

**ORDER NO. 2020-003**

<b>IN THE MATTER OF:</b>	§	<b>BEFORE THE BANKING</b>
	§	
<b>R&amp;I HAWKINS ENTERPRISES, INC.</b>	§	
<b>D/B/A HAWKINS FUNERAL HOME</b>	§	<b>COMMISSIONER OF TEXAS</b>
	§	
	§	
<b>WESLACO, TEXAS</b>	§	<b>AUSTIN, TRAVIS COUNTY, TEXAS</b>

**CONSENT ORDER**

On this day, the matter of R&I Hawkins Enterprises, Inc. d/b/a Hawkins Funeral Home (Hawkins) located in Weslaco, Texas, was submitted to me, Charles G. Cooper, Banking Commissioner of the State of Texas (Commissioner), for consideration and action.

1. Hawkins is a Texas corporation with its principal office address listed as 2222 East Highway 83, Weslaco, Texas 78596.
2. Hawkins holds Permit No. 1058 from the Texas Department of Banking (Department) to maintain prepaid funeral benefits under *Texas Finance Code* (Finance Code) Chapter 154.
3. The Department has jurisdiction over Hawkins and the subject matter of this proceeding pursuant to Finance Code Chapter 154 (Chapter 154). The Commissioner has the authority to issue this Consent Order (Order) and to assess administrative penalties pursuant to Finance Code § 154.406.
4. Hawkins has been properly notified of its right to an administrative hearing under Chapter 154.
5. The statutory provisions at issue in this matter include Finance Code §§ 154.101, 154.102, 154.107, and 154.406.
6. Any violation of this Order could subject Hawkins 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.

7. For purposes of this proceeding, Hawkins knowingly and voluntarily waives:
  - a. service upon Hawkins 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; and
  - g. 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.
8. Hawkins agrees to this Order solely for the purpose of this proceeding, and without admitting or denying any violations of law or regulations. This Order does not constitute an admission by Hawkins that Chapter 154 or a rule adopted, or order issued under Chapter 154 has been violated.
9. The Commissioner has considered the matter and finds as follows:
  - a. On June 4, 2019, the Department provided Hawkins with written notice that: 1) its Prepaid Funeral Benefits Contract (PFC) permit had expired on June 1, 2019, and 2) the Department had not received Hawkins' 2019 Prepaid Funeral Benefits Contract Permit Renewal Application (2019 Renewal), as required to be filed under Finance Code §§ 154.101 and 154.107.

- b. Also, on June 4, 2019, the Department provided Hawkins with written notice that, absent an urgent situation, the Department would refrain from taking an enforcement action against Hawkins if it submitted its 2019 Renewal by July 5, 2019.
- c. On July 2, 2019, the Department again notified Hawkins that it had still not received the now past-due 2019 Renewal and reminded it of the July 5, 2019 deadline.
- d. On August 29, 2019, the Department notified Hawkins in writing that:
  - i. it had yet to receive its 2019 Renewal;
  - ii. Hawkins' corporate charter with the Texas Secretary of State had been forfeited and Hawkins was no longer an existing Texas legal entity;
  - iii. the Department can only renew permits of existing legal entities; thus Hawkins must reinstate its corporate charter in order to renew its permit; and
  - iv. its failure to file its 2019 Renewal and reinstate its corporate charter by September 20, 2019 could result in the commencement of a legal action in which the Department may seek to impose administrative penalties.
- e. Subsequently, on September 12, 2019, Hawkins submitted its 2019 Renewal – more than three (3) months after it was due.
- f. Hawkins, however, failed to reinstate its corporate charter with the Texas Secretary of State until November 21, 2019.
- g. In sum, Hawkins was over five (5) months late in taking all necessary actions to renew its PFC permit.
- h. Under Finance Code § 154.107, a seller of prepaid funeral contracts that has outstanding contracts must renew its permit until the contracts are fully discharged. Because Hawkins submitted its 2019 Renewal to the Department over three (3) months

past due and reinstated its corporate charter more than five (5) months after its permit expired, Hawkins violated Finance Code § 154.107.

- i. In prior examinations, the Department had noted unrelated repeat violations by Hawkins, such as consecutive violations of Title 7 Texas Administrative Code § 25.11(d)(2), for failure to produce copies of outstanding PFCs requested during examination.
- j. 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.
- k. As required by Finance Code § 154.406(c), the Commissioner has considered the seriousness of the violation, Hawkins' good faith in attempting to comply with Chapter 154, and Hawkins' compliance history.
- l. The Commissioner finds that Hawkins' extensive delay in submitting the 2019 Renewal is a moderately severe violation and evidences Hawkins' intentional violation of Chapter 154.
- m. The Commissioner also finds that Hawkins' failure to timely correct such violation, together with its prior history of consecutive, unrelated violations, evidences Hawkins' unsatisfactory compliance history.
- n. Based on these findings, the Commissioner has determined that a penalty of \$3,000 is appropriate.
- o. Hawkins agrees to pay this administrative penalty in three (3) \$1,000 installments, with the final payment to be made on or before April 10, 2020.

- p. Hawkins agrees to pay the monthly \$1,000 installment amount by wire transfer, money order, or cashier check, payable to the Texas Department of Banking on the 10th day of the month – with payments to be received by the Department on or before February 10, 2020, March 10, 2020, and April 10, 2020.
- q. Hawkins agrees that it is solely responsible for ensuring actual receipt by the Department of these installment payments by these dates, and payment in full of the total \$3,000 administrative penalty no later than April 10, 2020.
- r. If the total \$3,000 administrative penalty amount is not paid in full on or before April 10, 2020, this matter will be referred to the Office of the Attorney General for collection. The Office of the Attorney General shall pursue collection of the remaining administrative penalty, offset by any payments made by Hawkins.

### **ORDER**

It is hereby ORDERED, ADJUDGED and DECREED that:

1. Hawkins 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. Hawkins will pay \$3,000 to the Department as an administrative penalty under Finance Code § 154.406 for failing to timely submit its 2019 Renewal. This penalty shall be payable in accordance with the terms set forth in paragraph 9, sections (o) through (r) above.
3. 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 Hawkins that come to the attention of the Department. However, nothing herein shall be construed to limit Hawkins' right to contest any future finding or determination of non-compliance.

**EFFECTIVE DATE**

This Order against Hawkins is effective, final and nonappealable as of the date signed by the Commissioner. The provisions of this Order will remain effective and in force except in the event that, and until such time as, appropriate portions of this Order shall have been modified, terminated, suspended, or set aside in accordance with applicable law.

It is so ORDERED.

Signed on this 3rd day of February, 2020.

/s/ Charles G. Cooper \_\_\_\_\_  
Charles G. Cooper  
Banking Commissioner of the State of Texas

**AGREED AND APPROVED AS TO FORM AND SUBSTANCE:**

R&I Hawkins Enterprises, Inc.  
d/b/a Hawkins Funeral Home

/s/ Priscilla Hawkins  
Priscilla Hawkins,  
President and Director

Date: January 30, 2020

**APPROVED AS TO FORM:**

Texas Department of Banking

/s/ Cristina M. Nahidi  
Cristina M. Nahidi  
Deputy General Counsel

Date: January 30, 2020