

BEFORE THE IOWA INSURANCE COMMISSIONER

IN THE MATTER OF)	Division File No. 102240
)	
HOCKENBERRY FAMILY CARE, INC.)	
Preneed Seller License No. 00111)	SUMMARY CEASE AND
)	DESIST ORDER
and)	
)	
KATHIE HOCKENBERRY)	
Preneed Sales Agent License No. 00260)	
)	
Respondents)	
)	

On May 31, 2019, Compliance Attorney Johanna Nagel on behalf on the Iowa Insurance Division (“Division”) submitted a petition requesting the issuance of a summary cease and desist order.

NOW THEREFORE, the Deputy Iowa Insurance Commissioner, Craig A. Goettsch, pursuant to the provisions of Iowa Code chapter 523A—Cemetery and Funeral Merchandise and Funeral Services and in consideration of the petition for summary cease and desist filed in this matter, does hereby make and issue the following findings of facts, conclusions of law, and summary cease and desist order (“Order”):

I. PARTIES AND JURISDICTION

1. The Commissioner of Insurance, Doug Ommen, directly and through his designees, administers and enforces Iowa Code chapter 523A—Cemetery and Funeral Merchandise and Funeral Services pursuant to Iowa Code § 505.8.
2. Hockenberry Family Care, Inc. is an Iowa corporation registered with the Iowa Secretary of State and has a last-known business address of 1804 East 7th Street, Atlantic, IA 50022.
3. Kathie Hockenberry is the listed owner and registered agent of Hockenberry Family Care, Inc. She is an individual with a last-known address of 1801 Redwood Drive, Atlantic, IA 50022.

4. Hockenberry Family Care, Inc. is and has been licensed as a preneed seller in the state of Iowa from at least November 29, 2007 until April 15, 2020.
5. Kathie Hockenberry was licensed as a preneed sales agent in the state of Iowa from November 29, 2007 until September 30, 2011.
6. Pursuant to Iowa Code § 505.28, Hockenberry consented to the jurisdiction of the Commissioner of Insurance by committing acts governed by chapter 523A.
7. Hockenberry has engaged in acts and practices within the state of Iowa constituting cause for a summary order to cease and desist from engaging in such acts or practices or other relief under Iowa Code chapter 523A and rules adopted pursuant to these chapters.

II. FINDINGS OF FACT

8. Kathie Hockenberry is not currently licensed as a preneed sales agent.
9. Hockenberry has in its possession preneed insurance applications that it failed to submit to the appropriate insurance company for issuance of a policy.
10. Hockenberry accepted payment with these preneed insurance applications.
11. Instead of forwarding the payment to the appropriate insurance company, Hockenberry deposited the payments into their bank account and the policies were never issued.
12. Hockenberry purposely failed to disclose to the purchasers that the policy applied for was not issued.
13. Hockenberry is actively concealing the existence of these records from the purchasers and Division personnel.
14. Hockenberry instructed its own employees to similarly conceal these records and practices.

III. CONCLUSIONS OF LAW

Fraudulent Practices

15. Under 523A.703, a person commits a fraudulent practice if they

in connection with the sale of cemetery merchandise, funeral merchandise, funeral services, or a combination thereof, directly or indirectly makes an untrue statement of material fact or omits to state a material fact that is necessary to make the statements made, in light of the circumstances under which they were made, not misleading.

16. The actions and practices set forth in paragraphs 8 through 14 constitute untrue statements or omissions of material fact causing misapprehension.

17. Under Iowa Code § 523A.805, the Commissioner may issue a summary cease and desist order or take other necessary affirmative action when the Commissioner determines that a person or insurer has engaged, is engaging, or is about to engage in any act or practice that is a violation of Iowa Code chapter 523A.

18. Hockenberry's acts and practices have been in violation of Iowa Code § 523A.703 subjecting Hockenberry to an order requiring Hockenberry to cease and desist from engaging in such acts or practices and any other corrective action the Commissioner deems necessary and appropriate pursuant to Iowa Code §§ 523A.805 and 505.8.

IV. POLICY REASONS

19. It is contrary to public interest to permit Hockenberry to engage in the business of cemetery and funeral merchandise and funeral services in a manner that is deceptive to consumers.

20. Hockenberry has a history of engaging in acts and practices that are harmful to consumers. These acts include the following: misrepresenting to consumers that policies have been issued and collecting premium payments which are deposited into their own account and not forwarded to an insurance company.

21. Hockenberry engaged, are engaging, or are about to engage in any or all of these harmful acts in this state.

22. Hockenberry's aforementioned actions are contrary to the public interest and safety. In particular, Hockenberry's history of indicating to consumers that they have insurance coverage when, in fact, they do not constitutes an immediate danger to the public.

23. It is in the public interest and safety, and in furtherance of the consumer protection laws of this state, for the Commissioner to issue a summary cease and desist order prohibiting Hockenberry from engaging in such practices in Iowa.

V. ORDER

WHEREFORE IT IS ORDERED pursuant to the powers granted to the Commissioner of Insurance by Iowa Code chapter 523A:

A. Hockenberry Family Care, Inc. and Kathie Hockenberry, pursuant to Iowa Code § 523A.805, shall immediately cease and desist engaging in the practices alleged herein; and

B. Kathie Hockenberry from engaging in any practices requiring licensure as a preneed seller or preneed sales agent in the state of Iowa.

SO ORDERED on the 31st day of May, 2018.


CRAIG A. GOETTSCH
Deputy Iowa Insurance Commissioner

Copy to:
Hockenberry Family Care, Inc.
1804 East 7th Street
Atlantic, IA 50022

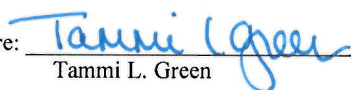
Kathie Hockenberry
1801 Redwood Drive
Atlantic, IA 50022

RESPONDENTS

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause, or their attorney, at their respective addresses disclosed on the pleadings on June 3, 2019.

By: () First Class Mail () Personal Service
() Restricted certified mail, return receipt () Email, by consent
() Certified mail, return receipt () _____

Signature: 
Tammi L. Green

NOTICE OF RIGHT TO REQUEST HEARING

YOU ARE NOTIFIED that you may request a contested case proceeding and a hearing on this matter within thirty (30) days from the date that the order is issued according to Iowa Code § 523A.805. This request must be in writing and sent to the attention of the Enforcement Bureau, Iowa Insurance Division, 601 Locust St., 4th Floor, Des Moines, IA 50309.

If requested, a notice of the hearing shall be prepared by the Division and shall be issued no later than thirty (30) days from the date of receipt of a timely request for a contested case proceeding and hearing. The resulting hearing will be held in accordance with Iowa Administrative Code Chapter 191—3.

NOTICE OF FINAL ORDER AND 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 become final by operation of law and shall be enforceable by the Commissioner of Insurance in an administrative or court proceeding.

NOTICE OF EXHAUSTION OF ADMINISTRATIVE REMEDIES AND RIGHT TO SEEK JUDICIAL REVIEW

The failure to request a hearing may 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.

NOTICE OF PENALTIES FOR VIOLATION OF THIS ORDER

YOU ARE NOTIFIED that a person or insurer who violates this Order shall be deemed in contempt of this Order. The Commissioner may petition the district court to hold a hearing to enforce the order as certified by the Commissioner. The district court may assess a civil penalty against you and may issue further orders as it deems appropriate.

NOTICE OF IMPACT OF FINAL ORDER

A final Cease and Desist Order may adversely affect existing business or professional licenses and may result in license revocation or 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.

A final order in an administrative action does not resolve any potential criminal or civil violations or causes of action that might arise from the same or similar conduct that is the subject of this order. It may result in criminal law enforcement authorities, including the fraud bureau of the Iowa Insurance Division, pursuing a criminal investigation or prosecution of potential criminal law violations.