

BEFORE THE IOWA INSURANCE COMMISSIONER

IN THE MATTER OF)	
Riverside Cemetery &)	Consent Order and
Marshall Cemetery Association)	Notice of Right to Hearing
Respondents.)	Docket No. _____

Comes now the Iowa Insurance Division (“Division”) and alleges the following:

PARTIES AND JURISDICTION

1. Commissioner of Insurance, Nick Gerhart (the Commissioner) administers and enforces Iowa Code chapter 523I and the related Iowa Administrative Code chapter 191- 140.
2. The Division has jurisdiction of this matter pursuant to Iowa Code chapters 17A and 523I.
3. Marshall Cemetery Association is an Iowa corporation. The registered agent is Danielle Plaehn, 611 N. Center Street, Marshalltown, Iowa 50158.
4. Marshall Cemetery Association, is registered with the Iowa Secretary of State.
5. Marshall Cemetery Association does business as Riverside Cemetery
6. Riverside Cemetery is a perpetual care cemetery subject to the provisions of Iowa Code Chapter 523I.

FACTUAL BACKGROUND

7. The Division conducted a routine compliance examination of Riverside Cemetery under Iowa Code chapter 523I. The Division reviewed trust deposits and withdrawals.
8. Believing that it could withdraw income and capital gains, Riverside Cemetery withdrew \$130,642.97 from the cemetery's perpetual care trust fund in 2013.
9. Of the amount withdrawn, \$97,095.72 consisted of capital gains.

FINDINGS OF FACT

10. Riverside Cemetery failed to fully investigate and develop an understanding of the requirements of Iowa Code Chapters 523I and 637 and the administrative rules regarding the operation of Perpetual Care Cemeteries.
11. Riverside Cemetery's withdrawal of capital gains in 2013 was not in compliance with Iowa Code chapter 523I and the administrative rules.
12. Respondents have cooperated fully with the Division's compliance examination.

CONCLUSIONS OF LAW

13. Respondents have engaged in conduct which violates Iowa Code chapter 523I.
14. Respondents have indicated a willingness to comply with Iowa laws and rules by returning the \$97,095.72 of capital gains to the perpetual care trust fund.
Respondents are notified that this Consent Order will become final by operation of law within thirty days of the date of this Order unless a Respondent requests a hearing within that time period. A request for hearing may be made by writing to Commissioner Nick Gerhart at the Iowa Insurance Division, 601 Locust, 4th Floor, Des Moines, Iowa 50309.
15. Failure to comply with the provisions of this Order shall be grounds for further administrative action under Iowa Code chapter 523I or injunctive relief in district court and may constitute a violation of the Iowa Consumer Fraud Act, Iowa Code

section 714.16.

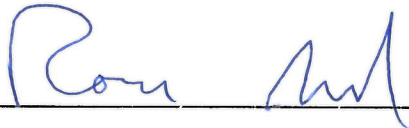
IT IS THEREFORE ORDERED:

- A. Respondents shall Cease and Desist from any actions that violate Iowa Code chapter 532I.
- B. Respondents shall comply with all provisions of Iowa Code chapter 523I in the administration of the Perpetual Care Cemetery accounts and services and file all reports required.
- C. Respondents shall provide the Division with reasonable, ongoing access to all books and records necessary to conduct compliance examinations and associated investigations of Respondents under Iowa Code chapter 523I.
- D. Respondents shall submit appropriate documentation that the \$97,095.72 of capital gains has been deposited back into the perpetual care trust fund.

Dated this 5th day of August, 2014.

NICK GERHART

Commissioner of Insurance

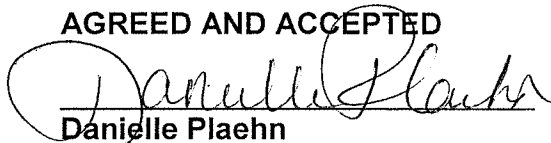


BY ROSANNE MEAD,
Securities Administrator &
Assistant Insurance Commissioner

Consent and Waiver of Rights

1. Respondents acknowledge that they have the right to a contested case hearing on the charges set forth in this Order and that they have been advised to secure legal counsel when considering the terms of this Order.
2. Respondents freely and voluntarily waive all rights to hearing and all attendant rights, including the right to seek judicial review. This Order is a disciplinary action against Respondent's licenses, the Division's final agency action in a contested case, and the resolution of the Division's administrative action on known violations of Iowa Code chapter 523A.
3. This Order is a public record available for inspection and copying in accordance with the requirements of Iowa Code chapter 22 (2013). The Order shall be placed on the Division's publicly available website.
4. This Order shall be provided to the Iowa Board of Mortuary Science, the Attorney General and the appropriate county attorney. Respondents understand that this Order does not preclude these officials from taking action if they have grounds to do so, and shall not impair the private right of action of any person. Respondents do not by agreeing to this Order admit liability to any other official or private party.

AGREED AND ACCEPTED



Danielle Plaehn
General Manager
Marshall Cemetery Association
doing business as Riverside Cemetery

Date 7/31/2014