

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

In the Matter of:

Case No. S-14-0049

WESTRUM FUNERAL SERVICES,
INC.,

Respondent.

FINAL ORDER TO CEASE AND
DESIST, ORDER SUSPENDING
CERTIFIED PROVIDER
CERTIFICATION, ORDER
ASSESSING CIVIL PENALITES AND
NOTICE OF RIGHT TO APPEAL

On October 14, 2014, the Director of the Department of Consumer and Business Services for the State of Oregon (the "Director"), acting under the authority of the statutes governing prearrangement and preconstruction sales contracts for funeral or cemetery merchandise of services, Oregon Revised Statutes ("ORS") 97.923 to 97.949, and the administrative rules promulgated thereunder, and ORS 183.415(3), duly served Westrum Funeral Services, Inc. with a true copy of Administrative Order S-14-0049, ORDER TO CEASE AND DESIST, PROPOSED ORDER SUSPENDING CERTIFIED PROVIDER CERTIFICATION, PROPOSED ORDER ASSESSING CIVIL PENALTIES AND NOTICE OF RIGHT TO AN ADMINISTRATIVE HEARING (the "Notice Order").

In accordance with OAR 137-003-0075, the Notice Order designated the Division's file, including all materials submitted by Westrum Funeral Services, Inc., as the record for the purpose of making a prima facie case in the event that the Director entered a final order by default.

Westrum Funeral Services, Inc. did not timely request a hearing.

Now, therefore, on consideration of the record, the Director issues the following Findings of Fact, Conclusions of Law and Final Orders.

Division of Finance and Corporate Securities
Labor and Industries Building
350 Winter Street NE, Suite 410
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1 I. FINDINGS OF FACT

2 The Director FINDS that:

3 1. The Division of Finance and Corporate Securities (the “Division”) is the
4 agency authorized by the Director to enforce Oregon’s prearrangement and
5 preconstruction sales contracts statutes, ORS 97.923 to 97.949.

6 2. Westrum Funeral Services, Inc. (“Westrum”) is an Oregon corporation with a
7 principal place of business located at 225 N. Birch Street, Coquille, OR 97423.

8 3. Westrum operates the following five certified provider locations (collectively
9 the “Locations”):

10 A. Amling/Schroeder Funeral Service, Coquille Chapel, 225 N. Birch St.,
11 Coquille, OR 97423, Certified Provider #0108;

12 B. Dunes Memorial Chapel, 2300 Frontage Rd., Reedsport, OR 97467,
13 Certified Provider #0138;

14 C. Amling/Schroeder Funeral Service, Bandon Chapel, 125 SW 8th Ave.,
15 Bandon, OR 97411, Certified Provider #0177;

16 D. Amling/Schroeder Funeral Service, Myrtle Point Chapel, 404 7th St.,
17 Myrtle Point, OR 97458, Certified Provider #0178; and

18 E. Myrtle Grove Funeral Service, 94105 Rink Creek Land, Coquille, OR
19 97423, Certified Provider #0365.

20 4. Westrum is certified by the Director as a “certified provider” at each of the
21 Locations, as that term is defined in ORS 97.923, thereby permitting Westrum to sell,
22 offer for sale, administer, or provide merchandise or services to fulfill prearrangement
23 sales contracts or preconstruction sales contracts for funeral or cemetery merchandise or
24 services.

25 5. Under ORS 97.933(1) and Oregon Administrative Rule (“OAR”) 441-930-
26 0270(1), a certified provider is required to pay an annual renewal fee to the Director in





1 the amount of \$390. Westrum is a separate certified provider at each of the Locations for
2 purposes of the annual renewal fee.

3 6. Furthermore, pursuant to ORS 97.933(3)(a) and OAR 441-930-0250, a
4 certified provider is required to file an annual report with the Director on or before April
5 1 of each year, covering the preceding calendar year, and otherwise comply with OAR
6 441-930-0250(1)-(9).

7 7. Pursuant to OAR 441-930-0250, Westrum was required to pay the 2014
8 annual renewal fees of \$390 for each of the Locations, totaling \$1,950, and to file the
9 2013 annual reports for each of the Locations, on or before April 1, 2014.

10 8. Westrum failed to pay the required \$1,950 in certified provider renewal fees
11 for 2014, and failed to file the required 2013 annual reports, on or before April 1, 2014.

12 9. Pursuant to ORS 97.945(1), Westrum was required to file a Funeral and
13 Cemetery Consumer Protection Trust Fund Certified Provider Annual Contract Sale
14 Report (the "Sales Report") for each of the certified provider Locations for 2013, wherein
15 Westrum was required to identify all prearrangement sales contracts or preconstruction
16 sales contracts entered into in 2013. Westrum was further required to pay a \$5 fee for
17 each of the sales contract entered into in 2013. The 2013 Sales Reports and associated
18 fees were due to the Director no later than January 31, 2014.

19 10. Westrum failed to file the required Sales Reports, and failed to pay the
20 associated sales contract fees, on or before January 31, 2014 for four of the five
21 Locations.

22 II. CONCLUSIONS OF LAW

23 The Director CONCLUDES that:

24 11. In accordance with ORS 97.948(1) and (2), OAR 441-930-0290, and OAR
25 441-930-0310, the Director may suspend the certification of a certified provider if the
26



1 Director determines that the certified provider has violated any provision of ORS 97.923
2 to 97.949, including, but not limited to, failing to pay the annual certification renewal fee
3 required by ORS 97.933 and OAR 441-930-0270, failing to submit an annual report
4 required by ORS 97.933 and OAR 441-930-0250, or failing to file the Sales Report and
5 pay the associated sales contract fees required by ORS 97.945(1).

6 12. In accordance with ORS 97.948(3), the Director may impose conditions for
7 reinstatement of the certification, thereby identifying the activities that the certified
8 provider is prohibited from engaging in during the suspension term and prior to
9 reinstatement.

10 13. In accordance with ORS 97.948(2)(f) and (g), the Director may issue an order
11 against a certified provider to cease and desist from the activities that support the
12 suspension, and may assess civil penalties against a certified provider in an amount not to
13 exceed \$10,000 per violation.

14 14. Westrum failed to pay the 2014 annual certification renewal fees of \$390 for
15 each of the Locations, for a total of \$1,950, in violation of ORS 97.933(1) and OAR 441-
16 930-0270(1).

17 15. Westrum failed to file 2013 annual reports with the Director for each of the
18 Locations, in violation of ORS 97.933(3)(a) and OAR 441-930-0250.

19 16. Westrum failed to file 2013 Sales Reports with the Director for four of the
20 five Locations, and failed to pay the fee of \$5 for each prearrangement sales contract or
21 preconstruction sales contract entered into at the Locations during 2013, in violation of
22 ORS 97.945(1).

23
24 III. ORDERS

25 The Director ISSUES the following ORDERS:

26 //



1 Order to Cease and Desist

2 17. As authorized by ORS 97.948(2)(f), the Director hereby ORDERS Westrum,
3 and all entities owned or controlled by Westrum, their successors and assignees, to
4 CEASE AND DESIST from violating any provision of ORS 97.923 to 97.949, or any
5 administrative rule adopted by the Director under those statutes.

6 Order Suspending Certified Provider Certification

7 18. As authorized by ORS 97.948(2)(b), OAR 441-930-0290 and OAR 441-930-
8 0310, the Director hereby ORDERS that the certified provider certification for Westrum
9 and its Locations, and any affiliated and/or successor person, business or company of
10 Westrum, is SUSPENDED for a period of thirty (30) days from the date of issuance of
11 this Final Order (the "Suspension Period").

12 Order Assessing Civil Penalties

13 19. As authorized by ORS 97.948(2)(g), the Director may assess CIVIL
14 PENALTIES against certified providers that violate the provisions of ORS 97.923 to
15 97.949, or any administrative rules adopted thereunder, in an amount not to exceed ten
16 thousand dollars (\$10,000) per violation.

17 20. As authorized by ORS 97.948(2)(g), the Director hereby ORDERS the
18 assessment of CIVIL PENALTIES against Westrum in the total amount of seven
19 thousand dollars (\$7,000), calculated as follows:

20 A. A CIVIL PENALTY of five hundred dollars (\$500) per violation for the
21 failure of Westrum to pay the 2014 annual certification renewal fees for each of the five
22 Locations, in violation of ORS 97.933(1) and OAR 441-930-0270(1), for a total CIVIL
23 PENALTY of two thousand five hundred dollars (\$2,500);

24 B. A CIVIL PENALTY of five hundred dollars (\$500) per violation for the
25 failure of Westrum to file 2013 annual reports for each of the five Locations, in violation
26 of ORS 97.933(3)(a) and OAR 441-930-0250, for a total CIVIL PENALTY of two

1 thousand five hundred dollars (\$2,500); and

2 C. A CIVIL PENALTY of five hundred dollars (\$500) per violation for the
3 failure of Westrum to file 2013 Sales Reports, and pay the associated sales contract fees,
4 for four of the five Locations, in violation of ORS 97.945(1), for a total CIVIL
5 PENALTY of two thousand dollars (\$2,000).

6
7 IV. AUTHORITY OF THE DIRECTOR TO SEEK OTHER
8 REMEDIES UNDER OREGON LAW

9 21. This Order is a “Final Order” under ORS 183.310(6)(b). Subject to that
10 provision, the entry of this Order does not limit other remedies that are available to the
11 Director under Oregon law.

12 SO ORDERED this 17th day of November, 2014.

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

15 /s/ David Tatman
16 David C. Tatman, Administrator
17 Division of Finance and Corporate Securities

18 NOTICE OF RIGHT TO APPEAL

19 You are entitled to seek judicial review of this order. Judicial review may be
20 obtained by filing a petition for review with the Oregon Court of Appeals within sixty
21 (60) days from the service of the Final Order. Judicial review is in accordance with the
22 provisions of ORS 183.482.

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