STATE OF OREGON
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
DIVISION OF FINANCIAL REGULATION

In the Matter of: ETERNAL HILLS MEMORIAL GARDENS & FUNERAL HOME, INC. DBA ETERNAL HILLS FUNERAL HOME AND ETERNAL HILLS CREMATORY, Respondent.	Case No. PN-16-0172 EMERGENCY ORDER TO CEASE AND DESIST, SUSPENSION OF PREARRANGEMENT SALES LICENSE AND NOTICE OF RIGHT TO AN ADMINISTRATIVE HEARING

The Director of the Department of Consumer and Business Services for the State of Oregon ("Director"), acting through the Division of Financial Regulation ("DFR") determined that Respondent engaged in activities that constitute violations of Chapter 97 of the Oregon Revised Statutes ("ORS") and Oregon Administrative Rules ("OAR") 441-930-0010 through 441-930-03600 ("the Oregon Prearrangement Law"). The Director hereby Orders Eternal Hills Memorial Gardens & Funeral Home, Inc. ("Respondent") to CEASE AND DESIST from handling any transactions related to the Respondent's prearrangement sales contracts or accounts until such time that the Director may perform a full audit. Respondent's license to provide prearrangement sales and services is SUSPENDED until further notice. This Order is effective upon issuance.

The Director makes the following Findings of Fact, Conclusions of Law, Orders, and Notice of Right to an Administrative Hearing.

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

FINDINGS OF FACT

The Director FINDS that:

1. Respondent is an Oregon company registered to do business in Oregon with the Secretary of State that does business at 4711 Highway 39, Klamath Falls, Oregon

97603. Respondent provides funeral services.

2. As part of its business, Respondent provides "prearrangement sales contracts" as that term is defined by ORS 97.923(9). Respondent is a certified provider, as defined by ORS 97.233(2), with license number CP-0103.

3. On November 5, 2014, the Oregon Mortuary and Cemetery Board ("Board") issued a Notice of Proposed Disciplinary Action (Revocation of Licenses and Civil Penalty) and Opportunity for a Hearing ("Notice") to Respondent. The Notice alleged Respondent violated various statutes and administrative rules. The Office of Administrative Hearing ("OAH") case number is 1403983.

4. On December 8, 2015, Administrative Law Judge ("ALJ") Monica A. Whitaker issued a Ruling on a Motion for Summary Determination and Proposed Order ("ALJ's Proposed Order"). The Board adopted the ALJ's Proposed Order's History of the Case, Issues, Documents Considered, Findings of Fact, Conclusions of Law, Opinion and Ruling as set forth in the ALJ's Proposed Order, and issued the attached order ("Board's Final Order"). (Exhibit A)

5. The History of the Case, Issues, Documents Considered, Findings of Fact, Conclusions of Law, Opinion and Ruling as set forth in the ALJ's Proposed Order and adopted in the Board's Final Order is hereby incorporated in this Order to Cease and Desist and Suspension of Prearrangement Sales License.

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CONCLUSIONS OF LAW

The Director CONCLUDES that:

6. Paragraphs 1-5 are incorporated.

7. Under ORS 97.936, the Director may issue an emergency order suspending or restricting a certificate or registration or ordering a certified provider or an entity acting as a certified provider to cease and desist from specified conduct.

8. The Director deems it necessary to order an emergency cease and desist and an order to suspend Respondent's prearrangement sales license based on the Board's Final Order. Based on the findings of fact in the Board's Final Order that incorporates the findings of ALJ Whitaker, the Director believes there have been multiple violations of the Oregon Prearrangement Law.

9. Pursuant to OAR 441-930-0310(12), the Director may impose a civil penalty or probation, or revoke, suspend, or deny a certification of a certified provider when the Director finds that an administrative agency, in this state or any other state, has issued a final order against the certified provider. The Board has issued a final order against the Respondent dated March 30, 2016.

10. Under ORS 97.928, a person may not, in connection with performing certified provider activities (1) Employ any device, scheme or artifice to defraud; (2) Knowingly make any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which the statements are made, not misleading; or (3) Engage in any act, practice or course of business that operates or would operate as a fraud or deceit upon any person. Based on the Final Order, there appears to be violations of ORS 97.928 as related to Purchaser A, Decedent C, Decedent E, Decedent F and Decedent J.

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ORDER

Now therefore, the Director issues the following Orders:

11. As authorized by ORS 97.936(1)(a), the Director ORDERS Respondent to CEASE AND DESIST from handling of any transactions related to the Respondent's prearrangement sales contracts or accounts, including, but not limited to, ClearPoint Trust Fund Account for Eternal Hills Funeral Home – R411, until such time that the Director may perform a full audit.

12. As authorized by ORS 97.936(1)(a) and OAR 441-930-0310(12), the Director ORDERS the SUSPENSION of Respondent's license to provide prearrangement sales contracts or service until further notice.

DESIGNATION OF RECORD

13. The Director designates the Division's file on this matter, which includes all materials submitted by the party, as the record in this case. In accordance with OAR 137-003-0075(3), the record contains sufficient evidence of the existence of facts necessary to support a final order by default should the Director issue such an order.

SO ORDERED this 30th day of March, 2016 in Salem, Oregon.

PATRICK M. ALLEN, Director
Department of Consumer and Business Services

/s/ David C Tatman
David C. Tatman, Chief of Enforcement
Division of Financial Regulation

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NOTICE OF RIGHT TO AN ADMINISTRATIVE HEARING

As provided by the Oregon Administrative Procedures Act, ORS Chapter 183, any person affected by the foregoing is entitled to a formal contested case hearing before an Administrative Law Judge assigned by the Office of Administrative Hearings.

In accordance with ORS 183.435, a party must file a written request for a contested case hearing within 90 days from the date the order was served personally, or by registered or certified mail. **You have a right to demand that the hearing be held as soon as practicable after the Division receives your written request.** An order that is served by registered or certified mail is complete and effective on the date it is mailed to the correct address, even if it is not received by the person to be notified or if that person fails or refuses to accept service of the order.

If a party does not timely file a hearing request, their right to a hearing shall be considered waived.

A written hearing request should be directed to:

Department of Consumer and Business Services
Division of Financial Regulation
350 Winter Street NE, Room 410
Salem, OR 97301-3881
Attn: Ann Marie Garber

In accordance with OAR 137-003-0550(4), a party that is a natural person may submit a hearing request without the assistance of an attorney.

Subject to exceptions, any hearing request that is submitted on behalf of a corporation, partnership, limited liability company, unincorporated association, trust or governmental body by a person that is not licensed to practice law in Oregon must be ratified, in writing, by a person that is allowed to practice law in Oregon within 28 days from the day the hearing request was received by the Director. In that circumstance, the filing date will be the date the hearing request was received, not the ratification date. A hearing request that is not properly ratified is invalid.

Any party that validly requests a hearing will be notified of the time and place of the hearing. If a party does request a hearing, additional information regarding rights of the party will be provided prior to the hearing. A legal aid organization may be able to assist a party with limited financial resources.

The Director may enter a final order by default against any party that: 1) does not file a request a hearing within 90 days from the date the order was served; 2) files a hearing request, but does not timely ratify it (if required); 3) withdraws the request for a hearing; or, 4) notifies the Director of the Department of Consumer and Business Services or the Administrative Law Judge that they will not appear, or fails to appear, at the scheduled hearing.

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NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty service members have a right to stay these proceedings under the federal Service members Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 800-452-7500 or the nearest United States Armed Forces Legal Assistance Office through http://legalassistance.law.af.mil.

STATEMENT OF REASONABLE ACCOMMODATION

All proceedings will be conducted in a wheelchair accessible location. Written materials may be provided and/or graphic displays may be presented during the proceeding. For any other accommodation needed by individuals due to a disability, please contact the agency staff person noted below.

AGENCY CONTACT INFORMATION

Questions concerning the issues raised in the order may be directed to Ann Marie Garber, Oregon Department of Consumer and Business Services, Division of Financial Regulation, Enforcement Section, telephone (503) 947-2353.

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