

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

ARKANSAS INSURANCE DEPARTMENT,)
Petitioner)
)
vs.)
)
HIGGINBOTHAM FUNERAL)
SERVICES, INC.,)
Respondent)

A.I.D. NO. 2012- 554

ORDER OF REVOCATION

On this day, the matter of Higginbotham Funeral Services, Inc. (“Respondent”) came before Jay Bradford, Arkansas Insurance Commissioner (“Commissioner”). A hearing was held at 1:00 p.m. on March 13, 2012 in the Hearing Room of the Arkansas Insurance Department (“Department”) pursuant to a Notice of Hearing dated February 8, 2012. The hearing was held before Chief Deputy Commissioner Lenita Blasingame (“Hearing Officer”), pursuant to her appointment by the Commissioner in accordance with Arkansas Code Annotated § 23-61-103. The Department was represented by Amanda J. Andrews, Associate Counsel.

FINDINGS OF FACT

1. The Commissioner has jurisdiction over the parties and the subject matter pursuant to Arkansas Code Annotated §§ 23-61-103 and 23-40-108.
2. Respondent is a funeral home located at 401 West Main Street, P.O. Box 150, Walnut Ridge, Arkansas and P.O. Box 119, Hardy, Arkansas, and it was licensed to sell prepaid funeral benefit contracts in this state under a permit issued to it by the Department. Mary Jo Higginbotham (“Higginbotham”) owned the funeral home and was its authorized representative.

3. On January 27, 2011, Respondent withdrew trust funds in the amount of \$8,352.83 from Regions Bank, in violation of Arkansas Code Annotated § 23-40-116, and despite numerous directives from the Department to reimburse the trust fund these monies, Respondent failed to do so.

4. Respondent was scheduled for an Investigative Conference at the Department on April 20, 2011, and failed to appear, in violation of Arkansas Code Annotated § 23-40-111(b)(2)(F).

5. A Notice of Hearing was sent to Respondent on February 8, 2012, and Higginbotham sent correspondence to the Department on February 9, 2012 confirming receipt of the Notice and her intent to appear at the hearing.

6. Respondent failed to appear at the hearing on March 13, 2012. However, Clell Cox, a funeral home owner in Pocahontas, Arkansas and prepaid funeral benefits licensee, appeared and testified under oath that he and Higginbotham reached an agreement for the sale of Respondent's book of outstanding prepaid funeral benefits contracts.

7. Based on Cox's testimony and previous conversations with Higginbotham, the Hearing Officer allowed the hearing record to remain open in order for the sale to be completed and approved by the Commissioner.

8. After completion of the sale and the Commissioner's approval of the change of ownership of prepaid funeral benefits contracts, the Hearing Officer accepted additional exhibits into the record and entered an order on June 1, 2012, closing the hearing record.

CONCLUSIONS OF LAW

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

9. That the Department regulates the licensing of prepaid funeral benefit providers in this state pursuant to the Arkansas Prepaid Funeral Benefits Law, Arkansas Code Annotated § 23-40-101, *et seq.*

10. That pursuant to Arkansas Code Annotated § 23-40-111(b)(2), after notice to the licensee and after a hearing, the Commissioner may revoke a permit if the licensee failed to comply with any material provision of prepaid funeral benefits law.

11. The trustee of prepaid funeral benefits trust funds is only permitted to disburse the funds held in trust as provided in Rule 63 and Arkansas Code Annotated § 23-40-116. On January 27, 2011, Respondent withdrew trust funds in the amount of \$8,352.83 from Regions Bank, and failed to reimburse the trust fund as directed by the Department.

12. Respondent failed to appear at the Department for an Investigative Conference on April 20, 2011, and failed to appear, in violation of Arkansas Code Annotated § 23-40-111(b)(2)(F).

12. Respondent's removal of trust funds from Regions Bank, failure to return trust funds, and failure to appear at the Department for an Investigative Conference are grounds for revocation of its Arkansas Prepaid Funeral Benefits License, pursuant to Arkansas Code Annotated § 23-40-111(b)(2)(A), (C) and (F).

RECOMMENDATIONS OF THE HEARING OFFICER

WHEREFORE, based upon the foregoing Findings of Fact, Conclusions of Law, and other matters before her, the Hearing Officer recommends:

13. Based upon Respondent's violation of Arkansas law, specifically, Arkansas Insurance Department Rule 63 and Arkansas Code Annotated §§ 23-40-116 and 23-40-111(b)(2)(A), (C) and (F), I recommend immediate revocation of Respondent's Arkansas Prepaid Funeral Benefits License.


LENITA BLASINGAME
CHIEF DEPUTY COMMISSIONER and
HEARING OFFICER

CERTIFICATION

I, Jay Bradford, Insurance Commissioner for the State of Arkansas, do hereby certify that the above Findings of Fact, Conclusions of Law, and Recommendations of the Hearing Officer were made by and under my authority and supervision by Lenita Blasingame, Chief Deputy Commissioner and Hearing Officer in this proceeding. I hereby adopt the Hearing Officer's Findings of Fact, Conclusions of Law, and Recommendations in full and enter this Order.

THEREFORE, it is hereby ORDERED that the Respondent's Arkansas Prepaid Funeral Benefits License is revoked.

IT IS SO ORDERED THIS 2nd DAY OF July, 2012.



JAY BRADFORD
INSURANCE COMMISSIONER
STATE OF ARKANSAS