

ORDER NO. 2016-021

IN THE MATTER OF:	§	BEFORE THE
	§	
ALLCORN FUNERAL &	§	BANKING COMMISSIONER
CREMATION CARE	§	OF TEXAS
	§	
COLEMAN, TEXAS	§	AUSTIN, TRAVIS COUNTY, TEXAS

**AGREED ORDER CANCELING PERMIT OF ALLCORN FUNERAL &
CREMATION CARE AND RELATED MATTERS**

On this day, came on for consideration by the Banking Commissioner of Texas (Commissioner) the matter of Allcorn Funeral & Cremation Care, Coleman, Texas (Respondent) concerning Texas Prepaid Funeral Permit No. 1118.

Respondent and the Department of Banking (Department) have entered into an agreement and jointly request the Commissioner to dispose of this matter pursuant to Texas Government Code, § 2001.056. Respondent and the Department agree that the Commissioner may make the following Findings of Fact and Conclusions of Law and enter this Agreed Order (Order) and agree to the terms of the Order.

FINDINGS OF FACT

The Commissioner makes the following Findings of Fact:

1. Respondent acknowledges that the Commissioner has jurisdiction over this matter pursuant to Texas Finance Code, Chapter 154.
2. Respondent acknowledges that it has the right to notice of hearing, a public hearing, a proposal for decision, a review of this matter by the Commissioner, and judicial review of this matter as provided for in Texas Finance Code, Chapter 154 and Texas Government Code, § 2001.171 et seq. Respondent has expressly waived those rights.

3. Respondent, a sole proprietorship, was issued restricted Permit No. 1118 on May 5, 2014, and has since that time administered trust-funded prepaid funeral benefits contracts (PFBCs).
4. As of October 31, 2016, 62 PFBCs remained outstanding with a combined principal and interest of approximately \$203,180.97.
5. By letter dated December 5, 2016, Respondent notified the Department that it was closing its business on December 20, 2016.
6. Because of certain circumstances, including the closure of Respondent's business effective December 20, 2016, Respondent will be unable to service its outstanding PFBCs and wishes to voluntarily surrender Permit No. 1118. Respondent agrees that the permit should be canceled and that the Department should seize and take custody of the PFBCs administered under the permit and all records and prepaid funds related to those contracts, including, but not limited to, those trust funds in the trust account number _____, ClearPoint Federal Bank & Trust, 3200 Southwest Freeway, Suite 3300, Houston, Texas 77027.
7. Authorized representatives of Respondent and the Department have affixed their signatures to this Order indicating their agreement with the terms herein.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Commissioner makes the following Conclusions of Law:

1. The Commissioner has jurisdiction over this matter pursuant to Texas Finance Code, Chapter 154.

2. Respondent has knowingly and voluntarily waived the procedural requirements necessary to the entry of this Order, including a notice of hearing, a public hearing, a proposal for decision, further review of this Order by the Commissioner, and judicial review as provided for in Texas Finance Code, Chapter 154.
3. The Commissioner has the authority to dispose of this matter as set forth herein under Texas Finance Code, Chapter 154 and Texas Government Code, § 2001.056.
4. Based on Finding of Fact 5, Respondent's business will close effective December 20, 2016, and will not be able to service the outstanding PFBCs.
5. Based upon Finding of Fact 6, Respondent's Permit No. 1118 should be canceled as provided for in Texas Finance Code, § 154.109(a)(1), and the Department should immediately seize and take custody of the PFBCs administered under Permit No. 1118 and all records and prepaid funds related to those contracts as provided for in Texas Finance Code, § 154.412, including but not limited to, those trust funds in the trust account number _____, ClearPoint Federal Bank & Trust, 3200 Southwest Freeway, Suite 3300, Houston, Texas 77027.

WHEREFORE, based upon the foregoing Findings of Fact and Conclusions of Law, the Commissioner ORDERS that this matter is hereby resolved in accordance with the following terms:

1. Permit No. 1118, held by Allcorn Funeral & Cremation Care, Coleman, Texas, is hereby canceled.
2. The Texas Department of Banking is authorized and shall within 15 days of the date of this Order seize and take possession of the trust-funded prepaid funeral benefits contracts previously administered under Permit No. 1118 by Allcorn Funeral & Cremation Care and

the records and prepaid funds related to those contracts, including those trust funds in the trust account number _____, ClearPoint Federal Bank & Trust, 3200 Southwest Freeway, Suite 3300, Houston, Texas 77027. The Department of Banking shall, within 15 days of such seizure, provide notice to the contract purchasers. The Department of Banking shall thereafter administer and oversee the fulfillment of those contracts and disbursement of funds in accordance with Texas Finance Code, Chapter 154 and Texas Administrative Code, Title 7, Chapter 25.

3. The effective date of this Order is the date the Order is signed by the Commissioner.

Signed this 12th day of December, 2016.

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

AGREED AND APPROVED AS TO FORM AND SUBSTANCE:

Allcorn Funeral and Cremation Care

By: /s/ Benny M. Allcorn
Benny M. Allcorn
Owner of Allcorn Funeral and Cremation Care
401 S. Commercial Avenue
Coleman, Texas 76834

Texas Department of Banking

By: /s/ Brenna McGee
Brenna McGee
Assistant General Counsel