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

In the Matter of: LAFOLLETTE LLC dba BURNS MORTUARY OF PENDLETON, Respondent.	Case No. PN-17-0146 ORDER TO CEASE AND DESIST, FINAL ORDER ASSIGNING PROBATION TERMS OF CERTIFIED PROVIDER REGISTRATION, ASSESSING A CIVIL PENALTY, AND CONSENT TO ENTRY OF ORDER

The Director of the Department of Consumer and Business Services for the State of Oregon ("Director"), acting through the Division of Financial Regulation ("the Division") determined that LAFOLLETTE LLC dba BURNS MORTUARY OF PENDLETON ("Burns") 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 (collectively, "the Oregon Prearrangement Law").

The Director makes the following Findings of Fact, Conclusions of Law, and Orders.

Respondent wishes to resolve and settle this matter with the Director.

Now, therefore, as evidenced by the signature(s) subscribed on this Order, Respondent hereby CONSENTS to entry of this Order.

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350 Winter Street NE, Suite 410
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FINDINGS OF FACT

The Director FINDS that:

1. Burns' principal place of business is 336 SW Dorion, Pendleton, OR 97801.

2. Burns has been registered as a certified provider for preneed sales by the

Division since May 22, 2002.

3. On November 2, 2017, the Division received a complaint from SF through the Oregon Mortuary and Cemetery Board.

4. SF signed a Prearranged Guaranteed Sales Contract ("the Contract") with Burns on June 14, 2017. A prearrangement sale contract is a sale of funeral or cemetery merchandise or services to be used at a future date based on the death of the beneficiary of the contract.

5. SF paid $2225.00 for the prearrangement plan. Burns received $222.50 for writing the Contract.

6. SF was the purchaser and the beneficiary of the Contract.

7. The Contract requires multiple signatures by the purchaser. Above the third signature it states "This Contract may only be irrevocable if the Beneficiary is, or may become eligible for public assistance. By signature below, I agree that this qualification is true and therefore this contract may not be canceled."

8. SF signed the acknowledgement of public assistance, but stated that Burns did not explain the language to her and that was unaware that she was signing an irrevocable contract.

9. SF stated that she has never been on public assistance and does not plan to be on public assistance.

10. Burns returned all money to SF and cooperated in making SF whole following the Complaint by SF.

11. During the investigation, a list of all prearrangement sales contracts sold by Burns in 2017 was obtained.

12. Every contract entered into by Burns from January 2014 through December 2017 was irrevocable.

13. Burns provided copies of Medicare cards of most of the beneficiaries as proof

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that the beneficiaries were on public assistance.

CONCLUSIONS OF LAW

The Director CONCLUDES that:

14. Under ORS 97.948(2)(f), whenever the Director has reason to believe that any person has been engaged or is engaging or is about to engage in any violation of the Oregon Prearrangement Law, the Director may issue an order to discontinue or desist from such violation or threatened violation.

15. Under ORS 97.939(4)(a), in the case of a prearrangement sales contract, if at the time of entering into the contract, the beneficiary of the contract is a recipient of public assistance or medical assistance, or reasonably anticipates becoming a recipient of public assistance or medical assistance, the contract may provide that the contract is irrevocable.

16. Under OAR 441-930-0267(1), certified providers must receive proof from the purchaser or beneficiary that the beneficiary of the trust is (a) currently receiving public assistance; or (b) has filed the necessary papers and started the formal process to receive benefits. Burns violated OAR 441-930-0267(1) by failing to obtain sufficient proof from the purchasers or beneficiaries that they were currently on public assistance or filed the necessary papers to start the formal process of receiving benefits. Medicare cards without further documentation are not sufficient proof of public assistance.

17. Under ORS 97.948(1)(a), the Director may discipline a certified provider who has been found to be in violation of ORS 97.923 to 97.949.

18. Under ORS 97.948(2)(d), the Director may place limitations on the certificate or registration of a certified provider.

19. Under ORS 97.948(2)(g), the Director may take any other disciplinary action that the director finds proper, including assessment of the costs of the investigation and

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disciplinary proceedings and assessment of a civil penalty not to exceed $10,000 *per violation.*

ORDERS

Now therefore, the Director issues the following Orders:

20. As authorized by ORS 97.948(2)(f), the Director ORDERS Respondent to CEASE AND DESIST from violating any provision of the Oregon Prearrangement Law or the administrative rules promulgated thereunder.

21. Based upon the foregoing and in accordance with ORS 97.948(2)(d), the Director hereby Orders that Burns' certified provider registration contain the following probationary terms for the next two years:

A. Burns will file a quarterly report beginning March 31, 2018 of all prearrangement sales contracts sold within the quarter.

B. Quarterly report must include a copy of every irrevocable contract signed with proof as required under OAR 441-930-0267(1). Confirmation from the Oregon Department of Human Services, including Senior Services that the beneficiary is on public assistance, medical assistance or has filed the necessary paperwork, shall be sufficient proof for Burns to provide an irrevocable trust.

C. The quarterly report is due 15 days after the end of the quarter.

D. Quarterly reports are to be filed through the final quarter of 2019 with the last report being due 15 days from December 31st, 2019.

E. Quarterly reports are to be emailed to DFR.ReportEnforcement@oregon.gov.

22. Based upon the foregoing and in accordance with ORS 97.948(2)(g), the Director proposes to ORDER a CIVIL PENALTY of $15,000.

23. The Director agrees to SUSPEND the collection of $12,775 of the $15,000 CIVIL PENALTY assessed herein upon the condition that Burns commits no new

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violations of OAR 441-930-0267 or the Oregon Prearrangement Law or any administrative rules adopted thereunder, and complies with the conditions of probation set out in this order.

24. If Burns complies with all of the terms and conditions set out in this Order and commits no violations of OAR 441-930-0267 or the Oregon Prearrangement Law during the two year period from the date of issuance of this Order, the Director hereby agrees to WAIVE the $12,775 suspended CIVIL PENALTY.

25. The Director reserves the right to immediately assess and collect the $12,775 suspended CIVIL PENALTY upon a determination that Burns has violated any term of this Order.

26. The remaining portion of the CIVIL PENALTY assessed against Burns in the amount of $2,225 is due and payable to the Department of Consumer and Business Services at the time this Order is returned to the Division.

27. Any purchasers or beneficiaries that have purchased a prearrangement sales contract prior to December 2017 from Burns that wishes to cancel their contract, even if irrevocable, have the ability to do so at anytime without penalty from the trustee or from Burns. If the trustee charges a fee or penalty, Burns is responsible for making the consumer whole. Failure to do so is a violation of this order.

28. This Order represents a final and conclusive resolution of any violations of OAR 441-930-0267(1) by Burns prior to December 31, 2017.

SO ORDERED this 21st day of February, 2018 in Salem, Oregon.

CAMERON C. SMITH, Director
Department of Consumer and Business Services

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

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ENTITY CONSENT TO ENTRY OF ORDER

I, Beverly Lafollette, am an officer of LAFOLLETTE LLC dba BURNS MORTUARY OF PENDLETON ("Burns"), and I am authorized to act on its behalf. I have read the foregoing Order and I know and fully understand the contents hereof. The factual allegations stated herein are true and correct. I have been advised of the right to a hearing and of the right to be represented by counsel in this matter. Burns voluntarily consents to the entry of this Order without any force or duress, expressly waiving any right to a hearing in this matter, as well as any rights to administrative or judicial review of this order. Burns understands that the Director reserves the right to take further action against it to enforce this order or to take appropriate action upon discovery that Burns has committed other violations of the Oregon Insurance Code. Burns, along with its officers, directors, employees, or agents, will fully comply with the terms and conditions stated herein.

Burns understands that this Order is a public document.

Signature: /s/ Beverly Lafollette

Position Held: Owner

State of Oregon

County of Harney

There appeared before me on this 9 day of February, 2018, Beverly Lafollette who was first duly sworn on oath, and stated that he/she was and is an officer of LAFOLLETTE LLC dba BURNS MORTUARY OF PENDLETON and that he/she is authorized and empowered to sign this Consent to Entry of Order on behalf of LAFOLLETTE LLC dba BURNS MORTUARY OF PENDLETON and to bind LAFOLLETTE LLC dba BURNS MORTUARY OF PENDLETON to the terms hereof.

/s/ Jamie Ellis
Notary Public

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