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BEFORE THE
DEPARTMENT OF CONSUMER AFFAIRS
FOR THE CEMETERY AND FUNERAL BUREAU
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **ADVANCED CARE FUNERAL AND CREMATION SERVICES,** **DALE ODOM, Owner,** **ANDREW WAYNE REEL, Manager** **Funeral Establishment License No. FD 2044** **and** **ANDREW WAYNE REEL,** **Funeral Director License No. FDR2450,** **Cemetery Manager License No. CEM239,** **Crematory Manager License No. CRM366** Respondents.	Case No. A1 2012 369 **ACCUSATION**

Complainant alleges:

PARTIES

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

[1] Effective January 1, 1996, the Department of Consumer Affairs succeeded to, and was vested with, all the duties, powers, purpose, responsibilities and jurisdiction of the Cemetery 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.

2. On or about March 16, 2010, the Cemetery and Funeral Bureau ("Bureau") issued Funeral Establishment License Number FD 2044 to Respondent Dale Odom, Owner of Advanced Care Funeral and Cremation Services ("Advanced Care"). The Funeral Establishment License was in full force and effect at all times relevant to the charges brought herein and will expire on March 31, 2013, unless renewed.

3. On or about June 23, 2004, the Bureau issued Funeral Director License No. FDR2450 to Respondent Andrew Wayne Reel and this license will expire on June 30, 2013, unless renewed. Respondent Reel was the managing Funeral Director of record for Respondent Advanced Care from February 20, 2012 to June 8, 2012, and from June 19, 2012 to September 20, 2012. Respondent Reel has also been licensed by the Bureau as a Cemetery Manager (License No. CEM239) and as a Crematory Manager (License No. CRM366) since November 22, 2004 and said licenses will expire on November 30, 2012, unless renewed.

JURISDICTION

4. This Accusation is brought before the Director of Consumer Affairs (Director) for the Cemetery and Funeral Bureau, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

5. Section 7686 of the Code states, in pertinent part, that the Bureau may suspend or revoke any licenses issued by the Bureau if the licensee has been found guilty of any acts or omissions constituting grounds for disciplinary action.

6. Section 7615 of the Code states:

> A funeral director is a person engaged in or conducting, or holding himself or herself out as engaged in any of the following:
>
> (a) Preparing for the transportation or burial or disposal, or directing and supervising for transportation or burial or disposal of human remains.
>
> (b) Maintaining an establishment for the preparation for the transportation or disposition or for the care of human remains.
>
> (c) Using, in connection with his or her name, the words "funeral director," or "undertaker," or "mortician," or any other title implying that he or she is engaged as a funeral director.

7. Section 7616 of the Code states, in pertinent part:

a) A licensed funeral establishment is a place of business conducted in a building or separate portion of a building having a specific street address or location and devoted exclusively to those activities as are incident, convenient, or related to the preparation and arrangements, financial and otherwise, for the funeral, transportation, burial or other disposition of human remains and including, but not limited to, either of the following:

(1) A suitable room for the storage of human remains.

(2) A preparation room equipped with a sanitary flooring and necessary drainage and ventilation and containing necessary instruments and supplies for the preparation, sanitation, or embalming of human remains for burial or transportation.

8. Section 7616.2 of the Code states: "A licensed funeral establishment shall at all times employ a licensed funeral director to manage, direct, or control its business or profession."

9. Title 16, California Code of Regulations, section 1204, states, in pertinent part:

(a) Any person, association, partnership, corporation or other organization licensed and conducting business as a funeral establishment shall designate a licensed funeral director to manage the establishment, and shall report the designation to the bureau within ten (10) days of the effective date of the designation.

(b) The designated managing licensed funeral director of a licensed funeral establishment shall be responsible for exercising such direct supervision and control over the conduct of said funeral establishment as is necessary to ensure full compliance with the Funeral Directors and Embalmers Law, the provisions of this chapter and the applicable provisions of the Health and Safety Code.

10. Section 7685.2 of the Code requires that a funeral director provide a written contract that includes the itemization of all charges, prior to furnishing any services.

11. Title 16, California Code of Regulations, section 1214, states that "human remains shall not be embalmed without the express authorization of a person having the legal right to control disposition of the remains."

12. Section 7692 of the Code states: "Misrepresentation or fraud in the conduct of the business or the profession of a funeral director or embalmer constitutes a ground for disciplinary action."

13. Section 7699 of the Code states: "Aiding or abetting an unlicensed person to practice funeral directing or embalming constitutes a ground for disciplinary action."

14. Section 7707 of the Code states: "Gross negligence, gross incompetence or unprofessional conduct in the practice of funeral directing or embalming constitutes a ground for disciplinary action."

15. Section 7718.5 of the Code states: "Every person as an individual, as a partner in a partnership or as an officer or employee of a corporation, association or other organization, who, without a license, holds himself or herself out as a funeral director, is guilty of a misdemeanor."

16. Health and Safety Code section 102775 states: "Each death shall be registered with the local registrar of births and deaths in the district in which the death was officially pronounced or the body was found, within eight calendar days after death and prior to any disposition of the human remains."

17. Health and Safety Code section 103070 states: "The body of any person whose death occurs in this state, or whose body is found in the state, or that is brought in from outside the state, shall not be temporarily held pending disposition more than eight calendar days after death, unless a permit for disposition is issued by the local registrar of the registration district in which the death occurred or the body was found."

FACTUAL ALLEGATIONS

18. Jermaine Odom is the son of Dale Odom, owner of Respondent Advanced Care Funeral and Cremation Services ("Advanced Care"), and was issued a certificate of registration by the Bureau as an apprentice embalmer from July 12, 2001 to July 12, 2007, but has not been issued any other license by the Bureau and is not currently licensed. Jermaine Odom maintained and ran the day to day operations of Advanced Care, and directed and supervised the transportation, burial and disposal of human remains, while unlicensed as a funeral director, without supervision or oversight by Respondent Dale Odom. Respondent Dale Odom stated that he had nothing to do with the business of Advanced Care, other than having his name on the title, and that his son, Jermaine Odom, was the current manager of Advanced Care.

19. Andrew Wayne Reel (Reel), the manager of record for Respondent Advanced Care, had a full time job working for the state of California, and did not run the day to day operations of Advanced Care.

20. On or about August 31, 2012, the Cemetery and Funeral Bureau received a complaint from John Morris, owner of J. Morris Company, Inc. ("J. Morris"), that Advanced Care failed to carry out the disposition of seven (7) deceased human remains. J. Morris is a mortuary transportation business that provides removal, short-term storage (via refrigeration), and delivery services to funeral directors and is not regulated as an actual funeral establishment. Mr. Morris also alleged that Jermaine Odom abandoned human remains, thereby causing decomposition.

21. There is currently no preparation or holding facility of record for Respondent Advanced Care, since Lind Brothers Mortuary canceled their facility agreement for preparation (embalming) and holding (refrigerated storage) on July 7, 2011.

22. Respondent Advanced Care had made arrangements with Robert Sharer (Bureau License Nos. EMB-5807, FDR-632) of Sharer-Nightingale Funeral Chapel (Nightingale; Establishment License No. FD-912) to provide embalming services on behalf of Respondent Advanced Care. J. Morris and/or Nightingale transported decedents to Nightingale's embalming facility and then transported decedents back to J. Morris for storage of the body after completion of the embalming process. J. Morris would then bill Advanced Care for the embalming. Nightingale was not a Bureau-approved preparation facility for Advanced Care.

23. J. Morris had been providing storage for Advanced Care since May 2012, but was not a Bureau-approved storage facility. Prior to contacting the Bureau on August 31, 2012, J. Morris had made numerous phone calls to Jermaine Odom as well as calls to Respondent Dale Odom, about the disposition of human remains that were in storage at J. Morris, but these calls were not answered and never returned. Advanced Care had not been paying the accounts due to J. Morris and both Jermaine Odom and Respondent Dale Odom were avoiding any contact with J. Morris and had abandoned human remains at their storage facility.

24. Decedent Westmoreland died on or about June 24, 2012 and was picked up on or about June 24, 2012 by J. Morris at the direction of Jermaine Odom, manager of Advanced Care. As of September 1, 2012, no certificate of death has been filed with the Electronic Death Registration System ("EDRS") or the county health department. As of September 1, 2012, no disposition permit has been issued. On or about September 4, 2012, a representative from the

Bureau traveled to J. Morris and observed decedent Westmoreland's human remains in a state of decomposition that contained the formation of fly larva.

25. Decedent Cervantes died on or about August 14, 2012 and was picked up by J. Morris at the direction of Jermaine Odom, manager of Advanced Care on or about August 14, 2012. As of September 1, 2012, no certificate of death has been filed with the EDRS or the county health department. As of September 1, 2012, no disposition permit has been issued. On or about September 4, 2012, a representative from the Bureau traveled to J. Morris and observed decedent Cervantes's human remains in a state of decomposition. As of September 4, 2012, the family members of decedent Cervantes have not received the certificate of death, as promised by Jermaine Odom.

26. Decedent Horne died on or about July 23, 2012. On or about July 29, 2012, Jermaine Odom contacted J. Morris to transport decedent Horne and to have the decedent embalmed by Mr. Sharer. On September 4, 2012, Sacramento County Coroner Gregory Wyatt verified that decedent Horne had been a Sacramento Coroner's case and that the death certificate was attested and the body was released to Advanced Care on or about July 28, 2012, but that a disposition permit had not yet been issued for decedent Horne as of September 4, 2012. Decedent Horne's file contained a signed embalming authorization, but the embalming authorization failed to indicate the location of embalming. Although Respondent Advanced Care had received payment for the preparation and disposition of Decedent Horne, Respondent Advanced Care did not provide a written contract for services. On or about September 4, 2012, a representative from the Bureau traveled to J. Morris and observed decedent Horne in a state of decomposition that contained mold and fly larva.

27. Decedent Vaughn died on or about July 26, 2012 and was picked up by J. Morris at the direction of Jermaine Odom, manager of Advanced Care, on or about August 1, 2012. Jermaine Odom contacted J. Morris on or about August 1, 2012 to transport decedent Vaughn to J. Morris for storage and then contacted J. Morris on August 7, 2012 to confirm that Mr. Sharer of Nightingale would perform the embalming. As of September 1, 2012, no disposition permit has been issued. As of September 1, 2012, no certificate of death has been filed with the EDRS or the

county health department. Decedent Vaughn's file contains a contract dated July 31, 2012, signed by Jermaine Odom as funeral director. The embalming authorization failed to state the actual location of embalming for Decedent Vaughn. On or about September 4, 2012, a representative from the Bureau traveled to J. Morris and observed decedent Vaughn was embalmed and in a state of decomposition, containing mold and fly larva.

28. Decedent Warner died on or about August 3, 2012 and was picked up by J. Morris at the direction of Jermaine Odom, manager of Advanced Care, on or about August 8, 2012. As of September 1, 2012, no disposition permit has been issued. As of September 1, 2012, no certificate of death had been filed with the EDRS or the county health department. On or about September 4, 2012, a representative from the Bureau traveled to J. Morris and observed decedent Warner was embalmed but contained fly larva.

29. Decedent Jurgensen died on or about August 23, 2012 and was picked up by J. Morris at the direction of Jermaine Odom, manager of Advanced Care, on or about August 23, 2012. The Jurgensen file contains a signed contract dated August 24, 2012, signed by Jermaine Odom as funeral director. The embalming authorization failed to indicate the location for preparation or storage of Decedent Jurgensen. The declaration for disposition indicated that the decedent was to be cremated at Camellia Memorial Lawn, but did not provide a phone number or other contact information. As of October 8, 2012, the family members of decedent Jurgensen have not received the certificates of death, as promised by Jermaine Odom.

30. Decedent Reyes died on or about August 4, 2012 and was picked up by J. Morris at the direction of Jermaine Odom, manager of Advanced Care on or about August 11, 2012. Funeral arrangements were made by Respondent Advanced Care on or about August 6, 2012. However, the death certificate and disposition permit were not filed with the health department by Respondent Advanced Care until August 31, 2012, which required the family members to have the memorial service continued to a new date, on two occasions. Decedent Reyes' authorization for embalming indicated that "the decedent will be transported to the following license funeral establishment: Crossroads Family Final Care, 1001 Nichols Drive, Rocklin, CA 95765." However, the decedent was embalmed at Sharer-Nightingale Funeral Chapel.

31. On or about September 5, 2012, Jermaine Odom met with a representative of the Bureau at the business offices of Advanced Care in order to provide the Bureau with requested files and documents pertaining to the above-referenced decedents. Jermaine Odom stated that he didn't have keys to get inside the offices of Advanced Care because he left his residence in a hurry and forgot his keys. He also stated that he thought it might take too long to get the keys and drive back. Jermaine Odom confirmed that he had been paid for each of the decedents, with the exception of the decedent Westmoreland. Jermaine Odom also stated that all disposition permits had been issued, except as to decedent Westmoreland, but that he couldn't print out the permits because his computer wasn't working. Jermaine Odom stated that Advanced Care still had approval for the storage of human remains at Lind Brothers. However, after he was informed that the contract with Lind Brothers was cancelled in 2011 and that Respondent Advanced Care did not have a licensed preparation or storage facility on file with the Bureau, Jermaine Odom stated that he never received notification from Lind Brothers that the agreement was cancelled, then later stated he did remember he received notification of the canceled contract, but that Lind Brothers continued to allow Advanced Care to use their preparation and storage facilities and the use of their chapel for services after the date of the contract was canceled. Jermaine Odom also stated that Advanced Care was not handling the preparation and care of any other decedents other than the above-referenced seven decedents.

32. Lind Brothers had not allowed Advanced Care to use their facilities after the cancellation went into effect as of July 7, 2011.

33. On or about September 11, 2012, Respondent Reel confirmed that Advanced Care was handling the preparation and care of decedent Lloyd Crapser and indicated that he had obtained the disposition permit for decedent Crapser and was going to transport the human remains to the crematory that day. A copy of the contract for the care and disposition of decedent Crapser was signed by Jermaine Odom as funeral director on or about August 30, 2012.

34. On or about September 1, 2012, Mr. Sharer performed an embalming of decedent Simeon Lewis on behalf of Respondent Advanced Care at the request of Jermaine Odom.

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FIRST CAUSE FOR DISCIPLINE

(Unlicensed Practice of a Funeral Director)

35. Respondent Advanced Care, Dale Odom owner, is subject to disciplinary action under Code sections 7615, 7616.2, 7718.5, and California Code of Regulations, section 1204(b) in that he employed Jermaine Odom as managing funeral director of Advanced Care, without the proper license, as alleged in paragraphs 17 through 33 and failed to employ a full-time licensed funeral director to manage the day to day affairs of Advanced Care. Jermaine Odom is not a licensed funeral director but acted in the capacity of and held himself out as the managing funeral director for Advanced Care.

SECOND CAUSE FOR DISCIPLINE

(Aiding and Abetting the Unlicensed Practice of a Funeral Director)

36. Respondents Dale Odom and Andrew Reel are subject to disciplinary action under Code section 7699 in that they aided and abetted the unlicensed practice of Jermaine Odom as managing funeral director of Advanced Care, as alleged in paragraphs 17 through 33. Jermaine Odom is not a licensed funeral director, but acted in the capacity of and held himself out as the managing funeral director for Advanced Care. Respondents Dale Odom and Reel allowed Jermaine Odom to act in the capacity as a funeral director with no or little oversight and allowed Jermaine Odom to manage and run the day to day operations of Advanced Care, while unlicensed.

THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

37. Respondents Dale Odom and Andrew Reel are subject to disciplinary action under section 7707 for gross negligence, gross incompetence, and unprofessional conduct in the practice of funeral directing, as alleged in paragraphs 17 through 33, as follows:

a. Respondents failed to complete the disposition of human remains in a timely manner, thereby allowing decomposition of decedents that has been entrusted to them.

b. Respondents failed to file certificates of death within eight (8) calendar days of death as required by Health and Safety Code section 102775.

c. Respondents failed to obtain permits for disposition of the decedents' bodies within eight (8) calendar days as required by Health and Safety Code section 103070.

FOURTH CAUSE FOR DISCIPLINE

(Fraud)

38. Respondent Advanced Care, Dale Odom owner, is subject to disciplinary action under Code section 7692 for misrepresentation and/or fraud in the conduct of the business or the profession of a funeral director, in that Advanced Care's agent, manager Jermaine Odom, made the following false and/or misleading statements to a Bureau representative as alleged in paragraphs 17 through 33, as follows:

a. On or about September 5, 2012, Jermaine Odom stated that all disposition permits had been issued, except as to decedent Westmoreland, but that he couldn't print out the permits because his computer wasn't working. However, the EDRS indicates that as of September 6, 2012, only two death certificates and two disposition permits had been issued, as to decedents Reyes and Jurgensen, only.

b. On or about September 5, 2012, Jermaine Odom falsely stated that Advanced Care was not handling any additional decedents besides the seven indicated in the original complaint. However, Respondent Advanced Care had, in fact, taken on the responsibility to dispose of two additional decedents: Crapser and Lewis.

c. On or about September 5, 2012, Jermaine Odom falsely stated that he was never given notice by Lind Brothers about the cancellation of the shared use preparation and storage contract. When confronted about the cancelation letter from Lind Brothers, Jermaine Odom then stated that he had been notified about this cancellation, but then falsely stated that Lind Brothers continued to allow Advanced Care to use Lind Brothers facility for storage, preparation, and chapel services. In fact, as of July 7, 2011, Lind Brothers did not continue to allow Advanced Care to use Lind Brothers' facilities.

d. Decedent Jurgensen's file contains a signed contract dated August 24, 2012, signed by Jermaine Odom as funeral director, when he was not licensed. Decedent Vaughn's file contains a contract dated July 31, 2012, signed by Jermaine Odom as funeral director, when he

was not licensed. Respondent Advanced Care's contract for the care and disposition of decedent Crapser was signed on August 31, 2012, with Jermaine Odom signing as funeral director, when he was not licensed.

FIFTH CAUSE FOR DISCIPLINE

(Failure to Maintain an Approved Storage and Preparation Facility)

39. Respondents Advanced Care, Dale Odom owner, and Andrew Reel are subject to disciplinary action under Business and Professions Code section 7616 and Code of Regulations (CCR), Title 16, sections 1223 and 1223.1 in that Advanced Care did not maintain a Bureau-approved storage or preparation facility, as alleged in paragraphs 17 through 33.

a. Respondent's approved preparation and storage at Lind Brothers was cancelled in writing effective July 7, 2011. Respondent Advanced Care does not have a preparation room (e.g., embalming room) or storage facility (e.g. refrigerated storage). Respondent Advanced Care does not currently have a Bureau-approved preparation and storage facility and has not had one since July 7, 2011.

b. Respondent Advanced Care used Crossroads for preparation and storage, but this facility was not approved by the Bureau.

c. Respondent Advanced Care used J. Morris Company, Inc. for storage, but this facility was not approved by the Bureau.

d. Respondent Advanced Care used Sacramento Mortuary Transportation (SMT) for storage, but this facility was not approved by the Bureau.

e. Respondent Advanced Care used Sharer-Nightingale for embalming services, but this facility was not approved by the Bureau.

SIXTH CAUSE FOR DISCIPLINE

(Failure to Provide Written Contract for Services)

40. Respondents Advanced Care, Dale Odom owner, and Andrew Reel are subject to disciplinary action under Code section 7685.2 for failing to provide a written or printed memorandum or contract for services, as alleged in paragraphs 17 through 33.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Director of Consumer Affairs issue a decision:

1. Revoking or suspending Funeral Establishment License Number FD 2044, issued to Dale Odom, Owner.

2. Revoking or suspending Funeral Director License Number FDR2450, Cemetery Manager License No. CEM239, and Crematory Manager License No. CRM366, issued to Andrew Wayne Reel,

3. Ordering Respondents Dale Odom and Andrew Reel to pay the Cemetery and Funeral Bureau the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

DATED: October 24, 2012

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