

FILED
JUN 05 2019
INSURANCE COMMISSIONER
OKLAHOMA

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

**STATE OF OKLAHOMA, ex rel. GLEN
MULREADY, Insurance Commissioner,**

Petitioner,

v.

**TRADITIONS FUNERAL & CREMATION
SERVICES, an applicant for permit to provide
prepaid funeral benefit contracts in the
State of Oklahoma,**

Respondent.

Case No. 19-0114-DEN

CONSENT ORDER

The Respondent, Traditions Funeral & Cremation Services, Inc. ("Respondent" or "Traditions"), requested an Administrative Hearing after Petitioner, State of Oklahoma ex rel. Glen Mulready (the "Insurance Commissioner"), issued a letter to Traditions on March 1, 2019 whereby the Oklahoma Insurance Department ("OID") denied Traditions' application for a permit to provide prepaid funeral benefit contracts subject to Traditions' request for a hearing before an Independent Hearing Examiner to show cause why Traditions' application should not be denied under 36 O.S. § 6121(B) of the PREPAID FUNERAL SERVICE AND FUNERAL SERVICE MERCHANDISE ACT, 36 O.S. §§ 6121-6136.18 (the "Act").

Pursuant to Article II of the OKLAHOMA ADMINISTRATIVE PROCEDURES ACT, 75 O.S. §§ 250 et seq. and the OKLAHOMA INSURANCE CODE, 36 O.S. §§ 101 et seq., this matter came on for an Administrative Hearing on April 25, 2019 at the offices of the OID ("April 25 Hearing") pursuant to a Notice of Hearing and Order to Show Cause filed by the OID on April 8, 2019 and

served on Traditions on April 11, 2019 ("Hearing Notice"). The Independent Hearing Examiner, Stephan S. Mathis ("Hearing Examiner"), was appointed and presided over the proceedings.

At the April 25 Hearing, Petitioner Insurance Commissioner appeared before the Hearing Examiner by and through his counsel, Teresa L. Green, Assistant General Counsel of the OID, and Respondent Traditions appeared by and through its counsel, John J. Carwile and Courtney L. Cagle of BAUM GLASS JAYNE & CARWILE. A stenographic record of the April 25 Hearing was made and the following witnesses appeared, were sworn in, and testified regarding the matters before the Hearing Examiner: (i) Stephanie Stewart ("Stewart"), division manager of regulated industry services for the OID; (ii) Shirley Butler ("Butler"), Legal Secretary III for the OID; (iii) Jodi Lynette Tyler ("Jodi Tyler"), sole owner and officer of Traditions; and (iv) Timmy Ray Tyler ("Tim Tyler"), Funeral Director of Traditions.

On December 10, 2018, Traditions submitted its application to the OID via OPTins for prepaid funeral permit along with biographical affidavits of both (i) Jodi Tyler as its sole owner and officer, and (ii) Tim Tyler as its Funeral Director (the "Permit Application").

On May 17, 2019, OID submitted its proposed findings of fact and conclusions of law. On May 23, 2019, Traditions submitted its proposed findings of fact and conclusions of law. On May 31, 2019, the Parties filed a Consent Order in connection with the above-captioned proceedings ("Joint Motion")

Upon consideration of the April 25 Hearing testimony, admitted exhibits, and Joint Motion, the undersigned enters the following stipulations of fact, conclusions of law, and its Order:

JURISDICTION AND AUTHORITY

1. Petitioner Insurance Commissioner is charged with the duty of administering and enforcing all provisions of the OKLAHOMA INSURANCE CODE, 36 O.S. §§ 101 et seq., including the Act, 36 O.S. §§ 6121-6136.18. All of the regulatory filing and other alleged violations set out in the Hearing Notice and described below relate to the Permit Application regulated by the Act.

2. The Insurance Commissioner, pursuant to 36 O.S. 319, has lawfully appointed an independent hearing examiner who sat as a quasi-judicial officer over the above-captioned proceedings.

3. The Hearing Notice was properly served on Traditions and the April 25 Hearing was conducted by the hearing examiner pursuant to OAC 365-1-7-1 et seq. and the OKLAHOMA ADMINISTRATIVE PROCEDURES ACT, 75 O.S. §§ 308a et seq.

4. The hearing examiner heard testimony and admitted certain exhibits offered by the Parties at the April 25 Hearing.

STIPULATIONS OF FACT

5. Jodi Tyler is the sole owner and officer of Traditions, and Tim Tyler is the Funeral Director of Traditions. (April 25 Hearing Transcript ("Hrg. Tr."), 98:9-11 & 117:19-25).

6. On December 10, 2018, Traditions submitted its application to the OID via OPTins for prepaid funeral permit along with biographical affidavits of both (i) Jodi Tyler as its sole owner and officer, and (ii) Tim Tyler as its Funeral Director. (Petitioner's Exhibits 3, 4 & 5).

7. A background check performed by Butler at the OID showed that Jodi Tyler had a bankruptcy case filed August 1996 ("1996 Bankruptcy") and Tim Tyler had a felony conviction in Tulsa County on March 1980 ("1980 Felony"). (Hrg. Tr., 16:17-17:2).

8. On December 5, 1996, Jodi Tyler was adjudged a bankrupt and discharged in the Oklahoma Northern Bankruptcy Court, the 1996 Bankruptcy. (Petitioner's Exhibit 10).

9. On March 5, 1980, Tim Tyler was convicted of Robbery or Attempted with Dangerous Weapon in the Tulsa County Court in case number CFR# 79-3698, the 1980 Felony. (Petitioner's Exhibit 9).

10. On December 15, 1994, Tim Tyler received a full pardon related to his 1980 Felony from the Governor of the State of Oklahoma. (Respondent's Exhibit 16).

11. In connection with Traditions' Permit Application, the biological affidavit of Jodi Tyler did not disclose her 1996 Bankruptcy and the biological affidavit of Tim Tyler did not disclose his 1980 Felony. (Petitioner's Exhibits 4 & 5).

12. On March 1, 2019, the OID issued its letter denying Traditions' Permit Application under 36 O.S. 6121(B) (the "Denial Letter"). (Petitioner's Exhibit 8).

13. On March 28, 2019, Traditions' submitted to the OID its letter requesting a formal administrative hearing before the Independent Hearing Examiner ("Hearing Request"). (Respondent's Exhibit 7).

CONCLUSIONS OF LAW

14. Pursuant to 36 O.S. § 6124(A), the Insurance Commissioner shall issue a permit upon: 1. The receipt of the application and payment of the filing fee; 2. Determination that the organization is in good standing as a funeral establishment with the Oklahoma Funeral Board; and 3. Making a finding that the organization has complied with the rules promulgated under this act by the Insurance Commissioner.

15. Pursuant to 36 O.S. § 6121(B), the Insurance Commissioner may deny a permit if the organization: 1. Makes a material misstatement or misrepresentation in an application for a permit; or 2. If any of its officers, owners, partners, or directors are determined by the

Commissioner to not be competent, trustworthy, financially responsible, and of good personal and business reputation and character.

16. Pursuant to 36 O.S. § 6121(C), the Insurance Commissioner may approve an application of an organization for a permit and deny the request of the organization to act as trustor if the organization does not satisfy all qualifications, which shall not hinder an organization from entering into contracts funded by assignments of insurance. The Respondent has shown that it does not satisfy all qualifications because it provided incorrect information in the application.

17. Petitioner has shown that it had the authority to issue the Denial Letter under 36 O.S. § 6121(B) due to the incorrect answers in the biological affidavits of Jodi Tyler and Tim Tyler submitted along with the Permit Application related to the 1996 Bankruptcy and 1980 Felony, respectively.

ORDER

IT IS THEREFORE ORDERED that Respondent manually submit to the office of the OID a new permit application, including new biological affidavits of Jodi Tyler and Tim Tyler disclosing both the 1996 Bankruptcy and the 1980 Felony and a new filing fee, within fifteen (15) days of this Final Order.

IT IS FURTHER ORDERED that upon receipt of Respondent's new permit application properly submitted in accordance with the Act and this Final Order, Petitioner shall issue to Respondent within thirty (30) days of receipt by OID of such new application a permit for prepaid funeral benefits contracts that shall authorize Respondent to enter into prepaid funeral benefits contracts funded by insurance, **but not to act as trustor** if (1) the Petitioner determines that the Respondent is in good standing as a funeral establishment with the Oklahoma Funeral

Board and (2) makes a finding that the Respondent has complied with the rules promulgated under this act by the Insurance Commissioner pursuant to 36 O.S. § 6124.

IT IS FURTHER ORDERED that upon issuance of this limited permit the Respondent may only enter into prepaid funeral service and funeral service merchandise contracts funded by assignments of insurance.

IT IS FURTHER ORDERED that after filing the first required annual report, filed pursuant to 36 O.S. § 6128, Respondent may submit a new application to apply for a full permit without the restrictions in the immediately preceding paragraphs that limit Respondent's ability to act as trustor. This Final Order shall not prevent Respondent from renewing the limited permit authorized herein.

IT IS FURTHER ORDERED that upon issuance of the limited permit for prepaid funeral benefits contracts to Respondent under this Final Order, Respondent shall abide by all lawful provisions the Act and nothing herein shall limit or otherwise prevent Petitioner from enforcing the provisions of the Act.

IT IS FURTHER ORDERED that Respondent is to pay the costs of April 25 Hearing in the amount of \$1,025.00 within thirty (30) days. Costs are to be made payable to the Oklahoma Insurance Department.

Done this 4th day of June, 2019.

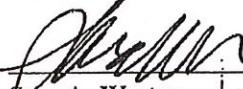


GLEN MULREADY
INSURANCE COMMISSIONER
STATE OF OKLAHOMA

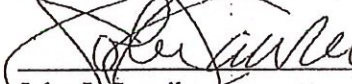
Steph S. Mathis

Stephan S. Mathis
Independent Hearing Examiner
OKLAHOMA INSURANCE DEPARTMENT

APPROVED BY:


Sara A. Worten

Attorney for the Petitioner


John J. Carwile

Attorney for the Respondent

CERTIFICATE OF MAILING

I, Sara A. Worten, hereby certify that a true and correct copy of the above and foregoing *Consent Order* was mailed by U.S. First Class mail and sent by electronic mail on this 5th day of June, 2019 to:

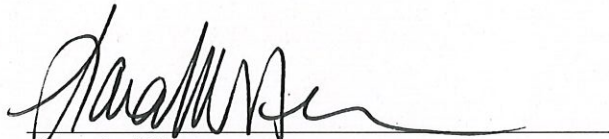
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and a copy was delivered to:

Regulated Industry Services


Sara A. Worten
Assistant General Counsel