sales price of ground interments must be remitted to a perpetual care cemetery's trust fund, the income from which is dedicated for perpetual maintenance of the perpetual care cemetery. A hearing date of December 18, 2015, at 10:00 a.m. was set by the undersigned Hearing Officer at the law offices of Whittington, Brock & Swayze in Greenwood, Mississippi. In attendance at said hearing were Amy C. Foster, senior attorney in the Regulation and Enforcement Division of the Mississippi Secretary of State's Office, Dave Scott, Assistant Secretary of State, and Xavier T. Hudson, owner of Hudson Park Cemetery. Mr. Hudson was not represented by counsel. Having conducted said hearing, including the testimony of Mr. Scott and Mr. Hudson, the undersigned Hearing Officer does now issue his report and recommendations as follows:



I. Findings of Fact

1. Xavier T. Hudson, doing business as Hudson Park Cemetery was timely given notice of the hearing by certified mail dated November 18, 2015, which notice amply set forth the purpose of the hearing and outlined the deficiencies of Mr. Hudson's cemetery business and maintenance of the perpetual care fund required under the Mississippi Cemetery Law.

2. Hudson had owned and operated the Hudson Park Cemetery since June of 2013.

3. The Business Regulation and Enforcement Division of the Mississippi Secretary of State's Office had conducted an audit of the business records of Hudson Park Cemetery from the time of inception of ownership of the cemetery by Mr. Hudson through April of 2015. As a result of this examination, it was determined that Mr. Hudson had failed to deposit 15% of his collection on grave sales into a perpetual care fund resulting in a deficiency of \$9,723.00 from grave sales by Mr. Hudson of \$64,420.00.

4. Mr. Hudson was provided with a spreadsheet outlining the sales activities of the cemetery under his ownership. This information was provided to Mr. Hudson in writing by letter dated May 21, 2015.

5. Upon receipt of Notices of the audit results, Mr. Hudson elected to meet with representatives of the Regulation and Enforcement Division of the Mississippi Secretary of State's Office which meeting lead to a Consent Agreement entered into between Mr. Hudson and the Mississippi Secretary of State on August 6, 2015.

6. At the hearing conducted on December 18, 2015, Dave Scott, Assistant Secretary of State in the Regulation and Enforcement Division, testified to the matters leading up to the Consent Agreement dated August 6, 2015, a copy of which was admitted into evidence and is attached to this report and recommendations as Exhibit "A".

7. Mr. Hudson testified on his own behalf and agreed to the matters testified to by Mr. Scott.

8. At said hearing, Mr. Hudson, who acted in his own behalf, presented proof that on December 17, 2015, he had filed with the Secretary of State's Office a Certificate of Formation of Hudson Park Cemetery, LLC. He further agreed that he would transfer ownership of the certificate of deposit which he had established at Planters Bank & Trust Company in Greenwood, Mississippi, from his personal name on behalf of the Cemetery to the name of his newly formed limited liability company.

9. He further agreed that in the week following the date of the hearing he would comply with the Consent Agreement by adding to the certificate of deposit established on July 8, 2015, an amount necessary to come into compliance with the aforesaid Consent Agreement.

10. In Compliance with the Consent Agreement, on December 23, 2015, Mr. Hudson delivered to the office of the undersigned Hearing Officer copy of a certificate of deposit with an account title of "Hudson Park Cemetery LLC for Perpetual Care Only" in the amount of \$5,759.81.¹ A copy of that Certificate is attached hereto as Exhibit "B".

II. Conclusions of Law

11. Hudson Park Cemetery located in Greenwood, Mississippi, is a "perpetual care cemetery" as defined under the Mississippi Cemetery Law Miss. Code Ann. §41-43-33, *et seq.*

12. The Consent Agreement entered into between the owner of Hudson Park Cemetery and the Mississippi Secretary of State dated August 6, 2015, was validly entered into and is enforceable against the parties in conformity with the terms set forth therein.

¹ It is assumed that the additional \$518.91 added to the certificate of deposit represents 15% of cemetery lot sales made since the April 2015 audit.

III. Recommendation of Hearing Officer

13. In view of the willingness of Xavier T. Hudson and his limited liability company, Hudson Park Cemetery, LLC, to comply with the matters discussed and agreed to at the hearing conducted on December 18, 2015, it is the recommendation of the undersigned Hearing Officer that no revocation of the Respondent's perpetual care license be considered nor the imposition of any administrative penalty be imposed so long as the Respondent continues to comply with the Consent Agreement of August 6, 2015, and the provisions of the Mississippi Cemetery Law, including the annual reports required to be made with the Secretary of State by March 31 of each year as required by Miss. Code Ann. §41-43-38(2).

Respectfully submitted, this the 20th day of January, 2016.


H. D. BROCK, SR.
HEARING OFFICER

OFFICE OF THE MISSISSIPPI SECRETARY OF STATE
REGULATION AND ENFORCEMENT

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2911 Highway 49 S.)	
GREENWOOD, MS 38930)	LPC-15-1411
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)	
<i>Respondent</i>)	

CONSENT AGREEMENT

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 to provide for the Cemetery Law, Miss. Code Ann. §§ 41-43-31 to 41-43-53 (“Law”), and Respondent do hereby enter into this Consent Agreement (“Agreement”). This Agreement is entered into by the Division and the Respondent in lieu of the issuance of formal charges by the Division alleging a violation of Miss. Code Ann. § 41-43-37.

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, Hudson Park Cemetery (hereinafter “Hudson Park”) is a perpetual care cemetery pursuant to Miss. Code Ann. §§ 41-43-31, *et seq.*
2. Pursuant to Miss. Code Ann. § 41-43-37(1)(a), 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 a perpetual care trust, and that Hudson Park owes Six Thousand Seven Hundred Twenty-Three Dollars (\$6,723.00) to its perpetual care trust.

3. Pursuant to Miss. Code Ann. § 41-43-37(3), a certificate of deposit created in lieu of a perpetual care trust must contain the words, "For Perpetual Care," in the caption of the certificate. Parties acknowledge that the certificate of deposit established by Respondent was not, and currently is not, properly styled as required by law. Hudson Park agrees to change the caption of the certificate of deposit to 'Hudson Park Cemetery For Perpetual Care'.
4. As such, Hudson Park agrees to the following:
 - a. Hudson Park agrees to deposit no less than Five Hundred Sixty Dollars and Twenty-Five Cents (\$560.25) per month into a perpetual care trust/certificate of deposit for Twelve (12) months on or before the last day of each month until the deficiency is resolved. The first deficiency payment is due August 1, 2015, with the final payment in the being made on or before July 31, 2016.
 - b. Hudson Park acknowledges that these deposits are required to meet the obligations of Miss. Code Ann. Section 41-43-37(1), for the trusting of fifteen percent (15%) of interment sales.
 - c. Hudson Park further acknowledges that it is required to meet the obligations of Miss. Code Ann. Section 41-43-37(1), for the trusting of fifteen percent (15%) of interment sales for all future interment sales made and for all sales made between April 20, 2015 and the present time and agrees to make meet these obligations.

- d. Hudson Park agrees that it will restyle its perpetual care certificate of deposit to reflect the proper wording as required by Miss. Code Ann. § 41-43-37(3).
 - e. Hudson Park agrees that stylistic changes to the caption of the certificate of deposit will be made before/when the certificate is due to be renewed as required by Miss. Code Ann. § 41-43-37(3).
5. 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.
 6. 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.
 7. 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.
 8. 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.* which includes revocation of registration, fines, and/or imprisonment.

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 herein. The parties also acknowledge that 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 6th day of August, 2015.

HUDSON PARK CEMETERY

BY: Xavier J. Hudson
Xavier Hudson
Owner

Date: August 2, 2015

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

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

Date: 8.10.15



Planters Bank & TRUST COMPANY

Member FDIC

GREENWOOD - MEDALLION DR
915 Medallion, Greenwood, MS 38930

TIME CERTIFICATE OF DEPOSIT NONTRANSFERABLE AND NONNEGOTIABLE

Account Title HUDSON PARK CEMETERY LLC FOR PERPETUAL CARE ONLY		Account Type TD 30 DAY < 100M		Taxpayer ID Number 81-0787496
Account Number 0000004606021534	Amount \$ 5,759.81	Date of Issue December 23, 2015	Maturity Date January 22, 2016	Term 30 Days / Automatic Renewal
Interest Rate Per Annum 0.35 % with an annual percentage yield of 0.35%.				Interest Payment Frequency Every 30 Days
				Interest Payment Disposition Interest will be capitalized to this certificate.

TIME CERTIFICATE OF DEPOSIT

Agreement. This Time Certificate of Deposit is a part of, and governed by, our Time Deposit Agreement. Among other things, this means that all terms defined in that agreement have the same meanings here. You have received a copy of that agreement, the Truth in Savings disclosures (if applicable), and the fee schedule. You have read them and agree to them.

Early Withdrawal Penalty. We do not have to permit early withdrawals from the account. On each one we do permit, we can charge a penalty calculated as follows: For terms less than one year, one month's interest on the amount withdrawn. For terms one year and greater, three month's interest on the amount withdrawn. If there is enough accrued interest to cover the penalty, we deduct the penalty from it. If not, we deduct the remainder of the penalty from principal. If the account is a variable rate account, we will calculate the penalty using the interest rate being applied at the time of withdrawal. If the account is an Individual Retirement Account, the early withdrawal penalty will be in addition to any penalty imposed under the Individual Retirement Account (IRA) Disclosure Statement. The minimum early withdrawal penalty is seven days' simple interest on any amount withdrawn (a) within the first six days after the account is opened, or (b) within six days after a previous early withdrawal.

Nontransferable. This Time Certificate of Deposit is nonnegotiable and nontransferable. All purported holders or assignees of it agree that our right of setoff will have priority over any of their claims.

PLANTERS BANK AND TRUST CO

By

Ranette Michael

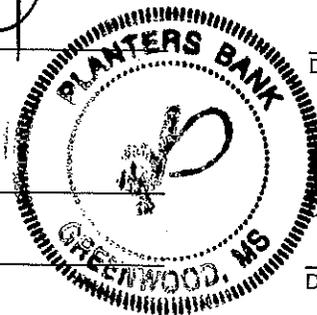
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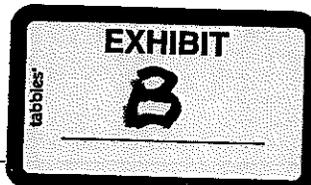
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Date

Date



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5. 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.
 6. 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.
 7. 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.
 8. 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.* which includes revocation of registration, fines, and/or imprisonment.

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The parties acknowledge that they have read this Agreement 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

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 20th day of August, 2015.

HUDSON PARK CEMETERY

BY: Xavier J. Hudson
Xavier Hudson
Owner

Date: August 2, 2015

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

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

Date: 8.6.15



Planters Bank & TRUST COMPANY

Member FDIC

GREENWOOD - MEDALLION DR
915 Medallion, Greenwood, MS 38930

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				Interest Payment Disposition Interest will be capitalized to this certificate.

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Nontransferable. This Time Certificate of Deposit is nonnegotiable and nontransferable. All purported holders or assignees of it agree that our right of setoff will have priority over any of their claims.

PLANTERS BANK AND TRUST CO

By

Handwritten signature: Karolite Michael

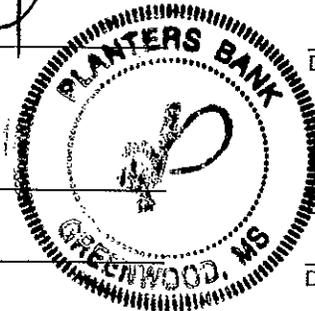
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SURRENDERED BY:

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X



Date

Date

