

**BEFORE THE INSURANCE COMMISSIONER OF THE  
STATE OF OKLAHOMA**

**FILED**  
JUN 17 2013  
INSURANCE COMMISSIONER  
OKLAHOMA

STATE OF OKLAHOMA, ex rel. JOHN D. )  
DOAK, Insurance Commissioner, )  
 )  
Petitioner, )  
v. )  
 )  
NICHOLS FUNERAL CENTER & )  
CREMATION SERVICES LLC )  
 )  
Respondent. )  
 )  
Prepaid Funeral Benefits Permit 863915 )

Case No. 13-0555-DIS

**NOTICE OF RIGHT TO HEARING WITH CONDITIONAL ORDER OF  
DISCIPLINARY ACTION**

The State of Oklahoma, ex rel., John D. Doak, Insurance Commissioner, alleges and states as follows:

**JURSDICTION AND AUTHORITY**

1. John D. Doak is the Insurance Commissioner of the State of Oklahoma ("the Insurance Commissioner") and, as such, is charged with the duty of administering and enforcing all provisions of the Oklahoma Insurance Code, 36 O.S. §§ 101 et seq., including the Prepaid Funeral Benefits Act: 36 O.S. §§ 6121-6136.18.

2. The Respondent Nichols Funeral Center & Cremation Services LLC ("the Permit Holder") is a permitted provider of Prepaid Funeral Benefit Contracts in the State of Oklahoma and holds Permit Number 863915.

3. The Insurance Commissioner may suspend or revoke a prepaid funeral benefits permit or impose a fine in the amount of from \$100 to \$1,000 -- or impose both such

disciplinary actions -- if a permit holder violates any provision of the Prepaid Funeral Benefits Act. *See* 36 O.S. § 6130 (B).

### **FINDINGS OF FACT**

1. John D. Doak is the Insurance Commissioner of the State of Oklahoma and, as such, is charged with the duty of administering and enforcing all provisions of the Oklahoma Prepaid Funeral Benefits Act: 36 O.S. §§ 6121-6136.18.

2. Respondent is a permitted provider of Prepaid Funeral Benefit Contracts in the state of Oklahoma pursuant to 36 O.S. § 6121 and 36 O.S. § 6124, holding Permit Number 863915.

3. The 2013 Renewal Application for this Permit Holder has not been received to date. The deadline for late renewals is January 31<sup>st</sup> of each year. *See* 36 O.S. §6124 (A) (3). If this establishment is currently writing prepaid contracts, it is in violation of Oklahoma law. *See* 36 O.S. §6121. Also, the establishment is required to submit a new application to operate as a prepaid funeral benefits Permit Holder since the January 31<sup>st</sup> deadline has passed.

4. There are also still pending issues with the Permit Holder's 2011 Annual Report. Consequently, Oklahoma Insurance Department ("the Department") personnel sent a letter to the establishment on 6/4/12 notifying it of the items the Department needed revised or clarified. The Department followed up this letter with phone calls to the establishment on 7/9/12 and 10/1/12, with no response. A final letter was sent to the establishment on 12/19/12 notifying the Funeral Director in Charge that if the establishment did not respond within 10 business days, further administrative action was possible. The Permit Holder did not respond to these requests.

5. The 2012 Annual Report has not been filed in violation of 36 O.S. § 6128. The Funeral Director in Charge continues to demonstrate a material lack of understanding of the requirements and duties associated with the privilege of operating under a prepaid funeral benefits contract permit.

### CONCLUSIONS OF LAW

1. The Permit Holder failed to comply with the procedures and processes for filing Annual Reports, renewing prepaid permits and has avoided meaningfully communicating with the Insurance Commissioner's staff about these matters, thus violating 36 O.S. §§ 6121, 6124 (A)(3) and 6128. Such actions constitute a substantial breach of the Permit Holder's obligations as a Permit Holder and to the citizens of Oklahoma.

2. The Insurance Commissioner may suspend or revoke a Prepaid Funeral Permit or impose a fine in the amount of from \$100 to \$1,000 -- or impose both such disciplinary actions -- if a Permit Holder violates any provision of the Prepaid Funeral Benefits Act. *See* 36 O.S. § 6130 (B).

### CONDITIONAL ORDER


**IT IS THEREFORE ORDERED** that Prepaid Funeral Benefits Permit Number 863915 issued to Nichols Funeral Center & Cremation Services LLC be revoked effective as of thirty (30) days after receipt of this Order and Notice unless within said time period the Permit Holder requests an administrative hearing as described below.

**IT IS FURTHER ORDERED** that the Permit Holder may request a Hearing within thirty (30) days of receipt of this Order and Notice to determine if any reasons exist that should preclude any of the actions described herein. Any request for Hearing should be in writing, addressed to Kelley C. Callahan, Senior Attorney, Oklahoma Insurance Department,

Five Corporate Plaza, 3625 N.W. 56<sup>th</sup>, Suite 100, Oklahoma City, OK 73112, **and give an explanation of Respondent's actions alleged herein and any defenses thereto.** If Respondent does not request a hearing within the 30 days allotted, this Order shall become a FINAL ORDER on the 31<sup>st</sup> day following the receipt of the Order, and the revocation ordered herein shall go into effect. Any such hearing shall be conducted according to the procedures for contested individual cases under the Oklahoma Insurance Code and the Administrative Procedures Act, 75 O.S. §§ 250-327. The allegations contained herein shall be the subject matter for the Hearing, and such allegations may be amended as additional information is discovered. The Commissioner or his appointed Hearing Examiner reserves the right to impose additional or different administrative discipline at a Hearing, if warranted.

WITNESS My Hand and Official Seal this 17<sup>th</sup> day of June, 2013.



  
\_\_\_\_\_  
PAUL WILKENING  
Chief Deputy Insurance Commissioner  
Oklahoma Insurance Department



**CERTIFICATE OF MAILING**


I, Kelley C. Callahan, hereby certify that a true and correct copy of the attached Notice of Right to Hearing with Conditional Order of Disciplinary Action was mailed certified mail, return receipt requested on the 17<sup>th</sup> day of June, 2013 to:

Brian Nichols, FDIC  
Nichols Funeral Center and Cremation Services, LLC  
9611 HWY 59 N  
Grove, OK 74344

Certified Mail No.  
7001 0320 0003 9967 4089

Oklahoma Funeral Board  
ATTN: Chris Ferguson, Deputy Director  
4545 North Lincoln, Suite 175  
Oklahoma City, OK 73105

Certified Mail No.  
7001 0320 0003 9967 4096



KELLEY C. CALLAHAN  
Senior Attorney

**U.S. Postal Service**  
**CERTIFIED MAIL RECEIPT**  
 (Domestic Mail Only; No Insurance Coverage Provided)

OFFICIAL USE

7001 0320 0003 9967 4096

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
<b>Total Postage &amp; Fees</b>	<b>^</b>
Sent To	Oklahoma Funeral Board
Street, Apt. No., or PO Box No.	ATTN: Chris Ferguson, Deputy Director
City, State, ZIP+4	4545 N. Lincoln, Suite 175 Oklahoma City, OK 73105 rlg/13-0555-DIS/Not. w/ Cond. Ord



PS Form 3800, January 2004

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Oklahoma Funeral Board  
 ATTN: Chris Ferguson, Deputy Director  
 4545 N. Lincoln, Suite 175  
 Oklahoma City, OK 73105  
 rlg/13-0555-DIS/Not. w/ Cond. Ord

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  Agent  
 Addressee

B. Received by (Printed Name) *Mark Ray*

C. Date of Delivery *6/18/13*

D. Is delivery address different from Item 1?  Yes  
 If YES, enter delivery address below:  No

3. Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

RECEIVED  
 OKLAHOMA INSURANCE DEPARTMENT

JUN 20 2013

Legal Division

2. Article Number (Transfer from service label) **7001 0320 0003 9967 4096**

U.S. Postal Service  
**CERTIFIED MAIL RECEIPT**  
 (Domestic Mail Only; No Insurance Coverage Provided)

OFFICIAL USE

7001 0320 0003 9967 4089

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
<b>Total Postage &amp; Fees</b>	▲



Sent To  
 Brian Nichols, FDIC  
 Nichols Funeral Center and Cremation Services, LLC  
 9611 Hwy 59 N  
 Grove, OK 74344  
 rlg/13-0555-DIS/Not. w/ Cond. Ord.

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 Grove, OK 74344  
 rlg/13-0555-DIS/Not. w/ Cond. Ord.

2. Article Number  
 (Transfer from service label)

7001 0320 0003 9967 4089

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  Agent  
 Addressee

B. Received by (Printed Name)  
 Jeremy Scott

C. Date of Delivery  
 6-19-13

D. Is delivery address different from item 1?  Yes  
 If YES, enter delivery address below:  No

RECEIVED  
 OKLAHOMA INSURANCE DEPARTMENT

JUN 24 2013

3. Service type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540