

ORDER NO. 2015-011

IN THE MATTER OF:	§	BEFORE:
	§	
RONALD R. RITTER, OWNER OF	§	
HEARTFIELD-RITTER	§	THE BANKING
FUNERAL HOME AND	§	COMMISSIONER OF TEXAS
BREMOND FUNERAL HOME	§	
	§	
HEARNE, TEXAS	§	AUSTIN, TRAVIS COUNTY, TEXAS

CONSENT ORDER

On this day, the matter of Ronald R. Ritter (Ritter or Respondent) located in Hearne, Texas, was submitted to me, Charles G. Cooper, Banking Commissioner of the State of Texas (Commissioner), for consideration and action.

1. Ritter is the owner and Funeral Director in Charge of Heartfield-Ritter Funeral Home (Heartfield-Ritter), located in Hearne, Texas, and Bremond Funeral Home (Bremond), located in Bremond, Texas. Ritter holds License No. 7808 issued by the Texas Funeral Services Commission and is the Funeral Director in Charge.
2. Ritter has been an agent for Memorial Service Life Insurance Company (Memorial) since 1995. However, Ritter does not hold and has never held a license from the Texas Department of Banking (Department) to sell prepaid funeral benefits under Texas Finance Code (Finance Code) Chapter 154.
3. The Department has jurisdiction over Ritter and the subject matter of this proceeding pursuant to Finance Code Chapter 154 (Chapter 154). The Commissioner has the authority to issue this Consent Order (Order), to order restitution and to assess administrative penalties pursuant to Finance Code §§ 154.406, 154.408 and 154.411.
4. Ritter has been properly notified of his right to an administrative hearing under Chapter 154.
5. The statutory provisions at issue in this matter include, but are not limited to, Finance Code §§ 154.101, 154.203, 154.253, 154.406, 154.408 and 154.411.
6. Any violation of this Order could subject Ritter to additional regulatory or enforcement actions authorized by Chapter 154. Nothing in this Order diminishes the regulatory or enforcement powers of the Texas Department of Banking (Department), the

Commissioner, or the Finance Commission of Texas under Chapter 154 or other applicable law.

7. Nothing in this Order diminishes the regulatory enforcement powers of the Texas Department of Insurance or the Texas Funeral Services Commission.
8. For purposes of this proceeding, Ritter knowingly and voluntarily waives:
 - a. Service upon Ritter of this Order;
 - b. The right to present defenses to the allegations in this proceeding;
 - c. Notice and hearing prior to imposition of this Order;
 - 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 Order by the Texas Finance Commission; and
 - h. Judicial review of this Order as provided by Texas Government Code § 2001.171 et seq., and any other challenge to the validity of this Order.
9. Ritter agrees to this Order solely for the purpose of this proceeding, and without admitting or denying any violations of law or regulations. This Order does not constitute an admission by Ritter that Chapter 154 or a rule adopted or order issued under Chapter 154 has been violated.
10. The Commissioner has considered this matter and finds as follows:
 - a. On October 7, 2014, the Department received a consumer complaint related to illegally written prepaid funeral benefits contracts (PFBCs) sold by Ritter. Specifically, BF,¹ the complainant, stated that she purchased and paid for two prepaid funeral benefits (PFBs), one for herself and one for her husband, for \$3,500.00 each from Ritter in May 2005. The PFBCs were written on National Prearranged Services, Inc. (NPS), an affiliate of Memorial, forms. As NPS is no longer in business, BF contacted the company who assumed NPS' contracts and was informed that it had no record of BF's PFBCs. When BF contacted Ritter regarding her PFBCs, Ritter admitted to not forwarding the funds to NPS and refunded BF's \$7,000.00 plus an additional \$1,000.00.

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

- b. On October 7, 2014, the same day it received BF's complaint, the Department sent Ritter a letter noting that the Department had received information indicating that Heartfield-Ritter accepted preneed funeral funds without forwarding the funds to the insurance company as required by Finance Code § 154.203. The letter required Ritter to provide a written response by October 28, 2014 explaining how his business is conducted and submit copies of all similar contracts and related account ledgers itemizing the funds received related to PFBs illegally sold or funds collected but not forwarded to a permit holder as required. The Department cautioned that it may impose administrative fines and penalties of up to \$1,000.00 per day, for each violation.
- c. On October 28, 2014, Ritter responded to the Department's October 7th letter via facsimile.
- d. In that correspondence, Ritter confirmed that there were instances of five PFBCs where Ritter collected funds but did not forward them to NPS as required. In particular:
 - i. On November 9, 2005, Ritter sold a PFB to BR for \$7,835.00. Ritter received the funds from BR on or around that time but did not remit the funds to the insurance company for issuance of BR's policy.
 - ii. On June 28, 2006, Ritter sold a PFB to WMT for \$7,040.00. Ritter received the funds from WMT on or around that time but did not remit the funds to the insurance company for issuance of WMT's policy.
 - iii. On June 1, 2007, Ritter sold a PFB to MM for \$6,785.00. Ritter received the funds from MM on or around that time but did not remit the funds to the insurance company for issuance of MM's policy.
 - iv. On December 10, 2007, Ritter sold PFBs to MAH and OLH for \$6,775.00 each. Ritter received the funds from MAH and OLH on or around that time but did not remit the funds to the insurance company for issuance of MAH's and OLH's policies.
- e. The October 28th correspondence also stated that Ritter collected funds for nine funeral purchase agreements but did not deposit the money in an interest-bearing restricted account or trust account at a financial institution as required. In particular:

- i. On April 21, 2009, Ritter sold a PFB to LN for \$1,930.00. Ritter received the funds from LN on or around that time but did not deposit the funds at a financial institution for the benefit of LN as required.
 - ii. On December 5, 2009, Ritter sold a PFB to FS for \$5,800.00. Ritter received the funds from FS on or around that time but did not deposit the funds at a financial institution for the benefit of FS as required.
 - iii. On June 26, 2010, Ritter sold a PFB to BJM for \$5,000.00. Ritter received the funds from BJM on or around that time but did not deposit the funds at a financial institution for the benefit of BJM as required.
 - iv. On May 13, 2011, Ritter sold a PFB to BC for \$8,472.00. Ritter received the funds from BC on or around that time but did not deposit the funds at a financial institution for the benefit of BC as required.
 - v. On May 17, 2011, Ritter sold a PFB to WM for \$5,000.00. Ritter received the funds from WM on or around that time but did not deposit the funds at a financial institution for the benefit of WM as required.
 - vi. On June 8, 2011, Ritter sold a PFB to TK for \$7,495.00. Ritter received the funds from TK on or around that time but did not deposit the funds at a financial institution for the benefit of TK as required.
 - vii. On September 17, 2014, Ritter sold PFBs to WL, JO and SO for \$9,192.00, \$7,995.00 and \$8,595.00, respectively. Ritter received the funds from WL, JO and SO on or around that time but did not deposit the funds at a financial institution for the benefit of WL, JO and SO as required.
- f. Pursuant to Finance Code § 154.101(1), a person must hold a permit to sell prepaid funeral benefits, or accept money for prepaid funeral benefits, in this state under any contract. As Ritter sold prepaid funeral benefits and accepted money for prepaid funeral benefits but has never held a permit to do so issued by the Department, he violated Finance Code § 154.101.
- g. Under Finance Code § 154.203, the premiums for an insurance policy that funds prepaid funeral benefits may only be collected by a licensed insurance agent appointed by the insurance company issuing the policy and shall be paid to the insurance company in accordance with the agency agreement between the insurance

company and the agent. Because over approximately two years, Ritter misappropriated PFBC funds totaling \$35,210.00 by failing to forward PFBC funds to the insurance company for five contracts, he violated Finance Code §154.203.

- h. Pursuant to Finance Code § 154.253, not later than the 30th day after the date of collection, the money collected for trust-funded prepaid funeral benefits shall be deposited in a financial institution in an interest-bearing restricted account insured by the federal government or in trust with a financial institution. Over a five year period, Ritter misappropriated PFBC funds totaling \$59,479.00 by failing to deposit PFBC funds in an account at a financial institution as required. Therefore, Ritter violated Finance Code § 154.253.
- i. Pursuant to Finance Code § 154.408(a), the Commissioner may issue a cease and desist order to a person if the commissioner finds by examination or other credible evidence that the person has violated a law of this state relating to the sale of prepaid funeral benefits, including a violation of Chapter 154. As detailed in the preceding three paragraphs, Ritter has violated three provisions under Chapter 154, and therefore the Commissioner finds that a cease and desist order is appropriate.
- j. Under Finance Code § 154.411, the Commissioner may issue an order to a person requiring restitution if the Commissioner finds that the person
 - i. failed to deposit money in accordance with Finance Code §§ 154.251 – 154.265; or
 - ii. misappropriated, converted or illegally withheld money entrusted to the person that belongs to the beneficiary under a prepaid funeral benefits contract.

Because Ritter took PFBC funds and never deposited them in accordance with Finance Code § 154.253 or forwarded them to the insurance company in accordance with Finance Code § 154.203, the Commissioner finds that restitution is warranted.

- k. Pursuant to Finance Code § 154.406(a)(1), the Commissioner may impose an administrative penalty on a person who violates Chapter 154 and does not correct the violation before the 31st day after the date the person receives written notice of the violation from the Department.

- l. As required by Finance Code § 154.406(c), the Commissioner has considered the seriousness of the violations, Ritter's compliance history, and Ritter's good faith in attempting to comply with Chapter 154. The Commissioner finds that the large dollar-amount of funds misappropriated and the fact that Ritter was unlicensed at the time are evidence of serious violations.
- m. Based on these findings, the Commissioner finds that a penalty of \$14,000.00 is appropriate.

ORDER

It is hereby ORDERED, ADJUDGED and DECREED that:

1. Ritter shall cease and desist from engaging in the sale of prepaid funeral benefits.
2. Ritter shall not engage in activities in violation of Chapter 154 and shall take all actions necessary to comply with the requirements of Chapter 154.
3. Ritter will pay \$94,689.00 to the Department as restitution under Finance Code §154.411. The restitution shall be payable as follows:
 - a. The first \$7,689.00 of the restitution shall be due within 20 days of the effective date of this Order.
 - b. The remaining \$87,000.00 of the restitution shall be due in equal payments of \$3,625.00. Each payment shall be due on the 5th day of the subsequent 24 months, with the first payment due by July 5, 2015. This payment schedule will result in the restitution being paid in full by June 5, 2017.
4. To facilitate the restitution payments, Ritter shall open a FDLIC-insured savings account prior to the first payment for the benefit of the above-mentioned PFB beneficiaries. The Department will be a signatory to the account. Ritter shall only deposit funds and shall not be allowed to withdraw any money from the account. After making each deposit, Ritter shall provide documentation of the deposit to the Department. A copy of each bank statement will be provided to the Department within 5 days of receipt.
5. After the restitution has been paid in full and all funds have been deposited into the account, Ritter will contact the consumers and execute the necessary insurance prepaid funeral contract documents with an approved insurance company. Once this has been

accomplished, Ritter will inform the Department. The Department will then coordinate payment of the funds to the designated insurance company to issue the policies.

6. If any of the PFB beneficiaries die before the policies have been issued, Ritter will honor his or her PFBC at no additional cost. Within 10 days of honoring a matured contract, Ritter will provide a copy of the at-need contract to the Department. The Department will reduce the amount of Ritter's owed restitution by the amount of any honored PFBC.
7. Ritter will pay \$14,000.00 to the Department as an administrative penalty under Finance Code § 154.406. However, if Ritter pays the restitution in full within one year of the effective date of this Order, the penalty will be reduced to \$7,000.00. The penalty shall be payable to the Department within 30 days of the date that the restitution is paid in full.
8. This Order does not restrict the Department with respect to any enforcement action or other recourse regarding any past, current, or future violations by Ritter that come to the attention of the Department. However, nothing herein shall be construed to limit Ritter's right to contest any future finding or determination of non-compliance.

EFFECTIVE DATES

This Order against Ritter is effective on the date signed by the Commissioner and is final and non-appealable as of that date. The provisions of this Order will remain effective and in force except in the event that, and until such time as, appropriate portions of this Order shall have been modified, terminated, suspended, or set aside in accordance with Finance Code §154.416 or other law.

It is so ORDERED.

Signed on this 12th day of May, 2015.

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

AGREED AS TO FORM AND SUBSTANCE:

/s/ Ronald R. Ritter
Ronald R. Ritter

Date: May 6, 2015

APPROVED AS TO FORM:

/s/ Stephanie Lowe

Stephanie Lowe

Assistant General Counsel

Texas Department of Banking

Date: May 11, 2015