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 OAH No. 2014080969

DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby adopted by the Director of Consumer Affairs on behalf of the Cemetery and Funeral Bureau as the Decision and Order in the above entitled matter.

This Decision shall become effective on April 17, 2015.

It is so ORDERED APR 06 2015.

Doreathea Johnson

DOREATHEA JOHNSON
Deputy Director, Legal Affairs
Department of Consumer Affairs

KAMALA D. HARRIS
Attorney General of California
MARC D. GREENBAUM
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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 OAH No. 2014080969 **STIPULATED SURRENDER OF LICENSE AND ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the parties in this proceeding that the following matters are true:

PARTIES

1. Lisa M. Moore (Complainant) is the Bureau Chief of the Cemetery and Funeral Bureau, Department of Consumer Affairs. She brought this action solely in her official capacity and is represented in this matter by Kamala D. Harris, Attorney General of the State of California, by Nancy A. Kaiser, Deputy Attorney General.

2. Respondent Francine S. Chiu is represented in this proceeding by attorney William D. Johnson, Johnson & Associates, APLC, 350 South Figueroa Street, Suite 190, Los Angeles, California 90071-1119.

3. On or about July 30, 2013, the Cemetery and Funeral Bureau issued Cemetery Salesperson License No. 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 in Accusation No. A1 2013 111 and will expire on June 30, 2015, unless renewed.

4. On or about October 11, 2005, the Cemetery and Funeral Bureau issued Cemetery Salesperson License No. CES 38050 to Francine S. Chiu (Respondent). The Cemetery Salesperson License expired on June 30, 2013, was cancelled on July 5, 2013, and was not renewed.

JURISDICTION

5. Accusation No. A1 2013 111 was filed before the Director, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on May 23, 2014. Respondent timely filed her Notice of Defense contesting the Accusation.

6. A copy of Accusation No. A1 2013 111 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

7. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. A1 2013 111. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of License and Order.

8. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

9. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

10. Without admitting the violations alleged in Accusation No. A1 2013 111 and for the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees to voluntarily surrender her Cemetery Salesperson License. Respondent further agrees that, should Respondent come before the Director in any further or future proceedings, or if she ever files an application for licensure with the Bureau or a petition for reinstatement with the Bureau, all of the charges and allegations set forth in Accusation No. A1 2013 111 shall be deemed proven without the necessity of further proof.

11. Respondent further agrees to be bound by the terms set forth in the Order below.

CONTINGENCY

12. This stipulation shall be subject to approval by the Director on behalf of the Cemetery and Funeral Bureau (Bureau). Respondent understands and agrees that counsel for Complainant and the staff of the Director may communicate directly with the Director regarding this stipulation and settlement, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Director considers and acts upon it. If the Director fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender of License and Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Director shall not be disqualified from further action by having considered this matter.

OTHER MATTERS

13. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Surrender of License and Order, including Portable Document Format (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

14. This Stipulated Surrender of License and Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement.

It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

15. In consideration of the foregoing admissions and stipulations, the parties agree that the Director may, without further notice or formal proceeding, issue and enter the following Order:

ORDER

IT IS HEREBY ORDERED that Cemetery Salesperson License No. CES 47687 and Cemetery Salesperson License No. CES 38050, issued to Respondent Francine S. Chiu are surrendered and accepted by the Director of Consumer Affairs (Director), Department of Consumer Affairs, on behalf of the Cemetery and Funeral Bureau (Bureau).

1. The surrender of Respondent's Cemetery Salesperson Licenses and the acceptance of the surrendered licenses by the Director shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Bureau.

2. Respondent shall lose all rights and privileges as a Cemetery Salesperson in California as of the effective date of the Director's Decision and Order.

3. Respondent shall cause to be delivered to the Bureau both her original wall licenses and renewal licenses, on or before the effective date of the Decision and Order.

4. Respondent fully understands and agrees that if she ever files an application for licensure or a petition for reinstatement with the Bureau, the Director shall treat it as an application for a new license. Respondent must comply with all the laws, regulations and procedures for issuance of a new license in effect at the time the petition or application is filed, and all of the charges and allegations contained in Accusation No. A1 2013 111 shall be deemed to be true, correct and admitted by Respondent when the Director determines whether to grant or deny the petition or application.

5. Upon reinstatement of the license, Respondent shall pay to the Bureau costs associated with its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the amount of **$4,157.50.** Respondent shall pay these costs prior to the issuance of any new license unless a payment plan is approved by the Bureau.

6. Respondent shall not apply for licensure or petition for reinstatement for one (1) year from the effective date of the Director's Decision and Order.

ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney, William D. Johnson. I understand the stipulation and the effect it will have on my Cemetery Salesperson Licenses. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Director of Consumer Affairs.

DATED: 3/2/15

FRANCINE S. CHIU
Respondent

I have read and fully discussed with Respondent Francine S. Chiu the terms and conditions and other matters contained in the above Stipulated Surrender of License and Order. I approve its form and content.

DATED: 3-6-15

WILLIAM D. JOHNSON
Attorney for Respondent

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ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Director of the Consumer Affairs on behalf of the Cemetery and Funeral Bureau.

Dated: 3/6/15

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
MARC D. GREENBAUM
Supervising Deputy Attorney General

NANCY A. KAISER
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. A1 2013 111

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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 M. Moore

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

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