

**SETTLEMENT AGREEMENT BETWEEN THE STATE  
BOARD OF EMBALMERS AND FUNERAL DIRECTORS, BAUE FUNERAL  
HOME CO. D/B/A BAUE FUNERAL HOMES AND LISA A. BAUE**

COMES NOW the State Board of Embalmers and Funeral Directors (the "Board") Baue Funeral Home Co. d/b/a Baue Funeral Homes ("Baue Funeral Home"), and Lisa Baue ("Director") and enter into this Agreement ("Settlement Agreement").

Pursuant to the terms of Section 536.060, RSMo<sup>1</sup>, as it is made applicable to the Administrative Hearing Commission ("AHC") by Section 621.135, RSMo, the parties waive the right to the filing of a disciplinary complaint by the Board with the AHC, a hearing of the issues stipulated in this Settlement Agreement in front of the AHC, and, additionally, the right to a disciplinary hearing before the Board pursuant to Section 621.110, RSMo, and jointly stipulate and agree that a final disposition of this matter may be effectuated as described below.

Licensees acknowledge that they are aware of and understand the various rights and privileges afforded to them by law, including: 1) the right to a hearing of the charges against them; 2) the right to appear and be represented by legal counsel; 3) the right to have all charges against them proven upon the record by competent and substantial evidence; 4) the right to cross-examine any witness appearing at the hearing against them; 5) the right to present evidence on their behalf at the hearing; 6) the right to a decision upon the record of the hearing by a fair and impartial Administrative Hearing Commissioner concerning the charges against them; 7) the right to a ruling on questions of law by the AHC; 8) the right to

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<sup>1</sup>All references are to the 2000 Revised Statutes of Missouri unless otherwise noted.

a disciplinary hearing before the Board at which time they may present evidence in mitigation of discipline; and 9) the right to a claim for attorney's fees and expenses. Being aware of these rights provided them by operation of law, Licensees knowingly and voluntarily waive each and every one of these rights and freely enter into this Settlement Agreement. Licensees further agree to abide by the terms of this document as they pertain to them.

Licensees acknowledge that they have received a copy of the investigative report and other documents relied upon by the Board in determining that there was cause for discipline, along with citations to law and/or regulations the Board believes was violated. Licensees acknowledge that the Board and its attorney followed the procedures enumerated in Section 621.045, RSMo, including but not limited to: 1) providing them with a written description of the specific conduct for which discipline is sought, and a citation to the law and rules violated, together with copies of any documents which are the basis thereof; 2) allowing them at least sixty (60) days from the date of mailing to consider the Board's initial settlement offer and discuss the terms of such settlement offer with the Board; 3) advising them that they may, either at the time the settlement agreement is signed by all parties, or within fifteen (15) days thereafter, submit the agreement to the AHC for determination that the facts agreed to by the parties to the settlement constitute grounds for denying or disciplining their licenses; and 4) advising them that they have the right to consult an attorney at their own expense in any contact pursuant to Section 621.045.3, RSMo, by the Board or its counsel.

For the purpose of settling this dispute, Licensees stipulate that the factual stipulations contained in this agreement are true and stipulate with the Board that Baue Funeral Home's funeral establishment license, license number 001922, and Director's and license to practice as a funeral director, license number 004606, are subject to disciplinary action by the Board in accordance with the provisions of Chapters 333, 436 and 621, RSMo.

**Stipulated Findings of Fact**

1. The State Board of Embalmers and Funeral Directors is an agency of the state of Missouri created pursuant to Section 333.151, RSMo for the purpose of executing and enforcing the provisions of chapter 333, RSMo.

2. Baue Funeral Home Co. is a Missouri corporation, in good standing, with its principal place of business located at 620 Jefferson Street, St. Charles, Missouri. Baue Funeral Homes is a registered fictitious name of Baue Funeral Home Co.

3. Baue Funeral Home holds Missouri funeral establishment license number 001922. Baue Funeral Home's Missouri funeral establishment license is now, and was at all times relevant herein, current and active.

4. St. Charles County Funeral Plan, Inc. ("St. Charles"), is a Missouri corporation with its principal place of business located at 620 Jefferson Street, St. Charles, Missouri 63301. St. Charles holds no license issued by the Board.

5. Lisa Baue (“Director”) holds Missouri funeral director license number 004606. Director’s Missouri funeral director’s license is now, and was at all times relevant herein, current and active.

6. Director is the President and Chief Executive Officer of Baue Funeral Home Company and St. Charles.

7. On or about August 30, 2005, Baue Funeral Home, St. Charles, and Director entered into an “*Assurance of Voluntary Compliance*” (attached as Exhibit A and incorporated herein by reference) with the State of Missouri, in which the state alleged that Baue Funeral Home, St. Charles, and Director retained as their own money amounts exceeding twenty percent of the total payment agreed to be paid by the purchasers of preneed contracts as such total is reflected in each preneed contract; falsely promised and misrepresented to consumers that at least eighty percent of payments on preneed contracts would be placed in a preneed trust account when, at the time, the practice of Baue Funeral Home, St. Charles and Director was not to deposit the payments in a preneed trust account; and failed to deposit timely funds paid by purchasers of preneed contracts into preneed trust accounts with state or federally chartered financial institutions authorized to exercise trust powers in Missouri.

8. Pursuant to the “*Assurance of Voluntary Compliance*”, Baue Funeral Home, St. Charles, and Director agreed that the “*Assurance of Voluntary Compliance*” could be used as a basis for discipline and agreed to enter into a settlement agreement with the Board

imposing discipline of five years probation subject to certain terms and conditions on the funeral director license held by Director and the funeral establishment license held by Baue Funeral Home, based on the conduct described in the *Assurance of Voluntary Compliance*.

**Stipulated Conclusions of Law**

9. Jurisdiction and venue are proper before the Administrative Hearing Commission (the "Commission") pursuant to Section 333.121.2, RSMo, and Section 436.063, RSMo.

10. Section 407.020, RSMo, states, in pertinent part:

The act, use or employment by any person of any deception, fraud, false pretense, false promise, misrepresentation, unfair practice or the concealment, suppression, or omission of any material fact in connection with the sale or advertisement of any merchandise in trade or commerce or the solicitation of any funds for any charitable purpose, as defined in section 407.453, in or from the state of Missouri, is declared to be an unlawful practice . . . Any act, use or employment declared unlawful by this subsection violates this subsection whether committed before, during or after the sale, advertisement or solicitation.

11. Section 436.027, RSMo, states:

The seller may retain as his own money, for the purpose of covering his selling expenses, servicing costs, and general overhead, the initial funds so collected or paid until he has received for his use and benefit an amount not to exceed twenty percent of the total amount agreed to be paid by the purchaser of such prepaid funeral benefits as such total amount is reflected in the contract.

12. Section 333.121.2, RSMo, states, in relevant portion, as follows:

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo,

against any holder of any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered his certificate of registration or authority, permit or license for any one or any combination of the following causes:

\* \* \* \*

(15) Violation of any of the provisions of chapter 193, RSMo, chapter 194, RSMo, or chapter 436, RSMo;

13. The conduct alleged in the "*Assurance of Voluntary Compliance*", upon which Baue Funeral Home and Director agreed that discipline could be based is in violation of Section 436.027, RSMo, in that Baue Funeral Home and Director kept funds in excess of the twenty percent authorized by statute.

14. There is cause to discipline the establishment license held by Baue Funeral Home and the funeral director's license held by Director pursuant to Section 333.121.2(15) because Baue Funeral Home and Director have violated Section 436.027, RSMo.

#### **JOINT AGREED DISCIPLINARY ORDER**

Based upon the foregoing, the parties mutually agree and stipulate that the following shall constitute the disciplinary order entered by the Board in this matter under the authority of Sections 621.110, 333.100 and 436.063, RSMo. This disciplinary order will be effective fifteen days from the date it is signed by the Executive Director of the Board.

15. **Probation of licenses**. Missouri funeral establishment license number 001922, held by Baue Funeral Home for its location at 620 Jefferson Street, St. Charles, Missouri, and Missouri funeral director's license number 004606, held by Lisa Baue, are hereby placed on

**PROBATION** for a period of five (5) years (the “Disciplinary Period”) subject to the terms and conditions set forth below. During the Disciplinary Period, Baue Funeral Home shall be entitled to operate as a funeral establishment and Director shall be allowed to practice as a funeral director provided they comply with the terms and conditions of the Disciplinary Period.

16. **Terms and Conditions of the Disciplinary Period.** Terms and conditions of the Disciplinary Period are as follows:

A. Baue Funeral Home shall keep the Board apprised at all times in writing of its current business address and telephone number, and Director shall keep the Board apprised at all times in writing of her current home and work addresses and telephone numbers at each place of business. Baue Funeral Home and Director, respectively, shall provide the Board with written notification within ten days of any change in this information.

B. Baue Funeral Home and Director shall timely renew all Board issued licenses and registrations and timely pay all fees for these renewals and comply with all other requirements to maintain her licenses and registrations in a current and active state.

C. If, at any time within the Disciplinary Period, Baue Funeral Home and/or Director change residence and/or place of business from the State of Missouri, cease to be currently licensed under the provisions of Chapter 333 or Chapter 436, or

fail to keep the Board advised of all current places of business and/or residence, the time of absence, or unlicensed status or unknown whereabouts, shall not be deemed or taken as any part of the Disciplinary Period.

D. Baue Funeral Home and Director shall comply with all provisions of Chapter 333, RSMo, Sections 436.005 through 436.071, RSMo, all rules and regulations of the Board, and all state and federal laws related to the performance of duties in the funeral industry.

E. Director and/or an agent of Baue Funeral Home shall appear before the Board or its representatives upon the Board's request.

F. Baue Funeral Home and Director shall accept and cooperate with unannounced visits from the Board's duly authorized representatives to monitor their compliance with these terms and conditions.

G. Baue Funeral Home and Director shall submit written reports to the Board by no later than January 1 and July 1 during each year of the Disciplinary Period stating truthfully whether there has been compliance with all terms and conditions of this Settlement.

H. Baue Funeral Home shall comply with all terms and conditions of the *Assurance of Voluntary Compliance*.

17. Upon the expiration and successful completion of the Disciplinary Period, the establishment license held by Baue Funeral Home and the funeral director license held by

Director shall be fully restored if all other requirements of the law have been satisfied; provided however, that in the event the Board determines that either Baue Funeral Home or Director, or both, have violated any term or condition of this Agreement, the Board may, in its discretion, after an evidentiary hearing, vacate and set aside the discipline imposed herein and may suspend, revoke, or otherwise lawfully discipline Baue Funeral Home's establishment license and/or Director's funeral director's license.

18. No order shall be entered by the Board pursuant to the preceding paragraph of this Agreement without notice and an opportunity for hearing before the Board in accordance with the provisions of Chapter 536, RSMo.

19. If the Board determines that Baue Funeral Home and/or Director has violated a term or condition of this Agreement, which violation would also be actionable in a proceeding before the Administrative Hearing Commission or the circuit court, the Board may elect to pursue any lawful remedies or procedures afforded it and is not bound by this Agreement in its determination of appropriate legal actions concerning such violation.

20. If any alleged violation of this Agreement occurs during the Disciplinary Period, the Board may choose to conduct a hearing before it either during the Disciplinary Period, or as soon thereafter as a hearing can be held, to determine whether a violation occurred and, if so, may impose further disciplinary action. The Board has continuing jurisdiction to hold a hearing to determine if a violation of this Agreement has occurred.

21. The terms of this Agreement are contractual, legally enforceable and binding, not merely recital. Except as otherwise continued herein, neither this Agreement nor any of its provisions may be changed, revised, discharged, or terminated except by an instrument in writing signed by the party against whom the enforcement of the change, waiver, discharge, or termination is sought.

22. Each party agrees to pay all their own fees and expenses incurred as a result of this case and any ensuing litigation.

23. The parties to this Agreement understand that the Board will maintain the Agreement as an open and public record as provided in Chapters 333, 436, 610 and 620, RSMo.

24. Baue Funeral Home and Director, together with their heirs, assigns, agents, employees, representatives and attorneys, do hereby waive, release, acquit and forever discharge the Board, its respective members, employees, agents, and attorneys, including former members, employees, agents, and attorneys, of, or from, any liability, claim, actions, causes of action, fees, costs, expenses, and compensation, including, but not limited to, any claims for attorney's fees and expenses, whether or not now known or contemplated, including, but not limited to, any claims pursuant to Section 536.087, RSMo 2000, or any claim arising under 42 U.S.C. Section 1983, which may be based upon, arise out of, or relate to any of the matters raised in this case, its settlement or from the negotiation or execution of its settlement. Licensees acknowledge that this paragraph is severable from the remaining

portions of this Agreement in that it survives in perpetuity even in the event that any court of law or administrative tribunal deems this Agreement or any portion thereof void or unenforceable.

25. In consideration of the foregoing, the parties consent to the termination of any further proceedings based upon the facts set forth herein.

26. Licensees may, either at the time of signing of this Agreement or within fifteen days thereafter, submit this Agreement to the AHC to determine that the facts agreed to by the parties constitute grounds for disciplining the licenses of Baue Funeral Home and Director. If Baue Funeral Home or Director have requested review, the parties jointly request the AHC determine whether the facts set forth herein are grounds for disciplining the establishment license held by Baue Funeral Home and the funeral director's license held by Director and issue findings of fact and conclusions of law stating that the facts agreed to by the parties are grounds for disciplining the establishment license held by Baue Funeral Home and the funeral director's license held by Director. Effective the date the AHC determines that the Settlement Agreement sets forth cause for disciplining these licenses, the agreed upon discipline set forth herein shall go into effect.

27. If neither Baue Funeral Home nor Director have requested review by the AHC, this Settlement Agreement shall go into effect 15 days after the document is signed by the Executive Director of the Board.

LICENSEES

STATE BOARD OF EMBALMERS AND  
FUNERAL DIRECTORS

Lisa A. Baue 1/9/07  
Date

Becky Dunn 1/16/07  
Date  
Becky Dunn  
Executive Director

Baue Funeral Home Co. 1/9/07  
Date

JEREMIAH W. (JAY) NIXON  
Attorney General

By: Lisa A. Baue 1/9/07  
Title: President

Sharon K. Euler  
Date  
Sharon K. Euler

Daniel K. Barklage  
Dan Barklage  
Missouri Bar Number # 26496

Assistant Attorney General  
Missouri Bar No. 42950

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E-mail: sharon.euler@ago.mo.gov

Attorney for Licensees

Attorneys for State Board of Embalmers and  
Funeral Directors



circuit court of the county in which the alleged violator resides or has his principal place of business, or the circuit court of Cole County. Such assurance of voluntary compliance shall not be considered an admission of violation for any purpose.

3. In administering Chapter 407, the Attorney General alleges that Defendants have engaged in certain practices deemed to be in violation of Section 407.1098.1.

4. On or about the 30th day of August, 2005, the Missouri Attorney General and the Defendants entered into an Assurance of Voluntary Compliance ("AVC") executed pursuant to Sections 407.030. This AVC is designed to assure the Missouri Attorney General and the citizens of the State of Missouri that Defendants will not engage in those practices alleged to be unlawful by the Attorney General. The AVC, marked at Exhibit 1, is attached hereto and incorporated herein by reference.

5. By entering into this AVC, Defendants admit no wrong-doing. Additionally, this AVC does not constitute a finding by this Court that Defendants have engaged in any methods, acts, uses, practices or solicitations declared to be unlawful under Section 407.1098.1, et seq. or any rule or regulation promulgated thereto.

6. The AVC reflects that the Missouri Attorney General and the Defendants recommend that this Court approve the AVC.

WHEREFORE, the Missouri Attorney General respectfully prays this Court to enter its Order approving the AVC attached hereto as Exhibit 1.

Respectfully submitted,

**JEREMIAH W. (JAY) NIXON**  
Attorney General



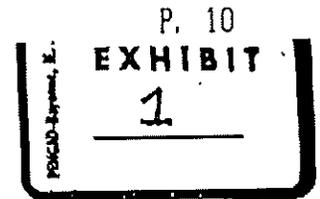
Rex M. Burlison #29935  
Chief Counsel, Eastern District  
111 North Seventh Street, Suite 934  
St. Louis, Missouri 63101  
(314) 340-7653  
(314) 340-7891 facsimile

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this 31st day of August, 2005, the foregoing was mailed first-class, postage prepaid to:

DANIEL K. BARKLAGE, #26496  
Attorney at Law  
Barklage, Brett, Martin, Wibbenmeyer & Hamill  
211 North Third Street  
St. Charles, Missouri 63301  
Telephone: 636.949.2120  
Facsimile: 636.949.8786  
Counsel for Defendants

  
Rex M. Burlison



IN THE CIRCUIT COURT OF THE COUNTY OF COLE  
STATE OF MISSOURI  
CIRCUIT JUDGE DIVISION

STATE OF MISSOURI, ex rel.	)	
JEREMIAH W. (JAY) NIXON,	)	
Attorney General,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No.
	)	
BAUE FUNERAL HOME COMPANY,	)	Division
a Missouri corporation,	)	
	)	
ST. CHARLES COUNTY FUNERAL PLAN, INC.	)	
a Missouri corporation,	)	
	)	
and	)	
	)	
LISA A. BAUE,	)	
an individual,	)	
Defendants.	)	

ASSURANCE OF VOLUNTARY COMPLIANCE

The State of Missouri by and through its Attorney General, Jeremiah W. (Jay) Nixon, and Defendants Baue Funeral Home Company, St. Charles County Funeral Plan, Inc., and Lisa A. Baue, by their signatures, agree to the following:

I. GENERAL FINDINGS

1. Jurisdiction. This Court has jurisdiction over the parties and the subject matter of this Assurance of Voluntary Compliance ("AVC"). The Court is empowered to enter this AVC pursuant to § 407.030.1 (RSMo. 2000)<sup>1</sup>.

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<sup>1</sup>All references to statutes are to Missouri Revised Statutes 2000, as presently amended unless otherwise stated.

2. Plaintiff is the State of Missouri acting by and through Jeremiah W. (Jay) Nixon, the duly elected, qualified and acting Attorney General of the State of Missouri, who is duly responsible for the enforcement and administration of Chapters 407 and 436. Rex M. Burlison is a duly appointed and qualified Assistant Attorney General of the State of Missouri and is duly authorized to act on behalf of the Attorney General in this matter.

3. Defendant Bauc Funeral Home Company is a Missouri corporation with its principal place of business in St. Charles Missouri, located at 620 Jefferson Street, St. Charles, Missouri 63301.

4. Defendant St. Charles County Funeral Plan, Inc., is a Missouri corporation with its principal place of business in St. Charles Missouri, located at 620 Jefferson Street, St. Charles, Missouri 63301.

5. Defendant Lisa A. Bauc is a resident of St. Charles County Missouri, and she is the president and chief executive officer of Bauc Funeral Home Company and St. Charles County Funeral Plan, Inc. Lisa A. Bauc holds a funeral director's license from the Missouri State Board of Embalmers and Funeral Directors.

6. Authority. Section 407.030.1 provides:

In the administration of this Chapter, the attorney general may accept an assurance of voluntary compliance with respect to any method, act, use, practice or solicitation deemed to be violative of this chapter from any person who has engaged in or is engaging in such a method, act, use, practice or solicitation. The assurance of voluntary compliance shall be in writing and shall be filed with and subject to the approval of the circuit court of the county in which the alleged violator resides or has his principal place, or the circuit court of Cole County. Such assurance of voluntary compliance shall not be considered an admission of violation for any purpose.

7. Severability. If any provision or provisions of this AVC is or are declared invalid by a court of competent jurisdiction, the rest of this AVC shall remain in full force and effect and shall not be affected by such declaration.

8. Non-Approval. Defendants, through their agents, representatives and/or employees shall not, directly or indirectly, represent to any person, natural or otherwise, that the Missouri Attorney General or any of his employees, sanctions, endorses, or approves of any methods, acts, uses, practices, or solicitations undertaken by or on behalf of Defendants.

9. Jurisdiction Retained. Jurisdiction is retained for the purpose of enabling any party to this AVC to apply to the Court at any time for the purpose of enforcement of the provisions herein or for the punishment of a violation of this AVC pursuant to the provisions of Section 407.030.

10. Scope of AVC. This AVC embodies the entire agreement and understanding of the parties hereto with respect to the subject matter contained herein.

11. Consent. The parties have read and understand the nature, terms and contents of this Assurance of Voluntary Compliance. Defendants have had the opportunity to consult with legal counsel regarding this Assurance of Voluntary Compliance, have been apprized of their rights, and agree to be bound by all provisions contained herein, waiving any right to trial or appeal.

12. Warranties. Each party warrants and represents that the person executing this Assurance of Voluntary Compliance is authorized to do so on its behalf.

13. Recommendation. The Plaintiff and Defendants recommend that this Court approve this AVC.

## II. MERCHANDISING PRACTICES OF DEFENDANTS

### PLAINTIFF'S ALLEGATIONS

14. Defendants have been selling preneed contracts.<sup>2</sup> St. Charles County Funeral Plan, Inc. is a seller of preneed contracts as "seller" is defined in section 436.005(9). Lisa Baue is the Chief Executive Officer of Baue Funeral Home Company and St. Charles County Funeral Plan, Inc.

15. Baue Funeral Home Company is a "provider" as defined by section 436.007(7) and St. Charles County Funeral Plan, Inc., acted as its selling agent.

16. The preneed contracts sold by Baue<sup>3</sup> require the current payment of money in consideration for the final disposition of a dead human body, or for funeral or burial services or facilities, or for funeral merchandise, where such disposition, services, facilities, or merchandise are not immediately required.

17. Baue's sale of preneed contracts to Missouri consumers constituted "trade" or "commerce" as those terms are defined in section 407.010(7).

18. In connection with the sale of preneed funeral contracts, Baue has accepted payments from preneed contract purchasers to fund the preneed contracts.

19. According to section 436.005(9), Baue as was responsible for collecting and

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<sup>2</sup>Section 436.005(5) defines "preneed contract" as "any contract or other arrangement which requires the current payment of money or other property in consideration for the final disposition of a dead human body, or for funeral or burial services or facilities, or for funeral merchandise, where such disposition, services, facilities or merchandise are not immediately required . . . ."

<sup>3</sup>"Baue" refers to Baue Funeral Home Company, St. Charles County Funeral Plan, Inc., Lisa A. Baue, and their employees.

administering all payments made under preneed contracts.

20. Baue deposited these payments from preneed contract purchasers into a general business operating account.

21. From May 2001 through December 2004, Defendants Baue Funeral Home Company, St. Charles County Funeral Plan, Inc., and Lisa A. Baue violated Chapters 407 and 436, (RSMo. 2000), by mishandling payments received from the sale of preneed contracts for funeral and/or burial services and merchandise. During this period of time, Baue collected payments from the sale to Missouri consumers of 2,410 preneed contracts and initially retained in excess of twenty percent of the total payment received under those preneed contracts, in violation of section 436.027. Furthermore, Baue failed to deposit, within a reasonable time of receipt, at least eighty percent of the total payments received on the preneed contracts, in preneed trust accounts, as required by section 436.031. Instead, Baue used these monies to pay its general business expenses.

22. As of January 2005, Baue's preneed trust accounts were underfunded due to Baue's failure to make sufficient deposits from preneed contract payments, as required by statute. In February of 2005, the preneed trust account was fully funded by Baue. Defendants have provided the Attorney General with banking documents which evidence that the preneed account has been fully funded.

23. Defendants have violated section 407.020 by the following:

a. Baue Funeral Home Company, St. Charles County Funeral Plan, and Lisa A. Baue have violated sections 407.020.1 and 436.027 in connection with the sale of preneed funeral contracts by retaining as their own money amounts exceeding twenty percent of the total

amount agreed to be paid by the purchasers of preneed contracts as such total is reflected in each preneed contract;

b. Baue Funeral Home Company, St. Charles County Funeral Plan, and Lisa A. Baue violated section 407.020.1 in connection with the sale of preneed funeral contracts by falsely promising and misrepresenting to consumers that at least eighty percent of payments on preneed contracts would be placed in a preneed trust account when, at the time, Baue's practice was not to deposit the payments in a preneed trust account; and

c. Baue Funeral Home Company, St. Charles County Funeral Plan, and Lisa A. Baue violated the provisions of sections 436.027, 436.031, and 407.020.1 by failing to timely deposit funds paid by the purchasers of preneed contracts into preneed trust accounts with state or federally chartered financial institutions authorized to exercise trust powers in Missouri.

#### DEFENDANT'S STATEMENT

24. Plaintiff and Defendant agree that the entering into or performance of this AVC, pursuant to Section 407.030.1 (RSMo.) is not intended to be and shall not be construed as an admission of any kind on any matter by either Plaintiff or Defendants.

#### III. ASSURANCE

25 Defendants now agree, as follows:

a. Defendants have fully funded the preneed trust account named "The Amended and Restated Trust Agreement For Preneed Cemetery Merchandise and Services, dated January 18, 2005". As evidenced by documents presented to the Attorney General, this Trust was fully funded on February 28, 2005.

b. Defendants shall deliver to the Plaintiff the original and all subsequent

amendments thereto, of the Trust documents used for deposit of funds paid by purchasers of preneed contracts. Said trust documents shall prohibit the Trustee from disbursing any funds from the trust, without first obtaining a certified death certificate evidencing the death of the preneed contract consumer upon whose death the disbursement of funds is being requested. The Trust documents shall be amended within 30 days of the execution of this AVC to prohibit such disbursement without a certified death certificate.

26. Defendants agree that they shall not engage in any unfair practice which violates Section 407.020 or Section 436.027, including, but not limited to:

a. Retaining as their own money for more than fifteen (15) days after the end of the month in which the payment is received, amounts exceeding twenty percent of the total amount agreed to be paid by the purchasers of such prepaid funeral benefits as such total is reflected in the contract; and

b. Retaining any consumer payments for preneed contracts, which by contract and section 436.031 are required to be placed in a preneed trust account; and

c. Engaging in the practice of promising, expressly or impliedly to preneed purchases, that at least eighty percent of preneed funeral funds obtained from preneed purchasers will be placed in a preneed trust account and failing to place such funds in a preneed trust account.

27. For the years of 2005, 2006, 2007, 2008 and 2009, Defendants agree for each of these years, to provide Plaintiff with an audit, performed at Defendants' expense, by an independent accounting firm, on or before March 15<sup>th</sup> of the following year, for all Defendants' preneed contracts, including the amounts of those contracts, the payments consumers have made

on those contracts, the amounts of those payments retained or expended by Defendants, the amounts of those payments deposited in preneed trust accounts, and the amount of any shortfall in the preneed trust accounts.

28. Defendants shall, upon request in writing of the Plaintiff, allow Plaintiff to inspect and copy its books of account and financial accounting of all preneed contracts and trusts.

29. Defendants agree to comply with sections 436.005 through 436.071 on Funeral Contracts, and this compliance shall include depositing, within fifteen (15) days after the end of the month in which the payment is received, in the preneed trust accounts of Baue Funeral Home Company and St. Charles County Funeral Plan, Inc., the statutory amount of consumer payments for preneed contracts, so that those trust accounts are fully funded according to sections 436.027 and 436.031.

30. Defendants agree to make a contribution to the Missouri Merchandising Practices Revolving Fund the amount of One Hundred Fifty Thousand Dollars (\$150,000.00) for the Attorney General's cost of investigating Defendants' activities. This contribution shall be paid by Defendants in two installments. The first payment of Seventy Five Thousand Dollars (\$75,000.00) shall be paid within thirty (30) days of the execution of this AVC. The second payment of Seventy Five Thousand Dollars (\$75,000.00) shall be paid by Defendants within one (1) year of the due date of the first payment.

31. Baue agrees to enter into a settlement agreement with the State Board of Embalmers and Funeral Directors imposing discipline of five year probation subject to certain terms and conditions on the funeral director license held by Lisa Baue and the funeral

establishment license held by Bauc Funeral Home Company, Inc.. This discipline to be based on the conduct described in this AVC.

32. Bauc agrees that in the event the amount of money paid by a particular consumer exceeds the amount of money due the funeral home for the provision of goods and services at the time of death, any excess funds shall be distributed to the estate of the decedent or to any named beneficiary.

33. Bauc agrees that so long as Bauc Funeral Home Company and St. Charles County Funeral Plan, Inc. act as either a preneed seller or preneed provider in Missouri, Bauc Funeral Home Company and St. Charles County Funeral Plan, Inc., shall maintain current registrations with the State Board of Embalmers and Funeral Directors by timely filing annual registration reports and timely payment of any applicable fees due, as required by the provisions of Chapter 436, RSMo.

34. It is further agreed that the Attorney General, without further notice, may make ex parte application to the Circuit Court for Cole County for entry and approval of this AVC.

35. The mailing of a copy of this signed and filed AVC to Defendants at the address shown below shall constitute notice and acceptance by Defendants of all the terms of this AVC and Defendants waive having the AVC served upon it in any other manner.

36. The parties to this AVC understand and agree that, if the Missouri Attorney General believes Defendants have violated any of the provisions of this AVC the Attorney General is not restrained from initiating further investigations or legal proceedings against Defendants, including those procedures set forth in § 407.020, et seq.

37. This AVC shall be binding upon the heirs, personal representatives, successors,

and assigns of the parties hereto.

38. The requirements upon Defendants of this AVC may not be waived or modified except in a writing signed by an assistant attorney general for Plaintiff, or by Court Order.

39. This AVC shall be governed by and construed in accordance with the laws of the State of Missouri.

**DEFENDANT'S SIGNATURE AND ACKNOWLEDGMENT**

**BAUE FUNERAL HOME COMPANY, INC.**

By: Wesley C. Baue

Its: President

State of Missouri  
County of St. Charles

On this 30th day of August 2005, before me Nancy K. Garland a Notary Public in and for said state, personally appeared Wesley C. Baue, who stated that he/she is the President of Baue Funeral Home Company and executed this Assurance of Voluntary Compliance on behalf of said corporation, and acknowledged to me that he/she executed the same for the purposes therein stated. In witness whereof I have hereunto subscribed my name and affixed my official seal.

Nancy K. Garland  
Notary Public

My Commission Expires: 4-28-07

"NOTARY SEAL"  
NANCY K. GARLAND, NOTARY PUBLIC  
ST. CHARLES COUNTY, STATE OF MISSOURI  
MY COMMISSION EXPIRES APRIL 28, 2007

ST. CHARLES COUNTY FUNERAL PLAN, INC.

By: Lisa A. Baue

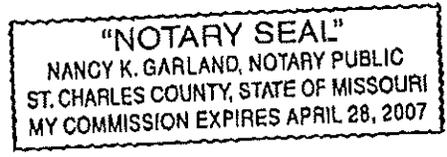
Its: President

State of Missouri  
County of St. Charles

On this 30<sup>th</sup> day of August 2005, before me Nancy K. Garland a Notary Public in and for said state, personally appeared Lisa A. Baue, who stated that he/she is the President of St. Charles County Funeral Plan, Inc., and executed this Assurance of Voluntary Compliance on behalf of said corporation, and acknowledged to me that he/she executed the same for the purposes therein stated. In witness whereof I have hereunto subscribed my name and affixed my official seal.

Nancy K. Garland  
Notary Public

My Commission Expires: 4-28-07



LISA A. BAUE

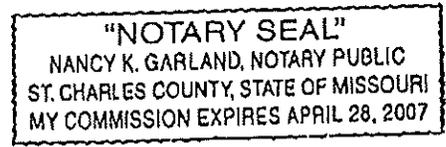
Lisa A. Baue

State of Missouri  
County of St. Charles

On this 30<sup>th</sup> day of August 2005, before me Nancy K. Garland a Notary Public in and for said state, personally appeared Lisa A. Baue, who stated that she executed this Assurance of Voluntary Compliance, and acknowledged to me that she executed the same for the purposes therein stated. In witness whereof I have hereunto subscribed my name and affixed my official seal.

Nancy K. Garland  
Notary Public

My Commission Expires: 4-28-07



BAUE FUNERAL HOME COMPANY  
ST. CHARLES COUNTY FUNERAL PLAN, INC.  
LISA A. BAUE

  
Daniel K. Barklage #26496

Attorney at Law  
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Counsel for Defendants

**ACCEPTANCE OF THE ATTORNEY GENERAL**

JEREMIAH W. (JAY) NIXON  
Attorney General



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