



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

March 26, 2010

Mr. David K. Bissinger  
Siegmyer, Oshman & Bissinger LLP  
2777 Allen Parkway, Tenth Floor  
Houston, Texas 77019

Via email: [dbissinger@bizlawhouston.com](mailto:dbissinger@bizlawhouston.com)

**Rule 11 Agreement for Settlement Purposes Only**

RE: D-1-GN-09-003379; *Carriage Cemetery Services, Inc. vs. Texas Department of Banking and Charles G. Cooper*; In the 53<sup>rd</sup> Judicial District of Travis County, Texas

Dear Mr. Bissinger:

This letter is written to memorialize, in a Rule 11 Agreement between Carriage Cemetery Services and the Texas Department of Banking, the following two things:

1. Carriage Cemetery and the Texas Department of Banking's agreement as to the interpretation of certain portions of Texas law, and Carriage's future actions regarding the mailing of notices of default; and
  2. Carriage Cemetery's dismissal of its current lawsuit against the Texas Department of Banking.
- I. Carriage Cemetery and the Texas Department of Banking's Agreement as to the Interpretation of Certain Portions of Texas Law, and Carriage's Future Actions Regarding the Mailing of Notices of Default**

Carriage may send delinquent and defaulting purchasers a notice of default, including a form Certificate of Cancellation, by certified mail return receipt requested. The notice would state that the purchaser is in default, but upon signing and returning the Certificate of Cancellation, the purchaser is eligible for a refund amount calculated consistent with the retention permitted under provisions including Tex. Fin. Code §§ 154.155(d), 154.252, 154.254, and 154.263 (for purchasers who cancel).

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Because the notice will only be sent to customers who are already in default, such notice will not be deemed by the Department to amount to a solicitation for cancellation by Carriage, nor would it be deemed a suggestion by Carriage that the purchaser cancel the contract.

If Carriage receives the return receipt marked undeliverable, Carriage may presume the time period for abandonment under § 154.301 has commenced.

For defaults prior to March 26, 2009, and that were already processed or submitted for payment to the trust fund prior to March 26, 2009, Department (i) will not require that Carriage obtain an executed Certificate of Cancellation; (ii) will not require Carriage to refund additional monies to these purchasers over and above the amount required if they had signed such a Certificate of Cancellation; and (iii) will allow Carriage to withdraw monies due itself under §§ 154.252, 154.254, 154.263 in an amount calculated as if these purchasers had signed such a Certificate of Cancellation. If Carriage has issued refunds to these purchasers from its own operating account, then Carriage will be allowed to reimburse itself from the trust account.

Finally, while the Department of Banking cannot withdraw any previous reports regarding Carriage, the Department will not use these specific actions covered in this Rule 11 Agreement to establish any type of "repeated" or "reoccurring" violation on a future examination or report and will not take any action on the content of that previous exam report related to the Rule 11 Agreement or the lawsuit that this Rule 11 Agreement resolves.

## **II. Carriage Cemetery's Dismissal of its Current Lawsuit Against the Texas Department of Banking**

In return for the above agreements and understandings, Carriage agrees to dismiss with prejudice Carriage's current lawsuit against the Department of Banking within 10 days of having signed this Rule 11 Agreement.

Additionally, any agreement described within this Rule 11 Agreement is contingent upon this dismissal, and any statements by either party are neither binding nor actionable until this document is signed by all parties and the lawsuit has been dismissed with prejudice.

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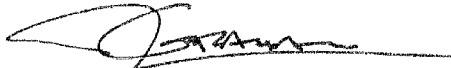
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If this accurately reflects our agreement, please sign in the space provided below, and return a copy to me. Once signed, I will have this Rule 11 filed with the Court. I am,

Respectfully,



Jeff M. Graham  
Assistant Attorney General  
Financial Litigation Division  
TEL: (512) 475-4393  
FAX: (512) 477-2348

JGA:lje

**AGREED:**



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David K. Bissinger  
Siegmyer, Oshman & Bissinger LLP  
SBN: 00790311  
*Attorneys Representing Plaintiff,  
Carriage Cemetery Services, Inc.*

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