

ORDER NO. 2011 - 024

DOCKET NO. BE-10-332

IN THE MATTER OF:	§ BEFORE THE BANKING
	§
WILLIAM A. PIPKINS,	§ COMMISSIONER OF TEXAS
	§
DALLAS, TEXAS	§ AUSTIN, TRAVIS COUNTY, TEXAS

AGREED ORDER

On this day, came on for consideration by Texas Banking Commissioner Charles G. Cooper (“Commissioner”) the matter of William A. Pipkins, Dallas, Texas (“Respondent”). This matter concerns Respondent’s obtaining funds for a prepaid funeral benefits contract (“PFBC”) and failing to remit those funds to the insurance company who was to fund the PFBC, in violation of state law. Assistant General Counsel Deborah H. Loomis represents the Texas Department of Banking (“Department”). Respondent represents himself.

1. Respondent and the Department jointly request the Commissioner to dispose of this matter pursuant to the provisions of Texas Government Code § 2001.056 by entering this Agreed Order. Respondent and the Department stipulate to the facts found by the Commissioner and the parties agree to comply with the terms of this Agreed Order.
2. Respondent acknowledges that the Commissioner has jurisdiction over this matter pursuant to Texas Finance Code Chapter 154, and Texas Government Code §§ 2001.171 et seq.
3. Respondent was an owner of Wilson’s Mortuary, Garland, Texas. Respondent is a licensed funeral director.

4. While working at Wilson's Mortuary, Respondent entered into a PFBC with MW¹ on November 18, 2004, for MW's own benefit. MW paid a total of \$2,300.00 to Respondent. Respondent never sent the money collected to a trust account or an insurance company in violation of Texas Finance Code § 154.203 or § 154.253.

5. Respondent has had the use of MW's funds for over six years. Respondent agrees that \$358.80 in interest is a fair amount to repay MW for the use of that money.

6. By signing this Agreed Order, Respondent swears that the PFBC discussed in this Agreed Order is the only PFBC in which he has taken any actions that violates Texas Finance Code Chapter 154.

7. Respondent violated Texas Finance Code § 154.159 by failing to deposit moneys received for MW's PFBC in accordance with Chapter 154.

8. The Commissioner has the authority to issue this Agreed Order and to assess penalties pursuant to Texas Finance Code § 154.406. The imposition of an administrative penalty against Respondent in the amount of \$2,000.00 is appropriate and reasonable given the seriousness of the violation, the fact that Respondent has no previous history of a violation, and Respondent's admission of guilt and agreement to pay the penalty.

9. Any violation of this Agreed Order could subject Respondent to additional regulatory or enforcement actions authorized by Texas Finance Code Chapter 154, Subchapter I. Nothing in this Agreed Order diminishes the regulatory or enforcement powers of the Department, the Commissioner, or the Finance Commission of Texas under Texas Finance Code Chapters 35 and 154, or other applicable law.

¹ The purchaser of the PFBC is referred to by initials to preserve privacy.

10. This Order only compromises actions that could be brought against Respondent by the Department. The Texas Funeral Service Commission and the Texas Department of Insurance are separate state agencies which may take additional actions against Respondent. The Department does not control the actions of the Texas Funeral Service Commission or the Texas Department of Insurance.

11. For purposes of this proceeding, Respondent knowingly and voluntarily waives:

- (a) Service upon Respondent of this Agreed Order;
- (b) The right to present defenses to the allegations;
- (c) Notice and hearing prior to imposition of an administrative penalty;
- (d) The filing of proposed findings of fact and conclusions of law;
- (e) The 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 Agreed Order by the Texas Finance Commission; and
- (h) Judicial review of this Agreed Order as provided by Texas Government Code §§ 2001.171 et seq. and any other challenge to the validity of this Agreed Order.

12. Respondent agrees to pay restitution in the amount of \$2,300.00.

13. Respondent agrees to pay an administrative penalty in the amount of \$2,000.00.

14. Respondent agrees to pay, as additional restitution, interest on the \$2,300.00 MW paid for the PFBC on November 18, 2004. Respondent agrees to pay \$358.80 for interest due.

15. Respondent and the Department agree to the factual findings, legal conclusions and terms, and conditions of this Agreed Order.

ORDER

WHEREFORE, based upon the foregoing, the Commissioner **ORDERS** that this matter is resolved in accordance with the following terms:

1. Respondent shall not engage in activities in violation of Texas Finance Code Chapter 154.
2. Respondent shall pay the restitution in the amount of \$2,300.00, the administrative penalty of \$2,000.00, and the interest in the amount of \$358.80, for a total of \$4,658.80, to the Department as follows:

- (a) The sum of \$350.00 shall be payable to the Department within 15 days of the execution of the Agreed Order.
 - (b) An additional \$350.00 shall be payable on the first day of July, 2011, and on the first day of each succeeding month until paid in full. If Respondent pays according to the terms of this Agreed Order, his final payment will be \$108.80.
 - (c) Failure to make a monthly payment by the 5th of the month shall cause the due date of the unpaid balance to be accelerated and immediately due and payable.
 - (d) Failure to pay the accelerated balance within thirty (30) days after receiving notice of default and acceleration from the Department will result in the referral of this matter to the Office of the Attorney General for collection.
3. 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 Respondent that come to the attention of the Department.

4. This Order against Respondent is effective on the date signed by the Commissioner, and subject to its terms, Respondent may not appeal.

Signed in Austin, Texas on this 31st day of May, 2011.

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

AGREED AND APPROVED AS TO FORM AND SUBSTANCE:

/s/William A. Pipkins
William A. Pipkins

May 13, 2011
Date

State of Texas ()
County of Dallas ()

Sworn to and subscribed before me on the 13th day of May, 2010, by William A. Pipkins.

/s/ Angela Pipkins
Notary Public's signature

APPROVED AS TO FORM:

/s/Deborah H. Loomis
Deborah H. Loomis
Assistant General Counsel
Texas Department of Banking

May 31, 2011
Date