

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

**IN THE MATTER OF
C.D. ROSS, RESPONDENT**

AID ORDER NO. 2015- 077

CONSENT ORDER OF SURRENDER OF LICENSE

Now on this day before Allen Kerr, the Insurance Commissioner for the State of Arkansas (“Commissioner”), and C.D. Ross (“Respondent”), who have reached an agreement concerning the resident funeral expense insurance limited lines license (“funeral expense license”) issued to Respondent by the Arkansas Insurance Department (“Department”). The Commissioner is represented by Amanda Gibson, Associate Counsel. Respondent voluntarily waived his right to a hearing and consents to the entry of this Consent Order of Surrender of License. From the facts and law before the Commissioner, he finds as follows:

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 for the purpose of avoiding further administrative time, expense, and action with respect to this cause.
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 Order or for facts and/or omissions that do not arise from the facts or transactions herein addressed.
4. Having the right to consult 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 this Consent Order, the stipulations and imposition of discipline contained herein, and the consideration and entry of said Order by the Commissioner. This Order is executed in the public interest, in the best interests of the parties hereto, and it represents a compromise

and settlement of the controversy between the parties. This Order is for settlement purposes only.

5. By his signature affixed below, Respondent affirmatively states that he has freely agreed to the entry of this Consent Order, that he has been advised that he may consult legal counsel and has had the opportunity to consult with legal counsel, that he waives his 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.

6. The parties, by signing this Consent Order, affirmatively state their agreement to be bound by the terms of this Order and aver that no promises or offers relating to the circumstances described herein have been made, other than the terms of settlement set forth in this Order, are binding upon them.

7. Respondent acknowledges and admits that he is no longer able to meet the requirements necessary to qualify for a funeral expense license, and that he will cease engaging in the business of selling and servicing funeral expense insurance.

FINDINGS OF FACT

1. Respondent's now defunct business, C.D. Ross Funeral Home, was previously located at 416 W. 5th Street, Stuttgart, AR 72160. Respondent was the Owner and Funeral Director at C.D. Ross Funeral Home, and he is currently licensed by the Department as a resident funeral expense insurance limited lines producer, License Number 278326, with the last address of record at the Department being P.O. Box 251, Bryant, AR 72089.

2. Respondent was also previously regulated by the Arkansas State Board of Embalmers and Funeral Directors ("Board"). According to the Board's records, Respondent was reported as being officially closed as of September 25, 2013, and licenses were received from the former landlord on October 8, 2013. Respondent is not currently licensed by the Board.

3. Respondent did not provide notice to the Department that he was no longer in business. In a conference with the Department on October 29, 2013, Respondent represented that the Funeral Home

had merely been moved to a different location and, as a follow up to the meeting, Respondent filed a business plan with the Department explaining his future plans.

4. Respondent failed to timely file his renewal application and fee for his Prepaid Funeral Benefits License and as such, that license lapsed on June 1, 2013.

5. Also with regard to Respondent's Prepaid Funeral Benefits License, he failed to timely file his company's annual report and fee in 2014 for the year 2013.

6. Respondent has also failed to pay the delinquency fees associated with the late filings.

7. At the investigative conference held October 29, 2013, Respondent admitted violations of certain provisions of the Arkansas Producer Licensing Model Act.

CONCLUSIONS OF LAW

1. Ark. Code Ann. §§ 23-61-101, *et seq.*, assigns the responsibility for administration of the Arkansas Insurance Code to the Arkansas Commissioner of Insurance (hereinafter referred to as the "Commissioner"). The Department is the lawful agency through which the Commissioner administers the Arkansas Insurance Code, and is authorized to bring this action for the protection of Arkansas consumers.

2. The Commissioner has jurisdiction over the parties and subject matter pursuant to Ark. Code Ann. §§ 23-40-107(a), 23-40-108, and 23-61-103.

3. The Arkansas Producer Licensing Model Act, codified at Ark. Code Ann. § 23-64-501 *et seq.* governs Respondent's funeral expense license.

4. More specifically, Ark. Code Ann. § 23-64-506(e)(1) requires that in order to obtain or renew a producer's license, the producer "must be deemed by the commissioner to be competent, trustworthy, financially responsible, and of good personal and business reputation." Further, Ark. Code Ann. § 23-64-506(e)(2) provides that "qualifications for licensure under this section *must continue* in order to remain licensed." (emphasis added).

5. Ark. Code Ann. § 23-64-512(a) allows the Commissioner to “place on probation, suspend, revoke, or refuse to issue or renew an insurance producer’s license or may levy a civil penalty in accordance with § 23-64-216 or any combination of actions for any one (1) or more of the following causes...(4) improperly withholding, misappropriating, or converting any moneys or properties received in the course of doing insurance business; (5) intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance;”

5. In light of the foregoing Findings of Fact and the evidence that Respondent did not timely make filings, pay regulatory fees, renew permits with regard to his now expired Prepaid Funeral Benefits permit, and violations of the Arkansas Producer Licensing Model Act, Respondent does not meet the statutory prerequisites and qualifications to hold a funeral expense license in the state of Arkansas.

6. The Commissioner hereby concludes that the facts set forth in the Findings of Fact, above, provide grounds for the issuance of this Order.

ORDER

NOW THEREFORE, on the basis of the foregoing and the waiver of the Respondent of his rights to a hearing and appeal under the Arkansas Administrative Procedure 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. Respondent’s Arkansas Funeral Expense Insurance License is hereby voluntarily and permanently surrendered to the Department.
2. Respondent is prohibited from selling any new Funeral Expense Insurance Contracts or servicing any existing Funeral Expense Insurance Contracts in this state.
3. The Department reserves the right to amend and/or supplement the facts contained in this Order to include additional violations of state law, with notice to Respondent.

OCTOBER
IT IS SO ORDERED, DIRECTED, AND AGREED TO AS OF THE 22nd DAY OF
~~JUNE~~, 2015.



ALLEN KERR
INSURANCE COMMISSIONER
STATE OF ARKANSAS

CD ROSS

