
COMPLIANCE ORDER

IN THE MATTER OF

THE BUSINESS PRACTICES AND CONSUMER PROTECTION ACT [SBC 2004], c. 2

Respondent: Wiebe & Jeske Burial & Cremation Care Providers Ltd.

Date: February 10, 2021

Adjudicator: Shahid Noorani

CONTRAVENTION

In a decision of the director dated February 10, 2021 the Respondent is found to have committed thirty-three (33) contraventions to the following:

Deducting more than 20% for selling expenses from money received in payment of preneed funeral services contracts, contrary to section 40 (5) of the *Business Practices and Consumer Protection Act* (“Act”)

REQUIREMENTS OF THE ORDER

In this Order,

preneed contract means “preneed funeral services contract” as defined in section 17 of the Act and refers to such contracts executed by and between the Respondent and consumers.

financial institution means a savings institution in British Columbia with whom the Respondent established a “preneed trust account” in accordance with section 40 of the Act.

preneed sub-account means the individual accounting for trust money funding a unique preneed contract, on deposit with a financial institution.

Deposit Payment means the initial transfer or payment of funds to the Respondent or a financial institution, made by that consumer to fund a preneed contract.

Installment Payment means a transfer or payment of funds to a financial institution to fund a preneed contract, that is not a Deposit Payment.

Total Payments means the total (in dollars) of all Deposit Payments and Installment Payments.

verify means to review and confirm accuracy of information based on business and banking records provided by a financial institution (including copies kept or generated in the ordinary course of business)

1. Except with express prior written permission of Consumer Protection BC, failure to provide information or take any actions prescribed by this Order within the stated time for completion is a breach of the terms of this Order. This applies equally to any supplementary Orders made pursuant to this Order.
2. Unless an extension to the date is given by the Director, the Respondent must complete and deliver to Consumer Protection BC **within 90 days of service of this Order**, a report (“Report”) produced or verified by a Chartered Professional Accountant or alternatively another person approved by the Director, with the contents specified below. Except where otherwise indicated, as in the case of supporting documents, the Report is to be prepared by populating information into the MS Excel spreadsheet attached to this Order. The Report must include the following information:
 - a. Based on records provided by financial institutions, an itemized list by consumer name, of all persons for whom the Respondent held or currently holds money in a preneed trust account.
 - b. An itemized list by consumer name, of the current amount of funds in each preneed sub-account as of February 10, 2021.
 - c. balance for each preneed sub-account identified in item b. above, the total payments of all money placed into the sub account by the consumer to fund the preneed contract entered into with the Respondent.
 - d. a list by consumer name, of each preneed sub-account holding less than 80% of the total payments deposited into the sub-account, identifying the amount of the difference (\$ in dollars) between 80% of total payments deposited and current balance (“shortfall”).
 - e. Utilizing banking records that document the history for all credits and debits from each preneed sub-account with a shortfall, identify the number of events where consumer payment(s) directed to the sub-account were subsequently debited in an amount greater than 20% and deposited with the Respondent.
 - f. For consumers identified in item 2.a above and not also identified in 2.b above,

- i. The total payments deposited into a preneed sub-account by the consumer.
 - ii. The total amount of funds debited from the Deposit Payment into each preneed sub-account stated as a dollar amount and percentage.
 - iii. The total amount of funds debited from the aggregated Installment Payments into each preneed sub-account, stated as a dollar amount and as a percentage of the aggregated Installment Payments.
 - iv. In the event that funds debited from a preneed sub-account were drawn to fund the provision of funeral services supplied by the Respondent, confirmation that no additional consumer funds were paid to the Respondent for funeral goods and services identified as “guaranteed” in the associated preneed contract.
 - v. In the event that funds debited from a preneed sub-account were drawn for purposes other than item iv. above, the amount of funds disbursed and the reason for the disbursement.
3. Upon review of the information provided in the Report required by this Order, the Director may give further direction and/or orders to the Respondent, as necessary for the completion of the Report, as well as other remedial steps to be taken to provide remedies and/or to address matters of non-compliance.
4. Depending on the information detailed in the Report as provided to the Director, further actions by the Director under Parts 9 and 10 of the BPCPA may be taken.
5. The Respondent is ordered to reimburse Consumer Protection BC the amount of **\$8,000.00 (eight thousand dollars)** for its inspection costs to date in this matter, to be paid **within 30 days of service of this Order** on the Respondent. Costs incurred by Consumer Protection BC in the further administration of this Order and/or inspection costs may be the subject of supplementary orders for reimbursement.

RECONSIDERATION (APPEAL)

Under section 181 of the Act, the Respondent may apply for reconsideration of this Order within 30 days of receiving it. The Director may extend time for the request if special circumstances exist. The application must be in writing and identify the error the applicant believes has been made or other grounds for reconsideration.

The Director may vary or cancel an Order only if new evidence has become available, that:

- is substantial, and material to the Order; and,
- did not exist at the time of the original decision or did exist but could not have been discovered at that time through the exercise of reasonable diligence.

Payment of a \$252 application fee must be submitted with the request for reconsideration, which will be refunded if the reconsideration results in cancellation of the original determinations.

A decision on reconsideration is final and may only be judicially reviewed. Information about the reconsideration process can be found at www.consumerprotectionbc.ca
A request for reconsideration must be addressed to:

Consumer Protection BC
Attn: Shahid Noorani, Vice President Regulatory Services
200 – 4946 Canada Way, Burnaby, BC V5G 4H7
shahid.noorani@consumerprotectionbc.ca

SUMMARY

The Respondent is required to comply with this Order and, if requested by this office, provide proof of compliance. Failure to comply with this Order may result in the imposition of an administrative penalty of up to \$5,000 on an individual and up to \$50,000 on a corporation.

This Order may be filed in British Columbia Supreme Court and once filed is deemed an Order of the Court and enforceable as such.

February 10, 2021

Date



Shahid Noorani, Vice President

Method of Service: email

Enclosure: MS Excel Spreadsheet