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

In the Matter of the Accusation Against:
JENNIFER ROBIN HOWERTON
P.O. Box 362
Grass Valley, CA 95945

Cemetery Salesperson License No. CES 43745

Respondent.

Case No. A1 2012 183

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about February 15, 2013, Complainant Lisa Moore, in her official capacity as the Bureau Chief of the Cemetery and Funeral Bureau, Department of Consumer Affairs¹, filed Accusation No. A1 2012 183 against Jennifer Robin Howerton (Respondent) before the Director of Consumer Affairs. (Accusation attached as Exhibit A.)

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 9. Pursuant to its authority under Government Code section 11520, the Director finds
2 Respondent is in default. The Director will take action without further hearing and, based on the
3 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
4 taking official notice of all the investigatory reports, exhibits and statements contained therein on
5 file at the Director's offices regarding the allegations contained in Accusation No. A1 2012 183,
6 finds that the charges and allegations in Accusation No. A1 2012 183, are separately and
7 severally, found to be true and correct by clear and convincing evidence.

8 10. Taking official notice of its own internal records, pursuant to Business and
9 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
10 and Enforcement is \$595 as of May 23, 2013.

11 **DETERMINATION OF ISSUES**

12 1. Based on the foregoing findings of fact, Respondent Jennifer Robin Howerton has
13 subjected her Cemetery Salesperson License No. CES 43745 to discipline.

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

15 3. The Director of Consumer Affairs is authorized to revoke Respondent's Cemetery
16 Salesperson License based upon the following violations alleged in the Accusation which are
17 supported by the evidence contained in the Default Decision Evidence Packet in this case:

18 A. Business and Professions Code section 9727, subdivision (a) (substantially related
19 conviction), as follows;

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

25 B. Business and Professions Code section 9727, subdivision (d) (acts that would have
26 warranted denial of her application for a cemetery salesperson license under Business and
27 Professions Code section 480(a), subdivisions (1), (2), and (3)(A)), based upon the conviction.

28 ///

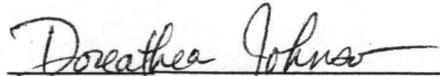
ORDER

IT IS SO ORDERED that Cemetery Salesperson License No. CES 43745, heretofore issued to Respondent Jennifer Robin Howerton, is revoked.

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

This Decision shall become effective on October 10, 2013.

It is so ORDERED SEP 10 2013



DOREATHEA JOHNSON
Deputy Director, Legal Affairs
Department of Consumer Affairs

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

1 KAMALA D. HARRIS
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Supervising Deputy Attorney General
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6 Telephone: (916) 445-7384
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. A1 2012 183

12 **JENNIFER ROBIN HOWERTON**
13 **P.O. Box 362**
14 **Grass Valley, CA 95945**

ACCUSATION

15 **Cemetery Salesperson License No. CES**
16 **43745**

Respondent.

17
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.¹

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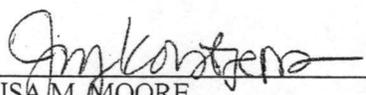
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3. Taking such other and further action as deemed necessary and proper.

DATED: February 15, 2013


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

SA2012108355
accusation.rtf