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

In the Matter of the Accusation Against:
LUIS F. ORTIZ
Pierce Brothers Valhalla Memorial Park
10621 Victory Blvd
N. Hollywood, CA 91606
**Cemetery Salesperson License No. CES
43218**

Respondent.

Case No. A1 2011 27

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about November 1, 2011, Complainant Bev Augustine, in her official capacity as the Bureau Chief of the Cemetery and Funeral Bureau, Department of Consumer Affairs^{1/}, filed Accusation No. A1 2011 27 against Luis F. Ortiz (Respondent) before the Director of the Department of Consumer Affairs (Director). (Accusation attached as Exhibit A.)
2. On or about August 17, 2010, the Cemetery and Funeral Bureau (Bureau) issued Cemetery Salesperson License Number CES 43218 to Luis F. Ortiz (Respondent). The Cemetery Salesperson License expired on June 30, 2011, and has not been renewed.

^{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.

1 3. On or about June 29, 2009, the Bureau issued Cemetery Salesperson License Number
2 CES 41781 to Luis F. Ortiz (Respondent). The Cemetery Salesperson License was canceled on
3 or about January 26, 2011, expired on June 30, 2011, and has not been renewed or restored.

4 4. On or about March 30, 2009, the Bureau issued Cemetery Salesperson License
5 Number CES 41431 to Luis F. Ortiz (Respondent). The Cemetery Salesperson License was
6 canceled on or about January 26, 2011, expired on June 30, 2011, and has not been renewed or
7 restored.

8 5. On or about November 23, 2011, Respondent was served by Certified and First Class
9 Mail copies of the Accusation No. A1 2011 27, Statement to Respondent, Notice of Defense,
10 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,
11 and 11507.7) at Respondent's address of record which, pursuant to Business and Professions
12 Code section 971 and California Code of Regulations, title 16, section 2304, is required to be
13 reported and maintained with the Bureau, which was and is: Pierce Brothers Valhalla Memorial
14 Park, 10621 Victory Blvd, N. Hollywood, CA 91606. As a courtesy, on or about December 9,
15 2011, Respondent was served via First Class Mail and Certified Mail at his last known residence,
16 which was 1442 Termino Avenue, Long Beach, CA 90804. On or about February 1, 2012,
17 Respondent was served via First Class Mail at an address provided by the U.S. Postal Service,
18 which was 1164 Miller Avenue, Los Angeles, CA 90063.

19 6. Service of the Accusation was effective as a matter of law under the provisions of
20 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
21 124.

22 7. Government Code section 11506 states, in pertinent part:

23 (c) The respondent shall be entitled to a hearing on the merits if the respondent
24 files a notice of defense, and the notice shall be deemed a specific denial of all parts
25 of the accusation not expressly admitted. Failure to file a notice of defense shall
constitute a waiver of respondent's right to a hearing, but the agency in its discretion
may nevertheless grant a hearing.

26 8. Respondent failed to file a Notice of Defense within 15 days after service upon him
27 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No. A1
28 2011 27.

1 9. California Government Code section 11520 states, in part:

2 (a) If the respondent either fails to file a notice of defense or to appear at the
3 hearing, the agency may take action based upon the respondent's express admissions
4 or upon other evidence and affidavits may be used as evidence without any notice to
5 respondent.

6 10. Pursuant to its authority under Government Code section 11520, the Director finds
7 Respondent is in default. The Director will take action without further hearing and, based on the
8 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
9 taking official notice of all the investigatory reports, exhibits and statements contained therein on
10 file at the Bureau's offices regarding the allegations contained in Accusation No. A1 2011 27,
11 finds that the charges and allegations in Accusation No. A1 2011 27, are separately and severally,
12 found to be true and correct by clear and convincing evidence.

13 11. Taking official notice of its own internal records, pursuant to Business and
14 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
15 and Enforcement is **\$1,590.00** as of March 7, 2012.

16 DETERMINATION OF ISSUES

17 1. Based on the foregoing findings of fact, Respondent Luis F. Ortiz has subjected his
18 Cemetery Salesperson License No. CES 43218, Cemetery Salesperson License Number CES
19 41781, and Cemetery Salesperson License Number CES 41431, to discipline.

20 2. The agency has jurisdiction to adjudicate this case by default.

21 3. The Director is authorized to revoke Respondent's Cemetery Salesperson Licenses
22 based upon the following violations alleged in the Accusation which are supported by the
23 evidence contained in the Default Decision Evidence Packet in this case:

24 a. Bus. & Prof. Code, §§ 9725.1, subd. (a), and 9726 (Fraud or Dishonest Dealing), and

25 b. Bus. & Prof. Code, § 9725.1 (Unprofessional Conduct).

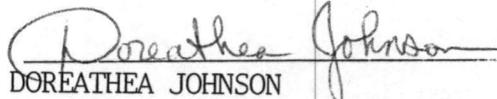
26 ORDER

27 IT IS SO ORDERED that Cemetery Salesperson License Number CES 43218, Cemetery
28 Salesperson License Number CES 41781, and Cemetery Salesperson License Number CES
41431, heretofore issued to Respondent Luis F. Ortiz, are revoked.

1 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
2 written motion requesting that the Decision be vacated and stating the grounds relied on within
3 seven (7) days after service of the Decision on Respondent. The agency in its discretion may
4 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

5 This Decision shall become effective on June 18, 2012.

6 It is so ORDERED MAY 18 2012

7
8 
9 DOREATHEA JOHNSON
Deputy Director, Legal Affairs
Department of Consumer Affairs

10 10823255.DOC
DOJ Matter ID:LA2011504785

11 Attachment:
12 Exhibit A: Accusation

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Exhibit A

Accusation

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2 GREGORY J. SALUTE
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3 NANCY A. KAISER
Deputy Attorney General
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6 Facsimile: (213) 897-2804

7 *Attorneys for Complainant*

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10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **FOR THE CEMETERY AND FUNERAL BUREAU**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:
14 **LUIS F. ORTIZ**
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15 10621 Victory Blvd
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16 **Cemetery Salesperson License No. CES 43218**
17 **Cemetery Salesperson License No. CES 41781**
18 **Cemetery Salesperson License No. CES 41431**
19 Respondent.
20

Case No. A1 2011 27

A C C U S A T I O N

21 Complainant alleges:

22 **PARTIES**

23 1. Bev Augustine (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 **FIRST CAUSE FOR DISCIPLINE**

2 **(Fraud or Dishonest Dealing)**

3 13. Respondent has subjected his licenses to disciplinary action under sections 9725.1,
4 subdivision (a), and 9726, on the grounds of unprofessional conduct, in that Respondent engaged
5 in conduct that constitutes fraud or dishonest dealing. The circumstances are as follows:

6 14. On or about June 3, 2009, consumers Maria C. and James V. entered into a preneed
7 cemetery contract for interment rights, merchandise and services, with Live Oak Memorial Park
8 (Live Oak) via Respondent in his capacity as a cemetery salesperson. Maria C. and James V.
9 signed the contract and paid the down payment. On or about November 12, 2010, Respondent
10 substituted a second preneed cemetery contract for the original contract and forged Maria C. and
11 James V.'s signatures on the second contract. The property description and prices on the two
12 contracts are different. Live Oak's written policy regarding the sale of preneed cemetery
13 contracts provides that the purchaser and seller must sign the contract. It does not include any
14 method by which anyone other than the actual buyer and seller can affix their signatures to a sales
15 contract.

16 15. In or about January 2011, Connie M. Anderson, Respondent's former employer and
17 the designated licensed cemetery broker for Live Oak, notified the Bureau that Respondent was
18 terminated from employment on January 17, 2011 for cancelling the above-mentioned cemetery
19 contract without the purchaser's authorization and for re-writing the above-mentioned contract by
20 fraudulently signing the purchaser's name. Live Oak terminated Respondent upon discovering the
21 fraudulent act described above. As a result of Respondent's actions, Live Oak issued a full refund
22 to the family of all money paid by the purchaser to Live Oak.

23 **SECOND CAUSE FOR DISCIPLINE**

24 **(Unprofessional Conduct)**

25 16. Respondent has subjected his license to disciplinary action under section 9725.1, in
26 that Respondent committed unprofessional conduct, as set forth in paragraphs 13 through 15,
27 above.

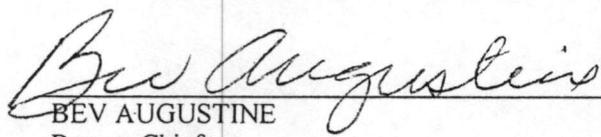
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PRAYER

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 Cemetery Salesperson License Number CES 43218, issued to Luis F. Ortiz;
2. Revoking or suspending Cemetery Salesperson License Number CES 41781, issued to Luis F. Ortiz;
3. Revoking or suspending Cemetery Salesperson License Number CES 41431, issued to Luis F. Ortiz;
4. Ordering Luis F. Ortiz 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,
5. Taking such other and further action as deemed necessary and proper.

DATED: 11/7/11



BEV AUGUSTINE
Bureau Chief
Cemetery and Funeral Bureau
Department of Consumer Affairs
State of California
Complainant

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