

ORDER NO. 2012-010

IN THE MATTER OF:	§	BEFORE THE BANKING
	§	
TYLER ESSER, INDIVIDUALLY	§	
AND AS OWNER OF ALL FAITHS	§	
FUNERAL SERVICES OF HOUSTON	§	
AND	§	COMMISSIONER OF TEXAS
FRED ESSER, INDIVIDUALLY	§	
AND AS GENERAL MANAGER	§	
OF ALL FAITHS FUNERAL SERVICES	§	
OF HOUSTON	§	
	§	
HOUSTON, TEXAS	§	AUSTIN, TRAVIS COUNTY, TEXAS

ORDER TO CEASE AND DESIST ACTIVITY AND PAY RESTITUTION

On this day, the matter of Tyler Esser, individually and as owner of All Faiths Funeral Services of Houston, and Fred Esser, individually and as General Manager of All Faiths Funeral Services of Houston, Houston, Texas (Respondents), was submitted to the Banking Commissioner of the State of Texas (Commissioner) for consideration and action.

I. Findings

1. Respondent, Tyler Esser, is the owner of and does business as All Faiths Funeral Services of Houston, Houston, Texas.
2. Respondent, Fred Esser, is the General Manager of All Faiths Funeral Services of Houston, Houston, Texas.
3. All Faiths Funeral Services of Houston has never held a permit required by Texas Finance Code § 154.101 to sell prepaid funeral benefits contracts (PFBCs).
4. On April 16, 2012, the Texas Department of Banking (Department) received a complaint letter from GEJ¹ GEJ stated that he purchased a PFBC for his brother, ECJ, on or about September 29, 2011, in the amount of \$1,295.00 from All Faiths Funeral Services of Houston.
5. Respondent, Fred Esser, signed and sold a PFBC to GEJ using an at-need contract form.
6. Since the purchase of the PFBC, ECJ moved to Kerrville, Texas, which prompted GEJ to cancel the PFBC and request a refund of funds paid to All Faiths Funeral Services of Houston.

¹ The Department does not state the full names of PFBC purchasers to protect the privacy of the purchaser.

7. Respondent, Fred Esser, acknowledged GEJ's cancellation request on March 27, 2012.
8. Respondents have not refunded GEJ's \$1,295.00.
9. Documents obtained from Respondents by the Texas Funeral Services Commission reveal that Respondent, Fred Esser, signed and sold a PFBC to GA, on or about April 22, 2011, in the amount of \$1,295.00.
10. On or about May 1, 2012, the Respondents notified the Texas Funeral Services Commission that they are going out of business in May, 2012.

II. Conclusions

11. 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 PFBCs, including a violation of Chapter 154, or a final order of the Commissioner, or a rule of the Finance Commission.
12. The Commissioner finds by credible evidence that Respondents have violated Texas Finance Code § 154.101 by selling prepaid funeral benefits and accepting money for prepaid funeral benefits under a contract without having a permit issued under Texas Finance Code Chapter 154.
13. The Commissioner finds by credible evidence that Respondents have violated Texas Finance Code § 154.159 by not properly administering money received for a PFBC as prescribed by Texas Finance Code §§ 154.253 and 154.203 and not honoring a refund request.
14. The Commissioner finds these violations constitute sufficient cause for issuance of an order to cease and desist from selling PFBCs under Texas Finance Code § 154.408.
15. The Commissioner is authorized by Texas Finance Code § 154.411 to issue an order requiring restitution of funds paid for the purchase of a PFBC that were not properly handled in accordance with Texas Finance Code Chapter 154.

III. Order

In accordance with Texas Finance Code Chapter 154, § 154.408, Respondents are ORDERED to cease and desist from engaging in the sale of any prepaid funeral benefits contracts without proper authorization under Texas Finance Code Chapter 154, and, in accordance with Texas Finance

Code Chapter 154, § 154.411, to immediately pay restitution in the amount of \$1,295.00 to GEJ, and to immediately pay restitution in the amount of \$1,295.00 to GA.

In accordance with Texas Finance Code § 154.411, the following is hereby further ORDERED:

1. Respondents shall gather and surrender to the Texas Department of Banking, within ten days of the date this order is signed, all prepaid contracts and other records relating to the sale by Respondents of prepaid funeral benefits that were not sold and funded through an entity licensed by the Department.
2. Respondents shall inform the Texas Department of Banking, within ten days of the date this order is signed, of the location and identifying information of all accounts in which prepaid funeral funds, including earnings, may be held.

It is further Ordered that an administrative hearing be scheduled in this matter to determine the appropriate amount of restitution and administrative penalties, if any, to be assessed against Respondents pursuant to Texas Finance Code Chapter 154, §§ 154.406 and 154.411.

IV. Effective Date

Pursuant to Texas Finance Code § 154.408(b), this Order to Cease and Desist Activity and Pay Restitution will take effect on May 30, 2012 (which is the 16th day after the date this Order was mailed to Respondents), unless on or before May 29, 2012 Respondents request, in writing, a hearing pursuant to § 154.408(d), (which is the 15th day after the date this Order was mailed).

V. Service

This Order will be served on Tyler Esser and Fred Esser of All Faiths Funeral Services of Houston, Houston, Texas, via certified mail, return receipt requested, sent on May 11, 2012, to the following address:

All Faiths Funeral Services of Houston
9034 Long Point Road
Houston, Texas 77055

Signed this 10th day of May, 2012.

/s/ Stephanie Newberg
Stephanie Newberg
Deputy Commissioner