

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

**IN THE MATTER OF
TIMOTHY WEEMS AND
WEEMS FAMILY FUNERAL SERVICES, L.L.C.,
RESPONDENTS**

AID ORDER NO. 2015- 079

REVOCATION ORDER

On this day, the matter of the Producer's Licenses of Timothy Weems and Weems Family Funeral Services and the Prepaid Funeral Benefits Permit of Timothy Weems ("Respondents") came before Allen Kerr, Arkansas Insurance Commissioner ("Commissioner"). A hearing was held at 9:00 a.m. on October 22, 2015, in the First Floor Hearing Room of the Arkansas Insurance Department ("Department") pursuant to the Notice of Hearing dated September 15, 2015. The hearing was held before Chief Deputy Commissioner Russ Galbraith ("Hearing Officer") pursuant to his appointment by the Commissioner in accordance with Ark. Code Ann. § 23-61-103(e)(1). The Department was represented by Amanda Gibson, Associate Counsel.

FINDINGS OF FACT

1. The Commissioner of Insurance has jurisdiction pursuant to the Arkansas Insurance Code, specifically Ark. Code Ann. §§ 23-60-101, *et seq.*
2. Respondents, despite having received notice, failed to appear at the hearing.
3. Respondent Weems currently resides in Carlisle, which is also where the funeral home is located.
4. Respondents' annual 2014 report and accompanying fee were due to the Department on March 15, 2015; however, the Department never received the report or the fee.

5. With regard to Respondent Weems' Prepaid Funeral Benefits Permit, the annual 2015 renewal application and accompanying fee were due on June 1, 2015. However, the Department never received the application or fee, and as a result of the failure to submit the application and fee, Respondent Weems' Prepaid Funeral Benefits Permit expired, effective June 1, 2015.

6. On or around October 5, 2015, Respondent Weems pled guilty to a misdemeanor drug charge and received a sentence of one year probation.

7. Respondent Weems participated in an investigative conference held at the Department on August 5, 2015. During that conference, Respondent stated that the funeral home was not connected to electricity.

8. Subsequent to the investigative conference, on August 10, 2015, the Department sent a letter to Respondents outlining the reports and fees that were delinquent.

9. Respondents failed to respond to the August 10, 2015 letter.

10. Respondent Weems' Funeral Expense License expired April 16, 2015.

11. The Department visited the funeral home on August 12, 2015. Department employees present were Margie Farmer, Robert Akers, and an escort from the Department's Criminal Investigation Division. The Respondent was 45 minutes late for the meeting, and when he arrived and unlocked the funeral home, there was no electricity connected the building, the telephone number had been disconnected, and there were notices on the door for mail to be picked up. Respondent surrendered his prepaid funeral contract files to the Department, and he confirmed at this meeting that he held no other contracts.

12. Subsequent to the visit to the funeral home on August 12, 2015, the investigator assigned to the case discovered that Respondent Weems failed to surrender at least two other contracts besides those that were surrendered to the Department during the August 12, 2015 visit.

13. The Department visited the funeral home a second time on October 14, 2015. During this visit, the Department discovered an additional cash funded contract that Respondent failed to surrender during the August 12, 2015 visit. Respondent Weems was again 45 minutes late to this meeting.

14. The listing for Weems Family Funeral Services, L.L.C. at the Secretary of State's Office is listed as "not current".

15. Respondent Weems failed to submit his first quarter 2015 report by the deadline of May 15, 2015.

16. Respondent Weems currently owes the Department \$700.00 in late fees in addition to the renewal fee for his Prepaid Funeral Benefits Permit.

**CONCLUSIONS OF LAW WITH REGARD TO WEEMS' PREPAID FUNERAL
BENEFITS PERMIT**

1. Ark. Code Ann. § 23-40-110(b) and (c) require each licensed prepaid funeral permittee to file its application for renewal and accompanying fee prior to June 1st of each year. Respondents' failure to timely renew the permit, as detailed above in Finding of Fact 5, is therefore a violation of Ark Code Ann. § 23-40-110(b) and (c).

2. Ark. Code Ann. § 23-40-109 requires a current and valid permit in order to possess outstanding contracts. Even if the sale of prepaid funeral benefit contracts has been discontinued, a current permit is still required if the funeral home has outstanding contracts. Because Respondent Weems' permit administratively lapsed June 1, 2015 for failure to timely

renew, as described in Finding of Fact 5, Respondent is therefore in violation of Ark. Code Ann. § 23-40-109 because he holds outstanding contracts without possessing the requisite permit.

3. Ark Code Ann. § 23-40-119(a) requires Respondents to submit an annual report and fee on or before March 15th of each year. Respondents' failure to do so, as detailed above in Finding of Fact 4, therefore constitutes a violation of Ark Code Ann. § 23-40-119(a).

4. Ark. Code Ann. § 23-40-119(d)(1)(B) and (C) require Respondents to quarterly submit the per-contract fees to the Department with the quarterly fee form no later than forty-five (45) days after each quarter. Respondents' failure to timely submit their 1st quarter 2015 fee and accompanying forms, as detailed in Finding of Fact 15 above, therefore constitutes a violation of Ark. Code Ann. § 23-40-119(d)(1)(B) and (C).

**CONCLUSIONS OF LAW WITH REGARD TO WEEMS' FUNERAL EXPENSE
LICENSE AND THE FUNERAL EXPENSE LICENSE OF WEEMS FAMILY
FUNERAL SERVICES, L.L.C.**

5. Ark. Code Ann. § 23-64-512(a)(8) prohibits producers from "...demonstrating incompetence, untrustworthiness, lack of good personal or business reputation, or financial irresponsibility". Respondents' conduct as detailed above in Findings of Fact 2, and 4 through 7, and 9 through 16, is therefore in violation of Ark. Code Ann. § 23-64-512(a)(8).

6. Ark. Code Ann. § 23-64-506(c) and (e)(2) requires the producer to satisfy the Commissioner of the adequacy of his background, trustworthiness, personal and business reputation, and financial responsibility, not only to obtain a license, but also to maintain it. Respondents' conduct as detailed above in Findings of Fact 2, and 4 through 7, and 9 through 16, is therefore in violation of Ark. Code Ann. § 23-64-506(c) and (e)(2).

7. Ark. Code Ann. § 23-64-512(a)(16) allows the Commissioner to sanction a producer for "refusing to be examined or to produce any accounts, records, or files of

examination”. Respondents’ conduct as detailed above in Findings of Fact 5, 11, 12, 13, 15, and 16 is therefore in violation of Ark. Code Ann. § 23-64-512(a)(16).

8. Ark. Code Ann. § 23-64-512(a)(17) allows the Commissioner to sanction a producer for “failing to cooperate with the commissioner in an investigation when required by the commissioner.” Respondents’ conduct as detailed above in Findings of Fact 2, 9, 11, 12, and 13 is therefore in violation of Ark. Code Ann. § 23-64-512(a)(17).

RECOMMENDATION OF HEARING OFFICER

WHEREFORE, upon consideration of the evidence of record and the foregoing Findings of Fact and Conclusions of Law, the Hearing officer recommends the following:

1. That the Prepaid Funeral Benefit Permit of Respondent Timothy Weems be revoked;
2. That the Producer’s License (Funeral Expense License) of Timothy Weems be revoked; and
3. That the Producer’s License (Funeral Expense License) of Weems Family Funeral Services, L.L.C. be revoked.



Russ Galbraith
Chief Deputy Commissioner and
Hearing Officer

CERTIFICATION

I, Allen Kerr, Insurance Commissioner for the State of Arkansas, do hereby certify that the above Findings of Fact, Conclusions of Law, and Recommendation of the Hearing Officer were made by and under my authority and supervision by Russ Galbraith, Chief Deputy Commissioner and Hearing Officer in this proceeding. I hereby adopt the Hearing Officer's Findings of Fact, Conclusions of Law and Recommendation in full, as set forth herein.

THEREFORE, it is hereby ORDERED that the Prepaid Funeral Benefit Permit issued to Timothy Weems is revoked, and the producer's licenses of Timothy Weems and Weems Family Funeral Services, L.L.C. are revoked.

IT IS SO ORDERED THIS 4th DAY OF NOVEMBER, 2015.



**ALLEN KERR
INSURANCE COMMISSIONER
STATE OF ARKANSAS**