

OFFICE OF THE MISSISSIPPI SECRETARY OF STATE  
REGULATION AND ENFORCEMENT

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IN THE MATTER OF:	)	ADMINISTRATIVE
WORLEY BROTHERS SCRAP IRON	)	PROCEEDING NUMBER:
AND METAL, INC.	)	LM-15-1296
275 K-T ROAD	)	SOS REGISTRATION NO.
CRENSHAW, MS 38621	)	14085334
	)	
	)	
<i>Respondent</i>	)	

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FINAL ORDER

This cause came before a hearing officer on April 7, 2015. On July 8, 2015, the Hearing Officer submitted his proposed Findings of Fact and Conclusions of Law, attached as Exhibit A, to the Respondent and to the Undersigned. Respondent, Worley Brothers Scrap Iron and Metal, Inc., (Worley) was afforded an opportunity to submit any written comment or input to the Secretary of State before issuance of a Final Order in this cause. The Respondent failed to submit any information or comment to the Secretary of State by the deadline of July 23, 2015. Exhibit B. The Division sought to confirm that the business had, in fact, received the recommendation from the hearing officer and was aware of its opportunity to present written comment regarding the same. Therefore, on two separate occasions the Division contacted the Memphis, Tennessee, office of the business by telephone leaving messages for Mr. Johnny Worley, one of the owners of Worley Brothers Scrap Iron and Metal, Inc. Again, the business failed to respond. Therefore, the above-styled cause stands ready for final adjudication via this Final Order.

Having reviewed the proposed Findings and Facts and Conclusions of Law issued by the Hearing Officer in this cause, the Undersigned accepts and adopts, in total, the Hearing Officer's

recommendations for Findings of Fact and Conclusions of Law. The same, which are attached as Exhibit A, are fully incorporated into the content of this Final Order.

**IT IS HEREBY ORDERED**, that Worley Brothers Scrap Iron and Metal, Inc., shall pay an administrative penalty in the amount of Three Thousand Five Hundred Dollars (\$3,500.00), to be paid to the Secretary of State on or before 5:00 p.m. on Friday, October 2, 2015.

**SO ORDERED and ADJUDGED.**

This, the 31 day of August, 2015.



C. Delbert Hosemann, Jr.  
C. DELBERT HOSEMANN, JR.  
*In his official capacity as Secretary of  
State of the State of Mississippi*

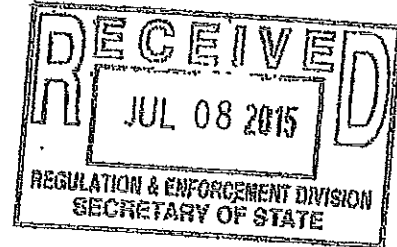
OFFICE OF THE MISSISSIPPI SECRETARY OF STATE  
REGULATION AND ENFORCEMENT DIVISION

IN THE MATTER OF:

WORLEY BROTHERS SCRAP IRON & METAL, INC.

SOS REGISTRATION NO. 14085334

SOS CAUSE NO. LM-15-1296



FINDINGS OF FACT AND CONCLUSIONS OF LAW

The undersigned was appointed by the Secretary of State of the State of Mississippi to conduct a hearing and issue a Findings of Fact and Conclusions of Law in the referenced matter. A hearing was held before the undersigned on April 7, 2015, at the offices of the Secretary of State in Jackson, Mississippi, at which David Penson, Examiner and Regulation and Enforcement Officer for the Mississippi Secretary of State, appeared and at which Mr. Johnny Worley and Ms. Dottie Carlisle appeared on behalf of the Respondent. The said David Penson testified and was represented by counsel for the Mississippi Secretary of State. He presented exhibits along with his testimony. Dottie Carlisle, Johnny Worley, and Langston Worley presented testimony only.

FINDING OF FACT

1. The Secretary of State made allegations of violations of the Mississippi Code Annotated § 97-17-71 and/or the Secretary of State Regulations, They are:
  - A. Records of required information were not being kept for each transaction as required by the Scrap Metal Law, Code MCA 97-17-71(2). Specifically, Ms. Carlisle advised Mr. Penson that records of transactions that had been paid were accessible only at the company's home office in Memphis. A violation of this Section is a misdemeanor punishable by fine not to exceed One Thousand Dollars (\$1,000.00) per offense.



- B. Ms. Carlisle informed Mr. Penson that her practice was to pay cash for all scrap metal purchases. As required by Code MCA 97-17-71(8), a purchaser shall not enter into any cash transactions in the payment for purchases of recycled materials. Payment shall be made by check issued to the seller of the metal, made payable to the name and address of the seller and mailed to the recorded address of the seller, or by electronic funds transfer. Additionally, payment shall not be made for a period of three (3) days after the purchase of the transaction. A violation of this Section is a misdemeanor punishable by a fine not to exceed One Thousand Dollars (\$1,000.00) per offense.
- C. On reviewing the Respondent's tag and hold procedures, Mr. Penson observed that regulated materials from multiple purchases were being stored together without any identification marks. A purchaser is required to hold purchased metal property in a separate and identifiable form for three (3) days to photographically capture the metal property and maintain the photograph for a period of not less than two (2) years. Additionally, the date and time of the purchase shall be digitally recorded on the photograph and the identity of the person taking the photograph shall be recorded. Code MCA 97-17-71(3) requires that the purchaser of metal property must hold the metal property separate and identifiable from other purchases for not less than three (3) business days from the date of the purchase. A violation of this Section is a misdemeanor punishable by a fine of not to exceed One Thousand Dollars (\$1,000.00) per offense.
- D. Scrap metal Dealers must keep an accurate and legible record of purchases and the report must be electronically submitted. Rule 5.1 in part 13, Chapter 5 MCA 97-17-71.1(1)(b), of the Secretary of State's Regulations requires that applicants for registration and registered Scrap Metal Dealers must keep an accurate and legible record pursuant to the Act. Applicants and Scrap Metal Dealers shall comply with the record keeping requirements of the Act by submitting a Customer Transaction Report for each purchased transaction. The Customer Transaction Report must be submitted electronically to the Agent, who shall keep and maintain all electronic records pursuant to the Act. Customer

Transaction Reports must be uploaded to the Secretary's Agent no later than the close of business (5:00 p.m.) of the next business date following the date of purchase by the Dealer. Mr. Penson was unable to access records of copper purchases from the week before his visit because the physical copies had been moved to Memphis and the electronic copies had not been timely uploaded. Mr. Penson also submitted three (3) transactions in which the sellers' facial features were not clearly visible in the submitted electronic report.

2. Ms. Carlisle and Mr. Worley, as stated, representing the Respondent, did not deny, contradict or refute the evidence establishing the above violations. They testified that since Mr. Penson's visit, they have revised their procedures and trained employees to correct the violations that Mr. Penson observed.
3. In summary, the evidence of the Secretary of State establishes the commission of the alleged acts, and the evidence of the Respondent does not refute the commission of the alleged acts, but, as stated, indicates that the incorrect procedures have been corrected since Mr. Penson's visit.

#### CONCLUSIONS OF LAW

1. The Secretary of State has established, as found above, seven (7) separate violations of the regulations and statutes regulating Scrap Metal Dealers in Mississippi, with permitted fines totaling Seven Thousand Dollars (\$7,000) for violations described in Subparagraphs (a), (b), (c), and (d). Any of these violations also constitutes sufficient grounds for the Secretary to suspend, revoke, or deny renewal of the Respondent's license as a scrap metal dealer.
2. The only issue raised by the Respondent is that the violations were not intentional. Employees had not been trained in the procedures that Mississippi requires for scrap metal dealers at the time of Mr. Penson's visit, but since that time the Respondent has corrected its procedures and trained its employees so that the violations are not continuing.

CONCLUSION AND AWARD

The hearing officer finds that Worley Brothers has violated Mississippi laws and regulations of the Secretary of State relating to the regulation of scrap metal sales in the manner as found above, and the penalties applicable to those violations are as set forth above.

Worley Brothers could be indebted to the Secretary of State of the State of Mississippi in the sum and amount of Seven Thousand Dollars (\$7,000.00) for the enumerated violations of Mississippi laws and the applicable regulations of the Secretary of State, and its license could be suspended or revoked. However, the Hearing Officer, because of the facts in this case, recommends a fine of a total of Three Thousand Five Hundred Dollars (\$3,500.00) for the violations described in Paragraph 1. Because the Respondent has corrected its procedures so that the violations are not continuing, the Hearing Officer recommends no suspension of the Respondent's license.

WITNESS MY SIGNATURE on this, the 3<sup>rd</sup> day of July, 2015.



MATT A. BALDRIDGE  
Hearing Officer



DELBERT HOSEMANN  
Secretary of State

July 8, 2015

Mr. Johnny Worley  
Worley Brothers Scrap Iron & Metal, Inc.  
275 K-T Road  
Crenshaw, MS 38621

Article #: 71054522644480000419  
Date/Time: 7/8/2015 2:41:50 PM  
Code:  
Code2:  
File #:  
Internal File #:  
Internal Code #:

By: Certified Mail/Return Receipt Requested  
United States Postal First Class Delivery

Re: Recommendation of Hearing Officer  
Worley Brothers Scrap Iron & Metal, Inc.  
SOS Cause No. LM-15-1296  
SOS Registration No. 14085334

Dear Mr. Worley:

The hearing officer has made a recommendation in your case stemming from the hearing held on Tuesday, April 7, 2015. A copy of the recommendation is enclosed. Under our rules of procedure, you have an opportunity to present anything relevant to the recommendation, in writing, before Secretary Hosemann makes a makes a final decision and issues a Final Order in your case.

If you have anything that you would like for Secretary Hosemann to consider prior to entering a Final Order, please send the same to me at: 125 S. Congress Street, 17<sup>th</sup> Floor, Jackson, MS 39201. If you wish to submit anything, I must receive it by 5:00 p.m. on Thursday, July 23, 2015.

Sincerely,

Dave Scott  
Assistant Secretary of State  
Regulation and Enforcement

cc: Hon. Matthew Baldrige, Hearing Officer  
302 Highland Park Cove, Ste. B  
Ridgeland, MS 39157-6058

