

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

ARKANSAS INSURANCE DEPARTMENT,)
Petitioner)
)
vs.)
)
RHODES & SON FUNERAL HOME,)
Respondent)

A.I.D. NO. 2011- 053

EMERGENCY SUSPENSION ORDER

On this day, the emergency matter of Rhodes & Son Funeral Home (“Respondent”) came before Jay Bradford, Arkansas Insurance Commissioner (“Commissioner”). The Arkansas Insurance Department (“Department”) was represented by Amanda J. Andrews, Associate Counsel, in this matter. From the facts and law before the Commissioner, he finds as follows:

GENERAL STIPULATIONS

1. The Commissioner has jurisdiction over the parties and the subject matter pursuant to Arkansas Code Annotated § 23-61-103.
2. The Commissioner has the authority to issue an emergency license suspension pursuant to Arkansas Code Annotated §§ 23-64-216(e) and 25-15-211(c).

FINDINGS OF FACT

3. Respondent is a funeral home located at 701 North 9th Street in Augusta, Arkansas 72006.
4. Respondent was licensed to sell prepaid funeral benefit contracts in this state under a permit issued to it by the Department. Respondent’s Arkansas Prepaid Funeral Benefits License expired on May 31, 2011 and to date, has not been renewed.

5. The Department regulates the licensing of prepaid funeral benefit providers in this state pursuant to Arkansas Code Annotated § 23-40-107(a) under the Arkansas Prepaid Funeral Benefits Law codified in Arkansas Code Annotated § 23-40-101 et seq.

6. Ms. Cindy Rhodes is the owner and operator of Respondent with full authority to execute agreements for and on Respondent's behalf.

7. Pursuant to Arkansas Code annotated § 23-40-119, Respondent's 2009 annual report and annual report fee were due on March 15, 2010, and the Department did not receive Respondent's 2009 annual report or the annual report fee until July 6, 2010.

8. In 2010, Respondent also failed to timely renew its prepaid funeral benefits permit, which would have expired on June 1, 2010.

9. Previously, Respondent filed its last four (4) annual and quarterly reports delinquent and was tardy with previous yearly renewal applications.

10. On or about August 20, 2010, Respondent entered into a Consent Order with the Department in which Respondent agreed that in lieu of revocation of its license and placement of its prepaid funeral benefits contracts business in receivership proceedings, Respondent would pay to the Department a fine of seven hundred and fifty dollars (\$750) within twenty (20) days from receipt of the Order after it is signed by the Commissioner. Respondent further agreed that should it fail to timely file any future quarterly or annual reports or renewal applications with the Department, it would agree to immediate and permanent revocation of its prepaid funeral benefits license with the Department, as well as placement of its prepaid funeral benefits business into receivership or delinquency proceedings pursuant to Arkansas Code Annotated § 23-40-123.

11. Respondent's fourth quarter 2010 quarterly report was due by February 15, 2011, and the Department received a delinquent report on March 1, 2011.

12. On May 10, 2011, Respondent filed a delinquent and incomplete annual report, which was due on March 15, 2011, and submitted to the Department as payment of fees and penalties a check in the amount of \$750.00, which was returned as not payable for insufficient funds.

13. Respondent's Arkansas Prepaid Funeral Benefits License expired on June 1, 2011, and to date Respondent has failed to renew its license.

14. The Department notified Respondent in writing on two (2) occasions that its fourth quarter 2010 quarterly report was delinquent, its 2010 annual report was delinquent and incomplete, the check it submitted for its 2010 annual report fees was insufficient, and its Arkansas Prepaid Funeral Benefits License has expired and not been renewed. The Department believes Respondent has continued to actively conduct the business of insurance and selling prepaid funeral benefit contracts.

15. The public health, safety, and welfare imperatively require emergency action.

CONCLUSIONS OF LAW

From the Findings of Fact contained herein, the Commissioner concludes as follows:

16. That the Commissioner has jurisdiction over the parties and over the subject matter herein.

17. Under Arkansas Code Annotated § 23-40-119(e)(1), absent the Commissioner's approval for an extension for good cause shown, prepaid funeral benefit licensees failing to timely report and pay any administrative and financial regulations fees to the Department may be subject to a penalty of one hundred dollars (\$100) per day for each day of delinquency, payable

to the State Insurance Department Prepaid Trust Fund. Pursuant to Arkansas Code Annotated § 23-40-111(b)(2), after notice to the licensee and after a hearing, the Commissioner may suspend any permit, or may revoke or refuse to continue any permit if the licensee failed to comply with any material provision of prepaid funeral benefits law. The Department interprets that the statutory requirements compelling the licensees to file annual and quarterly reports as well as provide annual renewal applications as material provisions of the Arkansas Prepaid Funeral Benefits Law. In fact, a licensee's blatant failure to file its annual report is a ground for placing the licensee into receivership or delinquency proceedings under Arkansas Code Annotated § 23-40-123(a)(7).

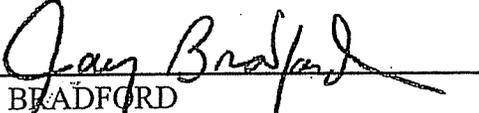
18. Respondent is in violation of the Consent Order 2010-075, signed August 20, 2010, by submitting a delinquent fourth quarter 2010 quarterly report, submitting a delinquent and incomplete 2010 annual report, and failing to renew its Arkansas Prepaid Funeral Benefits License.

19. For the public health, safety, and welfare of the people of this State, the Commissioner concludes that the Respondent's Arkansas Prepaid Funeral Benefits License is immediately and summarily suspended pending an administrative hearing pursuant to Arkansas Code Annotated § 23-64-216(e). A Notice of Hearing will be sent to the Respondent simultaneously with this Order.

IT IS HEREBY ORDERED that:

Respondent's Arkansas Prepaid Funeral Benefits License is hereby **SUSPENDED**. Respondent shall not, during the term of this suspension, sell or negotiate the sale of Prepaid Funeral Benefits Contracts in the State of Arkansas.

IT IS SO ORDERED THIS 10th **day of August, 2011.**



JAY BRADFORD
INSURANCE COMMISSIONER
STATE OF ARKANSAS