

BEFORE THE INSURANCE COMMISSIONER OF THE
STATE OF OKLAHOMA

STATE OF OKLA., *ex rel.* GLEN)
MULREADY, *Insurance Commissioner,*)
)
 Petitioner,)
)
 vs.)
)
 RUSSWORM FUNERAL HOME PREPAID)
 FUNERAL BENEFITS TRUST, *a formerly*)
 permitted prepaid funeral benefits trust,)
)
 Respondent.)
)
 Permit Nos. 863228 & 863852)

Case No. 16-0813-SOL

ORDER APPOINTING CONSERVATOR

The State of Oklahoma, *ex rel.* Glen Mulready, Insurance Commissioner (“Commissioner”), hereby appoints Donna Wilson (“Wilson”), an Estate Manager with the Oklahoma Receivership Office, Inc. (“ORO”), as Conservator of Respondent Russworm Funeral Home’s (“Respondent’s”) Prepaid Funeral Benefits (“PFB”) trust, and further finds as follows:

JURISDICTION

1. Glen Mulready is the Insurance Commissioner of the State of Oklahoma and is charged with enforcing all provisions of the of the Oklahoma Insurance Code, OKLA. STAT. tit. 36, §§ 101, *et seq.*, and, specifically, the Prepaid Funeral Services and Funeral Service Merchandise Act (the “Act”), OKLA. STAT. tit. 36, §§ 6121, *et seq.* See 36 O.S. § 6123; OAC 365:1-1-3.

2. Respondent formerly held Prepaid Funeral Benefit (“PFB”) permits with Permit Nos. 863228 and 863852 authorizing it to solicit, offer, and sell PFB contracts from its funeral

home facilities located in Enid, Oklahoma and Watonga, Oklahoma, pursuant to the Act, OKLA. STAT. tit. 36, § 6121(A).

FINDINGS OF FACT

3. On September 15, 2016, an Emergency Cease and Desist Order was entered in the above matter, which, among other things, notified Respondent of its right to a hearing, revoked its PFB permits, and appointed the Commissioner conservator over Respondent's PFB trust accounts.

4. Respondent never requested a hearing, and the Emergency Cease and Desist Order became effective upon its issuance.

5. The Commissioner is authorized to assume the role of acting trust conservator as a means of safeguarding the rights and interests of the individual contract holders. 36 O.S. § 6124.1(F).

6. Upon information and belief, Respondent no longer owns or operates any funeral home facilities in Oklahoma.

7. Upon information and belief, Respondent's former funeral home facilities in Watonga and Enid are no longer operational.

8. The appointment of a conservator is specifically authorized by the Act, OKLA. STAT. tit. 36, § 6124.1(F), and the Oklahoma Insurance Code, OKLA. STAT. tit. 36, § 1805(A).

9. Neither Wilson nor the ORO are parties, attorneys, or persons interested in this matter and are qualified to assume control of the property.

10. The conservator is to assume control over all of Respondent's PFB trusts, which Respondent formerly held for its Watonga and Enid funeral home facilities under PFB permits with Permit Nos. 863228 and 863852 for which Bank 7 (formerly Cornerstone Bank) located at

115 West A Street, Watonga, Oklahoma 73072, or Bank 7, 1039 NW 63rd Street, Oklahoma City, Oklahoma 73116, serves as the trust depository.

11. Therefore, Commissioner finds that it is in the best interest of the remaining contract holders to appoint a Conservator in accord with OKLA. STAT. tit. 36, § 6124.1(F) and § 1805 to administer Respondent's PFB trust accounts by taking charge thereof, conducting its business, and taking such steps as may be necessary toward the removal of the causes and conditions which necessitated the conservatorship. 36 O.S. § 1805(A).

ORDER

IT IS, THEREFORE, ORDERED, ADJUDGED, AND DECREED that Donna Wilson, Estate Manager with the Oklahoma Receivership Office, Inc., 3613 NW 56th Street, Suite 330, Oklahoma City, Oklahoma, is hereby **APPOINTED CONSERVATOR** of Respondent's PFB trusts and shall immediately assume control of Respondent's PFB trusts' accounts.

IT IS ORDERED, ADJUDGED, AND DECREED that the Conservator shall have **ALL POWER AND AUTHORITY** as vested in Respondent over its PFB trusts, including, without limitation, the power and authority to:

- a. Assume the role of Trustee of Respondent's PFB trusts,
- b. Take charge of Respondent's PFB trusts, their accounts, and all the property, books, records, and effects thereof,
- c. Conduct its business,
- d. Take steps toward the removal of the causes and conditions which have necessitated the conservatorship, as the Commissioner may direct,
- e. Make such reports as may be required by the Commissioner,
- f. Take all necessary measures to preserve, protect and recover any assets or property of Respondent or the PFB trust including claims or causes of action belonging to or which may be asserted by Respondent in her own name as conservator,

- g. File, prosecute, and defend any legal actions which have been filed, or which may thereafter be filed, by or against Respondent or the PFB trust, as she deems necessary to protect all the interested parties or contract holders and any property affected thereby, and
- h. File all annual reports required by the Oklahoma Insurance Code and in the same manner as the Respondent.

36 O.S. § 1805(A) – (B).

IT IS ORDERED, ADJUDGED, AND DECREED that, if at any time during the pendency of such conservatorship, it appears that Respondent's PFB contracts held in trust can best be protected by reinsuring the same or by converting them to life insurance or an annuity funded PFB contracts, the Conservator may, with the approval of the Commissioner, after appraisal of all assets:

- a. Convert all or part of Respondent's PFB contracts held in trust to PFB life insurance or annuity funded contracts with any solvent insurers authorized to transact business in this state, and
- b. To the extent that Respondent's PFB contracts held in trust are possessed of reserves attributable to such PFB trust accounts, transfer to the reinsuring company or company issuing the life insurance or annuity PFB contracts, such reserves or any portion thereof as may be required to consummate the reinsurance or conversion, which transfer of reserves shall not be deemed a preference of creditors.

36 O.S. § 1805(C); OAC 365:25-9-8.

IT IS ORDERED, ADJUDGED, AND DECREED that the Conservator shall constitute and is nominated and appointed to serve as the Trustee of Respondent's PFB trusts including serving as the PFB trusts' true and lawful attorney-in-fact and signatory and, thereby, the Conservator is authorized, in her name, to endorse for cash or negotiation, discount, deposit, or collection, any notes, checks, drafts, or orders including, without limitation, any electronic wire transfers or electronic transactions, and to receive the proceeds thereof, hereby confirming all the

Conservator shall do by virtue hereof, and any indorsements for deposit purposes may be in writing, by rubber stamp, or by electronic means without designation of the person so endorsing.

IT IS ORDERED, ADJUDGED, AND DECREED that as of the date of this Order the Conservator is, hereby, vested by operation of law with title to and shall forthwith take possession of all the accounts, property, contracts, safe deposit boxes, and all of the books and records of Respondent's PFB trusts, including without limitation all funds, deposits, or interest thereon and any documents, records, or electronically stored information at Bank 7, 115 West A Street, Watonga, Oklahoma 73072 or Bank 7, 1039 NW 63rd Street, Oklahoma City, Oklahoma 73116, or, otherwise, wherever located.

IT IS ORDERED, ADJUDGED, AND DECREED that, if any report, return, or statement is required to be filed with any applicable governmental or tax authorities, the Conservator as Trustee and lawful attorney-in-fact of Respondent's PFB trusts shall file on behalf of the PFB trusts and their separate accounts, if any, all appropriate reports, returns, or statements with the applicable governmental and tax authorities and is, hereby, authorized to pay any taxes or any other duties, whether due or owing in the past, present or future, and the Conservator shall maintain the right to deduct or withhold any taxes or duties from the PFB trusts and their separate accounts, if any, those amounts that the Conservator determines are obligated to be withheld and may reduce the PFB trusts and their separate accounts, if any, by such deductions or withholdings.

IT IS ORDERED, ADJUDGED, AND DECREED that the cost incident to the Conservator's services, including the costs of any attorneys' services, shall be fixed by the Commissioner and paid from the assets and funds of Respondent's PFB trusts. If the assets and funds of Respondent's PFB trusts are insufficient, the Conservator may execute a promissory note for a loan from the fund established and held in the name of the Oklahoma Receivership Office,

for the use and benefit of the Conservator to administer other entities in rehabilitation, pursuant to Oklahoma's Uniform Insurers Liquidation Act, OKLA. STAT. tit. 36, § 1927.1(B)(1) & (10), so long as such cost of the Conservator's service are reasonable under the circumstances and continue no longer than necessary to preserve the assets of Respondent's PFB trusts in the best interest of the individual contract holders. 36 O.S. § 1805(E).

IT IS, THEREFORE, ORDERED, ADJUDGED, AND DECREED that Donna Wilson, Estate Manager with the Oklahoma Receivership Office, subject to taking an oath, shall serve **WITHOUT** bond or special undertaking until such time as the Commissioner feels certain that any deficiencies that caused the conservation have been corrected or a district court has entered an order placing Respondent's PFB trusts into receivership. 36 O.S. § 1805(F).

WITNESS My Hand and Official Seal this *26th* day of March 2024.

**GLEN MULREADY
INSURANCE COMMISSIONER
STATE OF OKLAHOMA**

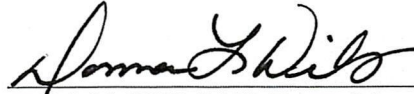


**BRIAN DOWNS,
FIRST DEPUTY INSURANCE COMMISSIONER AND
CHIEF OF STAFF**

STATE OF OKLAHOMA)
)
COUNTY OF OKLAHOMA) ss.

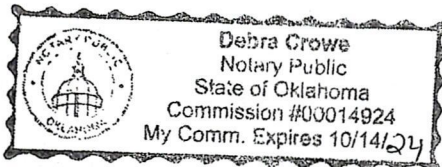
OATH OF CONSERVATOR

I, **DONNA WILSON**, being duly appointed conservator in this action, do hereby solemnly swear that I will faithfully discharge the duties of my office to the best of my abilities.



DONNA WILSON, Estate Manger
Oklahoma Receivership Office, Inc.
3613 NW 56th Street, Suite 330
Oklahoma City, OK 73112
Telephone: (405) 947-0022

Email: dwilson@okaro.org



Subscribed and sworn before me this 29 day of March 2024.



NOTARY PUBLIC

My Commission No.: 0014924

My Commission Expires: 10/14/24