

ORDER NO. 2021-003

IN THE MATTER OF:

§ BEFORE THE BANKING

ROBERT L. GREEN, SR.

**§
§
§ COMMISSIONER OF TEXAS**

BAY CITY, TEXAS

**§
§
§ AUSTIN, TRAVIS COUNTY, TEXAS**

ORDER TO CEASE AND DESIST ACTIVITY

On this day, the matter of Robert L. Green, Sr. of Bay City, Texas (“Respondent”) was submitted to me, Charles G. Cooper, Banking Commissioner of the State of Texas (“Commissioner”), for consideration and action.

I. Findings of Fact

- A. Respondent owned and operated Green's Mortuary located at 2702 Avenue C, Bay City, Texas 77414 (“Green’s”). After a diligent search of the records of the Texas Secretary of State, the Texas Department of Banking (“Department”) was unable to find any entity registered in the name of Green’s. Therefore, it appears that Respondent operated Green’s as a sole proprietor.
- B. The Department has never issued a permit to Green’s to sell trust-funded prepaid funeral contracts (“PFCs”).
- C. In November 2016, the Department received proof of an illegal PFC totaling \$7,462 sold by Green’s in August 2013. Upon being confronted about the illegal PFC, Respondent stated to the Department that the contract was written in response to a case of imminent death and the funeral services had been provided. Since the Department had no prior complaints against Green’s, the funeral services were provided, and the sale of the illegal PFC appeared to be an isolated incident, the Department provided Respondent with verbal and written warnings that Green’s was not to sell additional PFCs without the required permit.

- D. On December 2, 2019, the Texas Funeral Service Commission (“TFSC”) issued a Cease and Desist Order against Green’s for operating without a funeral director in charge. Shortly thereafter, on March 18, 2020, Respondent closed Green’s and sold the physical assets including the land and funeral home building. On May 31, 2020, the TFSC suspended Green’s license to operate in Texas.
- E. Since Green’s has been closed, the Department has received four complaints from Texas consumers regarding illegal PFCs sold by Green’s. The complaints include copies of signed contracts and payment receipts showing that Green’s sold four PFCs totaling \$17,924 without holding a current trust-funded permit with the Department, selling through a licensed third-party trust-funded permit holder, or selling through a licensed third-party insurance company.
- F. For each of the four illegal PFCs sold by Green’s, the Department sent Respondent a letter which requested a written response explaining how his business was conducted, restitution in the form of a cashier’s checks made payable to the purchaser of the illegal PFC, and copies of contracts with an itemization of funds received for all PFCs sold without the required permit. The letter also informed Respondent that, pursuant to Finance Code § 154.406, the Department could assess an administrative penalty against Respondent for Green’s illegal sales of PFCs. All letters were sent to Respondent’s home address via regular mail and certified mail, return receipt requested. The regular mail pieces were not returned and the Department received signed receipts for the certified mail pieces. The Department has not received a response from Respondent.

II. Conclusions of Law

- A. The Commissioner is authorized by Finance Code § 154.408(a) 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 Finance Code, Chapter 154.

B. The Department has credible evidence showing that Respondent violated Finance Code, Chapter 154 by selling PFCs without holding a current trust-funded permit with the Department, selling through a licensed third-party trust-funded permit holder, or selling through a licensed third-party insurance company. The Department attempted to resolve this matter with Respondent, but never received a response. Therefore, pursuant to Finance Code § 154.408(a), the Commissioner finds that Respondent’s violations establish sufficient cause for the issuance of an order against Respondent to cease and desist from selling PFCs.

III. Order

In accordance with Finance Code § 154.408(a), Respondent is hereby ORDERED to cease and desist from engaging in the solicitation and sale of PFCs, and the acceptance of related funds.

IV. Effective Date and Notice of Right to Hearing

Pursuant to Finance Code § 154.408(d), this Order to Cease and Desist Activity (“Order”) takes effect the 16th day after the date the Order is mailed unless Respondent requests a hearing not later than the 15th day after the date the Order is mailed.

V. Service

Pursuant to Finance Code § 154.408(c), this Order will be served by first class mail and certified mail, return receipt requested, to the following individual:

Robert L. Green, Sr.
1106 2nd Street
Bay City, Texas 77414

Signed on this 4th day of March 2021.

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