

FILED
JUL 30 2015
COMMISSION OF INSURANCE
INSURANCE DIVISION OF IOWA

BEFORE THE IOWA INSURANCE COMMISSIONER

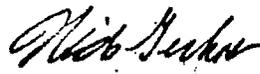
IN THE MATTER OF)
CHRISTINE R. NELSON f/d/b/a)
Nelson Funeral Home,)
Preneed Seller License No. 00148,)
Respondent)

ORDER

Division Case No. 86713

This matter came before Assistant Commissioner Rosanne Mead on a statement of charges requesting a summary cease and desist order. After being fully informed of the matter, Assistant Commissioner Mead issued a summary order to cease and desist on June 30, 2015. By operation of law, under §523A.805(1), the summary order is hereby final.

SO ORDERED on this 30 day of July 2015.



NICK GERHART
Insurance Commissioner

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IN THE MATTER OF)
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 CHRISTINE R. NELSON f/d/b/a)
 Nelson Funeral Home,)
 Preneed Seller License No. 00148,)
)
 Respondent)

**SUMMARY CEASE
AND DESIST ORDER**

Division Case No. 86713

This matter came before Assistant Commissioner Rosanne Mead on a statement of charges requesting a summary cease and desist order. After being fully informed of the matter, Assistant Commissioner Mead issues the following findings of fact, conclusions of law and summary order to cease and desist:

I. PARTIES AND JURISDICTION

1. The Commissioner of Insurance, Nick Gerhart, (the Commissioner) administers and enforces the Iowa Cemetery and Funeral Merchandise and Funeral Services Act, Iowa Code Chapter 523A, relating to the regulation of preneed sellers of funeral services. Commissioner Gerhart has designated Assistant Commissioner Mead to administer and enforce the Iowa Cemetery and Funeral Merchandise and Funeral Services Act, Iowa Code Chapter 523A. Commissioner Gerhart has designated the Division to seek enforcement of these provisions.
2. Christine R. Nelson (Respondent) is an individual with a last known residence of 806 Summer Meadows Court, Perry, Iowa 50220.
3. Respondent formerly did business as Nelson Funeral Home with a last known business address of 423 8th Street, DeWitt, Iowa.
4. Respondent became licensed with the state of Iowa as a preneed seller of funeral services on November 30, 2007.

5. From at least October 21, 2011 to the present date, Respondent has engaged in acts and practices within the state of Iowa constituting violations supporting summary cease and desist orders under Iowa Code §523A.805.

II. FINDINGS OF FACT

6. On or about February 26, 2011, Respondent filed a preneed seller annual report for 2010 (2010 Annual Report).

7. On or about October 21, 2011, Respondent sought to voluntarily surrender her preneed seller license, informing the Division that she wished to cancel the license. Respondent's preneed seller license was cancelled in November 30, 2011.

8. The 2010 Annual Report was returned to Respondent on February 26, 2011.

9. Respondent thereafter re-filed the 2010 Annual Report with the Division on October 24, 2011.

10. Respondent continues to hold a license as a funeral director with the Iowa Mortuary Board.

11. The Division has not received a preneed seller annual report for the years 2011, 2012, 2013, 2014 or 2015.

12. From at least October 21, 2011 to the present date, Respondent is named under burial accounts as the provider of cemetery merchandise, funeral merchandise and funeral services.

13. On June 21, 2013, Respondent filed a voluntary petition for bankruptcy under Chapter 7A in the United States Bankruptcy Court for the Southern District Court of Iowa, Case No. 3:13-BK-01823.

14. On or about October 15, 2010, Respondent delivered preneed seller business records to the Schultz Funeral Home in DeWitt, Iowa (Schultz).

15. Respondent told Schultz representatives when the records were delivered that Respondent intended to cease operations of Nelson Funeral Home.

16. On or about April 15, 2013, Schultz representatives contacted Respondent and asked Respondent to retrieve the preneed seller records.

17. On or about April 30, 2013, Respondent delivered preneed seller business records to the Pape Funeral Home in Clinton, Iowa (Pape).

18. On February 16, 2015, the Division took possession of the records that Respondent had delivered to Pape.

19. Among the preneed seller records obtained by the Division on February 16, 2015, Respondent is named in fifteen active burial accounts as the provider of cemetery merchandise, funeral merchandise and funeral services. Although Respondent was named as provider, the beneficiaries in the purchase agreement had not yet received services.

20. The Division identified two financial institutions and six insurance companies named in the fifteen active burial accounts.

21. Respondent is listed on each contract or financial institution account as the assignee and is identified on each burial account as the provider of cemetery merchandise, funeral merchandise, funeral services, or a combination thereof.

II. CONCLUSIONS OF LAW

Count 1 Unlicensed Preneed Seller

22. Respondent was and continues to be a preneed seller under Iowa Code § 523A.102(27), which provides, in part:

“Seller” or “preneed seller” includes any person performing any term of a purchase agreement executed within this state, and any person identified under a burial account

as the provider of cemetery merchandise, funeral merchandise, funeral services, or a combination thereof.

23. Respondent is acting as a preneed seller because Respondent is identified in at least fifteen preneed purchase agreements under a burial account as the provider of cemetery merchandise, funeral merchandise and funeral services.

24. From at least January 2013 Respondent has not been licensed as a preneed seller as required by Iowa Code § 523A.501.1, which provides:

A person shall not advertise, sell, promote, or offer to furnish cemetery merchandise, funeral merchandise, funeral services, or a combination thereof when performance or delivery may be more than one hundred twenty days following the initial payment on the account without a preneed seller's license.

25. Respondent's acts and practices have been in violation of Iowa Code § 523A.501.1, subjecting Respondent to cease and desist orders under Iowa Code § 523A.805, civil penalties under Iowa Code § 523A.807.3, and costs of investigation and prosecution under Iowa Code § 505.8(10). (See Iowa Administrative Code 191—106.2(3).)

Count 2
Failure to File Preneed Seller Annual Report

26. As of April 1 of 2011, 2012, 2013, 2014 and 2015, Respondent failed to file the required preneed seller annual reports as required under Iowa Code § 523A.204.1, which provides: "A preneed seller shall file with the commissioner not later than April 1 of each year an annual report on a form prescribed by the commissioner." (See also Iowa Administrative Code 191—105.6(8).)

27. Respondent's acts and practices have been in violation of Iowa Code § 523A.204.1 and, Iowa Administrative Code 191.105.6(8), subjecting Respondent to cease and desist orders under Iowa Code § 523A.805, administrative penalties under Iowa Code § 523A.204.4, and costs of

investigation and prosecution under Iowa Code § 505.8(10). (See Iowa Administrative Code 191—106.2(3).)

Count 3
Failure to Document and Maintain Preneed Seller Records

28. Respondent has failed to maintain records as required by Iowa Administrative Code 191—105.3(1), which states:

105.3(1) *Transaction records to be kept by preneed sellers.* A preneed seller shall document all customer transactions and maintain accurate copies and records of all purchase agreements. If no other legal provision governs record retention, a preneed seller shall keep all customer records for a minimum of three years after the date of the death of the beneficiary. The preneed seller shall keep records and the identity of individuals in the records confidential.

(See also Iowa Administrative Code 191—105.6(6).)

29. Respondent's acts and practices have been in violation of Iowa Administrative Code 191—105.3(1) and 191—105.6(6), subjecting Respondent to cease and desist orders under Iowa Code § 523A.805, civil penalties under Iowa Code § 505.7A, and costs of investigation and prosecution under Iowa Code § 505.8(10). (See Iowa Administrative Code 191—106.2(3).)

III. ORDERS

IT IS THEREFORE ORDERED that Respondent Christine R. Nelson shall immediately cease and desist from:

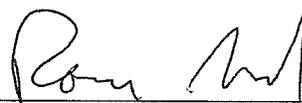
- A. Violating Iowa Code § 523A.501.1 by performing any term of a purchase agreement executed within this state, or remaining identified under a burial account as the provider of cemetery merchandise, funeral merchandise, funeral services, or a combination thereof;
- B. Violating Iowa Code § 523A.204.1 and Iowa Administrative Code 191—105.6(8) by failing to file on April 1 of each successive year, the preneed seller annual reports for 2011, 2012, 2013, 2014 and 2015;

C. Violating Iowa Administrative Code 191—105.3(1) and 191—105.6(6) by failing to document and maintain accurate copies and records of all purchase agreements, whether the beneficiary is deceased or the Respondent remains identified as provider when services have not yet been provided.

IT IS FURTHER ORDERED that each day in which the Respondent is in violation of any of the prohibition ordered above shall be a separate violation for civil penalties.

This order shall be sent by certified mail to the last known address of the Respondent.

SO ORDERED on this 30 day of June 2015.



ROSANNE MEAD
Assistant Insurance Commissioner

NOTICE OF RIGHT TO REQUEST HEARING

YOU ARE HEREBY NOTIFIED that Respondent may request a hearing in this matter. This request must be in writing and must be filed within 30 calendar days of the date of this Order, with Assistant Commissioner Rosanne Mead, Iowa Insurance Division, 601 Locust, Fourth Floor, Des Moines, Iowa 50309. A notice of the hearing shall be prepared and shall be provided at least 15 days before the date of the hearing unless the parties agree to an earlier date. The hearing shall be held within 90 days after the date of the notice of the hearing unless extended by the presiding officer for good cause with at least 15 days notice to the parties. The resulting hearing will be held in accordance with Iowa Code Chapter 17A.