

Arkansas Insurance Department

Asa Hutchinson
Governor



Allen Kerr
Commissioner

September 18, 2015

Certified Return Receipt 7009 1680 0002 2604 8197 and U.S. Mail

Mr. Curtis Craft
Craft Funeral Home, Inc.
P.O. Box 21445
Hot Springs, AR 71903

RE: In the Matter of Curtis B. Craft, Jr. and Craft Funeral Home, Inc.

Dear Mr. Craft:

Please find the following Notice of Hearing on the Prepaid Funeral Benefits Permit and Funeral Expense Licenses held by you:

NOTICE OF PUBLIC HEARING

Please be advised that an administrative hearing will take place on **October 20, 2015, at 9:00 a.m.** in the First Floor Hearing Room of the Arkansas Insurance Department ("Department"), 1200 West Third Street, Little Rock, AR 72201-1904. The hearing will be held before Insurance Commissioner, Allen Kerr, or his designated Hearing Officer, concerning the following matters. The Hearing is your opportunity to defend yourself against the following allegations, and the revocation of your producer's license.

ALLEGATIONS

1. Respondent, Curtis Craft, Jr., owns Craft Funeral Home, Inc. located in Newport, Arkansas.
2. Respondent Craft currently resides in Hot Springs, Arkansas.
3. The Department most recently attempted to examine the Respondents' prepaid funeral benefit contract files on September 11, 2014. Notice of the examination was given to Respondents on July 25, 2014 and in the days leading up to that examination, Respondents

confirmed that the funeral home would be accessible for the examination. However, when Department personnel arrived at the funeral home on September 11, 2014, they found it locked. Upon calling the phone number for the funeral home, Department personnel were told to request access via the accountant next door. Upon requesting access, Department personnel were advised by the accountant that he did not have access to the funeral home or to the prepaid funeral benefit contract files. The examination was not completed.

4. Respondents' 2013 annual report and accompanying fee were received by the Department on March 31, 2014, which was 14 days past the due date of March 17, 2014.

5. Respondents' 4th quarter 2014 fee and accompanying form were due to the Department on February 15, 2015. To date, the Department has not received the fee or the form.

6. Respondents' annual 2014 report and accompanying fee were due to the Department on March 15, 2015. To date, the Department has not received the report or the fee.

7. Respondents' 1st quarter 2015 fee and accompanying form were due to the Department on May 15, 2015. To date, the Department has not received the fee or the form.

8. Respondent Craft's annual Prepaid Funeral Benefit Permit renewal fee of \$200.00 was due on June 1, 2015. To date, the Department has not received the permit renewal fee and as a result, his permit administratively expired on June 1, 2015.

9. Respondent Craft advised the Department on June 9, 2015 that he was currently working as an ROTC instructor in Warren, AR. Therefore, Respondent Craft is the owner of a funeral home in Newport, he lives in Hot Springs, and works an additional job in Warren.

10. Respondent Craft Funeral Home's Funeral Expense License expired September 30, 2014.

11. On August 11, 2015, Respondent Craft participated in an investigative conference held at the Department. During the conference he advised that he currently holds two cash-funded prepaid funeral benefits contracts.

12. Also on August 11, 2015, a letter was emailed to Respondent Craft giving him thirty days, or until September 14, 2015, to make arrangements to surrender the two contract files to the Department. To date, Respondent has not contacted the Department regarding surrendering the contracts or paying the past due fees and related late penalties.

APPLICABLE LAW AND CHARGES

1. Ark. Code Ann. §§ 23-61-101, *et seq.*, assigns the responsibility for administration of the Arkansas Insurance Code to the Arkansas Commissioner of Insurance (hereinafter referred to as the “Commissioner”). The Department is the lawful agency through which the Commissioner administers the Arkansas Insurance Code, and is authorized to bring this action for the protection of Arkansas consumers.

2. The Commissioner has jurisdiction over the parties and subject matter pursuant to Ark. Code Ann. §§ 23-40-107(a), 23-40-108, and 23-61-103.

3. The Arkansas Producer Licensing Model Act, codified at Ark. Code Ann. § 23-64-501 *et seq.* governs Respondents’ funeral expense licenses.

4. More specifically, Ark. Code Ann. § 23-64-506(e)(1), when obtaining or renewing a producer’s license, requires that the applicant/producer “...be deemed by the commissioner to be competent, trustworthy, financially responsible, and of good personal and business reputation.” Further, Ark. Code Ann. § 23-64-506(e)(2) provides that “qualifications for licensure under this section *must continue* in order to remain licensed.” (emphasis added).

5. Ark. Code Ann. § 23-64-512(a) allows the Commissioner to “place on probation, suspend, revoke, or refuse to issue or renew an insurance producer’s license or may levy a civil penalty in accordance with § 23-64-216 or any combination of actions for any one (1) or more of the following causes:...(8)...demonstrating incompetence, untrustworthiness, lack of good personal or business reputation, or financial irresponsibility”.

6. Pursuant to Ark. Code Ann. § 23-64-512(e), the Commissioner retains authority to enforce the provisions of the Insurance Code even after the producer’s license has lapsed. The Commissioner therefore has authority to revoke Respondent Craft Funeral Home’s Funeral Expense License even though it has expired.

CHARGES AGAINST RESPONDENTS’ FUNERAL EXPENSE LICENSES

7. Respondents’ conduct as detailed in Allegations 3 through 12, above, is in violation of Ark. Code Ann. § 23-64-512(a)(8) which prohibits producers from “...demonstrating incompetence, untrustworthiness, lack of good personal or business reputation, or financial irresponsibility”.

8. Respondents’ conduct as detailed in Allegations 3 through 12, above, is in violation of Ark. Code Ann. § 23-64-506(c) and (e)(2) requiring the producer to satisfy the Commissioner of the adequacy of his background, trustworthiness, personal and business reputation, and financial responsibility, not only to obtain a license, but also to maintain it.

9. Respondents’ conduct as detailed in Allegation 3, above, is in violation of Ark. Code Ann. § 23-64-512(a)(16) which allows the Commissioner to sanction a producer for “refusing to be examined or to produce any accounts, records, or files of examination”.

10. Respondents' conduct as detailed in Allegation 3, above, is in violation of Ark. Code Ann. § 23-64-512(a)(17) which allows the Commissioner to sanction a producer for "failing to cooperate with the commissioner in an investigation when required by the commissioner."

11. Respondents' conduct as detailed in Allegation 12, above, is in violation of Ark. Code Ann. § 23-64-512(a)(13) which gives the Commissioner authority to sanction a producer for "failing to provide a written response after receiving a written inquiry a written response after receipt of a written inquiry from the commissioner or his or her representative as to transactions under the license within thirty (30) days after receipt thereof unless the timely written response is knowingly waived in writing by the commissioner".

CHARGES AGAINST RESPONDENT CRAFT'S PREPAID FUNERAL PERMIT

12. Respondents' conduct as detailed in Allegations 4 and 6, above, is in violation of Ark. Code Ann. § 23-40-119(a) requiring them to submit an annual report and fee on or before March 15 of each year.

13. Respondents' conduct as detailed in Allegations 5 and 7, above, is in violation of Ark. Code Ann. § 23-40-119(d)(1)(B) and (C) requiring them to quarterly submit the per-contract fees to the Department with the quarterly fee form no later than forty-five (45) days after each quarter.

14. Respondents' conduct as detailed in Allegation 8, above, is in violation of Ark. Code Ann. § 23-40-110(b) and (c) requiring them to pay a \$200.00 renewal fee annually on or before June 1 of each year.

15. Respondents' conduct as detailed in Allegation 11, above, is in violation of Ark. Code Ann. § 23-40-109 in that he does not hold a permit that authorizes him to hold prepaid funeral benefit contracts.

NOTICE:

You have the right to be represented by counsel of your own choosing at this proceeding. Additionally, the Commissioner will obtain a competent reporter to record the hearing. You may avail yourself of other privileges, including the Department's help to subpoena any needed witnesses or records.

Your written notification by mail or facsimile, that you have received this Notice of Hearing, must be received in this office within **ten (10) days of your receipt** of this notice. If your written notification is not received by the Department within ten (10) days, any and all expenses incurred by the Department in continuing the hearing or in notification of witnesses, including, but not limited to, phone calls, issuance of subpoenas and postage, will be charged to the party or parties requesting such continuance. If you or your attorney determines that a continuance is necessary, please call me at (501) 371-2820.

The Department will make all Hearing Exhibits available to you upon timely request, as required by and in conformity with the Arkansas Administrative Procedures Act., Ark. Code Ann. § 25-15-208.

In lieu of a hearing, you may dispose of this matter by signing a consent order. Please call me for details at 501-371-2820.

Sincerely,

Amanda Gibson

Amanda Gibson
Associate Counsel/Legal Division
(501) 371-2820

cc: Robert Akers, Manager, Prepaid Funeral Benefits Division
Marjorie Farmer, Investigator, Legal Division
LoRraine Rowland (via e-mail)
Ryan James (via e-mail)
Correspondence File