

**ORDER NO. 2011-026**

<b>IN THE MATTER OF:</b>	<b>§</b>	<b>BEFORE THE BANKING</b>
	<b>§</b>	
<b>KEVIN KEENEY,</b>	<b>§</b>	
<b>INDIVIDUALLY AND AS DIRECTOR</b>	<b>§</b>	
<b>AND VICE PRESIDENT,</b>	<b>§</b>	
<b>HOWELL-DORAN FUNERAL HOME, INC.</b>	<b>§</b>	
<b>AND</b>	<b>§</b>	
<b>MARGIE KEENEY,</b>	<b>§</b>	<b>COMMISSIONER OF TEXAS</b>
<b>INDIVIDUALLY AND AS DIRECTOR</b>	<b>§</b>	
<b>AND PRESIDENT OF</b>	<b>§</b>	
<b>HOWELL-DORAN FUNERAL HOME, INC.</b>	<b>§</b>	
<b>AND</b>	<b>§</b>	
<b>HOWELL-DORAN FUNERAL HOME, INC.</b>	<b>§</b>	
<b>SAN SABA, TEXAS</b>	<b>§</b>	<b>AUSTIN, TRAVIS COUNTY, TEXAS</b>

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

On this day, the matter of Kevin Keeney, individually and as Director and Vice President of Howell-Doran Funeral Home, Inc., and Margie Keeney, individually and as Director and President of Howell-Doran Funeral Home, Inc., and Howell-Doran Funeral Home, Inc., located in San Saba, Texas (Respondents), was submitted to the Banking Commissioner of the State of Texas (Commissioner) for consideration and action.

**I. Findings**

1. Respondent Kevin Keeney is the current Vice President and 50% owner of Howell-Doran Funeral Home, Inc., and is the designated agent of Howell-Doran Funeral Home, Inc. for purposes of Texas Finance Code § 154.160. Respondent Margie Keeney is the current President and 50% owner of Howell-Doran Funeral Home, Inc.
2. Respondents do not currently hold the permit required by Texas Finance Code § 154.101 to sell prepaid funeral contracts (PFC). Respondent Howell-Doran Funeral Home formerly held permit number 272. On May 27, 2010, the Commissioner conditionally renewed Respondent's permit, authorizing Respondent to maintain existing trust-funded PFCs only, prohibiting sale of any new trust-funded PFCs. On June 1, 2011, Respondent's permit expired for failure to renew.

3. Respondent Kevin Keeney formerly held license number 277385, issued by the Texas Department of Insurance (TDI) to sell insurance as an agent of Homesteaders Life Company, a company authorized by the Texas Department of Banking (DOB) to sell insurance funded PFCs under permit number 892. TDI license 277385 expired on April 1, 2010 for failure to renew.
4. The DOB conducted full scope examinations of Respondents dated May 31, 2009 and August 31, 2010.
5. On June 6, 2011, the DOB received from Texas Ranger Stephen Boyd information regarding several consumer complaints. Ranger Boyd's investigation uncovered six PFCs which were not properly recorded, and for which funds were either not properly placed in trust or not submitted as premiums to an insurance company. The PFCs are as follows:
  - a. Two matching trust-funded PFCs sold to Mr. LS1 and Mrs. YS on November 24, 2009, each for \$7,121.25.
  - b. A trust-funded PFC sold to Mr. LB on August 10, 2009, for \$7,079.00.
  - c. An insurance-funded PFC sold to Mr. CDS on March 12, 2009, written on a Homesteaders Life Company form, for \$3,000.00.
  - d. Two matching insurance-funded PFCs sold to Mr. JHH and Mrs. BJH, written on Homesteaders Life Company forms, for \$3056.50 each.
6. None of the trust-funded PFCs described in paragraph 5 appear in Respondents' accounting records as required by Texas Finance Code §§ 154.264 & 154.053, and 7 TAC § 25.11. Money collected for the trust-funded PFCs was not properly placed in trust as required by Texas Finance Code § 154.253, and money collected as premiums for the insurance-funded PFCs was not paid to Homesteaders Life Company as required by Texas Finance Code § 154.203.
7. Irreparable harm is threatened to one or more beneficiaries under a PFC because:
  - a. Respondents have written at least three trust-funded PFCs that they have hidden from the DOB examiners and for which money was not properly handled, and at least three

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<sup>1</sup> The purchasers of all PFCs are referred to here by initials only to preserve privacy.

insurance-funded PFCs which were not forwarded to an insurance company and for which premiums were not paid to an insurance company;

- b. records relating to PFCs that have not been tendered to the DOB for examination may evidence further misappropriation of money entrusted to Respondents, or reveal further violations of law, and based on the DOB's experience in past cases, when a person has written multiple PFCs without complying with the laws governing PFCs, more illegal contracts come to light;
- c. the records and contracts may be removed or destroyed; and
- d. money that should have been deposited in trust for PFC beneficiaries or forwarded to an insurance company as insurance premiums may be removed or converted.

## **II. Conclusions**

- 8. 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.
- 9. The Commissioner finds by credible evidence that Respondents have violated Texas Finance Code § 154.159 by not properly administering money received for PFCs as prescribed by Finance Code §§ 154.253 and 154.203. The Commissioner further finds that Respondent Kevin Keeney, as the designated agent of Howell-Doran Funeral Home, violated § 154.160 by not properly depositing money collected for PFCs
- 10. The Commissioner finds by credible evidence that Respondents have violated Texas Finance Code § 154.053 by failing to maintain proper records as required by 7 TAC § 25.11, and have violated Texas Finance Code § 154.264 by not maintaining accounting records showing funds deposited or invested in relation to the trust-funded contracts listed in paragraph 5 above.
- 11. 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.

12. 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 7 above, the Commissioner finds that such harm is threatened.
13. 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 failed to deposit or remit money in accordance with the requirements of Chapter 154. The Commissioner finds that Respondents have so failed to deposit or remit money.
14. 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 7 the Commissioner finds that such harm is threatened.

### **III. Order**

In accordance with Texas Finance Code §§ 154.408 and 154.4081, Respondents are ORDERED to cease and desist from engaging in the sale of any PFCs.

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 Respondents that relate to the sale of PFCs, wherever they may be located, held, or found;
2. Howell-Doran Funeral Home, Inc., through its officers, directors, or employees, shall immediately gather and surrender to the Texas Department of Banking all contracts and other records relating to the sale of PFCs;
3. Arrowhead Bank shall immediately freeze and allow the Texas Department of Banking to take possession of all accounts bearing the name of Howell-Doran Funeral Home or Howell-Doran Funeral Home, Inc., including all certificates of deposit bearing these names;
4. City National Bank shall immediately freeze and allow the Texas Department of Banking to take possession of all accounts bearing the name of Howell-Doran Funeral Home or Howell-Doran Funeral Home, Inc., including all certificates of deposit bearing these names; and

5. Any other financial institution holding funds bearing the name of Howell-Doran 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), Respondents have the right to request in writing a hearing to show that the emergency order should be stayed.

#### **VI. Service**

This Order will be served on Kevin Keeney and Margie Keeney via personal service and via certified mail, return receipt requested, and on Howell-Doran Funeral Home, Inc. via personal service on its President, Vice President, or registered agent, and via certified mail, return receipt requested.

Signed on this 28th day of June, 2011.

/s/ Charles G. Cooper  
Charles G. Cooper  
Texas Banking Commissioner