

**ORDER NO. 2015-020**

IN THE MATTER OF:	§	BEFORE:
	§	
EL PASO MISSION	§	THE BANKING COMMISSIONER
FUNERAL HOME, INC.	§	OF TEXAS
	§	
EL PASO, TEXAS	§	AUSTIN, TRAVIS COUNTY, TEXAS

**EMERGENCY ORDER TO CEASE AND DESIST ACTIVITY,  
TO SEIZE RECORDS AND FUNDS, AND TO CANCEL A PERMIT**

On this day, the matter of El Paso Mission Funeral Home, Inc., located in El Paso, Texas (Respondent), was submitted to the Banking Commissioner of the State of Texas (Commissioner) for consideration and action.

**I. Findings**

1. El Paso Mission Funeral Home, Inc., holds expired permit number 606 to sell trust-funded prepaid funeral contracts (PFCs). El Paso Mission is operated by: Lina Lucia Ruedas, owner, President, and Secretary; Francisco X Ruedas, Vice President; and Antonio A. Ruedas, Jr., Funeral Director.
2. On November 6, 2014, the Texas Department of Banking (DOB) received two consumer complaints from a husband and wife. The complaints alleged that the El Paso Sheriff's Department (EPSD) had obtained copies of refund checks associated with the consumers' PFCs, which were purchased from El Paso Mission. The consumers had neither requested nor received the refunds.
3. The DOB conducted a full scope examination of El Paso Mission in November, 2013. The DOB's documents associated with that examination show that El Paso Mission had reported that the PFCs described in Paragraph 2 had been cancelled and refunded, along with more than sixty other PFCs.
4. Since November, 2014, the DOB has been in communication with EPSD regarding an ongoing investigation of El Paso Mission. In the course of this investigation, EPSD seized substantially all PFC records, and interviewed and obtained written statements from several purchasers of PFCs. According to these verbal and written statements, the purchasers never

requested cancellation of their PFCs, never signed any forms for cancellation, and have never received a refund. However, El Paso Mission records show that these PFCs had been cancelled and the associated funds withdrawn from the trust account.

5. On August 4, 2015, the DOB conducted an on-site examination of El Paso Mission. This examination revealed that since 2011, approximately \$130,000 was withdrawn for cancelled PFCs, supported by fraudulent documentation, and for which there is no evidence that refunded monies were ever paid to the purchasers entitled to those funds.
6. Irreparable harm is threatened to the public or one or more beneficiaries under a PFC because a substantial amount of funds have already been withdrawn fraudulently from the trust account and cannot be located.

## **II. Conclusions**

7. The Commissioner is authorized by Texas Finance Code § 154.408 to issue a cease and desist order to a person if the Commissioner finds by examination or other credible evidence that the person has violated a law of this state relating to the sale of PFCs, including a violation of Chapter 154, or a final order of the Commissioner, or a rule of the Finance Commission.
8. The Commissioner finds by credible evidence that El Paso Mission has violated Texas Finance Code § 154.159 by not properly administering money received for PFCs as prescribed by Finance Code Chapter 154 Subchapter F and Finance Code § 154.155.
9. The Commissioner finds these violations constitute sufficient cause for issuance of an order to cease and desist from selling PFCs under Texas Finance Code § 154.408.
10. The Commissioner is authorized by Texas Finance Code § 154.4081 to issue an emergency order that takes effect immediately if the Commissioner finds that immediate and irreparable harm is threatened to the public or a beneficiary under a PFC. As stated in paragraph 6 above, the Commissioner finds that such harm is threatened.
11. The Commissioner is authorized by Texas Finance Code § 154.412 to issue an order seizing records and funds that relate to the sale of PFCs if the Commissioner finds by examination or other credible evidence that the person misappropriated, converted, or illegally withheld or failed or refused to pay on demand money entrusted to the person that belongs to the beneficiary under a prepaid funeral benefits contract. Based on the evidence recited in

Paragraphs 2-5, the commissioner finds that El Paso Mission has so misappropriated, converted, or illegally withheld money belonging to PFC beneficiaries.

12. The Commissioner is authorized by Texas Finance Code § 154.109 to cancel a permit if the commissioner finds, by examination or other credible evidence, that the permit holder violated Texas Finance Code Chapter 154. Because of the examination findings and other credible evidence recited in Paragraphs 2-5, and as stated in Paragraph 8, the Commissioner finds that El Paso Mission has violated Texas Finance Code § 154.159.
13. The Commissioner is authorized by Texas Finance Code § 154.412(c) to cause the seizure order to take immediate effect if the Commissioner finds that immediate and irreparable harm is threatened to the public or a beneficiary under a PFC. For the reasons stated in paragraph 6 the Commissioner finds that such harm is threatened.

### **III. Order**

In accordance with Texas Finance Code §§ 154.408 and 154.4081, El Paso Mission Funeral Home, Inc. is ORDERED to cease and desist from engaging in the sale of any PFCs. It is further ORDERED in accordance with Texas Finance Code § 154.109 that permit number 606 is hereby cancelled.

In accordance with Texas Finance Code § 154.412, the following is hereby further ORDERED:

- 1) the Texas Department of Banking is authorized to immediately seize and take possession of the funds, contracts, and other records of El Paso Mission that relate to the sale of PFCs, wherever they may be located, held, or found;
- 2) El Paso Mission Funeral Home, Inc., through its officers, directors, or employees, shall immediately gather and send to the Texas Department of Banking all contracts and other records relating to the sale of trust-funded PFCs that are not already in the possession of the El Paso Sheriff's Department;
- 3) Bank of the West, El Paso, Texas, shall immediately freeze and allow the Texas Department of Banking to take possession of all accounts bearing the name of El Paso Mission Funeral Home; and
- 4) Any other financial institution holding funds bearing the name of El Paso Mission Funeral Home shall immediately freeze and allow the Texas Department of Banking to take possession of all such accounts.

#### **IV. Effective Date**

Pursuant to Texas Finance Code §§ 154.4081 and 154.412(c) this Order to Cease and Desist Activity, and to Seize Records and Funds will take effect immediately.

#### **V. Notice of Right to Hearing**

Under Texas Finance Code §§ 154.4081(c) and 154.412(c-1), El Paso Mission has the right to request in writing a hearing to show that the emergency order should be stayed. If El Paso Mission wishes to request such a hearing, the written request must be received by the Commissioner no later than the 30th day after the date this Order is mailed.

#### **VI. Service**

This Order will be served on El Paso Mission Funeral Home, Inc. via certified mail, return receipt requested.

This Order will be served on Bank of the West via certified mail, return receipt requested and sent via facsimile.

Signed on this 14th day of September, 2015.

/s/ Charles G. Cooper

Charles G. Cooper

Texas Banking Commissioner