

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

**IN THE MATTER OF:**

**ROBINSON'S FRIENDLY  
FUNERAL HOME, INC.  
P.O. BOX 8636  
MOSS POINT, MS 39562**

**Administrative Proceeding  
Number: LPR-15-1343**

**Respondent**

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**FINAL ORDER**

This cause came before a hearing officer on August 20, 2015. On September 5, 2015, the appointed hearing officer submitted his Recommendations as Findings of Facts and Conclusions of Law, attached as Exhibit A. The Respondent was sent the recommendation and given fourteen (14) days to respond. At the time of this Order, no response has been 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 Preneed Cemetery and Funeral Registration Act ("Act"), Mississippi Code Annotated § 75-63-51 *et. seq.* which governs persons operating in the preneed funeral business in the State of Mississippi.
2. As a provider of preneed funeral services, Robinson's Friendly Funeral Home, Inc. ("Robinson") is subject to the requirements of the Act and regulations promulgated thereunder.
3. The Secretary of State, Regulation and Enforcement Division ("Division") has jurisdiction of the parties and subject matter herein.

4. Mississippi Code Annotated Section 75-63-65 requires that any establishment or organization that sells preneed merchandise and/or services must be registered with the Secretary of State's Office prior to selling any preneed merchandise and/or services. Robinson sold at least thirty-eight (38) preneed contracts while not being registered with the Division. This represents thirty-eight (38) separate violations of the Act.
5. Prior to the registration requirement which began in January 2002, Robinson sold at least twenty (20) preneed contracts. Mississippi Code Annotated Section 75-63-55(3) requires that all preneed contracts sold must be funded by trust or insurance or evidenced by a warehouse receipt. Of the fifty-eight (58) preneed contracts Robinson sold both prior to and after 2002, none have been funded in any of these three (3) ways. This represents fifty-eight (58) separate violations of the Act.
6. Mississippi Code Annotated Section 75-63-59(4) requires that eighty-five percent (85%) of all preneed funds collected for a trust-funded preneed contract must be deposited in a trust account. Prior to July 2006, fifty percent (50%) of all preneed funds collected for a trust-funded preneed contract should have been deposited in a trust account. Robinson did not deposit funds it received for at least fifty-eight (58) trust-funded preneed contracts resulting in at least One Hundred Sixty-Nine Thousand, Three Hundred Fifty Dollars (\$169,350.00) in misappropriated consumer funds. This represents fifty-eight (58) separate violations of the Act.
7. Mississippi Code Annotated Section 75-63-81 requires that for each trust-funded preneed contract sold after July 1, 2009, a fee of ten dollars (\$10) be remitted

quarterly to the Division on a form prescribed by the Division. The statute states further that “the fees shall be remitted to the association no later than fifteen (15) days after each quarter.” As of the date of this Order, Robinson has failed to file twenty-four (24) Loss Recovery Quarterly Reports, as required by the statute. This represents twenty-four (24) separate violations and eleven (11) consumers who do not have the required coverage under the Act.

8. A hearing was held on this matter on August 20, 2015 with Hon. Robert W. Wilkinson serving as hearing officer.

### **CONCLUSIONS OF LAW**

9. Robinson’s selling preneed contracts without being registered constitutes thirty-eight (38) violations of Mississippi Code Annotated Section 75-63-65. Section 75-63-67 requires a penalty in the amount of One Hundred Dollars (\$100.00) per day that the annual report is late. Mississippi Code Annotated Section 75-63-69(b)(i) caps the amount of penalties under the Act for a single proceeding or a series of related proceedings at Ten Thousand Dollars (\$10,000.00).
10. Mississippi Code Annotated Section 75-63-56(2) allows the Secretary of State to issue a Cease and Desist Order, with or without a prior hearing, against a registrant engaged in any prohibited act or practice.

Pursuant to the authority granted by Mississippi Code Annotated Section 75-63-69(1) (a), it is hereby ORDERED that Robinson CEASE AND DESIST all preneed sales. It is illegal for Robinson to sell any and all preneed services or merchandise.

Pursuant to Mississippi Code Annotated Section 75-63-59(4), it is hereby ORDERED that Robinson place One Hundred Sixty-Nine Thousand Three Hundred fifty Dollars (\$169,000.00) in trust immediately.

Pursuant to the authority granted by Mississippi Code Annotated Section 75-63-69(1)(b)(i), it is ORDERED that an administrative penalty in the amount of Ten Thousand Dollars (\$10,000.00) shall be paid by close of business December 11, 2015 to the Secretary of State for the above described violations of the Act against Robinson.

SO ORDERED AND ADJUDGED.

This, the 5<sup>th</sup> day of November, 2015.



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

OFFICE OF THE MISSISSIPPI SECRETARY OF STATE  
REGULATION AND ENFORCEMENT DIVISION

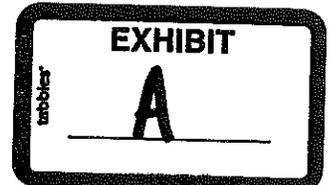
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**FINDINGS OF FACT & CONCLUSIONS OF LAW**

CAME ON FOR HEARING on August 20, 2015, at the request of the Secretary of State of Mississippi to issue a Cease and Desist Order for Preneed Sales, full funding of all preneed liabilities, and a monetary penalty against Robinson's Friendly Funeral Home, Inc. (hereinafter referred to as "Robinson's"), and at said Administrative Hearing, the Hearing Officer having considered the testimony of the witnesses, the evidence submitted and the law applicable hereto, now enters the following Findings of Fact and Conclusions of Law.

1. The Secretary of State is vested with the regulation of establishments that sell preneed merchandise and/or services in the State of Mississippi, pursuant to the Mississippi Pre-need Cemetery and Funeral Registration Act, Mississippi Code Ann. §75-63-51 to §75-63-75.
2. Robinson's, at the time of the alleged violations that were submitted to the Hearing Officer at the Administrative proceedings, was an establishment or organization that sells preneed merchandise for services pursuant to Mississippi Code Ann. §75-63-65.
3. At the Administrative hearing, the Secretary of State presented Sherri Fields as a witness in support of the allegations set forth by the Secretary of State. Ms. Fields is a Senior Examiner in the Regulation and Enforcement Division, Mississippi Secretary of State's office.



4. Phyllis Lancaster is the President, Secretary and Treasurer of Robinson's. Ms. Lancaster was not present at the hearing. However, Ms. Lancaster was contacted telephonically during said hearing and participated in said hearing telephonically. At the conclusion of the hearing, Ms. Lancaster was given eight (8) additional days to submit any evidence in defense of the allegations made by the Secretary of State's office. Ms. Lancaster did not submit any evidence within said eight (8) days in defense of the Secretary of State's allegations.

5. That the Hearing Officer finds that the Secretary of State proved by a preponderance of the credible evidence that Robinson's failed to register with the Secretary of State, after January 1, 2002, for the selling of preneed merchandise and/or services. The Hearing Officer finds that Robinson's sold at least thirty-eight (38) preneed contracts while not being registered with the Secretary of State's office. The Hearing Officer finds that Robinson's committed thirty-eight (38) separate violations of the Mississippi Pre-need Cemetery and Funeral Registration Act.

6. That the Hearing Officer finds that the Secretary of State proved by a preponderance of the credible evidence that prior to the registration requirements which began in January 2002, Robinson's sold twenty (20) preneed contracts.

7. That the Hearing Officer finds that the Secretary of State proved by a preponderance of the credible evidence that, pursuant to Mississippi Code Ann. §75-63-55(3), all preneed contracts sold shall be funded by trust or insurance, or evidenced by warehouse receipt. The Hearing Officer finds that of the fifty-eight (58) preneed contracts known to have been sold by Robinson's, none have been funded in any of these three ways. This represents 58 separate violations of the Act.

8. That the Hearing Officer finds that the Secretary of State proved by a preponderance of the credible evidence that after July 1, 2006, pursuant to Mississippi Code Ann. §75-63-59(4) (1972), Robinson's was required to deposit in a trust account eighty-five percent (85%) of all preneed funds collected for a trust-funded preneed contract. Prior to July 2006, Robinson's was required to place fifty percent (50%) of all preneed funds collected for a trust-funded preneed contract in a trust account. The Hearing Officer further finds that Robinson's did not deposit funds on at least fifty-eight (58) trust-funded preneed contracts resulting in at least One Hundred Sixty Nine Thousand Three Hundred Fifty and 00/100 Dollars (\$169,350.00), in misappropriated consumer funds. The Hearing Office further finds that this results in fifty-eight (58) separate violations of the Act.

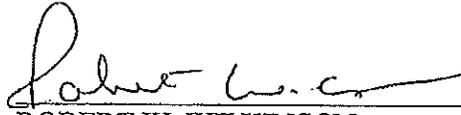
9. That the Hearing Officer finds that the Secretary of State proved by a preponderance of the credible evidence Robinson's repeatedly violated the provisions of Mississippi Code An. §75-63-59(4). The Hearing Officer hereby orders that Robinson's shall pay the sum of One Hundred Sixty Nine Thousand Three Hundred Fifty and No/100 Dollars (\$169,350.00), in misappropriated consumer funds. The Hearing Officer further orders that said funds shall be placed in a trust immediately.

10. The Hearing Officer finds that the Secretary of State proved by a preponderance of the credible evidence that, pursuant to Mississippi Code Ann. §75-63-81, Robinson's should have submitted loss recovery fees to the Pre-needs Costs Recovery Association.

11. The Hearing Officer finds that Robinson failed to file 24 Loss Recovery Quarterly Reports as required by statute. This results in twenty-four (24) separate violations of the Act and eleven (11) consumers who do not have the required coverage under the Act.

12. There shall be an Administrative penalty in the sum of Ten Thousand and No/100 Dollars (\$10,000.00), and same is hereby imposed on Robinson's for the aforementioned violations, and said sum shall be paid by Robinson's to the Secretary of State for the above described violations.

SO ORDERED this the 10<sup>th</sup> day of September, 2015.

  
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ROBERT W. WILKINSON  
HEARING OFFICER