

BEFORE THE INSURANCE COMMISSIONER OF THE
STATE OF OKLAHOMA

FILED
OCT 27 2016
INSURANCE COMMISSIONER
OKLAHOMA

STATE OF OKLAHOMA, ex rel. JOHN)
D. DOAK, Insurance Commissioner,)
)
Petitioner,)
v.)
)
LESCHER-MILLSAP FUNERAL SERVICE,)
LLC, an applicant for prepaid funeral benefit)
contracts permits in the State of Oklahoma,)
)
Respondent.)

Case No. 16-0877-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, Sara A. Worten, and alleges and states as follows:

JURISDICTION 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 Prepaid Funeral Benefits Act (the "Act"), *36 O.S. §§ 6121 through 6136.18*.

2. Lescher-Millsap Funeral Service, LLC ("Respondent") is an applicant for three (3) prepaid funeral benefit contracts permits in the State of Oklahoma. Respondent operates in three (3) locations; Muskogee, Oklahoma, Webbers Falls, Oklahoma, and Fort Gipson, Oklahoma.

3. *36 O.S. § 6121(A)* provides in part, that any organization which accepts money or anything of value for prepaid funeral benefits shall first obtain a permit from the Insurance Commissioner authorizing the transaction of this type of business before entering into any such

contract. It shall be unlawful to sell prepaid funeral benefits unless the seller holds a valid, current permit at the time the contract is made.

3. 36 O.S. § 6130(B) provides, among other things, that “. . . [the] violation of any provision of Sections 6121 through 6136.18 of [the Act] shall constitute a cause for the Insurance Commissioner to issue a notice and order to show cause why the licensee shall not be censured, have the license of the licensee suspended or revoked, be subject to a fine of not less than One Hundred Dollars (\$100.00) and not more than One Thousand Dollars (\$1,000.00), or be subject to both such fine and punishment.”

FINDINGS OF FACT

1. Respondent sold a total of nine (9) prepaid funeral contracts from February 2016 through July 2016 without first obtaining permits to do so from the Department.

2. Of the nine (9) policies sold; five (5) were sold by Respondent for the Muskogee, Oklahoma location, three (3) were sold by Respondent for the Webber Falls, Oklahoma location, and one (1) was sold by Respondent for the Fort Gipson, Oklahoma location.

CONCLUSIONS OF LAW

1. Respondent has violated 36 O.S. § 6121(A); by selling preneed policies and therefore entering into prepaid funeral benefits contracts without a permit.

ORDER

IT IS THEREFORE ORDERED that Respondent has violated 36 O.S. § 6121(A) and is hereby **CENSURED** and **FINED THREE HUNDRED DOLLARS (\$300.00)**. **The \$300.00 fine is to be paid within thirty (30) days** made payable to the Oklahoma Insurance Department. The \$300.00 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.

Upon receipt of payment the Department will process the Respondent's applications for the prepaid funeral benefits permits.

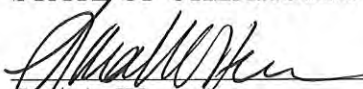
IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Insurance Commissioner that this Order is a Conditional Order. Unless the Respondent requests a hearing with respect to the Allegations of Fact set forth above within thirty (30) days of the date of mailing of this Order, this Order and the penalties 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 Sara A. Worten, 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 27th day of October, 2016.



JOHN D. DOAK
INSURANCE COMMISSIONER
STATE OF OKLAHOMA


Sara A. Worten

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

CERTIFICATE OF MAILING

I, Sara A. Worten, 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 27th day of October, 2016, to:

Lescher-Millsap Funeral Service, LLC
Todd Martin
2801 Chandler Road
Muskogee, OK 74403

CERTIFIED MAIL NO. 7016 0910 0000 5833 3844

and a copy was delivered to:

Shanna Johnson
Financial Division

Oklahoma Funeral Board (via regular mail)
Attn: Chris Ferguson, Executive Director
3700 N. Classen Blvd., Suite 175
Oklahoma City, OK 73118



Sara A. Worten
Assistant General Counsel

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
 Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee
 \$ _____

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Return Receipt (hardcopy) \$ _____

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Certified Mail Restricted Delivery \$ _____

Adult Signature Required \$ _____

Adult Signature Restricted Delivery \$ _____

Postage
 \$ _____

Total Postage and Fees
 \$ _____

Sent To
 Street and Apt. No., or PO Box
 City, State, ZIP+4®

Lescher-Millsap Funeral Service, LLC
 Todd Martin
 2801 Chandler Road
 Muskogee, OK 74403
16-0877-DIS/SAW(mt)
(Cond.Adm.Ord. & Notice ~10-27-16)



PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

7016 0910 0000 5833 3844

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:

Lescher-Millsap Funeral Service, LLC
 Todd Martin
 2801 Chandler Road
 Muskogee, OK 74403
16-0877-DIS/SAW(mt)
(Cond.Adm.Ord. & Notice ~10-27-16)



2. Article Number (Transfer from service label)

7016 0910 0000 5833 3844

COMPLETE THIS SECTION ON DELIVERY

A. Signature
 X *Chuck Myers* Agent Addressee

B. Received by (Printed Name) C. Date of Delivery
CHUCK MYERS | *10/29*

3. Delivery address different from item 1? Yes No
 If Yes, address below: Yes No

OKLAHOMA INSURANCE DEPARTMENT

NOV 01 2016

Legal Division

3. Service Type

Adult Signature Priority Mail Express®

Adult Signature Restricted Delivery Registered Mail™

Certified Mail® Registered Mail Restricted Delivery

Certified Mail Restricted Delivery Return Receipt for Merchandise

Collect on Delivery Signature Confirmation™

Collect on Delivery Restricted Delivery Signature Confirmation Restricted Delivery

Insured Mail Signature Confirmation Restricted Delivery (over \$500)

Insured Mail Restricted Delivery (over \$500)

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