

BEFORE THE IOWA INSURANCE DIVISION

IN THE MATTER OF:) **Case No.** _____)
)
Waterloo Memorial Park Cemetery,)
3430 W. Fourth St.) **Voluntary Settlement and**
Waterloo, IA 50701) **Consent Order**
)

The Iowa Insurance Division and Waterloo Memorial Park Cemetery (“Waterloo Memorial”) agree as follows:

1. Waterloo Memorial is an Iowa nonprofit corporation which owns and operates a cemetery in Waterloo, Black Hawk County, Iowa. The corporation was initially formed in 1954 and remains an active nonprofit corporation.
2. Waterloo Memorial is a perpetual care cemetery subject to Iowa Code chapter 523I and holds a preneed seller’s license under Iowa Code chapter 523A.
3. The Iowa Insurance Division administers and enforces Iowa Code chapters 523A and 523I, and has jurisdiction of this matter.
4. In the course of an examination the Insurance Division identified a number of regulatory deficiencies, as more fully described in the Division’s audit findings dated January 16, 2013.
5. Waterloo Memorial has cooperated throughout the examination and has committed to resolving the deficiencies. Many of the deficiencies appear to have predated current staff.
6. By way of summary, the deficiencies include:
 - a. Failure to have a licensed sales agent as required under Iowa Code section 523A.502.
 - b. Failure to maintain a preneed trust account at a financial institution with appropriate documentation of trust arrangements, pursuant to Iowa Code section 523A.201 - .203.
 - c. Failure to disclose all preneed sales in the annual report. Iowa Code § 523A.204.

- d. Failure to use a sequential numbering system on preneed purchase agreements. 191 IAC 105.1.
- e. Failure to utilize preneed purchase agreements that comply with the disclosure and other requirements of Iowa Code section 523A.601.
- f. Failure to comply with the Door-to-Door Sales Act as provided in Iowa Code section 555A.3(b)(1).
- g. Failure to timely deposit trust funds in a financial institution within 15 days of the receipt of each payment. Iowa Code § 523A.202(1).
- h. Failure to allocate interest to purchasers' trust fund accounts. 191 IAC 101.3.
- i. Failure to document and maintain records of preneed purchase agreements. 191 IAC 105.3(1).
- j. Failure to maintain detailed summaries of deposits when the deposits pertain to multiple purchase agreements or include both trust funds and other funds. 191 IAC 105.3(2).
- k. Failure to maintain updated burial records pursuant to Iowa Code section 523I.311(2).
- l. Failure to use a separate agreement for the sale of interment rights and failure to include the disclosures required by Iowa Code section 523I.312.
- m. Failure to maintain a perpetual care registry. Iowa Code §523I.803.

7. The deficiencies are serious and must be corrected. The Division does note as a mitigating factor that no information has been brought to the Division's attention suggesting that any promises to consumers have been unfulfilled. Further, the cemetery grounds are well-maintained. The cemetery has a substantial perpetual care trust fund. Annual reports have been timely filed. Much of the organizational work for the cemetery has been performed through the years by unpaid board members or other volunteers. The single remaining part-time office staff employee expresses a desire to assure compliance into the future.

8. The Division is authorized to take administrative action against Waterloo Memorial pursuant to Iowa Code sections 523A.805(1) and (3), 523I.203(1), and

523I.205(3). In light of Waterloo Memorial's prior and anticipated cooperation in addressing the examination findings and the factors described in paragraph 7, the parties have agreed to resolve the matter through this Voluntary Settlement and Consent Order.

9. A violation of the terms of this Consent Order shall be considered a violation of Iowa Code chapter 523A or 523I, as applicable, and shall provide grounds for administrative enforcement or referral to the Iowa Attorney General for appropriate action.

10. This Consent Order fully resolves the matters identified in the January 16, 2013 audit report, but does not preclude additional regulatory action by the Division or otherwise in the event new violations are discovered or new violations occur in the future.

11. Waterloo Memorial waives its right to a hearing, and all attendant rights, including the right to seek judicial review, by freely and voluntarily entering into this Consent Order.

12. Waterloo Memorial's Board of Directors shall take such actions as are required under its Articles of Incorporation and By-Laws to authorize the President to execute this Consent Order on its behalf. Waterloo Memorial agrees that until it fully satisfies all provisions of this Consent Order its obligations shall bind successors and assigns, including any transferee of the cemetery property or preneed purchase agreements.

13. This Voluntary Agreement and Consent Order is a public record available for inspection and copying pursuant to Iowa Code chapter 22 (2011).

IT IS THEREFORE AGREED AND ORDERED:

A. Waterloo Memorial shall maintain an active preneed seller's license for a period of at least five (5) years. The license shall be on probationary status for at least five (5) years, unless earlier released by the Division. Waterloo Memorial may apply to be released from probation at any point it can demonstrate that it has fully complied with this Consent Order and that procedures are in place to assure future compliance with Iowa Code chapters 523A and 523I.

B. Waterloo Memorial shall pay no later than July 1, 2013 the sum of \$5,000 as a civil penalty and toward audit expenses; provided that the Division shall waive payment if by July 1, 2013 Waterloo Memorial has purchased cemetery software acceptable to the Division and an adequate digital scanner to address record-keeping issues and allow transmission of information to the Division for purposes of oversight.

C. No later than July 1, 2013, Waterloo Memorial shall:

1. Draft or acquire contract forms for the sale of interment rights and preneed funeral and burial merchandise and services that comply with Iowa Code chapters 523A, 523I, and 555A.
2. Create and maintain a preneed trust account in full compliance with Iowa Code chapter 523A for all commingled preneed funeral and burial trust funds. Such trust account shall be established at a financial institution and shall be documented by a trust agreement. The money held in the Regions Bank money market account and the account at Raymond James – Morgan Keegan shall be moved into the trust account as soon as is reasonably possible following the creation of the trust account.
3. Create and maintain a full accounting of trust fund balances, with detail for each trust beneficiary, including an annual allocation of trust income.
4. Create and maintain a perpetual care registry in compliance with Iowa Code section 523I.803.
5. Appoint one or more sales agents as provided in Iowa Code section 523A.502.
6. Create and maintain a preneed seller sales log in compliance with 191 IAC 105.3(4).
7. Appoint an individual or committee, acceptable to the Division, to oversee cemetery operations and regulatory compliance in order to provide the guidance necessary for ongoing compliance with Iowa Code chapters 523A and 523I. Waterloo Memorial agrees to sustain this provision for as long as it remains on probation and agrees to incorporate this or a substantially similar process into its routine organizational procedures for as long as it operates the cemetery.

D. Waterloo Memorial shall not withdraw any portion of the income from the preneed trust funds other than in connection with a delivery of merchandise and services, until the Division expressly and in writing removes this restriction. If the restriction of this Consent Order is removed, Waterloo Memorial shall fully comply with then applicable law on the conditions under which income could be removed from a preneed trust account.

E. Waterloo Memorial shall maintain detailed summaries of all trust deposits for a minimum of four years after the deposit.

F. Waterloo Memorial shall in all respects comply with all additional provisions of Iowa Code chapters 523A and 523I, and implementing rules.

AGREED AND ACCEPTED:

Waterloo Memorial Park Cemetery

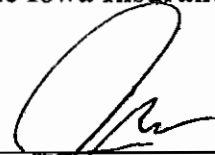
The Iowa Insurance Division

Jim Coontz, Board President

By:  _____

May 1, 2013

Date

 _____

By: James R. Mumford, First Deputy Comm.

5/14/2013

Date