

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

**FILED**

FEB 11 2015

INSURANCE COMMISSIONER  
OKLAHOMA

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

Case No. 15-0102-DIS

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

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 the Oklahoma Insurance Code, 36 O.S. §§ 101 et seq., including the provisions of the Prepaid Funeral Service and Funeral Service Merchandise Act, 36 O.S. §§ 6121 through 6136.18 (“the Prepaid Act”).

2. The Respondent, Abernathy-Aaron Funeral Home (“Respondent” or “Permit Holder”), is a permitted provider of prepaid funeral benefit contracts in the State of Oklahoma and holds Permit Number 863287 for an establishment in Crescent, Oklahoma.

### **FINDINGS OF FACT**

1. The Insurance Commissioner is charged with the duty of administering and enforcing all provisions of the Prepaid Act, 36 O.S. §§ 6121 through 6136.18.

2. Respondent is a prepaid funeral benefits Permit Holder in Oklahoma pursuant to 36 O.S. § 6121 and 36 O.S. § 6124, and is the current holder of Permit Number 863287 for an establishment in Crescent, Oklahoma.

3. To participate in the sale of funeral contracts funded by prepaid funds or insurance, the Respondent must maintain a Bond or Letter of Credit in the amount of 15% of trust funds held. The Permit Holder has failed to maintain such a Bond or Letter of Credit since late September, 2014. *See* 36 O.S. §§ 6125 (I); 6126(A).

### **CONCLUSIONS OF LAW**

1. Respondent has failed and continues to refuse to obtain a Bond or Letter of Credit as required by 36 O.S. §§ 6125 (I) and 6126(A), thus violating the Prepaid Act.

2. The Insurance Commissioner may censure, suspend, or revoke a Prepaid Funeral Permit or impose a fine in the amount of \$100 to \$1,000, or impose a combination of such administrative penalties, for violating any provision of the Prepaid Act. *See* 36 O.S. § 6130 (B).

### **ORDER**

**IT IS THEREFORE ORDERED** that the Prepaid Funeral Permit of Respondent Abernathy-Aaron Funeral Home is revoked unless the establishment timely meets the conditions stated below.

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that a fine is imposed on Respondent Abernathy-Aaron Funeral Home of five hundred dollars (\$500.00) for violation of the Prepaid Act.

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the **REVOCATION** of the Prepaid Permit of Respondent Abernathy-Aaron Funeral Home and the five hundred dollar (\$500.00) fine becomes due and payable when this Conditional Administrative Order **shall become a FINAL ORDER on the 31<sup>st</sup> day following the receipt of said Order, unless Respondent requests a Hearing as set out below.**

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** and Respondent is further notified that it 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 Hearing requested 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 addressed 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 11<sup>th</sup> day of February, 2015.



JOHN D. DOAK  
INSURANCE COMMISSIONER  
STATE OF OKLAHOMA

By: Kelley C. Callahan, OBA No. 1429  
Senior Attorney  
3625 NW 56<sup>th</sup> Street, Suite 100  
Oklahoma City, OK 73112  
Telephone: (405) 521-6616  
Facsimile: (405) 522-0125  
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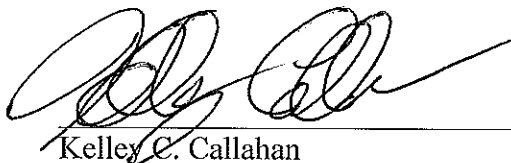
**CERTIFICATE OF MAILING**

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 11<sup>th</sup> day of February, 2015, to:

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

Chris Ferguson  
Executive Director  
Oklahoma Funeral Board  
3700 N. Classen, Suite 175  
Oklahoma City, OK 73118

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



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Kelley C. Callahan  
Senior Attorney

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**Sent To**  
 Howard Aaron, FDIC  
 Abernathy-Aaron Funeral Home  
 P.O. Box 276  
 Crescent, OK 73028  
 sms/15-0102-DIS/Cond Ord

PS Form 3800, July 2014 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> <li>Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li> <li>Print your name and address on the reverse so that we can return the card to you.</li> <li>Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>	<p>A. Signature <input checked="" type="checkbox"/> Agent  <input checked="" type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <u>Howard Aaron</u> C. Date of Delivery <u>02/17/15</u></p> <p>D. Address different from item 1? <input type="checkbox"/> Yes                  If YES, enter delivery address below: <input type="checkbox"/> No</p>
<p>1. Article Addressed to:</p> <div style="border: 1px solid black; padding: 5px; width: fit-content;">                     Howard Aaron, FDIC                      Abernathy-Aaron Funeral Home                      P.O. Box 276                      Crescent, OK 73028                      sms/15-0102-DIS/Cond Ord                 </div>	<p>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.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>2. Article Number                  (Transfer from service label)</p>	<p>7014 2870 0000 5492 8418</p>
PS Form 3811, February 2004	Domestic Return Receipt 102595-02-M-1540

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 OKLAHOMA INSURANCE DEPARTMENT

FEB 18 2015

Legal Division