

BEFORE THE IOWA INSURANCE COMMISSIONER

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IN THE MATTER OF	)	CEASE AND DESIST ORDER
	)	AND SUBPOENA DUCES TECUM
U.S. PATRIOT SERVICES	)	
	)	DIVISION FILE NO.: 73436

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Now comes the Iowa Insurance Division ("Division"), pursuant to the provisions of Iowa Code Chapter 523A and finds as follows:

**PARTIES AND JURISDICTION**

1. The Commissioner of Insurance, Susan Voss, has jurisdiction in this matter pursuant to Iowa Code Chapter 523A.
2. U.S. Patriot Services is a purported entity with last known mailing address of 3042 St. Albans Drive Rossmoor, CA 90720. U.S. Patriot Services is not and has not been licensed to advertise, sell, promote, or offer to furnish cemetery merchandise, funeral merchandise, or funeral services in the state of Iowa.
3. U.S. Patriot Services has engaged in acts or practices within the state of Iowa constituting violations of Iowa Code Chapter 523A and 191 Iowa Administrative Code Chapters 103 and 105. The Insurance Commissioner is authorized to issue a summary order requiring U.S. Patriot Services to cease and desist from engaging in such acts or practices pursuant to Iowa Code § 523A.805 (2011).

**FACTUAL BACKGROUND**

4. On or about September 28, 2011, U.S. Patriot Services entered into a retail installment contract with two Iowa consumers for the sale of caskets. The contract specifically acknowledged that the caskets were to be stored and transported by the Interstate Warehouse

Office in Kansas City, MO, and to be transported upon execution of the contract or at the time of the consumers passing.

5. Caskets are funeral merchandise as defined at Iowa Code § 523A.102(12) (2011).

6. Iowa Code § 523A.501(1) (2011) provides the following: 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.

7. A check of the Preneed Seller Registration Database was performed by Division staff and indicated U.S. Patriot Services does not hold and has not held an Iowa preneed seller license.

8. Iowa law requires either the establishment of a trust fund prior to advertising, selling, promoting, or offering cemetery merchandise, funeral merchandise, funeral services, or a combination thereof in the state of Iowa, or insurance funding. See Iowa Code §§ 523A.201, 523A.401, 523A.402, 523A.403 (2011). Iowa law no longer allows for the warehousing of preneed funeral merchandise without compliance with trust requirements pursuant to Iowa Code § 523A.404(1) (2011).

9. On October 17, 2011, Division staff sent a letter via certified mail to U.S. Patriot Services' last known address notifying the entity of Iowa licensing requirements and requesting they provide a list of sales made in Iowa by November 7, 2011. To date, U.S. Patriot Services has provided no response to the Division.

## **COUNT I**

### **Preneed Seller Licenses**

10. Paragraphs 1 - 9 are incorporated herein by reference.

11. U.S. Patriot Services has advertised, sold, promoted, or offered to furnish funeral merchandise in the State of Iowa without a license in violation of Iowa Code §523A.501 (2011), 191 Iowa Administrative Code 103.1, and 105.7.

12. This action is necessary and appropriate in the public interest and for the protection of consumers and consistent with the purposes fairly intended by the provisions of Iowa Code Chapter 523A.

### **ORDERS**

WHEREFORE, IT IS HEREBY ORDERED pursuant to the powers granted to the Commissioner of Insurance by Iowa Code §§ 523A.805 (2011) as follows:

A. U.S. Patriot Services shall Cease and Desist from advertising, selling, promoting, or offering 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 in violation of Iowa Code § 523A.501(1) (2011).

B. U.S. Patriot Services shall be assessed a civil penalty of \$1,000.00 for violating Iowa Code §523A.501 (2011), 191 Iowa Administrative Code 103.1, and 105.7 pursuant to Iowa Code § 523A.807(3)(a) (2011).

IT IS FURTHER ORDERED pursuant to the powers granted to the Commissioner of Insurance by Iowa Code § 523A.803 (2011) that U.S. Patriot Services, within forty-five (45) days of receipt of this Order, furnish the Division with a complete listing of all sales made in Iowa and to disclose the specific cemetery or funeral merchandise sold, name and address of each consumer, name and address of each sales agent, amount paid or to be paid, and the name and address of the person or persons assisting or aiding in the solicitation, negotiation, or effectuation of such sales.

### **NOTICE OF RIGHT TO REQUEST HEARING**

NOTICE IS HEREBY GIVEN that U.S. Patriot Services may request a hearing in this matter. This request must be in writing and must be filed within thirty (30) calendar days of the date of this Order with Emily Kimes-Schwiesow, Enforcement Attorney, Iowa Insurance Division, 330 Maple Street, Des Moines, Iowa 50319. A notice of the hearing shall be prepared and shall be given at least fifteen (15) days before the date of the hearing unless the parties agree to an earlier date. The hearing shall be held within forty-five (45) days after the date of the notice of the hearing unless extended by the presiding officer for good cause with at least fifteen days notice to the parties. The resulting hearing will be held in accordance with Iowa Code Chapter 17A (2011).

### **NOTICE REGARDING FAILURE TO REQUEST A HEARING**

If you fail to request a hearing within thirty (30) days of the date of this Cease and Desist Order, the Order shall be a final Order of the Commissioner of Insurance and shall be enforceable by the Commissioner of Insurance in an administrative or court proceeding.

### **NOTICE REGARDING EXHAUSTION OF ADMINISTRATIVE REMEDIES AND RIGHT TO SEEK JUDICIAL REVIEW**

The failure to request a hearing can constitute a failure to exhaust your administrative remedies and limit the issues subject to judicial review. You may seek judicial review of this Order pursuant to Iowa Code chapter 17A after the Order becomes final. The Order becomes final thirty (30) days after it is issued if you do not timely request a contested case hearing, or following hearing if you do timely request a contested case hearing.

**NOTICE OF PENALTIES FOR WILLFUL VIOLATION OF THIS ORDER**

You are notified that any person who willfully violates this order may be subject to court action pursuant to Iowa Code § 523A.806, and 523A.807 (2011).

**NOTICE REGARDING IMPACT OF ORDER ON EXISTING LICENSES**

A final Cease and Desist Order may adversely affect existing business or professional licenses and result in license revocation or disciplinary action. For example, a final Cease and Desist Order issued to a licensed insurance agent may subject the insurance agent to insurance license revocation or other disciplinary action. Further notice is given that the Iowa Insurance Division may review this Cease and Desist Order for a potential license revocation or disciplinary action.

Dated this 17<sup>th</sup> day of November, 2011.

Iowa Insurance Division

  
by ROBERT KOPPIN  
Enforcement Bureau Chief

**COPY SENT BY CERTIFIED AND FIRST CLASS MAIL TO:**

U.S. Patriot Services  
National Headquarters  
3042 St. Albans Drive  
Rossmore, CA 90720

U.S. Patriot Services  
Interstate Warehouse Office  
8201 E. 23<sup>rd</sup> Street  
Kansas City, MO 64129

**BEFORE THE IOWA INSURANCE COMMISSIONER**

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IN THE MATTER OF

U.S. Patriot Services

)  
) AGREEMENT AND CONSENT ORDER

)  
) DIVISION FILE NO.: 73436

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Now comes the Iowa Insurance Division ("Division") pursuant to Iowa Code Chapter 523A (2011), regarding the Cease and Desist Order and Subpoena Duces Tecum directed to U.S. Patriot Services (aka Empire Holding, Inc.) and dated November 17, 2011. U.S. Patriot Services hereby agrees and consents to the entry of this Agreement and Consent Order to resolve all matters addressed in the Cease and Desist Order and Subpoena Duces Tecum.

**AGREEMENT**

1. **Parties and Jurisdiction.** U.S. Patriot Services admits that "U.S. Patriot Services" is a fictitious name adopted by Empire Holdings, Inc. by resolution filed with the Iowa Secretary of State on October 14, 2011. U.S. Patriot Services admits that the Division has jurisdiction in this matter pursuant to Iowa Code Chapter 523A.
2. **Cease and Desist Order and Subpoena Duces Tecum.** U.S. Patriot Services consents to the entry of the Cease and Desist Order and Subpoena Duces Tecum issued by the Division on November 17, 2011 which is incorporated herein by reference.
3. **Corrective Action for Existing Iowa Customer Accounts.** U.S. Patriot Services agrees to take immediate corrective action for all of its existing Iowa customers as follows:
  - a. Within thirty (30) days of the execution of this Agreement and Consent Order, U.S. Patriot Services will contact all existing Iowa customers and offer to make physical delivery of the customer's purchased property immediately or, alternatively, to provide a full refund to all existing Iowa customers.
  - b. U.S. Patriot Services will allow their existing Iowa customers to make their own determination as to where they choose to receive physical delivery of the purchased property.

4. **Subpoena Duces Tecum.** As provided in the Cease and Desist Order and Subpoena Duces Tecum incorporated by reference herein, U.S. Patriot Services will furnish the Division with a complete listing of all sales made in Iowa and disclose the specific cemetery or funeral merchandise sold, name and address of each consumer, name and address of each sales agent, amount paid or to be paid, and the name and address of the person or persons assisting or aiding in the solicitation, negotiation, or effectuation of such sales pursuant to Iowa Code § 523A.803 (2011). This submission will be completed no later than January 6, 2012.

5. **Other understandings.** U.S. Patriot Services acknowledges the following:

a. Nothing contained in this Agreement and Consent Order shall be construed to deprive any person or entity of any private right of action.

b. The Division reserves its right to take administrative action against U.S. Patriot Services for any violation of Iowa Code Chapter 523A unknown to the Division at the date of the signing of this Agreement and Consent Order.

#### **ORDER**

IT IS THEREFORE ORDERED:

1. U.S. Patriot Services shall Cease and Desist violations of Iowa laws and rules as stated in paragraph two of the Agreement.

2. U.S. Patriot Services agrees not to market funeral merchandise on a preneed basis in Iowa in the future unless they secure proper licensure and adhere to Iowa's laws, including trusting laws.

3. U.S. Patriot Services shall take immediate corrective action for all existing Iowa customer accounts as specified in paragraph three of the Agreement.

4. U.S. Patriot Services shall comply with the subpoena duces tecum requirements as specified in paragraph four of the Agreement.



Dated this 22 day of December, 2011.

SUSAN E. VOSS  
Commissioner of Insurance



JIM MUMFORD  
First Deputy Commissioner of Insurance

### CONSENT TO ORDER

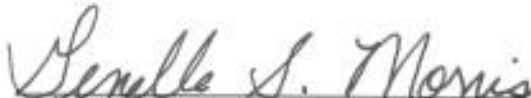
I, Richard Pirkl, on behalf of U.S. Patriot Services, and being duly authorized, have read, understood, and do knowingly consent to this Agreement and Consent Order in its entirety. I understand that I am waiving the rights of U.S. Patriot Services to a hearing and all attendant rights, including the right to seek judicial review by freely and voluntarily entering into this Agreement and Consent Order. I also understand that this Order is a public record under Iowa Code Chapter 22 (2011), and a copy will be posted to the Division's web site.

Dated this 15 day of December, 2011.



Richard Pirkl

Subscribed and sworn before me on this 15 day of December, 2011.



Notary Public for the state of South Carolina

**GENELLE S. MORRIS**  
Notary Public, State of South Carolina  
My Commission Expires 7/22/2021