

Order No. 2009-054

IN THE MATTER OF:	§	BEFORE THE BANKING
	§	
GORDON-FOSTER-BROWN	§	COMMISSIONER OF TEXAS
FUNERAL HOME, LLC	§	
	§	
ATHENS, TEXAS	§	AUSTIN, TRAVIS COUNTY, TEXAS

**Agreed Order Canceling Permit of
Gordon-Foster-Brown Funeral Home and Related Matters**

On this day, came on for consideration by the Banking Commissioner of Texas (Commissioner) the matter of Gordon-Foster-Brown Funeral Home, LLC, Athens, Texas (Respondent) concerning Texas Prepaid Funeral Permit No. 130.

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 Texas limited liability company, acquired Permit No. 130 on January 27, 2005, and has since that time sold, collected funds for and administered prepaid funeral benefits contracts.
4. Because of certain circumstances, including the foreclosure on the funeral home property and the closure of Respondent's business effective November 15, 2009, Respondent will be unable to service its outstanding prepaid funeral benefits contracts and wishes to surrender Permit No.

130. Respondent agrees that the permit should be cancelled and that the Department should seize and take custody of the prepaid funeral contracts sold and 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 _____, Southside Bank, 1201 S. Beckham Ave., Tyler, Texas 75710.

5. Authorized representatives of Respondent and the Department have affixed their signatures to this Order.

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 the 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 upon Finding of Fact 4, Respondent business will close effective November 15, 2009, and will not be able to service the outstanding prepaid funeral benefits contracts.
5. Based upon Findings of Fact 4, Respondent's Permit No. 130 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 prepaid funeral contracts sold and administered under Permit No. 130 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 _____, Southside Bank, 1201 S. Beckham Ave., Tyler, Texas 75710.

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. 130, held by Gordon-Foster-Brown Funeral Home, LLC, Athens, Texas, is hereby canceled.
2. The Texas Department of Banking is authorized and directed to seize and take possession of the prepaid funeral benefits contracts previously sold and administered under Permit No. 130 by Gordon-Foster-Brown Funeral Home, LLC, and the records and prepaid funds related to those contracts, including those trust funds in the trust account number _____, Southside Bank, 1201 S. Beckham Ave., Tyler, Texas 75710. The Department of Banking is further Ordered to provide notice to the Southside Bank and notice to the contract purchasers and to administer and otherwise deal with those contracts and 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 10th day of November, 2009.

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

AGREED AND APPROVED AS TO FORM AND SUBSTANCE:

Gordon-Foster-Brown Funeral Home, LLC

/s/ John Brent Gordon
John Brent Gordon
Owner of Gordon-Foster-Brown Funeral Home, LLC
402 E. Tyler Street
Athens, Texas 75751

Texas Department of Banking

/s/ Robert Giddings
Robert Giddings
Assistant General Counsel

State of Oklahoma §
County of Bryan §

Affidavit

BEFORE ME, the undersigned authority, on this 9th day of November, 2009, personally appeared John Brent Gordon, who, under oath, states that he is the owner of Gordon-Foster-Brown Funeral Home, LLC, the holder of Permit No. 130, and is duly authorized to make this Affidavit; that the facts contained in the foregoing Agreed Order are true and correct; and that, on behalf of Gordon-Foster-Brown Funeral Home, LLC, he acknowledges that Gordon-Foster-Brown Funeral Home, LLC, has the right to notice of a hearing, a public hearing, a proposal for decision, a review by the Texas Banking Commissioner of the matters that are the subject of the Agreed Order, and judicial review of the Order as provided for in Texas Government Code, §§ 2001.171 et seq. and Texas Finance Code, Chapter 154 and Gordon-Foster-Brown Funeral Home, LLC, expressly waives those rights and agrees to the terms and conditions of the Agreed Order Canceling Permit Of Gordon-Foster-Brown Funeral Home, LLC, and Related Matters.

/s/ John Brent Gordon
John Brent Gordon, Owner

SWORN AND SUBSCRIBED TO before me on this 9th day of November, 2009, to certify which my hand and official seal.

My commission expires January 10, 2012

/s/
Notary Public in and for the State of Oklahoma