

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

IN THE MATTER OF:)	ADMINISTRATIVE
YAZOO MEMORIAL PARK OF YAZOO)	<u>PROCEEDING NUMBER:</u>
)	LPC-16-1835
505 MAYNIE STREET)	
YAZOO CITY, MS 39194)	<u>REGISTRATION NUMBER:</u>
)	MS-PCC-016
<i>Respondent</i>)	

CONSENT ORDER

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 Order (“Order”). This Order 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

In consideration of a final resolution of the matters set forth herein, the Division and Respondent hereby agree, stipulate, and undertake as follows:

1. Respondent admits the jurisdiction of the Division as to all parties and matters herein under the authority of the Law.
2. Parties acknowledge and agree that the cemetery property, Yazoo Memorial Park of Yazoo (hereinafter “Yazoo Memorial”) is a perpetual care cemetery pursuant to Miss. Code Ann. §§ 41-43-31, *et seq.*
3. Respondent hereby admits the following violations:

- a. Pursuant to Miss. Code Ann. § 41-43-38(2)(b), each perpetual care cemetery is to file an annual report stating the amount of sales for the previous year. Additionally, 1 Miss. Admin. Code Pt. 12, Subpt. 2, R. 2.7 requires that each report be notarized as true and correct. Parties agree that Yazoo Memorial made four (4) sales in 2014 and five (5) sales in 2015, yet filed a report falsely stating no sales for either year.
 - b. Miss. Code Ann. § 41-43-37(1) requires that an irrevocable perpetual care trust fund be established by the owner of every cemetery continuing to do business within the state of Mississippi. Parties agree that Yazoo Memorial has failed to establish an irrevocable perpetual care trust fund, and continues to operate without such a fund.
 - c. Pursuant to Miss. Code Ann. § 41-43-37(1)(a), Fifteen Percent (15%) of ground interments' sales price 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 Yazoo Memorial owes Two Thousand Three Hundred and Six Dollars and Eighty Five Cents (\$2,306.85) to its perpetual care trust.
4. As such, and in lieu of punitive actions authorized in Miss. Code Ann. § 41-43-53, the Division and Respondent agree to the following:
- a. In order to meet the obligations of Miss. Code Ann. § 41-43-37, Yazoo Memorial agrees to establish an irrevocable trust fund under the requirements of Miss. Code Ann. § 41-43-37. Alternatively, Yazoo Memorial may choose to utilize a certificate of deposit that matures every thirty (30) days under the requirements of Miss. Code Ann. § 41-43-37(3).
 - b. Yazoo Memorial agrees to deposit no less than One Hundred and Ninety Two Dollars and Twenty Four Cents (\$192.24) per month into a perpetual care trust/certificate of deposit for Twelve (12) months, or until the deficiency is resolved, on or before the

last day of each month. The first deficiency payment is due on or before July 30, 2016, with the final payment being made on or before June 30, 2017.

- c. Yazoo Memorial acknowledges that these deposits are required to meet the obligations of trusting fifteen percent (15%) of interment sales under Miss. Code Ann. Section 41-43-37(1)(a).
 - d. Further, Yazoo Memorial acknowledges the requirement, and agrees to meet the obligations of Miss. Code Ann. Section 41-43-37(1), by trusting Fifteen Percent (15%) of all future interment sales as well as all interment sales made between March 30, 2016, and the present time.
5. Yazoo Memorial acknowledges that in order to operate as a legally valid perpetual care cemetery it must forthwith and continuously operate under the Mississippi Cemetery Law codified in Miss. Code Ann. §§ 41-43-31, *et seq.*, and agrees that it will do so.
 6. 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 Order.
 7. 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.
 8. Respondent understands that the entry of this Order represents the settlement of an impending regulatory charge by the Division against Respondent as of the date of this Order.
 9. Respondent understands that the Division retains jurisdiction over the matters addressed in this Consent Order until all obligations by Respondent are fulfilled, including but not limited to enforcement actions authorized by Miss. Code Ann. § 41-43-53 which includes fines and/or imprisonment.

III. Acknowledgement

The parties acknowledge that they have read this Order 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 Order, and that they have not been threatened or otherwise coerced into entering into this Consent Order.

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

So Agreed, this the 15th day of June, 2016.

Yazoo Memorial Park of Yazoo

BY: Carl Fleming
Carl Fleming
Owner

Date: 6/15/16

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

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

Date: 6/15/16