

BEFORE THE IOWA INSURANCE COMMISSIONER

IN THE MATTER OF)	
Christine R. Nelson)	Cease and Desist Order
115 Manor Drive)	
Eldridge, Iowa 52748)	
Preneed Seller License No. 00148)	Docket No. 86713
Formerly D/B/A)	
Nelson Funeral Home)	
DeWitt, Iowa)	
Respondent)	

Comes now the Iowa Insurance Division ("Division") and states:

I. PARTIES AND JURISDICTION

1. The Commissioner of Insurance, Nick Gerhart, (the Commissioner) administers and enforces Iowa Code chapter 523A relating to the regulation of preneed sellers of funeral services.
2. Christine R. Nelson "Respondent" is an individual with a last-known address of 115 Manor Drive, Eldridge, Iowa and a last known business address of 423 – 8th St., DeWitt, Iowa.
3. Respondent was licensed as a preneed seller of funeral services until she requested a cancellation of the license on October 21, 2011.

II. FINDINGS OF FACT

4. On or about October, 21, 2011, Respondent filed the Preneed Seller Annual Report for 2010 and informed the Division that she wished to cancel her Preneed Seller License.

5. The Annual Report was returned to Respondent and subsequently refiled with the Division.
6. On information and belief, Respondent continues to hold a license as a funeral director with the Iowa Mortuary Board.
7. The Division has not received an Annual Report from Respondent for the years 2011, 2012 or 2013.
8. The Division learned on April 4, 2014, that Respondent had delivered some records to the Schultz Funeral Home in DeWitt, Iowa (Schultz) and informed staff there that she intended to cease operations of Nelson Funeral Home.
9. The Division learned on April 4, 2014 that Schultz contacted Respondent to retrieve the records.
10. The Division learned on February 11, 2015 that Respondent had delivered some records to the Pape Funeral Home in Clinton, Iowa (Pape).
11. The Division requested delivery of the records from Pape and received some records on February 16, 2015.
12. The Division has reviewed the records provided and found that the records consist of approximately 78 customer files, that 63 files were for deceased persons and fifteen files remain active and have not yet received services.
13. The Division identified two financial institutions and six insurance companies named in the fifteen active files.
14. 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.
15. Respondent was and continues to be a Preneed Seller under Iowa Code section 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.

III. Violations of Law

16. Respondent has failed to file the required Annual Reports for the years 2011, 2012 and 2013 in violation of Iowa code section 523A.204 and Iowa Administrative Code 191.105.6(8). The civil penalty for failure to file an Annual Report is \$500.00.
17. The Division has been unable to determine if the records provided by funeral home B represent a complete set of the books and records for Respondent. Respondent has failed to maintain records as required by Iowa Administrative Code rule 191-105.3(1).

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.

18. The actions of the Respondent actions constitute sufficient grounds to demonstrate violations of Iowa Code chapter 523A.

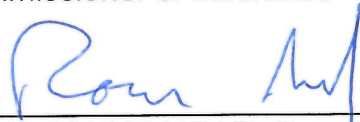
IT IS THEREFORE ORDERED as follows:

- A. Respondent shall Cease and Desist from violation of Iowa Code chapter 523A. (2013)
- B. Respondent shall Cease and Desist from engaging in any activity that requires an active Preneed Seller License.
- C. Within sixty days of the date of this Order, Respondent shall take all actions necessary to remove the name of Nelson Funeral Home from the records on file at the respective financial institution or insurance company and to replace it with a currently licensed Preneed Seller that is also in good standing with the Iowa Mortuary Board.

- D. Respondent shall inform all individuals named on the fifteen active purchase agreements that she has ceased operations of the Nelson Funeral Home and shall provide the name of the successor Preneed Seller that will maintain the records.
- E. Respondent shall make a full accounting and report to the Division that documents the actions taken as required by Paragraphs 'C' and 'D' in this Order. Respondent's report is due on or before sixty-five days after the date of this Order.
- F. Within sixty days of the date of this Order, Respondent shall file Annual Reports for the calendar years 2011, 2012 and 2013.
- G. Within sixty days of the date of this Order, Respondent shall make a full accounting of all books and records in a manner as determined by the Division.
- H. A civil penalty of \$1,500.00 is imposed against Respondent. Payment is required within ten days of the date this Order becomes final.

Dated this 24 day of February 2015

NICK GERHART
Commissioner of Insurance



BY ROSANNE MEAD, Securities Administrator &
Assistant Insurance Commissioner

COPY SENT BY Certified U.S. Mail TO:

Christine R. Nelson
115 Manor Drive
Eldridge, Iowa 52748

NOTICE OF RIGHT TO REQUEST HEARING

NOTICE IS HEREBY GIVEN 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 Rosanne Mead, Iowa Insurance Division, 601 Locust, Fourth Floor, Des Moines, Iowa 50309. A notice of the hearing shall be prepared and shall be given 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 (2013).

NOTICE REGARDING FAILURE TO REQUEST A HEARING

If you fail to request a hearing within 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 30 days after it is issued if you do not timely request a contested case hearing, or 30 days following any ruling from a contested case hearing.

NOTICE OF PENALTIES FOR WILLFUL VIOLATION OF THIS ORDER

YOU ARE NOTIFIED that any person who willfully violates this Order shall be deemed in contempt of the order pursuant to Iowa Code section 523A.604 (2013). The administrator may petition the district court to hold a hearing to enforce the order as certified by the administrator. The district court may assess a civil penalty against the person in an amount not less than five thousand dollars but not greater than fifty thousand dollars for a six-month period, and may issue further orders as it deems appropriate.

YOU ARE ALSO NOTIFIED that a person who willfully violates Iowa Code chapter 523A.501(1) (preneed seller license required) is guilty of a Class 'D' felony. A person who violates Code chapter 523A.703 may be found guilty of committing a fraudulent practice as provided in Iowa Code chapter 714.

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.