

**ORDER NO. 2014-016**

IN THE MATTER OF:	§	BEFORE THE BANKING
	§	
BELINDA NEEL ALLEE AND	§	
JAMES R. ALLEE, FORMER	§	
OWNERS OF CALLAWAY-	§	COMMISSIONER OF TEXAS
ALLEE FUNERAL HOME	§	
	§	
CROCKETT, TEXAS	§	AUSTIN, TRAVIS COUNTY, TEXAS

**CONSENT ORDER**

On this day, the matter of Belinda Neel Allee and James R. (“Randy”) Allee (collectively, the “Allees” or “Respondents”) located in Crockett, Texas, was submitted to me, Charles G. Cooper, Banking Commissioner of the State of Texas (“Commissioner”), for consideration and action.

1. The Allees were owners of the Callaway-Allee Funeral Home (the “Funeral Home”) in Crockett, Texas from 1981 until July 22, 2013, when they sold the Funeral Home to Callaway-Allee Holdings, LLC. Respondents have worked and continue to work at the Funeral Home at 700 E. Houston Avenue, Crockett, Texas, 75835.
2. From 1967 to on or around November 30, 2013, the Funeral Home held permit no. 296 from the Texas Department of Banking (the “Department”) to sell trust-funded prepaid funeral benefits. Respondents both became agents of the Funeral Home for the purpose of selling trust-funded contracts in 1994. Additionally, Randy Allee has held a funeral director’s license from the Texas Funeral Service Commission since 1972 under permit no. 6576. Belinda Allee has been a licensed insurance agent since 1988 and a pre-need insurance agent from 2010 to August 6, 2014. As of the date of

this Order, she has not renewed her license.

3. As recently as March 6, 2006, Randy Allee certified to the Texas Funeral Service Commission that “the individual owner[s], partners, or officers and/or directors of the [Funeral Home] ... have not violated ... the Texas Banking Laws and regulations.”
4. As recently as October 25, 2013, Belinda Allee certified to the Department, among other things, that there have been no, or are no:
  - a. “Frauds involving any member of management or any employee who has a significant role in the internal control structure of [the Funeral Home’s] prepaid funeral operations or in [the Funeral Home’s] business operations related to prepaid funeral operations”;
  - b. “[V]iolations or possible violations of laws or regulations, the effect of which would be significant to the [Funeral Home’s] continued existence as a permit holder under the Finance Code”;
  - c. “Unasserted claims or assessments that [the Funeral Home’s] lawyer has advised it are probable”; or
  - d. “Material transactions that have not been properly recorded in the accounting records underlying the [submitted] financial statements.”
5. Belinda Allee also certified that “Any action or documentation which could have resulted in a civil/criminal penalty or fine has been disclosed to the Department ....”
6. Although Respondents sold the Funeral Home in 2013, they are still employed by the Funeral Home and continue to hold positions of considerable responsibility. In fact,

Randy Allee has remained the Funeral Director in Charge of the Funeral Home even after its sale.

7. The Department has jurisdiction over Respondents and the subject matter of this proceeding pursuant to *Texas Finance Code* (“Finance Code”) § 154.051. The Commissioner has authority to issue this Order and to assess administrative penalties and restitution pursuant to Finance Code §§ 154.406, 154.4061, 154.408, 154.411, and 154.415.
8. Respondents have been properly notified regarding their right to an administrative hearing under Finance Code Chapter 154 (“Chapter 154”) and are represented by legal counsel.
9. Any violation of this Order could subject Respondents to additional regulatory or enforcement actions authorized by Finance Code §§ 154.406 to 154.415 and other provisions of Texas law. 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.
10. Nothing in this Order diminishes the regulatory enforcement powers of the Texas Department of Insurance or the Texas Funeral Services Commission.
11. For purposes of this proceeding, Respondents knowingly and voluntarily waive:
  - a. Service upon Respondents 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. This 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;
  - g. Any review of this Order by the Texas Finance Commission; and
  - h. 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.
12. Respondents agree to disposition of this matter pursuant to the provisions of *Texas Government Code* § 2001.056.
13. Respondents agree 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 Respondents that Chapter 154 or a rule adopted or issued under Chapter 154 has been violated.
14. The Commissioner has considered the matter and finds as follows:
- a. Belinda Allee held a license from the Texas Department of Insurance to sell pre-need insurance benefits that expired on August 6, 2014. As of the date of this Order, she has not renewed her license. At all times pertinent to this Order, Belinda Allee was an agent for Forethought Life Insurance Company (“Forethought”), a company that funds prepaid funeral benefits contracts (“PFBCs”) issued by ForeLife Agency, Inc. (“ForeLife”). ForeLife holds Prepaid Funeral Benefits Permit No. 858, issued by the Department under Chapter 154.
  - b. Randy Allee holds a funeral director license from the Texas Funeral Service

Commission under permit no. 6576. At all times pertinent to this Order, Randy Allee was the Funeral Director in Charge of the Funeral Home as well as an agent licensed to sell trust-funded prepaid funeral contracts for the Funeral Home.

- c. In 2013, the Department became aware that Respondents had submitted an unusually large amount of applications for policies from Forethought to fund PFBCs. The Department commenced an investigation and determined that Respondents entered into numerous PFBCs, received funds for those contracts from the purchasers, and did not timely transmit those funds to Forethought. Instead, Respondents misapplied these funds.
- d. The Department issued subpoenas to Respondents and to Callaway-Allee Holdings, LLC, the new owner of the Funeral Home, and received voluminous records evidencing Respondents' misapplication of the purchasers' funds for 60 PFBCs. More specifically:
  - i. On October 4, 2010, Respondents sold prepaid funeral benefits ("PFBs") to EB<sup>1</sup> for \$3,287.12. Respondents received the funds from EB on or around that time but did not remit the funds to Forethought for issuance of EB's policy until July 11, 2013.
  - ii. On April 24, 1998, Respondents sold PFBs to GB for \$1,395.00. Respondents received the funds from GB on or around that time but did not remit the funds to Forethought for issuance of GB's policy until July 10, 2013.

- iii. On August 16, 2012, Respondents sold PFBs to HC for \$5,047.18. Respondents received the funds from HC on or around that time but did not remit the funds to Forethought for issuance of HC's policy until July 16, 2013.
- iv. On May 29, 2012, Respondents sold PFBs to CC for \$2,352.00. Respondents received the funds from CC on or around that time but did not remit the funds to Forethought for issuance of CC's policy until July 9, 2013.
- v. On May 29, 2012, Respondents sold PFBs to MC for \$2,352.00. Respondents received the funds from MC on or around that time but did not remit the funds to Forethought for issuance of MC's policy until July 9, 2013.
- vi. On April 24, 2012, Respondents sold PFBs to LC for \$2,195.00. Respondents received the funds from LC on or around that time but did not remit the funds to Forethought for issuance of LC's policy until July 9, 2013.
- vii. On June 13, 2005, Respondents sold PFBs to PC for \$2,000.00. Respondents received the funds from PC on or around that time but did not remit the funds to Forethought for issuance of PC's policy until July 26, 2013.
- viii. On February 6, 2013, Respondents sold PFBs to TD for the benefit of LD for \$9,600.00. Respondent received the funds from TD on or

around that time but did not remit the funds to Forethought for issuance of LD's policy until July 16, 2013.

- ix. On August 17, 2012, Respondents sold PFBs to AE for \$8,915.00. Respondents received the funds from AE on or around that time but did not remit the funds to Forethought for issuance of AE's policy until July 19, 2013.
- x. On April 18, 2012, Respondents sold PFBs to EF for \$8,219.00. Respondents received the funds from EF on or around that time but did not remit the funds to Forethought for issuance of EF's policy until July 16, 2013.
- xi. On December 13, 2011, Respondents sold PFBs to CF for \$9,246.00. Respondents received the funds from CF on or around that time but did not remit the funds to Forethought for issuance of CF's policy until July 16, 2013.
- xii. On or around September 5, 2012, Respondents sold PFBs to GG for \$9,500.00. Respondents received the funds from GG on or around that time but did not remit the funds to Forethought for issuance of GG's policy until July 19, 2013.
- xiii. On August 29, 2011, Respondents sold PFBs to MH for \$1,976.00. Respondents received the funds from MH on or around that time but did not remit the funds to Forethought for issuance of MH's policy until July 25, 2013.

- xiv. On February 6, 2013, Respondents sold PFBs to BH for \$7,715.00. Respondents received the funds from BH on or around that time but did not remit the funds to Forethought for issuance of BH's policy until July 19, 2013.
- xv. On February 6, 2013, Respondents sold PFBs to JH for \$7,750.00. Respondents received the funds from JH on or around that time but did not remit the funds to Forethought for issuance of JH's policy until July 19, 2013.
- xvi. On or around September 5, 2011, Respondents sold PFBs to BH for \$1,395.00. Respondents received the funds from BH on or around that time but did not remit the funds to Forethought for issuance of BH's policy until August 22, 2013.
- xvii. On August 21, 2012, Respondents sold PFBs to JK for \$8,556.00. Respondents received the funds from JK on or around that time but did not remit the funds to Forethought for issuance of JK's policy until July 18, 2013.
- xviii. On August 21, 2012, Respondents sold PFBs to PK for \$8,444.00. Respondents received the funds from PK on or around that time but did not remit the funds to Forethought for issuance of PK's policy until July 19, 2013.
- xix. On October 18, 2007, Respondents sold PFBs to TL for \$6,978.00. Respondents received the funds from TL on or around that time but



did not remit the funds to Forethought for issuance of TL's policy until July 19, 2013.

- xx. On October 18, 2007, Respondents sold PFBs to WL for \$6,943.00. Respondents received the funds from WL on or around that time but did not remit the funds to Forethought for issuance of WL's policy until July 19, 2013.
- xxi. On October 6, 2010, Respondents sold PFBs to EL for \$3,000.00. Respondents received the funds from EL on or around that time but did not remit the funds to Forethought for issuance of EL's policy until July 26, 2013.
- xxii. On February 2, 2012, Respondents sold PFBs to AM for \$8,017.00. Respondents received the funds from AM on or around that time but did not remit the funds to Forethought for issuance of AM's policy until July 19, 2013.
- xxiii. On November 14, 2011, Respondents sold PFBs to FM for \$4,786.00. Respondents received the funds from FM on or around that time but did not remit the funds to Forethought for issuance of FM's policy until July 22, 2013.
- xxiv. On February 20, 2007, Respondents sold PFBs to DM for the benefit of JM for \$7,774.00. Respondents received the funds from DM on or around that time but did not remit the funds to Forethought for issuance of JM's policy until July 22, 2013. JM died

in 2014.

- xxv. On January 2, 2009, Respondents sold PFBs to SM for the benefit of KP for \$5,421.00. Respondents received the funds from SM on or around that time but did not remit the funds to Forethought for issuance of KP's policy until July 9, 2013.
- xxvi. On November 12, 2009, Respondents sold PFBs to JP for the benefit of CH for \$1,228.00. Respondents received the funds from JP on or around that time but did not remit the funds to Forethought for issuance of CH's policy until July 26, 2013.
- xxvii. On July 15, 2007, Respondents sold PFBs to LP for \$7,123.00. Respondents received the funds from LP on or around that time but did not remit the funds to Forethought for issuance of LP's policy until July 25, 2013.
- xxviii. On September 1, 2004, Respondents sold PFBs to LR for \$7,172.00. Respondents received the funds from LR on or around that time but did not remit the funds to Forethought for issuance of LR's policy until July 26, 2013.
- xxix. On July 16, 2011, Respondents sold PFBs to JS for \$2,164.00. Respondents received the funds from JS on or around that time but did not remit the funds to Forethought for issuance of JS's policy until July 26, 2013.
- xxx. On June 25, 2012, Respondents sold PFBs to AS for \$8,831.00.

Respondents received the funds from AS on or around that time but did not remit the funds to Forethought for issuance of AS's policy until July 19, 2013.

xxx. On June 3, 2011, Respondents sold PFBs to BS for \$8,615.00. Respondents received the funds from BS on or around that time but did not remit the funds to Forethought for issuance of BS's policy until July 26, 2013.

xxxii. On September 1, 2011, Respondents sold PFBs to JS for \$6,326.00. Respondents received the funds from JS on or around that time but did not remit the funds to Forethought for issuance of JS's policy until July 8, 2013.

xxxiii. On or around September 2012, Respondents sold PFBs to DS for the benefit of LW for \$5,400.00. Respondents received the funds from DS on or around that time but did not remit the funds to Forethought for issuance of LW's policy until July 9, 2013.

xxxiv. On or around November 21, 2011, Respondents sold PFBs to RT for the benefit of LT for \$9,077.00. Respondents received the funds from RT on or around that time but did not remit the funds to Forethought for issuance of LT's policy until July 19, 2013.

xxxv. On August 24, 2011, Respondents sold PFBs to WT for the benefit of EF for \$8,135.00. Respondents received the funds from WT on or around that time but did not remit the funds to Forethought for

issuance of EF's policy until July 16, 2013.

- xxxvi. On September 12, 2012, Respondents sold PFBs to EW for \$2,750.00. Respondents received the funds from EW on or around that time but did not remit the funds to Forethought for issuance of EW's policy until July 9, 2013.
- xxxvii. On or around October 18, 2012, Respondents sold PFBs to AW for \$5,000.00. Respondents received the funds from AW on or around that time but did not remit the funds to Forethought for issuance of AW's policy until August 1, 2013. AW died in 2014.
- xxxviii. On or around October 18, 2012, Respondents sold PFBs to KW for \$5,000.00. Respondents received the funds from KW on or around that time but did not remit the funds to Forethought for issuance of KW's policy until August 1, 2013.
- xxxix. On June 15, 2012, Respondents sold PFBs to GW for \$9,831.00. Respondents received the funds from GW on or around that time but did not remit the funds to Forethought for issuance of GW's policy until July 19, 2013.
- xl. On or around March 14, 2001, Respondents sold PFBs to HW for \$1,495.00. Respondents received the funds from HW on or around that time but did not remit the funds to Forethought for issuance of HW's policy until July 25, 2013.
- xli. On or around December 31, 2012, Respondents sold PFBs to DW

for \$9,906.00. Respondents received the funds from DW on or around that time but did not remit the funds to Forethought for issuance of DW's policy until July 28, 2013.

xlii. On or around October 4, 2010, Respondents sold PFBs to AP for \$9,478.00. Respondents received the funds from AP on or around that time but did not remit the funds to Forethought for issuance of AP's policy until July 21, 2013.

xliii. On October 31, 2012, Respondents sold PFBs to HB for \$8,490.00. Respondents received the funds from HB on or around that time but did not remit the funds to Forethought for issuance of HB's policy until July 16, 2013.

xliv. On December 5, 2012, Respondents sold PFBs to BG for \$7,296.00. Respondents received the funds from BG on or around that time but did not remit the funds to Forethought for issuance of BG's policy until July 8, 2013.

xlvi. On or around April 12, 2011, Respondents sold PFBs to TE for \$7,830.00. Respondents received the funds from TE on or around that time but did not remit the funds to Forethought for issuance of TE's policy until July 5, 2013.

xlvii. On or around April 12, 2011, Respondents sold PFBs to SE for \$8,000.00. Respondents received the funds from SE on or around that time but did not remit the funds to Forethought for issuance of

SE's policy until July 5, 2013.

- xlvi. On January 1, 2012, Respondents sold PFBs to CC for \$8,574.00. Respondents received the funds from CC on or around that time but did not remit the funds to Forethought for issuance of CC's policy until July 19, 2013. CC died in 2013.
- xlviii. On August 5, 2011, Respondents sold PFBs to DW for the benefit of IG for \$8,192.00. Respondents received the funds from DW on or around that time but did not remit the funds to Forethought for issuance of IG's policy until July 19, 2013. IG died in 2013.
- xlix. On August 6, 2012, Respondents sold PFBs to RS for the benefit of LF for \$8,381.00. Respondents received the funds from RS on or around that time but did not remit the funds to Forethought for issuance of LF's policy until July 16, 2013. LF died in 2014.
- 1. On or around October 10, 2010, Respondents sold PFBs to DP for \$8,951.00. Respondents received the funds from DP on or around that time but did not remit the funds to Forethought for issuance of DP's policy. DP died in 2012.
- li. On or around December 29, 2006, Respondents sold PFBs to JP for \$8,886.00. Respondents received the funds from JP on or around that time but did not remit the funds to Forethought for issuance of JP's policy. JP died in 2013.
- lii. On or around April 24, 1998, Respondents sold PFBs to CB for

\$1,395.00. Respondents received the funds from CB on or around that time but did not remit the funds to Forethought for issuance of CB's policy. CB died in 2001.

liii. On or around August 7, 2012, Respondents sold PFBs to ME for \$8,055.00. Respondents received the funds from ME on or around that time but did not remit the funds to Forethought for issuance of ME's policy. ME died in 2013.

liv. On or around February 2, 2012, Respondents sold PFBs to LM for \$7,756.00. Respondents received the funds from LM on or around that time but did not remit the funds to Forethought for issuance of LM's policy. LM died in 2012.

lv. On March 16, 2012, Respondents sold PFBs to KL for the benefit of BM for \$9,623.00. Respondents received the funds from KL on or around that time but did not remit the funds to Forethought for issuance of BM's policy until July 19, 2013. BM died in 2014.

lvi. On or around July 15, 2007, Respondents sold PFBs to FP for \$7,758.00. Respondents received the funds from FP on or around that time but did not remit the funds to Forethought for issuance of FP's policy. FP died in 2011.

lvii. On or around July 16, 2011, Respondents sold PFBs to CS for \$2,164.00. Respondents received the funds from CS on or around that time but did not remit the funds to Forethought for issuance of

CS's policy. CS died in 2011.

lviii. On or around September 1, 2011, Respondents sold PFBs to CS for \$6,926.00. Respondents received the funds from CS on or around that time but did not remit the funds to Forethought for issuance of CS's policy. CS died in 2011.

lix. On or around June 25, 2012, Respondents sold PFBs to BS for \$8,849.00. Respondents received the funds from BS on or around that time but did not remit the funds to Forethought for issuance of BS's policy. BS died in 2013.

lx. On or around September 12, 2012, Respondents sold PFBs to LW for \$2,750.00. Respondent received the funds from LW on or around that time but did not remit the funds to Forethought for issuance of LW's policy. LW died in 2013.

e. Over an almost fifteen-year period, Respondents misappropriated PFBC funds totaling \$380,270.30 in violation of Finance Code § 154.203, which requires agents to pay funds to the insurance company in accordance with their agency agreement with the insurance company. The records indicate that Respondents appear to have forged a large portion of the paperwork required for the PFBCs, including falsifying beneficiary signatures. Although Respondents eventually transmitted the funds for the PFBCs to Forethought, the funeral providers have lost the benefit of the "growth" or "interest" the policy would have earned had it been timely issued. This lost



“growth” or “interest,” calculated by Forethought, totals \$8,751.83.

- f. As required by Finance Code § 154.406, the Commissioner considered the seriousness of the violations, Respondents’ history of violations, and Respondents’ good faith in attempting to comply with Chapter 154. The Commissioner finds that the high number of PFBCs affected, the large dollar-amount of funds misappropriated, and the fraudulent actions taken by Respondents to cover up the violations are evidence of a long history of serious violations and Respondents’ bad faith.
- g. The Commissioner additionally finds that the matters recited in the foregoing two paragraphs establish that Respondents have a pattern of willful disregard for the requirements of Chapter 154, and the rules of the Finance Commission so that the maximum administrative penalty permitted under Section 154.406 would be justified.
- h. The Commissioner also finds that, based upon the evidence collected from Respondents and the new Funeral Home owner, Respondents’ actions satisfy the statutory requirements for the issuance of a Prohibition Order as set forth in Finance Code § 154.415. In particular, the Commissioner determines he has reason to believe the following:
  - i. Respondents intentionally committed and participated in fraud, deception, misrepresentation, and other dishonest practices in the sale of a contract subject to Chapter 154 and failed to pay the premiums for an insurance policy that funds prepaid funeral benefits

to the insurance company in accordance with the agency agreement between the insurance company and the agent;

ii. Because of these actions by Respondents, the interests of the purchasers have been prejudiced and Respondents have received financial gain by reason of the actions; and

iii. The action involves personal dishonesty on the part of Respondents.

i. Additionally, the Commissioner finds that Respondents' actions satisfy the statutory requirements for ordering restitution as set forth in Finance Code § 154.411. In particular, the Commissioner determines he has reason to believe that Respondents "misappropriated, converted, or illegally withheld or failed or refused to pay on demand money entrusted to [Respondents] that belongs to the beneficiary under a prepaid funeral benefits contract."

j. The Commissioner further determines that such fraud, deception, and misrepresentation in the sale of a contract subject to Chapter 154 and the failure to pay the premiums for an insurance policy that funds prepaid funeral benefits to the insurance company in accordance with the agency agreement between the insurance company and the agent demonstrate Respondents' unfitness to participate in the business of prepaid funeral benefits sales. Accordingly, the entry of this Order appears to be necessary and in the best interest of the public.

## **Order**

It is, therefore, ORDERED, ADJUDGED and DECREED that:

1. Respondents are perpetually prohibited from participating in the business of prepaid funeral benefits sales.
2. Respondents shall not engage in activities in violation of Chapter 154 and shall take all actions necessary to comply with the requirements of Chapter 154.
3. Respondents will pay \$120,000.00 to the Department as an administrative penalty under Finance Code § 154.406 for misappropriating PFBC funds and failing to transmit the funds and associated PFBC paperwork to the insurance company under Finance Code § 154.203. The penalty shall be payable to the Department within 10 days of the effective date of this Order.
4. Additionally, Respondents will pay \$8,751.83 to the Department as restitution under Finance Code § 154.411 to fund the lost “growth” or “interest” of the policies. The restitution shall be payable to the Department within 10 days of the effective date of this Order. Pursuant to Finance Code § 154.056, the Department will then forward the restitution payment to Forethought for issuance of supplemental policies.
5. 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. However, nothing herein shall be construed to limit Respondents’ right to contest any future finding or determination of non-compliance.

