

BEFORE THE INSURANCE COMMISSIONER OF THE
STATE OF OKLAHOMA

FILED
MAY 12 2015
INSURANCE COMMISSIONER
OKLAHOMA

STATE OF OKLAHOMA, ex rel. JOHN)
D. DOAK, Insurance Commissioner,)
)
Petitioner,)
v.)
)
MALLET FUNERAL HOME, INC.)
)
Prepaid Funeral Benefits Permit 863440)
)
Respondent.)

Case No. 15-0483-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. §§ 6121-6136.18 (“the Prepaid Act”).

2. The Respondent, Mallett Funeral Home, Inc. ("Respondent" or “Permit Holder”), is a Permitted Provider of prepaid funeral benefit contracts in the State of Oklahoma and holds Permit Number 863440 for an establishment in Wagoner, 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. §§ 6121-6136.18.
2. Respondent is a prepaid funeral benefits Permit Holder in the State of Oklahoma pursuant to 36 O.S. § 6121 and 36 O.S. § 6124, holding Permit Number 864033 for an establishment in Dewey, Oklahoma.
3. Respondent failed to submit its Annual Report by March 16, 2015 (as March 15, 2015, fell on a Sunday), as required by 36 O.S. §6128. Respondent's Annual Report was received by the Department late on March 28, 2015.

CONCLUSIONS OF LAW

1. Respondent has failed to submit its Annual Report timely in violation of 36 O.S. § 6128.
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 actions, for violating any provision of the Prepaid Act. *See e.g.* 36 O.S. § 6130 (B).
3. The Annual Report is central to the Insurance Commissioner's ability to properly regulate the prepaid funeral benefits trust industry. *See* 36 O.S. §§ 6123, 6125, 6128, 6129, 6129.1 and O.A.C 365:25-9-3(b) (3).

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 Two Hundred Fifty Dollars (\$250.00).

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 by the Respondent, unless the 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.


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 the 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 Dan R. Byrd, Assistant General Counsel, 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 12th day of May, 2015.



JOHN D. DOAK
INSURANCE COMMISSIONER
STATE OF OKLAHOMA


By: Dan R. Byrd, OBA No. 12591
Assistant General Counsel
3625 NW 56th Street, Suite 100
Oklahoma City, OK 73112
Telephone: (405) 522-6330
Facsimile: (405) 522-0125

CERTIFICATE OF MAILING

I, Dan R. Byrd, hereby certify that a true and correct copy of the attached *Conditional Administrative Order and Notice of Right to Hearing* was mailed certified mail, return receipt requested and by regular U.S. mail on the 12th day of May, 2015 to:

Mallett Funeral Home, Inc.
417 E. Cherokee St.
P.O. Box 466
Wagoner, OK 74477

**CERTIFIED MAIL NO:
7014 2870 0000 5493 0497**

And that a copy was mailed by regular mail to:

Oklahoma Funeral Board
ATTN: Chris Ferguson, Deputy Director
4545 North Lincoln, Suite 175
Oklahoma City, OK 73105

**CERTIFIED MAIL NO:
7014 2870 0000 5493 0503**

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



Dan R. Byrd
Assistant General Counsel
Oklahoma Insurance Department

7014 2870 0000 5493 0497

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Sent To

Mallett Funeral Home, Inc.
417 E. Cherokee St.
P.O. Box 466
Wagoner, OK 74477
15-0483-DIS/DRB(mt)
(Cond.Adm.Ord & Notice-5-12-15)

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

PS Form 3800, July 2014

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:

Mallett Funeral Home, Inc.
417 E. Cherokee St.
P.O. Box 466
Wagoner, OK 74477
15-0483-DIS/DRB(mt)
(Cond.Adm.Ord & Notice-5-12-15)

COMPLETE THIS SECTION ON DELIVERY

A. Signature

[Signature] Agent Addressee

B. Received by (Printed Name)

C. Date of Delivery

5-14-15

Is delivery address different from item 1? Yes
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3. Service Type

Certified Mail® Priority Mail Express™
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 Insured Mail Collect on Delivery

4. Restricted Delivery? (Extra Fee)

Yes

2. Article Number

(Transfer from service label)

7014 2870 0000 5493 0497

PS Form 3811, July 2013

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Total Postage / Oklahoma Funeral Board
 Sent To Attn: Chris Ferguson, Deputy Director
 4545 North Lincoln, Suite 175
 Street & Apt. No., or PO Box No. Oklahoma City, OK 73105
 City, State, ZIP+4 15-0483-DIS/DRB(mt)
 (Cond. Adm. Ord & Notice-5-12-15)

PS Form 3800, July 2014

See Reverse for Instructions

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. 	<p>A. Signature <input checked="" type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) C. Date of Delivery Chris Ferguson 5-18-15</p> <p>D. Is delivery 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;"> Oklahoma Funeral Board Attn: Chris Ferguson, Deputy Director 4545 North Lincoln, Suite 175 Oklahoma City, OK 73105 15-0483-DIS/DRB(mt) (Cond. Adm. Ord & Notice-5-12-15) </div>	<p>3. Service Type <input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Priority Mail Express™ <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> Collect on Delivery</p>
<p>2. Article Number (Transfer from service label)</p>	<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>7014 2870 0000 5493 0503</p>	
<p>PS Form 3811, July 2013 Domestic Return Receipt</p>	