

ORDER NO. 2017-010

IN THE MATTER OF: § **BEFORE THE BANKING**
§
§
C. Johnson Funeral Home, Inc. §
§ **COMMISSIONER OF TEXAS**
(Prepaid Funeral Seller Permit No. 545) §
§
§
HOUSTON, TEXAS § **AUSTIN, TRAVIS COUNTY, TEXAS**

ORDER TO CEASE AND DESIST ACTIVITY AND TO SEIZE PREPAID FUNERAL MONEY AND RECORDS

On this day, the matter of C. Johnson Funeral Home, Inc. (Johnson), d.b.a Johnson Preened Funeral Services Co., located in Houston, Texas, was submitted to the Banking Commissioner of the State of Texas (Commissioner) for consideration and action.

I. Findings of Fact

1. Johnson has been doing business as a seller of prepaid funeral benefits under permit number 545, issued by the Texas Department of Banking (Department) pursuant to Texas Finance Code Chapter 154.
2. Johnson conducts its business at its funeral home located at 5730 Calhoun Road, Houston, Texas 77021. Records that relate to the sale of Johnson’s prepaid funeral benefits are located at the funeral home.
3. Johnson held a permit to sell prepaid funeral benefits issued by the Department pursuant to Texas Finance Code § 154.103. Such a permit is issued for a one year period. Texas Finance Code § 154.104.
4. Pursuant to Texas Finance Code § 154.107, a permit holder who has outstanding prepaid funeral benefits contracts (PFBCs) is required to renew its permit until all contracts are fully discharged.

5. On April 6, 2017, the Department mailed notice to Mr. Walter Johnson, President of Johnson, informing him that Johnson's 2017 permit renewal application was due on May 8, 2017.
6. Johnson failed to submit a permit renewal application by May 8, 2017, and on May 30, 2017, the Department faxed a reminder to Mr. Johnson informing him of the need to file a renewal before the expiration of its permit on June 1, 2017.
7. Johnson's permit expired on June 1, 2017, and, as a result, Johnson does not hold a current permit.
8. On June 5, 2017, notice was sent to Mr. Johnson via certified mail and fax that the Department had still not received Johnson's 2017 renewal.
9. On July 19, 2017, Department Examiner Nate Short personally delivered a permit renewal application and a copy of the Department's June 5, 2017 letter to Mr. Johnson. Mr. Johnson stated he would immediately complete and submit the application.
10. As of the date of this order, Johnson has failed to submit a renewal application.
11. Johnson's December 31, 2016 annual report indicates that it holds 217 outstanding PFBCs with \$806,641.61 of prepaid funeral funds, including interest, on deposit at the following financial institutions:
 - a. Capital One Bank, 408 Webster Street, Houston, Texas 77002. Account number:

 - b. Regions Bank, 3773 Richmond Ave., Suite 1100, Houston, Texas 77046. Account number: _____
 - c. Preferred Bank, P.O. Box 442088, Houston, Texas 77244. Account number:

II. Conclusions

1. The Commissioner is authorized by Texas Finance Code § 154.412(a) to issue an order seizing accounts in which prepaid funeral funds, including earnings, may be held and may 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 does not hold a permit.
2. The Commissioner is authorized by Texas 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 Texas Finance Code Chapter 154.
3. The Commissioner finds by credible evidence that Johnson does not hold a permit required by Texas Finance Code Chapter 154.
4. The Commissioner also finds by credible evidence that Johnson has outstanding PFBCs and has failed to renew its permit to sell PFBCs in violation of Texas Finance Code § 154.107.
5. The Commissioner finds these violation constitute sufficient cause for issuance of an order to seize prepaid funeral funds and records under Texas Finance Code § 154.412 and for issuance of an order to cease and desist from selling PFBCs under Texas Finance Code §154.408.

III. Order

In accordance with Texas 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 Johnson that relate to the sale of prepaid funeral benefits, wherever they may be located, held, or found, including the funeral home location at 5730 Calhoun Road, Houston, Texas 77021.

In accordance with *Texas Finance Code* § 154.412, it is hereby further ORDERED that all funds located in the aforementioned bank accounts are hereby seized.

In accordance with Texas Finance Code §154.408, Johnson is hereby ORDERED to cease and desist from engaging in the solicitation or sale of any prepaid funeral benefits, unless acting under the authority of a valid permit issued by the Department pursuant to Texas Finance Code Chapter 154.

IV. Effective Date and Notice of Right to Hearing

Pursuant to *Texas Finance Code* §§ 154.408(d) and 154.412(c) and (d), the Order to Cease and Desist Activity and to Seize Prepaid Funeral Money and Records will take effect on August 20, 2017, which is 16 days after the date the Order is mailed, unless on or before August 19, 2017, (15 days after the date the Order is mailed), Johnson requests a hearing pursuant to *Texas Finance Code* § 154.412(d).

V. Service

This Order will be served on Johnson via first class mail and certified mail, return receipt requested to the following address:

Walter Johnson
C. Johnson Funeral Home, Inc.
5730 Calhoun Road
Houston, Texas 77021

Signed on this 3rd day of August, 2017.

/s/ Bob Bacon for
Charles G. Cooper
Commissioner