

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
CORPORATIONS, SECURITIES & COMMERCIAL LICENSING BUREAU

DEPARTMENT OF LICENSING
AND REGULATORY AFFAIRS,
CORPORATIONS, SECURITIES &
COMMERCIAL LICENSING BUREAU,

Complaint No. 339109

Complainant,

v

ROYAL FUNERAL HOME INC.
Prepaid Funeral and Cemetery Sales
Registration No. 34-01-000218

Respondent.

ORDER OF SUMMARY SUSPENSION

1. Together with this Order of Summary Suspension, the Department of Licensing and Regulatory Affairs (“Department”) is issuing an Affidavit of a person with knowledge of the facts and alleged violations of the Prepaid Funeral and Cemetery Sales Act (“Prepaid Act”), MCL 328.211 to 328.235, and its associated administrative rules.

2. Section 92(2) of the Administrative Procedures Act of 1969, MCL 24.292(2), provides the Department the authority to summarily suspend a license or registration if it finds that the public health, safety, or welfare requires emergency action.

3. Based on Respondent’s conduct, as alleged in the Affidavit, the Department finds that the public health, safety, or welfare requires emergency action.

4. Mich Admin Code, R 339.35, provides the following:

- (1) A registrant who discontinues business or whose license is suspended indefinitely, lapsed, or revoked shall do both of the following:
 - (a) Assign prepaid contracts to another registrant within 60 days of the event.
 - (b) Notify the department and the contract buyers of the assignment within 30

days of the assignment.

(2) Contracts not assigned as required by (1)(a) and (b) above shall be cancelled and the buyer issued a refund of the contract.

IT IS ORDERED THAT:

A. Respondent's registration as a prepaid funeral and cemetery sales provider in the State of Michigan is summarily suspended beginning when this Order was hand delivered on **May 21, 2019**.

B. Respondent has 60 days from the hand delivery date of this Order to either assign its existing prepaid contracts to another person registered under the Prepaid Act and notify the Department and contract buyers of the assignment within 30 days of the assignment, or to cancel the contracts and issue refunds to each contract buyer, providing copies of refund checks and correspondence to each contract buyer to the Department within 90 days of the mailing date of this Order.

C. The Department may modify, vacate, or extend the terms of this Order if a compliance conference or formal contested case hearing is requested.

Respondent has the opportunity to show compliance with all lawful requirements for the retention of its registration, consistent with section 92(1) of the APA, MCL 24.292(1). A request for a compliance conference must be submitted within fifteen (15) calendar days after the mailing date of this Order and filed with the Department of Licensing and Regulatory Affairs, Corporations, Securities & Commercial Licensing Bureau, Regulatory Compliance Division, P.O. Box 30018, Lansing, MI 48909. This Order remains effective during any additional administrative proceedings associated with this matter. If Respondent submits a written request for a formal contested case hearing in this matter, the proceedings will be promptly commenced and determined.

MICHIGAN DEPARTMENT OF LICENSING
AND REGULATORY AFFAIRS
Orlene Hawks, Director

BY Timothy L. Teague
Timothy L. Teague, Director
Securities & Audit Division
Corporations, Securities & Commercial Licensing
Bureau

Dated: May 21, 2019

Responsive Pleadings Should Be Filed With:

Department of Licensing and Regulatory Affairs
Corporations, Securities & Commercial Licensing Bureau
Regulatory Compliance Division
P.O. Box 30018
Lansing, MI 48909

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STATE OF MICHIGAN)
COUNTY OF INGHAM)

AFFIDAVIT OF TIMOTHY L. TEAGUE

Timothy L. Teague, being first duly sworn, deposes and says that:

1. He makes this Affidavit in support of the Department of Licensing and Regulatory Affairs' request to summarily suspend Respondent's registration set forth above; that the following facts are within his personal knowledge or his knowledge and belief; that he is competent to testify to the facts and will do so if called as a witness.

2. He is the Director of the Securities & Audit Division within the Corporations, Securities & Commercial Licensing Bureau within the Department of Licensing and Regulatory Affairs ("Department"), and has the responsibility of directing the investigation of complaints from the general public and the Department alleging violations of the Prepaid Funeral and Cemetery Sales Act ("Prepaid Act"), MCL 328.211 *et seq.* and the associated administrative

rules and reviewing records of prepaid funeral and cemetery sales contracts and other documents involving persons and entities issued a license under the Prepaid Act.

3. In the course of his duties, he reviewed reports and other documents and substantiated the following facts:
 - a. Respondent, at all times relevant, was registered under the Prepaid Act.
 - b. From February 4, 2019, through March 6, 2019, Department auditors examined Respondent's books, records, contracts, and other documents related to prepaid funeral contracts and discovered that Respondent failed to deposit at least \$269,228.29 received for prepaid funeral goods or services related to 92 prepaid contracts with an authorized escrow agent, contrary to Sections 12(1) and 12(6) of the Prepaid Act, MCL 328.222(1) & (6).
 - c. Respondent also failed to maintain copies of two prepaid funeral contracts, contrary to MCL 328.218(1).
 - d. A violation of the Prepaid Act by a person licensed under article 18 of the Occupational Code, MCL 339.1801 to 339.1812, is also a violation of the Occupational Code, under MCL 328.231. A person who converts funds paid pursuant to a prepaid contract to his or her own use or benefit other than as authorized by the Prepaid Act or who fails to escrow or trust funds according to the Prepaid Act is guilty of a felony punishable by a fine of \$5,000.00 or imprisonment of not more than 5 years, or both, for each violation. A person who violates any other provision of the Prepaid Act is guilty of a misdemeanor punishable by a fine of not more than \$1,000.00 or imprisonment for not more than 1 year, or both, for each violation. See MCL 328.232.
4. Respondent's above conduct demonstrates violations of the Prepaid Act.
5. Respondent's above conduct proves that they conducted themselves in a manner that justifies summary suspension of the licenses set forth above, under Section 92(2) of the Administrative Procedures Act, MCL 24.292(2).

Timothy L. League
Timothy L. League

Subscribed and sworn before me this
20th day of May, 2019
by Linda M. LeCureux
Linda M. LeCureux
Notary Public, State of Michigan
County of Shiawassee
My commission expires 02-12-2021
Acting in the County of Ingham

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FORMAL COMPLAINT

The Department of Licensing and Regulatory Affairs, Corporations, Securities & Commercial Licensing Bureau (“Department”), Complainant, under the Michigan Prepaid Funeral and Cemetery Sales Act, MCL 328.211 *et seq.* (“Prepaid Act”), alleges as follows:

1. Royal Funeral Home Inc. (“Respondent”), has, at all times relevant to this Complaint been registered under the Prepaid Act.
2. A Complaint against Respondent, alleging violations of the Prepaid Act, was filed with the Department:
3. From February 4, 2019, through March 6, 2019, Department personnel conducted an investigation of Respondent’s activities and an examination of its books, records, contracts, and other documents relating to prepaid funeral contracts, under MCL 328.230(1).

4. Respondent first became registered with the Department under the Prepaid Act on July 15, 1987.

5. Under § 12 of the Prepaid Act, MCL 328.222, Respondent had the following duties in connection with the funds received for prepaid funeral arrangements:

a. To deposit the monies received with an authorized escrow agent;
and

b. to deposit the monies received with an escrow agent within thirty (30) days of receipt.

6. Under § 8(1) of the Prepaid Act, MCL 328.218(1), Respondent was required to maintain copies of all prepaid contracts, MCL 328.218(1).

7. As of January 31, 2019, Respondent failed to deposit at least \$269,228.29 received for prepaid funeral goods or services related to 92 prepaid funeral contracts with an authorized escrow agent, contrary to MCL 328.222(1).¹

9. As of January 31, 2019, Respondent failed to deposit at least \$269,228.29 received for prepaid funeral goods or services related to 92 prepaid funeral contracts with an authorized escrow agent within 30 days of receipt, contrary to MCL 328.222(6).

10. During the Department's investigation, Department personnel discovered two instances where Respondent failed to maintain copies of prepaid funeral contracts, contrary to MCL 328.218(1).

11. Respondent violated the Prepaid Act, contrary to MCL 328.228(1)(g).

¹ Twenty of the 92 prepaid funeral contracts for which Respondent failed to deposit funds with an authorized escrow agent, with a value of \$75,024.11, represent instances where Respondent provided funeral services pursuant to the prepaid contract for the benefit of the contract's beneficiary. The remaining 72 contracts totaled \$194,204.18.

Based upon the above conduct, Respondent acted contrary to MCL 328.222(1) & (6), MCL 328.218(1), and MCL 328.228(1)(g) constituting grounds for the assessment of a penalty, as defined in MCL 328.230 and MCL 328.231.

Complainant, the Department, is commencing proceedings under the Michigan Administrative Procedures Act of 1969, MCL 24.201 *et seq.*, (“APA”), and the Prepaid Act to determine if disciplinary action should be taken for the reasons set forth above. Under MCL 328.231, a violation of the Prepaid Act by a person licensed under article 18 of the Michigan Occupational Code (“Occupational Code”), MCL 339.1801 *et seq.*, is considered a violation of the Occupational Code, and the violator is also subject to penalties available under the Occupational Code. The Department is commencing additional proceedings under the APA and the Occupational Code against relevant mortuary science license(s) based on the allegations set forth in this Formal Complaint.

The Department reserves the right to refer this matter to the appropriate law enforcement agency at any time after service of this Complaint. A person who converts funds paid pursuant to a prepaid contract to his or her own use or benefit other than as authorized by the Prepaid Act or who fails to escrow or trust funds according to the Prepaid Act is guilty of a felony punishable by a fine of \$5,000.00 or imprisonment of not more than 5 years, or both, for each violation. MCL 328.232(1). A person who violates any other provision of the Prepaid Act is guilty of a misdemeanor punishable by a fine of not more than \$1,000.00 or imprisonment for not more than 1 year, or both, for each violation. MCL 328.232(2).

MICHIGAN DEPARTMENT OF LICENSING
AND REGULATORY AFFAIRS

BY Timothy L. Teague
Timothy L. Teague, Director
Securities & Audit Division
Corporations, Securities & Commercial
Licensing Bureau

Dated: 5-20-19

Responsive Pleadings Should Be Filed With:

Department of Licensing and Regulatory Affairs
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P.O. Box 30018
Lansing, MI 48909