

BEFORE THE INSURANCE COMMISSIONER OF THE
STATE OF OKLAHOMA

FILED

NOV 30 2020

INSURANCE COMMISSIONER
OKLAHOMA

STATE OF OKLAHOMA, ex rel. GLEN
MULREADY, Insurance Commissioner,)

Petitioner,)

v.)

BURKHART FUNERAL SERVICE, LLC)
d/b/a BURKHART FUNERAL SERVICE)
a licensed prepaid funeral benefits)
provider in the State of Oklahoma,)

Respondent.)

Case No. 20-0571-DIS

**CONDITIONAL ADMINISTRATIVE ORDER AND NOTICE OF RIGHT TO BE
HEARD**

COMES NOW the State of Oklahoma, ex rel. Glen Mulready, Insurance Commissioner, through his attorney, Kayla M. Rochelle, and alleges and states as follows:

JURISDICTION

1. Glen Mulready is the Insurance Commissioner of the State of Oklahoma and is charged with the duty of administering and enforcing all provisions of the Oklahoma Insurance Code, 36 O.S. §§ 101, et seq., specifically the Prepaid Funeral Benefits Act, 36 O.S. §§ 6121-6136.18.

2. Respondent Burkhart Funeral Service LLC (“Respondent”) is a currently licensed prepaid funeral benefit provider in the State of Oklahoma, holding permit numbers 864447 (“Antlers Location”); 864448 (“Talihina Location”); and 864449 (“Clayton Location”). All three permits will expire on December 31, 2020. The address of record for the Antlers Location is 715 East Main St., Antlers, Oklahoma 74523. The address of record for the Talihina Location is P.O.

Box 1059, Talihina, Oklahoma 74571. The address of record for the Clayton Location is P.O. Box 609, Clayton, Oklahoma 74536.

ALLEGATIONS OF FACT

3. On or about February 12, 2020, a verified examination report (“Report”) relating to Respondent was filed with the Oklahoma Insurance Department (“OID”) covering the period January 1, 2017 through December 31, 2017.

4. On or about February 27, 2020, the OID Financial Division received an initial copy of the Report. The OID Financial Division sent a copy of the Report along with the twenty-day letter by certified mail, with return receipt requested, pursuant to *36 O.S. § 309.4(B)*. In May 2020, the letter was returned to the OID Financial Division by the USPS and marked as “Unclaimed.” As a result, the OID Financial Division made two telephone calls to Respondent and left messages both times. Mr. Burkhardt called the OID Financial Division approximately two (2) business days later. The OID Financial Division discussed the examination packet and that it had not been picked up with Mr. Burkhardt. Mr. Burkhardt assured the OID Financial Division that he would pick up the examination packet.

5. On or about June 1, 2020, the OID Financial Division re-sent the Report and twenty-day letter to Respondent’s Antlers Location by certified mail, with return receipt requested, and afforded Respondent twenty (20) days to make a written submission or rebuttal with respect to the matters in the examination report in accordance with *36 O.S. § 309.4(B)*. Based on the package tracking by the USPS, the Report and twenty-day letter were successfully delivered on or about June 18, 2020. Respondent did not submit a response.

6. On or about July 29, 2020, the OID entered an Order Adopting the Examination Report (“Order”) in accordance with *36 O.S. § 309.4(C)*.

7. A copy of the Order was mailed by certified mail, with return receipt requested, to all addresses of record.

8. On or about August 30, 2020, the copies sent to the Antlers and Talihina Locations were returned to the OID by the USPS and marked as “Unclaimed, Unable to Forward.” On or about September 2, 2020, the copy sent to the Clayton Location was returned to the OID by the USPS and marked as “Not Deliverable as Addressed, Unable to Forward.”

9. On or about September 11, 2020, the OID emailed a copy of the Order to the email addresses of record and included delivery and read receipts for the email.

10. Pursuant to the Order, Respondent was required to file affidavits within thirty (30) days of issuance of the Order executed by each of its directors stating under oath that they have received a copy of the adopted report and related orders. Respondent was also ordered to provide a written Corrective Action Plan within thirty (30) days of receipt of the Order to the OID verifying how it planned to address the concerns raised in the Report.

11. As of the date of this Order, Respondent has failed to file the affidavits and Corrective Action Plan with the OID, pursuant to *36 O.S. § 309.4(D)(1)* and the Order.

ALLEGED VIOLATIONS OF LAW

12. Pursuant to *36 O.S. § 6129.1*, “[a]nnually, on or before the fifteenth day of March, and whenever the Insurance Commissioner deems it to be prudent or necessary, each organization operating one or more prepaid funeral trusts shall have a financial examination of each trust and related prepaid funeral accounts for the preceding calendar year, prepared by a licensed public accountant or certified public accountant and in accordance with procedures promulgated by the Insurance Commissioner's office. The examination also shall evaluate and report on the

compliance of each trust with the provisions of Section 6121 et seq. of Title 36 of the Oklahoma Statutes, relating to prepaid funeral benefits.”

13. Respondent violated *36 O.S. § 6129.1* by failing to timely file affidavits and a Corrective Action Plan in accordance with *36 O.S. § 309.4(D)(1)*.

14. Pursuant to *36 O.S. § 6130(B)*, the Insurance Commissioner may censure, suspend, or revoke a license, or subject a licensee to a fine of not less than One Hundred Dollars (\$100.00) and not more than One Thousand Dollars (\$1,000.00), or both, for any violation of the Prepaid Funeral Benefits Act, *36 O.S. §§ 6121 through 6136.18*.

ORDER

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED by the Insurance Commissioner, subject to the following paragraph, that Respondent is hereby **FINED One Thousand Dollars (\$1,000.00)** for violating *36 O.S. § 6129.1*. The **\$1,000.00 fine is to be paid within thirty (30) days of the date of this Conditional Administrative Order** and made payable to the Oklahoma Insurance Department in the form of a check, cashier’s check, or money order.

Respondent is further notified that he may request a hearing within **thirty (30) days of the date of mailing of this Order**. If Respondent does not request a hearing within thirty (30) days of the date mailing of this Order, this Conditional Administrative Order shall become a **FINAL ORDER** on the **thirty-first (31st) day following mailing of this Order**.

A request for hearing shall be made in writing to Kayla M. Rochelle, Assistant General Counsel, Oklahoma Insurance Department, Legal Division, 400 NE 50th Street, Oklahoma City, Oklahoma 73105. The request for hearing must state the grounds to set aside or modify this Conditional Administrative Order. Upon such request, a hearing shall be conducted before an independent hearing examiner.

The hearing will be conducted in accordance with the Oklahoma Insurance Code, 36 O.S. §§ 101 et seq. and the Oklahoma Administrative Procedures Act, 75 O.S. §§ 250 et seq. If Respondent timely serves a request for hearing, this Conditional Order shall act as a notice of the matters to be reviewed at the hearing, and the Allegations of Fact, Alleged Violations of Law, and penalties imposed in this Conditional Order shall be considered withdrawn, pending final resolution of this matter through hearing.

WITNESS My Hand and Official Seal this 30th day of November 2020.



GLEN MULREADY
INSURANCE COMMISSIONER
STATE OF OKLAHOMA

s/ Kayla M. Rochelle
Kayla M. Rochelle, OBA #34014
Assistant General Counsel
Oklahoma Insurance Department
400 NE 50th Street
Oklahoma City, OK 73105
Telephone: (405) 521-2748

CERTIFICATE OF MAILING

I hereby certify that a true and correct copy of the above and foregoing *Conditional Administrative Order and Notice of Right to be Heard* was mailed by certified mail, postage prepaid with return receipt requested, by regular first-class mail, and by electronic mail on this 30th day of November 2020, to:

Burkhart Funeral Service, LLC
715 East Main Street
Antlers, OK 74523

CERTIFIED MAIL NO. 9214 8902 0982 7500 0324 36

Burkhart Funeral Service, LLC
d/b/a Burkhart Funeral Service
204 Second St.
Talihina, OK 74571
**CERTIFIED MAIL NO.
9214 8902 0982 7500 0324 43**

Burkhart Funeral Service, LLC
d/b/a Burkhart Funeral Service
P.O. Box 1059
Talihina, OK 74571
**CERTIFIED MAIL NO.
9214 8902 0982 7500 0324 50**

Burkhart Funeral Service, LLC
P.O. Box 609
Clayton, OK 74536
**CERTIFIED MAIL NO.
9214 8902 0982 7500 0324 67**

Burkhart Funeral Service, LLC
129 W Burnett
Clayton, OK 74536
**CERTIFIED MAIL NO.
7020 0640 0000 7898 3781**

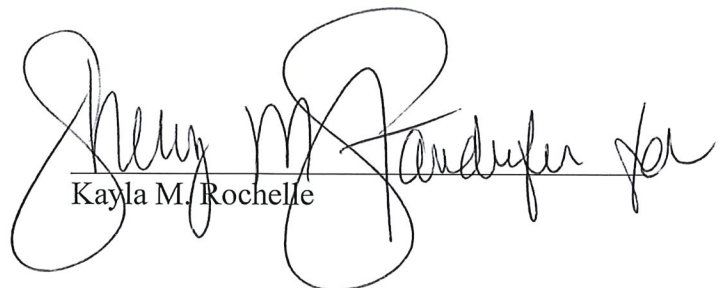
Thomas Burkhart
413177 E. 1930 Road
Antlers, OK 74523
CERTIFIED MAIL NO. 7020 0640 0000 7898 3798

and that a copy was delivered to:

tburkhart@yahoo.com
burkhartfuneralservice@gmail.com

and that a copy was delivered to:

Financial and Examination Division


Kayla M. Rochelle



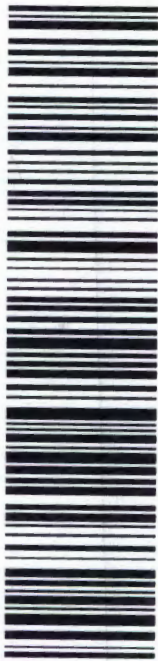
**OKLAHOMA
INSURANCE
DEPARTMENT**

Legal Division
Insurance Commissioner Glen Mulrea
400 NE 50th Street
Oklahoma City, OK 73105

RECEIVED
OKLAHOMA INSURANCE DEPARTMENT
DEC 11 2020
Legal Division

CERTIFIED MAIL™

USPS CERTIFIED MAIL



9214 8902 0982 7500 0324 36

BURKHART FUNERAL SERVICE LLC
715 E MAIN ST
ANTLERS OK 74523-2658

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1/30/2020

FIRST CLASS PERMIT NO. 1000 OKLAHOMA CITY, OK



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400 NE 50th Street
Oklahoma City, OK 73105

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BURKHART FUNERAL SERVICE LLC
D/B/A BURKHART FUNERAL SERVICE
204 2ND ST
TALIHINA OK 74571

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20-0571-Dis



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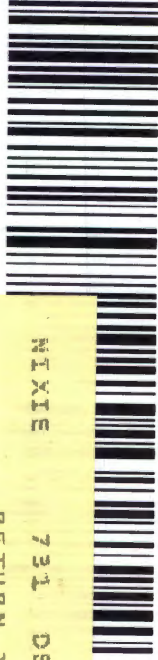
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9214 8902 0982 7500 0324 50

BURKHART FUNERAL SERVICE LLC
D/B/A BURKHART FUNERAL SERVICE
PO BOX 1059
TALIHINA OK 74571-1059

400 NE 50th Street
Oklahoma City, OK 73105

Ref

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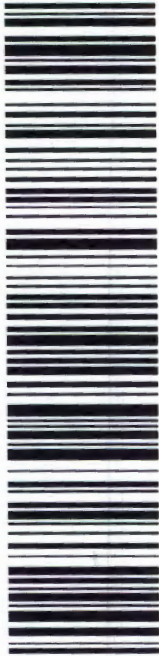
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Insurance Commissioner Glen Mulre
400 NE 50th Street
Oklahoma City, OK 73105

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BURKHART FUNERAL SERVICE LLC
PO BOX 609
CLAYTON OK 74536-0609

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Insurance Commissioner Glen Mulready
400 NE 50th Street
Oklahoma City, OK 73105

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Return Receipt (hardcopy) \$

Return Receipt (electronic) \$

Certified Mail Restricted Delivery \$

Adult Signature Required \$

Adult Signature Restricted Delivery \$

Postage \$

Total Postage and Fees \$

Sent To _____

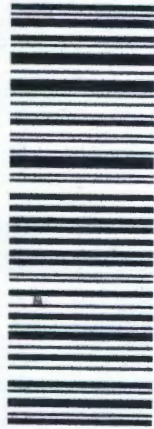
Street and Apt. No., or PO Box # _____

City, State, Zip+4® _____

Burkhart Funeral Services, LLC
129 W. Burnett
Clayton, OK 74536
SMS/20-0571-DIS (KMR)/
Conditional Order



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BCND
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Burkhart Funeral Services, LLC
129 W. Burnett
Clayton, OK 74536

20-6571-DIS

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PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT OF THE RETURN ADDRESS, FOLD AT DOTTED LINE

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- 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:

Burkhardt Funeral Services, LLC
 1247 W. Burnett
 Clark, MO 64536
 SMS/Zip Code (KMR)
 Postal Order

9590 9402 6036 0069 9669 77

2. Article Number (Transfer from service label)

7020 0640 0000 7898 376J

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
 Addressee

B. Received by (Printed Name) C. Date of Delivery

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

3. Service Type

Adult Signature
 Adult Signature Restricted Delivery
 Certified Mail®
 Certified Mail Restricted Delivery
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 Collect on Delivery Restricted Delivery
 Mail Restricted Delivery

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 Registered Mail Restricted Delivery
 Return Receipt for Merchandise
 Signature Confirmation™
 Signature Confirmation Restricted Delivery

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Insurance Commissioner Glen Mulready
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- Return Receipt (hardcopy) \$
- Return Receipt (electronic) \$
- Certified Mail Restricted Delivery \$
- Adult Signature Required \$
- Adult Signature Restricted Delivery \$

Postage \$

Total Postage and Fees \$

Sent To

Street and Apt. No., or PO Box #

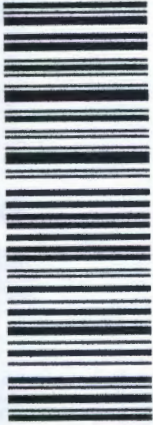
City, State, ZIP+4®

PS Form 3800, April 2015 PSN

Thomas Burkhart
413177 E. 1930 Road
Antlers, OK 74523
SMS/20-0571-DIS (KMR)/
Conditional Order



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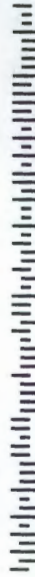


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Thomas Burkhart
413177 E. 1930 Road
Antlers, OK 74523

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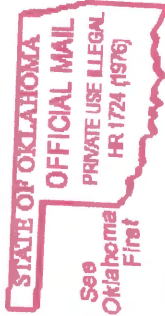
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Oklahoma City, OK 73105

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Burkhart Funeral Service, LLC
715 East Main Street
Antlers, OK 74523

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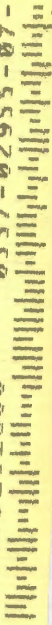
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Oklahoma City, OK 73105

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Legal Division

Thomas Burkhardt
1930 Road
Antlers, OK 74523

20-0571-018

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Insurance Commissioner Glen Mulready
400 NE 50th Street
Oklahoma City, OK 73105

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Burkhart Funeral Services, LLC
P.O. Box 609
Clayton, OK 74571

20-0571-015

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Insurance Commissioner Glen Mulready
400 NE 50th Street
Oklahoma City, OK 73105

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BURKHART FUNERAL HOME
PO BOX 609
CLAYTON, OK 74536-0609

RECEIVED

OKLAHOMA INSURANCE DEPARTMENT

FEB 09 2021

Legal Division

20-0571-Exm

731 NFE 1270C20C0002 / 07 / 21
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CLAYTON FUNERAL HOME
BOX CLOSED
UNABLE TO FORWARD
RETURN TO SENDER
SC: 73105191600 #0557-00537-18-18

73105191600

FWD
73105191600

Sherry Standerfer

From: Sherry Standerfer
Sent: Monday, November 30, 2020 3:31 PM
To: tburkhart@yahoo.com; BURKHARTFUNERALSERVICE@GMAIL.COM
Cc: Kayla Rochelle
Subject: St v. Burkhart Funeral Service, LLC d/b/a Burkhart Funeral Service/ 20-0571-DIS
Attachments: 20-0571-DIS KMR Letter to Burkhart Funeral Service, LLC et al 11-30-20.pdf

Tracking:	Recipient	Delivery
	tburkhart@yahoo.com	
	BURKHARTFUNERALSERVICE@GMAIL.COM	
	Kayla Rochelle	Delivered: 11/30/2020 3:32 PM

Hello,

Attached you will find a letter and Order issued in the above matter. If you have any questions, please contact Ms. Kayla Rochelle, Assistant General Counsel, at 405-521-2746 or by email at kayla.rochelle@oid.ok.gov.

Sincerely,



Sherry M. Standerfer
Legal Assistant

Legal Division
400 NE 50th Street
Oklahoma City, Oklahoma 73105
405.521.2748 office
405.522-0125 fax

oid.ok.gov

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Sherry Standerfer

From: Microsoft Outlook
To: tburkhart@yahoo.com; BURKHARTFUNERALSERVICE@GMAIL.COM
Sent: Monday, November 30, 2020 3:32 PM
Subject: Relayed: St v. Burkhart Funeral Service, LLC d/b/a Burkhart Funeral Service/ 20-0571-DIS

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:

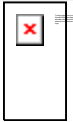
tburkhart@yahoo.com (tburkhart@yahoo.com)

BURKHARTFUNERALSERVICE@GMAIL.COM (BURKHARTFUNERALSERVICE@GMAIL.COM)

Subject: St v. Burkhart Funeral Service, LLC d/b/a Burkhart Funeral Service/ 20-0571-DIS

Sherry Standerfer

From: Domain postMaster address <postmaster@omes.ok.gov>
Sent: Monday, November 30, 2020 3:32 PM
To: Sherry Standerfer
Subject: Your message couldn't be delivered



Your message couldn't be delivered

The message you sent to tburkhart@yahoo.com couldn't be delivered due to: Recipient email server rejected the message.

Further information

3 Requested mail action aborted, mailbox not found

If you sent this message to multiple addresses, you'll receive a notification like this for every one that didn't arrive.



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Return address:

OKLAHOMA INSURANCE DEPARTMENT
5 CORPORATE PLAZA
OKLAHOMA CITY, OK 73112

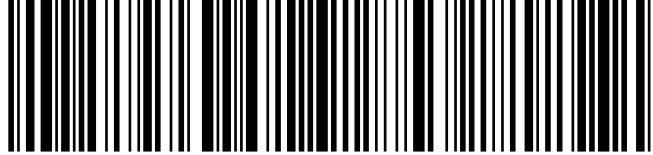


Recipient address:

BURKHART FUNERAL SERVICE LLC
D/B/A BURKHART FUNERAL SERVICE
PO BOX 1059
TALIHINA OK 74571-1059

MAILING DATE: 11/30/2020
DELIVERY DATE: 12/16/2020

USPS CERTIFIED MAIL



9214 8902 0982 7500 0324 50

USPS Tracking Label Number: 9214 8902 0982 7500 0324 50

USPS Tracking History	Location	Date / Time
PRE-SHIPMENT INFO SENT USPS AWAITS ITEM	OKLAHOMA CITY,OK 73105	11/30/2020 15:49
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ORIGIN ACCEPTANCE	OKLAHOMA CITY,OK 73105	11/30/2020 20:02
PROCESSED THROUGH USPS FACILITY	OKLAHOMA CITY,OK 73107	11/30/2020 21:17
DEPART USPS FACILITY	OKLAHOMA CITY,OK 73107	11/30/2020 21:29
PROCESSED THROUGH USPS FACILITY	TULSA,OK 74141	12/01/2020 10:57
DEPART USPS FACILITY	TULSA,OK 74141	12/01/2020 21:01
AVAILABLE FOR PICKUP	TALIHINA,OK 74571	12/02/2020 07:32
RETURN TO SENDER	TALIHINA,OK 74571	12/04/2020 12:24
PROCESSED THROUGH USPS FACILITY	OKLAHOMA CITY,OK 73107	12/15/2020 10:04
PROCESSED THROUGH USPS FACILITY	OKLAHOMA CITY,OK 73107	12/16/2020 02:50
RETURN TO SENDER TO ORIGINAL SENDER	OKLAHOMA CITY,OK 73105	12/16/2020 09:16

CASE NUMBER: 20-0571-DIS

DEPARTMENT: LEGAL/KMR

SENDER: SMS

CUSTOM 4: CONDITIONAL ADMINISTRATIVE ORDER & NOTICE OF RIGHT TO BE HEARD