

ORDER NO. 2015-020a

IN THE MATTER OF:	§	BEFORE:
	§	
EL PASO MISSION	§	THE BANKING COMMISSIONER
FUNERAL HOME, INC., AND	§	OF TEXAS
	§	
LINA LUCIA RUEDAS,	§	
INDIVIDUALLY AND AS PRESIDENT,	§	
SECRETARY, TREASURER, AND	§	
SOLE SHAREHOLDER	§	AUSTIN, TRAVIS COUNTY, TEXAS

AGREED ORDER

On this day, the matter of El Paso Mission Funeral Home, Inc., located in El Paso, Texas, and owner, President, Secretary, and Treasurer Lina Lucia Ruedas (Respondents), was submitted to the Banking Commissioner of the State of Texas (Commissioner) for consideration and action. This matter concerns payment of restitution by and assessment of administrative penalties against Respondents relating to violations of Texas Finance Code Chapter 154 as described below. In lieu of the scheduled hearing, the Texas Department of Banking (Department) and Respondents wish to enter an agreement regarding the restitution, penalties, and other terms as provided in this Order.

1. Respondents and the Department jointly request the Commissioner to dispose of this matter pursuant to the provisions of *Government Code* § 2001.056 by issuing this Agreed Order. Respondents and the Department agree to comply with the terms of this Agreed Order without Respondents admitting or denying any of the findings described below.
2. Respondents acknowledge that the Commissioner has jurisdiction over this matter pursuant to *Texas Finance Code* Chapter 154 and *Government Code* §§ 2001.171 *et seq.*, and that the Commissioner has the authority to issue this Agreed Order under *Government Code* § 2001.056.
3. El Paso Mission Funeral Home, Inc., (Funeral Home) held permit number 606 to sell trust-funded prepaid funeral contracts (PFCs). The Funeral Home is operated by: Lina Lucia Ruedas, owner, President, and Secretary; Francisco X. Ruedas, Vice President; and Antonio A. Ruedas, Jr., Funeral Director. It is owned 100% by Lina Lucia Ruedas.
4. On November 6, 2014, the Department 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 Respondents. The consumers had neither requested nor received the refunds. Since that time the Department has received numerous similar complaints from other consumers.

5. Since November, 2014, the Department has cooperated and assisted EPSD regarding an ongoing investigation of the Funeral Home. In the course of this investigation, EPSD seized substantially all PFC records, and interviewed and obtained written statements from purchasers of PFCs. The investigation revealed numerous other falsely canceled PFCs.
6. On September 14, 2015, the Commissioner issued Order No. 2015-020, *Emergency Order to Cease and Desist Activity, to Seize Records and Funds, and to Cancel a Permit*. Order No. 2015-020 became final and unappealable on November 15, 2015.
7. Based on the Department's on-site investigation as well as the evidence gathered by EPSD, the Department has identified 127 PFCs (attached as Exhibit A) that Respondents canceled fraudulently. The purchasers of these PFCs never requested cancellation of their contracts, never signed any forms for cancellation, and have never received a refund. However, the records obtained by the Department show that these PFCs had been canceled and the associated funds withdrawn from the trust account. Specifically, Respondents withdrew \$86,821.90 of principal and \$203,422.20 of interest. Respondents agree to pay restitution for the total amount of \$290,244.10 according to the terms described in Paragraph 10 below.
8. In addition to restitution, the Commissioner has determined that given the nature of the violations of *Texas Finance Code* Chapter 154 in this matter, an administrative penalty is appropriate. By not properly administering money received for PFCs as prescribed by *Texas Finance Code* Chapter 154 Subchapter F and *Texas Finance Code* § 154.155, Respondents violated *Texas Finance Code* § 154.159 with respect to each of the 127 contracts described above.
9. *Texas Finance Code* § 154.406 authorizes the Commissioner to assess administrative penalties for each of the 127 violations, up to a maximum of \$1,000 per violation, per day the violation continued. The parties agree that although the maximum amount authorized by statute would be many times greater, the imposition of an administrative penalty against Respondents of \$127,000.00 is appropriate and reasonable given the nature of the

violations at issue. However, if certain conditions are met, the penalty may be decreased. The conditions and payment terms are described in Paragraph 11 below.

10. Respondents agree to pay \$290,244.10 in restitution according to the following terms.
 - a. Within sixty days of the effective date of this Agreed Order, Respondents shall pay \$10,000.00.
 - b. Beginning three months after the first payment described in Subparagraph 10.a. is due, Respondents shall pay at least \$8,757.69 each quarter until the total amount of restitution is paid.
 - c. The payments required in this Paragraph represent minimum amounts due. Respondents may make greater or more frequent payments.
 - d. Respondents assert that they may have performed services or refunded money to some of the purchasers of the 127 PFCs described in Paragraph 7. Additionally, in the future, purchasers of these PFCs may prefer performance of their contracts by Respondents rather than a refund. In such cases, provided that Respondents can demonstrate to the satisfaction of the Commissioner that they have issued a full refund of all principal and interest, or have performed the services required by the PFC, or have in any alternative way made the purchaser whole such that restitution is no longer required, the total amount of restitution required under this Order shall be decreased accordingly.
 - e. Failure to pay the minimum amount due within thirty days of any due date constitutes a violation of this Order. In the event of such a violation of this Order, all remaining restitution and the penalty amount becomes immediately due.
11. Respondents agree to pay a penalty of \$127,000 that may be decreased if Respondents complete payment of the restitution required in Paragraph 10 in less than the prescribed time. The penalty shall only be due after all restitution has been paid.
 - a. **Payment Within Three Years:** If Respondents complete payment of all restitution on or before the third anniversary of the effective date of this Order, the administrative penalty shall be \$50,000, and must be paid within two years.

- b. **Payment Within Seven Years:** For each year thereafter up to the seventh anniversary of this Order, the penalty shall increase by \$11,000, and the payment term shall increase by one year.
 - c. **Payment In More Than Seven Years:** If the payment of restitution is not completed within seven years, the administrative penalty shall be \$127,000, and must be paid within seven years.
 - d. At a minimum, the penalty shall be paid in equal quarterly installments beginning three months after the final restitution payment is made. Respondents may make greater or more frequent payments.
- 12. Any violation of this Order could subject Respondents to additional regulatory or enforcement actions. Nothing in this Order diminishes the regulatory or enforcement powers of the Department, the Commissioner, or the Finance Commission of Texas. Nothing in this Order restricts the Department from using the facts of this matter, or other past matters that may come to light in the future, to establish a pattern or practice of repeated violations of law in future proceedings.
- 13. Respondents have been notified of the right to a hearing on the matter of administrative penalties under *Texas Finance Code* § 154.406, and on the matter of restitution under *Texas Finance Code* § 154.411.
- 14. For purposes of this proceeding, Respondents knowingly and voluntarily waive:
 - a. service upon Respondents of this Agreed Order;
 - b. notice and hearing prior to imposition of an administrative penalty;
 - c. notice and hearing prior to an order of restitution; and
 - d. review of this Agreed Order by the Texas Finance Commission, or judicial review of this Agreed Order as provided by *Government Code* §§ 2001.171 et seq., and any other challenge to the validity of this Order.
- 15. Respondents and the Department agree to the terms of this Agreed Order solely for the purpose of this proceeding, and without Respondents admitting or denying any violations of law or regulations. Nothing in this instrument shall be construed as an admission of liability or a violation of law or regulations by Respondents. By agreeing to the monetary terms of this instrument, Respondents seek merely to avoid additional litigation and buy their peace.
- 16. This Order is effective on the date signed by the Commissioner.

ORDER

WHEREFORE, based on the foregoing, the Commissioner ORDERS that this matter is resolved in accordance with the provisions listed above.

Signed on this 3rd day of May, 2016.

/s/ Stephanie Newberg for
Charles G. Cooper
Texas Banking Commissioner

AGREED AND APPROVED AS TO FORM AND SUBSTANCE ON BEHALF OF EL PASO MISSION FUNERAL HOME, INC.:

Lina L. Ruedas – President
Name & Title
Date: April 28, 2016

/s/ Lina L. Ruedas
Signature

AGREED AND APPROVED AS TO FORM AND SUBSTANCE:

/s/ Lina L. Ruedas
Lina Lucia Ruedas
Date: April 28, 2016

State of Texas ()
County of El Paso ()

Sworn to and subscribed before me on the 28th day of April, 2016, by Lina Lucia Ruedas.

/s/ Vanessa Marie Rocha
Notary Public's signature

APPROVED AS TO FORM:

/s/ Daniel Wood
Daniel Wood
Assistant General Counsel
Texas Department of Banking
State Bar # 24070876
Date: May 2, 2016

/s/ James Martinez
James Martinez
Attorney for Respondent
Date: May 2, 2016

EXHIBIT A

Name	Contract Number	Principal	Interest	Total	Withdrawal Date
R.A.	65	\$420.00	\$1,295.27	\$1,715.27	11/16/2012
B.A.	2	\$536.00	\$1,652.78	\$2,188.78	11/16/2012
A.A.	460	\$139.50	\$430.12	\$569.62	11/16/2012
M.A.	A137	\$1,060.00	\$2,599.10	\$3,659.10	2/2/2010
T.A.	848	\$90.00	\$86.82	\$176.82	10/3/2012
P.A.	203	\$544.50	\$1,554.95	\$2,099.45	12/30/2011
N.B.	253	\$828.00	\$2,287.46	\$3,115.46	5/31/2011
L.B.	120	\$1,310.00	\$4,122.38	\$5,432.38	4/18/2013
C.C.	184	\$540.00	\$1,528.14	\$2,068.14	9/12/2011
E.C.	638	\$1,179.00	\$2,753.71	\$3,932.71	10/24/2011
H.C.	183	\$1,054.70	\$1,674.30	\$2,729.00	6/8/2012
R.C.	675	\$2,160.90	\$3,431.84	\$5,592.74	1/29/2013
M.C.	84	\$495.00	\$840.01	\$1,335.01	2/8/2011
G.C.	747	\$281.90	\$303.35	\$585.25	8/21/2012
S.C.	A015	\$1,463.00	\$3,652.86	\$5,115.86	1/26/2011
V.C.	420	\$1,292.00	\$1,204.22	\$2,496.22	5/31/2012
A.C.	693	\$578.70	\$796.18	\$1,374.88	7/25/2012
G.C.	600	\$540.00	\$1,146.26	\$1,686.26	6/14/2012
C.D.	A160	\$450.00	\$1,258.79	\$1,708.79	10/3/2012
R.D.	610	\$823.00	\$1,017.17	\$1,840.17	8/27/2012
T.D.	A042	\$40.00	\$102.90	\$142.90	10/11/2011
C.S.D.	A124	\$1,210.00	\$3,127.23	\$4,337.23	10/11/2011
L.D.	106	\$708.00	\$1,985.96	\$2,693.96	12/27/2012
M.D.	155	\$150.00	\$405.87	\$555.87	6/13/2012
G.D.	27	\$800.00	\$2,242.49	\$3,042.49	6/15/2011
D.D.	23	\$730.00	\$2,475.92	\$3,205.92	1/30/2014
J.D.	17	\$1,240.00	\$3,175.54	\$4,415.54	9/1/2011
B.D.	677	\$1,211.50	\$1,358.60	\$2,570.10	11/2/2012
M.D.	A133	\$1,060.00	\$3,625.86	\$4,685.86	1/30/2014
C.D.	863	\$95.00	\$85.77	\$180.77	2/2/2012
C.E.	26	\$540.00	\$1,492.04	\$2,032.04	5/31/2011
O.E.	2	\$625.00	\$1,487.74	\$2,112.74	2/1/2010
G.E.	31	\$800.00	\$2,886.58	\$3,686.58	8/30/2013
E.E.	A058	\$840.00	\$2,902.52	\$3,742.52	3/7/2014
J.E.	131	\$75.00	\$192.92	\$267.92	10/11/2011
M.F.	A048	\$953.00	\$2,427.50	\$3,380.50	7/22/2011
M.F.	422	\$765.00	\$2,759.83	\$3,524.83	8/27/2013
G.G.	838	\$163.00	\$154.60	\$317.60	8/27/2012
R.G.	404	\$834.30	\$2,443.23	\$3,277.53	4/13/2012
G.G.	A049	\$953.00	\$2,409.44	\$3,362.44	6/21/2011
E.G.	371	\$428.40	\$1,217.44	\$1,645.84	10/24/2011
E.G.	162	\$955.00	\$3,359.21	\$4,314.21	5/19/2014
M.M.H.	680	\$585.00	\$745.88	\$1,330.88	10/17/2011
M.H.	112	\$792.00	\$2,250.83	\$3,042.83	10/31/2011

Name	Contract Number	Principal	Interest	Total	Withdrawal Date
M.H.	102	\$750.50	\$2,009.16	\$2,759.66	3/6/2012
R.H.	163	\$80.00	\$206.77	\$286.77	10/24/2011
A.H.	795	\$1,681.20	\$2,169.82	\$3,851.02	1/30/2014
M.H.	A008	\$245.00	\$622.34	\$867.34	7/25/2011
D.H.	157B	\$699.00	\$2,047.13	\$2,746.13	4/30/2012
A.H.	295	\$928.80	\$3,238.94	\$4,167.74	5/9/2013
V.J.	816	\$354.20	\$359.87	\$714.07	10/3/2012
M.L.	A016	\$953.00	\$2,420.85	\$3,373.85	7/22/2011
R.L.	740	\$100.00	\$110.47	\$210.47	8/27/2012
J.L.	A039	\$635.00	\$1,717.04	\$2,352.04	10/12/2012
J.L.	52	\$295.00	\$744.83	\$1,039.83	5/27/2011
R.M.	26	\$10.00	\$27.11	\$37.11	11/2/2012
C.M.	90	\$615.00	\$2,145.13	\$2,760.13	5/28/2013
E.M.	12	\$387.00	\$1,148.66	\$1,535.66	8/17/2012
L.M.	566	\$1,032.50	\$2,523.81	\$3,556.31	7/25/2012
T.M.	98	\$1,028.00	\$2,719.22	\$3,747.22	1/27/2012
D.M.	570	\$1,555.50	\$2,259.68	\$3,815.18	2/7/2012
G.M.	153	\$40.00	\$108.60	\$148.60	10/25/2012
J.P.M.	865	\$1,270.00	\$1,111.05	\$2,381.05	10/27/2011
M.M.	110	\$725.00	\$2,253.22	\$2,978.22	12/27/2012
J.M.	428	\$928.80	\$2,558.54	\$3,487.34	4/15/2011
J.M.	560	\$753.70	\$1,245.20	\$1,998.90	8/21/2012
V.M.	38	\$80.00	\$217.34	\$297.34	10/25/2012
O.M.	603		\$2,997.62	\$2,997.62	9/12/2013
S.M.	632	\$1,615.50	\$2,063.17	\$3,678.67	8/29/2011
Y.M.	633	\$1,615.50	\$2,063.17	\$3,678.67	8/29/2011
P.M.	A011	\$270.00	\$694.87	\$964.87	9/12/2011
E.M.	496	\$522.00	\$875.51	\$1,397.51	5/28/2013
J.M.	480	\$1,278.00	\$3,843.06	\$5,121.06	8/17/2012
M.M.	443	\$55.50	\$167.28	\$222.78	8/15/2012
R.M.	481	\$1,278.00	\$3,840.35	\$5,118.35	8/17/2012
C.N.	867	\$234.50	\$206.89	\$441.39	10/24/2011
F.P.	A-1	\$1,500.00	\$3,747.38	\$5,247.38	1/28/2011
C.P.	112	\$500.00	\$1,190.25	\$1,690.25	2/2/2010
R.V.P.	807	\$1,755.30	\$2,064.07	\$3,819.37	1/17/2014
J.P.	A020	\$953.00	\$3,351.84	\$4,304.84	5/23/2014
M.L.P.	662	\$1,167.30	\$1,671.96	\$2,839.26	3/6/2012
J.P.	70	\$30.00	\$80.94	\$110.94	10/12/2012
J.P.	636		\$2,570.34	\$2,570.34	5/23/2014
B.R.	477	\$871.20	\$3,143.57	\$4,014.77	9/12/2013
F.R.	161	\$50.00	\$135.80	\$185.80	10/11/2012
T.R.	194	\$101.00	\$311.60	\$412.60	11/16/2012
S.R.	518	\$585.00	\$2,063.05	\$2,648.05	4/17/2013
C.R.	338	\$319.50	\$960.23	\$1,279.73	8/15/2012
M.R.	12	\$400.00	\$1,406.97	\$1,806.97	5/22/2014
M.R.	857	\$1,636.00	\$1,787.07	\$3,423.07	1/29/2013

Name	Contract Number	Principal	Interest	Total	Withdrawal Date
M.R.	854	\$1,636.00	\$1,783.05	\$3,419.05	1/29/2013
M.R.	855	\$1,636.00	\$1,780.17	\$3,416.17	1/29/2013
M.R.	856	\$1,636.00	\$1,782.90	\$3,418.90	1/29/2013
C.R.	642	\$511.90	\$675.33	\$1,187.23	8/27/2012
S.R.	A051	\$125.00	\$297.37	\$422.37	1/18/2010
L.R.	380	\$765.00	\$2,793.81	\$3,558.81	10/25/2013
M.R.	9	\$395.00	\$940.06	\$1,335.06	1/29/2010
S.R.	100	\$712.80	\$2,607.67	\$3,320.47	10/25/2013
J.S.R.	147	\$150.00	\$405.69	\$555.69	10/12/2012
M.R.	777	\$1,200.60	\$1,567.48	\$2,768.08	5/9/2013
E.R.	89	\$20.00	\$51.21	\$71.21	9/1/2011
R.R.	A032A	\$423.00	\$1,083.18	\$1,506.18	9/1/2011
R.R.	659	\$1,382.00	\$1,815.61	\$3,197.61	3/16/2011
R.R.	A031	\$10.00	\$26.99	\$36.99	10/12/2012
J.R.	803	\$312.20	\$438.52	\$750.72	3/5/2014
N.R.	488	\$859.50	\$2,366.26	\$3,225.76	3/16/2011
R.R.	A006	\$20.00	\$54.31	\$74.31	11/2/2012
E.S.	163	\$172.50	\$487.43	\$659.93	8/25/2011
J.S.	A023	\$40.00	\$101.56	\$141.56	7/25/2011
C.S.	233	\$981.00	\$2,787.89	\$3,768.89	10/24/2011
G.S.	234	\$981.00	\$2,787.89	\$3,768.89	10/24/2011
M.S.	128	\$500.00	\$1,352.16	\$1,852.16	10/12/2012
V.S.	96	\$550.00	\$2,329.50	\$2,879.50	1/15/2014
Y.S.	97	\$550.00	\$2,332.82	\$2,882.82	1/15/2014
R.S.	845	\$450.00	\$398.18	\$848.18	7/27/2011
M.R.S.	620	\$970.20	\$2,270.98	\$3,241.18	3/6/2012
E.S.	142	\$378.00	\$1,040.50	\$1,418.50	3/16/2011
C.S.	A041	\$125.00	\$337.60	\$462.60	5/31/2012
R.S.	90	\$40.00	\$108.11	\$148.11	10/12/2012
P.M.S.	396	\$10.00	\$42.14	\$52.14	3/5/2014
R.T.	140	\$90.00	\$243.33	\$333.33	10/12/2012
E.T.	614	\$675.00	\$1,910.14	\$2,585.14	9/12/2013
A.T.	575	\$92.50	\$231.74	\$324.24	10/5/2012
R.T.	13	\$955.00	\$2,678.84	\$3,633.84	1/4/2013
A.V.	502	\$704.70	\$2,407.30	\$3,112.00	10/25/2013
A.V.	663	\$1,490.50	\$2,632.78	\$4,123.28	1/17/2014
M.D.V.	323	\$1,047.60	\$2,318.32	\$3,365.92	12/16/2011