

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

FILED

MAR 13 2014

STATE OF OKLAHOMA, ex rel. JOHN D.
DOAK, Insurance Commissioner,

Petitioner,

v.

HERITAGE FUNERAL HOME &
CREMATION SERVICES, LLC

Respondent.

Former Holder of Prepaid Funeral
Services Permit No. 863815
(formerly 10005088)

Case No. 13-0833-DEN

**INSURANCE COMMISSIONER
OKLAHOMA**

FINAL ADMINISTRATIVE ORDER

The Respondent establishment, Heritage Funeral Home & Cremation Services, LLC ("the Respondent" or "the Applicant" or "Heritage Funeral Home") requested an Administrative Hearing after Petitioner State of Oklahoma ex rel. John D. Doak ("the Insurance Commissioner") denied reinstatement of Respondent's previously suspended Prepaid Funeral Benefits Permit ("Permit") under the Prepaid Funeral Benefits Act, 36 O.S. §§ 6121 et seq.

Pursuant to the Oklahoma Administrative Procedure Act, 75 O.S. §§ 250 et seq. and the Oklahoma Insurance Code, 36 O.S. §§ 101 et seq., this matter came on for individual hearing on February 19, 2014. Independently Appointed Hearing Officer, Leamon Freeman, presided over the Administrative Hearing. Petitioner Insurance Commissioner appeared by and through its counsel Kelley C. Callahan, Senior Attorney, Oklahoma Insurance Department. The Respondent, Heritage Funeral Home, appeared in person through its Funeral Director in Charge, Christopher Harrison, and by its counsel, Ronald Kelly.

JURSDICTION AND AUTHORITY

1. Petitioner Insurance Commissioner has the duty to administer and enforce 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. The Permit Application/Reinstatement Form and the procedure to obtain such a prepaid funeral benefits Permit are set out in the Insurance Department Rules. (See OAC 365:25-9-1 and 365:25-9-3; Chapter 25 Appendices: Appendix C). The Insurance Commissioner must deny a prepaid funeral Permit if the applicant “makes a material misstatement or misrepresentation in the application” pursuant to 36 O.S. § 6121 (B) (1).

2. The Administrative Law Judge heard testimony and admitted certain Exhibits offered by the parties at the February 19, 2014, Hearing, which lasted approximately six hours. At the end of this Hearing, the Administrative Law Judge directed the parties to submit post-hearing briefs. The Administrative Law Judge has read the briefs and materials submitted by both parties. As one consequence of this review, the Administrative Law Judge rules that the objection of Respondent to admission of Petitioner’s tendered Exhibit P4 is overruled, and said Exhibit is admitted together with all the other Exhibits admitted into evidence during the February 19, 2014, Hearing, as shown by the Hearing record. The purpose and relevancy of Exhibit P4 being offered, as with many other of the Petitioner’s Exhibits offered and admitted at the Hearing, was to show that Mr. Harrison had been involved in litigation which he did not disclose in the Heritage Funeral Home Application for Reinstatement.

FINDINGS OF FACT

1. Heritage Funeral Home has been operating in Oklahoma City since March, 2008, at 1300 North Lottier. The Funeral Director in Charge is Mr. Chris Harrison. Heritage Funeral Home did not submit a timely Annual Report due March 15, 2010, and when it again failed to file a timely Annual Report due March 15, 2011, the Insurance Commissioner suspended its prepaid funeral trust Permit No. 863815 (formerly 10005088) effective August 18, 2011, in Oklahoma Insurance Department Case No.11-0709-DIS.

2. On February 23, 2012, the Respondent submitted an Application to Reinstate its prepaid funeral benefit permitting privilege. Mr. Harrison signed this Application on behalf of Heritage Funeral Home. The Permit Reinstatement Application contains a number of items the Applicant must provide, including a Biographical Affidavit. The Oklahoma Insurance Department ("the Department") staff began reviewing the Application for Reinstatement upon receipt. Over the course of almost two years, the Department communicated and corresponded with Heritage Funeral Home to obtain information pertinent to the requested reinstatement, but the Respondent cooperated with the Department only partially. However, the Department's attempts to get Heritage Funeral Home to address certain important questions presented by the Application for Reinstatement were to no avail.

3. By signing the Biographical Affidavit, Mr. Harrison certified "under penalty of perjury that I[he] am acting on my own behalf, and that the foregoing statements are true and correct to the best of my knowledge and belief." The Disclosure and Authorization contained within the Biographical Affidavit and also signed by Mr. Harrison, told him background reports requested by the Department pursuant to the Authorization "may contain information bearing on

your character, general reputation, personal characteristics, mode of living and credit standing. The purpose of such Background Reports will be to evaluate the Application and your background as it pertains thereto.” Several of the questions in the Biographical Affidavit asked about involvement with or being a party to lawsuits, legal, administrative and other proceedings of various types.

4. The Administrative Law Judge finds the evidence clear and convincing that Mr. Harrison did not answer questions correctly on Respondent’s Application to Reinstate Permit, since he violated the provisions of the Biographical Affidavit that required him to answer certain questions about litigation or other proceedings “yes” or “no,” which he instead answered “N/A.” The statement “N/A” was not a response to the questions asked about litigation, being a party to certain proceedings or lawsuits. They simply asked for a “yes” or “no” answer. “Not applicable” is not a correct or responsive answer. The Administrative Law Judge finds that Mr. Harrison had been involved in litigation which he clearly did not disclose in Respondent’s Application to Reinstate. Therefore, the denial of Respondent’s Application to Reinstate its prepaid benefits trust Permit is affirmed in all respects. And, the position of the Insurance Commissioner is sustained in not granting a renewal of the Respondent’s Permit.

CONCLUSIONS OF LAW

1. Pursuant to Title 75, Sections 250 et seq. of the Oklahoma Administrative Procedure Act and Title 36, Sections 101 et seq. of the Oklahoma Insurance Code, the record shows that the Hearing in this matter was properly noticed for an individual hearing to be held on February 19, 2014, at 9:30 a.m.

2. The prepaid funeral benefits Permit Application/Reinstatement Form is specifically adopted in the Insurance Department Rules. (See OAC 365:25-9-1 and 365:25-9-3;

Chapter 25 Appendices: Appendix C). The Insurance Commissioner must deny a prepaid funeral Permit if the applicant “makes a material misstatement or misrepresentation in the application” pursuant to 36 O.S. § 6121 (B) (1).

3. Having applied for Reinstatement of Permit, the Respondent must satisfy the requirements for licensure and it has not done so. Rather, it failed to provide information that would allow the Department to evaluate the affect of undisclosed litigation and proceedings on its fitness for licensure. The burden is on the entity to satisfy the Department it meets the standards for reinstatement.

4. The Administrative Law Judge finds that the evidence is clear that Mr. Harrison did not answer questions correctly on Heritage Funeral Home’s Application to Reinstate its Permit, because Mr. Harrison violated the provisions of the Biographical Affidavit that required him to answer certain questions about litigation or proceedings “yes” or “no,” which he in fact answered “N/A.” “Not Applicable” or “N/A” is not a responsive answer to the questions that were asked about litigation, being a party to certain types of lawsuits or other listed proceedings. These questions simply asked for a “yes” or “no” answer. “Not applicable” or “N/A” is not a correct or responsive answer.


ORDER

IT IS THEREFORE ORDERED that the Insurance Commissioner’s denial of Respondent’s Application to Reinstate its prepaid funeral benefits trusts Permit is affirmed in all respects; consequently, the position of the Insurance Commissioner is sustained in not granting a reinstatement of Respondent’s Permit.

IT IS FURTHER ORDERED that Respondent pay costs of this proceeding in the amount of one thousand dollars (\$1,000.00).



Done this 13th day of March, 2014.

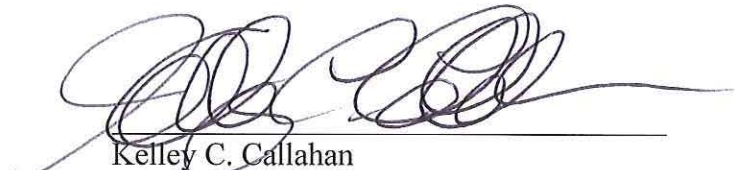

LEAMON FREEMAN
INDEPENDENT HEARING EXAMINER
OKLAHOMA INSURANCE DEPARTMENT

CERTIFICATE OF MAILING

I, Kelley C. Callahan, hereby certify that a true and correct copy of the above and foregoing Final Administrative Order was mailed by certified mail, return receipt requested, and also by regular U.S. Mail on the 13th day of March, 2013 to:

Heritage Funeral Home & Cremation Services, LLC
ATTN: Mr. Christopher Harrison, FDIC
1300 North Lottie Avenue
Oklahoma City, OK 73117

Ronald "Skip" Kelly
Attorney at Law
Two Broadway Executive Park
205 N.W. 63rd
Suite 150
Oklahoma City, OK 73116
Attorney for Heritage Funeral Home & Cremation Services, LLC


Kelley C. Callahan
Senior Attorney

U.S. Postal Service

CERTIFIED MAIL RECEIPT

(Domestic Mail Only; No Insurance Coverage Provided)

OFFICIAL USE

Postage \$

Certified Fee

Return Receipt Fee
(Endorsement Required)Restricted Delivery Fee
(Endorsement Required)

Total Postage \$

Heritage Funeral Home & Cremation Svcs, LLC

Sent To

Attn: Mr. Christopher Harrison, FDIC

1300 N. Lottie Ave.

OKC, OK 73117

sms/13-0833-DEN/Fin Admin Ord

Street, Apt. No.,
or PO Box No.

City, State, ZIP+4

PS Form 3800, January 2004

See Reverse for Instructions



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 INSURANCE DEPARTMENT
 Heritage Funeral Home & Cremation Svcs, LLC
 Attn: Mr. Christopher Harrison, FDIC
 1300 N. Lottie Ave.
 OKC, OK 73117
 sms/13-0833-DEN/Fin Admin Ord

2. Article Number

(Transfer from service label)

7001 0320 0004 4248 5204

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M11540

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

3-14-14

Is delivery address different from item 1? ☐ YesIf YES, print delivery address below: ☐ No

MAR 8 2014

3. Service Type

☒ Certified Mail☐ Express Mail☐ Registered☐ Return Receipt for Merchandise☐ Insured Mail☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

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

OFFICIAL USE

Postage \$	
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees \$	



Ronald "Skip" Kelly
 Two Broadway Executive Park
 205 N.W. 63rd, Suite 150
 OKC, Ok 73116

sms/13-0833-DEN/Fin Admin Ord

Sent To
 Street, Apt. No., or PO Box No.
 City, State, ZIP+4

PS Form 3800, Jan 2013

CERTIFIED MAIL



7001 0320 0004 4248 5211

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US POSTAGE \$007.19⁰

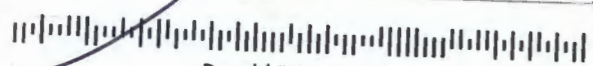


FIRST-CLASS MAIL
 ZIP 73112
 041L12203132

RECEIVED
 OKLAHOMA INSURANCE DEPARTMENT

MAY 12 2014

Legal Division



Ronald "Skip" Kelly
 Two Broadway Executive Park
 205 N.W. 63rd, Suite 150
 OKC, Ok 73116

CLOSED
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TRY
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4-24
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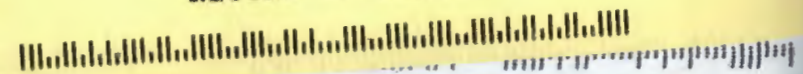
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 UNABLE TO FORWARD
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Restricted Delivery Fee (Endorsement Required)	
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City, State, Zip+4	

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(Transfer from service label)

PS Form 3811, February 2004

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

- ☐ Agent
☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

Does delivery address differ 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

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Legal Division

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Domestic Return Receipt

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