BEFORE THE INSURANCE COMMISSIONER OF THE STATE OF OKLAHOMA

FILED
JUL 07 2014
INSURANCE COMMISSIONER
OKLAHOMA

STATE OF OKLAHOMA, ex rel. JOHN D. DOAK, Insurance Commissioner,	)	
Petitioner,	)	
v.	)	
	)	Case No. 14-0226-DIS
RUSSWORM FUNERAL HOME,	)	
Respondent.	)	
Prepaid Funeral Benefit Permits 863228 and 863852	)	

FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL ADMINISTRATIVE ORDER

The Respondent, Russworm Funeral Home ("the Respondent" or "Russworm Funeral Home"), requested an Administrative Hearing after Petitioner, State of Oklahoma ex rel. John D. Doak ("the Insurance Commissioner"), filed a Conditional Administrative Order on May 5, 2014, conditionally levying a fine and suspending Respondent's Prepaid Funeral Benefits Permits ("the Permits") based on several regulatory violations of the Prepaid Funeral Service and Funeral Service Merchandise Act, 36 O.S. §§ 6121 - 6136.18 ("the Act").

Pursuant to Article II of the Oklahoma Administrative Procedures Act, 75 O.S. §§ 250 et seq. and the Oklahoma Insurance Code, 36 O.S. §§ 101 et seq., this matter came on for Individual Hearing on June 25, 2014. Independently Appointed Hearing Officer, Stephan S. Mathis, presided over the Administrative Hearing. Petitioner Insurance Commissioner appeared by and through his counsel, Kelley C. Callahan, Senior Attorney, Oklahoma Insurance Department. The Respondent, Russworm Funeral Home, appeared in person through Dante Fred

Ross ("Mr. Ross"), identified as the purchaser (with his grandmother) of the Russworm Funeral Home business and establishments in Watonga and Enid, Oklahoma. The Russworm Funeral Home for many years was jointly owned and operated by Kenneth Russworm, now deceased, and his wife, Opal Russworm, currently in guardianship. Mr. Ross is a relative of Kenneth Russworm.

Central National Bank of Enid ("the Bank") appeared at the Hearing as both the Personal Representative of Kenneth Russworm's Estate and the Guardian of the person and property of his widow, Opal Russworm. In this capacity, the Bank was represented by Ms. Karen Holland, Vice President and Trust Officer. The Bank and Ms. Holland were also represented by their counsel, Benjamin Bowers, Esq. of Gungoll, Jackson, Box & Devoll, P.C., Enid, Oklahoma.

JURSDICTION AND AUTHORITY

1. Petitioner Insurance Commissioner has the duty to administer and enforce all provisions of the Oklahoma Insurance Code, 36 O.S. §§ 101 et seq., including the Act, 36 O.S. §§ 6121-6136.18. All of the regulatory filing and other violations set out in the Conditional Order and described below relate to actions required of Permit Holders by the Act.

2. The Administrative Law Judge heard testimony and admitted certain exhibits offered by the Petitioner at the June 25, 2014, Hearing. This Hearing lasted approximately one and one half hours.

FINDINGS OF FACT

1. Kenneth Russworm and his wife, Opal Russworm, jointly owned the Russworm Funeral Home for many years through an informal partnership.

2. Russworm Funeral Home has been issued Permits by the Oklahoma Insurance Department ("the Department") and currently holds Permit Numbers 863228 and 863852 for establishments in Watonga and Enid, Oklahoma, respectively.

3. Kenneth Russworm died on July 13, 2013. The Probate of Kenneth Russworm's Estate is still pending in Garfield County District Court Case No. PB-2013-102.

4. Opal Russworm is under Guardianship in Garfield County District Court Case No. PG-2012-64.

5. The Bank is both the Personal Representative of Mr. Russworm's Estate, and the Guardian of the person and property of Opal Russworm.

6. The testimony and exhibits show that on or about January 2, 2013, and before his passing, Kenneth Russworm signed a contract to sell the Russworm Funeral Home business, real estate and establishments to Mr. Ross and his grandmother. Mr. Russworm signed this contract for himself and also as Opal Russworm's purported Attorney-in-Fact. However, because of the pending Guardianship, Mr. Russworm had no legal authority to sign the contract of sale for his wife.

7. The Probate Court approved the sale of Kenneth Russworm's share of the Russworm Funeral Home to Mr. Ross and his grandmother on May 19, 2014 as high bidders. The sale of Opal Russworm's interest in the Russworm Funeral Home to Mr. Ross and his grandmother has been approved in the Guardianship. The hearing in the Guardianship to confirm the sale of Mrs. Russworm's interest to Fred Ross and his grandmother as high bidders is set for June 30, 2014, at 9:00 a.m. Counsel for the Department has been informed post-Hearing that the Probate Court indeed approved this sale.

8. Mr. Ross has been operating the Russworm Funeral Home's two permitted establishments since Kenneth Russworm's death. Mr. Ross is licensed as a Funeral Director and Embalmer by the Oklahoma Funeral Board.

CONCLUSIONS OF LAW

1. Pursuant to Title 75, Sections 250 et seq. of the Oklahoma Administrative Procedures Act and Title 36, Sections 101 et seq. of the Oklahoma Insurance Code, the record shows that the Hearing in this matter was properly noticed for an Individual Hearing to be held on June 25, 2014 at 10:00 a.m. at the Oklahoma City office of the Insurance Commissioner.

2. The Respondent violated the Act when it failed to file a complete Annual Report due March 15, 2013, covering activity in calendar year 2012. This Annual Report remained incomplete until June 25, 2014, in the following particulars (1) non-payment of the $50 Annual Report fee, (2) neglect to supply insurance company reports or other evidence of insured prepaid funeral contracts, and (3) failure to sign the Annual Report. *See* 36 O.S. §§ 6124(A) (3) and 6128.

3. The Permit Holder violated the Act when it failed to file its Annual Report due March 15, 2014, covering its activity in 2013. *See* 36 O.S. §§ 6124(A) (3) and 6128.

4. At the June 25, 2014, Hearing, Mr. Ross presented and filed with the Department Russworm Funeral Home Annual Reports for calendar years 2012 and 2013; therefore, the Russworm Funeral Home is current on its Annual Report filing. These Annual Reports will go through the normal review and processing procedures of the Department. Mr. Ross represented he would pay the proper filing fees for these two Annual Reports to the Department within three calendar days of June 25, 2014, or within such short, but practical time as the Insurance Commissioner may deem appropriate. *See* 36 O.S. § §§ 6124(A) (3) and 6128.

5. Liberty Mutual Surety canceled the Respondent's Prepaid Services Bond as of December 9, 2013. A Bond or Letter of Credit is required for continued operation under a Permit pursuant to 36 O.S. § 3125(I), so the Respondent violated the Act when it allowed its Bond to lapse. On June 25, 2014, Mr. Ross testified at Hearing he would obtain the required Bond or Letter of Credit in form and amount sufficient to meet the requirements of the Act. The Hearing Examiner did not set a specific time for Mr. Ross to complete this task, but per the suggestion of counsel for the Insurance Commissioner, the Hearing Officer deems Mr. Ross shall obtain the required surety within fifteen calendar days of June 25, 2014.

6. The Respondent violated the Act when it failed to submit a Renewal Application for 2014 to the Department. The deadline for late renewals is January 31st of each year. *See* 36 O.S. § 6124 (A) (3) and (B).

7. On June 25, 2014, Mr. Ross testified at Hearing that as the new owner of Russworm Funeral home and its two establishments, he would have the requisite properly completed Application for New Prepaid Funeral Benefits Permits submitted to the Department within fifteen calendar days of June 25, 2014. The Hearing Examiner and Insurance Commissioner's counsel urged Mr. Ross to file such Application before the established deadline if possible. *See* 36 O.S. §§ 6124(A) and (B), 6124.1, O.A.C 365:25-9-1 and 365:25-9-3(a) (1).

8. On June 25, 2014, Mr. Ross testified at Hearing he would have the required establishment license from the Funeral Board sufficient to meet the requirements of the Act. The Hearing Examiner did not set a specific time for Mr. Ross to complete this task, but per the suggestion of counsel for the Insurance Commissioner, the Hearing Officer deems Mr. Ross shall obtain the required Funeral Board establishment license within fifteen calendar days of June 25,

2014, or within such short, but practical time as the Insurance Commissioner may deem appropriate. *See* 36 O.S. § 6124.1 (C).

ORDER

IT IS THEREFORE ORDERED that Respondent pay an administrative fine in the amount of five hundred dollars ($500.00) for its violations of the Act found above. Respondent shall pay this administrative fine within thirty (30) days of receipt of this Final Order.

IT IS FURTHER ORDERED that as the new owner of Russworm Funeral Home, Mr. Ross shall (1) pay all fees associated with its violations in connection with submitting Annual Reports within three calendar days of June 25, 2014, or within such short, practical time as the Insurance Commissioner may deem appropriate, (2) obtain the Bond or a Letter of Credit as required under the Act within fifteen calendar days of June 25, 2014, (3) submit a properly completed Application for New Prepaid Funeral Benefits Permits within fifteen calendar days of June 25, 2014, and (4) obtain the required Funeral Board establishment license within fifteen calendar days of June 25, 2014, or within such short, but practical time as the Insurance Commissioner may deem appropriate.

Done this 3rd day of July, 2014.

STEPHAN S. MATHIS
INDEPENDENT HEARING EXAMINER
OKLAHOMA INSURANCE DEPARTMENT

CERTIFICATE OF MAILING

I, Kelley C. Callahan, hereby certify that a true and correct copy of the above and foregoing *Findings of Fact, Conclusions of Law and Final Administrative Order* was mailed by certified mail, return receipt requested, on the 7th day of July, 2013 to:

Fred Ross
Russworm Funeral Home-Watonga
621 E. Russworm Drive
P.O. Box 147
Watonga, OK 73772
CERTIFIED MAIL NO: Certified Mail No. 7001 0320 0004 4249 4435

Fred Ross
Russworm Funeral Home-Enid
476 East State Avenue
P.O. Box 725
Enid, OK 73702
CERTIFIED MAIL NO: Certified Mail No. 7001 0320 0004 4249 4442

Karen Holland
Vice President and Trust Officer
Central National Bank &
Trust Company of Enid, Oklahoma
Administrator of the Estate of Kenneth Russworm
324 W Broadway Ave
Enid, OK 73701
CERTIFIED MAIL NO: Certified Mail No. 7001 0320 0004 4249 4459

Benjamin Bowers, Esq.
Gungoll, Jackson, Box & Devoll, P.C.
P.O. Box 1549
Enid, OK 73702-1549
Attorneys for Central National Bank &
Trust Company of Enid, Oklahoma
CERTIFIED MAIL NO: Certified Mail No. 7001 0320 0004 4249 4466

And a Copy Was Delivered to Shanna Johnson, Regulatory Supervisor, Prepaid Accounts, Oklahoma Insurance Department.

Kelley C. Callahan
Senior Attorney

7001 0320 0004 4249 4435

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

OFFICIAL USE

Postage	$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	$

OKLAHOMA CITY, OK 73772 USPS
JUL 7 2014
Postmark Here

Sent To
Street, Apt. No.; or PO Box No.
City, State, ZIP+4

Russworm Funeral Home - Watonga
ATTN: Fred Ross
621 E. Russworm Dr.
P.O. Box 147
Watonga, OK 73772
rlg/14-0226-DIS/Final Adm. Order

PS Form 3800, January 2001

SENDER: *COMPLETE THIS SECTION*

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Russworm Funeral Home - Watonga
ATTN: Fred Ross
621 E. Russworm Dr.
P.O. Box 147
Watonga, OK 73772
rlg/14-0226-DIS/Final Adm. Order

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X Carl - Russworm F.H.
☒ Agent
☐ Addressee

B. Received by (*Printed Name*)
Carl - Russworm

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☒ No

RECEIVED
OKLAHOMA INSURANCE DEPARTMENT
JUL 16 2014
Legal Division

3. Service Type
☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (*Extra Fee*) ☐ Yes

2. Article Number
(*Transfer from service label*)
7001 0320 0004 4249 4435

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

7001 0320 0004 4249 4442

OFFICIAL USE

Postage	$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	$

OKLAHOMA CITY, OK 8665-8 USPS
JUL 7 2014
Postmark Here

Sent To
Street, Apt. No.; or PO Box No.
City, State, ZIP+4

Russworm Funeral Home - Enid
ATTN: Fred Ross
476 E. State Ave.
P.O. Box 725
Enid, OK 73701
rlg/14-0226-DIS/Final Adm. Order

PS Form 3800, January 2001 ...ons

SENDER: *COMPLETE THIS SECTION*

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Russworm Funeral Home - Enid
ATTN: Fred Ross
476 E. State Ave.
P.O. Box 725
Enid, OK 73701
rlg/14-0226-DIS/Final Adm. Order

RECEIVED
OKLAHOMA INSURANCE DEPARTMENT
JUL 09 2014
Legal Division

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X Paul Brown
☐ Agent
☐ Addressee

B. Received by *(Printed Name)*

C. Date of Delivery
7/8/14

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? *(Extra Fee)* ☐ Yes

2. Article Number
(Transfer from service label)
7001 0320 0004 4249 4442

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

7001 0320 0004 4249 4459

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

OFFICIAL USE

Postage	$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	$

OKLAHOMA CITY, OK 8666 JUL 2014 Postmark Here

Sent To

Street, Apt. No.; or PO Box No.

City, State, ZIP+4

Central National Bank & Trust Company of Enid, Oklahoma
Administrator of the Estate of Kenneth Russworm
ATTN: Karen Holland, Vice President and Trust Officer
324 W. Broadway Ave.
Enid, OK 73701
rlg/14-0226-DIS/Final Adm. Order

PS Form 3800, January 2001

SENDER: *COMPLETE THIS SECTION*

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

RECEIVED
OKLAHOMA INSURANCE DEPARTMENT
JUL 09 2014
Legal Division

Central National Bank & Trust Company of Enid, Oklahoma
Administrator of the Estate of Kenneth Russworm
ATTN: Karen Holland, Vice President and Trust Officer
324 W. Broadway Ave.
Enid, OK 73701
rlg/14-0226-DIS/Final Adm. Order

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X D Woodall ☐ Agent ☐ Addressee

B. Received by *(Printed Name)* Debbie Woodall
C. Date of Delivery 7-8-14

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? *(Extra Fee)* ☐ Yes

2. Article Number *(Transfer from service label)* 7001 0320 0004 4249 4459

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

7001 0320 0004 4249 4466

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

OFFICIAL USE

Postage	$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	$

OKLAHOMA CITY, OK 8666-9 USPS 7 JUL 2014 Postmark Here

Sent To

Street, Apt. No.; or PO Box No.

City, State, ZIP+4

Gungoll, Jackson, Box & Devoll, P.C.
ATTN: Benjamin Bowers, Esq.
P.O. Box 1549
Enid, OK 73702-1549
rlg/14-0226-DIS/Final Adm. Order

PS Form 3800, January 2001 — See Reverse for Instructions

SENDER: *COMPLETE THIS SECTION*

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Gungoll, Jackson, Box & Devoll, P.C.
ATTN: Benjamin Bowers, Esq.
P.O. Box 1549
Enid, OK 73702-1549
rlg/14-0226-DIS/Final Adm. Order

RECEIVED
OKLAHOMA INSURANCE DEPARTMENT
JUL 09 2014
Legal Division

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X Shawn J
☐ Agent
☐ Addressee

B. Received by (*Printed Name*) Shawn Jones

C. Date of Delivery 7-8-14

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (*Extra Fee*) ☐ Yes

2. Article Number
(*Transfer from service label*) 7001 0320 0004 4249 4466

PS Form 3811, February 2004 — Domestic Return Receipt — 102595-02-M-1540