

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

**IN THE MATTER OF  
JONES FUNERAL HOME, INC.  
RESPONDENT**

**AID ORDER # 2011- 144**

**CONSENT ORDER**

WHEREAS, the Arkansas Insurance Department ("Department") and Jones Funeral Home Inc., of Crossett, Arkansas ("Respondent") hereby enter into this Consent Order subject to the review and approval of the Arkansas Insurance Commissioner ("Commissioner"):

**GENERAL STIPULATIONS**

1. It is expressly understood that this Consent Order is subject to the Commissioner's acceptance and has no force or effect until such acceptance is evidenced by the entry of the Commissioner.
2. This Consent Order is executed by the Respondent for the purpose of avoiding further administrative action with respect to this cause. Furthermore, should this Consent Order not be accepted by the Commissioner, it is agreed that presentation to and consideration of this Consent Order by the Commissioner shall not unfairly or illegally prejudice the Commissioner from further participation or resolution of this matter or any administrative proceedings.
3. Respondent fully understands that this Consent Order will in no way preclude additional proceedings by the Commissioner against the Respondent for acts or omissions not specifically addressed in this Consent Order of for facts and/or omissions that do not arise from

the facts or transactions herein addressed.

4. After consultation with legal counsel, the Respondent expressly waives all further procedural steps, and expressly waives all rights to seek judicial review of or to otherwise challenge or contest the validity of the Consent Order, the stipulations and imposition of discipline contained herein, and the consideration and entry of said Consent Order by the Commissioner.

5. Respondent agrees that this Agreement and Order is part of an action or proceeding by a governmental unit to enforce its police or regulatory powers over the sales and administration of prepaid funeral contracts under Chapter 40 of the "Arkansas Prepaid Funeral Benefits Law." Respondent further agrees that this Agreement and Order pertain to actions of Respondent related to its handling and safeguarding of funds required to be maintained in a fiduciary capacity under Ark. Code Ann. §23-40-114.

#### **FINDINGS OF FACT**

6. The Commissioner has authority to enter into this agreement and issue this Order. The Commissioner has jurisdiction over the activities, sale and licensing of prepaid funeral benefit contracts and prepaid funeral benefit organizations in this State under Ark. Code Ann. §23-40-107(a).

7. The Respondent, Jones Funeral Home Inc., of Crossett, Arkansas is licensed by the Department as a prepaid funeral benefit organization under Ark. Code Ann. §23-40-111.

8. As of the date of this Order, the Respondent is subject to a previously issued Emergency Order in AID # 2011-024, "In Re Matter of Jones Funeral Home, Inc." ("Emergency Order"). The Emergency Order issued restrictions and suspended operations of the Respondent in the sale of prepaid funeral benefit contracts after a Department Examination of the Respondent

revealed a trust account shortage of approximately \$350,000.00 in violation of Ark. Code Ann. §23-40-114(a).

9. Following the issuance of the Emergency Order, the Department conducted a follow up examination and investigation which revealed an additional trust account shortage which the Respondent has acknowledged. The additional shortages were derived from the discovery of unauthorized and illegal withdrawals from the trust fund made by the owner of the Respondent over a period of approximately eight (8) years.

10. The Respondent continues to maintain and provide a licensed and profitable operation in funeral services and merchandise for "at-need" funeral contracts. In addition, the Respondent continues to fully perform from its day-to-day operating revenues all outstanding and issued prepaid funeral benefit contracts as they become due from its day to day operating revenues, including meeting the exact merchandise and service commitments contracted for in each prepaid funeral benefit contract.

11. The Respondent has provided both "at need" and prepaid funeral services for the community of Crossett, Arkansas for many years. The Respondent is a vital supplier of those services in that locale. Given these factors and the important need to keep the Respondent a viable operation for the community, the Department desires to allow the Respondent the opportunity to cure the shortage or deficiency assuming the Respondent follows the requirements and obligations under this Order.

12. Since the date of the Emergency Order, the Respondent has executed a new prepaid funeral benefits trust agreement ("trust agreement") with a bank which has been approved by the Department. Following the execution and approval of the trust agreement, the

Respondent deposited into the trust account \$250,000.00 to reduce the above described trust fund deficiencies.

### CONCLUSIONS OF LAW

13. The Commissioner hereby concludes that the facts set forth in the Findings of Fact, above, provide grounds for the issuance of this Order pursuant to Ark. Code Ann. §§23-40-101, *et seq.*, and the entry of this Agreed Order.

14. The Respondent admits to the reasonableness and fairness of the Findings of Fact and Conclusions of Law contained herein, and hereby desires to enter into this Consent Order for purposes of avoiding additional administrative action by the Department.

### ORDER

**NOW THEREFORE**, on the basis of the foregoing and the waiver of the Respondent of its rights to a hearing and appeal under the Arkansas Uniform Administrative Procedures Act, Ark. Code Ann. §§ 25-15-201, *et seq.*, and the admission by the Respondent of the jurisdiction of the Commissioner, the Commissioner finds that the Respondent has consented to the entry of this Order and that the following Order is appropriate and in the public interest.

**IT IS HEREBY ORDERED** that:

1. Emergency Order No. 2011-024 is hereby repealed in its entirety and replaced with the provisions in this Order.
2. The Respondent is **ORDERED** to deposit the sum of \$250,000.00 in cash funds into its trust account, payable each year for two (2) years in \$125,000.00 installments (the "Annual Payments") beginning on October 1, 2012. The Respondent therefore agrees to deposit into its trust account, \$125,000.00 on or before October 1, 2012, and an additional \$125,000.00 on or before October 1, 2013. The Respondent shall ensure that the cash funds are unencumbered

and not previously pledged or assigned in any way and not previously subject to any liens, garnishment or creditor claims. The Respondent shall provide written evidence of the deposit, including the date and amount deposited, to the Prepaid Funeral Contracts Division of the Department within three (3) days of making the Annual Payment deposit.

3. Beginning on November 1, 2011, the Respondent is **ORDERED** to make monthly cash payments of \$2,000 ("Monthly Deposits") into the trust fund or account referred to in this Order, until such time as the total trust fund shortage is repaired or cured. Such Monthly Deposits shall be due on or before the first of each month. The Respondent shall provide written evidence of the date and amount of the Monthly Deposits required under this Paragraph to the Prepaid Funeral Contracts Division of the Department within three (3) days from the date of deposit.

4. The Annual Payments and Monthly Deposits made by the Respondent shall be applied to reduce the Respondent's trust fund deficiency. In addition, the Respondent shall be given a credit or offset to the trust fund shortage, for all prepaid funeral contract services and merchandise it renders or performs, in like kind, in which cash withdrawals from the trust account are not permitted. To be entitled to the credits or offsets for performance of prepaid funeral contracts, the Respondent shall provide to the Prepaid Funeral Contracts Division written evidence of the performance and amounts incurred by Respondent performing or supplying the contract, with death certificates and other information, as required by the Prepaid Funeral Contracts Division, every three (3) months from the date of this Order.

5. Once the Respondent's trust fund deficiency becomes repaired or cured, any remaining payment requirements under this Order shall cease.

6. No cancellation requests made by contract holders known as the date of this Order to have outstanding contracts with deficient trust fund balances under Ark. Code Ann. §23-40-122, which require cash transfers to substitute providers, shall be disbursed from any funds submitted into the trust fund or account established pursuant to this Order. In the event a cancellation request is made to the Respondent by a contract holder or substitute provider on behalf of a contract holder, for a contract holder which has a trust fund deficiency, the Respondent agrees to fully meet and provide such cash transfers from its operating revenues. However, the Respondent may transfer to substitute providers cash funds for cancellation requests from newly issued prepaid funeral contracts, issued after the date of this Order, to the extent cash funds are transferred into the trust account by that contract holder.

7. Withdrawals or transfers from Respondent's prepaid funeral trust account shall only be permitted by written authorization from the Department.

8. Within three (3) months from the date this Order is executed by the Commissioner and Respondent, the Respondent is **ORDERED** to provide to the Commissioner a detailed, written management and operation plan addressing Respondent's compliance and operations actions in the sale and handling of funds for prepaid funeral benefit contracts. As part of its plan of operations, the Respondent has been and will continue to consult with Selected Funeral and Life Insurance Company regarding ownership matters, marketing and selling.

9. The Respondent may not issue or sell prepaid funeral benefit contracts, executed after the date of this Order, without written authorization of the Prepaid Funeral Contracts Division. The Prepaid Funeral Contracts Division may establish procedures and restrictions with Respondent entitling Respondent to written authorization under this Order to sell prepaid funeral benefit contracts executed after the date of this Order. The Respondent may sell or issue prepaid

funeral contracts after the date of this Order, without restrictions under this Order, for contracts which are funded by insurance products.

10. The Respondent is **ORDERED** to arrange for all employees licensed by the Department to sell prepaid funeral contracts or funeral expense policies to receive three (3) hours of continuing education in life insurance or funeral expense policies within sixty (60) days from the date of execution of this Order by the Commissioner and Respondent.

11. In exchange for the Respondent's performance of the requirements in this Order, the Department agrees to refrain from the filing of a receivership action permitted under Ark. Code Ann. §23-40-123, or permitted by right of the Department under any other statute or rule, based on any facts enumerated in the Findings of Fact, above.

12. The Respondent agrees that any breach of this Order by the Respondent provides the Department grounds to place the Respondent's prepaid trust account into receivership pursuant to Ark. Code Ann. §23-40-123 and to revoke any licenses the Respondent holds with the Department.

13. This Order may be rescinded or amended in the future, in the discretion of the Commissioner, in the event the Respondent provides an alternative plan, which is approved by the Commissioner, to repair or cure the trust deficiency.

This Consent Order is in the public interest, is in the best interests of the parties hereto, and represents a compromise and settlement of the controversy between the parties and is for settlement purposes only. By its signature affixed below, the Respondent affirmatively states that it has freely agreed to the entry of this Consent Order, that it has been advised that it may consult legal counsel in this matter and have had the opportunity to consult with legal counsel

should it have desired to do so, that it waives its right to a hearing on the matters underlying this Consent Order, and that no threats or promises of any kind have been made by the Commissioner, the Department, or any agent or representative thereof. The parties, by signing this Consent Order, affirmatively state their agreement to be bound by the terms of this Consent Order and aver that no promises or offers relating to the circumstances described herein, other than the terms of settlement set forth in this Consent Order, are binding upon them.

IT IS SO ORDERED, DIRECTED AND AGREED TO AS OF THE 19<sup>th</sup> DAY OF October, 2011.

  
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JAY BRADFORD  
INSURANCE COMMISSIONER  
STATE OF ARKANSAS

Date: October 19, 2011

JONES FUNERAL HOME, INC.

By: Shirley Jones

POSITION: President

Date: 10/12/2011