

ORDER NO. 2012-043

IN THE MATTER OF:	§	BEFORE THE BANKING
	§	
PARKLAWN MEMORIAL GARDENS, INC.	§	
(CERTIFICATE OF AUTHORITY NO. 148)	§	
AND	§	COMMISSIONER OF TEXAS
MATTHEW L. GREGORY, GABRIEL R.	§	
GONZALES, AND STEVEN R. POND,	§	
CO-OWNERS	§	
	§	
PLAINVIEW, TEXAS	§	AUSTIN, TRAVIS COUNTY, TEXAS

AGREED ORDER

On this day, came on for consideration by Texas Banking Commissioner Charles G. Cooper (“Commissioner”) the matter involving Parklawn Memorial Gardens, Inc. located in Plainview, Texas, and Matthew L. Gregory, Gabriel R. Gonzales, and Steven R. Pond, co-owners of Parklawn Memorial Gardens, Inc. (“Respondents”). This matter concerns Respondents’ violation of state law by: operating a perpetual care cemetery (“PCC”) without a certificate of authority; failing to keep specific records and to make those records available for examination; failing to submit an annual renewal report; failing to provide an Annual Statement of Funds; failing to make all required deposits in a timely manner; failing to meet minimum capital requirements; failing to notify the Texas Department of Banking (“Department”) in writing regarding a change in ownership; and failing to place a specific notice on the corporate website to assist consumers seeking to file a complaint with the Department. Assistant General Counsel Robert Giddings represents the Department. Respondents represent themselves.

1. Respondents and the Department jointly request the Commissioner to dispose of this matter pursuant to the provisions of Texas Government Code § 2001.056 by entering this Agreed Order (“Order”). Respondents and the Department stipulate to the facts stated in this Order.
2. Respondents acknowledge that the Commissioner has jurisdiction over this matter pursuant to Texas Health and Safety Code Chapter 712.
3. Respondent, Parklawn Memorial Gardens, Inc. was examined by the Department commencing May 16, 2012. A Report of Examination (“ROE”) was issued on June 20, 2012, notifying Respondents of the violations. The Respondents failed to correct the violations as required. The Commissioner issued an Order to Cease and Desist Activity, Order No. 2012-031, on

September 17, 2012. Respondents filed a notice of appeal. The Department has conducted an examination of Respondents' cemetery records and verified that the violations documented in Order No. 2012-031 have been corrected.

4. The Commissioner has the authority to issue this Agreed Order and to assess penalties pursuant to § 712.0441, Texas Health and Safety Code. The imposition of an administrative penalty is appropriate and reasonable given the seriousness of the violations.
5. Any violation of this Order could subject Respondents to additional regulatory or enforcement actions authorized by the Texas Health and Safety Code, Chapter 712. Nothing in this Order diminishes the regulatory or enforcement powers of the Department or the Commissioner under the Texas Health and Safety Code, the Texas Finance Code, or other applicable law.
6. For purposes of this proceeding, Respondents knowingly and voluntarily waive:
 - a. Service upon Respondents of this Agreed Order;
 - b. The right to present defenses to the allegations described herein;
 - c. Notice and hearing prior to imposition of the administrative penalties or an order to cease and desist as agreed upon in this Agreed 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; and,
 - g. Judicial review of this Agreed Order as provided by Texas Government Code §§ 2001.171 et seq. and any other challenge to the validity of this Agreed Order.
7. Respondents agree to pay an administrative penalty for the delay in creating and furnishing required documents and records to the Department.
8. Respondents agree to operate the PCC with a valid certificate of authority from the Department and to timely comply with the statutory requirements for the operation of a perpetual care cemetery as set forth in the Texas Health and Safety Code, Chapters 711 and 712, and the administrative rules contained in Title 7 Texas Administrative Code.
9. Respondents and the Department agree to the factual findings, legal conclusions, and terms and conditions of this Order.

ORDER

It is hereby ORDERED, ADJUDGED, and DECREED that

1. The outstanding violations documented in Order No. 2012-031 have been resolved or corrected to the satisfaction of the Department and Order No. 2012-031 is hereby withdrawn.
2. Respondents shall timely comply with the statutory requirements for the operation of a perpetual care cemetery as set forth in the Texas Health and Safety Code, Chapters 711 and 712, and administrative rules contained in Title 7 Texas Administrative Code, and all other applicable statutes and rules.
3. Respondents shall pay the administrative penalty amount of \$2,000.00 to the Department immediately upon the execution of this Order.
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 Respondents that come to the attention of the Department.
5. This Order against Respondents is effective on the date signed by the Commissioner, and in accordance with its terms, Respondents may not appeal.

Signed in Austin, Texas, on this 13th day of December, 2012.

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

AGREED AND APPROVED AS TO FORM AND SUBSTANCE:

Parklawn Memorial Gardens, Inc.

/s/Matthew L. Gregory

Matthew L. Gregory

Title: President

Date: December 5, 2012

State of Texas §

§

County of Hale §

Sworn to and subscribed before me on the 5th day of December, by Matthew L. Gregory.

/s/ Victoria Salazar

Notary Public's signature

Parklawn Memorial Gardens, Inc.

/s/Gabriel R. Gonzales
Gabriel R. Gonzales
Title: Secretary/Treasurer
Date: December 5, 2012

State of Texas §
 §
County of Hale §

Sworn to and subscribed before me on the 5th day of December, by Gabriel R. Gonzales.

/s/ Victoria Salazar
Notary Public's signature

Parklawn Memorial Gardens, Inc.

/s/Steven R. Pond
Steven R. Pond
Title: Vice-President
Date: December 5, 2012

State of Texas §
 §
County of Hale §

Sworn to and subscribed before me on the 5th day of December, by Steven R. Pond.

/s/ Victoria Salazar
Notary Public's signature

APPROVED AS TO FORM:

/s/ Robert Giddings
Robert Giddings
Assistant General Counsel
Texas Department of Banking

December 10, 2012
Date