

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

In the Matter of the Accusation Against:

DAVID A. PERLMAN  
P.O. Box 33139  
Portland, OR 97292

Cemetery Salesperson License No. CES  
42495

Respondent.

Case No. A1 2011-28

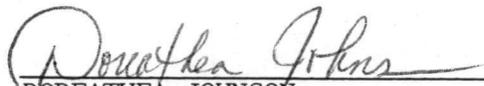
OAH No. 2011070990

DECISION AND ORDER

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

This Decision shall become effective on Dec. 18, 2012.

It is so ORDERED NOV 19 2012.

  
\_\_\_\_\_  
DORÉATHEA JOHNSON  
Deputy Director, Legal Affairs  
Department of Consumer Affairs

1 KAMALA D. HARRIS  
Attorney General of California  
2 DIANN SOKOLOFF  
Supervising Deputy Attorney General  
3 KIM SETTLES  
Deputy Attorney General  
4 State Bar No. 116945  
1515 Clay Street, 20th Floor  
5 P.O. Box 70550  
Oakland, CA 94612-0550  
6 Telephone: (510) 622-2141  
Facsimile: (510) 622-2270  
7 *Attorneys for Complainant*

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:

13 **DAVID A. PERLMAN**  
14 **P.O. Box 33139**  
**Portland, OR 97292**

15 **Cemetery Salesperson License No. CES**  
**42495**

16 Respondent.

Case No. A1 2011-28

OAH No. 2011070990

17 **STIPULATED SURRENDER OF**  
**LICENSE AND ORDER**

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

20 PARTIES

21 1. Lisa M. Moore (Complainant) is the Bureau Chief of the Cemetery and Funeral  
22 Bureau. She brought this action solely in her official capacity and is represented in this matter by  
23 Kamala D. Harris, Attorney General of the State of California, by Carol Romeo, Deputy Attorney  
24 General.

25 2. David A. Perlman (Respondent) is representing himself in this proceeding and has  
26 chosen not to exercise his right to be represented by counsel.

27 3. On or about January 26, 2010, the Cemetery and Funeral Bureau issued Cemetery  
28 Salesperson License No. CES 42495 to David A. Perlman (Respondent). The Cemetery

1 Salesperson License was in full force and effect at all times relevant to the charges brought in  
2 Accusation No. A1 2011-21, and is due to expire on June 30, 2012, unless renewed. Cemetery  
3 Salesperson License No. CES 42495 was cancelled by the Bureau.

4 JURISDICTION

5 4. Accusation No. A1 2011-21 was filed before the Director of Consumer Affairs  
6 (Director), for the Cemetery and Funeral Bureau (Bureau), and is currently pending against  
7 Respondent. The Accusation and all other statutorily required documents were properly served  
8 on Respondent on May 4, 2011. Respondent timely filed his Notice of Defense contesting the  
9 Accusation. A copy of Accusation No. A1 2011-21 is attached as Exhibit A and incorporated by  
10 reference.

11 ADVISEMENT AND WAIVERS

12 5. Respondent has carefully read, and understands the charges and allegations in  
13 Accusation No. A1 2011-21. Respondent also has carefully read, and understands the effects of  
14 this Stipulated Surrender of License and Order.

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

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

24 CULPABILITY

25 8. Respondent admits the truth of each and every charge and allegation in Accusation  
26 No. A1 2011-21, agrees that cause exists for discipline and hereby surrenders his Cemetery  
27 Salesperson License No. CES 42495 for the Bureau's formal acceptance.

28 9. Respondent understands that by signing this stipulation he enables the Director to

1 issue his order accepting the surrender of his Cemetery Salesperson License without further  
2 process.

3 CONTINGENCY

4 10. This stipulation shall be subject to approval by the Director of Consumer Affairs or  
5 his designee. Respondent understands and agrees that counsel for Complainant and the staff of  
6 the Cemetery and Funeral Bureau may communicate directly with the Director and staff of the  
7 Department of Consumer Affairs regarding this stipulation and surrender, without notice to or  
8 participation by Respondent. By signing the stipulation, Respondent understands and agrees that  
9 he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Director  
10 considers and acts upon it. If the Director fails to adopt this stipulation as the Decision and  
11 Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for  
12 this paragraph, it shall be inadmissible in any legal action between the parties, and the Director  
13 shall not be disqualified from further action by having considered this matter.

14 11. The parties understand and agree that facsimile copies of this Stipulated Surrender of  
15 License and Order, including facsimile signatures thereto, shall have the same force and effect as  
16 the originals.

17 12. This Stipulated Surrender of License and Order is intended by the parties to be an  
18 integrated writing representing the complete, final, and exclusive embodiment of their agreement.  
19 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,  
20 negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order  
21 may not be altered, amended, modified, supplemented, or otherwise changed except by a writing  
22 executed by an authorized representative of each of the parties.

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

26 ///  
27 ///  
28 ///

1 ORDER

2 IT IS HEREBY ORDERED that Cemetery Salesperson License No. CES 42495, issued to  
3 Respondent David A. Perlman, is surrendered and its surrender is accepted by the Director of  
4 Consumer Affairs.

5 1. The surrender of Respondent's Cemetery Salesperson License and the acceptance of  
6 the surrendered license by the Bureau shall constitute the imposition of discipline against  
7 Respondent. This stipulation constitutes a record of the discipline and shall become a part of  
8 Respondent's license history with the Cemetery and Funeral Bureau.

9 2. Respondent shall lose all rights and privileges as a cemetery salesperson in California  
10 as of the effective date of the Director's Decision and Order.

11 3. Respondent shall cause to be delivered to the Bureau his pocket license and, if one  
12 was issued, his wall certificate on or before the effective date of the Decision and Order.

13 4. If Respondent ever files an application for licensure or a petition for reinstatement in  
14 the State of California, the Bureau shall treat it as a petition for reinstatement. Respondent must  
15 comply with all the laws, regulations and procedures for reinstatement of a revoked license in  
16 effect at the time the petition is filed, and all of the charges and allegations contained in  
17 Accusation No. A1 2011-21 shall be deemed to be true, correct and admitted by Respondent  
18 when the Director determines whether to grant or deny the petition.

19 5. Respondent shall pay the agency its costs of investigation and enforcement in the  
20 amount of \$4,867.50 prior to issuance of a new or reinstated license.

21 ACCEPTANCE

22 I have carefully read the Stipulated Surrender of License and Order. I understand the  
23 stipulation and the effect it will have on my Cemetery Salesperson License. I enter into this  
24 Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to  
25 be bound by the Decision and Order of the Director of Consumer Affairs.

26 DATED: 10/22/2012

David A. Perlman  
DAVID A. PERLMAN  
Respondent

"UNDER"  
Protest

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ENDORSEMENT

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

Dated: 10/23/12

Respectfully submitted,  
KAMALA D. HARRIS  
Attorney General of California  
DIANN SOKOLOFF  
Supervising Deputy Attorney General

*Kim M. Settles*  
KIM SETTLES  
Deputy Attorney General  
*Attorneys for Complainant*

SF2011900219  
Stipulation.rtf

**Exhibit A**

**Accusation No. A1 2011-28**

1 KAMALA D. HARRIS  
Attorney General of California  
2 DIANN SOKOLOFF  
Supervising Deputy Attorney General  
3 CAROL ROMEO  
Deputy Attorney General  
4 State Bar No. 124910  
1515 Clay Street, 20th Floor  
5 P.O. Box 70550  
Oakland, CA 94612-0550  
6 Telephone: (510) 622-2141  
Facsimile: (510) 622-2270  
7 *Attorneys for Complainant*

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 2011 28

13 **DAVID A. PERLMAN**  
14 **Olivet Memorial Park**  
15 **1601 Hillside Boulevard**  
16 **Colma, CA 94014**

**A C C U S A T I O N**

17 **Cemetery Salesperson License No. CES**  
18 **42495**

Respondents.

19  
20 Complainant alleges:

21 PARTIES

22 1. Bev Augustine (Complainant) brings this Accusation solely in her official capacity as  
23 the Bureau Chief of the Cemetery and Funeral Bureau, Department of Consumer Affairs.<sup>1</sup>

24  
25  
26 <sup>1</sup> 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 DISCIPLINARY ACTION

2 (Fraud or Deceit)

3 Bus. & Prof. Code § 9726(i))

4 10. On or about January 26, 2010, the Cemetery and Funeral Bureau issued Cemetery  
5 Salesperson License Number CES 42495 to David A. Perlman (Respondent). The Cemetery  
6 Salesperson License was in full force and effect at all times relevant to the charges brought in this  
7 Accusation.

8 11. Respondent has subjected his Cemetery Salesperson License to disciplinary action for  
9 unprofessional conduct under Code sections 9726, subdivision (i), by procuring a license by  
10 engaging in fraud or deceit. Specifically, on or about November 23, 2009, Respondent applied  
11 for a Cemetery Salesperson License at a cemetery owned by StoneMor California, Inc., without  
12 informing the Cemetery and Funeral Bureau of ongoing administrative actions against him by the  
13 Oregon Mortuary and Cemetery Board. The actions by the Oregon Mortuary and Cemetery  
14 Board are as follows:

15 a. On or about July 21, 2009, while employed by a cemetery owned by StoneMor  
16 Oregon Subsidiary LLC, doing business as Restlawn Funeral Home, Respondent was issued a  
17 Notice of Proposed Disciplinary Action and Opportunity for a Hearing by the Oregon Mortuary  
18 and Cemetery Board, in Case No. 08-1064B.

19 b. On or about August 6, 2010, while employed by various StoneMor Oregon funeral  
20 establishments and cemeteries, including Memory Gardens Memorial Park, Respondent was  
21 issued an Amended Notice of Proposed Disciplinary Action (Revocation of Preneed Salesperson  
22 and Civil Penalty) and Opportunity for a Hearing by the Oregon Mortuary and Cemetery Board,  
23 in Case No. 08-1013B.

24 c. Effective January 13, 2011, the Oregon Mortuary and Cemetery Board revoked the  
25 Preneed Salesperson Registration issued to Respondent and required him to pay civil penalties in  
26 the amount of \$13,000, within ten days of the effective date of the Final Order. In its decision,  
27 the Oregon Mortuary and Cemetery Board found Respondent to be fraudulent and dishonest. In  
28 addition, Respondent has been found to have misstated material facts, made misrepresentations,  
gave false and misleading information to investigators, practiced intimidation or harassment of

1 consumers, failed to respect the dignity and rights others, aided and abetted others in violation of  
2 the law, failed to abide by the minimum accepted standards of the death care industry, concealed  
3 and misstated material facts, failed to implement agreed upon arrangements, and caused cemetery  
4 records to be inaccurate.

5 SECOND CAUSE FOR DISCIPLINARY ACTION  
6 (Unprofessional Conduct)  
(Bus. & Prof. Code § 9725.1(a))

7 12. The allegations of paragraphs 10 and 11 are hereby realleged and incorporated by  
8 reference as though fully set forth.

9 13. Respondent has subjected his Cemetery Salesperson License to disciplinary action for  
10 unprofessional conduct under Code sections 9725.1, subdivision (a). Specifically, in Oregon,  
11 Respondent violated Oregon state laws or regulations governing, among other things, the sale of  
12 cemetery property, or the sale of cemetery services.

13 PRAYER

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

16 1. Revoking or suspending Cemetery Salesperson License Number CES 42495, issued  
17 to David A. Perlman;

18 2. Ordering David A. Perlman to pay the Cemetery and Funeral Bureau the reasonable  
19 costs of the investigation and enforcement of this case, pursuant to Business and Professions  
20 Code section 125.3; and

21 3. Taking such other and further action as deemed necessary and proper.

22  
23  
24 DATED: 4/27/11

  
BEV AUGUSTINE

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

25  
26  
27  
28 SF2011900219  
CR: 04/26/11



## DECLARATION OF SERVICE BY MAIL

RE: David A. Perlman

No. A1 2011 28

I, Ellis M. Kjer declare that I am over 18 years of age, and not a party to the within cause; my business address is 1625 North Market Blvd., Suite S-208, Sacramento, California, 95834. I served a true copy of the attached

Decision and Order  
Stipulated Surrender of License and Order  
Accusations A1 2011 28

on each of the following, by placing the same in an envelope (or envelopes) addressed (respectively) as follows:

**First Class U.S. Mail & Certified U.S. Mail to:**

David A. Perlman  
P.O. Box 33139  
Portland, OR 97292

**First Class Mail to:**

Kim M. Settles, DAG  
Office of the Attorney General  
California Department of Justice  
P.O. Box 70550  
Oakland, CA 94612-0550

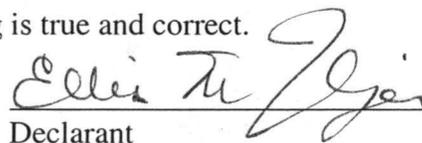
Cemetery and Funeral Bureau  
Attn: Jeff Brown  
1625 North Market Blvd., Suite S-208  
Sacramento, California, 95834

Cemetery and Funeral Bureau  
Attn: Richard Fisher  
1625 North Market Blvd., Suite S-208  
Sacramento, California, 95834

Each said envelope was then, on November 29, 2012, sealed and deposited in the United States mail at Sacramento, the county in which I am employed, with the postage thereon fully prepaid.

Executed on November 29, 2012, at Sacramento, California.

I declare under penalty of perjury that the foregoing is true and correct.

  
Declarant