

ORDER NO. 2014-021

IN THE MATTER OF:	§	BEFORE THE BANKING
	§	
BELINDA NEEL ALLEE,	§	
	§	
JAMES R. ALLEE,	§	
	§	COMMISSIONER OF TEXAS
And	§	
	§	
JAMES ALLEE II	§	
	§	
CROCKETT, TEXAS	§	AUSTIN, TRAVIS COUNTY, TEXAS

EMERGENCY ORDER TO SEIZE PREPAID FUNERAL RECORDS

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

I. Findings

1. Belinda and Randy were owners of 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.
2. Belinda held a license from the Texas Department of Insurance (“TDI”) to sell pre-need insurance benefits that expired on August 6, 2014. As of October 21, 2014, she has not renewed her license. For many years, until her appointment was terminated in 2013, Belinda 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 DOB under Chapter 154.

3. Randy holds a funeral director license from the Texas Funeral Service Commission under License No. 6576. Randy has been the Funeral Director in Charge of the Funeral Home.
4. Jamie, Belinda's and Randy's son, holds a license from TDI to sell pre-need insurance benefits. At all times pertinent to this Order, Jamie was an agent for Funeral Directors Life Insurance Company ("FDLIC").
5. In 2013, the DOB became aware that Belinda and Randy had submitted an unusually large amount of insurance applications to Forethought to issue insurance policies to fund PFBCs. The DOB commenced an investigation and determined that Belinda and Randy received funds for numerous PFBCs from the purchasers, and did not timely transmit those funds to Forethought. Instead, Belinda and Randy misapplied those funds.
6. The DOB issued subpoenas to Belinda, Randy, and Callaway-Allee Holdings, LLC and received voluminous records evidencing Belinda's and Randy's misapplication of the purchasers' funds for 60 PFBCs. The subpoenas compelled Belinda, Randy, and Callaway-Allee Holdings, LLC to produce "[a]ll prepaid funeral benefits contracts with Callaway-Allee Funeral Home as the provider, whether written on a prepaid funeral benefits contract form or otherwise, for which the funds were not handled properly under *Texas Finance Code* ("Finance Code") §§ 154.159 and/or 154.203" For each contract response to that request, the subpoena also compelled Belinda, Randy, and Callaway-Allee Holdings, LLC to produce:
 - a. All records of customer payments for pre-need contract, including copies of checks, records of credit card payments, and receipts given by the funeral borne to customers;
 - b. All funeral home payments for pre-need contracts made to an insurance company,

including copies of checks;

- c. All applications for insurance policies; and
 - d. The signed at-need contract and death certificate for contracts that have already matured.
7. When providing their responses to the subpoenas, Belinda and Randy signed affidavits that swore that “[the attached records are copies of all the records in my possession, custody, or under my control that are responsive to this subpoena.”
 8. Based on the evidence of Belinda’s and Randy’s misapplication of the purchasers’ funds for 60 PFBCs, the Commissioner issued a Consent Order, Order No. 2014-016, (the “Consent Order”) on September 11, 2014.
 9. The Consent Order detailed the specifics of the mishandled 60 PFBCs and found that Belinda and Randy misappropriated PFBC funds totaling \$380,270.30 over an almost fifteen-year period in violation of Finance Code § 154.203. As a result, among other things Belinda and Randy were prohibited from participating in the business of prepaid funeral benefits sales and from engaging in activities in violation of Chapter 154. The Consent Order specifically stated that it “does not restrict the [DOB] with respect to any enforcement action or other recourse regarding any past, current, or future violations by [Belinda and Randy] that come to the attention of the [DOB].”
 10. Subsequently, in October 2014, the DOB became aware that Belinda and Randy withheld evidence of misappropriation of funds from additional PFBCs, outside of the 60 that were identified in the Consent Order. The DOB commenced an investigation and determined that:
 - a. On June 24, 1994, Belinda sold prepaid funeral benefits to DB¹ for \$6,162.00.

Belinda and Randy received the funds from DB on or around that time but did not remit the funds to Forethought for issuance of DB's insurance policy. Rather, in 2014, Jamie remitted the funds, along with new paperwork, to FDLIC for issuance of DB's policy.

- b. On June 24, 1994, Belinda sold prepaid funeral benefits to BB for \$6,375.00. Belinda and Randy received the funds from BB on or around that time but did not remit the funds to Forethought for issuance of BB's insurance policy. Rather, in 2014, Jamie remitted the funds, along with new paperwork, to FDLIC for issuance of BB's policy.

11. Due to Respondents' repeated misappropriation of prepaid funeral benefit funds and at least two intentional violations of the subpoenas and Consent Order, the Commissioner finds that immediate or irreparable harm is threatened to the public or a beneficiary under a PFBC. The fact that Belinda and Randy failed to produce evidence of at least two contracts that were mishandled as required by the subpoenas is evidence that there could be further PFBC beneficiaries whose funds have been misappropriated and whose policies have not been issued.

12. The DOB believes the records that relate to the sale of PFBCs are located either at the funeral home location at 700 E. Houston Avenue, Crockett, Texas, 75835, or possibly at the Randy and Belinda Allee residence at 1970 FM 229, Crockett, Texas, 75835 or at the Jamie Allee residence at 407 Aspen Bend Street, Crockett, Texas, 75835.

II. Conclusions

- 1. The Commissioner is authorized by Finance Code § 154.412(a) to issue an order to seize the records that relate to the sale of prepaid funeral benefits if the Commissioner finds, by

examination or other credible evidence, that the person failed to deposit or remit money in accordance with Chapter 154.

2. The Commissioner finds by credible evidence that Respondents fit the criteria listed in the previous paragraph.
3. The Commissioner finds these violations constitute sufficient cause for issuance of an order to seize prepaid funeral records under Finance Code § 154.412(a).
4. The Commissioner is authorized by Finance Code § 154.412(c) to cause the seizure order to take immediate effect if the Commissioner finds that immediate and irreparable harm is threatened to the public or a beneficiary under a PFBC. For the reasons stated in the findings of fact, the Commissioner finds that such harm is threatened.

III. Order

In accordance with Finance Code § 154.412, it is hereby ORDERED that the Texas Department of Banking is authorized to immediately seize and take possession of the contracts and other records of Respondents that relate to the sale of prepaid funeral benefits, wherever they may be located, held, or found, including the funeral home location at 700 E. Houston Avenue, Crockett, Texas, 75835, or possibly at the Randy and Belinda Allee residence at 1970 FM 229, Crockett, Texas, 75835 or at the Jamie Allee residence at 407 Aspen Bend Street, Crockett, Texas, 75835.

IV. Effective Dates

Pursuant to Finance Code § 154.412(c) this Emergency Order to Cease and Desist Activity and Seize Prepaid Funeral Records will take effect immediately.

V. Notice of Right to Hearing

Pursuant to Finance Code § 154.412(c-1), Respondents have the right to request in writing an opportunity for a hearing to show that the emergency order should be stayed. The written request

must be filed with the Commissioner not later than the 30th date after the date on which the Order is hand-delivered or the Order is mailed, whichever date is earlier.

VI. Service

This Order will be served by personal service on all Respondents as will be reflected on returns of service.

This Order will be served on Belinda Allee via certified mail, return receipt requested, sent on the 27th day of October, 2014.

Belinda Allee
1970 FM 229
Crockett, Texas 75835

Belinda Allee
700 E. Houston Avenue
Crockett, Texas 75835

This Order will be served on James R. Allee via certified mail, return receipt requested, sent on the 27th day of October, 2014.

James R. Allee
1970 FM 229
Crockett, Texas 75835

James R. Allee
700 E. Houston Avenue
Crockett, Texas 75835

This Order will be served on James Allee II, via certified mail, return receipt requested, sent on the 27th day of October, 2014

James Allee II
407 Aspen Bend Street
Crockett, Texas 75835

James Allee II
700 E. Houston Avenue
Crockett, Texas 75835

Signed on this 23rd day of October, 2014.

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

¹ Initials, as used here and continuing throughout the remainder of this Order, are used to preserve privacy.