

Arkansas Insurance Department

Asa Hutchinson
Governor



Allen Kerr
Commissioner

September 15, 2015

Certified Return Receipt 7009 1680 0002 2604 8173 and U.S. Mail

Mr. Timothy Weems
Weems Family Funeral Services
104 W. 5th St.
Carlisle, AR 72024

RE: In the Matter of Timothy Weems, and Weems Family Funeral Service, L.L.C.

Dear Mr. Weems:

Please find the following Notice of Hearing:

NOTICE OF PUBLIC HEARING

You are advised that an administrative hearing will take place on **October 22, 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 against the possible revocation of your producer’s license.

ALLEGATIONS

1. Respondent Timothy Weems owns Weems Funeral Services, L.L.C., located in Carlisle, Arkansas.
2. Respondent Weems currently resides in Carlisle.
3. Respondents’ annual 2014 report and accompanying fee were due to the Department on March 15, 2015. To date, the Department has not received this report.
4. To date, Respondents have failed to submit the annual 2015 renewal application and

accompanying fee, which was due June 1, 2015. Consequently, Respondent Weems' Prepaid Funeral Benefits Permit lapsed on June 1, 2015.

5. Respondent Weems is subject to a pending criminal case that is unrelated to any violations of the Insurance Code.

6. Respondent Weems participated in an investigative conference held at the Department on August 5, 2015. During that conference, Respondent Weems stated that, at that time, the funeral home was not connected to electricity.

7. The listing for Weems Family Funeral Services, L.L.C. at the Secretary of State's Office is listed as "not current".

8. Respondents currently owe the Department \$700.00 in unpaid fees.

9. Respondent Weems' Prepaid Funeral Benefit Permit administratively expired on June 1, 2015 for failure to pay the renewal fee.

10. Respondent Weems' Funeral Expense License expired April 16, 2015.

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 the Department 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) requires that in order to obtain or renew a producer's license, the producer "must 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 Weems' Prepaid Funeral Benefit Permit and his Funeral Expense License even though they have both expired.

7. Respondent's conduct as detailed in the allegations 3 through 10, above, are 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. Respondent's conduct as detailed in the allegations 3 through 10, above, are 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.

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
LoRaine Rowland (via e-mail)
Ryan James (via e-mail)
Correspondence File