

1 STATE OF OREGON
2 DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
3 DIVISION OF FINANCE AND CORPORATE SECURITIES

4 BEFORE THE DIRECTOR OF THE DEPARTMENT
5 OF CONSUMER AND BUSINESS SERVICES

6 In the Matter of:

7 HOFSESS-OLSON LLC, dba Myrtle
8 Creek Family Funeral Home,

9 Respondent.

No. PN-08-0001

FINAL ORDER ON DEFAULT
REVOKING CERTIFICATE OF
PROVIDER OF
PREARRANGEMENT OR
PRECONSTRUCTION SALES

10 WHEREAS on February 29, 2008, the Director of the Department of Consumer and
11 Business Services for the State of Oregon (hereinafter "the Director"), acting pursuant to the
12 authority of chapter 97 of the Oregon Revised Statutes (hereinafter cited as ORS 97.923 *et seq.*),
13 and other applicable authority, issued Administrative Order PN-08-0001, ORDER OF
14 REVOCATION OF CERTIFICATE OF PROVIDER OF PREARRANGEMENT OR
15 PRECONSTRUCTION SALES AND NOTICE OF RIGHT TO A PUBLIC HEARING ("the
16 Revocation Order"), against HOFSESS-OLSON, LLC, dba Myrtle Creek Family Funeral Home
17 ("HOFSESS-OLSON");

18 WHEREAS on March 6, 2008, members Larry A. Hofsess and Laura Jo Hofsess were
19 duly served with a true copy of the Revocation Order by United States Certified Mail, postage
20 prepaid, addressed to Larry A. Hofsess and Laura Jo Hofsess, 94105 Rink Creek Lane, Coquille,
21 Oregon 97423;

22 WHEREAS on March 14, 2008, members Fred S. Olson and Brenda J. Olson were duly
23 served with a true copy of the Revocation Order by United States Certified Mail, postage
24 prepaid, addressed to 790 S. Main, Myrtle Creek, Oregon 97457; and

25 WHEREAS Respondents have not made a written request for a contested case hearing in
26 this matter and time to do so has expired.

NOW THEREFORE, after consideration of the Division's investigative file and related



1 documents, the Director hereby issues the following Findings of Fact, Conclusions of Law, and
2 Final Order.

3 **FINDINGS OF FACT**

4 The Director **FINDS** that:

5 1. Respondent HOFSESS-OLSON LLC is an Oregon limited liability company that
6 does or did business as “Myrtle Creek Family Funeral Home.” At all times relevant to the
7 matters herein, HOFSESS-OLSON, LLC operated a funeral home under that assumed business
8 name located at 790 S. Main Street, Myrtle Creek, Oregon 97457.

9 2. Respondent HOFSESS-OLSON, LLC’s managing members are Larry A. Hofsess
10 and Laura Jo Hofsess, who list their address as 94105 Rink Creek Lane, Coquille, Oregon 97423;
11 and Fred Olson and Brenda Olson, who list their address as 790 S. Main in Myrtle Creek. Ms.
12 Olson is registered with the Director as the owner/manager of HOFSESS-OLSON, LLC.

13 3. The Division of Finance and Corporate Securities is charged by statute (ORS
14 97.923 to ORS 97.949) and administrative rule (OAR 440-300-0010 to OAR 440-300-0350)
15 with regulating providers of prearrangement (also known as “pre-need”) funeral sales. A
16 prearrangement sale is a sale that has as its purpose the furnishing of funeral and/or cemetery
17 merchandise or services for use at a time determinable by the death of a person where the sale
18 terms require payment to be made at a currently determinable time.

19 4. Only providers “certified” by the Division of Finance and Corporate Securities
20 may lawfully engage in prearrangement sales in this State. Pursuant to ORS 97.925, the
21 legislative mandate behind the certification scheme is to “assure funds for performance” for
22 those purchasers who contract for funeral and cemetery merchandise and/or services to be
23 performed at a future date.

24 5. The Division of Finance and Corporate Securities issued an Order of
25 Certification, Prearrangement Plans to Respondent HOFSESS-OLSON, LLC on or about July 1,
26 2001. This Order remains in effect until surrendered by the Respondent or revoked or suspended

Division of Finance and Corporate Securities
Labor and Industries Building
350 Winter Street NE, Suite 410
Salem, OR 97301-3881
Telephone: (503) 378-4387





1 by the Director. HOFSESS-OLSON, LLC holds certificate number CP-0253.

2 6. Every “certified provider” is obligated by statute and administrative rule to
3 engage in a number of practices with respect to the closely regulated “pre-need” sales arena
4 including, but not limited to, maintaining a license under ORS 692.160 with the Oregon
5 Mortuary and Cemetery Board (“the Board”) pursuant to OAR 441-930-0310(1).

6 7. On or about July 16, 2007, the Board revoked the license for HOFSESS-OLSON,
7 LLC effective August 15, 2007.

8 8. The Division of Finance and Corporate Securities is authorized by statute to
9 conduct examinations of “certified providers”, issue reports regarding those examinations, and
10 require the production of records and documents to determine compliance with the certified
11 provider’s statutory duties.

12 9. C. Gail Smith, Financial Examiner, Division of Finance and Corporate Securities,
13 conducted an examination of Respondent HOFSESS-OLSON, LLC during the months of July
14 and August 2007 at the Division offices located at 350 Winter Street NE, Room 410, Salem,
15 Oregon. The results of said examination were reflected in correspondence with the Respondent
16 in July and August 2007.

17 10. As of the date of this Order, Respondent HOFSESS-OLSON, LLC has delivered
18 all records in its possession regarding prearrangement or preconstruction sales made by
19 Respondent HOFSESS-OLSON, LLC, or its predecessors, to West Properties II, Inc., dba
20 Mountain View Memorial Chapel, in Myrtle Creek, Oregon.

21 **CONCLUSIONS OF LAW**

22 The Director **CONCLUDES** that:

23 11. Respondent HOFSESS-OLSON, LLC is a “certified provider” of prearrangement
24 sales contracts as defined in ORS 97.923(2).

25 12. Pursuant to OAR 441-930-0310(1), the Director may revoke the Order of
26 Certification issued to HOFSESS-OLSON, LLC because the State Mortuary and Cemetery

1 Board revoked its license under ORS 692.160.

2 **ORDER**

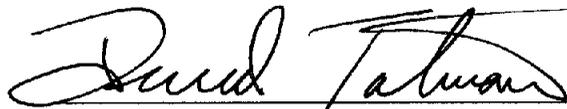
3 13. Therefore, the Director **ORDERS** that the Certification of Respondent
4 HOFSESS-OLSON, LLC is, pursuant to ORS 97.948, hereby **REVOKED**.

5 14. The entry of this Order in no way limits further remedies which may be available
6 to the Director under Oregon law.

7 15. The date of this Order is the day the Director signs the Order.

8 Dated this 1st day of April, 2008 at Salem, Oregon, NUNC
9 PRO TUNC February 29, 2008.

10 CORY STREISINGER, Director
11 Department of Consumer and Business Services

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13 David C. Tatman, Administrator
14 Division of Finance and Corporate Securities

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