

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

**FILED**

MAY 09 2014

INSURANCE COMMISSIONER  
OKLAHOMA

STATE OF OKLAHOMA, ex rel. JOHN D. )  
DOAK, Insurance Commissioner, )  
 )  
Petitioner, )  
v. )  
 )  
ABERNATHY-AARON FUNERAL )  
HOME )  
 )  
Respondent. )  
 )  
Prepaid Funeral Benefits Permit 863287 )

Case No. 14-0228-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, Abernathy-Aaron Funeral Home (“the Permit Holder”) is a permitted provider of Prepaid Funeral Benefits Contracts in the State of Oklahoma and holds Permit Number 863287 for an establishment in Crescent, 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. §§ 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 31<sup>st</sup> of each year. State law does not require the Department to provide Notice of Renewal to Permit Holders. Nevertheless, the Department contacted the Permit Holder first by a courtesy e-mail and then by 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 Crescent

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 for processing by the Department before the expiration of the one-year waiting period required by 36 O.S. § 6124 (C) under the proper 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 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. 863287 be suspended due to non-renewal as of thirty (30) days after receipt of this 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 may, in his discretion, place a suspension or non-renewal of a Permit on hold

if the Respondent, within thirty (30) days of receipt of this Conditional Administrative Order, submits to the Department a completed Application for a New Prepaid 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 a 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 will become a **FINAL ORDER on the 31<sup>st</sup> day following the receipt of the 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, 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 56<sup>th</sup> 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 9<sup>th</sup> day of May, 2014.



JOHN D. DOAK  
INSURANCE COMMISSIONER  
STATE OF OKLAHOMA

A handwritten signature in black ink, appearing to read "Kelley C. Callahan", written over a horizontal line.

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

**CERTIFICATE OF MAILING**

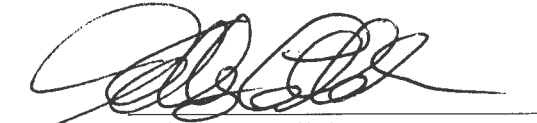
I, Kelley C. Callahan, hereby certify that a true and correct copy of the above and foregoing *Conditional Administrative Order and Notice of Right to Hearing* was mailed by certified mail, return receipt requested and by regular mail on this 9<sup>th</sup> day of May, 2014 to:

Howard Aaron, FDIC  
Abernathy-Aaron Funeral Home  
P.O. Box 276  
Crescent, OK 73028

Certified Mail No.  
7001 0320 0004 4249 4848

**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)



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

Abernathy-Aaron Funeral Home  
 ATTN: Howard Aaron, FDIC  
 P.O. Box 276  
 Crescent, OK 73028  
 rlg/14-0228-DIS/Cond. Adm. Ord.

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

PS Form 3800, January 2001

7001 0320 0004 4249 4848



**JOHN D. DOAK**

**Insurance Commissioner**  
 Oklahoma Insurance Department  
 5 Corporate Plaza  
 3625 N.W. 56th St., Ste. #100  
 Oklahoma City, OK 73112-4511

**CERTIFIED MAIL**



7001 0320 0004 4249 4848

neopost<sup>SM</sup>

05/09/2014

**US POSTAGE \$006.69<sup>0</sup>**

FIRST-CLASS MAIL



ZIP 73112  
041L12203132

RECEIVED  
OKLAHOMA INSURANCE DEPARTMENT

JUN 10 2014

Legal Division

*Handwritten:*  
 5-10-14  
 5-22-14  
 6-02-14  
 [Signature]



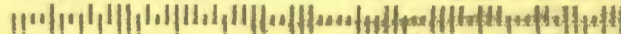
Abernathy-Aaron Funeral Home  
 ATTN: Howard Aaron, FDIC  
 P.O. Box 276  
 Crescent, OK 73028

NIXIE 731 DE 1700 0006/08/14

RETURN TO SENDER  
UNCLAIMED  
UNABLE TO FORWARD

BC: 73112451125 \*2557-01394-08-03

73112@4511





OFFICIAL USE

Postage \$

Certified Fee

Return Receipt Fee (Endorsement Required)

Restricted Delivery Fee (Endorsement Required)

Total Postage & Fees \$

Sent To

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

City, State, ZIP+4

PS Form 3800, January 2001

Abernathy-Aaron Funeral Home  
ATTN: Howard Aaron, FDIC  
P.O. Box 276  
Crescent, OK 73028  
rlg/14-0228-DIS/Cond. Adm. Ord.

7001 0320 0004 4249 4848

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT OF THE RETURN ADDRESS. FOLD AT DOTTED LINE

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:

Abernathy-Aaron Funeral Home  
ATTN: Howard Aaron, FDIC  
P.O. Box 276  
Crescent, OK 73028  
rlg/14-0228-DIS/Cond. Adm. Ord.

2. Article Number

(Transfer from service label)

7001 0320 0004 4249 4848

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

Agent

Addressee

B. Received by (Printed Name)

C. Date of Delivery

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