

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

FILED

JUN 01 2016

INSURANCE COMMISSIONER
OKLAHOMA

STATE OF OKLAHOMA, ex rel. JOHN)
D. DOAK, Insurance Commissioner,)
)
Petitioner,)
v.)
)
SWAN HILL CEMETERY, formerly a)
permitted provider of prepaid cemetery)
merchandise contracts in the State of Oklahoma,)
)
Respondent.)

Case No. 16-0513-DIS

**CONDITIONAL ADMINISTRATIVE ORDER AND
NOTICE OF RIGHT TO BE HEARD**

COMES NOW the State of Oklahoma, ex rel., John D. Doak, Insurance Commissioner, by and through his counsel, Barron B. Brown, and alleges and states as follows:

JURSDICTION AND AUTHORITY

1. John D. Doak is the Insurance Commissioner of the State of Oklahoma 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 Cemetery Merchandise Trust Act, 36 O.S. §§ 7121 through 7135.

2. Swan Hill Cemetery ("Respondent") was previously a permitted provider of prepaid cemetery merchandise contracts in the State of Oklahoma, holding cemetery merchandise permit number 862468. Respondent does not currently possess an active cemetery merchandise permit.

3. Pursuant to 36 O.S. § 7134, "[any] organization, or its officers or directors, which violate any provision of the Cemetery Merchandise Trust Act shall, upon conviction, be deemed

guilty of a misdemeanor and shall be subject to a fine of not less than One Hundred Dollars (\$100.00) nor more than Two Thousand Five Hundred Dollars (\$2,500.00).”

FINDINGS OF FACT

1. 36 O.S. § 7128 provides, among other things, that “. . . any organization which has discontinued the sale of prepaid cemetery merchandise, but which still has funds deposited in a cemetery merchandise trust fund or surety, shall not be required to obtain a renewal of its permit, but it shall continue to make annual reports to the Commissioner until all the funds have been disbursed pursuant to Cemetery Merchandise Trust Act.”

2. Accordingly, pursuant to 36 O.S. § 7128, Respondent, although not actively permitted, was still required to submit its 2015 Cemetery Merchandise Trust Fund Annual Report (the “Cemetery Merchandise Report”) to the OID by March 15, 2016, due to the fact that, as of June 30, 2015, it still held a \$15,000.00 bond and the total liabilities were reported as \$7,025.00 for non-delivered cemetery merchandise. As of the date of this Order, Respondent has failed to submit this report to the OID.

CONCLUSIONS OF LAW

1. Respondent has violated 36 O.S. § 7128; by failing to timely file its 2015 Cemetery Merchandise Report with the OID.

ORDER

IT IS THEREFORE ORDERED that Respondent has violated 36 O.S. 7128 and is hereby **CENSURED** and **FINED TWO HUNDRED AND FIFTY DOLLARS (\$250.00)**. **The \$250.00 fine is to be paid within thirty (30) days** made payable to the Oklahoma Insurance Department. The \$250.00 civil fine shall be paid by money order or cashier’s check. Failure to

pay the civil fine or request a hearing within thirty (30) days may result in further administrative action.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Insurance Commissioner that this Order is a Conditional Order. Unless the Respondent requests a hearing with respect to the Allegations of Fact set forth above within thirty (30) days of the date of mailing of this Order, this Order and the penalties set forth above shall become a Final Order on the thirty-first day following the date of mailing this Order. A request for hearing should be in writing addressed to Barron B. Brown, Oklahoma Insurance Department, Legal Division, 3625 NW 56th St., Suite 100, Oklahoma City, Oklahoma 73112. The request for hearing must state the grounds for the request to set aside or modify the Order.

Any such hearing shall be conducted according to the procedures for contested cases under the Insurance Code and 75 O.S. § 250-323. If the Respondent serves a timely request for hearing on the Oklahoma Insurance Department, this Conditional Order shall act as notice of the matters to be reviewed at the hearing, and the Allegations of Fact, Alleged Violations of Law, and penalties imposed in this Conditional Order shall be considered withdrawn, pending final resolution at the hearing.

WITNESS My Hand and Official Seal this 1st day of June, 2016.



JOHN D. DOAK
INSURANCE COMMISSIONER
STATE OF OKLAHOMA

Barron B. Brown

Barron B. Brown
Assistant General Counsel
3625 NW 56th Street, Suite 100
Oklahoma City, Oklahoma 73112
(405) 521-2746

CERTIFICATE OF MAILING

I, Barron B. Brown, hereby certify that a true and correct copy of the *Conditional Administrative Order and Notice of Right to Be Heard* was mailed by certified mail, with postage prepaid and return receipt requested, on the 15 day of June, 2016, to:

Swan Hill Cemetery
Attn: Debbie Phillips
P.O. Box 512
Seminole, OK 74868

CERTIFIED MAIL NO. 7015 3010 0001 4604 0501

and a copy was delivered to:

Shanna Johnson
Financial Division



Barron B. Brown
Assistant General Counsel

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Sent To
 Street and Apt. No., or PO Box #
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Swan Hill Cemetery
 ATTN: Debbie Phillips
 P.O. Box 512
 Seminole, OK 74868
 rlg/16-0513-DIS(BBB)/Cond Adm Ord

PS Form 3800, April 2015 PSN 7530-02-000-9053

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- 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:

Swan Hill Cemetery
 ATTN: Debbie Phillips
 P.O. Box 512
 Seminole, OK 74868
 rlg/16-0513-DIS(BBB)/Cond Adm Ord

9590 9402 1346 5285 6012 05

2. Article Number (Transfer from service label)

7015 3010 0001 4604 0501

COMPLETE THIS SECTION ON DELIVERY

A. Signature
 Agent
 Addressee

B. Received by (Printed Name)
 Debbie Phillips

C. Date of Delivery
 6/8/16

D. Is delivery address different from item 1? Yes
 No
 If YES, enter delivery address below:



3. Service Type

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Adult Signature Restricted Delivery

Certified Mail®

Certified Mail Restricted Delivery

Collect on Delivery

Collect on Delivery Restricted Delivery

Insured Mail

Insured Mail Restricted Delivery (over \$500)

Registered Mail™

Registered Mail Restricted Delivery

Return Receipt for Merchandise

Signature Confirmation™

Signature Confirmation Restricted Delivery

PS Form 3811, July 2015 PSN 7530-02-000-9053

Domestic Return Receipt