

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

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

AID ORDER # 2011-144A

AMENDED CONSENT ORDER

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

GENERAL STIPULATIONS

1. It is expressly understood that this Amended 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 Amended Consent Order is executed by the Respondent for the purpose of avoiding further administrative action with respect to this cause. Furthermore, should this Amended Consent Order not be accepted by the Commissioner, it is agreed that presentation to and consideration of this Amended 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 Amended Consent Order will in no way preclude additional proceedings by the Commissioner against the Respondent for acts or omissions not specifically addressed in this Amended Consent Order or 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 this Amended Consent Order, the stipulations and imposition of discipline contained herein, and the consideration and entry of said Amended Consent Order by the Commissioner.

5. Respondent agrees that this Amended Consent Order is part of an action of proceeding by a governmental unit to enforce its police or regulatory powers over the sales and administration of prepaid funeral contracts under Chapter 40, the “Arkansas Prepaid Funeral Benefits Law.” Respondent further agrees that this Amended Consent 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. The Respondent was previously subject to Emergency Order 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 desired to allow the Respondent the opportunity to cure the shortage or deficiency while complying with AID Order # 2011-144.

12. After the Emergency Order was entered, the Respondent executed a new prepaid funeral benefits trust agreement (“trust agreement”) with a bank which was 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. The \$250,000.00 represents the two (2) “Annual Payments” that Respondent was ordered to make under the provisions of AID Order # 2011-144.

13. Since the entry of AID Order # 2011-144, the Respondent has significantly reduced the shortage in the trust account; the shortage now stands at approximately \$12,850.33.

14. Pursuant to AID Order # 2011-144, Respondent was ordered to make monthly cash payments of \$2,000 (“Monthly Deposits”) into the trust fund until such time as the total trust fund shortage was repaired or cured. Respondent has been in compliance with this provision.

15. The Annual Payments and Monthly Deposits made by the Respondent were applied to reduce the Respondent’s trust fund deficiency, and Respondent was given a credit to the trust fund shortage, for all prepaid funeral contract services and merchandise it rendered or performed, in like kind.

16. Pursuant to AID Order # 2011-144, Respondent’s employees who were licensed by the Department to sell prepaid funeral contracts or funeral expense policies, each received three (3) hours of continuing education in life insurance or funeral expense policies.

17. The Respondent agreed in AID Order # 2011-144 that any breach of that Order by the Respondent would provide 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.

18. Pursuant to AID Order # 2011-144, Respondent provided 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, Respondent was to consult with Selected Funeral and Life Insurance Company regarding ownership matters, marketing and selling. Respondent has complied with this provision.

19. Respondent has complied with paragraph #6 of AID Order # 2011-144 regarding cancellation requests.

20. Respondent has complied with paragraph #9 of AID Order # 2011-144 regarding issuance of new contracts after the date of that order.

CONCLUSIONS OF LAW

21. 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 Amended Consent Order.

22. 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 Amended Consent Order for purposes of avoiding additional administrative action by the Department.

23. In exchange for the Respondent's performance of the requirements in AID Order # 2011-144, 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 in AID Order # 2011-144 and in this Amended Consent Order.

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 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 the following Order is appropriate and in the public interest.

IT IS HEREBY ORDERED that:

1. Emergency Order No. 2011-024 remains repealed in its entirety and is replaced with the provisions in AID Order # 2011-144 and this Amended Consent Order.

2. As of the date of this Amended Consent Order, Respondent will be permitted to make cash withdrawals as needed, for every funeral service it provides. Respondent shall also

make deposits to the trust account such that the deficiency stated in Finding of Fact 13 will be wholly cured on or before December 31, 2017.

3. Once the Respondent's trust fund deficiency becomes repaired or cured, any remaining payment requirements under AID Order # 2011-144 and this Amended Consent Order shall cease.

4. 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 Amended 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 Amended 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 Amended 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 Amended Consent Order, affirmatively state their agreement to be bound by the terms of this Amended 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 Amended Consent Order and in Order # 2011-144, are binding upon them. **All provisions contained in AID Order # 2011-144 which are not expressly amended herein, remain in full effect.**

IT IS SO ORDERED, DIRECTED AND AGREED TO, AS OF THE 5th DAY OF JUNE, 2017.



**ALLEN KERR
INSURANCE COMMISSIONER
STATE OF ARKANSAS**

JONES FUNERAL HOME, INC.

By: Gina Jones
Position: President
Date: May 25, 2017