

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

**IN THE MATTER OF THE  
REPORT OF EXAMINATION  
OF HIGGINBOTHAM BURIAL  
INSURANCE COMPANY**

**A.I.D. NO. 2007-069**

**ADOPTION ORDER**

Now on this day the matter of the Report of Examination as of December 31, 2006 ("Report") of Higginbotham Burial Insurance Company, Walnut Ridge, Arkansas ("Company"), NAIC No. 84042, is taken under consideration by Julie Benafield Bowman, Insurance Commissioner for the State of Arkansas ("Commissioner"), as presented by the Finance Division and Amanda Capps Rose, Associate Counsel, of the Arkansas Insurance Department ("Department"). From the facts, matters and other things before her, the Commissioner finds as follows:

**FINDINGS OF FACT**

1. That the Commissioner has jurisdiction over the Company and the subject matter involved herein;
2. That the Company is an Arkansas domiciled stipulated premium plan insurer authorized to transact life, accident and health insurance;
3. That pursuant to Ark. Code Ann. §§ 23-71-103(2) and 23-61-201, *et seq.*, the Commissioner authorized and directed the Department to conduct a regular examination of the affairs, transactions, accounts, records and assets of the Company as of December 31, 2006;
4. That said examination was commenced by the Department on April 30, 2007 and completed on August 23, 2007;

5. That the verified Report of Examination was filed with the Department on September 10, 2007. The Report was forwarded to the Company via certified mail on September 10, 2007 and was received by the Company on September 12, 2007;
6. That the Company provided no response or rebuttal to the Report; and
7. That the Report of Examination contains the following comments or discrepancies regarding the Company's operation:
  - a. That the Company's annual statement listed two (2) directors while the Company's Amended and Substituted Articles of Agreement and Incorporation as amended and Ark. Code Ann. § 23-69-105(c)(7) via § 23-71-103(12) require not less than three (3) directors;
  - b. That the Company's Bylaws and Ark. Code Ann. § 23-69-120(c) via § 23-71-103(12) provide for an annual meeting of the stockholders; however, the examination revealed no evidence that the stockholder meetings were held for the years 2004, 2005 or 2006;
  - c. That the Company was unable to locate its stock register or stock certificate book; therefore, ownership of the Company's outstanding stock cannot be established from reviewing the stock records;
  - d. That the Company did not present an Advertising File for review as required by Department Rule 17 § 7(H)(1);
  - e. That two (2) insurance applications were accepted in 2006 by employees without agent appointments to the Company in violation of Ark. Code Ann. §§ 23-64-210 and 23-64-514, made applicable to stipulated premium plan insurers via Ark. Code Ann. §23-71-103(7);

- f. That two (2) of the Company's claim files did not contain all notes and work papers pertaining to the claim in such detail that pertinent events and the dates of such events could be reconstructed, which is not in compliance with Department Rule 43 § 6;
- g. That forty-eight (48) denied claim files did not contain a copy of the denial, which is not in compliance with Department Rule 43 § 9(a)(1);
- h. That twenty-five percent (25%) of the Company's claim files were not in compliance with Department Rule 43 for varying reasons;
- i. That the Company did not have an approved antifraud initiative in place as required by Ark. Code Ann. § 23-66-510 and Department Rule 66 § 8; and
- j. That the Company, as of December 31, 2006, was determined to be statutorily insolvent. Subsequent to the examination, the Company reported that the statutory insolvency was cured.

#### **CONCLUSIONS OF LAW**

1. That the Commissioner and the Department have jurisdiction over the parties and the subject matter contained herein; and
2. That this Order has been properly entered in accordance with the Arkansas Insurance Code and Department Rules.

**THEREFORE**, pursuant to the provisions of Ark. Code Ann. § 23-61-205, the Commissioner hereby orders:

1. That the Examination Report, as filed with the Department, is hereby adopted;
2. That, with regard to the items in Findings of Fact, above:

- a. The Company is to name a third director, as required by the Company's Amended and Substituted Articles of Agreement and Incorporation as amended and Ark. Code Ann. § 23-69-105(c)(7), and submit to the Commissioner the NAIC Biographical Affidavit for the new director;
- b. That the Company schedule and hold a meeting of its stockholders on an annual basis as required by the Company's Bylaws and Ark. Code Ann. § 23-69-120(c);
- c. That the Company implement procedures that ensure the Company is maintaining an accurate and complete stock register and stock certificate book in such a manner that ownership of outstanding stock can be established by a review of the Company's stock records;
- d. That the Company submit its full and complete Advertising File for inspection by the Commissioner pursuant to Department Rule 17 § 7(H)(1);
- e. That the Company's unlicensed and/or un-appointed employees immediately cease selling insurance policies or accepting applications, and that the Company appoint a licensed producer to solicit and/or sell any insurance policies in accordance with Ark. Code Ann. §§ 23-64-210 and 23-64-514;
- f. That the Company shall maintain all claim files in accordance with Department Rule 43 § 6 by including all notes and work papers in such detail that pertinent events and the dates of such events could be reconstructed;
- g. That in the case of a denial of a claim, the Company shall retain a copy of the denial in the claim file as required by Department Rule 43 § 9(a)(1);
- h. That the Company implement procedures to ensure compliance with all provisions of Department Rule 43 with regard to the maintenance of claim files;  
and

- i. That the Company prepare and submit for approval an antifraud initiative as required by Ark. Code Ann. § 23-66-510 and Department Rule 66 § 8.
3. That the Department shall forward a copy of this Order and the adopted Examination Report to the Company via certified mail and that the mailing to the Company shall include specimen affidavit forms for the Company's directors to use in acknowledgement of the receipt of the mailing and its enclosures;
4. That within twenty (20) days of its receipt of this Order and the adopted Examination Report, the Company shall file with the Department affidavits executed by each of its Directors stating under oath that they have received a copy of this Order and the adopted Examination Report, as required by Ark. Code Ann. § 23-61-205(b)(1);
5. That the adopted Examination Report will be open for public inspection upon the expiration of thirty (30) days from the Company's receipt of this Order; and
6. That the Department, as a matter of course, reserves the right to consider other administrative proceedings against the Company at a later date, although none are contemplated at this time.

IT IS SO ORDERED this 8<sup>th</sup> day of November, 2007.

  
JULIE BENAFIELD BOWMAN  
INSURANCE COMMISSIONER  
STATE OF ARKANSAS