

1 **DEPARTMENT OF CONSUMER AND BUSINESS SERVICES**
2 **DIVISION OF FINANCE AND CORPORATE SECURITIES**
3 **NON DEPOSITORY SECTION**
4 **BEFORE THE DIRECTOR OF THE DEPARTMENT OF CONSUMER AND**
5 **BUSINESS SERVICES**

6 **In the Matter of:**

) **No. PN-181-01**

7 **SUNSET HILLS, LLC**

)

) **STIPULATED ORDER OF**

) **REVOCATION OF CERTIFICATE OF**

) **PROVIDER OF PRE ARRANGEMENT**

) **OR PRE CONSTRUCTION SALES**

) **AND CONSENT TO ENTRY OF**

) **ORDER**

8 **Respondent.**

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10 *Certified to be a true
and correct copy
D. J. [Signature] 7-20-04*

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12 **WHEREAS**, the Director of the Department of Consumer and Business Services for the
13 State of Oregon (hereafter the "Director"), acting by and pursuant to the authority of Chapter 97
14 of the Oregon Revised Statutes (hereinafter cited as ORS 97.923 *et seq*), and other applicable
15 authority, issued an **ORDER OF REVOCATION OF CERTIFICATE WITH NOTICE OF**
16 **RIGHT TO HEARING** on February 26, 2004 and an **AMENDED ORDER OF**
17 **REVOCATION OF CERTIFICATE OF PROVIDER OF PRE ARRANGEMENT OR**
18 **PRE CONSTRUCTION SALES** against Respondent **SUNSET HILLS, LLC** on June 3, 2004;

19 **WHEREAS**, Respondent **SUNSET HILLS, LLC** requested a hearing on April 6, 2004;

20 **WHEREAS**, Respondent **SUNSET HILLS, LLC** now wishes to avoid the substantial
21 expenditure of its time and the expense of defending an action by or before the Director and
22 desires to obtain disposition of this matter without pursuing its right to a hearing before the
23 Director;

24 **WHEREAS**, Respondent **SUNSET HILLS, LLC** consents to the jurisdiction of the
25 Director of the Department of Consumer and Business Services, State of Oregon for the purpose
26 of this Order and the issuance thereof;

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1 **WHEREAS**, Respondent **SUNSET HILLS, LLC** expressly waives any right to a
2 hearing with respect to this matter and to challenge or appeal this Order;

3 **WHEREAS**, Respondent **SUNSET HILLS, LLC** has been notified and understands that
4 a violation of this Order will potentially subject it to the full imposition of any civil penalty that
5 has been suspended and/or other lawful action by the Director;

6 **NOW THEREFORE**, the Director hereby issues the following Findings of Fact and
7 Conclusions of Law, *which SUNSET HILLS, LLC neither admits nor denies*, and issues the
8 following Order, *to which SUNSET HILLS, LLC has consented*, as is evidenced by the
9 signature of its President, Linda Hea-Poole, on the Consent to Entry of Order attached hereto.

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FINDINGS OF FACT

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The Director **FINDS** that:

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Part One: Relevant Parties

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1. Respondent **SUNSET HILLS, LLC** operates a cemetery located at 4810 S.
17 Willamette Street, Eugene, Oregon 97405 known as “Sunset Hills Memorial Gardens.”

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2. “Sunset Hills Memorial Gardens” was owned by Carriage Services, Inc, 1900 Saint
James Place, Houston, Texas 77056 from March 30, 1999 until October 11, 2001, when it was
20 sold to Respondent **SUNSET HILLS, LLC**.

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3. Respondent **SUNSET HILLS, LLC**'s managing member is Linda Hea-Poole. Ms.
Poole is registered as the “President” of “Sunset Hills, LLC” with the Oregon Mortuary and
Cemetery Board. Ms. Poole, who has no prior experience as a cemetery owner, is assisted in the
operation of Sunset Hills Memorial Gardens by her husband Pat Poole, a former employee of
Carriage Services, Inc with significant background in the funeral industry. The Pooles reside in
the state of Texas.



1 4. Respondent **SUNSET HILLS, LLC** has employed individuals located at the
2 cemetery facility to manage or assist in the management of its cemetery, including Winnifred
3 Kihs Tinsley, Floyd Tinsley, Sheila Larson, Dennis Baker, and Cynthia Byford. The conduct of
4 individuals employed by a “certified provider” is, pursuant to ORS 97.933 (5) and OAR 440-
5 300-0280, the direct responsibility of the “certified provider.”

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Part Two: Certification and Examinations

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

16 6. Only providers “certified” by the Division of Finance and Corporate Securities may
17 lawfully engage in prearrangement sales in this State. The legislative mandate behind the
18 certification scheme is to “*assure funds for performance*” (ORS 97.925, emphasis added) for
19 those purchasers who contract for funeral and cemetery merchandise and/or services to be
20 performed at a future date.

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21 7. Respondent **SUNSET HILLS, LLC** submitted an application for Order of
22 Certification, Prearrangement Plans, with the Division of Finance and Corporate Securities on
23 June 21, 2002. The application was submitted by Linda Lucas Hea-Poole as President. Linda and
24 Pat Poole conducted an on site inspection of the cemetery’s facilities and books and records prior
25 to their purchase of Sunset Hills Memorial Gardens and their subsequent application for an Order
26 of Certification with the Division.

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1 8. The Division of Finance and Corporate Securities issued an Order of Certification,
2 Prerearrangement Plans to Respondent **SUNSET HILLS, LLC** on July 23, 2002. This Order
3 remains in effect until surrendered by the Respondent or revoked or suspended by the Director.

4 9. Every “certified provider” is obligated by statute and administrative rule to engage in
5 a number of practices with respect to the closely regulated “pre-need” sales arena including, but
6 not limited to, **proper trust account administration** (maintenance of a pre-need trust account at
7 a financial institution in the certified provider’s name; deposit of ninety percent of funds received
8 from any pre-need sale into said trust account within five business days of receipt of said funds;
9 withdrawal from said trust account exclusively by following specific, statutorily mandated
10 procedures; withdrawal of funds from the trust account exclusively for specific funeral services
11 and/or merchandise provided to pre-need beneficiaries and not for general cemetery operating
12 funds), **proper record keeping and reporting** (file annual reports with the Division by April 1
13 of each calendar year; file annual audited financial statements consistent with generally accepted
14 audit procedures and prepared by a Certified Public Accountant with the Division by April 1 of
15 each calendar year in the event that, as in the case at bar, a “master trustee” approved by the
16 Division is not appointed by the provider; maintain complete and accurate records listing the
17 name of every pre-need purchaser, the name of the beneficiary, the date upon which each
18 payment from a purchaser is received, the amount of each such payment, the date of deposit of
19 said funds into the pre-need trust account, and the allocation of trust account earnings (interest)
20 to each pre-need contract; retain said records for a period of three years; keep a written
21 procedures manual on site), **proper professional conduct of pre-need business** (refrain from
22 engaging in “unprofessional conduct” as defined by OAR 440-300-0290), and **employ pre-need**
23 **contracts consistent with Oregon law.**

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

3 11. C. Gail Smith, Financial Examiner, Division of Finance and Corporate Securities,
4 conducted an examination of Respondent **SUNSET HILLS, LLC** on December 11, 2002 at the
5 cemetery address of 4810 S. Willamette Street, Eugene, Oregon 97405. In a February 6, 2003
6 letter to Ms. Poole, Examiner Smith requested documentation providing the specific basis for
7 Respondent **SUNSET HILLS, LLC**'s disbursements from its pre-need trust account of, inter
8 alia, \$11,123.35 in August, 2002 and \$152,324.26 in September, 2002. (Despite a February 26,
9 2003 meeting with Examiner Smith; Manager, Non Depository Programs Section, Dale Laswell;
10 Linda Hea-Poole; and Pat Poole at which the Pooles were advised of the Division's specific
11 regulatory concerns said information has still not been provided to the Division.) The December
12 11, 2002 examination was continued to March 5, 2003. Results of said examination were
13 provided to Respondent in writing on August 26, 2003.

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15 12. C. Gail Smith, Financial Examiner, Division of Finance and Corporate Securities,
16 conducted a second examination of Respondent **SUNSET HILLS, LLC** on November 17, 2003
17 at the cemetery address of 4810 S. Willamette Street, Eugene, Oregon 97405. Results of said
18 examination were provided to Respondent in writing on December 11, 2003 along with a
19 specific request to provide documentation and records relating to concrete issues involving pre-
20 need trust account administration and recordkeeping. Although the Division imposed a deadline
21 of December 23, 2003 for the production of said materials, the requested information has still not
22 been provided to the Division.

23 **Part Three: Trust Account Administration**

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25 13. Respondent **SUNSET HILLS, LLC**, purchased the Sunset Hills Memorial Gardens
26 Cemetery from Carriage Services, Inc on October 11, 2001. Carriage Services, Inc maintained a

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1 pre-need trust account, pursuant to a “Carriage Cemetery Services, Inc Master Pre-Arrangement
2 Funeral Plan Trust” dated October 14, 1999 with Wells Fargo Trust Center, P.O. Box 95021,
3 Henderson, Nevada 89009-9063. The trust’s account number was #219083. Said pre-need trust
4 account contained substantial moneys from the sale of pre-need contracts by Carriage and the
5 other predecessor owners of Sunset Hills Memorial Gardens that were in trust to ensure funds
6 were available for the performance and/or purchase of funeral services or merchandise upon the
7 death of specific pre-need beneficiaries.

8 14. Respondent **SUNSET HILLS, LLC** did not maintain a pre-need trust account in its
9 own name as required by statute. Rather, it employed the trust account established by Carriage
10 Cemetery Services, Inc at Wells Fargo.

11 15. Respondent **SUNSET HILLS, LLC** had a number of bank accounts at a Bank of
12 America branch located in Eugene, Oregon. Said accounts were numbered, inter alia, #0057
13 7144 5944, #0057 7318 6722, and #0085 4890 1704. None of these accounts were ever
14 established as pre – need trust accounts, yet by Linda Poole’s own admission during the
15 Division’s first examination of Respondent **SUNSET HILLS, LLC** payments made by
16 purchasers on their pre-need contracts were regularly deposited into these Bank of America
17 “operating” accounts and not into the Wells Fargo pre-need trust account. Furthermore, funds so
18 deposited were, inter alia, employed for general cemetery operating purposes and not held in
19 trust for the benefit of specific pre need purchasers. (On at least one occasion cash payments
20 made by pre-need purchasers were used by cemetery employees as “petty cash” without being
21 deposited into *any* bank account.) As such, said funds were not deposited into a pre-need trust
22 account *within five business days* and were not *withdrawn in accordance with procedures*
23 *established by statute*. Respondent **SUNSET HILLS, LLC** has not produced records to the
24 Division identifying the names of the purchasers that made payments that were deposited into the
25 Bank of America accounts, the names of the beneficiaries involved, the amounts of the deposits,
26 the dates of receipt of the moneys by Respondent, or the allocation of earnings from said



1 moneys. (In a September 24, 2003 letter Respondent claimed that “the trust fund monies (sic)
2 have been replaced and been deposited into the Wells Fargo pre-need trust account.” However,
3 Respondent has not provided the Division with proof that any money so deposited did not
4 emanate from payments made by different purchasers.)

5 16. After purchasing the cemetery, Pat and/or Linda Poole charged then cemetery
6 manager Winnifred Kihs Tinsley with the task of reviewing the books and records of Sunset
7 Hills Memorial Gardens to ascertain whether funeral services and/or merchandise had been
8 provided to pre-need beneficiaries for which moneys had been trusted but not released from trust
9 and, if so, to request said funds from Wells Fargo. As a result, Ms. Kihs Tinsley filed requests
10 for disbursements with Wells Fargo on December 18, 2001, February 5, 2002, and March 11,
11 2002. Of import, *each of these requests included documentation in the form of either a death*
12 *certificate or interment order for every beneficiary for which services and/or merchandise had*
13 *been provided.* Pat and Linda Poole were aware of the contents of each of these submissions.

14 17. In September, 2002, some six months after Respondent **SUNSET HILLS, LLC**
15 terminated the employment of Winnifred Kihs Tinsley, Pat Poole made a written request for
16 disbursement from the Wells Fargo pre-need trust account on behalf of Respondent **SUNSET**
17 **HILLS, LLC** in the amount of **\$151,152.52**. Pre-need trust withdrawal requests must, pursuant
18 to ORS 97.943, be accompanied by an affidavit of the certified provider that affirms that the
19 provider has performed all services and provided all merchandise required under the
20 prearrangement sales contract and include either a (1) certified death certificate of the
21 beneficiary or (2) an affidavit signed by at least one member of the beneficiary’s family or the
22 executor of the beneficiary’s estate (interment order). The September, 2002 request from Mr.
23 Poole did not contain a single death certificate or executor’s affidavit (interment order) despite
24 the large monetary amount of the withdrawal.

25 18. As part of the September, 2002 disbursement request, Respondent **SUNSET HILLS,**
26 **LLC** withdrew from the Wells Fargo trust account sums of money that were purportedly for

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1 services and merchandise provided by Sunset Hills on behalf of specific beneficiaries. (The
2 withdrawal request stated that it was for merchandise “that has been delivered but has not been
3 withdrawn from the trust.”) In point of fact, Sunset Hills, LLC had previously submitted
4 withdrawal requests with death certificates *for the same beneficiaries* on December 18, 2001,
5 February 5, 2002, March 11, 2002, and August 13, 2002 and had already received these funds,
6 thus engaging in “double dipping.” Specifically, the sum of **\$42,715.88** was disbursed in
7 September, 2002 that had previously been disbursed for the following beneficiaries: *Arthur*
8 *Bender, Florence Best, Blythe Buffington, Hilda Burton, Vadette Deisner, Ethel Foltz, Jackie*
9 *Foster, Patricia Kaehn, Phillip Kasow, Dennis Kaufman, Leonard Robertson, Erma Smoke,*
10 *Eunice Dewees, Donald Gilmore, Pauline Harris, Delores Holloway, Elsie Jordan, Ordell*
11 *Regeth, Raymond Hendrickson, Vena Drury, Mary Polk, James Bouee, Louise Neff, David Lean,*
12 *Lola Rehfeld, Olivia Brown, Gina McNaughton, Peter Maas, Elsie Robertson, Wilford Brooksby,*
13 *Albert Colvert, James Glover, John Kaufman, Eugene Barnes, Joseph Grentham, Norman Imus,*
14 *Lowell Head, Milford Carr, Laurena Brown, Melvin Moorehead, and Robert Sheriffs.* These
15 funds will be needed by the trust to provide services and/or merchandise to future beneficiaries
16 that die.

17 19. As part of the sale of pre-need contracts the previous owners of the cemetery had
18 sold so called “travel protection plan” insurance policies in association with pre-need contracts.
19 Such policies provide for transportation of the deceased and related services in the event a pre-
20 need contract beneficiary passed away more than a certain distance from their home community.
21 Funds for the sale of these insurance policies were not required to be placed in trust accounts,
22 and none of the previous owners of Sunset Hills Memorial Gardens deposited said amounts in
23 the Wells Fargo trust account. However, Respondent **SUNSET HILLS, LLC** withdrew moneys
24 from the Wells Fargo pre-need trust account, citing authorization to withdraw “travel protection
25 plan” funds that were, *in point of fact, never deposited into the trust account by any person or*
26 *entity.* (The withdrawal request stated that it was for merchandise “that has been delivered but

1 has not been withdrawn from the trust.”) In point of fact, Respondent withdrew the sum of
2 **\$7,966.00** from trust for the travel protection funds of the following beneficiaries [those with
3 asterisks were either alive on the date of the disbursement request or, alternatively, lacked any
4 proof of death in their files as of the date of the disbursement request]: *Violet Baker, Reid*
5 *Bowers**, *Olin Byerly, James Creith, Ronald Dykes, Barbara Glover**, *Joseph Grantham,*
6 *Jeannie Jensen**, *Dennis Johnson, Diane Mogsted, Joe Rathsack, Joan Robbins-Faris, Gary*
7 *Schoonover**, *Gilbert Shaw, Frank Tannehill, and Oscar Valdez.* These funds will be needed by
8 the trust to provide services and/or merchandise to future beneficiaries that die.

9 20. As part of the September, 2002 disbursement request, Respondent **SUNSET HILLS,**
10 **LLC** withdrew from the Wells Fargo trust account sums of money that were purportedly for
11 “fees” charged by Sunset Hills to pre-need purchasers. (The withdrawal request stated that it was
12 for merchandise “that has been delivered but has not been withdrawn from the trust.”) With some
13 limited exceptions, industry practice is not to place “fees” in trust. Of greater import, fees would
14 only be able to be disbursed from trust if the service the fee was associated with had been
15 provided and *the amount of the fee had initially been placed in the pre-need trust account.*

16 Respondent **SUNSET HILLS, LLC** withdrew **\$11,957.78** for “processing fee”, “marker
17 installation fee”, or “miscellaneous services” on behalf of the following beneficiaries [those with
18 asterisks were either alive on the date of the disbursement request or, alternatively, lacked any
19 proof of death in their files as of the date of the disbursement request]: *Julia Alexander, Mike*
20 *Astley, Violet Baker, William Baker, Rufus Barerra, Eugene Barnes, Charles Berg**, *Carol*
21 *Bellemey, Florence Best, Juanita Bishop, Dorothy Blanchard, James Bovee, Reid Bowers**, *Allen*
22 *Bryant, Blythe Buffington, Hilda Burton, Milford Carr, Earl Chism, Albert Colvert, Harry Cool,*
23 *Hazel Costello, Grant Coster, Laura Couts, John Crandell, James Creith, Jr, Mertie Crouse,*
24 *Wayne Crumpacker, Vadette Deisner, Bill Diess, Gregor Diseth, Robert Dougherty, Baron*
25 *Dowdy, Marjorie Dumolt, Ronald Dykes, David Earl, Robert Faught*, Robert Fournier, Peggy*
26 *Foy, Nolan Fugitt, Eugene Gillard, Helen Gilmore, Barbara Glover*, Kathy Godsey, Joseph*

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1 *Granthan, Charles Gross, Glenna Hall, Gary Hanel, Heloise Hanes, Arthur Hansen, Frec*
2 *Hemken, Raymond Hendrickson, Herbert Herzberg, Rosemary Hiebechuk, Delores Holloway,*
3 *Betty Iverson*, Dorothy Jacobson, Homer Jamison, Jeannie Jensen*, Elsie Jordan, Patricia*
4 *Kaehn, Philip Kasow, Dennis Kaufman, Edna Kehl, Daniel Kent, Byron King*, Joanne*
5 *Klopfenstein, Ronald Lago*, Nick Landreth, Ethel Learn*, Kris Leonard*, Amy Lovett, Richard*
6 *Manning, Billie Mansell*, Mary Marx, Wallace McMahon, Edith McBeth, Gordon Mereseth,*
7 *Duane Mogstad, Ruth Moore, Ervin Neff, Helen Neves, Margaret Nunez, Margueritte Olsen,*
8 *Morris Osterhoff, Werner Ostermann, Albert Owens, Calvin Palmer, Felix Pate, E. Louis*
9 *Pennington, Robert Pfeiffer, Floyd Phillips, Mike Prodan, Gwendolyn Rapp*, Joe Rathsack,*
10 *Ordell Regeth, Laurabelle Rice, Ellaerita Rizner, Leith Robertson, Marvin Robins, Joan Robins-*
11 *Farris, Denver Robinson, BJ Rogers, Barbara Sherlock, Willma Stoddard*, Eugene Stolt, Lillian*
12 *Stoops, Gary Stout*, Elmer Surdam, Phyrnette Suter, Garrel Roseberry, Agnes Rouse, Myrtle*
13 *Sagen, Robert Scheel, Gary Schoonover*, Violet Senn, Roy Severin, Gilbert Shaw, Frank*
14 *Tannehill, David Tanton, Cecil Thompson, Cesar Valdez*, Francis Walker, Gary Walker,*
15 *Marian Warberg, Lillian Whalin, Patricia White, Carrell Wilson, Jean Wilson*, and Beverly*
16 *Wymer.* These funds will be needed by the trust to provide services and/or merchandise to future
17 beneficiaries that die.

18 21. As part of the September, 2002 disbursement request, Respondent **SUNSET HILLS,**
19 **LLC** withdrew from the Wells Fargo trust account sums of money that were purportedly for
20 services and merchandise provided by Sunset Hills on behalf of specific deceased beneficiaries.
21 (The withdrawal request stated that it was for services and merchandise “that has been delivered
22 but has not been withdrawn from the trust.”) In point of fact, some of these beneficiaries for
23 which funds were withdrawn were still alive and well at the time of disbursement and in many
24 cases making monthly payments on their pre-need contracts or, in the alternative, Respondent
25 **SUNSET HILLS, LLC** has not provided the Director with any proof of death for these
26 beneficiaries. Specifically, funds in the amount of **\$8,918.70** were disbursed from trust from

1 those that were either alive on the date of the disbursement request or, alternatively, lacked any
2 proof of death in their files as of the date of the disbursement request *for alleged purposes other*
3 *than "travel protection plan" funds or "fees": Betty Lou Diller, Betty Iverson, Wilma Stoddard,*
4 *Gary Stout, M. Jean Wilson, Barbara Glover, Ethel Learn, and Mary McNaughton.* These funds
5 will be needed by the trust to provide services and/or merchandise to future beneficiaries that die.

6 22. In sum, of the **\$151,152.52** Respondent **SUNSET HILLS, LLC** withdrew from its
7 pre-need trust account in September, 2002 the amount of **\$71,558.36** was improperly and
8 unlawfully withdrawn. (As to the remaining \$79,594.16 of the September, 2002 disbursement,
9 Respondent **SUNSET HILLS, LLC** has not provided the Director with information from which
10 she can determine whether withdrawals from trust were proper.)

11 23. Respondent **SUNSET HILLS, LLC** failed to deposit funds from purchasers making
12 payments on pre-need contracts in the Wells Fargo trust account *within five business days* of
13 receipt of these moneys as required by statute. Upon receipt of funds from purchasers Sunset
14 Hills managers initially deposited moneys in one of the Bank of America accounts or, on
15 information and belief, occasionally used cash payments for so called "petty cash" purposes.
16 Once the Bank of America accounts were closed by Respondent **SUNSET HILLS, LLC**, money
17 received from purchasers was sent (via Fed Ex Two Day Delivery) to Linda Hea-Poole in Texas
18 at her direction. Linda Poole, upon information and belief, did not deposit them into the Wells
19 Fargo trust account within five business days.

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21 **Part Four: Recordkeeping and Reporting**

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23 24. Respondent **SUNSET HILLS, LLC** was required to file an "annual prearrangement
24 report" with the Division of Finance and Corporate Securities on April 1, 2003. Said report was
25 filed on April 20, 2003. On April 29, 2003 Respondent's agent for the preparation of the annual
26 "prearrangement certified provider" report stated in writing that "in the future, we will have

1 these reports postmarked by the due dates.” On September 24, 2003, Linda Hea-Poole
2 represented in writing that all future reports would be filed in a timely fashion.

3 25. Respondent **SUNSET HILLS, LLC** was required to file an “annual prearrangement
4 report” with the Division of Finance and Corporate Securities on April 1, 2004. Said report was
5 filed on May 25, 2004, nearly two months late.

6 26. In the event that a certified provider has chosen, as Respondent **SUNSET HILLS,**
7 **LLC** has, to not appoint a registered “master trustee” as defined by ORS 97.923 (9) the certified
8 provider must file annual audited financial statements consistent with generally accepted audit
9 principles and prepared by a Certified Public Accountant with the Division. This requirement is
10 one of the key methods by which the Division can determine whether statutory requirements are
11 being complied with. Said audited financial statements were due for calendar year 2002 on April
12 1, 2003 and *have never been provided to the Division*. Furthermore, audited financial statements
13 were due for calendar year 2003 on April 1, 2004 and *have never been provided to the Division*.

14 27. Respondent **SUNSET HILLS, LLC** is required to keep complete records which
15 indicate the name of each pre-need contract purchaser, the name of each beneficiary, the date of
16 the contract, the date upon which each payment from a purchaser is received, the date of each
17 deposit into the trust account, the amount of each deposit, and the allocation of earnings and
18 interest to each account. These records are, by statute and administrative rule, to be made
19 available to the Division of Finance and Corporate Securities upon request. Respondent
20 **SUNSET HILLS’s** records at both the properly noticed December 11, 2002/March 5, 2003
21 examination and the properly noticed November 17, 2003 examination were incomplete to such
22 an extent that Examiner Smith could not determine the true status of Respondent’s pre-need
23 business. Despite numerous additional requests for a complete set of said records they have not
24 been produced for the Division’s inspection.

25 28. Respondent **SUNSET HILLS, LLC** has not retained records for the three year period
26 of time mandated by administrative rule. Specifically, Respondent has not retained records which



1 indicate the name of each pre-need contract purchaser, the name of each beneficiary, the date of
2 the contract, the date upon which each payment from a purchaser is received, the date of each
3 deposit into the trust account, the amount of each deposit, and the allocation of earnings and
4 interest to each account.

5 29. Respondent **SUNSET HILLS, LLC** did not have a written procedures manual on
6 premises at either the properly noticed December 11, 2002/March 5, 2003 examination or the
7 properly noticed November 17, 2003 examination. Despite numerous additional requests, said
8 manual not been produced for the Division's inspection.

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Part Five: "Unprofessional Conduct"

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30. Respondent **SUNSET HILLS, LLC** is required to maintain certain minimal
standards in its operations such that its management of its business does not constitute
"unprofessional conduct" as defined by ORS 97.933 and OAR 440-300-0290.

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31. Respondent **SUNSET HILLS, LLC** failed to make and verify trust deposits in the
amounts and within the time periods specified by statute, an act that constitutes "unprofessional
conduct."

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32. Respondent **SUNSET HILLS, LLC** withdrew money from a trust account in excess
of what is permitted by statute, an act that constitutes "unprofessional conduct."

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33. Respondent **SUNSET HILLS, LLC** failed to comply with annual reporting
requirements imposed by statute, an act that constitutes "unprofessional conduct."

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Part Six: Employment of Unlawful Prearrangement Sales Contract



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1 52. That the Certification of Respondent **SUNSET HILLS, LLC** is, pursuant to ORS
2 97.948, hereby **REVOKED**. Respondent shall deliver all records in its actual or constructive
3 possession regarding pre-arrangement or pre-construction sales made by Respondent **SUNSET**
4 **HILLS, LLC**, or its predecessors, to the Director's designee within fourteen (14) days of the
5 entry of this Order. Furthermore, Respondent **SUNSET HILLS, LLC** shall be prohibited from
6 engaging in pre-arrangement or pre-construction sales in this state until further order of the
7 Director.

8 53. That Respondent **SUNSET HILLS, LLC** is ordered to pay the sum of **TWO**
9 **THOUSAND FIVE HUNDRED DOLLARS** (\$2,500.00) as a civil penalty for violations of
10 ORS 97.941 (4) described in paragraph thirty eight (38) herein; payment of this amount shall be
11 **SUSPENDED** so long as Respondent complies with the terms of this Order.

12 54. That Respondent **SUNSET HILLS, LLC** is ordered to pay the sum of **FIVE**
13 **THOUSAND DOLLARS** (\$5,000.00) as a civil penalty for violations of ORS 97.941 (2)
14 described in paragraph thirty nine (39) herein; payment of this amount shall be **SUSPENDED** so
15 long as Respondent complies with the terms of this Order.

16 55. That Respondent **SUNSET HILLS, LLC** is ordered to pay the sum of **FIVE**
17 **THOUSAND DOLLARS** (\$5,000.00) as a civil penalty for violations of ORS 97.941 and
18 OAR 440-300-0290 (8) described in paragraph forty (40) herein; payment of this amount shall be
19 **SUSPENDED** so long as Respondent complies with the terms of this Order.

20 56. That Respondent **SUNSET HILLS, LLC** is ordered to pay the sum of **TEN**
21 **THOUSAND DOLLARS** (\$10,000.00) as a civil penalty for violations of ORS 97.943 (2)
22 described in paragraph forty one (41) herein; payment of this amount shall be **SUSPENDED** so
23 long as Respondent complies with the terms of this Order.

24 57. That Respondent **SUNSET HILLS, LLC** is ordered to pay the sum of **TEN**
25 **THOUSAND DOLLARS** (\$10,000.00) as a civil penalty for violations of ORS 97.943 and
26



1 OAR 440-300-0290 (5) described in paragraph forty two (42) herein; payment of this amount
2 shall be **SUSPENDED** so long as Respondent complies with the terms of this Order.

3 58. That Respondent **SUNSET HILLS, LLC** is ordered to pay the sum of **TEN**
4 **THOUSAND DOLLARS** (\$10,000.00) as a civil penalty for violations of ORS 97.943 and
5 OAR 440-300-0290 (5) described in paragraph forty three (43) herein; payment of this amount
6 shall be **SUSPENDED** so long as Respondent complies with the terms of this Order.

7 59. That Respondent **SUNSET HILLS, LLC** is ordered to pay the sum of **FIVE**
8 **THOUSAND DOLLARS** (\$5,000.00) as a civil penalty for violations of ORS 97.933 (3) (a)
9 and OAR 440-300-0250 described in paragraph forty four (44) herein; payment of this amount
10 shall be **SUSPENDED** so long as Respondent complies with the terms of this Order.

11 60. That Respondent **SUNSET HILLS, LLC** is ordered to pay the sum of **FIVE**
12 **THOUSAND DOLLARS** (\$5,000.00) as a civil penalty for violations of ORS 97.941 (12) and
13 OAR 400-300-0250 (3) described in paragraph forty five (45) herein; payment of this amount
14 shall be **SUSPENDED** so long as Respondent complies with the terms of this Order.

15 61. That Respondent **SUNSET HILLS, LLC** is ordered to pay the sum of **FIVE**
16 **THOUSAND DOLLARS** (\$5,000.00) as a civil penalty for violations of ORS 97.941 (12) and
17 OAR 400-300-0250 (3) described in paragraph forty six (46) herein; payment of this amount
18 shall be **SUSPENDED** so long as Respondent complies with the terms of this Order.

19 62. That Respondent **SUNSET HILLS, LLC** is ordered to pay the sum of **FIVE**
20 **THOUSAND DOLLARS** (\$5,000.00) as a civil penalty for violations of ORS 97.941 (4)
21 described in paragraph forty seven (47) herein; payment of this amount shall be **SUSPENDED**
22 so long as Respondent complies with the terms of this Order.

23 63. That Respondent **SUNSET HILLS, LLC** is ordered to pay the sum of **TWO**
24 **THOUSAND FIVE HUNDRED DOLLARS** (\$2,500.00) as a civil penalty for violations of
25 OAR 400-300-0330 described in paragraph forty eight (48) herein; payment of this amount shall
26 be **SUSPENDED** so long as Respondent complies with the terms of this Order.

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CONSENT TO ENTRY OF ORDER

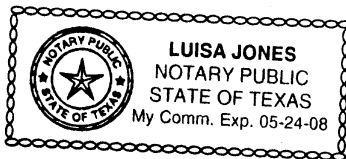
I, **LINDA HEA-POOLE**, state that I am a resident of the State of Texas, that I have read the foregoing Order, and that I fully understand the contents thereof; that I am the President of **SUNSET HILLS, LLC** and that I have been authorized to act on behalf of **SUNSET HILLS, LLC**; that I have been advised of Respondent's right to a hearing; that Respondent has been represented by counsel of its choosing in this matter; that I voluntarily consent to the entry of this Order without any force or duress, expressly waiving any right to a hearing in this matter; that I understand that the Director reserves the right to take further actions against Respondent to enforce this Order or to take appropriate action upon discovery of other alleged violations of **ORS 97.005 et seq** by **SUNSET HILLS, LLC**; that Respondent will fully comply with the terms and conditions stated herein and will not engage in pre-arrangement and/or pre-construction sales in this state; that I affirm that the assertions stated herein are true and correct; that I understand that this Consent Order is a public document.

Dated this 16 day of July, 2004.

Linda Hea-Poole
LINDA HEA-POOLE, PRESIDENT

SUBSCRIBED AND SWORN to before me this 16 day of July, 2004.

Luisa Jones
Notary Public
for the State of: TX
My commission expires: 05-24-08



Division of Finance and Corporate Securities
250 West Interstate Building
Salem, OR 97301-3881
Telephone: (503) 378-4387

