

BEFORE THE INSURANCE COMMISSIONER OF THE  
STATE OF OKLAHOMA

**FILED**

MAR 12 2015

INSURANCE COMMISSIONER  
OKLAHOMA

STATE OF OKLAHOMA, ex rel. JOHN )  
D. DOAK, Insurance Commissioner, )  
 )  
Petitioner, )  
v. )  
 )  
BUCKLEY -WILLIAMSON FUNERAL )  
HOME, INC. )  
 )  
(Prepaid Funeral Benefits Permit 863311) )  
 )  
Respondent. )

Case No. 15-0277-DIS

**NOTICE OF HEARING AND ORDER TO SHOW CAUSE WITH  
SUSPENSION OF PREPAID FUNERAL BENEFITS PERMIT INSTANTER**

Petitioner, State of Oklahoma, ex rel., John D. Doak, Insurance Commissioner  
("Insurance Commissioner"), alleges and states as follows:

**JURISDICTION AND AUTHORITY**

1. The Insurance Commissioner 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 Funeral Act").

2. The Respondent, Buckley-Williamson Funeral Home ("Respondent" or "Permit Holder"), is a permitted provider of prepaid funeral benefit contracts in the State of Oklahoma and currently holds Permit Number 863311 for an establishment in Wetumka, Oklahoma.

**FINDINGS OF FACT**

1. Donald Lewis Williamson ("Mr. Williamson") is the owner and Funeral Director in Charge of Respondent.

2. As required by 36 O.S. § 6128, Respondent has filed verified Annual Reports with the Oklahoma Insurance Department (“the Department”) reporting the nature, scope and status of the Respondent’s prepaid funeral trust account. Each verified Annual Report Mr. Williamson submitted shows that Respondent holds only prepaid funeral contracts funded by insurance, and states his establishment holds no trust or cash funded prepaid funeral contracts.

3. Such representations were false because Mr. Williamson and Respondent have been selling and accepting cash funds from members for preneed trust accounts. Moreover, Respondent has not been reporting these cash funded preneed contracts to the Department as uncovered by Department investigation. *See* 36 O.S. § 6128.

4. The Department received a complaint about Mr. Williamson and his establishment referencing accepting preneed trust funds, but then not having funds in the prepaid trust account at time of death to meet promised funeral expenses of trust members. A consequent investigation by the Department’s Anti-Fraud Unit unearthed facts to date showing Mr. Williamson embezzled at least \$75,000 from 28 separate families for whom he and his establishment set up prepaid funeral cash trusts accounts, then failed to report these items to the Department.

5. Mr. Williamson admitted to Department investigators he accepted money for prepaid funeral cash trust accounts, and deposited this cash into a bank account for his funeral home for at least three years from November, 2011 to December, 2014. By law, prepaid funeral trust account funds must go into a separate trust account from operating funds, and not be used for any other purpose; including establishment operating expenses or personal use.

6. Based on the Department’s investigation and Mr. Williamson’s violations of his fiduciary duties as a trustee, Mr. Williamson and his establishment comingled trust funds, and

fraudulently converted and appropriated such funds to his own use and benefit, or to a use and purpose not in due and lawful execution of the Respondent's Prepaid Permit. *See* 36 O.S. § 6125 and 6126.

### CONCLUSIONS OF LAW

1. The Respondent has filed false Annual Reports to the Department from November, 2011 to December 2014, thus violating the Prepaid Funeral Act on multiple occasions. *See* 36 O.S. §§ 6124; 6128; 6129; 6129.1 and 6130.

2. Respondent has comingled trust accounts with operating and possibly other accounts, thus violating the Prepaid Funeral Act on at least 28 occasions. *See* 36 O.S. §§ 6125; 6126 and 6130.

3. Respondent has violated its duties as a fiduciary trustee and embezzled monies entrusted to him by his customers, comingled trust funds, and fraudulently converted and appropriated such funds to his own use and benefit, or to a use and purpose not in due and lawful execution of the Respondent's Prepaid Permit. Through such acts, Mr. Williamson and the Respondent practiced a deceit with intent to defraud the public, and particularly the class of person forming the trust members, and therefore are deemed to have intended to defraud every individual participant of the trust misled by their misrepresentations and schemes. *See* 36 O.S. §§ 6124, 6125, 6126 and 6130.

4. The Insurance Commissioner hereby finds there is clear and convincing evidence of the foregoing acts, and that such conduct by Respondent and Mr. Williamson presents a threat of immediate danger and significant, imminent and irreparable public injury that is likely to continue if Respondent is allowed to accept money, assignments of insurance or anything else of value for prepaid funeral benefits or an agreement to provide such benefits.

5. Respondent's actions justify immediate revocation of its Prepaid Permit to accept money or assignments of insurance or anything else of value for prepaid funeral benefits or an agreement to provide prepaid funeral benefits. *See* 75 O.S. § 314 and O.A.C. 365:1-7-9.

6. 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 Funeral Act. *See* 36 O.S. §§ 6124 and 6130.

### **ORDER**

**IT IS THEREFORE ORDERED, ADJUDGED AND DECREED** that Respondent's prepaid funeral benefits Permit No. 863311 is revoked *instanter* upon the execution and filing of this Order.

**IT IS FURTHER ORDERED** that a fine is imposed on Buckley-Williamson Funeral Home, Inc. of one thousand dollars (\$1,000.00) for violation of the Prepaid Funeral Act.

**IT IS FURTHER ORDERED** that this gives Respondent notice it may request a Hearing within thirty (30) days of the receipt of this Notice to Show Cause with Suspension of Prepaid Funeral Benefits Permit *Instanter*, and upon any such request, the Department shall conduct a Hearing before an independent Hearing Examiner. A request for Hearing shall be made in writing and mailed 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 violations and any defenses thereto. Under O.A.C. 365:1-7-9(a), if the Respondent requests a Hearing where a license or Permit has been revoked by the Insurance Commissioner *instanter*, the Hearing shall be conducted within ten business days after the receipt of the Hearing request, unless the Respondent waives this requirement.

**IT IS FURTHER ORDERED** that pending any requested Hearing, this Order shall continue in full force and effect unless otherwise stated by the Insurance Commissioner. *See* 75 O.S. § 314 and O.A.C. 365:1-7-9.

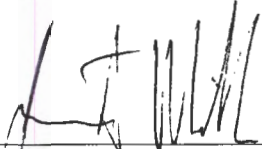
**IT IS FURTHER ORDERED** that any such Hearing shall be conducted according to the procedures for contested cases under the Insurance Code and Article II, the Individual Hearing Provisions, of the Oklahoma Administrative Procedures Act, 75 O.S. §§ 309-323. The allegations contained herein shall be the subject matter for the Hearing, and such allegations may be amended as additional information is discovered. The Insurance Commissioner or his Appointed Independent Hearing Examiner reserves the right to impose additional or different administrative discipline at a Hearing, if warranted.

**IT IS FURTHER ORDERED** based on the investigation and findings of defalcations to date by the Department's Anti-Fraud Unit, there is clear and convincing evidence of each of the violations set out in the Findings of Fact, and that such conduct by Respondent and Mr. Williamson presents a threat of immediate danger and significant, imminent and irreparable public injury that is likely to continue if Respondent is allowed to continue to accept money or assignments of insurance or anything of value for prepaid funeral benefits or an agreement to provide funeral benefits under its Prepaid Permit. (Emphasis supplied).

*See* 75 O.S. § 314 and O.A.C. 365:1-7-9.

WITNESS My Hand and Official Seal this 11 day of March, 2015.



  
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JAMES A. MILLS  
CHIEF OF STAFF  
OKLAHOMA INSURANCE  
DEPARTMENT