

**ORDER NO. 2017-016**

<b>IN THE MATTER OF:</b>	§	<b>BEFORE:</b>
	§	
<b>C. JOHNSON FUNERAL HOME, INC.,</b>	§	<b>THE BANKING</b>
	§	<b>COMMISSIONER OF TEXAS</b>
	§	
<b>HOUSTON, TEXAS</b>	§	<b>AUSTIN, TRAVIS COUNTY, TEXAS</b>

**CONSENT ORDER**

On this day, the matter of C. Johnson Funeral Home, Inc. (Johnson) d.b.a. Johnson Preneed Funeral Services Co., located in Houston, Texas, was submitted to me, Charles G. Cooper, Banking Commissioner of the State of Texas (Commissioner), for consideration and action.

1. Johnson is a Texas corporation, with its principal address and place of business at 5730 Calhoun Road, Houston, Texas 77021. Johnson holds Permit No. 545 issued by the Texas Department of Banking (Department) to sell prepaid funeral benefits.
2. The Department has jurisdiction over Johnson and the subject matter of this proceeding pursuant to Texas Finance Code (Finance Code) Chapter 154. The Commissioner has the authority to issue this Consent Order (Order) and to assess administrative penalties pursuant to Finance Code § 154.406.
3. Johnson has been properly notified regarding its right to an administrative hearing under Finance Code Chapter 154.
4. The statutory provisions at issue in this matter include, but are not limited to, Finance Code §§ 154.101, 154.107, and 154.406 and Title 7 Texas Administrative Code (TAC) § 25.19.
5. Any violation of this Order could subject Johnson to additional regulatory or enforcement actions authorized by Chapter 154. Nothing in this Order diminishes the regulatory or enforcement powers of the Department, the Commissioner, or the Finance Commission of Texas under Chapter 154 or other applicable law.

6. For purposes of this proceeding, Johnson knowingly and voluntarily waives:
  - a. Service upon Johnson of this Order;
  - b. The right to present defenses to the allegations in this proceeding;
  - c. Notice and hearing prior to imposition of this Order;
  - d. The filing of proposed findings of fact and conclusions of law;
  - e. The issuance of a proposal for decision by an administrative law judge;
  - f. The filing of exceptions and briefs with respect to such proposal for decision;
  - g. Any review of this Order by the Texas Finance Commission; and
  - h. Judicial review of this Order as provided by Texas Government Code § 2001.171 et seq., and any other challenge to the validity of this Order.
7. Johnson agrees to this Order solely for the purpose of this proceeding, and without admitting or denying any violations of law or rules. This Order does not constitute an admission by Johnson that Chapter 154 or a rule adopted or order issued under Chapter 154 has been violated.
8. The Commissioner has considered the matter and finds as follows:
  - a. On August 3, 2017, the Commissioner issued Order No. 2017-10, Order to Cease and Desist Activity and to Seize Prepaid Funeral Money and Records (Cease and Desist Order), against Johnson for failure to renew its permit. The findings of fact and conclusions of law of the Cease and Desist Order are incorporated herein.
  - b. On August 17, 2017, Johnson filed an incomplete permit renewal application with the Department, which failed to include proof of good standing with the Texas Comptroller of Public Accounts. The Department received proof of good standing on August 30, 2017, and renewed Johnson's permit that day.

- c. Between September 5 and September 7, 2017, Department Examiner Nathaniel Short conducted an on-site examination of Johnson. During the examination, it was discovered that Johnson sold prepaid funeral benefits and entered contracts with two individuals for the sale of prepaid funeral benefits while Johnson's permit was expired. One contract was executed on July 6, 2017 and another on July 12, 2017.
- d. It is a violation Finance Code § 154.101 for a person without a permit to sell prepaid funeral benefits. On June 5, 2017, notice was sent to Johnson via certified mail and fax that the Department had still not received Johnson's 2017 renewal and that its permit expired on June 1, 2017.
- e. Pursuant to Finance Code § 154.406(a)(1), the Commissioner may impose an administrative penalty on a person who violates Chapter 154 and does not correct the violation before the 31st day after the date the person receives written notice of the violation from the Department.
- f. As required by Finance Code § 154.406(c), the Commissioner has considered the seriousness of the violations, Johnson's compliance history, and Johnson's good faith in attempting to comply with Chapter 154. The Commissioner finds that Johnson's extensive delay in submitting its permit renewal after multiple notices from the Department, and thereby allowing its permit to expire, is evidence of a lack of good faith in attempting to comply with Chapter 154. The Commissioner further finds that Johnson's sale of prepaid funeral benefits without a permit on two occasions is a serious violation.
- g. Based on these findings, the Commissioner finds that a penalty of \$5,000.00 is appropriate.

## **Order**

It is hereby ORDERED, ADJUDGED and DECREED that:

1. Johnson shall not engage in activities in violation of Chapter 154 and shall take all actions necessary to comply with the requirements of Chapter 154.
2. Johnson will pay \$5,000.00 to the Department as an administrative penalty under Finance Code § 154.406. The penalty shall be payable to the Department within 15 days of the effective date of this Order.
3. This Order supersedes the Cease and Desist Order to the extent that it prohibits Johnson from selling prepaid funeral benefits.
4. This Order does not restrict the Department with respect to any enforcement action or other recourse regarding any other past, current, or future violations by Johnson that come to the attention of the Department. However, nothing herein shall be construed to limit Johnson's right to contest any future finding or determination of non-compliance.

## **Effective Date**

This Order against Johnson is effective on the date signed by the Commissioner, and subject to its terms, Johns may not appeal.

Signed on this 19th day of October 2017.

/s/ Stephanie Newberg for

Charles G. Cooper  
Banking Commissioner of Texas

**AGREED AS TO FORM AND SUBSTANCE:**

C. Johnson Funeral Home, Inc.

By: /s/ Walter Johnson  
Walter Johnson  
President

Date: October 15, 2017

**APPROVED AS TO FORM:**

/s/ Ryan P. McCarthy  
Ryan P. McCarthy  
Assistant General Counsel  
Texas Department of Banking

Date: October 19, 2017