KAMALA D. HARRIS
Attorney General of California
MARC D. GREENBAUM
Supervising Deputy Attorney General
NANCY A. KAISER
Deputy Attorney General
State Bar No. 192083
300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 897-5794
Facsimile: (213) 897-2804
Attorneys for Complainant

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

In the Matter of the Accusation Against: **FRANCINE S. CHIU** **P.O. Box 2033** **San Gabriel, CA 91778** **Cemetery Salesperson License No. CES 47687** **Cemetery Salesperson License No. CES 38050** Respondent.	Case No. A1 2013 111 **A C C U S A T I O N**

Complainant alleges:

PARTIES

1. Lisa 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 July 30, 2013, the Cemetery and Funeral Bureau, Department of Consumer Affairs (Bureau) issued Cemetery Salesperson License Number CES 47687 to Francine S. Chiu (Respondent). The Cemetery Salesperson License was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2014, unless renewed.

3. On or about October 11, 2005, the Bureau issued Cemetery Salesperson License Number CES 38050 to Francine S. Chiu (Respondent). The Cemetery Salesperson License expired on June 30, 2013, was cancelled on July 5, 2013, and has not been renewed.

JURISDICTION

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

5. Section 118, subdivision (b), of the Code provides that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Director of jurisdiction to proceed with reissued or reinstated.

6. Section 475 of the Code states, in part:

"(a) Notwithstanding any other provisions of this code, the provisions of this division shall govern the denial of licenses on the grounds of:

. . .

"(3) Commission of any act involving dishonesty, fraud or deceit with the intent to substantially benefit himself or another, or substantially injure another.

"(4) Commission of any act which, if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license."

7. Section 9725 states:

"Upon grounds provided in this article [Article 6 (commencing with section 9725)], and the other articles of this act, the license of any cemetery licensee and the certificate of authority of any cemetery corporation may be revoked or suspended in accordance with the provisions of this article."

8. 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.

"(b) Negligence in performing any act related to the operation of a cemetery or crematory."

9. Section 9726 states:

"The bureau may, upon its own motion, and shall, upon the verified complaint in writing of any person, investigate the actions of any person engaged in the business or acting in the capacity of a cemetery licensee, and may temporarily suspend or permanently revoke a license at any time where the licensee, within the immediately preceding three years, while a cemetery licensee in performing or attempting to perform any of the acts specified in this act, has been guilty of any of the following:

"(a) Making any substantial misrepresentation.

. . .

"(d) Acting for more than one party in a transaction without the knowledge or consent of all parties thereto.

. . .

"(i) Any other conduct, whether of the same or a different character than specified in this section, which constitutes fraud or dishonest dealing."

10. Section 9727 states, in part:

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

. . .

"(d) Acted or conducted himself or herself in a manner which would have warranted the denial of his or her application for a cemetery license, or for a renewal thereof."

COST RECOVERY

11. Section 125.3, subdivision (a), states, in pertinent part: "Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before any board within the department . . . . upon request of the entity bringing the proceedings may request the administrative law judge may direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case."

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Dishonest Conduct)

12. Respondent has subjected her license to disciplinary action under section 9726, subdivisions (a), (d), and (i), in that she made substantial misrepresentations, acted for more than one party in a transaction without the knowledge or consent of all parties thereto, and engaged in dishonest conduct. The circumstances are as follows:

13. In or about March 2013, while employed as a sales director at Rose Hills Memorial Park, a cemetery located in Whittier, California, Respondent placed other salespersons' names (C.C. and C.Y.) on contracts without their initial knowledge or consent. Respondent was subsequently terminated from her employment at Rose Hills Memorial Park for violating the company's Sales Guidelines and Code of Ethics for this conduct.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

14. Respondent has subjected her license to disciplinary action under sections 9725.1, on the grounds of unprofessional conduct, as described in paragraphs 12 and 13, above.

THIRD CAUSE FOR DISCIPLINE

(Acts Warranting Denial of License)

15. Respondent has subjected her license to disciplinary action under sections 9727, subdivision (d), 9726, 9725.1, subdivision (a), and 475, subdivisions (a)(3) and (a)(4), of the

Code, by acting or conducting herself in a manner which would have warranted the denial of her application for a cemetery salesperson license, in that Respondent committed an act involving dishonesty, fraud or deceit with the intent to substantially benefit herself, as described in paragraphs 12 and 13, above.

PRAYER

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

1. Revoking or suspending Cemetery Salesperson License Number CES 47687, issued to Francine S. Chiu;

2. Revoking or suspending Cemetery Salesperson License Number CES 38050, issued to Francine S. Chiu;

3. Ordering Francine S. Chiu to pay the Bureau the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

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

DATED: May 8, 2014

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

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