

**BEFORE THE INSURANCE COMMISSIONER
FOR THE STATE OF ARKANSAS**

**IN THE MATTER OF
DERRICK GUNN**

A.I.D. NO. 2007- 016

ORDER

On March 6, 2007, a hearing was held at the Arkansas Insurance Department ("Department") before Lenita Blasingame, Chief Deputy Commissioner and Hearing Officer, duly designated by Julie Benafield Bowman, Arkansas Insurance Commissioner ("Commissioner"), to preside over the matter regarding the Prepaid Funeral Benefits Permit application of Derrick Gunn ("Respondent") as President and Owner of Presidential Funeral Homes of Arkansas d/b/a Gunn Funeral Home ("Gunn Funeral Home"). The Department was represented by Nina Samuel Carter, Associate Counsel. From the facts, evidence, and law before her, the Hearing Officer finds as follows:

FINDINGS OF FACT

1. The Commissioner has jurisdiction over the parties and subject matter pursuant to Ark. Code Ann. § 23-40-108 and the authority to revoke or deny prepaid funeral benefits permits pursuant to Ark. Code Ann. § 23-40-111.
2. In January of 2003, Respondent was given a Negotiated Plea Offer on CR 02-2709 based on the charge of Fraudulent Insurance Acts, a Class D Felony, to a reduced charge of theft of property with a value of \$500.00 or less, a class A misdemeanor.

3. In 2004, the Insurance Department entered a Revocation Order against Respondent finding that due to numerous violations of the Insurance Code including using fraudulent or dishonest practices or trade practices prohibited by this state, and making a false or fraudulent statement or representation in an application for insurance, he no longer met the qualifications for licensure in Arkansas, and as a result of pleading guilty to a Class A misdemeanor, theft of property, he was deemed to no longer be competent, trustworthy, financially responsible, or of good personal and business reputation, as required by § 23-64-202.

4. Respondent made an application to the Arkansas Insurance Department for a prepaid funeral benefits permit on behalf of Gunn Funeral Homes in December 2006 to enable Respondent to legally sell prepaid funeral benefits.

5. On January 5, 2007, Rick Toland, Manager of the Prepaid Funeral Benefits Section, sent Respondent a letter of denial after review of the application packet.

6. On January 10, 2007, Respondent requested a hearing and the Department agreed to grant Respondent a hearing at his request.

7. Respondent testified at the hearing that he had no prior knowledge of the 2004 revocation of his license, however, documents in evidence showed that Respondent had been properly notified of the revocation hearing and had prior knowledge that his license had been revoked.

8. Respondent testified at the hearing that restitution had been made to a previous complainant in December 2006, however, the refund check entered into

evidence showed that Respondent had not actually made the payment until February 2007.

9. The Arkansas Prepaid Funeral Benefits Law, codified at Ark. Code Ann. § 23-40-111(a)(2) requires that in order to obtain a permit to engage in the sale of prepaid funeral contracts in Arkansas, an applicant must be deemed by the Commissioner to be competent, trustworthy, and financially responsible. In light of the foregoing admitted evidence, Respondent does not meet the statutory prerequisites.

CONCLUSIONS OF LAW

1. Pursuant to Ark. Code Ann. § 23-40-111, prior to issuance of an prepaid funeral benefits permit, the Commissioner, or his delegate, has the responsibility of determining whether the applicant is competent, trustworthy, and financially responsible.

2. The testimony and supporting documentation entered into evidence at the hearing and before the hearing record closed is sufficient to make a finding that the Respondent cannot be deemed competent, trustworthy, and financially responsible to engage in the sale of prepaid funeral contracts, and does not meet the other requirements for licensure by the Department.

3. The evidence submitted by and with reference to the Respondent is sufficient to make a finding that the prior decision of the Department to deny Respondent's application for a prepaid funeral benefits permit should be affirmed.

THEREFORE, in consideration of these Findings of Fact and Conclusions of Law, it is hereby ORDERED AND AGREED that Respondent and Gunn Funeral Home will be not be granted a Prepaid Funeral Benefits permit.

Recommendation Of Hearing Officer

Upon consideration of the evidence of record, the Hearing Officer recommends that the foregoing Findings, Conclusions of Law, and Order be approved and adopted.

1. That Respondent's application for a Prepaid Funeral Benefits permit in the State of Arkansas on behalf of Gunn Funeral Home is hereby denied.

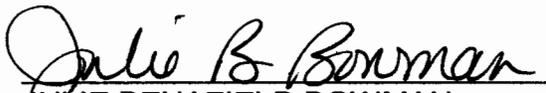


Lenita Blasingame, Chief Deputy Commissioner
and Hearing Officer

Certification

I, Julie Benafield Bowman, Insurance Commissioner for the State of Arkansas, do hereby certify that the above and foregoing matter was conducted by Lenita Blasingame, Chief Deputy Commissioner, and Hearing Officer, by and under my authority and supervision, and that I hereby adopt as my official findings of fact and conclusions of law, her recommendations in full, as set forth herein.

IT IS SO ORDERED this 5th day of April, 2007.



JULIE BENAFIELD BOWMAN
INSURANCE COMMISSIONER
STATE OF ARKANSAS