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8 **BEFORE THE**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **FOR THE CEMETERY AND FUNERAL BUREAU**  
11 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:  
12 **JENNIFER ROBIN HOWERTON**  
13 **P.O. Box 362**  
14 **Grass Valley, CA 95945**  
15 **Cemetery Salesperson License No. CES**  
**43745**  
16 Respondent.

Case No. A1 2012 183  
**A C C U S A T I O N**

18 Complainant alleges:

19 **PARTIES**

- 20 1. Lisa M. Moore (Complainant) brings this Accusation solely in her official capacity as  
21 the Bureau Chief of the Cemetery and Funeral Bureau, Department of Consumer Affairs.<sup>1</sup>  
22 2. On or about January 27, 2011, the Cemetery and Funeral Bureau issued Cemetery  
23 Salesperson License Number CES 43745 to Jennifer Robin Howerton (Respondent). The  
24 Cemetery Salesperson License expired on June 30, 2011, and has not been renewed.

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 **JURISDICTION**

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

5 4. Section 9702.1 provides, in pertinent part: "The bureau shall investigate the  
6 qualifications of the applicants. Except as otherwise prescribed in this article, it may issue the  
7 license applied for to an applicant on a showing satisfactory to it that the following facts exist:

8 ....

9 (g) The applicant has not committed acts or crimes constituting grounds for denial of  
10 licensure under Section 480."

11 5. Section 480 of the Code states:

12 "(a) A board may deny a license regulated by this code on the grounds that the applicant has  
13 one of the following:

14 "(1) Been convicted of a crime. A conviction within the meaning of this section means a  
15 plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a  
16 board is permitted to take following the establishment of a conviction may be taken when the  
17 time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when  
18 an order granting probation is made suspending the imposition of sentence, irrespective of a  
19 subsequent order under the provisions of Section 1203.4 of the Penal Code.

20 "(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially  
21 benefit himself or herself or another, or substantially injure another.

22 "(3) (A) Done any act that if done by a licentiate of the business or profession in question,  
23 would be grounds for suspension or revocation of license.

24 6. Section 9725 states:

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

1           7.    Section 9727 states:

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

4           "(a) Been convicted of a crime substantially related to the qualifications, functions and  
5 duties of such licensee. The record of conviction, or a certified copy thereof, shall be conclusive  
6 evidence of such conviction.

7           ....

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

11          8.    Section 9727.2 states:

12          "A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to  
13 be a conviction within the meaning of this article. The bureau may order the license suspended or  
14 revoked, or may decline to issue a license, when the time for appeal has elapsed, or the judgment  
15 of conviction has been affirmed on appeal or when an order granting probation is made  
16 suspending the imposition of sentence, irrespective of a subsequent order under the provisions of  
17 Section 1203.4 of the Penal Code allowing such person to withdraw his or her plea of guilty and  
18 to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation,  
19 information or indictment."

20          9.    Section 118, subdivision (b), of the Code provides that the  
21 suspension/expiration/surrender/cancellation of a license shall not deprive the Director of  
22 jurisdiction to proceed with a disciplinary action during the period within which the license may  
23 be renewed, restored, reissued or reinstated.

24          10.   Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
25 administrative law judge to direct a licentiate found to have committed a violation or violations of  
26 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
27 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being  
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1 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be  
2 included in a stipulated settlement.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Substantially Related Conviction)**

5 11. Respondent's license is subject to disciplinary action under section 9727, subdivision  
6 (a), in that Respondent has been convicted of a substantially related crime as follows:

7 A. On September 11, 2012, in Nevada County Superior Court in the case entitled  
8 *People vs. Jennifer Robin Howerton*, Case SF11-325, Respondent was convicted of violating  
9 Penal Code section 487(a), (grand theft) a felony. The circumstances of the crime are that  
10 Respondent stole approximately \$17,000 from her employer, Hooper & Weaver Mortuary,  
11 located in Nevada City, California.

12 **SECOND CAUSE FOR DISCIPLINE**

13 **(Acts Constituting Cause for Denial)**

14 12. Respondent is subject to disciplinary action under section 9727, subdivision (d), in  
15 that, as set forth above in paragraph 11, Respondent committed acts which would have warranted  
16 the denial of her application for a cemetery salesperson license under section 480(a), subdivisions  
17 (1), (2), and (3)(A).

18 **PRAYER**

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

21 1. Revoking or suspending Cemetery Salesperson License Number CES 43745, issued  
22 to Jennifer Robin Howerton.;

23 2. Ordering Jennifer Robin Howerton to pay the Cemetery and Funeral Bureau the  
24 reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
25 Professions Code section 125.3;

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

DATED: *February 15, 2013*

*[Signature]*  
LISA M. MOORE  
Bureau Chief  
Cemetery and Funeral Bureau  
Department of Consumer Affairs  
State of California  
*Complainant*

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accusation.rtf