

SCDCA v. Cremation Society of South Carolina, Inc.

(Docket No. 14-ALJ-30-0436-CC)

In September of 2014, Cremation Society of South Carolina, Inc. (Cremation Society) requested a contested case hearing in the Administrative Law Court (ALC) after the Department issued a final order on learning of Cremation Society's improper reporting and mishandling of funds from preneed funeral contracts (preneed contracts or contracts).

The Department had previously fined Cremation Society \$2,500 in March 2012 for failure to use Department-approved forms, failure to maintain proper records, failure to report to the Department, and failure to deposit monies into proper trust accounts resulting from two preneed contracts as required in S.C. Code Ann. Sections 32-7-20 to -30, -50, and -70 (Supp. 2016).

In subsequent compliance audits beginning in November 2012 the Department discovered evidence of other violations from Cremation Society's handling of preneed contracts. The Department discovered Cremation Society had created and mishandled fifty-seven (57) preneed contracts, totaling almost \$60,000, since the initial fine in 2012 to mid-2014. The Department cited Cremation Society for over two hundred fifty (250) violations including: 51 violations of section 32-7-30 for improperly keeping preneed contract funds in non-trust accounts; 51 violations of section 32-7-20(h) for holding funds in accounts that were not federally insured; 52 violations for creation of these contracts on unapproved forms; 57 violations for not forwarding required fees to the Department as required by section 32-7-50; and 63 violations of section 32-7-70, failure to maintain proper accounting and records of preneed contracts.

The Department agreed to a settlement with Cremation Society in February 2015. Among other things, the agreement required that Cremation Society: transfer more than \$26,000 to third party trust accounts, maintain existing bonds for six years, pay an additional \$25,500 into a fund maintained by the Department to ensure affected consumers would receive the services, and pay an administrative fine of \$35,000.