

**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. 2011-003

ADOPTION ORDER

Now on this day the matter of the Report of Examination as of December 31, 2009 (“Report”) of Higginbotham Burial Insurance Company, of Walnut Ridge, Arkansas (“Company”), NAIC No. 84042, is taken under consideration by Jay Bradford, Insurance Commissioner for the State of Arkansas (“Commissioner”), as presented by the Finance Division and Ashley Fisher, Attorney Specialist, of the Arkansas Insurance Department (“Department”). From the facts, matters and other things before him, 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 holds Arkansas Certificate of Authority No. 211 issued May 1, 1960, in good standing, to conduct the business of life and disability insurance;
3. That the Company is regulated as a Stipulated Premium Plan Life Insurer with a minimum capital requirement of \$10,000;
4. That the Company is solely owned by Mary Jo Higginbotham;
5. The Company is affiliated with Higginbotham Funeral Services, Inc., a funeral home, through common ownership and is also affiliated with Higginbotham Burial Association by virtue of common management;

6. That pursuant to Ark. Code Ann. §§ 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, 2009;
7. That said examination was commenced by the Department on June 21, 2010 and completed on September 21, 2010;
8. The verified Report of Examination was filed according to Ark. Code Ann. § 23-61-205(a)(2) with the Department on November 19, 2010. The Report was forwarded to the Company via certified mail on November 19, 2010 and was received by the Company on November 22, 2010;
9. That the Company filed a written rebuttal refuting the statement on Page 16 of the Examination that provided “The Company could not find any of the requested Cash Surrender files for examination..” The Company was correct and this statement will be stricken from the Examination Report.
10. The Report of Examination contained the following discrepancies or deficiencies concerning the Company’s operations:
 - a. The Company does not have a formal policy regarding the disclosure of any conflict of interest of its officers and directors, as required by Ark. Code Ann. § 23-66-206(5);
 - b. The Company does not have fidelity coverage on its officers, directors or employees, nor does it carry any basic business owners insurance, general liability, workers’ compensation, employer’s liability or building contents coverage;
 - c. The examination found that the Company failed to record two complaints on their registers which does not comply with Arkansas Insurance Department Rule 44;

- d. The examination found five complaints that were not timely responded to by the Company which does not comply with Arkansas Insurance Department Rule 43;
- e. The Company did not provide the procedures for appointing and terminating producers after the Department requested such information and refusal to provide documentation to the Department does not comply with Ark. Code Ann. § 23-61-204;
- f. The Company was issuing Whole Life Policies on a policy form (WL1-68) that used outdated nonforfeiture values and which had been withdrawn by the Department in 1995 per Order AID No. 95-273. The Order required the Use of Policy WL-189, yet the Company continued to use form WL 1-68. As policies are mailed to the policyholder and not maintained in the Office, the Examination did not reveal whether the Company is currently using the correct form;
- g. The Company submitted claim registers for the examination period which contained a total of 242 claims. Of these claims, a total of forty five were in violation of Arkansas Insurance Department Rule 43 and were incomplete with regard to documentation including, but not limited to:
 - (i) Seven files were not located for review;
 - (ii) Three files did not meet the standards for Prompt, Fair and Equitable Settlements of Claims;
 - (iii) Two files did not have a copy of the denial letter;
 - (iv) Thirty two files contained payment to Higginbotham Funeral Home before the death certificate was received;
 - (v) One claim was denied for suicide without reason.
- h. Only two directors were listed in the annual statement. Ark. Code Ann. § 23-69-105(c)(7) requires that there be no less than three directors;

- i. The Company did not have an annual meeting in 2007 and 2008 as required by the Company's Bylaws and Ark. Code Ann. § 23-69-120;
- j. The Bonds, asset account, was reduced by \$1,722 for an overinvestment in a Lehman Bros. Bond. Arkansas Code Annotated Section 23-63-805 (7) (A) (ii) (a), provides that investment be limited to .5% of its admitted assets in lower grade obligations issued by one institution.
- k. The Premiums Deferred and Uncollected, asset account, was reduced by \$6,838, to agree with the amount determined by the Department's Contract Actuary.
- l. The Aggregate Reserve for Life Contracts, liability account, was increased by \$103,000, to agree with the amount determined by the Department's Contract Actuary.
- m. The Company could not locate its stock register or stock certificate book.

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 the Company be required to maintain a formal policy regarding the disclosure of any possible conflict of interest of its officers and directors as required by Ark. Code Ann. § 23-66-206.
3. That the Company implement procedures for appointing and terminating producers.
4. That the Company use Policy Form WL-189 as required by AID Order No. 95-273.
5. That the Company comply with claims handling procedures under Rule 43 of the Arkansas Insurance Department.

6. That the Company maintain at least three directors, as required by Ark. Code Ann. § 23-69-105(c)(7).
7. That the Company hold an annual meeting as required by its Bylaws and Ark. Code Ann. § 23-69-120.
8. That, prior to all future filed annual financial statements, the Company shall perform the necessary asset adequacy analysis.
9. That the Company shall comply with the Statement of Statutory Accounting Principles with regard to proper reporting of the Company's premiums.
10. That the Company shall use the correct expiration date for the extended term reserve calculations.
11. That the Department shall forward a copy of this Order and the adopted Examination Report, as filed, to the Company, via certified mail. The mailing to the Company shall include specimen affidavit forms for the Company's Directors to use in acknowledgement of receipt of the adopted Report of Examination and this Order.
12. That within twenty (20) days of receipt of this Order and the adopted Examination Report, the Company shall file with the Department affidavits executed by each one of its Directors, stating under oath or affirmation that each has received a copy of this Order and the adopted Examination Report;
13. That the adopted Examination Report shall be open for public inspection upon the expiration of thirty (30) days from the Company's receipt of this Order.
14. That the Department, as a matter of course, reserves the right to consider administrative proceedings against the Company at a later date.

IT IS SO ORDERED this 18th day of January 2011.

A handwritten signature in black ink, appearing to read "Jay Bradford". The signature is written in a cursive style with a large initial "J".

JAY BRADFORD
INSURANCE COMMISSIONER
STATE OF ARKANSAS