

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

FILED

MAY 08 2014

INSURANCE COMMISSIONER
OKLAHOMA

STATE OF OKLAHOMA, ex rel. JOHN D.)
DOAK, Insurance Commissioner,)
)
Petitioner,)
v.)
)
MYERS MORTUARY)
)
Respondent.)
)
)
Prepaid Funeral Benefits Permit 864297)

Case No. 14-0227-DIS

**CONDITIONAL ADMINISTRATIVE ORDER AND NOTICE OF RIGHT TO
HEARING**

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

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 provisions of the Prepaid Funeral Benefits Act, 36 O.S. §§ 6121-6136.18.

2. The Respondent, Myers Mortuary (“the Permit Holder” or “Respondent”), is a permitted provider of Prepaid Funeral Benefit Contracts in the State of Oklahoma and holds Permit Number 864297 for an establishment in Wewoka, Oklahoma.

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

combination of such disciplinary actions -- if a Permit Holder violates any provision of the Prepaid Funeral Benefits Act. *See e.g.* 36 O.S. §§ 36 O.S. § 6124 (A) (3) and (B); 6130 (B).

4. This Conditional Administrative Order and Notice of Right to Hearing may be referred to herein as “the Conditional Administrative Order.”

FINDINGS OF FACT

1. The 2014 Renewal Application for this Permit Holder has not been received to date. The deadline for late renewals is January 31st of each year. State law does not require the Oklahoma Insurance Department (“the Department”) to provide Notice of Renewal to Permit Holders. This establishment first obtained its Permit on June 10, 2013. With the initial Permit, the Department sent Respondent a “Welcome Letter” outlining its duties, responsibilities and all filing requirements. The Department also sends a letter reminder well before the late renewal deadline in an effort help the Permit Holder avoid non-renewal. *See* 36 O.S. § 6124 (A) (3) and (B).

CONCLUSIONS OF LAW

1. The Permit Holder has failed to comply with the procedures and processes of the Oklahoma Prepaid Funeral Benefits Act, 36 O.S. §§ 6121-6136.18. Such failure constitutes a substantial breach of the Permit Holder’s obligations as a prepaid funeral trustee and its duties to the citizens of Oklahoma. *See* 36 O.S. §§ 6124 (B); 6125(I); 6128; 6129; 6130 (B).

2. All Permits expire on December 31 of the year the Permit is first issued, unless renewed. Permits may be renewed for a period not to exceed the succeeding December 31 upon the payment of a renewal fee of Fifty Dollars (\$50.00). Late Application for renewal of a Permit shall require a fee of double the renewal fee. No Application for

renewal of a Permit shall be accepted after January 31 of each year. Therefore, Respondent's Permit has expired. If the Respondent seeks to sell prepaid funeral contracts at its Wewoka establishment, it must apply to the Department and be approved by the Insurance Commissioner for a New Prepaid Funeral Benefits Permit.

3. Title 36, Section 6124 (C) requires a Permit Holder whose Permit has been canceled or not renewed to wait one year before applying to the Insurance Commissioner for a new Permit. The Insurance Commissioner may authorize acceptance of a New Permit Application before the expiration of the one-year waiting period required by 36 O.S. § 6124 (C) under particular facts and circumstances and upon good cause shown. The Insurance Commissioner is under no obligation to take such actions. *See* 36 O.S. § 6124 (A) (3).

4. The Insurance Commissioner may suspend, revoke or cancel a Prepaid Funeral Benefits Permit or impose a fine in the amount of from \$100 to \$1,000 -- or impose a combination of such disciplinary actions -- if a Permit Holder violates any provision of the Prepaid Funeral Benefits Act. *See* 36 O.S. §§ 6124 (A) (3) and (B); 6130 (B).

ORDER

IT IS THEREFORE ORDERED ADJUDGED AND DECREED by the Insurance Commissioner that the named Respondent is assessed a civil penalty in the amount of five hundred dollars (\$500.00).

IT IS FURTHER ORDERED ADJUDGED AND DECREED that Respondent's prepaid funeral benefits Permit No. 864297 be suspended as of thirty (30) days after receipt of this the Conditional Administrative Order by the Respondent unless the Respondent strictly meets the requirements set forth below.

IT IS FURTHER ORDERED ADJUDGED AND DECREED that the Insurance Commissioner will, in his discretion, place a suspension or non-renewal of Permit on hold if the Respondent, within thirty (30) days of receipt of this Conditional Administrative Order, submits to the Department a fully completed Application for a New Prepaid Funeral Benefits Permit pursuant to 36 O.S. §§ 6124 (A) (3) and (B). A copy of this Application and the Forms and Schedules needed can be found on the Insurance Commissioner's web site. If such an Application is timely filed and is complete, the Insurance Commissioner may, but is not bound to, waive any applicable timing, waiting and notice provisions in 36 O.S. § 6124 (A) (3) and (B), based on good cause shown. Consideration of any New Permit Application is not given and is based on the discretion of the Insurance Commissioner under applicable statutes and rules.

IT IS FURTHER ORDERED ADJUDGED AND DECREED that this Conditional Administrative Order shall become a **FINAL ORDER on the 31st day following the receipt of said Order unless Respondent requests a hearing as set out below.** The fine levied herein is due at the time this Conditional Administrative Order becomes a Final Order. The suspension of Respondent's Prepaid Funeral Permit takes effect at the time this Conditional Administrative Order becomes a Final Order.

IT IS FURTHER ORDERED ADJUDGED AND DECREED and Respondent is further notified that Respondent may request a hearing within thirty (30) days of the receipt of this Conditional Administrative Order concerning this action, and upon such request, the Oklahoma Insurance Department shall conduct a Hearing before an independent Hearing Examiner. A request for Hearing shall be made in writing to Kelley C. Callahan, Senior Attorney, Oklahoma Insurance Department, Legal Division, 3625 NW 56th Suite 100,

Oklahoma City, Oklahoma 73112 and give an explanation of Respondent's actions described herein and any defenses thereto.

Any such Hearing shall be conducted according to the procedures for contested cases under the Insurance Code and the Oklahoma Administrative Procedures Act, 75 O.S. § 250-323. If the Respondent serves a timely request for Hearing, this Conditional Administrative Order shall act as notice of the matters to be reviewed at the Hearing, and such allegations may be amended as additional information is discovered. The Insurance 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 8th day of May, 2014.



JOHN D. DOAK
INSURANCE COMMISSIONER
STATE OF OKLAHOMA

A handwritten signature in black ink, appearing to read "Kelley C. Callahan".

By: Kelley C. Callahan, OBA No. 1429
Senior Attorney
3625 NW 56th Street, Suite 100
Oklahoma City, OK 73112
Telephone: (405) 521-2746
Facsimile: (405) 522-0125

CERTIFICATE OF MAILING

I, Kelley C. Callahan, hereby certify that a true and correct copy of the above and foregoing *Conditional Administrative Order and Notice of Right to Hearing* was mailed by certified mail, return receipt requested and by regular mail on this 8th day of May, 2014 to:

Wilbur Stevenson, FDIC
Myers Mortuary
P.O. Box 1056
Wewoka, OK 74884

Certified Mail No.
7001 0320 0004 4249 4862

CERTIFIED MAIL NO:

And a Copy Was Delivered to Shanna Johnson, Regulatory Supervisor, Prepaid Accounts, Oklahoma Insurance Department.



Kelley C. Callahan
Senior Attorney

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

7001 0320 0004 4249 4862

OFFICIAL USE

Postage	\$	
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$	
Sent To Myers Mortuary ATTN: Wilbur Stevenson, FDIC P.O. Box 1056 Wewoka, OK 74884 rlg/14-0227-DIS/Cond. Adm. Ord.		
Street, Apt. No.; or PO Box No. City, State, ZIP+4		

PS Form 3800, January 2001

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> 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. 		A. Signature X <i>Carve Staton</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee	
1. Article Addressed to: <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> Myers Mortuary ATTN: Wilbur Stevenson, FDIC P.O. Box 1056 Wewoka, OK 74884 rlg/14-0227-DIS/Cond. Adm. Ord. </div>		B. Received by (Printed Name) C. Date of Delivery D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No If YES, enter delivery address below:	
RECEIVED OKLAHOMA INSURANCE DEPARTMENT MAY 12 2014 Legal Division			
2. Article Number (Transfer from service label) 7001 0320 0004 4249 4862		3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.	
		4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540