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8 **BEFORE THE**
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **FOR THE CEMETERY AND FUNERAL BUREAU**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. A1 2014 130

13 **DAMBACHER MOUNTAIN MEMORIAL**
14 **CEMETERY, INC.**

15 **22394 Lyons Bald Mountain Rd.**
16 **Sonora, CA 95370**

A C C U S A T I O N

17 **Certificate of Authority No. COA 602**

18 **JEFFREY RICHARD WILSON**
19 **225 E. Rose Ave.**
20 **Sonora, CA 95370**

Cemetery Manager No. CEM 206

Respondents.

21 Complainant alleges:

22 **PARTIES**

23 1. Lisa M. Moore (Complainant) brings this Accusation solely in her official capacity as
24 the Bureau Chief of the Cemetery and Funeral Bureau, Department of Consumer Affairs.¹

25 _____
26 ¹ Effective January 1, 1996, the Department of Consumer Affairs succeeded to, and was
27 vested with, all the duties, powers, purpose, responsibilities and jurisdiction of the Cemetery
28 Board and the Board of Funeral Directors and Embalmers, and consolidated the functions into the
Cemetery and Funeral Programs. Effective January 1, 2001, the regulatory agency is designated
as the Cemetery and Funeral Bureau.

1 8. Section 9727 states in pertinent part:

2 "The bureau may suspend or revoke the license of any cemetery licensee who, within the
3 immediately preceding three years, has done any of the following:

4 "(c) Willfully disregarded or violated any of the provisions of this act relating to cemetery
5 brokerage.

6 9. Section 9650 states:

7 (a) Each cemetery authority shall file with the bureau annually, on or
8 before June 1, or within five months after close of their fiscal year provided approval
9 has been granted by the bureau as provided for in Section 9650.1, a written report in a
10 form prescribed by the bureau setting forth the following:

11 (1) The number of square feet of grave space and the number of crypts
12 and niches sold or disposed of under endowment care by specific periods as set forth
13 in the form prescribed.

14 (2) The amount collected and deposited in both the general and special
15 endowment care funds segregated as to the amounts for crypts, niches and grave space
16 by specific periods as set forth either on the accrual or cash basis at the option of the
17 cemetery authority.

18 (3) A statement showing separately the total amount of the general and
19 special endowment care funds invested in each of the investments authorized by law
20 and the amount of cash on hand not invested, which statement shall actually show the
21 financial condition of the funds.

22 (4) A statement showing separately the location, description, and
23 character of the investments in which the special endowment care funds are invested.
24 The statement shall show the valuations of any securities held in the endowment care
25 fund as valued pursuant to Section 9659.

26 (5) A statement showing the transactions entered into between the
27 corporation or any officer, employee or stockholder thereof and the trustees of the
28 endowment care funds with respect to those endowment care funds. The statement
shall show the dates, amounts of the transactions, and shall contain a statement of the
reasons for those transactions.

(b) The report shall be verified by the president or vice president and one
other officer of the cemetery corporation. The information submitted pursuant to
paragraphs (2), (3), (4), and (5) shall be accompanied by an annual audit report of the
endowment care fund and special care fund signed by a certified public accountant or
public accountant. The scope of the audit shall include the inspection, review, and
audit of the general purpose financial statements of the endowment care fund and
special care fund, which shall include the balance sheet, the statement of revenues,
expenditures, and changes in fund balance.

(c) If a cemetery authority files a written request prior to the date the
report is due, the bureau may, in its discretion, grant an additional 30 days within
which to file the report.

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10. Section 9725.1 states:

Unprofessional conduct by any licensee or registrant or by any agent or employee of a licensee or registrant constitutes grounds for disciplinary action. Unprofessional conduct includes, but is not limited to, the following:

(a) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of this chapter and any regulation adopted thereunder, or of any federal or state law or regulation governing the disposition of human remains, operation of cemeteries or crematories, the sale of cemetery property, or the sale of crematory services or commodities.

FIRST CAUSE FOR DISCIPLINE

(Failure to Comply with Citations)

11. Respondents are subject to disciplinary action under sections 125.9, 9727, and 9725.1 for failure to comply with citations issued by the Bureau. The circumstances are as follows:

12. On or about October 24, 2013, the Bureau issued Citation No. IC 2013 210 against Dambacher Mountain Memorial for failing to comply with Health and Safety Code sections 8738.2 and 8777 in that the establishment failed to deposit \$800 collected through sales contracts into the Endowment Care Fund (ECF) during the calendar years 2010 and 2011 and \$500 collected through sales contracts for pre-need funds into the Special Care Fund (SCF) during the calendar years 2010 and 2011 as required. A fine was assessed in the amount of \$1,000 and an order of abatement requiring the deposit of funds into the ECF and SCF. No appeal was filed and the citation became final on November 24, 2013. To date Respondents have not complied with the citation, nor paid the fine.

13. On or about December 5, 2013, the Bureau issued Citation No. IC 2013 256 against Dambacher Mountain Memorial for failing to comply with Business and Professions Code section 9650 in that the cemetery authority failed to file the annual 2012 Endowment Care Fund and Special Care Fund Report for the year ending December 31, 2013. A fine was assessed in the amount of \$2,000 and the order of abatement required the filling of the reports and payment of fines. No appeal was filed and the citation became final on January 5, 2014. To date Respondents have not complied with the citation, nor paid the fine.

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4. Taking such other and further action as deemed necessary and proper.

DATED: Sept. 24, 2014



LISA M. MOORE
Bureau Chief
Cemetery and Funeral Bureau
Department of Consumer Affairs
State of California
Complainant

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